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CONGRESSIONAL GLOBE

AND APPENDIX;

FIRST SESSION FORTIETH CONGRESS.

COMPLETE IN ONE VOLUME.

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IN THE SENATE OF THE UNITED STATES,

THURSDAY, *February 21*, 1867.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Senate is hereby directed to furnish to the official publishers of the Debates in Congress, to be inserted therein at the close of each session, the name and post office address of each Senator, and of each officer of the Senate, with a diagram of the Senate Chamber showing the seats of Senators.

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IN THE HOUSE OF REPRESENTATIVES,

SATURDAY, *February 16*, 1867.

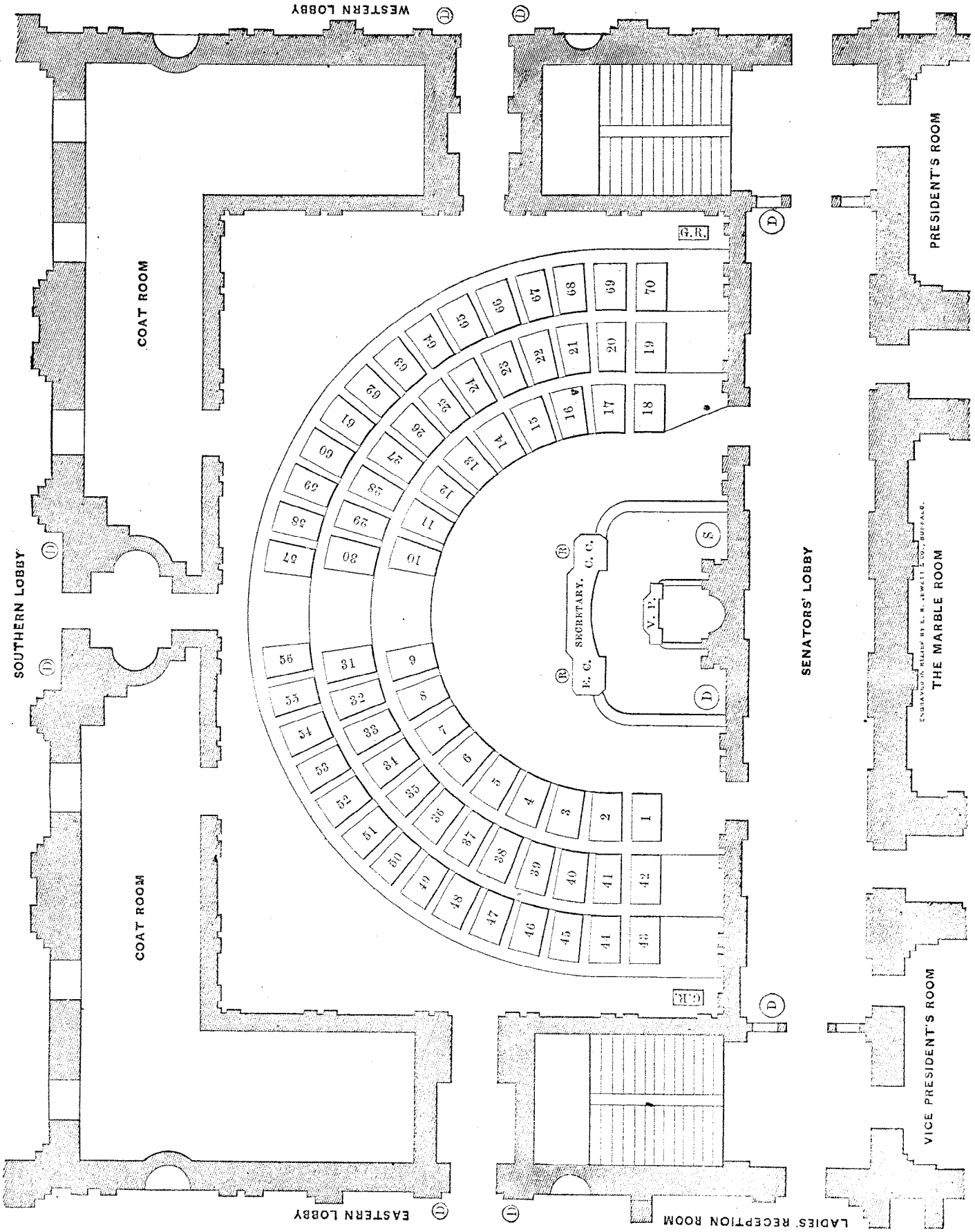
Mr. LARLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.

89

72

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SOUTHERN LOBBY

COAT ROOM

COAT ROOM

EASTERN LOBBY

WESTERN LOBBY

U. S. SECRETARY, C. C.

V. P.

G. R.

G. R.

SENATORS' LOBBY

VICE PRESIDENT'S ROOM

THE MARBLE ROOM

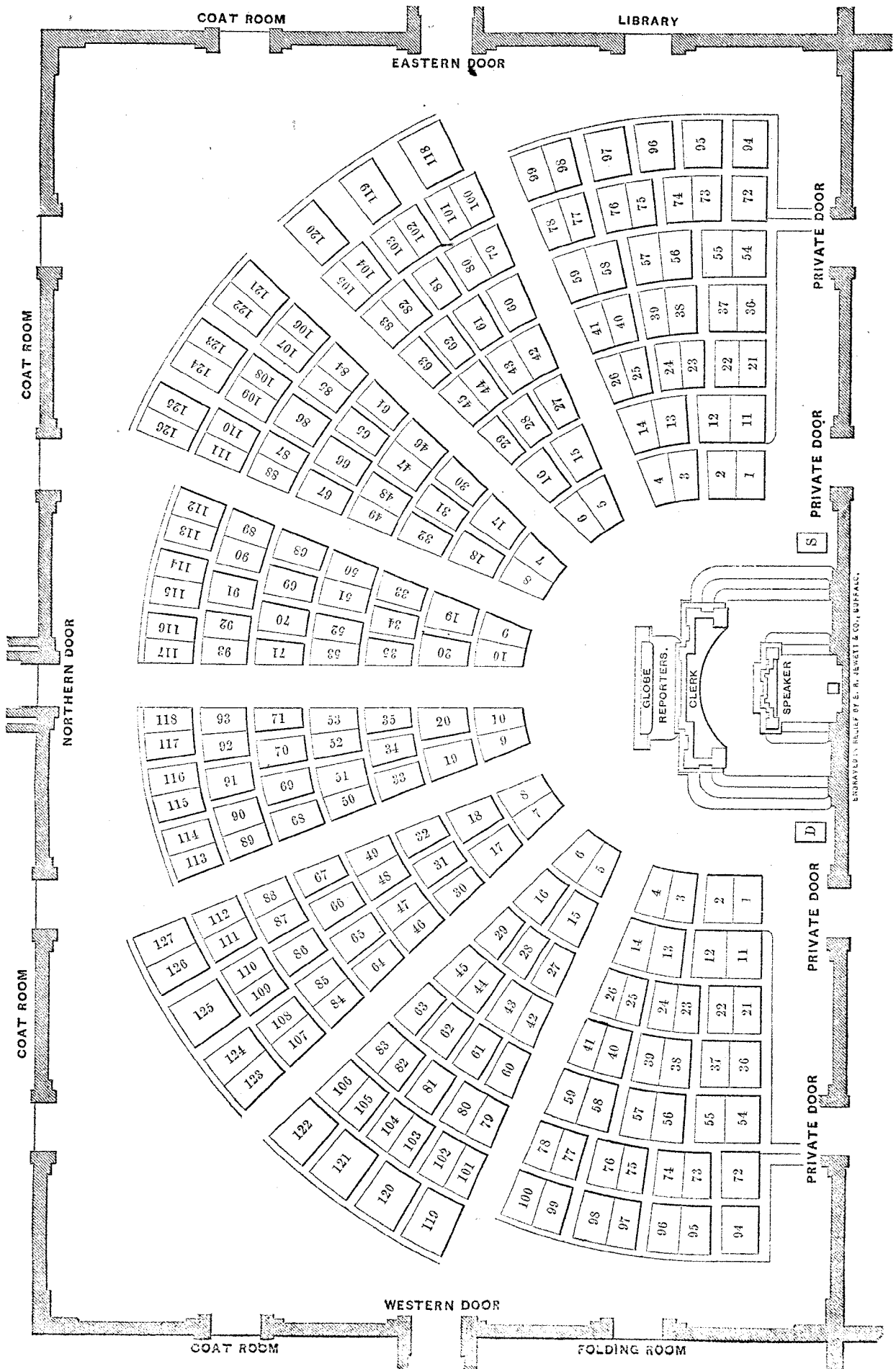
PRESIDENT'S ROOM

ENGINEERED BY E. R. JEWELL & CO., BUFFALO.









# Name and Post Office Address

OF THE

## Members of the House of Representatives, First Session Fortieth Congress.

SCHUYLER COLFAX, South Bend, Indiana, Speaker.

Name.	Post Office Address.	Occupation.	Seat.
Adams, George M.	Barboursville, Kentucky	Gentleman	77 east.
Allison, William B.	Dubuque, Iowa	Lawyer	85 west.
Ames, Oakes	North Easton, Massachusetts	Manufacturer	5 east.
Anderson, George W.	Louisiana, Missouri	Lawyer	67 east.
Archer, Stevenson	Belair, Maryland	Lawyer	15 east.
Arnell, Samuel M.	Columbia, Tennessee	Lawyer	117 west.
Ashley, Delos R.	Austin, Nevada	Lawyer	93 west.
Ashley, James M.	Toledo, Ohio	Lawyer	109 west.
Axtell, Samuel B.	San Francisco, California	Lawyer	104 east.
Baker, Jehu	Belleville, Illinois	Lawyer	3 east.
Baldwin, John D.	Worcester, Massachusetts	Editor	69 east.
Banks, Nathaniel P.	Waltham, Massachusetts	Lawyer	41 east.
Barnes, Demas	Brooklyn, New York	Merchant	62 east.
Barnum, William H.	Lakeville, Connecticut	Manufacturer	62 east.
Beaman, Fernando C.	Adrian, Michigan	Lawyer	30 west.
Benjamin, John E.	Shelbyville, Missouri	Lawyer	93 east.
Benton, Jacob	Lancaster, New Hampshire	Lawyer	114 west.
Bingham, John A.	Cadiz, Ohio	Lawyer	6 east.
Blaine, James G.	Augusta, Maine	Editor	106 west.
Blair, Austin	Jackson, Michigan	Lawyer	21 west.
Boutwell, George S.	Groton, Massachusetts	Lawyer	79 west.
Boyer, Benjamin M.	Norristown, Pennsylvania	Lawyer	16 east.
Bromwell, Henry P. H.	Charleston, Illinois	Lawyer	83 west.
Brooks, James	New York, New York	Editor	64 east.
Broomall, John M.	Media, Pennsylvania	Lawyer	16 west.
Buckland, Ralph P.	Fremont, Ohio	Lawyer	51 west.
Burr, Albert G.	Winchester, Illinois	Lawyer	32 east.
Butler, Benjamin F.	Lowell, Massachusetts	Lawyer	65 west.
Cake, Henry L.	Tamaqua, Pennsylvania	Coal Operator	91 west.
Cary, Samuel F.	Cincinnati, Ohio	Farmer	23 east.
Chanler, John W.	New York, New York	Lawyer	50 east.
Churchill, John C.	Oswego, New York	Lawyer	26 west.
Clarke, Reader W.	Batavia, Ohio	Lawyer	18 west.
Clarke, Sidney	Lawrence, Kansas	General Business	67 west.
Cobb, Amasa	Mineral Point, Wisconsin	Lawyer	56 west.
Coburn, John	Indianapolis, Indiana	Lawyer	37 west.
Cook, Burton C.	Ottawa, Illinois	Lawyer	20 west.
Cornell, Thomas	Rondout, New York	Banker	89 west.
Covode, John	Lockport, Pennsylvania	Farmer and Manufacturer	7 west.
Cullom, Shelby M.	Springfield, Illinois	Lawyer	33 west.
Dawes, Henry L.	Pittsfield, Massachusetts	Lawyer	104 west.
Dixon, Nathan F.	Providence, Rhode Island	Lawyer	40 east.
Denison, Charles	Wilkesbarre, Pennsylvania	Lawyer	61 east.
Dodge, Grenville M.	Council Bluffs, Iowa	Civil Engineer	87 west.
Donnelly, Ignatius	Hastings, Minnesota	Lawyer	23 west.
Driggs, John F.	East Saginaw, Michigan	General Business	92 west.
Eckley, Ephraim R.	Carrollton, Ohio	Lawyer	53 east.
Eggleston, Benjamin	Cincinnati, Ohio	Merchant	91 east.
Ela, Jacob H.	Rochester, New Hampshire	Printer	82 east.
Eldridge, Charles A.	Fond du Lac, Wisconsin	Lawyer	30 east.
Eliot, Thomas D.	New Bedford, Massachusetts	Lawyer	44 west.
Farnsworth, John F.	St. Charles, Illinois	Lawyer	25 east.
Ferriss, Orange	Glenn's Falls, New York	Lawyer	88 west.
Ferry, Thomas W.	Grand Haven, Michigan	Lumberman and Banker	29 west.
Fields, William C.	Laurens, New York	Manufacturer and Merchant	40 west.
Finney, Darwin A.	Meadville, Pennsylvania	Lawyer	60 west.
Fox, John	New York, New York	Real Estate Agent	84 east.
Garfield, James A.	Hiram, Ohio	Lawyer	108 west.



# LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Getz, J. Lawrence.....	Reading, Pennsylvania.....	Editor.....	14 east.
Glossbrenner, Adam J.....	York, Pennsylvania.....	Editor and Printer.....	78 east.
Gravelly, Joseph J.....	Stockton, Missouri.....	Lawyer.....	52 east.
Griswold, John A.....	Troy, New York.....	Banker.....	51 east.
Haight, Charles.....	Freehold, New Jersey.....	Lawyer.....	46 east.
Halsey, George A.....	Newark, New Jersey.....	Manufacturer.....	70 west.
Hamilton, Cornelius S.....	Marysville, Ohio.....	Lawyer.....	71 west.
Harding, Abner C.....	Monmouth, Illinois.....	Lawyer.....	52 west.
Hawkins, Isaac R.....	Huntington, Tennessee.....	Farmer.....	98 west.
Hill, John.....	Boonton, New Jersey.....	Merchant.....	116 west.
Higby, William.....	Calaveras, California.....	Lawyer.....	25 east.
Holman, William S.....	Aurora, Indiana.....	Lawyer.....	9 east.
Hooper, Samuel.....	Boston, Massachusetts.....	Merchant.....	10 west.
Hopkins, Benjamin F.....	Madison, Wisconsin.....	General Business.....	57 west.
Hotchkiss, Julius.....	Middletown, Connecticut.....	Manufacturer.....	38 east.
Hubbard, Asahel W.....	Sioux City, Iowa.....	Lawyer.....	24 east.
Hubbard, Chester D.....	Wheeling, West Virginia.....	Banker.....	13 west.
Hubbard, Richard D.....	Hartford, Connecticut.....	Lawyer.....	63 east.
Hulburd, Calvin T.....	Brasher Falls, New York.....	Farmer.....	27 west.
Humphrey, James M.....	Buffalo, New York.....	Lawyer.....	45 east.
Hunter, Morton C.....	Bloomington, Indiana.....	Lawyer.....	25 west.
Ingersoll, Ebon C.....	Peoria, Illinois.....	Lawyer.....	78 west.
Jenckes, Thomas A.....	Westerley, Rhode Island.....	Lawyer.....	118 east.
Johnson, James A.....	Downieville, California.....	Lawyer.....	105 east.
Judd, Norman B.....	Chicago, Illinois.....	Lawyer.....	53 west.
Julian, George W.....	Centreville, Indiana.....	Lawyer.....	3 west.
Kelley, William D.....	Philadelphia, Pennsylvania.....	Lawyer.....	64 west.
Kelsey, William H.....	Geneseo, New York.....	Lawyer.....	9 west.
Kerr, Michael C.....	New Albany, Indiana.....	Lawyer.....	31 east.
Ketcham, John H.....	Dover, New York.....	Farmer.....	81 west.
Kitchen, Bethuel M.....	Martinsburg, West Virginia.....	Farmer.....	10 east.
Koontz, William H.....	Somerset, Pennsylvania.....	Lawyer.....	12 west.
Lafin, Addison H.....	Herkimer, New York.....	Manufacturer.....	86 west.
Lawrence, George V.....	Monongahela City, Pennsylvania.....	Farmer.....	59 west.
Lawrence, William.....	Bellefontaine, Ohio.....	Lawyer.....	8 west.
Lincoln, William S.....	Owego, New York.....	Merchant and Manufacturer.....	102 west.
Loan, Benjamin F.....	St. Joseph, Missouri.....	Lawyer.....	71 east.
Logan, John A.....	Carbondale, Illinois.....	Lawyer.....	90 east.
Loughridge, William.....	Oskaloosa, Iowa.....	Lawyer.....	80 west.
Lynch, John.....	Portland, Maine.....	Merchant.....	32 west.
Mallory, Rufus.....	Salem, Oregon.....	Lawyer.....	81 east.
Marshall, Samuel S.....	McLeansboro, Illinois.....	Lawyer.....	20 east.
Marvin, James N.....	Saratoga Springs, New York.....	Hotel keeper.....	41 east.
Maynard, Horace.....	Knoxville, Tennessee.....	Lawyer.....	12 east.
McCarthy, Dennis.....	Syracuse, New York.....	Merchant.....	34 west.
McClurg, Joseph W.....	Linn Creek, Missouri.....	Merchant.....	70 east.
McCullough, Hiram.....	Elkton, Maryland.....	Lawyer.....	42 east.
Mercur, Ulysses.....	Towanda, Pennsylvania.....	Lawyer.....	66 east.
Miller, George F.....	Louisburg, Pennsylvania.....	Lawyer.....	24 west.
Moore, William.....	May's Landing, New Jersey.....	Farmer.....	34 east.
Moorhead, James K.....	Pittsburg, Pennsylvania.....	Manufacturer.....	58 west.
Morgan, George W.....	Mount Vernon, Ohio.....	Lawyer.....	48 east.
Morrell, Daniel J.....	Johnstown, Pennsylvania.....	Manufacturer.....	6 west.
Morrissey, John.....	New York, New York.....	Banker.....	59 east.
Mullins, James.....	Shelbyville, Tennessee.....	Farmer.....	2 east.
Mungen, William.....	Findlay, Ohio.....	Lawyer.....	35 east.
Myers, Leonard.....	Philadelphia, Pennsylvania.....	Lawyer.....	68 west.
Newcomb, Carman A.....	Tunnel, Missouri.....	Horticulturist.....	87 east.
Niblack, William E.....	Vincennes, Indiana.....	Lawyer.....	27 east.
Nicholson, John A.....	Dover, Delaware.....	Lawyer.....	28 east.
Noell, Thomas E.....	Perfryville, Missouri.....	Lawyer.....	47 east.
O'Neill, Charles.....	Philadelphia, Pennsylvania.....	Lawyer.....	69 west.
Orth, Godlove S.....	Lafayette, Indiana.....	Lawyer.....	39 west.
Paine, Halbert E.....	Milwaukee, Wisconsin.....	Lawyer.....	63 west.
Perham, Sidney.....	Paris, Maine.....	Farmer and Teacher.....	14 west.
Peters, John A.....	Bangor, Maine.....	Lawyer.....	13 east.
Phelps, Charles E.....	Baltimore, Maryland.....	Lawyer.....	86 east.
Pike, Frederick A.....	Calais, Maine.....	Lawyer.....	62 west.
Pile, William A.....	St. Louis, Missouri.....	Clergyman.....	50 west.
Plants, Tobias A.....	Pomeroy, Ohio.....	Lawyer.....	5 west.
Poland, Luke P.....	St. Johnsbury, Vermont.....	Lawyer.....	4 east.
Polsley, Daniel.....	Point Pleasant, West Virginia.....	Lawyer.....	89 east.
Pomeroy, Theodore N.....	Auburn, New York.....	Lawyer.....	42 west.
Price, Hiram.....	Davenport, Iowa.....	Banker.....	60 east.
Pruyn, John V. L.....	Albany, New York.....	Lawyer.....	44 east.
Randall, Samuel J.....	Philadelphia, Pennsylvania.....	Merchant.....	17 east.
Raum, Green B.....	Harrisburg, Illinois.....	Lawyer.....	77 west.
Robertson, W. H.....	Katonah, New York.....	Lawyer.....	105 west.
Robinson, William E.....	Brooklyn, New York.....	Lawyer.....	18 east.
Ross, Lewis W.....	Lewistown, Illinois.....	Lawyer.....	8 east.
Sawyer, Philetus.....	Oskosh, Wisconsin.....	Lumberman.....	1 west.
Schenck, Robert C.....	Dayton, Ohio.....	Lawyer.....	48 west.
Scofield, Glenni W.....	Warren, Pennsylvania.....	Lawyer.....	90 west.
Selye, Lewis.....	Rochester, New York.....	Manufacturer.....	110 west.
Shanks, John P. C.....	Jay, Jay county, Indiana.....	Lawyer.....	38 west.
Shellabarger, Samuel.....	Springfield, Ohio.....	Lawyer.....	49 west.

LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Sitgreaves, Charles.....	Philipsburg, New Jersey.....	Lawyer.....	7 east.
Smith, Worthington C.....	St. Albans, Vermont.....	Manufacturer.....	107 west.
Spalding, Rufus P.....	Cleveland, Ohio.....	Lawyer.....	17 west.
Starkweather, Henry H.....	Norwich, Connecticut.....	Lawyer.....	39 east.
Stevens, Aaron F.....	Nashua, New Hampshire.....	Lawyer.....	113 west.
Stevens, Thaddeus.....	Lancaster, Pennsylvania.....	Lawyer.....	46 west.
Stewart, Thomas E.....	New York, New York.....	Lawyer.....	35 west.
Stokes, William B.....	Liberty, Tennessee.....	Farmer.....	100 west.
Stone, Frederick.....	Port Tobacco, Maryland.....	Farmer.....	43 east.
Taber, Stephen.....	Roslyn, New York.....	Farmer.....	63 east.
Taffe, John.....	Omaha, Nebraska.....	Lawyer.....	36 west.
Taylor, Caleb N.....	Bristol, Pennsylvania.....	Farmer.....	65 east.
Thomas, Francis.....	Frankville, Maryland.....	Lawyer.....	19 east.
Trimble, John.....	Nashville, Tennessee.....	Lawyer.....	118 west.
Trowbridge, Rowland E.....	Birmingham, Michigan.....	Farmer.....	55 west.
Twitchell, Ginery.....	Brookline, Massachusetts.....	Railroad Manager.....	103 west.
Upson, Charles.....	Coldwater, Michigan.....	Lawyer.....	15 west.
Van Aernam, Henry.....	Franklinville, New York.....	Surgeon and Physician.....	19 west.
Van Auken, Daniel M.....	Milford, Pennsylvania.....	Lawyer.....	79 east.
Van Horn, Burt.....	Lockport, New York.....	Manufacturer and Farmer.....	61 west.
Van Horn, Robert T.....	Kansas City, Missouri.....	Printer.....	88 east.
Van Trump, Philadelph.....	Lancaster, Ohio.....	Lawyer.....	49 east.
Van Wyck, Charles H.....	Middletown, New York.....	Lawyer.....	4 west.
Ward, Hamilton.....	Belmont, New York.....	Lawyer.....	33 east.
Washburn, Cadwalader C.....	La Crosse, Wisconsin.....	Lawyer.....	43 west.
Washburn, Henry D.....	Clinton, Indiana.....	Lawyer.....	2 west.
Washburn, William B.....	Greenfield, Massachusetts.....	Manufacturer.....	82 west.
Washburne, Elihu B.....	Galena, Illinois.....	Lawyer.....	45 west.
Welker, Martin.....	Wooster, Ohio.....	Lawyer.....	92 east.
Williams, Thomas.....	Pittsburg, Pennsylvania.....	Lawyer.....	112 west.
Williams, William.....	Warsaw, Indiana.....	Lawyer.....	47 west.
Wilson, James F.....	Fairfield, Iowa.....	Lawyer.....	66 west.
Wilson, John T.....	Tranquillity, Ohio.....	Farmer.....	31 west.
Wilson, Stephen F.....	Wellsboro', Pennsylvania.....	Lawyer.....	26 east.
Windom, William.....	Winona, Minnesota.....	Lawyer.....	28 west.
Wood, Fernando.....	New York, New York.....	Merchant.....	29 east.
Woodbridge, Frederick E.....	Vergennes, Vermont.....	Lawyer.....	84 west.
Woodward, George W.....	Wilkesbarre, Pennsylvania.....	Lawyer.....	59 east.



# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF THE

FIRST SESSION FORTIETH CONGRESS;

ALSO,

SPECIAL SESSION OF THE SENATE.

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BY F. & J. RIVES & GEORGE A. BAILEY.

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CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1867.



# THE CONGRESSIONAL GLOBE.

## FORTIETH CONGRESS. FIRST SESSION.

### IN SENATE.

MONDAY, March 4, 1867.

In accordance with the provisions of the act of Congress entitled "An act to fix the times for the regular meetings of Congress," approved January 22, 1867, the Fortieth Congress commenced its first session this day, the second session of the Thirty-Ninth Congress having closed at noon.

The PRESIDENT *pro tempore* of the Senate [Hon. BENJAMIN F. WADE, of Ohio] called the Senate to order.

The Chaplain of the Senate for the Thirty-Ninth Congress, Rev. EDGAR H. GRAY, D.D., of Washington, opened the proceedings with the following

#### PRAYER.

O God, from everlasting to everlasting Thou art God. Men die, but Thou livest evermore. Governments change, but Thy dominion is an everlasting dominion. Senates and Legislatures and councils cease, but the Triune Council of the great God continues and holds on through all the cycles of eternity. We thank Thee that Thou hast given us such a great country in trust; that it has become the asylum for the oppressed and the home of the free. We thank Thee for a Government so free that every citizen may participate in its privileges and blessings; so just that the rights of every individual shall be respected; so stable that though Cabinets and councils and Senates cease, yet it holds on in its grand principles and cardinal doctrines. We thank Thee for Thy goodness and mercy which have been extended toward the members of this body and of both Houses of Congress during the last session. O God, we bless Thee that the lives and health of so many of Thy Senators have been continued unto them, and that the Thirty-Ninth Congress has closed up so favorably, and the Fortieth is inaugurated so auspiciously.

Now, we invoke the Divine blessing to be upon this body, upon Thy servant who has just been selected to preside over all of its deliberations. Give him strength; give him wisdom; give him grace; and grant that the good hand of Thy providence may be upon every Senator, upon those who have long been serving their country, and upon those who are just to assume the duties and the responsibilities of Senators. God, grant to be with them and protect every member of this body in his life and strength during the sessions of this Congress; and let Thy blessing be upon both Houses, and grant to preside over the deliberations of both and guide them to wise measures and wise enactments. Let Thy blessing rest upon the President and upon the members of the Cabinet, and let Thy blessing be upon the judges in our courts and upon the Army and the Navy, the defenders of our country, and upon the people. May we be a people whose God is the Lord. Have all the interests

and institutions of this country in Thy safe care and keeping; and grant to hedge about us as a people, to defend us from the pestilence that walketh in darkness and from the destruction that wasteth at noonday. Guide us in all our affairs and in all our efforts to uplift degraded humanity; and may we go forth leading the van of the nations in the great work of human progress and evangelization. God grant that His blessing may be upon us and make us faithful in the discharge of all our high trusts and duties; and when we are called from this to another world may we hear the great Judge saying to each of us individually, "Well done, good and faithful servant: enter thou into the joy of thy Lord." Through Jesus Christ we ask it. Amen.

#### NEW SENATORS.

The PRESIDENT *pro tempore*. The first business in order is the qualification of the newly-elected Senators, and they will come forward and be qualified as their names are read by the Secretary.

The Secretary read the list, as follows:

Hon. SIMON CAMERON, of Pennsylvania.  
Hon. CORNELIUS COLE, of California.  
Hon. HENRY W. CORBETT, of Oregon.  
Hon. ROSCOE CONKLING, of New York.  
Hon. GARRETT DAVIS, of Kentucky.  
Hon. CHARLES D. DRAKE, of Missouri.  
Hon. ORRIS S. FERRY, of Connecticut.  
Hon. JAMES HARLAN, of Iowa.  
Hon. TIMOTHY O. HOWE, of Wisconsin.  
Hon. JUSTIN S. MORRILL, of Vermont.  
Hon. OLIVER P. MORTON, of Indiana.  
Hon. JAMES W. NYE, of Nevada.  
Hon. J. W. PATTERSON, of New Hampshire.  
Hon. SAMUEL C. POMEROY, of Kansas.  
Hon. JOHN SHERMAN, of Ohio.  
Hon. LYMAN TRUMBULL, of Illinois.

As their names were called the Senators came forward, and the oaths, prescribed by law were administered to them, and they took their seats in the Senate.

#### SENATORS FROM NEBRASKA.

Mr. TRUMBULL. If all the Senators whose names are upon the roll have been qualified—  
The PRESIDENT *pro tempore*. They have been.

Mr. TRUMBULL. I have the pleasure of presenting to the Senate the credentials of Hon. JOHN M. THAYER, and Hon. T. W. TIPTON, elected Senators from the new State of Nebraska. I ask that their credentials be read and that the gentlemen be sworn.

The credentials were read.

The PRESIDENT *pro tempore*. The Senators from Nebraska will now come forward and be qualified.

The Senators-elect were conducted to the desk of the President *pro tempore* by Mr. SUMNER and Mr. CHANDLER, and the oaths prescribed by law having been administered to Mr. THAYER and Mr. TIPTON, they took their seats in the Senate.

Mr. TRUMBULL. I offer for adoption the following resolution:

*Resolved*, That the Senate proceed to ascertain the

classes in which the Senators from the State of Nebraska shall be inserted, in conformity with the resolution of the Senate of the 14th of May, 1789, and as the Constitution requires, and that the Secretary put into the ballot-box three papers of equal size, numbered 1, 2, 3. Each of the Senators from the State of Nebraska shall draw out one paper. The paper numbered 1, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1869; the paper numbered 2, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1871; and the paper numbered 3, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service expire the 3d day of March, 1873.

The resolution was adopted.

Three papers were accordingly put into the ballot-box; the Senators from Nebraska advanced to the Secretary's desk, and each drew one paper. Mr. THAYER drew the paper numbered two, and was placed in the class of Senators whose terms will expire March 3, 1871. Mr. TIPTON drew the paper numbered one, and was placed in the class of Senators whose terms will expire March 3, 1869.

The Senate as thus constituted is as follows:

*List of Senators, with the expiration of their respective terms of service.*

NEW HAMPSHIRE.		INDIANA.	
Aaron H. Cragin.....1871	James W. Patterson.....1873	Thos. A. Hendricks.....1869	Oliver P. Morton.....1873
MASSACHUSETTS.		ILLINOIS.	
Charles Sumner.....1869	Henry Wilson.....1871	Richard Yates.....1871	Lyman Trumbull.....1873
RHODE ISLAND.		MAINE.	
William Sprague.....1869	Henry B. Anthony.....1871	Lot M. Morrill.....1869	Wm. Pitt Fessenden.....1871
CONNECTICUT.		MISSOURI.	
James Dixon.....1869	Orris S. Ferry.....1873	John B. Henderson.....1869	Charles D. Drake.....1873
VERMONT.		MICHIGAN.	
George F. Edmunds.....1869	Justin S. Morrill.....1873	Zachariah Chandler.....1869	Jacob M. Howard.....1871
NEW YORK.		IOWA.	
Edwin D. Morgan.....1869	Roscoe Conkling.....1873	James W. Grimes.....1871	James Harlan.....1873
NEW JERSEY.		WISCONSIN.	
F. T. Frelinghuysen.....1869	Alexander G. Cattell.....1871	James R. Doolittle.....1869	Timothy O. Howe.....1873
PENNSYLVANIA.		CALIFORNIA.	
Charles K. Buckalew.....1869	Simon Cameron.....1873	John Conness.....1869	Cornelius Cole.....1873
DELAWARE.		MINNESOTA.	
George Read Riddle.....1869	Willard Saulsbury.....1871	Alexander Ramsey.....1869	Daniel S. Norton.....1871
MARYLAND.		OREGON.	
Reverdy Johnson.....1869	.....1873	George H. Williams.....1871	Henry W. Corbett.....1873
KENTUCKY.		KANSAS.	
James Guthrie.....1871	Garrett Davis.....1873	Edmund G. Ross.....1871	Samuel C. Pomeroy.....1873
TENNESSEE.		WEST VIRGINIA.	
David T. Patterson.....1869	Joseph S. Fowler.....1871	Peter G. Van Winkle.....1869	Waitman T. Wiley.....1871
OHIO.		NEVADA.	
Benjamin F. Wade.....1869	John Sherman.....1873	William M. Stewart.....1869	James W. Nye.....1873
NEBRASKA.		T. W. Tipton.....1869   John M. Thayer.....1871	

## SENATORS ABSENT.

All the Senators were present except Mr. GUTHRIE and Mr. HOWARD.

## HOUR OF MEETING.

On motion of Mr. ANTHONY, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock, meridian, until otherwise ordered.

## NOTIFICATION OF ORGANIZATION.

On motion of Mr. ANTHONY, it was

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT *pro tempore*. How shall this committee be appointed?

Mr. TRUMBULL and others. By the Chair. ["Agreed."]

The PRESIDENT *pro tempore*. The Chair will appoint Mr. TRUMBULL, of Illinois, and Mr. BUCKALEW, of Pennsylvania, to perform this duty.

Mr. TRUMBULL. If there is no other business, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, March 4, 1867.

This being the day prescribed for the meeting of Congress by "An act to fix the times for the regular meetings of Congress," approved January 22, 1867, the members of the House of Representatives assembled in their Hall, and at twelve o'clock m. were called to order by Hon. EDWARD McPHERSON, Clerk of the last House of Representatives.

The CLERK said: The hour having arrived for the meeting of the Fortieth Congress of the United States, the Clerk of the House of Representatives of the Thirty-Ninth Congress will proceed, as required by law, to call the roll of Representatives-elect, who will please to answer for their names as called.

The roll was then called; and the following members answered to their names:

## MAINE.

John Lynch, James G. Blaine,  
Sidney Perham, John A. Peters.  
Frederick A. Pike,

## NEW HAMPSHIRE.

No credentials presented.

## VERMONT.

Fred'k E. Woodbridge, Luke P. Poland.  
Worthington C. Smith,

## MASSACHUSETTS.

Thomas D. Eliot, Nathaniel P. Banks,  
Oakes Ames, George S. Boutwell,  
Ginery Twitchell, John D. Baldwin,  
Samuel Hooper, William B. Washburn,  
Benjamin F. Butler, Henry L. Dawes.

## RHODE ISLAND.

No credentials presented.

## CONNECTICUT.

No credentials presented.

## NEW YORK.

Stephen Taber, Orange Ferriss,  
Demas Barnes, Calvin T. Hulburd,  
William E. Robinson, James M. Marvin,  
John Fox, William C. Fields,  
John Morrissey, Addison H. Laffin,  
Thomas E. Stewart, John C. Churchill,  
John W. Chanler, Dennis McCarthy,  
James Brooks, Theodore M. Pomeroy,  
Fernando Wood, William H. Kelsey,  
William H. Robertson, William S. Lincoln,  
Charles H. Van Wyck, Hamilton Ward,  
John H. Ketcham, Lewis Selye,  
Thomas Cornell, Burt Van Horn,  
John V. L. Pruyn, James M. Humphrey,  
John A. Griswold, Henry Van Aernam.

## NEW JERSEY.

William Moore, John Hill,  
Charles Haight, George A. Halsey,  
Charles Sitgreaves,

## PENNSYLVANIA.

Charles O'Neill, George F. Miller,  
Leonard Myers, Adam J. Glossbrenner,  
William D. Kelley, William H. Koontz,  
Caleb N. Taylor, Daniel J. Morrill,  
Benjamin M. Boyer, Stephen F. Wilson,  
John M. Broomall, Glenni W. Scofield,  
J. Lawrence Getz, Darwin A. Finney,  
Thaddeus Stevens, John Covode,  
Henry L. Cake, James K. Moorhead,  
Daniel M. Van Auken, Thomas Williams,  
Charles Denison, George V. Lawrence,  
Ulysses Mercur,

## DELAWARE.

John A. Nicholson.

## MARYLAND.

Hiram McCullough, Francis Thomas,  
Stevenson Archer, Frederick Stone,  
Charles E. Phelps,

## OHIO.

Benjamin Eggleston, John T. Wilson,  
Rutherford B. Hayes, Philadelph Van Tromp,  
Robert C. Schenck, George W. Morgan,  
William Lawrence, Martin Welker,  
William Mungen, Tobias A. Plants,  
Reader W. Clarke, John A. Bingham,  
Samuel Shellabarger, Ephraim R. Eckley,  
Cornelius S. Hamilton, Rufus P. Spalding,  
Ralph P. Buckland, James A. Garfield,  
James M. Ashley,

## KENTUCKY.

No credentials presented.

## TENNESSEE.

No credentials presented.

## INDIANA.

William E. Niblack, Henry D. Washburn,  
Michael C. Kerr, Godlove S. Orth,  
Morton C. Hunter, Schuyler Colfax,  
William S. Holman, William Williams,  
George W. Julian, John P. C. Shanks,  
John Coburn,

## ILLINOIS.

Norman B. Judd, Lewis W. Ross,  
John F. Farnsworth, Albert G. Burr,  
Abner C. Harding, Samuel S. Marshall,  
Ebon C. Ingersoll, Jehu Baker,  
Burton C. Cook, Green B. Raum,  
Henry P. H. Bromwell, John A. Logan,  
Shelby M. Cullom,

## MISSOURI.

William A. Pile, Robert T. Van Horn,  
Carman A. Newcomb, Benjamin F. Loan,  
Thomas E. Noell, John F. Benjamin,  
Joseph J. Gravely, George W. Anderson,  
Joseph W. McClurg,

## MICHIGAN.

Fernando C. Beaman, Thomas W. Ferry,  
Charles Upson, Rowland E. Trowbridge,  
Austin Blair, John F. Driggs.

## IOWA.

James F. Wilson, William Loughridge,  
Hiram Price, Granville M. Dodge,  
William B. Allison, Asahel W. Hubbard.

## WISCONSIN.

Halbert E. Paino, Charles A. Eldridge,  
Benjamin F. Hopkins, Philetus Sawyer,  
Amasa Cobb, C. C. Washburn.

## CALIFORNIA.

No credentials presented.

## MINNESOTA.

William Windom, Ignatius Donnelly.

## KANSAS.

Sidney Clarke.

## WEST VIRGINIA.

Chester D. Hubbard, Daniel Polsley,  
Bethuel M. Kitchen.

## NEVADA.

Delos R. Ashley.

## NEBRASKA.

No credentials presented.

The following members failed to answer to their names: ELIHU B. WASHBURN, of Illinois; ROSCOE CONKLING, of New York; SAMUEL J. RANDALL, of Pennsylvania, and RUFUS MALORY, of Oregon.

The CLERK. A quorum having appeared, it is competent for this body to proceed to elect a Speaker.

Mr. WILSON, of Iowa. I now move that

this House proceed to the election of a Speaker for the House of Representatives of the Fortieth Congress.

Mr. BROOKS. Mr. Clerk, I observe in calling the roll—this list which I have before me, and I presume printed by order of the Clerk—there are sixteen absent States, six of which have been called by the Clerk, but have no representation upon the floor of this House, and ten of which, although upon the list, have not been called by the Clerk.

Mr. FARNSWORTH. I rise to a point of order, that no debate is in order until after the House proceeds to the election of its officers.

The CLERK. The Clerk overrules the point of order, the previous question not having been called.

Mr. BROOKS. The same question was made at the organization of the previous House, and the same decision was then made by the Clerk.

Mr. Clerk, there are sixteen States absent, and twenty States are about to proceed to the organization of this House in the midst of a crisis, ay, in the midst of a revolution—civil I hope it is to be—the very gravest has ever been the fortune, or the misfortune of our country rather, to pass through. Of the original States, there are now absent, of the thirteen original States which framed the Constitution of the United States, the work of our fathers—seven of these original thirteen have no Representatives upon the floor of this House.

My attention has been called to the fact there are precedents which authorize not alone this extra, but this very extraordinary convocation of the Congress of the United States; but there are no precedents in our political history which justify the assembling and organization of this House while so large a number of States are absent, and with so short a notice given to the absent States with the power and right to be represented here.

I have here before me a list of the cases showing when each Congress has assembled. It is as follows: on first Monday in January, 1790; on fourth Monday in October, 1791; on first Monday in November, 1792; on first Monday in November, 1794; on first Monday in November, 1797; changed to second Monday in November, 1797; on third Monday in November, 1800; on first Monday in November, 1803; on first Monday in November, 1804; on first Monday in November, 1808; on fourth Monday in May, 1809; on fourth Monday in November, 1809; on first Monday in November, 1812; on fourth Monday in May, 1813; on first Monday in December, 1813; on last Monday in October, 1814; on third Monday in November, 1818; on second Monday in November, 1820.

It will be found on examination even in the trying crisis of the war of 1812, when the whole world seemed to be let loose on our country, that our fathers of that day did not venture to convolve the Congress of the United States without giving all of the States full time and full power to be represented. The shortest period of notice which was ever given was during the war of 1812 under the act of February 27, 1813, when three months notice was given for the assembling of Congress, not as now a brief notice of one month and nine days. When the notice was thus given to the people and the States of the United States, the boundaries of our States extended only from the Chattahoochee, in Georgia, to the Passamaquoddy, in Maine. The boundaries of the Republic have since been greatly extended until our vast domain reaches from the Atlantic to the Pacific, a breadth of territory, a vastness of population, which it is impossible for the notice which has been given for the convocation of this Congress to have reached in one month and nine days.

Mr. KELLEY. Will the gentleman yield for a question.

Mr. BROOKS. Certainly.

Mr. KELLEY. I ask him whether at that time the present railroad and telegraph system of the country was in operation? [Laughter.]

Mr. BROOKS. There are some people who ask foolish questions. [Laughter.] Parliamentary propriety forbids me to say to the honorable gentleman from Pennsylvania that so well informed a gentleman as he should never ask so foolish a question as that, about a fact that is notorious to the whole public. [Laughter.] Sir, there are large extents of Territory in Oregon, in California, infinitely further removed from the legal action of their own States, from the processes of law which are necessary for the convocation of Congress; there are Territories not reached by telegraph, not reached by railroads, which have rendered it practically impossible for a State like California to be represented upon the floor of this House.

Except in the dark and doubtful period of the war, when it was necessary for an early assemblage here, from three to eight months notice has been given of the convocation of Congress by legislative enactment. The act of 1789 gave three months' notice; the act of 1791 seven months; the act of 1792 six months; the act of 1794 five months; the act of 1797 eight months; the act of 1800 five and a half months; the act of 1803 eight months; the act of 1804 seven months; the act of 1808 six months; the act of January 7, 1809, four months; the act of June, 1809, five months; the act of 1812 four months; the act of February, 1813, three months; the act of July, 1813, four months; the act of 1818 six months; the act of 1820 five months. And now, in the midst of the greatest crisis through which our country has ever passed, only one month and nine days' notice has been given for the thirty million people of the United States to be represented on the floor of this House. Hence these vacancies in the northern States; hence old States like Connecticut, Rhode Island, New Hampshire, three of the original thirteen, are about to be disfranchised by you if you act here with those States unrepresented upon this floor.

You have the power, but I deny the right. It is a violent and extraordinary exercise of power, not to be justified for one Congress immediately thus to convoke another.

There are those out of these Halls who have called the Congress which has just expired the rump Congress. I indulge in no such phraseology upon this floor. I respect my associates who are about me, and therefore I indulge in no such allusions to the history of Cromwell and of the Independents and Presbyterians of old. But while I indulge in no such allusion, I caution the House not to deserve of this country, by assuming to legislate for it now, not only the name of rump Congress, but of rump of a rump Congress.

Sir, there are those who believe this is not as thus assembled a legal, constitutional Congress. I am not lawyer enough to pronounce an opinion upon that point. I do not believe it to be a *de jure* Congress, nor that this is a *de jure* Government created by this Congress; but I recognize it as a *de facto* Congress, if not *de jure*, and therefore I obey its authority as I would the authority of a *de facto* Government if I were under the dominion of the Turk, the Tartar, the Camanche, the Ojibbeway, or the Potawatomie. [Laughter.] I respect authority wherever it may be presented. I bow to the omnipotence of force, and entertaining these views, which are concurred in by those who act with me on party questions, we bow, but while we bow we have prepared a solemn protest against any further revolutionary action upon the part of this House until a full Congress is assembled.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me a question?

Mr. BROOKS. Yes, sir.

Mr. WILLIAMS, of Pennsylvania. I wish the gentleman from New York to state whether it is not the fact that the most important Congress that ever assembled in this nation, both in its action and its results, was convened by proclamation upon sixty days' notice, and that, too, in the absence of some of the States of this Union?

Mr. BROOKS. As to the right and power of the President by proclamation to convoke Congress, no one disputes that, but there are those who dispute—I do not—the right of one Congress thus to assemble another without the intervention of a proclamation from the President; but I do say that in all our history no act like this, so utterly unprecedented has been done; a spectacle like that exhibited here this hour has never before been seen in this country, the spectacle of a Speaker retiring from his seat, and amid the confusion of his exit another Congress in which sixteen States are unrepresented appearing on the floor of the House.

Mr. DAWES. I would ask the gentleman from New York if he has any recollection that President Pierce called together an extra session of Congress by proclamation on three days' notice?

Mr. BROOKS. I repeat what I said before, that the right and power of the President by proclamation to call Congress together is indisputable; but it was then in the power of the States, by previous notice on the part of the President, to be prepared, and although I have not looked into the facts, yet I am not certain that every State could not then have had Representatives upon the floor of this House. Nearly all the members of Congress were here. I am told by one of my associates that it was only the reassembling of a Congress that had been previously organized, so that whatever argument can be drawn from that interrogatory is altogether without application to this case.

Mr. BROMWELL. Will the gentleman allow me to make a suggestion?

Mr. BROOKS. Certainly I will if the gentleman insists, but I wish I could be permitted to proceed with my remarks. I do not wish to be discourteous on so solemn an occasion as this.

Mr. BROMWELL. I would suggest, by way of interrogatory, that inasmuch as the law has ordained the assembling of Congress on this day, if there is anything wrong in it would it not be better to organize for the purpose of applying the remedy? For if it be wrong for Congress to meet here, six States being without representation, then this body, without organization, can do nothing to remedy that state of things; and could not this body, if organized, remedy it by changing the law, if necessary? It seems to me that finding fault with the law can in no way remedy the evil of which the gentleman speaks.

Mr. BROOKS. I will reply to the gentleman from Illinois, but I hope that gentleman will allow me to proceed without further interruption.

In the first place, the gentleman is in error in saying that there are but six States unrepresented on this floor. There are sixteen States unrepresented on this floor.

Mr. WOOD. There are seventeen. Nebraska is unrepresented.

Mr. BROOKS. Is there no Representative of Nebraska here?

The CLERK. No representative from the State of Nebraska has responded.

Mr. BROOKS. Then there are seventeen States—one more than I named—absent from the floor of the House, and there are here the Representatives from twenty States attempting to do the business of this Congress in the absence of seventeen States.

And now a word as to the suggestion made by my honorable friend from Illinois, [Mr. BROMWELL.] that we should proceed to organize and then correct whatever error there may be in the law hereafter. Why, Mr. Clerk, the organization of this House is the possession and control of and government of this House and of the whole country. Upon the organization of this House depends the selection of the committees and the direction of public affairs; in fact the whole government of the House is the organization of the House, to which we are called upon to proceed so suddenly; and if the hints and indications which I hear or see in the public press are to be realized, or, to speak

plainly, if the process of impeachment of the President is to go on, or, what is more revolutionary, a suspension of the President of the United States by the action of this House, that revolution—for it is a revolution, call it what name you please—will be carried on by a committee of this House, who will have the whole direction and conduct of that process of impeachment through this House.

I say, therefore, that the most serious of all the steps we can take is the organization of the House; and sir, in certain contingencies, in case the President should be deposed, or in case of his death, the Speaker of this House might become President of the United States; so that in point of fact here, by our solemn action to-day, we may be creating a President of the United States. I protest, therefore, under the full solemnities of the occasion, I protest before this Congress and before my country, and in the presence of the gentleman from Ohio, [Mr. ASHLEY,] who is to be the leader in this revolution, I protest most solemnly against taking one further step until all the States are fully represented upon the floor of this House.

And now, Mr. Clerk, I will proceed to read the protest, which, in due time, I shall ask to have entered upon the Journal of the House, against any further action of this House of Representatives until an organization can be properly and legally effected:

Whereas it appears by the record just read that the following States, seventeen in number, are not now represented upon the floor of this House: the States of New Hampshire, Rhode Island, Connecticut, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Tennessee, Kentucky, California, Arkansas, and Nebraska—States entitled by the act of Congress of March 4, 1852, and subsequent acts, to a representation in Congress as follows, namely: New Hampshire, three Representatives; Rhode Island, two Representatives; Connecticut, four Representatives; Virginia, eight Representatives; North Carolina, seven Representatives; South Carolina, four Representatives; Georgia, seven Representatives; Florida, one Representative; Alabama, six Representatives; Mississippi, five Representatives; Louisiana, five Representatives; Texas, four Representatives; Tennessee, eight Representatives; Kentucky, nine Representatives; California, three Representatives; Arkansas, three Representatives; and Nebraska, one Representative; in all, eighty congressional districts now unrepresented on the floor of this House; and whereas of these unrepresented States, seven are of the original thirteen that in 1787 met in Convention and created the Constitution of the United States, namely: New Hampshire, Rhode Island, Connecticut, Virginia, North Carolina, South Carolina, and Georgia, a majority of the original thirteen: Therefore,

We, members-elect of the Fortieth Congress, do now enter our most solemn protest against any and every action tending to the organization of this House until the absent States be more fully represented:

JAMES BROOKS, New York;  
A. J. GLOSSBRENNER, Pennsylvania;  
WILLIAM S. HOLMAN, Indiana;  
W. E. NIBLACK, Indiana;  
J. M. HUMPHREY, New York;  
JOHN A. NICHOLSON, Delaware;  
CHARLES A. ELDRIDGE, Wisconsin;  
M. C. KERR, Indiana;  
P. VAN TROMP, Ohio;  
STEPHEN TABER, New York;  
D. M. VAN AUKEN, Pennsylvania;  
B. M. BOYER, Pennsylvania;  
LEWIS W. ROSS, Illinois;  
S. S. MARSHALL, Illinois;  
CHARLES DENISON, Pennsylvania;  
FERNANDO WOOD, New York;  
STEVENSON ARCHER, Maryland;  
J. LAWRENCE GETZ, Pennsylvania;  
T. E. NOELL, Missouri;  
W. MUNGEN, Ohio;  
W. E. ROBINSON, New York;  
DEMAS BARNES, New York;  
JOHN FOX, New York;  
ALBERT G. BURR, Illinois;  
JOHN MORRISSEY, New York;  
F. STONE, Maryland;  
GEORGE W. MORGAN, Ohio;  
CHARLES SITGREAVES, New Jersey;  
CHARLES HAIGHT, New Jersey;  
JOHN W. CHANLER, New York;  
JOHN V. L. PRUYN, New York.

I now ask that this be entered upon the Journal as the protest of the minority of this House.

The CLERK. The Clerk declines to entertain any paper of the character of that indicated by the gentleman from New York, [Mr. Brooks,] or any other matter pending the action of the House. The Clerk is now acting under the law; his duties are clearly prescribed; and



it is impossible for him to entertain any motion or any business not consistent with the organization of this House.

Mr. WILSON, of Iowa. I do not propose to submit any extended remarks in reply to what has just been said by the gentleman from New York, [Mr. Brooks.] This body is assembled in pursuance of law. That such is the case is recognized by the gentleman from New York and his associates from his and their presence here. He seems to have forgotten that for more than four years ten of the States enumerated by him, in the paper which he has just read, waged a fearful war against this Government. But that fact has not been forgotten by the people, nor is it forgotten by the Representatives of the people here assembled. I will not attempt to review the precedents he has cited in connection with former extra sessions of Congress. This is not an extra session; it is the first regular session of the Fortieth Congress, convened in pursuance of law. I now call the previous question on the resolution I have submitted.

The previous question was seconded and the main question ordered.

The question was upon the motion of Mr. WILSON, of Iowa, to proceed to the election of Speaker; and it was agreed to.

The CLERK. Nominations are now in order for the office of Speaker.

Mr. WILSON, of Iowa. I now desire to place in nomination for the office of Speaker of this House of Representatives the name of SCHUYLER COLFAX, of Indiana. [Great applause on the floor and in the galleries.] In doing so, Mr. Clerk, I may say that I believe this nomination is concurred in by every member of the political organization with which I act. It is so heartily concurred in and believed to be a fit and proper nomination by that organization that it has not been necessary for the party to hold any caucus whatever on the subject. I submit the name I have mentioned as a candidate for Speaker of the House of Representatives.

Mr. NICHOLSON. As it is the determination of this House to proceed to the election of Speaker at this time, I place in nomination the name of SAMUEL S. MARSHALL, of Illinois. [Applause from Democratic members.]

The CLERK appointed to act as tellers, Messrs. BANKS, of Massachusetts, ELDRIDGE, of Wisconsin, PAINE, of Wisconsin, and BOYER, of Pennsylvania.

The House proceeded to vote *viva voce* for Speaker, with the following result, which was announced by Mr. BANKS on behalf of the tellers:

Whole number of votes cast 157; necessary to a choice 79; of which—

Mr. Colfax received.....127  
Mr. Marshall..... 30

The following is the vote in detail:

For Mr. Colfax—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullum, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Polsley, Perham, Peters, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Price, Raun, Robertson, Robinson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Stevens, Stewart, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert F. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge.

For Mr. Marshall—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Denison, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noel, Pruyn, Ross, Sitgreaves, Stone, Taber, Van Aiken, Van Tromp, and Wood.

The CLERK announced that SCHUYLER COLFAX, one of the Representatives from the

State of Indiana, having received a majority of all the votes given, was duly elected Speaker of the House of Representatives for the Fortieth Congress. [Applause.]

At the suggestion of the Clerk, Mr. MARSHALL and Mr. POMEROY conducted Mr. COLFAX to the Chair, when he addressed the House as follows:

GENTLEMEN: Elected for the third time to this responsible and trying position, I appreciate more than ever before the importance of this trust, and realize more than when first entering on its difficult duties the absolute necessity of your confidence and support. Nor do I overrate the gravity of our position as American legislators.

"The years have never dropped their sand  
On mortal issue vast and grand  
As our's to-day."

A nation decimated by the conflicts of fraternal strife, a land desolated by the destructive marches of hostile armies, a people with the fruits of prolonged war ripened with the gloomy harvest of hearts dead with the bullet, as well as hearts heavy with bereavements and broken with anguish, look anxiously, from North and South alike, to this Capitol of our continental domain.

But there is a pathway of duty, luminous with light, and by that light should we walk. It is to guide our steps by the justice of God and the rights of man. It is to anchor our legislation on what the great commoner of England, John Bright, declares to be the simple but sublime principles on which great national questions should be settled, the basis of eternal right. It is to write on our banner those words that will shine brighter than the stars that gem the firmament—liberty, loyalty, and law. It is to so make history that posterity shall rise up and call us blessed.

The Congress which has just passed away has written a record that will be long remembered by the poor and the friendless, whom it did not forget. Misrepresented or misunderstood by those who denounced it as enemies, harshly and unjustly criticised by some who should have been its friends, it proved itself more faithful to human progress and liberty than any of its predecessors. The outraged and the oppressed found in these congressional Halls champions and friends. Its key-note of policy was protection to the downtrodden. It quailed not before the mightiest and neglected not the obscurest. It lifted the slave whom the nation had freed up to the full stature of manhood. It placed on our statute-book the civil rights bill as our national Magna Charta, grander than all the enactments that honor the American code. And in all the region whose civil governments had been destroyed by a vanquished rebellion it declared as a guarantee of defense to the weakest that the freeman's hand should wield the freeman's ballot, and that none but loyal men should govern a land which loyal sacrifices had saved. Taught, too, by inspiration that new wine could not be safely put in old bottles, it proclaimed that there could be no safe or loyal reconstruction on a foundation of unrepentant treason or disloyalty.

Fortunate will it be for us if, when we surrender these seats to our successors, we can point to a record which will shine on our historic page like that of the Congress which has just expired. Thrice fortunate if, when we leave this Capitol, our whole national structure shall be permanently restored, resting on the same foundation-stones of loyalty, unity, liberty, and right.

With such convictions of duty, I come to this chair to administer your rules, but not as a partisan. I appeal to you for that generous support by which alone a Presiding Officer can be sustained, pledging you in return an inflexible impartiality which shall be proved by my deeds. And, invoking on your deliberations the favor of Him who holds the destinies of nations in the hollow of His hand, I am now ready to take the oath of office prescribed by law.

Mr. DAWES, having served longest continuously as a member of the House, was designated by the Clerk to administer to the Speaker-elect the oath prescribed by law; which was done in the following form:

"I, SCHUYLER COLFAX, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto.

"And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties of the office on which I am about to enter. So help me God."

The SPEAKER then administered to the members present the oath prescribed by law.

#### MESSAGE FROM THE SENATE.

The following message from the Senate was delivered by Mr. FORNEY, its Secretary:

IN SENATE OF THE UNITED STATES, March 4, 1867.

*Resolved*, That a committee, consisting of two members, be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that the Senate is ready to receive any communication he may be pleased to make.

*Ordered*, That Mr. TRUMBULL and Mr. BUCKALEW be the committee on the part of the Senate.

Attest: J. W. FORNEY,  
Secretary.

#### NOTIFICATION OF ORGANIZATION.

Mr. DAWES submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States, to inform him that a quorum of the two Houses of Congress has assembled, and that Congress is ready to receive any communication he may make.

The SPEAKER announced the appointment of Mr. DAWES, Mr. MARSHALL, and Mr. WILSON, of Iowa, as the committee.

Mr. WILSON, of Iowa. As I have an engagement this afternoon in regard to the case of a gentleman claiming a seat here as a Delegate, I beg to decline the appointment just announced.

The SPEAKER. The gentleman will be excused, and in his stead the Chair appoints the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I prefer not to serve on that committee.

The SPEAKER. The Chair will make another appointment.

Subsequently the Speaker announced the appointment of Mr. POMEROY.

Mr. STEVENS submitted the following resolution, which was read, considered, and agreed to:

*Resolved*, That a message be sent to the Senate informing that body that a quorum of the House has assembled and elected SCHUYLER COLFAX, one of the Representatives from the State of Indiana, Speaker, and is now ready to proceed to business.

#### RULES OF THE HOUSE.

Mr. BANKS submitted the following resolution; on which he demanded the previous question:

*Resolved*, That the rules of the House of Representatives of the Thirty-Ninth Congress shall be the rules of the House of Representatives until otherwise ordered.

*Resolved further*, That a committee of five, to consist of the Speaker and four members to be named by him, be appointed, to whom shall be referred the rules of the House, who shall be authorized to report at any time such amendments on the revision of the same as they may think proper.

Mr. BROOKS. Will the gentleman from Massachusetts allow me one word?

Mr. BANKS. I will hear what the gentleman has to say.

Mr. BROOKS. Probably this is the only opportunity that I shall have to make a suggestion to those who may frame the rules, and I desire to avail myself of it.

We on this side of the House feel it to be of the highest importance to us and to the cause of free discussion and of human liberty that the rules of the House should be somewhat more liberalized, to allow the minority more freedom of expression. We do not feel that we have had freedom of expression heretofore in the discussion of the various questions arising here; and what is precedent to-day may become law to-morrow. I take the liberty, therefore, of suggesting to the gentleman from Massachusetts, and through him to the House, the propriety of so framing the rules as to allow the minority, as far as may be consistent with the transaction of the public business, opportunities to express their opinions upon the great subjects of the day; for it must be obvious to the gentleman as a reader of history that there is less freedom of discussion now in this House of Representatives than there is in the Legislative Assembly of France, in the British House of Commons, or in the Assembly of Switzerland—less than in any other country having a constitutional Government—less than is allowed under the monarchical Governments of Europe.

Mr. GARFIELD. I ask the gentleman from New York if he refers to the action of the House this morning as the precedent in which three fourths of the time occupied in discussion in the Fortieth Congress have been used by gentlemen on the other side, and particularly by the gentleman himself? [Laughter.]

Mr. BANKS. The object of the resolution which I move is to effect a temporary organization. The gentleman from New York or any of the members of the House will have ample opportunity hereafter to present such changes as they may desire for the consideration of the House.

Mr. BROOKS. The gentleman will permit me to interrupt him with a single remark. We are now bound by the old rules until the new ones are adopted, and I believe it has hitherto been the practice to defer their adoption until a later period of the session. It is important that the rules should be adopted at this time, and I therefore demand the previous question.

Mr. STEVENS. I will say one word, with the permission of the gentleman from Massachusetts. In regard to calling the yeas and nays there is no doubt. It is all fixed by the Constitution, and therefore unless the Constitution is amended it must remain as it is.

Mr. BANKS. I now insist on my demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were adopted.

Mr. BANKS moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUSPENSION OF THE RULES.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution:

*Resolved*, The rules be so amended that it will be in order during the remainder of this week to suspend the rules by a vote of two thirds.

Mr. ELDRIDGE. I object.

Mr. SCHENCK. Then I move to suspend the rules for the purpose of introducing the resolution.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 31, not voting 9; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Broomall, Butler, Calkins, Chace, Chubb, Clark, Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Daves, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Latfin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercur, Miller, Moore,

Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Polsey, Perham, Peters, Pike, Pile, Plants, Pomeroy, Price, Raun, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Stevens, Stewart, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Aernum, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—120.

NAYS—Messrs. Archer, Barnes, Boyer, Bromwell, Brooks, Burr, Chanler, Denison, Eldridge, Fox, Getz, Glossbrenner, Haught, Holman, Humphrey, Kerr, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Pruyn, Ross, Sitgreaves, Stone, Taber, Van Auken, and Wood—31.

NOT VOTING—Messrs. Buckland, Colfax, Hasley, Hulburd, Phelps, Poland, Robinson, Van Trump, and Elihu B. Washburne—9.

So (two thirds voting in the affirmative) the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTION OF CLERK.

Mr. DAWES submitted the following resolution, on which he demanded the previous question:

*Resolved*, That Edward McPherson, of Pennsylvania, be, and is hereby, elected Clerk of the House of Representatives of the Fortieth Congress.

Mr. SCHENCK. I object. I believe it is the understanding that there is to be this evening a caucus of the Republican members of the Fortieth Congress.

Mr. STEVENS. I desire to say that we had understood that no other officer than Speaker would be elected until after the caucus this evening, but upon turning to the law I find that it is imperative that no business can be done until both a Speaker and Clerk have been elected. Therefore it is deemed necessary to elect a Clerk before we adjourn.

Mr. SCHENCK. I merely wished to call attention to the fact that such was the general understanding.

The SPEAKER. The Chair has ascertained that there are precedents on this subject. In the Thirty-First Congress, when the Clerk died, the Speaker said that no business could be transacted until another Clerk was elected, because there was no officer to carry messages to the Senate. Is there objection to electing a Clerk by resolution?

No objection was made, and the resolution was accordingly agreed to.

Hon. EDWARD MCPHERSON, the Clerk-elect, then appeared and qualified by taking the oath prescribed by the act of July 2, 1862.

#### CONTESTED ELECTION.

Mr. SCHENCK. I desire to present the memorial of Columbus Delano, of Ohio, who contests the seat in this House of George W. Morgan, returned as Representative from the thirteenth district of that State. I move that it be referred to the Committee of Elections when that committee shall be appointed.

The memorial was ordered to be so referred.

#### TARIFF ON WOOL—ARMY APPROPRIATION BILL.

The SPEAKER. The Chair will state to the House that during the last moments of the Thirty-Ninth Congress, before twelve o'clock to-day, the President of the United States signed in the room occupied by him in the Capitol, the bill in regard to the tariff on wool and woollens; and as it was not deemed proper to interrupt the Presiding Officer in the delivery of his valedictory remarks, it was handed to the Clerk who entered it upon the Journal. And the same was done with reference to the Army appropriation bill, which the President's Private Secretary has handed to the Speaker, accompanied by a message giving his reasons, under protest, why he signed that bill. If there is no objection, the message will be read.

No objection being made, the Clerk read the following

#### MESSAGE FROM THE PRESIDENT.

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army for the year

ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. Those provisions are contained in the second section, which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army, and in the sixth section which denies to ten States of this Union their constitutional right to protect themselves in any emergency by means of their own militia. Those provisions are out of place in an appropriation act. I am compelled to defeat these necessary appropriations if I withhold my signature to the act. Pressed by these considerations I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

ANDREW JOHNSON.

March 2, 1867.

The message was laid on the table, and ordered to be printed.

#### TERRITORIAL DELEGATES.

The SPEAKER. The Chair will state that by the law, the Clerk of the House cannot put on the roll as formerly the names of the Delegates from the various Territories. He can only place there the names of the Representatives of the States. The Chair holds in his hand the credentials of Delegates, and asks the House to take such action on the subject as it may see fit.

Mr. FARNSWORTH. I will send to the Clerk's desk a resolution providing for placing on the roll the names of the Delegates.

The SPEAKER. The House is aware there is a contested election for Colorado.

The Clerk read the resolution offered by Mr. FARNSWORTH, as follows:

*Resolved*, That the Clerk of the House place upon the roll the names of Delegates from the several Territories whose credentials show *prima facie* that they were duly elected as such Delegates.

Mr. WILSON, of Iowa. I desire the gentleman from Illinois to amend the resolution so as to provide that the contested case of the Delegate from Colorado be sent to the Committee of Elections for that committee to determine upon the question, and report to the House which claimant is entitled to a seat.

Mr. FARNSWORTH. This resolution only provides for admitting such Delegates as show *prima facie* that they were duly elected. I recollect some instances in which there were contested-election cases from the Territories. There was a case from Dakota a few years ago, I recollect, in which the House ordered the name of Mr. Jaynes to be placed on the roll. The case was afterward examined by the Committee of Elections and on their report the House unseated Mr. Jaynes, and seated the other claimant, General Todd. I suppose that the same rule should apply to Delegates that applies to members, and that whoever has the certificate showing *prima facie* that he was elected should be admitted.

Mr. WILSON, of Iowa. I suggest to the gentleman the propriety of having these cases presented individually in order that they may be disposed of upon the merits of each case. There is, I believe, but one case where difficulty occurs in regard to the right to the seat, and that is the case of Colorado. I suggest that the usual course be pursued, and that the credentials of the Delegates be presented in their order so that we may have the sense of the House taken in the Colorado case on a motion to refer it to the Committee of Elections when appointed.

Mr. STEVENS. I think we had better postpone this matter and adjourn.

#### CONTESTED ELECTION.

The SPEAKER laid before the House a communication from James H. Birch, contesting the seat of Hon. Robert T. Van Horn, from the sixth congressional district of Missouri; which was referred to the Committee of Elections when appointed.

Mr. STEVENS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at two o'clock p. m.) the House adjourned.

## IN SENATE.

TUESDAY, March 5, 1867.

Prayer by Rev. E. H. GRAY, D.D.  
The Journal of yesterday was read and approved.

## THANKS TO GEORGE PEABODY.

Mr. SUMNER. I ask leave to introduce a joint resolution, of which no previous notice has been given.

By unanimous consent leave was granted to introduce a joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody; which was read twice. It proposes to present the thanks of Congress to George Peabody, of Massachusetts, for his great and peculiar beneficence in giving a large sum of money, amounting to \$2,000,000, for the promotion of education in the more destitute portions of the southern and southwestern States, the benefits of which, according to his directions, are to be distributed among the entire population, without any distinction, except as to means or opportunities for usefulness; and it also directs the presentation to Mr. Peabody of a gold medal, with suitable devices and inscriptions, in the name of the people of the United States.

Mr. SUMNER. I ask the unanimous consent of the Senate to proceed to the consideration of the resolution now.

The PRESIDENT *pro tempore*. The Senate has not yet received any notification from the House of Representatives that that House is organized; and the Chair thinks that legislative business cannot be proceeded with until Congress is organized.

Mr. SUMNER. Very well, then, I will let it lie on the table for a few moments.

## NOTICES OF BILLS.

Mr. SUMNER. I wish to give notice that I shall to-morrow ask leave to introduce a bill to guaranty a republican form of government in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, and to provide for the restoration of these States to practical relations with the Union.

I also give further notice that I shall ask leave to introduce a bill to prescribe an oath to maintain a republican form of government in the rebel States.

Mr. WILSON gave notice of his intention to ask leave to introduce a joint resolution to facilitate the settlement of claims for quartermasters' stores and subsistence supplies furnished by loyal persons to the Army of the United States.

## BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained leave to introduce the following bills; which were read twice by their titles, and ordered to lie on the table:

A bill (S. No. 1) to reorganize the judiciary of the United States.

A bill (S. No. 2) to regulate certain proceedings in criminal cases.

A bill (S. No. 3) concerning injunctions and proceedings in civil cases.

Mr. STEWART. I move that these bills be printed. I do not expect immediate action on them; but I wish to have them circulated among the judges and to get their opinions in regard to them before Congress shall meet next winter.

The motion was agreed to.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 4) for the relief of William Shunk; which was read twice by its title, and ordered to lie on the table.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 5) to extend the time for taking effect of the act relating to wool and wools; which was read twice by its title, and ordered to lie on the table.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 6) changing the route of a certain land-

grant railroad in Minnesota; which was read twice by its title, and ordered to lie on the table.

Mr. SUMNER. I now ask leave to introduce a joint resolution, supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and in introducing it I will make a brief statement. The resolution in the form I now present it is the one that was adopted by both Houses, but failed to be presented in season for the signature of the President. I present it now with the amendments ingrafted upon it in the House of Representatives. I hope there can be no question with regard to it, but that the Senate will act upon it to-day. I will not press it at this moment; I will wait till we hear from the other House.

The joint resolution (S. R. No. 2) was read twice by its title, and ordered to lie on the table.

## BANKRUPT LAW.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That three thousand copies of the bankrupt law be printed for the use of the Senate.

## MESSAGE FROM THE HOUSE.

At twenty minutes past twelve o'clock, Mr. EDWARD McPHERSON, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, I am directed to inform the Senate that a quorum of the House of Representatives has assembled and elected SCHUYLER COLFAX, one of the Representatives from the State of Indiana, Speaker; and that the House is now ready to proceed to business.

I am also directed to inform the Senate that the House has concurred in the resolution of the Senate for the appointment of a committee of the two Houses to wait on the President of the United States, and inform him that the two Houses have assembled and are ready to receive any communication he may be pleased to make; and has appointed Mr. HENRY L. DAWES of Massachusetts, Mr. S. S. MARSHALL of Illinois, and Mr. T. M. POMEROY of New York, the committee on the part of the House.

## PAPERS WITHDRAWN.

On motion of Mr. MORRILL, of Maine, it was

*Ordered*, That William Pierce have leave to withdraw his petition and papers.

## PETITIONS AND MEMORIALS.

Mr. FREYLINGHUYSEN presented papers in support of the claims of Francis A. Powe and Eliza G. Kearney to pensions; which were ordered to lie on the table.

He also presented a petition of Rebecca C. Meeker, praying for a pension; which was ordered to lie on the table.

Mr. WILSON presented a petition of George M. Willing, of Arizona, praying that steps be taken to acquire the territory at the mouth of the Colorado river; which was ordered to lie on the table.

## COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. TRUMBULL. Mr. President, the joint committee of the two Houses appointed to wait on the President of the United States and inform him of their organization and readiness to receive any communication he might be pleased to make, have performed that duty and were informed by the President that he had no communication to make to Congress at this time.

## THANKS TO GEORGE PEABODY.

Mr. SUMNER. I now move that the Senate proceed with the consideration of the joint resolution offered by me a while ago.

Mr. GRIMES. I trust we are not going to begin the business of the Senate at this early day by the passage of measures of this kind without the proper reference to a committee. It is a departure from all the established customs of the Senate; and I think it would be well enough for us to know something about

the conditions upon which the supposed benefaction has been conferred. I confess I am ignorant of them except such information as I have had opportunity to derive from telegraphic dispatches in the newspapers.

Mr. SUMNER. The Senator is mistaken when he refers to telegraphic dispatches in the newspapers. This act was set forth at length in the documents by which it is recorded, published in all our newspapers here in Washington, where I believe the documents were dated. The information in regard to it is ample. It is one of those rare public acts which, it seems to me, Congress will honor itself by honoring. I do not wish to press this proposition if Senators are indisposed to consider it now. On other occasions they have considered propositions of thanks for eminent services, and I know no occasion when they might more properly proceed to the consideration of such a question without a reference to a committee than this.

Mr. GRIMES. All I have to say is that there is no evidence at all before the Senate or before Congress upon this subject. According to the statement of the Senator from Massachusetts, his information is solely derived from the newspapers published in the city of Washington.

Mr. SUMNER. And every other newspaper published in the country.

Mr. GRIMES. Whether their information is accurate or not we know not. I am not aware that the Senate has ever before attempted to pass a vote of thanks without a reference to a committee, without proper consideration, without knowing specifically what that vote of thanks is based upon. I am not going to interpose an objection so as to throw the resolution over on my single objection. If it be the disposition of the Senate to inaugurate business in this way, I shall acquiesce in it.

Mr. SUMNER. I yield, then, to the Senator from Iowa, and will let the joint resolution lie on the table for the present. I regret, however, that the Senate does not at once and in the promptest way possible express its recognition of this great and magnanimous benefaction.

The PRESIDENT *pro tempore*. The motion to proceed to the consideration of the joint resolution is withdrawn.

## PARIS EXHIBITION.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the joint resolution relating to the Paris Exhibition.

Mr. TRUMBULL. I think the Senate is hardly in a condition to proceed with any of its legislative business; the committees are not yet formed; and after the preliminary business of the morning is gone through with I think we had better adjourn and not undertake to do legislative business to-day. The Senator from Massachusetts seems to act on the assumption that because a bill passed at the last Congress therefore it need not be referred now, and every one knows all about it; but he must remember that one third of this body is new, and the entire House of Representatives is new, and it strikes me that in regard to any legislative business we had better pursue the ordinary course; and if there be no other preliminary business of the morning I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, March 5, 1867.

The House met at twelve o'clock m.  
The Journal of yesterday was read and approved.

## MEMBERS SWORN IN.

Hon. SAMUEL J. RANDALL, a Representative-elect from the State of Pennsylvania, appeared and having taken the oath prescribed by the Constitution and the law of July 2, 1862, took his seat.

## COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. DAWES. The committee of the House appointed to join such committee as might be appointed on the part of the Senate to wait upon the President of the United States and inquire whether he had any communication to make to this Congress, have discharged that duty, and report that they have waited upon the President, and have been informed by him that he has no communication to make to Congress at this time.

## ELECTION OF OFFICERS.

Mr. DAWES. I have been requested to submit the following resolution:

*Resolved*, That N. G. Ordway be, and is hereby, declared duly elected Sergeant-at-Arms; that Charles E. Lippincott, be, and hereby is, declared duly elected Doorkeeper; and that William S. King be, and hereby is, duly elected Postmaster, of the House of Representatives for the Fortieth Congress.

The SPEAKER. By the rules of the House these elections must be *viva voce*. Is there any objection to the suspension of the rules?

Mr. BROOKS. What would be the use of objection?

The SPEAKER. If any member objects, the rules will have to be suspended by a two-thirds vote. Is there any objection?

There was no objection.

The resolution was adopted.

The Sergeant-at-Arms, Doorkeeper, and Postmaster-elect presented themselves, and were qualified by taking the usual oath of office.

## DRAWING FOR SEATS.

Mr. PRICE. I offer the following resolution:

*Resolved*, That we now proceed to select seats for members of the Fortieth Congress in the same manner as seats were allotted for the Thirty-Ninth Congress.

I move the previous question on the resolution.

Mr. DAWES. Will the gentleman withdraw that demand for a moment?

Mr. PRICE. Certainly.

Mr. DAWES. I do not propose to oppose the resolution, but I wish the gentleman to modify it after a statement which I will make. Mr. ELIHU B. WASHBURNE, the oldest member of the House in time of service has been compelled by ill-health to leave the country for Europe and to be absent from his seat here. This ill-health was incurred in the service of the House upon one of its committees, and I ask the gentleman from Iowa to either modify his resolution, or else I ask unanimous consent that Mr. WASHBURNE's seat, which he has occupied for the last four years, may be left for him, and I will also suggest that the same courtesy be granted to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. PRICE. I will accept both amendments.

The SPEAKER. The gentleman from Massachusetts asks that by unanimous consent Mr. WASHBURNE, of Illinois, whose health has been impaired by service on a committee of the House, and who is now in Europe, shall be allowed to occupy the seat which he has held for the last four years.

No objection was made.

The SPEAKER. The gentleman also asks unanimous consent that the same courtesy be extended to the gentleman from Pennsylvania, Mr. STEVENS.

No objection was made.

Mr. PRICE. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

## TERRITORIAL DELEGATES.

Mr. PRICE. It has been suggested that before the drawing for seats it would be proper that the Delegates should be qualified. I simply suggest the matter for consideration.

The SPEAKER. There have been placed upon the Speaker's table by the Clerk the

credentials of Delegates from the Territories of Idaho, Arizona, and Dakota, whose seats appear, so far as the knowledge of the Chair goes, to be uncontested. There are also conflicting credentials from the Territory of Colorado.

Mr. BALDWIN. I desire to offer a resolution in connection with this subject.

The SPEAKER. A resolution on this subject, offered yesterday by the gentleman from Illinois, [Mr. FARNSWORTH,] was pending at the adjournment yesterday. If there be no objection, it will be read.

The resolution was read, as follows:

*Resolved*, That the Clerk of the House place upon the roll the names of Delegates from the several Territories whose credentials show *prima facie* that they were duly elected as such Delegates.

Mr. FARNSWORTH obtained the floor.

Mr. WILSON, of Iowa. I desire to suggest to the gentleman from Illinois [Mr. FARNSWORTH] that he withdraw this resolution, and let the credentials of the Delegates be presented to the House. In cases where there is no dispute, the Delegates can be sworn in; and where there is a dispute the House can make such disposition of the case as it may deem proper. In relation to the Colorado case, I desire to move that that case be referred to the Committee of Elections when it shall be appointed, with instructions to report to the House which claimant has the *prima facie* title to the seat.

Mr. FARNSWORTH. My resolution simply proposes to apply with reference to Delegates the same rule which the law provides for with reference to members. It proposes that the Clerk of the House shall place upon the rolls the names of such Delegates as have credentials showing *prima facie* that they were duly elected. It appears to me a singular omission that a provision of this kind, corresponding with the provision in reference to members, was not embraced in the law. There is no propriety, so far as I can see, in applying to Delegates whose seats are contested a different rule from that applied to members whose seats are contested. Why should a Delegate whose credentials show a *prima facie* title to a seat be required to wait the decision of the Committee of Elections before being admitted? The adoption of my resolution will prejudice nobody, because the contestant from a Territory can present his case before the Committee of Elections just as a contestant from a State does.

Mr. WILSON, of Iowa. I think that the adoption of the resolution will prejudice the cases of some of these gentlemen, because they are all included in it, though the circumstances of the contest vary in different cases; and I think that some of these claimants are certainly entitled to an examination by the Committee of Elections of the question of *prima facie* title. In order to bring the House to a vote on this question I move that the resolution be laid on the table.

Mr. FARNSWORTH. I do not yield the floor for that motion.

The SPEAKER. The motion to lay on the table is not in order while the gentleman from Illinois retains the floor.

Mr. FARNSWORTH. The resolution certainly will not prejudice the rights of any contesting Delegate any more than the rights of contesting members are prejudiced by the law with reference to members from States, which requires the Clerk to place upon the roll the names of such members as shown by their credentials have *prima facie* title to their seats.

Mr. UPSON. Does the resolution of the gentleman include the Delegate from Colorado?

Mr. FARNSWORTH. It includes all the Delegates from Territories who show by their credentials that they are duly elected.

Mr. UPSON. I would like the gentleman to give me a categorical answer.

Mr. FARNSWORTH. I have not examined the subject sufficiently to enable me to give a categorical answer to the question of

the gentleman; but there is precedent for the action I propose. We have heretofore given a seat temporarily to a Delegate and afterward unseated him. In the Thirty-Eighth Congress, in the case of the Delegate from the Territory of Dakota, the House directed the name of Mr. Jaynes to be placed upon the roll, he holding a certificate issued by himself as Governor to himself as Delegate. Afterward he was unseated, and the seat was given to Mr. Todd, the contestant; and it so happens every year that some one is admitted to a seat and afterward unseated. I call the previous question on my resolution.

Mr. WOOD. I desire to make an inquiry of the Chair. What has been the practice heretofore in reference to Delegates who present *prima facie* evidence of election?

The SPEAKER. Until the enactment of the law under which this Congress has assembled and organized, the Clerk placed upon the roll the names of such as he saw proper to place there; unless he saw fit to refer it in some particular case to the House.

Mr. WOOD. I would inquire if there has been any instance in which any Delegate or member with a certificate has been denied his seat in the first instance?

The SPEAKER. That is not a parliamentary question, and the Chair cannot attempt to answer it.

Mr. WILSON, of Iowa. I move to lay the resolution on the table.

Mr. STEVENS. I desire to ask a question for information. I am not quite able to understand what will be the effect of adopting either of the two motions which have been made. I understand the motion of the gentleman from Illinois [Mr. FARNSWORTH] is that we shall proceed now to select the name of the man who shall take his seat as Delegate.

Mr. FARNSWORTH. That the Clerk shall do it.

Mr. STEVENS. Under the old rule I think the Clerk had the power to select the names; although the law which we have lately enacted omitted to include Delegates.

The SPEAKER. The law states that the Clerk shall place on the roll only the names of Representatives from those States represented in the preceding Congress.

Mr. STEVENS. Should not that be so construed as to include Delegates from Territories that had Delegates in the preceding Congress?

The SPEAKER. The Chair has conferred with the Clerk upon the subject, and the Clerk says that he does not think he has the right under the law to decide upon the *prima facie* credentials of Delegates, or to place their names upon the rolls, without further direction of the House.

In reference to the contest in regard to the seat of the Delegate from Colorado, the Clerk has informed the Chair that he does not know how to decide. The credentials of both claimants have the territorial seal, the one being signed by the Governor, the other by the majority of the board of canvassers.

Mr. WILSON, of Iowa. I would state that the claimant holding the certificate from the canvassers also has a certificate from the acting Governor of the Territory.

Mr. KOONTZ. I hope the resolution of the gentleman from Illinois [Mr. FARNSWORTH] will not prevail, for it makes the Clerk of the House the judge of the *prima facie* case. It will be remembered by the members of the Thirty-Ninth Congress who are now here that the Committee of Elections were engaged for nearly three months in determining the *prima facie* right to a seat. And I think the Clerk of this House should not be made the judge of that question.

The question was upon the motion of Mr. WILSON, of Iowa, to lay the resolution on the table; and being taken, there were—ayes 77, noes 47.

Before the result of the vote was announced, Mr. HOLMAN called for the yeas and nays. The yeas and nays were ordered.



The question was taken; and it was decided in the affirmative—yeas 109, nays 41, not voting 9; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Beaman, Benjamin, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asabel W. Hubbard, Chester D. Hubbard, Hubburd, Hunter, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercut, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Polsley, Perham, Peters, Pike, Pile, Plants, Poland, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Stevens, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Arnam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

NAYS—Messrs. Ames, Archer, Baldwin, Barnes, Bingham, Boyer, Brooks, Burr, Calk, Chanler, Eckley, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Ingersoll, Kerr, Logan, Marshall, McCullough, Morrissey, Mungen, Niblack, Nicholson, Noell, Phelps, Pruyn, Randall, Raum, Robinson, Ross, Sitgreaves, Stone, Taber, Van Auker, Van Tromp, and Wood—41.

NOT VOTING—Messrs. Denison, Eggleston, Finney, Loan, Morgan, Spalding, Stewart, Robert T. Van Horn, and Welker—9.

So the resolution was laid on the table.

#### DRAWING OF SEATS.

Mr. STEVENS. Mr. Speaker, I want to suggest, while I am thankful to the House for having excepted me from the drawing of seats and allowed me to retain the one I have heretofore occupied, still I should be glad if the like privilege were accorded to the gentleman from Maryland, [Mr. F. THOMAS.] I make that motion.

Mr. BANKS. I hope that will be done.

Mr. F. THOMAS. I object to it myself. [Laughter.]

Mr. BANKS. The gentleman cannot object, as he is interested; he has no right to object. [Laughter.]

The SPEAKER. The Chair must entertain the objection.

Mr. BANKS. He is interested, and under the rules has no right to object. [Laughter.]

The SPEAKER. He has the right to object to anything.

Mr. PAINE. His objection cannot be entertained, because he did not rise and object.

The SPEAKER. That is a good point, and the gentleman's objection will not be entertained.

Mr. STEVENS's motion was then agreed to unanimously.

Mr. GRISWOLD. I move to reconsider the vote by which the House ordered the drawing for seats to take place immediately.

Mr. WILSON, of Iowa. I desire to make a motion in reference to papers—

The SPEAKER. The motion to reconsider has priority of every other motion except the motion to adjourn.

Mr. GRISWOLD. The object of my motion is to delay the drawing of seats until the unrepresented States, the unrepresented States of the North at least, are represented upon this floor. There are six or seven northern States which are not represented here. As this is a final drawing of seats I think it would be more becoming for us to postpone the drawing until the members from those absent States are here. I demand the previous question.

The House divided; and there were—ayes 61, noes 43.

So the previous question was seconded.

Mr. HOLMAN moved that the motion to reconsider be laid on the table.

The House divided; and there were—ayes 87, noes 34.

Mr. HUBBARD, of West Virginia, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. CHANLER. I suppose the effect of the motion is to wait until the southern States are admitted?

The SPEAKER. That is not a question of order.

So the motion to reconsider was laid on the table.

#### DELEGATES FROM TERRITORIES.

Mr. WILSON, of Iowa. I move that the questions presented by the claimants from the Territory of Colorado for a seat upon this floor be referred to the Committee of Elections when appointed, with instruction to report which one of the contestants has the *prima facie* right to the seat, reserving to the other the right of contest. I demand the previous question.

Mr. STEVENS. We cannot deprive the Delegates of their seats in reference to which there is no contest. I ask the gentleman to modify his resolution to include that they shall be sworn in.

Mr. WILSON, of Iowa. I accept that as a modification of my resolution.

Mr. DAWES. I think the gentleman from Iowa should make some provision for notice of contest.

Mr. WILSON, of Iowa. I intend to leave that to the report of the committee.

The resolution, as modified, was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ROOM FOR DELEGATES.

Mr. BALDWIN: I submit the following resolution:

*Resolved*, That the Doorkeeper be directed to assign some suitable room for the common use of the Delegates from the Territories, which they can use for meetings for consultation, and for such other purposes as their business as Delegates may require.

The SPEAKER. The Chair had the allotment of rooms on this side for committees, and there not being rooms enough he had to assign two or three committees to one room. He was even compelled to take one of the reception rooms for the Committee on Appropriations.

Mr. RANDALL. I suggest the Delegates be allowed to use the room of the Committee on Banking and Currency, as that committee did as little business at the last session as any. [Laughter.]

Mr. BALDWIN. I am satisfied there is great need for this resolution, but I will withdraw it for the present.

#### CORRECTION.

Mr. NICHOLSON. I rise to a personal explanation. I observe in the report of yesterday's proceedings as published by the Associated Press, that my name is omitted in the list of the signers of the protest read by the gentleman from New York, [Mr. Brooks.] I desire to make this explanation so the error may be corrected. It is right in the "Globe." I do not wish to be deprived of any merit of the act, nor to shrink from any responsibility connected with it.

#### ELECTION CONTEST—BIRCH VS. VAN HORN.

The SPEAKER laid before the House the papers in the case of Birch vs. Van Horn, from the sixth congressional district of Missouri; which were referred to the Committee of Elections, when appointed.

#### ELECTION CONTEST—STEWART VS. PHELPS.

The SPEAKER also laid before the House the papers in the case of Stewart vs. Phelps, from the third congressional district of Maryland; which were referred to the same committee, when appointed.

Mr. PHELPS presented some papers in the above case; which were referred to the same committee.

#### ELECTION CONTEST—McGRORTY VS. HOOPER.

The SPEAKER. The Chair lays before the House the following telegraphic dispatch:

SALT LAKE CITY, March 1, 1887.

To EDWARD McPHERSON, Clerk of the House:

Take notice, that I will contest the seat of William

H. Hooper, Delegate for Utah in the Fortieth Congress. Notice sent by express.

WILLIAM McGRORTY.

The Chair will state that the credentials of the Delegates have not yet arrived by mail.

Mr. CHANLER. I would inquire if he is entitled, under the rule of the House, to contest a seat if he has more than one wife. [Laughter.]

The SPEAKER. The Chair cannot answer any but parliamentary questions. [Laughter.]

#### DELEGATES SWORN IN.

The SPEAKER. The Chair lays before the House the credentials of three Delegates, whose seats are not contested, namely, from Idaho, Arizona, and Dakota. If there is no objection the Delegates will appear and take the oath of office. The remaining papers will be referred to the Committee of Elections, when appointed.

Mr. E. D. HOLBROOK, of Idaho; Mr. COLES BASHFORD, of Arizona; and Mr. WALTER A. BURLEIGH, of Dakota, accordingly appeared and took the oath of office as prescribed by the act of July 2, 1862.

#### TARIFF BILL.

Mr. MOORHEAD. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the tariff bill of the House, No. 718, of the Thirty-Ninth Congress, with the pending amendments, be referred to the Committee of Ways and Means, when appointed.

Mr. HOLMAN. I object. I call for the regular order.

#### DRAWING FOR SEATS.

The SPEAKER. The regular order is the drawing for seats, which must be done in accordance with the usage heretofore, which the Chair will state. With the exception of the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Maryland [Mr. THOMAS] who are authorized by the resolution of the House first to select seats, all other members will retire beyond the outer row of seats. The seat formerly occupied by the gentleman from Illinois [Mr. WASHBURN] will be regarded as reserved for him. Members will remain at the outer row until their names are drawn, and each member as his name is drawn will select his seat and remain in it until the close of the drawing; otherwise he will lose his right to the seat chosen.

In execution of the order of the House members and Delegates retired beyond the outer row of seats, and as their names were drawn reappeared and selected their seats.

#### ELECTION OF CHAPLAIN.

Mr. BALDWIN. I move that the House now proceed to the election of Chaplain.

The motion was agreed to.

The SPEAKER. Nominations are now in order.

Mr. BALDWIN. I nominate Rev. Dr. C. B. Boynton.

Mr. PRUYN. I nominate Rev. Dr. Hall, rector of the Church of the Epiphany, of Washington.

Mr. RANDALL. I nominate Rev. John Chambers, of Pennsylvania.

Mr. NOELL. I nominate Rev. J. C. Berryman, of Missouri.

Mr. ROSS. I nominate Rev. Peter Cartwright, of Illinois.

Mr. HOLMAN. I nominate Rev. Dr. Charles Ager, of Aurora, Indiana.

Mr. PILE. I nominate Rev. Mr. Crary, of St. Louis.

Mr. DRIGGS. I nominate Rev. Ralph Hoyt.

Mr. BANKS. I nominate Rev. George H. Hepworth.

Mr. ELDREDGE. The State of Tennessee is not represented on this floor. In behalf of that State I nominate Rev. William G. Brownlow. [Laughter.]

The SPEAKER appointed as tellers to count the vote Mr. BALDWIN, Mr. PRUYN, Mr. RANDALL, and Mr. PILE.

The House proceeded to vote *viva voce* for

Chaplain with the following result, which was announced by Mr. BALDWIN on behalf of the tellers:

Whole number of votes cast, 149; necessary to a choice, 75; of which

Rev. C. B. Boynton received.....	86
Rev. George H. Hepworth.....	18
Rev. Mr. Crary.....	11
Rev. Dr. Hall.....	10
Rev. Mr. Berryman.....	8
Rev. Peter Cartwright.....	6
Rev. Mr. Chambers.....	5
Rev. Mr. Ager.....	3
Rev. Ralph Hoyt.....	2

The following is the result of the vote in detail:

For Mr. Boynton—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baldwin, Bingham, Blaine, Bromwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dodge, Eckley, Eggleston, Ferriss, Ferry, Fields, Garfield, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Asahel W. Hubbard, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, O'Neill, Orth, Paine, Perham, Plants, Poland, Pomeroy, Raum, Robertson, Sawyer, Selye, Shellabarger, Spalding, Stevens, Stewart, Thomas, Trowbridge, Twitchell, Van Aernam, Burt Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge.

For Mr. Hepworth—Messrs. Ames, Baker, Banks, Boutwell, Dawes, Eliot, Farnsworth, Finney, Hopkins, Hulburd, Peters, Pike, Schenck, Scofield, Upson, and Cadwalader C. Washburn.

For Mr. Crary—Messrs. Anderson, Benjamin, Donnelly, Gravely, Hunter, Moorhead, Newcomb, Pile, Price, Shanks, and Robert T. Van Horn.

For Dr. Hall—Messrs. Chanler, Fox, Getz, Morgan, Phelps, Pruyn, Robinson, Stone, Van Tromp, and Ward.

For Mr. Berryman—Messrs. Denison, Eldridge, Haight, Humphrey, Mungen, Sitgreaves, and Wood.

For Mr. Chambers—Messrs. Archer, Boyer, Glossbrenner, McCullough, Nicholson, and Randall.

For Mr. Cartwright—Messrs. Burr, Cullom, Chester D. Hubbard, Ingersoll, Marshall, and Ross.

For Mr. Ager—Messrs. Holman, Kerr, and Niblack.

For Mr. Hoyt—Messrs. Blair and Driggs.

The SPEAKER. Rev. C. B. BOYNTON having received a majority of all the votes cast, is declared elected Chaplain of the Fortieth Congress.

#### ASSISTANT STENOGRAPHER.

Mr. DAWES. With a view to complete the organization of the House, I offer the following resolution:

*Resolved*, That the assistant stenographer of the last House be continued as such until otherwise ordered.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MEMBER SWORN IN.

Mr. ASHLEY, of Ohio. I rise to a question of privilege. I present the credentials of the member-elect from the State of Nebraska, who is now present, and I ask that he be sworn in.

Hon. JOHN TAFTE, Representative-elect from the State of Nebraska appeared, and having taken the oath prescribed by the Constitution and the law of July 2, 1862, took his seat.

#### PAY OF CONGRESSIONAL EMPLOYÉS.

Mr. WOODBRIDGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved by the House of Representatives*, (the Senate concurring,) That a select committee of six be appointed, consisting of three from the Senate and three from the House, whose duty it shall be to revise and equalize the pay of the employés of each House, and report a bill to carry out the provisions of this resolution.

Mr. WOODBRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NATIONAL CURRENCY.

Mr. PRICE. I ask the unanimous consent of the House to introduce a bill to amend an act entitled "An act to provide a national cur-

rency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," for the purpose of having it referred to a select committee.

Mr. HOOPER, of Massachusetts. I object.

Mr. PRICE. I move a suspension of the rules in order that I may introduce this bill and have it referred. I think the gentleman from Massachusetts [Mr. HOOPER] would not object to the bill if he knew what it was.

Mr. FARNSWORTH. I move that the House now adjourn.

The SPEAKER. Before the question is put upon the motion to adjourn, the Chair desires to state to the House that on Thursday next, should the House be in session on that day, he will announce the Committee of Elections, the Committee on the Rules, and the Committee on Mileage, three committees which are absolutely necessary, whether the House shall remain in session for three days or three months. It is true Rule 67 requires the Speaker to appoint all the committees of the House unless their appointment be otherwise ordered by the House. But for reasons which are obvious to every member, the Chair will not appoint any of the other committees, unless ordered by the House so to do. Of course, if the House desires the other committees to be appointed, and will so order, the Chair will appoint them.

And the Chair will also state that if there be no objection he will appoint as a member of the Committee on the Rules, the member from Illinois, now absent, Mr. WASHBURN, as he is the oldest member of the House in continuous service. Before Mr. WASHBURN left for Europe he subscribed to the oath of office and filed it with the Clerk of the House of Representatives; and although he has not been formally sworn in as a member of this House, still as the House recognized him as a member this morning by assigning a particular seat to him, the Chair supposes there will be no objection to the appointment of Mr. WASHBURN upon the Committee on the Rules on account of his seniority of service in this body.

No objection was made.

Mr. ELDRIDGE. I would inquire if it is expected that this House will remain in session and legislate for any length of time without having committees?

The SPEAKER. The Chair cannot tell in regard to that. But the House has already ordered that certain matters shall be referred to the Committee of Elections when appointed; and therefore it will be necessary to appoint that committee. And by a vote yesterday the House ordered the appointment of a Committee on the Rules.

Mr. INGERSOLL. I would inquire if it is in order to introduce bills for reference to any of the committees when they shall have been appointed?

The SPEAKER. Whenever there shall be no other business before the House the States will be called for resolutions, under which call bills can be introduced for action or reference. When so introduced they can be referred to the Committee of the Whole on the state of the Union, which at present has no Calendar, or to select committees; or to standing committees when appointed; that will be a matter for the House to determine.

Mr. STEVENS. I hope no business will be inaugurated now. I think I had better move that the House adjourn.

The SPEAKER. The motion to adjourn is now pending, made by the gentleman from Illinois. [Mr. FARNSWORTH.]

Mr. PRICE. Will the gentleman from Illinois [Mr. FARNSWORTH] withdraw his motion to adjourn, and yield to me for one minute by the clock?

Mr. FARNSWORTH. I must decline to yield.

Mr. ELDRIDGE. I would inquire of the Chair if some matters were not referred to the Committee of Ways and Means yesterday?

The SPEAKER. There were no matters referred to that committee. The gentleman

from Pennsylvania [Mr. MOORHEAD] asked leave to introduce some bill for reference to the Committee of Ways and Means, when appointed, but objection was made.

The question was on the motion to adjourn. The motion was agreed to; and thereupon (at two o'clock and thirty-five minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of Governor Henry H. Crapo and numerous others, citizens of Michigan, praying that the five per cent. tax imposed upon manufactures may be wholly removed.

By Mr. DRIGGS: The petition of John Senter and 77 others, residents of Lake Superior, for a grant of lands to aid in the construction of a mineral-range railroad in the upper peninsula of the State of Michigan.

#### NOTICE OF A BILL.

By Mr. SPALDING: A bill to establish a navy-yard and naval depot at or near Cleveland, in the State of Ohio, upon the southern shore of Lake Erie.

#### IN SENATE.

WEDNESDAY, March 6, 1867.

Prayer by Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a petition of citizens of Le Sueur, Minnesota, praying for an appropriation for the improvement of the Minnesota river; which was ordered to lie on the table.

Mr. HARLAN presented the memorial of W. C. Stripe and others and the city council of Keokuk, Iowa, praying for an appropriation of \$150,000 for the erection of a building for a post office, revenue office, and other Government offices at Keokuk; which was ordered to lie on the table.

Mr. CHANDLER presented resolutions of the Legislature of Michigan, asking for an appropriation for the construction of a break-water and light-house in the harbor of Port Austin, for the construction of harbors at the mouth of the Pentwater and Pere Marquette rivers, and for the survey of the harbor of Alpena, at the mouth of Thunder Bay river, and building a light-house and other improvements there; which were ordered to be printed, and lie on the table.

#### PAPERS WITHDRAWN.

On motion of Mr. JOHNSON, it was *Ordered*, That James Crutchett have leave to withdraw his petition and papers.

On motion of Mr. JOHNSON, it was *Ordered*, That Rear Admiral D. D. Porter have leave to withdraw his petition praying for an allowance to the widow and children of the late Major D. P. Heap.

On the motion of Mr. WILSON, it was *Ordered*, That W. F. Halleck have leave to withdraw his petition and papers.

On motion of Mr. PATTERSON, of Tennessee, it was

*Ordered*, That A. W. Walker have leave to withdraw his petition and papers.

#### PACIFIC RAILROAD.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to communicate to the Senate the report of Brevet Brigadier General James H. Simpson on the Pacific railroad and branches, submitted to him in February, 1867.

#### NOTICE OF A BILL.

Mr. HARLAN gave notice of his intention to ask leave to introduce a bill to authorize and provide for the construction of a national military and freight railroad from the Mississippi river to certain points on the Atlantic coast.

#### BILLS INTRODUCED.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 7) to guaranty a republican form

of government in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, and to provide for the restoration of these States to practical relations with the Union; which was read twice by its title.

Mr. SUMNER. In introducing this bill, I desire to say that I do not forget that Congress has already passed what is known as the military bill, and which has in it certain elements of reconstruction; but at the time of the passage of that bill I did not disguise my sense of its incompleteness. It is not enough; it is not what the loyal people of the South have a right to expect from Congress. It contemplates reconstruction, but it does not supply proper machinery. Then again, such machinery as is to be employed is left in the hands of the existing governments, which the bill declares to be illegal. There seems to be a vital defect in the whole bill. I hesitate very much to criticize a measure which has in it so much of good, which asserts the complete jurisdiction of Congress over that whole region, and which ordains universal suffrage without distinction of color. But I am obliged to add my conviction that something more is needed in order to give to the loyal people of those States the protection which they have a right to expect. I have in my hands now a letter from Alabama, which was received yesterday, from one of the true loyalists there, in which he gives expression to his sentiments with regard to that bill. I will read only a brief extract; the letter is dated in Alabama, March 1, 1867:

"The military and reorganization bill passed by Congress will not do. It will result in again passing Alabama into rebel hands. The persons exempt from holding office and voting will effect nothing; the persons not exempted will control the State; so you may put down another failure. Negro votes under the bill will be used by rebels. The convention, if one is held, will be turned to rebel purposes."

And the letter concludes:

"I have no hope in the future of Alabama. The rebels have it, and will hold it under this bill."

Mr. JOHNSON. Who is the writer?

Mr. SUMNER. It is a very determined Unionist in the State of Alabama, surrounded at this moment by political foes. The Senate, therefore, will pardon me if I do not betray his name. Suffice it to say that it is a person well known to the Unionists here in Washington.

I do not now, however, propose to follow this subject any further. At some future day I may deem it my duty to call the attention of the Senate to it. I move that it be printed.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill will lie on the table.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 8) to prescribe an oath to maintain a republican form of government in the rebel States; which was read the first time by its title.

Mr. HENDRICKS. I object to more than one reading of the bill to-day.

Mr. SUMNER. I move that it be printed. The motion was agreed to.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 9) to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 3) construing and giving effect to the joint resolution for the relief of the State of Wisconsin, approved July 1, 1864; which was read twice by its title, and ordered to lie on the table.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 10) granting jurisdiction to the Court of Claims in a certain cause involving the right to the use of a patent; which was read twice by its title, and ordered to lie on the table.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 11) to admit the State of Colorado into the Union; which was read twice by its title, and ordered to lie on the table.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 12) to consolidate the southern and central superintendencies and certain Indian agencies, and to create an Indian superintendency for the Territory of Dakota; which was read twice by its title, and ordered to lie on the table.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 4) for the relief of Daniel Ellis; which was read twice by its title, and ordered to lie on the table.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 5) declaring the municipal offices of Alexandria, Virginia, to be vacated; which was read twice by its title, and ordered to lie on the table.

Mr. PATTERSON, of Tennessee. I desire leave to introduce a bill of which notice has not been given, and I wish to say that it is a copy of a bill that was before the House of Representatives at the last session.

By unanimous consent, leave was given to introduce the bill (S. No. 13) granting pensions to the soldiers of the war of 1812 with Great Britain; and it was read twice by its title, and ordered to lie on the table.

#### PAY OF CONGRESSIONAL EMPLOYÉS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following resolution, in which the concurrence of the Senate was requested:

*Resolved by the House of Representatives, (the Senate concurring.)* That a select committee of six be appointed, consisting of three from the Senate and three from the House, whose duty it shall be to revise and equalize the pay of the employés of each House, and report a bill to carry out the provisions of this resolution.

On motion of Mr. SHERMAN the resolution was taken up and concurred in.

#### COMMITTEE ON RETRENCHMENT.

Mr. ANTHONY submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate, (the House of Representatives concurring.)* That the joint select Committee on Retrenchment, raised by a concurrent resolution of the two Houses at the first session of the Thirty-Ninth Congress, be, and the same is hereby, revived and continued for and during the Fortieth Congress, with all the same powers and duties appertaining thereto in said Thirty-Ninth Congress, and with power to appoint a clerk, and with power in its members to administer oaths; and that any vacancies in said committee be filled by the Presiding Officer of each House respectively.

#### COMMITTEE ON APPROPRIATIONS.

Mr. ANTHONY. I offer the following resolution:

*Resolved.* That the 34th rule of the Senate be amended by adding thereto, after the words "a Committee on Finance," the words "a Committee on Appropriations, to consist of seven members."

The purpose is to divide the onerous labors of the Finance Committee with another committee.

The resolution was considered by unanimous consent, and agreed to.

#### PERSONAL EXPLANATION.

Mr. DOOLITTLE. Mr. President, on Monday evening a newspaper was placed in my hand, in which I find a report of a committee of the last House of Representatives, submitted by Mr. HULBURD, of New York, which demands notice at my hands. It fills me with surprise and indignation. Without any notice to me, without calling upon me for any explanation, this report, by inference, and not by direct charge, by innuendo, not by positive avowment, endeavors to create the impression that I received or agreed to receive \$5,000 or some other pecuniary or other benefit from Mr. Smythe, the collector of the port of New York. This charge, whether made directly or by

implication, whether sought to be sustained by proof or innuendo, is absolutely and unqualifiedly false, and from whatever source it comes I pronounce it a base falsehood, a vile and cowardly slander.

I go further, sir, and say, that in the hundreds, and perhaps thousands of cases in which, during the ten years I have been in this body, my recommendation has been sought and obtained, there is not a single instance in which any kind of pecuniary consideration of the value of one cent was ever expected or received directly or indirectly by me; and I have yet to see that man upon this earth who would dare to look me in the face and make such an offer. Upon this and all other matters I am ready to meet the most searching scrutiny. So much for myself. But my duty is not yet done. The good name of my son has also been called in question. Upon this subject yesterday (Tuesday) morning, I prepared a statement to submit to the Senate, but I am told the testimony is not all published; I shall therefore withhold that statement. Meantime I will only say that when the truth is fully known there will be found nothing on his part dishonorable to his character as a soldier or as a citizen.

Mr. PATTERSON, of Tennessee. I see by the newspapers that I am involved in the same charge that is made against the Senator from Wisconsin, of having received \$5,000 from Mr. Smythe. I will dispose of that in a very few words. There is no direct charge, but there is an innuendo that I was to receive \$5,000 from the same person referred to by the Senator from Wisconsin. All I have to say that the document alluded to by him is false in its charges, false in its insinuations, and false in its innuendoes. I never received a copper from Mr. Smythe; and, if it were senatorial to say so, I would say that the insinuation is as false as hell. That is all I have to say.

#### PARIS EXHIBITION.

Mr. SUMNER. I move that the Senate proceed to the consideration of the joint resolution (S. R. No. 2) supplementary to other joint resolutions, to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; which was introduced by me yesterday. It is the same resolution that during the last minutes of the late session failed to receive the signatures of the presiding officers of the two Houses. If it be taken up I will make a brief explanation in regard to it.

The motion was agreed to; and the Secretary commenced to read the joint resolution.

Mr. TRUMBULL. I move that the Senate adjourn.

Mr. SUMNER. I hope not. Let us finish this business.

Mr. GRIMES. This business ought to go to a committee.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 6, 1867.

The House met at twelve o'clock m.

The Chaplain-elect, Rev. C. B. BOXTON, prayed as follows:

Almighty and eternal God, we thank Thee that through the night watches once more, Thou, O Shepherd of Israel! wert the keeper of us all. We come not only to offer thanksgiving for Thy preserving love, but to worship Thee as God over all, to extol Thee as King of Nations, to adore Thee as the God of progress, and to thank Thee that Thou hast so arranged the events connected with this nation, and the lives of these men now before Thee, as to make it possible that such a body of men should be assembled here, the latest expression of the wishes and sentiments of the American people.

And we bless Thee, O God, that on the

very threshold of their very important deliberations they are willing to pause and commit their way unto Him who never errs. We thank Thee for all the guidance that we believe Thou hast granted unto the legislators who preceded them, and to many of these who, in another Congress represented, as they could, through Thine aid, the wishes and sentiments of the people of this country. Blessed be God, who did enable them then to accomplish so much.

And we ask Thee now to grant unto them and to their new associates here a wisdom which shall be sufficient to enable them to perform aright every one of the important duties of their station. And we pray Thee, that, as the result of the deliberations of this Congress, and of all the Departments of the Government associated with them, there may be peace and union, universal and perpetual, established over this whole country. And we know that Thou hast said there must be purity to precede peace, and there must be righteousness to render that peace stable. So may they not forget to lay the foundations that they are called upon to lay, and to carry up the superstructure that may be committed to them as master workmen, so that justice and the principles of the gospel of our Lord and Saviour, Jesus Christ, shall characterize it all.

May the blessings of God rest on this session and on every session of this Congress. We ask it in the name of Jesus. Amen.

On motion of Mr. RANDALL, the reading of the Journal of yesterday was dispensed with by unanimous consent.

#### DELEGATE SWORN IN.

Mr. STEVENS. I rise to a question of privilege, and present the credentials of the Delegate-elect from the Territory of Utah.

Mr. WILLIAM H. HOOPER, of Utah, then appeared and took the oath of office prescribed by the act of July 2, 1862.

#### CHAPLAIN-ELECT SWORN IN.

The Chaplain-elect, Rev. C. B. BOYNTON, then appeared, and took the prescribed oath.

#### SINKING FUND FOR NATIONAL DEBT.

Mr. RANDALL. I desire to introduce a bill to authorize the issue of Treasury notes not bearing interest to be used in providing a sinking fund for the extinguishment of the national debt.

The SPEAKER. At the adjournment yesterday the pending question was upon the motion of the gentleman from Iowa, [Mr. PRICE,] to suspend the rules for the purpose of introducing a bill for reference to a select committee.

#### NATIONAL BANKS.

Mr. PRICE. My motion is to suspend the rules in order to enable me to introduce a bill to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" and to have the same referred to a select committee, which shall include three members of this House, who were members of the Committee on Banking and Currency of the last Congress. And I will ask the reading of a letter from the Comptroller of the Currency upon this subject.

Mr. HARDING. I ask that the bill itself may be first read.

The bill was read. It provides that no national banking association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital; and if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which

interest is part due and unpaid for a period of six months, unless the same shall be well secured and shall be in process of collection, be considered bad debts within the meaning of this act. And when the Comptroller of the Currency shall have information that the capital stock of any association has been impaired by losses or bad debts to an amount exceeding one tenth of its paid-in capital, it shall be his duty to appoint an agent to investigate the affairs of such association, who shall report the amount of the deficiency; and the Comptroller of the Currency shall thereupon give notice to the president and board of directors of the association to make good the capital by an assessment on the stockholders, or to reduce the capital in the amount of losses sustained; and the board of directors shall have power, upon a vote of shareholders owning two thirds of the stock, to make an assessment upon the stock for an amount sufficient to cover the deficiency, which assessment shall be collectable in the manner prescribed in the fifteenth section of the act of which this is amendatory, for the collection of installments of capital stock, or to reduce the capital in the amount of the losses sustained, as provided in the thirteenth section of said act; and in default of either of these proceedings, the Comptroller of the Currency shall have power to appoint a receiver to wind up the affairs of the association.

Mr. PRICE. I now ask the Clerk to read the letter which I send to his desk.

The Clerk read as follows:

TREASURY DEPARTMENT,  
OFFICE OF COMPTROLLER OF THE CURRENCY,  
WASHINGTON, March 5, 1867.

DEAR SIR: As the law now stands, the entire capital of a bank may be lost, the bank may be utterly insolvent, and may close its doors, and yet the Comptroller of the Currency has no power to act in the premises. I have three cases now pending where the capital of the bank has been impaired by dishonest practices on the part of the officers of the bank. I have instructed agents to examine and report the facts in these cases, and there my power ends, except so far as advice may go. I cannot compel the banks to make up these losses by assessment upon the stockholders; I cannot compel them to reduce their capital in the amount of losses sustained, nor can I appoint a receiver; and I respectfully request that you will present this amendment and urge its immediate passage, and that you will oppose any further amendments that may serve to complicate the matter or to retard immediate action.

Very respectfully, yours,

H. R. HULBURD, Comptroller.

Hon. HIRAM PRICE,  
House of Representatives, Washington, D. C.

Mr. PRICE. I understand the gentleman from Massachusetts withdraws his objection.

Mr. RANDALL. I do not know what the appropriate committee is.

The SPEAKER. The gentleman moves to suspend the rules to refer it to a select committee to be composed of the members of the Committee on Banking and Currency of the last Congress who are members of this Congress.

Mr. RANDALL. I am one of that number. It is proposed, then, to refer this to a resuscitated committee. If it be necessary, then we should have immediate action, and therefore I move, with the consent of the gentleman from Iowa, that we proceed to consider it at once.

The SPEAKER. If the gentleman withdraws his motion to refer, and if the rules be suspended, the House can then proceed to consider it at once.

Mr. PRICE. I withdraw it.

Mr. RANDALL. I move to suspend the rules to consider this bill at the present time.

Mr. WOOD. Mr. Speaker, I move as an amendment that it be referred to the Committee on Banking and Currency when appointed a standing committee of this House. The proposition as made for the reference of this bill is unusual and unprecedented. The members of the last committee are not members of this House and practically it could not be carried out.

The SPEAKER. That has been withdrawn, and the gentleman moves to suspend the rules to consider it at the present time.

The rules were not suspended.

#### MARYLAND CONTESTED-ELECTION CASE.

Mr. THOMAS. I rise to a privileged question. I present the petition of J. J. Stewart contesting the right to a seat of Mr. PHELPS, and move that it be referred to the Committee of Elections with power to report any time.

The SPEAKER. They have the right to report any time.

The motion was agreed to.

#### NEW YORK CUSTOM-HOUSE.

Mr. BROOKS. I submit the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to forthwith make personal inquiry into the seizures of champagne wines made by the New York custom-house in the year 1864, referred to in the recent report of the Committee on Public Expenditures; cause all such prosecutions to be discontinued if, in his opinion, the shippers or importers have not been guilty of willful negligence or any intention to defraud the revenue; and to make a report to this House of his action, embracing, among other things, a statement of the facts and circumstances upon which the importers rely for their defense.

The SPEAKER. The Chair will state that he doubts whether this House could alone direct the Secretary of the Treasury.

Mr. BROOKS. It does not direct, but only requests.

Mr. RANDALL. I object on the ground that it stops the prosecution of persons who have violated the law.

Mr. BROOKS. The Secretary of the Treasury has that power already, and my resolution only calls his attention to it. I move to suspend the rules, and I hope I will be allowed a word on the subject. Any member of the Committee on Public Expenditures which visited and took testimony in New York city who is within the sound of my voice, or any gentleman on the other side who read the report of the committee, will readily perceive the necessity for some such resolution, and I apprehend the necessity for some further action on the part of this House as well as other branches of the Government.

There is no positive direction in the resolution. The Solicitor of the Treasury has certain powers now. My object is to direct the attention of the Secretary to the fact. The principles embodied in the resolution arise from the suggestions of the Committee on Public Expenditures. Two persons, detectives of the Government, have been in Europe, assuming disguises and using counterfeit names and aliases, which is calculated to discredit the character of this Government abroad. The object of the resolution as well as of the Committee on Public Expenditures, is to call particular attention to the subject on the part of the Secretary of the Treasury.

Mr. HULBURD. I ask the gentleman what action he contemplates under the resolution?

Mr. BROOKS. That it be referred to the Secretary of the Treasury for such action as in his judgment may be deemed expedient. I want his attention called to the fact. If the Committee on Public Expenditures had proposed any resolution at the conclusion of their report I should not have proposed any myself; but as they have left it without any proposition whatever, I deem it a duty I owe to my constituents and to the commercial interests of the country, as well as to its honor abroad, to ask for immediate action on the part of the Secretary of the Treasury.

Mr. HULBURD. I suggest that this be laid on the table for the present.

Mr. BROOKS. I have no objection to having it lie over, so that it can be called up hereafter.

The SPEAKER. This being a call for executive information, and there being objection, it lies over.

#### CUSTOMS OFFICERS AND REVENUES.

Mr. HULBURD. I offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to furnish this House with a statement showing what number of collectors of customs, naval officers, surveyors, inspectors of customs, or aids to the



revenue or other officers to prevent smuggling, have been removed and their places filled by others since the 3d of March, 1866; also how many additional inspectors or other officers of customs have been appointed since that date, and at what compensation; also what increase of compensation to officers of customs has been allowed since that date, particularizing the office or officer whose compensation has been increased, and the district to which he belongs; also a statement showing what has been the expenses of collecting the revenues from customs during the year the 31st of December, 1866; also what was the expenses of the same during the year ending the 31st of December, 1865, prepared so as to show the comparative expense for the two years.

**THE SPEAKER.** This being a call for executive information requires unanimous consent.

No objection being made, the resolution was agreed to.

**Mr. HULBURD** moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASSASSINATION OF THE PRESIDENT.

**Mr. WARD.** I offer the following preamble and resolution:

Whereas an ex-member of the Cabinet has declared in a public speech delivered at Boston that the testimony given on behalf of the Government on the trial of the assassins of the late President Lincoln was suborned, and that one of the accomplices of the said assassins, Mrs. Surratt, was convicted and executed without there having been any evidence of her guilt; and whereas the trial of said assassins was essentially national in its character, and the public honor requires that this grave and deliberate impeachment of the integrity of its proceedings shall be investigated and the truth declared: Therefore,

*Be it resolved,* That a select committee of three be appointed by the Speaker to examine thoroughly into said charges, and to report thereon, and that they have authority to send for all persons and papers which may be required in conducting said investigation.

**Mr. WARD.** I move the previous question.

**Mr. ROSS.** I suggest if this investigation is to be had it would be better to have a larger committee than three.

**Mr. WARD.** I have no objection.

**Mr. RANDALL.** I suggest another modification—that the committee sit with open doors.

**Mr. WARD.** I will amend by inserting five instead of three as the number of the committee.

**Mr. RANDALL.** And also "with open doors."

**Mr. WARD.** I apprehend that is not usual, and I therefore can hardly accept it.

The previous question was seconded and the main question ordered.

**Mr. HARDING.** I move to lay the resolution on the table.

**Mr. WARD.** As there seems to be opposition to the resolution, I have no wish to press it now, and will therefore withdraw it till tomorrow.

#### CUSTOM REVENUE LAWS.

**Mr. WOOD.** I offer the following resolution:

*Resolved,* That a select committee of five members be appointed by the Speaker to examine into the practical operation of existing laws for the collection of duties on imports, and to suggest amendments which shall secure a revenue to the Treasury, reduce the fees and emoluments of collectors, naval officers, and surveyors, and protect importers from oppression and unjust exaction, with power to take testimony and to sit during the recess.

**THE SPEAKER.** The Chair will state that if the resolution gives rise to debate it must go over.

**Mr. BROOMALL.** I rise to debate the resolution.

The resolution accordingly went over.

#### WITHDRAWAL OF PAPERS.

On motion of **Mr. SCOTFIELD**, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers of Vincent Phelps.

#### TARIFF BILL.

**Mr. MOORHEAD.** I offer the following resolution, upon which I demand the previous question:

*Resolved,* That the tariff bill, being House bill No. 718 of the Thirty-Ninth Congress, together with the pending amendments, be referred to the Committee of Ways and Means, when appointed.

**Mr. STEVENS.** I move that the House do now adjourn; and thereupon (at twelve o'clock and twenty-five minutes p. m.) the House adjourned.

#### PETITION, ETC.

The following petition, &c., were presented under the rule, and referred to the appropriate committees: By **Mr. DODGE:** The petition of 45 citizens of Harrison county, Iowa, against any further reduction of the currency.

By **Mr. STEVENS:** A memorial numerously signed by citizens of the State of New York, asking that republican forms of Government be provided for each of the States; that legal-tender notes be substituted for those bearing interest; and that a certain part of the property of the rebels be confiscated and sold.

#### IN SENATE.

THURSDAY, March 7, 1867.

Prayer by **Rev. E. H. GRAY.**

The Journal of yesterday was read and approved.

#### THE STANDING COMMITTEES.

**Mr. ANTHONY.** I move that the Senate proceed to the election of the standing committees.

The motion was agreed to.

**Mr. ANTHONY.** I ask the unanimous consent of the Senate to suspend the rule which requires, first the chairman, and then the respective members of each committee to be selected by ballot.

**THE PRESIDENT pro tempore.** Is there objection? The Chair hears none, and the rule is suspended.

**Mr. ANTHONY.** I move that the Senators named in the list which I send to the Chair be elected to the places designated on the standing committees.

**THE PRESIDENT pro tempore.** The Chair understands the Senator from Rhode Island to offer a resolution. It will be read.

The Secretary read as follows:

*Resolved,* That the following be the standing committees of the Senate for the first session of the Forty-third Congress:

*On Foreign Relations*—Messrs. Sumner, (chairman,) Fessenden, Cameron, Harlan, Morton, Patterson of New Hampshire, and Johnson.

*On Finance*—Messrs. Sherman, (chairman,) Morgan, Williams, Van Winkle, Cattell, Henderson, and Morrill of Vermont.

*On Appropriations*—Messrs. Morrill of Maine, (chairman,) Grimes, Howe, Wilson, Cole, Conkling, and Guthrie.

*On Commerce*—Messrs. Chandler, (chairman,) Morrill of Maine, Morgan, Sprague, Corbett, Patterson of Tennessee, and Doolittle.

*On Manufactures*—Messrs. Sprague, (chairman,) Pomeroy, Yates, Cole, and Dixon.

*On Agriculture*—Messrs. Cameron, (chairman,) Cattell, Morton, Tipton, and Guthrie.

*On Military Affairs and the Militia*—Messrs. Wilson, (chairman,) Howard, Sprague, Cameron, Morton, Thayer, and Doolittle.

*On Naval Affairs*—Messrs. Grimes, (chairman,) Anthony, Cragin, Nye, Frelinghuysen, Drake, and Hendricks.

*On the Judiciary*—Messrs. Trumbull, (chairman,) Stewart, Frelinghuysen, Edmunds, Conkling, Johnson, and Hendricks.

*On Post Offices and Post Roads*—Messrs. Ramsey, (chairman,) Conness, Pomeroy, Van Winkle, Harlan, Morrill of Vermont, and Dixon.

*On Public Lands*—Messrs. Pomeroy, (chairman,) Stewart, Edmunds, Cattell, Williams, Tipton, and Hendricks.

*On Private Land Claims*—Messrs. Williams, (chairman,) Howard, Ferry, Riddle, and Norton.

*On Indian Affairs*—Messrs. Henderson, (chairman,) Morrill of Maine, Ross, Corbett, Thayer, Buckalew, and Doolittle.

*On Pensions*—Messrs. Van Winkle, (chairman,) Edmunds, Trumbull, Fowler, Tipton, Saulsbury, and Davis.

*On Revolutionary Claims*—Messrs. Nye, (chairman,) Chandler, Howe, Saulsbury, and Patterson of Tennessee.

*On Claims*—Messrs. Howe, (chairman,) Willey, Frelinghuysen, Howard, Morrill of Vermont, Cole, and Davis.

*On the District of Columbia*—Messrs. Harlan, (chairman,) Sumner, Henderson, Willey, Patterson of New Hampshire, Corbett, and Patterson of Tennessee.

*On Patents and the Patent Office*—Messrs. Willey, (chairman,) Sherman, Thayer, Ferry, and Norton.

*On Public Buildings and Grounds*—Messrs. Fessenden, (chairman,) Trumbull, Grimes, Ferry, and Johnson.

*On Territories*—Messrs. Yates, (chairman,) Nye, Cragin, Fowler, Ramsey, Ferry, and Davis.

*On the Pacific Railroad*—Messrs. Howard, (chairman,) Sherman, Morgan, Conness, Ramsey, Stewart, Wilson, Harlan, and Drake.

*To Audit and Control the Contingent Expenses of the*

*Senate*—Messrs. Cragin, (chairman,) Drake, and Buckalew.

*On Engrossed Bills*—Messrs. Fowler, (chairman,) Sumner, and Norton.

*On Mines and Mining*—Messrs. Conness, (chairman,) Stewart, Chandler, Anthony, Yates, Conkling, and Saulsbury.

*Joint Committee on Printing*—Messrs. Anthony, (chairman,) Ross, and Riddle.

*Joint Committee on Enrolled Bills*—Messrs. Ross, (chairman,) Patterson of New Hampshire, and Dixon.

*Joint Committee on the Library*—Messrs. Morgan, (chairman,) Howe, and Fessenden.

**Mr. ANTHONY.** I think it proper to state that the change made in the chairmanship of the Committee on Finance has been at the request of the distinguished Senator who for the last six years has filled that laborious office, so much to the satisfaction of the Senate and the benefit of the country. I presume no Senator would relieve him from that position except at his own request.

**THE PRESIDENT pro tempore.** The question is on agreeing to the resolution of the Senator from Rhode Island appointing the committees.

The resolution was agreed to.

**Mr. ANTHONY.** I desire to inquire whether the joint Committee to Revise and Fix the Pay of the Officers of the two Houses has been filled, or whether the mode of filling it has been ordered by the Senate.

**THE PRESIDENT pro tempore.** The appointment of the committee has been ordered, but the mode of appointing it has not been designated.

**Mr. ANTHONY.** I move, then, that the following Senators be appointed upon that committee on the part of the Senate: Messrs. FESSENDEN, SHERMAN, and BUCKALEW.

The motion was agreed to.

**THE PRESIDENT pro tempore.** The Chair will take this occasion to state that the members of the joint select Committee on Retrenchment on the part of the Senate are Mr. EDMUNDS, (chairman) Mr. WILLIAMS, and Mr. BUCKALEW.

#### APPROPRIATION BILLS.

**Mr. ANTHONY.** I offer a resolution to amend the rules of the Senate, and I ask for its present consideration:

*Resolved,* That the 30th Rule of the Senate be amended by adding thereto the following words, namely: "And all amendments to general appropriation bills reported from the committees of the Senate, proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations; and all general appropriation bills shall be referred to the said committee."

The resolution was considered by unanimous consent, and agreed to.

#### EXECUTIVE COMMUNICATION.

**THE PRESIDENT pro tempore** laid before the Senate a communication from the Secretary of the Interior, urging the immediate necessity of an appropriation to defray the expenses of a commission to be sent to the Indian country; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

**Mr. CAMERON** presented a memorial of the Pennsylvania Anti-Slavery Society, remonstrating against the importation of sugars and other articles of foreign commerce which are the products of slave labor; which was referred to the Committee on Finance.

**Mr. MORGAN** presented the memorial of Edward McD. Reynolds, praying to be reinstated in the Marine corps; which was referred to the Committee on Naval Affairs.

**Mr. HOWE** presented a petition of citizens of St. Croix county, Wisconsin, praying for a removal of the five per cent. tax imposed on manufacturers; which was referred to the Committee on Finance.

**Mr. HARLAN.** I move that the memorial presented by me yesterday, praying for the construction of a post office building at Keokuk, Iowa, be taken from the table and referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

## PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

*Ordered*, That the papers in the case of the officers of company D, ninety-ninth regiment New York volunteers, praying to be compensated for loss of personal effects while they served on board the frigate Congress when attacked and destroyed by the rebel ram Merrimac, be taken from the files and referred to the Committee on Naval Affairs.

On motion of Mr. POMEROY, it was

*Ordered*, That the memorial of the Commercial Navigation Company, of New York, praying aid in the establishment of a regular line of American steamships between New York and Bremen, touching at Southampton, be withdrawn from the files, and referred to the Committee on Post Offices and Post Roads.

On motion of Mr. WILLEY, it was

*Ordered*, That the petition and papers of John H. Ellis, praying to be reimbursed for Government moneys stolen from him at Fort Leavenworth, Kansas, be withdrawn from the files and referred to the Committee on Claims.

On motion of Mr. WILLEY, it was

*Ordered*, That the petition and papers of Ethan A. Jenks, late captain and brevet major seventh regiment Rhode Island volunteers, praying for pay and allowances from May 4 to September 9, 1863, while under sentence of dismissal from the service, to which he was afterward reinstated, be taken from the files and referred to the Committee on Claims.

On motion of Mr. PATTERSON, of Tennessee, it was

*Ordered*, That the petition and papers of Daniel Ellis be taken from the files and referred to the Committee on Military Affairs.

Mr. PATTERSON, of Tennessee. I move that the petition of Captain Daniel Ellis be printed.

The PRESIDENT *pro tempore*. That motion will, under the rules, go to the Committee on Printing.

On motion of Mr. VAN WINKLE, it was

*Ordered*, That the petition and papers of Annie E. Dixon be taken from the files and referred to the Committee on Pensions.

On motion of Mr. HENDERSON, it was

*Ordered*, That George D. C. Hibbs have leave to withdraw his petition and papers.

On motion of Mr. FESSENDEN, it was

*Ordered*, That the petition and papers of Henry Clay Wood be taken from the files and referred to the Committee on Claims.

On motion of Mr. ANTHONY, it was

*Ordered*, That the petition and papers of Mrs. Cranston Laurie be taken from the files and referred to the Committee on Claims.

On motion of Mr. WILSON, it was

*Ordered*, That the owners of the brig William Carleton have leave to withdraw their petition and papers.

On motion of Mr. WILLIAMS, it was

*Ordered*, That the petition and papers of William L. Adams be withdrawn from the files and referred to the Committee on Claims.

## NOTICE OF A BILL.

Mr. HENDERSON. I give notice that on to-morrow or some future day I will ask leave to bring in a bill having provisions designed "to organize civil governments in the ten seceding States, now unrepresented in Congress, with a view and for the purpose of restoring at the earliest practicable moment the constitutional relations of said States to the Union."

## BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 14) to aid in the construction of certain railroads in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 15) to provide for giving the right to purchase to settlers on the Cherokee neutral lands in Kansas, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 16) donating a portion of the Fort Leavenworth military reserve for the exclusive use of a public road; which was read twice by its

title, and referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 17) to establish a mail route in the State of Minnesota; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 18) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," and to facilitate restoration; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 19) declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, to be legal structures and post roads; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 20) to pay bounty to certain Missouri troops who served for three years during the late war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 21) to provide for the construction of a military and postal railroad from Galveston, in the State of Texas, to Fort Gibson, in the Indian Territory, with a branch to Little Rock, in Arkansas; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 22) in relation to a certain tract of land in Burlington, Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 23) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branch; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 24) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes; which was read twice by its title, and referred to the Committee on Territories.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 25) for the relief of John H. Ellis, paymaster United States Army; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 26) authorizing and directing the sale of the property of the United States at Harper's Ferry, West Virginia; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 7) to prevent the sale or use of liquors in the Capitol building; which was read twice, and ordered to lie on the table.

Mr. HENDERSON asked and obtained leave to introduce a joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. JOHNSON. I should like to hear that proposition read.

The Secretary read the joint resolution. The article proposed to be added to the Constitution is, "That no State shall deny or

abridge the right of its citizens to vote and hold office on account of race, color or previous condition," and giving Congress power to enforce the provision by appropriate legislation.

Mr. SAULSBURY. I rise to a point of order.

The PRESIDENT *pro tempore*. The Chair will hear the point of order.

Mr. SAULSBURY. It is that it is not in order now to attempt to amend the Constitution, that instrument having been blotted out of existence long ago.

The PRESIDENT *pro tempore*. The Chair overrules the point of order.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 9) in favor of A. W. Walker; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 10) proposing an amendment to the Constitution of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

On motion of Mr. PATTERSON, of Tennessee, the joint resolution (S. R. No. 4) for the relief of Daniel Ellis, was taken from the table, and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. ANTHONY, the bill (S. No. 10) granting jurisdiction to the Court of Claims in a certain cause involving the right to the use of a patent, was taken from the table, and referred to the Committee on the Judiciary.

On motion of Mr. HARLAN, the bill (S. No. 11) to admit the State of Colorado into the Union, was taken from the table, and referred to the Committee on Territories.

On motion of Mr. HARLAN, the bill (S. No. 12) to consolidate the southern and central superintendencies and certain Indian agencies, and to create an Indian superintendency for the Territory of Dakota, was taken from the table, and referred to the Committee on Indian Affairs.

## FOX AND WISCONSIN RIVERS.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 6) extending the time for the completion of the improvement of the Fox and Wisconsin rivers.

Mr. HOWE. This resolution simply proposes to extend the time for completing the improvement of these rivers, the money for which is already deposited with the treasurer of Wisconsin. A similar resolution was reported by the Committee on Public Lands just before the adjournment of the late Congress, but too late to act upon it. It is very desirable that action should be had promptly. I ask the unanimous consent of the Senate to consider the resolution at the present time.

Mr. HENDRICKS. Has it been investigated by any committee?

Mr. HOWE. I stated that it was reported from the Committee on Public Lands just before the adjournment of the late Congress.

Mr. HENDRICKS. In this form?

Mr. HOWE. No, sir. The resolution as reported by the committee proposed to allow the improvement to be completed within such time and in such manner as the Legislature of Wisconsin might fix. This simply proposes to extend the time five years. The money required to complete the work has been ascertained by the judgment of a court, amounting to some sixty or seventy thousand dollars, and is on deposit with the treasurer of the State.

The joint resolution was read three times, and passed. It extends for five years from its approval the time provided for the completion of the improvement of the Fox and Wisconsin rivers and the canal connecting the same, by section three of an act of Congress, approved August 8, 1846, entitled "An act to grant a certain quantity of land to aid in the improve-

ment of the Fox and Wisconsin rivers, and to connect the same by a canal in the Territory of Wisconsin."

#### INTERNAL REVENUE LAWS.

Mr. VAN WINKLE submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That three thousand copies of the laws now in force relating to the internal revenue be printed for the use of the Senate, the same to be compiled under the direction and superintendence of the Commissioner of Internal Revenue.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country, and a resolution for the adjournment of the House from Monday next to Wednesday the 8th of May, in both of which the concurrence of the Senate was requested.

#### SENATE REPORTING.

Mr. MORRILL, of Maine. I ask leave to submit a resolution:

*Resolved*, That the Committee on Printing be directed to inquire whether any new or different arrangements from those now existing are necessary or expedient with regard to the reporting of the Senate proceedings and debates, and particularly as to the propriety of having the reporters under the direct control of and responsible immediately to the Senate.

Mr. CONNESS. I ask to have the resolution reported again.

The Secretary read it.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution? The Chair hears none.

Mr. CONNESS. I should like to know from the author of that resolution—I cannot tell by the mere reading, though it does not appear to me to cover the case—whether he intends this inquiry to apply to the publishing also of the reports of all the proceedings of a given day on the following day. The publication of the proceedings of Congress in the Globe now, to my mind, is simply insufficient, badly done. The proceedings of different days are mixed together. Many days transpired at the end of the session before the proceedings of a given day were published in the Globe. I want to know whether the Senator who has offered this resolution proposes to require and have the committee investigate to that end, the publication of every day's proceedings on the morning of the following day. I think it is a necessity. I think it ought to be done. I think the present publication entirely insufficient and unsatisfactory, and I hope that the resolution will be modified if it is not now sufficient to cover that point. There is sufficient money paid in all probability by the Government to secure the prompt and full publication of the debates of this body, and of the other House also, promptly on each succeeding day; and I hope that hereafter it will be required to be done by the publishers of the Globe.

Mr. MORRILL, of Maine. I offered the resolution in view of what took place in regard to the subject-matter on a former occasion, and the resolution is general in its terms, and I do not doubt that it is broad enough to cover the question referred to by the honorable Senator from California, although my attention had not been called particularly to that point. I should say that the resolution is broad enough in its terms to comprehend that, and, so far as I had any intention in regard to it, it was to send the whole question of the publication of the reports of the Senate to the committee for consideration.

Mr. CONNESS. I hold in my hand the Globe of this morning, March 7. It contains on the first page the report of yesterday's proceedings, March 6. On the fifth column on the same page is the commencement of the proceedings of the Senate of Saturday, February 23; and still further on, in the third page of the same paper, are proceedings of the House of Representatives of Saturday, March

2. Such a conglomeration of the proceedings of Congress is not creditable to the Government. It is certainly not so to the publishers of the Globe. It shows, to my mind, conclusively that we do not get what we pay for, which is a prompt and certain publication of the proceedings of Congress.

Mr. HENDRICKS. I have no objection to the inquiry suggested by the resolution of the Senator from Maine. If we can, without disturbing the present system, place the reporters under the immediate control of the Senate, make them officers of the Senate, their compensation to be paid by Congress, I have no objection to that; but I do not agree with the Senator from California that the Globe is not well conducted, and that it is not a success. I say, from my knowledge of the continuous sessions toward the close of the last session of Congress, it was physically impossible to keep the reports up from day to day; and I do not care what change you may make about it, if Congress will sit day and night that thing cannot be done. The reporters may report what we say, but they cannot translate so as to throw into print on the next morning what we say all day and all night and until the hour of the publication of the paper.

I had observed what the Senator from California has called the attention of the Senate to. I suppose that was a matter of convenience, so as to let the country at once know what was done at the commencement of this session of Congress. We all know that it was impossible to have completed the publication of the proceedings of the last days of the last session, because we sat almost continuously, and much of the time there was continuous debate. That could not be completed at the close of the session, and never has been, and I suppose never will be. Night sessions make that impossible.

Now, where the fault is, if there is any fault, that the Senate proceedings are so far behind the House proceedings I will not undertake to say. The Senator has called attention to the fact that the proceedings of the House are published to-day up to the 2d of March; and the proceedings of the Senate are behind that. I do not believe it is with the reporters; I do not suppose it is with the translators; I do not suppose there is any fault in the type-setters. With night sessions nearly all the while, I think there is no fault anywhere in all probability; but they have all diligently done their duty. Some things cannot be accomplished. To report the proceedings of a body that is talking night and day is a very difficult work, and it is undertaking an impossibility to ask that their proceedings shall appear in print ten minutes after we stop speaking. It cannot be done; and the matter the Senator complains of is of no sort of consequence, for the debates will fall into their proper position and shape in the Congressional Globe as published and bound. This is the Daily Globe furnished to us for our convenience and to the country. The Congressional Globe, as I understand, has the proceedings regularly from day to day, without interruption, just as they take place; except in the cases where members hold their speeches out for the purpose of correction, and those speeches fall out of their natural position because the members themselves withhold them and they go into the Appendix. That is no fault of the reporters or the Globe or anybody else, except the member that sees fit to have his speech so published. I believe that the Globe is a success. The reports are remarkably accurate. When published in book form the whole proceedings of Congress appear in their regular order.

Mr. CONNESS. I did not say that the Globe was not a success. I think perhaps it is to the publishers. But I said that the publication of the reports of Congress was not a success, and that is palpable upon the face of the pages of this morning's issue. I did not intend to, and I did not while up, blame the reporters. I rather think the blame is in the present system. I do not agree with the hon-

orable Senator when he says that a certain thing cannot be done. I think all that may be done can be done by an increase of the force at the end of a Congress, which in all probability it will be found, upon due investigation by the committee, the Globe proprietors are fully able to do.

Now, Mr. President, the Senator has touched another point, and I think that ought to come under investigation, namely, this habit of withholding speeches that are made here to be dressed up, to be made presentable, to be published as they were not made; and thus they fall, as the Senator says, into the Appendix. But he says the debates are published in proper order in the regular issues of the Congressional Globe, and that is not this Daily Globe. Yes, sir, those speeches go to the bourn in the Congressional Globe from whence no news returns to the people. That is precisely what I think ought not to be. I think as near as it can be done, and it can be done almost completely, the publication of each day's proceedings should appear the next day; and this habit of withholding speeches, suppressing matter uttered here, interpolating or interjecting matter never uttered here, reorganizing and reconstructing sentences—

Mr. HENDRICKS. Mr. President—

Mr. CONNESS. If the honorable Senator will allow me to finish my sentence I will do so.

Mr. HENDRICKS. Yes, sir.

Mr. CONNESS. Reconstructing sentences, presenting speeches to constituencies as they were not made here, ought to cease. If I had the power I would have every utterance taken down by the reporter and make it impossible that any of those utterances should be changed, so that we should all and every person who speaks should be published to his constituency precisely as he utters words here.

Mr. HENDRICKS. I would not wish the Senator to extend my suggestion any further than it naturally goes. I made no fault with any Senator for any change of his speech. If any Senator is dissatisfied with his speech and wants to make it better afterwards, I have no objection if it does not interfere with me in any way. It is a matter of taste between him and his constituents. I do not think there is much of that thing done in the Senate. I have not observed it in any case, I believe. The debates in the Senate are upon the questions before the body, and are very seldom reduced to writing before their delivery. In the House I have heard something of the sort talked of that the Senator now suggests; but it is not my business to comment upon the character of the debates of the House. The duties of the reporters in the House are less than they are in the Senate, because of the fact, as I have understood, that many of the speeches in the House are written out in advance, while the debates in the Senate are almost purely *extempore*; and that makes it harder on our reporters than upon the reporters of the House.

But I do not care if a Senator chooses to change his speech if he does not interfere with the running debate, so as to place some other Senator in the wrong. For myself I do not choose to do that, because it forces a labor on me that I do not want to go through with, to look over the notes.

Mr. ANTHONY. There has been an unfortunate difference between the reporter of the Senate and the publishers of the Globe, about the merits of which I do not presume to speak; I am not sufficiently informed; but there has been a delay in the publication of the proceedings of the Senate that shows there is blame somewhere, because the Senate debates are a week behind the House; and although at this period of the session it is very difficult—not impossible, not impracticable, but very difficult—to keep the debates up in full, I do not see why there should be so great a difference between the reports of the House and of the Senate. Undoubtedly the speeches in the House are to a much greater extent written than those in the Senate; it does not require the translating of the stenographic notes to

such an extent; but the debates ought to be printed promptly, and they can be. Perhaps there is no fault under our present system; perhaps the system itself is in fault, and there should be a greater force employed here at the close of the session. The British Parliament meets at four o'clock and adjourns frequently not until sunrise, and the London Times always has a full report in, a very long report—

Mr. JOHNSON. And it appears the next morning always.

Mr. ANTHONY. The next morning about nine o'clock. They take the report and print it as the debate is going on. I do not suppose we have arranged for that. I do not suppose that under our contract with the publishers of the Globe we have a right to require it. We require of them, I understand, the publication of a certain number of columns daily, and that part of the contract they have fulfilled. But there should be some arrangement, there should be a contract by which we should have even at the close of the session every morning the debates of the preceding day, at least up to sunrise, if we sit all night. I think it is proper there should be some investigation of this matter, and it is proper that we should ascertain whether any one is at fault; at least we should not allow a quarrel between the reporter and the publishers to keep our reports back. Of course we only know the publishers of the Globe. We contract with them and we hold them responsible, and the reporters are responsible to them.

The resolution was adopted.

#### COMMITTEE-ROOMS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds be directed to provide a room for the Committee on Appropriations, and generally to reassign the several committee-rooms so far as such reassignment may be necessary.

#### DUTIES ON WOOL AND WOOLENS.

Mr. SHERMAN. I desire to call up Senate bill No. 5.

Mr. SUMNER. Will the Senator allow me to offer resolutions which I wish to have printed?

Mr. SHERMAN. This will take but a moment. I move to take up the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 5) to extend the time for taking effect of the act relating to wool and woolens. It proposes to amend the act of the last session relating to the duties on wool and woolens so as to take effect ten days after the passage of this act; and all duties paid under that act in excess of the amount of duties in force on the 1st day of March are to be refunded.

Mr. SHERMAN. I introduced this bill for the purpose of avoiding a practical difficulty in the enforcement of the law in regard to wool and woolens, but I find, on conversation with the Secretary of the Treasury and also by his letter, which I send to the desk to be read, that the construction put upon that law will relieve the subject from the difficulty I anticipated. I should like to have the letter read.

The Secretary read the letter, as follows:

*TREASURY DEPARTMENT, March 6, 1867.*

SIR: I have the honor to acknowledge the receipt of your letter of this date, requesting to be informed as to the construction put by this Department on the recent act relating to wools and woolens, particularly as to its effect upon goods in bonded warehouse.

I am of opinion that the rates of duty imposed by the tariff act referred to, cannot be held to apply to goods in bond at the time the act goes into effect, in the absence of an express provision of law applying the new rates to goods in that condition.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. JOHN SHERMAN, *United States Senate Chamber,*  
*Washington, D. C.*

Mr. SHERMAN. I find by reference to the law that the duties levied by the new act only apply to goods imported from foreign countries. The construction of the Department has always been that importation is complete when goods

are put in bond. If so, it does not apply to goods in bond. That will substantially accomplish the purpose of this bill, and therefore I move its indefinite postponement.

The motion was agreed to.

#### RECONSTRUCTION.

Mr. SUMNER. I send to the Chair resolutions which I ask to have read.

The Secretary read as follows:

*Resolutions declaring certain further guarantees required in the reconstruction of the rebel States.*

*Resolved*, That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

*Resolved*, That there are other things remaining to be done which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

*Resolved*, That among the things remaining to be done are the five following:

1. The existing governments which have been declared to be illegal must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

2. Provisional governments must be constituted as temporary substitutes for the illegal governments, with special authority to superintend the transition to permanent governments republican in form.

3. As loyalty beyond suspicion must be the basis of permanent governments republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

4. As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as according to the census an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

5. Not less important than education is the home-stead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

*Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

Mr. SUMNER. If the Senate is disposed to act on these resolutions now I should be glad.

Mr. JOHNSON. I object.

Mr. SUMNER. I move then that they be printed and lie on the table.

The motion was agreed to.

#### PARIS EXHIBITION.

Mr. SUMNER. I now move that the Senate proceed with the consideration of joint resolution No. 2, which is on the table.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 2) supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867.

It provides that the commission of the United States at the Universal Exhibition to be held at Paris in 1867 shall consist of the commissioner general and honorary commissioner, whose appointment was approved by the joint resolution of January 22, 1866; also of the thirty commissioners whose appointment was provided for by the joint resolution of July 5, 1866, and of twenty commissioners, whose appointment is herein provided for.

The commissioner general is to be the president of the commission thus constituted, with a vote on all questions that may arise. The commission is to meet at Paris as early as possible before the opening of the Exhibition, upon the call of the commissioner general, and when properly organized is to make such rules and regulations as may be necessary for efficient action, with power to elect a vice president from their own number, who, in the absence of the commissioner general, is to preside at all meetings of the commission, and to appoint committees and chairmen of groups. The commission may designate additional persons, not exceeding twenty in number, being citizens of the United States, known to be

skilled in any branch of industry or art, who are authorized to attend the Exhibition in behalf of the United States as honorary commissioners without compensation. The commission may employ a secretary and clerks for the commission, the necessary scientific assistants and draftsmen, and may engage suitable rooms for the commission. No commissioner is to act as agent for the show or sale of any article at the Exhibition, or be interested, directly or indirectly, in any profits from any such article. Fifty thousand dollars, or so much thereof as may be necessary, are appropriated for additional freights from New York to Havre; for transportation and freight from Havre to Paris; for return freight of articles owned by the United States or lent to the Government by individuals; for marine and fire insurance on the articles thus lent; for additional steam-power at Paris, in the "palace" and the "annex," or supplemental building, and in grounds adjacent; for the exhibition of machines, agricultural and other, and for the erection of buildings to illustrate the education and agriculture of the United States; for the necessary expense of collecting, classifying, labeling, and packing mineralogical and metallurgical specimens, to complete the exhibition of the mineral wealth of the United States; and for the necessary expense of laborers and extra service in the offices at Paris and New York, and for the expenses of a secretary, clerks, scientific assistants, and draftsmen, rooms, and other incidental expenses of the commission. The general agent at New York, and the commissioner general at Paris, are to transmit to Congress, through the Department of State, a detailed statement of the manner in which the expenditures thus authorized are made by them respectively.

Mr. SUMNER. I desire to make a brief statement with regard to this joint resolution. It is, with an amendment which I propose to send to the Chair, precisely the resolution which passed the two Houses during the last hour of the last session, and a copy of which as enrolled I now hold in my hands. It seems that the enrolment was not completed till within a very few minutes of twelve o'clock, and it failed to secure the signatures of the officers of the two Houses, and of course was never presented to the President; but it had passed both Houses in the form in which it is now before the Senate. It may be remembered that the House cut down the appropriations of the Senate to \$50,000. During the last hour of the session the Senate concurred with the amendment of the House; so that this measure as between the two Houses was a completed act. It has however failed through the want of the signatures of the proper officers, and I have deemed it my duty, with this statement, to present the matter thus early to the attention of the Senate, without however undertaking in any way to open the main question. Were I disposed to discuss that, I should fall back on the original resolution as it passed the Senate, but I confine myself now to asking the Senate to adopt the measure which received the concurrent votes of both branches of Congress, and which, as I have already said, failed through a want of time or an accident. I am not prepared to say that there was any negligence in any quarter. It was probably from the inherent difficulty of the case. Senators will remember that two years ago there was a bill very much in this predicament. There was an appropriation for a private claim which had passed both bodies, but which failed to be enrolled. I think at that time there was some unaccountable negligence of one of the clerks. At a subsequent session that bill was taken up in the very form in which it was left, and passed by both Houses. I now ask that Congress should do the same in regard to this measure. I think indeed it can have no hesitation. This appropriation is needed. Without it our representation at Paris must fail miserably. In order to complete the conformity of the resolution with that which passed the House. I move an amendment to come in on



page 3, line fifteen, immediately after the words "United States:"

And for the collection of specimens of agricultural productions under the joint resolution for that purpose.

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country, was read twice by its title, and referred to the Committee on Indian Affairs.

#### PROPOSED ADJOURNMENT.

The PRESIDENT *pro tempore* laid before the Senate the following resolution from the House of Representatives:

IN THE HOUSE OF REPRESENTATIVES,  
March 7, 1867.

*Resolved*, (the Senate concurring,) That when the House of Representatives adjourns on Monday next, it adjourn to meet on Wednesday, the 8th of May next, at twelve o'clock noon.

Mr. GRIMES. I move that that resolution lie on the table for the present.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, March 7, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### RECONSTRUCTION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Clerk of the House of Representatives, inclosing a letter from the Secretary of State, acknowledging the receipt of the act to provide for the more efficient government of the rebel States, and announcing his purpose to promulgate it; which was laid on the table, and ordered to be printed.

#### CONTESTED ELECTION.

The SPEAKER also laid before the House a communication from John Hogan, informing the House that he contests the right of WILLIAM A. PILE to a seat in the House from the first congressional district of Missouri; which was referred to the Committee of Elections.

#### RECONSTRUCTION.

The SPEAKER also, by unanimous consent, laid before the House a telegram from the members of the South Carolina Mission Conference of the Methodist Episcopal Church, now in session at Charleston, South Carolina, in reference to the passage of the reconstruction bill; which was laid on the table.

#### EXECUTIVE MANSION.

The SPEAKER also laid before the House a communication from B. B. French, late Commissioner of Buildings, urging the appointment of the joint committee of the two Houses provided for by the provision of the deficiency appropriation bill making an appropriation to complete the repairs and furnishing of the Executive Mansion; which was laid on the table.

#### EXPENSES OF INDIAN COMMISSION.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, asking that an appropriation of \$20,000 be made to pay the expenses of the commission appointed by the President to proceed to the Indian country and investigate the causes

of the troubles among the Indians there; which was laid on the table.

Mr. STEVENS. In connection with the subject embraced in the communication just read, I ask leave to introduce a bill making an appropriation for the expenses of the commissioners sent by the President to the Indian country.

No objection was made; and the bill was introduced, and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It appropriates the sum of \$20,000 to pay the expenses of commissioners sent by the President to the Indian country.

Mr. STEVENS. I call the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF THE HOUSE.

Mr. POMEROY. I offer the following resolution, which is privileged, and upon it I call the previous question.

*Resolved by the House of Representatives*, (the Senate concurring,) That when the Senate and House of Representatives adjourn on Monday next, they respectively adjourn to meet on Wednesday, the 8th day of May next, at twelve o'clock noon.

The question was upon seconding the previous question.

Mr. MUNGEN. I desire to move to amend the resolution by striking out the words "8th day of May" and inserting the words "first Monday in December."

The SPEAKER. The amendment is not in order at this time, pending the call for the previous question.

Mr. ELDRIDGE. Will it be in order to move to amend the resolution should the call for the previous question not be seconded?

The SPEAKER. If the call for the previous question shall not be seconded, amendments will be in order.

Mr. STEVENS. Will the gentleman from New York [Mr. POMEROY] withdraw his call for the previous question for a moment?

Mr. POMEROY. For what purpose?

Mr. STEVENS. I desire to suggest a modification of the resolution, which I think should be made.

Mr. POMEROY. I will yield to the gentleman for that purpose.

Mr. STEVENS. As the resolution now reads it provides for an adjournment of both Houses on Monday next. It may be that the Senate will not be prepared to adjourn by that time. I think the resolution should be modified so as to provide only for an adjournment of the House. If the Senate are of opinion that they can properly adjourn on Monday next, they can amend the resolution to that effect.

Mr. POMEROY. I think the suggestion of the gentleman is a very proper one; and I accordingly modify the resolution so as to provide only for the adjournment of the House on Monday next.

The resolution, as modified, was as follows:

*Resolved by the House of Representatives*, (the Senate concurring,) That when the House of Representatives adjourn on Monday next, it be to meet on Wednesday, the 8th day of May next, at twelve o'clock noon.

Mr. FARNSWORTH. I would suggest another modification of the resolution. I suppose that the gentleman from New York [Mr. POMEROY] desires to provide that the House shall take a recess from Monday next to the day named. If that is his meaning he should say so in the resolution, for it is manifest that the one House cannot adjourn without the other.

Mr. POMEROY. I will state that the language of the Constitution is—

"Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days."

I demand the previous question.

The House divided; and there were—ayes 56, nays 40.

So the previous question was seconded.

Mr. HOLMAN moved that the whole subject be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 102, not voting 24; as follows:

YEAS—Messrs. Anderson, Archer, Delos R. Ashley, Barnes, Burr, Chanler, Driggs, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Gravelly, Hill, Holman, Loan, Logan, Marshall, McClurg, Morgan, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Orth, Randall, Ross, Shanks, Sitgreaves, Stewart, Van Aiken, Robert T. Van Horn, and Van Tromp—34.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baker, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Boyer, Brownell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Daves, Dodge, Donnelly, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Garfield, Griswold, Haight, Hasley, Hamilton, Harding, Hayes, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulbert, Hunter, Judd, Julian, Kelley, Ketchum, Kitchen, Koontz, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Lynch, Marvin, McCarthy, McCullough, Mercer, Miller, Moore, Moorhead, Morrell, Myers, Neill, O'Neill, Paine, Perham, Peters, Phelps, Pike, Plants, Polsley, Pomeroy, Price, Pruyn, Raum, Robertson, Robinson, Sawyer, Scofield, Shellabarger, Spalding, Stone, Taber, Taffe, Taylor, Thomas, Trowbridge, Twitcomb, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, Stephen P. Wilson, Wood, and Woodbridge—102.

NOT VOTING—Messrs. Baldwin, Benjamin, Brooks, Cake, Cook, Cullom, Denison, Finney, Humphrey, Ingersoll, Kelsey, Kerr, Pike, Poland, Schenck, Selye, Smith, Stevens, Van Aernam, Van Wyck, Henry D. Washburn, Thomas Williams, John T. Wilson, and Windom—24.

So the House refused to lay the subject on the table.

The main question was then ordered.

The resolution was adopted.

Mr. POMEROY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had concurred in the resolution of the House providing for the appointment of a select committee to revise and equalize the pay of the employes of each House.

It further announced that the Senate had passed a concurrent resolution providing for the continuance of the joint Committee on Retrenchment during the Fortieth Congress; in which he was directed to ask the concurrence of the House.

#### JOINT COMMITTEE ON RETRENCHMENT.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
March 6, 1867.

*Resolved by the Senate* (the House of Representatives concurring,) That the joint select Committee on Retrenchment, raised by a concurrent resolution of the two Houses at the first session of the Thirty-Ninth Congress, be, and the same is hereby, renewed and continued for and during the Fortieth Congress, with all the same powers and duties appertaining thereto in said Thirty-Ninth Congress, and with power in its members to administer oaths; and that any vacancies existing in said committee be filled by the Presiding Officer of each House respectively.

Attest: J. W. FORNEY, Secretary.

Mr. ELDRIDGE. Is the question of concurrence debatable?

The SPEAKER. It is.

Mr. ELDRIDGE. I hope that committee will not be again renewed. From the beginning it has been engaged in destroying the Union instead of preserving it.

The SPEAKER. This is a resolution in reference to the joint Committee on Retrenchment, and not the joint Committee on Reconstruction. [Laughter.]

Mr. ELDRIDGE. My remarks apply to the latter committee.

The resolution was concurred in.

#### REORGANIZATION OF REBEL STATES.

Mr. KELLEY. I submit the following resolution, and if objection be made I shall move to suspend the rules:

*Resolved*, That the Committee on the Judiciary be instructed to report a bill declaring who shall call conventions for the reorganization of the rebel States, and providing for the registration of voters within said rebel States; and all elections for members of said conventions, or for the adoption or rejection of constitutions formed by said conventions, or for the choice of public officers, State and municipal, until the constitutions of said States shall have been approved by Congress, shall be by ballot.

Mr. WOOD. I rise to a question of order. The resolution proposes to instruct the Committee on the Judiciary. I submit that there is no Committee on the Judiciary.

Mr. KELLEY. I modify the resolution so as to say "the Committee on the Judiciary, when appointed."

The SPEAKER. The gentleman from Pennsylvania [Mr. KELLEY] modifies the resolution. But the Chair would, at any rate, overrule the point of order; because the rules specify that there shall be a Committee on the Judiciary, and it is only a question of time as to the appointment of the committee.

Mr. HOLMAN. I rise to a point of order: that debate arising on the resolution, it must go over.

The SPEAKER. The gentleman from Pennsylvania has announced his intention to move to suspend the rules, including of course the rule which would require the resolution to go over.

Mr. KELLEY. I move to suspend the rules so as to allow the introduction of the resolution for consideration at this time.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 111, nays 31, not voting 18; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Griswold, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Judd, Julian, Kelley, Ketcham, Kitchen, Koontz, Laffin, George V. Lawrence, Lincoln, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Plants, Polesley, Pomeroy, Price, Raun, Robertson, Sawyer, Schofield, Sechenck, Shellabarger, Smith, Spalding, Stevens, Taffe, Taylor, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Phelps, Prayn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Van Auken, Van Trump, and Wood—31.

NOT VOTING—Messrs. Banks, Blaine, Denison, Hulburd, Humphrey, Ingersoll, Kelsey, Kerr, Ketcham, William Lawrence, Loan, Pike, Pile, Poland, Schenck, Selye, Stewart, and Thomas—18.

So (two thirds voting in favor thereof) the rules were suspended.

The SPEAKER. The resolution is now before the House.

Mr. KELLEY. I call for the previous question on the adoption of the resolution.

The previous question was seconded and the main question ordered.

The question being on the adoption of the resolution,

Mr. NIBLACK called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 33, not voting 13; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook,

Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Judd, Julian, Kelley, Ketcham, Kitchen, Koontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polesley, Pomeroy, Price, Raun, Robertson, Sawyer, Schenck, Schofield, Shanks, Shellabarger, Smith, Spalding, Stevens, Taffe, Taylor, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—114.

NAYS—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Denison, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Prayn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Van Auken, Van Trump, and Wood—33.

NOT VOTING—Messrs. Banks, Griswold, Hulburd, Ingersoll, Kelsey, Loan, Lynch, Marvin, Phelps, Pike, Selye, Stewart, and Thomas—13.

So the resolution was adopted.

Mr. JULIAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The Chair regards the resolution just adopted as instruction to him to appoint a Committee on the Judiciary at this session.

#### TENURE OF OFFICE.

Mr. ASHLEY, of Ohio. I rise to a question of privilege.

Mr. ELDRIDGE. I ask the gentleman to allow me to offer a resolution of inquiry?

Mr. ASHLEY, of Ohio. Very well.

Mr. ELDRIDGE. I ask consent to offer the following resolution:

*Resolved*, That the President be requested to inform this House, if not inconsistent with the public interest, of the condition of the public fund as affected by the tenure-of-office act, so called, and the numerous vacancies in the subordinate offices of the Treasury Department and of the Post Office Department.

Mr. STEVENS. I object.

Mr. ELDRIDGE. I wish to move to suspend the rules.

The SPEAKER. The gentleman from Ohio has the floor, and unless he surrenders it for that purpose the motion cannot be made.

Mr. ASHLEY, of Ohio. I yield to my colleague, [Mr. SHELLABARGER.]

#### RECONSTRUCTION.

Mr. SHELLABARGER. I hold in my hand the petition of loyal men of Virginia, asking Congress to pass certain laws providing for carrying out the recent act of Congress for the better government of the rebel States. I ask that it may be printed and read.

The SPEAKER. Is there objection to having the petition read?

Mr. CHANLER. Better have it read first and printed afterward. [Laughter.]

No objection being made the petition was read, as follows:

*To the Members of the Senate and House of Representatives of the United States in Congress assembled:*

GENTLEMEN: The undersigned, citizens of Alexandria, Virginia, desire to make known to your honors that the military reconstruction bill, passed by Congress on the 2d of March, has been openly defied by the authorities of this city in the election just held for municipal officers.

That bill distinctly and positively enfranchised the colored citizens of the "rebel States," yet the men controlling the government of Alexandria utterly refused to receive and count their votes, or even to record the names of such as endeavored to exercise this right, and they based their refusal upon the ground that the laws of Virginia are paramount to those of the United States.

Although one thousand five hundred and nineteen votes were cast for the Union candidates—a large number of them by discharged Union soldiers—and only one thousand one hundred and one votes for both the disloyal tickets—many of these being cast by returned rebel soldiers—yet the existing provisional government insists upon ignoring the Union vote and declaring the candidate of the opposite party elected mayor, although he received only five hundred and eighty-two votes, and is, moreover, disqualified by the law above referred to from holding the office.

Before it was fully determined to boldly violate the law, disloyal employers threatened to discharge their

employés if they dared to vote the Republican ticket. Moreover, it was openly asserted upon the streets that blood would be spilt if the colored people attempted to vote, and your memorialists are fully satisfied that nothing but the known presence of troops sent from Washington prevented a riot.

However, being protected by the military, the Union men of the city opened polls of their own, at which over fourteen hundred votes were cast by white and colored men. We have taken this step so as to prove to members of your honorable bodies and to the world that the Union men of the South are numerous enough and determined enough to do their duty if Congress will only pass such laws as are needed to secure safe and fair elections.

It must be evident to every man that when the law is contemptuously defied within actual sight of the Capitol, where nothing but the presence of a military force prevented the murder of good and true men for simply attempting to exercise the franchise with which the nation had invested them, that it is folly to expect a faithful observance of the law throughout the rebel States generally.

Longing for a speedy loyal reconstruction of the Union, and knowing that it will be impossible to secure it under the provisions of the "military reconstruction bill," we desire to bring to your notice the following important defects in that measure:

1. Although there are not soldiers enough in the country (who can be spared for the purpose) to guard one-fiftieth of the polls, the bill makes no provision for organizing a loyal militia force.

2. The disloyalists, whose apparent interest it is to nullify the law, fill every office, from the highest to the lowest. They are the judges and clerks of elections; they receive and count the votes; they make and receive the returns, and they decide who are elected. The history of the last thirty years has proved that these men will commit any and every outrage and crime which seems to be necessary to carry their points, and we distinctly say to you and the country that, even if they should pretend to acquiesce in the law, it is certain that they will browbeat and swindle enough to carry every election. A loyal reconstruction is possible only through the assistance of loyal election officers.

3. It is known by everybody that the disloyalists hate the Unionists of both races with a perfect hatred, are continually hunting them down and murdering them without even a pretense of provocation, and yet these unarmed and unorganized Union men are expected to meet all their foes at the polls and vote them out of power. If this is attempted there will be riots all over the South, and the responsibility for them and for the blood which will be shed will rest upon the souls of those members of Congress who insist upon bringing gunpowder and fire together. Distinctly and solemnly we say to you, gentlemen, that peaceful elections cannot be secured unless the arrogant, domineering, blood-thirsty disloyal element is kept from the polls entirely, until such time as it shall have become at least partially purified, or the loyal element organized and thoroughly entrenched in power.

4. It is also absolutely necessary that there should be a registration of voters, so that all disfranchised individuals may have due notice not only that they are disqualified, but that that fact is known. They would be apt then to stay away from the polls.

We feel ourselves impelled to say here that the bill known as the Louisiana bill would, if made applicable to all the non-reconstructed States, secure a peaceful loyal reorganization of the South, and we respectfully, but earnestly, urge that it, or something akin to it, be immediately passed into a law. There are two amendments, however, which we suggest even to that bill, namely:

1. That no person having an honorable discharge from the Army or Navy of the United States shall be disqualified from voting or holding office on account of previous complicity in the rebellion; and,

2. That it should be made the duty of the Governor and council, from time to time, to prepare lists of all, except certain classes of the disfranchised persons, who are now truly loyal, and send them to Congress to have their disabilities removed.

The apparent harshness of the sweeping disfranchisement of that bill would thus be removed without endangering its successful working. If the Governor and council are good men they will not present the names of disloyal persons, and if they prove to be bad men Congress can refuse to regard their recommendation. And if they fail to carry out this provision in a liberal spirit, Congress can take such further action as it sees fit in the premises.

We are unalterably opposed to the perpetual disfranchisement of any considerable class in the community, but we do ask that all rebels should be compelled to climb upon the Union platform before their forfeited political rights are restored to them.

Thanking Congress for the enfranchisement of our colored people, and hoping that it will not wait before passing the yet needed laws until the blood of hundreds more murdered Union men cries out from the ground against its members for their delay, we remain, very respectfully,

JOHN C. UNDERWOOD,  
GEORGE TUCKER,  
JOHN HARRY WORST,  
JOSHUA MILLARD,  
F. A. STOUTENBURGH,  
JOHN BIRRELL,  
JAMES T. BURNETT,  
THOMAS DAVY,  
WILLIAM BUSHBY,  
WILLIAM N. BERKLEY,  
WALTER L. PENN,  
LARKIN PATTON,  
THEODORE TEED,  
JOHN MOORE,  
THOMAS J. EDELIN.

Mr. SHELLABARGER. I move that it be referred to the Committee on the Judiciary, and printed.

The SPEAKER. If there is no objection it will be so ordered.

Mr. BROOKS. What is the question?

The SPEAKER. The resolution has been referred to the Committee on the Judiciary.

Mr. BROOKS. I move to reconsider the reference.

Mr. SHELLABARGER. I call the previous question on the motion to refer.

Mr. BROOKS. I rise to a point of order. I am not to be silenced in this way. The Chair announced that the petition had been referred to the Committee on the Judiciary. The Chair decided that emphatically, and thereupon I rose and moved to reconsider.

The SPEAKER. The Chair will overrule the point of order. The gentleman from New York has served long enough in the House to be apprised of the fact that when a gentleman makes a motion, unless some gentleman rises and objects, the House is considered as concurring in the motion. The gentleman is also aware of the fact that the gentleman who presents a paper is entitled to the floor if it is debated.

Mr. BROOKS. One word.

The SPEAKER. The Chair cannot argue the question, but overrules the point of order. The gentleman may take an appeal.

Mr. BROOKS. I appeal from the decision of the Chair.

The SPEAKER. The gentleman takes an appeal from the decision of the Chair.

Mr. BROOKS. Let me state the point of order. When the Chair announces that a matter is referred to a committee the matter has been referred, and it is a final decision upon the question. Such was the announcement in this case, and thereupon the member who had the floor lost his title to it. I then rose and moved to reconsider the question and to speak on that question, and I claim that I had the right to the floor.

The SPEAKER. The gentleman has a right to appeal from the decision of the Chair.

Mr. BROOKS. The floor was abandoned by the gentleman from Ohio [Mr. SHELLABARGER] when the Chair announced that his motion was agreed to.

Mr. SHELLABARGER. The gentleman is mistaken. I had not abandoned the floor.

The SPEAKER. The recollection of the Chair is confirmed by the reporters of the Globe, who heard him say that if there was no objection the petition would be referred to the Committee on the Judiciary.

Mr. BROOKS. I will move to reconsider the vote by which the reference was made.

The SPEAKER. That motion is not in order as the gentleman from Ohio [Mr. SHELLABARGER] is entitled to the floor, if he claims it.

Mr. BROOKS. I withdraw my appeal from the decision of the Chair.

Mr. SHELLABARGER. I now insist on the previous question on my motion to refer the petition.

The previous question was seconded and the main question ordered, being upon the motion to refer.

Mr. CHANLER. I demand tellers.

Tellers were ordered; and Messrs. CHANLER and SHELLABARGER were appointed.

The House divided; and the tellers reported—ayes 90, noes 29.

So the motion was agreed to.

Mr. SHELLABARGER moved to reconsider the vote by which the petition was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAY OF ARMY OFFICERS.

Mr. ASHLEY, of Ohio. I yield now to my colleague [Mr. SCHENCK] to offer a resolution.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Paymaster General of the Army

be directed to communicate to this House a tabular statement, accompanied by proper explanations, which shall clearly exhibit the full and exact amount of compensation paid by the Government to each and every grade of officers in the United States Army, indicating distinctly and separately the amount of pay proper, and the amount of each allowance or commutation of allowance, either in kind or in money, and the aggregate of pay and allowances to every officer, according to his grade or rank and length of service.

Mr. STEVENS. In connection with the resolution just adopted, I ask unanimous consent to introduce a bill—with a view to put it upon its passage—a bill to repeal an act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia, and for other purposes.

Mr. ELDRIDGE. I object.

Mr. STEVENS. Then I will move a suspension of the rules.

Mr. ASHLEY, of Ohio. I cannot yield for that purpose, but I will yield for a moment to the gentleman from Illinois [Mr. ROSS.]

#### CONGRESSIONAL TEMPERANCE ASSOCIATION.

Mr. ROSS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the use of the Hall of the House of Representatives be granted to the Congressional Temperance Association on Sunday evening next.

#### RIGHTS OF CITIZENS ABROAD.

Mr. ROBINSON. I ask the gentleman from Ohio [Mr. ASHLEY] to yield me the floor for a moment that I may offer a resolution of inquiry.

Mr. ASHLEY, of Ohio. I yield for that purpose.

Mr. ROBINSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

*Resolved*, That the President of the United States, is hereby requested to communicate to this House all correspondence, documents, and proceedings in possession of the Departments relating to the arrest, imprisonment, and treatment of American citizens in Great Britain, or its Provinces within two years last past.

#### PROTECTION OF MICHIGAN FISHERIES.

Mr. FERRY, by unanimous consent, presented a joint resolution of the Legislature of the State of Michigan, asking for the protection of the fisheries in the upper peninsula of that State to the people of the State and the United States; which was laid on the table, and ordered to be printed.

#### ENDOWMENT OF FEMALE COLLEGES.

Mr. FERRY, by unanimous consent, also presented a joint resolution of the Legislature of the State of Michigan, asking an appropriation of land by Congress to endow female colleges in the several States; which was laid on the table, and ordered to be printed.

#### NAVIGATION IMPROVEMENT IN MICHIGAN.

Mr. FERRY, by unanimous consent, also presented a joint resolution of the Legislature of Michigan asking for a grant of land to said State to aid in deepening the channel between Lake Superior and Eagle Harbor, in the county of Keweenaw; which was laid on the table, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. UPSON. I ask unanimous consent to present joint resolutions of the Legislature of the State of Michigan.

Mr. HARDING objected.

#### DISMISSAL OF ILLINOIS SOLDIERS.

Mr. HARDING asked unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of War be respectfully requested to communicate to this House the information contained in the War Department relative to the dismissal of soldiers of company B, fifty-eighth regiment of Illinois volunteer infantry from the service of the United States.

Mr. UPSON. I object.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. ASHLEY, of Ohio. I rise to a question of privilege, and present the following resolution:

Whereas the House of Representatives of the

Thirty-Ninth Congress adopted, on the 7th of January, 1867, a resolution authorizing an inquiry into certain charges preferred against the President of the United States; and whereas the Judiciary Committee, to whom said resolution and charges were referred, with authority to investigate the same, were unable for want of time to complete said investigation before the expiration of the Thirty-Ninth Congress; and whereas in the report submitted by said Judiciary Committee on the 2d of March they declare that the evidence taken is of such a character as to justify and demand a continuation of the investigation by this Congress: Therefore,

*Be it resolved by the House of Representatives*, That the Judiciary Committee, when appointed, be, and they are hereby, instructed to continue the investigation authorized in said resolution of January 7, 1867, and that they have power to send for persons and papers, and to administer the customary oath to witnesses; and that the committee have authority to sit during the sessions of the House and during any recess which Congress or this House may take.

*Resolved*, That the Speaker of the House be requested to appoint the Committee on the Judiciary forthwith, and that the committee so appointed be directed to take charge of the testimony taken by the committee of the last Congress; and that said committee have power to appoint a clerk at a compensation not to exceed six dollars per day, and employ the necessary stenographer.

Mr. WILSON, of Iowa. I desire to offer an amendment.

Mr. ASHLEY, of Ohio. I will hear it.

Mr. WILSON, of Iowa. The amendment which I desire to offer is to add to the resolution the following:

*Resolved*, That the Clerk of the House of Representatives be directed to pay out of the contingent fund of the House, on the order of the Committee on the Judiciary, such sum or sums of money as may be required to enable the said committee to prosecute the investigation above directed, and such other investigations as it may be ordered to make.

Mr. ASHLEY, of Ohio. I accept that amendment as a modification of my resolution.

Mr. Speaker, this resolution will bring the House to a vote on a question of transcendent importance. It brings us face to face with a man whose usurpations have imperiled the Republic. We cannot escape the consideration of this question if we would, and we ought not if we could. The report which the Judiciary Committee of the last House made on Saturday is a sufficient vindication of the action of that body on the charges presented looking to the impeachment of the President. It is a report which the moral sense of this nation will approve. It is to be regretted that that committee were not authorized at an earlier day to proceed with this investigation, so that they might have completed it and presented the case for final action by the last Congress. All true men who have examined this matter impartially can but regret our inability to secure earlier action.

But I think I may without hazard express the opinion that there is no cause for discouragement; that the foundations have been so carefully laid that the machinations of the conspirators and their chief, with all the immense power and patronage in his hands, will be unable long to stay the doom which awaits him. It is, sir, to go upon the record of this House, and it will go into history, that the people of the United States will never permit any President to usurp the prerogatives of the law-making power; nor will they permit him to defy the deliberately recorded verdict of the nation. They will permit no man—certainly no man who came into the Presidency through the door of assassination—

Mr. NIBLACK. Mr. Speaker, I rise to a question of order. Is debate in order at this stage of proceeding?

The SPEAKER. Debate is in order.

Mr. NIBLACK. Is the resolution before the House?

The SPEAKER. It is before the House as a question of privilege.

Mr. NIBLACK. By a suspension of the rules?

The SPEAKER. A question of privilege does not require a suspension of the rules to bring it before the House. When the Chair has decided any question to be a question of privilege—and the decision is of course subject to appeal—it comes before the House at once.

Mr. RANDALL. Will the Chair state what

this question of privilege is? I have been unable to find out what it is.

The SPEAKER. The Chair has entertained the resolution as a question of privilege, as it has reference to proceedings for the impeachment of the President of the United States.

Mr. ELDRIDGE. What question has the gentleman offering the resolution the right to discuss?

The SPEAKER. The whole scope of the resolution.

Mr. WOOD. Has the gentleman the right to go into the merits of the question of impeachment?

The SPEAKER. By parliamentary law the question of referring a resolution or bill always opens the entire subject for discussion.

Mr. WOOD. Then I understand the Chair to say that it is entirely in order on this proposition to discuss the whole question involved.

The SPEAKER. The Chair does not see that there is any limit.

Mr. WOOD. I only desire it shall be understood. That is all.

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] will proceed.

Mr. ASHLEY, of Ohio. Mr. Speaker, I was saying when interrupted that the people of this country will never permit any man—certainly no man who came into the Presidency through the door of assassination—to use the vast powers with which the Executive of this country is clothed in defiance of Congress and the people. That the acting President has done all this and more will not be seriously denied. His usurpations of power have been in clear violation of the Constitution, and many of his acts tend directly to revolution. In fact, the message to which we were all compelled to listen on last Saturday, returning with his objections the reconstruction bill, was but an invitation to revolution and civil war. If any loyal man had doubted before, he could doubt no longer, that while this man remains in the presidential office there can be no tranquillity in this country, no security for property, liberty, and life to loyal citizens in the South, no such restoration of this Government as the Union Army and the Union citizens of this nation have decreed, no safety for a single hour from rebellion or revolution.

Sir, a man of Mr. Johnson's antecedents, of his mental and moral caliber, coming into the Presidency as he came into it—and I say nothing now of the dark suspicion which crept over the minds of men as to his complicity in the assassination plot, nor of the fact, that I cannot banish from my mind, the mysterious connection between death and treachery which this case presents—I say such a man, in view of all that has happened, coming into the presidential office as he came into it, ought to have walked with uncovered head and very humbly before the loyal men of this nation and their Representatives in the American Congress.

Mr. Speaker, if this nation does not stamp with the broad seal of its condemnation the usurpations and crimes and misdemeanors of this man it will be but an invitation in the future for a repetition of these usurpations, crimes, and misdemeanors.

Self-protection and a proper respect for the honor of the nation demand that the Representatives of the people shall declare, in a manner not to be misunderstood, that no man hereafter elected President or Vice President shall present himself at his inauguration drunk; that no man discharging the duties of the office of President of the United States shall be permitted to turn the White House into a den of thieves and pardon-brokers, nor shall he be permitted with impunity to address in vulgar, seditious language a drunken, howling mob from the steps of the Executive Mansion.

Sir, unless this committee take charge of this matter and proceed with it, this Congress might as well lay down its powers. If, however, nothing more should be done, I am sure that, when the evidence which has been already taken is published, it will operate as a deliberate and solemn protest against a repetition in the fu-

ture of another drunken electioneering tour such as last year mantled the cheek of this nation with shame; that it will be a protest against the unpardonable attacks which the acting Executive made upon the national Congress, a protest against his usurpations and crimes and misdemeanors.

Sir, his crime is not, as many suppose, the mere perfidy of which he has been guilty to the men who in an evil hour elected him Vice President of the United States, black and infamous as it is; his crime is the highest known in our country, a crime against the Republic itself.

If the investigation go no further, it will establish beyond question that the people of this country will not permit any man with impunity to be guilty of acts of which he has been guilty; and if so, the investigation will not have been in vain. Mr. Speaker, the United States is not the only nation which has been disgraced by such an executive head. Fortunately, however, for mankind such men are born into the world to curse the human race but once in centuries. The nation cries out in its agony and calls upon the Congress of the United States to deliver them from the shame and disgrace which the acting President has brought upon them. They demand that the loathing incubus which has blotted our country's history with its foulest blot shall be removed. In the name of loyalty betrayed, of law violated, of the Constitution trampled upon, the nation demands the impeachment and removal of Andrew Johnson.

The SPEAKER. The gentleman from Ohio knows there is a large license allowed in debate in regard to impeachment, but the Chair is of opinion the gentleman is proceeding beyond that.

Mr. RANDALL. Is there any insane asylum near here? [Laughter.]

The SPEAKER. The Chair thinks not.

Mr. WOOD. I hope the gentleman will be permitted to go on in his own way.

The SPEAKER. The gentleman must abstain from language which will be regarded as personally offensive. He has the right under the Constitution to charge crimes and misdemeanors.

Mr. NIBLACK. If the gentleman will permit me, I wish to call his attention to a matter somewhat personal to himself.

Mr. ASHLEY, of Ohio. Not now. Well, Mr. President, I know how tender these men are who are in sympathy with the President—

Mr. ELDRIDGE. I call the gentleman to order; he is addressing the President of the United States. [Laughter.]

The SPEAKER. The gentleman must address the Chair.

Mr. BOYER. He is doing the President good service. We enjoy it very much on this side, and I hope he will not be interrupted.

Mr. ASHLEY, of Ohio. What does the gentleman say?

The SPEAKER. That the gentleman shall be allowed to proceed in his own way.

Mr. BOYER. On account of the service he is doing to the President of the United States.

Mr. ASHLEY, of Ohio. I am glad the gentleman so regards it. Well, Mr. President— [Laughter.]

Mr. ELDRIDGE. The gentleman has the President "on the brain." [Laughter.]

Mr. ASHLEY, of Ohio. Mr. Speaker, I know, on this question, that the timid among the loyal hesitate, that the late rebels and their northern allies are defiant, and that the camp-followers of the President alternately threaten and supplicate, and that all unite in prophesying war and revolution, and in any event financial ruin to the country, if Congress shall undertake to arraign and depose the President as provided by the Constitution. Sir, I hope this Congress will not hesitate to do its duty because the timid in our own ranks hesitate or because of the threats of the President's satraps and rebel allies, but that it will proceed with dignity and deliberation to the discharge of the high and important duty imposed upon it,

uninfluenced by passion and unawed by fear. If, as has been happily suggested by one of our able and true men, the nation could stand the shock occasioned by the assassination of a beloved President by the hand of an assassin, it surely can stand the shock caused by the removal of one so detested as the acting President, if done in pursuance of law.

And, sir, has he not done enough? Before he had been one month in the Presidency he entered into a combination with the enemies of the nation to usurp in their interest the prerogatives of Congress, and sought to bind hand and foot the loyal men of the South, who had aided us in putting down the rebellion, by putting the governments of the South in the hands of their mortal enemies and ours. This with me is enough. When you add to this his other acts, which have become public history, the case for me is complete.

The duty of the President of the United States is to execute, not to make laws. His oath requires him to see that the laws are faithfully executed. That the President has neglected or refused to execute many of the laws of Congress no man questions. That he has failed to execute the civil rights bill, nay, that he has not even attempted to execute it the whole country knows. On the other hand, he has not only failed to execute it, but in most indecent and offensive language he has assailed and denounced the law as unconstitutional.

Sir, in his failure to execute this just and most necessary law the crime of the President becomes perfectly colossal. Since the surrender of Lee and Johnston more than five thousand American citizens, guilty of no crime but love of country, have been murdered by men who were lately in arms against this country. Thousands more have been driven from their homes into exile, while no effort has been made on the part of the executive department of the Government to give them the protection which the law demands and which humanity and justice demand. So far as I know, in no single instance has one murderer or rioter been arrested and punished for his crimes, while loyal men who served in the Union Army are arrested and tried before rebel tribunals and punished with unusual and severe punishments for doing acts when in the performance of military duty and obeying the orders of their superior officers, and no effort is made by the executive department of the Government to protect them. Sir, there never was a nation on this earth guilty of the infamy of treating its loyal citizens as the President of the United States has treated the loyal men of the South.

I know how easy it is for the President and his co-conspirators to deny his guilty knowledge. I know also how difficult it is to prove by technical rules the guilt of a man occupying his position, although the whole country may know him to be guilty.

Why, sir, when the rebellion broke out in the winter and spring of 1861, and for several months afterward, no man could have been arrested, tried, and convicted before a court and jury in this District who was engaged in conspiracy against this Government, although no sane man ever doubted their guilt. It is much more difficult in a case of this kind, where the rebellion is not an open, armed rebellion, but a negative rebellion. In this rebellion the President is the recognized leader, and it is well known that he has cooperating with him nearly all the late rebels of the South.

Mr. CHANLER. I ask the gentleman for a definition of the expression "negative rebellion" which he has used several times in debate. It appears to be an expression of serious import; and if the gentleman cannot answer it, I do not know that anybody can.

Mr. ASHLEY, of Ohio. I decline to yield. I know how difficult it is by technical rules to prove the guilty knowledge of men who refuse to execute the law while professing to do so. It is well known that the civil rights bill has not only not been enforced, but the vast military power at the disposal of the President,



instead of being used to protect loyal men, has been used either by his guilty knowledge or by his indifference to crush the loyal men of the South.

Mr. ELDRIDGE. I wish to make an inquiry of the gentleman. I understood him to make a remark censuring the President because certain parties were not brought to trial. I wish to ask him if he thinks the President is to blame because Jefferson Davis has not been brought to trial?

Mr. ASHLEY, of Ohio. I am unable to answer that question. I know that in those military departments under his command where he does interfere he has used the military power to crush the loyal men instead of protecting them.

Mr. ELDRIDGE. Will the gentleman give us one single instance where the President has neglected his duty in regard to the trial of any person?

Mr. ASHLEY, of Ohio. Yes, sir; in New Orleans, in Memphis, and in every rebel State.

Mr. ELDRIDGE. Could the President institute courts and try these parties?

Mr. ASHLEY, of Ohio. I do not claim that he can, but he could give loyal men at least the same protection he has given rebels. He never hesitates to interfere in favor of rebels. I refer the gentleman to the case of Mr. Watson, of Virginia, and others; but it is not necessary that I should go into this.

Mr. Speaker, I do not hesitate to say that, in view of all the facts before us, if this investigation is not proceeded with, and this man is not put on trial, the provision of the Constitution providing for the impeachment of the President is valueless. Sir, if this man is not impeached, if he is not tried and deposed from the high place which he has disgraced, then no man who may succeed him need ever fear trial and conviction, no matter what his crime.

Sir, if this Congress will but do its duty and meet the just expectations of the loyal people of this country by empowering its Judiciary Committee to proceed with this investigation, and the committee do so with that energy which attends the proceedings in an ordinary criminal case, I believe the impeachment and conviction of the President is as inevitable as death.

Mr. Speaker, I should not have trespassed so long upon the time of the House as I have done but for interruptions. But I desire to make one suggestion which has just occurred to me. It is this: that all persons, whether citizens or foreigners, who have any documents in their possession which would be evidence in this case, or who are in the possession of any facts tending to show technically the guilt of this man, ought as a matter of duty to bring them to the knowledge of the Committee on the Judiciary.

Any person in the possession of such facts or documents refusing or neglecting to do so becomes an accessory in the crime of this man, and will be held responsible before the country and in the great tribunal of human history as a copartner in his guilt.

I now yield five minutes to the gentleman from Ohio, [Mr. SPALDING.]

Mr. HOLMAN. I rise to a question of order. I object to the gentleman's yielding.

The SPEAKER. The Chair overrules the point of order. The Clerk will read the rule upon this subject.

The Clerk read the rule, as follows:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for personal explanation."

Mr. HOLMAN. If it is for the purpose of personal explanation I certainly do not object.

Mr. SPALDING. Mr. Speaker, I do not boast of possessing any extraordinary degree of courage, either moral or physical, but I thank my Creator that He has so constituted me that I can rise upon the floor of this House and declare my convictions, even though they differ from those of the majority of the party with whom I act.

Sir, I differ *toto cælo* from my colleague

from Ohio [Mr. ASHLEY] who has just taken his seat; and standing here in the very place from which, less than two months ago, he charged the Executive of the nation with high crimes and misdemeanors, I denounce the whole scheme of impeachment as one of consummate folly. I say, sir, that no one act amounting to a crime or a misdemeanor has as yet been proved against the Executive of this nation, and I challenge any one to reply to me when I make that averment.

And I say more than that. It is not expected by some of those who charge the Executive with high crimes and misdemeanors that proof will be obtained. It is only necessary, as has been said in high places within the last week or ten days, that it should be known that the President is an "obstruction" in the way of what my friend from Ohio calls "progress," and the Radical party of the country will feel it to be their duty to remove him from office.

Sir, I hold to no such doctrine, and I say to my associates of the great Union party that they are mistaken if they suppose that the intelligent people of the United States are going to uphold them in a practice based upon any such principle.

I had the utmost confidence in the Judiciary Committee as constituted in the Thirty-Ninth Congress. I doubt not I shall repose an equal degree of confidence in any committee that shall be constituted by our present Speaker. I have no objections to this investigation being pursued through the channel of the Judiciary Committee; I know in fact that it will take that course. But at the same time, in order to be consistent, I must say that I do oppose it and shall oppose it, until I have some satisfactory evidence presented to my mind to show that we can make an appeal to the conscience of this great nation when we seek to deprive it of its executive head.

Sir, we are bringing our republican institutions, our popular form of government, to a test such as no free nation ever yet imposed upon its Government with impunity. I trust we are not yet called to exhibit the same temper with those who lived in the days of Oliver Cromwell in England, or with Robespierre and Marat in France, when men who one day advocated the most extreme measures of the Radicals were the next day brought to the block or the guillotine because they were not far enough in the advance in the line of progress. Is that to be our condition in this country?

Mr. ROSS, (in his seat.) That is the road we are traveling.

Mr. SPALDING. I have in my place voted for every radical measure of reconstruction proposed in this House, and yet we have not adopted measures radical enough to suit the purposes of some gentlemen who are around me. They now cry for the head of the Executive.

Mr. WOOD, (in his seat.) They want more blood.

Mr. SPALDING. And for what good purpose? Is it to make way for some other man or set of men? Is this whole nation to be convulsed; is our public credit to be trifled with; are our stocks to be brought down to forty, thirty, twenty, or perhaps ten cents on the dollar, just to gratify this eagerness to remove the executive head of the nation? I can, in conscience, support no such policy.

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. How much time have I left?

The SPEAKER. The gentleman has thirty-one minutes of his hour remaining.

Mr. ASHLEY, of Ohio. I propose to yield a portion of my time to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. NIBLACK. Will the gentleman from Ohio [Mr. ASHLEY] yield to me for a moment?

Mr. ASHLEY, of Ohio. Certainly.

Mr. NIBLACK. The matter now under consideration is one of very serious character. If the gentleman from Ohio [Mr. ASHLEY] is in the possession of facts which will authorize the step he proposes to take, then he is justi-

fied in bringing it before the House. But there is a charge going the rounds of the press of the country tending to show that the gentleman from Ohio is not the proper person to initiate the movement in this matter; and as a reason for that charge against the gentleman from Ohio certain letters are published which purport to have been written some years ago by the gentleman, then a member of Congress, to a gentleman by the name of Case. The letters are of rather queer import, and I desire to ask that they be read, and that the gentleman from Ohio have an opportunity to explain them. I have no desire to do this out of any feeling of unkindness toward the gentleman; but I think he should have an opportunity to explain them.

Mr. ASHLEY, of Ohio. I do not yield to have the gentleman come in here with any such impertinence.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. ASHLEY] that while he has the right to say of the remarks of any member that they are not pertinent, he is not in order when he says a gentleman is impertinent.

Mr. CHANLER. I demand that the gentleman from Ohio [Mr. ASHLEY] shall take his seat until the House grant him permission to proceed in order.

The SPEAKER. The gentleman from New York [Mr. CHANLER] did not himself call the gentleman from Ohio to order.

Mr. CHANLER. He was called to order by the Chair.

The SPEAKER. There are two classes of objections: one class is where the Speaker rules that a member must confine himself to the subject under consideration; the other is where some gentleman rises in his place and says, or the Speaker reminds the member speaking, that in his remarks he is violating the rules of order. In the present case, no gentleman rising to make the point of order, the Chair intimated to the gentleman from Ohio [Mr. ASHLEY] that there was a nice line of distinction between the word "pertinent" and the word "impertinent." The Chair does not think it is one of those cases where a member can demand that the other shall take his seat.

Mr. CHANLER. I beg leave to state that on a similar occasion in the last Congress, when one of the members on the other side of the House was called to order for improper language, called to order by the Chair, he was permitted to proceed because, as the Chair stated, no member arose in his place and objected to his proceeding. On this occasion I rose immediately and objected to the gentleman proceeding, and the Chair rules that objection out of order. I hope the Chair will explain so that I may understand the logic of his ruling.

The SPEAKER. The Chair will explain to the gentleman from New York [Mr. CHANLER] with very great pleasure. The language used by a gentleman in the last Congress, now alluded to, as the Chair understands, by the gentleman from New York, was language directly and personally insulting to a member of the House, apparently so intended. The Chair ruled that that language was out of order. No member followed up the ruling of the Chair by insisting that the gentleman who had used such language should take his seat until permitted by a vote of the House to proceed; and afterward, when the point was raised, the Chair ruled that it was made too late. In this case the Chair intimated to the gentleman from Ohio that his remark, in the language in which he put it, was not strictly within the bounds of parliamentary decorum. The gentleman probably intended to use language which was parliamentary. Neither the gentleman from Indiana, [Mr. NIBLACK,] to whom the remark was addressed, nor any other gentleman raised any point; and hence it may be presumed the remark was not regarded as personally offensive.

Mr. NIBLACK. I never make points of order on personal matters. I do not settle my personal grievances in that way.

Mr. CHANLER. Mr. Speaker—

The SPEAKER. The Chair must decline further argument on the point. The gentleman from Ohio is entitled to the floor, and must proceed, unless the gentleman from New York, [Mr. CHANLER,] or some other gentleman, appeals from the decision of the Chair.

Mr. CHANLER. I certainly do not take any appeal; but I desire to renew my request to the gentleman from Ohio, without meaning any impertinence to him, that he will give us his definition of a "negative rebellion." I hope he will not leave the House and the country in ignorance on that point. The term is one which, so far as I know, has been invented by the gentleman himself; and I trust he will give the country and the world a definition of it.

Mr. ASHLEY, of Ohio. I must decline to allow myself to be further interrupted by the gentleman from New York. I will say to the gentleman from Indiana [Mr. NIBLACK] that perhaps I ought not to have used the language which I did, but I say that the gentleman's suggestion is not pertinent to the question before the House.

Mr. NIBLACK. Does the gentleman withdraw the expression that he used?

Mr. ASHLEY, of Ohio. Certainly. Now, Mr. Speaker, I want to say to the gentleman that the point which he raises has no possible connection with this question, and is not at all pertinent to it. When those letters were originally published, some five or six years ago, I came into this House and asked for an investigation. A committee was appointed, Mr. Speaker, by your predecessor, two of the committee being Democrats and three Republicans. I never went before that committee except when they sent for me to give my evidence, which I think was altogether unnecessary. The committee, after examining the whole matter, unanimously exonerated me from doing or intending to do an improper act. I undertake to say further, Mr. Speaker, that if the private letters of any gentleman in this House were purloined and published they might often on their face appear very difficult of explanation. But, sir, as they have nothing to do with this question I declined to yield to permit the gentleman to spread those letters upon the records.

Mr. NIBLACK. I simply desired to say to the gentleman that the papers throughout the country are using these letters in connection with this matter of impeachment. I had never heard of the vindication to which the gentleman refers, and I desired to bring the matter to the gentleman's attention, so that he might state publicly whether the letters are genuine, and so that he might present his vindication, if he had any to present.

Mr. ASHLEY, of Ohio. I do not require any vindication. The gentleman understands very well that since this matter has been introduced here I have been assailed—and among others by papers in his own district—in the most offensive manner; assailed as he knows, falsely. I do not propose to reply to any of those assaults upon me. The constituency whom for ten years I have represented on this floor will take care of me and my character; and I do not ask the gentleman from Indiana, nor any member on this floor, to take care of it.

Mr. NIBLACK. I ask the gentleman whether I did not take some pains to have a correction made in a paper in my district.

Mr. ASHLEY, of Ohio. The gentleman did so.

Mr. NIBLACK. I am not assailing the gentleman's character.

Mr. ASHLEY, of Ohio. I now yield to the gentleman from Massachusetts.

The SPEAKER. How long?

Mr. ASHLEY, of Ohio. Eight minutes.

Mr. BUTLER. Mr. Speaker, I assume that the action of the Thirty-Ninth Congress upon the report of their committee, that there is reasonable cause for the investigation of the grave charges made against the President of the United States by the gentleman from Ohio, [Mr. ASHLEY,] forecloses the question on the

main issue. I hold this Congress would be false to itself, false to the country, false to the principles of the American Government did they shrink from the investigation.

I would not have troubled the House with a single observation but for the new points which have been thrown into the case by the condition of public affairs. One was made by the gentleman from New York [Mr. BROOKS] when this House was organizing, that this was not a constitutional body for the purpose of legitimate business because a portion of the States that had not destroyed themselves was not represented. Sir, I wish to answer that the First Congress of the United States, which counted the votes and declared George Washington President of the United States, assembled with only a quorum of each body; there being at that time but eleven States in the Union, and only a bare majority of the members, both in the House and Senate, was present. Both Houses adjourned from day to day until a majority appeared, and the moment they thus obtained a quorum, that moment they proceeded to the great business of organizing this Government by making George Washington President and going into general legislation. Therefore we stand by the fathers, for if a bare quorum of the Representatives elected to the First Congress of the United States, and only a majority of the States composing the Union, could make George Washington President, cannot this House unmake Andrew Johnson? [Laughter.]

Sir, this proceeding is likened to an inquest; a grand jury consists of twenty-three men, in which thirteen men only need be present, and a bill is properly found if twelve vote for it; and I assume if the report of the learned Committee on the Judiciary of the last House is to be trusted—and who doubts it?—whenever this House does act on a final report declaring an impeachment there will be an absolute majority of the whole House in favor of such impeachment of Andrew Johnson for high crimes and misdemeanors.

Another point to which I wish to call the attention of the House is the misconception I have of the report of the committee of the last House as it is popularly understood. That committee reported there were grave charges and evidence to sustain them, yet we have been tauntingly asked why did it take two months to find that out, and why did not the committee report charges if the facts are as well known as they are claimed to be by the friends of the measure? The propriety of withholding any report of the facts in the manner they did, whether the matter has to be further investigated, or whether it was not to be further investigated, no man will question. I think we may assume they were referring to evidence which the public knows not of. They were referring to subjects which require investigation; careful, discreet, cool, and I may say in view of public affairs, but decent in view of the great consequences which may ensue from their investigations. Therefore they did not desire to make two reports, although they might have reported upon the grave charges which all men know, usurpation of executive and legislative power, misuse of the pardoning and appointing power, the return of immense amounts of material which belonged to rebel communities to the men composing these communities, without authority of law.

Those are open and known to all men; ay, even the gentleman from Ohio [Mr. SPALDING] must have heard of them, however much he may have slept through the events of the last year. Upon these, in my judgment, sufficient articles might be found, and they are the great charges upon which the House will be called to vote.

We are called upon to find evidence upon this question. The custom of Parliaments has ever been to find evidence upon such questions, and to find impeachment upon well-grounded common fame, common report of the misconduct of any high officer whenever any committee of the popular branch of the Legislature

can be found to entertain that common fame and common report. So that current history, which is the evidence upon which all governmental action is based, is the evidence upon which impeachment may be based so far as the facts are concerned, which appear upon the judicial, legislative, and executive records of the country.

But, as regards secret crimes, if any there be, I think it of very little consequence whether there are any or not, because I am willing to take the gauntlet thrown down by the gentleman from Ohio, [Mr. SPALDING,] and I say that if any man stands in the way of the great march of this country to honor, glory, peace, unity, happiness, liberty, and law he must be taken out of the way by the constitutional, conservative, and radical method.

The SPEAKER. The gentleman's eight minutes have expired.

Mr. BROOKS. Will the gentleman from Ohio yield to me?

Mr. ASHLEY, of Ohio. How long?

Mr. BROOKS. I do not want the floor until he is done.

Mr. ASHLEY, of Ohio. I intend to call the previous question.

Mr. BROOKS. Does the gentleman intend to call it?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. BROOKS. And to sustain it after the charges he has made?

The SPEAKER. The gentleman from Ohio has fifteen minutes.

Mr. ASHLEY, of Ohio. I will yield that time to the gentleman from New York.

Mr. BROOKS. Silence will be the most eloquent answer to the gentleman if he moves the previous question. I will not make any remarks under such a restriction as to time upon such a solemn charge.

Mr. ASHLEY, of Ohio. I demand the previous question.

Mr. MILLER. Will the gentleman allow me five minutes?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. MILLER. Mr. Speaker, this question of impeachment is a very grave one, and we ought to undertake it with great deliberation. I think we ought not at this time to allege that any evidence that we have is sufficient to impeach the President. It is time enough to decide that question after the Committee on the Judiciary shall have given the subject a fair and impartial investigation. We ought to consider the matter coolly and deliberately, and ought not to prejudice the case. The Committee on the Judiciary are to be appointed by the honorable Speaker of this House. I am satisfied he will select men of legal ability, and gentlemen who will give the subject careful and thorough consideration. It is proper that the matter should first be considered by men of eminent legal ability and reported upon to the House. If the evidence is sufficient to put the President of the United States upon his trial, let him have a fair and impartial hearing. He should not be screened because he holds the highest office in the nation, but should be treated like any other citizen of this Government, however humble.

But, sir, I am opposed to prejudging this or any other case. I am not in favor of pronouncing upon this floor that he is guilty before we have an investigation and the evidence laid before the House. If when the committee in charge have given the subject a fair and full investigation they shall find that he has been guilty of high crimes and misdemeanors, I for one would be ready to say, impeach him, and remove him from the presidential chair with as little delay as practicable, and not prolong the trial in imitation to the great Hastings case before Parliament. But until that committee shall report, it is improper for us to pass on his guilt or innocence.

I admit that the great Republican party which promoted Andrew Johnson to his present high position have been badly treated. We elected him to that position, and he has turned his back against us and has joined hand

in hand with those who opposed the war to put down the rebellion; and this in a great measure, I have the charity to believe, was owing to bad advisers, of which any man will get plenty when he deserts his friends and partakes of the forbidden fruit. But with all that we, as the Representatives of the people, must try him as we would try any other man. Give him an impartial trial; wait for the evidence and report of your committee, and then, if evidence sustains the charges as to his guilt, do not hesitate to impeach him; and, on the other hand, if insufficient, dismiss the subject, and let the country understand that he escapes for want of proper evidence. But, I repeat, until the committee shall report let us forbear making any allegations as to his guilt or innocence.

But as the people of the country seem to demand investigation it is the duty of this Congress to proceed with as little delay as possible, and let there be no shrinking from duty, investigate it thoroughly, and if necessary probe it to the core.

Now, sir, it has been said that our action here upon this question may affect the financial condition of the country. We are told that if we impeach the President our Government securities will depreciate in the market, and that it will bring upon us bankruptcy. I have no such fears, and Congress ought not to be intimidated by any suggestions of the kind. But even if it would have that effect, it is no reason for shrinking from duty. Let us go on and investigate this matter fairly, and if the evidence bears out the charges made against the President, or such of them as in our opinion justify his removal from office, let us prefer articles of impeachment and put him upon his trial, and if, on the contrary, after a full investigation by the Judiciary Committee the evidence is found insufficient, then, as I have already said, dismiss the subject, and bear with him as well as we can until the expiration of his term, when we can select a man that will not turn against those that place him in power. There is no denying, Mr. Speaker, that it is galling to have a man promoted to a high position turn his back against those to whom he is indebted for elevation, and use the mighty patronage he wields against them. Such a course will be condemned by the civilized world, but still that alone is not sufficient to sustain an impeachment.

Had Andrew Johnson been true to his friends he had an opportunity of making himself popular, and been an honor to himself and his country. After the assassination of the much-lamented Lincoln, the mantle of that great and good man, at whose death the nation still mourns, was thrown on the shoulders of Mr. Johnson; but, alas! in an evil hour he was induced to partake of the forbidden fruit in the form of modern democracy, which seemed pleasant for him to look upon, hence his great fall. His course will be a warning to all those in future that may occupy the presidential chair not to forsake the party that elected him. And now, Mr. Speaker, as the time allotted to me has expired, permit me to say in conclusion that I for one will shrink from no duty; that I am willing to enter upon this great absorbing question without fear or favor, with a determination of deciding the case, so far as this House is concerned, according to the evidence, and I feel assured that is the determination of the other Union members.

Mr. HOLMAN. I move to lay the resolutions upon the table.

The question was taken; and it was decided in the negative—yeas 32, nays 119, not voting 9; as follows:

YEAS—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Denison, Eldridge, Fox, Getz, Haight, Holman, Humphrey, Kerr, Marshall, McCullough, Morgan, Morrissey, Munzen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stewart, Stone, Taber, Van Auken, and Wood—32.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot,

Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulbard, Hunter, Ingersoll, Judd, Julian, Kelley, Ketcham, Kitchen, Koonz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Longbridge, Lynch, Marvin, McCarthy, McClurg, Mercut, Miller, Moore, Moorhead, Morrill, Myers, Newcomb, Noell, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polsey, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Schofield, Shanks, Shellabarger, Smith, Stevens, Taffa, Taylor, Thomas, Townbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—119.

NOT VOTING—Messrs. Glossbrenner, Griswold, Asahel W. Hubbard, Kelsey, Pike, Selye, Spalding, Van Trump, and Henry D. Washburn—9.

So the House refused to lay the resolutions on the table.

Mr. ASHLEY, of Ohio. At the request of gentlemen upon this side of the House and upon the other side, I desire to submit a proposition. It is that the previous question be now sustained, and then I will yield fifty minutes to the gentleman from New York, [Mr. Brooks,] with the understanding that at the end of that time the vote shall be taken without further delay.

Mr. FARNSWORTH. I object. It is most unusual for the reference of resolutions to be thus debated, and I think it is entirely unnecessary in this case.

The SPEAKER. The suggestion of the gentleman from Ohio could only be carried out by unanimous consent.

Mr. ASHLEY, of Ohio. I move a suspension of the rules, so that the main question shall be ordered on this motion, and fifty minutes allowed to the gentleman from New York [Mr. Brooks] to debate it.

The question was put; and (two thirds voting in the affirmative) the rules were suspended, and the motion of Mr. ASHLEY, of Ohio, was agreed to.

Mr. BROOKS. I understand, then, that fifty minutes are allowed to this side of the House.

The SPEAKER. The fifty minutes are at the disposal of the gentleman, and he can transfer any portion of his time to whomsoever he pleases.

Mr. BROOKS. Mr. Speaker, when I heard the gentleman from Ohio [Mr. ASHLEY] indulging in those adjectives and epithets and nouns of uncommon magnitude with which he denounced the President of the United States, it seemed to me to recall the revolutionary scenes of French history, when Marat and Danton and Robespierre, on an occasion somewhat similar to this, were in the French convention. In an American Congress I think I never heard before such phrases used applied to the executive branch of the Government. I was not, therefore, surprised when the Speaker called the gentleman to order, or suggested to him that indulgence in such phrases was not only not in order, but unbecoming to a parliamentary body.

A body of conspirators, and the President the chief of those conspirators! That was beautiful declamation; but it was only declamation, for there is no proof whatsoever of such a conspiracy, or that the President of the United States was the chief of those conspirators.

And to go further, he denounced the President as being in complicity with the assassins of President Lincoln. Now, it is not within my power as a Representative upon the floor of this House to properly characterize expressions of that sort when applied to the executive branch of the Government. It is in substance saying, or making an effort to say, that the President of the United States was an accomplice in or connected with the assassination of President Lincoln. What proof is there to support that charge except the mere declaration of the gentleman from Ohio, [Mr. ASHLEY?] And in the same phrase he denounced the White House as the home of thieves and the den of pardon-brokers; and he went on to denounce the President as a great criminal, guilty of high crimes.

Sir, hitherto such language has never been applied in any parliamentary body in this country to the President of the United States. And the gentleman proceeds to speak of the mental and moral caliber of the President as being deficient for the situation to which he has been elevated by the action of the party represented by those on the other side of the House, and not by any action of ours. Sir, it is sufficient to look at the recent production, which he [Mr. ASHLEY] denounced upon the floor of this House, in his veto message, and compare the mental and moral caliber of that production with any state paper or document ever brought before the people of this country.

The gentleman from Ohio speaks of those connected with the President and disposed to defend the policy of his administration as rebel allies, satraps, &c. All this is mere words, wind, without weight, and unbecoming any parliamentary body in this country. Now, if there were anything in the charges of the gentleman, if the President were thus guilty of conspiracy and were the chief of the conspirators, if his house be the den of thieves and the home of pardon-brokers, then why this delay? I ask the gentleman from Ohio why go through the delay of an investigating committee? Why not institute upon the floor of this House an immediate procedure for an impeachment? For what purpose were we here assembled in this extraordinary session, with abundant leisure before us, but to go on with something or other like an impeachment? If the President is guilty of these high crimes and misdemeanors, why the proposed adjournment for two or three months, abandoning the Government to the chief of conspirators, to a house of pardon-brokers and den of thieves? Sir, if there is one word of truth in what has been said by the honorable gentleman from Ohio [Mr. ASHLEY] this House ought this very day, this very hour, to institute the process of impeachment, and not adjourn till it has been disposed of. We are here, and should not shrink from our duty. If the President of the United States has been guilty of these things charged against him, now is the day and the hour for his impeachment; this very hour, without the least delay.

I fancy, however, that the honorable gentleman from Ohio [Mr. ASHLEY] is but indulging in all this declamation and these insinuations for the purpose of prejudicing and preparing the public mind for the revolution which he has in contemplation. I do not imagine that he expects to sustain any of these broad charges before the people through the investigation of the Judiciary Committee. I imagine his effort is to try to dupe the public to prejudice the case, and by the use of strong words, by nouns more uncommon than common, by adjectives long and short, so to prepare the public mind that the President of the United States can be deposed or impeached without any investigation whatever.

Equally trite was the other imaginative phrase of the honorable gentleman from Ohio when he spoke of the five thousand Union men who had been killed in the southern States since the close of the war.

I am an attentive reader of the newspapers, and a keen observer of what is going on in the southern country, and I pronounce that whole declaration to be a mere figment or fiction of the honorable gentleman's brain. There is hardly a word of truth in it. There is no more crime in the southern country in proportion to the population than there is in the city which I in part represent; and throughout the whole South there has been committed no crime so infamously atrocious as that recently committed in the State of Minnesota. I venture to declare here, and I think I can sustain the declaration by statistics, that during the year and a half last past there has been no more crime committed in the ten southern States than has been committed in ten northern States of like population. Crime exists everywhere in every form—burglaries, arsons, assassinations—not alone in the South,

but throughout all parts of the country. Yet every crime of less or greater enormity occurring, or alleged to have occurred, throughout the southern country, has been garnered up here and spread before the people to inflame the popular mind and induce the people to sanction the passage of the military bill and the impeachment of the President of the United States.

"Five thousand killed!" I again declare there is no proof of it upon the record. On the contrary, it is on record before one of the committees of this House that with regard to the remote State of Texas, where it is alleged three hundred Union men have been murdered, the opinion of General Sheridan, in command there, is that martial-law is unnecessary, and that the civil law can be maintained and properly executed.

Mr. Speaker, I pass with pleasure from this mere declamation of the honorable gentleman from Ohio [Mr. ASHLEY] to the specifications of the gentleman from Massachusetts, [Mr. BUTLER,] who, with more care and more minuteness, recites some of the high crimes and misdemeanors of which the President is alleged to have been guilty. But before I proceed to comment upon those specifications, let me tell the honorable gentleman from Ohio, [Mr. SPALDING,] who stands here in the way temporarily of this impeachment, that in this revolution the character which he is personating—with perfect sincerity I doubt not—is that of a Girondist attempting to oppose the Jacobins in their mad determination to push on further and still further in their revolution. In all probability the history of the Jacobins is to be rewritten and reacted here in these United States. The gentleman from Ohio, an early upholder and defender of the Radical party, a man who almost from his youth has sustained its principles, and when they were very unpopular, is now attempting to resist this great current of revolution. I do not shut my eyes to facts; I endeavor to comprehend them truly, however much I dislike them; and looking at the facts as they present themselves, I say that I do not think this revolution is yet to stop. I do not think its history is yet half written, yet half acted out. Unless the record of all like revolutions is a lie, unless the stories of Augustus and Julius Cæsar, of Cromwell, of Napoleon are fictions, the revolution which has been begun in this country is to go on. The President of the United States, though his head may not be brought to the block, is to be by force deposed and driven from the White House. Such is the history of revolutions. The Girondists of the era of the French Revolution were obliged to succumb; and the Conservatives of this day will be temporarily overcome by the Jacobins of our time, who will run riot in their revolutionary projects until some future Napoleon, not yet budded and blown, shall assume military command in this country, and out of chaos bring back order, and be the means of arousing the people to the defense of their liberties and of the Constitution of the United States.

Hence, while I admire the resistance of the honorable gentleman from Ohio, and the partial resistance of the gentleman from Pennsylvania [Mr. MILLER] to the present revolutionary programme, I see that all such efforts must be unavailing. History tells me that the destructive work of the revolutionists—the architects of ruin—must go on. And I appreciate also the fact that I and those who are politically associated with me must be prepared to endure our share of the disastrous future now opening on the country. I apprehend that we on this side of the House will soon be no safer in the enjoyment of our rights here than if we were to-day subject to the despotic rule which has already spread itself over the sacred precincts of Mount Vernon, where repose the remains of Washington—no longer the soil of liberty; no longer the dwelling-place of freedom and of freemen; no longer the pilgrimage for the free and the brave, but in the land of

the despot, who exercises there the tyrannical sway of the Turk, the Tartar, the Asiatic—in a region of country where some mere brigadier, without reason or the pretense of reason, can recklessly incarcerate any American citizen and doom him to imprisonment, without remedy or redress. Alas, sir, no American citizen can now boast on the sacred soil of Mount Vernon, when bending or weeping over the remains of the great Father of this once Republic, that he is in the land of the free; for despotism, the vilest of despotisms, a lawless military despotism, has seized upon and trampled upon the consecrated Mount, as Turk upon Marathon, as Arab over the hills and plains of the Jordan. All, all, is despotism from the Potomac to the Rio Grande.

One half, ay more than one half, of the original territory of the Republic is no longer a Republic; no longer the home for a freeman; no longer the proper dwelling-place of an American citizen; no more a place to emigrate to than Egypt or Algeria; where there is now no more liberty than in Turkey or Tartary. The despotism which has been carried into the southern country, as I have before remarked, is in the progress of revolution to be extended over the northern people before it is finished. In the midst of this revolution we hear the honorable gentleman from Ohio [Mr. SPALDING] and the honorable gentleman from Pennsylvania [Mr. MILLER] calmly expostulating, too late, sir, I fear too late. The gentleman from Ohio [Mr. ASHLEY] and his associates must triumph over them in the end, for they are the extremes, the Dantons of this revolution, the arbiters of the land, and their subjects here and elsewhere must obey. Whence once the Girond trusted himself to the stormy sea of revolution, the rudder was lost, and he drifts where the Jacobin commands.

The honorable gentleman from Massachusetts, [Mr. BUTLER,] in the enumeration of his articles of impeachment, goes on in the spirit of the honorable gentleman from Ohio, [Mr. ASHLEY,] and says that this House will be false if it shrinks from the impeachment now. Perhaps he is right; having gone as far as they have, they must go on with the revolution. The ball which has been set in motion is not to be stopped; it is irresistible, and will go on until it rolls all over this House, and the country, too. But I respect the honorable gentleman from Massachusetts [Mr. BUTLER] for the frankness with which he has addressed the House.

Before, however, I proceed to enumerate his specifications of impeachment, let me say, in reply to a remark which he made concerning a few observations submitted by me at the organization of the House, that the first House of Congress proceeded to its organization without all the States being represented, and that when the President of the United States, George Washington, was declared elected, there was not a full House present. In reply to all that, sir, let me refer him to the record I have before me in the Journal of the First Congress. There were but eleven States in the Union then. Rhode Island, one of the original thirteen, was not then a State in the Union. She refused to come in. North Carolina was not a State in the Union. There were only eleven States of the Union then, but ten of them were upon the floor of the House when George Washington was declared to be the President of the United States. Congress adjourned from day to day for a full month, until States enough were present to justify organization. I said the other day there were seventeen States absent now; I should have had added Oregon. There were, sir, eighteen States absent when we proceeded to organize this House; eighteen States out, leaving nineteen to conduct the business of the country in the absence of eighteen.

Mr. BUTLER. Will the gentleman allow me a question?

Mr. BROOKS. Yes, sir.

Mr. BUTLER. By how many Senators and Representatives were those ten States repre-

sented? Ten Senators and twenty-eight Representatives out of twenty-two Senators and sixty Representatives.

Mr. BROOKS. Several were absent from the floor of this House at the first day of the session from the nineteen States present. I did not enumerate the members; I counted the States. The record shows that in the First Congress there were ten States represented out of the eleven.

We are told by the gentleman from Massachusetts that the President is to be impeached for executive and legislative usurpation. Well, this is a late day to proceed to impeach for what has been done over a year and a half ago! Why was it not thought of before? Why this long sleepiness over so great a crime? How happens it that the Thirty-Ninth Congress slumbered, slept over this awful enormity, and that the gentleman fresh from Massachusetts has just found it out? Where were the guardians of the Republic before the arrival of the honorable gentleman here? But if there has been a great crime it can be resisted now by the judiciary alone, without involving the two Houses of Congress in the tedious process of impeachment. There are courts of law. The instruments of these usurpations can all be arrested, estopped, and condemned before the recognized tribunals of the land. Sir, all this is an after-thought, a year and a half behind the time, and the discovery of it now is too late even to take out the patent-right therefor. Hence I do not attach any importance to that specification, and I do not think more can be made out of it than the more wordy, windy charge of the gentleman from Ohio.

The gentleman from Massachusetts next goes a little further and specifies one other enumeration, namely, that the President of the United States has surrendered war materials to the rebels. I suppose he refers to the surrender of railroads and other materials after the war; and therefore he says the President ought to be impeached. I am quite sure the records of the Department will show that whatever surrender of such material the President has made has been made upon consultation with his Cabinet, and by the advice and sanction of the Secretary of War and of the Lieutenant General of the Army of the United States. But I put it to the gentleman from Massachusetts, if that is a fair matter for impeachment? I ask him if the fact of the surrender by the President in the conflict of the war or at its close of war materials, for the public advantage or good, is any matter for impeachment at all, or even for denunciation; and I am quite sure I shall have the response of "no." If I have read aright the history of the war, for every dollar of material surrendered by the President to the rebels the gentleman from Massachusetts, as a commander in the field, has surrendered to those rebels ten dollars' worth of material where the President has surrendered one.

General Grant himself, on the Appomattox, when the conflict of war was over, surrendered to the mounted rebels all their horses, and General Lee himself rode off on a horse the gift or grant of the victor. If, then, the surrender of war material is an impeachable crime, when General Grant is deposed, when the Cabinet all are impeached, when the President himself is deprived forever of all office for life therefor, we shall then be looking after the honorable gentleman from Massachusetts to indict or to impeach him for the surrender of war material to the rebels in the proportion of ten where the President has surrendered one.

I admire, however, the frankness of the gentleman from Massachusetts. He speaks plain Anglo-Saxon English, and I admire this directness and frankness of speech as I do the freedom of speech which we so often find in the old State of Massachusetts, where there is no disguise in words, ideas, or intents in revolutionary times. The President, he tells us, is in the way of the glorious march of progress; is in the way of ideas and of legislation.



The gentleman's words, as I have them, were that "He who stands in the way of progress must be taken out of the way." This is freedom and frankness of expression; this is speaking out loud what is spoken from the inner circles of the caucus. The President of the United States is in the way and must be removed. This is revolutionary talk in Cromwellian English, and I like it. No matter what says the Constitution of the United States; no matter what may be the once necessary form of election; no matter what may be the precedents of British or American law; no matter whether those precedents are right or wrong, the Executive stands in the way of our party and he must be removed and stricken down. This is the whole secret of this process of impeachment, and here on this floor it is candidly avowed. I like it. I like to hear it. The truth is sometimes pleasant, however harsh.

Let me appeal to my Republican friends on the other side to consider what a precedent this is that they are called upon to establish as law. At some future time they will be in the minority; another party will be in the majority; and if the President of the minority stands in the way of the party of the majority that majority can suspend, impeach, and if he stands in their way remove him. If such a precedent, therefore, is established, this is no longer a constitutional Government. We are no longer a people living under a Constitution if such principles can be carried out. Let it go to the country, then, here from this Hall, that the chief leader of impeachment here has avowed, in substance, that no matter as to "the crimes or misdemeanors" of the President, whether he be guilty or not, so long as he stands in their way that is enough—he must be taken off and stricken down.

And now, Mr. Speaker, without going into political details, let me ask what are to be the consequences if we execute the revolutionary decrees of the honorable gentlemen from Massachusetts and Ohio. I am not going to portray what effect such an abrogation of all constitutional law is likely to have upon the morals or the politics of the country. All of us know that the Government is founded, not only upon the people, but upon constitutional forms and obligations, and if you once cut loose from all these obligations, with all the accumulation of debt which you have on hand, what are to be the consequences only upon the debt, the property, and the finances of the country? I hesitate not to say that I know, as the Representative of a very large commercial district, and as the Representative through that commercial district more or less of the commerce and trade of the country, that the first movement of the honorable gentleman from Ohio [Mr. ASHLEY] has already cost the merchants, capitalists, manufacturers, and farmers of this country over a hundred million dollars. Already by his action and his course over a hundred million dollars have been sacrificed in the stocks, obligations, and property of this country. And now he proposes to keep up this agitation for months and months longer. Sir, if the bears of Wall street, who have profited by the calamities which have recently occurred there to the amount of millions, if those men, laden down by the profits of the gambling operations which have damaged the bonds of the States of Missouri, Iowa, Illinois, and other northwestern States, were to give him \$1,000,000 for the mischief he has already created, they would but feebly discharge their high obligations to him for the enormous sums of money they have gained in consequence of his action.

And yet it is now proposed that for two or three or perhaps six months longer this alarming agitation shall be continued. What is the proposition presented to us in the resolution before the House, and which we are called upon to adopt? It is to provide the Committee on the Judiciary with an unlimited amount of money and means to enable them to go about the country hunting up scandals, drumming

up witnesses, employing detectives, informers, spies, and the like to suborn perjury, informers of all classes and kinds, in order to recreate this agitation and reëxcite the people. Sir, we have already approached, if we are not in the midst of a financial crisis. The wages of labor are already being cut down in the State of Rhode Island; hundreds of operatives are being discharged from the factories of Massachusetts and Connecticut; thousands of laborers are stalking unemployed through the streets of New York; and elsewhere throughout the country the demand for labor is made by thousands who are dependent upon it for their daily subsistence.

Like operations will extend from the great heart of New York through all the country if this agitation is encouraged to go on. No more railroads can be built in the West, no more bonds of western States can be sold, no more capital can be profitably employed in those States.

It is proper, therefore, I again repeat, that this impeachment should go on this very day, or it should stop this very day. Agitation, revolutionary agitation, financial agitation, is death to the commerce, the trade, the agriculture, the capital of this country. If the President of the United States is to be removed or deposed, take him now from the White House, and install there your newly-elected President of the Senate. Do it forthwith, immediately; and then go on with no longer delay in this work of destruction and death. I now yield to the gentleman from New York, [Mr. WOOD.]

The SPEAKER. How long a time does the gentleman propose to yield to his colleague, [Mr. WOOD?]

Mr. BROOKS. What time does he want?

Mr. WOOD. Not many minutes.

Mr. BROOKS. I yield to him for such time as he may want. When he has concluded, if I have time left I will yield it to others.

Mr. WOOD. I do not propose, Mr. Speaker, upon the mere question of reference to discuss the subject of impeachment. Whatever may be the merits or demerits of the President of the United States, I suggest that upon a preliminary question of this kind such a discussion would be not only out of place, but calculated to do irreparable injury to the great subject involved.

Therefore, in the few remarks that I propose to submit to the House, I shall not follow the example of the honorable gentleman from Ohio, [Mr. ASHLEY,] who introduced these resolutions. I certainly shall not follow his example of vituperation and wholesale slanders, already refuted by the report made to the Thirty-Ninth Congress by this same Committee on the Judiciary. That committee, composed of the ablest and most distinguished men of the last House, after sitting for two months, every day and almost every hour engaged in this investigation, made a lame and impotent conclusion in the report, which they submitted to that House, which refuted every allegation of slander the gentleman from Ohio [Mr. ASHLEY] originally made upon this floor.

Therefore, at this time I shall not attempt to defend the President of the United States. When that committee shall have made its report, and when there is exhibited to the country and to the world an accusation of sufficient consequence to warrant the action of this House upon the question of impeachment, then I shall be prepared to discuss the subject, and to startle this House and the country with reference to the secret motives and acts of those who have instituted this proceeding.

But I have risen now for no such purpose. I have risen merely to express my regret that at the very threshold of this Fortieth Congress we shall distinguish our proceedings by reviving an agitation and an excitement which is calculated to do great injury to all the industrial pursuits of our land. I have risen to protest against the continued agitation of a question of this magnitude and importance. I ask this House to give this country rest; to allow

the people of the United States to have a few months of quiet that they may look after their individual interests and pursuits. Instead of continuing an agitation of this character, let us do something toward relieving the people; let us recognize the duties that are imposed upon us as legislators, and attempt to develop the material resources of the country; let us do something to reduce the enormous public debt that now hangs over our land; to lessen this grievous burden of taxation which is now oppressing the people; to develop our mineral, our agricultural, our manufacturing resources. In short, I ask that the Congress of the United States may proceed with calmness, with statesmanship, with a cool, careful examination, to legislate for the real wants of the land, and not continue an excitement and an agitation of the public mind which is a terror to the capital of the country, which is preventing the industry of the country from expanding, and which is retarding the process of pacification in the land. I ask that we rise to a full appreciation of the duties and responsibilities imposed upon us by our constituencies.

I have, therefore, risen to protest against the revival of this question of impeachment at all. The report of the late Judiciary Committee is of itself a sufficient argument why the proposition should not now be renewed. What a spectacle have we had exhibited here to-day! An unprecedented course of action on the part of the mover of this resolution; upon a mere motion of reference he has discussed the whole question of impeachment. He has gone into an argument, if his declaration can be called an argument, to convict in advance the man whose conduct he proposes to have investigated. He has assumed to stand up here and pronounce judiciously upon the question of impeachment, and that, too, in such a way as to convince the House and the country in advance that he is incapable of giving a disinterested and unprejudiced vote upon the subject.

Sir, in every deliberative body, whether in this country or in Europe, where an attempt has been made to impeach a high executive officer, mere self-respect, if nothing else, has prevented any member from exhibiting himself in advance in the attitude and position which the gentleman from Ohio has assumed here to-day.

But I will not discuss the merits involved in this question of impeachment. I have risen merely to make my protest and to express my regret at the proposed action; to implore the Congress of the United States to discharge its legislative duties, to do something to relieve the oppressed people of our land, something to encourage the industrial interest now suffering so long in consequence of this agitation. The war is over, but peace is not yet restored; one third of the country is still paralyzed for want of action on the part of the Government. The people are yearning to be allowed by the Congress of the United States to again make their bread by the sweat of their brows.

And yet we here, clothed with high official power, professing to represent this whole land, propose to put an impediment in their way, to adopt measures that must be destructive to their welfare.

Therefore, sir, I hope that we may hear no more of this question of impeachment. If the subject is to be referred, let it be referred; let the committee after full and fair examination make their report; and if that committee shall, upon sufficient evidence, report that the President of the United States has been guilty of any of the crimes with which he is charged, if the committee can sustain any of these grave accusations by testimony, I will go with the gentleman from Ohio and the other gentlemen on that side of the House in favor of the impeachment and removal of the President of the United States.

Mr. BROOKS. I now yield six minutes to my colleague, [Mr. PRUYN.]

Mr. PRUYN. Mr. Speaker, I differed from some of my associates, though I assented to

their decision, as to the propriety of accepting the small allowance of fifty minutes in which to discuss on this side of the House an important question like that now presented to our consideration. In the brief period accorded to us we can do little more than enter our protest against the proceeding which is now about to be instituted by this House, and refer in a very hasty way to the reasons which impel us to oppose this measure.

In what position, sir, does this House now stand, and what does this proceeding mean? If this resolution be adopted, it is significant of something. Of what? We are here as a new Congress. We have just taken the oath of office. Without any investigation, without any examination, without any proof, with nothing upon which to base our action except loose declamation of such a character that the Presiding Officer of this House felt bound to interfere and check it, we, acting as the highest legislative body of the country, are about to declare virtually to the world that in our belief there are facts before this House sufficient to warrant proceedings looking to the impeachment of the President of the United States. This is not a meaningless proceeding; it is not a matter of form; but we are bound in honor and in conscience, we are bound by our duty to ourselves and our duty to the country, to be able to say, if we vote for this resolution, that we have good reason to believe from evidence coming under our observation that the President of the United States has been guilty of high crimes and misdemeanors demanding his impeachment at our hands.

In what position do we find the President of the United States? Elected by a political party who, though they now propose to impeach him, bestowed upon him their full confidence for months after he assumed the executive chair, as evinced in the resolutions of their various conventions, the President at this time stands before the country surrounded by men of ability and personal integrity who are acting as his constitutional advisers, and whom, by the tenure-of-office act passed a few days ago, Congress has declared he shall not remove. Now, sir, if the President of the United States has been guilty of the high crimes and misdemeanors imputed to him by the gentleman from Ohio [Mr. ASHLEY] and the gentleman from Massachusetts, [Mr. BURLER,] it cannot be possible that these officials who have been associated with him for nearly two years are not *participes criminis* in his proceedings. If you impeach him you impeach them, for the ground taken by both those gentlemen to whom I have referred is so broad that it must necessarily include in its moral effect every member of the Cabinet.

Now, sir, compare the nature of our action here to-day with the proceedings which have taken place in other free countries under corresponding circumstances, and in what attitude does the comparison place us before the world?

Look to the deliberation with which the British Parliament proceeded in the case of Warren Hastings, a Governor of a distant dependency. Look at those proceedings and contrast them with the hot haste in this Congress this day if this resolution be passed.

The SPEAKER. The gentleman's six minutes have expired.

Mr. PRUYN. The gentleman from Massachusetts said that the President stood in the way of progress, not that he had neglected his duty, not that he had violated the Constitution, not that he had in any way violated his oath of office, but that he stood in the way of progress—progress as the gentleman understands it, not progress in the way of constitutional liberty, but in that of despotism.

Mr. CHANLER. The gentleman now yields me the remaining six minutes.

Mr. Speaker, when the question of the reference of the impeachment to the Committee on the Judiciary was made in this House I felt it to be my duty as a member of this body to vote for it. That investigation has now taken place. The Committee on the Judiciary have

reported progress, and in that report they have given assurance to a large body of this House previous to the adjournment, and assurance to the whole country, that the impeachment of the President upon the charges of the gentleman from Ohio [Mr. ASHLEY] never will take place. They have deserted the ground they took. They now ask for a continuance of the investigation to cover the impotency of their efforts and the fallacy of their charges. That is my belief. So far as revolution is concerned, if ridicule could stop revolution the speech of the gentleman from Ohio [Mr. ASHLEY] would. He would put the mask of Laughter on the Muse of Tragedy.

A more important matter than this, sir, has never been brought before this House. There can be no more solemn proceedings than those we have been considering to-day. I am willing, so far as the investigation can show to this country any crime on the part of the Chief Executive, to go on with it, but it must be carried on in a spirit of fairness and sincerity, and not for the purpose of political agitation and personal spite.

And the latter is the form this investigation has assumed. It has lost all the magnitude it had. It has dwindled into contemptible proportions. There is no fear now of the country from this agitation. They understand how weak and silly it is. There is no danger that the stock-jobbers will consider it at all. My colleague has given too much importance to the gentleman and his agitation. There is no danger that the stock-jobbers of Wall street will reward the gentleman from Ohio [Mr. ASHLEY] even with a leather medal.

My colleague has alluded to the suffering in our commercial, manufacturing, and agricultural interests. The finances of the country are the cause; the legislation of the other side is the cause. Farmers are suffering because they have no markets for their products, because the great South is shut out from the mercantile community, and therefore the merchants of New York are without a market. It is not because the impotent resolutions of this Congress are flaunted before the country. That is not the reason commerce, manufactures, and agriculture are prostrated. The prostration of the country is the result of an inflated currency. It is the result of inflation in every department of industry; and, sir, the more the spirit of speculation and inflation is encouraged the more will our commerce, manufactures, and agriculture suffer.

So far, then, from this question of the impeachment being the cause, I look upon it as dead. It is dead and almost stinketh. It is offensive to the nostrils of our people. It is an impotent effort to continue this investigation after what we have seen and heard here to-day cannot get force enough to make it respectable.

[Here the hammer fell.]

Mr. BOYER. I desire the gentleman from Ohio to give me five minutes.

Mr. ASHLEY, of Ohio. I suppose under the rule I myself have no time.

The SPEAKER. The gentleman has no time; debate is closed.

Mr. BOYER. I desire to reply to a single point made by the gentleman from Massachusetts.

The SPEAKER. Is there objection?

Mr. STEVENS. Oh, yes!

Mr. BOYER. Will the Chair inform me what gentleman objects?

The SPEAKER. The gentleman from Pennsylvania. [Mr. STEVENS.]

Mr. BOYER. I shall remember the gentleman. [Laughter.]

Mr. RANDALL. Better forget him. [Laughter.]

The question being taken on the resolutions, they were adopted.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### APPOINTMENTS OF COMMITTEES.

The SPEAKER. The Chair announces that in appointing himself chairman of the Committee on the Rules he does so by order of the House, according to the usage of the last Congress.

The Clerk read the following appointments of committees:

*Committee of Elections*—Henry L. Dawes of Massachusetts, Glenn W. Scofield of Pennsylvania, Charles Upson of Michigan, Samuel S. Marshall of Illinois, Samuel Shellabarger of Ohio, Joseph W. McClurg of Missouri, Burton C. Cook of Illinois, Luke P. Poland of Vermont, John A. Nicholson of Delaware, and Michael C. Kerr of Indiana.

*On the Judiciary*—James F. Wilson of Iowa, George S. Boutwell of Massachusetts, Francis Thomas of Maryland, Thomas Williams of Pennsylvania, Frederick E. Woodbridge of Vermont, William Lawrence of Ohio, John C. Churchill of New York, Samuel S. Marshall of Illinois, and Charles A. Eldridge of Wisconsin.

*On Mileage*—George W. Anderson of Missouri, Tobias A. Plants of Ohio, Burt Van Horn of New York, Green B. Raum of Illinois, and J. Laurence Getz of Pennsylvania.

*On the Rules*—The Speaker, Elihu B. Washburne of Illinois, Nathaniel P. Banks of Massachusetts, James G. Blaine of Maine, and James Brooks of New York.

*Joint Select Committee on Equalizing the Salaries of Officers of Congress*—Frederick E. Woodbridge of Vermont, Ephraim R. Eckley of Ohio, and Hiram McCullough of Maryland.

*Joint Select Committee on Retrenchment*—Robert C. Schenck of Ohio, Charles H. Van Wyck of New York, Samuel J. Randall of Pennsylvania, John A. Logan of Illinois, and William B. Washburn of Massachusetts.

*Regent of the Smithsonian Institution to fill the vacancy occasioned by the election of Mr. Patterson to the United States Senate*—Luke P. Poland of Vermont.

#### SERVICE ON A COMMITTEE.

Mr. SCHENCK. I ask to be excused from service at the head of the joint select Committee on Retrenchment or as a member of that committee. It is an exceedingly important committee, has very much to do, and I find from experience upon it that it is impossible for me, consistent with my duties as chairman of another committee, to give my time and do justice to the duties that devolve upon me as chairman of that committee. I therefore ask the House to excuse me from service and to allow the Speaker to supply my place.

Mr. RANDALL. I object; the gentleman is a very useful member.

Mr. SCHENCK. I shall have to submit a motion, then, that I be excused. There is so much to be done requiring great care and labor upon that committee that I feel it impossible to give the attention to its duties which I think they demand. It is upon that ground merely that I ask to be excused. I would like exceedingly to be associated with my friend from Pennsylvania, as I have been heretofore; but I think the public service would be better answered by permitting me to be excused.

Mr. RANDALL. I will only say that in future the chairman of the Military Committee will probably not have so much to do as will prevent him from serving also on this committee.

Mr. SCHENCK was excused from service.

#### REPRESENTATION OF ARKANSAS.

Mr. NIBLACK. I rise to a question of privilege. I present the credentials of H. A. B. Greenwood, claiming to have been elected to Congress from the third congressional district of Arkansas. I ask its reference to the Committee of Elections.

Mr. STEVENS. I move to lay them on the table.

Mr. ELDRIDGE. Is it not in order to have the member-elect, if he is present, come forward upon the presentation of his credentials and be sworn in?

The SPEAKER. The Chair would ask if there was objection in such case. If there was none, then he would swear the member in. The gentleman, from Pennsylvania has indicated his objection by moving to lay the credentials on the table.

The credentials were accordingly laid on the table.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed joint resolutions of the following titles, in which he was directed to ask the concurrence of the House:

A joint resolution (S. R. No. 2) supplementary to other joint resolutions, to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and

A joint resolution (S. R. No. 6) extending the time for the completion of the improvement of Fox and Wisconsin rivers.

#### CLERK TO COMMITTEE OF ELECTIONS.

Mr. DAWES, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Elections be authorized to employ a clerk during this Congress at the compensation allowed the clerk to the Committee on the Judiciary; and that all papers in cases of contested elections be printed in whole or in part, at the discretion of said committee.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RETROCESSION OF ALEXANDRIA.

Mr. STEVENS, by unanimous consent, introduced a bill to repeal an act entitled "An act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia, and for other purposes;" which was read a first and second time.

Mr. STEVENS. The bill, I believe, has the approbation of all loyal men on the other side of the river. The scenes of yesterday render it absolutely necessary that it should be passed. I yield now for a moment to my friend from Illinois, [Mr. INGERSOLL,] who was chairman of the Committee for the District of Columbia during the last Congress.

Mr. INGERSOLL. Mr. Speaker, I desire to say to the House that this question of repealing the law by which the county of Alexandria was restored to the State of Virginia was before the Committee for the District of Columbia of the last Congress; and the committee were unanimous, with the exception of one or two gentlemen belonging to the other side of the House, that this law should be repealed for many reasons.

We have, sir, now an additional reason, which did not exist at the time when this bill was before the committee, the reason alluded to by my friend from Pennsylvania, [Mr. STEVENS,] which makes it the duty of the House to pass this bill at once, so that this county may be restored at once to the jurisdiction of the District of Columbia. I hope the bill will pass.

Mr. STEVENS. I call the previous question.

Mr. McCULLOUGH. I hope the gentleman will allow me five minutes.

Mr. STEVENS. I will yield to the gentleman for that time.

Mr. McCULLOUGH. I wish to inquire in the first place how this bill got before the House?

The SPEAKER. By unanimous consent.

Mr. McCULLOUGH. I did not hear anything of it until the gentleman from Illinois [Mr. INGERSOLL] took the floor.

The SPEAKER. The gentleman was probably indulging in conversation. The Clerk read the bill very audibly, and the Chair propounded the question very audibly whether there was any objection to its introduction.

Mr. McCULLOUGH. When this question was before the Committee for the District of Columbia, as I understand the matter only one side was heard, and if I am not mistaken it was understood then that no action should be taken upon the matter until those who are opposed to this retrocession should be heard. I am not aware that the matter has been agitated in the committee since that time.

Now, Mr. Speaker, there has been a report upon this subject read here, but whether it be true or not the House is not informed. And I submit to the House whether they ought to pass a bill of this importance, involving, as it does, legal questions as to the right of Congress to pass such a law, questions which the chairman of the committee will remember were discussed by the committee without any investigation, and without any opportunity being afforded to those who opposed the retrocession to present their objections to it. The action of the committee was entirely *ex parte*.

Mr. STEVENS. I must now demand the previous question.

Mr. INGERSOLL. Allow me one moment.

Mr. STEVENS. I will allow the gentleman a word or two.

Mr. INGERSOLL. I wish only to correct a misapprehension under which my colleague on the Committee for the District of Columbia during the last Congress seems to be laboring; and that is in reference to no notice having been given to those citizens of Alexandria who are opposed to this measure. There was notice given to the leading men of Alexandria who are known to be opposed to this measure.

Mr. McCULLOUGH. Who were they, and how was the notice given?

Mr. INGERSOLL. It was given verbally by Dr. Stewart, of Alexandria. I directed him personally to give timely notice that the committee would be in session for the consideration of this question upon a certain day; and I told him to be particular and notify the leading men of Alexandria who are opposed to the bill. Dr. Stewart informed the committee—I do not know whether the gentleman from Maryland was present when we had the matter under consideration or not—that he had given such personal notice, and if those who were opposed to the measure were not heard before the committee it was their own fault, for they had timely notice of the day when the committee would consider the subject.

Mr. McCULLOUGH. I wish merely to say, in order to put myself right before the House, that I was not aware of the facts stated by the chairman of the committee of the last House. I know it was determined that those who were opposed to this bill should have a hearing, inasmuch as the bill involved serious legal questions. Those who are in favor of the passage of the bill were heard by the committee; but I never heard of the bill from that day to this.

Mr. INGERSOLL. One word in reply.

Mr. STEVENS. No, sir; I cannot yield further. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. McCULLOUGH demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 28, not voting 21; as follows:

YEAS.—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bonwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Ketcham, Kitchen, Koontz, Lallin,

George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Polesley, Pomeroy, Price, Raum, Robertson, Sawyer, Scofield, Shanks, Shellabarger, Smith, Stevens, Taylor, Thomas, Trowbridge, Twitchell, Upton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—111.

NAYS.—Messrs. Archer, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Haight, Humphrey, Kerr, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Schenck, Stone, Taber, Van Auker, Van Trump, and Wood—28.

NOT VOTING.—Messrs. Barnes, Denison, Donnelly, Farnsworth, Glossbrenner, Griswold, Holman, Hulburd, Kelley, Kelsey, Noell, Pike, Poland, Randall, Selye, Sitgreaves, Spalding, Stewart, Taffe, Henry D. Washburn, and Windom—21.

So the bill was passed.

During the roll-call,

Mr. O'NEILL said: I desire to announce that my colleague, Mr. KELLEY, has been called home by sickness in his family.

The result of the vote was announced as above stated.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REDEMPTION OF COMPOUND-INTEREST NOTES.

Mr. PRICE. I ask unanimous consent to introduce for consideration at the present time a joint resolution authorizing the application of part of the funds now in the Treasury to the redemption of compound-interest notes now outstanding.

Mr. HOOPER, of Massachusetts. I object.

Mr. PRICE. I move to suspend the rules that I may introduce the joint resolution for consideration at the present time.

Mr. HOOPER, of Massachusetts. I hope the House will not begin already to tinker with the currency.

Mr. PRICE. If the gentleman will hear the resolution read I think he will not object to it.

Mr. HOOPER, of Massachusetts. I object to any tinkering with the currency at this time.

Mr. RANDALL, of Pennsylvania. I call for the reporting of the joint resolution.

The SPEAKER. Although the reading of the resolution cannot be demanded on a motion to suspend the rules, yet as it is brief it will be read for information, unless objection be made.

There being no objection, the Clerk read the joint resolution. It proposes to authorize and direct the Secretary of the Treasury to use any and all money in the Treasury over and above \$70,000,000 for the purpose of redeeming the compound-interest notes now outstanding as fast as the same shall be presented for redemption.

Mr. WOOD. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented, under the rule, and referred to the appropriate committees:

By Mr. CULLOM: A petition signed by citizens of McLean county, Illinois, asking Congress to prevent the further withdrawal of legal tenders.

By Mr. KOONTZ: The petition of I. S. Milligan, heretofore referred, February 21, 1865.

#### IN SENATE.

FRIDAY, MARCH 8, 1867.

Prayer by Rev E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from B. B. French, late Commissioner of Public Buildings, asking for the appointment of the joint committee provided for by law to examine the accounts for repairing and furnishing the Executive Mansion; which was referred to the Committee on Public Buildings and Grounds.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of February 5, 1867, information in relation to an order issued by Lieutenant General Sherman in regard to the protection of trains on the overland route; which was ordered to lie upon the table, and be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of March 2, 1867, a report of Major General Howard, Commissioner of Freedmen, &c., respecting extreme want and danger of starvation in several of the southern States.

Mr. STEWART. I move that that be referred to a select committee of seven.

Mr. WILSON. Oh, no; let it go to the Committee on the Judiciary. You are on that committee.

Mr. STEWART. Very well; I move its reference to the Committee on the Judiciary, and that it be printed.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Maria Raftery, widow of Patrick Raftery, late a corporal in the thirty-third regiment Massachusetts volunteers, praying for a pension; which was referred to the Committee on Pensions.

Mr. RAMSEY. I present a memorial of a committee appointed by the River Improvement Convention, held in St. Louis February 13, 1867, composed of delegates from some ten or twelve States in the valley of the Mississippi, praying for an appropriation for the improvement of the Mississippi and Ohio rivers. The memorial contains some very valuable statistical information, and I will therefore move that it be printed and referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. It will be so referred, and the order to print will be made unless objected to.

Mr. GRIMES. The motion to print goes to the Committee on Printing under the rule.

Mr. CONNESS. Not necessarily.

The PRESIDENT *pro tempore*. Under the rule it will go to the Committee on Printing.

Mr. CONNESS. I think that question might as well be settled here. My understanding of the rule is that it is only a proposition to print extra copies that goes to the Committee on Printing. It has not been the practice to print memorials; I admit that; but there are cases where memorials are of great importance as in the present case, as stated by the Senator from Minnesota. I do not understand that a motion to print need go to the Committee on Printing under the rule unless it involves the printing of an extra number of copies.

Mr. ANTHONY. There are certain excepted cases. A motion to print memorials must go to the Committee on Printing. A law of Congress provides for it.

Mr. CONNESS. The chairman of the committee informs me that in this respect I am wrong. Therefore I ask that it be printed by unanimous consent.

Mr. GRIMES. Let it take its regular course. We meet here to-morrow.

Mr. CONNESS. We cannot be here to-morrow.

The PRESIDENT *pro tempore*. It can be printed by unanimous consent; but under the rule it goes to the Committee on Printing. If there be no objection, it will be printed. The Chair hears none; and the order to print will be made.

Mr. MORGAN presented a memorial of officers and privates of the twenty-first New York cavalry, praying for extra compensation, for the reason that they were mustered out of service in Utah and were compelled to pay nearly two hundred dollars each for transportation and subsistence to their homes, and received but eighty-four dollars; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL. I present a petition of loyal citizens of Jefferson county, Arkansas, for the reduction of the semi-rebel State government in that State to a Territory, and the appointment of General Powell Clayton as Territorial Governor. As Congress have acted on that subject—

Mr. SUMNER. I do not understand that Congress has acted on that subject. I think that is the great question before us at the present session.

Mr. TRUMBULL. To what committee have you referred similar petitions presented by you?

Mr. SUMNER. They have not yet been referred to any committee.

Mr. TRUMBULL. Then I will ask that this petition lie on the table for the present.

The motion was agreed to.

Mr. TRUMBULL. I have also a memorial of the so-called General Assembly of the State of Arkansas, asking for an appropriation of \$2,500,000 for the construction of levees on the Mississippi river in that State. I ask leave to present it to the Senate and move its reference to the Committee on Finance.

It was so referred.

Mr. CHANDLER. I present a memorial of citizens of Louisiana, asking for aid of the Government in rebuilding their levees, and as a similar memorial has just been referred to the Committee on Finance, I move that this be referred to the same committee.

It was so referred.

Mr. SHERMAN. I am requested to present the memorial of a meeting of citizens of the State of South Carolina residing in Anderson district, praying the aid of Congress for the establishment of an orphan home for the education of orphans, white and colored, upon the labor-school plan, accompanied by a number of papers, which show that the movement is an important one, and I think will heartily meet the approbation of Congress. It is supported by a great number of citizens in that region of country, and very earnestly urged by clergymen of the Methodist Episcopal Church. If there is any way by which the Government of the United States could aid in such an object, I would be very glad to see it done. I move the reference of the memorial to the Committee on Agriculture.

The motion was agreed to.

Mr. HOWE presented resolutions of the Legislature of Wisconsin, in favor of an appropriation to aid in the construction of the Northern Pacific railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. THAYER presented a memorial of the Council and House of Representatives of Nebraska, in favor of the construction of a bridge across Platte river, and the construction of a military road from Platte river to the southern boundary of the State; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of additional bounty to the troops from that Territory who served in the Army during the rebellion; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of the extinguishment of the title of the Otoe and Missouri Indians to certain land in that State; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of the establishment of a tri-weekly mail route from Maysville, Kansas, to Fort Kearney, in Nebraska; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of the establishment of a mail route from Elkhorn Station to Forest City, in Nebraska;

which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of the establishment of a new land office at Columbus, in that State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Council and House of Representatives of Nebraska, in favor of the establishment of a daily mail route from America, Kansas, via Pawnee City, Tecumseh, and other points, to Columbus, Nebraska; which was referred to the Committee on Post Offices and Post Roads.

Mr. DAVIS presented the petition of Mrs. Mary A. Thomson, widow of Manlius V. Thomson, who commanded a regiment of United States volunteers from Kentucky in the war with Mexico, praying that she may be allowed arrearages of pension, her pension having been suspended for an alleged charge of "disloyalty and assisting in arming a rebel company;" which was referred to the Committee on Pensions.

Mr. CORBETT presented the petition of Henry Failing, of Portland, Oregon, praying for the passage of an act requiring the Secretary of the Treasury to reissue to him an Oregon war bond owned by him and which was lost or destroyed by the burning of the steamer Golden Gate at sea on the 27th of July, 1862; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the petition of the heirs and representatives of Miss Harriet Pinckney, of South Carolina, the daughter of General Charles Cotesworth Pinckney, praying that the United States direct tax commissioners for South Carolina be authorized and required to release Pinckney Island from confiscation for the non-payment of taxes, and that it be restored to them; which was referred to the Committee on Finance.

Mr. HENDERSON presented concurrent resolutions of the Legislature of Missouri concerning bounty due the regiments serving during the late war known as Missouri State militia; which were referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented a joint resolution of the Legislature of Wisconsin, instructing the Representatives in Congress from that State to vote for aid in the construction of the Northern Pacific railroad; which was ordered to lie upon the table and be printed.

Mr. VAN WINKLE presented the petition of Richard Busted, jr., late captain of battery C, Chicago light artillery, praying for a pension for injuries received by the recoil of a piece of artillery; which was referred to the Committee on Pensions.

#### PRINTING OF INTERNAL REVENUE LAWS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print three thousand copies of the laws relating to internal revenue, have instructed me to report it with an amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That three thousand copies of the laws now in force, relating to the internal revenue, be printed for the use of the Senate, the same to be compiled under the direction and supervision of the Commissioner of Internal Revenue.

The amendment of the Committee on Printing was to add at the end of the resolution, "with index and marginal references."

The amendment was agreed to.

The resolution, as amended, was adopted.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

*Ordered*, That the memorial and papers in the case of R. McKee, late disbursing agent in California, with those relating to the claims of M. A. Estill and Pablo del a Poblá, be withdrawn from the files of the Senate, and referred to the committee on Indian Affairs.

#### WOOL-TARIFF BILL.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That two thousand copies of the act enti-



tled "An act to provide increased revenue from imported wool, and for other purposes," be printed for the use of the Senate.

#### EXPEDITION AGAINST INDIANS.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the Senate whether an armed expedition has been ordered by the War Department or other authority against the Indians of the western Territories; and, if so, that he communicate the instructions under which it was organized, as well as those which are to govern its operations; and that he further inform the Senate, in case such expedition has been ordered, against what tribe or tribes of Indians it is designed to wage war.

#### BILLS INTRODUCED.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 27) authorizing the corporation of Washington city to make a loan and issue stock for building a market-house; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 28) to grant to the American Atlantic Cable Telegraph Company of New York the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe, via the Bermudas and Azore Islands; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce the following bills and joint resolutions; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. No. 29) for the relief of Hugh Leddy;

A bill (S. No. 35) for the relief of John F. Stewart; and

A joint resolution (S. R. No. 11) for the relief of Walter C. Whitaker.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 12) fixing the pay of the clerks at the Springfield armory; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 30) to grant one million acres of public lands for the benefit of public schools in the District of Columbia; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 13) conferring upon territorial courts jurisdiction under the act to establish a uniform system of bankruptcy; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 14) to provide for the payment of the claim of Martha A. Estill, administratrix of the estate of James M. Estill, deceased, Redrick McKee, and Pablo del a Poble, deceased; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 32) to amend and simplify the acts relating to the Metropolitan police of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 33) for the construction of a ship-canal around the falls of Niagara; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 34) authorizing the purchase of lands in Alabama under certain circumstances; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

On motion of Mr. SUMNER, the bill (S. No. 9) to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853, was taken from the table, and referred to the Committee on the Judiciary.

On motion of Mr. STEWART the following bills heretofore introduced by him were taken from the table, and referred to the Committee on the Judiciary:

A bill (S. No. 1) to reorganize the judiciary of the United States;

A bill (S. No. 2) to regulate certain proceedings in criminal cases; and

A bill (S. No. 3) concerning injunctions and proceedings in civil cases.

#### NATIONAL MILITARY ASYLUM.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 31) to amend an act entitled "An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,'" approved March 21, 1866.

Mr. WILSON. I ask for the present consideration of the bill.

Mr. JOHNSON. What is the effect of it?

Mr. WILSON. It is important to pass the bill to-day for a reason which I will state. By law the management of this Asylum is committed to a board of twelve members—the Chief Justice, the President, the Secretary of War, and nine other persons. They are compelled by law to meet four times a year. Their quarterly meeting is at this time: they have business of great importance to attend to. Some of the gentlemen, as the Governor of New Hampshire and the Attorney General of New York, have left other important business to come here to this meeting. They have been unable thus far to get a quorum of the board; there are only six present. One member, who would make a quorum, cannot act, because he has been elected a member of Congress. The board have unanimously asked to have the law changed in that respect which excludes members of Congress from being members of the board. If we pass the bill promptly to-day the board can proceed to act and dispose of their business; if not, there is no telling when they will be able to get a quorum.

Mr. JOHNSON. Is this bill to repeal the provision that excludes members of Congress?

Mr. WILSON. This bill simply strikes out of the law of last year the words "not members of Congress," one of the board having been elected to Congress.

The bill was read three times, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that Mr. FREDERICK E. WOODBRIDGE of Vermont, Mr. EPHRAIM R. ECKLEY of Ohio, and Mr. HIRAM McCULLOUGH of Maryland, had been appointed members of the joint select Committee on Equalizing the Salaries of Officers of Congress on the part of the House, under the concurrent resolution of the House authorizing that committee.

The message also announced that the House had agreed to the concurrent resolution of the Senate to renew and continue the joint select Committee on Retrenchment during the Fortieth Congress.

The message further announced that the House had passed a bill (H. R. No. 2) to repeal an act entitled "An act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia, and for other purposes," in which it requested the concurrence of the Senate.

The message also announced that the House had passed without amendment the joint resolution, (S. R. No. 2,) supplementary to other joint resolutions, to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and the joint resolution (S. R. No. 6) extending the time for the completion of the improvement of Fox and Wisconsin rivers.

#### RELIEF OF FREEDMEN.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia; which was read twice by its title.

Mr. MORRILL, of Maine. I propose to have this joint resolution referred to the Committee on the District of Columbia, and with the indulgence of the Chair I desire to invite the attention of the chairman of the committee to the early consideration of the subject. On a former day, near the close of the late session, a similar resolution for a larger sum, \$20,000 I believe, was passed by the Senate, but it failed to receive the consideration of the House of Representatives. I then had occasion to state to the Senate what I understood to be the necessities of this class of people in this District, and I think the honorable chairman will find that they commend themselves very strongly to his sense of humanity and charity. I hope the resolution will receive the early attention of the chairman of that committee.

Mr. HARLAN. I understand that this subject was examined thoroughly by the Committee on the District of Columbia at the last Congress, and was acted on favorably by the Senate. I perceive, therefore, no necessity for referring it to the committee as now organized; and hence I move that it be taken up for consideration now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution at this time. Is there objection? No objection being made, the joint resolution is before the Senate as in Committee of the Whole, and open to amendment.

Mr. HENDRICKS. I ask for the reading of the resolution.

The resolution was read. It proposes to appropriate \$15,000 for the relief of freedmen or destitute colored people in the District of Columbia, to be expended under the direction of the Commissioner of the Bureau of Freedmen and Refugees.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### THANKS TO GEORGE PEABODY.

Mr. SUMNER. I ask the Senate to proceed to the consideration of joint resolution (S. R. No. 1) which is now printed and on the table of the Senators. I submit a motion to that effect.

The motion was agreed to; and the joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody was considered as in Committee of the Whole.

Mr. SUMNER. Mr. President, I hope sincerely that there can be no question on this resolution. It expresses the thanks of Congress for an act which is great in itself and also great as an example. I can recall no instance in history where a private person during life has bestowed so large a sum in charity. Few after death have done so much. The bequest of Smithson, which Congress accepted with honor, and which is the foundation of the institution which receives our annual care, was much less than the donation of Mr. Peabody for purposes of education in the South and southwestern States, to be distributed among the whole populace without any distinction other than in the needs and the opportunities of usefulness to them. I hail this beneficence as of especial value now, first as a contribution to education, which is a sacred cause never to be forgotten in a Republic; secondly, as a charity to a distressed part of our country which

needs the help of education; and thirdly, as an endowment for the equal benefit of all without any distinction of caste. As it is much in itself, so I cannot but think that it will be most fruitful as an example. Individuals and communities will be moved to do more in the same direction, and impartial education may be added to recent triumphs.

I shall not be led to consider the difference between the widow's mite and the rich man's endowment, except to remark that when a charity is so large as to become historic it is necessarily taken out of the category of common life. Standing apart by itself it challenges attention and fills the mind. It receives homage and gratitude. Such, I am sure, has been the prevailing sentiment of our country toward Mr. Peabody. In voting this resolution Congress will only give expression to the popular voice.

I should be sorry to have it understood that the thanks of Congress could be won only in war. Peace has victories which deserve honor also. A public benefactor is a conqueror in the perpetual conflict with evil. He, too, meets the enemy face to face. Let him have something of the rewards of victory.

Already in England our benefactor has signalized himself by a generous endowment of the poor. The sum he gave was large, but not so large as he has now given for education in our country. The sentiments of the British people found expression through the Queen, who honored him with a present and with an autograph letter declaring her grateful sense of his beneficence. Kindred sentiments may justly find expression through Congress, which is empowered to write the autograph of the American people.

If it be said that this vote is without precedent, I reply that this is a mistake. You voted thanks to Mr. Vanderbilt for the present of a steamer, and to Mr. Field for generous enterprise in establishing the telegraphic cable between the two continents. But even if there were no precedent, then do I say make a precedent. Your vote will be less unprecedented than his generosity.

At this moment, when we are engaged in the work of reconstruction, this endowment for purposes of education in the southern and southwestern States is most timely. Education is one of the foundation-stones of that republican government which we seek to establish. On this account again let us honor the benefactor.

I have not asked a reference to a committee, because it seemed to me that the resolution was of such a character that the Senate would be glad to act upon it directly. The thanks we offer will be of more value if promptly offered.

Mr. JOHNSON. Mr. President, I do not know that any objection will be made to the adoption of this resolution; and I rise only because my intimacy, which dates back further than 1820, with the gentleman whom it is proposed to honor, has been such that it is perhaps proper that I should say a word before the resolution is adopted.

Mr. Peabody, I believe, is a native of Massachusetts by birth; but he came to Baltimore very early. I found him there in 1817 when I moved to the city, and was associated with him at that time in the relation of attorney to client, and have ever since watched his progress in life. I had the pleasure of meeting him in London in 1845, and again in 1854, and had an opportunity of knowing the manner in which he conducted himself there, and the very decided influence in favor of the United States which his conduct caused. He sustained the credit of the States when it was at a very low ebb, and he did that particularly in relation to the public debt of Maryland. For Maryland he had an attachment just as great as he had for his native State of Massachusetts, and he evinced it on all occasions. On every returning anniversary of our national independence he selected around him all the Americans of respectability whom he could find in London,

with many members of the British Parliament and other distinguished men of that nation; and those entertainments were so conducted that they served very much to preserve the good relations which have so long subsisted, or at least which did subsist up to the breaking out of the late civil war in which we have been engaged, between that country and the United States. And I have every reason to believe that during the pendency of the rebellion he was always a firm and consistent friend of the Union, never hesitating to express his opinion as to what would be the probable result, and always cautioning his friends in the South, for he had many there, against what he deemed not only an unjustifiable, but an insane effort; and since the termination of the war he has taken a course which I think entitles him to the honor of the nation and to the honor of the world. He has tried by all the means in his power to bring about in feeling as well as in fact a restoration of the relations which at one time so happily subsisted between the citizens of the rebellious States and those of the other States.

The gift which he has made, which has properly been stated by the honorable member from Massachusetts to be almost without precedent, is calculated—and I know is so esteemed by the southern mind—to fix in their mind an opinion that there is, in the judgment of the respectable portion of the loyal States, (they believing that what he says reflects but the real sentiment of that portion of the loyal States,) an anxious desire to see them again in our midst, with all their original rights, just as they were before the rebellion. I should hope, therefore—and I cannot doubt that such will be the result—that the thanks of Congress would be at once, and with unanimity, tendered for this extraordinary, in point of example, endowment, looking to the accomplishment of an end in which not only the southern, but all the other States are so deeply interested, general education.

Mr. TIPTON. It is not astonishing, Mr. President, that I should be solicitous in regard to the manner in which I should cast my first vote in this body. I acknowledge that solicitude on this occasion, and regret exceedingly that I feel impelled to say anything on this question at this time. Before I could vote for this resolution I should desire to understand most emphatically the position that was occupied by the donor during the time of our recent struggle for national existence. I am inclined, however, because of the source whence this resolution comes, to infer that all was right in that behalf; but I ask for no enlightenment on that point, because I am against the adoption of this resolution, not on account of any consultation with any member of this body, but from principle. If I need any justification for my course on this occasion I desire it to be understood that, if I am the representative of anybody on the floor of this Senate, I am the representative of an humble constituency; with such a constituency on the frontier I have been and shall hereafter be identified; and when I know positively that I have constituents of as pure intentions in behalf of education and science and art as the grantor of this charity can be, and when I remember that some of them have done all that men could do in a private capacity, and when I see this gentleman making a munificent grant in a private capacity, I cannot consent to shower on him the thanks and the honors of the Senate when I am not able to vote them to the humblest of my constituency who have done equally well, having done what they were able to do; and he has done no more. I hope now that on that subject I am understood, and will be understood hereafter in all my future action as a member of this body.

So far as the munificence of this grant as regards the amount is concerned, I concede it. Other wealthy men of our country have granted by thousands and tens of thousands for educational purposes; and they have received the thanks of corporations and the thanks of States,

and they will receive them again. If this grant had been for educational purposes in Nebraska I should not have come here for a national indorsement for the grantor, but should have secured that indorsement from the recipients of the charity from my own constituency in Nebraska. It is legitimate, it is proper, for the people who are to be benefited by this grant to show their gratitude by gold medals or in any other manner that they choose to express it. They have in Louisiana, as I discover, already indicated their gratitude by a resolution, perhaps, of their legislative body. This is but a private grant, munificent as it may be; and when millions were at the disposal of the donor it was easier for him to contribute millions than for many men to contribute a hundred or a thousand.

If this were a national gift, if it stood on the basis of the Smithsonian grant, I would, as a matter of course, be willing to vote the thanks of the Congress of the United States; but it stands in no national position whatever, and therefore that cannot be claimed for it. In making this grant the donor, I understand, declared that he did it as a duty. If it is done as a Christian charity, as a Christian duty, he has his reward hereafter and the consciousness of it here, and I am not disposed to doubt the ability of the Almighty to reward him to the utmost, and I do not suppose it is necessary for me to help the Deity out by granting a gold medal here. I prefer to leave him to his golden reward hereafter. I think he also says that he regards it as a privilege to make this gift. Sir, it is a privilege, a privilege that few men will ever have; and the benefits of the privilege are great—distinction among men here, honor after death—for having granted so much for so great a charity. I say, therefore, that if it had all been for the benefit of my own constituency I should not have voted a national medal for him, but would be lavish of the honors of Nebraska individually upon him for the munificence of the grant. With this view of the question, impelled to it from a sense of duty, I cannot and will not make any distinction between the giver of a dollar and the giver of a thousand and the giver of a million, when each in his sphere and in his capacity has done all that it was possible for him to do in behalf of education and science and general literature.

Mr. BUCKALEW. Mr. President, I propose calling for the yeas and nays on the adoption of this resolution in order that the record may be made up. I confess I do not see any analogy between this great donation for public, I may almost say national, objects and ordinary charitable contributions made by our citizens. I do not see that in expressing the sense of our people on this occasion we make an invidious distinction among persons who are disposed to acts of charity and beneficence. This gentleman, although a native of the United States, has been in point of fact a British merchant; he has resided in a foreign country during the greater portion of his life; and he has acquired his wealth, his property, by being concerned in foreign commerce. He now comes to this country and bestows these donations upon a charitable object, to be expended within our own limits. I think the case stands upon very different grounds from a case of donation by one of our own people, of property acquired in the pursuits of life among us, to an object of local, of State, or of general beneficence. Whatever may have been the considerations legitimate upon the introduction of a measure of this kind, whatever question there may have been as to the propriety of introducing it, I should think it very unfortunate, to say the least, if, having been introduced, it should not be adopted, and adopted by a pretty unanimous vote of the Senate and of the House of Representatives. I ask that the question on the passage of the resolution, when taken, be taken by the yeas and nays.

The yeas and nays were ordered.

Mr. STEWART. Before the resolution is passed I merely wish to remark that I think it was a little unfortunate that the Senator from

Massachusetts cited Vanderbilt's case as a precedent for this. If I thought this resolution rested upon any such grounds as the vote of thanks to Vanderbilt I should certainly vote against it, whereas I expect to vote for it. The resolution for Mr. Vanderbilt was passed without any investigation of how much money he had made out of the Government, with which he had large transactions. It has unfortunately happened to me to have been a passenger on some of Mr. Vanderbilt's steamers. A resolution of this kind ought to imply that the person who is honored is a good man, deserving the thanks of the nation. I do not believe anybody who is acquainted with Vanderbilt's transactions or who ever traveled on his steamers will pronounce him to be a humane man. Any one who witnessed the suffering of one trip would be shocked at a proposition to give him a vote of thanks for any purpose. I regret that that name has been mentioned on an occasion like this. I hope that in the case now before us the thanks of the nation will be tendered to this gentleman, who has been so liberal and who has acquired so much reputation by his liberal donations. I hope his private charities, which we do not know and do not hear of, will correspond with his public charities, which have filled the world, and I hope this resolution will do much good toward the object which it is designed to further, the cause of general education.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time.

The question on the passage of the resolution being taken by yeas and nays, resulted—yeas 36, nays 2; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Ferry, Frelinghuysen, Henderson, Hendricks, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Ross, Saulsbury, Sherman, Sprague, Stewart, Sumner, Tbayer, Van Winkle, Wade, Williams, Wilson, and Yates—36.

NAYS—Messrs. Grimes and Tipton—2.  
ABSENT—Messrs. Cameron, Conness, Edmunds, Fessenden, Fowler, Guthrie, Harlan, Howard, Norton, Nye, Patterson of Tennessee, Pomeroy, Riddle, Trumbull, and Wiley—15.

So the joint resolution was passed.

#### LIQUOR IN THE CAPITOL.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to reconsider the joint resolution (S. R. No. 7) to prevent the sale or use of liquors in the Capitol building.

The resolution declares it unlawful for any person to bring or, directly or indirectly, to cause to be brought, into the Capitol building, or into any building pertaining thereto, any spirituous or malt liquors, wine or cider, for sale or use, or for any other purpose; and any officer or employé of the Government who shall in any manner violate or connive at or countenance the violation of this resolution is to be summarily dismissed from office; and it is to be the duty of the Sergeant-at-Arms of the Senate and House of Representatives, under the supervision of the Presiding Officers of their respective Houses, to enforce the provisions of the resolution under the same penalties for neglect or refusal to do so.

Mr. JOHNSON. Perhaps nobody is more opposed to the use of drinks of that sort in the Capitol than I am, but it seems to me this resolution is carrying the thing to an extreme. It prohibits anything of that sort from coming into the Capitol in any way. Suppose a member of Congress who has been in the habit of taking a drink in the course of the day brings liquor into the Capitol himself, is he to be punished, is he to be dismissed, or is an employé whom he may ask to supply him in that particular to be dismissed for obeying the request, almost in the nature of an order, of a member of Congress? I doubt very much the propriety of passing a resolution like this. I think it is rather an impeachment of Congress, which I am very unwilling to make unless it be absolutely necessary.

Mr. WILSON. It seems to me to be a plain duty to pass the resolution. This Capitol ought to be free from the use of intoxicating drinks. We have had exhibitions enough of that kind, and if there are any honors in it they cluster around us thick enough now. Officers and employés of the Senate ought not to convert their rooms into drinking-saloons or bar-rooms. It is time to put a stop to such action; and to speak plainly, I think the time has come when no committee-room of this body shall be converted into a bar-room. I propose on that question to take the judgment of the Senate. There are buildings away from this Capitol where drinking can be carried on. I propose, therefore, to clean intoxicating drinks out of this Capitol, out of the committee-rooms, out of the rooms of the officers of the Senate, out of the rooms below. I hope that every Senator and every member of the House of Representatives will vote for this resolution, and that we shall clear this Capitol of intoxicating drinks, and that they will come back to torment us no more.

Mr. TRUMBULL. I myself am as much in favor of temperance as the Senator from Massachusetts, I think; I have not been in the habit, as most of the Senators know, of drinking; but I think that the remarks of the Senator from Massachusetts are calculated to mislead the public in regard to drinking in this Capitol. He talks of committee-rooms being made liquor-shops. Sir, I have served here for many years, not quite as long as the Senator from Massachusetts, but I never saw a particle of liquor in any committee-room.

Mr. JOHNSON. Nor I.

Mr. TRUMBULL. I recollect that a few years ago a Senator from New Hampshire, not now a member, made some remarks in regard to drinking in the Capitol; and I remember, after I returned home to Illinois, being questioned in regard to intoxication about the building, and I was inquired of if it was true that liquor was furnished to the little pages, boys a dozen years old, who were said to be intoxicated. I had forgotten the remarks of the Senator from New Hampshire; but they misled the country. I never knew and never heard of a page being intoxicated. I have never seen liquor for sale about this Capitol; and if the Senator from Massachusetts finds it he goes to places that I do not know of.

I am in favor of keeping liquor out of the Capitol; but this is no new proposition. A joint rule of the two Houses of Congress adopted years and years ago prohibits the sale of liquors within the Capitol. The 19th joint rule adopted thirty years ago reads as follows:

"No intoxicating liquors shall be offered for sale, or exhibited within the Capitol, or on the public grounds adjacent thereto."

If liquors are kept for sale in this Capitol, the remedy is to enforce the rule. If any officer has had liquors for sale here it has been in violation of the rule. If the rooms of officers about this Capitol are filled with liquor, let them be expelled. But I think the country will be misled by the statement of my friend from Massachusetts. It is that to which I object, not to the removal of the liquor. I desire that there should be none about the Capitol; but I am sure that if the Senator's remarks go out without any comment the country will draw an erroneous impression in regard to drinking about this building. If there be about this building liquors for sale I do not know it; it has never come under my observation. I know of no place in the Capitol where you can purchase liquors, and I know of no person that has them for sale. And so far as the committee-rooms are concerned, I have served upon different committees during the time I have been a member of this body, and I have never seen in the room of any committee of which I have been a member intoxicating liquors, and have never known of it. I am quite sure there are none in the room of the Committee on Military Affairs and the Militia; I do not believe the Committee on Naval Affairs have liquors in their room, or that the

chairman of the Committee of Finance keeps them in his room. Where are they?

All I desired was to correct the impression that I thought would be drawn from the Senator's remarks. That members of the Senate and officers of the Senate drink liquor sometimes, is doubtless true; unfortunately perhaps, some of them drink more than they ought to; but it is not true that the committee-rooms are liquor shops so far as I know, and I do not know that the measure which the Senator from Massachusetts now has in hand will correct the evil. I suppose if men are determined to drink they will get liquor in some way. They will perhaps carry the whisky in their pockets or manage in some way to obtain it. I am willing to unite with the Senator from Massachusetts and make it as inconvenient to them as we can. All I desired was that an erroneous impression shall not go abroad as to the condition of things in the Capitol.

Mr. WILSON. I have no disposition to magnify the evil of bringing liquors into this Capitol; in fact it would take more powers than I have to magnify it. The Senator tells us he has never seen liquor sold here. Never saw liquor sold here! Was he never in "the-hole-in-the-wall?"

Mr. TRUMBULL. I did not know there was one.

Mr. WILSON. When I first came here we had what was called "the-hole-in-the-wall," and it was only closed up three or four years ago. I never saw the Senator there, but I have been there.

Mr. TRUMBULL. Has not that been closed up for years?

Mr. WILSON. Yes, sir; for three or four years.

Mr. TRUMBULL. I think it was abolished several years ago.

Mr. WILSON. A few years ago. It was impossible to go into that place to get a cup of tea when we were sitting here at night without witnessing the sale of liquors. It is but a very short time ago when an officer in this Capitol kept his whisky-jug here, and it was visited by persons in our employment, and by officers of the Government. There is a room now that has been a drinking-place this winter; a room under the care of an officer of the Senate. I do not say that the committee-rooms generally are used for such purposes, but there are rooms that are so used, and if the Senator does not know it he ought not to question the word of those who do know it. I suggest to the Senator that it is not prudent for him to push that matter too far.

In my judgment, since the foundation of the Government, there has never been a Congress so free from the use of intoxicating liquors as the Thirty-Ninth Congress. It was better than the Thirty-Eighth, and the Thirty-Eighth was better than the Thirty-Seventh, and the Thirty-Seventh was better than its predecessor. There has been a steady and marked improvement during the fourteen sessions I have been here in that respect. The House of Representatives of the Thirty-Ninth Congress, was a most remarkable body in this respect. I think there is a great improvement in the Senate, and I hope there will be an improvement in the Fortieth Congress over the Thirty-Ninth in both Houses. This proposition simply makes it illegal to bring liquors here for sale or for use, forbids their sale, and authorizes the Sergeants-at-Arms of the two Houses to see that they are not brought here. I hope we shall all concur in passing this resolution.

Mr. POMEROY. I did not hear the resolution read; but I understand the Senator from Massachusetts to say that it merely makes the bringing of liquor into the Capitol building illegal. If that is all, it is entirely too tame, because it has always been illegal; it should be made criminal, and the party guilty of the crime should be arrested. If we mean anything, let us be thorough about it. Declaring a thing illegal, without providing further than that, does not mean anything. I do not know

anything about the evil of which the Senator from Massachusetts speaks, and the correction of which he seeks. I have been here six years, and I confess I never saw a gill or any other quantity of spirits in or about this building. The thing may be all around here, but I never saw it. I never saw the "hole-in-the-wall." I do not know where that is; perhaps I have not been here long enough; but if there is any such place it should be abated as a nuisance; and it should be made a crime for officers or any persons to bring liquor in here, and those guilty of the offense should be treated as criminals. That is the ground to put it on.

Mr. GRIMES. The general remark made by the Senator from Massachusetts in regard to liquors being introduced into the committee-rooms of the Senate impels me to say a single word in vindication of the gentlemen who have been upon committees with which I have been associated during the last eight years. I believe it is now seven years since I have been the chairman, and had in a degree the charge of a committee-room, and been associated with various gentlemen in that room. I have nothing to say as to what my own habits are; but I will bear testimony to the fact that no one of those gentlemen has ever at any time introduced, or been instrumental in introducing, or so far as I know desired to introduce, liquors, malt or spirituous, of any kind or description, into any of the committee-rooms where I have been.

Having said this much, I desire to be informed by the Senator from Massachusetts if a couple of years ago we did not adopt a new rule, in addition to that which has been cited by the Senator from Illinois, upon this very subject.

Mr. WILSON. We passed it here; but it failed.

Mr. GRIMES. Failed?

Mr. WILSON. It went to a conference committee, and never got through.

Mr. GRIMES. Then I desire to know if we did not appoint a Committee at that time to take this subject into consideration, of which the Senator himself was chairman, and which committee failed to report, upon the ground that the existing law and rules were already sufficient. I have not the slightest objection to the passage of this joint resolution if it is deemed necessary; but the general declarations made in regard to it are rather two sweeping to allow it to pass without remark.

Mr. ANTHONY. While I am willing to cooperate in any legislation that the Senator from Massachusetts may think necessary to prevent the introduction of spirituous liquors here, I am very glad that the Senator from Illinois and the Senator from Iowa have made the remarks which they have made. I do not think it is right to send out the impression to the country that the members of this body and the House of Representatives and our officers are men who are addicted to the intemperate use of spirituous liquors. I think that the allegation is entirely incorrect. I do not think there can be found anywhere a body of cultivated men as numerous as this in which there are so few members addicted to the use of spirituous liquors. A very large number of the members of this body never drink even wine, and a very considerable number who take wine drink nothing stronger. I know that two years ago at "the hole in the wall" there was liquor sold; but since the Senator from Massachusetts introduced his resolution, which I thought passed, but which he says failed, prohibiting the use of spirituous liquors in the Capitol, I do not believe there has been any liquor sold in this building. Certainly I am not aware of its having been sold. If any officer has had spirituous liquor in his room I am not aware of the fact. I do not think that such an impression ought to go out to the country. I was shocked very much at a speech made by a Senator, not now a member of this body, which has already been referred to, in which he spoke of the pages of this Chamber being taught to use ardent spirits by officers and

members of this body. I never saw the least indication of it; nothing of the kind ever came under my observation, and I felt very much grieved that such an impression should go out. During the close of the last Congress, when we were up here all night for two or three nights, and nearly all night for a week, I saw less evidences of the intemperate use of spirituous liquors than I ever saw before in this body. I was invited to several places where there were refreshments—the Secretary in his room had refreshments provided, very proper and very comfortable for the occasion—but I saw nothing stronger there than coffee, nor did I in the rooms on the House side to which I was invited. I simply rose in order that these sweeping allegations against the two Houses of Congress should not go to the country uncontradicted.

Mr. WILSON. I object to any statement that any declarations I have made are calculated to give a false impression to the country. I simply said that I did not desire to see liquor sold in any part of this Capitol, nor the rooms of any officers here, nor the committee-rooms used for such purposes.

Mr. ANTHONY. I understood the Senator to say that the committee-rooms were bar-rooms.

Mr. WILSON. No sir. I said I did not desire to see the committee-rooms turned into bar-rooms, without charging that any considerable number of them had been so used. I take it the Senator knows what has been done for years past, and he knows how much better this last Congress was in that respect than any other Congress. The country notes the fact and applauds it. There is very little drinking in Congress now compared to other times, but there is still too much of it, and it ought to be banished so far as we can do it. Drinking is not general, but it should not exist to any extent whatever; at any rate, liquors should not be sold nor brought into this Capitol. Let us banish the cup of intoxication from the Capitol of the nation.

Mr. HENDRICKS. I thought I had voted for a resolution introduced by the Senator from Massachusetts on this subject at the last session, and I thought we had swept out of existence the evil of which he complains this morning.

Mr. WILSON. Allow me to explain. Two years ago we passed a resolution to stop the open sale of liquor in this Capitol. At the last session, as the open sale had been abolished, I desired to clear it out altogether, and prevent also the sale of ale and cider and such things. That resolution proposed to go a step further than the previous one; but it was not finally passed. It did not receive the concurrence of both Houses in such a shape as to be effective. I propose now to remedy the failure then, and to begin this new Fortieth Congress with the Capitol entirely clear of liquor of any kind or description, and to prevent its being brought here, either for sale or use.

Mr. HENDRICKS. I am a friend of the measure proposed by the Senator, if it is necessary. Of that I have but very little knowledge. The committee-rooms are not under the control of myself to any extent; and I was very much gratified to hear what was said by the Senator at the head of the Committee on the Judiciary, [Mr. TRUMBULL,] the Senator at the head of the Committee on Naval Affairs, [Mr. GRIMES,] and the Senator at the head of the Committee on Public Lands, [Mr. POMEROY.] As it has been the pleasure of the majority to assign me to duty upon those three committees, and as I had never heard of any liquor being in those rooms, I thought perhaps that, being in the minority, I was not regarded as entitled to equal rights, [laughter,] and that in the enjoyment of the hospitalities of the committee-rooms I had been excluded, [laughter,] and my sensibilities were somewhat excited by the statement of the Senator from Massachusetts. Now, sir, this matter can be easily regulated. Every chairman of a committee—of course it is proper and right it should be so—is of the

majority party in this body. Just let there be a caucus, and let a resolution be passed in caucus that the chairmen shall not allow any liquors in their rooms, and I think it will be effective; for I know of no influence in this body or in Congress so potential as the decision and ruling and decree of a caucus. Now, if the gentlemen will just go into caucus and pass a resolution of that kind I have not the least fear it will be violated.

Mr. CONNESS. I would remind the Senator that it is not the habit to caucus on constitutional questions.

Mr. HENDRICKS. Then this is not a constitutional question, I understand from the Senator from California, though it touches the individual constitution of some Senators, as is suggested by the Senator from Massachusetts. I am perfectly willing to vote for this or any other bill short of putting to death a man who shall take a drink of liquor; I would not go that far; I would vote for anything short of making Senators spies; I would not go that far. I believe this resolution is within the limits I suggest, and therefore I can support it; but I do not think the world will be much further on in the line of progress after it is adopted. I would not have it understood when I vote for it that I consider that this accomplishes everything we need.

Mr. SHERMAN. I believe it would be a good act of police to exclude from this Capitol all spirituous liquors. The only objection I have to this proposition is the manner of doing it, and especially to the phraseology of the resolution. This is not a place for the sale, purchase, or drinking of liquors. If I want any I can go outside and get them without much trouble. I should have no objection if the resolution went further and prohibited the roasting of meat and the cooking of vegetables; &c., just below us, poisoning the air which we are compelled to breathe. I think all the eating that is necessary may be provided for in the central building, where it will not poison the breath we are compelled to inhale, not very pure at best. I hope the proper officers of the Senate will take charge of that matter, and if possible exclude the provision stalls from beneath us and put them where they will be accessible to the Senate, and yet at the same time not poison our breaths.

The language of this joint resolution is entirely too strong. It first provides that it shall be "unlawful to bring or, directly or indirectly, to cause to be brought" into this building any liquors of any kind; and then it provides, "and any officer or employé of the Government who shall in any manner violate or connive at or countenance"—words that ought never to be used in any criminal statute—"the violation of this resolution shall be summarily dismissed from office." So if a Senator—

Mr. WILSON. That does not apply to a Senator.

Mr. SHERMAN. It applies to every one in office. So that if a Senator should bring in a vial of medicine containing alcohol, he would be liable to be summarily dismissed from office, because the resolution declares it unlawful "to bring or, directly or indirectly, to cause to be brought into the Capitol building" any liquor, and makes liable to summary dismissal from office "any officer or employé of the Government who shall in any manner violate or connive at or countenance the violation of this resolution." It seems to me that latter part ought to be stricken out. If the Senate will strike it out, I will vote for the resolution as it will then stand, declaring it unlawful to bring liquors into the building, and that the Sergeants-at-Arms of the two Houses, under the supervision of the Presiding Officers, shall see that the prohibition is enforced. I think that will be sufficient. That will be an indication of the sense of Congress against the practice of bringing liquor here, and will give our officers authority to abate the nuisance. I do not like to vote for a measure that for so trivial or venial an offense as this would be regarded



by a great many persons would render a man liable to be summarily removed from office. With the modification I propose, I shall vote for the resolution with pleasure. I move to amend the resolution by striking out these words:

And any officer or employé of the Government who shall in any manner violate or connive at or countenance the violation of this resolution shall be summarily dismissed from office.

Mr. WILSON. I think the criticism of the Senator from Ohio is not well founded. This resolution simply declares it "unlawful for any person"—and that includes Senators, and there is no reason why it should not apply to them as well as to other persons—"to bring or, directly or indirectly, to cause to be brought into the Capitol building" any liquors of any description; and then it proceeds to provide, "and any officer or employé of the Government who shall in any manner violate or connive at or countenance the violation of this resolution"—that applies to the persons we employ here who engage in this business in any way whatever—"shall be summarily dismissed from office; and it shall be the duty of the Sergeant-at-Arms of the Senate and House of Representatives, under the supervision of the Presiding Officers of their respective Houses, to enforce the provisions of this resolution." I think it is right as it is.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

Mr. BUCKALEW. I move to refer this resolution to the Committee on Public Buildings and Grounds.

Mr. WILSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. BUCKALEW. I will simply say that I wish this resolution referred that it may be put in proper form. I think it is a very small business to exclude a gentleman from drinking a glass of sweet cider at dinner.

Mr. WILSON. I did not hear the Senator's remark. I should be glad to hear it.

Mr. BUCKALEW. I say I think the resolution requires amendment. I think it is very absurd to exclude a glass of sweet cider at dinner at the restaurant.

Mr. WILSON. If the Senator desires it he can vote for it. I hope the Senate will clear this Capitol of intoxicating drinks of every kind and description.

Mr. WILLEY. I hope the Senator from Massachusetts will allow this resolution to be referred. There seems to be a contrariety of opinion in regard to its form, and I think myself the circumstances are such as to indicate the propriety of that course, so that it may be considered in a careful and proper manner, and that we may have something presented to the Senate that will not be out of order or in conflict with a sense of propriety. I hope the Senator will make no objection to its reference. I am sure it will come back in a short time in a form that will be acceptable to the whole Senate.

Mr. WILSON. I do not suppose the Senate will remain here a great while, and I think we ought to settle this question at the commencement. I think the men we leave behind us ought to understand that the Capitol cannot be profaned in that way while we are absent. If I were sure we had time enough I would not object to the reference. I have no objection to the committee to whom it is proposed to be referred, for we all know it is a most excellent committee, and I have perfect confidence in them and would trust them on this or any other question.

As to the wording of the resolution let me say that it cannot very well be improved. It was drawn with great care, and means exactly what it says. I do not see how a word can be put in or taken out of it that does not affect what it does say. It was carefully drawn, carefully written, carefully studied in every respect. There is no need of referring it to anybody to change it, unless the purpose for which it is introduced is to be changed. If that is true,

then it may be changed. I do not, therefore, see any need of a reference. I think we may as well pass it now. The House of Representatives, I find, are anxious to get away next Monday. I am told that they have agreed that when they adjourn to-day it be to meet on Monday next. I think it important that we should act on this matter now, and therefore I am opposed to referring it to any committee whatever. It is a plain and simple proposition, drawn in clear language. Any man can understand it at a glance and see what it means.

Mr. ANTHONY. I would suggest that it be referred to the Committee on Military Affairs, of which the Senator from Massachusetts is chairman, and then it would not only be in the hands of most excellent men, but men who would report the most summary measures for executing it.

Mr. TRUMBULL. If this matter is to be referred, I desire that it should be a little broader than it is, so that, as the Senator from Ohio has suggested, the committee should take into consideration the location of the restaurant beneath us. I think that the cooking immediately under the Senate Chamber is very objectionable. It should be removed to some other part of the building, if there is any other part to which it could be removed; I do not know that there is. I wish that the committee might also take into consideration the removal or change in some way of this restaurant below.

Mr. WILSON. There is no sort of difficulty about that. The Presiding Officer of the Senate can take care of that matter and provide that it shall not be done below here. I am not anxious about the cooking. I do not think there is any need of any resolutions or any legislation on that subject. On the other, I have no question that there is. I hope, therefore, that the Senate will pass the resolution as it now stands without a reference, because if it is referred we may not reach it at all.

The PRESIDENT *pro tempore*. The question is on the motion to refer this resolution to the Committee on Public Buildings and Grounds.

The question being taken by yeas and nays, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Davis, Doolittle, Fowler, Howe, Johnson, Norton, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, and Willey—22.

NAYS—Messrs. Cattell, Dixon, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sumner, Thayer, Tipton, Wilson, and Yates—21.

ABSENT—Messrs. Cragin, Edmunds, Grimes, Guthrie, Howard, Nye, Riddle, Ross, Saulsbury, and Williams—10.

So the motion was agreed to.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 2) to repeal an act entitled "An act to retrocede the county of Alexandria in the District of Columbia to the State of Virginia," and for other purposes, was read twice by its title.

The PRESIDENT *pro tempore*. This bill will be referred to the Committee on the District of Columbia, if there be no objection.

Mr. HARLAN. I move that that bill be referred to the Committee on the Judiciary.

Mr. JOHNSON. I was about to say that it involves a legal question, and it is proper that it should be considered by the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be referred to the Committee on the Judiciary.

#### REPORT OF A COMMITTEE.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 10) granting jurisdiction to the Court of Claims in a certain cause involving the right to the use of a patent, have instructed me to report it back, and ask to be discharged from its further consideration, and that it be referred to the Committee on Patents and the Patent Office.

I will state before the motion is put, that this is a bill to authorize a gentleman by the name of Babcock to bring a suit against the United States for the use of his patent, which is for a bronzing-machine, before the Court of Claims. The Committee on the Judiciary were of opinion that the United States should not suffer itself to be sued in any court; that if the Government has made use of the patent of this gentleman, he has a just claim against the Government if his invention is one of any value and the Government has used it. While the committee are of opinion that the Government ought to pay for its use if it has been used, they think it would be improper to allow the Government to be sued in such cases, because if a suit were allowed in this case it would be in every other where a patentee supposed the Government had infringed upon his patent right, and least of all would it be proper for the Court of Claims to take jurisdiction of such a case. That court has no machinery to try it; no juries are empaneled in that court; witnesses are not examined in the court; all the testimony is taken in writing; and it would be improper in any event to send it there. As it is a subject with which the Committee on Patents are familiar and can determine whether the Government has made use of the invention of this gentleman, I am instructed by the Committee of the Judiciary to ask to be discharged from the further consideration of the bill, and to move its reference to the Committee on Patents.

The report was agreed to.

#### PROPOSED ADJOURNMENT TO MONDAY.

Mr. WILSON. I move that when the Senate adjourn to-day it adjourn to meet on Monday next.

The PRESIDENT *pro tempore*. The motion will be entertained if there be no objection.

Mr. ANTHONY. I would not object to the introduction of the motion, but I hope we shall not adjourn over. We do not want to stay here unnecessarily; I hope we may be able to adjourn next week, and I think we had better come here to-morrow and receive messages from the President and refer them.

Mr. CONNESS. I think so, too.

The PRESIDENT *pro tempore* put the question, and declared that the yeas appeared to have it.

Mr. CONNESS. I call for a division; and before the vote is taken I desire simply to repeat what was not heard perhaps from the Senator from Rhode Island, that this adjournment is simply to continue us here, while if we meet to-morrow and receive messages from the President we can adjourn finally the sooner. It is not like the beginning of a session where business is not prepared. If Senators desire to remain here during the season, then it is very well to adjourn over Saturday; otherwise, I think we ought to do our business and leave.

Mr. POMEROY. I do not desire to prolong this discussion. I have only this to say: if the President has any communications to make to us, he can make them to-day or Monday or any time. I have not had any notice myself that he has any. He has served no notice on me that he is going to send any.

Mr. JOHNSON. He must send them. There are a great many here already.

Mr. SPRAGUE. In conversation with the Postmaster General yesterday, he informed me that the operations of that Department are very much embarrassed in consequence of the want of officers. During the last Congress it is well known that many were rejected, and the business of the Post Office is now carried on by clerks, and large amounts of the public money are now subject to their care without the proper bond. He is making every effort to have proper appointments made, or appointments that will be acceptable to the Senate made, so that this embarrassment under which the Post Office Department now labors may be done away with. I trust the Senate will remain in session to-morrow for that purpose if for no other.

Mr. TRUMBULL. The embarrassment spoken of by the Senator from Rhode Island does not lie at the door of Congress. It will be remembered that most of the nominations which he speaks of as being rejected were sent to us during the last twenty-four hours of the session; some of them within twelve hours. Nominations in the Post Office Department, where the appointments had been made before Congress convened in December, were withheld from the Senate till within twelve hours of its adjournment in many instances. How it was possible for the Senate to examine these numerous nominations sent in at that late hour I do not know. If there is any embarrassment in the Post Office Department, or in any other Department of this Government, the fault lies somewhere else than with the Senate for rejecting nominations. We had no opportunity to reject or confirm most of these nominations till within twenty-four hours of our adjournment under the Constitution. I do not think that affords any reason why the Senate should meet to-morrow to receive nominations which were withheld from us for three months, while we were in session here and prepared to act upon them, and sent to us in the hurry of the expiring hours of the session.

Mr. SPRAGUE. It is not a question as to who is to blame at all. I did not raise that question. Whether the President is to blame or the Secretaries are to blame is a question not introduced into the remarks that I suggested. The question is as to the embarrassment of the Department, and from what is known to the Senate it is evident that the Departments and the President are making efforts to relieve the Senate of its embarrassment as regards confirming or rejecting nominations; in other words, that there are nominations now that will probably be sent that will be made acceptable to the Senate; and in that regard it is important that the Senate should be in session to meet that condition of things to-day and to-morrow. Otherwise, you will be kept in session a week or ten days later than you otherwise would be kept if you do not now retain your seats and act upon acceptable nominations that will be sent to you. I think there is no doubt of that proposition.

Mr. SUMNER. This discussion whether we shall adjourn over has taken a wide range. Nobody can doubt that the President failed in his duty when he postponed sending in those nominations to the last hours of the session; but because the President failed in his duty that is no reason why the Senate should fail in theirs. We must act on the nominations when they are sent to us. That is our constitutional duty. We must act on them at least so far as we can, as is consistent with our ability and, if I may so say, our physical powers. I believe all will agree that the Senate did all that it could do before the clock sounded its last moment. It seems to me, therefore, that should not be introduced at this moment as any reason why we should adjourn over or should not adjourn over. That question is to be met with reference to existing business.

I should say nothing more on this head but for the remark that fell from the Senator from Rhode Island, [Mr. ANTHONY.] I am sorry that he made that remark, because I think it will go forth to the country and give an idea that we are about to adjourn at once, Monday, if you please, or immediately, leaving the vast concerns of this Republic which now crave your attention unattended to. There are interests on which we must act—so I humbly submit to the Senate—before we go home; and I hope that the Senator from Rhode Island will join with us and press action upon those great interests.

Mr. ANTHONY. The House has voted to adjourn.

Mr. SUMNER. He says the House has voted to adjourn. When?

Mr. ANTHONY. From Monday until next May.

Mr. SUMNER. Is not that resolution lying

on our table? There has been no action on it on our part, and I do not understand there is any purpose to act upon it.

Mr. ANTHONY. The Senator must admit there is a reasonable probability of our adjourning pretty soon when the House has voted to adjourn and the resolution is now before us; at least a reasonable possibility.

Mr. SUMNER. I am inclined to think that the House is reconsidering its course on that now, though perhaps the Senator has information that I have not.

Mr. ANTHONY. I have understood it is reconsidering its course with a view to extending the time of adjournment until late in the fall.

Mr. SUMNER. I have not understood it so. The Senator has information that has not reached me. I should regret any adjournment at this time until we have acted on the business before us. It seems to me that we must give protection to our fellow-citizens in the South before we go home. But I will not go into that question now merely on a motion to adjourn over. At some other time perhaps it will be more proper to consider it.

The PRESIDENT *pro tempore*. The question is on the motion that when the Senate adjourns to-day it adjourn to meet on Monday next; and on this question a division has been called.

The motion was not agreed to; there being on a division—ayes 10, nays 21.

Mr. RAMSEY. I voted under a mistake. I am desirous of adjourning over.

Mr. CONNESS. No matter; it will not change the result.

#### PRINTING OF VETO OF RECONSTRUCTION BILL.

Mr. SHERMAN. I am informed that by an error probably, or an oversight, there was no order made to print the message of the President of the United States giving his reasons for not approving the military government bill. I will ask that an order be made that it be printed for the use of the Senate. I wish a copy myself.

The PRESIDENT *pro tempore*. That order will be made unless objected to. The Chair hears no objection.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 1) relative to claims of certain northern creditors, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. No. 31) to amend an act entitled "An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of totally disabled officers and men of the volunteer forces of the United States,'" approved March 21, 1866.

#### HOUSE RESOLUTION REFERRED.

The joint resolution (H. R. No. 1) relative to claims of certain northern creditors was read twice by its title, and referred to the Committee on Claims.

#### EXECUTIVE SESSION.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, March 8, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

#### ORDER OF BUSINESS.

The SPEAKER. The first business in order is the motion of the gentleman from Iowa, [Mr. PRICE,] pending at the adjournment yesterday,

to suspend the rules to permit the introduction of a joint resolution authorizing the application of part of the funds now in the Treasury to the redemption of compound-interest notes now outstanding.

#### HARBOR IMPROVEMENT IN MICHIGAN.

Mr. UPSON, by unanimous consent, introduced joint resolutions of the Legislature of the State of Michigan, asking Congress for an appropriation of money to improve the harbor at the mouth of the Kalamazoo river in that State; which were ordered to be referred to the Committee on Commerce when appointed, and also ordered to be printed.

#### ELECTION CONTEST—DELANO VS. MORGAN.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom was referred the memorial of Columbus Delano, who contests the right of Hon. George W. Morgan to a seat in this House as a Representative from the thirteenth congressional district of Ohio, praying for an extension of time for taking testimony, submit a report accompanied with a resolution.

The report and resolution were read, as follows:

The Committee of Elections, to whom was referred the memorial of Columbus Delano, who contests the right of Hon. George W. Morgan to a seat in this House, as a Representative from the thirteenth congressional district of Ohio, praying for an extension of time for taking testimony, submit the following report:

That they have heard the parties, and for the reasons set forth in the memorial, which is herewith submitted, and for the further reason that the sitting member consents thereto, they recommend the adoption of the following resolution:

*Resolved*, That in the matter of the contested election in the thirteenth congressional district of Ohio, the time for taking testimony is hereby extended to each party for the period of seventy-five days from and after the passage of this resolution, said testimony to be taken in all other respects in conformity with existing law.

The resolution was agreed to, and the report was ordered to be printed.

#### ELECTION CONTEST—STEWART VS. PHELPS.

Mr. DAWES. The Committee of Elections, to whom were referred the memorial and accompanying papers of Joseph J. Stewart, who contests the right of Hon. Charles E. Phelps to a seat in this House, as a Representative from the third congressional district of Maryland, have instructed me to submit a report, accompanied with the following resolution:

*Resolved*, That in the matter of the contested election in the third congressional district of Maryland, the time for taking testimony is hereby extended to each party for the period of sixty days from and after the passage of this resolution, said testimony to be taken in all respects in conformity with existing law, except that the same may be taken before a justice of the peace in said district.

The resolution was agreed to, and the report ordered to be printed.

#### SYMPATHY FOR IRELAND.

Mr. WOOD. I ask unanimous consent to submit the following resolution:

*Resolved*, That this House extends its sympathy to the people of Ireland in their pending struggle for constitutional liberty. If the despotic Governments of Europe shall be allowed to establish monarchical institutions in America, so should the United States foster and promote the extension of republican institutions to Europe.

Mr. BROOMALL. I object.

Mr. WOOD. I move to suspend the rules.

The SPEAKER. A motion is already pending to suspend the rules, being made at the adjournment last evening; and there cannot be two pending at the same time.

Mr. WOOD. Then I give notice that I shall introduce the resolution hereafter.

#### COMPOUND-INTEREST NOTES.

Mr. ELIOT. I call for the regular order.

The House accordingly resumed the regular order, being the motion pending at the adjournment yesterday to suspend the rules to allow the introduction of a joint resolution for the application of part of the fund in the Treasury for the redemption of compound-interest notes.

Mr. PRICE. I presume there is no objection to the introduction of this resolution this morning.



Mr. EGGLESTON. I object.

Mr. PRICE. I hope the House will suspend the rules.

The question being put on suspending the rules, there were—ayes thirty-one.

Mr. PRICE. I call for tellers; and pending that I ask leave to occupy five minutes in explanation of this resolution.

Mr. ELIOT and Mr. EGGLESTON objected.

Tellers were ordered; and the Chair appointed Messrs. PRICE and EGGLESTON.

The House divided; and the tellers reported—ayes 66, noes 36.

So (two thirds not having voted in favor thereof) the rules were not suspended.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. ELIOT.

The SPEAKER asked and obtained leave of absence for five days for Mr. BROOMALL, on account of sickness.

#### ADJOURNMENT OVER.

On motion of Mr. FARNSWORTH, it was ordered that when the House adjourns to-day, it adjourn to meet on Monday next.

#### CALL OF COMMITTEES.

The SPEAKER. The regular order having been called for, the first business in order is the call of the committees for reports.

The committees were called, but no reports were made.

The SPEAKER. There being no reports of committees, the morning hour has now expired.

#### PARIS EXPOSITION.

Mr. BANKS. I move to proceed to business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to the consideration of the first business on the Speaker's table, being Senate joint resolution No 2, supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; which was read a first and second time.

The joint resolution was read. It provides:

1. That the commission of the United States at the Universal Exhibition to be held at Paris in the year 1867 shall consist of the commissioner general and honorary commissioner, whose appointment was approved by the joint resolution of January 22, 1866; also of the thirty commissioners whose appointment was provided for by the joint resolution of July 5, 1866, and of twenty commissioners whose appointment is hereinafter provided for.

2. That the commissioner general shall be the president of the commission thus constituted, with a vote on all questions that may arise.

3. That the commission shall meet at Paris as early as possible before the opening of the Exhibition, upon the call of the commissioner general, and, when properly organized, shall make such rules and regulations as may be necessary for efficient action, with power to elect a vice president from their own number, who, in the absence of the commissioner general, shall preside at all meetings of the commission, and to appoint committees and chairmen of groups.

4. That the commission may designate additional persons, not exceeding twenty in number, being citizens of the United States, known to be skilled in any branch of industry or art, who are hereby authorized to attend the Exhibition in behalf of the United States as honorary commissioners, without compensation.

5. That the commission may employ a secretary and clerks for the commission, the necessary scientific assistants, and draughtsmen, and may engage suitable rooms for the commission.

6. That no commissioner shall act as agent for the show or sale of any article at the Exhibition, or be interested, directly or indirectly, in any profits from any such article.

Section two provides that \$50,000, or so much thereof as may be necessary for the purposes specified, be appropriated out of any money in the Treasury not otherwise appropriated, for additional freights from New York to Havre; for transportation from Havre to Paris; for return freight of articles owned by the United States or lent to the Government by individuals; for marine and fire insurance on the articles thus lent; for additional steam-power at Paris in the "palace" and the "annex," or supplemental building, and in grounds adjacent; for the exhibition of machines, agricultural and other, and for the erection of buildings to illustrate the education and agriculture of the United States; and for the collection of specimens of agricultural productions under joint resolution for that purpose; and for the necessary expense of collecting, classifying, labeling, and packing mineralogical and metallurgical specimens, to complete the exhibition of the mineral wealth of the United States; for the necessary expense of laborers and extra services in the offices at Paris and New York; for the expenses of a secretary, clerks, scientific assistants, and draughtsmen, rooms, and other incidental expenses of the commission.

The third section provides that it shall be the duty of the general agent at New York and of the commissioner general at Paris to transmit to Congress, through the Department of State, a detailed statement of the manner in which the expenditures herein authorized are made by them respectively.

Mr. BANKS. Mr. Speaker, this resolution is precisely as it passed the House at the close of the last session by more than a two-thirds vote. It is well understood by members, and I trust the question may be taken without delay. If there be no explanation required I will ask the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be read a third time, and it was accordingly read the third time.

Mr. WOOD. I desire to know whether this joint resolution does not contain an appropriation?

The SPEAKER. The joint resolution has passed to a stage at which that question cannot be raised.

Mr. BANKS. I demand the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio. I move that the joint resolution be laid upon the table; and I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

The question was taken; and the House refused to lay the joint resolution upon the table.

The question recurred on the passage of the joint resolution.

Mr. MUNGEN demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### IMPROVEMENT OF FOX AND WISCONSIN RIVERS.

The next business on the Speaker's table was joint resolution of the Senate No. 6, extending the time for the completion of the improvement of the Fox and Wisconsin rivers; which was read a first and second time.

Mr. JULIAN. I ask that the joint resolution be considered now.

Mr. FARNSWORTH. I would like some explanation in regard to it.

Mr. CHANLER. Does not this joint resolution contain an appropriation?

The SPEAKER. It does not.

Mr. FARNSWORTH. Is not this the same resolution that was before the House during the last Congress?

The SPEAKER. The resolution merely provides for the extension of time for the completion of a public work in Wisconsin. It is not an appropriation bill.

Mr. FARNSWORTH. If it is the same one that was before the last Congress there is a great deal of objection to it.

Mr. SAWYER. The bill to which the gentleman from Illinois has reference was an entirely different one, and had no connection at all with this.

Mr. FARNSWORTH. Bills of this kind, referring to some past act which they propose to continue in force, cannot be understood without some explanation of their meaning. This kind of legislation frequently slips through Congress and very few members understand it, because they are not familiar with the acts referred to. I therefore desire to have some information in reference to this matter.

Mr. JULIAN. This is a matter which is entirely local. The measure has the unanimous approval of the Wisconsin delegation.

Mr. HOPKINS. I will state for the information of the House that this resolution simply extends the time for the completion of the improvement of the Fox and Wisconsin rivers and the construction of a canal. The money needed for the completion of the work is deposited in the State treasury of our State, and this resolution simply extends the time for the completion of the work. Such an extension of time is necessary. The resolution involves no appropriation, either of land or of money, and it is satisfactory to the people of Wisconsin and also to their delegation here.

Mr. FARNSWORTH. Has the time expired during which this improvement is to be made?

Mr. HOPKINS. It has.

Mr. FARNSWORTH. How much money is there in the State treasury for this purpose?

Mr. HOPKINS. Seventy thousand dollars.

Mr. FARNSWORTH. Would not that money be returned to the United States Government in case of the forfeiture of the conditions by the State? I will call, however, for the reading of the resolution again.

The resolution was again read.

Mr. EGGLESTON. This matter was before the Committee of Commerce of the last House when they were considering the river and harbor improvement bill, and an appropriation was included in that bill for one of these rivers. Now, for the purpose of obtaining full information upon this subject, I move that this joint resolution be referred to the Committee on Commerce when appointed.

Mr. PRUYN. The motion of the gentleman from Ohio, [Mr. EGGLESTON,] if agreed to by this House, must necessarily delay action on this matter a long time; I therefore trust that the proposed reference will not be made. I have entire confidence in the statement of the gentleman from Wisconsin, [Mr. HOPKINS,] and believe that this joint resolution should pass. The improvement in question is a meritorious one, and Congress should aid it by every means of this kind in its power. No money is asked for; no land is asked for; it is simply a question of extension of time for the completion of a project which has already been declared to be a meritorious one. I trust this motion for delay will not meet the approval of the House.

Mr. ROSS. I would ask if the passage of this joint resolution would not tie up the public domain for five years from actual settlement? It appears to me that it would.

The question was on the motion to refer the joint resolution to the Committee of Commerce when appointed.

Mr. SAWYER. I hope this joint resolution will not be referred, because there is no reason in the world why it should be. This company has already expended about half a million dollars in this work, and they have until the 3d day of August next in which to complete it. They have deposited in the State treasury of Wisconsin the sum of \$70,000 to secure the completion of the work. Some

difficulty has arisen in regard to whether the improvement shall be carried out so as to require larger locks than those which they agreed to make originally. If this resolution does not pass, then the company will go on and complete the work with small locks, as they originally agreed to do; but if it is passed, then they will have ample time in which to determine whether to make larger locks or not. The appropriation already made for the improvement of the Wisconsin river will not be worth much without the enlarged locks, which will be secured by the passage of this joint resolution. This matter was thoroughly investigated by the Committee on Public Lands of the last House, and there it met with approval; but the committee were unable to get the floor to make their report.

Mr. JULIAN. This measure has been carefully considered by two standing committees of Congress, and unanimously concurred in by both committees. I hope, therefore, the motion to refer will not prevail.

Mr. FARNSWORTH. With the explanation of the gentleman from Wisconsin, [Mr. SAWYER,] I can see no objection to the passage of this joint resolution.

The motion to refer was not agreed to.

The joint resolution was then read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### STATIONERY AND NEWSPAPERS FOR MEMBERS.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Postmaster of this House be, and he is hereby, required to deliver to each member and Delegate stationery equal in amount to that provided for members during a short session; and that the Clerk of the House furnish each member and Delegate with the same amount of newspapers received by the members and Delegates of the last House.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DEBTS CONFISCATED BY REBELS.

Mr. BUTLER, by unanimous consent, introduced a joint resolution relating to certain claims of northern creditors; which was read a first and second time.

The joint resolution was read at length. The preamble recites that the congress of the confederate States ordered the sequestration and confiscation of all the debts due from inhabitants of the southern States to their creditors residing in the loyal States; that there was paid to the Citizens' Bank of New Orleans, prior to the 1st day of May, 1862, a sum exceeding half a million dollars, the proceeds of such confiscation of northern credits, of which there remained to the credit of the confederate States receivers in such bank the sum of \$219,090 94 only on the 1st day of May, at the time of the occupation of the city of New Orleans by the forces of the United States, which said sum, by the order of the general then commanding the Department of the Gulf, was seized for the benefit of the northern creditors whose debts had been thus confiscated, and said sum was sent by him to the Secretary of the Treasury of the United States, to be by him held in trust for the benefit of said northern creditors; that owing to a doubt entertained by the Secretary of the Treasury as to his legal authority to distribute the said sum of \$219,090 94 among the creditors to whom it belongs, and to determine the rights of each to his portion thereof, the money has lain undisturbed in the Treasury since July, 1862, to the great injury and detriment of the just and loyal owners of the money, although they have made many applications to have the same.

The joint resolution, therefore, authorizes the Secretary of the Treasury to appoint a com-

mission of three persons, one of whom shall be learned in the law, to hear and determine the claims of the parties who are entitled to the said sum of \$219,090 94, ratably among the persons who shall present their claims and be entitled thereto, to an amount not exceeding the claim of each when confiscated, with interest thereon. But no claim which shall not be presented within three months after public notice of a meeting of the commissioners to receive such claim is to be allowed or paid by order of the commissioners.

There being no objection, the joint resolution was introduced, and read a first and second time.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was on the passage of the joint resolution.

Mr. SCOFIELD. Mr. Speaker—

The SPEAKER. If the resolution is to be debated, the Chair will recognize the gentleman from Massachusetts [Mr. BUTLER] as entitled to the floor, he having introduced the resolution.

Mr. SCOFIELD. I ask the gentleman from Massachusetts to yield to me a moment.

Mr. BUTLER. I will do so with pleasure.

Mr. SCOFIELD. It has occurred to me, in hearing this resolution read, that northern creditors have their claims against their southern debtors the same now as formerly. The act of sequestration passed by the congress of the confederate States would be treated as null and void; and those creditors can collect their claims without regard to the payments which were made into the treasury of the confederacy. The fund thus seized by the Government of the United States was property of the confederacy, and being captured became the property of the United States; and it ought, it seems to me, to go into the common fund of the Government.

Mr. BUTLER. Mr. Speaker, this fund which was found in the Citizens' bank of New Orleans, stood in such a condition as to be separated from the general fund of the confederate States. The general then commanding the Department of the Gulf sent this particular fund to the United States Treasury in trust for the creditors. He sent also a quarter of a million dollars of the general funds of the confederacy to go into the common Treasury of the United States. This particular fund has been kept intact by the Secretary of the Treasury ever since; and it ought to go to these northern creditors.

I agree with my friend on the left [Mr. SCOFIELD] that the northern creditor has his legal remedy against the southern debtor, although the latter may already have paid the money under the void sequestration and confiscation orders of the confederate States; but in view of the lapse of time and the devastations of the war, that remedy would, I fear, in most cases prove fruitless. Therefore, after consultation with the Secretary of the Treasury, I have ventured to ask Congress to allow this fund, under his direction, to be distributed to those to whom it justly belongs. It does not in my judgment belong to the Treasury of the United States. It was not confederate property, because it had not passed into the general fund of the confederacy. It had not been so appropriated when taken possession of on the part of the Government.

Mr. FARNSWORTH. I desire to ask my friend from Massachusetts [Mr. BUTLER] what effect such a law as this will have so far as regards releasing those debtors? Will it afford them a defense in a court of law if they be sued by their various creditors? If this bill be enacted into a law, and these creditors receive their respective portions of this fund in payment of their claims, will the debtors be released? Can they plead this payment in bar of an action against them by the creditors?

I wish to suggest one other point. Of course all the debtors in the South did not pay their money into the Citizens' Bank of New Orleans; a great many of them paid nothing. Now, sup-

pose A at the South, who owed B at the North, paid nothing into the Citizens' Bank; and suppose that B should go to the Secretary of the Treasury under this commission and receive his distributive or *pro rata* share. What will be the effect of such an enactment as this in such a case? Can B, having received a part or all of his money from the Treasury, sue A either for the balance or for the whole debt? It strikes me that a measure of this sort had better be referred to the Committee on the Judiciary.

Mr. ELDRIDGE. I desire to ask another question in this same connection, if the gentleman from Massachusetts [Mr. BUTLER] will allow me.

Mr. BUTLER. Certainly.

Mr. ELDRIDGE. I desire to know whether the passage of this resolution will not in effect recognize the validity of the confiscation by the confederate government? If we now take this fund and apply it in payment of debts which were confiscated by order of the confederate government, will it not be in effect a recognition of the authority of that government so to confiscate and so to appropriate the debts of northern creditors?

Mr. BUTLER. I will answer the last gentleman first. The resolution proceeds upon the proposition that all that was done by the confederate government was null and void, and that certain moneys which ought to have been paid to northern creditors were paid to confederate State receivers. The northern creditors are now seeking in this manner to pursue their claims to this fund which went to diminish debtors' ability to meet their demands, and in no event (and I have endeavored to consider the question with care and attention) will the passage of this resolution be a recognition of the confederate State government.

In answer to my friend on my right, [Mr. FARNSWORTH,] I would say that this resolution only provides that this fund shall be distributed to those identical creditors whose debts were thus attempted to be confiscated. It does not affect anybody else on earth, and it affects the southern debtor only in this: that so much as his northern creditor gets by this process he cannot ask again. He may bring his suit for any balance. Indeed, I do not know but what he might bring his suit for all, and it will be for the southern debtor to show that some satisfaction has been received by the creditor.

There are from one half to three fourths of a million dollars of these debts. There is only \$219,000 to meet them; therefore it requires a commission to distribute the fund *pro rata*. After these northern creditors have waited for five years and upward it seems to me that some remedy should be afforded them by the Congress of the United States.

Mr. PRUYN. Will the gentleman allow me to ask him whether I understood him correctly in saying that this resolution meets the approval of the Secretary of the Treasury?

Mr. BUTLER. Entirely, sir. He would have acted in the matter himself but he doubted the power.

Mr. RAUM. I ask the gentleman to allow me to offer an amendment.

Mr. BUTLER. I will hear it read.

Mr. RAUM. I desire to amend the resolution by adding the following:

*Provided*, That the cost of said commission shall be paid out of said money.

Mr. BUTLER. I accept the amendment.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONFISCATED PROPERTY IN LOUISIANA.

Mr. WILSON, of Iowa. I ask leave to offer the following resolution:

*Resolved*, That the Secretary of War be directed to

report to this House all information in the War Department, and particularly such as may be in the possession of the Bureau of Refugees, Freedmen, and Abandoned Lands, relative to property seized or taken possession of by the Government or its agents in the State of Louisiana; and that there be embraced in said report the kind of property, whether abandoned or confiscated, names of the reputed owners, date of seizure, assessment, value, amount of profits received from rents or otherwise, what amount of such property has been restored to said reputed owners, when the same was restored, by whom, and upon whose order; and also all the papers in the case of Duncan F. Kenner and J. W. Zachary.

The resolution, being a call for executive information, was considered, by unanimous consent, and agreed to.

#### LOWER CALIFORNIA COMPANY.

Mr. GRISWOLD. I ask leave to submit the following preamble and resolution:

Whereas a number of American citizens associated together under the title of the Lower California Company have acquired from the republican Government of Mexico a grant of land and privileges in Lower California, embracing nearly the whole of said peninsula; and whereas said company has recently employed at great expense a large party of scientific and competent persons to make a complete survey of the interior of the territory so granted; and whereas such survey, though made by the said company in their own interest, springs from a large public spirit and is made likewise in the interest of general civilization, and largely in the interest of the United States; and whereas we have no reliable information on the authority of any public survey that has ever been obtained by the Government of the United States, of the coast and islands of that important continentary territory: Therefore,

*Resolved by the Senate and House of Representatives, &c.,* That the Secretary of the Navy be, and he is hereby, authorized and directed to detach some suitable vessel now in the Pacific for the purpose of making a continentary marine survey of the coast of Lower California and adjacent islands, and report the information so obtained to the Navy Department.

Mr. BOUTWELL. I object.

#### SURPLUS GOLD.

Mr. ROBINSON. I ask leave to offer a joint resolution authorizing the Secretary of the Treasury to sell the surplus gold and receive legal-tenders at par for duties, &c.

Mr. HOOPER, of Massachusetts. I object.

Mr. ROBINSON. I do not propose to have it considered now, but I desire to have it printed.

No objection being made, it was ordered to be printed.

#### RESOLUTIONS OF WISCONSIN.

Mr. COBB, by unanimous consent, presented joint resolutions of the Legislature of Wisconsin, instructing their Senators and requesting their Representatives to vote for a measure to aid in the construction of the Northern Pacific railroad; which were laid upon the table, and ordered to be printed.

#### SYMPATHY FOR IRELAND.

Mr. WOOD. I ask unanimous consent to offer the following resolution:

*Resolved,* That this House extends its sympathy to the people of Ireland in their pending struggle for constitutional liberty. If the despotic Governments of Europe shall be allowed to establish monarchical institutions in America so should the United States foster and promote the extension of republican institutions to Europe.

Mr. BROOMALL. I object.

Mr. WOOD. I move to suspend the rules to enable me to offer the resolution.

Mr. ELDRIDGE. Upon that motion I demand the yeas and nays.

Mr. STEVENS. Would it be in order to move to refer this resolution to a committee.

The SPEAKER. It would not. The motion is to suspend the rules to enable the resolution to be considered.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 14, not voting 42; as follows:

YEAS—Messrs. Allison, Archer, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dawes, Donnelly, Eckley, Eggleston, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Fox, Getz, Glossbrenner, Gravelly, Haight, Halsey, Harding, Hayes, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Judd, Julian, Kelsey, Kerr, Ketcham, Kitchen, Kooztz, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, Marshall, Marvin, McCarthy, McClurg, McCullough, Mercer, Miller, Moore, Moorhead, Morgan, Morrissey, Mungen, Myers, Niblack,

O'Neill, Orth, Paine, Peters, Phelps, Pile, Polsley, Pomeroy, Price, Pruyn, Raum, Robertson, Robinson, Ross, Sawyer, Seefeldt, Shanks, Spalding, Stewart, Stone, Taber, Twitchell, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, William B. Washburn, Welker, William Williams, Stephen F. Wilson, Wood, and Woodbridge—104.

NAYS—Messrs. Delos R. Ashley, Blair, Broomall, Cake, Covode, Cullom, Driggs, Garfield, Ladin, Neell, Shellabarger, Trowbridge, Cadwalader C. Washburn, and Windom—14.

NOT VOTING—Messrs. Ames, Anderson, Barnes, Blaine, Butler, Cook, Cornell, Denison, Dodge, Eliot, Finney, Griswold, Hamilton, Hill, Holman, Hooper, Hulburd, Kelley, Lincoln, Loughbridge, Morrell, Newcomb, Nicholson, Perham, Pike, Plants, Poland, Randall, Schenck, Selye, Sitgreaves, Smith, Stevens, Taffe, Taylor, Thomas, Van Aernam, Van Wyck, Henry D. Washburn, Thomas Williams, James F. Wilson, and John T. Wilson—42.

So (two thirds voting in the affirmative) the rules were suspended, and the resolution was received.

Mr. WOOD. I ask the adoption of the resolution.

Mr. BANKS. I would ask the gentleman from New York to allow me to make a motion to refer this resolution to the Committee on Foreign Affairs when appointed, and I give him notice that, if he will do so, I will submit a resolution for the immediate appointment of that committee as soon as I can obtain the floor for that purpose.

Mr. WOOD. I regret that I cannot assent to the suggestion of the gentleman from Massachusetts. This is a resolution expressive of a single sentiment, and I think the House is in a condition to adopt it now, and I therefore ask for its adoption.

Mr. BANKS. Let me say a word.

Mr. WOOD. I wish the gentleman would make his proposition a little more distinctly.

Mr. BANKS. I will send to the Chair to be read for the information of the House, with the leave of the gentleman from New York, a resolution which I propose to offer for adoption when I get an opportunity.

The Clerk read as follows:

*Resolved,* That in view of events transpiring on the northern frontier of the United States, it is expedient that the standing Committee of Foreign Affairs should be now appointed by the Speaker for the purpose of considering the foreign relations of the United States.

Mr. WOOD. I cannot see the connection of that resolution with the one I have offered, I will vote with a great deal of pleasure for the resolution of the gentleman from Massachusetts [Mr. BANKS] when it shall be properly before the House for consideration; but I desire a vote on my resolution, and therefore I call the previous question.

Mr. BANKS. The latter part of the resolution of the gentleman from New York [Mr. WOOD] refers expressly to the movements for a confederation on the northern frontier of the United States. It is proper that in reference to that matter the subject should at least be considered by a committee. Inasmuch as there can be no delay upon this question, I trust the gentleman will allow his resolution to be referred to the Committee on Foreign Affairs. Or if he insists upon the call for the previous question, I trust the House will not second it, but that the resolution will be referred.

Mr. SHELLABARGER. I desire to inquire of the Chair whether this resolution is divisible, so that we may take a vote upon the first part of it in regard to extending sympathy to Ireland?

The SPEAKER. The resolution is divisible. The gentleman from New York [Mr. WOOD] has so written his resolution that each proposition contained in it can be voted upon separately, and each may stand by itself if the other is voted down.

Mr. SHELLABARGER. I give notice that if it shall come to a vote upon adopting this resolution I shall ask for a division of the resolution.

Mr. WOOD. I shall not object to that.

The question was upon seconding the call for the previous question; and upon a division there were—yeas 33, nays 86.

So the previous question was not seconded.

Mr. BANKS. I now move that the resolu-

tion of the gentleman from New York [Mr. WOOD] be referred to the Committee on Foreign Affairs when appointed.

Mr. WOOD. I would have no objection to referring the latter clause of my resolution to the Committee on Foreign Affairs when appointed; but I desire to have a direct vote of the House upon the first proposition.

Mr. STEVENS. Let the whole be referred.

Mr. BANKS. I do not suppose there is a member in this House who does not feel the same sympathy with Ireland that the gentleman from New York does. But inasmuch as he has coupled that expression of sympathy with another question affecting all the interests of this country, I think the whole matter should be fully considered by a committee; and if my motion to refer shall be agreed to by the House, I will then ask the adoption of a resolution for the immediate appointment of the Committee of Foreign Affairs. I now call the previous question on my motion to refer.

The previous question was seconded and the main question ordered.

Mr. JUDD. Is it in order now to call for the regular order?

The SPEAKER. It is not during the operation of the previous question.

Mr. CHANLER. I call for the yeas and nays on the motion to refer.

The question was taken on ordering the yeas and nays, and there were—yeas twenty-two.

Before the yeas were counted,

Mr. CHANLER called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. BANKS and WOOD were appointed.

The House divided; and the tellers reported that there were—yeas twenty-seven.

So (one-fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 40, not voting 23; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Julian, Ketcham, Kitchen, Kooztz, Ladin, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Phelps, Plants, Poland, Polsley, Pomeroy, Raum, Robertson, Schenck, Seefeldt, Shanks, Shellabarger, Smith, Spalding, Stevens, Taffe, Thomas, Trowbridge, Twitchell, Upson, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—97.

NAYS—Messrs. Archer, Boyer, Brooks, Burr, Butler, Chanler, Denison, Donnelly, Eldridge, Fox, Getz, Glossbrenner, Haight, Harding, Humphrey, Ingersoll, Judd, Kerr, William Lawrence, Logan, Marshall, McCullough, Morgan Morrissey, Mungen, Niblack, Nicholson, Neell, Pruyn, Robinson, Ross, Stewart, Stone, Taber, Van Auker, Robert T. Van Horn, Van Trump, Ward, Stephen F. Wilson, and Wood—40.

NOT VOTING—Messrs. James M. Ashley, Barnes, Halsey, Hamilton, Hayes, Hill, Holman, Hooper, Asahel W. Hubbard, Kelley, Kelsey, Loughbridge, Newcomb, Pike, Pile, Price, Randall, Sawyer, Selye, Sitgreaves, Taylor, Van Aernam, and Thomas Williams—23.

So the motion to refer was agreed to.

Mr. BANKS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS. I now ask leave to introduce a resolution, the purport of which I have already indicated.

Mr. STEVENS. I ask the gentleman from Massachusetts [Mr. BANKS] to yield to me for a moment that I may offer a resolution.

Mr. BANKS. I will do so.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDonald, its Chief Clerk, announced that the Senate had passed a bill entitled "An act to amend an act entitled 'An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces

of the United States," approved March 21, 1866, in which the concurrence of the House was requested.

The message also announced that the Senate had appointed Messrs. FESSENDEN, SHERMAN, and BUCKALEW the members on its part of the joint select Committee to Revise and Equalize the Pay of the Employés of both Houses of Congress.

The message further announced that the Senate had appointed Messrs. EDMUNDS, WILLIAMS, and BUCKALEW the members on its part of the joint select Committee on Retrenchment.

#### COMMITTEE ON RECONSTRUCTION.

Mr. STEVENS. I ask leave to introduce a concurrent resolution for the purpose of continuing the joint Committee on Reconstruction. Mr. ELDRIDGE and others objected.

Mr. STEVENS. I move to suspend the rules to permit the introduction of the resolution.

Mr. NICHOLSON. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 87, nays 50, not voting 23; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Hamilton, Hooper, Hopkins, Hulburd, Hunter, Julian, Kitchen, Koontz, William Lawrence, Lincoln, Loughbridge, Lynch, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Plants, Poland, Polsley, Price, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Spaulding, Taffe, Trowbridge, Upson, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—87.

NAYS—Messrs. Archer, Delos R. Ashley, Baker, Barnes, Boyer, Brooks, Burr, Dawes, Denison, Eldridge, Fox, Getz, Glossbrenner, Griswold, Haight, Harding, Chester D. Hubbard, Humphrey, Ingersoll, Judd, Kerr, Ketcham, Laffin, George V. Lawrence, Loan, Logan, Marshall, Marvin, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Phelps, Pile, Pomeroy, Pruyn, Raum, Robertson, Robinson, Ross, Sitgreaves, Smith, Stewart, Taber, Robert T. Van Horn, Van Trump, and Wood—50.

NOT VOTING—Messrs. James M. Ashley, Chandler, Eggleston, Finney, Hayes, Hill, Holman, Asahel W. Hubbard, Kelley, Kelsey, McClurg, Newcomb, Pike, Randall, Selye, Stevens, Stone, Taylor, Thomas, Twitchell, Van Aernam, Van Auken, and Henry D. Washburn—23.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. BANKS resumed the floor.

#### NATIONAL MILITARY AND NAVAL ASYLUM.

Mr. SCHENCK. I ask the gentleman from Massachusetts to yield to me for a few moments. There has just come over from the Senate a bill requiring immediate action.

Mr. BANKS. I will yield if it will not consume much time.

Mr. SCHENCK. I ask unanimous consent to make a brief explanation in reference to this bill.

The SPEAKER. Is there any objection to the gentleman from Ohio making a brief explanation?

There was no objection.

Mr. SCHENCK. Mr. Speaker, the bill which I desire the House to consider at this time is "An act to amend an act entitled 'An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States, approved March 21, 1866.'" In the present organization of this national asylum, the board of managers consists of twelve persons, the President of the United States, the Chief Justice of the United States, and the Secretary of War being members *ex officio* of this board. The nine others are divided into three classes, one third being elected every three years by the Senate and House of Representatives. Seven members of the board are required to constitute a quorum for the transaction of business. Now, there is in the law a provision that no member of Congress shall be eligible to election as a member of this board. This was found inconvenient in

practice; and in consequence of the president of the board, General BUTLER, having been elected a member of Congress, the House, some three or four weeks ago, passed a bill removing this disqualification of members of Congress. The Senate at that time refused to pass the bill, which met with no opposition in this House.

But now the Senate has sent to the House a similar bill taking away that disqualification of members of Congress. The occasion of it is one of great emergency. The board are now assembled here in Washington, pursuant to notice. Many members of it are present for the purpose of holding their regular meetings and transacting business of great importance. The President of the United States cannot be expected to attend. The Chief Justice and Secretary of War are in attendance at some inconvenience. There are four other members of the board. A quorum cannot be obtained as long as General BUTLER, who is a member of the board, is disqualified. The consequence is, no business can be done, and the board is brought to a dead lock. The Senate has passed this bill to remedy the difficulty by removing this disqualification.

Mr. ROSS. I would inquire if the gentleman does not think we can procure competent men outside of Congress for the duties?

Mr. SCHENCK. Beyond all question. But the difficulty is the board is brought to a standstill, and I suppose it is not in any proper sense a disqualification to be a member of Congress. I think my friend from Illinois [Mr. ROSS] would be a most excellent member of this board, notwithstanding his occupying a seat here. It is provided in the law—and that is not interfered with by this bill—that no two members shall be from the same State. Three members are elected every three years, and the term of service is nine years.

Without detaining the House any longer I ask that the bill may be now put on its passage, because without this action of Congress the board cannot get along with their business, being only able to get six members together, whereas it takes seven to constitute a quorum.

The SPEAKER. The Clerk will report the bill for information, after which the Chair will ask for objections, if any.

The bill was read. It simply amends the act of March 21, 1866, by striking out the words "not members of Congress."

No objection being made, the bill was taken from the Speaker's table, read a first and second time, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### COMMITTEE ON FOREIGN AFFAIRS.

Mr. BANKS. I trust the House will now act on the resolution which I have sent to the Chair.

The resolution was read, as follows:

*Resolved*, That in view of events transpiring on the northern frontier of the United States, it is expedient that the standing Committee on Foreign Affairs should be now appointed by the Speaker, for the purpose of considering the foreign relations of the United States.

Mr. BANKS. The reason I assign for offering this resolution at the present time is the fact that during the month of February a bill passed to a second reading in the House of Lords providing for a confederation of the British Provinces, and contemplating the foundation of a State or an empire that may hereafter surpass in power that of England, and equal that of the United States, or, as was said by its mover "be second only to that of Russia."

The Legislature of Maine, most interested in this movement, has, through its Committee on Federal Relations, made a report adversely to this project and presented resolutions on the subject, which I shall ask the Clerk to read. The stage through which the bill just alluded

to has passed in the House of Lords is the most important of any parliamentary stage that it has to encounter, inasmuch as all its fundamental principles are under consideration. I cannot doubt that the people of this country will look with intense solicitude upon the progress of this movement on the part of the British Provinces contemplating as it does the establishment of an empire founded upon monarchical principles so near to us as to influence public opinion, and which cannot but have in the future a material if not a controlling influence over the affairs of the American Government.

I send to the Chair the concluding paragraph of the report and resolutions submitted to the Legislature of Maine.

The Clerk read as follows:

"We would do nothing to accelerate the progress of political opinion throughout British North America. Republican institutions should never be assumed by any people until the whole population has been inured to habits of self-government and thoroughly imbued with the principle of implicit obedience to law, whenever that law is the declared will of a majority. Hence we discard all thoughts of the annexation of the North American Provinces to this Republic, and cheerfully await the matured wishes of our neighbors. If the advantages, commercial and social, which shall follow their union with the Republic are less in their estimation than the corresponding burdens of greatly increased taxation and the instability of Administrations, they must enjoy without interference on our part that form of government most congenial to the tastes, habits, and interests of their people, in the assurance that nothing but friendly relations can grow out of the existing state of things. They can never be involved in a war with us unless it is forced upon them by the circumstances of their political condition."

In view of these facts the committee report the following resolutions:

*Resolved*, That any attempt on the part of the Imperial Government of Great Britain to establish monarchical government in North America, or to place a vice royalty by act of Parliament over her several North American Provinces, would be an implied infraction of those principles of government which this nation has assumed to maintain upon this continent.

*Resolved*, That the people of Maine, deeply interested in the preservation of peace and of friendly relations with the people of British North America, respectfully appeal to the United States Government to interpose its legitimate influence in friendly and earnest remonstrance with the British Government against establishing any system of government in North America the influence of which would endanger the friendly relations of the people of the British Provinces with the people of the United States.

*Resolved*, That the Governor be requested to transmit copies of the foregoing report and resolves to the President of the United States and to each House of Congress."

Mr. ELDRIDGE. I wish to suggest to the gentleman from Massachusetts [Mr. BANKS] that this seems to me to be rather an inopportune time for us to be protesting against the establishment of an empire upon this continent after we have just placed under military rule and under despotism ten of our own States. It seems to me, sir, that our remonstrance would have much more force and effect if we should wait to make it until the Republic is restored and until the States are relieved from the despotic rule which the last Congress imposed upon them.

I think, sir, that it would have more moral power and influence if we wait for the time when these States can be relieved from the operation of the despotic rule which we have established over them.

Mr. BANKS. Allow me to say that the object of the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] for which the gentleman from Wisconsin voted, was to accomplish the purposes which he now desires, and that is the early restoration of the States of the Union to their full privileges, so far as consistent with the safety of the Government.

But, sir, it is not intended to present at this time any protest against the confederation of the British Provinces. The resolutions which I have had read from the State of Maine were read merely for information. All I ask is that a committee shall be appointed to which any instructions in reference to this matter may be given by the House.

Mr. BLAINE. I would inquire of the gentleman, as the former chairman of the Committee on Foreign Affairs, whether the only



action which is at all possible to be contemplated, if this committee is appointed, will not be merely a protest. Does the gentleman contemplate as within the realms of possibility that this Congress at this session can do anything more than that, even if as much?

Mr. BANKS. I do not contemplate any positive action; all I ask is the appointment of the committee, so that there may be some agency through which the House can act upon this question.

Mr. BLAINE. It must be apparent to the members of this House that there is no greater exigency for the appointment of the Committee on Foreign Affairs than there is for the appointment of any other committee, and it seems to me that if the House votes now to appoint the Committee on Foreign Affairs we might just as well adopt a resolution to appoint all the standing committees. I am not aware that the gentleman contemplates any such decisive action as would engage the attention of a standing committee of the House. This matter certainly cannot go beyond a mere protest, and if we are to appoint this committee it seems to me we might as well appoint all the standing committees of the House.

The resolutions of the State of Maine which have been read, and to which the attention of the House has been called, do not contemplate any positive action. They contemplate merely a respectful protest, and I see no reason why we should appoint this committee now, and I hope the motion of the gentleman will not prevail.

Mr. BANKS. It is not impossible that within a few weeks Congress may adjourn until October or even until November. This question of confederation affects not alone the interests of the British Provinces, but ours also, and it is certainly proper that its effect upon the interests of this country should be considered, or at least that we should have an organized committee that shall have power to consider its bearing upon our interests, whether it be for the purpose of making a protest or for more decided action. It is necessary that we should ascertain the full effect of this measure when consummated and that it should be understood. I ask the previous question.

Mr. MILLER. I ask the gentleman to allow me to move to amend his resolution so as to provide for the appointment of all the committees.

Mr. BANKS. I cannot yield for that purpose.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. BANKS's resolution was agreed to.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House was requested:

A joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody; and

A joint resolution (S. R. No. 15) for the relief of the freedmen or destitute colored people of the District of Columbia.

#### DUTIES ON HAWAIIAN VESSELS.

Mr. ELIOT, by unanimous consent, introduced a joint resolution to authorize the refunding of discriminating duties exacted upon merchandise imported into the Hawaiian Islands; which was read a first and second time.

The joint resolution was read at length. It authorizes the Secretary of the Treasury to remit or refund all duties which have been assessed since the 1st day of January, 1865, on Hawaiian vessels and their cargoes, beyond the amount which would have been payable on vessels of the United States and their cargoes.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the joint resolution.

Mr. WILSON, of Iowa. I hope the gentleman from Massachusetts [Mr. ELIOT] will give the House some explanation of this joint resolution, and the necessity for its passage at this time.

Mr. ELIOT. In 1824 Congress passed a law authorizing the President of the United States, by proclamation, to permit the vessels of any foreign country to enter into the ports of this country with their cargoes without the payment of any duties, whenever that foreign country made the same provision in regard to vessels and cargoes from the United States.

In 1828 Congress passed a law additional to that of 1824, and enlarging somewhat its provisions. The Hawaiian Government has never discriminated at all against the vessels of the United States. But no official notice of that fact was given to the Government of the United States until December, 1866; at which time, by a proclamation of the President, the laws which had been passed theretofore were extended to cover the vessels and cargoes from the Hawaiian Islands.

But there have been two or three cases where duties have been assessed and exacted upon Hawaiian vessels, because of the fact that the Department had not official knowledge of the exemption of American vessels and cargoes by the Hawaiian Government. Application is now made for the remission of those duties in accordance with the previous law. I am informed that there have been but two or three such cases; and the whole extent of this joint resolution is to permit the duties exacted in those cases to be refunded. The amount in one case is about five thousand dollars; in another case it is about two thousand four hundred; at least such is the information given to me by the Department.

The joint resolution was then passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REVISION OF THE TARIFF.

Mr. JUDD. I call for the regular order of business.

The SPEAKER. The regular order is the call of States for resolutions, beginning with the State of Pennsylvania, where the call last rested. The pending question is upon a resolution submitted by the gentleman from Pennsylvania, [Mr. MOORHEAD], upon which he has called for the previous question. The Clerk will read the resolution.

The Clerk read as follows:

*Resolved*, That the tariff bill, being House bill No. 718 of the Thirty-Ninth Congress, together with the pending amendments, be referred to the Committee of Ways and Means when appointed.

The question was upon seconding the call for the previous question.

The SPEAKER. The Chair will state that if the call for the previous question should not be seconded, and any member rises to debate the resolution, it will go over under the rules.

Mr. WILSON, of Iowa. I would inquire of the gentleman from Pennsylvania [Mr. MOORHEAD] if it is his intention to follow up this resolution with another requiring the immediate appointment of the Committee of Ways and Means.

Mr. MOORHEAD. It is not. I would say—

Mr. BENJAMIN. I object to debate.

Mr. HOOPER, of Massachusetts. I would inquire if the gentleman from Pennsylvania would withdraw his call for the previous question and allow me to offer an amendment to his resolution?

Mr. FARNSWORTH. I rise to a privileged motion. I move that the House now adjourn.

The SPEAKER. The gentleman from Penn-

sylvania [Mr. MOORHEAD] is entitled to the floor unless he surrenders it.

Mr. INGERSOLL. Could not the gentleman from Pennsylvania yield to allow me to introduce a bill for consideration at the present time?

The SPEAKER. If no gentleman objects.

Mr. FARNSWORTH. I object.

Mr. CHANLER. I would inquire of the Chair if there is any necessity for action upon the bill to which the gentleman from Pennsylvania [Mr. MOORHEAD] refers in his resolution, now that we have passed a bill in relation to the tariff on wool?

The SPEAKER. That is not a question for the Chair to answer.

Mr. MOORHEAD. I insist upon my call for the previous question.

Mr. FARNSWORTH. I now make the motion that the House adjourn.

The SPEAKER. Before putting the question on the motion to adjourn, the Chair asks consent to lay before the House some executive communications and other documents.

There was no objection.

#### ELECTION CONTEST—BIRCH VS. VAN HORN.

The SPEAKER laid before the House papers in the contested-election case of Birch vs. Van Horn, from the sixth district of Missouri; which were referred to the Committee of Elections.

#### APPROPRIATIONS FOR SHAWNEE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting estimates of appropriation for fulfilling treaty stipulations with the Shawnees; which was laid on the table, and ordered to be printed.

#### CUSTOMS REVENUE LAW.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting the draft of a general customs revenue law, prepared in compliance with the resolution of June 26, 1866; which was laid on the table, and ordered to be printed.

The question being taken on the motion of Mr. FARNSWORTH that the House adjourn, there were—yeas 70, noes 22.

So the motion was agreed to; and the House thereupon (at two o'clock and thirty minutes p. m.) adjourned till Monday next.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. EGLESTON: The petition of John Graham and 50 others, citizens of the United States, praying for a charter to build a railroad from the city of Washington to Cincinnati, Ohio.

#### IN SENATE.

SATURDAY, March 9, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. JACOB M. HOWARD, of Michigan, appeared in his seat to-day.

#### ACADEMY OF SCIENCES.

The PRESIDENT *pro tempore* laid before the Senate the report of the proceedings of the National Academy of Sciences during the year 1866.

Mr. WILSON presented the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed of the report of the National Academy of Sciences for 1866, in addition to the usual number, one thousand extra copies for the use of the Academy.

#### ALEXANDRIA ELECTION.

Mr. VAN WINKLE. I have been requested to present a petition of officers and citizens of Alexandria who were here yesterday, asking that action may not be taken on the joint resolution declaring the municipal offices vacant until they can be heard in opposition to it. I believe they design presenting a more extended petition which will be ready on Monday. I

believe the resolution referred to is now on the table. I ask, therefore, that this petition be read and laid upon the table.

The Secretary read as follows:

*To the Senate and House of Representatives in Congress assembled:*

The undersigned, citizens of Alexandria, Virginia, beg leave to present as their request, on behalf of the people of their city, that your honorable bodies will delay action upon the joint resolution concerning the election held in the said city on March 5, 1867, until your petitioners and the citizens of Alexandria, generally can make known to your honorable bodies by extended petitions and other apt means, as shall to your honorable bodies seem meet, that the constituted authorities of Alexandria did not desire or presume to defy the laws of the United States, or maliciously and intentionally deprive any portion of our population of any right or franchise which they might possess under the laws of the land, and that if errors were committed they were unintentional and the result of improper construction rather than malicious purpose. We ask your honorable bodies to take the willingness of our people to correct any errors which may have been committed as the evidence of their purpose and desire to conform to the laws which are passed for their government.

HUGH LATHAM, Mayor;  
GEORGE BRYAN,  
President Board of Aldermen;  
JOHN B. SMOOT,  
President Common Council;  
GEORGE T. WHITTINGTON,  
JOHN J. JAMIESON,  
GILBERT S. MINER,  
G. R. BLACKLOCK,  
ALBERT STUART,  
D. L. SMOOT.

Mr. WILSON. Before the petition goes upon the table, I desire to say a word. When the intelligence arrived here that the city authorities of Alexandria had refused to comply with the law of the country, and had refused to receive the votes of the colored portion of the citizens, I submitted the joint resolution to which this petition refers. Yesterday a committee from Alexandria, headed by the mayor and other persons of character and influence there, called on me here in the Senate and stated that they had no idea or intention of setting aside the laws of the United States or of disobeying those laws. The military government law had not been officially published; the appointment of a commanding general for the district, under that law, had not been made; and they did not think that law applied to their recent election; but they said that at any future election they would receive those votes and treat them the same as any others; they would certainly do so at the May election, when it shall come off. Their action at the last election they said was not with any intention of disobeying the law. After this explanation I did not call up the joint resolution, as I had intended to do.

Mr. VAN WINKLE. I was called out yesterday, and had about five minutes conversation with these gentlemen, with only one or two of whom had I any previous personal acquaintance, and their remarks to me were similar to those stated by the Senator from Massachusetts as having been made to him. I saw in the papers last evening that they had called on the Attorney General of the United States as to the course they should pursue, and that officer had declined to give an opinion in the short time allowed, but had incidentally expressed the opinion that they would not be under the military bill until military possession was taken of the State. They said they were entirely willing the election should be set aside, and another one held in conformity to the principles of the military bill.

Mr. JOHNSON. I have been brought perhaps more directly in communication with these gentlemen than either of the honorable members who have spoken. Their statement to me was that they had consulted all the professional gentlemen of Alexandria upon the question as to the right of the blacks to vote, and they had all given an opinion that they had no such right; there was no law to authorize their voting at that time. Not being satisfied with that they came to Washington and applied to the Attorney General to give an opinion, and he stated that his engagements were such that it was impossible for him then to examine the question. The exclusion of the blacks from voting was therefore, on their part, because

they were advised by persons in whom they had every right to confide that they were not entitled to vote at that election. They expressed to me, as they did to both the Senators who have spoken, their fixed determination to carry out to the very letter the legislation which Congress had adopted on the subject.

The petition was ordered to lie on the table.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DAVIS, it was

*Ordered*, That the petitions and papers in the cases of Parker Quince, George Ashley, and Anna M. Robaldo, be taken from the files and referred to the Committee on Claims.

On motion of Mr. HOWE, it was

*Ordered*, That John Kirkwood have leave to withdraw his petition and papers.

On motion of Mr. HOWE, it was

*Ordered*, That the papers relating to the claim of Norman Wiard be taken from the files and referred to the Committee on Claims.

On motion of Mr. CONNESS, it was

*Ordered*, That the papers relating to commercial reciprocity between the United States and the Sandwich Islands be taken from the files and referred to the Committee on Foreign Relations.

On motion of Mr. HOWARD, it was

*Ordered*, That Walter F. Halleck have leave to withdraw his petition and papers.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred a memorial of officers of the twenty-first regiment New York cavalry, a joint resolution (S. R. No. 4) for the relief of Daniel Ellis, and a joint resolution (S. R. No. 9) in favor of A. W. Walker, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims, which was agreed to.

#### INDIAN COMMISSIONERS.

Mr. HENDERSON. I am instructed by the Committee on Indian Affairs to whom was referred the bill (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country, to report it back and recommend its passage. I ask for its present consideration.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to appropriate \$20,000 to pay the expenses of commissioners sent by the President to the Indian country.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties upon merchandise imported in Hawaiian vessels, in which the concurrence of the Senate was requested.

#### DESTITUTION IN THE SOUTH.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a communication from the War Department, transmitting one from the Commissioner of the Freedmen's Bureau respecting the want, and danger of starvation, in several of the southern States, have instructed me to report a joint resolution, and I ask for its present consideration. It ought to be voted on promptly, if at all.

The joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States; was read twice by unanimous consent, and considered as in Committee of the Whole. It proposes to empower and direct the Secretary of War to issue supplies of food sufficient to prevent starvation and extreme want among all classes of the people in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution; the issues are to be made through the Freedmen's Bureau under such regulations as the Secretary of War shall prescribe. One million dollars is appropriated for the purpose, to be expended under

the direction of the Commissioner of the Freedmen's Bureau.

Mr. TRUMBULL. I send to the desk the letter of General Howard, and I ask that it be read.

The Secretary read as follows:

WAR DEPARTMENT, BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED LANDS, WASHINGTON, March 8, 1867.

SIR: In answer to the resolution of the Senate of the United States I have the honor to report as follows:

From official sources, and confirmed by gentlemen from different sections of the South, my estimate is thirty-two thousand six hundred and sixty-two whites, and twenty-four thousand two hundred and thirty-eight colored people, making in all fifty-six thousand nine hundred who will need food from some source before the next crop can relieve them. The number of rations for all per month, one million seven hundred and seven thousand. For five months, the probable time required, eight million five hundred and thirty-five thousand rations, at twenty-five cents per ration, the estimated cost, will be \$2,133,750. Of this sum an appropriation has already been made for the five months to the amount of \$625,000, leaving an additional sum required of \$1,508,750. This sum I deem sufficient to meet the extreme want occasioned by failure of the crop, and other causes referred to in the resolution of inquiry. The present appropriation is ample, provided the issues be confined to the classes named in the Freedmen's Bureau act; but the additional sum named will be required should the issue be extended as contemplated in the foregoing estimate.

The following table affords the detail of the estimate for the several States where want is reported to exist.

Very respectfully, your obedient servant,  
O. O. HOWARD,

Maj. Gen., Commissioner Bureau of Refugees, &c.  
Hon. B. F. WADE, President of the Senate.

P. S. Since my report was drawn up I received a joint estimate from the assistant commissioner and Governor of Georgia greatly exceeding the amount in the table. I am, however, unwilling to recommend a larger appropriation for Georgia before another estimate shall be made based on a thorough inspection.

Very respectfully, your obedient servant,  
O. O. HOWARD,  
Major General, Commissioner.

	Number of destitutes.		Number of rations needed.		Value at 25 cents per ration.
	Whites.	Blacks.	Per month.	For 5 months.	
Virginia.....	2,500	2,500	150,000	750,000	\$187,500
North Carolina.....	3,000	2,000	150,000	750,000	187,500
South Carolina.....	3,000	5,000	300,000	1,500,000	375,000
Florida.....	5,000	1,000	45,000	225,000	56,250
Georgia.....	7,500	5,000	375,000	1,875,000	468,750
Alabama.....	10,000	5,000	450,000	2,250,000	562,500
Tennessee.....	1,000	1,000	60,000	300,000	75,000
Mississippi.....	1,862	2,038	117,000	585,000	146,250
Arkansas.....	1,000	500	45,000	225,000	56,250
Louisiana.....	300	200	15,000	75,000	18,750
Texas.....	32,662	24,238	1,707,000	8,535,000	\$2,133,750

O. O. HOWARD,  
Major General, Commissioner, &c.

Tabular statement.

Mr. TRUMBULL. As one of the members of the Judiciary Committee from whom this joint resolution comes, I was very reluctant indeed to agree to recommend any appropriation of this kind, lest it should discourage efforts on the part of worthless persons to make a support and living for themselves. While I was quite willing, and I am sure every member of the Senate would be willing, to vote money out of the Treasury of the United States to save from actual suffering and starvation any portion of our population, whether they may have been loyal or disloyal, I was unwilling to give any sort of encouragement to persons in the rebel States, or to hold out any sort of hope



to them that the Government of the United States would supply their wants when they had within themselves the means of obtaining a livelihood. But General Howard came before the committee this morning and bore testimony to the fact that from the sources of information which he had through the agents in the employ of the Freedmen's Bureau, there would be actual starvation in many portions of the South among the disloyal, or those who had been disloyal, unless relief was afforded. He stated that the appropriations already made were sufficient to save from starvation the loyal refugees and freedmen; and under the law he is limited in affording relief to that class of persons. None of us would be willing to see even the disloyal and those who have sought to destroy the Government, now that the war is over, suffer and perish for the want of the necessities of life; and on the testimony of General Howard that such would be the case unless something was done, and having great confidence in the judgment and discretion of that officer, and that he would not improperly make distribution under the provisions of this resolution, the committee came to the conclusion to recommend to the Senate the appropriation of \$1,000,000 for this purpose.

It will be observed that General Howard estimated the amount at \$1,508,750; but as the summer season is coming on, when the class of persons now so destitute and suffering will be able to do something to support themselves, the committee have struck down the amount to \$1,000,000, and they report the resolution in the form that it has been read to the Senate, and recommend its passage.

I shall be glad if this appropriation of money, should it be made by the Congress of the United States, shall have a tendency to overcome any of that disloyal feeling which still lingers in the South; and I trust that, in addition to the relief which it shall afford to the starving and the destitute, it will carry, if passed by the Congress of the United States, to the people of the southern States the assurance that the Government is disposed to deal kindly and beneficently with them, and that there is no disposition on the part of the Government to deal cruelly or harshly; and we may in that way, in bringing about a good state of feeling, and by the exhibition of this generosity on the part of the Federal Government, even to those who are its enemies, receive a full return for the amount of money which shall be voted, in addition to the relief which it will afford to those who are actually suffering for the want of the necessities of life.

Mr. STEWART. It seems to me that no one who has given this subject careful consideration will doubt the fact that General Howard is correct, that wide-spread destitution exists in large portions of the southern country in consequence of the ravages of the war and the subsequent failure of the crops, and that there must be extreme suffering. Although this relief goes to the families of those who have been disloyal, the women and children perhaps are not guilty parties, and we believe that the people of this country are unwilling even to see the disloyal die of starvation, and consequently the committee have reported this resolution. It does not appear as much as General Howard asked for; but we believe that by his economical management and discrimination he will be able to relieve the larger portion of the suffering, the more extreme cases, and accomplish great good. I hope the resolution will pass.

Mr. POMEROY. I have had, and I suppose every Senator has had his attention called to the condition of some portions of the southern States. I know that individuals have exerted themselves to a considerable extent to relieve the want and suffering which exist there; but I believe that voluntary and individual effort will be entirely inadequate. I know societies have been formed, and men are contributing liberally in many of our cities to aid in relieving this destitution. I should be glad if that were sufficient; but the suffering is so wide-

spread, it extends so deep and so far, that I think some action is required on the part of the Government. I do not think we can look upon the sufferings of our fellow-citizens, no matter what may have been their errors in the past, with indifference, much less with neglect. I do not believe we can allow starvation as a punishment for anything. I shall vote for this resolution in a spirit of kindness and charity, hoping that the people whom it is to benefit will remember and feel that they have not enemies, but friends, not only in the national Congress, but in the North and throughout the country.

Mr. SPRAGUE. General Howard's estimate is \$1,500,000. The committee recommended \$1,000,000. It seems to me that the recommendation of the General should be considered. He thinks \$1,500,000 is the lowest amount that will relieve the suffering and destitution there. I should be glad to vote to add \$500,000 to the amount recommended by the committee. I know of no officer or man in this country in whose hands I would so freely place any amount that the Government can give. I do not know of any man who would distribute these charities better than General Howard, and I do not think there will be any mistake on our part if we should amend the resolution so as to comply with his suggestion. I therefore propose to amend the joint resolution by increasing the appropriation to \$1,500,000, and I trust the Senate will agree to the amendment.

Mr. DOOLITTLE. Mr. President, I for one am disposed to favor this amendment of the Senator from Rhode Island. I not only have received many letters bearing on this subject, but just before the commencement of the last session of Congress I spent a month or more in traveling through the States of the South, and from information derived from persons from all the States of the South I came into possession of facts which satisfied me that it would be utterly impossible for the people of some portions of those States to go through until the next crop should be raised without actual starvation, such as has never existed on this continent. At the very best, throughout the whole of the southern States there was not to exceed one fourth of a crop of corn and breadstuffs, not over a fourth of a crop of cotton, and in Louisiana very little sugar was raised. The State of Texas has, perhaps, a third of a full crop of corn and a half crop of cotton, and is well enough, rich enough, perhaps the richest of the States of the South at the present time; for during the war the communication across the State of Texas in the transportation of cotton into Mexico, where it was taken by the French, in payment for which they gave gold and silver, was so great that even at the present time in the State of Texas the currency of the people is gold and silver, as it is in California, Nevada, and the mining States. But when you get into the States east of that, into Alabama, into Georgia, into North and South Carolina, the failure of the crops, the breaking up of society, the change of the system of labor have led to the presentation of such a spectacle as appeals to the good sense and the charity and the magnanimity of the whole American people. I am, therefore, perfectly willing to join with the Senator from Rhode Island and give this amount into the hands of General Howard to meet these cases of destitution. As a matter of course, General Howard and the officers under him will render an account as to the mode of expenditure.

Mr. JOHNSON. Being a member of the committee which reported this resolution, and having agreed in committee to reduce the appropriation asked for by General Howard from \$1,500,000 to \$1,000,000, I should not have offered an amendment to enlarge the amount suggested by the committee; but the General himself, although he may be able to accomplish the object of such an appropriation with \$1,000,000, is by no means certain that such will be the case. He thinks that there may be cases of starvation, and, in common with all who have hearts within their bosoms, he is

exceedingly anxious himself personally, and above all for the reputation of the country, that such a condition of things as the starvation of our own people should not even be put to hazard. Without having been South since the rebellion further than Virginia, I have, owing to the fact of my being a citizen of a southern State, had perhaps more intercourse, both personally and by correspondence, with persons in those States than some Senators who come from other States; and I think I am warranted in saying that it is the received opinion of the men of that section in whom all confidence is to be placed that starvation to a considerable extent is inevitable unless Congress extends a helping hand to avoid it. The march of our armies—I find no fault with the generals in command, for all things must necessarily have yielded to the exigencies in which they were placed, to the duty in which they were engaged of putting down the rebellion—the march of our armies through the South left large portions of that territory in a state of utter desolation, and the men who constituted the army of the confederacy were reduced to almost starvation before the surrender, having been fed for months upon what no northern man would consider to be food at all; and they returned, therefore, to their homes in a great measure physically unable to work, and they all returned, even those who were physically able to work, finding their homes in such a condition that it was impossible for them to provide for the wants of themselves and their families.

It is true, Mr. President, that during the war I shared in the feeling which animated all the loyal States, that at all hazards the Union was to be restored by the suppression of the rebellion; but that having been accomplished, I am satisfied I but participate in the feelings which animate all the Senators from the loyal States when I say that, without regard to their past errors or their past crimes, we are bound to provide for them, not only as fellow-citizens, but as fellow-men, to guard above all against that worst of all deaths, starvation. I have been told by some of our own generals, particularly those whose duty has been in the State of Alabama, that they have seen lying upon the roadside men, women, and children in a state of starvation, dying for want of food.

It is due also, Mr. President, to the citizens of the South who were not entirely deprived of their property by the war to say that they have exerted themselves to the utmost, have offered to pledge whatever property they had left, for the purpose of raising means with which to feed their starving fellow-citizens; but they have done all that they can accomplish, and the South now is in a state of destitution fully equal to that which led to the starvation of the Irish, which the people of the United States did all they could to arrest. I should therefore be exceedingly glad to have the appropriation increased to the amount asked for by the officer in whose hands it is to be placed; and I am sure I speak the sentiment of the entire country, North and South, when I say that there was not during the war an officer who more zealously and gallantly performed his duty upon the field, or who has since discharged with greater skill and fidelity the trust confided to him by Congress; and he tells us, what we must have known before, that no matter how large the appropriation, not a dollar of it will be expended unless he finds it absolutely necessary in order to save American citizens from death by starvation.

Mr. FRELINGHUYSEN. The committee who had this resolution in charge, after careful consideration and after having an interview with the Commissioner, General Howard, came to the conclusion that the best sum now to appropriate was \$1,000,000. The object of this resolution is, according to its terms, to prevent starvation, to prevent real want; and I think General Howard agreed with the committee that the sum named, \$1,000,000, would be sufficient for that purpose.

This measure, while I am on my feet, I will

take the liberty of saying meets the approval of my heart. In this common-place world we now and then have an incident of sublimity. When our fathers pledged their lives, fortunes, and sacred honors to establish independence; when that rough hand wrote "Abraham Lincoln" and four million human creatures were set free—these were incidents of sublimity. And, Mr. President, this scene here to-day, after a great people have poured out their blood, after a great people have expended their treasure to preserve from destruction—from the destruction of a crime that has no name—a great Republic, then to see them turning round and saying to their foes, even to their unrepentant foes, if "you are hungered we will feed you;" that is moral, nay, sir, that is Christian sublimity.

I do not want to boast, but I may say that no State in the field did her duty any better than New Jersey, and I know that my colleague and myself can give no vote that our constituency will more approve than voting this \$1,000,000 for provisions to relieve the destitute people of the South and to distribute them without regard to the political sentiments of the beneficiaries.

All that has been said in reference to the Commissioner is true. The Old World had its Howard, who braved the contagions of dungeons, who met all the perils that philanthropy could invite him to, and we have got a one-armed soldier so brave and so prudent and so philanthropic that he does honor even to the honored name he bears.

Sir, we have had important legislation in Congress during the past session. Let us now consecrate it by this act of Christian charity. Let the Commissioner be the almoner of this nation, and let the closing act before we separate be one of sublime philanthropy. I trust the resolution will receive the unanimous vote of both Houses of Congress.

Mr. TRUMBULL. I will say a word upon the amendment proposed by the Senator from Rhode Island. The amount estimated by General Howard was \$1,508,750. The committee reported \$1,000,000. The Senator from Rhode Island proposes to increase it to \$1,500,000, as proposed by General Howard. But it will be observed, if Senators will look at General Howard's letter, that in making up the sum of \$1,508,000 he has given a statement in detail of the number of persons, both whites and blacks, that will need assistance in these States, and then he estimates rations for all of them for five months at twenty-five cents apiece. Now, they will not require these full rations for that time, and so we are informed by General Howard himself; but it was thought there might be additional persons who would need something; and he states in this communication, and so stated to the committee, that he has now on hand all the money necessary to feed all the persons who are destitute and suffering in the South that it is proper to furnish supplies to be embraced in the provisions of the Freedmen's Bureau act, and this appropriation is to furnish supplies to outside persons. Of course he could not tell exactly what the amount might be. He has on hand now unexpended \$700,000. We appropriated the other day \$625,000. That makes \$1,325,000 that he has at his disposal. Now we propose another \$1,000,000 for the outside persons not reached by the provisions of the Freedmen's Bureau act. The committee considered this subject carefully, had General Howard before them, and I submit to the Senate that it would be better to adopt the suggestion of the committee of \$1,000,000 as being the proper sum necessary to appropriate. I know that the feelings of Senators are touched by this appeal from the destitute and suffering, and they would be willing to vote any amount perhaps that should be deemed to be necessary; but the committee to whom this subject was referred, and who have spent considerable time upon it this morning in connection with General Howard, came to the conclusion that \$1,000,000 was enough. I think the Senator from Rhode Island had

better withdraw his amendment and let it stand at the sum reported by the committee.

Mr. MORTON. I should be glad to hear the resolution read.

The Secretary read it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Rhode Island.

Mr. TRUMBULL. The amendment is to increase the sum appropriated from \$1,000,000 to \$1,500,000.

The amendment was rejected.

Mr. MORRILL, of Maine. I wish to make a suggestion to the honorable Senator who reports this resolution. It is with reference to the ground on which the resolution proceeds. I do not know what the honorable Senator's idea is of the power which is exercised here in this grant. It will be seen that by the phraseology of the resolution we make this grant in consequence of the failure of the crop. If it is on that ground, it is a little difficult for me to see where we get the authority.

Mr. TRUMBULL. That phrase is inserted in the resolution to show how it happens that this destitution exists. The ground upon which I should put the authority to pass the resolution is this: we have been engaged in a great war; during the progress of that war the South has been overrun by our armies; and it is now stated to us that in consequence of their being unable to raise any crops there a portion of the inhabitants are in a starving condition; and I think upon the same principle that we could take them prisoners and feed them as prisoners of war, we may, as a nation, having control at this time of all those rebel States, they still being under military control, feed the starving and the destitute. I have no doubt about the constitutional power to do that. The recital in the resolution, that it is in consequence of the failure of the crops that this destitution exists, might be left out of the resolution; I do not think that affects it one way or the other. I presume we never should have been called upon or thought of appropriating anything in this case except for the recent war.

Mr. MORRILL, of Maine. I can understand that the resolution might very properly be passed upon the principle now stated by the chairman of the Judiciary Committee. The difficulty is that the resolution itself negatives the idea that it proceeds upon that ground. I suppose there is no difficulty in making this appropriation upon the ground that these people in the insurrectionary States are subject to our authority and are under our absolute control, and they are in some sense prisoners of war; we are so dealing with them to-day; and of course we may relieve any suffering that arises out of that actual condition of things. I do not doubt that at all. I supposed it was upon some such ground that the honorable chairman of the committee placed this resolution. I suggest to the chairman whether it would meet his views to strike out the words which I will read:

In those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution—

and simply insert the words "in the insurrectionary States;" so that the resolution will read:

That the Secretary of War be, and he is hereby, empowered and directed to issue supplies of food sufficient to prevent starvation and extreme want to any and all classes of the people in the insurrectionary States, &c.

Mr. TRUMBULL. I should have no sort of objection to that amendment. The joint resolution, I will state, was not drafted by myself. I do not think the amendment very material. I have no objection to it. The resolution as it stands states that the destitution is occasioned "from failure of the crops and other causes," which would bring them all in I suppose; but if it will be more acceptable to the Senator from Maine, although I have no authority to agree to the amendment for the committee, as an individual I have no objection to it.

Mr. MORRILL, of Maine. I move to amend it in that way.

The PRESIDENT *pro tempore*. The resolution will be so modified unless objected to.

Mr. JOHNSON. I ask that it be read as it will stand if amended.

The Secretary read as follows:

*Be it resolved, &c.* That the Secretary of War be, and he is hereby, empowered and directed to issue supplies of food sufficient to prevent starvation and extreme suffering to any and all classes of the people in the insurrectionary States; that the issues be made through the Freedmen's Bureau under such regulations as the Secretary of War shall prescribe, &c.

Mr. JOHNSON. I ask to insert the word "late" before the word "insurrectionary."

Mr. MORRILL, of Maine. I have no objection to that.

The PRESIDENT *pro tempore*. It will be so modified unless objected to.

Mr. WILSON. Does the Senator from Maine strike out the words "where extreme destitution exists?" I think it would be well to keep those words in.

Mr. MORRILL, of Maine. That is implied in the preceding language. They are to relieve suffering and prevent starvation. It is all implied in that.

Mr. WILSON. I vote for this appropriation on the same ground that I voted \$25,000 and other sums to the suffering poor of this District, and, under the peculiar circumstances of the case, the same as we voted to support the bureau to take care of the refugees and freedmen. It appears that these people by their condition are now in need of aid, and I vote it just as cheerfully as I voted for the other.

Mr. MORRILL, of Maine. That is the ground on which I put it. I simply wished to exclude any inference that it is simply on account of the failure of the crops.

Mr. DRAKE. The Senator from Maryland proposes to insert in the resolution the word "late" before the word "insurrectionary." I would inquire, sir, whether the Congress of the United States has ever officially recognized the fact that those States are not still in insurrection; whether the Congress of the United States has recognized the fact that the rebellion in those States has been subdued? If it has, then I think the insertion of the word "late" would be very correct; if it has not, I object to the insertion of that word. I ask for information.

Mr. TRUMBULL. I think we had better leave out the word "late" and avoid any controversy about it.

Mr. JOHNSON. I have not the slightest objection to that; but I do not see why the honorable member from Maine suggests his amendment at all. I think it better to pass the resolution just as the committee reported it, and I appeal, therefore, to the honorable member to withdraw his amendment.

Mr. MORRILL, of Maine. If the chairman thinks so, I have no objection.

Mr. JOHNSON. The amendment is withdrawn, I understand.

Mr. MORRILL, of Maine. I rose more to suggest it to the chairman than for any other purpose. If he attaches no importance to it, I will withdraw the amendment if it embarrasses the resolution.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. MORTON. I should like to inquire what evidence there is before this Senate that this appropriation is needed to prevent starvation? If it is needed for that purpose I am for it; but I should like to have some evidence upon that subject. A charity was never yet voted but what there were found plenty of persons to bring themselves within the scope of it and receive the benefit of it. If we were to vote \$5,000,000 for this purpose there would be found plenty of persons bringing themselves within the scope of it, and the full appropriation would be expended. I think there is nothing so important to this country at this time as a rigid retrenchment in appropriations. To vote a million here and a mil-

lion there, for this purpose and for that, is a habit that must be arrested. The Government of the United States has become accustomed to dealing with large sums of money during the war, and a million seems to be a very small sum; but I am sure there is nothing so important to the Government and to the great Union party as rigid retrenchment in expenditures. I am willing to vote this \$1,000,000 if there be evidence that it is needed to prevent starvation; but if there be no sufficient proof on that subject, I am not willing to vote the money, because, as I have before remarked, whenever a charity is voted, there is no failure in its expenditure; persons will always be found who are able to bring themselves within the scope of it and receive the benefit of it. I think there ought to be satisfactory evidence before this Senate before this \$1,000,000 is voted.

Mr. STEWART. I think the evidence upon that point is very conclusive. General Howard, in the administration of the affairs of the Freedmen's Bureau, has had unusual opportunities for ascertaining these facts in detail. He has reports from every district. He is in constant communication with them. If any officer of the Government upon whom a difficult task has been imposed has discharged his duty faithfully and discriminatingly it is General Howard. When the Freedmen's Bureau was established I had fearful apprehensions of the execution of it in detail. I feared it would become an establishment not unlike the Indian Bureau, which is the great pool into which we throw all our surplus money, and where it is sunk, against which I have been protesting ever since I have been in Congress. I feared that this might be a similar institution, and that there would not be proper discriminations, and consequently I have watched with a great deal of vigilance the operations of this bureau. I have inquired of persons from that country who were hostile to the establishment as to its practical operations, as to who received the charities, who received the benefits of the bureau, and the uniform testimony, so far as I have been able to ascertain it, has been that it has been dealt out with great discrimination.

The facts of this case are stated in brief in this report of General Howard, which is before us; and I think if any gentleman will consult with him and with others connected with this establishment who understand the exact facts, he will have no doubt of the existence of this extreme suffering for the want of food on account of the failure of the crops.

Mr. HOWARD. As the honorable Senator from Nevada is upon that particular feature of the case, let me ask him does General Howard officially state in his report that any case of starvation has taken place in the insurrectionary States? Does he designate one single instance in which a person capable of taking care of himself, or herself, has perished by starvation in consequence of the shortness of the crop or any other particular cause growing out of the war? We are asked here to appropriate \$1,000,000 to prevent starvation. If there be such a state of things existing as requires this charity at our hands we want the proof, at least I do, and we have a reasonable ground for demanding it. If there have been no cases of starvation, and if it be not true that starvation is imminent at the present time, then there is no occasion for the appropriation.

Mr. STEWART. That is very true.

Mr. HOWARD. What I want is the proof.

Mr. STEWART. No Senator would desire the appropriation if this state of destitution did not exist. We did not call on General Howard for an enumeration of those who had died of starvation for individual cases. We do not expect that this appropriation will aid those who are already dead from starvation. That many people have died from starvation during this war and since the war in the South there can be very little doubt. The inquiry which the committee have been pursuing is to ascertain whether there was such a want of food in this

region, and such difficulty in supplying that food that the people must necessarily suffer. In answer to that we get a reply from General Howard that there is; and in conversation he explains it, and other gentlemen explain it thus: there are sections of that country over which our armies marched and where they swept everything away. Last year there was a great effort made, and the charity of the North was appealed to to supply these people with seed and means to raise a crop; in some sections of the South they did raise a crop of corn and other necessities; in other sections they devoted themselves almost exclusively to cotton, and the cotton failed and very little corn or food was raised. In other places where they attempted to raise corn, as in a large portion of Georgia, some portion of South Carolina and northern Alabama there was a drought at such a time as cut off the crop. That is the report of parties stationed there. General Howard denies that it is in consequence of any lack of energy on the part of the people, for he says in those sections the whites and blacks alike worked; they did the best they could; they planted their crops, and they have failed.

Last year the northern people subscribed very liberally for the relief of the suffering in these sections of the country; and the people living there having any property have contributed, and my information is that they have contributed of their means as far as it was possible for them to do so. We inquired of General Howard particularly with regard to the disposition of the people who had property in that country, whether they could supply the relief necessary for this suffering, and the reply was that they had done all in their power, and unless there should be some aid for those particular sections until they could have an opportunity to raise another crop the people could not be fed, and there must be extreme suffering. We put the question to General Howard, if there must be starvation, and he said in his opinion it could not be avoided; that there would be starvation and extreme suffering in those sections of the country unless they could have some relief from the Government.

This destitution has continued for so long a period that those who have been engaged in the philanthropic work of supplying the people there have exhausted their means; and it seems to me that the Government could not do a better thing, a more just thing, or one that would meet the approbation of the American people more than to vote this appropriation. Although they have been heavily taxed, although our appropriations have been large, although sometimes they may have been extravagant, still I believe the people of the United States are unwilling, upon a fair case, when the facts are reasonably ascertained, to allow any persons in this country to die of starvation or to suffer extremely from starvation. I do not think there has been an appropriation called for that is based upon a more thorough knowledge of the facts than General Howard has of the facts upon which he asks this appropriation. After consultation with him the committee cut down the appropriation from \$1,500,000, which he estimated, to \$1,000,000, believing that he can relieve the extreme want with that sum. And I will state here, that the South and the country may understand it, that this is not to be regarded as a precedent; that the South need not expect this thing to be continued; that they must look out for themselves hereafter. But a case appealing to our charity in this form never will be presented again; certainly we hope it may not, as growing out of this war.

Mr. CONKLING. I voted against this proposition in committee, and I did it because I preferred another way of meeting whatever requirement there might be. There was evidence before the committee, in the form of a conversational statement from General Howard, that in parts of the South, particularly in northern Georgia, very considerable want and destitution exist. General Howard stated that he was satisfied that this did not come merely

from the fact that armies had swept over that country, but that he was satisfied that other causes, and chiefly drought, had put it out of the power of these people, although they were willing to work, to provide themselves with the means of subsistence. The evidence was not very satisfactory to my mind in the particulars inquired of by the Senator from Indiana and the Senator from Michigan to show that there are now, or are likely very soon to be, instances of actual suffering or starvation as a rule; and yet I could very well see, from the statement that he made, how there might be such instances in considerable numbers.

But, Mr. President, this is rather a fearful question upon which to make a mistake. It were far better certainly that we should do something which is unnecessary than that we should run a broad risk of the occurrence of actual starvation, which we have it in our power to prevent. Feeling this, I preferred for one to rely for the present upon one of the items of the Army appropriation bill, which appropriates to the Freedmen's Bureau "for commissary stores, \$1,500,000," and, if necessary, by law extend to the present purpose the application of that sum. I do not think myself it would be necessary to extend it by law, because it stands in the law "for commissary stores." But if it may be said that that refers to commissary stores to be dispensed under the Freedmen's Bureau law as it existed then, I prefer to change the application, and to leave to General Howard to judge when the time comes whether to prevent actual starvation it be necessary to make some inroad upon this sum, and if so to let it be included in a deficiency bill hereafter.

Mr. President, if I vote in the Senate for this resolution I shall do it with some reluctance, and I shall do it fully remembering what I think was so well said by the Senator from Indiana. I think we have become in both Houses greatly accustomed to large sums, and that appropriations which only a short time ago were unheard of, and which, if proposed, would have excited universal comment, would have invoked the most careful scrutiny, are made now, I do not mean to say without thought, but I mean to say with only that measure of consideration which used to be applicable to very small sums, to very unimportant appropriations.

Now, sir, if it be true that it is necessary that any sum of money should be used to prevent the death by starvation of human beings in this country, so be it; there is no answer to that; but although I did not intend until the questions were asked as to the evidence before us to bring it up in the Senate, I insist—as I thought in the committee—that it would be quite as well to empower the Freedmen's Bureau, if it needs to be so empowered, to devote, when the time shall come that starvation presents itself, some part or parcel of the money already appropriated to this purpose, and let the sum so used be included in a deficiency bill hereafter.

Mr. HARLAN. This subject has been examined, as I understand, by one of the standing committees of the Senate, and they have arrived at the conclusion that some money is necessary to prevent extreme suffering and probably starvation of citizens of the United States. On the faith of the opinion of that committee I am prepared to vote whatever appropriation may be deemed to be necessary.

I have risen, however, to call the attention of the Senate and of the country to the unjustifiable remark made by the Senator from Nevada, that in the administration of the affairs of this Government it has regarded the Indian department as the cesspool in which to pour all the surplus funds of the Government. I desire him to state to the Senate on what authority he makes that statement.

Mr. STEWART. I believe I did not use the term "cesspool." I think I said it was a pool into which a large amount of the surplus funds usually found their way. I will state upon what authority I think that institution is



a failure—not that I reflect upon any particular officer connected with it. I have lived for many years in an Indian country. I have known the fact that while appropriations were being made constantly here, they were, as a general rule, reaching no good purpose. I have seen my neighbors and friends constantly shot down as they were prospecting, as they were cultivating farms, as they were pioneering, so to speak, in the West; and I have been convinced in nine cases out of ten that it was the mismanagement of the whole Indian system, the fault of the system that was to blame; that the system was inadequate. The Indian traders would have a difficulty with the Indians, and the Indians would take their vengeance upon the innocent inhabitants, and innocent people are now being daily murdered by the Indians with arms that they have obtained from this Government. When this is done you send your armies to chastise them. You fit out an expedition. You pay a large amount of money for that expedition. When the troops get to the neighborhood of the Indian country, and when they have pursued the Indian until they have cut off his supplies, he slips around the army to an agent and makes a contract with your Indian department. The money that you spend for the army is thrown away and the army is removed; and then the Indian commences again to take satisfaction on the settlers. I say that the money expended does not, and has not in the country where I have lived, accomplished the purpose. Large appropriations upon the plea of starving Indians are constantly made here; Indian treaties are passed without consideration; vast amounts of money are expended; they are not allowed to starve, but the money does not reach the starving; they complain; the Government works at cross purposes; the settlers are being constantly murdered; and I believe to-day, and it is the opinion of many who have lived in that country, that if the Government will take away its entire machinery from there, both the army and the Indian department, and leave the settlers and the Indians together, there will be less loss of life and less suffering.

I say that the working of the two departments that are operating in the Indian country has caused the system to be a failure; and I do not believe, with the way that system is organized, that you can put any man at the head of it who can make it a system that is worthy of the American name. It is a failure, under my own personal observation; and I alluded to that incidentally to show how we often appropriate money extravagantly. I alluded to the system, not to individuals. I believe that system to be a failure. I am aware that the Senator from Iowa has recently attempted to make reforms in that system, that he has made strong efforts to remedy the evils of it. That he has succeeded to some little extent I have no doubt. That he has succeeded as much as anybody could with the system, with the two departments of the Government operating in the Indian country, nobody doubts. That he has done his whole duty nobody will question. I make no reflection in my remarks upon any particular individual.

But, sir, I repeat, so long as this Government attempts to act through two sets of agents at cross purposes in the Indian country, so long the settlers must suffer at the hands of the red man; so long the Indian will have his complaint of being cheated, and so long the system will be a failure. One or the other Department should have charge of it and be responsible for it.

But, sir, this Freedmen's Bureau is under the charge of a competent officer, and I believe that he has, as a general thing, been allowed to execute his own orders, and he has been allowed to carry it out in such a way that it has contributed largely to the peace and security of the South. It has been a humane institution; it has been a success; and it is a safe means of distributing the charities of this Government.

Mr. HENDERSON. Has it not cost a great deal more than the Indian department?

Mr. STEWART. It has a great many more to look after; and I doubt whether it has cost more. I think the expenditures of the last year will show that the Indian department cost the most. If you take the expense of fitting out expeditions which have been abandoned before there was any execution, and your war claims, they will amount to more than double the expense of the Freedmen's Bureau.

Mr. HENDERSON. Those are expenditures of the War Department, not of the Indian department.

Mr. STEWART. But the War Department complain, and justly, too, that when their plans are about to amount to anything, you make treaties with the Indians. You work at cross purposes. Nobody is responsible for the Indians. They go to war and kill the pioneers. While they are engaged in that a war expedition is started out against them. When your Army gets near them, they slip around and make peace with your peace commissioners, and the efforts of the War Department amount to nothing, and the Indians are not chastised. The two Departments working at cross purposes are spending large amounts of money. I do not recollect now the exact number of millions of dollars that have been spent in the last year on the Indian department and the War Department operating in the Indian country.

But, sir, this Freedmen's Bureau has been under one Department; it has been under the charge of one man; he has had the general supervision of it; and I say it has been a success. I do not think it has cost near as much money as has been expended for Indian purposes, taking the two Departments that are operating in the Indian country. If you had connected with this bureau a quantity of treaties with these people, if you had a host of contractors, if you had crowds of attorneys for claims connected with it, if it ramified itself through every branch of the Government, if it was an institution that had grown up into its enormous proportions for twenty years, an institution which it is almost political death to some members of Congress if they raise their voice against, if it had grown into those proportions and this was a proposition to continue it, I should be opposed to it. I believe that this Freedmen's Bureau will do its work, as it has done its work, well, and that there is no reason to apprehend danger from it. I had great and serious apprehensions when it was started, but it has more than met my expectations. I did not intend in the remarks that I made any reflection further than upon the present Indian system, to which it is well known I have always been opposed.

Mr. HARLAN. I did not intend to inflict on the Senate a discussion on this subject at this time; I merely desired to have the information on which the Senator based his very grave charge, as I regarded it, on that branch of the public service. I wish to say, however, while I am on my feet, that this conflict in administration which has afflicted his fancy does not exist in fact. Although the Indian Bureau is under the general direction of one of the Departments of the Government and the Army under the direction of another, both of these Departments are under the direction of the President of the United States; and during the brief period in which I had an opportunity to look more intimately into the affairs of both of these Departments than previously there was no conflict of purpose or of execution in the administration of Indian affairs under these two Departments. When an Indian tribe was at war the Interior Department refused to have intercourse with them except through the military authorities; when a tribe was at peace the military authorities refrained from all interference with them except when called upon by the officers of the Interior Department for military force to execute the law and the orders

of the Department, and in this way harmony was secured, and prevailed during the whole period, certainly, in which I was connected with one of the Executive Departments. This conflict of theory and of action between these two Departments of the Government to which the Senator has alluded has not existed in fact during the last year and a half at least.

Mr. STEWART. Allow me to make a suggestion to the Senator. It may not exist at Washington in theory; but that it does exist in fact in all the western Territories there is not a man who has lived there and been familiar with affairs there who will not testify. Living in that country and having taken some little interest in regard to the Indian wars that have occurred, having endeavored always to protect the people, I have talked with Indian agents and with military commanders on the subject, and I have found them constantly blaming each other. This conflict is not a new thing; it has long existed. It is a conflict there the merits of which the Departments here cannot very well determine. The subordinates of each Department send their representatives here. Every man living there knows that although theoretically the President is at the head and has the right to determine these matters, still as a matter of fact there are continually cross purposes between the military commanders and the Indian agents, and this prevents the efficiency of either, and makes it a most expensive and unavailable system.

Mr. HARLAN. The real conflict is in the variety of opinions that exist between the people who inhabit some of the new districts of country and those who inhabit the more settled, and the Senator will pardon me for saying more civilized portions of the country. The prevailing public opinion of the Territories is that the Indians ought to be exterminated; the prevailing opinion of the Army is that they ought to be exterminated; the opinion of the Interior Department and its officers is that they ought not to be annihilated. But while we are depriving them of their lands and their ancient homes, and driving away and destroying the game on which they have previously been supported, we should to some extent supply them with the means of subsistence of which they have been robbed by the gigantic march of civilization. It is this conflict of opinion between the frontier settlers, who thus seized without purchase the Indians' lands and homes, and the ancient owners, who cling to the inheritance of their fathers to the plains, valleys, and hills, inhabited by their ancestors for centuries, and who, to prevent their women and children from starvation, occasionally commit depredations on the live stock of the squatters, and not a conflict between the War and Interior Departments which causes the trouble; and the Senator from Nevada, who has just spoken, sympathizes with this sentiment of the frontier inhabitants, who, smarting under their losses and these annoyances, wish the Indians all swept out of existence, and of the Army on the frontier, who think it wiser to kill the Indians than to teach them the arts of civilized life. But if the truth may be spoken, impartial history will record, and the Senator must admit, that in nine cases in ten these Indian depredations are provoked by the white settlers; they are merely in retaliation for depredations committed on them by their white neighbors. Nearly every outbreak which has come to my knowledge has been provoked by the illegal and wrongful act of the white settlers or soldiers. The murder of white people by the Indians has been in nearly every instance preceded by the cold-blooded murder of Indians by the whites, and sometimes by the soldiers garrisoning the outer posts. The Indian war now raging in Arizona began with the unprovoked massacre of a few chiefs, who entered one of our forts, by the garrison.

The recent massacre of about one hundred soldiers and their officers near Fort Phil. Kearney was brought about by the unskillful conduct, to say the least, of the commander of

that post, who treated as enemies Indian delegates who came in from Indian bands for the purpose of signing a treaty of peace concluded some months before with other bands of the same tribe.

But I did not rise, Mr. President, to discuss this subject, but merely to state that, with the limited knowledge I have on the subject, and from my observation of their official conduct, it is my deliberate judgment that the Indian Bureau will compare favorably in its management with any other bureau of any Department; and that the officers in its employ are in the aggregate as honest, as capable, and as patriotic as any equal number taken indiscriminately from any other branch of the public service. I will not make an exception in favor of the Army. Take the officers of the Army in the Indian country and they are no more capable or trustworthy than the officers connected with the civil service. If some of the latter commit frauds, so do the former commit frauds of a more gigantic character, because their opportunities are greater. Why should it not be so? Does it make a man more honest to wear straps, to wear a uniform? Does it make a man any more honest to give him a lease of office for life? Is the Army a school of morals, more favorable to the development of Christian perfection than civil life? Why this wholesale denunciation of this branch of the civil service? Nor is the Indian Bureau worse managed than other bureaus connected with the civil service. To illustrate, take the important Bureau of Internal Revenue in the Treasury Department, or the Bureau of Customs.

During the last year, if we can believe a report of a committee of the House of Representatives of the last session, frauds have been perpetrated in the Treasury Department amounting to more millions of dollars than have been expended in the Indian service since the foundation of the Government. We are told by that committee that we ought to have received of internal revenue about ninety million dollars from taxes on whisky alone, and that the Government derived but about thirty or forty million dollars, leaving a deficit on account of frauds of the officers of the Treasury Department amounting to fifty or sixty million dollars in a single year on a single taxable article; and yet the Senator rises here in his place in the Senate and denounces the Indian Bureau as the great conduit for corruption, the great pool into which the surplus funds of the Government are poured, when the disbursements through that Department, all told, do not amount to more than four or five million dollars—I think between four and five million dollars per annum, including the annuities and moneys derived from the proceeds of the sale of Indian lands, and outside of those funds which belong to the Indians the expenditures of that bureau will not amount probably on an average from year to year to much more than three quarters of a million dollars.

The PRESIDENT *pro tempore*. Perhaps it is the duty of the Chair to remind Senators that this debate verges greatly from the question under consideration.

Mr. JOHNSON. I was about to say, if my friend from Iowa would permit me, that I do not see any necessary connection between the subject he is now debating, introduced, as I understand, by the Senator from Nevada, and the question before the Senate.

Mr. HARLAN. I am very much obliged to the Senator from Maryland for his kind admonition, and I will say for his information that I have frequently thought he departed quite as far from the immediate subject under discussion before the Senate as I have on this occasion, and probably has needed such admonitions quite as frequently as I have.

Mr. JOHNSON. I am not sure that I heard the honorable Senator distinctly. Did he apply his remark to me?

Mr. HENDERSON, [to Mr. JOHNSON.] He said you wandered.

Mr. JOHNSON. I have not the slightest doubt about that, and I do not propose to stop wandering; because that would, perhaps, stop debate in the body. All I meant to say was that as the resolution was one of great importance, the sooner we pass it the better. I have listened to the honorable member from Iowa with interest and with instruction, and I am rather of the same opinion that he is in relation to the condition of the Indians, and the reason we have had such frequent conflicts with them. I have voted always against intrusting the custody of the Indians to the Army, and shall continue to do so.

Mr. HARLAN. I usually, in remarks I make in the Senate, attempt to confine myself to the subject that is before the body. During the years that I have served here, however, I have observed that it is not a very usual thing to call a gentleman to order for taking a wide range in discussion, particularly when it is in reply to speeches that have been previously delivered which seemed to call for it.

Mr. JOHNSON. The honorable member will permit me to say that I did not call him to order. I had not the least idea of calling him to order. I suggested that it was desirable to have the resolution passed; that is all. I know the gentleman is in order according to the practice of the Senate.

Mr. HARLAN. I announced at the outset that I had risen to correct, as far as I could, what I regarded as a false accusation against a Department of the Government with which I have been recently connected; and to correct a false impression being made on the public mind, which, I fear, may crystalize into a policy derogatory to the national honor and in conflict with the principles of humanity. Having made the statements more or less pertinent to this purpose, I cheerfully yield the floor that a vote may be taken on the pending question.

Mr. STEWART. The Senator who has just taken his seat has demonstrated all that I have said. The very first thing he does is to commence to defend the Indian department, though I had not attacked it, and in doing that he attacks the War Department. So if there was a man here who was enthusiastic for the War Department who should undertake to defend that, he would attack the Indian department. It was to this conflict between the two Departments that I alluded, each saying that the other manages badly. Between them the poor settler is murdered. Every man who gets up here to defend the Indian department immediately attacks the War Department; and any one who defends the conduct of the War Department in the Indian country attacks the Indian department. I did not attack either Department; but I said the system was so organized that it was producing no good, and of that opinion is every one who has lived in that country.

I am accused of sympathizing with the people of that country. I do sympathize with them; but I deny that they are desirous for the extermination of the Indians. I deny that the mass of the people in the new Territories desire any such thing. There are bad men there to be sure, but most of the people desire to treat the Indians as kindly as possible. I do sympathize with those people when they fall victims to the cross purposes at Washington. It was unnecessary for the Senator to defend the Indian department when I had not attacked it. It was unnecessary for him to attack the War Department when I had not raised that question. I said both Departments were operating in the Indian country, and the result was that the money expended was a loss. I say it still. I believe we should be better off to-day if both Departments were removed from there and not a dollar expended. I believe the Indians would be happier and better fed, and a less number of the whites would be murdered. I believe that is the truth; but I do not desire to be led off into a

discussion on that point. I am sorry that so much time has been occupied in regard to it; but it has been occupied only because of the misapprehension of the Senator from Iowa.

Mr. HENDERSON. Some Senators have asked whether there was any information before the Senate in regard to actual destitution and want in the South. I will read an extract from a letter of James E. Yeatman, who during the war occupied a Government position at the city of Memphis, and since that time has been in the South a great deal, in whom I have entire confidence and trust. It is a letter dated St. Louis, January 23, 1867, addressed to me, and which, by order of the Senate, was printed and placed on the files of last session. Mr. Yeatman says:

"While Congress has been occupied with political questions which agitate the country, the true condition of the South, and the near approach of its inhabitants to almost famine and ruin, have escaped its attention.

"The high price of cotton stimulated the planting of that staple, and caused the planters to neglect growing grain and other articles of food, believing, as they did, that with fair crops of cotton they would be able to supply themselves therewith from the granaries of the West at a much cheaper rate than it could be grown on their own lands. The energies and labor of the South, aided by northern capital, with the enterprise of a large number of adventurous men from the East and West, were all concentrated on this one object.

"Various causes have arisen tending to prostrate the people, leaving them nearly ruined, among which I may more especially mention the following, which could not have been foreseen or provided against: the too great drought at one season, which destroyed and blasted their corn; too much rain at another, which injured their cotton; and then the army worm, which came out of the ground in vast numbers, destroying what was left. From these causes all the well-matured plans, the toil and skill of the people, were rendered unavailing."

Again:

"The same terrible scenes of distress from famine are likely to ensue in our own land as did in India during the past season. Our Government, I doubt not, would come to the rescue, when fully aroused to the necessity, and feed the starving millions, but not, I fear, before much suffering had ensued and many had perished; and then it would be as an act of charity or as a gratuity."

The letter is quite a lengthy one, and I shall not take up the time of the Senate by reading it all. In another part of it Mr. Yeatman says:

"Famine is in the land, or soon will be. The wolf is at the door, and something must be done to prevent it from entering in and destroying thousands and tens of thousands of helpless women and children. We can avert it, and it should be averted. The laws of humanity and Christianity all require that we should. Besides, it is to the interest of the Government, outside of that broad and just philanthropy which should govern us as a nation."

"To defer this until next Congress will be too late to be effective; it must be done now. I believe the great American heart will bear Congress out in any generous and liberal action which it might take. We have seen that, when it so may choose, it can put measures through on the double quick. This is one that will brook no delay, and prompt action will be sanctioned and justified now and forever by all those who are not actuated by revengeful feelings. By such action great suffering will be prevented, and prosperity and peace will soon be fully restored."

I presented the letter some time in February, and it was printed by order of the Senate. I have information from other parties in the southern States by conversation which is of the same tenor. I am not aware, and I do not believe that the proposed action of the Senate will give very great relief in those States. A million dollars will amount to very little; and hence I felt some hesitancy in proposing anything in the way of relief. I am not very favorable to making large appropriations for purposes of this character; but if starvation is in the land—and the information that has been received by the committee deputed especially to inquire into this subject, and the information communicated to me by Mr. Yeatman and others, leaves no doubt on that point—something must be done. Mr. Yeatman has been an unflinching Union man from the beginning of the war. He certainly has had no sympathies whatever with the purposes of the rebellion. He is a gentleman in whom I have entire trust; and if he can be believed, something should be done in order to prevent great distress and suffering in the South. My idea was a dif-

ferent one from that now presented. I desired to take off the burdens from the great agricultural product of those States and thereby to induce immigration into the South from the northern States. If capital and labor from the northern States were to enter the South the whole country would be benefited. Cotton can be grown there at a profit. The difficulty is that capital is needed in order to produce it. It requires money in the beginning of the crop; it requires that money shall be expended for the labor necessary to produce it.

If those persons who are now suffering could be employed and the money furnished to them to supply their wants as their labor was rendered, it would be a great deal better than to make a distribution in the manner pointed out by this resolution. I thought so, and I think so still, and it is not my opinion that this appropriation will be of much service. I shall vote for it, however, because when suffering humanity calls in a case of this sort I feel that I am under obligation to respond to it. Humanity requires that I shall cast a vote in favor of this resolution, but I fear very much that the aid will be of a temporary character, that the relief will be ephemeral indeed. Other demands may be made, and when you once establish a precedent of this character you do not know where it will end. It is a dangerous precedent. I voted for the appropriation in the case of Portland because suffering humanity demanded it; the destitution of the people demanded it, and I did not stop to inquire, nor will I in this case, because the proper committee report to us that this appropriation is absolutely necessary to prevent starvation. That seems to be the information we get from all reliable sources.

I have no feeling about this matter. If the information is such as to induce Senators to vote for the resolution upon the ground that it is absolutely essential to prevent starvation, of course they ought so to vote and not to make further inquiry about it; but if it is to lay a precedent for future appropriations and large appropriations as a means of encouraging idleness, I should oppose it. I think the time ought very soon to arrive when the large appropriations for the Freedmen's Bureau ought to be stopped. I am satisfied that if we open the South to immigration, open it up to energy, and encourage the cultivation of sugar and cotton, the great agricultural staples of the South, it is all that will be needed in order to revitalize the South and enable the people there to provide the means for their own subsistence. If the whites and blacks among the poor people of the South are furnished with capital, and that capital can only be furnished by immigration, and that immigration can be furnished by proper encouragement in the shape of legislation on the part of Congress, and that can be done by taking the taxes off those articles which they grow, such as sugar and cotton, there will be no necessity for these appropriations. That is my opinion. I think we ought very soon, by a system of legislation looking to the building up of industry in the southern States, supplying capital there, supplying labor with the means to sustain itself, which they have not now, to be able to bring about a resumption of the old state of affairs and to cease making these large appropriations for feeding either whites or blacks. We ought to stop it everywhere, and the time must soon arrive when, if we ever expect to resume the old state of affairs, we must cease to do these things. If from year to year we make large appropriations we encourage idleness, we encourage a state of affairs in every section of the country rather to look to Congress for relief than to go to work and help themselves.

Mr. WILSON. Mr. President, I will simply say that I shall vote cheerfully for this resolution as it came from the hands of the committee appropriating \$1,000,000; and I do not think that on this occasion we ought to take into consideration questions pertaining to re-

ducing the expenses of the Government, questions of political economy, questions connected with the Army or the Indians. I take it that this condition of things in the southern country has been brought about, to a great extent, by the rebellion through which we have passed. We have had to appropriate millions of dollars for the refugees and for the freedmen; and in doing that I believe we have added millions upon millions of dollars to the productive industry of the country; and that we have adopted the only wise policy we could have done under the circumstances. It now appears that by the disturbed state of that country and by the failure of crops a portion of that people are in a destitute condition. Sir, it is the duty of this Government, of this rich nation, to extend a helping hand to the suffering, and I vote it just as cheerfully as I voted the money to aid the starving freedmen and the starving refugees, actuated by the same motive.

I agree that our expenditures have been enormous; that we ought to commence a system of rigid economy; but there are higher duties than saving money. Humanity, elevation, development, improvement of the people of the country are greater than saving the dollars of the people. Therefore I hope we shall all of us agree to appropriate this \$1,000,000. It goes into the hands of the Freedmen's Bureau. It will be honestly distributed, I have not a doubt; and they, having their agents all over that portion of the country, will be able to distribute it in the best possible manner. It will do something to alleviate the suffering.

Further, sir, I have no fear of making precedents. Whenever there shall be need in a case like this of voting money I believe it is our duty to vote it. We shall always have some cases of suffering or of great disaster brought upon some portions of our country or of the world every few years. These come in the providence of God, and we must meet them and do our duty as humane and Christian men in the premises.

Mr. HOWE. Mr. President, a little less than a year ago almost a whole city in the State of Maine, my native State, was destroyed by fire. It was one of the most frightful and overwhelming calamities which ever overtook a community. It created a profound sensation and excited a deep sympathy all over this country. That sympathy entered these Halls. It was proposed to contribute a sum of money to relieve the distress occasioned by that fire. The necessity for relief I did not for a moment doubt. The propriety of its being furnished by the national Legislature I could not for my life believe in. I felt, therefore, compelled most reluctantly to vote against that proposition.

I do not stand here a moment to debate the question whether the relief now asked for is required in these southern districts or not. Assuming that it is, it seems to me it is a relief which should be furnished either by the local governments themselves, or it is a relief which should be supplied by voluntary contribution from those who are able and willing in this country; and the sufficiency of this last source of relief I do not doubt. I know it is ample. There is no disposition to withhold such contributions whenever they are required in any portion of the country. It will not be withheld if asked for now. But for the Legislature to undertake to administer the charities of the nation I do not believe is proper; I cannot consent to it. But if it were proper, if we are the administrators of the national charities, I would almost starve myself before I would vote for such a beggarly pittance as \$1,000,000 to supply ten million starving people. If you are going to speak in the name of the national charities, if you are going to put your hands into the Treasury and dedicate it to this purpose, do it in a way which will afford relief, and which will become the honor of the nation.

Mr. STEWART. Allow me to say, in reply

to that point, that we are doing considerable now through the Freedmen's Bureau. We cannot expect to relieve the general poverty of the South, but there are districts where there is absolute starvation, and it is only proposed to extend this relief in those extreme cases. Of course we cannot place all the people in a comfortable situation; we cannot relieve them from the ills consequent on this war. That is not anticipated; but there are districts in four or five of the States where food, rations dealt out, where we have the machinery to do it, will, according to the opinion of those who have investigated the subject, and according to the opinion of General Howard, relieve starvation temporarily, and we believe it is proper to extend relief in such cases.

Mr. HOWE. I understand what is proposed. It is proposed simply because great destitution exists in one portion of the country, not to relieve or remove that destitution, but to vote \$1,000,000 out of the Treasury, no matter whether it touches the destitution or relieves it or not. You undertake in one breath to be the administrators of the national charity and then to vote a sum which is no charity whatever and will do nothing. It is ten cents apiece upon ten million people. I do not suppose they are all actually starving, but then such a beggarly sum as that will do almost nothing in the way of furnishing relief. Because the sum is not adequate, therefore, as a national appropriation for such a purpose as is presented here I would not vote for this resolution; but if it were adequate I would not vote for it for the reason that I withheld my vote from the appropriation that was made here during the last session to relieve the city of Portland.

Mr. HENDRICKS. If this were a new question I think I would be governed by the views expressed by the Senator from Wisconsin. As an original question, I am not able to see how Congress ought to provide for local embarrassments; but at the close of the war it was the judgment of Congress that provision ought to be made for the freedmen and for refugees, and money was appropriated for that purpose and is being expended under the supervision of the Freedmen's Bureau. The proposition now before the Senate is simply to increase the amount appropriated by \$1,000,000, and to extend the operation of the system to another class of persons who are not freedmen perhaps, and who may not be refugees, but persons found in that section of country in a starving condition. Therefore as Congress has adopted a policy upon this subject, has appropriated money, I cannot conceive that there is the objection which the Senator suggests. We simply say that there shall be \$1,000,000 more appropriated than we have already appropriated for this sort of purpose, and that it shall be extended to another class of individuals. On that ground I shall vote for the measure. I do not agree with the Senator, however, that because the amount appropriated will not relieve all cases, therefore I will not vote for a partial relief. A million of dollars may save some persons from starvation. That is a sufficient answer to the last criticism of the Senator from Wisconsin.

Mr. HOWE. The precedent to which we are cited by the Senator from Indiana will not answer my purpose, though it doubtless answers his own. I see no analogy between the two cases. There were soon after the close of the late war some three million persons of various colors and complexions who had been property, had been in the eye of the local law chattels. By a national act they were translated from that condition and were put in the eye of the law in the place of men and women, human beings. They were no longer the property of individuals and they scarcely owned themselves. They had no government and no right to form a government. There was no local authority charged with the custody or care or control of them, and none that we would allow to be charged with the care, the



custody, or control of them. We were obliged to do something for them. They never had been allowed to earn a dollar for themselves, and we stripped them from the protection of those who had had the interest of ownership in taking care of them; set them out apart from their late owners, in absolute destitution, with no possible means of serving or saving themselves, and no local government to serve or save them. There was an absolute necessity then, an absolute necessity for the nation to take care of the people they had placed in that position.

Mr. HENDRICKS. Will the Senator yield to me for a moment?

Mr. HOWE. Certainly.

Mr. HENDRICKS. As far as the argument of the Senator goes it has some force; but the law to which I referred provided not only for those who had been manumitted, but for a class of white persons who had never been in the condition of slavery, described in the bill as "refugees;" and under that provision of the bill a very large number of white people have come under the care of the Freedmen's Bureau.

Mr. HOWE. The difference between the refugee and the freedman was simply this: the refugee was not such through any act of the nation, but he was compelled to be such through the act of the only local authorities existing about his own home. In my judgment the nation should have made very different provision for both of these classes. Instead of establishing a bureau, a national bureau here, to protect either the colored freedman or the white refugee, I, as the whole Senate, and I trust by this time the whole country, know, if I could have had my way, would have had a local government provided for each one of those communities not only able but disposed to furnish protection to both classes. But that the Congress was indisposed to do, and this was the only other thing they could do. But now the very men whom you propose to relieve by this resolution are the men who do have a government down there, who are administering the local authorities, and in the course of that administration have the disposition of all the property within their limits just as completely as the government of New York has under its care and under its direction the whole resources of the State of New York.

Mr. NYE. I hope sir, this resolution will pass. If I were to say to my friend from Wisconsin that I think he is drawing a fine distinction when the voice of hunger is ringing in our ear, I should say no more than I really feel. It is enough for me to know, Mr. President, that citizens of this country are in a state of starvation.

Mr. HOWE. My friend will allow me a word by way of correction. The point of difference between my friend from Nevada and myself is as to what is a fine distinction. I am simply distinguishing between that which is mine, and which I am willing to contribute for this or any other charitable purpose, and that which belongs to the public. I do not consider that to be a fine distinction which discriminates between what is mine and what is somebody else's.

Mr. NYE. I was about to relieve the Senator from any apprehension that I indulged in the sentiment he has suggested, by saying that we have several precedents to which we can resort on this occasion. I recollect very well when Kansas was in her difficulties, the State of New York, as a State, through her Legislature, contributed \$50,000 for the purpose of buying seed for the citizens of Kansas. I recollect that during the last session, when fire desolated and devastated a large portion of the city of Portland, the Senate voted \$50,000 for the relief of the sufferers. What I mean to suggest is, that when I hear the cries of hunger I am not going to read the Constitution carefully to find reasons for rejecting the appeal. I hold that the first great duty of the Government is to protect its citizens; and I

shall not look for constitutional power to do that; it is inherent in the Government itself; and whenever the time arrives that this Government does not yield protection to its citizens, its vitality and its power are gone.

Neither, sir, is it Christianlike to inquire how these people got into this difficulty. If I see my neighbor in trouble, my first duty is to extricate him, and talk about how he got into it afterward. I am in favor of this measure because the cause of humanity demands it. I am in favor of it for another purpose and another object, and I wish the Senator from Indiana [Mr. HENDRICKS] were here to hear what I have to say on this point. I was a strong advocate for the establishment of the Freedmen's Bureau. I thought I saw in that measure an instrument that would administer its duties in such a way as to command, ere the sun had rolled its round twelve months, the respect of those who opposed it. I said then, and I repeat, that that was a measure born of the necessity of the hour, and it was pregnant with results that would manifest themselves more apparently in the future. I rejoice that the occasion, although it is solemn, if it must come, has come under these auspices. It will show the southern people that that great measure of good and of beneficence was a measure that originated not in the prejudices, but in the enlarged generosity of a people that felt kindly toward them. It is now the very instrument through which the hungry are to be fed, and the naked clothed; and in the day of judgment I do not want my vote to stand recorded against feeding the hungry or clothing the naked citizens of my own country. The measure for the establishment of the Freedmen's Bureau, which was then opposed so strongly by the Opposition in this House, has so operated that they have now become obliged to praise it as an institution pregnant with good.

Now, sir, it is enough for me to know that these people are hungry. I am opposed to the suggestion of the Senator from New York, because that would reduce these people to the position that our prisoners were at Andersonville before he would feed them. God knows I desire to see no more walking skeletons, whatever their offenses may have been. I would not keep General Howard feeling their pulse to see just when a mouthful of food was necessary to save their lives, and administer it then as if it were medicine. No, sir, I want the bounty of this Government to go in no such way; I want the mouths of the rebels fed, so that they shall see that their only safety is in returning to their good father's house, where there are many mansions and bread enough and to spare; that while they are without they are feeding on husks, but when they return they shall have the fatted calf. Sir, these people are hungry, and we are here talking. Let us stop talking, vote this appropriation, feed the hungry, and then our duty will be done.

Mr. SAULSBURY. Mr. President, it always affords me great delight to listen to the honorable Senator from Nevada, [Mr. NYE.] In the midst of the wickedness of the times and the common unkindness of our obligations to a higher Power, and when we are compelled to think, perhaps, that we have not laid up those treasures in Heaven which shall serve us at a future day, it is refreshing to know that there is at least one Senator in this Chamber who looks to those beautiful mansions in the skies, and who expects at last to repose in the paradise of his Father and his God. But, sir, I did not rise so much to express my delight at hearing the sublime, Christian sentiments which have been enunciated by the honorable Senator from Nevada, or to express my great gratification to find that he is in the fold of the righteous and looks forward to that last great day when it shall be said to those who have fed the hungry and clothed the naked, "Blessed are ye! Enter into the mansions prepared for ye;" but I rose simply to ask the honorable Senator who, notwithstanding the Christian graces which adorn his character, and

the Christian sentiments which prompt his action, never allows any opportunity to pass by without a fling at his political opponents on this floor; my object, I say, was simply to ask that honorable Senator where was the great and violent opposition to the appropriation for the relief of the sufferers in Maine to which he referred, and where has there been any bane for this appropriation by gentlemen upon this side of the Chamber? Sir, I had thought that a gentleman whose character was so molded in the spirit of the principles of Christianity would allow this occasion, at least, which is devoted to the consideration of a charitable purpose, to pass by without a political fling at his opponents.

Mr. MORTON. Mr. President, I asked a question some time ago as to the evidence upon which it was proposed to vote \$1,000,000 out of the Treasury, and I was referred to the letter of General Howard upon this subject. Upon an examination of this letter I find that he states that some thirty-two thousand six hundred whites and twenty-four thousand two hundred blacks will probably need relief between this time and harvest; but he does not say one word about starvation. He says they will need relief, and the question asked by the Senator from Michigan was a very pertinent one, whether any cases of starvation had occurred. If this destitution is so great some cases most probably have occurred before this time. But the letter of General Howard does not, in my opinion, furnish sufficient evidence upon which to vote away \$1,000,000. He does not state that there will be starvation; but he says that this number of persons will need relief. I take it that it is but a question between poor living and fair living. I have no doubt that many of these people will be reduced to the necessity of living upon a few articles of food, and they of a coarse character; but that there is evidence sufficient to warrant the voting \$1,000,000 out of the Treasury for that purpose I am not satisfied.

The Senator from Indiana [Mr. HENDRICKS] says that money has been appropriated already for the support of the freedmen and for refugees. In the case of the freedmen, they were just emancipated from slavery; they were without property, without homes, and without the means of making a living. So that illustration is not in point. In the case of the refugees they had been driven from their homes to distant States, deprived of all their property, and had no means of making a living. That case is not in point.

These people are not included in the former bill; they are neither freedmen nor refugees; but they are in plain terms rebels. They have so-called State governments to take care of them, and they have county governments to take care of them; but still I would not hesitate one moment on account of their being rebels to vote this money if they were in danger of starvation. They are still men and women, and they have the common claims of humanity upon us; but their case is essentially different from that of the freedmen or that of the refugees.

The argument of the Senator from Nevada [Mr. NYE] and of the Senator from Massachusetts [Mr. WILSON] is good in favor of making annual appropriations for the relief of hunger and suffering all over this land. There is not a large city in this Union in which there is not hunger and suffering every winter, in which I undertake to say there are not deaths from starvation every winter; and the claim of humanity is as strong upon us there as it is in these southern States, and the arguments offered would be as good in favor of making appropriations for them as for the persons designated in this resolution. Yet, sir, will it be pretended that the Government of the United States can indulge in annual charities, and that it can vote to put bread into the mouth and clothes upon the naked back of the suffering simply because they have claims of humanity upon us? No, sir. Whatever may be our feelings of humanity and kindness for these

objects of charity, we cannot enter upon that general system. It must be left to the common humanity of private contribution or to the local authorities to provide for. The Government of the United States, from its Constitution, cannot, it dare not, undertake to provide charity for the suffering and for the starving the land over.

But, as I before said, it is a matter of great importance to this Government and to this people that there should be retrenchment in our expenditures. We cannot afford to go on in this way. There will be a limit to our capacity, and when that limit comes, though starvation shall come after it, we cannot relieve it. As a matter of self-preservation of the Government, to protect our credit, and to protect the party that has the majority upon this floor, the expenditures must be brought to the lowest point consistent with justice to the soldiers, the credit of the nation, and the efficient performance of the functions of the Government.

Mr. STEWART. Mr. President, I cannot appreciate the distinction drawn by the Senator from Indiana, [Mr. MORTON.] We appropriated for the freedmen, he says, because they were liberated suddenly, thrown upon the country, and needed it, and would otherwise have starved. In other words, it was an emergency, and our action was justifiable. It was because humanity required it. I indorsed it, and so did every good man in this country. We appropriated for the loyal refugees because they had been driven from their homes, not because they had contributed to the country or anything of that kind, but because they were suffering for food. Humanity indorsed that. We did not appropriate for that class of individuals, however, who had suffered from the calamities of this war and were disloyal. We did not appropriate for women and children, the male portion of whose families were engaged in rebellion. We left them to private charity. Private charity has done much for them, and probably would have done all that was required if another calamity had not occurred besides the calamity of war, which has deprived them of the crops which they attempted to raise by means of their industry, which General Howard says in those sections was as great as in any part of the country. The blacks and whites in those sections of the country where they are now suffering did their best. It was in the poor sections of the South. They have had, I say, an additional calamity. They had war that drove them from their homes. Perhaps the male relatives of many of those who are now suffering were drafted into the armies and perished there, leaving their families in a country that was devastated by war. Charity attempted to relieve them and did much last year, but the crops have failed and they are now starving. Is not that an extraordinary condition of things, as much so as either of the other cases? If there is any such destitution in the North, let us relieve it as we relieved the inhabitants of Portland, in Maine, last year.

Mr. FESSENDEN. That bill did not pass.

Mr. STEWART. I voted for it.

Mr. FESSENDEN. It passed the Senate, but not the other House.

Mr. STEWART. This is an extraordinary circumstance, and it appeals to humanity as much as the other cases for which we have provided. While the gentleman who has this subject in special charge is reluctant to ask for appropriations, while he is extremely cautious with the public money, while he is as conscientious and as loyal as any man in this Government, and as careful about squandering money, he deems it necessary, in the name of humanity, that the people shall be relieved. I say we should relieve them no matter how these calamities have come upon them. A calamity came upon the negro; he was thrown upon the world without a protector and was starving. The nation paid its money freely to save him from starvation. A calamity fell upon the refugee; he was driven from his home and was

starving; the nation did not inquire further, but fed him. Now a calamity has fallen upon a certain section of the South; in addition to the war, famine has come, and I do not believe that the precedent of serving food to these people, when we have the machinery to do it, will ever endanger this nation, will ever impoverish your Treasury. I believe the nation will be stronger and better for this act, and I believe every Senator who votes for it will have an approving conscience in consequence of that vote. It has not been rashly brought forward; it has not been brought forward without due consideration. Half the testimony we receive daily is not before the Senate. Societies have been organized throughout the North for the purpose of extending relief; but the destitution is so wide-spread and so general that it is impossible for them to continue to meet all the demands upon them. All we ask is to extend temporary relief until the southern people can have one good crop. They have not yet had one good crop since the war.

Let us aid them in this matter. We have the machinery to do it, and we are doing precisely analogous things for a portion of their people. If we do not do it we draw a distinction. It is saying that you will inquire into the fact whether a child that is starving had a loyal or a disloyal father. If you will feed the children of a refugee who was loyal, if you will feed negroes who were loyal, why will you not feed in the same neighborhood the orphan children whose parent was drafted into the confederate army and there died? If you refuse to feed them, it is because you are willing thus to inquire when you are feeding the hungry, whether they were loyal or disloyal. I do not believe this nation will make that inquiry. It is a blot on humanity that our soldiers in southern prisons were allowed to die of hunger and starvation. We regret in the name of humanity that the southern people did not feed our soldiers when they were starving there. It is a blot on the American name to inquire, when you are about to feed the hungry, whether the person in want of aid is good or bad.

Mr. CORBETT. Mr. President, I rise to make a single inquiry of the committee who have presented this resolution. I desire to know whether they have any information from any particular portion of the country in regard to the distress. I notice by the estimate of Major General Howard that he has estimated for Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Arkansas, and Louisiana. Texas is the only State that is not in want according to this estimate. Now, if it be the fact that the people are starving in all these States, if the rains have been withheld in each of these States, it is certainly a providential circumstance, and it would seem to place it in the power of the northern States to contribute to the relief of the starving people of the South. It seems to me, however, somewhat extraordinary that this estimate should be made in regard to each and every State, and therefore I desire to inquire of the committee whether there was any evidence as to this destitution existing in particular States, or whether there was any evidence, as this estimate would seem to imply, that starvation exists to a great extent in all these States?

Mr. TRUMBULL. Mr. President—

Mr. ANTHONY. I was about to move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I trust we shall be able to get a vote on this resolution.

Mr. ANTHONY. If this debate goes on, our opportunity to do executive business to-day will be entirely gone. It seems to be evident now that this subject will be debated until dinner time.

Mr. TRUMBULL. I hope not. Let us finish it.

Mr. CORBETT. I merely wish to say that I desire, if I err, to err on the safe side. I

desire to vote for this appropriation, but I wish to vote for it understandingly, and for that reason I made the inquiry.

Mr. TRUMBULL. I stated very briefly when this resolution was first brought forward to the consideration of the Senate what sources of information we have. I was very much impressed by the remarks of the Senator from Indiana, [Mr. MORTON.] I felt very much as he did when this application was made to the Committee on the Judiciary, to whom the communication to which the Senator from Oregon [Mr. CORBETT] has alluded, was referred. We had Major-General Howard before us, and I questioned him very closely, as closely as I knew how, with regard to his sources of information and the condition of things in the South. I put the question to him directly whether, in his opinion, there were any districts in the South where persons would actually die of starvation if there were not supplies furnished. He answered that he thought there were. I inquired of him, then, whether there were not sufficient supplies of food in all the districts in the hands of some persons, if they would share them with the destitute, to prevent starvation. He thought there were districts of country in the South where there were not. He stated his sources of information to be communications from the agents of the Freedmen's Bureau stationed all over the rebel States. This estimate is made up, as he informed us, on the communications from them. He stated further that he himself, in January, passed through the southern States. He went, as I understood him to say, through Georgia, and took a tour through that country, and from his own personal observation he believed there were districts of country where there was not sufficient food to feed the inhabitants. I had supposed there were persons in all that region of country who probably out of their abundance could supply the destitute. He however stated that it was not so in some localities.

He said, moreover, that with the supplies which have been heretofore furnished through the Freedmen's Bureau to loyal refugees and freedmen they had been able to prevent any actual starvation, and he thought the appropriations already made were sufficient if no supplies were to be given to any except the loyal refugees and the freedmen, but that there was a class of people outside of those who would suffer unless they were supplied. Although I have in this body, during my whole course here, been very much disinclined to vote for what are called charitable appropriations by the Federal Government, although I do not think the Federal Government can make itself the general almoner to dispense charities all over the United States, and the localities, the towns, the counties must provide for their own poor, I think this case stands on different grounds entirely.

This country has been subjected to the desolations of war; this people is in a destitute condition; and with this testimony before us from General Howard, who has already had this matter in charge, we felt justified in reporting the resolution. The Senator from Oregon will see that General Howard has very superior opportunities for knowing the condition of the South, for the Freedmen's Bureau during the last year, through agents of his own appointment, has been supplying the destitute refugees and freedmen, and that has given him an opportunity to know the condition of things through the South. The failure of crops is not universal. That is only in particular districts. General Howard was questioned particularly about that. He says that in about half of Georgia and about half of South Carolina they have had the ordinary crop, that is, so far as they were able to plant. The crop is not what it was in former years, of course. They had not the means of putting in the usual crop; but so far as they did plant they have had the usual crop in portions of those States. But we all know, who know anything about the

southern country, that they have always drawn very largely for provisions from the more northern States. In Georgia and the Carolinas they never raised all the food they consumed.

Under this state of the case, the committee, after striking down the appropriation \$500,000, reported the proposition to the Senate, and I trust we may have a vote upon it.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels, was read twice by its title, and referred to the Committee on Finance.

#### BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 17) for the relief of Donahue, Ryan & Secor; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 18) for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HARLAN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 36) to authorize and provide for the construction of a national military and freight railway from the Mississippi river to certain ports on the Atlantic, and for other purposes; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 37) to attach the Indian Territory to the State of Kansas for judicial purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 39) to provide ways and means for the prosecution of the work on the distributing reservoir of the Washington aqueduct; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### MONARCHIES IN AMERICA.

Mr. CAMERON submitted the following resolutions; which were considered by unanimous consent, agreed to, and ordered to be printed:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire and report upon the facts in respect to the designs of foreign Powers to impose their systems of monarchical government and institutions upon the people of this continent, and what action, if any, our Government should take to avert the inevitable consequences of the further prosecution of such designs, and to maintain for ourselves and our posterity the fundamental principles and objects of the original settlers of our country and the traditional policy of the fathers and founders of the Republic.

*Resolved*, That the committee be authorized and empowered to take such measures as they may judge expedient and necessary to collect and submit the facts for the information of the Government and people of the United States.

#### EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business. After some time spent in executive session, the doors were opened, and the Senate adjourned.

#### IN SENATE.

MONDAY, March 11, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. WILSON. I present a petition signed by eight hundred and thirty-seven citizens of Alexandria, headed by William H. Hodgkin. The petition asks Congress to repeal the act annexing a portion of the District of Columbia to Virginia, and goes on to state that at the recent election in Alexandria the law of Congress was openly set aside and defied. It makes a full statement in regard to that matter. I move that this petition be referred to the Committee on the Judiciary, as I believe they have this subject in charge.

It was so referred.

Mr. MORTON presented the petition of Charles W. Wheeler and one hundred and fifty-eight others, Indiana soldiers, praying for the further equalization of bounties; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDERSON presented the memorial of the grand and petit jurors of the United States district court for the eastern district of Missouri, praying for an increase of compensation to jurors in the courts of the United States; which was referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* presented the following communication:

*To the honorable Senators of the United States in Congress assembled:*

GENTLEMEN: The undersigned, if agreeable to your honorable body, would be pleased to address both Houses of Congress, the House of Representatives concurring, on white Christian civilization in the United States of America.

At first blush, this request may seem impertinent; but pardon me, gentlemen, the times are impertinent; much of the action of the hour is impertinent. And it can vary little from the tenor of the rule that obtains to indulge the request of one of your peers, an American citizen.

Should it please your honorable bodies to grant me audience, if not incompatible with your public duties, the 16th instant will favor my convenience.

It will also be desirable that the Sergeant-at-Arms be instructed to admit only yourselves and your families, the Executive, the heads of the different Departments and their families, ambassadors from other countries and their families, and such other white persons as you may allow.

Yours, very respectfully,

P. R. SAWYER,

*of Madison county, State of Illinois.*

WASHINGTON, D. C., March 10, 1867.

The communication was ordered to lie on the table.

#### PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was

*Ordered*, That M. N. Radovich have leave to withdraw from the files of the Senate his memorial praying for payment for the charter of his boat Diana for the conveyance of troops, and payment for the value of said boat, it having been lost in the Government service.

On motion of Mr. HOWE, it was

*Ordered*, That the memorial of O. E. Deutrey be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CRAGIN, it was

*Ordered*, That the memorial and accompanying papers in the case of Albert Greenleaf be withdrawn from the files of the Senate and referred to the Committee on Claims.

#### COMMITTEE SERVICE.

Mr. SAULSBURY. I ask to be excused from serving on the Committee on Pensions, on Revolutionary Claims, and Mines and Mining.

The question being put, the honorable Senator was excused.

#### REPORTS OF COMMITTEES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print the petition of Captain Daniel Ellis, praying for compensation for services rendered in recruiting for the Union Army in East Tennessee during the rebellion, have directed me to report it back, and recommend that it be printed without the accompanying documents. The committee departed from the usual cus-

tom in this case at the suggestion of the Senators from Tennessee, and in justice to a very gallant and meritorious officer. I ask for the present consideration of the report.

The report was agreed to.

#### FURNISHING EXECUTIVE MANSION.

Mr. FESSENDEN. There was referred to the Committee on Public Buildings and Grounds a letter from Mr. French, late Commissioner of Public Buildings, addressed to the President of the Senate, calling his attention to the fact that in the deficiency appropriation bill there was an appropriation "to pay for completing the repairs and furnishing the Executive Mansion, \$35,000," to which a proviso was attached "that no further payments shall be made on any accounts for repairing or furnishing the Executive Mansion until such accounts shall have been submitted to a joint committee of Congress and approved by such committee." He states that it is important to have that done, because there are many bills due, and the men are waiting for their pay. There does not seem to be any joint committee of Congress to which it would be appropriate to refer this matter under this provision; and the Committee on Public Buildings therefore have instructed me to report a resolution for the appointment of such a committee, which I send to the Chair, and ask to have it acted upon. I will state that having made the report by the direction of the committee, the subject being referred to us, I do not wish it be considered that it follows that the chairman of that committee, or any member of it, is to be appointed on the joint committee to attend to this business.

There being no objection, the Senate proceeded to consider the resolution, and it was agreed to, as follows:

*Resolved by the Senate*, (the House of Representatives concurring,) That a joint committee be appointed, consisting of one on the part of the Senate and two on the part of the House of Representatives, to examine the claims and accounts for repairs and furnishing the Executive Mansion, and to allow and approve such as may be found justly due to the several claimants.

Mr. FESSENDEN. I move that the committee on the part of the Senate be appointed by the Chair.

The motion was agreed to by unanimous consent.

#### BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 40) granting lands to aid in the construction of a railroad from St. Paul, Minnesota, to the Missouri river; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 41) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis; which was read twice by its title.

Mr. HOWARD. I move that the bill be referred to the Committee on Military Affairs.

Mr. HOWE. I suggest to the Senator from Michigan whether that bill would not properly go to the Committee on Claims?

Mr. HOWARD. No.

Mr. HOWE. It is a private claim.

Mr. HOWARD. It is in the nature of a private claim undoubtedly; but it is also invested with other qualities. It is for the payment of the rewards offered by the President of the United States to the captors of Jefferson Davis and others, by public proclamation made in May, 1865. I introduced a similar bill at the former session of Congress, and it was referred to the Committee on Military Affairs. I see no impropriety in its taking the same reference now that it did then, and I trust there will be no objection to it. I think the Committee on Military Affairs will be able to attend to the matter properly.

Mr. HOWE. I have no doubt of the ability



of the Committee on Military Affairs to attend to it, and if the Senator from Michigan very much prefers that reference I have no sort of objection to it.

The *PRESIDENT pro tempore*. That reference will be made, unless there be objection.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 42) to provide for the registration of electors in the Territories of the United States; which was read twice by its title, and referred to the Committee on Territories.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 43) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862; which was referred to the Committee on the Judiciary.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 44) to amend an act entitled "An act to define the number and regulate the appointment of officers in the Navy, and for other purposes, approved July 25, 1866; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 45) to provide for the defense of the northeastern frontier; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 46) to incorporate the National Hotel Company in the City of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 47) to provide for the adjustment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 48) to authorize the settlement of certain accounts; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee; which was read twice by its title, and he asked for its present consideration, but on motion of Mr. WILSON, it was referred to the Committee on Military Affairs and the Militia.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 20) providing for the payment of certain Tennessee militia forces; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY. A few days since I introduced a bill which, inasmuch as the committees were not then organized, was laid upon the table. I now ask that that bill may be taken up and referred to the Committee on Public Lands. It is with reference to the change of a railroad route in Minnesota.

There being no objection, the bill (S. No. 6) changing the route of a certain land-grant railroad in Minnesota was taken from the table, and referred to the Committee on Public Lands.

On motion of Mr. SHERMAN, the bill (S. No. 4) for the relief of William Shunk was taken from the table, and referred to the Committee on Post Offices and Post Roads.

On motion of Mr. HENDERSON, the following bills heretofore introduced by him were ordered to be printed:

A bill (S. No. 19) declaring a bridge to be constructed over the Missouri river at or near

the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, to be legal structures and post roads;

A bill (S. No. 20) to pay bounty to certain Missouri troops who served for three years during the late war; and

A bill (S. No. 21) to provide for the construction of a military and postal railroad from Galveston, in the State of Texas, to Fort Gibson, in the Indian Territory, with a branch to Little Rock, in Arkansas.

#### REPORT ON INTER-OCEANIC CANALS.

Mr. ANTHONY. I beg leave to offer the following resolution:

*Resolved*, That of the copies of the report of Admiral Davis upon the inter-oceanic railroad and canals heretofore ordered to be printed, three hundred be furnished to the Secretary of the Navy.

I ask for the present consideration of the resolution. It does not increase the number, but merely diverts a part of them from the Senators to the Secretary of the Navy.

There being no objection, the resolution was considered and agreed to.

#### NEW EDITION OF THE RULES.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That the Chief Clerk be directed to prepare a correct edition of the Constitution, Rules of the Senate, joint Rules of the two Houses, and the Manual, and that five hundred copies of the same be printed and bound for the use of the Senate.

#### PROTECTION OF SAILORS.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire whether any further legislation is necessary to secure to sailors in the merchant marine service a proper supply of wholesome food and personal protection.

#### CLERK TO COMMITTEE ON APPROPRIATIONS.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Appropriations be hereby authorized to employ a clerk, who shall receive the same salary as the clerk of the Committee on Finance.

#### REPORTS ON THE MISSISSIPPI RIVER.

Mr. HENDERSON submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand copies each be printed for the use of the Senate of the following documents, to wit:

1. Report upon the physics and hydraulics of the Mississippi river; upon the protection of the alluvial region against overflow; and upon the deepening of the mouths, based upon surveys and investigations made under the acts of Congress directing the topographical and hydrographical survey of the delta of the Mississippi river, &c., submitted to the Bureau of Topographical Engineers, War Department, under date of August 5, 1861, as prepared by Captain A. A. Humphreys and Lieutenant H. L. Abbott; and
2. The report of Brigadier General A. A. Humphreys on the same subject, submitted to the Secretary of War under date of May 31, 1866.

#### SURVEY OF BAYOU MANCHAC.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be, and he is hereby, directed to detail an officer of the Engineer corps of the Army for the purpose of surveying Bayou Manchac, connecting with the Armitte river and leading into Lake Maurepas, and Pass Manchac connecting Maurepas and Lake Pontchartrain, and report the cost of opening said streams and bayous to first-class steamboat navigation.

#### SALE OF VESSELS TO BELLIGERENTS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether the selling of unarmed, unmanned vessels to belligerent Powers by American citizens is now unlawful, and whether the right to do so can be secured by legislation, and to report by bill or otherwise.

#### RECONSTRUCTION.

Mr. SUMNER. If there is nothing now before the Senate, I ask the Senate to be good

enough to take up the resolutions submitted by me the other day, which will be found in Miscellaneous Document No. 1. I move that the Senate proceed to their consideration.

The motion was agreed to; and the Senate proceeded to consider the following resolutions:

Resolutions declaring certain further guarantees required in the reconstruction of the rebel States.

1. *Resolved*, That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

2. *Resolved*, That there are other things remaining to be done, which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

3. *Resolved*, That among the things remaining to be done are the four following:

*First*. The existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

*Secondly*. Provisional governments must be constituted as temporary substitutes for the illegal governments, with special authority to superintend the transition to permanent governments, republican in form.

*Thirdly*. As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

*Fourthly*. As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as, according to the census, an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

*Fifthly*. Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

4. *Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

Mr. WILLIAMS. I desire to inquire whether those resolutions have been referred to any committee?

Mr. SUMNER. They have not been. It is not customary to refer resolutions of that character to committees. They are printed and put on the tables of Senators.

Mr. WILLIAMS. I suppose it is in order to refer the resolutions to a committee.

The *PRESIDENT pro tempore*. It is certainly in order.

Mr. WILLIAMS. I move that the resolutions be referred to the Committee on the Judiciary.

Mr. SUMNER. If the Senator from Oregon will have the goodness to suggest any reason for the reference to the Committee on the Judiciary I shall be able perhaps to answer that. His motion, I understand, is a simple motion, without any reason assigned.

Mr. WILLIAMS. I am willing to hear the able speeches of the honorable Senator here in the Senate on these questions; but I am not prepared to vote for the substance of those speeches in the shape of resolutions until they have been examined by some committee and the precise meaning and effect of the resolutions determined. These resolutions, if I understand them, contain various propositions which are very important; and the Senate, by voting in favor of their adoption at this time, without due consideration, may be committed to some doctrines or views which it may not be desirable to adopt at this moment; and I think that where propositions of this general nature are introduced here that call for no practical legislation, but are the mere expression of theories in reference to the administration of public affairs, they ought to be carefully examined by some competent committee, and reported to the Senate; and if it be necessary that they should be changed or amended, they ought to be changed or amended. I am not prepared to vote on these resolutions until they have received the consideration of some committee. It is for these reasons that I make the motion.

Mr. GRIMES. It occurs to me that it would

be well for the Senator from Oregon to withdraw his motion to commit until the Senator from Massachusetts can have an opportunity to explain and expound his resolutions, so that when they finally go to the committee they can go with his commentaries.

Mr. TRUMBULL. He can explain them on that motion.

The PRESIDENT *pro tempore*. The motion to commit is debatable.

Mr. SUMNER. As I understand the Senator from Oregon, he has not made as yet any criticism on the resolution; but nevertheless he objects to our proceeding with them now; he desires a reference; he desires the aid of a committee before he proceeds with their consideration. Now, if I can have the attention of the Senator it seems to me that will be as good as a committee. The resolutions are on the table, they are plain; they are unequivocal; they are perfectly intelligible; and then, still further, they make a declaration of principle and of purpose which at this moment is of peculiar importance.

Congress has undertaken to provide for the military government of the rebel States, and it has made certain requirements with regard to reconstruction, and there it stops. It has presented no complete system, and it has provided no machinery for reconstruction. The consequence is that all our friends at the South at this moment are in the greatest possible anxiety. They are suffering. Still further, old rebels, or persons who represent the rebellion, are moving under our bill to take a leading part in reconstruction. Already the Legislature of Virginia, packed by rebels, full of the old rebel virus, has undertaken to call a convention under our recent act. Let that convention be called, and what is the condition of those friends to whom you owe protection? Unless I am misinformed by valued correspondents in different parts of Virginia their position will be very painful. I have this morning a letter from Mr. Botts—I mention his name because he is well known to all of us, and I presume he would have no objection to being quoted on this floor—in which he entreats us to go forward and provide some protection to him and others against the efforts now commenced by rebels or persons under rebel influence.

I am anxious for practical legislation to that end; but in order to pave the way for such legislation I am anxious that Congress should go forward at the earliest possible moment and make a declaration in general terms of its purposes. The Senator from Oregon says these resolutions do not propose practical legislation. I beg the Senator's pardon: they do not propose what we call legislation, but they do announce to these rebel States what we propose to do; they foreshadow the future; they give them notice; they tell the rebels that they are not to take part in this work of reconstruction; and they tell our friends and the friends of the Union that we mean to be wakeful with regard to their interests. That will be the effect of them. I say they are in the nature of a declaration. At the beginning of our war a declaration was made, which has been so often quoted in both Houses, with regard to the purposes of the war. Very often before that declarations of policy were made in one House or the other, and sometimes by concurrent resolutions of the two Chambers. If the occasion requires, the declaration ought to be made. In common times and under ordinary circumstances there would be no occasion for such a declaration; but now, at this moment, I insist that there is peculiar occasion for the declaration: you must give the notice; and the failure of your bill to meet the times throws this responsibility upon you.

The next question, then, is as to the character of the notice. It begins in its title by declaring that certain further guarantees are required in the reconstruction of the rebel States. Can any Senator doubt that certain further guarantees are required in the reconstruction of the rebel States? I submit that on that head

there can be no question. I am persuaded that my excellent friend from Oregon will not question that general statement. The resolutions proceed to declare—I read the first one:

1. That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

That is a plain proposition. Who can doubt it? Both of the principles embodied in that resolution are embodied in the recent reconstruction act, or the act, as it is entitled, for the military government of the rebel States. By that act Congress does declare its paramount jurisdiction over the whole rebel country, and it has also prescribed universal suffrage, without distinction of race or color, to be inserted in all the constitutions of these States. In doing that I say Congress has asserted a jurisdiction and given an illustration of its power which places beyond all question any further attempt in the same direction. After having asserted its jurisdiction and given the example of it which you have, you cannot hesitate to go further according to the necessities of the case. If it appear that there are other things which remain to be done, there can be no longer any question of your jurisdiction or your power. Having jurisdiction and power, then, I insist you should go forward and exercise them. It is in this spirit that the second resolution is drawn, as follows:

That there are other things remaining to be done which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

Clearly that is a truism. Then comes the next resolution, which embodies points requiring now the action of Congress:

3. *Resolved*, That among the things remaining to be done are the five following:

First. The existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

That is a plain statement. Can there be any doubt about it? You have declared these governments illegal. How, then, can you allow their continued existence? So long as they exist they are an effrontery; they exist practically in defiance of Congress. You say that they are illegal. Carry out your declaration; do not stop with a mere assertion; but make them so. You cannot make them so unless you actually vacate those governments; and I ask, sir, is it not a practical inconsistency for us to allow those governments still to exercise illegal power when all the information we have shows that they exercise it to the public evil and to the oppression of loyal Unionists, white and black? Therefore I say let the illegal governments be vacated, and let Congress make haste to declare its purpose so to do.

Secondly. Provisional governments must be constituted as temporary substitutes for the illegal governments, with special authority to superintend the transition to permanent governments, republican in form.

That point explains itself. There must be during this transition period provisional governments properly constituted that can superintend this work of reconstruction. Without it your work will fall into evil hands; it may perhaps fail. Then comes the third requirement:

Thirdly. As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

There again is the assertion of a plain principle with regard to which it seems to me there can be no question. Next:

Fourthly. As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as, according to the census, an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

There, again, is a plain statement of an urgent duty. It will not be enough for you

to give universal suffrage; you must give the essential complement to universal suffrage, universal education also; and the same power which ordained the first must, if need be, ordain the other. You have just the same power over one that you have over the other. If you can give the suffrage you can also give education; and under the circumstances one is hardly less important than the other. I have lying on my table at this moment a letter which has come this morning from an eminent citizen of Virginia, well known to most of us personally, in which he pleads in this direction. It is dated Alexandria, March 9. He says:

"Shall the southern States still be controlled by the men and the policy that have already brought ruin and disgrace, poverty and starvation, upon them; or shall they adopt the policy of the enlightened States of the North and of the nineteenth century? Shall land monopoly and class legislation, with the necessarily attending ignorance and degradation of the masses, still prevail; or shall we take a new departure from the old course, and secure universal education and free schools, with their inevitable accompaniments of enterprise, equality, wealth, temperance, morality, religion, public, private, and domestic happiness?"

I will not read further from this excellent letter, which I hold in my hand. Suffice it to say, it is all in this spirit. Can there be any doubt, sir, as to your duty in the premises? I say you have given the suffrage; you must give education also, or at least you must so legislate as to make it certain that education will be established there; you must provide for free schools open to all without any distinction of caste.

Then comes the next point of the resolutions:

Fifthly. Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

I believe that all who are now familiar with the processes of reconstruction have felt that our work would be incomplete unless in some way or other we secured to the freedmen a piece of land. It is only within a few days that gentlemen fresh from traveling through these States have assured me that nothing pressed upon their minds more, as they saw the condition of things there, than the necessity of such a provision. I believe that the more you reflect upon it, and the more you listen to evidence on the subject, the stronger will be your conclusion on that head.

Do you ask me as to the power of Congress? Again I say you find it precisely where you found the power to confer universal suffrage. To give a homestead to all these freedmen will be no more than to give them the vote. You have done the one, and now you must do the other. We are told that to him that hath shall be given, and as you have already given the ballot, that is in possession, you must go further and give, not only education, but the homestead. Nor must you hesitate for want of power. The time for hesitation has passed.

Mr. FESSENDEN. I should like to ask my friend a question, with his permission.

Mr. SUMNER. Certainly.

Mr. FESSENDEN. The Senator put the granting of the ballot on the ground that without it the Government would not be republican in form, as I understood his argument.

Mr. SUMNER. Yes, that was it.

Mr. FESSENDEN. Now, I should like to know if he puts the possession by every man of a piece of land on the same ground?

Mr. SUMNER. No, I do not. I am much obliged to my friend for interposing that inquiry, for in this discussion I have no disguises.

Mr. FESSENDEN. The Senator assimilated the two, and said that having done the one we must do the other. I supposed, perhaps, the same process of reasoning applied to both.

Mr. SUMNER. No, it was upon this process of reasoning which I think will be evident to my friend's mind: the necessity of the case, to give the land in order to complete the work of the ballot.

Mr. GRIMES. Have we not done that under the homestead law?

Mr. SUMNER. The freedmen, I know, are

not excluded from the benefits of the homestead law; but my argument is that we must do something to provide them with a piece of land where they are, where they are residing.

Mr. FESSENDEN. That is more than we do for white men.

Mr. SUMNER. White men have never been in slavery; there is no emancipation and no enfranchisement of white men to be consummated. I put it to my friend now, I ask his best judgment, can he see a way to consummate this great and glorious work of emancipation and of enfranchisement without securing land? My friend before me [Mr. GRIMES] asks how are we going to get the land there? There are several ways. I say nothing about confiscation. Clearly by a process of confiscation we should have had ample; and I have no doubt that the country would have been better had the great landed estates at the South been divided and sub-divided among the loyal colored population. I find that that is the judgment of many Unionists at the South. I say nothing on that point; but clearly, there are lands through the South that belong to the United States, or that have fallen into the United States through the failure to pay taxes. Then, again, there is another way, which I regret to say, was not adopted, in which would be required the agency of the President of the United States. It has always seemed to me that in the exercise of the pardoning power it would have been very easy for the President to have required before the issue of a pardon that the person who was to receive it should allot a certain portion of his lands to his freedmen. That might have been annexed as a condition to the pardon. A President properly inspired and disposed to organize a true system of reconstruction, it seems to me, could not have hesitated in such a requirement. That would have been a very simple process. I am aware that Congress cannot affect the pardoning power; but still I doubt not there is something that can be done by Congress. Where Congress has done so much, I am unwilling to say that it cannot do all that the emergency requires. Let us not shrink from the difficulties. I admit, for instance, with regard to the homestead, that there may be difficulties, but not on that account should we hesitate. We must give peace and security to these people; and to that end let us consider candidly, gently, carefully what their bases are, and then fearlessly provide for them.

There is still another which I have not named in these resolutions, though I have employed it in the careful and somewhat extended reconstruction bill which I have laid on the table of the Senate, and which some time I may try to call up for discussion, and that is the substitution of the vote by ballot for the vote *viva voce*. Letters from Virginia and also from other parts of the South all plead for this change. They say that so long as the vote *viva voce* continues it will be difficult for the true Union men to organize; they will be under check and control from the rebels. I have a letter received only this morning from a Unionist, from which I will read a brief passage. He calls attention to the bill that has recently passed one of the branches of the Legislature of Virginia calling a constitutional convention under our recent congressional enactment, and he then goes on as follows:

"Under the above act all the loyal men are entirely under the control of the most malignant of the late rebel leaders. They being in power, we have no say in the matter at all except to go and cast our votes in the manner they select, which is to go and vote in the old manner, *viva voce*. So they can control the votes the same as ever, and if allowed to go on in that way they will control three fourths of the colored and poor white vote of the State, when, if we had the secret ballot as you have in Massachusetts, more than one half of the poor whites, those even of the rebel soldiers, would be cast in favor of the Radical Republican candidates and against their old leaders. I saw a young man, a native of Orange county, near Gordonsville, last night. He says that three fourths of the rebel soldiers would vote with us if they could do it without their neighbors knowing how they voted, especially if they could be assured of a free-school system upon the success of the Republican party. They have tried for a long time to

bring the common-school system into Virginia, but have always been betrayed by the men they have trusted, and now they are ready to abandon them and vote for others if they can do so with safety. I do hope that the reconstruction act will be amended so as to insure us the secret ballot, which is our sheet-anchor of hope for the future."

I am asked who writes the letter. It is written by Jonathan Roberts, "late sheriff of Fairfax county, Virginia, when Union men were at the helm." The Senator from Michigan [Mr. HOWARD] says he knows him. I believe he is a good Union man, and I am sure that he writes in a way that a good Union man might be proud to write.

Mr. TRUMBULL. Will the Senator from Massachusetts allow me to interrupt him a moment? I should like to inquire if he is aware that his colleague introduced into this body last week a bill providing for all these purposes, which was referred to a committee, and is under the consideration of the committee.

Mr. SUMNER. I am.

Mr. TRUMBULL. There is such a bill printed and laid on the tables, providing for a system of registration and for voting by ballot. That bill was laid on our tables last week in print.

Mr. SUMNER. I take it the Senator has just come into his seat now. I had not the advantage of seeing him in his seat when I began my remarks. I think if he had listened to my remarks his inquiry would have been unnecessary. I know very well the character of the measure my colleague has introduced; but at the same time I introduced the resolutions which are under consideration; I also introduced two or three other measures tending in the same direction, and I have now in the absence of my excellent friend from Illinois, undertaken to call up for consideration one of those, and it was in the discussion upon the measure that I have called up that I made the remarks which have drawn forth the criticism of the Senator. I believe that much in these resolutions will be found in the bill of my colleague, but not all, and the two may very well go together. I stated at the outset that these resolutions were in the nature of a notification or a declaration to the country, and especially to the rebel States with regard to the purposes of Congress, and I was proceeding to review them in order to explain their character. I have read all of them except the last, which is as follows:

4. *Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

Now, does my excellent friend from Oregon, who wishes to bury this proposition in a committee, doubt that concluding resolution? Can he hesitate to say that every one of these requirements is in the nature of a guarantee, without which we shall not obtain that complete security for the future which our country has a right to expect. There they are: that the illegal governments must be vacated. Who can doubt that? That provisional governments must be constituted as temporary substitutes for the illegal governments. Who can doubt that? That the new governments must be founded on an unalterable basis of loyalty, and to that end no rebels must be allowed to exert any influence or agency in the formation of the new governments. Who can doubt that? Then again, education: who can doubt, certainly not my honorable friend from Oregon; he will not doubt the importance of education at this moment as a corner-stone of reconstruction. We have the power. It is a golden moment. Let us not fail to exercise it. Exercising it now, you can shape the destinies of that people for the future. Then, again, there is the homestead. I see the practical difficulties under that head; but I do not despair. Let us apply ourselves to them, and I do not doubt that we can secure substantially to every head of a family among the freedmen a piece of land, and we may then go further, and in the way of machinery, we can provide a vote by ballot instead of a vote *viva voce*.

Now, I insist that all these are in the nature of guarantees of future peace, and you ought not to hesitate in doing all within your power to secure them. I hope, therefore, that Senators will act on these resolutions without any reference to a committee. I see no occasion for a reference. There is one objection, at least, on the face; it will cause delay. Let these resolutions be adopted and go to the whole country, and my word for it you will find that the gratitude of the people of the United States and of all Union men of the South will come up to Congress for your act.

Mr. DIXON. Mr. President, it is only a few days, scarcely a week, since there was before this body what was called a measure of pacification, a measure of reconstruction. It was adopted. I did not, I confess, consider it a measure of pacification or a measure of reconstruction. If I were now to characterize it in the language which would express my feelings in regard to it I should scarcely be considered respectful to this body, that measure having now become a law. But, sir, it was supposed by some, and in a certain degree by me, that it was a final measure. It purported to be final; it claimed on its face to be a finality. It provided certain terms, harsh and severe in the extreme, as I thought, upon which the States formerly in rebellion should be restored to the Union. There were some who favored the measure because they feared something worse, and they thought it was better to take that than to wait until some more severe, some harsher measure should be proposed.

Now, sir, I do not regret myself that the Senator from Massachusetts has proposed these resolutions. They come, in my judgment, from the right quarter. Whatever may be my opinion of his political views, I will say for that Senator that for the last two years he has been prophetic; what he has announced, what he has declared, what he has said must be law, has become law upon many subjects. I say, therefore, these resolutions come from the right quarter; for I think it proper, I think it important, highly important, not only that the people of the South, but the people of the North should know what is coming. The people of the South are now inquiring, questioning what they shall do. I know it very well, for I have letters on my own table upon the subject. They are anxiously inquiring what course they ought now to pursue with regard to the present legislation of Congress; whether they ought to acquiesce, whether they ought to treat the measure to which I have alluded as a finality.

Under these circumstances, under this state of things, with such a law just enacted and declared to the country to be a final measure, what does the Senator from Massachusetts propose? I think it highly important that the people of this country should take note of this proposition. It is not only before the Senate, it is before the people. Let us know what is coming; let us see the worst. What I have to say at the present time will be confined mostly to the fifth proposition which the Senator has set forth in his third resolution. He has five propositions under the third resolution of the things remaining to be done. They are thus stated: First, the existing governments must be vacated and declared illegal, though the act of Congress which has already passed declares them legal, provides that they shall be continued in force as provisional governments, and, if I am not mistaken, authorizes the calling of conventions by them, and proceeding to reconstruct the government of those States under that law. Secondly, provisional governments must be constituted as temporary substitutes. The third requirement is stated in these words:

As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

I understand the Senator to say that by that he meant distinctly that the right of suffrage shall be taken from rebels in these governments; and by "rebels" we know that he means every man who ever, in any manner whatever during



the four years of war, took any part in the controversy, thus excluding the whole white population from the right of suffrage, and confining it entirely, with very few exceptions, almost nominal exceptions, to the negro race. The fourth condition is the education of the people; and the fifth is in these words:

*Fifth.* Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

It is to that position that I desire particularly to call the attention of the Senate, and so far as I can do it of the country. What does that mean? What meaning is hidden—no, I will not say hidden—but what is meant by that form of language? It means universal confiscation in the former rebel States. That is to be the sequel and that the necessary complement, as the Senator himself says, to the action we have already taken. I have not risen for the purpose of contending against the idea of confiscation at this time. I desire merely to call attention to the fact that that is the entertainment to which we are to be invited. It seemed, I admit, to shock somewhat the Senator from Maine and some other Senators about me; and while I was very glad to find, if I understood them correctly, that they did not coincide with the views of the Senator from Massachusetts, I could not forget that two years ago I heard a Senator on this floor say that upon another subject there was not a single Senator here who agreed with the Senator from Massachusetts, and yet upon that very subject I believe every Senator on the majority side of the Senate now, if not at heart concurring with him, acts and votes with him; and I see that the time is coming when that will be the case on the question of confiscation; at least I fear it. I look with horror and regret unutterable upon this idea of confiscating the property of the people of the southern States, reducing them to starvation and poverty upon any pretext.

How are you to give the colored people of the South their homesteads? Is there public land there with which you can invest them with that property? Can you vest in them the title to your own public lands? No sir. You must go through the form of confiscation; you must strip the white people of that country of the property they now hold, and vest it in the possession of a race for whom I trust I feel as much compassion and as much pity as the Senator from Massachusetts; but I have not lost every feeling of compassion and pity for the white people of the South.

Now, sir, not to dwell on this matter, I desire to say that in my judgment it is high time that the people of this country should look upon this question. This is a question which is to be presented to them. It is to-day presented to them. Let them say what is their view I believe the time has come, or is very soon coming, when it will be necessary to take an appeal to the people of the United States upon the questions before the country. Let them settle them, and let them understand what the questions are; and therefore it is that I rejoice most heartily that the Senator from Massachusetts with his usual frankness has stated what are his views. Let them go to the country, and let the country decide.

Mr. SHERMAN. I regret, Mr. President, that the Senator from Massachusetts has thought it to be his duty to press at this session the consideration of the resolutions he offered the other day. By a solemn act of Congress, passed by three fourths of both Houses, we have said to the people of the rebel States that if they comply with certain terms and conditions they shall be restored to representation in Congress. That offer is still depending. It has been made to them by the American people through their representatives in Congress. We cannot with propriety add to the stipulations of that offer or take from them. We are bound by that proposition, reasonably bound, not, perhaps, in law, because we may vary the proposition till accepted; but we have

made them a proposition, and we are bound to give a reasonable time for acceptance, and then to execute it in good faith. We have said that if they form governments republican in form, founded upon the will of the whole people, securing to all the male citizens of those States the right to participate in the elective franchise and equal rights before the law, they shall be restored to representation. That is our offer. If any legislation is needed to perfect that offer I shall vote for it with great cheerfulness. If further details are required to prescribe the form of election, the mode of voting, the registry of voters, who shall call it, when it shall be held, to prescribe the qualifications of the members of the convention, such legislation in aid of our offer would be perfectly proper. If it is necessary, in order to protect the new voters in their right to vote, to secure them the ballot, it would be perfectly competent and proper for us to so declare. We have the right to prescribe the mode and manner and form and terms by which the sense of the people of the southern States shall be ascertained. There can be no objection to such legislation either at this session or at any future time; but it seems to me it is not exactly fair or just or ingenuous to the southern people to add new terms or require of them additional guarantees as conditions to the admission of representation. These resolutions do require additional terms and guarantees not contained in the proposition submitted by Congress. I hope that those who cordially and heartily voted for that proposition will not now destroy it by passing resolutions of this kind.

Indeed, such resolutions tend to distract the mind of the people of the southern States. We all know that they are now considering whether they will accept the offer made by the Congress of the United States. Every Senator probably has received letters and telegrams from leading men in the southern States making inquiry on this subject. I have received many of them. I received one yesterday from Governor Patton, of Alabama, in which he states that he hopes and believes the people of Alabama will in good faith reform their State government under our reconstruction bill, and he makes inquiry as to the best mode of proceeding. I answered this morning that I had no doubt the proper mode would be by a direct appeal to all the people authorized to take part in the work and that probably Congress would point out specifically the mode and manner of taking their judgment. That was my individual opinion as to the proper course. We have made them this offer. We are bound to carry it out in good faith. We may prescribe the machinery or not, as we please. If it is deemed best to say that the voting at these elections shall be by ballot, well and good; no one can object. If it is said that the convention should emanate directly from the people, and not through the agency of the local Legislature, well and good. I think the best mode would be to leave details to the Legislature; but if it is the sense and judgment of Congress that the best mode of ascertaining the will of the southern people is by commencing with popular conventions, county and state, you can so prescribe. That does not change the terms of your offer; but when it is proposed to add new conditions, new stipulations, onerous burdens, we then do not act with them in a proper and ingenuous way.

They are now plowing through a difficult field. They have the prejudices of ages to overcome. They must march to the ballot-box by the side of their former slaves. Many of them are impoverished. They are wounded in their feelings, wounded in their pride. Now, sir, we ought not to make this reconstruction more difficult. I believe the public interests of this great nation demand that those States should be restored to representation, and I believe that the terms of reconstruction proposed by Congress are satisfactory to the people of this country. So far as we can gather from the newspapers and from all the evidences of public opinion, our constituents are satisfied with the offer we have made. Whatever legis-

lation is necessary to carry it out, let us pass; but do not add to the burdens already imposed.

These resolutions contemplate confiscation. The Senator cannot avoid the inference. The fifth proposition of the third resolution contemplates the purchase of lands, or else confiscation of land. Is the Treasury now prepared to purchase homesteads for all the negroes of the southern States? If so, you must purchase them for all the poor whites also. Perhaps millions of white people in the southern States have no homesteads. Would you purchase them for the negroes and not for the whites? Where is the money to come from to make the purchase? If you do not propose to purchase, do you propose to confiscate the lands of the southern people? Is that the proposition of the Senator? If so, it is a fearful one. It would still more disorganize and revolutionize society in the southern States. It would uproot the titles to all the property in those States, and spread anarchy, discord, and civil war where God knows they have run riot long enough.

The fourth proposition is that schools ought to be established. As a mere theoretical proposition that is right enough; schools ought to be established for the education of all, white and black. A memorial which I presented the other day shows that religious and good people all over the South are now contemplating the organization of schools and academies on the New England basis, and they are asking our aid to some extent to help them in that movement. They know very well that they will be compelled by their local and State laws to educate whites and blacks. But is it now proposed by the Senators from Massachusetts that the United States as a Government should step in and aid them in educating their children, white or black? Has that ever been done in this country? Is it proposed to ingraft upon the already numerous duties of the national Government the duty of educating the people of all the United States? That has never been attempted before as one of the functions of this Government. But the Senator proposes as a condition or guarantee of reconstruction that public schools shall be established for the equal good of all. Where is the fund? Will the United States supply the fund? Have these States any public lands? Have they any resources or means or money with which now to establish a school-fund in their different States? If not, must the United States Government do it? All these are questions which are raised by the fourth proposition of the Senator from Massachusetts.

The third proposition I do not think could have been written by him, because he generally goes directly to his propositions. The third requirement which he makes is:

As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

And yet by the bill we have passed we have stipulated that all the rebels of the southern States shall vote except a few. We have declared that those who would be disfranchised from holding office under the constitutional amendment shall not vote, but we have said that all the rest shall vote. Do you propose now to recede from that proposition? The Senator says in this resolution that no rebel influence should enter into or form a part in this reconstruction. If so, you wish to back out of the proposition that all the southern men may vote, except those disfranchised specially by the constitutional amendment.

Mr. SUMNER. Allow me to interrupt the Senator. I understand, for instance, that the Legislature of Virginia at this moment contains a large number of recent rebels, and yet that Legislature has undertaken to commence the work of reconstruction. Whatever is done under such influence I shall be afraid of, and I think the Senator from Ohio will be or ought to be.

Mr. SHERMAN. I am not afraid of and I do not object to all whom we authorize to vote

taking part in this organization. Indeed, I would like to see every man, white and black, in the southern States committed to this reconstruction. If, however, rebels should attempt by the exercise of any improper power, or by the undue exercise of their old influence, or by any device, such as requiring *viva voce* voting, in order to exclude people from the polls, by fear or prejudice, have we not the power to check them? Must not all these proceedings pass under our supervision? Have we any fear of the Fortieth Congress? All those proceedings must come to us.

We have submitted to them in good faith an offer that if they will found their governments on the consent of the governed, all the people, white and black, upon a fair and honest basis, and frame such a constitution as we may approve, we will let them in. And we provide, in order to prevent all difficulty about it, that their proceedings shall be submitted to us. If we find that the proceedings have been unfair, have been organized by rebels with a view to exclude loyal people, we have full power over them. Can you not judge of them? Can you not set them aside if necessary, and start the work anew? But when the Senator proposes that all the disloyal shall be excluded from participation in the formation of these governments, he adds new terms and conditions which were not imposed by Congress and which were plainly rejected by us.

Mr. President, my wish in this matter is simply to stand by the proposition we have made to these people, and give them all the aids and facilities we can to reach the assent of the people, all who are invited to participate in the organization. Pass such laws in aid of your previous enactment as you see proper. Prescribe, if you please, the form of voting by ballot, the mode of organizing the convention, and all the machinery that is required. Either leave it to the people to form them in their own way and manner, or prescribe yourself; but let us not add one jot or one tittle to the stipulations contained in the offer we have made. Let us stand by it. If they, then, with the folly and madness that have ruled them heretofore reject it, it will be time enough to offer new conditions. One year ago we offered them the constitutional amendment. They repelled it with scorn; they threw it back into our faces. They have lived long enough to regret, bitterly regret, that refusal. They now feel that the men who passed the reconstruction law are masters of the situation, that there is no power to defy their authority or overrule their dictation, whatever it may be. They feel now that they must assent to the conditions imposed upon them by Congress. They are now coming up to that work. I believe they will organize in all these southern States in pursuance of that law; that they will base their governments upon the assent of the people, black and white; that they will do it in good faith. We have made them the offer; let them have a fair trial. If they should by fraud, or by the old fear by which they have kept a whole race in bondage, prevent them from sharing in that political power which we have given to them, we can hereafter protect the black people and the white people of the southern States. In the mean time we are bound, it seems to me, by every consideration of prudence, by every dictate of statesmanship, by every sentiment of honor, not to change the terms of our offer in any material respect until they have either accepted it or rejected it.

That is the view I take of the matter, and with that view I shall vote against all propositions to change materially the offer we have made, or to touch it in any way, except so far as to provide the machinery necessary to enable them without dispute to pass upon the offer we have given them. I have glanced over the bill introduced by the Senator's colleague, and I believe that with but slight modifications it would be a wise measure. It is just such a measure as many of the southern people want. They want to know exactly what we desire. They want us to prescribe the machinery by

which they shall act, and that bill does it, I think; without adding to them any further burdens. After it has passed the inspection of the Judiciary Committee, I have no doubt I shall give it my hearty support as an aid to the law we recently passed.

Mr. JOHNSON. I rise principally, Mr. President, to remark upon a proposition made by the honorable member from Connecticut, which I am apprehensive, unless it be corrected, is calculated to do mischief to a section of the country which I am sure he desires to serve. I understood the honorable member to say that from the experience of the past he was satisfied that the Senate of the United States and the other branch of Congress would sooner or later adopt this measure, because it was proposed by the honorable member from Massachusetts, they having, according to his view, heretofore followed sooner or later in the track which he pointed out for them. I have no idea that that will be found true in this instance. I will not stop to inquire if it has been true in the past. I have confidence in the Senate of the United States, absolute confidence (and it was upon that confidence that I gave the vote which I did upon the bill which has now become a law) that they would adhere to their pledged faith, that they would not only set an example to themselves, but an example to all that the pledged faith of a nation was to be observed. I thought I saw in opinions which I believed were entertained by the honorable member from Massachusetts, and a few others who concur with him, that if the measure then before the Senate was not adopted, harsher, much harsher measures would in the end be exacted of the South; and I believed that the South would accept the measure that has been before this body. That belief is strengthened by a correspondence of considerable extent with many of the leading men of that section. I have before me now upon my table letters from some of them in North Carolina, and all that they wish to know is whether in my judgment what Congress has offered will, if accepted by the South, end the controversy. I have assured them that it would, in speech and by letter; and I trust I shall not be placed in the situation of proving in fact false to my own opinion; above all, that I shall not be placed in that situation by the Senate of the United States or by Congress, upon whose pledged word I acted.

I suppose that there is not within the sound of my voice upon this floor any member, and that there are not to be found on the other floor many, who do not desire to see the South restored. I suppose the honorable member from Massachusetts is not an exception. I have heard him more than once announce to us that he shared in the solicitude that the South should be restored. And yet after he, as I suppose, concurred in the measure which the Senate adopted—for it came to us in such a way that I imagine it received the sanction of the gentlemen of the Senate with whom I do not act politically—and when above all he did not vote against it, I supposed he was willing that the question of restoration or not should be placed upon the acceptance or the rejection of that measure; and now, before the South have had an opportunity to express any opinion upon the subject officially, although every member of the Senate, I suppose, has received letters, stating their desire to accept it if it is to be a final settlement of the question, the honorable member proposes resolutions, one of which looks to a result which I feared might be the consequence of the rejection of it—confiscation.

Mr. President, whatever feelings we may have entertained toward the southern citizens, is it not enough to satisfy us all that they have been punished, punished in the position in which they have brought themselves? It may be a visitation of Providence upon them. Providence may have thought proper to render them for the moment insane; and Providence has punished them so as effectually to cure them of that insanity; and they are now anx-

ious to be again in our midst, sharing in our prosperity, participating in our power, taking a part in the administration of this Government. Does the honorable member from Massachusetts suppose that the loyal men, as he terms them, of the South and the freedmen will not be safe under the provisions of the bill which we have already passed, with the military in supreme power, and with a provision that no constitution which they shall adopt shall become operative unless it receives the subsequent sanction of Congress? Does he suppose these two safeguards against usurpation and tyranny, if usurpation and tyranny upon the part of the South toward the class to which he has adverted are to be anticipated, would not be effectual to prevent them? But look at the other result. If the honorable member's terms are to be adopted, the South will come back by the vote of the blacks just emancipated, and the vote of some three or four thousand men calling themselves loyal men, many of whom in the beginning were secessionists, and the intelligence, the virtue, the refinement of the South is to be neglected. It is to be converted into a San Domingo, and just as sure as that God is above us, if it comes to that, armies will not be able to prevent the horrors consequent upon that condition.

I implore the Senate, therefore, to adhere in good faith to the measure which they have adopted. I regret (although I thought otherwise at the time) that the South did not accept the constitutional amendment. I regret many things that they have done, but offer them this mode of rescuing themselves from the desolation in which they are placed; and I believe, as I believe in my existence, that they will accept it, and that in a year or two all will be as it was before the rebellion commenced.

Mr. FRELINGHUYSEN. Four points of these resolutions are entirely met by the bill submitted by the Senator from Massachusetts, [Mr. WILSON,] and which has been before the Committee on the Judiciary. That provides for voting by ballot. The first proposition in these resolutions is that "the existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction."

The bill to which I have referred provides that they shall have no agency in the work of reconstruction. It provides that the commander of the district shall have a registration made, and shall manage the whole subject of reconstruction; so that the difficulty which the honorable Senator apprehends from the Legislature of Virginia is entirely removed.

Mr. SUMNER. Allow me to ask my friend if that bill has yet become a law?

Mr. FRELINGHUYSEN. That bill has not become a law, but it was laid on our tables. It was referred to the Judiciary Committee. It is now being acted upon in the House, and will be immediately acted upon here.

Mr. FESSENDEN. These resolutions cannot accomplish anything if they are passed.

Mr. FRELINGHUYSEN. These resolutions of course will not have the least effect in accomplishing anything. They are a mere declaration of what ought to be. The law is a declaration of what shall be, and the bill to which I have referred is an enabling act enabling the South, without the interference of rebels or their influence, under the control of the commander appointed by the Federal Government, to form new State organizations. These resolutions do contain something more: they contain a declaration that education shall be secured to the freedmen; that land must be secured to the freedmen. But it is the fourth resolution to which I do most seriously object:

*Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

The effect of these resolutions is to say that unless we secure education to the freedmen, unless we secure lands to the freedmen, the country cannot be reconstructed; that we must exact that. In other words, we are called upon

by the adoption of these resolutions actually to abrogate and annul all that we have been trying to do in Congress for the last three months. I object to it as unfair to Congress and unfair to the country. I believe that the proposition that Congress has put forth was put forth in good faith. I believe that it is a finality upon the basis of which law and order and equal rights will be secured to every man in this country. The dominant party of the country have received it with approbation; the South are about adopting it; and just at the most critical point of time the Senate of the United States are called upon to vote that they are not in earnest, but that they will repeal all the action they have taken and insist upon the guarantee of education and land to the freedmen. I move that the resolutions be laid upon the table.

Mr. SUMNER. I hope the Senator will withdraw the motion to give me an opportunity to say a word.

Mr. FRELINGHUYSEN. I will withdraw it for that purpose.

The PRESIDENT *pro tempore*. Does the Senator from New Jersey withdraw the motion?

Mr. FRELINGHUYSEN. Yes, sir, to give the Senator an opportunity to be heard.

Mr. SUMNER. I find that the objects which I seek to accomplish in reconstruction are regarded in very different lights by myself and by Senators who have spoken. The Senator from New Jersey, the Senator from Maryland, and the Senator from Ohio, all regard these requirements as in the nature of burdens. Education is a burden; a homestead is a burden. It is a new burden which I am seeking, so these distinguished Senators argue, to impose upon the South. Are they right, or am I right? Education can never be a burden. Justice in the way of a homestead can never be a burden. Each is a sacred duty which our Government owes to those who have the right to look to us for protection.

Now, at this moment, in the development of events, the people at the South have a right to look to us for protection. They have a right to look to us that, in laying the basis of future security, we shall see that those things are done which will make the security real, and not merely nominal. And yet, when I asked that the security shall be real and not merely nominal, I am encountered by the objection that I seek to impose new burdens. Sir, if I know my own heart, I would not impose a burden upon any human being. I would not impose a burden even upon those who have trespassed so much against the Republic. I do not seek their punishment. Never has one word fallen from my lips in any of the debates in this Chamber asking for their punishment, for any punishment of the South. All that I ask is the establishment of human rights on a permanent basis of security. Is there any Senator who differs from me in that demand? I am sure that my friend from Ohio does seek the establishment of future security; but he will allow me to say that to my mind he abandons it at the beginning; he fails at the proper moment to require those guarantees without which your future security will be vain.

This is not the first time that the Senator from Ohio has set himself against the fundamental propositions of reconstruction. When, now more than four years ago, I had the honor of introducing into this Chamber a proposition declaring the jurisdiction of Congress over this whole question, and over the whole rebel region, I was met by the Senator from Ohio, who reminded me that I was alone, and he went forward to say that my position was not unlike that of Jefferson Davis. His remarks were made as long ago as April 2, 1862. I will send them to the Chair to be read.

The Secretary read as follows:

"I therefore cannot help but say that while I respect the motives of the honorable Senator from Massachusetts, while I give him credit for consistency, ability, and a great deal of culture, and am always glad to hear him speak, yet I must confess that when I looked over his resolutions they struck

me with surprise and regret. They would revolutionize this Government. Sir, strike the States out of this system of Government, and your Government is lost and gone. I cannot conceive of the United States governing colonies and provinces containing millions upon millions of people, black and white. I do not think such a thing can exist. I do not believe it is in the power of secession to bring us to such a state of things. I can draw no distinction between the resolutions of the Senator from Massachusetts and the doctrines that are proclaimed by Jefferson Davis. If a State can secede, the people of the State can make a new government. If the people of South Carolina are firm and united in their policy, which no man doubts; if they have power to secede, they have seceded and their doctrine is true. But I do not believe they have the power to secede. They may go into banishment, wandering all over the face of the earth; but they cannot take with them a single foot of the soil of this country over which our flag ever floated. The doctrine of the Senator from Massachusetts is substantially an acknowledgment of the right of secession, of the right to secede. He, however, puts the States in the condition of abject Territories, to be governed by Congress. Jefferson Davis puts it in the power of the people of the States to govern the States themselves. As to which is the most dangerous or obnoxious doctrine I leave every man to determine."—*Congressional Globe*, Thirty-Seventh Congress, second session, page 1495.

Mr. SUMNER. I have not called the attention of the Senate to these remarks in any unkind feeling, for I certainly have none for the Senator; I have no feeling but kindness and respect for him; but as I listened to him a few minutes ago remonstrating against the position I now occupy I was carried back to that early day in 1862, when he remonstrated, if possible more strenuously, against the position that I then occupied; and what was it? I had had the audacity to assert the paramount power of Congress over the whole rebel region. That was the sum and substance of my argument; and you have the answer of the Senator from Ohio to it. And now in the lapse of time the Senator from Ohio has ranged himself by my side, and has voted for that measure of reconstruction which is founded on the jurisdiction of Congress over this whole rebel region.

As time went on the subject assumed another character. It was with regard to the suffrage question. A year ago I ventured to assert on this floor that we must give the suffrage to all colored persons by act of Congress and without any constitutional amendment. I founded myself in that assertion on two positions. One was the solemn guarantee in the Constitution of a republican form of government; and I undertook to show that any denial of rights on account of color was unrepugnant to such an extent that the Government that sanctioned it could not be considered in any just sense republican in any form. And I then went further and insisted that from the necessity of the case at the present moment Congress must give the suffrage to all persons at the South without distinction of color. I argued that the suffrage was needed in order to counterbalance the suffrage of the rebels. Very well. One year has passed, and you have now, by act of Congress, asserted the very power which the Senator from Ohio and other distinguished Senators associated with him most strenuously denied. That Senator and other Senators insisted that it could only be done by constitutional amendment. I insisted that it could be done under the existing text of the Constitution; nay more, that from the necessity of the case it must be done. Very well; you have done it.

But in doing it unhappily you have failed to make proper provision for enforcing this essential security. You have provided no machinery in your act, and you have left other things undone which ought to be done. And now, as I come forward here and urge that these things should be done, I am encountered again by my friend from Ohio whom I had encountered before on these other cardinal propositions; and he now, just as strenuously as before, insists that it is not within our power or province at this moment to make any additional requirements of the rebel States. He is willing that the bill in certain particulars shall be amended; I do not know precisely to what extent he would go on that head; but he will make no additional requirements, as he ex-

presses it, in the nature of burdens. Sir, I make no additional requirements in the nature of burdens. I have already said I impose no burdens upon any man; but I do insist upon the protection of rights. And now at this moment, as we are engaged in this great work of reconstruction, I insist that your work shall be completely done. It will not be completely done if you fail to supply any safeguards or precautions that can possibly be adopted.

A great orator told us on one occasion that he had one lamp by which his steps were guided, and that was the lamp of experience. There is one great experience on this question, commanding, historic, which illumines this age. It is more than a lamp: it is like the sunshine. It is the example afforded to us in that great act of emancipation by the Emperor of Russia when he set free twenty million serfs. Did he stop merely by giving them their freedom? No! he went further, and provided for their education, and also provided that each should have a piece of land. And now when I ask that my country, a Republic, heir of all the ages, foremost in the tide of time, should do on this question only what the Emperor of Russia has done, I am met here by grave Senators with the argument that I am imposing new burdens upon late rebels. No, sir, it is no such thing. I am only asking new securities for my country, to the end that it may be safe, great, and glorious.

Mr. SHERMAN. If the Senator sought to weaken my arguments by showing that at some time or other I changed my mind he could readily do it. Every reasoning man in the progress of this war has changed his mind upon many questions; and the Senator is not an exception, but he is very unfortunate in his illustration. The language he has caused to be read which I used, I do not know on what occasion, it seems in April, 1862, I could repeat now, and heartily indorse upon the fundamental proposition then stated: I certainly stand now as I did then. I state now that those ten rebel States are in the Union of the United States, have been recognized to be in the Union from the beginning of the war by every department of the Government, executive, legislative, and judicial. They are imperishable, and neither the hand of the Senator from Massachusetts nor the hand of any other mortal man can strike them from the list of States of the Union. That is the substance of the doctrine which he has caused to be read. I have no doubt that nine tenths of this Senate could read with approbation the remarks that he has quoted from a speech that I made four years ago; that is, that these States are still in the Union; that the Union is indestructible, imperishable; and that neither war nor legislation can strike them from the list of States. But, according to the doctrine proclaimed by the Executive and sanctioned by Congress, the civil governments in those States have been overthrown by the rebellion—

Mr. SUMNER. Very well; that was my original position, to which the Senator replied in the passage that I have read.

Mr. SHERMAN. I never took issue on that proposition. On the contrary, in the very speech quoted I say that the civil government has been overthrown by the rebellion, that the civil governments had been usurped by traitors, and that we were endeavoring to break down by arms these men who had usurped the government of those States. The same doctrine is contained in the very speech that he read, and I say that now. It was the doctrine finally adopted by the President of the United States when he issued his proclamation to the people of North Carolina, and repeated to the people of the other southern States, recognizing them as States, but declaring that the rebellion had overthrown civil governments, and then proposed to reorganize civil governments in those States. That is the doctrine upon which we all stand now, and upon which the recent reconstruction bill was founded. We propose to start again civil governments founded upon universal suffrage in



those States, and we have declared that that government shall be founded upon the consent of all the people of those States without regard to race, previous condition, or color.

But now, sir, after we have made that offer, after we have made that stipulation, the Senator, before these people have had an opportunity to act upon it, proposes to revoke that offer and make another one still more onerous in its conditions. He says that it is not onerous or burdensome to take from them their land and distribute it among the former slaves. Why, sir, does such a law exist in Massachusetts? In Massachusetts wealth has been accumulated in untold fortunes. Half a dozen men in Massachusetts could buy out whole counties in the State of Ohio. Does the Senator propose in Massachusetts, in order to make it republican, to scatter these great fortunes among the poor people of Massachusetts? Are there not thousands of men in Massachusetts now without homesteads or homes? Are there not now in Boston wanderers, white and black, of all conditions, starving for food perhaps, or depending upon the charity of their neighbors? Are there not poor people in Massachusetts as well as rich? Does the Senator propose to seize the property of the rich and scatter it among the poor in order to secure a republican government for the State of Massachusetts? That is the proposition contained in these resolutions?

Now, sir, because I am not willing to do that, because I am not willing to uproot society in all these States more than it has been uprooted, because I am willing to stand by the offer we have made, I am to be chided by the Senator from Massachusetts for being backward. No plan of confiscation has been carried out in Europe since the time when the Norman invaded England and divided the lands of the Saxons among the Norman barons, and all the civil wars in England for five hundred years grew out of that conquest.

The case mentioned by the Senator from Massachusetts of the autocrat of all the Russias is not an exception. There the landowner was paid for his property by the former serfs, and the adjustment was made with the consent of the landholder, and the arrangement was for their mutual advantage. But even if it were not so; suppose the autocrat of all the Russias had seized upon the property of his subjects and divided it among those who had it not before, is that an example for the American Congress to follow? Have we any right or authority to commit such acts here? Is this a Government like Russia, where the whole Government rests upon the will of the sovereign, where he may destroy life and property, banish, murder, or execute at his pleasure to carry out his will? Is that the foundation-stone upon which the Senator would organize governments in all those southern States? I say not.

But, Mr. President, it is not worth while for us to pursue this argument. The only question is, whether we are willing substantially to abide by the offer we made only a few days ago to the people of the southern States. The Senator says that a year ago I and other Senators here opposed the extension of the elective franchise to the negro population of the South. In that he is mistaken so far as I am concerned, because I never took any position on the subject—never said anything about it. I had no doubt of our right to impose terms and conditions upon the people of the southern States. The constitutional amendment was adopted after a long and serious debate, and I believe without my participating in it at all. But a year ago I was not in favor of extending enforced negro suffrage upon the southern States. I voted for the constitutional amendment; but that very amendment made a provision that would have secured gradually to all the negroes of the southern States the elective franchise, by making it the obvious interest of all the white people to extend the suffrage. It was adopted after grave and serious debate and consideration, and was heartily approved by our con-

stituents. But, sir, the South rejected it. These people still hugged to their bosom the same delusive spirit which led them into the rebellion. They believed that by the defection of the President of the United States they were masters of the situation. They believed they could rally around the President and make a party that would let them in on better terms. They have now found out their sad mistake. They are now ready and willing to come on such terms and conditions as we have offered them. Shall we now add new conditions and new stipulations not contained in any constitution of any of the States? Shall we destroy and derange property in every southern State, and impose conditions that have not been required of any other State in the United States? That is the only question.

I say, therefore, that under the circumstances by which we are surrounded, this proposition of the Senator from Massachusetts and this whole debate is injurious to the public interests, because it retards the great process of reconstruction, which is going on very well.

I said I was in favor of the bill proposed by his colleague. Why? Because it did not materially change in any essential particular the offer we have made; because it is not in the slightest degree inconsistent with the proposition we have made; but it prescribed a definite machinery by which the will of the people of the southern States could be ascertained. It provides for a registration, not adding to or taking from a single voter who could vote under the reconstruction law. It simply provides that they are to be ascertained by a registration. It then provides, in order to secure a fair expression from every male citizen, for the ballot. It does not add to nor take from the number who shall vote. It provides that they may vote if they choose by ballot. That is right and in pursuance of the terms of that law. It also provides that the rebel Legislature or provisional government shall not take part in the machinery. That I did not deem very material, because the law itself contemplated that it should be a movement of the people, "that when the people of any one of those States shall have organized a government," and we reserved to ourselves the right to say when this condition had been complied with. I would much prefer it if the mode and manner and machinery by which this organization is to be effected was pointed out. There can be no objection to such a law; but that is a very different proposition from the one now made by the Senator from Massachusetts.

I trust, therefore, that this subject may be laid aside, and that we may proceed to finish the business we have before us at the present session, provide if it is necessary the machinery by which the assent of these people may be obtained, and that then we may go back to our homes among our constituents, where they desire us to go.

Mr. HOWARD. Mr. President, I had not until this morning read the string of resolutions submitted by the honorable Senator from Massachusetts, and knew nothing about them. His earnestness in their discussion has induced me to give them some little attention, and as I may be called upon to vote upon them, I wish to state as briefly as possible, the views I entertain. The resolutions themselves do not contemplate any immediate practical legislation by this body. They are in the nature of theses for discussion here, introduced for the purpose, doubtless, of eliciting our opinions upon the various topics presented; and as the Senate seems to have very little else to do just now, I am not sure but that we may spend a few minutes profitably in discussing these abstract theses.

He begins by declaring that Congress has commenced a good work in the passage of the reconstruction act passed by the two Houses a few days ago. I agree to that; I voted for it; and now I will ask the honorable Senator whether he did not vote for the reconstruction act?

Mr. SUMNER. I voted for the amendments

as they came from the House. I did not vote for the act as it passed the Senate.

Mr. HOWARD. Let me proceed further. Did the honorable gentleman vote at all upon the final passage of the bill? Did he oppose it in any way, by speech or influence? Did he seek to obstruct its passage in any form whatever? I think he did not.

I agree that in passing that reconstruction bill Congress did a good work. So far then we agree.

The second resolution is—

That there are other things remaining to be done which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

Doubtless there are many things remaining for Congress to do that are not embraced in the reconstruction act; but about which it is unnecessary for me to speak now.

His third resolution declares—

That among the things remaining to be done, are the five following:

First. The existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

Well, sir, if I am correctly informed there is a bill pending in the other House, which if passed by that and by this House will effectually vacate these alleged illegal governments; and I see no necessity of declaring here just at this time the necessity of passing such a bill. "Sufficient unto the day is the evil thereof." When such a measure shall be presented to the Senate for discussion it will receive our full and candid consideration. I do not deem it necessary to spend the time of the Senate in discussing that abstract proposition.

There are, however, several things which the Senator in his resolutions declares ought to be done to which I wish to pay the respect of a passing observation. The first of any prominence is this:

As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

I do not agree to this proposition of the honorable Senator. The reconstruction act to which I have referred is in itself a plain, authentic, solemn declaration of Congress as to who may and who may not exercise the elective franchise, both in the calling of conventions for the reformation of their State constitutions, and in reference to the exercise of the elective franchise under those constitutions after they shall have been adopted by the people of those States and ratified and approved by Congress. We have made, I say, a distinct and clear proposition to the people of the rebel States; and what is that proposition? It is this:

And when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for election of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State by a vote of its Legislature elected under said constitution shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Now, sir, the regulation of the elective franchise under this reconstruction act is clear and intelligible. It declares to the South that all male persons, twenty-one years old, who are not within the restrictions contained in the article of the amendment known as the fourteenth article, shall have the right to vote in the election of delegates to a convention in each State to reform its constitution; and it also declares that the same class of persons shall henceforth under the State constitution, as thus reformed, have the right of voting at the polls. Who are those persons? The entire southern male population, both white

and black, who are not excluded by the article of amendment which we adopted at the last session. We all know that a very large proportion of the white population thus allowed the privilege of voting in the southern States were rebels during the war and bore arms against the country. At the time of the passage of the reconstruction act we knew this; we know it still; and yet we have proposed, in the form of legislation, that this same class of persons shall for the future have the right to vote on complying with the conditions we annex to the act itself. What, then, does this proposition of the Senator from Massachusetts imply?

As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

"Every possible precaution must be adopted against rebel agency or influence in the formation of these governments." Will the honorable Senator declare that the votes of rebel soldiers and rebel officers, not excluded by the amendment, are not "rebel influence" at the South? What construction does he put upon this portion of his resolution? Is it not directly and by the clearest intendment aimed against that entire portion of the white southern population? I take it he will not deny that his object is the complete disfranchisement of every man in the South who has participated in the rebellion and in whose heart there are still lurking sentiments of the old disloyalty which drove him to arms. If the gentleman does not mean this by his language, then I submit that it has no meaning at all, and his proposition is unworthy of discussion. It is aimed at something; it is aimed at somebody. What is the something and who is the somebody unless such as I have described? If I have misconstrued this part of the Senator's resolution I should be glad to be corrected, for I look upon it as important. He does not correct me.

Mr. SUMNER. Oh, yes; I must contradict you.

Mr. HOWARD. Very well.

Mr. SUMNER. At the same time that I laid these resolutions on the table I also laid a bill of twenty sections entitled—

Mr. HOWARD. We are not acting upon the Senator's bill, but upon these resolutions.

Mr. SUMNER. I understand that; but if the Senator will allow me, I laid a bill on the table entitled "A bill to guarantee a republican form of government in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, and to provide for the restoration of these States to practical relations with the Union;" and in that bill I laid down the rules with regard to the elective franchise in such a way as I thought would exclude all rebel agency or influence; but my bill does not proceed on the idea which the Senator imagines of the disfranchisement of all soldiers who took part in the rebellion.

Mr. HOWARD. I do not know upon what principle the bill proceeds.

Mr. SUMNER. I will explain it by and by.

Mr. HOWARD. All I know is the record before me and the language which the Senator uses in his resolution, and from reading it I took it for granted that such was his aim. Now, sir, I never can agree to any such principle. We have made an honest, out-and-out proposition to the southern people, black and white, proposing to them the means by which they can restore themselves to participation in the Government of the United States as States of the Union; and for one, sir, I am for keeping the pledge. It was made deliberately, and I shall be the last man to violate the pledge or to attempt to retract it.

Nor will I attempt to superadd to this act of reconstruction conditions which we did not impose at the time and which the bill itself does not contemplate; because that would be equally a departure from that *uberrima fides* which alone becomes the Senate of the United

States and the legislation of Congress on a subject so grave, so important.

I am not in favor of confining the suffrage in the southern States to black men solely. I recognize at the South a white population as well as a black population; and although I would go as far as any man to subdue completely the spirit of the rebellion and resistance to the just authority of the United States, I cannot go so far as to attempt to set up a government in any of those States which is based exclusively upon the votes of black persons, and which in its operations is not to be meddled with or in any way controlled by white persons that may have happened to participate in the rebellion. In short, I look upon the white man of the South as entitled to at least as great rights as the black man, if his character be equally good. But it is sufficient for me that we have held out this pledge to the southern States and people; we have proposed our own conditions; and I will not at this early period of time undertake to change them or to modify the proposal, nor until the people of the southern States have had an opportunity to consider and act upon the terms.

Now, sir, the Senator proposes, in addition to what the reconstruction act contains, that "public schools must be established for the equal good of all."

I see no necessity for discussing this question. The people of the southern States are to frame their new constitutions; they are to institute new governments depending upon the public sentiment of each of the States; and these constitutions cannot go into operation until each has been submitted to Congress for its examination and approval. It can have no operation until it has received our sanction. We are to pass upon each one of them, and if we find any material defect in it, either in respect to education or any other subject-matter properly within the scope of State legislation, it will be for us to remand the constitution to the people for amendment, so as to make it conform to our own views.

Another proposal is that the head of every family shall be provided with a homestead. The language of the Senator is:

Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

How is this land to be obtained? Where does it lie? Who owns it? Who occupies it? And if it is to be taken from its present occupants and turned over to a freedman who happens to be the head of a family there must be some machinery by which the thing is to be done. Is it to be taken through the confiscation act? Certainly not. The Senator from Massachusetts knows as well as I that that act is but little better than a dead letter. We have heard of but very few condemnations of land under the confiscation act of 1862. Does he expect that the land is to be thus confiscated to the Government under that act by wholesale, and then parceled out among the heads of families? Is that his project? Or does he contemplate that the head of every family of freedmen shall have the privilege of establishing himself upon a homestead in a new country upon public land of the United States? If that be his idea, it is already carried out in our legislation. It is as much the right of a freedman to locate himself upon a homestead upon the public lands of the United States as of a person who is not a freedman, so that in this view of the case it is entirely nugatory and without utility. He says further in his proposition:

That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

My reply to this is: we have already proposed the terms of what we agree to be a just reconstruction; let us manfully and honestly and courageously adhere to them, and if we find in the future that they are not accepted by the rebel States, or that there is any other embar-

rassment in the way, it will be time then to resort to further legislation upon the subject; but at present I am opposed to voting upon this series of abstract propositions which can eventuate in nothing and have in contemplation, so far as I can see, no practical legislation and no practical end. I shall therefore at the proper time move to lay the resolutions on the table.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business. ["Oh no; let us dispose of the resolutions."]

The motion was not agreed to.

Mr. FREELINGHUYSEN. I move to lay the resolutions of the Senator from Massachusetts on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 36, nays 10; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—36.

NAYS—Messrs. Cole, Howe, Morton, Pomeroy, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—10.

ABSENT—Messrs. Edmunds, Fowler, Grimes, Guthrie, Morrill of Maine, Nye, and Riddle—7.

So the resolutions were ordered to lie on the table.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed a concurrent resolution for the appointment of a joint Committee to Examine the Accounts for Repairs and Furnishing the Executive Mansion, in which the concurrence of the Senate was requested.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of July 28, 1866, a report of the Secretary of State, with the correspondence between the United States and Governments of France and Prussia, since March 4, 1857, touching the claim of those Governments to the military service of persons born in those countries but who subsequently became naturalized citizens of the United States.

Mr. SUMNER. I move that that message be referred to the Committee on Foreign Relations. It is so very voluminous that I do not venture now to ask that it shall be printed without a reference.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of War, in response to a resolution of the 8th instant, calling for information as to the sending out of any armed expedition against the Indians of the western Territories; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia.

#### FURNISHING EXECUTIVE MANSION.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

*Resolved*, (the Senate concurring.) That a joint committee, to consist of two members of the Senate, and three members of the House, be appointed to examine the accounts for repairs and furnishing the Executive Mansion, as provided for in the act making appropriations for deficiencies, &c., approved March 2, 1867.

Mr. FESSENDEN. I move that the Senate concur in the resolution. It is the same in substance as one passed by the Senate this morning.

The resolution was concurred in; and the President *pro tempore* being authorized to appoint the committee on the part of the Senate, Messrs. HARLAN and NORTON were appointed.

#### DONAHUE, RYAN, AND SECOR.

Mr. NYE. I am instructed by a majority of the Committee on Naval Affairs, to whom



was referred a joint resolution (S. R. No. 17) for the relief of Donahue, Ryan & Secor, to report it back without amendment and recommend its passage; and I ask for immediate action upon it.

Mr. FESSENDEN. That resolution appropriates something like two hundred thousand dollars I think. I believe it ought to lie on the table so that we may see it and consider it.

Mr. NYE. I hope it will be proceeded with now.

Mr. FESSENDEN. I do not mean to make a motion to lay the measure on the table, but I suggest that it ought not to be acted upon the day it is reported from the committee, but should lie on the table a day for consideration, as the rules require.

The PRESIDENT *pro tempore*. The joint resolution can only be considered to-day by unanimous consent. Is there any objection?

Mr. FESSENDEN. I object.

#### EQUALIZATION OF BOUNTIES.

Mr. TRUMBULL. I have received, and been requested to present, a petition signed by several hundred officers and soldiers, seamen, and marines, stating that under the bounty act which was passed persons are excluded from the benefits of that act who enlisted at the beginning of the rebellion, in 1861 and 1862, and were discharged on account of disability before serving two years. They state that those persons do not receive bounty at all, and are deserving persons; and they ask that the bill which was introduced by a Representative from Ohio [Mr. SCHENCK] in the House of Representatives, may receive favorable consideration, extending the benefits of the bounty to that class of persons. The petition is numerous signed, and is headed by the signature of Colonel Knobelsdorff, late colonel of the forty-fourth regiment of Illinois volunteers. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, March 11, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

#### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for the introduction of bills and joint resolutions for reference to appropriate committees, and not to be brought back by a motion to reconsider. Under this call joint resolutions of the Legislature of a State or Territory may be presented.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country.

The message also announced that the Senate had passed a joint resolution (S. No. 16) for the relief of the destitute in the southern and southwestern States; in which the concurrence of the House was requested.

#### EXTENSION OF BOUNTY LAW.

Mr. PERHAM introduced a bill to extend the provisions of the bounty law to the widows and children of soldiers who enlisted for nine months and were killed in battle; which was read a first and second time, and ordered to

be referred to the Committee on Military Affairs; when appointed.

#### NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York, introduced a bill to provide for the construction of a ship-canal around the falls of Niagara; which was read a first and second time.

Mr. VAN HORN, of New York. Mr. Speaker, if I may be permitted, I desire to state that this bill differs from the bill passed by this House at the last Congress. That bill provided for the construction of this work by a company to be incorporated by Congress. This provides for the construction of the work by the Government at the public expense under the direction of the Secretary of War. Some of the friends of the measure desire that this bill shall be referred to a select committee. I therefore move its reference to a select committee of five.

Mr. HUMPHREY. Mr. Speaker, I would suggest to my colleague that this bill had better be referred either to the Committee on Commerce or to the Committee on Military Affairs. It relates peculiarly to the commercial and the military interests of the country, and I can see no propriety in raising a select committee to take this subject out of the hands of a regular standing committee having appropriately jurisdiction of the subject.

The SPEAKER. The Chair will state that under the rules bills introduced during the morning hour must be referred without debate. The Chair has, however, indulged both gentlemen from New York in a brief statement.

Mr. HUMPHREY. I hope I may be allowed to make a single additional suggestion. In the Senate this measure has always been referred to the Committee on Commerce; and I hope my colleague will consent that it shall be referred either to the corresponding committee of this body or to the Committee on Military Affairs. I ask the gentleman to indicate which of these standing committees he prefers. If he insists on the reference to a select committee, then I move that the bill be referred to the Committee on Commerce.

Mr. VAN HORN, of New York. If I may be allowed I should like to say a word. In the Thirty-Seventh Congress this was referred to a select committee; and a like reference was made in previous Congresses. It is a matter of great national importance. I hope, therefore, the motion of my colleague will not prevail, and that the subject will be referred to a select committee.

Mr. HUMPHREY. It has never been referred to a select committee in the Senate, but has always been referred to a standing committee.

The SPEAKER. The motion to refer to a standing committee takes precedence.

The House divided; and there were—ayes 37, noes 46.

So the motion to refer to the Committee on Commerce was disagreed to.

The bill was then ordered to be referred to a select committee.

#### REBEL STATES.

Mr. WARD introduced a bill to guaranty to certain States which have been in rebellion a republican form of government; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### ACKNOWLEDGMENT OF DEEDS.

Mr. WOODBRIDGE introduced a bill further to provide for the acknowledgment of deeds in the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ST. ALBANS BANK.

Mr. WOODBRIDGE also introduced a bill for the relief of the St. Albans Bank of St. Albans, Vermont; which was read a first and second time, and ordered to be referred to the Committee on Banking and Currency when appointed.

#### TARIFF BILL.

Mr. MOORHEAD introduced a bill to provide increased revenue from imports, and for other purposes; which was read a first and second time, and ordered to be referred to the Committee of Ways and Means, when appointed.

#### SOLDIERS OF 1812.

Mr. MILLER. I introduce a bill granting pensions to the soldiers of the war of 1812 with Great Britain. It was referred in the last Congress to the Committee on Invalid Pensions, but that committee never made any report on the subject. I ask that it now be referred to a select committee.

The bill was read a first and second time.

Mr. PERHAM. Is this matter debatable? The SPEAKER. It is not, but any other reference can be moved.

Mr. PERHAM. I move that it be referred to the Committee on Invalid Pensions when appointed.

Mr. MILLER. I hope that will not be done; it will be the death of the bill.

The question first recurred on referring the bill to the Committee on Invalid Pensions when appointed.

The House divided; and there were—ayes sixty, noes not counted.

Mr. MILLER demanded tellers.

Tellers were not ordered.

Mr. MILLER, by unanimous consent, withdrew the bill for the present.

#### JOHN A. McLAIN.

Mr. SCOFIELD introduced a bill authorizing John A. McLain, of company B, one hundred and fifth Pennsylvania volunteers, to receive three months' pay proper; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs, when appointed.

#### LEWIS LADOMUS, ETC.

Mr. MYERS introduced a bill directing the Secretary of the Treasury to pay to Lewis Ladomus and the representatives of John Moore, deceased, of Philadelphia, rent for the occupancy of square No. 760, East Capitol street, Washington, District of Columbia; which was read a first and second time, and ordered to be referred to the Committee for the District of Columbia, when appointed.

#### NAVAL OFFICERS ON LEAVE.

Mr. LAWRENCE, of Ohio, introduced a joint resolution authorizing naval officers on leave to visit Washington; which was read a first and second time, and ordered to be referred to the Committee on Naval Affairs when appointed.

#### EQUALIZATION OF BOUNTIES.

Mr. WILLIAMS, of Indiana, introduced a bill to equalize bounties of soldiers, sailors, and marines who served in the late war for the Union; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs when appointed.

Mr. SCHENCK introduced a bill to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs when appointed.

#### HOMESTEAD SETTLEMENTS.

Mr. JULIAN introduced a bill amendatory of an act for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed, and printed.

#### PREEMPTION LAWS.

Mr. JULIAN introduced a bill amendatory of the preemption laws of the United States and for other purposes; which was read a first and second time, ordered to be referred to the Committee on Public Lands when appointed, and printed.

## RAILROADS AND PLANK ROADS.

Mr. JULIAN introduced a bill to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all railroads, plank roads, &c., over the public lands of the United States; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed.

## PENSIONS.

Mr. WASHBURN, of Indiana, introduced a bill granting pensions from the date of discharge, and for other purposes; which was read a first and second time, ordered to be referred to the Committee on Invalid Pensions when appointed, and printed.

## JAMES B. THOMPSON.

Mr. MILLER introduced a bill for the relief of Major James B. Thompson, of Perrysville, Juniata county, Pennsylvania, who was first lieutenant and subsequently captain of company F, one hundred and ninetieth regiment Pennsylvania volunteers, having been commissioned during his confinement in rebel prisons; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and printed.

## COBB, CHRISTIE AND COMPANY.

Mr. HOLMAN introduced a bill for the relief of O. P. Cobb, Christie & Co., and J. & O. P. Cobb & Co., of Aurora, Indiana; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

## CLOTHING SOLDIERS.

Mr. JUDD introduced a bill to clothe a portion of the soldiers of the Republic now suffering from injuries received; which was read a first and second time, and referred to a select committee of three.

## CLAIM OF COIN IN THE TREASURY.

Mr. COOK introduced the following joint resolution; which was read a first and second time, and referred to the joint select Committee on Retrenchment:

*Be it resolved by the Senate and House of Representatives, &c., That the coin claimed by certain banks in Richmond, Virginia, and now deposited in the Treasury for safe-keeping by order of the President, be paid into the Treasury of the United States; and that the banks or persons claiming the same have the right to prosecute their claim to the same in the Court of Claims.*

## AMENDING THE CONSTITUTION.

Mr. BROMWELL introduced a joint resolution declaratory of the law as to amending the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

## MISSOURI TROOPS.

Mr. McCLURG introduced a joint resolution placing certain troops of Missouri on an equal footing with other volunteers as to bounty; which was read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

## JUDICIAL DISTRICTS OF MISSOURI.

Mr. McCLURG introduced a bill to amend an act entitled "An act to divide the State of Missouri into two judicial districts, and give jurisdiction to the district court for the western district of Missouri;" which was read a first and second time, and referred to the Committee on the Judiciary.

## CANAL IN CALIFORNIA.

Mr. BEAMAN introduced a bill granting a right of way and making a grant of land to the State of California to aid the Sierra Nevada and Contra Costa Irrigation and Land Company in the construction of a canal in said State; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed.

## LAND-GRANT RAILROAD.

Mr. PAINE presented the memorial of the Legislature of Wisconsin, for a grant of land to aid in the construction of Sugar River Valley railroad from Freeport, Illinois, to Madison,

Wisconsin; which was ordered to be referred to the Committee on Public Lands when appointed, and printed.

## JUDICIAL DISTRICTS OF WISCONSIN.

Mr. WASHBURN, of Wisconsin, introduced a bill to divide the district of Wisconsin into two judicial districts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## ACTUAL SETTLERS ON THE PUBLIC LANDS.

Mr. DONNELLY introduced a bill to protect the actual settlers upon the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands when appointed, and ordered to be printed.

## RAILROAD FROM LAWRENCE TO MEXICO.

Mr. CLARKE, of Kansas, introduced a bill granting land to aid in the construction of a railroad and telegraph line from the city of Lawrence, in the State of Kansas, to the border line between the United States and Mexico, in the direction of the city of Guaymas, on the Gulf of California; which was read a first and second time, and referred to the Committee on the Pacific Railroad when appointed.

## BRIDGE ACROSS THE MISSOURI RIVER.

Mr. CLARKE, of Kansas, also introduced a bill to authorize the construction of a bridge across the Missouri river at Fort Leavenworth, Kansas; which was read a first and second time, and referred to the Committee on Public Lands when appointed.

## CHEROKEE NEUTRAL LANDS IN KANSAS.

Mr. CLARKE, of Kansas, also introduced a bill to provide for giving the right of pre-emption to settlers on the Cherokee neutral lands in Kansas, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands when appointed.

## RESOLUTIONS OF THE STATE OF NEVADA.

Mr. ASHLEY, of Nevada, presented the joint resolutions of the State of Nevada, asking the establishment of a mint at Carson City, in that State; which was referred to the Committee of Ways and Means when appointed, and ordered to be printed.

Mr. ASHLEY, of Nevada, also presented resolutions of the Legislature of that State in favor of a daily mail to Boise City, Idaho; which was referred to the Committee on the Post Office and Post Roads, when appointed.

Mr. ASHLEY, of Nevada, also presented joint resolutions of the Legislature of that State in reference to mail routes in the State of Nevada, which were referred to the Committee on the Post Office and Post Roads, when appointed, and ordered to be printed.

## TARIFF BILL.

There being no further bills and joint resolutions under the call of States and Territories, the Speaker announced that the remainder of the morning hour would be consumed in calling the States and Territories for resolutions, commencing with the State of Pennsylvania, where the call rested on the 6th of March, the pending question being the consideration of the following resolution, introduced by Mr. MOORHEAD of Pennsylvania:

*Resolved That the tariff bill, being House bill No. 718 of the Thirty-Ninth Congress, together with the pending amendments, be referred to the Committee of Ways and Means, when appointed.*

Mr. MOORHEAD. I introduced that same bill this morning and had it referred. I therefore beg leave to withdraw the resolution.

No objection was made, and the resolution was withdrawn.

## AGRICULTURAL REPORTS.

Mr. MILLER submitted the following preamble and resolution; which were referred under the law to the Committee on Printing, when appointed:

Whereas during the late war none of the Agricultural Reports were distributed in the rebellious States;

and whereas since the peace there is a great demand for them by loyal people engaged in agricultural pursuits in that section of the country; and whereas it is to the interest of the Government that the agricultural interests should be encouraged in every section of the country; and whereas the Committee on Printing have recommended in a resolution which was adopted by this House the printing of the same number of the Reports as were ordered to be printed of the Report of the year 1865, which are entirely inadequate to meet the legitimate demands of the people engaged in this pursuit: Therefore,

*Resolved, That the Committee on Printing be, and are hereby, requested to order fifty thousand copies of the Agricultural Report for 1866 to be printed in addition to those recently ordered by the House, twenty thousand for the use of the Agricultural Department, and the balance for the use of the members of this House for distribution.*

## JURISDICTION OF UNITED STATES COURTS.

Mr. MORRELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the Committee on the Judiciary be instructed to inquire whether any and what further legislation is necessary to give the courts of the United States jurisdiction over offenses committed upon other waters than the high seas, and to report by bill or otherwise.*

## ASSAY OFFICE AT ST. LOUIS.

Mr. PILE introduced a bill to establish an office for the assay of gold and silver at St. Louis, Missouri; which was read a first and second time, and ordered to be referred to the Committee on Coinage, Weights, and Measures when appointed.

## PAYMENT OF THE NATIONAL DEBT.

Mr. KELLEY submitted the following resolution, upon which he called the previous question:

*Resolved, That the proposition that the war debt of the country should be extinguished by the generation that contracted it is not sanctioned by sound principles of national economy, and does not meet the approval of this House.*

The question was upon seconding the call for the previous question.

Mr. WILSON, of Iowa. If the previous question shall not be seconded will it be in order to move to refer this resolution to the Committee of Ways and Means when appointed?

The SPEAKER. That motion will then be in order.

Mr. WILSON, of Iowa. I hope the call for the previous question will not be seconded. I do not think it is proper to commit the House to the doctrine enunciated by this resolution without some investigation by a proper committee.

The question was taken upon seconding the call for the previous question; and upon a division, there were—ayes 26, noes 55.

So the previous question was not seconded.

Mr. WILSON, of Iowa. I move that the resolution be referred to the Committee of Ways and Means when appointed; and upon that motion I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ADDITIONAL EXAMINERS FOR PATENT OFFICE.

Mr. MYERS. Under the call of States for resolutions is it in order to introduce a bill?

The SPEAKER. Under the call of States for resolutions, bills or anything else can be introduced and acted upon without debate, under the operation of the previous question; except that if the bill contains an appropriation, and the point of order is made, it must be referred to the Committee of the Whole. If the previous question should not be seconded, and the bill gives rise to debate, then it will go over, as a simple resolution would, under the rule.

Mr. MYERS. I then introduce a bill to increase the force in the Patent Office, and for other purposes; and if there is no serious opposition I shall ask that the bill be acted upon now.

The bill was read a first and second time.

The bill was then read at length. The first

section provides that the Commissioner of Patents shall be authorized to appoint, from time to time, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch; provided the whole number of such additional examiners shall not exceed four of each class, and that the additional annual expenses of the Patent Office shall not exceed its annual receipts.

The second section provides that the Commissioner of Patents shall be authorized to appoint, by and with the approval of the Secretary of the Interior, a solicitor of the Patent Office, who shall be considered its law officer, whose salary shall be \$3,000 per annum, to be paid from the patent fund, and whose duty it shall be to render all reasonable aid in the transaction of the business of said office that may be required of him by the said Commissioner.

The third section provides that the salary of the first assistant examiners and disbursing clerks shall be \$2,000 per annum; and the salary of the librarian shall be \$2,500, which shall be in full for his services as translator and librarian.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. FARNSWORTH. I think this bill should receive the consideration of a committee, and not be acted upon now.

The SPEAKER. If the bill gives rise to debate it will go over under the rule.

Mr. FARNSWORTH. I desire to debate the bill.

The SPEAKER. The gentleman from Pennsylvania [Mr. MYERS] having introduced the bill is entitled to the floor upon it.

Mr. MYERS. The features of this bill were before the Committee on Patents of the last Congress.

Mr. HOLMAN. The gentleman is debating the bill, and I make the point of order that it should go over under the rule.

The SPEAKER. The Chair is of opinion that the gentleman has begun to debate it; and therefore it goes over under the rule.

Mr. MYERS. I move that the bill be printed. The motion was agreed to.

#### SUPREME COURT OF THE UNITED STATES.

Mr. WILLIAMS, of Pennsylvania, introduced a bill to regulate the practice and define the powers of the Supreme Court of the United States in certain cases arising under the Constitution and laws thereof; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### CLAIMS OF LOYALISTS FOR DAMAGES.

Mr. STEVENS introduced a bill relative to damages done to loyal men, and for other purposes; which was read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

Mr. STEVENS subsequently moved to reconsider the vote by which the bill was referred.

The motion to reconsider was entered on the Journal.

#### JURISDICTION OF THE SUPREME COURT.

Mr. SPALDING. I offer the following resolution, on which I demand the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to report for the consideration and action of the House the bill amendatory of the judiciary act of the United States, and limiting the jurisdiction of the Supreme Court in cases involving the constitutionality of acts of Congress, &c., introduced into the last Congress by Mr. WILLIAMS, of Pennsylvania, a member of the committee, and not passed for want of time.

Mr. WILLIAMS, of Pennsylvania. I desire to say for the information of the gentleman from Ohio, [Mr. SPALDING,] that I have introduced this morning the same bill to which the resolution refers; and hence the adoption of the resolution is unnecessary.

Mr. SPALDING. Then I withdraw the resolution.

#### FURNISHING EXECUTIVE MANSION.

Mr. SPALDING. I submit the following resolution:

*Resolved*, (the Senate concurring.) That a joint committee, to consist of two members of the Senate and three members of the House, be appointed to examine the accounts for repairs and furnishing the Executive Mansion, as provided for in the act making appropriations for deficiencies, &c., approved March 2, 1867.

Mr. Speaker, I simply wish to say that the appointment of this committee is rendered necessary in consequence of a proviso attached to the deficiency appropriation bill declaring that no further payment shall be made on any accounts for repairs and furnishing of the Executive Mansion until such accounts shall have been submitted to a joint committee of Congress, and approved by such committee. In order to carry out the appropriation which has been made, it is necessary, I understand, that we shall have a committee of the kind contemplated in this resolution. There are claimants—men who have rendered services and furnished materials—who cannot get their pay until the accounts have been approved by such a committee.

The SPEAKER. As this joint committee is required by a provision of law contained in the deficiency bill, the Chair would have appointed the members on the part of the House but for the fact that the law did not specify how many should compose the committee.

Mr. SCHENCK. If no select committee be raised, will it not be in order to refer this matter to a joint standing committee whose appointment is already authorized by the action of the two Houses?

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] can move to amend the resolution unless his colleague [Mr. SPALDING] demands the previous question.

Mr. SPALDING. I demand the previous question.

Mr. SCHENCK. I hope the previous question will not be seconded, and that this matter will be referred to a joint standing committee.

Mr. SPALDING. I have examined the matter and have found that there is no joint standing committee to which the subject can be appropriately referred.

On seconding the previous question, there were—ayes 41, noes 30; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. SPALDING and Mr. SCHENCK.

The House divided; and the tellers reported—ayes 57, noes 38.

So the previous question was seconded.

The main question was ordered; and under the operation thereof, the resolution was adopted.

#### EQUALIZATION OF BOUNTIES.

Mr. SCHENCK introduced a bill to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union; which was read a first and second time.

The question was on ordering the bill to be engrossed and read the third time.

Mr. SCHENCK. If it were in order, I would state that this bill is word for word and letter for letter the same as that passed by the House on the 15th of February last; but that statement, not being in order, I will simply demand the previous question. [Laughter.]

Mr. HOLMAN. I hope the gentleman will allow me to offer an amendment to accompany the reference of the bill.

The SPEAKER. The gentleman from Ohio, as the Chair understands, does not desire the reference of the bill. He wishes it passed now.

Mr. HOLMAN. I have no objection to that. I hope it will be done.

The previous question was seconded and the main question ordered.

Mr. CULLOM. I desire to ask whether this is the same bill which was passed by the House at its last session?

Mr. SCHENCK. It is word for word the same.

The question being on ordering the bill to be engrossed and read the third time, it was read at length.

The first section provides that instead of any grant of land or other bounty there shall be allowed and paid to each and every soldier, sailor, and marine, who faithfully served as such in the Army, Navy, or Marine corps of the United States, (including those recognized by Congress in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, and including those borne on the rolls as "slaves,") and who has been, or may hereafter be, honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served, between the 12th day of April, 1861, and the 19th day of April, 1865. And in the case of any such soldier, sailor, or marine, discharged from the service on account of wounds received in battle, or while engaged in the line of his duty, this allowance of bounty is to be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine, while in the service, or in case of his death after the discharge and before the end of his term of enlistment, if discharged on account of his being wounded, as provided, the allowance and payment is to be made to his widow if she has not been remarried, or if there be no widow then to the minor child or children of the deceased who may be under sixteen years of age.

The second section proposes to enact that in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representative, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money is also to be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

The third section provides that no bounty under the provisions of this act shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request prior to the 19th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and such person did actually so reenlist or accept promotion, or was so transferred. And no bounty is to be paid to any soldier, sailor, or marine discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

By the fourth section it is provided that every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath, and under the pains and penalties of perjury, what amount of bounty, either from the United States or from any other source, and what amount of prize money, if any, has been paid or is payable to the soldier, sailor, or marine, by whom or by whose representatives the claim is made.

The fifth section provides that whenever application shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case are to exceed the sum of five dollars; and every such application is to be accompanied by the written affidavit of the attorney or agent that he has not charged, nor agreed for, and will not accept more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, is to cause to be transmitted to such claimant the full amount, deducting the fee to be paid to the attorney or agent, which fee shall be paid to said attorney or agent in person, or transmitted to such address as the attorney may direct.

The sixth section provides that any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

It is provided in the seventh section that in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case are such checks, orders, or drafts to be made negotiable until after such identification.

The eighth section provides that it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barter, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

The ninth section proposes to enact that in any case where a person entitled to receive payment of bounty under the provisions of this bill shall make application therefor, or where such application shall be made by the proper representatives of such person, being deceased, and the discharge of such person has been lost, it shall be competent for the accounting officers to receive, in lieu of the actual production of such discharge, proof of the actual loss of the same, and secondary proof of its issue and contents, together with proof of the identity of the claimant or person deceased, under such rules defining the character and form of the evidence as the Paymaster General shall prescribe.

By the tenth section it is provided that no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made, unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines is to be made in the same manner as now provided by law.

The eleventh section provides for the repeal of sections twelve, thirteen, fourteen, fifteen, and sixteen of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866. But if any money shall have been paid to any person under the provisions of those sections, the amount thereof is to be deducted in each case by the proper accounting officer from any sum to be allowed under this act. And any applica-

tion made for allowance of bounty under the said act of July 28, 1866, with all the evidence and papers submitted therewith, is to be taken and considered as filed under the requirements of this act, and is to be used hereunder for the benefit of the applicant, as far as the same may be applicable. And all applications which have been made for bounty under the act of July 28, 1866, by persons who are entitled to bounty under this act, are to be acted on and payments made thereon as if this act had not been passed. But no person is to be paid a greater amount than he is entitled to under this act.

Mr. BOUTWELL moved to reconsider the vote by which the main question was ordered to be now put.

Mr. HOLMAN moved that the motion to reconsider be laid on the table.

The House divided; and there were—yeas 51, noes 48.

Mr. SCHENCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 76, not voting 23; as follows:

YEAS—Messrs. Anderson, Baker, Benjamin, Bingham, Bromwell, Buckland, Burr, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Eckley, Eldridge, Garfield, Gravelly, Hamilton, Harding, Hayes, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Judd, Kerr, William Lawrence, Loan, Logan, Loughridge, Marshall, McClurg, Morgan, Mungen, Newcomb, Niblack, Noell, Orth, Paine, Pile, Plants, Polsley, Price, Raum, Ross, Sawyer, Schenck, Shanks, Shellabarger, Spalding, Taffe, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, and Windom—61.

NAYS—Messrs. Ames, Archer, Delos R. Ashley, Baldwin, Banks, Beaman, Blaine, Blair, Boutwell, Boyer, Churchill, Cornell, Dawes, Denison, Donnelly, Driggs, Ferriss, Fields, Finney, Getz, Glossbrenner, Griswold, Haigh, Halsey, Hill, Hooper, Hubbard, Humphrey, Julian, Kelley, Kelsey, Ketcham, Laffin, George V. Lawrence, Lincoln, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Myers, Nicholson, O'Neill, Perham, Peters, Phelps, Pomeroy, Pruyn, Randall, Robertson, Robinson, Scofield, Selye, Sitgreaves, Smith, Stevens, Stewart, Taber, Taylor, Trowbridge, Twitchell, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, Wood, and Woodbridge—76.

NOT VOTING—Messrs. Allison, James M. Ashley, Barnes, Brooks, Broomall, Butler, Cake, Chanler, Covode, Eggleston, Eliot, Farnsworth, Ferry, Fox, Ingersoll, Kitchen, Koontz, Lynch, Mercer, Pike, Poland, Stone, and Thomas—23.

So the House refused to lay the motion to reconsider on the table.

The question again recurred on the motion to reconsider the vote by which the main question was ordered.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 65, not voting 18; as follows:

YEAS—Messrs. Ames, Archer, Delos R. Ashley, Baldwin, Banks, Barnes, Beaman, Blaine, Blair, Boutwell, Boyer, Butler, Chanler, Churchill, Cornell, Dawes, Denison, Driggs, Ferriss, Fields, Finney, Getz, Glossbrenner, Griswold, Haigh, Halsey, Hill, Hooper, Hubbard, Humphrey, Julian, Kelley, Kelsey, Ketcham, Koontz, Laffin, George V. Lawrence, Lincoln, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Myers, Nicholson, Perham, Peters, Phelps, Poland, Pomeroy, Pruyn, Randall, Robertson, Robinson, Scofield, Selye, Smith, Stevens, Stewart, Taber, Taylor, Trowbridge, Twitchell, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, Wood, and Woodbridge—77.

NAYS—Messrs. Anderson, James M. Ashley, Baker, Benjamin, Bingham, Bromwell, Buckland, Burr, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Donnelly, Eckley, Eldridge, Farnsworth, Garfield, Gravelly, Hamilton, Harding, Hayes, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Kerr, William Lawrence, Loan, Logan, Loughridge, Marshall, McClurg, Morgan, Mungen, Newcomb, Niblack, Noell, Orth, Paine, Pile, Plants, Polsley, Price, Raum, Ross, Sawyer, Schenck, Shanks, Shellabarger, Spalding, Taffe, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, and Windom—65.

NOT VOTING—Messrs. Allison, Brooks, Broomall, Cake, Covode, Eggleston, Eliot, Ferry, Fox, Kitchen, Lynch, Mercer, Myers, O'Neill, Pike, Sitgreaves, Stone, and Thomas—18.

So the vote by which the main question was ordered was reconsidered.

During the vote, Mr. WILSON, of Iowa, stated that his colleague, Mr. ALLISON, was called from the city by important business, but that if present he would vote against the reconsideration.

The vote was then announced as above recorded.

Mr. SCHENCK withdrew the demand for the previous question.

Mr. BOUTWELL rose to debate the subject, and it went over under the rules.

The SPEAKER then stated the morning hour had expired.

#### LEAVE OF ABSENCE.

Mr. LAWRENCE, of Pennsylvania, asked and obtained indefinite leave of absence.

Mr. LAWRENCE, of Ohio, asked and obtained indefinite leave of absence for his colleague, Mr. MUNGEN.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a concurrent resolution providing that a joint committee be appointed consisting of one on the part of the Senate and two on the part of the House, to examine, allow, and approve claims and accounts for repairs, &c., of the Executive Mansion, and had appointed Mr. HARLAN as member of said committee on their part.

#### ELECTION CONTEST—DELANO VS. MORGAN.

The SPEAKER laid before the House papers\* in the contested-election case of Columbus Delano vs. George W. Morgan, from the thirteenth congressional district of Ohio; which were referred to the Committee of Elections.

#### LEAVE OF ABSENCE.

Mr. PERHAM asked and obtained leave of absence for his colleague, Mr. LYNCH, for two weeks.

#### SERVICE ON A COMMITTEE.

Mr. WASHBURN, of Massachusetts. I ask to be excused from service on the joint Committee on Retrenchment. They are expected to sit during the recess, and my business is such as to render it utterly impossible for me to serve during the recess.

No objection being made, Mr. WASHBURN was excused from service.

#### FENIAN MEETING.

The SPEAKER laid before the House the following letter, which was laid on the table:

HEADQUARTERS FENIAN BROTHERHOOD,  
WASHINGTON, D. C., March 11, 1867.

Honorable the Speaker and members of the Fortieth Congress:

GENTLEMEN: I am directed by the committee of arrangements to respectfully invite the Representatives of the people of the United States to be present this evening at the mass meeting to be held at the Assembly Rooms, Louisiana avenue, to offer sympathy and support to the Irish republican cause.

The "boys in the field" are fighting for freedom, land, and life, and they look to America as their natural friend and ally.

The Irish-American race is counted by millions, and ingratitude is not among their national characteristics.

I have the honor to be, gentlemen, your obedient servant,

RICHARD OULAHAN,  
Chairman Committee of Arrangements.

#### APPOINTMENT OF COMMITTEES.

The SPEAKER. The Chair announces the appointment of the following committees. He will state in this connection that he has been compelled to appoint a Committee on Enrolled Bills, as there are bills which have passed both Houses. He is also compelled to appoint a select Committee on the Library, inasmuch as on looking at the laws of the last session he finds that there are three contracts by law authorized to be made with that committee:

Committee on Foreign Affairs—Nathaniel P. Banks of Massachusetts, Godlove S. Orth of Indiana, Shelby M. Cullom of Illinois, Henry D. Washburn of Indiana, Dennis McCarthy of New York, Austin Blair of Michigan, Leonard Myers of Pennsylvania, William E. Robinson of New York, and George W. Morgan of Ohio.



*Joint Committee on the Library*—Rutherford B. Hayes of Ohio, John D. Baldwin of Massachusetts, and John V. L. Pruyn of New York.

*Joint Committee on Enrolled Bills*—Stephen F. Wilson of Pennsylvania, Benjamin F. Hopkins of Wisconsin, and William S. Holman of Indiana.

*To fill vacancy on Joint Committee on Retrenchment*—Martin Welker of Ohio, and George A. Halsey of New Jersey.

*Special Committee on Niagara Ship-Canal*—Burt Van Horn of New York, Burton C. Cook of Illinois, Thaddeus Stevens of Pennsylvania, William B. Washburn of Massachusetts, and William Mungen of Ohio.

*Select Committee on Clothing Destitute Soldiers*—Norman B. Judd of Illinois, William A. Pile of Missouri, and Amasa Cobb of Wisconsin.

#### PRINTING PAPER.

Mr. LAFLIN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Congressional Printer be, and he is hereby, directed to inform this House: 1. What amount of unused printing paper of class one and two was on hand at the Government Printing Office on the 1st of November last. 2. What amount of paper of the above classes was used at said office during the month of November, December, and January, respectively. 3. What amount of either of the above classes of paper, if any, was ordered subsequent to the date first named, to wit: November 1, up to the meeting of Congress in December last. 4. And if any such orders were given, the difference in cost to the Government between the weight thus furnished and the prices then paid, and those in force under the last contracts for paper.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DEPARTMENT OF EDUCATION.

Mr. GARFIELD, by unanimous consent, introduced a bill making appropriations for the Department of Education; which was read a first and second time.

The bill was read at length. It directs the appropriation of \$9,400 for salaries of the Commissioner of Education and his clerks, and \$6,000 for furnishing the offices and for stationery.

Mr. RANDALL. As this is an appropriation bill, I think it should go to the Committee of the Whole.

Mr. GARFIELD. I move to suspend the rules, so that the bill may be considered at this time. We passed at the last session a law establishing the Department of Education; and I understand that this morning the name of the Commissioner has been sent to the Senate. It will be necessary to make this appropriation in order to furnish the offices in the Department.

Mr. ELDRIDGE. Is the motion to suspend the rules debatable?

The SPEAKER. It is not if objection is made.

Mr. ELDRIDGE. I object to debate.

The question was taken upon the motion to suspend the rules; and upon a division there were—ayes 51, noes 35.

Before the result of the vote was announced,

Mr. GARFIELD called for tellers.

Tellers were ordered; and Mr. GARFIELD and Mr. RANDALL were appointed.

The House again divided; and the tellers reported that there were—ayes 62, noes 38.

So (two thirds not voting in the affirmative) the rules were not suspended.

Mr. GARFIELD. I move that the bill be printed, and referred to the Committee on the Judiciary.

Mr. RANDALL. Is that an appropriate committee to examine and consider this bill?

The SPEAKER. The committee can take cognizance of any matter referred to them by the House.

Mr. RANDALL. Can the Judiciary Committee report an appropriation bill?

The SPEAKER. Any committee can report

an appropriation bill if so directed to do by the House.

Mr. RANDALL. I think it better be referred to the Committee on Appropriations, when appointed.

No objection being made, the bill was ordered to be referred to the Committee on Appropriations, when appointed, and to be printed.

#### MILEAGE OF MEMBERS.

The SPEAKER. The Chair desires at this time to submit a question to the House. By the law to be found on page 122 of the Digest it is provided that mileage shall be paid to members of Congress for only two sessions of any one Congress, and that it shall be paid at the commencement of each regular session. This is the first regular session of the Fortieth Congress. The law declares that the money for mileage shall be paid at the commencement of each regular session. By the law of the last session, providing for the assembling of the Fortieth Congress, immediately after the expiration of the Thirty-Ninth Congress, it is declared that no person who was a member of the previous Congress shall receive any compensation as mileage for going to or returning from the additional session of Congress provided for by that law. Now, members of this Congress who were members of the last Congress cannot be entitled to receive additional mileage for this additional session. But the previous and un repealed law seems to declare that one of the two mileages for the term shall be paid at the commencement of each regular session. And as the law requires the Speaker to certify to the accounts for mileage after they shall have been audited and passed upon by the Committee on Mileage, the Chair would ask that the question in regard to mileage be referred to the Committee on the Judiciary for examination and report.

No objection was made.

#### APPOINTMENT OF COMMITTEES.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Speaker be instructed to appoint such of the standing committees as have not yet been named, and that in appointing the said committees he is authorized, at his discretion, to constitute any of them by omitting for the present not exceeding two members from either of them, including, in such omission if he thinks proper, the name to stand first on the list; the vacancies to be filled by appointment from among members who may hereafter take their seats from States entitled to representation which have not yet held their elections.

The SPEAKER. With the permission of the gentleman from Ohio, [Mr. SCHENCK,] the Chair will state that the appointment of committees, as is known to all members, is the most delicate, perplexing, and responsible of all the duties imposed upon the occupant of this chair. When the appointments are completed the Chair is painfully conscious of the fact that he has not satisfied every member of the House, and he finds it difficult, in the geographical and political cast which must be given to the committees, to even satisfy himself entirely.

But the Chair entertains the belief that if a resolution of the character proposed by the gentleman from Ohio [Mr. SCHENCK] should be adopted, his perplexities would be increased tenfold. If, in the appointment of the committees, he should leave vacant the place of chairman of any committee, it would be a notice to the House that he expected certain persons to be elected from the States not now represented in this House, from whom he might select such chairman. In that expectation of course the Chair might be disappointed, and his embarrassments would be thereby increased.

The Chair on a former occasion stated his indisposition to appoint any committees except such as are absolutely necessary to carry on such business as will come up during the brief period this session of Congress may be expected to last, knowing the embarrassment that would result through the entire Congress if the committees were all to be appointed, with six or

seven of the States not yet having elected their Representatives to this House. The Chair is bound, of course, as the servant of the House to obey the orders of the House; but the Chair has already stated, privately, to the gentleman from Ohio [Mr. SCHENCK] that in his opinion it would increase his difficulties greatly if he should be required to appoint all the committees at this time.

Mr. SCHENCK. My object is not to embarrass the Chair.

The SPEAKER. The Chair so understands the gentleman. There are embarrassments either way, as the Chair understands.

Mr. SCHENCK. It seems to me to be very difficult to get along with our business without any committees. We are referring business continually to committees, when appointed. We have no standing committees now, with certain exceptions. I suppose the Clerk did not read my resolution so that the House could understand it clearly. The object of the resolution is to enable the Speaker to appoint the standing committees, leaving it to his discretion to omit one or two members from any committee, either at the head or the tail or in the middle, so that hereafter, when members shall have been elected from States which have not yet held their elections, vacancies may be filled. Let me say that one trouble which now embarrasses us is, that while business is accumulating upon the committees when appointed, we have gentlemen here fully competent for their places as clerks of those committees, and we do not know whether to tell them to go home or to stay here. All the other employes about the House are in the receipt of compensation; but those members who expect to be on committees are unable to tell these men what they shall do under these circumstances. I confess that I do not see the embarrassment of which the Chair speaks, although of course he is the best judge of that. I think he might, at his discretion, leave off one or two members of committees to be appointed hereafter.

If the resolution is objected to by any member, I shall not move a suspension of the rules.

Mr. STEVENS. I am not sure whether the Committee on Enrolled Bills has yet been appointed.

The SPEAKER. That committee was appointed this morning.

Mr. BLAINE. I object to the resolution of the gentleman from Ohio.

Mr. SCHENCK. Then I will not press it.

The SPEAKER. The Chair will state that he knows there are embarrassments each way; but he has thought, on consideration, that it would be the least embarrassment for us to go on in the way we are now doing.

Mr. NIBLACK. I would inquire whether an arrangement might not be made by which the committees should be appointed temporarily, to expire with the present session of Congress?

The SPEAKER. The Chair would suggest to the gentleman from Indiana that if he were appointed temporarily on a committee, he would expect to be appointed permanently on the same committee.

#### CONTINGENT FUND OF THE HOUSE.

Mr. KERR. I ask unanimous consent of the House to offer the resolution which I send to the Clerk's desk, and before it is read I wish to say that if the House concludes to raise such a committee, I do not desire to be appointed chairman of it.

The Clerk read the resolution, as follows:

*Resolved*, That a select committee of five members be appointed by the Chair, whose duty it shall be to consider and revise all the resolutions and laws affecting the expenditure of the contingent and other funds of this House, and to report by bill a substitute for all of them which shall better guard the interests of this House and country in such matters, unless, after investigation said committee shall think the existing laws and resolutions sufficient. And the better to enable said committee to perform their duty in the premises they shall have power to send for and examine persons and papers.

Mr. CULLOM. I object to the introduction of the resolution.



## DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. ECKLEY asked unanimous consent to offer the following resolution:

*Resolved*, That all books and public documents of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto under the resolution of the last House of Representatives, shall now be delivered by the officer having possession of the same, to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled, according to the rate of distribution established.

Mr. PAINE. I object.

## HEIRS OF JOHN E. BOULIGNY.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent of the House to offer a joint resolution directing the Secretary of the Interior to suspend the execution of the law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny.

The joint resolution was read for information.

Whereas during the last hours of the second session of the Thirty-Ninth Congress an act was passed without discussion for the relief of the heirs of John E. Bouligny, granting to said heirs land warrants for seventy-five thousand eight hundred and forty acres of land; and whereas by the solemn decision and judgment of the Supreme Court of the United States after full hearing it was in the year 1853 adjudged that the private land claim on which said act is based was invalid, null, and void; and whereas Mr. Justice Nelson, who delivered the opinion of the court, declared that there was no record evidence of any such land grant as was set up, "that none had been produced, though a thorough examination of the archives of that date, both at New Orleans and Paris had been made, and no records could be found;" and whereas it was also declared by said Judge Nelson, "that there was not the slightest ground for the claim set up" to a tract of land running back from the Mississippi river to the Atchafalaya; and that at the most the petitioners could not claim, under any grant or survey, over two thousand five hundred or three thousand acres, instead of about half a million—the report of which decision is found in 15 Howard's Reports, page 14; and whereas said private land claim, after full review by Hon. M. Burchard, solicitor of the General Land Office in 1838, declared that the same was invalid and void; and whereas said pretended private land claim had its origin in 1717, and was a part of the celebrated Mississippi scheme with which John Law, known for his connection with the South Sea bubble, was a party; and whereas the legalizing of this claim will revive and legalize claims to the amount of many million acres; and whereas there is grave reason for believing that said act was passed under a misapprehension of the facts: Therefore,

*Resolved*, (the Senate concurring,) That the Secretary of the Interior be directed to suspend the execution of said law until the further order of Congress.

Mr. WOODBRIDGE. I object. The facts stated in the resolution are not true.

Mr. WASHBURN, of Wisconsin. I am perfectly familiar with this case, and I am certain that the facts stated are true.

Mr. WOODBRIDGE. I was a member of the Committee on Private Land Claims which reported this case to the last Congress, and I state that the facts set forth in the preamble to this joint resolution are not true.

## REORGANIZATION OF REBEL STATES.

Mr. WILSON, of Iowa. Mr. Speaker, on the 7th instant the House adopted the following resolution:

*Resolved*, That the Committee on the Judiciary, when appointed, be instructed to report a bill declaring who shall call conventions for the reorganization of the rebel States, and providing for the registration of voters within said rebel States; and all elections for members of said conventions, or for the adoption or rejection of constitutions formed by said conventions, or for the choice of public officers, State and municipal, until the constitutions of said States shall have been approved by Congress, shall be by ballot.

In accordance with the directions of the House contained in this resolution, the Committee on the Judiciary have instructed me to report a bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, I ask leave to report the bill now.

The SPEAKER. The bill will be read for information, after which the Chair will ask for objections.

The bill, which was read, provides in the first section that the commanding general in each district defined by the act of March 2,

1867, to which the bill is supplementary, shall cause a registration to be made before the 1st day of September, 1867. In each county or parish in the several States included in his district, of the male citizens of the United States twenty-one years of age and upward, resident in each county or parish, which registration is to include only those persons who are qualified to vote for delegates by the act to which this is supplementary, and who shall have taken and subscribed the following oath or affirmation:

I, —, of —, in the county or parish of —, in the State of —, do hereby solemnly swear (or affirm) that I am sincerely and earnestly attached to the Union and Government of the United States; that I will steadfastly support the Constitution and obey the laws of the United States, and that I will to the best of my ability engage all others to such support and obedience. So help me God.

The second section proposes to enact that whenever the registration provided for shall be completed and copies thereof returned to the commanding general, he shall cause to be held in each State of his district, on a day not less than thirty days from the date of his proclamation thereof, an election of delegates to a convention for the purpose of forming a constitution for the State and of firmly reestablishing a civil government loyal to the Union therein, and of passing all needful ordinances for putting such constitution and government into operation.

The third section provides that the convention in each State shall consist of the number of members of the most numerous branch of the Legislature of such State under the constitution thereof existing January 1, 1860; and the election districts as existing on that day are to be observed in the election and the assignment of delegates. The commanding general of each military district is to assign as nearly as may be to the several election districts in each State within his jurisdiction the number of delegates to which it may be entitled according to the number of registered voters within its limits; but each district is to be entitled to at least one delegate.

In the fourth section it is provided that the commanding general of each district shall appoint such loyal officers or persons as may be necessary, not exceeding three in each election district, to make and complete a registration, to preside at the election, to receive, sort, and count the votes, and to make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at such election; and upon receiving such returns he is to open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted the election, and make proclamation thereof; and within sixty days from the date of the election he is to notify the delegates to assemble at a time and place to be mentioned in the notification, to proceed to the organization of a convention. When the convention shall have framed a constitution in accordance with the act of March 2, 1867, the constitution is to be submitted by the convention to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed by the commanding general as already provided, and to be held after the expiration of thirty days from the date of notice thereof to be given by the convention; and the returns thereof are to be made to the commanding general of the district.

The fifth section provides that, if according to such return the constitution shall be ratified by a majority of the votes of the electors qualified as already specified, the president of the convention is to transmit a copy of the same duly certified to the President of the United States, who is forthwith to transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if such constitution shall be declared by Congress to be in conformity with the fifth section of the act to provide for the more efficient government of the rebel States, and if the other provisions of that act shall have been complied with, the State is to be declared entitled to

representation, and Senators and Representatives are to be admitted therefrom as therein provided.

In section six it is provided that all elections in the States mentioned in the act to provide for the more efficient government of the rebel States shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections are, before entering upon the discharge of their duties, to take and subscribe the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office."

The seventh section provides that all expenses incurred by the several commanding generals, or by virtue of any orders issued or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

The eighth section proposes to enact that the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized and necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such States as may be necessary to pay the same.

Mr. WOOD rose.

The SPEAKER. Does the gentleman rise to object?

Mr. WOOD. I rise to ask a question.

The SPEAKER. Then there is no objection; and the bill is introduced.

Mr. WILSON, of Iowa. I rise to offer an amendment to the first section. I have consulted with the majority of the Committee on the Judiciary relative to this amendment, and they agree in the propriety of making it, but I do not feel authorized, inasmuch as there was no session of the committee, to offer it as coming from them. I offer it, however, with the indorsement of a majority of the committee. It is as follows:

Page 2, third line of the oath after the word "am" insert "not excluded from the right to vote by the provisions of the fifth and sixth sections of the act passed March 2, 1867, entitled 'An act to provide for the more efficient government of the rebel States,' that I am."

Mr. WOOD. I desire to ask the gentleman whether he designs to take a vote on this today?

Mr. WILSON, of Iowa. It is my design to ask the House to come to a vote on it within an hour.

Mr. WOOD. Mr. Speaker, I desire to take occasion to say that this bill contains principles which, in my judgment, no true republican can assent to. The existing law gives to the people of the provisional governments recognized in the southern States the power to initiate the preparatory proceedings in the conventions which are to frame constitutions of State government; and as I understand the effect of this bill, it is to give that power entirely into the hands of the military commanders, to establish governments for these States as Louis Napoleon established an empire for France, as Maximilian proposed to establish an empire in Mexico. It is an effort to take away all the existing civil power in those States, all the civil power existing in the people of those States, recognized by the bill of the last session of Congress, and to give it entirely into the hands of the military governors proposed to be established over that people. Therefore I for one can never consent that any military power shall supervise, direct, control, or influence the establishment of civil government in any State or Territory in this land.

I am not prepared to discuss it at length at this time, certainly not in the time allotted for the discussion of a question of such vast magnitude. I only rise to say it is anti-republican and contrary to the genius of the institutions of this country. It is the operation of a principle which may be carried into the North, East, and West, as well as the South. It is

setting up military authority over and above all existing constitutional executive, legislative, and judicial powers of the Government. It is against the recognition of that principle I object and protest.

Mr. WILSON, of Iowa. This bill does not conflict in the least with that passed by the Thirty-Ninth Congress entitled "An act to provide for the more efficient government of the rebel States. If the gentleman from New York will refer to the sixth section of that act he will find it provides—

"That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same."

Now, sir, so far as this bill may interfere with the exercise of power by the provisional governments now existing in those States, it is following precisely the purpose of Congress when it incorporated in the sixth section the language which I have read. Instead of this being a bill to fix upon the people of the rebel States a military government, or to establish a military despotism, it provides the machinery whereby those people may get from under the military governments which have already been established in those States by the act of the last Congress.

Mr. WOOD. May I ask the gentleman whether it does not in terms direct that this registry shall be made under the direction of the military commander?

Mr. WILSON, of Iowa. Why, certainly it does. There is no provision at all in the act of March 2 for the registration of voters, but there are provisions in that act determining who may vote within those States. Now, sir, it is for the purpose of enabling the persons authorized to exercise the franchise in those States to act that this bill provides for a registration under the supervision of the military commander.

Mr. BLAINE. I wish to ask the gentleman a single question. I wish to understand if this bill is not designed expressly and unqualifiedly to give to everybody an even start in the election?

Mr. WILSON, of Iowa. That certainly is the purpose of the bill.

Mr. BLAINE. So that no one in possession or out of possession is to be prejudiced by any action of ours, but we intend to secure to everybody entitled to vote at all an even start in the race.

Mr. WOOD. That depends entirely upon the authority and the will of the military commander there. He has all authority in making up the registry lists according to which the people are to vote. His power over the people is greater in making up that list than in the mere mechanical process of voting.

Mr. WILSON, of Iowa. The military commander will be controlled by the provisions of this bill, and it provides—

"That the commanding general in each district defined by the act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, shall cause a registry to be made before the 1st day of September, 1867, in each county or parish in the several States included in his district, of all the male citizens of the United States twenty-one years of age and upward, resident in each county or parish, which registration shall include only those persons who are qualified to vote for delegates by the said act to provide for the more efficient government of the rebel States, and who shall have taken or subscribed the following oath."

The military commander of the district will be bound to follow the provisions of this bill. He cannot extend the time for the completion of the registry beyond the 1st day of September. We limit him to that time in order that the people in those States entitled to the exercise of the elective franchise may have an opportunity of moving under the legislation of Congress toward the organization of civil governments within those States.

This bill is intended to come in aid of the legislation of the last Congress. Every person who has read the act of March 2 knows that it is imperfect in its provisions. While it

declares that certain persons shall be entitled to exercise the elective franchise and certain others shall not be so entitled, it provides no machinery whatever for carrying into effect those provisions. This bill supplies that defect.

Mr. WOOD. May I ask the gentleman another question?

Mr. WILSON, of Iowa. Certainly.

Mr. WOOD. I ask whether this bill does not attempt to supply another defect in the existing law by giving to the military commander power to compel an organization under that bill.

Mr. WILSON, of Iowa. It does compel the military commander to proceed with the registration; it compels him to order an election of delegates; it compels him to provide for the holding of a constitutional convention; but after that is done, the results of the labors of that convention are to be submitted to the people to be passed upon by them, and if a majority of the people vote against the constitution which is thus submitted to them, there will then be no organized civil government under the action of that convention. So the whole thing is left in the hands of the people after all.

Mr. WOOD. Under military direction.

Mr. WILSON, of Iowa. Under military direction as to when they will hold this convention, as to who shall go upon the registration, that is, with the limitation prescribed in the law, and that only. Those entitled to vote under the provisions of the act of March 2 must be placed on the registry. It is simply providing for the organization of civil government through the military arm of the Government of the United States, but leaving the acceptance or rejection of the work of the convention exclusively in the hands of the several States.

Now, unless some gentleman desires further explanation of this bill, I will ask the previous question.

Mr. BINGHAM. I ask the attention of the gentleman from Iowa to the propriety of correcting one line of the fifth section of the bill. By reference to the bill, as reported, the gentleman will see that by the bill as it now stands it is expressly provided that it shall require a majority of the electors "as herein provided" to ratify the constitution. I ask the gentleman to consider the propriety of inserting the words "votes given at said election by" before the words "electors as herein provided."

Mr. WILSON, of Iowa. I have no objection to the gentleman offering that amendment.

Mr. BINGHAM. Then I offer that amendment, because it is perfectly apparent that as the bill now stands if at the election three fourths of all the qualified electors in the State should vote, and two to one should vote in favor of the constitution, yet if the vote should fall short only twenty votes of a majority of the qualified electors registered the constitution would be defeated.

Mr. WILSON, of Iowa. I am not objecting to the gentleman's amendment.

Mr. BINGHAM. I ask then that the words I have indicated be inserted before the words "qualified electors."

Mr. WILSON, of Iowa. I do not wish to be misunderstood in regard to this amendment. I yield in order that the gentleman from Ohio may have a vote upon it. I do not accept it, because the question was considered in the Committee on the Judiciary and the judgment of the committee was against it.

The SPEAKER. The gentleman could not accept it, the bill being a report from a committee.

Mr. WILSON, of Iowa. The judgment of the committee was against it upon this ground: that in the rebel States the whites being in the possession of political power might by threats and intimidation prevent the colored citizens from voting, keep them away from the polls, and adopt a constitution which would not be free and equal in its operation, and therefore they rejected that amendment when it was proposed in the committee.

Mr. BINGHAM. I beg leave to remind the House that the Congress is to be the judge whether the constitution so ratified by a majority of the electors is a constitution, not only in conformity of the law to which this is supplementary, but with the Constitution of the United States and also with the pending amendment to the Constitution of the United States; so that the Congress of the United States will themselves have the power to protect these people if it shall turn out that any such imposition is practiced upon them.

Now, I beg leave to remind the House again that unless this amendment be made, that although the constitution of one of these States may be in all respects what we would desire to have it, yet if perchance it should turn out that the vote given for the ratification of the constitution, so just and fair and wise that every honest man in America would favor it, it should fall short twenty votes of receiving a majority of the registered votes, it could not go into effect at all. It is for that reason that I ask for the adoption of my amendment.

Mr. BOUTWELL. Mr. Speaker, the objection, in my mind, to the proposition of the gentleman from Ohio [Mr. BINGHAM] is deeper than has yet been suggested. It is this: that we must assume, in regard to the people of these ten States, that thus far the controlling political forces are disloyal to the Government. What we ask in reconstructing these States is to secure a loyal majority.

Now, then, under the amendment proposed by my friend from Ohio this might happen: if one hundred thousand persons be registered as voters in North Carolina, for example, and fifty thousand of them go to the polls, and twenty-six thousand of them vote for the constitution which has been prepared by the convention, you have then a constitution adopted and binding, if this amendment prevails, so far as any constitution can be binding; and yet pretty nearly three fourths of the people of the State have either absented themselves from the polls or have voted against the constitution, and we have no security that more than twenty-six thousand of the one hundred thousand voters of the State are in favor of the frame of government which has been set up.

Now, I say that the case is different in one of these States from what it would be in New York, for example, where the people are known to be loyal. If, as is proposed in that State, the constitution be revised or a new one be made, and the work of the revising convention be submitted to the people and only one half of the electors choose to attend the polls and pass judgment upon it, the presumption is that those who stay away assent to the work which has been done. But in the rebel States the presumption is that those who stay away are opposed to the work of the convention; and hence it may happen, if this amendment prevails, that you will have a frame of government set up which has the support of hardly one fourth of the people of the State. Now, the suggestion I make is, that we ought in the beginning to assert the doctrine that a majority of the people of these States shall assent to the work done by the conventions, and show that they are ready to sustain the framework of government thus set up in harmony with the Constitution of the United States.

And I submit that the power which Congress has to reject the work of any of these conventions is merely a negative power. I know very well that when any of the rebel States come here with the work of their conventions, and it conforms to the acts of Congress, even though but one third or one quarter of their people have assented to it, we shall be under an irresistible pressure to accept what they have done, and to admit their Representatives to seats upon this floor. I am, therefore, opposed to the amendment of the gentleman from Ohio. [Mr. BINGHAM.]

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined

and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country.

Mr. HOPKINS, from the same committee, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 31) to amend an act entitled "An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,'" approved March 21, 1866;

A joint resolution (S. R. No. 2) supplementary to other joint resolutions, to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and

A joint resolution (S. R. No. 6) extending the time for the completion of the improvement of the Fox and Wisconsin rivers.

#### REORGANIZATION OF REBEL STATES—AGAIN.

Mr. WILSON, of Iowa. I desire to state that the provision of this bill follows precisely the provision of the reconstruction bill which was passed by the Thirty-Eighth Congress; which bill was prepared by the late Henry Winter Davis. That bill required the assent of a majority of all the voters of the State to the adoption of the constitution and the establishment of a State government.

Mr. BINGHAM. This bill puts it into the power of a small minority of the voters of a State to defeat the will of a large majority as long as a hundred men perhaps refuse stubbornly to cast their votes.

I will make one further remark in this connection, and then leave the matter to the House. To my mind nothing is clearer than that the organized represented States of this Union are the Union; and twenty of those States, being three fourths of the whole number represented, having ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress, that amendment has now become part of the fundamental law. That being done, when you have passed this bill, amended as I have proposed, I undertake to say that with the express grant of powers put for the first time into the Constitution of your country it is utterly impossible, so long as the Representatives of the people are true to the trust committed to them, that any advantages shall be taken in all the years to come of these men called freedmen, and who in these southern States approximate in number to the white population, and in some of the States, as in the State of South Carolina, an overwhelming majority of all the population.

Having said this much, all I ask is that I may have a vote upon my amendment by yeas and nays; and then I will be content with the result of the vote so taken.

Mr. WILSON, of Iowa. An additional objection to the amendment of the gentleman from Ohio [Mr. BINGHAM] is, that he proposes to bring into Congress for determination the question whether a majority of the people have adopted the constitution of State government. This bill proposes to leave that question to the ballot-box in each State by providing that before a constitution shall go into effect the result of the vote shall show that a majority of the persons whose names are on the register have voted in favor of that constitution.

Mr. BINGHAM. My amendment does not propose to change the bill in that respect at all. If my amendment presents this question to Congress for determination so the bill itself does.

Mr. WILSON, of Iowa. It is a very easy matter to determine, when the result of an election has been sent to Congress, whether a majority of the whole number upon the register have voted in favor of the ratification of a constitution. But according to the proposition of

the gentleman from Ohio [Mr. BINGHAM] we must organize an investigating committee to determine how many persons in these States have voted, how many have not, and the reasons why. I wish to avoid that, and let it be determined by the registry itself.

Mr. BINGHAM. If my amendment be adopted, that matter will rest upon the certificate of the commanding officer; and if my amendment is rejected, it will in like manner rest upon his certificate; so that the adoption of my amendment would raise no new question at all in that respect.

Mr. NIBLACK. I desire to call the attention of members of this House to what is taking place here to-day, in connection with what occurred at the last session of the last Congress upon this question of reconstruction. When the bill to which I understand this to be supplementary came back to the House after it had been acted upon by the Senate, containing an amendment by the Senate similar to a proposition originally offered here by the gentleman from Maine, [Mr. BLAINE], a strong pressure was brought to bear upon members on this side of the House to induce us to vote in such a way as to cut off any further amendment by the House and bring the House to a vote on the amendments of the Senate. It was claimed that by that means we would be enabled to defeat measures which would be likely to follow the rejection of the amendments of the Senate, measures which would be far more obnoxious to the conservative members of the House. And when we upon this side of the House failed to vote for a second of the demand for the previous question, so as to cut off amendments in the House, the gentleman from Ohio [Mr. BINGHAM] and others who acted with him complained of us, and said that if we had stood by the more conservative portion of the Republican party we would have kept out these obnoxious provisions of the House and have secured the amendments of the Senate as a finality upon this question of reconstruction.

My object in seeking the floor was simply to call attention to the fact that nothing which we on this side of the House can do in conjunction with anybody on the other side can in the least degree arrest the legislation which is being inflicted upon the country in connection with this matter of reconstruction. The whole question is in the control of a majority of the House; and whenever on any occasion we may succeed temporarily in checking the tide of radical legislation, the earliest opportunity is embraced by some gentleman on that side to introduce something still more radical. We have not to-day, and have not had on any previous occasion, any power over this matter. We are obliged to sit by and see done that against which we can only enter our protest, without the slightest power to influence action upon the question one way or another.

Mr. WILSON, of Iowa. Mr. Speaker, I do not doubt that the position which gentlemen on the other side of the House who were members of the Thirty-Ninth Congress occupy in relation to the act of the 2d of March last is an uncomfortable one; and I do not wonder that the gentleman from Indiana [Mr. NIBLACK] seeks to explain away its embarrassing points.

For one I voted to concur with the Senate amendment, because I believed it was the best thing we could do during that session. Having been defeated on that vote, I here to-day tender my thanks to gentlemen on the other side of the House for having assisted in defeating that amendment. I was in favor of taking that which seemed to me the best thing we could get; but the gentlemen on the other side, acting probably under a fit of radicalism, would not let the conservative gentlemen on this side of the House have their own way in that matter. The result was that when the bill came back from the Senate, I retraced my steps so far as I could, the door having been opened by the gentlemen on the other side of the Chamber, and offered an amendment which appeared in the act of the 2d of March as the

proviso to the fifth section. I am furthermore glad that the opposition on that side of the House succeeded in enabling my friend from Ohio [Mr. SHELLABARGER] to get his amendment attached to the bill, which is found in the act of the 2d of March as the sixth or last section.

Hence, gentlemen on that side of the House may thank themselves—their friends in the South may thank them also—for those features of the reconstruction act of the 2d of March; and they may also thank themselves for this bill which I have reported to-day, because the amendment which was put on that bill after it came back from the Senate rendered this bill necessary. It is absolutely necessary that we shall have the machinery provided for in this bill to carry out the provisions which the gentlemen on that side of the House induced this House to put in the act of the 2d of March.

Mr. NIBLACK. The gentleman will permit me to say that we on this side of the House are willing to join him to-day in repealing that obnoxious section.

Mr. WILSON, of Iowa. Why, Mr. Speaker, I have been returning my thanks to the gentlemen for what they have accomplished. I like the act in its present form much better than I did in the form in which it came back from the Senate, with the "Sherman amendment," as it was called. I have been returning, and I again return, to the gentleman from Indiana, and those who acted with him, my thanks and the thanks of my political associates for their action on that occasion.

Mr. ELDRIDGE. Mr. Speaker, I wish right here to decline the compliment which the gentleman from Iowa has seen fit to pay to this side of the House. I, for one, do not desire it. On the occasion to which the gentleman refers I voted to sustain the previous question—almost the only occasion on which during the Thirty-Ninth Congress I did so vote.

Mr. WILSON, of Iowa. Then I do not extend my thanks to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I decline the honor.

Mr. WILSON, of Iowa. I now yield to my colleague on the committee, the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MARSHALL. Mr. Speaker, I do not rise for the purpose of participating in this side-bar discussion upon the question on whom the responsibility for the legislation of the last Congress rests. As we on this side constituted a minority of barely one fifth of the House, I imagine it will be very difficult to convince the country that the responsibility for the unconstitutional, and as I deem it (with all proper respect for the majority here) iniquitous legislation of the last Congress, rests upon us on this side. Both of the propositions referred to were objectionable, and equally objectionable to the minority, because, according to our understanding of the Constitution, it was not competent for Congress to pass the one or the other, and we could not, on the responsibility of our oaths, give our sanction to either. And it does not, therefore, become gentlemen calling themselves conservative Republicans to attempt to throw the odium of any portion of this legislation on the Democratic minority, who could not, without violation of their oaths, give their sanction to either one of the propositions. But I did not rise for the purpose of entering into any discussion of this question, and it is only because my attention was called to it by the remarks just made that I have alluded to it at all.

Mr. Speaker, I did rise for the purpose of inquiring whether the bill, as reported, provides that there must be a majority of the votes of the registered voters cast for the constitution at the election provided for, and failing in this that the whole proceeding shall fall to the ground and amount to nothing? If that be so I wish to call the attention of the chairman of the committee to the fact. I may possibly be mistaken, but it was certainly my understanding that the committee directed that the

bill should in this respect conform to the bill to which this is amendatory, which requires only a majority of the votes cast at the election to give validity to the proposed constitution. This is in direct conflict with the act of March 2, and I wish to ask the chairman whether the committee did not direct that it should in this respect conform to the provisions of said act?

Mr. WILSON, of Iowa. A motion was made to insert after the word "or" the word "all," which was adopted into the language of the bill.

Mr. MARSHALL. This requires, then, a majority of the registered votes to be cast in favor of the adoption of the constitution?

Mr. WILSON, of Iowa. That is as I consider it.

Mr. MARSHALL. Is not that in conflict with the provisions of the act to which this is an amendment?

Mr. WILSON, of Iowa. Why?

Mr. MARSHALL. Because that only requires a majority of the votes cast at the election to give vitality to the proposed constitution. Now, what is the object of this change? Why do gentlemen abandon their own legislation adopted only a few days ago?

Mr. BLAINE. Is not the gentleman from Illinois opposed to instituting a minority government in any of these States?

Mr. MARSHALL. I am.

Mr. BLAINE. Is not the provision, as it stands in the bill, the most certain mode to prevent a minority government?

Mr. MARSHALL. I do not see why. I should prefer very much myself that this bill had left it as provided in the act to which this is an amendment. If we must have these miserable mongrel governments fastened on the country, and can get the Union restored in no other way, the sooner we are rid of the business the better. The provision to which I am objecting can only tend to produce procrastination and delay in the settlement of these vexed questions, and seem to be introduced only to prevent restoration even on the plan indicated by Congress. It is but fair to suppose that the legislation of the last Congress on this subject was adopted after mature deliberation, the majority having been working on the subject for nearly two years; and it looks like trifling upon a very grave question, or the work of men who are stumbling in the dark, and know not what they really do want, to be changing ground every day upon a subject so vital to the interests of the whole country.

And now, sir, while I am up I wish to submit another remark or two. As a member of the Committee on the Judiciary, if I remained silent it might be taken for granted that I gave my sanction to this legislation. I do not propose at this time to enter into a discussion of the great questions involved in this bill and the one to which it is an amendment. I do not think there is any warrant in the Constitution whatever for either of them. It seems to me almost impossible for any gentleman in this House to suppose for a moment that there is any authority whatever in the Constitution for this legislation. During the first six months of the first session of the Thirty-Ninth Congress there were not probably ten men on this floor who assumed or pretended to think that Congress had any such power, and therefore it was that we saw during that session a perfect inundation of amendments to the Constitution. It was then openly or tacitly admitted that we had no shadow of power to interfere with the subject of suffrage in the States. The doctrine that the Union was virtually dissolved by the war, and the insurgent States reduced to a territorial condition, then had very few friends or supporters on any side of this Hall. Now we have legislation, however, which undertakes to do in these southern States what never heretofore has been attempted in any of the Territories.

Never before in the history of our Government I believe has Congress undertaken to dictate to the people of a Territory, by the in-

tervention of a military commander or otherwise, the character of the constitution they should adopt, or to compel them to adopt any character of constitution. If in reference to territorial governments it has never been attempted to claim such powers for Congress, certainly they could not be claimed in reference to States. If Congress possesses these powers now, it had them when the Thirty-Ninth Congress first assembled. The Constitution has not been changed within that time. And if these extraordinary powers have existed, why have they not been exercised; and why has restoration been delayed until this time? Why did Congress go on blundering from month to month, from folly to folly, until the close of the Thirty-Ninth Congress, before passing any bill that looked to restoration?

It is undeniable that during all this time it was tacitly admitted on all sides, and in fact publicly declared, that Congress had no power to interfere with the question of suffrage in the States or to assume the powers that are attempted to be exercised in this bill. Over one hundred amendments to the Constitution were offered, and a great part of the first session of the last Congress was taken up in an attempt to amend the Constitution so that Congress should have some such power as is contemplated in this bill. Congress and the party that now dominates over this country have manifestly merely blundered on from one folly and crime to another until they have reached their present position. It was neither foreseen nor intended by them. Having placed themselves in opposition to the constitutional, reasonable, and patriotic policy of the President, they were utterly unable for more than a year to present any plan of their own looking toward restoration. Having placed themselves outside of the Constitution, they have floundered on from one folly to another until they have not only destroyed the Union, but are themselves, as a party, standing on the very brink of destruction. The clamors of the people for a restoration of their Government cannot be silenced. Involved in inextricable difficulties by their own madness and folly in opposing the direct mode of restoration indicated by the Constitution itself, forced by the clamors of the people to adopt some policy or to consent to being driven in disgrace from place and power, they have in their fright adopted these measures which it is impossible that their judgments can approve, and which they will not dare to defend by reference to any principles of the Constitution.

The majority have evidently closed their eyes and shut their ears to all constitutional arguments and considerations, abandoned all the discussions which they were so fond of indulging in a year ago, and determined to plunge blindly into the gulf before them; preferring that to a return to the constitutional principles from which they have departed, and reckless whether it shall or not bring to ruin and devastation the noblest fabric of Government ever devised by man.

In regard to this particular measure I have only this to say: that the bill of the last Congress having been adopted, and the majority who now have control of this Government absolutely having determined to force their scheme upon the country, I think it is but right and proper that they should indicate the mode by which the proposed governments are to be organized, otherwise, as it is left by the original bill, there is danger of a conflict among the people of the unrepresented States in attempting to organize under said act. Already in some of those States some of those wandering vagabonds calling themselves southern loyalists are stirring up the negro population to organize purely negro governments in defiance of the action of the existing State authorities, and this may lead to complications and difficulties of the gravest character. These agitators will doubtless combine with the negro element, and form and present constitutions adopted almost exclusively by the negro population, while the white men in those States will organize governments in which the white element will pre-

dominate. Now, sir, when that is done, it will not be difficult to guess which one of these governments will be recognized by this loyal Congress. I have no doubt that the majority here will prefer the negro's to the white man's government. But it will be impossible for me to give my vote for this or any kindred measure. I regard this whole legislation as clearly unconstitutional. We are establishing precedents which are dangerous to our institutions, and which must, if followed, lead to their entire subversion.

Mr. WILSON, of Iowa. As to the question of power discussed by my colleague on the committee, I shall accept the determination of the Thirty-Ninth Congress. All of these questions were determined by that Congress in the passage of the act of the 2d of March. As to the principles involved in that exercise of power, we have just heard the gentleman's indorsement of them. He refers to the "patriotic and reasonable policy" of the President. Now, sir, if it is patriotic and reasonable, and if the principles involved in that policy do not conflict with those established by Congress, we have the gentleman's indorsement of the very principles embraced in the act of March 2, and embodied in the bill before the House. The President, in his "patriotic and reasonable policy," undertook to go into the rebel States and determine who should and who should not vote. Now, it is the great source of complaint with the gentleman from Illinois that Congress by the act of March 2 undertook to regulate the elective franchise within the States; but while the complaint is still resting upon his lips he gives his hearty indorsement of the patriotic and reasonable policy of the President, whereby the Executive undertook to exercise the precise power that Congress exercised when it passed the act of March 2, 1867.

Mr. MARSHALL. If the gentleman will permit me a moment, I do not understand that the President of the United States ever undertook to settle the question of suffrage in the States. But let me state what I intended in referring to the policy of the President. There are many things done by the present Executive which I do not indorse, including probably some things in regard to the southern States. But that portion of the policy of the President which I do indorse, and which I believe would have brought peace to the country and restoration of the Union, is simply this: that the southern States ought to have been recognized as States in the Union, never out of it; and when they sent loyal representatives to Congress, who, according to any rule prescribed by the Congress, were entitled to be admitted, who could honestly in good faith take the oath required of every member whether coming from the North or South, such members ought to have been admitted.

But others who could not take the oath, and who were not qualified according to the rules prescribed, would, in pursuance of that policy, have to go home and tell their constituents, "We were refused admission, not because our State was in any sense out of the Union, not because you are not entitled to representation in Congress, but because I am personally disqualified. When you elect men who are free from these personal disqualifications under the laws as they now exist, those men will be admitted. Until you do so your seats in Congress will remain vacant, to be occupied whenever you send representatives personally qualified to take them." The people would then have understood that they would have to return loyal men, the whole question of restoration would have been decided, and the Union restored long ago. That portion of the policy of the President I do indorse, and I think a departure from it has led the majority here into all the difficulties into and through which they have been blundering and stumbling over, under and in defiance of the Constitution of their country. This policy of the President and of Constitution-loving conservative masses of the country would have given us union, peace, fra-



ternity, and prosperity, and have freed us forever from the dangerous complications and difficulties by which we are surrounded, and which threaten to engulf all we hold most dear on earth.

Mr. WILSON, of Iowa. My colleague on the Judiciary Committee who has just taken his seat indorses that part of the President's policy which is no part of it. The President when he inaugurated his policy certainly did not believe that the rebel States were States in the Union; but he provided immediately for the calling of conventions in those States, and directed those conventions to frame such constitutions as he deemed proper and right. Why did he enter those States and declare by his proclamations that certain persons should be entitled to vote, and that certain other persons should not exercise the right of the elective franchise? The gentleman cannot escape by saying that he indorses that part of the President's policy only as recognized these as States. He must take the policy as it was inaugurated, for the purposes for which it was inaugurated under the surrounding circumstances. The President by his proclamations declared that by the rebellion these States had been deprived of all civil governments, and as the Chief Executive officer of the nation, he went in there to aid the people in the organization of governments just as we are doing now. We are seeking by this legislation merely to aid the people of these States in the organization of governments which shall secure the rights of all the citizens of the United States.

Mr. ELDRIDGE. Mr. Speaker, it is well known to those who were members of the Thirty-Ninth Congress that, with the views I entertain, I can no more vote for this bill than I could have voted for the one which passed at the last Congress. I believe there is no warrant or authority in the Constitution for the passage of either. The provisions of both are in open and flagrant violation of that instrument, and a most wicked subversion of the liberties it was intended to secure.

But I object to this bill for another reason. I object to it because it is a declaration to the country, to the people of the southern States, that this Congress has even yet no definite or settled policy with reference to their restoration to the Union. It repudiates the idea that the bill which was passed over the veto of the President for reconstruction, as it was represented to the country, was the ultimatum of Congress as intended to be the plan for the final settlement of our unhappy difficulties with the people of those States. It is a virtual declaration by the majority of this House that it claims the power, and intends day by day, and day after day, to institute just such measures in regard to that people as its partisan purposes may suggest and require. That submission to your requirements is an invitation only for further demands and still greater impositions and exactions.

I object to this bill further, because it is another declaration that Congress, while condemning the presidential policy, has no policy of its own; no plan by which it is willing to abide; none by which restoration and reconciliation can be permitted to take place. The bill passed at the last session provided for placing those States under military governments, and allowed the military officers in command in their discretion to recognize and permit the State governments to continue as provisional governments, as they were called. By this bill these military officers are not permitted to allow these State governments to act, but the military must appoint registers to enroll the voters, fix the day for elections, and control all the proceedings by the bayonet.

The gentleman from Maine [Mr. BLAINE] made an inquiry of the gentleman from Illinois [Mr. MARSHALL] in which he seemed to think there was some force, as to whether we desire to have a minority of the people establish governments there. If we do not we must certainly be opposed to the provisions of this bill; for by its terms you deny to the majority of the people

of these States the right to participate in the formation of their government. Both of these bills are intended to subject the majority of the people to the control of the minority. But neither the minority nor the majority are to be free to act; both and all are to be under the control of the military officer in command. Obedience to his command is to be enforced at the point of the bayonet. These measures are to be enforced upon the southern people for the purpose of building up a radical party there, a party that will support the measures and policy of this fanatical Congress. To this end and for this purpose you would subject the white people of those States to the control of their former black servants. These measures are intended to disfranchise the white man and enfranchise the black; to humble and bow down the white man, and place in power in his stead the feeble black man, whom you can control for your own party purposes.

If this bill does not accomplish this object, another session of Congress will be called for the purpose of adopting some measure that will have the effect.

Mr. WILSON, of Iowa. As the hour to which I am entitled has nearly expired, I desire to demand the previous question.

The SPEAKER. The gentleman has only two minutes remaining.

Mr. BUTLER. I desire to offer a motion to have this bill recommitted to the Committee on the Judiciary, with instructions to strike out the provisions requiring that these military commanders shall do this thing at a given time, thus making an iron rule for all the States. Some States may be more ready than others, some in a better condition than others; and therefore I do not see why we should be in such haste to adopt an iron rule which would enable some States to come back before, in the judgment of the military commander, they are in a proper condition to come back. I therefore favor a recommitment of the bill.

Mr. WILSON, of Iowa. I cannot yield for that purpose. This bill now gives the military commander until the 1st of September next. I now call the previous question upon the bill and pending amendments.

The previous question was seconded and the main question ordered.

#### FURNISHING EXECUTIVE MANSION.

A message from the Senate, by Mr. BURCH, one of its Clerks, announced that the Senate had passed the concurrent resolution of the House providing for the appointment of a joint committee to examine the accounts for repairs and furnishing of the Executive Mansion, and had appointed Mr. HARLAN and Mr. NORTON as the committee on the part of the Senate.

The SPEAKER subsequently announced the appointment of the following named gentlemen as the committee on the part of the House, Mr. SPALDING, Mr. BEAMAN, and Mr. GLOSSBRENNER.

#### REORGANIZATION OF REBEL STATES—AGAIN.

The House resumed the consideration of the bill in relation to the reorganization of the rebel States.

Mr. WOOD. I move that the bill and pending amendments be laid on the table; and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 115, not voting 18; as follows:

YEAS—Messrs. Archer, Barnes, Boyer, Burr, Chanler, Denison, Eldridge, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Marshall, Morgan, Mungen, Niblack, Nicholson, Neill, Pruyn, Randall, Robinson, Ross, Taber, Van Auker, Van Trump, and Wood—27.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Brownell, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Daves, Dodge, Donnelly, Driggs, Eckley, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laffin, William

Lawrence, Lincoln, Loan, Logan, Loughridge, Marvin, McCarthy, McClurg, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pike, Plants, Poland, Polesy, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Stevens, Stewart, Taffe, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Arman, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—115.

NOT VOTING—Messrs. Allison, Brooks, Broomall, Cake, Cypore, Eggleston, Elliot, Fox, Kitchin, George V. Lawrence, Lynch, McCullough, Mercier, Morrissey, Pike, Selye, Stigreeves, and Stone—18.

So the motion to lay on the table was not agreed to.

The question recurred upon the motion of Mr. WILSON, of Iowa, to amend the first section of the bill by inserting after the words "I am" in line three, on page 2, the following:

Not excluded from the right to vote by the provisions of the fifth and sixth sections of the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States;" that I am.

The amendment was agreed to.

The next question was upon the amendment proposed by Mr. BINGHAM to the fifth section of the bill.

Mr. WOOD. I call for the reading of that fifth section.

The Clerk read as follows:

SEC. 5. *And be it further enacted*, That if according to said returns the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the fifth section of the act entitled "An act to provide for the more efficient government of the rebel States," and the other provisions of said act shall have been complied with, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

The amendment of Mr. BINGHAM was to strike out the word "of" after the word "votes," and to insert in lieu thereof the words "given at said election by;" so that the clause would read as follows:

If according to said returns the constitution shall be ratified by a majority of the votes given at said election by the electors qualified as herein specified, &c.

The question was taken upon the amendment, and there were—yeas 38, noes 70.

Before the result of the vote was announced, Mr. BINGHAM called for the yeas and nays on agreeing to his amendment.

The question was taken upon ordering the yeas and nays; and there were—yeas sixteen.

So (the affirmative being not one fifth of the last vote) the yeas and nays were not ordered.

The amendment was not agreed to.

Mr. DRIGGS (at twenty-five minutes before four o'clock p. m.) moved that the House adjourn.

The motion to adjourn was not agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time.

Mr. ELDRIDGE and Mr. CHANLER called for the reading of the engrossed copy of the bill.

Mr. WILSON, of Iowa. I move that the rule be suspended which requires the reading of the engrossed copy of the bill.

The question was taken upon suspending the rule; and there were—yeas one hundred and two, noes not counted.

So (two thirds voting in the affirmative) the rule was suspended.

The bill was then read the third time.

The question was upon the passage of the bill, upon which

Mr. WILSON, of Iowa, called for the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided



in the affirmative—yeas 117, nays 27, not voting 16; as follows:

**YEAS**—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Ketcham, Kitchen, Kootz, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Marvin, McCarthy, McClurg, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Stevens, Stewart, Taffe, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert I. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—117.

**NAYS**—Messrs. Archer, Barnes, Boyer, Burr, Chandler, Denison, Eldridge, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Marshall, Morgan, Morrissey, Mungen, Niblack, Noell, Pruyn, Randall, Robinson, Ross, Taber, Van Auker, Van Trump, and Wood—27.

**NOT VOTING**—Messrs. Allison, Brooks, Broomall, Calk, Coyode, Eggleston, Eliot, Fox, Lynch, McCullough, Mercur, Nicholson, Pike, Selye, Sitgreaves, and Stone—16.

So the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa. I move that the bill as just passed be printed. It may be necessary for the information of the Senate. The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. GARFIELD asked and obtained leave of absence for the remainder of the present week.

#### WITHDRAWAL OF PAPERS.

Mr. GARFIELD asked and obtained leave to withdraw from the files of the House the papers in the case of Miss Sue Murphy.

#### REVENUE-CUTTER SERVICE.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to report to this House the expenses incurred for the revenue-cutter service for the last fiscal year; also the value of all seizures made by revenue-cutters, and all fines, penalties, and forfeitures that have accrued therefrom during said period.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and adopted.

#### SYMPATHY AND AID FOR IRELAND.

Mr. DONNELLY. I ask unanimous consent to submit the following preamble and resolutions:

Whereas the Government of Great Britain did, so soon as an armed rebellion appeared within the limits of the United States, hasten to accord to the rebels belligerent rights, and thereafter, during the whole course of the war, continued to give moral and material aid to the same, furnishing them with arms, munitions, and vessels of war, inflicting thereby incalculable injury upon our foreign commerce and greatly increasing our sacrifices of men and money in the suppression of the rebellion; and whereas the said Government of Great Britain has hitherto refused to pay the Government of the United States for any part of the enormous damage so inflicted upon the commerce of the United States; and whereas the Irish people, after having suffered for centuries the burdens of a hereditary aristocracy, an established church, and a system of laws designed expressly for their impoverishment, have at last risen in rebellion, and are now waging a gallant, though unequal contest with the Government of Great Britain: Therefore,

*Resolved*, That the profoundest sympathies of the American people are enlisted in behalf of the people of Ireland in their efforts to establish a republican government in Ireland upon the basis of universal suffrage and a total separation of church and State.

*Resolved*, That the Committee on Foreign Affairs are hereby instructed to report to this House what legislation, if any, is necessary to enable the Executive of the United States to accord to the people of Ireland belligerent rights, and generally to enable

the Executive to follow in every particular the precedents established by Great Britain during the late rebellion.

—Mr. STEVENS. I object.

Mr. DONNELLY. I move to suspend the rules so as to allow the introduction and consideration of the resolutions.

Mr. BINGHAM. I move that the House adjourn.

On the motion, there were—ayes eighty-three, noes not counted.

So the motion was agreed to; and thereupon (at four o'clock p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CLARKE, of Ohio: The petition of J. C. Norton and others, of Highland county, Ohio, praying for a pension to the minor heirs of Pleasant Stoops, deceased.

By Mr. KELLEY: The petition of 12 wounded soldiers who were kept against their will in the United States hospital at Philadelphia, Pennsylvania, five and seven months after their regiments were mustered out of the service, and then discharged without pay for the time served after the mustering out of their regiments, who claim and pray Congress to grant them full pay and clothing allowance, &c., up to the day of their discharge from the hospital.

Also, the petition of the officers of the Anti-Slavery Society of Pennsylvania, praying Congress to prohibit the importation into the United States of sugars and other articles of foreign commerce which are the products of slave labor, &c.

Also, the petition of 24 citizens of Norristown, Pennsylvania, late officers of the volunteer United States Army, praying Congress to pass an act entitling all officers of the late volunteer Army of the United States who have been commissioned since March 3, 1865, to the three months' extra pay allowed to all officers who served as such before the passage of said act, which act deprives officers from receiving said pay who were commissioned after the passage of the act of March 3, 1865.

By Mr. KOONTZ: The petition of Mary E. Seag, asking for compensation for services rendered the United States during the late war.

By Mr. RICE: The petition of citizens of the city of Washington, asking for the granting of a charter for the construction of a railroad from Washington city to Cincinnati, Ohio.

#### IN SENATE.

TUESDAY, March 12, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for additional surveys of the Wisconsin river, and for employing a dredge-boat to ascertain how far it is practicable to improve that river; which was ordered to lie on the table.

Mr. RAMSEY presented a petition of William H. Kimball, late regimental quartermaster of the eleventh regiment Minnesota volunteers, praying to be paid as such from October 10, 1862, to May 18, 1863; which was referred to the Committee on Military Affairs and the Militia.

Mr. COLE presented a memorial of Henry A. Palmer and others, bonded clerks in the United States branch mint at San Francisco, for increased compensation; which was referred to the Committee on Finance.

Mr. NORTON presented a memorial of the officers of the Minnesota and Missouri River Railroad Company, praying for a grant of land to aid in the construction of their road; which was referred to the Committee on Public Lands.

#### REPORTS OF COMMITTEES.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the petition of George L. Elder, second lieutenant, company D, ninety-ninth regiment New York volunteers, praying that officers of that regiment who served on the frigate Congress when attacked and destroyed by the rebel ram Merrimack may be compensated for their losses, to report it back and asked to be discharged from its further consideration, and to move that it be referred to the Committee on Claims. And I desire to say that, upon due consideration, the Committee on Naval Affairs have come to the conclusion that they will no longer

entertain any cases that are purely or substantially claim cases, but will propose to refer them in all instances when they shall be committed to their consideration to the Committee on Claims, where they properly belong. I trust, therefore, no more cases of that kind will be referred to the Committee on Naval Affairs.

The report was agreed to.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 19) to furnish certain arms and equipments to the State of Tennessee, to report it with an amendment.

Mr. FOWLER. I hope that resolution will be considered now.

Mr. WILSON. I trust there will be no objection to its immediate consideration.

Mr. JOHNSON. I object to it now.

The PRESIDENT *pro tempore*. It will lie over.

Mr. WILSON, from the Committee on Military Affairs and the Militia, reported a joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, seamen, and marines, or their heirs; which was read, and passed to the second reading.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a correspondence between the Government of the United States and the Governments of France and Prussia touching the claim asserted by the latter to the military service of persons born in those countries who have since become naturalized under the laws of the United States, reported a motion to print the correspondence for the use of the Senate; and the motion was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 45) for the defense of the northeastern frontier, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 47) to provide for the adjustment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom were referred resolutions of the Legislature of Oregon, in favor of a reciprocity treaty between the United States and the Hawaiian Government, asked to be discharged from its consideration; which was agreed to.

#### WRECK OF THE SCOTLAND.

Mr. CHANDLER. The Committee on Commerce have directed me to report a bill to repeal a joint resolution entitled "A resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867. I ask for its immediate consideration.

Mr. JOHNSON. I should like to hear from the honorable member a statement of the reasons why the committee deem it necessary to repeal the joint resolution referred to.

Mr. CHANDLER. I will state very briefly. On the petition of the Board of Underwriters and the Harbor Commissioners of New York, Congress at the last session appropriated a sum of money, not to exceed \$100,000, for the removal of the wreck of the steamship Scotland from the harbor of New York. Upon investigation by the engineers, it has been ascertained that the cargo of the Scotland is very valuable, as is likewise the hull, and that the owners of the Scotland have already made a contract with the wreckers of New York to remove the obstacle. This bill merely saves \$100,000 to the Treasury.

Mr. JOHNSON. I am satisfied.

Mr. FESSENDEN. That is right; it ought to be repealed.

The bill (S. No. 49) to repeal a joint resolution entitled "A joint resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867, was read three times, and passed.

JOHN H. ELLIS.

Mr. WILLEY. I am authorized by the Committee on Claims, to whom was referred a bill (S. No. 25) for the relief of John H. Ellis, paymaster United States Army, to report it back and recommend its passage, and I ask for its present consideration; the case has been carefully considered by the committee.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides for the allowance to John H. Ellis, in the settlement of his accounts as paymaster, of \$3,673 91, being the amount lost in consequence of the larceny of \$19,093 91 of the public moneys from his custody at Fort Leavenworth, Kansas, on the night of January 1, 1866, if the Paymaster General shall deem him justly entitled to this credit, and shall certify his approval of it.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## MARKET SQUARE, BURLINGTON, IOWA.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the bill (S. No. 22) in relation to a certain tract of land in Burlington, Iowa, have directed me to report it back without amendment, and recommend its passage; and I ask for its present consideration. It is simply to relinquish the title of the United States to a public square, called Market square, in Burlington. The city government proposes to allow the Burlington and Missouri River railroad to lay its tracks on the square; and this bill is to relinquish the title of the United States to the city.

The bill was, by unanimous consent, considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 50) for the relief of William L. Kimball; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 51) to facilitate the establishment of a naval and marine coal depot on the eastern shore of New Jersey, and for other purposes; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 52) to incorporate the Washington Land and Building Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 23) extending sympathy to the people of Ireland; which was read the first time.

The PRESIDENT *pro tempore*. Does the Senator from Nevada ask for the present consideration of this resolution?

Mr. NYE. Yes, sir.

Mr. SUMNER. I think it had better lie over.

Mr. POMEROY. I hope the resolution will be printed, so that we may see it to-morrow.

Mr. SUMNER. I have no objection to that. The joint resolution was ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of election for the cities of Washington

and Georgetown, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature, held at Santa Fé from the 3d day of December, 1866, to the 31st of January, 1867; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 53) in addition to the several acts for establishing the temporary and permanent seat of the Government of the United States and to resume the legislative powers delegated to the cities of Washington and Georgetown and the levy court in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 54) to enlarge the public grounds surrounding the Capitol; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce the following bills; which were read twice by their titles, referred to the Committee on Public Lands, and ordered to be printed:

A bill (S. No. 55) to enable the State of California to reclaim certain unproductive lands within her limits; and

A bill (S. No. 56) granting lands to aid in the construction of a canal or canals for irrigating purposes in the State of California.

EDWARD M'DONALD REYNOLDS.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Navy be, and he is hereby, requested to transmit to the Senate the records of the retiring and revisory boards and all the proceedings in the matter of the dismissal of Captain Edward McDonald Reynolds from the Marine corps.

## GOVERNMENT FIRE DEPARTMENT.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the organization and equipment of the Government fire department of the city of Washington, the number of men, horses, engines, and ambulances employed, and the total monthly cost of the same; also whether the expense cannot be materially reduced, or whether any additional legislation is necessary to promote the efficiency of said fire department.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that Mr. CHARLES H. VAN WYCK of New York, Mr. SAMUEL J. RANDALL of Pennsylvania, Mr. JOHN A. LOGAN of Illinois, Mr. MARTIN WELKER of Ohio, and Mr. GEORGE A. HALSEY of New Jersey, had been appointed members of the joint select Committee on Retrenchment on the part of the House; and also that Mr. R. P. SPALDING of Ohio, Mr. F. C. BEAMAN of Michigan, and Mr. A. J. GLOSSBRENNER of Pennsylvania, had been appointed members of the joint Committee to Examine the Accounts for Repairs and Furnishing of the Executive Mansion on the part of the House.

The message also announced that the House had passed a bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facili-

tate restoration; in which it requested the concurrence of the Senate.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1) making appropriations for the expenses of commissioners sent by the President to the Indian country;

A bill (S. No. 31) to amend an act entitled "An act to amend an act entitled 'An act to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,'" approved March 21, 1866;

A joint resolution (S. R. No. 2) supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and

A joint resolution (S. R. No. 6) extending the time for the completion of the improvement of Fox and Wisconsin rivers.

## MESSAGE FROM THE PRESIDENT.

Several executive messages were received from the President of the United States, by Mr. MOORE, his Secretary.

## ARMS OF DELAWARE.

Mr. SAULSBURY. I offer the following resolution:

*Resolved*, That the Secretary of War be directed to cause to be returned to the several armories in the State of Delaware the arms and equipments belonging to said State which were seized and carried therefrom by direction of the military authorities during the late civil war, or to supply said armories with arms and equipments of equal value.

Mr. CONNESS. I suppose the Senator does not want that resolution considered today.

Mr. SAULSBURY. I wish to have it considered now.

Mr. CONNESS. I suppose it would have to be referred before the Senate would like to act upon it.

Mr. SAULSBURY. I have no objection to its being referred.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Military Affairs and the Militia.

## DONAHUE, RYAN, AND SECOR.

Mr. CONNESS. I move that the Senate proceed to the consideration of joint resolution No. 17.

The motion was agreed to; and the joint resolution (S. R. No. 17) for the relief of Donahue, Ryan, & Secor, was considered as in Committee of the Whole. It proposes to appropriate for the purpose of paying Donahue, Ryan, & Secor for losses sustained by them in the construction of the monitor Camanche, the sum of \$179,000 80.

Mr. CONNESS. I wish to say in explanation to the Senate that this is precisely such a joint resolution as the Senate passed unanimously at its last session, approved by the Committee on Naval Affairs, but it was not enabled to be reached in the other House by reason of the rules of that body and the pressure of public business. It is a case not comprehended in the act passed for the relief of builders of iron-clads, and is on all hands acknowledged to be eminently just and worthy of immediate attention. The case of these builders is peculiar, inasmuch as their losses were the result, as is well established, of the acts of the Government of the United States.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## RECONSTRUCTION.

Mr. MORTON. I move to take from the table the resolutions of the Senator from Massachusetts, which were yesterday laid on the table by a vote of the Senate.

The motion was agreed to; and the Senate resumed the consideration of the following

resolutions, submitted by Mr. SUMNER on the 7th instant:

Resolutions declaring certain further guarantees required in the reconstruction of the rebel States.

1. *Resolved*, That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

2. *Resolved*, That there are other things remaining to be done, which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

3. *Resolved*, That among the things remaining to be done are the five following:

First. The existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

Secondly. Provisional governments must be constituted as temporary substitutes for the illegal governments, with special authority to superintend the transition to permanent governments, republican in form.

Thirdly. As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

Fourthly. As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as, according to the census, an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

Fifthly. Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

4. *Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

Mr. MORTON. Mr. President, I voted yesterday against laying these resolutions on the table, because I was unwilling to terminate the debate at that time, and because there is one proposition contained in them that I think of vital importance. I dissent entirely from the argument made by several Senators yesterday, that the act which was passed a few days ago is to be regarded in the nature of a pledge, and that we cannot now alter or amend it without a breach of faith. The House of Representatives, I understand, has already passed a bill, which will be here for consideration in a day or two, proposing to perfect that measure in several respects; but independent of that, the offer, as it is called, has not yet been accepted by any of the southern States; it has not been acted upon by them; no rights have vested under it. It cannot be regarded in the nature of a contract, because that takes two parties, one to propose and the other to accept. Consequently it is entirely competent for Congress to alter, amend, modify, or even repeal that bill without dishonor or breach of faith.

While there is much in the resolutions offered by the Senator from Massachusetts that I cannot approve, I desire to say that I do approve most fully what they say upon the subject of the necessity of providing for the education of the people of the late rebel States. I think that is of vital importance, not only to them, but to the whole country, and that we of the North are as much interested in it as they of the South. They are to be our assistant law-makers, to join with us in electing Senators, Representatives, Vice Presidents, and Presidents, and we are to be affected by their competency or incompetency to exercise the right of suffrage. The bill which we have passed will probably bring to the polls in the late rebel States not less than seven hundred thousand new voters, of whom but a small proportion can read and write; and of the white people of the South it is well known that a large portion cannot read and write. When you add to the number of whites who cannot read and write the whole number of colored people who cannot read and write, you will find that both classes in that category will probably constitute a full half, if not more, of all the voters in the rebel States under the late act of Congress.

Sir, the opposition which has existed in the

North to conferring the right of suffrage upon the freedmen of the South has arisen more from the consideration of their ignorance, their want of education, than from any prejudice on the subject of color. I think I speak advisedly on that subject. Of the people in the South who can read and write, of the educated classes, an overwhelming majority have been rebels, and are now rebels in feeling and sympathy. Not only are they rebels, but the educated classes own and hold nearly all the property, and they will control these new State governments. Intelligence has always prevailed against numbers, and always will; and legislate as you may the present educated classes of the people of the South will control the new State governments, and they will continue to do so until you educate all the other classes of the southern people. If you expect to take these new organizations out of the hands of the rebel classes of the South, it must be done by educating all the other people there. It is well known that a large number of southern men, especially those who have been slaveholders, have been in favor of colored suffrage for months past. They have been in favor of it upon the ground that their late slaves are ignorant and that they can control them: That they will be able to do this to a large extent we cannot deny, and the only way in which we can take the control of the colored people of the South out of the hands of their late masters is by educating them.

The Constitution requires "that the United States shall guaranty to every State in this Union a republican form of government." Sir, that guarantee cannot be executed in the southern States unless the people of these States are educated. We cannot maintain and execute that guarantee where one half or four sevenths of all the voters can neither read nor write. It is of the very essence of reconstruction that these people shall be educated. We cannot expect successfully to carry on loyal State governments in the South and to reconstruct society upon a permanent basis of loyalty unless there shall be a system of common schools established open and free to all, without distinction of race or color.

It has been said by several Senators with whom I have conversed that we must leave this matter to the people of the several States. Why, sir, it has always been to the interest of the people of the South that they should educate the poor whites, but they have not done it. The leading classes kept them in ignorance because they could thereby the more readily control them, and the educated classes of the South will now refuse to establish voluntarily a system of common schools, especially when they hold the property, and the taxes necessary to be raised for that purpose must be collected off their property. They will never do it unless they are coerced to it by the terms of reconstruction. Sir, we cannot reasonably expect, we have no right to expect, that these men will come forward voluntarily and establish a system of common schools to be supported by taxation, when the rebel educated classes hold the property and will have to pay the taxes.

It has been said by one or two Senators with whom I have conversed on this subject, that it will be time enough to raise this question when these States come here with their constitutions. I say, sir, not so. Let us now lay down all the conditions that we expect to demand; let us now prescribe all the terms which we expect them to comply with in their constitutions. It will not do when they come here to say to them, "Your constitutions are not complete, because they contain no provision upon the subject of education." That will require them to go back to the people, and will involve the calling of new conventions. That might, perhaps, be properly regarded as a breach of faith. Let us now prescribe all the conditions that we mean to require them to comply with. If we intend to require them to insert a provision in their State constitutions making it obligatory upon their Legislatures to establish a system

of common schools, open and free to all, without regard to race or color, now is the time to prescribe it, and not when they have formed their constitutions, and come here and ask their acceptance and for an admission of representation under them.

Now, sir, have we not a perfect right to make this requirement of them? If we have a right to require that they shall establish universal suffrage in their constitutions, we have an equal right to require them to make some provision to qualify men to exercise the right of suffrage. The education of the people is essential to the execution of the guarantee that we shall secure to each State a republican form of government; it is indispensable to the success of republican government; and we cannot hope for successful reconstruction except upon the basis of making provision for the speedy education of all the people of the South. We cannot leave this to the gradual progress of events. We have brought to the polls by the late act of Congress some seven hundred thousand men who but three or four years ago were slaves, most of them plantation slaves, but very few of whom can read and write. The condition of the country has made it necessary that they should be suddenly brought to the polls, and without previous preparation by education; and now that it is done, it is a matter of the first importance to the people of this country that we make positive provision for the education of these men. It is due to them and it is also due to our own people that this should be done. We cannot afford to trust to chance upon so important a point. I therefore deem that part of the resolutions of the Senator from Massachusetts as of vital importance, and if it is competent for us to pass a supplementary bill to perfect the reconstruction bill passed but a few days ago, it is competent for us to put into that bill this proposition contained in the resolutions of the Senator from Massachusetts. The importance of it cannot for one moment be overestimated.

Something was said in the discussion of yesterday with regard to the status of the rebel States. I do not know that it is pertinent to this discussion to argue that question. I can only say that on that point I have always differed from the Senator from Massachusetts; I have always believed that these rebel States were States in the Union, but with illegal and unauthorized governments, and I have never seen any necessity for what is called the territorial theory. Congress from the first has had, under the Constitution, all the powers necessary for the work of reconstruction, without treating these States as conquered provinces and as having been reduced to a territorial condition. The rebellion was suppressed upon the theory that they were States whose people were in insurrection. Acting on that theory, at the close of the war we found these States without government of any kind; and the jurisdiction of the Government of the United States attached, and it has not yet been discharged. We are bound to guaranty republican forms of government to all these States, and when we found ten States without governments at all our jurisdiction attached at once, and it can only be discharged by the full and successful establishment of republican State governments.

But, sir, to come back to the main question, can we hope to do that successfully, can we hope to execute that guarantee to the satisfaction of the people of this country if we shall fail to make provision for the speedy and certain education of the people of all the rebel States?

Mr. HOWE. Mr. President, for one I feel very much obliged to the Senator from Indiana [Mr. MORRIS] for bringing back into this Chamber this ghost of Banquo. I am obliged to him because I was not at all satisfied with the way in which it was dismissed yesterday. I was obliged to vote against laying these resolutions upon the table; and, as it happened, I was obliged to vote so without offering to the Senate a single reason which controlled me in giving that vote; and the debate had taken

such a strange and singular range, as it seemed to me, that I felt somewhat placed in a false position in giving that vote. I am glad, therefore, to have a legitimate opportunity afforded me of saying in a few words why I gave the vote I did.

In the first place, Mr. President, allow me to remark that this is not a proposition to legislate. Here is not a bill before the Senate. It is not proposed to enact one or all of these things into a law now and here. These are resolutions for adoption or rejection by the Senate, and not by the Congress of the United States; and it seems to me before we condemn them we should look right into the matter and see if there is anything there worthy of condemnation. As I read them they seem to me to be but little more than a series of truisms; but because they are truisms it does not follow that it would not be proper for us to declare our assent to them. See what they are. The first resolution declares—

That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

Is that true or not? "Has" thereby "begun the work of reconstruction," says the resolution. I conceive it has so, though perhaps rather in a figurative than a literal sense. In making that declaration in the recent enactment of Congress, it did not do much in the way of actual reconstruction, but it did a great deal in the way of preparing the way for reconstruction. In making that declaration, we tore down the great obstacle which stood in the way of reconstruction; we prepared the ground for the work of reconstruction. The great obstacle before which the Congress and the nation has stood in pause for the last year and a half has been the existence of those political organizations down there which claimed to be the governments of States, which arrogated to themselves the prerogatives of States, and Congress, and the people to some extent, but to a far less extent than was true of Congress, hesitated before the necessity of denying to those organizations the character which they thus usurped for themselves. In the recent enactment of Congress, however, that step has been taken; that work has been done; that declaration has gone forth. You have stripped those organizations of these assumed characteristics. They no longer stand in the eye of your law, as they never have stood in the eye of the loyal American people, in the light of American State governments. Thus, then, by that declaration you have begun the work of reconstruction, as he who tears down an old, rotten, shelterless fabric upon a site where he wishes to build has commenced the work of erecting an elegant edifice suited to the accommodation of man.

The second resolution declares:

That there are other things remaining to be done which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

Is that not true, that there are other things as clearly within the power of Congress as this matter of decreeing the elective franchise to every male adult person within those districts? Why, Mr. President, if we will comprehend the spirit and scope of the recent enactment of Congress, it is nothing short of this: you have asserted the same measure of supremacy over every one of those communities that you have exercised over the Territory of Montana or any other Territory which ever existed under the Constitution of the United States. You have the same authority, the same legislative control over all those communities, if your law is a valid law, that you have over the people of the District of Columbia; and if you have that authority, then you are just as responsible for good or bad government in South Carolina as you are in the District of Columbia; and you cannot escape it. They are States or not States. If they are States they are just what New York and Massachusetts are, and you can do no more toward regulating the suf-

frage or anything else there than you can do in New York or Massachusetts. If they are not States, as your law declares they are not in effect, then you can do there whatever you can do in any portion of the Union where a State government does not exist, and in every such portion of the Union you can do just what you can in the District of Columbia, just what you can in any one of your Territories.

The next resolution declares that there are five things which yet ought to be done, and the first is that—

The existing governments which have been declared to be illegal must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

Mr. President, I do humbly conceive that those governments down there ought to be vacated. The Senate will bear me witness I have insisted upon that persistently for more than three years. They ought to be vacated. They ought to be vacated because you declared them to be illegal and because you declared them to be criminal—criminal in that they did not give adequate protection to life or to property. When a political organization is liable to that impeachment; when you can say of any political organization within the limits of the United States, within its jurisdiction, that it is illegal, and that it does not afford adequate protection to life or property, you have declared the only two conditions upon which arises the plain duty of the Congress of the United States to remove them from the face of the earth. And I was profoundly sorry to have to acquiesce in that feature of the recent enactment which stigmatized those organizations, stigmatized them, I say, which characterized them in this way, and yet proposed to employ them still further in the work of government, not because I particularly distrust their agency in what is called the work of reconstruction; I distrust them still more in the every day work of administering justice down there between man and man. The work of reconstruction, since you have declared them to be provisional governments rather than State governments, we can manage very well; but I regret profoundly to see those organizations which you declare to be illegal and to be wanting in the first duties of government, engaged day after day in enacting laws, in administering laws, in determining private rights, in imposing human penalties, when, if I have not strongly misjudged them, and if your enactment does not strongly misjudge them, they are not fit to be intrusted with any one of those great and solemn duties. I think they ought, in the language of these resolutions, to be vacated at once and set aside. Other governments, better governments, truer governments, and governments which can afford adequate protection to life and property, provisional like these, ought to be put in their stead.

Third, it is said that—

As loyalty, beyond suspicion, must be the basis of permanent governments, republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

That, as I understand it, is but little more than the sentiment which animates the late enactment, not going one word or line beyond the scope and spirit of that enactment. It is a reaffirmation of it.

The fourth proposition I regard as more important than either of the preceding. It is that—

As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as, according to the census, an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

Mr. President, I would be sorry to see an American Senator in the year of our Lord 1867 take issue with a single sentiment contained in that resolution. I would be sorry to find an American Senator who would stand up in the face of our recent experiences and deny that education is essential to the national wel-

fare, as this proposition declares it to be. Mr. President, think of it as you may, dream of it as much as you please, God's truth is, and it is man's truth, too, you cannot maintain republican principles and republican forms of government over a people where education is not, and is not universal. For a time the attempt may succeed, but sooner or later it must fail. Your institutions are stronger or weaker just in proportion as education is more or less general among the people of the United States. In those portions of the country where education is most universal there your institutions are the strongest and the most stable to-day, and have always been.

I shall not occupy the time of the Senate with any extended remarks in justification of this proposition. Nobody has assailed it; nobody will. Nobody here will deny the truth of this proposition. But the national Government has for years declared this necessity and has, as it had the means and opportunity for doing it, done what it could to promote the cause of education. It has done it in the administration of the public domain. It has made large donations of the public domain from time to time to promote the cause of education in the States, not only where the public lands were, but where the public lands were not. You made a very large donation of lands but a few years since, since I have had the honor of a seat in this Chamber, to endow colleges in all of the States. You did it for the promotion of that which was unnecessary, or you did it for the promotion of that which you deemed to be necessary. I think it was the judgment of Congress that education was necessary, and that that was the reason which induced them to make that donation.

Not less important than education is the homestead—

is the fifth proposition—

which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

If I desired to dissent from any proposition in these resolutions, it would be upon this—not that I am disposed to deny that a homestead is necessary—but I cannot agree that a homestead is as necessary as education. A homestead is necessary for the comfort and the well-being of every American citizen, and your laws should, and if I am not mistaken your laws do, provide that every American citizen may have a homestead, and may have a homestead upon the same terms. I am not prepared to say that any further legislation is necessary in this behalf. I am not prepared to say that your present laws do not afford all the facilities to the American people for obtaining homesteads that you can properly afford them. I am inclined to think they do. I do not know just now what further legislation in that direction is required; but I assent to the truth of the proposition that a homestead is necessary.

The fourth resolution declares—

That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

If they are essential, as I have endeavored to show, and as I think no man has denied, to the national welfare, then it follows as a matter of course that they are essential to a just reconstruction; for if we are to have a reconstruction at all we only want that kind of reconstruction which will secure, and best secure, the national welfare.

But it is said that this is an exhibition of bad faith on the part of Congress; and it was upon that point that I desired more particularly to speak. I did not feel particularly called upon to defend the self-evident propositions, as I regard them, contained in these preceding resolutions; but I did wish to repudiate the allegation that we were guilty of bad faith if we declared our assent to these. What faith have we pledged to anybody? When did we plight that faith? That this militates against any-



thing contained in the recent enactment I do deny. That we have ever contracted with the people in any one of those districts to any end whatever I deny. We have declared in the recent enactment two or three things: first, that the organizations under which they now exist are illegal and inefficient; secondly, that they must strip themselves of all pretense of State rights and State prerogatives; thirdly, that they must be subjected from that time forward to the power of the Government of the United States of America. But we have in the next place declared that in a certain way they may proceed to regain the character of States, and to regain the right of representation in these Halls. We have not told them that at any particular time, nor that upon any particular and specified terms, these great privileges and prerogatives shall be conceded to them again. We have told them certain things that they must do before they can reacquire these rights and prerogatives. We did not attempt to tell them all they should do. We have told them that among other things they must do this: they must remodel those instruments of government which they call their State constitutions. How? By a new convention. How to be elected? By the whole body of the people. What must that constitution contain we have not told them. Some things we have told them it must contain; but then the whole right and the whole authority of Congress over the subject we have reserved, since we have required them to submit the constitution, whenever framed, however framed, by whomsoever framed, to the Congress of the United States, and not because it is approved by the whole body of the people, but only when it shall be approved by the Congress of the United States do we hold out to them the promise of being readmitted to these Halls.

Now then, Mr. President, I say for one I do not care, what though the whole body of the people of South Carolina may be summoned to the choice of members of a convention to frame a new constitution for that community, what though that constitution shall decree suffrage to the whole body of her people forever, if I find any clause in that constitution when it shall be exhibited to me, if I should happen to hold a seat here, which shall militate against any right of any portion or class of her people which shall be calculated to render the right of suffrage nugatory and worthless to any portion of her people, it will not give satisfaction to me. This fourth resolution does not declare that they shall be excluded from the prerogatives of States until the whole body of their people shall be educated, but it declares substantially that the right to be educated shall be recognized; that the right for all people in all those communities to be educated shall be recognized, and not that we shall wait until education is actually conferred. But if they should submit to me hereafter a constitution which should shut up the common schools from the enjoyment of a large portion of their people, white or black, if they should show me in any one of their organized laws a single provision denying the right to education to any portion of the people in those districts, Mr. President, I should sit here until the walls of this Capitol rotted down before I would vote to reclothe such a community with the prerogatives of a State. But if they come to me with a constitution which throws open the school-houses, which admits the right of poor and rich, of white and black, to receive that education without which no man can be fitted for an American citizen, I will concede to the State of South Carolina, thus professing that disposition, the right, and concede to her the duty of carrying on that work of education, as I concede it to the people of Massachusetts and Wisconsin to-day. If they say they will not assume that duty, if they say they will not assume that responsibility, I shall answer them that I will concede to them no one of the duties, and no one of the responsibilities, and no one of the prerogatives of an American State.

Mr. TRUMBULL. I was about to move

that the Senate proceed to the consideration of executive business, but before submitting that motion I will ask to have the bill which has come from the House of Representatives and is now on the table taken up and referred.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, was read twice by its title.

Mr. TRUMBULL. I move that that bill be referred to the Committee on the Judiciary.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. TRUMBULL. I now move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope the Senator will withdraw that motion for a few moments.

Mr. TRUMBULL. This discussion may take all day, and I am anxious to do the business of this session.

Mr. GRIMES, (to Mr. SUMNER.) Somebody else will want to reply to you.

Mr. TRUMBULL. Certainly; and we shall not get through in a month the way we are going on.

Mr. SUMNER. I hope the Senator will withdraw his motion for a few moments.

Mr. TRUMBULL. I would certainly withdraw it for a few minutes, but I can see that this is an interminable discussion; and for one I am anxious to do the business necessary to be done, to get it out of the way. I must, therefore, insist on my motion.

Mr. SUMNER. The question is now on going into executive session.

Mr. GRIMES. Is that debatable?

The PRESIDENT *pro tempore*. The Chair thinks it is not debatable.

Mr. SUMNER. Certainly it is debatable.

Mr. TRUMBULL. To a limited extent.

Mr. SUMNER. I mean only to debate it to a limited extent. I do not mean to trespass on my friend. I had not intended to occupy the attention of the Senate at any length on this occasion. I wish, however, to congratulate the country and the Senate on the voice of the Senator from Indiana, [Mr. MORTON.] I feel personally grateful to him—

Mr. TRUMBULL. I rise to a question of order. The Senator from Massachusetts is not discussing the question of going into executive session.

Mr. SUMNER. I beg the Senator's pardon; I am.

Mr. FESSENDEN. I make the point of order that a discussion in reference to congratulating the Senator from Indiana on the question of reconstruction has nothing to do with the question of going into executive session.

The PRESIDENT *pro tempore*. The custom has been to permit a limited discussion.

Mr. FESSENDEN. However much the course of the Senator from Indiana may be approved by the Senator from Massachusetts, we have business to attend to here, and the Senator can offer his congratulation privately as well as publicly.

Mr. SUMNER. I choose to express it publicly.

Mr. FESSENDEN. I choose, then, to insist upon the point that the Senator is out of order.

Mr. SUMNER. Very well; then I shall take the ruling of the Chair. I understand the rules of the Senate.

Mr. FESSENDEN. The Senator understands everything far better than all the rest of us; but we have rights here and can make our points.

The PRESIDENT *pro tempore*. I believe the custom has been to permit a limited discussion on a motion to go into executive session, perhaps not a wide range, and I do not profess to know exactly what the limitation is; but any remarks showing that it would be im-

proper to go into executive session would of course be in order.

Mr. SUMNER. The question is whether we shall go into executive session, and on that I may assign reasons for continuing now in public session.

Mr. FESSENDEN. I submit that the Senator has no right, in assigning his reasons, to argue a question before the Senate of general legislation or otherwise.

Mr. SUMNER. I do not propose to argue any question.

Mr. FESSENDEN. You were beginning to argue it.

Mr. SUMNER. The Senator will pardon me, I was not beginning to argue it.

Mr. FESSENDEN. I cannot dignify it by the name of argument, but you were beginning to talk about it.

Mr. SUMNER. Very well; that is another thing. It is always in order to make a comparison between the different questions before the Senate. The question now is, Shall we go into executive session? Then you may compare the importance of that duty with the importance of the other measures pending. I have no purpose to occupy time; but, considering that the proposition which has been under debate was one which I had introduced myself, I did think that I should not take any great liberty if, before going into executive session, I expressed my gratitude to the Senator from Indiana for the contribution he has given to the cause of education. I desired to say that, and I hoped that the Senate would give me that privilege before this question was closed to-day by going into executive session.

Mr. GRIMES. Now you have had it.

Mr. SUMNER. The Senator says, now I have had it. I have had it, and I believe that I have been in order in expressing it. I shall not, however, proceed with the further consideration of this matter, but give notice that at the proper time, when the bill supplementary to the military bill shall be before the Senate, I shall move a proposition in order to secure education so far as possible in the rebel States.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois to proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 12, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### HEIRS OF JOHN E. BOULIGNY.

Mr. PAINE obtained the floor.

Mr. WOODBRIDGE. I ask unanimous consent to make a personal explanation.

Mr. PAINE. I rose to a privileged motion, that is that this House adjourn, but I will withdraw it until the gentleman from Vermont makes his statement.

There was no objection.

Mr. WOODBRIDGE. Mr. Speaker, a resolution was introduced yesterday by the honorable gentleman from Wisconsin [Mr. WASHBURN] touching the action of the last Congress in regard to the claim of the heirs of John E. Bouligny. I stated when I objected to the introduction of the resolution that it was not true in its statement of facts. I do not wish to be discourteous to any gentleman upon the floor of the House, and perhaps it may be inferred from my language that I intended to make the charge that the gentleman was designedly false in his statements. I had no such intention, and if the gentleman from Wisconsin supposes I am capable of such discourtesy I have only to assure him that he is mistaken.

I still think that a part of the resolution was

erroneous, and that the gentleman misapprehended the facts in the case. I refer to that portion which states this claim to be fraudulent. That statement certainly is erroneous; and fairly implies that either the committee which reported the bill were grossly imposed upon or favored a claim which they knew to be fraudulent. The statement that the bill passed without any discussion might convey the impression that the committee sought some peculiarly favorable opportunity for putting the bill upon its passage. In reply, I can only say that the bill was called up upon the first and only opportunity of which, under the rules; they could avail themselves.

I will say, however, in justice to the gentleman from Wisconsin, as he has requested me to do so, that the language he quoted from the decision of the Supreme Court in 15 Howard, so far as I have had an opportunity to examine it, is correct. I have not given the language of the opinion careful attention from want of time, but the gentleman assures me that he used the language of the Supreme Court in the opinion as delivered by Justice Nelson. From the examination I have made, connected with the gentleman's assurances to me, I am willing to say that his quotations are correct. I must be permitted, however, to say, sir, that from my recollection of the case cited by the gentleman, the decision was based solely upon the ground of jurisdiction.

#### LEAVE OF ABSENCE.

On motion of the SPEAKER, by unanimous consent, indefinite leave of absence was granted to Mr. NIBLACK.

#### H. D. MCKINNEY.

On motion of the SPEAKER, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of H. D. McKinney.

#### HEIRS OF JOHN E. BOULIGNY—AGAIN.

Mr. WASHBURN, of Wisconsin. I ask leave to make a personal explanation.

There was no objection.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I do not suppose it was the intention of the gentleman from Vermont to attribute to me the offering of a resolution which contained a falsehood, though I confess his language bears that construction. I find it reported in the Globe as follows:

"Mr. WOODBRIDGE. I object. The facts stated in the resolution are not true."

"Mr. WASHBURN, of Wisconsin. I am perfectly familiar with this case, and I am certain that the facts stated are true."

And I reiterate here to-day that every fact stated therein is true. I served on the Committee on Private Land Claims four years, and this is an old acquaintance of mine; and I will say to the House a more fraudulent claim was never presented to the Congress of the United States. If gentlemen will only read the decision of the Supreme Court referred to they will see that it is a fraudulent claim.

The bill passed not merely sanctions this claim to the amount of seventy-five thousand acres of land, but a claim to the amount of four hundred and fifty thousand acres and other claims will be legalized, which will require millions on millions of acres to satisfy them. But let me read what the gentleman from Vermont said further:

"Mr. WOODBRIDGE. I was a member of the Committee on Private Land Claims which reported this case to the last Congress, and I state that the facts set forth in the preamble to this joint resolution are not true."

That, sir, was pretty rough language, and if the House will indulge me briefly I think that I shall not only be able to show that it is true, but that it was my duty, not only to bring the matter to the attention of the House, but to endeavor to arrest, as far as I could, the execution of a law, founded as I knew upon an entire misapprehension of facts and one that is grossly unjust to the people of the United States.

Mr. WOODBRIDGE. Mr. Speaker, I must object to the gentleman going into a history of the case upon a mere personal explanation.

Mr. WASHBURN, of Wisconsin. I wish to justify myself, and show to the House that I did not offer a resolution that was false.

The SPEAKER. The gentleman from Wisconsin has unanimous consent to make a personal explanation; the Chair therefore cannot restrain any explanation bearing directly upon the joint resolution which he desired to introduce yesterday.

Mr. WASHBURN, of Wisconsin. I intend to confine myself to this resolution, and to show that I did not state in the preamble things that were untrue. I wish, as I said before, to state the history of this case.

The first time it ever appeared before Congress that I am aware of was in the Thirty-Fifth Congress. I was then a member of the Committee on Private Land Claims, and the Hon. Mr. Sandige, of Louisiana, a very fair and honest man, was chairman of that committee, and one well versed in Louisiana land claims, and he considered it so fraudulent that he did not think it worth a report; but he signed a paper, which I joined him in signing, and it was put on file, calling attention to the fact that it had been fully adjudicated by the Supreme Court of the United States and declared fraudulent and void. That paper was left on file.

In the Thirty-Sixth Congress the Committee on Private Land Claims was constituted of such patriots as Thomas Hineman of Arkansas, George Hawkins of Florida, William F. Avery of Tennessee, and Mr. Bouigny, the gentleman whose heirs are interested in this case, was also on the committee. At the request of Mr. Bouigny the papers in the case were given to General Hineman. According to my present recollection he wrote the report, although in consequence of his absence from the city it was submitted to the House by a member from the State of Missouri. The report was adopted in the committee by a majority of a quorum when I was absent, and it was passed through this House without objection, having been called up one morning just after the reading of the Journal, when no one was listening, by Mr. Davidson, of Louisiana, a venerable, gray-haired man, who walked with a crutch, and to whom the House was very kindly disposed. It is the report made on that occasion that has produced all the mischief since; for I find that in all reports and speeches that have been made since the statements of that report are adopted. That report was made just before the breaking out of the rebellion, and a number of the members of the committee no doubt thought they were doing good service in robbing the Government of all they could before leaving it. It went from here to the Senate, and was pending there, and was being pressed there with great pertinacity at the time the southern States seceded, and up to the time of the adjournment of the Thirty-Sixth Congress.

Now, great credit has been claimed for Mr. Bouigny, because while others were faithless he remained here faithful. I give him great credit for his patriotic conduct, and would not detract one iota from the merit which properly belongs to him on account of the course he pursued on that occasion. But it is not improper that facts should be stated. The public can draw such inferences as they choose from the facts.

When the associates of Mr. Bouigny withdrew from this Hall a bill was pending in the Senate, and which, as I have said, was being urged there with great pertinacity, which was to give him and his friends four hundred and fifty thousand acres of land. Well might he rise in his place and declare that he would stand by the flag. But, sir, I never heard, although he stood by the flag, that he ever raised a finger in its defense. Nor will I intimate that he was influenced in any way by the fact that he was to get by remaining here a land grant amounting to four hundred and fifty thousand acres. I merely state facts, and will draw no inference, certainly none prejudicial to the good name of a man who uttered patri-

otic words grateful for us then to hear; and we did not care to inquire then, nor do I now, as to motives.

But to come back to the origin of this claim, if claim it may be called. Sir, it is a part of the Mississippi scheme; it is a part of that grant said to have been made by the King of France to John Law and his associates, known by his connection with the South Sea bubble, and if there was any validity in that grant, as this act declares, then, sir, tens of millions of acres will not satisfy it. This claim purports to have been the Western or Mississippi Company, and had its origin in 1717, just one hundred and fifty years ago; and in the following year it is claimed that said Western or Mississippi Company sold this tract in question to one Paris Duvernay; and it is alleged that said Duvernay, by his agent, forty-seven years afterward sold it to Bernard d'Autrive, the ancestor, as it is claimed, of J. E. Bouigny. The Supreme Court say in their decision (14 Howard) that d'Autrive died in 1769, leaving four sons, the last one of whom lived until 1820, and yet, say the court, these sons never set up any claim for this land during their lifetime; but in 1835 Congress passed an act authorizing registers and receivers to examine and report upon private land claims. This act operated as an invitation to fish up many old claims, and then it was that this claim first took any form, although one hundred and seventeen years had elapsed since its origin. The register and receiver recommended the confirmation of the claim; and one reason they assigned therefor was that the land was nearly or quite all swamp and valueless. The case was reviewed by Hon. M. Burchard, Solicitor of the General Land Office in 1836, and he declared that the claim was invalid and void.

Again, Congress passed a law in 1844 authorizing private land claimants to go into the United States courts, and this case was heard in the district court for Louisiana, and a decree entered in favor of its validity. I have not been able to find that the case was contested before that court, but it was brought before the United States court and a full hearing had, and such action taken as I have declared in the resolution.

The gentleman from Vermont [Mr. WOODBRIDGE] is now constrained to say, as an act of justice to me, that I have correctly stated in the resolution the decision of the Supreme Court, but thinks there are other errors of statement in the resolution; but he does not point them out. Let us see if it be so. What says the resolution? It declares that Judge Nelson, in delivering the opinion of the court, says that there is no record evidence either at Paris or New Orleans showing the existence of any such claim, though the archives had been diligently searched to find such evidence. He further says that "there is not the slightest ground for the claim set up" to a tract of land running back to Atchafalaya, and that by no grant or survey could the parties claim over twenty-five hundred or three thousand acres, instead of nearly half a million. So much of the resolution, then, the gentleman admits to be true. Well, what further does it say? Simply that Hon. M. Burchard, Solicitor of the General Land Office in 1838, reviewed the case and pronounced it void. The gentleman will not deny that, and if he does I only have to refer him to Senate Document No. 197, second session Twenty-Fifth Congress, and he will there find it. The only remaining statement of fact is, that the claims originated in 1717, and he certainly will not deny that, for if he does I have only to refer him to the report of his own committee. I think I have said enough to show that there is no error of statement in that resolution. Now, Mr. Speaker, this claim, if it originated at all, originated, by the showing of this committee, just one hundred and fifty years ago. The claimant, Bernard d'Autrive, died ninety-eight years ago, leaving four sons, the last of whom died about 1820, the Supreme Court say.

Now, I ask the gentleman from Vermont to

rise in his place and say if he can that there was a particle of evidence produced before the Committee on Private Land Claims to show that J. E. Bouligny was the heir of Bernard d'Autrive, who died ninety-eight years ago, and if there was such evidence, to state the character of such evidence, and upon what basis they give him one sixth part of the claim. The House will see at a glance how improbable it is to suppose that, allowing Bouligny was an heir, that he would be entitled to so large a share, for d'Autrive having left four children who grew up to man's estate, it is fair to presume that the heirs of d'Autrive, instead of counting six at this time, would more likely count six hundred.

I will here state that the papers in this case are not to be found, and for that reason I have failed to embody certain facts in that resolution lest I should not have the proof at hand to sustain them. If I could have got hold of those papers I am sure that I should have been able to make statements more startling than any yet made in regard to this claim.

I have already said that the register and receiver of the New Orleans land office, who first reported in favor of this claim, stated that it was worthless swamp land, and to the accuracy of that statement I can myself bear testimony; and yet for this worthless swamp land, which went to Louisiana under the swamp land act, you propose to issue land warrants in sums of eighty acres each, with authority to locate the same in any State or Territory in the Union upon the choicest lands of the Government subject to private entry.

This was the bill which the last House passed, and believing that they did not understand the case when they passed it I offered a resolution seeking to arrest, if possible, that which I believed to be a great outrage and which I now believe to be a great outrage.

Mr. FARNSWORTH. Did I understand the gentleman correctly as saying that the bill authorizes the heirs of Bouligny to locate land warrants on any lands not otherwise taken up to the amount of seventy-five thousand acres?

Mr. WASHBURN, of Wisconsin. Yes, sir.

Mr. FARNSWORTH. That is a most extraordinary provision.

Mr. WASHBURN, of Wisconsin. It is, in my judgment, the most extraordinary case that ever came before the House. Sir, I have no wish to trespass upon the patience of the House; I merely wished to state the leading points in the case. I say again that I wish the gentleman from Vermont [Mr. WOODBRIDGE] to state if there was any evidence before the committee showing that John E. Bouligny was one of the legal heirs of Bernard d'Autrive, who died one hundred years ago. He left four sons; and it is not to be presumed that they have not multiplied, so that in dividing this property it would not be divided among more than six persons. It is more reasonable to suppose, as I before said, that if there are any heirs at all, instead of six there may be six hundred.

Had I not been perfectly familiar with this case, I should not have troubled the House by anything in relation to it. Coming here now, after an absence of six years, I did not feel like putting myself forward in the matter. But knowing that it was such an outrage upon the public, I felt that I would be faithless in the discharge of my duty if I did not bring the matter to the attention of the House.

Mr. WOODBRIDGE. Mr. Speaker—

Mr. PAINE. I now renew my motion that the House adjourn.

The SPEAKER. The Chair recognizes the gentleman from Vermont [Mr. WOODBRIDGE] as entitled to the floor.

Mr. PAINE. I merely withdrew the motion to adjourn to allow the gentleman from Vermont [Mr. WOODBRIDGE] and the gentleman from Wisconsin [Mr. WASHBURN] to make a personal explanation.

The SPEAKER. The gentleman withdrew his motion to adjourn, and the House granted

unanimous consent for a personal explanation, which under the rules may continue for an hour.

Mr. PAINE. I will make this proposition, while this debate may be very interesting, inasmuch as there is no question before the House, it can be only fruitless and profitless. I therefore propose that the gentleman from Vermont, [Mr. WOODBRIDGE], with the unanimous consent of the House, allow the gentleman from Wisconsin [Mr. WASHBURN] to introduce the joint resolution which he proposed yesterday, forbidding the Secretary of the Interior from executing a law which it is complained here is fraudulent.

Mr. WOODBRIDGE. I cannot consent to that.

Mr. PAINE. After the gentleman from Vermont [Mr. WOODBRIDGE] shall have concluded his remarks, I suppose my motion will be in order.

The SPEAKER. If the gentleman from Wisconsin [Mr. PAINE] obtains the floor after the gentleman from Vermont [Mr. WOODBRIDGE] resumes his seat, it will be in order for him to move an adjournment.

Mr. FARNSWORTH. I would inquire of the Chair what business there is before the House.

The SPEAKER. The first business in order will be the call of committees for reports; which the Chair supposes will be very few, if any. When that call shall have been concluded, the morning hour business will be exhausted, and the House can then proceed to the consideration of business upon the Speaker's table. When that business shall have been concluded, the call of States for resolutions will be resumed.

Mr. DAWES. I would inquire of the Chair if under the call of States for resolutions the gentleman from Wisconsin [Mr. WASHBURN] can then introduce his joint resolution?

The SPEAKER. He can.

Mr. DAWES. And if a majority of the House agree with the gentleman from Wisconsin [Mr. WASHBURN] in the importance of the measure which he advocates, they can refuse to adjourn until the call of States for resolutions is concluded.

The SPEAKER. When the States are called for resolutions, bills and joint resolutions can be introduced and passed, if they do not contain appropriations, and do not give rise to debate; and debate can be stopped by ordering the previous question.

Mr. DAWES. And that is within the power of a majority?

The SPEAKER. It is.

Mr. DAWES. Then I hope the House will not adjourn until the call of States is so far carried out that the gentleman from Wisconsin [Mr. WASHBURN] can introduce his joint resolution.

Mr. PAINE. If there is to be a call of States for resolutions, I do not desire to have the House adjourn now.

Mr. WOODBRIDGE. Mr. Speaker, I certainly shall enter upon no defense of Mr. Bouligny. I have understood that he was one of those pure patriots who adhered to the obligations of his oath, and through all the disaffections attending the commencement of the late rebellion stood by and revered the old flag. I only regret that the gentleman from Wisconsin [Mr. WASHBURN] should be willing to rake up the ashes of the dead, and cast opprobrium and contumely upon the memory of one who was admired for his patriotism and his fidelity to his duty.

I objected yesterday to the introduction of the joint resolution upon several grounds. In the first place the bill to which it referred had in former Congresses passed the Senate twice by a large vote, and the House three times, after receiving a thorough and honest investigation. But the adjournment of Congress occurring before the action of the two Houses could be had in concurrence, the bill failed to become a law until the last session of the Thirty-Ninth Congress.

The gentleman from Wisconsin [Mr. WASHBURN] for some reason which I cannot comprehend was so anxious and eager to defeat the measure which has three times received the sanction of this House, that before he took his seat in the present Congress he forwarded a letter to a member from Wisconsin, [Mr. PAINE], which was handed to a member of the Committee on Private Land Claims, [Mr. HOTCHKISS], charging that the claim was groundless and should not receive a favorable consideration. Why, sir, even in the Thirty-Sixth Congress, the committee of which the gentleman [Mr. WASHBURN] was himself a member, reported a bill sustaining the claim, and the House granted the relief prayed for.

And now, sir, just after the passage of the bill by an overwhelming majority, the gentleman presents a resolution not only reflecting upon the action of the House and the Senate, but casting unjust aspersions upon the respective committees which gave it their careful, candid, and deliberate consideration. In justification of the House committee, I have only to say that the measure received the approbation of Mr. THAYER, of Pennsylvania, its chairman, who, as a lawyer, was in my judgment second to no one of that profession in the Thirty-Ninth Congress; of Mr. HOTCHKISS, of New York, who was one of the acknowledged guardians of the Treasury, and scented fraud as the hound scents the stag; of the gentleman from Indiana, [Mr. KEER], the gentleman from Ohio, [Mr. HAYES], and the gentleman from Illinois, [Mr. BAKER], and of the other members of the committee, none of whom would, even in the judgment of the gentleman from Wisconsin, report favorably upon a measure without deliberate investigation, or be easily imposed upon by false and fraudulent representations.

Mr. BAKER and Mr. HAYES rose.

Mr. WOODBRIDGE. I yield first to the gentleman from Ohio, [Mr. HAYES].

Mr. HAYES. Mr. Speaker, I understood the gentleman from Vermont [Mr. WOODBRIDGE] to say that I concurred with other members of the committee in reporting favorably upon the measure to which he alludes.

Mr. WOODBRIDGE. I retract the statement if I am mistaken.

Mr. HAYES. The gentleman is in error. The committee was called together to consider this matter during, I think, the last week of the last session. The majority of the committee had examined the matter, and were ready to vote in favor of the measure. Two members of the committee, the gentleman from Illinois [Mr. BAKER] and myself, had had no opportunity to examine it. The papers were very voluminous. The case was one requiring a good deal of investigation; and my recollection is very distinct that the gentleman from Illinois, as well as myself, declined at that time to take any part in deciding the case. We had no opportunity to make such an examination as was required in order to form an intelligent judgment. But a majority of the committee having examined the case, the chairman, as I understood, was authorized to report as the opinion of the majority that the measure ought to pass.

The papers, it is said by the gentleman from Wisconsin, [Mr. WASHBURN], cannot be found. I recollect that on that occasion I was not able to get the papers for examination, because another member of the committee desired them for the same purpose. I will state further that, after coming out of the committee, I went to the Law Library and found the case referred to by the gentleman from Wisconsin. I read it hastily, and the impression it made upon my mind corresponded precisely with the statement embraced in the resolution presented by the gentleman from Wisconsin. I went to the chairman of the committee and said that such was the impression made upon my mind; but the majority of the committee had decided the matter, and I could do nothing. I did not know till I saw the statement in the papers that the measure had been called up and

passed. If my attention had been attracted to the bill at the time of its passage I should have stated the impression I had received from reading the case in 15 Howard. I will say further that my present impression is that if the claim is a perfectly good one, as perhaps it may be, if it will bear examination, it seems to me right that we should, if possible, procure a postponement of action by the Department, and that the resolution of the gentleman from Wisconsin, or something similar to it, should be adopted.

Mr. WOODBRIDGE. I now yield to the gentleman from Illinois, [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, I desire merely to say, and I want to say it very distinctly, that I did not concur in the favorable report of this claim. It came before the Committee on Private Land Claims late in the session; and in view of the complications of the claim I had not time to investigate it and form for myself a judgment upon its merits. A majority of the committee, most of them I believe old members of the committee, had, as I understood, considered the claim, and were favorable to it. So far as I expressed any opinion in reference to the matter at all, I was, from the slight information I had, inclined rather to be adverse to the claim than otherwise.

Yet I must refer to the position of my colleagues on the committee with entire respect. They examined the claim, as I supposed; they satisfied themselves it was right; they were in the majority, and they reported in favor of it to the House. It had the concurrence, I understand, of five members of the committee: the chairman, Mr. THAYER, who has been properly alluded to as a most excellent lawyer, and as I will add, beyond all peradventure a thoroughly honest man; the gentleman from Vermont, [Mr. WOODBRIDGE,] the gentleman from New York, [Mr. HOTCHKISS,] the gentleman from Indiana, [Mr. KERR,] and the gentleman from Missouri, [Mr. NOELL,] making a clear majority of the committee.

I entirely concur in what my colleague on the committee from Ohio [Mr. HAYES] has said, that it would be well to open this matter again, and if there is any fraud in it let the fraud be defeated. I have no doubt if the claim shall prove to be an unfounded one it will be a case of mistake or imposition upon the honest judgment of the five members who reported in its favor. That is all I have to say.

Mr. WOODBRIDGE. After what has been stated by the gentleman from Ohio [Mr. HAYES] and the gentleman from Illinois, [Mr. BAKER,] I can only say that the bill met with the unanimous approval of the committee, as I supposed, during the times that I was present at the investigation; and inasmuch as it was not opposed by either gentleman when brought before the House, I believed myself sustained in that opinion.

Sir, the bill passed the Senate after having received the approval of the committee to which it was referred, the whole subject having been particularly examined by Judge HARRIS, as eminent for legal learning as any member of that distinguished body. He told me personally that the matter received at his hands a most thorough scrutiny and careful investigation, and that he came to the conclusion to which the committee agreed, that the claim was just. It commended itself to the favorable consideration of the whole committee, and was passed by the Senate by a large majority. It came to this House and received the careful consideration of your committee.

As to myself, sir, I confess that during a portion of the investigation I was engaged upon the Committee on the Judiciary, and was not able to be present. To a considerable extent I received the statement of the chairman of the committee as to the proofs before the committee, and arrived at the conclusion that the claim was right and just, and authorized the chairman to report me in favor of the passage of the bill.

It does seem to me that it is a reflection upon

the House and upon the committee that now, just after the bill has passed, charges of corruption in the claim, or of fraud in its presentation, should be preferred, and more particularly when it has three times received the sanction of the House and twice that of the Senate. To have the measure again committed for examination is a practical denial of justice, or at least an unwarrantable delay in answering the prayer of your petitioners.

The widow and her children have been year after year pressing this claim, and now that it has been settled by the deliberate judgment of Congress I think it unwise and unjust to send it back to a committee for further investigation. I think there should be some credit and faith given to the judgment of men appointed to investigate a case of this character; and unless the House believe the committee has been corrupt the resolution ought not to pass. There should be an end to this matter one way or the other, and inasmuch as I believe the claim to be a just one I certainly am opposed and shall be opposed to the introduction of a resolution which refers it back to the Committee on Private Land Claims or to any other committee of this House.

If it is in order I will now yield a very few moments to my friend from Indiana [Mr. KERR] for explanation of the course of the committee.

The SPEAKER. The gentleman from Indiana will have to ask the consent of the House. Is there objection?

Mr. PAINE. How long a time does the gentleman desire? I have no objection to his taking ten minutes.

Mr. KERR. I do not wish to occupy more than ten minutes.

The SPEAKER. The Chair hears no objection.

Mr. KERR. Mr. Speaker, I do not propose to discuss the propriety or impropriety of the adoption of this resolution, nor do I intend to oppose the further investigation of this claim. I have no pride of opinion in the case at all.

Mr. ELDRIDGE. I rise to a point of order. Is it in order for the gentleman from Indiana to desert this side of the House and go over to the rebels? [Laughter.]

The SPEAKER. To go over to the rebels would certainly be out of order. [Laughter.] But the Chair understands the point which the gentleman from Wisconsin makes to be that the gentleman from Indiana must speak from his seat or from the Clerk's desk.

Mr. ELDRIDGE. I withdraw it.

Mr. KERR. I will say to my friend that I am at least in the midst of those who claim to be loyal men. [Laughter.]

As I was saying, I have no pride of opinion in regard to the result of the investigation of our committee. We are liable, it is true, as are all committees in legislative bodies, to be imposed upon or misled. But I desire to say this: that in the investigation of this case by the late Committee on Private Land Claims, we approached the consideration of it with that desire to reach a fair result that should characterize the action of every committee of this House. We had not much time in which to investigate the case. It came to us from the Senate at a late day of the session. It came to us indorsed by the action of the Senate, and particularly by the able report and argument of Judge HARRIS, chairman of the Senate committee.

So far as I am personally concerned, I will say that I examined the case fully, not only in the light of the records placed before me, but also in the light of the opinions of other Congressmen; for I find the reports made heretofore on this same subject, without a single exception I believe, favorable to this claim, not only on the ground of its general fairness and equity, but of its entire justice. Now, I say without hesitation that, in making up my own judgment as a member of the committee, I was controlled a great deal by the opinions of those gentlemen who have hitherto examined the case, and especially by the opinions of the

late chairman of the committee in the Senate, knowing him as I do, and as every lawyer on this floor does, to be a jurist of the very highest rank in our country, and to be a gentleman not surpassed in purity of character or uprightness of purpose. The case referred to in 15 Howard does not affect the merits of this claim, but only decides that the court had no jurisdiction to decide the case.

Mr. WASHBURN, of Wisconsin. With the gentleman's permission I will say that I intended not the slightest imputation upon the action of the committee. I think their error was in adopting the report made by General Hindman. And I desire to put to the gentleman from Indiana the same question I put to the gentleman from Vermont, namely: where is there any evidence in that report or elsewhere to show that John E. Bouligny was the heir of Bernard d'Auville, who died one hundred years ago; and if there is any such evidence, what is the character of the proof? The gentleman from Vermont could not answer that question, and I now put it to the gentleman from Indiana as a member of the committee.

Mr. KERR. The gentleman from Wisconsin has referred to a report made upon this claim by General Hindman, and has suggested the possibility of an error being made by our committee in adopting that report. Now, I desire to say in this connection, in justice to the committee, that this is the first time in my life that I ever heard of that report. It was never mentioned in my hearing during any investigation by our committee.

Mr. WASHBURN, of Wisconsin. Did the gentleman hear my remark when I stated that the report, though made by Mr. Hindman, was submitted to the House in his absence by Mr. NOELL, of Missouri?

Mr. KERR. Still my remark is true that the committee knew nothing of that report so far as I am aware.

Mr. WASHBURN, of Wisconsin. They refer constantly to that report made by Mr. NOELL.

Mr. KERR. The gentleman from Wisconsin [Mr. WASHBURN] has called for the evidence which was called before our committee. Well, as a lawyer I have only this to say, that I think I could state the evidence in two hours, if it were the pleasure of the House to give me that time in which to do it; but I have not time to do it to-day. The evidence was voluminous and complicated.

Mr. WASHBURN, of Wisconsin. I would ask the gentleman to state if there was any evidence before the committee that John E. Bouligny was one of the heirs of Bernard d'Auville.

Mr. KERR. I answer that question simply by saying yes; it is the only answer I can make to it. I have not time now to detail the evidence.

Now, a word in reference to another point suggested by the gentleman from Wisconsin, which was, that the favorable action of the House on the claim of the Bouligny heirs validates the claims of all the other heirs who claim a portion of this land. Let me say in reference to that point, that so far as all the other claimants are concerned, our committee always understood that they were not in such a relation to the Government of the United States that they could ever prefer such claims against the Government; in other words, they were represented as having been engaged in the rebellion, and had thus deprived themselves of any claim they might otherwise set up against the Federal Government.

So far, then, as that part of the case is concerned, I submit that the action of the House in the Bouligny case was a final settlement in regard to this whole matter, and I have nothing further to say upon the subject.

Mr. PAINE. I ought, perhaps, to state to the House why it was that the letter sent to me by my present colleague, Mr. WASHBURN, on this subject was not presented to the House when this bill passed. The reason was this:



his letter charged that the claim was an unjust and illegal one; but it gave no facts upon which I could found my own opinion on the subject. When I received his letter I went at once to the seat of the chairman of the Committee on Private Land Claims, but found that he was out of town. I then showed it to Mr. HORCHISS, of New York, a member of the committee, who examined it and informed me that he did not agree with my colleague as to the merits of the case. I had no knowledge of the facts of the case, and no opinion on the subject, and I therefore put my colleague's letter in my desk, resolved that when the bill came before the House for action I would send it to the Clerk's desk and have it read. But before the bill came up my colleague arrived here, and I saw him often on the floor; and I took his letter to my room and never thought of the matter again until my colleague called the attention of the House to it yesterday.

#### GOVERNMENT OF REBEL STATES.

Mr. STEVENS, by unanimous consent, introduced a joint resolution providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States;" which was read a first and second time.

Mr. STEVENS. I would state that I have been informed by a major general of the Army that no part of the appropriation made for the support of the Army can be applied for this purpose, and hence the necessity of passing this joint resolution.

Mr. WILSON, of Iowa. I will state that this question was considered by the Committee on the Judiciary in reference to the bill which was passed yesterday; and we thought best to leave the question of the necessary appropriation to the Committee on Appropriations.

Mr. WOOD. I submit that as this joint resolution contains an appropriation it must have its first consideration in the Committee of the Whole.

The SPEAKER. The point of order is well taken.

The joint resolution was then referred to the Committee of the Whole on the state of the Union.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. FARNSWORTH, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Richard A. Smith.

On motion of Mr. SCHENCK, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the cases of Norman Wiard, and Olive Lumphrey.

On motion of Mr. WOODBRIDGE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of William Joslin.

#### GOVERNMENT OF REBEL STATES—AGAIN.

Mr. WOOD. I understand that it is important that the joint resolution introduced by the gentleman from Pennsylvania should pass at once. I therefore withdraw the point of order which would require its consideration in Committee of the Whole on the state of the Union.

The SPEAKER. Then the joint resolution is before the House for its action.

The joint resolution was read at length. It provides that sufficient money shall be appropriated out of the Treasury to defray the expenses of carrying into full effect in all its parts the act entitled "An act to provide for a more efficient government of the rebel States," passed March 2, 1867, with all acts supplementary thereto.

Mr. BLAINE. I move to amend by adding "provided the whole amount shall not exceed \$300,000."

Mr. BINGHAM. Say \$500,000.

Mr. BLAINE. Very well, I will put it at \$500,000. I want to put up the bars somewhere; otherwise millions of dollars may be expended.

Mr. STEVENS. I do not object to the amendment.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MUNGEN. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was then passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. BLAINE. I call for the regular order of business.

The SPEAKER. The first business in order is the call of committees for reports.

#### CLOTHING FOR DESTITUTE SOLDIERS.

Mr. JUDD. The select committee, to whom was referred the bill of the House No. 13, to provide for furnishing clothing to maimed and destitute soldiers, having had the same under consideration, have directed me to report the same back with a substitute, and to recommend the adoption of the substitute.

The substitute was read. The first section authorizes the Secretary of War to furnish annually one complete suit of clothing to each invalid soldier who is the inmate of any regularly constituted Soldiers' Home in the United States out of the stock on hand in the quartermaster's department.

The second section provides that such clothing shall be delivered to the managers of such institutions upon their requisitions therefor, accompanied with such certificates as to numbers and condition as the Secretary of War may prescribe.

Mr. O'NEILL. I would ask the gentleman from Illinois [Mr. JUDD] if the provisions of this bill will apply to private institutions which support invalid soldiers?

Mr. JUDD. I originally introduced a bill applying simply to the Soldiers' Home in the city which I represent, the city of Chicago. That institution was organized as a private institution, supported by the contributions of the public. During the last session of our General Assembly it was made an incorporated institution. The select committee to whom that bill was referred considered the matter of sufficient importance to justify their asking for the passage of a general law that should apply not only to incorporated institutions where maimed soldiers were supported, but also to private institutions where maimed soldiers were supported.

The substitute was then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JUDD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRINTING OF BANKRUPT LAWS, ETC.

Mr. HILL, by unanimous consent, submitted the following resolution; which was, under the law, ordered to be referred to the Committee on Printing when appointed:

*Resolved*, That there be printed for the use of the House five thousand extra copies of the bankrupt and internal revenue acts of the last Congress, to be distributed ratably among those members of the House who are not entitled to receive copies under the resolutions of the last Congress.

#### ORDER OF BUSINESS.

Mr. HOOPER, of Massachusetts. I move that the House now proceed to business upon the Speaker's table.

Mr. HUMPHREY. Will the gentleman from Massachusetts [Mr. Hooper] yield to me to offer a resolution?

Mr. HOOPER, of Massachusetts. I have no objection, if it shall give rise to no debate.

Mr. ROSS. I object; the gentleman can introduce his resolution when the States are regularly called, and then we can all have a chance.

The motion to proceed to business on the Speaker's table was then agreed to.

#### THANKS TO GEORGE PEABODY.

The first business on the Speaker's table was Senate joint resolution No. 1, presenting the thanks of Congress to George Peabody; which was read a first and second time.

The joint resolution was read at length. The first resolution presents the thanks of Congress to George Peabody, of Massachusetts, for his great and peculiar beneficence in giving a large sum of money, amounting to \$2,000,000, for the promotion of education in the more destitute portions of the southern and southwestern States, the benefits of which, according to his direction, are to be distributed among the entire population without any distinction except what may be found in needs or opportunities of usefulness.

The second resolution provides that it shall be the duty of the President to cause a gold medal to be struck with suitable devices and inscriptions, which, together with a copy of this joint resolution, shall be presented to Mr. Peabody in the name of the people of the United States.

The third resolution provides that a sufficient sum of money to carry this joint resolution into effect shall be appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HARDING. As this is an appropriation bill, I raise the point of order that it should be referred to the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The joint resolution was accordingly referred to the Committee of the Whole on the state of the Union.

Mr. PRUYN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. There are two other bills on the Speaker's table, both appropriation bills, and as the same point may be raised upon them, the Chair, if there be no objection, will, before putting the question on the motion to go into the Committee of the Whole, lay before the House those two bills.

There was no objection.

#### RELIEF OF FREEDMEN IN THE DISTRICT.

The next business on the Speaker's table was a joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia; which was read a first and second time.

The resolution was read at length. It proposes to appropriate \$15,000 for the relief of freedmen or destitute colored people in the District of Columbia, to be expended under the direction of the Commissioner of the Bureau of Freedmen and Refugees.

Mr. HOLMAN. I make the point of order that this resolution, as it contains an appropriation, must be first considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order; and the resolution will be referred to the Committee of the Whole on the state of the Union.

#### RELIEF OF DESTITUTE IN THE SOUTH.

The next business on the Speaker's table was a joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States; which was read a first and second time.

The resolution, which was read at length, proposes to empower and direct the Secretary of War to issue supplies of food sufficient to prevent starvation and extreme want amongst all classes of the people in those southern and

southwestern States where a failure of the crops and other causes have occasioned widespread destitution; the issues are to be made through the Freedmen's Bureau under such regulations as the Secretary of War shall prescribe. One million dollars is appropriated for the purpose, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

Mr. FARNSWORTH. I make the point of order, that as this resolution contains an appropriation it must be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FARNSWORTH. I hope that the motion will not be agreed to. I trust that we shall go through with the call of States and Territories.

Mr. WARD. I move that the House adjourn. I think that the less business we do while we are without committees the better.

#### RELIEF OF FREEDMEN IN THE DISTRICT.

Mr. HOLMAN. The gentleman from New York [Mr. WARD] will, I trust, withdraw that motion for a moment. A few minutes ago I raised a point of order on the joint resolution appropriating \$15,000 for the relief of destitute colored people in this District. I have since been informed that great destitution exists among the colored population here, and that an appropriation of this kind is imperatively demanded by considerations of common humanity. I therefore withdraw my point of order. If the Senate has acted on this matter upon sufficient information—and it is to be presumed that such is the fact—the resolution, I suppose, ought to pass.

The SPEAKER. As the Chair understands, the gentleman from New York [Mr. WARD] withdraws the motion to adjourn; and the gentleman from Indiana having withdrawn his point of order, the joint resolution (S. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia will, if there is no objection, be considered as again before the House.

Mr. PRUYN. I thought that action on my motion to go into the Committee of the Whole on the state of the Union for the consideration of the resolution of thanks to Mr. Peabody was simply suspended for the purpose of reading the other bill.

The SPEAKER. The gentleman from Massachusetts [Mr. HOOPER] has renewed the motion to go into the Committee of the Whole; but pending that motion the gentleman from New York moved to adjourn; which motion, as the Chair understands, has been temporarily withdrawn to allow the gentleman from Indiana [Mr. HOLMAN] to withdraw the point of order which he made.

Mr. PRUYN. It is mortifying to me, as a member of the American Congress, that any objection should be interposed to the passage of the resolution of thanks to Mr. Peabody.

Mr. BINGHAM. I call for the previous question on the joint resolution for the relief of freedmen or destitute colored people in the District of Columbia.

The previous question was seconded and the main question ordered; and under the operation thereof, the joint resolution was ordered to a third reading, read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WARD. I now renew the motion that the House adjourn.

The motion was not agreed to.

#### ORDER OF BUSINESS.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House

resolve itself into the Committee of the Whole on the state of the Union.

On the motion there were—ayes 37, noes 60.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. FARNSWORTH were appointed.

The House divided; and the tellers reported—ayes 48, noes 61.

So the motion was not agreed to.

#### ELECTION CONTEST—BIRCH VS. VAN HORN.

The SPEAKER presented evidence in the contested-election case of Birch vs. Van Horn, from the sixth district of Missouri; which was referred to the Committee of Elections.

The call of States was then resumed.

#### GEORGETOWN TEMPERANCE HALL SOCIETY.

Mr. PLANTS introduced a bill to incorporate the Temperance Hall Society of Georgetown, in the District of Columbia; which was read a first and second time, and ordered to be referred to the Committee for the District of Columbia when appointed.

#### AMENDMENT OF THE RULES.

Mr. LAWRENCE, of Ohio, submitted the following resolution; which was referred to the Committee on the Rules:

*Resolved*, That the select Committee on the Rules be requested to report as an additional rule of the House, one which shall contain substantially the following provisions:

It shall be the duty of every committee to report to the House, as early as practicable, every bill and joint resolution referred to such committee, with the report or recommendation of the committee thereon; and no committee shall fail or neglect to make such report unless it shall be rendered impossible for want of time. But nothing herein shall change the existing rules regulating the order in which committees are called for reports, or enlarge the two morning hours now allowed to committees to report.

#### HEIRS OF JOHN E. BOULIGNY—AGAIN.

Mr. SPALDING. I submit the following joint resolution, and demand the previous question on it.

The Clerk read as follows:

Whereas during the last hours of the second session of the Thirty-Ninth Congress an act was passed without discussion for the relief of the heirs of John E. Bouligny, granting to said heirs land warrants for seventy-five thousand eight hundred and forty acres of land; and whereas by the solemn decision and judgment of the Supreme Court of the United States, after full hearing, it was, in the year 1853, adjudged that the private land claim on which said act is based was invalid, null, and void; and whereas Mr. Justice Nelson, who delivered the opinion of the court, declared that there was no record evidence of any such land grant as was set up, "that none had been produced, though a thorough examination of the archives of that date, both at New Orleans and Paris, had been made, and no records could be found;" and whereas it was also declared by said Judge Nelson, "that there was not the slightest ground for the claim set up" to a tract of land running back from the Mississippi river to the Atchafalaya; and that, at the most, the petitioners could not claim, under any grant or survey, over two thousand five hundred or three thousand acres, instead of about half a million—the report of which decision is found in 15 Howard's Reports, page 14; and whereas said private land claim, after full review by Hon. M. Burchard, Solicitor of the General Land Office in 1838, declared that the same was invalid and void; and whereas said pretended private land claim had its origin in 1717, and was a part of the celebrated Mississippi scheme with which John Law, known for his connection with the South Sea bubble, was a party; and whereas to revive and legalize this claim will revive and legalize claims to the amount of many million acres; and whereas there is good reason for believing that said act was passed under a misapprehension of the facts: Therefore,

*Be it resolved by the Senate and House of Representatives, &c.*, That the Secretary of the Interior be directed to suspend the execution of said law until the further order of Congress.

The joint resolution was read a first and second time.

Mr. STEVENS. I move that the resolution be laid on the table.

The motion was disagreed to; there being on a division—ayes 27, noes 65.

Mr. WOODBRIDGE. Is it in order to discuss this resolution?

The SPEAKER. It is not, pending the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. SPALDING demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. WOODBRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 27, not voting 26; as follows:

YEAS—Messrs. Ames, Anderson, Baker, Baldwin, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Brownell, Buckland, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Denison, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravelly, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Judd, Julian, Kelley, Ketcham, Kitchen, Laffin, William Lawrence, Lincoln, Loan, Logan, Loughbridge, McCarthy, McClurg, Miller, Moore, Morrissey, Mungen, Newcomb, Orth, Paine, Perham, Peters, Pile, Plants, Polsley, Pomeroy, Price, Randall, Raum, Robertson, Robinson, Ross, Sawyer, Seefeld, Shanks, Shellabarger, Sitgreaves, Spalding, Stewart, Stone, Taber, Taft, Taylor, Thomas, Twitchell, Upson, Van Aernam, Burt Van Horn, Van Tromp, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Wood—107.

NAYS—Messrs. Archer, Delos R. Ashley, Barnes, Boyer, Sidney Clarke, Eldridge, Fox, Getz, Glossbrenner, Haight, Kerr, Marvin, Moorhead, Morgan, Myers, Nicholson, Noell, O'Neill, Phelps, Poland, Pruyn, Schenck, Selye, Stevens, Van Auker, Robert T. Van Horn, and Woodbridge—27.

NOT VOTING—Messrs. James M. Ashley, Banks, Brooks, Broomall, Burr, Butler, Cake, Chanler, Elliot, Garfield, Ingersoll, Kelsey, Kountz, George V. Lawrence, Lynch, Marshall, McCullough, Mercer, Morrill, Niblack, Pike, Trowbridge, Van Wyck, and Henry D. Washburn—28.

So the joint resolution was passed.

Mr. SPALDING moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BINGHAM. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the joint resolution appropriating \$1,000,000 for the relief of destitute people in the southern States.

Mr. GRISWOLD. I move that the House adjourn.

The motion was agreed to—ayes 63, noes 43; and thereupon (at one o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CULLOM: Two petitions of numerous citizens of McLean county, Illinois, asking Congress to prevent the further withdrawal of legal tenders from circulation.

By Mr. JULIAN: The petition of 300 citizens of North Carolina, praying Congress to establish territorial governments for the districts lately in rebellion.

By Mr. VAN AERNAM: The petition of Lieutenant H. E. Wentworth, fourteenth New York heavy artillery, praying Congress for relief.

#### IN SENATE.

WEDNESDAY, March 13, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in obedience to law, a statement of contracts made on account of the medical department of the Army for the year 1866; which was referred to the Committee on Military Affairs and the Militia.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a memorial of R. Johnston and other citizens of Alexandria, Virginia, in relation to the petition of John C. Underwood and others, and in relation to the election held in that city March 5, 1867; which was referred to the Committee on the District of Columbia.

He also presented a memorial of citizens of Alexandria, and of the election commissioners at the election held there March 5, 1867,

with regard to the way and manner in which the election was held; which was referred to the Committee on the District of Columbia.

Mr. HOWE presented the petition of H. McKinney, praying payment of a balance alleged to be due on a contract with Captain George B. Hibbard, assistant quartermaster, dated December 24, 1864, for the delivery of ten thousand cords of wood on the banks of the Cumberland river, near Nashville, Tennessee; which was referred to the Committee on Claims.

He also presented the petition of Charles C. O'Neil, praying payment of a balance alleged to be due on a contract made with Captain George B. Hibbard, assistant quartermaster, dated December 24, 1864, for the delivery of ten thousand cords of wood on the banks of the Cumberland river, near Nashville, Tennessee; which was referred to the Committee on Claims.

Mr. JOHNSON presented the memorial of Elizabeth K. Spurrier, guardian and representative of the children of the late Surgeon Henry L. Heiskell, United States Army, praying the passage of an act authorizing the Paymaster General to pay to them the difference of pay, including commutation, which the said Surgeon Heiskell received while acting as Surgeon General of the Army, and that of the pay of Surgeon General, United States Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. CRAGIN presented the petition of Abigail Richards, widow of Liberty Richards, late a private in company C, thirteenth regiment New Hampshire volunteers, praying to be allowed a pension, and that she may be allowed an increase of pension for her three minor children; which was referred to the Committee on Pensions.

Mr. SHERMAN. I present the petition of Sister Xavier and Sister de Sales, Sisters of Mercy at Charleston, South Carolina, praying for relief. They represent that as trustees they were conducting a charitable institution in the city of Charleston, South Carolina, where one hundred and ten orphan children were being educated; that during the war they maintained and sustained a great many Union soldiers, and bestowed much care upon them. They represent that during the bombardment of Charleston the great body of their buildings were destroyed by the fire from our guns. They represent that the institution was purely charitable, and they ask for aid in rebuilding the buildings which were destroyed. The application is supported by letters from a number of Union officers and soldiers, among others from several who were maintained and cared for by these Sisters during the time they were held as prisoners of war by the rebels. If any case can be presented to induce Congress to grant relief to any claimants who suffered in this way this is one. I move that the petition be referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE. I think that applications for payment for damages in consequence of the war ought to go to some one committee, which should consider them, and be governed by some principle. If they go to various committees of the Senate we may be involved in difficulty. I suggest, therefore, that this petition be referred to the Committee on Claims.

Mr. WILSON. I will state that, on consultation with several members of the Committee on Military Affairs, I find it to be the sense of the committee that we shall not take up and consider any one of these private claims, however they may come to us, even though they be referred by the Senate, but that in such cases we shall report them back and have them sent to the Committee on Claims, so as to have a uniform system.

Mr. GRIMES. In this connection I trust that it will be the understanding of the Senate that we shall go back to what used to be the uniform practice of the body from the foundation of the Government until within the last three or four years, of setting aside under our rules—for it is a standing rule of the body, but has not been observed the last three years—

each Friday as private bill day, when the matters relating to the private interests of citizens will be transacted, and nothing else. The system that has prevailed during the last session I think it is obvious to everybody is a very bad one; that is, selecting some evening upon which we will transact pension business; another evening on which we will attend to small naval affairs, and another evening upon which we will attend to private claims. Very frequently only those come here at such evening sessions who are interested in a particular class of cases; while if we have them all entered on the Private Calendar, and a day regularly assigned for their consideration, Senators who are interested in particular claims, or who have investigated them, will be here to look after the cases which have been intrusted to their particular consideration and reported back to the Senate. The committee of which I am a member have determined that they will consider no private cases during this Congress, but that if any such cases are referred to them they will report them to the Senate, and have them committed to the Committee on Claims; and I trust that will be the uniform practice of the Senate.

The petition was referred to the Committee on Claims.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

*Ordered*, That the petition of William J. Blackstone, praying for compensation for services under an appointment of a special agent of the Treasury rendered as Board of Trade for a part of St. Mary's county, Maryland, from January 1, 1863, to April 15, 1865, be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. POMEROY, it was

*Ordered*, That the memorial of the New England Emigrant Aid Company, praying indemnification for the destruction of property at Lawrence, Kansas, May 21, 1856, be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. HOWE, it was

*Ordered*, That the petition and accompanying papers of Caleb Lyon be taken from the files, and referred to the Committee on Claims.

On motion of Mr. POMEROY, it was

*Ordered*, That the Chillicothe band of Shawnee Indians have leave to withdraw their petition presented March 14, 1864.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature, held at Santa Fé from the 3d day of December, 1866, to the 31st of January, 1867, reported it without amendment.

Mr. TRUMBULL. The same committee, to whom was referred the joint resolution (S. R. No. 13) conferring upon territorial courts jurisdiction under the act to establish a uniform system of bankruptcy, have instructed me to report it back adversely, the committee being of the opinion that the law as passed sufficiently confers jurisdiction upon the courts in the Territories for that purpose. I move the indefinite postponement of the joint resolution.

The motion was agreed to.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 18) for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 14) to provide for the payment of the claim of Martha A. Estill, administratrix of the estate of James M. Estill, deceased, Redrick McKee, and Pablo del a Pobra, deceased, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

#### NIAGARA SHIP-CANAL.

Mr. MORGAN. I am instructed by the Committee on Commerce to report back the joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between

Lake Erie and Lake Ontario, for military, naval, and commercial purposes, and I ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to direct the Secretary of War to cause surveys, with plans and estimates of cost, to be made by an officer of engineers, for a ship-canal to connect Lakes Erie and Ontario, or the navigable waters thereof, of suitable location and dimensions for military, naval, and commercial purposes, the expense to be defrayed from the sums appropriated in the acts of June 23, 1866, and March 2, 1867, for examinations and surveys relating to the improvement of harbors and rivers on the north-western lakes.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### DIRECT TAX COMMISSIONERS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be instructed to inform the Senate how many persons are now in office under the act for the collection of direct taxes in insurrectionary districts, and for other purposes, approved July 7, 1862, and the acts amendatory thereof, and what amount of salaries are paid them; also, whether the services of such officers, or some of them, may not be dispensed with without detriment to the public service; and whether any taxes are now being collected through their instrumentality.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 57) in relation to treaties with Indian tribes; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 58) to arch Tiber creek north of Pennsylvania avenue; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 59) to create the office of surveyor general and establish a land office in the Territory of Utah, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 60) to change the name of the steamer Paonshun; which was read twice by its title, and referred to the Committee on Commerce.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 27) to authorize the leasing of certain real estate in San Francisco; which was read twice by its title, and referred to the Committee on Commerce.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 28) to reduce the military reservation at Fort Sanders, Dakota, and Fort Bridger, Utah; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. HARLAN, the bill (S. No. 32) to amend and simplify the acts relating to the Metropolitan police of the District of Columbia, was ordered to be printed.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 33) supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration, have instructed me to

report the bill back to the Senate with an amendment in the nature of a substitute; and I would ask that the Senate proceed to the consideration of the bill at this time. The substitute has been printed and laid upon the tables of Senators so that it can be understood. There is some little verbal alteration in the report of the committee from the printed substitute, which will be understood as it is read. I trust the Senate will consider it at once.

Mr. HOWARD. This bill is one of great importance, and I should be very glad to see it in print.

Mr. TRUMBULL. I will inform the Senator that it is in print, and has been, or will be, laid on the table of every Senator.

Mr. FESSENDEN. I think the Senator from Illinois had better let it go over until to-morrow. I want to look at it carefully.

Mr. SUMNER. It is a very important bill, and I want to consider it carefully before I am called upon to vote on it.

Mr. TRUMBULL. I doubt whether we can get a vote upon it in a moment, so that there will be time to consider it before we come to a vote. Of course one objection puts it over; but I think it desirable that we should proceed to consider this measure at as early a period of time as possible. The bill is in print, and the committee took some pains to have the amendment which we propose to it printed, and if it has not been laid on the tables of Senators it has been received, and can be laid on the tables of Senators in a moment. I think we shall gain time by proceeding to its consideration now. If, however, any Senator objects, of course we cannot do it.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill on the day it is reported.

Mr. SHERMAN. If the Senator will call it up after a while, when the morning business has been disposed of, I do not think there will be any objection.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. HOWARD. I object to its consideration to-day.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

#### ARMS TO TENNESSEE.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee.

Mr. PATTERSON, of Tennessee. I object to it.

The PRESIDENT *pro tempore*. It is now under the control of the Senate.

Mr. PATTERSON, of Tennessee. I wish to confer with my colleague on this subject. I think we can agree upon a bill that will be satisfactory to all of us.

The PRESIDENT *pro tempore*. The question is on the motion to take up the joint resolution for consideration.

Mr. FOWLER. I will state to the Senate the facts that induced me to introduce this resolution. Governor Brownlow made a request of the Secretary of War for arms sufficient to arm and equip two thousand or two thousand five hundred militia. I conferred with the Secretary of War on the subject, and he stated to me, after examining the matter carefully, that he did not think he had sufficient authority under the law to furnish the arms to the State of Tennessee. The reasons stated in the preamble to this resolution are the very reasons that Governor Brownlow gave to the Secretary of War for asking for the arms. Believing as I do that the State needs them, and furthermore that she has a right to them, I offered the resolution, hoping that it would meet with no objection. At the same time I do not know that the proposition that my colleague wishes to offer would be objected to by me. I believe it is an amendment that he wishes to add to the resolution.

Mr. PATTERSON, of Tennessee. I think

I can offer an amendment that will be satisfactory to my colleague.

Mr. FOWLER. I hope, though, that the resolution will be taken up immediately. It is not precisely certain how long Congress will be in session, and we do not want the State of Tennessee left without consideration on this subject; at least I wish to know what is to be done in the matter before the Legislature of that State adjourns.

Mr. PATTERSON, of Tennessee. I will agree to take up the resolution in the morning if that will meet the approbation of my colleague. I think he and I can agree upon a measure that will be satisfactory to both of us.

The PRESIDENT *pro tempore* put the question on the motion to take up the joint resolution, and declared it not agreed to.

Mr. TIPTON. I call for a division.

Mr. WILSON. I understand that the Senator from Tennessee who introduced the resolution [Mr. FOWLER] is willing, at the request of his colleague, that it shall go over until to-morrow. I hope, therefore, we shall not have a division upon it.

Mr. PATTERSON, of Tennessee. On a conference between my colleague and myself, I have no doubt we shall be able to agree upon a measure that will be satisfactory to the Senate.

The PRESIDENT *pro tempore*. Does the Senator from Nebraska withdraw the call for a division?

Mr. TIPTON. I do.

#### MONEYS DUE COLORED SOLDIERS.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs.

The motion was agreed to; and the joint resolution was read a second time and considered as in Committee of the Whole.

It provides that all checks and Treasury certificates to be issued in the settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives now residing, or who may have resided, in any State in which slavery existed in the year 1860, the claim for which has been or may be prosecuted by an agent or attorney, shall be made payable to the Commissioner of the Freedmen's Bureau, who is to pay the agent or attorney his lawful fees and expenses, and deposit the balance to his own credit, with a list of the names, and post office addresses of the claimants, in the Freedmen's Savings and Trust Company, or a branch thereof, as established by law, to be paid to the claimants on identification to the satisfaction of the trust company holding such deposit; the trust company to be responsible for the payment to the proper parties, and it is to be the duty of the Commissioner and the officers, and agents of the Freedmen's Bureau to facilitate as far as possible the discovery and identification of the parties for whose benefit such deposit was made.

The Commissioner is to cause a record to be kept of each check and certificate received by him, setting forth the amount, the date of receipt, the amount paid the agent or attorney, the balance deposited, and the date and place of deposit, and the name and post office address of the claimant, and is to transmit a copy of the record to any assistant commissioner or agent of the Freedmen's Bureau, to whom the funds may be remitted for the purpose of deposit; and if necessary for the more prompt settlement of the claims, the Commissioner is authorized to transmit the checks or certificates to any assistant commissioner or agent of the bureau, and to authorize him to pay the fees and expenses to the attorney or agent, and to deposit the balance as provided; and it is to be the duty of the Freedmen's Savings and Trust Company and its several branches, at the close of each quarter of the fiscal year, to transmit to the Commissioner of the Freedmen's Bureau detailed reports of all moneys received, disbursed, and on hand, showing the dates of such receipts and disbursements, and the names

and post office addresses of the parties to whom payment has been made, and also the names and post office addresses of the parties to whom the balances unpaid are due. And in case any claimant shall die before receiving the amount due, or shall not be found within two years from the date of deposit of the money, it is to be turned over to the Freedmen's Savings and Trust Company, to be disposed of as provided by sections ten and eleven of the act entitled "An act to incorporate the Freedmen's Savings and Trust Company," approved March 3, 1865.

Mr. JOHNSON. Does that resolution come from any committee? Has it been referred to a committee?

The PRESIDENT *pro tempore*. It was reported from the Committee on Military Affairs yesterday.

Mr. JOHNSON. I should like the honorable member from Massachusetts [Mr. Wilson] to make me understand it better than I do now. It seems to me to be pregnant with a great deal of danger.

Mr. WILSON. I will say to the Senator that there is not a shadow of danger about it in any shape or form to any human being on earth. It will make no expense to the Government. It is simply to save these persons from being, as they are now in many cases, robbed or having enormous charges imposed upon them. This resolution comes here with the recommendation of Mr. French, the Second Auditor, who has been very earnest for some action on the subject all the winter. He states that in some form or other, through mistakes in the mails, losses, or by design, thousands of dollars are taken from these people who are scattered all over the country, and he has held back in some cases until he could find some certain way by which the moneys that have been passed to their credit could get to these persons. I have here a letter from Mr. Brodhead, the Second Comptroller of the Treasury, in which he says: "I most earnestly recommend such action," and he states that early in the winter he assisted in framing a bill on this subject which has never been introduced; I do not know why. The object of this resolution is to prevent this money from being stolen or lost or squandered until it reaches the proper parties to whom the Government proposes to pay it. It puts the money in the care of the Freedmen's Bureau; and it is to be deposited in the Freedmen's Savings and Trust Company, where it will be safe, and it points out the mode by which it can reach these persons, so that they will receive the money that the Government owes them for their services.

Mr. SHERMAN. What is this company that we propose to make a depository of the public money?

Mr. WILSON. It is a freedmen's bank.

Mr. SHERMAN. A private bank?

Mr. WILSON. It is a bank incorporated by Congress for the freedmen two or three years ago.

Mr. SHERMAN. A mere private institution for profit?

Mr. WILSON. For deposits of freedmen. It is an institution gotten up by philanthropic and benevolent gentlemen, men of intelligence and character and means. It is perfectly safe. They will have the means, with the aid of the bureau, of reaching these people and preventing them from being robbed of thousands of dollars. The Government cannot lose a dollar by it. Nobody will lose or can lose anything by it, and these people to whom we vote this money, who are entitled to this money, will probably save tens of thousands of dollars by it. This is all there is about it. Mr. Brodhead, General Howard, and Mr. French are very earnest that this thing shall be done, because they have found in the practical workings of the system, with these people scattered all over the country, that thousands of dollars which the Government pays for their services never get into their hands at all. I believe that under this resolution they will be enabled to receive what is due them.



Mr. JOHNSON. I would ask my friend from Massachusetts if the Government would not be liable, provided the money, after it gets into the hands of this private association, is not paid over to the parties entitled to it?

Mr. WILSON. I will say to the Senator that I do not suppose there is the shade of a shadow of danger on that subject. The money will be just as safe there as if it were in the Treasury of the United States. The managers of this bank and its branches are receiving deposits all over the country from the freedmen, and they have connections in every part of the country in regard to that matter. They are men who have been laboring with the greatest zeal and earnestness in behalf of the freedmen, for their education, for the saving of their money, and helping them in every way. This institution is perfectly safe. It is now receiving deposits from the freedmen, which are invested in Government securities. These people are scattered up and down the country; some of them troubled in regard to the families who are to receive the money, who their wives are and who their children, as it was once suggested by the Senator from Maryland there would be difficulty in finding out in some cases; and this resolution puts this money into this institution, and then the intelligence and influence and earnestness of the Freedmen's Bureau are to be availed of for the purpose of getting the money into the hands of those who have earned it. Mr. Brodhead has written a letter here; General Howard has written a letter here, and Mr. French has been urging legislation on this subject all the winter for the protection of these people.

Mr. GRIMES. I do not know that any very great degree of consistency is expected of public men now-a-days. Certainly I do not think we exhibit any very great degree of it. During the session that has just closed we solemnly declared by act of Congress that all the colored men of this country have intelligence enough and position enough and consequence enough in the country to entitle them to the elective franchise. We have made them citizens. We have said nobody shall exercise guardianship over them. And now here comes in a resolution which declares that the Freedmen's Bureau shall take possession of the property of each one of these men; that the Bureau or its agents shall be authorized to receive the drafts that are issued from the Treasury Department to them for their bounty, their pay, or their pensions; and that under certain circumstances the money shall be deposited to the credit of the Commissioner, not in a sub-Treasury of the United States, not in a national bank, but in the Freedmen's Savings and Trust Company, which, so far as I know, the Senator from Massachusetts knows no more about the solvency of than I do; which has made no exhibit of the condition of its affairs either to the Senate or to Congress, or I think to the Military Committee, and which may be, for aught I know, no more solvent than the bank in the neighborhood of the Senator from Massachusetts, at Newtonville, is to-day, and which I suppose he would have been willing to indorse, as all the citizens of Massachusetts would have been willing to indorse, two weeks ago, in equally as emphatic terms as those in which he has indorsed this savings bank to-day.

Mr. President, the men belonging to the party to which the Senator from Massachusetts and I belong have always claimed that this class legislation was a great error, that it was wrong, that it was wicked; that we should not single out one class and say that the nation should take the guardianship of that class to the exclusion of another class; that we should not single out one class and confer upon them a consequence which we would not confer upon another class. I had thought and hoped that that time had gone by; that we were successful; that we had triumphed in this regard; and that we were to see and hear no more of class legislation. But what is this proposition but placing, by an act of Congress, the business

affairs of all the colored men who have been in the Army and Navy and Marine corps of the United States under the guardianship of the Government and of the Freedmen's Savings and Trust Company?

I have no doubt that wrong has been perpetrated on colored men in the collection of this money. So it has on white men. I think that Mr. Brodhead, if this resolution is to be passed upon his recommendation, and Mr. French could certify in equally as strong terms that there has been swindling by agents of white people as well as black people, and there is no reason in the world why we should pass such a law as this applicable to colored people and not apply it to the white people. I think there would be this advantage to the colored people in this respect: I think there is a great deal in the suggestion thrown out by the Senator from Maryland, that if we require this money to be deposited in this Freedmen's Savings Bank, and that Savings Bank shall become bankrupt in the end, the Government would be compelled to refund the amount of money that was there on deposit to the credit of these colored men, and thus pay it over the second time. There is that advantage in the resolution to the colored men over the white men, but no other advantage, either in principle or in practice.

Mr. WILSON. I concur with the Senator in the principle that we have asserted here, labored to maintain, and have substantially established—the principle of the equality of men under the law of the country and before the law of the country. Now, sir, this resolution does not affect colored men in the States that were free before the war, for the very good reason that everything is there organized, and that while there are cases where soldiers, black and white, there have been cheated by claim agents, which we have endeavored to correct by our legislation, yet as a rule these persons there have an opportunity to find out the best men and to employ them for the collection of their claims, and I suppose nearly all the money goes into their hands. But now how is it as a practical fact in the old slave States? We raised in the State of Kentucky twenty-six or twenty-seven thousand colored men during the war; in the State of Missouri about twenty thousand; several thousand in Virginia and Maryland; some in North Carolina, some in Louisiana, and some in South Carolina. Those people have scattered about; there is nobody to watch for or take care of them; and there are a great many agents who are plundering them and getting all they can out of them. It is safe enough with us to intrust these claims to the mails; but who would think of intrusting to the mails in South Carolina or a large portion of the southern country the money due to these men?

Mr. French tells us that thousands of dollars have been filched from these people, and when they have come here and asked to be paid it has been found that the moneys were paid or lost somewhere and somehow. Mr. Brodhead concurs in the same opinion. General Howard has complaints of this kind from all quarters, and he has been urging me all this winter to have something done with a view that this money paid by the Government shall go into the hands of the men to whom it is due. This plan has been devised after weeks of consultation on the subject. This institution is laboring in every part of this country to gather up the little earnings of the freedmen, to educate them, to enable them to take care of their money and acquire a little property, and it is receiving thousands of deposits from all over the country from these people. Its officers are brought in contact with them, and they have a great opportunity to find out all these people. They are to pay this money over, and of course will do it, as soon as it can be done with safety, to the proper claimants. In this way we secure the aid of all the knowledge and skill and information of the Freedmen's Bureau and of the managers of this bank, who have given time and money and everything they have to the

elevation and improvement of the freedmen. This proposition is made for no other purpose on earth than to provide the necessary precaution so that the money paid by the Government shall go into the hands of those to whom the Government intends to pay it. That is all there is in it.

That this institution is a solvent one I of course cannot certify; but I do know that the men who are engaged in it, who came here and asked Congress to incorporate them, who have been laboring in this work, are men of the highest character, and men who are actuated by no other purpose than one of pure benevolence and a desire to aid and elevate and improve the freedmen. I should not be at all afraid to trust liberty, life, anything I have on earth, to those men, as far as I would to any body of men that ever lived. Sir, I believe the passage of this resolution will protect and save a great many of these people from losses. They are now subject to great losses. Disputes arise in regard to the families of colored soldiers, where they have died; and they can be adjusted more easily and better by these people, who want to labor for their good, than by agents who have a direct personal interest to get out of them all they can.

Mr. HOWE. I do not know that I differ much from the Senator from Massachusetts, so far as he has made any statements; but I have one qualification to make to a statement that he has submitted, and that is, that I never saw a body of men since I was born, and I do not expect to see a body of men before I die, that I would be willing to trust my life, my freedom, and my property to.

Mr. WILSON. I said as far as I would to any body of men.

Mr. HOWE. The Freedmen's Trust Company may be as much entitled, as the Senator said, as any other body of men, but there is no body of men who are entitled to it. Mr. President, these moneys which are alluded to in this resolution are due to certain individuals, and your Government never discharges that debt until the money is paid to those individuals. If they have not sense enough to take care of it themselves they ought to put it into some trust company, or to make some men or some body of men their trustee or their guardian for the disposition of this money; and if they have not sense enough to choose a guardian, you, in the work of restoration of reconstruction down there ought to provide some form of government under which the fitness of these individuals to take care of their own money can be tried and determined. You have such tribunals in all your communities. Where a man is a spendthrift, where he is shiftless, where he is worthless, where he is unfitted to be trusted with the care of his own property, there are tribunals authorized to determine that fact and to appoint a guardian for such a person; but you have no tribunal on the face of the earth that ought to be clothed with the authority to take a whole class and doom them to the guardianship of anybody, and especially to doom them to the guardianship of one incorporated company. That is what this resolution proposes to do; nothing short of that. I certainly cannot vote for it.

Mr. SHERMAN. The object of this resolution seems to be well enough. It is to secure to the freedmen the moneys due to them by the law. My objection to the resolution is, that it proposes to make as a public depository a corporation over which we have no control, not even the right of visitation. So remarkable a proposition as that I think ought to receive very grave consideration. This company with which it is now proposed to deposit the public money, was incorporated by an act of Congress, which I hold in my hand, passed on the 3d of March, 1865, entitled "An act to incorporate the Freedmen's Saving and Trust Company." It is an ordinary company, with a president, secretary, &c., authorized to receive deposits. It is simply a deposit bank. It is authorized to loan two thirds of its deposits on Government securities, and may loan the other

third as the directors see proper. The salaries of the president, secretary, and other officers are fixed by the trustees. Congress have no power or control over it.

The Senator says that the present managers are honorable and honest men. What surety have we that they will continue to be honest and honorable in all time, or that they will not be changed? It is now a mere trust company; and it is proposed to take all the money that is due to all the freedmen of the South, whether they will it or not, and deposit it with this company, place it to the credit of the Commissioner of the Freedmen's Bureau, payable to his order, and make it the interest of this company to keep it in their hands as long as possible without payment to the freedmen. It seems to me it is a proposition that we ought not to tolerate.

I would have no objection to the passage of a bill that would require this money to be paid through the Freedmen's Bureau or through the disbursing officers of the Army. I see the practical difficulty in reaching the persons entitled to the money, and that agents and attorneys may get hold of the drafts, collect them, and probably not pay over to these colored men who are ignorant of their rights all that is due to them; but if so, they ought to be guarded by disbursing officers of the Army, who are under bonds, who give security. We do not deposit the public money with a national bank without ample security, and certainly we ought not to deposit it with a mere trust company, a mere private association, without ample security. That is the objection I have to the resolution.

Mr. WILSON. I will say to the Senator—  
The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the resolutions offered by the Senator from Massachusetts, [Mr. SUMNER,] declaring certain further guarantees required in the reconstruction of the rebel States.

Mr. WILSON. I hope that they will lie over informally for a few moments.

Mr. CONNESS. Oh, no, not informally; let them lie over eternally.

Mr. WILSON. I will not object if they are laid over eternally or any other way. I simply ask that they lie over informally in order that we may finish this joint resolution.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that these resolutions lie over informally.

Mr. CONNESS. I object to that.

Mr. DOOLITTLE. I understood that those resolutions were laid upon the table.

The PRESIDENT *pro tempore*. They were taken up again, on motion, yesterday.

Mr. CONNESS. I object to their lying over informally.

The PRESIDENT *pro tempore*. Objection being made the resolutions are before the Senate.

Mr. CONNESS. I desire those resolutions to be disposed of one way or the other.

Mr. WILSON. I ask the Senator to allow me to finish this joint resolution.

Mr. CONNESS. I have no objection to that.

Mr. WILSON. But it is manifest if we go on with these other resolutions they will lead to a debate, and we shall not be able to dispose of this joint resolution or anything else to-day.

Mr. CONNESS. I move to lay them on the table. If any Senator desires to discuss them hereafter we can take them off the table, and I will vote that way.

The PRESIDENT *pro tempore*. The Senator from California moves to lay on the table the resolutions of the Senator from Massachusetts, [Mr. SUMNER.]

The motion was agreed to.

The PRESIDENT *pro tempore*. Senate joint resolution No. 21 is before the Senate as in the Committee of the Whole.

Mr. WILSON. I will say to the Senator from Ohio that this is a simple question whether this money shall be paid into the hands of claim

agents all over the country, or whether it shall go into the care of the Commissioner of the Freedmen's Bureau, in order to guaranty its reaching the persons to whom it is due. The bank is simply to be used as a place of deposit, the bank being able to aid in this work. These claims come to the Treasury Department through agents. The law fixes the amount to be received. The money generally is delivered over to the agents; and sometimes it reaches the persons for whom it is intended, and sometimes it does not; it is lost in some way. Now, take the case of a man down in the interior of South Carolina, who was enlisted and served in our armies and is entitled to bounty. He makes a claim on the Government through an agent; the claim is prosecuted by the agent; and then this resolution provides that the money shall not be paid to the agent by the Government, but that the amount of his fees which are fixed by law shall be paid to him, and the rest of the money turned over to the care of the Commissioner of the Freedmen's Bureau and deposited in this bank; and then the bureau will ascertain who is the proper person entitled to the money, and will see that the proper individual gets it. It is a simple question of safety so far as the Government is concerned. It is done to aid those for whom the money is intended.

Mr. GRIMES. Let me ask the Senator a question. Suppose that in the State of which I am a citizen there are two thousand or three thousand colored men who were citizens of Missouri, Arkansas, or Kentucky in 1860, the time fixed by this resolution; now are they, now living in Iowa, under the provisions of this resolution to get their money?

Mr. WILSON. If they live in Iowa it does not affect them.

Mr. GRIMES. It certainly does, because the language is that all checks or certificates issued for moneys "due to colored soldiers, sailors, or marines, or their legal representatives, now residing, or who may have resided, in any State in which slavery existed in the year 1860" shall be paid over to this bank.

Mr. WILSON. It is intended to apply to cases where the person himself does not apply personally. Where he does he gets the money, of course. I venture to say there never will be a case from Iowa that will go through this bank.

Mr. GRIMES. Then the officers will not administer the law if this be enacted.

Mr. WILSON. The object is to reach persons who live in the southern States, most of whom cannot read and write, and are therefore liable to be imposed upon.

Now, I will say to all those Senators who are making opposition to the passage of this joint resolution that I have no more interest in it than anybody else; but I have been applied to repeatedly during the winter to secure some action on the subject. General Howard, Mr. French, and Mr. Brodhead, who know all about these things practically, are pressing it as a matter of equity, that Congress shall take some action in the premises. I introduced the subject, and it was brought before the Committee on Military Affairs, and reported upon. I should be very glad to have the resolution passed as reported, because I have come to the conclusion, though with a great deal of reluctance, that it is necessary to make this provision for the safety and protection of these people.

Mr. HENDERSON. I really do not know what amount of practical difficulty is experienced upon this subject; but as the representative of some fifteen or twenty thousand negroes who were in the Army from my State I desire to enter my protest against the passage of this resolution. I have never yet heard of any complaint in that State against the agents employed by the negroes in the collection of their claims; and I desire to state, for the information of the Senator from Massachusetts, that he is sadly mistaken in regard to the qualifications of the negroes to look out for their own interests. I would just as lief think of providing that the

amount of bounty and back pay due the white soldiers should be deposited in this bank as that due to the black soldiers of my State. I do not know whether they are so sharp in other States in looking out for their interests. It may be that they are much better qualified in my State than elsewhere; but I doubt that. My impression is that the negroes understand their rights as well as anybody; and I protest against the idea that we must be eternally legislating for the negro in order to protect his interest and regarding him as a ward of the Government. All we need do is to confer upon him the rights, civil and political, that we confer upon other men, and then I guaranty that the negro will take care of himself; and so far as his money rights are concerned he will look out for them with the same diligence and the same care that white men do.

As was properly said by the Senator from Ohio, we organized a few years ago a company to do a banking business, and now the proposition is made that there be a forced deposit in that bank of all the moneys due by the Government to the negroes of the entire country. I should like to know from the Senator from Massachusetts whether that bank has been organized at all or not.

Mr. WILSON. Certainly it has been organized, and it has a large amount of money on hand.

Mr. HENDERSON. Where is it organized?

Mr. WILSON. Here in this city, and it has two or three branches. It has several hundred thousand dollars of money on deposit.

Mr. HENDERSON. I do not know where these branches are. The bank, the Senator tells me, is organized in the District of Columbia. There is no branch of it in my State that I know of; and so far as honesty and fidelity are concerned, I would as soon trust the agents in the State of Missouri to deliver over the money to the freedmen as to trust the officers of this bank, however high they may be in public estimation. I have no doubt of the integrity of the corporators of that institution; but at the same time I have as little doubt of the integrity of the gentlemen who are engaged in procuring back pay and bounty for the soldiers, white and black, in my State; and I protest against forcing the freedmen's money into this bank as a deposit and then compelling the freedmen to prove their identity to the officers of the bank before they can obtain their money. That identity is already proved before the agent. And let me assure the Senator that it is not so easy for agents in any section of the country to defraud negroes or white men. They expect, as other men, to live; they expect to live by their labor, by their profession. It is known not only by the individual who intrusts business to them, but generally by his neighbors and friends, and frequently by the entire community, that that particular case is intrusted to him; and in order to secure fidelity and strict and honest dealing, my opinion is that we had better leave this business where it is.

Mr. DIXON. I should be obliged to the Senator from Massachusetts if he would explain more fully one remark which he made, which I perhaps misunderstood. I understood him to say that it was well known that it was not safe to send money through the mails in the southern States to the persons mentioned in this joint resolution.

Mr. WILSON. What I meant to say was this: everybody knows that the mails in the South have been exceedingly irregular, and a great many letters have been lost. I have had occasion to send to and receive from that section of the country small sums of money, and I should never think of putting them in the mail as I would in case they were to go to New York or Boston. I do not mean that it is because there is not proper effort to secure regularity there. I know the mails are improving in that respect in that section of country. Then there is another thing to be considered, that these people who cannot read and write are easily imposed upon.

Mr. HOWE. I want to add another thing to what I have already said. If it were proposed here that this money should be paid by the Government simply to the Commissioner of the Freedmen's Bureau, to be by him paid to the claimants, I should not have any objection; and if it went further than that, and authorized the Commissioner to expend for the use of the freedman himself such portions of the money as were due to those freedmen who are drawing supplies, rations, or support in any way from the Government, I should not have any objection to it. But it goes much further than that. It does not direct the Commissioner to pay this money to any of the claimants; it prohibits him in terms from paying it to any of the claimants, and directs him to deposit the money in the vaults of an incorporated company, thus keeping it from the hands and the possession of those who are really entitled to it by law. It is that that I cannot consent to; and it does not discriminate at all between those who do draw their support from the Government and those who do not, between those who are educated and those who are not.

Now, I understand something of the information which I suppose is in possession of the Senator from Massachusetts. I understand something of the cases which I suppose the Second Auditor had in his mind when he made this complaint of the difficulty of getting these moneys into the hands of the true owners. I understand that there was a regiment, or something like that, of colored soldiers mustered out in New Orleans, and that a claim agent from Washington went down there, represented himself to be an agent of the Government, had a messenger dressed up in uniform to aid him, obtained the discharges of a large number of those soldiers, brought them up here; and it is said that claims were made out in the city of New York on all those discharges, transmitted here, and paid by an officer of the pay department, and paid over to this agent. Many of the soldiers of that regiment from whose hands these certificates were kept were educated men. I have seen the letters of one of them, and he writes a much better hand than the Senator from Massachusetts or myself either, and not only writes a good hand, but composes well, is evidently an educated man. Education is no guard, no protection against such operations as that. It was not because they were ignorant that they were defrauded. Education does not protect them against that. This joint resolution would not. It might possibly protect them against such a swindle as that, but it would perpetrate upon them another injustice just as great. If the man who owns the money cannot have it, he would just as lief a claim agent should have it as this Freedmen's Trust Company. What difference does it make to me who has my money if I cannot have it myself?

Mr. WILSON. I will say to the Senator that this money is all to be paid over to General Howard, the Commissioner of the Freedmen's Bureau.

Mr. GRIMES. He is obliged to pay it over to this bank.

Mr. WILSON. He has to deposit it in this bank; but he has the whole machinery of his bureau to find out who are the proper parties who are entitled to it. He is authorized to send the money to the agents and assistant commissioners of the bureau in different parts of the country to be paid there to those who are entitled to it. The object is to facilitate these settlements; to pay the money promptly, and pay it surely.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time:

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution.

Mr. HENDERSON. I move that it be recommended to the Committee on Military Affairs and the Militia.

The motion was agreed to—ayes eighteen, noes not counted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 19) to clothe the maimed and destitute soldiers;

A joint resolution (H. R. No. 7) providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States;" and

A joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny.

#### TREASURY PRINTING BUREAU.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a special committee of three members be appointed by the President of the Senate, whose duty it shall be to examine into the conduct and management of the Printing Bureau of the Treasury Department with a view of determining whether the same may be dispensed with entirely, or, if continued, whether its expenses can be lessened, and what additional safeguards, if any, are needed to prevent frauds or mistakes in the printing and canceling of notes and other public securities of the United States. And said committee shall further examine and make report to the Senate at its next session showing:

1. The amount of all Treasury notes, United States notes, compound-interest notes, fractional currency and bonds and other public securities of every kind and description, which have been printed by said bureau since its organization and delivered for use to the Treasury Department.

2. The denomination, date, number, letter, or other particular descriptions of each of said notes and securities signed and issued or negotiated by the Treasury Department, and the title and date of the act of Congress under which the issue was authorized.

3. The number and amount of such notes and securities that have been canceled or destroyed by the Department, the date and cause of cancellation, and particular description of the note or bond so canceled, and whether upon such cancellation other issues have been made to supply the place of those destroyed, and if so, a minute description of the notes and bonds so prepared and issued.

4. The amount of such notes and public securities now outstanding, with a description of each as the same may be ascertained from a thorough inspection of the registry books and accounts kept in the different bureaus of the Treasury Department, and if necessary by an examination of the officers, clerks, and employees of said Department; and said committee may in their discretion employ a clerk to keep a record of said examinations, and assist in the preparation of their report.

#### DUTIES ON HAWAIIAN VESSELS.

Mr. WILLIAMS. The Committee on Finance, to whom was referred House joint resolution No. 2, to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels, have instructed me to report it back without amendment, and recommend its passage, and I should like to have it considered at this time.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to remit or refund all duties which have been assessed since the 1st day of January, 1865, on Hawaiian vessels and their cargoes beyond the amount which would have been payable on vessels of the United States and their cargoes.

Mr. WILLIAMS. I will state that by the operation of a proclamation of the President, dated January 29, 1867, Hawaiian vessels were relieved from the effect of all laws imposing a discriminating duty upon their tonnage or their cargoes since December 10, 1866, the date at which the State Department was officially notified that no discriminating duties were exacted by the Hawaiian Government from United States vessels. It appears, however, that the Hawaiian Government has never discriminated against the vessels of the United States, but previous to the 10th of December, 1866, discriminating duties were exacted in several

instances from Hawaiian vessels and their cargoes in ports of the United States, because the facts as to the action of the Hawaiian Government had not been officially brought to the notice of the President, and recognized by him. Application is now made to return the discriminating duties thus exacted; and this joint resolution proceeds upon the ground that through a mistake of the Treasury Department these discriminating duties were exacted from Hawaiian vessels in the ports of the United States, on the supposition that similar duties were exacted by the Hawaiian Government from vessels of the United States; but it appears that such was never the case and hence the application to refund these duties. This is in accordance with a precedent that was established in 1828 as to Prussian vessels.

I am advised that the amount is inconsiderable. There are two claims now presented to the Treasury Department amounting to some seven thousand dollars; and I understand that there is another one of small amount that will probably be presented, so that I do not think the whole amount will exceed \$10,000.

This joint resolution has been passed by the House of Representatives at the present session, and considered by the Committee on Finance. That committee are fully satisfied that it ought to pass, and its passage is recommended by the Secretary of the Treasury.

Mr. JOHNSON. It is to carry out a treaty, is it not?

Mr. WILLIAMS. It is.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CHANGE OF A VESSEL'S NAME.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (S. No. 60) to change the name of the steamboat Panoshun, have directed me to report it back, and recommend its passage. I ask for its present consideration. It simply proposes to allow the name of this vessel to be changed to Nevada.

The bill was, by unanimous consent, considered as in Committee of the Whole, reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 19) to clothe the maimed and destitute soldiers was read twice by its title and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 7) providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States," was read twice by its title.

Mr. CONNESS. I suppose that resolution ought to go to the Committee on Appropriations; it is for the appropriation of money.

Mr. SHERMAN. I think the Committee on Appropriations may as well commence right on these matters. According to the rule, all general appropriation bills go to the Committee on Appropriations; but special appropriations ought to be considered by the appropriate committee. I think this is a proper subject for either the Committee on Finance or the Committee on Military Affairs.

Mr. HOWARD. I move that it be referred to the Committee on Military Affairs.

The motion was agreed to; and the joint resolution was referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny, was read the first time by its title.

Mr. HOWARD. I move that that be referred to the Committee on Private Land Claims.

Mr. DAVIS. I object to the second reading of the joint resolution to-day.

The PRESIDENT *pro tempore*. It can only have one reading to-day unless by unan-

ymous consent. The joint resolution will lie over under the rules.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had approved and signed, on the 12th instant, the following bill and joint resolutions:

A bill (S. No. 31) to amend an act entitled "An act to amend an act entitled 'An act to incorporate a National Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,'" approved March 21, 1866;

A joint resolution (S. R. No. 2) supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867; and

A joint resolution (S. R. No. 6) extending the time for the completion of the improvement of the Fox and Wisconsin rivers.

#### EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business; and after nearly four hours spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 13, 1867.

The House met at twelve o'clock m.

Prayer by Rev. JOSEPH T. COOPER, D. D., of Philadelphia.

The Journal of yesterday was read and approved.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. SAWYER, by unanimous consent, the papers in the case of A. Grant were withdrawn from the files of the House.

#### EQUALIZATION OF BOUNTIES.

Mr. JULIAN, by unanimous consent, presented concurrent resolutions of the Legislature of Indiana, in regard to the equalization of bounties; which were ordered to be referred to the Committee on Military Affairs, when appointed, and printed.

#### MEMORIALS FROM NEW MEXICO.

The SPEAKER, by unanimous consent, presented the following memorials from the Legislature of the Territory of New Mexico: Memorial asking for increase of pay and salaries of members of the Legislature and civil officers of the Territory—ordered to be referred to the Committee on the Territories, when appointed, and printed.

Memorial in relation to the school lands of that Territory—ordered to be referred to the same committee, and printed.

Memorial in relation to Indian depredations in that Territory—ordered to be referred to the Committee on Indian Affairs, when appointed, and printed.

Memorial in relation to the establishment of telegraphs between the military posts from Kansas to New Mexico—ordered to be referred to the Committee on the Post Office and Post Roads, when appointed, and printed.

Memorial in relation to the erection of a penitentiary in that Territory—ordered to be referred to the Committee on the Territories, when appointed, and printed.

Memorial asking for the completion of the Capitol building at Santa Fé—ordered to be referred to the same committee, and printed.

Memorial in regard to property destroyed by the rebels in that Territory—ordered to be referred to the same committee, and printed.

#### MEDICAL DEPARTMENT OF THE ARMY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the act of March 3, 1869, a statement of contracts made on account of the medical department of the Army for the year 1866; which was laid on the table, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. COOK asked and obtained leave of absence for his colleague, Mr. HARDING, for the balance of the session.

#### MORNING HOUR.

Mr. HOLMAN. I call for the regular order.

The SPEAKER stated as the regular order the calling of the committees for reports. The committees were called, but no reports were made. The Speaker accordingly announced that the morning hour had expired.

#### TARIFF ON UMBRELLAS AND PARASOLS.

Mr. KELLEY. I ask unanimous consent to introduce a joint resolution, and before offering it I beg leave to state that it is intended to remedy a defect of the present tariff. The duties as imposed by the present tariff upon silk are sixty per cent. *ad valorem*, on umbrellas and parasols thirty-five per cent. *ad valorem*. By the recent tariff on wool the duties on alpaca and other articles of which the better class of umbrellas are made are increased so that the business of manufacturing umbrellas and parasols for females will be almost destroyed. The resolution which I desire to offer contemplates putting the duties on these articles at the same rate which the raw material pays.

The SPEAKER. The resolution will be read for information, after which the Chair will entertain any objection which may be made.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives, etc., That after the passage of this joint resolution there shall be levied, collected, and paid upon umbrellas, parasols, and sunshades imported from foreign countries, when made from silk, no lower rate of duty than that now imposed upon piece and dress silks, namely, sixty per cent. *ad valorem*, and when made of other materials than silk the duty shall be fifty per cent. *ad valorem*.*

Mr. HOLMAN. Is the object to refer this joint resolution to the Committee of Ways and Means?

Mr. KELLEY. The Committee of Ways and Means has not yet been appointed. This resolution is designed to remedy—

Mr. HOLMAN. Unless the resolution is to be referred, I object to its introduction.

Mr. KELLEY. If the committee were appointed I would gladly have the resolution referred.

Mr. HOLMAN. I must object.

#### TEXAS CATTLE DISEASE.

Mr. CLARKE, of Kansas. I ask unanimous consent to submit the following resolution:

*Resolved, That the Committee on Agriculture, when appointed, be instructed to inquire into the expediency of providing for the appointment of a commission to investigate the nature, causes, and results of what is commonly known as Spanish fever or Texas cattle disease, and to report by bill or otherwise.*

Mr. SCHENCK. I object. It seems to me unnecessary to provide for the reference of subjects to committees when appointed. We had better appoint the committees, or else refer no business to them.

Mr. BOUTWELL. I ask unanimous consent to offer a resolution.

Mr. HOLMAN. I must object. There will be an opportunity to offer all these resolutions when the States shall be called.

#### EQUALIZATION OF BOUNTIES—AGAIN.

Mr. McCLURG. I move that the House resolve itself into the Committee of the Whole for the purpose of considering a joint resolution which on Monday last was referred to the Committee of the Whole, in regard to paying bounties to certain troops in Missouri and placing them on an equal footing with other volunteers.

The SPEAKER. If the House goes into the Committee of the Whole, business will have to be taken up in its regular order and disposed of or laid aside until that resolution is reached.

Mr. McCLURG. I have no objection to that.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and proceeded to the consideration of a joint resolution (H. R. No. 6) to place certain troops on an equal footing with others in regard to bounties.

The joint resolution, which was read, provides that the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes, approved February 13, 1862," shall be considered as placed on an equal footing with other volunteers as to bounties; and all laws relating to bounties are to be made applicable to them as to other volunteers.

Mr. McCLURG. Mr. Chairman, I hope and believe very few minutes, not to exceed ten, will suffice to explain the object of this joint resolution. Beyond a sufficiency I have no desire to speak. I believe all who are here from the Thirty-Ninth Congress will bear me witness that I have shown no disposition to consume unnecessarily the valuable time of the House or committee. I can therefore confidently expect that gentlemen will give attention while I shall very briefly give the points in the case embraced by the resolution. It is intended to secure equal justice, and nothing more, to as brave and meritorious an organization of volunteers as did service for the United States Government during the late rebellion. The organization of which I speak, and which is referred to in the resolution, is that, so far as Missouri is concerned, of a volunteer force which is recognized in the act referred to, approved February 13, 1862, the third section of which act is as follows:

"That no volunteers or militia from any State or Territory shall be mustered into the service of the United States on any terms or conditions confining their service to the limits of said State or Territory, or their vicinities, beyond the number of ten thousand in the State of Missouri and four thousand five hundred in the State of Maryland, heretofore authorized by the President of the United States or Secretary of War, to be raised in said States."

These troops are here recognized as having been raised by authority from the President of the United States or Secretary of War, and mustered into the service of the United States. This force was organized, was mustered into the service of the United States, served faithfully and valiantly, of which there is abundant evidence, with other volunteer troops from other States, under command of United States officers, during the war, as they were mustered in for three years or during the war.

The question then naturally arises, whence the necessity for this resolution or any legislation on the subject? The necessity arises from what may be inferred from the reading of the act referred to, that these troops were mustered into the United States service on condition, confining their service to the limits of the State. This condition caused doubt in the mind of the Solicitor for the War Department whether these men were entitled to bounties as other volunteers in the absence of a special law; while it is not and will not be denied that almost all, if not all, these troops were ordered from the State, obeyed the orders cheerfully, and rendered service out of the State. We can produce the certificates of various officers to these facts, and the reports in the War Department in this city show that these troops did service, not only in Missouri, but in Arkansas, in Kansas, on the plains, and in New Mexico.

As to their bravery and efficiency I might speak and pass a just eulogy upon the brave men who composed this organization and the gallant officers, one of whom is my colleague, who sits immediately before me, who served from 1861 until after the close of the war, [Mr. GRAVELY.] But it is considered a breach of politeness to talk about present company, and I have also promised to be brief.

Did time permit, there is present a major general [Mr. DODGE] who commanded the department of Missouri, whose ability and noble bearing have been recognized by the people of the State of Iowa in sending him here to represent one of her districts, who could tes-



tify to the activity, bravery, and efficiency of these troops.

But, Mr. Chairman, I believe about enough has been said. This subject was referred to the Military Committee of the Thirty-Ninth Congress. That committee believed these troops were embraced in the new bounty bill which passed the House at its last session, as the bill came from the committee, but, to gratify the Missourians by removing all doubts, made no objections to an amendment embodying what is contemplated by this resolution. That bounty bill has failed as yet to become a law. We desire this resolution to pass, in order that existing laws as to bounties may be applicable to these troops as to other volunteers. The committee will see that we are asking but equal justice, and for those who did as much, even when doing battle in Missouri, as though they had been in Virginia or in Louisiana; for they were a part of the grand army of volunteers that fought for and, by the help of God, saved this nation.

Now, Mr. Chairman, if there be no opposition, I will ask that the committee report the resolution to the House. If any gentleman desires to ask a question, I will take pleasure in endeavoring to answer it to his satisfaction.

Mr. BENJAMIN. I move to amend by inserting after "1862" the words "also those borne on the rolls as slaves."

Mr. Chairman, I will say in explanation of this amendment that, according to the ruling of the Second Auditor's office, all colored troops enlisted in the service of the United States, if at the time of their enlistment they appear on the rolls as slaves, are excluded from any participation in the bounties which have been provided for by our laws. They have therefore received no part either of the original bounties or of the additional bounties. It is for the purpose of securing to these colored soldiers the benefit of our bounty laws that I have offered this amendment.

The amendment was agreed to.

Mr. HOLMAN. I desire to ask the gentleman from Missouri [Mr. McClurg] whether this bill has ever been considered by the Committee on Military Affairs of this House?

Mr. McCLURG. This question was considered by the Committee on Military Affairs of the last Congress. That committee, as I have already stated, approved of the measure, and embodied it as they believed in the bounty bill, which has twice passed this House, but has never yet become a law.

The bill, as amended, was laid aside to be reported to the House.

#### THANKS TO GEORGE PEABODY.

The next business in order upon the Calendar was Senate joint resolution No. 1, presenting the thanks of Congress to George Peabody.

The joint resolution was read at length. The first resolution presents the thanks of Congress to George Peabody, of Massachusetts, for his great and peculiar beneficence in giving a large sum of money, amounting to \$2,000,000, for the promotion of education in the more destitute portions of the southern and southwestern States, the benefits of which, according to his direction, are to be distributed among the entire population without any distinction except what may be found in needs or opportunities of usefulness.

The second resolution provides that it shall be the duty of the President to cause a gold medal to be struck, with suitable devices and inscriptions, which, together with a copy of this joint resolution, shall be presented to Mr. Peabody in the name of the people of the United States.

The third resolution provides that a sufficient sum of money to carry this joint resolution into effect shall be appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HOOPER, of Massachusetts. I hope this joint resolution will be laid aside to be reported to the House.

Mr. UPSON. I see that the appropriation

is unlimited. I would like to have some idea of the amount that may be needed.

Mr. HOOPER, of Massachusetts. It is merely to pay for a gold medal; it cannot be a large amount.

Mr. UPSON. I have no objection to that.

Mr. HARDING. I move to amend this joint resolution by striking out the provision relating to a gold medal, and I trust this committee will see the propriety of amending this joint resolution at least to that extent. I am as much in favor of the education of the people of the United States as the gentleman from Massachusetts [Mr. Hooper] can be. I feel as gratefully toward the benevolent gentleman named in this joint resolution, as I trust I ought to feel. But I do not believe a person who makes a donation which should command the national gratitude would feel much gratified at receiving a gold medal therefor.

It may be that this was a great sacrifice for a man whose wealth is hundreds of millions of dollars; and it may be that in the opinion of many gentlemen here he is entitled to a gold medal. But if I were called upon to select worthy objects for gold medals, I would select those men who gave more than a fortieth part of their wealth for their country. I would select those brave men who gave not only all their property, but also their lives for our country. I would give medals to men who gave evidence during the recent dark period of our history of a fervent love for our institutions. I do not know what claim Mr. Peabody may have upon the loyal millions in this land for a gold medal. If I am correctly informed he made a profit out of the rebellion which he aided and abetted. If I am wrongly informed I wish to be corrected. But I shall not vote a gold medal to a man who, from the information I have received, I believe was, while all the time an American citizen, conspiring against the integrity of this nation.

The question was upon the amendment of Mr. HARDING, and being taken, the amendment was not agreed to.

No further amendment being offered,

The joint resolution was laid aside to be reported to the House.

#### RELIEF OF DESTITUTE IN THE SOUTH.

The next business upon the Calendar was Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

The resolution, which was read at length, proposes to empower and direct the Secretary of War to issue supplies of food sufficient to prevent starvation and extreme want among all classes of the people in those southern and southwestern States where a failure of the crops and other causes have occasioned widespread destitution; the issues are to be made through the Freedmen's Bureau, under such regulations as the Secretary of War shall prescribe. One million dollars is appropriated for the purpose, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

Mr. WOOD. I suppose the Committee of the Whole will recommend the passage of this joint resolution; but it will not be with my vote. I am opposed to the Government of the United States distributing alms under any circumstances whatever, and in any direction whatever. That is my first objection to this joint resolution.

I am also opposed to it upon another ground. In a recent visit which I made to the southern States, since the 1st of January, during which I made it my duty to observe the condition of the southern people in a very large portion of the Atlantic southern States, I saw no such destitution as has been described. I saw no class of the people, certainly not of the white portion of the population of those States, who would make any application to Congress for alms, or who would acknowledge themselves paupers and dependents upon the General Government for aid and support; or who needed anything more from the North than protection for their

civil rights, and northern capital to develop their industry and to enable them to grow their crops.

I will admit that the people of the South do require pecuniary assistance, but they do not require it as a charity. They require it for the purpose of enabling them to grow those great staples that are so valuable to the country; they require northern capital to endeavor to resuscitate their impoverished plantations; they require at our hands, or at the hands of some department of the Government, some disposition of the status of their labor; they require their labor system disposed of so that capitalists and other employers can depend upon some labor by which they can develop these important crops.

Therefore I am opposed to this measure for these reasons: first, that I am opposed, on general principles, to the Government giving public money for charitable institutions; and secondly, because, in my judgment, and, as the result of personal observation made within the last sixty days in the southern States, I do not believe that any considerable portion of the people there require alms.

They have, sir, a pauper population, as every northern county and city has, but none of the northern States have applied to Congress for aid, nor has the South, through any existing State government or any competent officer, authorized to speak for any one county, city, town, or village in the southern or southwestern States, applied to the Government for the distribution of alms.

For these reasons, sir, I shall vote against the passage of this joint resolution.

Mr. WILLIAMS, of Indiana. I regret to take up any of the time of the House in opposing this resolution; but I would inquire if there is to be any limit to these appropriations asked for from this Congress? Is it true that this Government is a mine of inexhaustible wealth, and that it has become a hospital for the destitute of the entire country? Is it true that millions and millions are to be voted out of the public Treasury to be used to feed the wives and children of those men who raised the arm of rebellion against the flag of our country? If Congress shall adopt a policy to make appropriations for the destitute of the land, let them go into the large cities, into the towns and hamlets, and provide for the widows and children of our soldiers, and lavish upon them the bounty they propose to give.

I know when a measure comes with the support of General Howard it is hard to oppose it. Sir, I love his patriotic devotion to his country, and his devotion to the suffering everywhere. I know that when he comes before Congress asking an appropriation for the suffering millions it is hard to resist it; but let me say here that this bill calling for an appropriation of \$1,000,000 is not all that we shall be called upon to vote. Is there any point where we can stop these vast calls upon our Treasury? If there be not, I say the time will soon come when you will want another bankrupt law—one for the Government, and not for the citizen.

This appropriation is to be paid out by the Freedmen's Bureau. I undertake to say that there have been sufficient appropriations made at the last session of the Thirty-Ninth Congress for that bureau. There was, I understand, a surplus of \$230,000 remaining.

During the last session of the Thirty-Ninth Congress we appropriated \$5,126,000 more for the destitute of the South. Yet now we are asked to draw \$1,000,000 more from the pockets of the toiling yeomen of our country to feed the rebels of the South.

Mr. Chairman, I here enter my solemn protest in the Hall of this House against an appropriation which shall tax the one-armed and limbless soldiers of the Republic who fought and suffered for the flag, to take this money out of their pocket and pay it to the women and children of rebels, women and children who with malignant hatred spat upon our soldiers wounded and weary in their march to the sea. I protest against it in behalf of the widows

and orphans of the men who were starved to death at Andersonville.

Why should we appropriate \$1,000,000 for feeding the poor of that region? Is there no law by which we could make the wealthy rebels support their own poor and destitute? I think if my friend from Massachusetts [Mr. BUTLER] had control of that department he would find some law by which the wealthy rebels should be taxed to feed their own poor.

I am opposed to this measure; I oppose it because this Congress must come to a stop some time in these appropriations of millions from the pockets of our people, who are now oppressed with taxation. And I understand some of these southern communities spurn the offering of help by Mr. Peabody. I say then let them wait. If there is to be suffering in this country, if there is to be destitution, if any are to suffer, let it be the disloyal; and if need be, let God Almighty populate that country with people who will love our flag and the free institutions of which it is the emblem.

Mr. DONNELLY. Mr. Chairman, I desire to say a few words in advocacy of the pending bill. I am in favor of it as a great measure of reconstruction. I believe it will do more to allay the feelings which now exist in the South toward the people of the North than any other measure we could adopt. I believe it will reach into regions where no other agency could penetrate. I believe it will go into parts of the South where now there are no newspapers, where public education is almost unknown, and will address itself directly to the hearts of the people, and be evidence to them that the people of the North are not, as they have been taught to believe, their bitter, relentless foes; that we really do not desire their impoverishment and degradation. It will be not only an answer to these arguments used by the demagogues of the South with which they led the masses into rebellion, but an answer also to the doctrines preached at the North by those who were opposed to the war.

I do not wonder, Mr. Chairman, that there is opposition to this measure on the other side of this Chamber. I believe it will have a most potent and beneficent effect upon the minds of the people of the South; and the donation of this great charity will go as an answer to all the charges and declarations made against us, so that it will be made manifest, even to the humblest and poorest of the South, that we of the North have waged this great war for their advancement and elevation in the scale of humanity; not for their injury and degradation.

We are told that this bill should not be passed, because there is poverty in the North. Why, sir, the North during the war and ever since has overflowed with prosperity. If there is poverty here, there is also wealth here to relieve it. There is no outcry in our midst rising up to Heaven from the face of a stricken and desolated land. It is our part from our abundance to help this people and to lift them up. It will be, I repeat, the strongest of all answers to the arguments made against us.

Nay more, sir, it will go abroad among the nations of the earth that this American Republic has attained a loftier standard than that of any nation known to history—that we not only have not visited with severity, wrath, and punishment the men who waged for four long years a fierce rebellion to destroy us, but that roused by the cries of suffering humanity we have absolutely extended the hand of relief to the enemies of the nation.

The whole amount asked for, large as it may appear, is but a slight contribution when divided among the millions of the people of the North; according to my estimate it would be but a few cents to each individual of our population. I do not believe there is a man in the North who, in the presence of the poverty and destitution and suffering which undoubtedly exist in the South, would refuse to contribute his mite toward saving them from death. Nay, I believe that even the one-armed and one-legged soldiers, to whom allusion has been made, who

fought to put down this rebellion, and received their wounds at the hands of the rebels, would contribute from their poverty toward the relief of the starving women and little children of the South. They fought with men in the open field; they will not carry their hatred against helpless infancy, old age, and womanhood, struggling in the grasp of starvation.

Mr. Chairman, I hope this bill will pass. I would be glad to see it meet the unanimous approval of this House, so that this act might bear witness to all the world that we have waged the great war through which we have passed to build up and not to destroy; to advance and benefit the people of the South, not to oppress and injure them.

Mr. KELLEY. Mr. Chairman, many reasons may be suggested why we should not pass this resolution, and I think I have considered them all. Yet I hope the resolution will be adopted. We may point to the fact which the eloquent gentleman before me [Mr. WILLIAMS, of Indiana,] did of the reported refusal, not as he said of the so-called States of the South, of the munificent donation of Mr. Peabody. What he alluded to was merely the ravings of prominent leaders, editors, and speakers, who insanely clamor against its acceptance. The masses of the southern people have not responded to these absurd suggestions. We may also point to the fact that Mississippi is said to have appropriated no less a sum than \$20,000 for the defense of Jefferson Davis. And we may point to the fact that the North is filled with widows and orphans, the wives and children of men slowly starved to death or poisoned by the malaria of the fatally located military prisons to which they were consigned. And we may point to the fact, though we cannot charge it to others, that in all the large centers of our industry our laboring people are unemployed and expending the little sums they have garnered or living upon public charity, and as we do so ask, why not appropriate the sum named to these? Giving full weight to these suggestions, I hope this resolution, as adopted by the Senate, will pass.

The mountaineers of Alabama, Georgia, and central South Carolina, the poor whites of that broad section of country in which there was a failure of crops last year, have been as much oppressed and almost as deeply wronged as the slaves of olden times, and they will be the recipients of this charity. The majority of them are old men, and women and children. Let us, who wisely say to these people that they can enjoy no political rights until they can do so with safety to themselves and the Union, and who hold them with an iron hand until they shall fashion institutions that will save themselves and whosoever may dwell among them from such oppression in the future, see to it that they do not want for the common necessities of life.

The resolution proposes to appropriate money for the temporary relief of such—the blind, the dumb, the driven masses of the South, whose sufferings were entailed upon them by their oligarchic leaders as much as were the sufferings in the North to which I have faintly alluded, caused by those same leaders who plunged the country in war. Let us show them that we have the sympathies of fellow-citizens, and that while we have the resources of a great nation at our command we will not consign to hunger and starvation the people, men, women, and children, of large districts of our common country.

I apprehend that the gentleman from New York, [Mr. WOOD,] in the recent visit to the South of which he spoke, went to the commercial centers and rich low lands, and associated with the still wealthy old master class of that region who, like himself, are strict constructionists of the Constitution, and who never cared whether a poor free white neighbor died or lived so that the enslaved negro was a thing of value to them. He did not visit inhospitable mountain regions where want and hunger sit by every hearthside and where death is busy. It is for the people of such sections that this appropriation is contemplated. The resolution

names \$1,000,000, the expenditure of which is to be made by the chief of the Freedmen's Bureau, under the orders of the Secretary of War; but it does not direct the disbursement of the whole amount, and there is, I am sure, no gentleman on this side of the House who will not trust the discretion and fidelity of Gen. Howard and Secretary Stanton in a matter of this sort. Let us then make this appropriation and say to the poor people of the South, "While we will restrain those who through life have wronged and oppressed you, and finally made you wage war against us, you shall not suffer while it is in our power to give you relief."

Mr. BANKS. I propose the following amendment.

*Provided, That there shall be expended from the appropriation herein named, under the direction of the Commissioner of Agriculture, the sum of \$50,000, for the purchase of seeds to be distributed among the destitute people of the South by the Commissioner of the Freedmen's Bureau.*

Mr. MILLER. I move to amend the amendment by striking out all after the word "provided" and insert the following:

That \$75,000 thereof be appropriated to supply, through the Agricultural Department, seeds for the Freedmen's Bureau to distribute to the inhabitants of said States to enable them to raise provisions for their own support.

While I am in favor of the resolution making appropriations to relieve the suffering and starving people of the South, I think we ought to be guarded in making so large an appropriation as this. We appropriated at the last Congress large sums; \$7,000,000 to support the poor of the South, besides \$25,000 to those in Washington city and recently fifteen thousand dollars more. We are now called upon to appropriate again \$1,000,000 in order to support the so-called poor people of the South.

Now, Mr. Chairman, it seems to me that these people ought to be encouraged by giving them seeds and let them cultivate the soil. They have a productive country, and if they will but cultivate the soil as they ought to do they will have ample provision for their own support, and if we are to be called upon year after year to provide for their wants, without any effort being made upon their part to support themselves, where is the matter to stop? It may continue to run to millions of expenditure for their support. They have their lands from which, with proper exertion, they certainly can raise sufficient for their support, besides a surplus; and now, instead of appropriating the whole of the \$1,000,000 as indicated by the joint resolution, I propose that a portion of that sum be devoted to the purchase of seed, to be obtained through the Agricultural Department, and distributed by those in charge of the Freedmen's Bureau. This will enable them with proper industry to provide themselves with food, and put a stop to this drain upon the United States Treasury. I am told by the honorable Commissioner of Agriculture that the demand in the late rebel States for seeds of various kind is so great that it is out of his power to supply them without such an appropriation. I agree with the honorable gentlemen that have preceded me that these men were led into the rebellion by their leaders, and induced by them to raise their arms against the flag of their country, and we ought not to let them starve, but at the same time we ought to teach them that they must use industry and be vigilant to acquire support, and not depend upon the charity of a Government that some of them, at least, attempted to destroy; and by a proper attention to agricultural pursuits their fertile soil will yield abundance. They must, like the northern people, make labor respectable, and give up their favorite notions of oligarchy, now exploded by the abolition of slavery.

I am willing to appropriate any money absolutely necessary for this purpose, but not in favor of appropriating any money to keep them in idleness and in neglect of their own opportunities to gain a livelihood. Let them go to work, cultivate their soil, and in another year they will have sufficient to support themselves.

I have, Mr. Chairman, the utmost confidence in General Howard and our much-esteemed Secretary of War. I am satisfied that so far as they are concerned the money placed in their hands will be faithfully and impartially distributed; but it seems to me that \$75,000, or even \$100,000, of the sum named in the joint resolution would be of more advantage to those people by furnishing that amount in proper seeds to enable them to turn their attention to raising the necessities of life. I therefore trust that the amendment I proposed may be adopted by this House.

Mr. CHANLER. I believe that the amendment offered by the gentleman from Massachusetts [Mr. BANKS] has already been before the House, and that an order has been issued, so far as a legislative body could issue it, to the Secretary of War to furnish seeds, and I believe that if the exigencies of the case admitted it the Secretary of War would distribute seeds to satisfy the demands of the South.

This whole measure is, in my opinion, defective in its spirit and weak in the manner in which it professes to meet the object designed. There are in the South millions upon millions of human beings, millions of whom are under the immediate supervision of the Freedmen's Bureau. There are others who, by a distinction drawn by the majority on this floor, owing to their color, are excluded from the opportunity of accepting any part of the munificent donation which the Government makes.

Now, the gentleman who proposed this bill can hardly think that this niggard charity of \$1,000,000 will meet the requirements of the black race of the South.

Sir, this munificent appropriation would amount to nothing. It is not intended to meet the interests of any of the individual residents of the South except the officers of the Freedmen's Bureau. It is designed to assist these people to carry on the bureau, and not to reach the suffering millions who are under the control of that bureau. It is a black sheep in dirty wolf's clothing. The bill is brought to the consideration of the House; it is offered in the name of charity.

Do not insult our better nature by beginning with this profession of doing good when the design is merely and actually to keep up a political machine, and that is the truth about it. We do not require new attacks upon the South; we do not require the bitter and malignant feelings that have been poured out by gentlemen here with regard to the South, to work on the enthusiasm of the majority here to vote this money. It is not to clothe the poor; it is not that the blind may see, and the lame may walk, but that the political machinery of the Freedmen's Bureau may go limping through the land sustained by the patronage of the Government. Charity! For what? To keep up the malignant passions which this war has engendered, to keep up the demarkations which hatred has established, but not to soothe the suffering or give amelioration or relief to the conquered and those who are really in destitution in the South.

So far as the motives which actuate this measure are pure and good, I welcome it. I know from personal observation during the past two years, extended over the Atlantic coast down to the extreme points of Florida, that suffering in the South does exist. I know from correspondence direct from the South within a few days past, that in the interior of the State of South Carolina the people are starving for food. I believe that some such measure as this is called for by the necessities of the southern people. But how ridiculous and how absurd it is to speak of extending the hand of charity by offering this pittance.

It is but an opportunity to allow the eloquent gentleman from Pennsylvania [Mr. KELLEY] to reiterate his often-uttered anathemas against a class of men whom he personally dislikes; and to allow other gentlemen to make their maiden speeches, and prove to their constituencies that the slime and venom of their local

party organizations have not been washed from them upon entering this body.

But there are other modes of extending assistance than by giving a copper to a starving man. The effort to introduce agricultural implements and seeds into the South is indeed the act of a Samaritan. But let that assistance be so extended that not only the man who has been accustomed to wield the hoe and plant the fields of the South can reap the benefit of it, but that it may reach the poorer classes of the whites of the South, who have been educated to neither agricultural, commercial, nor manufacturing pursuits. Let your munificence be extended to every class. I take it that if this money is sent to the Freedmen's Bureau it will be filtered through the officers of that institution until but the smallest moiety of this \$1,000,000 will be used for the requirements of any one State.

Suppose this \$1,000,000 is spread over the State of Georgia alone. Does any gentleman believe that it would meet the necessities there? It is folly to say so, and any man who can calculate so as to put two and two together and tell what the result will be, will not make any such assumption.

This is meant then as a simple beginning. You mean then by adding this \$1,000,000 upon the pretense of healing the wounds of the South to keep up the Freedmen's Bureau as the channel of alleviating the sufferings of the South. Do you believe that will be an acceptable channel to the poor whites of the South? Do you honestly believe that they will accept charity extended through that channel?

Sir, it seems to me, without charging upon gentlemen of the other side who have advocated this measure motives which they are so willing to impute to others, motives unworthy of human nature, unworthy of the name of charity, that this joint resolution carries with it no merits. It is claimed to be actuated by the spirit of the good Samaritan; but it looks very much like that stride and step taken by him who passed by on the other side.

Now, with regard to the requirements of agriculture in the South. Do gentlemen propose to inaugurate a sensible system of agriculture through the Freedmen's Bureau? Is the distribution of seeds by that bureau to supersede the distribution of seeds by your Agricultural Department, which has been established at such great expense? Take it from any point of view, practical, philanthropic, reasonable, or just, and to what does this measure come at last? The payment of the officers of the Freedmen's Bureau, through General Howard, taxing the laboring masses of the North to keep up an eleemosynary institution established for political purposes, for the purpose of maintaining the existing hatred between the races in the South. It is reduced to that and to that alone. If it does rest on that basis, then why reiterate these sentiments of hatred and animosity to the classes of the South? Why ventilate the degradation of the whites, and why so silent with regard to the utter degradation of the blacks?

Sir, if this measure had upon its face one single indication of thorough, ingenuous charity, I would advocate it. But as it comes before us to-day it is purely a political measure, got up in the worst spirit, and to be passed for no good except to benefit the officers of the Freedmen's Bureau.

Mr. BOYER. I trust, Mr. Chairman, that this joint resolution will be adopted; that it will be passed promptly and with unanimity. I am not deterred from supporting it by the reasons given by the gentleman from Indiana, [Mr. WILLIAMS,] based upon the fact that those who are to be the recipients of this bounty are the families of rebels; nor by the arguments of the two gentlemen from New York, [Mr. WOOD and Mr. CHANLER,] that this fund is to be distributed through the Freedmen's Bureau; that charity has not been asked at our hands by the starving population of the South through any direct appeal of their own; that the money

proposed to be appropriated is not sufficient in amount to afford the required relief for the distresses which exist; and that it is likely to be misappropriated. None of these reasons which have been given by one or the other of these gentlemen for their opposition to this measure shall influence me to withhold from it my vote.

Mr. Chairman, twenty years ago, the Parliament of Great Britain voted \$50,000,000 for the relief of the starving population of Ireland. We are asked to-day to appropriate but \$1,000,000 for the relief of the starving people of the South, but one fiftieth part of the amount which the distresses of rebellious Ireland extorted from the humanity of monarchical England. And shall it be said that the great Republic of America is less merciful to her perishing children than was that nation whom we have been accustomed to denounce as the tyrant of the Indies and the oppressor of Ireland?

If the channel which is provided in this resolution for the distribution of the fund be objectionable, the answer is that it is the only channel immediately available for the purpose. If gentlemen on this side of the House are opposed to the Freedmen's Bureau, let them not object to its being converted into an instrumentality of usefulness and mercy. I accept the Freedmen's Bureau in this instance as the means of distribution, because the want to be supplied is immediate and pressing, and there is no other available instrumentality at hand. While we are talking some of our countrymen at the south are gasping, it may be, in the agonies of death for want of the food which we are asked out of our abundance to bestow upon them. The Freedmen's Bureau, if it honestly distribute this fund, is the very best agency by which it can be dispensed, because it is already organized and in actual operation, and because its agents are now residing at the South and understand the immediate necessities of the particular localities in which they happen to be stationed.

Mr. Chairman, I shall not stop to inquire whether the agents of the Freedmen's Bureau will misappropriate this fund or not. I shall not stop to make this inquiry, because I feel certain that a portion of the money at least will reach those for whom it is intended. And if but one half of this charity shall reach the suffering poor for whom it is designed I should vote for it, even although the other half should stick to the hands of the agents of the Freedmen's Bureau. But what right have we without proof to presume that any portion of this fund will be misappropriated? We should have some evidence of that fact, before in a crisis like this we undertake on mere suspicion to withhold bread from the mouths of the starving people of any portion of our country. They must get it in this way or not at all.

The gentleman from New York [Mr. CHANLER] opposes the resolution because he says it does not provide a sufficient amount to relieve the distresses which he knows exist. If, then, the necessities of the South are so great that for the purpose of preserving its population from starvation more than \$1,000,000 is needed, in Heaven's name why should we withhold this pittance? The true remedy lies in the opposite direction. If it be discovered that more is required let us vote for appropriating more money for the same purpose.

Mr. Chairman, if this Congress shall refuse to make this appropriation, I do not want to see introduced into this House any more resolutions in behalf of the suffering population of other countries. I do not want to see introduced here by the gentleman from New York [Mr. WOOD] resolutions of sympathy for the people of Ireland, as he did the other day, when he is not willing to cast his vote to appropriate a fund intended to rescue a portion of his own countrymen from the most horrible of deaths. I, for one, am willing to vote this appropriation and run the risk of its finding the objects for whom it is designed.



Mr. WOOD. I would like to ask the gentleman a question. While he is referring to the practice of England in reference to appropriating money to relieve the oppressed of Ireland, does he see any analogy between that case and this, inasmuch as we have oppressed and are oppressing the people of the South, and now propose to distribute alms to them as a satisfaction or reparation?

Mr. BOYER. Mr. Chairman, I do see an analogy, an analogy in both ways. We have oppressed the people of the South as England has oppressed the people of Ireland, and we are asked now to contribute a portion of our abundance to the relief of their necessities just as England contributed from her abundance to the relief of the necessities of the Irish people whom by her legislation she had oppressed.

Mr. WOOD. As compensation for political persecution.

Mr. BOYER. Not as compensation for political persecution. But I should be glad, indeed, if the majority in this Congress were to show a disposition to offer it even as a compensation for political persecution; I should be glad to see them begin here to make compensation. It may be when they get used to this form of humanity they will extend it a little further. It may be when they get used to this their sympathies may go forth, not only to the relief of the material necessities of the southern people, but to relieve their political necessities also. It may be when they get used to relieving them from starvation they may extend a helping hand toward them to relieve them of the military despotism which has just been fastened upon their necks.

But because the majority of this House will not go the whole length this day, it is no reason why I should refuse my support to a measure which in some degree does give relief to the suffering people of the South. I did not expect, at least from this side of the House, any opposition to this proposition. I regarded it as a practical test to ascertain to what extent the proscriptive legislation to which this House had become accustomed had produced a sort of ossification of the heart on the part of the majority. I thought it was a good measure to expose the inner lining of their right and left ventricles. But I am sorry to say that some gentlemen on this side of the House, with whom it has been my custom and pleasure to act on general matters of legislation, should take a different view of the subject, and by their opposition afford some sort of excuse to the other side for withholding in this instance the exercise of their humanity.

Mr. Chairman, the time I trust will come at some future day when the people of this country, of all sections, shall again dwell together in peace and harmony. The time I hope will come, if not in this generation at least in the next, when the foundations of our Government will again rest, as of old, in the affections and confidence of the whole people. That is the wisest legislation which hastens the consummation of this end so devoutly to be wished. That is the noblest as well as the wisest legislation which exhibits this great Government as a beneficent agent, clothed with mercy and magnanimity as well as with resistless power, able to enforce the authority of its laws against all opposers, but willing also to forgive, to protect, and to save.

The passage of this measure will remedy the partial and halting charity which has thus far characterized the operation of the Freedmen's Bureau. Its lawful authority does not at present extend so far as to enable it to minister to the necessities of any others than negroes, and those white men who come under the designation of southern "refugees." Congress has put millions of dollars into the hands of the Freedmen's Bureau, but prohibited its distribution for the relief of any other than these favored classes. This resolution is intended to put \$1,000,000 into the hands of the officers of that bureau, to be distributed to starving men, women, and children, who

are neither negroes nor refugees. Since we have the Freedmen's Bureau, let us at least ingraft upon it this feature of universal instead of restricted humanity. On the other side of the House I do trust there may be exhibited a feeling which will be some sort of answer, as far as it goes, to the imputation cast upon them, I think with some reason, that their humanity has become sectional and political. I trust gentlemen on the other side, in their enthusiastic desire to make treason odious will not include in the category of their penalties the starvation of any portion of the people of this country, whether they were formerly engaged in the rebellion or not. I trust that sort of ossification of the heart to which I have alluded may not have proceeded so far that there is left in their breasts no chord which will vibrate to any other touch than that of the negro and the office-holder.

Now, since we have thrown around our national flag the terrors of power and authority, and in the exercise of these attributes have harrowed the southern land and spread desolation throughout its borders, and brought starvation to the doors of its inhabitants, it is fit and decorous as well as safe to surround our national emblem with the halo of humanity, and take again within the shelter of its glorious folds our countrymen of all sections, parties, and complexions.

Mr. CHANLER. I rise simply to reply to a personal allusion. I watched with care the remarks of the gentleman from Pennsylvania, [Mr. BOYER.] He has misrepresented my motives. He has used a term which I think expresses exactly what is the matter with himself. He has got ossification of the brain. If his mental faculties had been as enlarged as his heart he would have not found reason to have made the misstatement of my argument in order to adorn his own elegant speech.

Mr. BOYER. Will the gentleman allow me a word?

Mr. CHANLER. Yes, sir.

Mr. BOYER. I desire simply to say that my friend will never be open to the imputation of ossification of the brain; in his case it will be softening, not ossification. [Laughter.]

Mr. CHANLER. Thank you, sir. In that case the gentleman will never find that the intelligence which I have will induce me to misrepresent a friend.

Mr. BOYER. I desire to say to my friend that if I have misrepresented him, it was certainly unintentional, and I ask his pardon. I trust I may hereafter better understand him. I shall certainly always be willing when I do misunderstand and misrepresent him to make every apology and every honorable amend.

Mr. CHANLER. The gentleman is very apologetic. We all understand this sort of thing. We have to make flourishes and points. I understand the gentleman's benevolence now more thoroughly than I did before. All I have to say in regard to this matter is, that if my friend has not examined and understood the channel through which the money appropriated by this resolution has to pass, and does not interest himself as to how it is going to be spent, I believe I do understand it. This money is to be placed in the hands of a certain bureau, which was established during the war for a specific purpose, and which, notwithstanding all the ornamentation which the gentleman has thrown about it and all the terms which have been put into the bills which originated and continued the Freedmen's Bureau, has been exclusively intended for the benefit of the black race at the South. And I spoke in behalf of that race when I said that so far as the motive of this resolution went, as it appeared upon its face, if it was good I was for it. But, sir, I could not see how the millions of black men in the South were to be benefited by so limited an appropriation as this; and basing my argument upon the niggardness of the appropriation, I concluded it was merely meant to keep up the machinery of that bureau. That was my argument. I never as-

sailed the good that might be done by the distribution of money among the poor and suffering. I only took the ground that because the appropriation was so limited they did not intend to do much, if any good, except so far as was consistent with the object of the organization and maintenance of that bureau. The gentleman has not advanced one argument to prove what I said to be unreasonable, but has assailed my motives. He is welcome to what he has made of it.

Mr. BOYER. I simply desire to reiterate that I had no intention of assailing any motive of the gentleman from New York.

Mr. BUTLER. Mr. Chairman, I desire, with the leave of the committee, to offer a substitute for the resolution. I move to strike out all after the enacting clause and insert in lieu thereof the following:

That the sum of \$1,000,000 be appropriated, to be expended under the direction of the Secretary of War, in relieving the widows and children of Union soldiers starved to death in the rebel prisons of Andersonville, Salisbury, Libby, Millen, and Belle Isle.

I do not, sir, object to the resolution before the committee, nor do I in offering this substitute mean to foster in the slightest degree the idea that the money proposed to be appropriated by the original resolution will be improperly expended. On the contrary, I have great confidence in the gentleman who is at the head of that institution commonly called the Freedmen's Bureau.

I beg leave to call the attention of the committee to the fact that it is the Bureau of Abandoned Lands, Refugees, and Freedmen, so that it covers in its wise and beneficent provisions every loyal and true element in the southern States, and there is no occasion to go further except as a matter of charity, and I have been taught to be just before I am generous. Sir, this resolution calls to mind the starved and emaciated form of my fellow-soldiers, as they passed through my hands while commissioner of exchange of prisoners as they returned from these deadly prisons, and I have thereby again been brought face to face with their widows and children, and until the country is able to make sufficient provision for them I am not in favor of putting my hand into the pocket of the already overtaxed North to be generous to the untaxed South.

Sir, I do not believe in the principle of this bill for another reason: while I listened to the very able report, which I wish the committee to understand was not volunteered by General Howard, but was drawn out by a resolution of the Senate, that there may be some sixty thousand whites and blacks in the whole South that need relief, yet I do not see how it is that we are called upon in this form of relief to step forward and from the Treasury of the United States make such an appropriation.

Let me call the attention of gentlemen upon the other side of the House to this fact: if they vote for this bill, what becomes of this vaunted doctrine of State rights? Suppose this war had not occurred, do you believe that upon any case of starvation, either at the South or in the North, it would have been believed by the strict constructionists of the Constitution that Congress had the constitutional power to make an appropriation for such purpose as this?

But, sir, I do not for myself take this ground. I am not one of those who now believe that this Government would be powerless if it were expedient and just to aid these men; but I object to the mode in which the money is proposed to be raised for this object. If you will pardon me a single personal allusion, in reference to what fell from the lips of my friend from Indiana, before me, [Mr. WILLIAMS,] in my absence from the House, and what I would not have dared to have obtruded on the committee but for that allusion, I will say that I have had some experience in a like case, for from the 15th June to the 15th December, 1862, I fed in the department of the Gulf thirty-four thousand and odd women and children, who would otherwise have starved, and whose husbands and fathers, many of them,



were in the confederate army; but I did not tax the loyal North to obtain that relief. Under the war power I taxed the rich of the South to support the poor of the South. And I will go as far as he who goes farthest in that direction now to aid the same poor by any constitutional legislation.

The destitution of the South, as a whole, is much exaggerated. Let us remember that in the palmiest days of the South their cotton crop of two million bales sold for but ten cents a pound, and that there were in the South at the collapse of the rebellion two million bales of cotton that sold for from fifty to seventy-five cents a pound; perhaps sixty cents would be an average equivalent to six crops of the olden time, or nearly five hundred million dollars. If that were fairly distributed in the South, there would be no need to call upon us of the North to aid in the support of the southern people. It is because such firms as Frazier, Trenholm & Co. accumulated the resources of the South during the war; because the whole property of the South is aggregated in a few hands; because the President of the United States, acting as he believed rightly we must conclude, until it is judicially examined in another bar, gives back the property captured by the forces of the United States, to whom? To the poor men of the South? Oh, no; but to the men of wealth, the owners of the land, that the text has almost been verified which says, "To him who hath shall be given; and to him who hath not, shall be taken away even that which he hath."

Now, after we have been told by the Executive that Congress is making appropriations so extravagant that he believes it will lead to repudiation of our national obligations, I trust we will pause before we make further appropriations for such purposes, and say at least we will first make those which will do justice to the widows and orphans of those who fought our battles.

And, then, we will take such property as comes to us from the war to repair the ravages of the war, both North and South. I for one ask no confiscation of any property that shall go into the pockets of the North. Thank God, our industry, our enterprise, our means of recuperation are such that we need none of it. But I do ask that there shall be legislation which will distribute the property, whether real or personal property, among those of the South whose labor has earned it, and who are now starving because they are deprived of the results of their labors. For such legislation, for the benefit of the masses of the South, I shall ever be ready to give my voice and my vote.

The property in the South, which belongs to us by the right of capture, every dollar of it, and which is ours and at our disposal by every principle ever yet enunciated from any judicial tribunal competent to cope with the subject—concerning that property I desire to see legislation which shall equalize the burdens of the war, now so grievous to be borne by the southern people. Besides, before I am called upon to be generous to the southern people, I desire to see an end of a kind of legislation which is common in the South, such legislation as in Mississippi, appropriating \$20,000—and for what? To feed her starving poor? No, but to defend Jefferson Davis, who is luxuriating in Fortress Monroe, on a trial which will never take place.

Mr. BOYER. Will the gentleman from Massachusetts [Mr. BUTLER] allow me to ask a question?

Mr. BUTLER. Certainly.

Mr. BOYER. I would ask the gentleman whether, if such an appropriation was made by the legislative body to which he refers, that is any reason why the children of those who had nothing to do with that legislation should be left to starve? Ought those who had nothing to do with that legislation to be held accountable for it?

Mr. BUTLER. I can answer that question I think as it should be answered, in the light

of the proprieties of governmental action. Governments must always deal with communities, not with individuals; Governments must always deal with the organized action of communities, not with the acts of individuals. The individual must partake of the character and suffer the fate of the community in which he resides. And if the men of the South make such legislation as I have specified through their organized government, it must be taken as the index by which our action toward them is to be guided.

Mr. BOYER. Let me ask one other question in this connection. Ought the people of Georgia to be left to starve because of objectionable legislation by the people of Mississippi?

Mr. BUTLER. By no means. And if the acts to which I refer had been singular as committed by the people of Mississippi alone, perhaps I might be content with striking the State of Mississippi from the benefits of this appropriation and stop there. But did not the gentleman see the statement but the other day that the ladies of Texas had sold a large quantity of confederate uniforms which they had made up for confederate soldiers while the rebel armies were yet in the field? And what did they do with the proceeds of that sale? Did they appropriate them for the benefit of the starving poor in Texas, of whom the Commissioner of the Freedmen's Bureau reports to us there are thousands? Not at all. They sent the moneys arising from that sale as an endowment to the college in Virginia over which the rebel General Robert E. Lee presides, in order, I suppose, that the youth of the South might be taught in the same manner as heretofore their duties of loyalty to their country, their obligations to their fellow-men, and the binding effects of their sworn oaths, which their teacher for himself had violated.

"Straws show which way the wind blows."

Let me ask the gentleman from Pennsylvania [Mr. BOYER] to notice another straw which shows the current of southern feeling. But a day or two since we saw an account of two gamecocks being sent as a present to Robert E. Lee from the soldiers of the army of northern Virginia. Would it not have been better to have boiled them to feed some of those starving children of their comrades that the gentleman is so anxious about? [Laughter.] I insist that we must take these things as *indicia* of the temper of the people of the South, and so govern ourselves in our legislation. Let them learn that so long as there is such action on the part of their public bodies, so long as they follow the lead of the men who have led them to destruction, destruction can be the only result. Let them learn that in the reconstruction which I trust is soon to be accomplished in a loyal manner they must repudiate their old leaders, and by a course of legislation which shall tend to make a division of the lands among all the people, give to every man the means of at least fulfilling the primeval curse "by the sweat of thy brow shalt thou eat thy bread," thus affording the needed relief to a suffering people.

I regret as much as the gentleman from Pennsylvania or any other the state of destitution which is represented as existing in the South; and I feel that I have a right to say that when I had the power I did all that in me lay to relieve such destitution, for which I have received thus far no other reward than a delightful shower of obloquy. When the question is presented to me, sir, how much I will give as a private citizen toward relieving distress in the South, I trust that my subscription will not fall behind that which my friend from Pennsylvania, in the goodness of his heart, may contribute in accordance with our respective means.

But, sir, I am now speaking as a legislator. I say that in these Halls of legislation we have no right to pass over the starving widows and children of our soldiers, for whom we have yet made no sufficient provision as a nation, and for the care of whom every State in the Union,

and the State I have the honor in part to represent more than, or as much as any other, is burdened with taxation; we have no right as legislators to put our hands into the Treasury, supplied by taxation, to meet the claims of generosity before the claims of justice are satisfied. Will any gentleman in the House, in voting upon this substitute, say that generosity prompts him to vote \$1,000,000 to the starving women and children of the South, while justice to the overtaxed North prevents him from relieving the starving widows and children of the noble heroes who gave up their lives for their country at Andersonville, Belle Isle, and Libby?

It is stated in the able report of the Commissioner of the Freedmen's Bureau that sixty thousand starving women and children have reported to him. Why, sir, the thirty thousand and more of Union soldiers starved in those prisons have left on an average more than two dear ones dependent upon them. Therefore I insist again, leaving off where I began, that we should be just before we are generous, and take from the disloyal property-holders of the South the means of repairing the great wrong they have done by misleading their humbler fellow-citizens into a great war and into this subsidiary rebellion after the war is over.

Mr. LOGAN. Mr. Chairman, I do not intend to detain the committee any great length of time in discussing the proposition before us. I have entire confidence, sir, in the integrity, as well as the good intentions in all things, of the noble officer in charge of the Freedmen's Bureau. His generosity and philanthropy is coextensive with all suffering humanity. Any appeal addressed to him on behalf of any class of people who may be represented as suffering is sure to find in his bosom a sympathetic response, and, owing to the generosity of his nature, may sometimes surpass that which would by others not seem just and proper under the circumstances. Now, sir, I ask who is this that demands this unprecedented charity at the hands of Congress? What class of people is it? Is it the poor downtrodden freedmen? Is it the poor white people? or is it the families of the leaders of the rebellion that have caused so much weeping and wailing in our land?

We have no information further than that there are some sixty thousand people who are suffering, or who soon will be in a suffering condition in the rebel States. I would be as willing as anyone to put my hand in my pocket and so far as I am able relieve the sufferings of any unfortunate class of people. But looking at this resolution as I do, I cannot put my hand in the pockets of the tax-payers, many of whom are as poor as those who pretend to ask this Government to be made an alms-house, and assist in appropriating \$1,000,000 as a pension to one-armed and one-legged rebel soldiers or their families of that class. This resolution, sir, is nothing more than a dodge to make pensioners of rebels that can not be provided for in the usual way. You do not put them on the United States pension-rolls, by the side of the wounded soldiers and widows and orphans of those who died in defense of their country; but by another mode you put them on the bounty of the Government. This House but yesterday refused to pass a bill equalizing the bounties of the soldiers that fought on the side of their country in the great struggle for the existence of the Union. Yet without accomplishing that, without simply providing for our own widows and crying orphans that prattle about the return of those they will see no more, we are asked to give \$1,000,000 for the purpose of supplying the wants of somebody, without knowing who it is.

When you talk about dealing out \$1,000,000 of commissary stores to these poor people of the South, we but have to reflect for a moment to see that labor is at a high price in the New England factories; and when we look at the vast domain of the Northwest, and find in many instances the plow has been permitted

to stand in the furrow because labor has been so high, and if any portion of the poor people anywhere or laboring classes toward whom gentlemen desire to be so generous are suffering the road is broad and open to the Northwest, where the poor and laboring classes of all climes and all complexions are invited by our smiling prairies. We need their labor and are ready to pay them for it, we will help them to live until harvest season, we will alleviate their wants and allay their sufferings; but they must apply in the proper manner. They must show a willingness to work and earn their livelihood by the sweat of their face as our own people have always done. Sir, this is not the first time we have been asked to show our generosity to this same people. During the war against traitors and rebels, and while we were fighting the men who sought the life of this nation and the lives of its defenders, we were feeding and supporting their wives and children left behind who were by the fortunes of war cast within our lines. I have seen many times long lines of them at the doors of the commissary department at different posts receiving food, while we were fighting their husbands and friends at the front. They were not then above asking us to feed them, while they despised us and our cause, and I have no doubt the same class are now to be fed under this appropriation. I hear no complaint on the part of the freedmen or from any class who have tried to preserve and protect themselves.

There is a class of people in the South that never did make bread, and never will, who will always be starving, and on the bounty of the Government if we will allow them to become pensioners. If they had used ordinary industry and had energy they would not to-day be in want of assistance to save them from starvation. There is no spot on earth more inviting than those southern fields. They are carpeted in grain, and decorated by the hand of the Almighty with the rarest and most beautiful flowers. It wants but the well-directed energy and industry of its inhabitants to make it as prosperous and abundant as any land the sun shines upon. Yet it is in this land of beauty and richness we are asked to feed the mouths of sixty thousand people, and while we are in hot haste to tax our people to feed them what do we see? In the State of Arkansas a short time ago an appropriation was made providing for the pensioning of soldiers not provided for by Congress, meaning the rebel soldiers, not for the weeping widow and crying orphan of the Union soldier. No, sir; but money they could appropriate for the rebel soldiers, their widows and orphans. So in other rebel States they have appropriated money for colleges and schools of a military character, where treason again can be taught and made respectable. If these States can provide money for such purposes, I ask could they not dole out a few mouthful of bread to the starving people so eloquently appealed for here to-day.

I could cite many other instances where money has been provided by their rebel Legislatures to promote treason and benefit those who have cursed the land by steeping their souls in perjury and their hands in the blood of Union men; but no instance can I find where they have shown a willingness to feed the poor freedman or the poor white man. Sir, let this Congress, as done heretofore, encourage industry, invite these people to come to the great West, where liberty is known and loyalty loved, where energy, industry, and labor is rewarded. If Congress, however, is to be turned into a charitable institution, to support all classes of people who do not try to support themselves, you may then appropriate \$1,000,000 every month, and the more you appropriate the more people will be starving at the end of every month so long as there is a dollar or a man to pay taxes.

Tell me, sir, that this money is not to go into the hands and mouths of these people that attempted to destroy this Government. Buy your \$1,000,000 worth of rations, send them

to the different posts, to the commanders in the different parts of the South, distribute your commissary stores to the various officers throughout that country, how will they be issued? They will be issued upon the statements of parties that they have need of them. Who will make these statements? They will be more likely to be made by the men and women who have attempted to destroy you and me than by those who have revered the flag and loved their country.

I have seen the families of the men with their ten thousand broad acres come and ask for provisions, and I have seen the provisions given. These men have all manner of devices to attain their ends. A very common dodge used to be like this: a lady living on a plantation with her fifty or seventy-five slaves, whose husband was in the rebel army, would send one of her colored servants to make application at the commissary's department for provisions for the whole of the slaves. She controlled their labor and would send them on this errand. The provisions would be ordered to be given, and when they were received they would be divided among the whole family. So it was, and so it will be again. Appropriate this money and the man who owns his broad acres with his hired laborers will resort to the same trick and receive the rations.

Mr. ELDRIDGE. May I make an inquiry of the gentleman?

Mr. LOGAN. Yes, sir.

Mr. ELDRIDGE. I understand him to say that the southern people were in the habit of using their negroes for the purpose of procuring provisions from the officers of the Army by a dodge. I wish to know if that was a very common practice among these negroes, and if so, whether those negroes who practiced this deceit were considered as loyal men at the time.

Mr. LOGAN. They were considered loyal; and I never knew a disloyal negro during the war. [Laughter.] But I will tell the gentleman this, that they have been subject to the will of their masters for such a length of time that they know no better than to obey them.

Mr. ELDRIDGE. I understand the gentleman to say that fifty negroes would obey one woman and cheat the officers of the Army; and do it without knowing what he did, and still be loyal.

Mr. LOGAN. It was cheating the officers of the Army or Government; it was a cheat on the part of the person who directed them to do it. We issued the rations because we believed the statement of the negroes, but afterward we learned the manner in which the provisions were disposed of.

Mr. BOYER. One question. If it had been known that these negroes who thus applied for rations did so for the purpose of saving their mistress and her family from starvation, would the gentleman have considered it proper for the officers to have given the rations?

Mr. LOGAN. So far as I am concerned I should have obeyed orders, no matter what I thought. But the gentleman certainly ought not to be astonished at a dodge of this kind. Those people did that upon the same principle that the northern copperheads dodged the draft. [Laughter and applause in the galleries.]

Mr. BOYER. Mr. Chairman, the gentleman has dodged my question. [Laughter.] He has failed to answer it, but replies evasively that he should have obeyed orders. I would not have supposed a gentleman so opposed to dodging would have set us such an example at this time. [Laughter.]

Mr. LOGAN. Well, so far as my qualifications for dodging are concerned, the gentleman will probably learn more about them at some future time when he gets better acquainted with me. [Laughter.] I have no disposition to dodge anything. I only assert facts; the gentleman can draw his own inferences from them. And I assert that the same thing will occur again; not with the colored people any more than with any other class. But I tell the gentleman now that I hear no appeal coming from

the starving people of Missouri, although that State suffered almost as much as any other on account of war. But because it is a loyal State, because the loyal portion of the people got control and held it firmly in the Union, we are not called upon to appropriate money to feed them.

Mr. BOYER. I ask the gentleman whether Missouri is not included in the provisions of this resolution, whether it is not an appropriation for the South and Southwest?

Mr. LOGAN. I do not understand it as applying to Missouri. I do not understand that there is any report embracing any portion of Missouri in this condition; or claiming that any States are except those which have been in insurrection against the Government.

Mr. BLAINE. Missouri is not embraced within the scope of this resolution at all.

Mr. LOGAN. I say to the gentleman that we do not come here from Missouri or Illinois, or from any of the northern or northwestern States asking alms from this Congress.

Although there are many poor people in the Northwest, we do not understand that we have a right to come to Congress to be fed. We have all suffered during the war and have many people left penniless. There was suffering before the war, and starving people all over the country, and who ever thought of asking Congress to be the dispenser of charities to a class of people who would not help themselves. But an age of treason has taught us strange things; punish nobody, compromise with traitors, and then feed them whenever some one suggests it. All this is done for States that rebelled, but in the loyal States the voice appealing in weeds for help must be provided for in some other way, and our anxiety, our charity, our sympathy turned in a southerly direction.

Oh, ye poor of the North, how unfortunate you were, if you ask alms of the Congress of the United States, that you had not lived in the land of treason! Now, sir, although I entertain so much respect for the Superintendent of the Freedmen's Bureau, yet if you appropriate all the money for all the charitable purposes for which he may be inclined to ask, you may appropriate millions on millions for all classes of poor people South; and may also feed the people of Washington city so long as it remains the capital of the nation. And all this will be done with the best intentions on his and your part. I have no doubt much money is being used to-day by this Government for the support, unwittingly, of families who fostered and nourished the late rebellion. Ay, sir, and families, too, who before this rebellion never wore a garment except at Government expense; who never had a spear of grass to grow in their yards or a flower to spring up in their gardens that was not watered by the drippings of the Treasury of the United States of America.

Sir, you will see by this resolution that those who should be considered the favored children of this land will not be included among the starving people now to be relieved at the hands of Congress; and I appeal to honorable members to say if charities are to be dispensed by Congress. It shall not be dispensed to one portion of the country more than another. Put not your hands into the Treasury of the United States for the purpose of fattening and fostering treason again in the land that gave it birth and where it grew into manhood. The gentleman from Pennsylvania [Mr. BOYER] said he was willing to open his great heart to these suffering people. So am I willing to do so in a proper manner when much deserving. But, sir, whence comes this suffering? It was not by our act, not by the act of the people North; it was not in accordance with our wishes or our desires, but by their own act, their own indiscretion, their own wrong, their own crime against their country. The gentleman from Minnesota [Mr. DONNELLY] says we should do this act to encourage the people and show them our affection for them, or words to that effect. It seems to me that we have shown our forbearance toward these people. We have

offered them everything that they could ask. Proposition after proposition has been tendered them only to be spurned with scorn and contempt. And if you were tendering this money to them to-day through their rebel Legislatures, it would be spurned by them; but in this manner, when all can say I never had any of your charities, I have no doubt it will be very acceptable.

Mr. WASHBURN, of Indiana. Will the gentleman allow me to ask him a question?

Mr. LOGAN. Certainly.

Mr. WASHBURN, of Indiana. I would ask the gentleman if he is in favor of allowing to starve the twenty-four thousand two hundred and thirty-eight colored people, who General Howard says will starve to death unless they are assisted in some way?

Mr. LOGAN. I am not in favor of allowing anybody to starve if I can help it. I do not want any man, or any woman, or any child to starve. But I will say to the gentleman this: that it has not been brought to my knowledge that they are starving more than are other people; nor has it been yet brought to my knowledge that these people are in such a condition that they could not relieve themselves by proper industry and exertion on their part. Nor has it been brought to my knowledge that the wealthy people in these States are not able to put their hands into their own pockets and give this charity for the purpose of saving the lives of these people, just as well as the wealthy people of the North can do it. In my own State, when we have destitute people, we put our hands in our own pockets and provide for them; we do not ask Congress to do it. When the gentleman says that this is for the benefit of colored persons, that statement is not correct. The present appropriation, if confined to the classes who come under the Freedmen's Bureau is, sufficient. General Howard tells us in his report that sufficient appropriation has already been made to be expended under his direction to supply the class embraced, and if that be true, it is his duty to provide for these twenty or thirty odd thousand starving colored people at the South; and he says that he has money enough to do this, \$1,500,000 having been appropriated for the purpose. What is the propriety of appropriating another million when General Howard says that he has abundant means if it be confined to his Department?

I am told by a gentleman from Massachusetts [Mr. BALDWIN] that General Howard stated to him this morning that this appropriation, while it might be useful, had not been asked by him; but that he had reported it as he was directed to do. Now, I am opposed to this House being directed by anybody to do anything in reference to any of the people of this country that is not appropriate to be done. Sir, in this free land there should be no paupers of this kind, and the millions of dollars of property given up to rebels by assent of this Government was a charity improperly bestowed, and we should be sure of what we do in this instance. There is no State, either loyal or disloyal, that is not able by a light tax on themselves to support their own poor; and so long as this is the case I for one am not willing to bow our people down with such burdens, when reason and justice are against it, although such appeals can be made in favor of suffering, many times upon a supposed state of facts that does not exist. Sir, this is all I desire to say.

Mr. BINGHAM. Mr. Chairman, I had hoped that this joint resolution would not have met with any opposition in this House, and especially upon the Republican side of it; and, above all things, I had hoped that after the record made by the Thirty-Ninth Congress no Republican would undertake to say in this Hall that it is not warranted by the Constitution to provide for the relief of the poor of any part of this country by an appropriation out of our common Treasury.

Why, sir, at the first session of the last Congress a bill was introduced upon the Repub-

lican side of the House, which I had the honor, in part, to aid in passing, which appropriated out of the common Treasury of the United States for the support of refugees and freedmen in the several States lately in insurrection not less than \$7,000,000. And yet, sir, we are to be told to-day that that legislation is not warranted by the Constitution! I trust that those gentlemen who recorded their votes by yeas and nays in favor of the appropriation for this purpose by the Thirty-Ninth Congress will not take a step backward, and concede that the gentleman from Massachusetts [Mr. BUTLER] is right in the position which he has assumed.

Mr. BUTLER. Mr. Chairman, I must have made myself illy understood; what I said was, that gentlemen on the other side, the strict constructionists of the Constitution, would have said in the earlier days—before the war—that it was unconstitutional to make any such appropriation; but that for myself I had got far beyond that idea. I think we have a right not only to appropriate money to feed these people, but to appropriate money to govern them; to make them do exactly what we say they shall do, and omit to do exactly what we say they shall not do. They are entirely in our hands, and, so far as I am concerned, I have no doubt about the power.

Mr. BINGHAM. I am very glad to know that the gentleman does not object to the power to make this appropriation, and yet he certainly objects to the object of the joint resolution, and undertakes to cut it off by a substitute limiting our charity to the widows and orphans of those who suffered in the Libby prison, at Andersonville, and Belle Isle.

Mr. ELDRIDGE. I desire to know whether the gentleman from Ohio concedes to the General Government the power affirmed by the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BINGHAM. It is too late, Mr. Chairman, for the gentleman to address to me an inquiry of that sort. I have too often during the session just closed and before, declared in my place here that the States lately in insurrection are as exclusively under the legislative power of the United States Government, until they shall be again restored to their constitutional relations with the consent of Congress, as is the District of Columbia, to admit of doubt about my position on that question. But that is aside from the present discussion.

The gentleman from Massachusetts admits that he has no constitutional objections to urge against this bill; yet he objects to it, and offers here a substitute which is to exclude from the charitable consideration of this Congress everybody save those who are already provided for by your existing laws in twofold, threefold, fourfold, fivefold the measure of relief proposed by this bill. Sir, for one I trust that so long as reason holds a place in my brain I shall never forget that education and charity are at last the cheap defense of nations.

It is enough for me to know that within the jurisdiction of the common Government of this country there are men, women, and children who are suffering from famine, lifting up their haggard faces, stretching forth their skinny fingers, and asking for leave to eat of the crumbs that fall from your well-supplied tables. "Tell it not in Gath; publish it not in the streets of Askelon," that the American Congress, having the control of such resources as never before acknowledged the sway of any other Government, will permit sixty thousand of their countrymen to perish for bread within the limits of their own jurisdiction. Especially let not the Fortieth Congress be false to the record of the Thirty-Ninth Congress, and interpose to a proposition of this kind any such quibbling objections as have this day been insisted upon.

If the widows and orphans of those who perished at Andersonville and Libby are not already sufficiently provided for by existing legislation I am ready to vote out of the national Treasury additional supplies. But, sir, by no pretense of aiding them am I going to

be diverted from contributing, so far as I may be able, to carry into execution this bill, which has come to us from the Senate, where it has been passed by an almost unanimous vote of our own friends.

Mr. FARNSWORTH. I desire to ask the gentleman, with his permission, whether he does not believe that if an investigation should be made there would be found throughout the northern States sixty thousand persons who have not in their possession bread for the next year, and who have no prospect of having it unless they earn it; and if so, would there not be just as much propriety in our voting money to supply them with bread as making an appropriation to supply sixty thousand southern people?

Mr. BINGHAM. If I understand the gentleman, he is inquiring of me whether he voted in accordance with his oath and the requirements of the Constitution during the first session of the Thirty-Ninth Congress, when he voted to appropriate \$7,000,000 for that very purpose.

Mr. FARNSWORTH. I did not ask the gentleman anything about our constitutional right to vote money in this way—

Mr. BINGHAM. Well, sir, I understand the gentleman to ask me about our power to make such an appropriation; and I say that it is too late for any Republican member of the Thirty-Ninth Congress to raise that question. In the Thirty-Ninth Congress we did this very thing; and I propose to follow that example in the Fortieth Congress.

Mr. FARNSWORTH. The gentleman does not meet my question. I did not raise any constitutional question at all. I simply asked for light in regard to the propriety of Congress voting money for this purpose.

Mr. BINGHAM. Well, sir, if there is no constitutional objection, I think no man living in the nineteenth century, in the serene light of Christian revelation, can question the propriety of feeding the poor, or can stop to haggle and inquire whether the man famishing at his door has been his friend or his enemy.

He will not forget the divine teaching of our Master, whose intense holiness shed majesty over the manger and the straw; who by His own lips commands us to love our enemies, and by the tongue of his Apostle enjoins: "If thine enemy hunger, feed him; if he thirst, give him drink."

I trust gentlemen will make no more question about the propriety of this measure. It is not a question of propriety, but of duty. It is enough for me to say that the Christian warrior, Major General Howard, the Havelock of the American Army—the man who won his laurels upon the immortal field of Gettysburg, upon whose rocky crest the sacrifice was made of twenty thousand braves who perished in the fires of that dread conflict in defence of our country—is to distribute these alms which he asks at our hands. It is enough, sir, for me to know that he recommends it and is to be the almoner of our bounty. No dollar of this money will cling to his hands. Allow General Howard to have the disposition of this \$1,000,000, as of the \$7,000,000 appropriated by the last Congress, and when he finds men suffering for bread he will feed them. Who will object to that?

Mr. FARNSWORTH rose.

Mr. BINGHAM. The gentleman must excuse me.

Mr. FARNSWORTH. I desire to say I will strike hands with the gentleman in the grace of Christian charity, although I cannot follow him as high as he goes in flights of fancy. What I desire is an answer to my question. Should an investigation be made throughout the North, would not more than sixty thousand persons be found who have not bread enough in their possession for the next year, and who have no prospect of obtaining it except they raise it? If so, then is it not our duty to hunt out in New York, in Cincinnati, in Chicago, and various other cities the poor people there and feed them?



Mr. BINGHAM. Mr. Chairman, I do not believe that the organized represented States of this Union contain sixty thousand men or any considerable number of persons for whom there is no provision for bread. I do believe, on the other hand, in every one of those States not materially disturbed by the late conflict of arms, there are ample provisions made by existing law for the support of their poor. I know it is so in my own State, and I say there is not sixty thousand, nor sixty, nor even ten men within the limits of that great Commonwealth which I have the honor in part to represent, for whom there does not exist to-day an ample fund provided by law to supply their necessary wants. I trust the gentleman is answered.

But, sir, this appropriation is meant for the people in the yet unorganized southern States, who are not yet permitted by our own law to organize local State governments. We have rightfully declared that the people of those States shall not exercise those privileges and functions until certain preliminary steps shall have been taken. Pending this movement, we are reinforced by the head of the Bureau of Freedmen, Major General Howard, that there are sixty thousand persons in those States who, not by want of industry or care or providence, but by reason of their crops having perished in the field by the visitation of Heaven, must suffer for bread before the spring crops can be produced, and therefore he asks this appropriation. The distinguished gentleman from Massachusetts, [Mr. BUTLER,] who rendered good service in the field, asks us to apply in time of peace to the people of the southern country the iron rule of war. Sir, I cannot consent to that. No war rocks the continent, no armed rebellion threatens with overthrow the institutions of the country. The pillars of the holy temple of our liberties do not tremble in the storm of battle; the whole heavens are no longer covered with blackness, and the habitations of the people are no longer filled with lamentation and sorrow for their beautiful slain upon the high places of the land! Thanks be to God! the harvest of death is ended and the sickle has dropped from the hands of the "pale reapers" on the field of mortal combat.

Sir, you may apply in the day of war the iron rule of war, and say that the innocent and unoffending in the beleaguered city shall perish with the guilty; but when war's dread alarm has ended, as happily it has with us, when the broken battalions of rebellion have surrendered to the victorious legions of the Republic, let no man stand within the forum of the people and utter the horrid blasphemy that you shall not have regard for the famishing poor, that you shall not give a cup of water to him that is ready to perish in the name of our Master, that you shall not even relieve the wants of those who have never offended against the laws. The unoffending little children are not enemies of your country or of mine; the crime of treason is not upon their souls. Surely, surely they are not to be denied your care. The great French patriot, banished from the empire for his love of liberty, gathered little children around him in his exile at Guernsey, and fed them from his own table, uttering the judgment of our common humanity in its best estate: "Little children at least are innocent, for God wills it so."

The majority of those who are to be the beneficiaries of your bounty never lifted their hands against your flag; they are unoffending children, the children of the poor.

The men who own the broad acres of the South are not the men to whom alms are to be distributed by General Howard. The great majority to whom this bounty will go are the children of poverty. Some of them perchance may have been driven by a cruel and enforced conscription to serve the rebellion; but the great majority of those to whom this charity will go, if you pass the bill, are widows and orphan children. Under no pretense of assisting the orphan and widow of those who suffered and died in the prisons of Libby and

Andersonville, as martyrs only can suffer and die, will I refuse my support to this resolution of the Senate. The sacred dust of those perished braves would rebuke me if I did. Our lost braves know that mercy is an attribute of God himself.

Mr. Chairman, if their widows and children are not already sufficiently provided for, in God's name provide for them abundantly. I am ready to vote any additional needed relief to them. I have voted hitherto, I know, tenfold the supplies to them that are proposed in this resolution. If gentlemen will take the pains to make the computation, it will be found that this joint resolution provides only to the amount of a fraction over eighteen dollars *per capita* to save sixty thousand people from destitution during the space of five months. That is the head and front of its offending. Do not, then, I pray you, ask that this Government shall degrade itself in the presence of the civilized world by refusing supplies to its own citizens who are famishing for bread, and stop to inquire of the starving thousands whether they were friends or enemies. Sir, you cannot discriminate, if you would, between friends and enemies when famishing men ask for bread.

We might learn a lesson upon this subject by words that come down to us through three thousand years from Pagan antiquity, when famine swept over Thrace, and a father in his dying agony, appealing to that charity which is the divinest of all the virtues, and which is as universal as the material structure of man, cried out, "Xanthus, good Xanthus, save my child from famine."

Mr. RANDALL. Mr. Chairman, before proceeding with the remarks that I have to make upon this question, I desire to pay my humble homage to that eloquent speech, and the beautiful spirit with which it was made, that has just fallen from my distinguished friend from Ohio, [Mr. BINGHAM.]

It is not my purpose in considering this subject to do so in any political or partisan view. I have I think a higher and a purer motive. The information comes to me through truthful and reliable sources that my fellow-beings in the South are now suffering for the want of food, and my motive in voting and in advocating this appropriation is to relieve them. I do not mean to be led astray from that purpose by the technicalities of the gentleman from New York, [Mr. WOOD,] for whom I entertain great respect, nor do I mean to be driven to support this measure by the blood-thirsty acrimony of some gentlemen who have spoken this morning.

The debate has taken a wide and a curious range, but the greatest curiosity of all is exhibited by the distinguished gentleman from Massachusetts, [Mr. BUTLER,] who rises in his place and makes an appeal to the handful of gentlemen on this side of the House to cast our votes against this appropriation, because it is in opposition to the time-honored principles of the party we represent. For myself I spew his appeal from my mouth, and if I were allowed to answer for those around me in whom he seeks to enkindle those favorite principles, I would say *et tu, Brute*. [Laughter.]

Now, Mr. Chairman, here are people suffering and starving for want of food. Why should we not extend to them help? I know no more humane motive, nor one which springs from a nobler breast, than to extend help according to our ability to save from starvation people who are unable to procure food for themselves. This we, as the Representatives of the people, are able to do, and we shall be justified in doing it on the score of economy.

Sir, as regards the condition of the Treasury I have during four long years watched the extravagance of two Congresses, and I have in my humble way endeavored to resist many extravagant appropriations. But here we have a Treasury overflowing with \$150,000,000, and we have a proposition before us to appropriate \$1,000,000 for a starving people. Sir, while my constituents have always encouraged me in resisting the extravagance of Congress, I

shall not be ashamed to look them in the face and say that in voting this appropriation I did it from the impulses of humanity, and I venture that with one voice they will say to me, "Well done, good and faithful servant."

Mr. COVODE. Mr. Chairman, I approve of the substitute of the gentleman from Massachusetts, [Mr. BUTLER,] and in making the few remarks that I intend to make on this subject I may possibly be betrayed into saying something that may be considered as personal. I approve of it because I know that there are thousands of suffering widows and orphan children in the North whose husbands and parents have died by starvation in the rebel prisons of the South. Mr. Chairman, I think that I myself have suffered as much from the starvation of our soldiers as any member of this House or any man in the country. At the beginning of the war a company was raised in my immediate neighborhood called the "Covode cavalry;" they were commanded by one of my sons. Of that company alone twenty-four were starved to death at Andersonville. Sir, I cannot look out of my house to-day without seeing the widows and orphans of those who thus suffered in rebel prisons at the South. Of a regiment commanded by another son of mine one hundred and sixty-six were captured when our Army fell back, under General Meade, to Centerville, one hundred and forty-two of whom were starved to death at Andersonville. My son was among the number there captured. Have we no sympathy for the widows and orphans of these men? My youngest son suffered, as it were, the torments of the damned for twenty months in Andersonville, and my eldest fell at the head of his regiment near Richmond, leaving a family whom I have to aid every day. I do not ask the Government to come to my relief, but I do protest against being taxed to feed the families of those in the South who were engaged in carrying on this rebellion.

More than this, sir, I know that it is not the poor who will get this bounty, but the impudent. I have had some experience in the South, not only during the war, but after its close, and I have seen poor Union men, who came up for relief have to stand back and allow impudent rebels to come up and demand of the commissary their rations. I have seen that over and over again. It is not the poor, but the impudent who avail themselves of the bounty of the Government. I am therefore opposed to this appropriation unless an equal amount shall be appropriated to relieve the sufferings of those whose husbands and fathers and brothers were starved to death in rebel prisons.

Mr. MUNGEN. Mr. Chairman, I have but a word to say. I cannot vote for the substitute offered by the gentleman from Massachusetts, [Mr. BUTLER,] I have heard but one side of the question; I want to show the other. As I understand this matter, many of the persons who are to be benefited by this measure, if it should pass, live in the mountain regions of Alabama and Georgia. I know from private letters, as well as from public report of their sufferings. I know that they divided their last corn-cake with our soldiers who escaped from rebel prisons, going homeward to the North. I cannot deny charity to those people. While I have no sympathy with the rebel leaders, I have with the orphans of those who were led by them into rebellion, and I can take them by the hand, even though they be the children of soldiers who fell fighting my own regiment. It is strange that gentlemen who voted for the Freedmen's Bureau bill should talk now about precedents and principles where the distinction is so plain. When the bill passed yesterday appropriating a large amount for the benefit of the destitute negroes of this District, why did not the gentleman from Massachusetts object and bring in his substitute? Sir, when the Indians are upon the war-path, and they capture prisoners, they bring them home and turn them over to their squaws for torture. Now, there are divers ways of showing loyalty; but it seems



to me that the starvation of women and children is a very poor way of showing it. That is all I have to say.

Mr. DONNELLY. This bill is based upon the declaration contained in it, that there is actual starvation existing in the South. It is upon that ground that I shall vote for it, and upon that ground that I shall oppose the amendment offered as a substitute for it.

Let me say here, that by the terms of the Senate resolution the benefits to be derived from it are not confined to the rebel States, but extend to the southern and southwestern States, in which, in the language of the resolution, "starvation or extreme want" exists. This is not, therefore, a measure for the benefit of the rebel States alone. We know that throughout that whole country there has been a desolating war, that their houses, their farms, their implements of labor, their supplies of food, of seed-corn, of domestic animals have been to a great extent destroyed; and we know more than that, that in many parts of the country they have suffered from a failure of the crops. We have evidence sufficient before us in the communication of General Howard which has been alluded to here, that "extreme destitution and starvation" do exist there. It is not for us to ask by what means they have reached that condition; whether they have exercised proper industry and due diligence to prevent the condition of things now upon them. It is sufficient for us to know that within the limits of our country, under the flag of the United States, human beings, our fellow-citizens, are suffering from the pangs of starvation, are in imminent danger of that most terrible of all deaths, to silence at once all the clamor of political hatred. In the presence of death the acrimony of politics should disappear; nothing should be heard but the voice of humanity.

I have somewhere read of a gallant Swede of the army of Charles XII, who, at the close of one of the great battles fought under that sovereign, sought to assist a wounded and dying enemy, giving him water to drink from his own canteen. In the very moment that he was thus aiding him the dying man, still full of the rage of the battle-field, attempted to take the life of his benefactor. The gallant soldier nevertheless stayed his hand, and aided with others to bear him to a place of safety. When the king heard of the noble act he sent for the soldier and rewarded his humanity by promotion. He asked him, however, how it came that he did not strike an enemy who thus sought to take his life even while he was relieving him. "Sire," he replied, "my heart would not permit me to strike a prostrate and helpless man."

So I say now, in the presence of this suffering and this death, I have not the heart to remember anything save only that these people are human, and "being human, pitiable."

I am sorry to hear these appeals made to the natural prejudices and natural bitterness which exist in our hearts. I am sorry to hear these references made to Andersonville and Libby prisons. Let us recollect that if we, the Representatives of the American people, after having been brought face to face by official proof with the knowledge of this starvation in our land, now withhold the hand of relief, then in the eyes of the civilized world we will have placed ourselves upon a level with the very rebels who starved our gallant men to death.

Neither should the cry of economy be raised here. I have shown in my former remarks upon this bill that what we are asked to give is but a pittance from each individual in this land; a pittance which no man would miss; a pittance which no liberal-hearted man would refuse.

The chronicles of England preserve the memory of an Anglo-Saxon bishop who in a time of famine took the gold and silver ornaments from the altars of his churches and the decorations from their walls and sold them to purchase food for the starving multitudes; and when one, who looked rather to the letter than

the spirit of religion, would have rebuked him for his act, his noble answer, which will live through all time, was given: "That it was better that the living temples of the Lord should be fed, even though the dead temples of the Lord should go empty."

This war is at an end. The bitterness and acrimony that accompanied it should die with it. We must base this Government of ours upon the love of the people. We cannot permit the now empty seats upon the other side of this Chamber to be filled by a race of men who will be the hereditary enemies of the land they assist in governing. This Government, as it must rest upon the free will of the people, must rest also upon the love of the people. And I say to you that no more potent agency can be found to that end than the passage of such a measure as this. There is no man in the South who will receive for his starving family the aid provided by this joint resolution, however ignorant, however degraded he may be, but will understand that that help comes to him from the North which he has been taught to hate; from the Yankee Congress, which he has been taught to regard as his malignant enemy. I say to you that it will be more potent than reams of arguments and tomes of speeches. It will reach the hearts of that people, and must produce good fruit for the benefit of the whole land.

The day will come so surely as God reigns when the southern people will understand that every step which has been taken by the North has been for their benefit. The day will come when the industry of the South reviving, with prosperity existing throughout its whole length and breadth, under equitable and just laws, the free southern people will rise up and call blessed the men they are now taught to hate.

Mr. UPSON. I would ask the gentleman where he finds the evidence of the starvation of which he has spoken?

Mr. DONNELLY. I find the declaration in the letter of General Howard, an officer in whom we all have the highest confidence.

Mr. UPSON. I have read that letter, and I cannot find the evidence there.

Mr. DONNELLY. General Howard says in his letter that a total of fifty-six thousand nine hundred persons, white and black, "will need food from some source before the next crop can relieve them." And, furthermore, he stated to the committee of the Senate that there were large numbers of persons in actual want and in imminent danger of starvation.

It is feared by some that this appropriation may be misapplied. But, sir, I for one have confidence in the officer in whose hands this appropriation will be placed. I believe that, under his direction, it will be applied only to the purposes recited in the bill—to meet cases of "starvation and extreme want."

Mr. CHANLER. I desire to say to the gentleman that the amount proposed to be appropriated by this bill falls short by \$500,000 of the sum stated in General Howard's report to be necessary to feed those starving people.

Mr. DONNELLY. Then I would suggest to the gentleman from New York to move at the proper time such an amendment as will supply the deficiency.

Mr. CHANLER. I will if the gentleman will yield for that purpose. I have an amendment written.

The CHAIRMAN. An amendment would not now be in order.

Mr. DONNELLY. It does not become us, Mr. Chairman, to refuse to take the best we can get because it is not all that we could desire. The gentleman from Massachusetts [Mr. BUTLER] has sought to defeat this bill by offering an amendment in the nature of a substitute, to appropriate the amount asked for to the widows and children of those of our soldiers who perished of starvation at the Andersonville and Libby prisons and the other rebel prisons in the South; and he claims that those widows and children are now enduring great want. I must think, Mr. Chairman, that there is exaggeration here. I do not believe that the

American people will suffer any such suffering to fall upon the families of the men to whom we owe such an incalculable debt of gratitude. If there be such destitution the remedy is here in these Halls. Amend your pension laws; extend your bounty laws; expand the limits of your liberality, and there will be no opposition from those who advocate the passage of this bill. For one I feel that sitting here and legislating for a united country, preserved by the valor of our soldiers, and but for whom these Halls would now be in the hands of rebels, we cannot do too much for the men who saved us.

Mr. Chairman, if the amendment offered by the gentleman from Massachusetts [Mr. BUTLER] should be adopted, what will be its effect? It will be heralded all over the South. The demagogues who led the ignorant people of the South into rebellion, and who still to a great extent retain their confidence, will point to it as an unerring indication of the hatred of the North toward the southern people. It will add another link to the chain in which they hold that people. The very laws passed by the rebel States, and which have been alluded to here, are an indication of the control which those leaders have upon the masses. If by adopting the amendment you virtually reject this great measure of relief, you increase the power of those southern demagogues.

Mr. Chairman, you do more than that; you diminish Unionism in the South; you deprive the Unionists of all argument; you solidify rebel sentiment; you intensify rebel feeling; the contrary will prevail if this bill should pass. No man doubts, Mr. Chairman, that this rebellion was only made possible by the ignorance of the great mass of the people of the South, an ignorance which still exists among them. You must seek to raise up the standard of the southern people. You must, as the gentleman from Ohio [Mr. BINGHAM] has well said, send education and charity hand in hand to these people. You must reach the minds of these men by first reaching their hearts, and in no better way can you satisfy them than by this measure, that the people of the North are not the enemies of the people of the South; that we still recognize the ties of citizenship which once bound us to them, that we still recognize the ties of humanity which should unite us to them and to all the people of the world.

Mr. MILLER. I modify my amendment so that it shall provide for the expending of this money by the Freedmen's Bureau.

Mr. WOODBRIDGE. I move that the committee rise so that we may adjourn. We have heard a most interesting debate on this subject, and there are, no doubt, other gentlemen who would like to be heard on this subject.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House joint resolution No. 6, placing certain troops of Missouri on an equal footing with others as to bounty; and Senate joint resolution No. 1, presenting the thanks of Congress to George Peabody, and had directed him to report the same back to the House, the first with and the latter without amendment.

He also reported that the Committee of the Whole on the state of the Union had under consideration Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States; and had come to no resolution thereon.

#### BOUNTY TO MISSOURI TROOPS.

The first business reported from the Committee of the Whole on the state of the Union was House joint resolution No. 6, placing certain troops of Missouri on an equal footing with others as to bounty.

Mr. McCLURG demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment of the Committee of the Whole on the state of the Union was concurred in.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McCLURG moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### THANKS TO GEORGE PEABODY.

The House next took up Senate joint resolution No. 1, presenting the thanks of Congress to George Peabody.

Mr. HOOPER, of Massachusetts, demanded the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NEUTRAL RELATIONS.

Mr. BANKS, by unanimous consent, introduced a bill more effectually to preserve the neutral relations of the United States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia; when the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment a joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels.

The message also announced that the Senate had passed an act (S. No. 60) to change the name of the steamship Paonshun, in which the concurrence of the House was requested.

#### NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York, moved that the Niagara ship-canal bill reported from the select committee be printed.

The motion was agreed to.

Mr. WOODBRIDGE moved that the House adjourn.

Mr. BINGHAM. I appeal to the gentleman to let me move to go into committee, so that we may report back the pending resolution for the relief of the destitute in the South and Southwest, in order that it may be considered and acted on to-morrow morning. It will delay us not a moment, and the joint resolution will be open to debate in the House as well as in committee.

Mr. WOODBRIDGE. I insist on my motion.

The motion was agreed to; and thereupon (at three o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. DONNELLY: The memorial of the Historical Society of the State of Minnesota, asking for such a change in the postal laws as would permit the postage upon books and pamphlets sent to historical societies and library companies to be paid upon delivery of the same.

By Mr. PLANTS: A series of resolutions passed by

Big Run Lodge No. 36, Independent Order of Good Templars, upon the subject of the sale and use of intoxicating liquors.

By Mr. ROBINSON: The petition of masters and owners of vessels navigating the coasts of the United States between Cape Henry and ports north of it, for the construction of a light-ship on Winter Quarter Shoals.

#### IN SENATE.

THURSDAY, March 14, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. Augustus H. Garland, elected a Senator by the Legislature of the State of Arkansas for the term of six years, commencing on the 4th of March, 1867; which were ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. YATES presented seven memorials of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation to indemnify the citizens of that Territory for losses sustained by the revolution in 1847 and Indian depredations since that period; in favor of an appropriation for the completion of the capitol building in that Territory; in favor of the payment of the claims of citizens for property destroyed by the rebels in that Territory; in favor of an appropriation in money in lieu of the lands set apart for school purposes in that Territory; in favor of the establishment of telegraph communication between the Atlantic States and the military posts of New Mexico; in favor of an increase of the salary of the members and officers of the Legislative Assembly of that Territory, and an increase of the salaries of the territorial officers in that Territory; and in favor of an appropriation for the erection of a penitentiary in that Territory, and that authority may be given to the Secretary of the Treasury to have the stone in the present unfinished penitentiary used in finishing the capitol building, and that the site of the present penitentiary may be sold and a new site selected where there is a sufficiency of water; which were referred to the Committee on Territories.

Mr. MORGAN presented the petition of the New York and Virginia Steamship Company, praying for an appropriation to reimburse them for the loss of the steamships Yorktown and Jamestown in April, 1861; which was referred to the Committee on Claims.

Mr. VAN WINKLE. I present the petition of Colonel Charles E. Capelhart, praying for arrears of pay as an officer of the Army. I move its reference to the Committee on Claims, as I understood the chairman of the Military Committee to say that he would not take cognizance of any more cases of that kind.

The motion was agreed to.

Mr. VAN WINKLE presented the petition of James Walsh, a soldier of the Mexican war, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. CORBETT presented the petition of Goldsmith Brothers, praying to be indemnified for United States bonds lost on board the steamer Brother Jonathan on the 31st of July, 1865; which was referred to the Committee on Claims.

Mr. SUMNER presented three petitions of citizens of Pennsylvania, praying for such an amendment to the Constitution of the United States as to provide that there shall be no legislation or the enforcement of any law, rule, or regulation within the United States or Territories against any portion of the inhabitants on account of race, color, or birth; which were referred to the Committee on the Judiciary.

Mr. POMEROY presented a petition of citizens of Westfield, New York, praying that some compensation may be allowed Mrs. Thompson, a resident of that place, for four and a half years' service in the United States

as a volunteer nurse; which was referred to the Committee on Claims.

Mr. ANTHONY presented the petition of the employes in the office of the Congressional Printer, praying that the system of eight hours labor per day, as now in operation in that office, may be continued until otherwise ordered by the Senate; which was referred to the Committee on Printing.

Mr. DOOLITTLE presented the petition of A. Grant, praying for relief in the matter of the contract for the rebuilding of certain buildings at the Norfolk navy-yard; which was referred to the Committee on Claims.

#### PAPERS WITHDRAWN.

On motion of Mr. SUMNER, it was

Ordered, That the memorial of Thomas B. Wales & Co., praying that an American register may be restored to the ship Agra, be withdrawn from the files, and referred to the Committee on Commerce.

On motion of Mr. POMEROY, it was

Ordered, That the petition of Milton B. Duffield, praying to be compensated for expenses incurred in the discharge of his duties as United States marshal in the Territory of Arizona, be withdrawn from the files, and referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Elizabeth K. Spurrier, guardian and representative of the children of the late Surgeon Henry L. Heiskell, United States Army, praying the passage of an act authorizing the Paymaster General to pay to them the difference of pay, including commutation, which the said Surgeon Heiskell received while acting as Surgeon General of the Army, and that of the pay of Surgeon General United States Army, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 50) for the relief of William M. Kimball, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. POMEROY, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of the Commercial Navigation Company of the State of New York, praying for aid in the establishment of a regular line of steamships, sailing under the flag of the United States and owned by American citizens, for the conveyance of the foreign mails of the United States between New York and Bremen, touching at Southampton, reported a bill (S. No. 62) to provide for an American line of mail steamships to run between New York and one or more European ports; which was read, and passed to a second reading.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 19) declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, to be legal structures and post roads, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 28) to grant to the American Atlantic Telegraph Company of New York the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States and establish telegraphic communication between the United States and Europe, via the Bermudas and Azore Islands, reported it with amendments.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, to whom was referred the joint resolution (S. R. No. 7) to prevent the sale or use of liquors in the Capitol building, reported adversely thereon, and in connection therewith reported the following concurrent resolution:

Resolved by the Senate, (the House of Representatives concurring,) That the nineteenth Joint Rule be amended so as to read as follows:

No spirituous or malt liquors or wines shall be

offered for sale, exhibited, or kept within the Capitol, or in any room or building connected therewith, or on the public grounds adjacent thereto; and it shall be the duty of the Sergeants-at-Arms of the two Houses, under the supervision of the Presiding Officers thereof, respectively, to enforce the foregoing provisions; and any officer or employé of either House who shall in any manner violate or connive at the violation of this rule shall be dismissed from office.

#### CAPITOL GROUNDS.

Mr. FESSENDEN. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred a bill (S. No. 54) to enlarge the public grounds surrounding the Capitol, to report in part. I will state that it is not expected that the bill referred to will pass both Houses at the present session, and the committee have concluded to recommend an appropriation of \$20,000 under the advice of the architect, for the purpose of grading and filling and improving the public grounds. It is necessary to begin that work, and it will make a great saving if it is begun at once, besides saving time, and to appropriate a small sum for that purpose. There is another reason why action should be had. Owing to the recent act that we passed placing the public buildings and grounds under the direction of the chief Engineer of the Army, there is now a conflict of jurisdiction, and nobody knows exactly by whom the repairs and alterations are to be made. The second section of this bill is added therefore for the purpose of setting that right. It is a short bill and will be easily understood, and if there is no objection I should like to have it considered at the present time, as it is important to pass it at the present session.

By unanimous consent, the bill (S. No. 64) to provide in part for grading the public grounds, and for other purposes, was read twice by its title, and considered as in Committee of the Whole. It appropriates the sum of \$20,000, to be expended by the Secretary of the Interior, under the supervision of the architect of the Capitol extension, in grading, filling up, removing buildings, and improving the public grounds and streets around the Capitol. All the repairs and alterations of the Capitol building are to be made under the direction and supervision of the architect of the Capitol extension.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### HEIRS OF JOHN E. BOULIGNY.

On motion of Mr. WILLIAMS, the joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouigny, was taken from the table, read a second time by its title, and referred to the Committee on Private Land Claims.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 63) to authorize the entry and occupation of a portion of Longisland, in Boston harbor; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 65) granting the right of way over the public lands to the Pacific Coal Company; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 66) granting lands to aid in the construction of a canal in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 67) to expedite the construction of the Southern Pacific railroad and telegraph line; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 68)

to create the office of surrogate of the District of Columbia, provide for the appointment, and define the powers and duties of guardians, and for other purposes; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

#### MAIL CONTRACT WITH A SENATOR.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department of the United States of America; which was read twice by its title.

Mr. JOHNSON. What is that?

Mr. SUMNER. I should like to hear that resolution.

Mr. WILLIAMS. I will ask to have it read at length in the first place, and then I shall ask the Senate to consider it.

The PRESIDENT *pro tempore*. The resolution will be read at length for information.

The Secretary read it, as follows:

Whereas it is declared by an act of Congress approved April 21, 1868, that no member of Congress shall directly or indirectly, himself or by any other person in trust for him, or for his use or benefit, or on his account, execute, hold, or enjoy in whole or in part any contract or agreement hereafter to be made or entered into with any officer of the United States, or to any benefit to arise therefrom, &c.; and whereas the present contractor for route No. 14782, from Lincoln, California, to Portland, Oregon, has recently been elected United States Senator: Therefore, *Be it resolved, &c.* That the Postmaster General be, and he is hereby, authorized to cancel the contract between the United States and the present contractor for the transportation of the mail on route No. 14782, between Lincoln, California, and Portland, Oregon, annulling the same in the usual way, to take effect on the 30th day of September, A. D. 1867; and it is hereby made the duty of the Postmaster General, after the passage of this act, to advertise for bids for the performance of the service for the residue of the contract term, for at least thirty days, in at least one newspaper published at the seat of government of the State of California, and one newspaper published in Portland, Oregon, and to contract with the lowest responsible bidder.

Mr. WILLIAMS. If there be no objection I will ask for the present consideration of the joint resolution. It relates to my colleague in the Senate here, and I will briefly state—

The PRESIDENT *pro tempore*. The Chair will first ascertain whether the Senate will agree to consider the resolution. It requires unanimous consent to consider it at this time. The Chair hears no objection, and it is before the Senate as in Committee of the Whole.

Mr. WILLIAMS. I will briefly state that my colleague is the contractor upon that route. He took the contract about a year ago, I think. It is the route that extends from Lincoln, in California, to the city of Portland, in Oregon. Since that time he has been elected to the United States Senate; and as the law recited in the resolution provides that no member of Congress shall hold or enjoy any contract with the Government, he desires to have the contract canceled, and the route relet. I will add that since he took the contract a joint resolution has passed Congress providing for a mail route from San Francisco to Portland by sea, so that this route is relieved from the carriage of the paper and document mail; and I have no doubt, if this contract is annulled, it can be relet for a less sum than it was originally let to my colleague, and it will be a saving of expense to the United States. He is compelled to be here attending upon his duty as a member of the Senate, and of course is not able to supervise the management of this business. In addition to that, he feels a very great delicacy in holding a contract of that nature with the Government while he is a member of this body. For these reasons, and I believe it meets altogether with the approbation of the Post Office Department, he asks to have the contract canceled.

Mr. JOHNSON. I will ask the honorable Senator if he has the law before him?

Mr. WILLIAMS. I have.

Mr. JOHNSON. I will ask him to be so kind as to read it.

Mr. WILLIAMS. The first section of the act of April 21, 1868, provides:

"No member of Congress shall, directly or indirectly, himself, or by any other person whatsoever in

trust for him or for his use or benefit, or on his account, undertake, execute, hold, or enjoy, in the whole or in part, any contract or agreement hereafter to be made or entered into with any officer of the United States in their behalf, or with any person authorized to make contracts on the part of the United States; and if any member of Congress shall, directly or indirectly, &c."

Mr. JOHNSON. I asked my friend to read the law because I supposed it was doubtful whether it would not apply exclusively to contracts entered into subsequent to the period when the party should become a member of Congress. The words seem to be more comprehensive, however, than I supposed them to be; and I rise for the purpose of saying to the honorable member and his colleague, that if the law is as it is understood to be by them, that it prohibits him from going on to execute a contract, that of itself annuls it, and it requires no legislation at all. He cannot be liable to perform a contract which it is illegal in him to hold and illegal in the Government to ask him to discharge. I should suppose that if the honorable member from Oregon, to whom the resolution refers, should make application to the Postmaster General, stating the fact that he was under no obligation, and a court would hold he was under no obligation, to perform the contract, the Postmaster General would at once do what this resolution proposes he shall do, that is, give the contract to somebody else. My principal objection to the resolution is that where the reasons of the honorable member from Oregon for offering the resolution are not understood, it may be considered as intended to censure him. That, I am sure, is not the design.

Mr. WILLIAMS. Oh, no.

Mr. JOHNSON. It would be better, I think, therefore, that he should inform the Postmaster General that he is under a legal inability to discharge the contract and have it annulled.

Mr. WILLIAMS. As I understand, the Postmaster General is doubtful as to his authority to annul this contract, unless the power is conferred by legislation. I believe there has been an opinion of the Attorney General to the effect that this law did not affect a contract made with a person who was afterward elected a member of Congress, and I presume the Postmaster General under that opinion is doubtful as to his power, and in order to remove all doubts on the subject, and to remove all responsibility from the Postmaster General in that respect, at the instance of my colleague, this joint resolution is offered. Of course, it will be taken as no reflection upon him. It is not so much because he has a legal right to be absolved from the performance of his contract, as it is because he is compelled to attend to his duties here, and so is unable to attend to his duties as contractor, and because he does not like to be placed in the position as a member of Congress of having a contract of this kind with the Post Office Department, as it may expose him to unfriendly criticism on the ground of being interested in a contract of that magnitude with the Post Office Department while he is a member of the Senate. It is upon these grounds, and not because he may not have a legal right to hold the contract if he should insist upon it, that he asks the passage of the resolution. I will simply say that I am quite confident that it will save expense to the United States to cancel the contract.

Mr. JOHNSON. I have no objection to it.

Mr. WILLIAMS. I know there are many others who want the contract, and it has been relieved of considerable of its burden since it was made.

Mr. RAMSEY. I suggest to the honorable member from Oregon, who has this resolution in charge, inasmuch as this contract is a very heavy one, covering a line of six hundred miles, with a compensation of \$179,000, that probably more time should be given for the advertisement than is provided in the resolution. It is but thirty days, is it not?

Mr. WILLIAMS. Yes, sir.

Mr. RAMSEY. The contract has three

years to run; and a greater period than thirty days should be allowed for competition. I therefore suggest that it be enlarged to sixty days.

Mr. WILLIAMS. I have no objection to that.

The PRESIDENT *pro tempore*. Does the Senator so modify his resolution?

Mr. WILLIAMS. Yes, sir.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### PENSION LAWS.

Mr. VAN WINKLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Pensions inquire as to the propriety of providing by law that pensions granted by special act of Congress shall be placed on the same footing as to the amount to be paid as pensions granted under general laws.

#### BANKRUPT LAW.

Mr. MORTON. I offer the following resolution, to be referred to the Committee on Printing:

*Resolved*, That three thousand additional copies of the bankrupt law be ordered to be printed for the use of the Senate.

Mr. PATTERSON, of Tennessee. I move to amend the resolution by inserting "five thousand" instead of "three thousand."

Mr. MORTON. I accept the modification. The PRESIDENT *pro tempore*. The resolution will be so modified.

Mr. ANTHONY. Is the Senator aware that some extra copies have already been ordered and these will be in addition. Three thousand have been already ordered to be printed.

Mr. PATTERSON, of Tennessee. I want the number to be five thousand instead of three thousand.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing under the rules.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody.

The message also announced that the House had passed a joint resolution (H. R. No. 6) placing certain troops of Missouri on an equal footing with others as to bounty, in which the concurrence of the Senate was requested.

#### ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia; and it was signed by the President *pro tempore*.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 33.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

Mr. TRUMBULL. The Committee on the Judiciary have reported an amendment in the form of a substitute for the bill. The substitute is the House bill very nearly, with a number of unimportant alterations and some that are perhaps somewhat important. We thought the proposition of the committee would be better understood by submitting as one amendment, and have therefore offered it in the form of a substitute so as to prevent confusion. I suggest that, unless some Senator desires to hear the original bill read, the substitute only need be read.

The PRESIDENT *pro tempore*. The substitute alone will be read unless some Senator calls for the reading of the original bill.

Mr. HOWARD. I think the bill itself had better be read before the substitute is read.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary read the bill as passed by the House of Representatives, and next the amendment reported by the Committee on the Judiciary, which was to strike out all of the bill after the enacting clause and to insert:

That before the 1st day of September, 1867, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, \_\_\_\_\_, of \_\_\_\_\_, in the county or parish of \_\_\_\_\_, in the State of \_\_\_\_\_, do hereby solemnly swear (or affirm) that I am not excluded from the right to vote by the fifth and sixth sections of said act to provide for the more efficient government of the rebel States; that I will support the Constitution and obey the laws of the United States, and that I will, to the best of my ability, encourage all others to do the same, so help me God;" which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such State in the year 1860, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said State in the year 1860, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof, and within sixty days from the date of election he shall notify the delegates to assemble in convention at a time and place to be mentioned in the notification, and said convention, when organized, shall first determine by a vote whether it is the wish of the people of such State to frame a constitution and civil government according to the provisions of this act and the act to which it is supplementary, and if so, shall proceed to frame such constitution; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed, or to be appointed, by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof, shall be made to the commanding general of the district.

SEC. 4. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

SEC. 5. *And be it further enacted*, That all elections in the States mentioned in the said act to provide for the more efficient government of the rebel States, shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office."

SEC. 6. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 7. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for

the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 8. *And be it further enacted*, That the word article, in the sixth section of the act to which this is supplementary, shall be construed to mean section.

Mr. DRAKE. I suppose, Mr. President, that the matter which is subject to amendment at this time is the proposed substitute reported by the Judiciary Committee. Am I right in that supposition?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. DRAKE. I have several amendments which I wish to offer to that substitute. The first one I will present now. It is to insert after the second section of the substitute the following section:

*And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates as aforesaid the words "for a convention," and those voting against such a convention shall have written or printed on such ballots the words "against a convention." The persons appointed to superintend said election and make return of the votes given thereat, as herein-after provided, shall count and make return of the votes given for and against a convention; and the commanding general, to whom the same shall have been returned, shall ascertain and declare the total vote in each State for and against a convention. If a majority of the whole number of voters registered in any State as aforesaid shall have voted for a convention, then such a convention shall be held as hereinafter provided; and if a majority of such whole number of voters shall have voted against a convention, then no such convention shall be held under this act.

It will be seen, Mr. President, by reference to the third section of the substitute presented by the Judiciary Committee, in lines fourteen, fifteen, sixteen, and seventeen, that it is provided that the convention—

When organized shall first determine by a vote whether it is the wish of the people of such State to frame a constitution and civil government according to the provisions of this act and the act to which it is supplementary, and if so, they are to proceed to frame such constitution.

I think that is an unwise provision in this act. I do not think that the individuals elected as members of the convention should have it in their power to make an official expression of what they choose to consider or declare to be the wish of the people; but that the people themselves should by their votes declare their wishes on that subject. If there is any State there that does not wish to form a State government under this act, let the people of that State so declare by their own votes, and not by the voice of the delegates that they elect to a convention. If there is any State which does desire to form a State government under this act, let its people express their wish upon that subject by their own votes, and not by the voice of their delegates elected to the convention. In other words, Mr. President, I do not propose that this act or any other act of the Congress of the United States should put it in the power of any set of men to thwart or defeat the will of the people of any one of these States. I wish that the people of each State should have full freedom to do or not to do under this act. Therefore it is that if the expression of the wish of the people is to be had in reference to this matter, I desire it to be directly by the people, and not by the delegates elected in convention.

Mr. TRUMBULL. The amendment suggested by the Senator from Missouri was considered in committee, not in the precise form in which he has presented it to the Senate, but the propriety of such a provision was considered by the committee, and for two reasons it was thought more advisable to adopt the mode provided by the committee to ascertain the wishes of the people.

The Senator from Missouri will remember that our Government is carried on by representatives. The people themselves govern through representatives in this country; and it is proposed that the delegates, who are elected by the people, shall determine whether it is the desire of the people to frame a constitution under this bill. The question will enter into the election of delegates, if there be a



division of opinion, as to whether a constitution and State government shall be formed under the law; and they will elect delegates that are favorable or unfavorable to the formation of a constitution, and express their opinion in that way, and we shall thereby avoid the expense and trouble of having the vote at the time.

Moreover, this is in harmony with the legislation of Congress. This is the mode that is provided in our laws relative to the organization of governments in the new States. In the act providing for a State government in Minnesota it was declared that the delegates elected to a convention for that purpose should first determine whether the people of that Territory desired to form a State government in accordance with the law authorizing them to do so. It is always better to follow precedents which have worked well, rather than to adopt new modes of proceeding.

Then, as a complete and perfect answer to the objection suggested by the Senator from Missouri, that he does not desire the people of any State to form a constitution and State government under the provisions of this law unless it is their wish, I point him to the fact that the bill provides expressly that the constitution, when formed, shall be submitted to the people for ratification, and unless it is ratified, not by a majority of those who vote, but by a majority of all the registered voters in the State, it is to be of no effect whatever. There is the safety. The work itself, not the preliminary proceeding before the constitution is formed, but the work itself, when it is complete and perfect and submitted to the people, is to be passed upon by every registered voter; and unless a majority of all the registered voters, whether they all vote or not, go to the polls and say that they desire this constitution and form of government, it is not to be adopted. Can it, therefore, for a moment be pretended that a government is to be forced upon any State?

For the reasons which I have suggested, first, because this is in conformity to the usual legislation of Congress; second, because it accomplishes in the votes of the delegates themselves, when they assemble in convention, the object sought to be attained; and third, because the work when done is to be submitted to the people and passed upon directly by them, the committee were of opinion that it was better to adhere to the form of obtaining the expression of the people which they have adopted; and I wish to say now in the outset that although some members of the Senate might be of a different opinion, and although the Senator from Missouri might be of a different opinion, and think his form of obtaining the expression of the opinions of the people better—of course he did think so, or he would not have proposed the amendment—yet I submit to him, and I submit to the Senate, that unless something substantial is to be gained by the change, it will be better to adhere to the bill as reported by the committee, because when you commence changing a bill of this character on motions in the Senate there is danger of making it incongruous, involving the necessity of a reference and the consumption of much time. If the object of the bill is to be obtained substantially in the mode that the committee thought it best to adopt, I submit to Senators that it is better not to amend the bill in that respect, as it will occasion delay and accomplish nothing except in the form of proceeding.

Mr. DRAKE. I confess, Mr. President, my very great surprise at the opposition made by the Senator who has just taken his seat to this proposed amendment. I really supposed that if there were any one thing about which there could not be a difference of opinion it would be on just such a provision as this.

The gentleman seems to think that it is in every respect sufficient to put it into the hands of delegates elected to the conventions in these States to determine whether the people wish to form State governments under this act, and he refers to the familiar fact that ours is a Government carried on through representa-

tives. Very true, sir; but here are States which are to form new constitutions, and the fundamental question and the first question with them is whether they will have any representatives at all to form constitutions. Undoubtedly after they shall have expressed themselves favorably upon that subject, the delegates whom they will have elected will proceed to the work; but what I wish to get at is that the people themselves shall make the expression, and not any delegates selected by them.

Do I need to tell the gentleman that the precedent which he cites in the case of Minnesota, where a State government was formed ten or fifteen years ago, is no precedent for these southern States in this day? In Minnesota it was expected, and could confidently be expected, that the delegates elected to their constitutional convention would faithfully reflect the will of the people as to the matter of forming a State government or not forming it.

But, sir, I need not tell that gentleman who has sat here so long in this Senate Chamber, and all through the period of the later rebellion, that in the States for which we are now proposing the means of forming constitutions there are men who will betray that people at any instant that it may subserve their own private interests to do so, and who might be elected as delegates to the convention with a pledge that they would go for the formation of a State government, and then under influences which might be brought to bear upon them turn round and defeat the will of the loyal people of those States. Sir, the history of the last six years in that southern region is but one continued history of treachery such as the world never saw, and now to put it in the power of a few men to trick and cheat and defraud the loyal people of those States out of loyal governments, by pretending to be in favor of the formation of State constitutions there, and getting themselves elected as delegates to do it, and then turning round and expressing the wish of the people not to do it, is what I intend to guard against if I can here. It is effectually guarded against by this proposed amendment. I do not intend that that people shall be betrayed if it is in my power to prevent such a result.

But the gentleman says that the people are to ratify the work of the convention. We are not dealing with that question at this stage of the bill. We are dealing in the first instance with the question whether there shall be a convention, whether the people want a convention. If they do not want a convention, why have it, and then have the work of the convention rejected by a majority that do not want any State government under this bill? Let us begin at the foundation; let the proceedings in the several States start with the very fundamental principle that the people shall govern in taking the first step. Do not leave the people afterward to the necessity of utterly rejecting all that has been done, when, if they could have expressed themselves in the first place, they would not have allowed it to be done.

The gentleman says that unless there is something substantial in the difference between a proposed amendment and the substitute offered by the Judiciary Committee the Senate ought not to adopt it. Sir, I am surprised that a gentleman of his acute mind and great learning should perceive no substantial difference here between the people by their direct voice expressing themselves on this subject, and their delegates, elected under fraudulent pretenses perhaps, undertaking to express the will of the people for them, and expressing it as it is not. I see a substantial and very wide difference, and I trust the Senate will concur with me in perceiving that difference, too.

The gentleman talks about the expense. What expense is it, when they go there to elect their delegates, to write or print on the same ticket the words required by this proposed amendment? The Senator from New Jersey [Mr. FRELINGHUYSEN] inquires of me what are

the words. Those who are in favor of a convention: are to have written or printed upon the ballots by which they vote for delegates the words "for a convention;" and those who are opposed to a convention are on their ballots to have written or printed the words "against a convention." The very hand that deposits a ballot in the ballot-box for the purpose of electing delegates deposits also the expression of the will of the voter as to whether those delegates shall ever assemble or not. I trust that on no account, then, will the Senate consent to allow the elected delegates in any State to undertake to express the wish of the people on this fundamental question; but that the Senate will give the people themselves the opportunity to express that wish by their separate and individual ballots.

Mr. TIPTON. Mr. President, I wish simply to say that this question has been before the people of Nebraska two or three times over. When we first voted on the question of a constitutional convention I remember that we elected delegates to the convention and voted "no" at the same time as to forming a constitution. Consequently the convention did not meet to form a constitution. Again, at another time we voted for delegates, elected delegates, and some of those delegates met, but before they were all in their places an adjournment was moved and carried; and the convention adjourned without forming a constitution for Nebraska. As this point has been presented by the Senator from Missouri, I am inclined from our own experience to vote for a proposition which will allow the people to say whether they will have a State government or not at the time when they elect their delegates.

Mr. TRUMBULL. I should like to ask the Senator from Nebraska what was accomplished by that in Nebraska. He says that after the people had voted that they would have a convention the delegates did not form a constitution, but adjourned. So it seems you have got to leave it to the delegates at last. The fact that the people voted for a constitution, if the delegates were opposed to it, in Nebraska, it seems resulted in the delegates not forming a constitution. What, then, was accomplished by the popular vote? The same result followed the vote both ways. The people first voted that they would not have a convention, and then it did not meet. The second time they voted that they would have a convention, and then it met and adjourned without forming a constitution. The instance cited shows the inutility of the very measure that is offered.

Mr. TIPTON. I hold that in the first instance in voting upon the question in Nebraska the delegates obeyed the instructions of the people; but it costs nothing more, and it is just as easy to bring them under these instructions through the ballot-box as to the formation of a constitution as it is to elect the delegates themselves, and I prefer that both questions go together.

Mr. FRELINGHUYSEN. Mr. President, I do not see that the amendment is essential. The people of each State must trust the delegates to form and frame the constitution. That is the material duty which is to be performed. That has to be placed in the hands of the delegates. I hold the security to be in this: that no constitution can be adopted unless it receives on the vote for its ratification a majority of all the votes registered; not a majority of the votes cast merely, but a majority of all the votes registered in the State; so that a constitution cannot be imposed upon a people against their will; and that gives the people every possible protection.

Mr. SUMNER. I hope we may have the yeas and nays on this question.

Mr. DRAKE. I will say one word more. The Judiciary Committee in the proposed substitute start out with the idea of having an expression of the wish of the people. That is the language of the bill, that the delegates "shall first determine by a vote whether it is

the wish of the people" to form such a constitution. Now, sir, the very point is whether the mode prescribed by the committee for ascertaining the wish of the people shall be the one adopted by the Senate, or whether that mode which enables the people themselves to say what their wish is shall be the one adopted. I concur in the demand of the Senator from Massachusetts for the yeas and nays upon this amendment.

Mr. HOWARD: I think well of the amendment offered by the honorable Senator from Missouri, and hope it will be adopted. The anomalous state of things which exists in the rebel States, and the little knowledge which the great mass of the people there possess probably of their real situation and relations to the Government of the United States, it seems to me make it necessary that we should do all in our power to acquaint them with that situation, and to enlighten their minds as to what it may be proper and expedient for them to do. I am pleased with the idea that these governments, when established, shall originate with the people, and receive the sanction of the people themselves; and I concur in the main with what has been said by the honorable Senator from Missouri as to the propriety of the step which he proposes.

The bill which we recently passed holds out to the people of the rebel States a proposition, that upon complying with certain terms which we have prescribed in that act they shall be rehabilitated and readmitted to the full enjoyment of their rights as States of the Union. The fifth section of the act declares—

That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, &c.—

and have complied with certain other terms, they shall be entitled to readmission. Now, I think we ought, so far as it is practicable for us, as I said before, to bring home to the knowledge of all the people of the rebel States the proposal which we have made to them, so that they may clearly understand it. And what step is it possible for us to take more accordant with our duties in that regard than the simple question put to them, "Will you form a State government according to the acts of Congress? Are you willing to accept of these terms?" Of course this question will give rise to discussion among them all, both white and black, and it will render it more difficult that they should hereafter be imposed upon by demagogues and perfidious persons, who are really not in the interest of the mass of the Union people of the South, than it otherwise would be; and although this is by no means the only measure I would adopt in regard to the preliminary steps, still I receive it with acceptance and shall vote for it, and I hope the Senate will adopt it.

Mr. FESSENDEN. Mr. President, I like the proposition of the honorable Senator from Missouri very well, and have no objection to vote for it if I cannot get anything which satisfies me better, regarding it as an improvement of the bill as it stands. But, sir, perhaps the views which I entertain with regard to what ought to be done differ very essentially from those of what may be a considerable majority of the Senate, and I will state them, although I do not propose at present to move any amendment to the bill, preferring to wait until I see what is to be the fate of the proposition made by the Senator from Missouri.

We have proposed to the people of these States that in case they desire to return to the Union they can do so upon complying with certain propositions which we have made to them. This was done in part with the object of affording facilities to them to return if they desired, and putting an end to the common remark, made by those who perhaps do not always believe it themselves, that the object of the Union party is to prevent the reestablishment of these States as States of the Union.

But, sir, there is one thing which I think was

omitted, or which might have been more specifically provided for in that proposition, and which this bill does endeavor to provide for, and that is, to make it secure that all the people who under that proposition have a right to vote shall be so provided for as to their right that they can execute it freely and understandingly. It is with that view, as I understand, that this proposition is made, that the commanding general in each of these States shall make a registration of voters as a preliminary step to any action; and that after having made a registration of voters he shall take such steps as shall secure the free exercise of the right of voting to all who are entitled to vote. That is very well; and not only very well, but very essential. I agree to that so far as it goes; but it does not strike me favorably. I confess that we should go farther and make it the duty of the commanding general to call a convention. I do not think it is a part of our business to say that a convention shall be called. We leave it, or pretend to leave it, to the people to decide that question.

What was our complaint of the President? That he sent Governors into those States and under military direction provided for the reestablishment of the States themselves. Many of us denounced that as a usurpation on the part of the President, and said that he was thrusting upon the people of these States an establishment of government which they perhaps did not call for. Now, sir, do we not propose by this bill to do the same thing; to send our general there, ostensibly under the provisions of the act, to take care of the people, to protect all of them, and see that their rights are not invaded? But by this bill we go further, and say it shall be his duty, not only to register the voters and see that they all exercise their rights freely, but to call a convention and to take control of the whole thing without asking the people whether they desire it or not. I do not wish to expose myself to the chance of that accusation.

Again, sir, it has been a common complaint, and a complaint coming from precisely the people who are in control of these governments, that we desire to keep them out of the Union, that they wish to get the States back, and that the Union party in Congress and out of Congress desire to prevent their return. We do not avoid that by insisting that we shall take the control of their organization, that we shall force them back, that we shall settle the question how they are to come back and when they are to come back, that we shall appoint a convention for them, for we do it when we put it into the control of the general. I want the expression to come from these very people themselves, a free expression on the question, "Do you desire to come back into the Union; what is your wish; if it is your wish express it;" and I should like that expression to come from these very provisional governments. They were governments elected by the people in a certain way. We have recognized their legal existence as governments in these States. We have said in the very act that we passed at the last session that they are provisional governments. We have established that fact. It is no longer in our mouths to deny, in any shape or form, that they are legal provisional governments in these States after we have made them so—not legal State governments; that we deny; but legal provisional governments. We have legalized them.

Now, sir, let me state what my mode of action would be. I do not want them to be at liberty to say in consequence of our action afterward they did not want to come back, that they did not mean to come back, that they preferred to be independent, that they wished to have nothing to do with us, or that they desired to keep out and have as little to do with us as possible, as they may say if we take this course of proceeding. I do not want to have that lie in their mouths, that they wished to continue independent, but were not only invited back, but forced back by our action. Therefore, sir, my mode would be in this matter to

provide that before any action whatever upon the subject of a convention to form a State constitution and establish a State government there should be the registration that is provided for by this bill, complete and thorough, and that when that registration was perfected a copy of it should be placed in the hands of the provisional government of the State, which we have recognized as provisional government; and then when the provisional government, elected by the people of a State, by solemn act should express their desire for a convention of the people to frame a State constitution and a State government, the commanding general should proceed as directed by this bill, and take steps to see that a convention was called and that it was properly guarded, and that everybody had a right to vote, and then adopt if you please all the other provisions of this bill.

Indeed, I do not know what right we have now to ignore these governments as provisional governments of the States. We have established them, as I said before, we have recognized them, we have made them legal. Have they no functions to perform? Would it not be a very proper function for them to say whether they desired a convention or not? Then the expression of that desire would come from the very people from whom I want the expression of the wish to come, in order that they may not have an opportunity to taunt us hereafter and say that we have been forcing them to do what they did not desire to do. I would give them the opportunity for a free expression of opinion. I think that is the proper mode. I would guard all the details carefully; but as to the expression itself, I say let it come from the very men from whom we wish to hear, and who are the representatives of the people of the several States so far as an election could make them so, and so far as our act in legalizing them as provisional governments can establish that they are so.

I would prefer that. I do not know any other Senators who agree with me or with my reasoning, but it addressed itself to my mind as what ought to be done and what would be perfectly consistent with our own action heretofore and with what we desire to accomplish. I say now, sir, as I have often said on this floor, that while I desire, strongly desire, that the whole United States may be gathered together in one Union as soon as possible, going on harmoniously, I do not want to take the control of these people or force them back into the Union against their will, before they wish to come. I have not that degree of anxiety on the subject, because if we do that we shall have a very unhappy and disunited family after they come back; nor, as I have before remarked, do I wish them to have a pretense for saying that this matter has been forced upon them, any portion of them, a majority of them, rebel or otherwise, before they were desirous of reuniting themselves with us.

I do not deem it particularly important where the expression of a desire for a convention comes from, so that it is a fair expression of the popular will. If a convention was proposed by the Legislature of a provisional government, and then called by the commanding general under the limitations which this bill provides, the amendment proposed by the honorable Senator from Missouri might very well come in as an addition, and let the people, after the convention was called, and when they came to vote, decide whether they, the people, wanted one in accord with the wish that had been expressed by the provisional government, and then it would be a perfect expression all around.

Now, sir, I shall not oppose particularly what the majority desire to do. I am ready to vote for this bill in some shape. I apprehend that it cannot be put into a shape so objectionable that I will not vote for it with the majority of my friends on this floor; but I confess I should like it much better if the expression of the popular will in these States were provided for in the mode I have pointed out.

We have done all for our friends in the South who are particularly alluded to, the minority of whites there—whether our friends, counting whites and blacks, be a majority or not, I do not know, and it cannot now be ascertained—we have provided for their safety in the most efficient way by providing military protection. And if we go further, and provide for the full execution of their own will at the ballot-box in relation to these questions, I do not see that we lose anything by having the conventions called by the properly-constituted authorities, those that we have now said are legal authorities.

The PRESIDENT *pro tempore*. On the amendment to the amendment a call has been made for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. It seems to me there is a practical difficulty in the way of the adoption of this amendment. It says that if a majority of the whole number of voters registered vote for a convention then a convention shall be held; but if a majority of the whole number of voters registered vote against it, it shall not be held. Now, it may happen that an election may be held when there will not be a majority of all the voters registered voting either for or against a convention. What is to be done in that case? It seems to me certainly that the majority of the votes cast at the election should decide. If men who are registered as voters do not attend the polls at an election they are presumed to give their assent to the result, whichever way it is determined by those who do vote. If they stay away they consent to let the other voters determine the question. It strikes me the amendment is imperfect in that particular.

Mr. HOWARD. The object of the amendment of the honorable Senator from Missouri is to my mind quite plain. It is laying the foundation of a proceeding to establish a legal government in a State for the government of all; and the question which he submits in his amendment to the registered voters is whether they will or will not agree to have a legal State government as provided by law. Now, upon so solemn a question as that it does seem to me that a majority of all the freemen to be affected by the government ought to vote for its establishment before it ought to be established. It is not like an ordinary election of a candidate to the Legislature or to Congress, in which a majority or a plurality of the persons voting decide the issue; but it is a great political question, fundamental in its character, whether or not this people will form and be governed by a republican government according to the Constitution of the United States, and come again into the Union as constituent members of the Union. I trust, therefore, there will be no amendment in this respect made to the amendment of the honorable Senator from Missouri.

Mr. MORTON. For one, Mr. President, I am opposed to submitting the question of convention or no convention to the people of the rebel States in the beginning. I think the proposition now offered as an amendment is at variance with this whole movement of reconstruction. We have just provided a military government for these people for the protection of the rights of all, and it is now to the interest of all of us to hasten the work of reconstruction. It must not, if possible, be allowed to be procrastinated. It seems to me that we are softening down very much when, after having provided a military government for these people, we are now so sensitive about having a convention unless a majority of all the voters in a State shall first vote in favor of it. I am not in favor of submitting that question in the beginning. If two thirds of the lawful voters of a State in the South are not in favor of a convention, I am not for giving them the power to defeat a convention. Let them stay away from the polls; but let them not thereby be able to defeat a convention, and thus defeat the work of reconstruction and prevent it from going forward. Let the first election be held simply for the

purpose of electing delegates to the convention, and if two thirds of the people of those States choose to stand off upon their dignity or upon a hatred of this Government and refuse to take part in it, do not let it be in their power to defeat the work of the convention and prevent its being held. Let that go forward; let discussion go on; let the convention be held and the constitution formed. It is quite enough to give them the right to vote the constitution down at the last moment. Their rights are preserved by the final vote upon the ratification or non-ratification of the constitution.

We have established a military government for these States. It is not to the interest of this Republic to have that government continued one day longer than is necessary. We propose now to provide the machinery by which the people can go forward in the work of reconstruction. If the rebels down there say they will not have anything to do with it, although their names are registered by the commanding general under the terms of this amendment, they have but to stay away from the polls and the work is defeated. I would not submit that question at all. I would not even give them the power to vote it down directly in the beginning. Let us simply have the election of delegates; let us have the convention; let us have a constitution formed by the convention; and then it is enough, and it is all that they can require, all that is necessary to give all the people a right to vote the constitution down at the last moment. They might perhaps refuse to hold a convention; and yet if it was held, and a constitution formed, they would be very likely to ratify the constitution itself. It would have gone so far that they would not feel like going back and throwing everything into chaos again and continuing this military government; but now, when the military government has just commenced, and before they have felt the force of it, to give them the opportunity of voting down a convention altogether, it seems to me is impolitic and is at variance with the object which we have in view.

This supplemental bill is to provide the machinery of reorganization. It was very properly thought that what was everybody's business was nobody's business; it must be placed in the power of somebody to begin this work, somebody to go forward in it. We want to hasten it. The country cannot afford to have it procrastinated, to have it linger on from year to year. The condition of things down there is abnormal. We must hasten to make it normal, to bring these States into harmonious relations with this Government as soon as it can be done consistently with liberty, with safety to all, and with equal rights to all. I say that I would not give to the people, nor would I submit even to the convention as provided for by the committee, the question whether they will form a constitution. Let it be understood that there is to be a convention, that there is to be a constitution formed, and let it be formed and submitted to the people; and their right is reserved at the very last to vote it down if, upon their final judgment, after discussion, after full consideration, they deem it to be inimical to their interests.

Mr. HOWARD. Mr. President, it is doubtless desirable that the rebel States should at the proper time be readmitted into the Union. No one denies this. The Government of the United States at the present time holds them, as I have often said, by virtue of conquest, by force of arms, subject to the Government of the United States in all respects as conquered communities, a light in which only they can be viewed. We hold them, however, as I have before said, in a fiduciary relation: we hold them in trust to be restored to their original rights as States at such time and in such manner as we, the Congress of the United States, may see fit, having in view the good of the whole people and the tranquillity of the nation. I am not in such hot haste to discharge and perform this trust as to induce me to vote for the readmission of rebel States into Congress

while there is a majority of the people of those States opposed to the connection. I will never agree to make an attempt to establish republican government in any State of this Union or in any Territory of the Union based upon the votes of a minority of the population. Give us a free and clear expression of a majority of the population, whose will is law in all republican governments, and do not attempt to set up governments and call them republican in the maintenance and support of which there is not to be found the voice of a majority. Sir, a minority government in this country cannot subsist. A government by a minority is inconsistent with the very spirit and genius of American politics and American government. If, therefore, there be not a majority of the voting population of any one of these rebel States in favor of coming back and taking their position as a State in the Union, I am for keeping them out until doomsday, or until at least they see the error of their ways and repent in dust and ashes for the wrong which they are doing to their own people and to the people of the United States. The Senator from Indiana [Mr. MORTON] would have us force governments upon these communities. He would allow a minority in these States to set about the work of reconstruction and the formation of new constitutions for them. I will not do it consciously, unless I am satisfied that it is the will of a majority of the people of each of these States.

Now, sir, according to the scheme which that Senator suggests, the commander of the district by means of his military order perfects a registration, orders an election to be held in each State, and the persons registered who vote may constitute a small minority of the whole people; but that minority proceeds to form a constitution, and the delegates forming the constitution may be, and in some instances doubtless will be, the representatives of a mere minority of the people; and after the constitution has been formed, it is to be submitted, by the bill which we passed at the last session, for the ratification of such persons as happen to be registered within the limits of the State; and it then proceeds to declare that if the constitution shall receive the vote of a majority, not of the persons registered, but of those actually voting upon that question, it shall become the constitution of the State.

Mr. STEWART. No, sir; a majority of the persons registered. That is the amendment of the committee.

Mr. HOWARD. "And when such constitution shall be ratified by a majority of the persons voting on the question of ratification," is the language of the statute. A majority of the persons voting, not a majority of the persons registered.

Mr. FRELINGHUYSEN. The language of this bill is, a majority of the persons registered.

Mr. FESSENDEN. That is the amendment of the Senate committee.

Mr. HOWARD. Very well; I am talking about the statute. I read from the act itself which we passed a few days ago, not this bill before us which is a departure, so far as that is concerned, from the act which we passed, and not in conformity with it. The proposition which we have made is, that if this Constitution shall be ratified by a majority of the persons voting upon the question of ratification it shall become the constitution of the State. That is the proposition which we have held out to them thus far. I do not propose to change the statute in that respect. I prefer infinitely to take the sense of the people of each one of these States as a preliminary step whether they are or are not willing to comply with these propositions which we have honestly made them, and thus come back into the Union in the manner prescribed by us; and I know of no form which is more just and better calculated to satisfy the necessities of the case than that which is contained in the amendment of the honorable Senator from Missouri. I hope, therefore, it will be adopted. Let us begin this work at the beginning, commencing

at the foundation, and consult this once disloyal people and get from them a distinct and clear answer whether upon the terms which we have offered they are willing to reconstruct their governments and return to the enjoyment of the rights of sovereign States of this Union under the Constitution. If they are willing, that is, if a majority of them are willing, and if they comply with all the terms we have proposed, then, sir, I, for one, can no longer hesitate in admitting them back into the Union; but until this compliance has been made strictly, fairly, and honestly on the part of the rebel States I will never consent to admit them back into the Union.

Mr. STEWART. I do not think that this amendment is necessary. I do not think the fears that are entertained by gentlemen are well founded. In the first place, the Senator from Maine claims that we have no authority to provide for calling a convention by the military authorities from the fact that we have recognized the provisional governments.

Mr. FESSENDEN. I did not claim that we had no authority. I only claimed that I did not think it was wise to do it.

Mr. STEWART. I do not think we are committed at all so far as that bill is concerned. The sixth section of that bill provides for precisely such legislation as this, and if we had authority to pass that bill we certainly are acting in perfect harmony in continuing to legislate on the same subject as herein provided. That section reserves the power of Congress to modify these provisional governments, to abolish them, or to do whatever it pleases with them; so that this bill is in entire conformity and in the spirit of the original bill, and there can be no objection to it on that score.

This bill supplies a defect which all admit ought to be supplied, the machinery and the protection whereby the voice of the people can be fairly heard. It first provides for a registration in a careful and fair manner. It then provides for the election of delegates. It is not proposed that at the time the question of electing delegates is submitted to the people we shall also submit the question of whether or not they will form a constitution, whether they will have a convention at all or not. It seems to me that that is unnecessary; that so early in the discussion of this question the people will be ill prepared to pass upon that question. Let the convention meet; let it be discussed; let there be discussion in the South so that the people can understand the question. The mode of electing the delegates is fair. All the people are to have a right to participate in it. They can elect delegates opposed to a convention if they choose to do so, because in this bill we have provided that when the convention meets it may dissolve by a vote of its own body; so that that issue can be raised on the delegates sent to the convention; that issue can be kept before the people until the convention meets; that issue can be determined by the delegates after they assemble.

We inserted that provision for the purpose of meeting the views of those who desired that there should be an expression of the people as to the propriety of holding the convention. We thought that on the first vote they might not perhaps be properly informed as to whether they would desire a convention or not; but they can make the issue on the election of their delegates. The delegates, when they have assembled, will have learned the disposition of the people, and then they can dissolve the convention and end the whole proceedings; so that it is no snap judgment forced upon the people. Upon these questions they can all be heard. After the formation of the constitution it is submitted, not to a majority of the voters who vote at the election, but a majority of the voters who are registered; so that we must have an overwhelming sentiment in the South in favor of the constitution which shall have been formed or it can be defeated then.

There are many who are opposed to this provision. They say it places it in the hands

of the rebels, although they may be a minority, by keeping away from the polls to defeat the wish of the majority, because it is almost impossible to get out a full vote upon the question of adopting a constitution. There will not be individual candidates running throughout the South at that time for the purpose of getting their friends out to vote for them. It is a well-ascertained fact that when a constitution is submitted alone, and there is no general election, the vote is always very light. Before this constitution can be ratified under the amendment proposed by the committee there must be at least two thirds of the people of the South in favor of it. From the facilities for keeping them from the polls, the disinclination to go to the polls upon a question of the adoption or rejection of a constitution, there being no persons interested to bring the voters to the polls, I say, practically, from my experience in seeing constitutions submitted in the Territories, it will take two thirds of the people of the South to be in favor of it, and warmly in favor of it, to get a majority of all the voters to the polls and get a vote that will ratify the constitution that is then submitted. So that there is no undue haste about this matter. The people are consulted at every step, and it is impossible that they should be dragged in here against their will by this bill. It is in the power of the rebels themselves, if they want to do so, to stay out under this bill.

Mr. President, the rebels have got power enough now; they have as much power as I propose to intrust to them, to prevent the South being represented here, to prevent the loyal people from having representation in Congress. They have a good deal of motive to do it under this bill, for many of them are disfranchised and excluded from office. They have enough motive and enough power to keep the South from representation in Congress. I do not wish to place any more clogs upon this machinery. I fully concur with the Senator from Indiana. He expressed my views exactly upon the question. It is time that we allowed an expression of the loyal people in the South. It is time that we gave them an opportunity to struggle to come back here and be represented. In that struggle I predict that they will develop a loyal element that will help to sustain this Government. Give them the chance to vote on both sides. Keep the political questions before them. Let them divide from interest or principle as they choose. Whenever the South has two parties the rebellion is ended, and not till then. Whenever you can have two parties, whenever you can have a division of sentiment in the South, then the South will govern itself. If you place it in the hands of the rebels to keep all the people in the same situation that they are; if you place it beyond a peradventure in the power of those whom you have disfranchised by this bill to keep the loyal men in their situation, to keep the loyal men disfranchised, as many of them will have an inclination to do, you have but one party there, and that is a party opposed to your Government. Give those who desire to return a fair opportunity.

I do not contend for giving a minority who desire to come in here such an opportunity that it shall be unfair, that they will be in here against the will of the people. I am opposed to that. I do not believe in minority governments; but under this bill there is no possibility of a minority government. In the final action there must not only be a majority, but any man who is acquainted with the practical operation of the provision which submits the constitution to a majority of all the registered voters, knows that practically it will take two thirds or three fourths of the people to ratify that government.

Then, I say, remove from Congress this discussion, and let them have discussion in the South; but if you place it entirely within the power of the disfranchised rebels to veto your action, your whole reconstruction policy will be abortive.

Mr. President, I think it is important for this

country that the Union should be restored. I think it is important for the Union party, which has saved this country and carried on this war, that it shall accomplish this great work, and accomplish it on the great principles of justice and humanity; that it shall protect the rights of all; that it shall make every man equal before the law; that it shall make loyalty honorable and disloyalty odious. I believe that it is the work of the Union party. I believe that the Union party, the predominant party in Congress, has been for the last six weeks working exactly in the right direction. I believe that this bill will consummate the work, and that it will be seen that the great party which could raise armies and subdue this gigantic rebellion could protect its friends in the South when the war closed, could restore the Union on the principles of justice, could make all men free and equal throughout this broad land. I am glad to see Congress coming up to the work and stating frankly and squarely its purposes. I am glad to see it meet the issues, and meet them squarely.

Sir, we dare not delay this work. We have no security against ourselves. We have to be our own security that we will remain of the same mind, and that we will love human rights as we now do. We, I say, have to be our own security while we leave this work unaccomplished. A financial crash may come upon us. Troubles of other sorts, complications of various kinds may arise. If this great work is not accomplished it may happen that the rebels who will have the power under your proposed amendments to obstruct this bill and prevent its going into operation, to obstruct reconstruction, may, in the turn of human events, accomplish their purposes. We may be in no condition to protect our friends. The country has indorsed this measure. It accomplishes all that I have heard claimed from any source. I have heard no demands from any source beyond these. There have been suggestions, but there has been no action of Congress demanding more. I am opposed to putting in this bill anything that shall tend merely to delay, because when everything is ready, fit to be done, the quicker it is done the better.

Mr. JOHNSON. I agree entirely with the honorable member from Indiana that it is our duty, and the duty of the people of the States who are now excluded from representation, to bring them back as soon as possible. The Government, according to my understanding of it, cannot subsist long with States out of the Union. It is a Government of States; and the theory upon which it rests is that the States are as important to the Government of the Union as that Government is important to the people and to the States. We may have a sickly existence, and for a time apparently a healthful existence, with ten States of the Union in the condition in which ten of the States now are; but to my mind it is perfectly certain that unless that state of things is changed, and changed soon, we shall be involved in serious trouble. Our finances will suffer from the effect of that condition most deleteriously. The credit of the nation, too, as a nation, not only financially, but otherwise, will be very much impaired.

I hold (and in that opinion I have concurred with the majority of the Senate, and I believe with the entire Senate as it is now composed) that there did not exist in the States of the Union any authority by which they could legally escape from the Union; that the attempt to escape, therefore, was of itself illegal, and imposed upon us the duty of arresting and defeating it, not for the mere purpose of arresting and defeating an insurrection, but for the purpose of restoring the Union. We have arrested, we have defeated it; and yet the Union is not what the Union was. Ten States are now not represented; and the only question for us to decide is whether it is not our duty, in some form or other, and at the earliest practicable moment, to bring them back, that this may be what our fathers intended it, a government of States.



The authority to acquire territory, (which was at one time doubted by some of the best men of the former age,) even with those who held that the authority existed and with those who hold it now, was not supposed to be an authority granted to us for the purpose of retaining the people in any such territory in a territorial condition. It was stated, and we have acted upon that theory, that the people of any territory acquired were to become States at as early a period as was consistent with the condition and rights of the States already in the Union. We were but guardians, in the sense of the Constitution as originally understood, for the people of those territories and bound at the earliest moment consistent with the safety of the other States and the rights of the other States to introduce them among us as States at the earliest moment.

Now, Mr. President, the amendment suggested by the honorable member from Missouri assumes as possible, and the honorable member from Maine supposes that it may be possible, that there is a majority in each one of those States or in some one of the States inimical to a restoration of their particular State into the Union. That, in my judgment, is a hostility if it exists, which should also be defeated. It is but another mode of accomplishing one of the designs which they had in inaugurating the rebellion, to escape from their obligation as States and as citizens of such States. If, therefore, there is a majority (assuming it now to be true for the sake of the argument) of the people of any one of these States unwilling to come into the Union, and there be any portion of the people willing to come in, I would leave it to that portion and force the majority to be with us again and to be governed as the people of States, and to be responsible to the government of their States.

The honorable member from Michigan has told us that no Government founded upon the will of a minority of the people can be republican. I have no doubt the honorable member is sincere in that view. Does he not consider those who took a leading part or an instrumental part in the rebellion as people of the States; and if he does, and he supposes that no government can be republican which does not consult in the first instance the will of all, why is it that he voted to exclude a large portion of the people of those States from the exercise of the right of franchise?

Mr. HOWARD. Because they are public enemies.

Mr. JOHNSON. Public enemies; but they are people. But I have another reason for wishing to force them in. Even supposing that there were not financial reasons in the ordinary sense of the term, or reasons of State, I am exceedingly unwilling to govern these States by military rule. What is it to cost in money? In addition to its cost in money what is it not to cost in the sacrifice of the principles of freedom and of liberty upon which our institutions rest? These people may become attached to military rule; the people of the United States may believe that it is the best mode of governing the South, and finally come to the conclusion that it is the best mode of governing the entire North; and then for the republican institutions founded upon freedom, which our fathers fought to establish and established, we may have substituted a military Government. In my view, Mr. President, that is the hazard that we dare not (speaking politically) run.

It is supposed that the amendment suggested by the committee requires for the adoption of the constitution which the convention may frame a majority of all the registered votes. I do not so understand it. But if it be capable of that interpretation it is a very easy thing in that particular to amend it. I understand it now as I understood it in committee, as containing no such provision. If it is to be found anywhere, it is in the fourth section of the amendment reported by the Judiciary Committee. The words of that section are:

That if, according to said returns, the constitution

shall be ratified by a majority of the votes of the electors registered—

That is to say, as I understand it, of those registered voting; and it is not therefore obnoxious to the criticism to which it is subjected by my friend from Michigan.

Mr. HOWARD. If the Senator will allow me to correct him, I was speaking in reference to the reconstruction act which we passed at the last session, and not in reference to the bill upon which he is now commenting.

Mr. JOHNSON. This is in conformity to it. I think the amendatory bill conforms in that particular to that act, as my friend will see, I think, upon comparing the two; but whether it be so or not, it is a very easy thing to amend it in that particular.

Mr. HOWARD. The act itself only requires a majority of the persons voting on the question of ratification.

Mr. JOHNSON. So I understand.

Mr. HOWARD. I was not speaking in reference to this bill.

Mr. JOHNSON. I understood the honorable member as saying that the bill departed from the original act in that particular.

Mr. HOWARD. Undoubtedly the bill does depart from it.

Mr. JOHNSON. Not as amended, if I understand it aright; but in that respect it can be very easily set right.

I was about to say, Mr. President, that from the moment the original military bill was introduced up to the present time I believe the reflecting men of the South, those who participated in the rebellion as well as those who did not, those who are to be disfranchised as well as those who are not, have been, to a great extent, in favor of this measure. They are willing to live disfranchised if the people of their States are permitted to come in as citizens of the States and entitled to the exercise of the franchise, as provided for by the original bill and by this bill. Why not let them come in? The question answers itself, in my judgment. There is no reason in the world, there can be no reason plausibly assigned for keeping them out, except—and I am sure that reason does not influence any member of the Senate—a desire to keep them out.

The Secretary proceeded to call the roll on the amendment of Mr. DRAKE.

Mr. BUCKALEW (when his name was called) said: I desire to say one word before I vote. I would very cheerfully vote for this amendment if it required the vote of a majority of the persons actually voting at the election. I vote "nay."

The result was then announced—yeas 17, nays 27; as follows:

YEAS—Messrs. Cameron, Chandler, Drake, Ferry, Fessenden, Fowler, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sumner, Thayer, Tipton, and Wade—17.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Frelinghuysen, Grimes, Henderson, Hendricks, Johnson, Morton, Patterson of Tennessee, Ramsey, Ross, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Williams, Wilson, and Yates—27.

ABSENT—Messrs. Cattell, Edmunds, Guthrie, Norton, Nye, Pomeroy, Riddle, Saulsbury, and Wiley—9.

So the amendment to the amendment was rejected.

Mr. FESSENDEN. I think I shall offer an amendment.

Mr. DRAKE. I stated when I got up that I had several amendments to offer, and if the Senator from Maine would allow me to offer one other at this time I would be much obliged to him.

Mr. FESSENDEN. Very well, sir.

Mr. DRAKE. I move to amend the fourth section of the substitute by adding at the end thereof:

*Provided*, That no such constitution shall be considered as entitling the State for which it is framed to such representation unless it provide that at all elections by the people for State, county, or municipal offices the electors shall vote by closed ballot, and that such mode of voting shall never be changed without the assent of Congress.

Mr. President, I have offered this amend-

ment because of my knowledge from actual observation during a large portion of my life of the power which the minority of the people have exercised over the majority in some of the States of this Union through the *viva voce* system of voting; and I wish that that power should, if possible, by the action of this Congress be fully and finally broken in these States.

The substitute prepared by the Judiciary Committee provides that all elections held under this act shall be by ballot. The committee therefore recognize the importance of a fair and honest expression by that people, untrifled by the presence of those who have heretofore governed them, in the matter of the election held under this act. I wish to perpetuate that freedom to the people of these States. It is perfectly manifest to me that whenever these States are reconstructed the power is no longer to be in the hands of their aristocracy. The masses of the people, those upon whom the reproach has heretofore been cast of being the "poor white trash" of the South, combined with those who have heretofore been trampled down even below the "poor white trash" in the slavery to which they were subjected, these two classes are to be, until the infusion of a new life from the North into that region shall have taken place, the Governors of these rebel States; and the object of this amendment is that they shall be allowed to govern these States according to their free and unbiased will through all coming time as that will may be expressed through the closed ballot; that the elections by ballot shall not be held merely during the operation of this act, but that whenever their constitutions are formed there the principles shall be planted for the protection of those men forever hereafter; that no man is to stand at the polls in any of these States and frown down the will of the people, as has been done for long years past, but that every man shall forever on that soil have the full privilege of a freeman in voting just as his conscience and his judgment dictate.

If this measure be not adopted by the Senate, what will be the result? They will form their constitutions and they will perpetuate *viva voce* voting in every one of these States; and when you have got that perpetuated in their constitution, good bye to the will of the loyal people of these States; each one of them will still be governed, as it has been in all time past, by an aristocracy, the same aristocracy that struck at the Union, the same that got up the war which was its war, and dragged the poor man into it as the poor man's fight. I propose that those poor men shall speak the voice of that region. I propose that no more aristocracies shall lay down the law for the majority of that people. Sir, we cannot accomplish it in any other way than by guarding the right of the voter there in the closed ballot, and guarding it so that it shall never be taken away from him. If we do not, even supposing they form their constitutions now with the ballot system embodied in them, as soon as ever the eye of the General Government is taken off them, and its power over them has ceased, they will change that thing again, for they will find by the operation of the ballot system that the scepter of power has passed away from that aristocracy.

Therefore, sir, it is that I wish they should be informed beforehand, told in plain terms by the Congress of the United States, that they need send no constitution here which does not guaranty to every man on their soil a free and unrestricted vote in the closed ballot which he himself can deposit without scrutiny in the ballot-box that is to secure freedom—

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. DRAKE. I will, sir.

Mr. CONKLING. Suppose these States, one or all, should adopt constitutions in which should be inserted a provision such as the Senator suggests, as strong as he could draw it;

and after the admission of their representatives, on the next occasion of revising their constitutions, suppose they strike it out and substitute a provision ordaining *viva voce* voting; what is the Senator, or what are we going to do about it?

Mr. DRAKE. Is that the whole of the Senator's question?

Mr. CONKLING. I was going to ask another question, but I should like to have an answer to that.

Mr. DRAKE. If they form a constitution with a clause in it such as this amendment proposes, to wit, that they shall never do this thing without the consent of Congress, and they do it without the consent of Congress, then they have violated an express stipulation in the constitution that they formed and an express contract with this Government; and I, for one, would be prepared to say that they should not have Senators or Representatives in these Halls as long as that violation existed.

Mr. CONKLING. That is, the Senator would turn them out on that violation of this act?

Mr. DRAKE. Certainly, without a moment's hesitation.

Mr. CONKLING. Well, Mr. President, I have only to say, if the Senator will indulge me, that it would be rather an awkward thing to do in a good many respects; and it would be especially awkward in view of the fact that the Supreme Court has decided, I think repeatedly, certainly in one case that I well remember, which originated in Alabama, that any such compact would be utterly and absolutely void for all purposes.

Mr. DRAKE. I do not understand that the Supreme Court has ever decided any such thing as that; there can be no such contract valid between the General Government and a State government. I remember that such a compact was formed between the Congress of the United States and the State of Missouri when it came into the Union, and it has been regarded as binding upon both Congress and the State of Missouri from that day to this.

But, sir, is the point taken by the gentleman, that we might have difficulty in dealing with a violation of this compact between these States and the Union, any reason why we should not say to these States now, "If you come back, you have to come back under such a compact?" Sir, I hold that there is an obligation resting upon Congress here to protect the loyal people of these States by every means in our power, to the very last extremity. If Congress can see that it is a protection to the loyal people of these States in the future to require a particular mode of voting, I hold that there is just as much an obligation upon Congress to do that thing as there is to send its armies down there to protect the loyal people from the bayonet and the bullet of their oppressor. Sir, it is unnecessary, in my judgment, to the course of remark which I made that the gentleman should put this supposititious case in the future.

Mr. CONKLING. May I interrupt the Senator one moment again if I do not trespass? I inquire of the Senator whether in the case of the compact to which I understand he refers—I did not hear him perfectly—between his own State and the General Government it is not true that his State with impunity from that day to this has denied that compact and preserved upon its statute-book a statute in open defiance of it?

Mr. DRAKE. I am not aware of that fact. If the gentleman will specify what he refers to I may be able to answer him.

Mr. CONKLING. Is there not now, or was there not until very recently, I do not refer to recent legislative changes which I know have taken place there, but up to the time of the breaking out of the rebellion, was there not a statute in Missouri forbidding the entrance of free negroes into that State?

Mr. DRAKE. There was a statute passed, if my memory serves me, in 1847, which did not prohibit free negroes from coming into

that State, but which declared that all who came into that State after a certain date should be reduced to slavery.

Mr. CONKLING. Precisely.

Mr. DRAKE. It is one of those dark stains upon the escutcheon of Missouri which through the mercy of God and the rebellion we have wiped out forever.

Mr. CONKLING. The point however, Mr. President, which I wish to present is, that there is an instance cited on the other side, in which a State did with impunity for a long period of time and against all comers, nobody challenging the right in the regard of which we are now speaking, defy and set at naught by the severest and most odious provisions just such a fundamental compact as is contained in this amendment. It may have been very wrong, but there is the fact that she did it, and did it successfully.

Mr. DRAKE. Yes, sir; and why was it never inquired into by the judiciary of the country or by Congress? Simply because no case ever arose under the act, no attempt was ever made to reduce the colored people that came into that State after the designated day into slavery. Had it been done, then the power of the nation through Congress or through the judiciary would have been invoked to overthrow that iniquitous act.

Mr. FESSENDEN. Will the honorable Senator from Missouri allow me to ask my friend from New York a question on the same point?

Mr. CONKLING. I do not object if the Senator from Missouri does not.

Mr. FESSENDEN. I wish to ask the Senator from New York, suppose there should be precisely such a provision adopted in the constitution of the State of Virginia, for example, with a proviso that it should not be changed without the assent of Congress, and the constitution should be accepted by Congress as it stood, that would form a compact to that extent undoubtedly; I presume the Senator will not deny that. Now, then, if Representatives should be elected under a change of the constitution without the assent of Congress, by *viva voce* vote, and should come here, and the House of Representatives should choose to say that that compact existing they were not legally elected and should not hold their seats, what could the Supreme Court do about it?

Mr. CONKLING. I should say that the Supreme Court could do nothing, and that Congress could do everything; that each House of Congress, acting alone, under the constitutional provision giving it a right to judge of the elections, qualifications, and returns of its own members, could repudiate such an election as that, and also that the repudiation would be competent on the ground suggested by the Senator from Maine, that it was at the instant a flagrant violation of one of the vital terms upon which alone Representatives were to be admitted. But that, I submit to the Senate, is as far as the East from the West from the proposition we are discussing here, which is to imbed in this bill a provision under which for all future time in undergoing the changes to which they may be subject these constitutions shall never cease to contain a provision prescribing a certain mode of voting. Now, I submit to him that these members, being once admitted, by the act of admitting them, as was said by a great publicist in regard to another matter, we have exercised a power, which gone for the moment is gone forever; and if they change their constitution after that, we could never turn them out any more than we can at present turn out the Senators from Oregon, for example, which is one of the States, I understand, now defying what is called a fundamental compact under which it came in.

Mr. FESSENDEN. There might be some points where we should not have power to enforce it, but in the individual instance, either with regard to Senators or Representatives, the power to enforce that provision, that compact, if you please to call it so, is in

the hands of the Senate and House of Representatives when acting upon the election of members of the respective Houses.

Mr. SUMNER. Mr. President—

Mr. DRAKE. With all respect, I have given way to gentlemen long enough, I think.

Mr. SUMNER. Will my friend from Missouri allow me to ask my friend from New York a question just on that very point?

Mr. DRAKE. Will not the Senator from Massachusetts be so kind as to allow me to say the few words I have to say, and then he can ask the Senator from New York the question.

The PRESIDENT *pro tempore*. The Senator from Missouri is entitled to the floor.

Mr. DRAKE. Mr. President, the gentleman from New York is evidently very complacent indeed with regard to his point. I judge, from the manner in which he put it and from the remarks which he made, that he thinks it is quite a clincher. But, sir, I have a word further to say about it. I answered him on the instant that if any State did such a thing as disregard the compact which this would impose, if it were adopted and put into the constitution, we would throw their Senators and Representatives out of these Halls. On further reflection I stand to it; and I do it upon the reason suggested by the honorable Senator from Maine, that if a State, after having formed its constitution and entered into this compact, should send up representatives here elected by a *viva voce* vote, in direct defiance of its own contract with this Government, we would thrust them out of the Halls of the representatives just as quickly as we would have done in times past representatives that had been elected by the slave population of those States in defiance of their constitutions. Then, suppose one of those States having this change made in its constitution of the system of voting, from the ballot to *viva voce*, should elect a Legislature by *viva voce* vote, and that Legislature should send Senators into this Hall, I say that the Senate would be justified in refusing seats on this floor to the men who were elected by that means, elected through a direct violation of the compact entered into between the State and the United States. And, sir, if ever such an occasion should come up in after years, mark the prediction: that if we have men here who have the nerve to do their duty, such Senators and Representatives would be turned away from this Capitol. There is the remedy for the case the gentleman from New York thinks he has so conclusively put to me.

But, sir, there is no danger of that thing. Once get the mode of voting by ballot fairly in the hands of a majority of the people down there, and they will be very likely to take care of it; but what I want is that while this nation is undertaking to reconstruct these States upon the principle of loyalty to the Union, upon the principle of protecting the loyal people, the work shall be done thoroughly. Sir, I come from a State where we have dealt with this rebellion in some of its foulest aspects; and we have learned there through a long and bitter experience that the only way to deal with it is to apply the knife, deep and strong down, to the very fibers of the roots, leave not a single atom in which to germinate a future rebellion. I come here, sir, I do not hesitate to avow in open Senate on the first occasion when I have undertaken to address this august body, that I come here as a representative, not of a conservative radicalism, but of a radical radicalism, which believes in doing and not in half doing.

I regret very much, indeed, Mr. President, to have discovered, or thought I had discovered, in the brief time I have been here, that there is such a thing on the floor of this Senate as conservative radicalism; and I tell any gentleman who is nursing conservative radicalism that that is not the radicalism of the people. We might as well, far removed as we are from the people by our position as Senators, remember that there is a people to whom

every man in this Chamber is sooner or later to be accountable. And, sir, there is among that people a profound radicalism, a radicalism which has a strange and new-fashioned way of shelving those who vacillate or stagger, as well as those who desert. Some gentlemen of this body have had experience of that. Perhaps it is not without the range of possibility that some others may have similar experience in the not very distant future. Sir, I stand here as a representative, on the territory of the State to which I belong, of that determined radicalism which will tolerate not the least wavering in any man which it intrusts with a public position. Now, as one of the expressions of that very sentiment I offer this amendment, which is intended to perpetuate power in the rebel States in the hands of the loyal people, and to drag it out of the hands of a rebellious and wicked aristocracy.

Mr. TRUMBULL. Mr. President, I regret the wide range which this debate is taking, as I am exceedingly anxious that we should act upon the bill under consideration, perfect it as well as we may, and be in a position at an early day to adjourn the present session of Congress. But, sir, if we are to discuss all these questions of radicalism, and as to what is radical radicalism and conservative radicalism, and as to the men who falter and those who do not, I know not when we shall get a vote upon the bill or even upon the pending amendment.

Mr. DRAKE. Time is not important.

Mr. TRUMBULL. Perhaps not to the Senator from Missouri; but time is important to the people of this country. Time is very important, and it is important that at the earliest day practicable with the safety of this Union all its members should be restored to fraternal relations and feelings. But, sir, I am not to be betrayed into any discussion of what constitutes radicalism or is not radicalism. The question before the Senate calls for no such discussion. Nor will I even enter into an argument as to the respective merits of the *viva voce* and the ballot system. Much may be said in favor of each; but I by no means admit that the ballot system is the only system that is to preserve the liberties of this country. I never believed much in that kind of secrecy that withholds from the people the facts. I want to see every man an independent voter, not sneaking to the polls and hiding his expression in a secret ballot. Sir, it is by secret ballots and secret systems of other kinds that liberty has been trodden down everywhere. The "divine right of kings to rule" has a sort of mystery about it. I confide in the open, independent voter that goes to the polls and tells how he votes; and I have no such opinion of my fellow-countrymen, I have no such opinion of the masses of the people of this country, as to suppose that they dare not tell out how they vote. I do not believe in it at all. It leads to fraud, to ballot-box stuffing, and all sorts of cheating. You have no faith in these leaders of the South, and yet you are going to let them have the ballot-box, to change ballots, to stuff the ballot-box. You cannot do that when every man goes up to the polls and says, "I vote for the constitution; I vote for John Strong for Governor." There is no cheating then.

But I said—and I have almost forgotten myself—that I was not going to discuss that question. I wish to state a fact, however. It is not true that in most of the southern States the voting is *viva voce*. It is not so in Tennessee; I think not in the Carolinas. It is so in Virginia.

Mr. DRAKE. Tennessee is not a rebel State now, nor legislated for under this bill.

Mr. TRUMBULL. It is not so in Carolina.

Mr. DRAKE. Which Carolina?

Mr. TRUMBULL. North Carolina, as I am informed since the gentleman was speaking. I understand it is not so in most of the southern States. It is so in Virginia, I believe; but I have been informed by a member of this body while the Senator was speaking

that in most of the southern States the mode of voting is now by ballot.

But, sir, a sufficient objection, I think, to the adoption of the amendment proposed by the Senator from Missouri is this: the object of this bill is to carry out a bill we have already passed; and in that bill we laid down the terms upon which we will recognize governments in the rebel States, and it is not one of those terms that they shall put into their constitutions a provision that they shall vote by ballot. The only object of this bill is to afford the machinery to carry out a law we have already passed; and shall we go on adding in each bill that we get up some new requirement before they have had any opportunity to act upon the proposition we have submitted? Now, sir, we have submitted to these people certain conditions upon which we will recognize their governments and receive representation into the Congress of the United States. It was thought that bill was not perfect. It was said that it provided no way by which the people could give expression to their feelings, to their opinions; that it pointed out no person to call a convention; that the result of leaving the legislation as it was by the act which we passed at the last session of Congress would be that different parties might get up conventions in the same State, and there would be danger of collisions, and of bloodshed even. In order to avoid that it was proposed by my friend from Massachusetts, [Mr. WILSON,] who introduced this bill substantially as it is now pending before the Senate, to designate a way by which the people might give expression to their opinions and determine whether they would proceed to create State governments in accordance with the requirements of Congress. That is all there is in this bill. Now, I object to putting upon it a new requirement.

As I have already stated, much might be said on the question of voting by ballot and *viva voce*. Different States have different modes of voting. In my State, until within a few years, we voted *viva voce*; but that has now been altered, and the mode of voting there is by ballot. The people thought it better to change to the ballot system, and I am not sure but that that is the best system. Each has its advantages and disadvantages. But I trust that no amendment of the character proposed will be put upon this bill, because it is an additional requirement, and, in my judgment, is not acting in good faith now when we are passing a bill merely supplemental to the other, and to enable the people to carry out the other, to impose new and additional conditions.

Mr. FESSENDEN. Mr. President, I wish simply to say that I shall vote against the proposition of the honorable Senator from Missouri, not that I do not like it, because I prefer the ballot and should be willing to take any precaution to secure the ballot, but for the reason that in this bill, or in any bill that we pass, I am opposed, as I have been, to making a constitution for a State. We leave it to the States to make their own constitutions. Perhaps I would be in favor of it if the constitution when made was conclusive to bring about their admission; but in the bill which we passed we provided that the constitution when made should be submitted to Congress, and if approved by Congress then they might be entitled to representation. That I think sufficient for our security, and I prefer not to put this provision and that provision and the other provision which we desire to have in their constitution into a bill of this kind as preliminary, because I do not want to say to them in advance substantially, "If you do certain things I will agree to your constitution." I am not prepared to say what I shall agree to. I do not know what fault I shall find, and I do not want to say in advance, by implication even, that this is all I require. I prefer that their constitution when it comes here should pass under our examination, and that they should be at liberty to state our objections to it, and not be met with the remark, "If you object on this point or that why did you not put it in with other things in your act

in the beginning?" I prefer to leave all these questions open for our consideration when the constitution is made and submitted to us for examination.

Mr. CONKLING. Mr. President, I have sent for the case to which I referred; and before making a remark about it I wish to say to the Senator from Missouri that I understood him to consent, upon my application, that I might interrupt him to propose a question to him. I had not the slightest idea of diverting him from his argument or in any way disturbing him; but as I understand he has since made some remark implying dissatisfaction at my having done it, which I was not able to catch where I sat, I wish to beg his pardon for the interruption, and at the same time to thank him for the very lucid answer which he gave to the question which he allowed me to put.

Mr. DRAKE. With the permission of the gentleman from New York—

Mr. CONKLING. Certainly.

Mr. DRAKE. I wish to say that I did not make any remark that I know of that expressed dissatisfaction with the interruption of the gentleman. The gentleman asked me to allow him to interrupt me to put a question, which I consented to, and out of that grew a debate between the gentleman from New York and the gentleman from Maine; and I finally remarked that I thought I had given way long enough, and that I would proceed with my argument.

Mr. CONKLING. I had no idea of interpolating a three-cornered duel [laughter] into the speech of the Senator; and I am very sorry if anything occurred about it which was in any way unsatisfactory to him.

I rose to say that I have sent for the case to which I alluded, the case of Pollard vs. Hagan, in 3 Howard, which does decide, and which did decide as long ago as 1845, the proposition which I stated, that a compact of this sort made by a community, pending its admission as a State, ceases to bind it when it consummates its Statehood and takes on the sovereignty of a member of the Union in all respects. That is the law as it was decided by the highest judicial tribunal of the land as long ago as I mentioned.

Mr. SUMNER. Was the court unanimous or divided? I ask for information.

Mr. CONKLING. I have not looked to see as to that. I will look to see. It is a long time since I have had occasion to look at the case. [After examining the volume.] There is no dissenting opinion. It is the case of Pollard vs. Hagan, 3 Howard, commencing at page 212.

Mr. SUMNER. Who gave the opinion?

Mr. CONKLING. Senators can look for themselves. Here is the book.

Mr. SUMNER. As the Senator had the book in his hand, I asked.

Mr. CONKLING. It is a somewhat long opinion.

Mr. SUMNER. I merely asked the name of the judge.

Mr. CONKLING. There are several opinions. I will look and state them, although I did not mean to take time to do so. Mr. Justice McKinley, I find, gave one opinion; Mr. Justice Catron one, and nobody else seems to have written. There is no dissenting opinion, and the decision of the court is to the effect which I have stated.

I was going to say that is the decision of the Supreme Court made long ago, and it has been made repeatedly since, where that was a point in judgment, and it was referred to afterward. I cannot state the cases, but I recollect that in substance the question has often been up.

Mr. JOHNSON. That decision has never been doubted.

Mr. CONKLING. I believe it has never been doubted that that was the law. I am aware, of course, that upon the question of admitting a Senator or member to a seat what the Supreme Court had said upon a question of law would not be obligatory upon either House. I did not suggest it with any such

view; but merely to show that the settled law as law upon this point was against the proposition submitted by the Senator from Missouri.

That is all I want to say about it, except that I have very great doubt, like the Senator from Illinois, whether a perpetual provision in a constitution, if you could imbed it there, that voting should always be by ballot and never otherwise, would tend to the security of any one or anything, and last of all to the security of those people who by reason of their helplessness or their ignorance may be supposed to require protection. I can understand how a man who is unable to read a ballot, who may be deceived or cheated in that mode of voting, may be able as infallibly as any member of this body to go to the polls and proclaim with his tongue whether he votes for one candidate or another, for one party or another. Therefore, upon both the considerations which I conceive enter into the question of this amendment, I shall vote against it.

Mr. WILSON. Mr. President, at the risk of being classed a "conservative radical," I shall vote against the amendment proposed by the honorable Senator from Missouri. I have had some little experience in this matter of the secret ballot. Some fifteen years ago we of Massachusetts enacted a secret ballot law, and we were right confident that we had made a great radical reform; but when the day of election came round, and our people, who had ever been accustomed to the open ballot were required to put their votes in sealed envelopes, they somehow got it into their heads that our great radical reform was just no reform at all. So the compulsory portion of the secret ballot law went down, and some of its friends went down for a time with it, and no one now thinks of sealing up his vote.

Mr. DRAKE. Will the honorable Senator from Massachusetts allow me to suggest to him that the word "secret" is not in this amendment.

Mr. WILSON. The expression is "closed ballot."

Mr. DRAKE. "Closed ballot," such as you say is voted in Massachusetts.

Mr. WILSON. With the Senator from Missouri I am for the ballot instead of the *viva voce* mode of voting, and I trust that these States in their new constitutions will abandon the one and adopt the other, but I do not wish to make this new mode of voting a condition precedent to restoration. I fear this people will think we are trifling with them. I fear that our friends everywhere will think we are seeking here new grounds of difference rather than a reasonable plan of adjustment if we insist on making questions of this character conditions of the final restoration of these States to their practical relations.

For years the country has been stirred to its profoundest depths by the mighty conflict between the vital forces of freedom and slavery. Opinion grappled with opinion until the bloody issues of civil war were precipitated upon the country. In the stern conflict of ideas and in the sterner conflict of arms we have swept the field. Our ideas and our arms are completely victorious; our power is assured, and our ideas are to be the accepted opinions of our country so long as that country shall last.

We have been the champions of emancipation, of civil rights, of enfranchisement, of political equality. By a series of legislative acts, by the immortal proclamation of emancipation, by the great constitutional amendment, slavery went down forever in America, and four million bondmen were clothed with the rights of freemen. By the enactment of that great measure, the civil rights bill, these freemen were declared citizens of the United States and entitled to all the civil rights that belonged to other citizens of the Republic. By the fourteenth article of the Amendments to the Constitution, now, I maintain, a part of the Constitution of the United States—

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due pro-

cess of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This grand, comprehensive, and all-embracing provision of the Constitution, which Congress is empowered to enforce by appropriate legislation, makes every man from the Potomac to the Rio Grande before the law as free as the Senators who sit in this Chamber.

By the provisions of the act for the more efficient government of the rebel States the people of those States are required to adopt the constitutional amendment that takes forever from them the power to abridge the privileges or immunities of their three and a half million colored men, or to deprive the humblest of them of life, liberty, or property, or to deny to them the equal protection of the laws; to conform their own State constitutions to the provisions of the amendment, and to concede to their late bondmen, fully and completely, the unrestricted right of manhood suffrage. The nation has dictated to the people of the States lately in rebellion these conditions, which they must accept ere Senators and Representatives of theirs can sit in these Chambers, and their Senators and their Representatives must in addition be able to take the iron-clad oath of office. The triumph of the power of the nation is complete; the triumph of the ideas of the nation is complete.

From all sections of the rebel States comes the intelligence that masses of the people lately in rebellion are ready to accept the conditions imposed by the nation and to comply with the terms which the nation, in the plenitude of its power, exacts. To carry into effect the act for the more efficient government of the rebel States, and to facilitate the restoration of these States to their practical relations with the Government, I introduced this bill on the 7th day of March. It was carefully drawn, and received the sanction of gentlemen of talent and character. On the 9th it was taken up by the Judiciary Committee of the Senate, and its leading features received the unanimous support of the committee. On the same day it was taken up by the Judiciary Committee of the House of Representatives and amended in some of its details; reported to the House on the 11th, and on the same day it passed the House. On the 13th this bill comes back from the Senate Committee on the Judiciary with the pending amendment in the nature of a substitute, the House bill and the substitute of the committee being in form and substance, in purpose and in name, the bill introduced by me on the 7th of the month.

The amendment adopted by the House of Representatives, that the persons appointed to complete the registration and superintend the election shall take the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office," weakens our political friends rather than our political enemies. It is a restriction, not upon the men whose sympathies are with the rebellion, but a restriction upon men who earnestly desire the complete restoration of those States to their practical relations, who steadfastly support the Constitution and obey the laws, and who are in sympathy with and desire to affiliate with the great Union Republican party of the United States. In Virginia, in North Carolina, in the other States lately in rebellion, there are thousands of earnest, sincere men, who went into the rebellion or who were dragged into the rebellion, who clearly see and confess their mistake, who are now with their country and for their country, who joyously accept the policy of freedom and enfranchisement, who desire to stand upon our platform and to bear our flag in the conflicts of the future. These men know their States and the people of their States, their public men and private citizens; they desire to fight, and they will fight our battles if we will trust them and permit them to do so.

I am for trusting these earnest, sincere men, although they were once in some degree compromised by the rebellion. I want to see the six hundred thousand freedmen in the rebel

States now entitled to the right of suffrage, the tried and ever true loyal men, and the now sincere and earnest, but once deluded men, banded together and united with us as a part of the great party of patriotism and liberty, justice and humanity. This combination, if made as it can be made and ought to be made, would give us North Carolina and South Carolina, Alabama and Louisiana, and slake the power of men whose sympathies are still with the rebellion in several other States. If we would aid in thus combining the real and steadfast friends of the country in the future we must treat with generous confidence the men who seek to cooperate with us, and not meet their proffered support with averted faces and continued distrust and reproaches. If these States are organized as they should be, if we are firm in principle, generous in speech, and kind in act, now that we are complete masters of the situation, these rebel States that plunged into the fire and blood of revolution, that struggled to exhaustion through a four years' war to dismember the Union and perpetuate human slavery, will be as radical as the radical radicals of Missouri, so well represented by the honorable member whose amendment is now pending.

Willing as I am to trust our military commanders to select officers and persons to make the registration, confident as I am that there are hundreds of earnest and sincere men whose knowledge and whose services would be of infinite value in this work, I regret that the House of Representatives, under the lead of the Judiciary Committee of that body, should have insisted on applying the iron-clad oath of office, and thus casting away knowledge and service almost invaluable to us. I humbly submit that this policy does not tend to hasten on the day when men who accept our faith and creed shall have controlling majorities in the rebel States.

The House of Representatives, too, under the lead of its Judiciary Committee, struck out the sixth section of my bill, authorizing the commanding general of each district at his own discretion to permit the acting Governor of any State to perform the duties imposed by this act. My purpose was to allow Governor Peirpoint, of Virginia, and Governor Murphy, of Arkansas, who thoroughly understand the people and the public men of their States, who know those who can be trusted and those who cannot, with the consent of their commanding generals, to superintend the registration of the votes in their respective States. I have the utmost confidence in General Schofield and in General Ord, but they cannot possibly know the men of those States who may be intrusted to perform the duties imposed by this act so well as the Governors I have named.

The Judiciary Committee of the Senate has made an amendment in the first section of the bill, that like these two amendments of the House of Representatives is calculated to strengthen our political enemies. The original oath required that every elector should solemnly swear that he was sincerely and earnestly attached to the Government of the United States, and would steadfastly support the Constitution and obey the laws of the United States, and encourage all others to such support and obedience. This oath ignored the rebellion, required no test concerning it; it dealt, not with the issues of the past, but with the present and the future. It may be that there is a class of men—I hope not a large one—who passionately hate the Union and the Government of the United States; who will not support the Constitution nor obey the laws, and will not encourage others to such support and obedience. The country and their States might well spare this class of men; and if they should shrink from taking this oath of fidelity and obedience, the country and its friends might at least for the present gain something by their absence from the ballot-box. I regret that the committee should have stricken from that oath the words that required them to swear that they



were sincerely and earnestly attached to the Government of the United States. In spite, however, of these three amendments to my original bill, which amendments I sincerely believe are calculated to weaken the friends of the Government and to weaken those in the rebel States who ought to act with us and who desire to act with us, I shall cheerfully yield my own convictions to the perhaps better judgment of others.

The Thirty-Ninth Congress, in obedience to the clearly-expressed will of the nation, distinctly laid down the conditions of reconstruction and restoration. In spite of the action of the Chief Magistrate of the Republic, of political organizations and public men, the nation is as firmly resolved to enforce those conditions as it was to crush out the rebellion with the iron hand of war. The men of the South, whose fields have been blighted by war, whose fortunes have been wasted, whose sons have fallen in the bloody strife, cannot fail to see the impotency of the Executive and the abortive efforts of his friends to arrest or baffle the determined purpose of the nation. Men who sincerely desire peace, who accept the results of the war, who desire the protection of law, and who are struggling to restore their wasted fortunes, are turning to Congress, to those who represent the will of the nation, and are asking us for a well-defined plan to carry into practical operation the conditions we have imposed upon them. This bill was framed and introduced to meet the needs of the country, and its prompt adoption by the Fortieth Congress will facilitate the acceptance of the conditions we have imposed, and the restoration of the States lately in rebellion. I believe the hour has come when the victors in the great conflict through which the nation has passed and is passing should strive by generous words and deeds to convince their countrymen lately in armed rebellion against their native land that we embrace in our affection the whole country and the people of the whole country, and that we would forgive, forget, and unite.

Mr. DOOLITTLE. Mr. President, I shall say but a word in relation to the proposed amendment of the Senator from Missouri. In the first place, I believe that it is unconstitutional to attempt to impose any such condition upon a future State of the Union. The Constitution of the United States is the supreme law of the land over the States within this Union, and any law which Congress may pass, any compact which Congress may enter into with any State, is as a matter of course subordinated to the Constitution itself, and the Constitution leaves to each State full power over the regulation of suffrage. It is, therefore, impossible for Congress to impose any such condition. Besides all that, we have heard from the decision of the supreme judicial tribunal that all such compacts are utterly null and void, for the plainest reason in the world, that the Constitution of the United States is the supreme law of the land.

Mr. DRAKE. Will the gentleman from Wisconsin allow me—

Mr. DOOLITTLE. I shall be through in about five minutes.

Mr. DRAKE. I merely wanted to call the Senator's attention to a matter in connection with that remark.

Mr. DOOLITTLE. I think I shall finish what I have to say without any discourtesy to the honorable Senator from Missouri, and I fear that the interruption may perhaps protract the discussion longer than I desire.

The Missouri compact, which has been referred to, was a provision inserted in the act admitting Missouri, that the State of Missouri, in substance, should not violate the Constitution of the United States; or rather that one of the sections of the constitution of Missouri which was in conflict with the Constitution of the United States should never be enforced. There was no compact between Congress and Missouri for any new provision; but that section of the constitution of Missouri which au-

thorized the Legislature to declare that no free colored citizen should ever come into the State of Missouri was held by Congress to be in conflict with the Constitution of the United States, and therefore it was that Congress said in the act admitting Missouri that that section of the constitution of Missouri should be regarded as null and void forever. I do not quote the precise language, but I am stating the substance. All that Congress declared was that Missouri should not violate the Constitution of the United States. So that case is no precedent whatever.

Mr. President, I did not intend to be led off into the discussion of anything else than the precise question before the Senate upon the pending amendment. I am opposed to the amendment for the reason that I think we have no power to bind any State in the future by any provision that Congress may adopt which the Constitution of the United States itself does not impose; and the very constitutional amendment which is submitted to the States, and which it is required of the States shall be adopted by them as a part of the basis of reconstruction, assumes that each State shall have the power to regulate the question of suffrage and to prescribe the qualifications of voters.

Mr. MORTON. I should like to hear this amendment read.

The Secretary read the amendment proposed by Mr. DRAKE.

Mr. MORTON. I would respectfully suggest to the Senator from Missouri that he can attain all that he desires by his amendment and yet leave off the last and the objectionable clause, which is that containing the statement that this shall never be changed. I do not believe we have the right to lay a perpetual obligation upon an incoming State or upon a State that is about to be restored. We can prescribe the conditions upon which we will admit a State. We can say, "You shall put universal suffrage in the constitution," or "You shall put voting by ballot in the constitution, or we will not receive you." But after the State has been received, it is at liberty then to amend its constitution in any manner so that it maintains a republican form of government. We cannot bind any State not to amend the constitution, so that the amendment be consistent with a republican form of government; but we can say that these constitutions shall not be accepted, in the first place, unless they contain a provision that the voting shall be by ballot; and that will answer all the purpose the Senator from Missouri wishes to attain; for if that provision is once fixed in a constitution it can never be gotten out; the secret ballot will prevent it from being taken out.

If this change were made in the amendment I could vote for it most heartily. I believe it to be of the utmost importance to the South, far more so than in Massachusetts or Indiana or any of the northern States. Bear in mind that the South is divided into large plantations, large landed estates, and that the great mass of the colored voters are tenants upon these estates. They are dependent. Let me suppose a case where there are fifty colored voters upon one plantation; their little homes are upon that plantation; they are dependent upon the owner of it for their employment and their daily food. If he is a candidate and stands by the polls, and these poor men come up to vote, and understand full well that if they vote against him they will be ejected from their homes and lose their employment, I say they are not independent voters. It is, therefore, necessary to secure the independence of such voters that they be allowed to vote by ballot, and to vote secretly, so that their votes cannot be inspected by the men who have the power to drive them from their houses and to deprive them of the means of making a living.

Sir, the case is widely different in the South from what it is in the North; but the secret ballot is important everywhere where there is a dependent laboring population; and the peculiar circumstances by which the southern

people are now surrounded make it far more important than ever. If the Senator from Missouri will modify his amendment so as simply to require them to put a provision for the ballot in their constitutions, without saying that they never can change the constitution in that particular, I am for it. But, sir, when these States are once in here they are equal. Each State has a right to amend its constitution in any manner consistent with the republican form of government. If they were to put it in their constitution and afterward change it in violation of the compact made here to-day I disagree entirely with the Senator from Missouri that we could expel their representatives from this Chamber. Such a doctrine cannot be maintained under the Constitution.

Mr. HENDERSON. Before this subject passes from the Senate I desire to correct my colleague in one statement that he was, in the haste of debate, led to make in reply to the Senator from New York. If I understood him aright, he stated that in 1847 the State of Missouri had passed an act providing that free negroes might be sold into slavery. If my colleague remembers aright I am very much mistaken. My recollection of the legislation was that in 1847 the Legislature passed an act that free negroes should not again be permitted to come into the State unless they gave bond and security of resident white persons who had already resided in the State; but in 1859 both branches of the Legislature passed an act providing that all those who had come in subsequent to 1847 might be or should be sold into slavery, which act my colleague voted against, and he will remember that the Executive, Mr. Stewart, at that time vetoed the bill. Hence there never was a law upon the statute-books of Missouri providing for the sale of free negroes into slavery. In that particular I think he has done our State injustice, perhaps in the haste of debate. That is my recollection of the legislation of the State.

Now, one word in reference to the other point. It is true, as stated by the Senator from Wisconsin, that at the time of the admission of the State of Missouri there was a clause in the State constitution enabling the Legislature to pass laws prohibiting the immigration of free negroes into the State. Before the admission, however, Congress passed an act requiring that the Legislature then in session should agree by solemn vote that that provision of the constitution should never authorize legislation in conflict with the provision of the Federal Constitution, which declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. It was merely a compact that we should not violate the Constitution of the United States, which was certainly a very proper compact. It was not, however, by virtue of that compact, but by virtue of the Constitution itself, that the ablest lawyers of the State regarded the legislative act of 1847 to be against the Constitution; that is, to be unauthorized, not because there had been a compact, but because of the existence of this provision of the Constitution of the United States that it was illegal and void. However, I state as my colleague stated, that there never was a case made up. Although free negroes immigrated to the State and gave their bonds, I do not remember that any case ever appeared before the supreme court of our State contesting the right to require those bonds. I can state, and I do state now, that it was regarded by the ablest legal and judicial minds of the State that the act itself was absolutely void in consequence of this provision of the Constitution of the United States. That was always my opinion, though I did not rank among those men. It was the opinion of a great many who were not as good lawyers perhaps as my colleague and others.

Now, Mr. President, in reference to the amendment that is pending, offered by my colleague, I am not prepared to say that it would be expedient, and I am certainly prepared to

say that in my judgment we cannot require it in all time to come of these States. I do not think that upon the admission of a State we should vary the terms that we have usually employed in the admission of States, namely, that when admitted they are upon equal terms with the other States. I believe that it is universal; I may be mistaken, but I do not remember that any State has ever been admitted into the Union that that language was not used.

Mr. JOHNSON. Equal in all respects?

Mr. HENDERSON. In all respects, upon an equal footing with the other States of the Union. If such a provision should be required of one of these States, it certainly, when admitted, would not be upon an equal footing with the States already in. It would be requiring, not as in the case of Missouri, that a provision of the Federal Constitution should not be violated, but it would be requiring something at their hands that is not required in the Federal Constitution. If I understand the rights of the States it has always been admitted that a State might adopt or reject the ballot system.

Now, I will state to the Senator from Indiana [Mr. MORRIS] that my colleague's amendment does not accomplish what he desires. It does not provide for a secret ballot, but a closed ballot. Hence, the very end desired by the Senator from Indiana will not be accomplished. The closed ballot yet enables the planter to ascertain how the negro has voted without any trouble; and to go beyond the closed ballot will, I humbly suggest to the Senator from Indiana, be going too far, because it will be opening the door to frauds which may be perpetrated on the other side. The secret ballot, as I understand it, is a ballot where it is impossible to ascertain the name of the party that votes; but the closed ballot, on the other hand, enables us to examine the ballot-box and ascertain how individuals vote. The ballot is numbered and put into the box, and hence it is an easy matter to determine how any man has voted. The secret ballot, on the other hand, opens the door to frauds innumerable; and I believe the very great objection which was presented here in 1857 and 1858, with regard to the Kansas constitution, was that the voting was by secret ballot; and we know the frauds that were perpetrated in that State upon the occasion of electing delegates, and also in the vote upon the constitution. I am not prepared to vote for the secret ballot; but if the closed ballot is adopted the very difficulty that my colleague and the Senator from Indiana want to avoid will not be avoided, and it will not accomplish what they desire.

Now, Mr. President, I have said enough to indicate my views on this subject. I cannot vote for the amendment, because I think that it would be inexpedient to adopt it, however constitutional it might be; but I think it has been clearly admitted on all hands that we cannot constitutionally require it after a State has been admitted.

Mr. MORTON. One word in explanation. By the secret ballot I mean a ballot upon which the voter does not put his name, which he folds up and puts into the box, and you cannot possibly tell who voted that ticket unless by the color of the paper or some particular form of folding which may be observed by those who are present. I do not mean a ballot that is numbered to bear a corresponding number to that on the poll-book, by which a man's vote may be ascertained, but I mean the ordinary way of voting in the western and I believe in nearly all the States—a ticket blank on one side and printed on the other, which is folded up and put into the box, and the vote cannot be told unless by the color of the paper or some other sign that party politicians sometimes understand who manipulate such matters.

Mr. JOHNSON. Is it not often the case that the paper is colored or marked in some way?

Mr. MORTON. Yes, sir.

Mr. TRUMBULL. Allow me to inquire of

the Senator from Indiana how an election in which the ballots were cast in that way could ever be contested? In my State the ballots are numbered, the numbers corresponding with the numbers on the poll-book, so as to show, in case illegal votes are put in, exactly how many ought to be there. Unless something of that kind is done how are you ever going to ascertain that there is not ballot-box stuffing?

Mr. BUCKALEW. I think, Mr. President, that the advantages of the vote by ballot, as it is familiarly termed, have been overestimated, overestimated both in this country and abroad in former years, and I believe the inclination of mind with all those who have investigated political questions of this description in recent years has been in favor of the immediate or ultimate abandonment of this mode of taking the sense of the electoral body. Why, sir, we all know that throughout the entire North and West, wherever elections are held in a form intended to be secret or to secure secrecy in point or fact, it is known how almost every individual elector casts his vote; the fact transpires; it is known beforehand, or the fact is obtained at the time the vote is given. I suppose that, practically speaking, pretty much the only result obtained by a system of voting by ballot in this country is the opportunity for a very adroit and cunning person to deceive others: that is, it leads to nothing but deception, and deception which can only be practiced by the cunning, and which cannot be and is not practiced by the simple, for whose protection the system was originally established. It is idle to attempt to protect the employé from the influence of his employer by a system of this kind. That independence must rest upon a more stable foundation; it must have its root, its source, in the intellectual qualities of the elector himself. If he be a subservient man his employer will dictate his vote, and your system of secrecy will be no protection to the public against his influence.

One other remark, and I will conclude. I object to the attempt in this manner to establish immutable principles in formation of constitutions in this country. I think the idea which obtained in former years in the State of New York and in many other States of subjecting the question of constitutional reform to a vote at stated and periodical intervals of time was a wise and sagacious one. We have gone from the beginning upon the principle that political improvement has no limit and no boundary, and that as we discover an improvement we shall possess the means, the facilities for establishing it in practice. Now, sir, this system of vote by ballot, if not wholly inconsistent with further electoral reform, will be, at least it may be found, exceedingly inconvenient in attempting to secure such reform.

I hope, sir, to see the day when votes given by the citizens will be registered in an open and public manner, and be kept in a repository under the security of law, so that every ballot can be examined, at least for a considerable period after the election is held. I hope also to find it provided that these votes so registered and preserved shall be given by the citizen in such manner that we shall secure, what we intended to secure originally, an actual representation of the whole mass of the people, instead of a representation of only a part, which is our present imperfect system. We may advance to this if we are not fettered by absurd obstacles set up in blindness and in contempt of the wisdom of the future. We may obtain a reform which will reach the point which I have stated, possibly, first by taking the system of cumulative voting, allowing the elector, where there are a dozen candidates in a State to be elected, to cumulate his vote upon any number less than the whole, by which it will happen inevitably that each political interest in a community will obtain a representation exactly proportioned to its numbers and to its weight in the social body.

Then we may possibly advance further and obtain that which is sought, at least sought to be explained in recent publications by profound thinkers abroad, a system of personal repre-

sentation by which, at all events in large States and where large numbers of persons are to be elected to office, each elector may be enabled to vote for a man who will be chosen and who will represent in point of fact the persons who vote for him, and not upon theory, which is falsehood, represent other persons who do not.

These reforms are necessary, in my judgment, if our republican system is to continue, if it is to go on and accomplish the results which were intended when the system was originally established and the results of which it is capable.

However, sir, as I suppose there is very little peril or danger in the present case that this amendment will be adopted, I do not intend to protract the discussion upon it. I desired only to say enough to indicate the leading reasons for my dissent from it, and why I shall vote against its adoption.

Mr. HENDERSON. I move the Senate proceed to the consideration of executive business. There are a large number of messages on the table that ought to be referred.

Mr. TRUMBULL. I hope not. Let us dispose of this amendment first. It is only four o'clock, and it is very desirable that we should get along with this bill.

Mr. FOWLER. We shall not be able to reach a vote to-night.

Mr. TRUMBULL. Let us get to the vote on this amendment at least.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri.

Mr. HENDERSON. I have no objection to withdrawing the motion if we can have a vote without further discussion; but if any Senators are desirous to debate the question further I must insist on my motion, for I wish to have these executive messages referred. It is necessary it should be done.

Mr. TRUMBULL. There will be time to refer the messages; it is only four o'clock. We are not in the habit of adjourning before five. If there is to be more speaking let us hear it now.

Mr. HENDERSON. I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the amendment of the Committee on the Judiciary.

Mr. DRAKE. Mr. President, I do not care to say anything more at this time in regard to this amendment if there are other Senators who wish to speak. All I wish is the privilege, which I believe is always accorded to the mover of a proposition, to close the debate upon it. If any other gentleman wishes to speak I will give way to him.

Mr. CORBETT. I desire to say a word upon this amendment.

Mr. HENDERSON. If the Senator desires to speak, I hope he will give way if he would as lief speak to-morrow.

Mr. TRUMBULL. Only one word, he says.

Mr. HENDERSON. We shall not get a vote this evening.

Mr. SUMNER. I, too, have something to say.

Mr. HENDERSON. Will the Senator from Oregon yield?

Mr. CORBETT. I have a very few words to say; I do not make long speeches. I merely wish to explain the effect of the *viva voce* system of voting as it exists in our State. The *viva voce* system was established in our State during the Democratic reign; and since the commencement of this rebellion that party has been very desirous to repeal the act establishing it. As time progressed we desired to know who were the loyal people, and who those were who were in sympathy with the rebellion, and we found a very convenient system established for that purpose in this mode of voting, and the loyal people of Oregon then opposed the repeal of the act, and we found it very advantageous to us in securing and maintaining loyalty in the State of Oregon.

I believe that this amendment proposed by the Senator from Missouri will not accomplish

the object he desires. I expect to see the time when those who were in sympathy with and who inaugurated this rebellion will be odious in the eyes of the people of the South as well as of the whole Union, and when those who have maintained and sustained the Government in this trying time will be honored and elevated in that portion of the country. I think that the people there who are to inaugurate these new governments, who are to control them in the outset, will in the first instance provide for voting by ballot; but as they progress, if they shall see the necessity for a change, if they shall desire to establish the system of *viva voce* voting, I wish so to leave them that they shall have that privilege. But the amendment proposed by the Senator from Missouri places it entirely out of the power of the loyal people of the South, if they desire to change the system of voting from the ballot to *viva voce* to do so.

The planters, the wealthy men, by their wealth may influence the votes of those simple-minded people who are employed by them, many of whom do not know how to read. Those loyal men who are looking after the interests of those people may see that it is necessary to establish the system of *viva voce* voting in the progress of the times in order to protect these men from imposition. I see the time coming when it will be necessary perhaps for them to establish that system; and therefore, as a matter of expediency and as a matter that I think is for the benefit of those people, I feel it my duty to vote against the amendment proposed by the Senator from Missouri.

Mr. HENDERSON. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. I desire to state as a reason for not going into executive session now that we ought not to act in this way unless it is the intention of Senators to stay here and continue Congress in session. Are we to have an hour or two's debate on an amendment, and then adjourn? It will be discussed as long probably to-morrow as to-day. I apprehend there are some Senators who may be willing to protract debate on these side amendments and take up time and keep Congress in session here until the dog-days; but I do not believe that is the intention of the Senate. If it is not, let us sit until the usual hour, half past four o'clock, before we go into executive business or do any other business than consider the bill under consideration. I hope we shall not go into executive session now.

Mr. DRAKE. I suppose the remarks of the Senator from Illinois has reference to me.

Mr. TRUMBULL. No, sir; I have no reference to the gentleman.

Mr. DRAKE. So far as time is concerned, all the time that is spent here in making this bill all that it ought to be, under the circumstances of this case, is time well spent, even if it does take us to the dog-days.

Mr. HENDERSON. I am very far from attempting to interfere with the progress of this bill, and I do not wish to make any motion that the Senator from Illinois, who has it in charge, may consider inimical to it. I desire to have speedy action on it. My only object was to get some executive messages that were lying upon the table referred, but if the Senator insists upon it I withdraw the motion.

The PRESIDENT *pro tempore*. The motion is withdrawn. The question is on the amendment of the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. Mr. President, if there is any other gentleman who wishes to speak I will not—

Mr. SUMNER. I understood there were several Senators who wished to speak.

Mr. DRAKE. Very well.

Mr. SUMNER. Though I suppose they were all naturally reluctant to speak to a Senate that had become so impatient as this is now. I certainly have no desire to intrude

my opinions on this question upon a reluctant Senate; I think we had better, therefore, now proceed to the consideration of executive business. I believe we have arrived at a natural stage in the course of this discussion, and that the interests of our business will be best consulted now by going on with the executive business. ["Make the motion."] I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. CONNESS. Upon that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Dixon, Drake, Fessenden, Fowler, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sumner, Thayer, Van Winkle, Wade, and Wilson—22.

NAYS—Messrs. Anthony, Cattell, Conkling, Conness, Corbett, Cragin, Davis, Doolittle, Ferry, Frelinghuysen, Harlan, Howe, Johnson, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Tipton, Trumbull, Williams, and Yates—21.

ABSENT—Messrs. Edmunds, Grimes, Guthrie, Howard, Riddle, Saulsbury, Sherman, Sprague, Stewart, and Wiley—10.

So the motion was agreed to.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 6) placing certain troops of Missouri on an equal footing with others as to bounties, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, March 14, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### ELECTION CONTEST—DELANO VS. MORGAN.

The SPEAKER presented papers in the contested-election case of Delano vs. Morgan; which were referred to the Committee of Elections.

#### ELECTION CONTEST—HOGAN VS. FILE.

The SPEAKER also presented papers in the case of Hogan vs. File; which were referred to the same committee.

#### OVERISSUES OF CURRENCY AND BONDS.

Mr. COVODE. I ask unanimous consent to offer the following preamble and resolutions:

Whereas statements have been made on the floor of this House and in the columns of the press, to the effect that grave irregularities and delinquencies exist in the Currency Bureau and other branches of the Treasury Department that there have been over-issues of currency, that the Government bonds of various denominations have been duplicated, and that coupons of duplicated bonds have been presented for redemption and paid; and whereas such statements are calculated to cause great uneasiness in business circles; and whereas it is due to the officers and servants of the Treasury Department that such statements should be inquired into, and, if groundless, should be authoritatively and definitively contradicted and set at rest; and it is due to the people of the United States that, if true, such delinquencies and malversations as have been charged on the floor of this House and elsewhere should be exposed and corrected: Therefore,

*Be it resolved*, That a committee of five be appointed whose duty it shall be, and they are hereby authorized and empowered, to investigate all such charges, to examine the accounts, books, and records of the Treasury Department, and to report to this House as early as practicable: *First*, The present outstanding indebtedness of the Government of the United States, as far as it is practicable to ascertain it, as represented by currency, bonds, interest notes, or other promises to pay. *Second*, The deficiencies, if any exist, exhibited by such books, accounts, and papers. *Third*, The amount of currency, if any, issued over and above what appears by the books of the Treasury Department. *Fourth*, If duplicate five-twenty, seven-thirty, or ten-forty bonds and coupons of the United States have been sent in for redemption and payment, and how many such bonds and coupons have been redeemed and paid. *Fifth*, As to any other irregularities that may be called to the attention of the committee, and upon which they may deem it advisable to report.

*Resolved*, That said committee be authorized and

empowered to hold their sessions during the sessions of the House and recess of Congress, and that they be furthermore empowered to send for persons and papers, and to report at any time.

Mr. CHANLER. I object.

Mr. COVODE. I move to suspend the rules.

The SPEAKER. The rules cannot be suspended on this day.

Mr. COVODE. I give notice, then, that I will move to suspend the rules on Monday.

Mr. CHANLER. Is it in order to ask the gentleman to make his resolution more specific in order that we may understand what he is aiming at?

The SPEAKER. It will be in order.

Mr. CHANLER. I will then suggest a modification. The gentleman speaks in the preamble of irregularities that may be found to exist in the Treasury Department which he desires should come under the cognizance of the committee to be appointed. Now, although that may mean something, yet it is too indefinite to be of any value as the basis of any charge against the Department.

The SPEAKER. The resolutions are not before the House.

#### CONGRESSIONAL ELECTIONS.

Mr. JULIAN, by unanimous consent, introduced a bill to fix the time for the election of Representatives and Delegates in the Congress of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### EIGHT-HOUR SYSTEM.

Mr. JULIAN, by unanimous consent, introduced a bill constituting eight hours a day's work for all mechanics and laborers employed by or on behalf of the Government of the United States; which was read a first and second time.

Mr. HOLMAN. I ask that the bill be reported.

The bill was accordingly reported.

Mr. HOLMAN. I suggest that there is probably no objection to this bill and that we may as well dispose of it now.

Mr. JULIAN. I should be very glad to have it disposed of now.

The SPEAKER. Is there objection?

Mr. STEVENS. I object.

The bill was referred to the Committee on the Judiciary, and ordered to be printed.

#### LUTHERAN CHURCH IN WASHINGTON.

Mr. HOLMAN, by unanimous consent, introduced a bill to incorporate the German Independent Evangelical Lutheran Congregation of St. John, in the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### CONGRESSIONAL DIRECTORY.

Mr. MILLER. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Printing be, and are hereby, requested to inform the House under whose supervision the Congressional Directory of the Fortieth Congress is published, and why its publication was not delayed until the committees were appointed and the names corrected.

The SPEAKER. The Chair will state that the Committee on Printing has not yet been appointed. The Chair will also state that there is a law requiring this Directory to be prepared for publication by the clerk of the joint committee on Printing within six days of the commencement of the session.

Mr. MILLER. I move, then, that the resolution be referred to the Committee on Printing when appointed.

The motion was agreed to.

#### SAILORS' PAY.

Mr. WOOD, by unanimous consent, presented the petition of Hon. John T. Hoffman and other citizens of New York, asking for the extension of the same privilege to sailors honorably discharged as is now extended by law to soldiers; which was ordered to be referred to the Committee on Naval Affairs when appointed.

## WRECK OF STEAMSHIP SCOTLAND.

Mr. EGGLESTON. I move that the House proceed to business on the Speaker's table, with the view of taking up a Senate resolution.

The SPEAKER. That would require unani-mous consent. If the committees should first be called for reports, it would then be in the power of a majority to proceed to business on the Speaker's table. If no objection be made the House can do it now.

No objection being made, the House proceeded to the consideration of Senate joint resolution for the repeal of the joint resolution providing for the removal of the wreck of the steamship Scotland, approved January 9, 1867.

The joint resolution received its several readings, and was passed.

## PRINTING PAPER.

The SPEAKER, by unanimous consent, laid before the House the reply of the Congressional Printer to the resolution of the House of Representatives of March 11, 1867, respecting the purchase of printing paper; which was laid on the table, and ordered to be printed.

## COLORADO CONTESTED ELECTION.

Mr. SCOFIELD. I rise to a question of privilege. I desire to make a report from the Committee of Elections on the contested-election case from the Territory of Colorado. I ask that the resolution accompanying the report be read.

The Clerk read as follows:

*Resolved*, That the papers and evidence relating to the right of A. C. Hunt and George M. Chilcott to a seat in the United States Congress as a Delegate from the Territory of Colorado be referred to the Committee of Elections, with instructions to report which, if either, of said claimants is entitled thereto; and that the committee have power to require the service of such notices, and grant such time for taking further evidence, as they may deem proper.

The resolution and the report were laid on the table, and ordered to be printed.

Mr. KERR. I submit a minority report accompanied by a resolution declaring that A. C. Hunt, one of the claimants, is entitled *prima facie* to the seat.

The minority report was ordered to lie on the table, and be printed.

Mr. UPSON. I would inquire whether the two reports will be printed together?

The SPEAKER. Such reports always are.

Mr. BEAMAN. I move that the House do now adjourn.

Mr. RANDALL. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. RANDALL's motion was not agreed to.

The question being taken on the motion of Mr. BEAMAN, it was agreed to; and thereupon (at twelve o'clock and twenty-five minutes p. m.) the House adjourned.

## PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: The petition of workmen of Schuylkill county, Pennsylvania, numerously signed, asking Congress to legislate for those whose daily bread is earned by the sweat of their brows, and to remain in session until a proper tariff for the protection of American industry becomes a law.

By Mr. HUBBARD, of Iowa: The petition of citizens of Iowa and Dakota, in relation to the Sioux city and Pacific railroad.

## IN SENATE.

FRIDAY, March 15, 1867.

Prayer by Rev. ISAAC WESCOTT, D. D., of New York.

The Journal of yesterday was read and approved.

## RECESS.

Mr. GRIMES. I move that, unless otherwise ordered, the Senate at five o'clock this afternoon take a recess until half past seven.

Mr. SUMNER. I do not see any occasion for that at this early stage of the session.

Mr. TRUMBULL. The occasion for it is to finish the bill we have under consideration.

Mr. POMEROY. We may be able to get a vote on it before five o'clock.

Mr. TRUMBULL. If we do, we can dispense with the recess; but from the indications yesterday I do not see any prospect of getting a vote by that time.

Mr. POMEROY. I am willing to take a recess and continue during the evening and night, if necessary, to pass the bill; but I hope we can get a vote before five o'clock.

Mr. TRUMBULL. I hope so, too.

Mr. SUMNER. I see no occasion for pressing a bill of such importance in this way.

Mr. TRUMBULL. I trust the Senate does, from the very fact of its being important.

Mr. CONNESS. I hope that this course will be taken, and that the Senate by a sufficient vote will show their determination to pass the bill at an early day. There is an evident disposition on the part of some Senators to procrastinate the consideration of the measure with a view of continuing this session. This is done disregardful of the wishes of many Senators who desire to bring the session to a close, and disregardful, too, as I think, of the settled conviction of the country, that after we have disposed of the most imperative business demanding our attention we should go from here, and let the business of the country have rest and peace. I hope the Senate will determine to act upon this measure definitely within the earliest possible time, and for my part I am willing to sit to-night until it is done.

Mr. DRAKE. I should be glad if the Senator from California would specify the Senators to whom he refers when he says that there is an evident disposition to procrastinate action on this bill.

Mr. CONNESS. Mr. President, if my honorable friend from Missouri, to use a homely phrase, is to carry a chip on his shoulder and imagine that every reference made here is made to him, he will find it very disagreeable, indeed. I reply to him as a Senator did yesterday, that he was not in my mind. I have the right to make such a reference as I did without being called to account.

Mr. DRAKE. No doubt, Mr. President, the Senator from California has an undoubted right to make such a reference; but as it so happens that yesterday in the discussion of this bill I was the only member who attempted to amend it, I did not see that there was any other application of the gentleman's remark which could have been intended but to me. I wish to say, sir, in regard to this matter, that I have no disposition to procrastinate action upon the bill one moment longer than is necessary to put it in a shape in which, according to my judgment, it is best for the interests of the country that it should be put.

I have to say further, in regard to the duration of this session, that those gentlemen who in the Thirty-Ninth Congress passed the act requiring this session to be held ought not, in my opinion, to be the very first to endeavor to cut it short. I do not know what the new Senators and Representatives were brought here for in this extra session if it was not to give full attention to the public interests to every extent that the public interests require. And, sir, now is not the time, in my opinion, for us to be impatient to get away from here until we have guarded every point in reference to the public interests.

Mr. CONNESS. There has been nothing said that I am aware as to the old or new Senators but by my honorable friend from Missouri. The Thirty-Ninth Congress are doubtless responsible for what they did during their official period; and for my part I have no apology to make for any part that I had in their action. My friend, the honorable Senator from Missouri, will have abundant time, I think, without extending this session unnecessarily, to bring his judgment to bear upon the affairs of the country. I am very free to admit that the addition of his judgment will be a great advantage; I so believe, and I had no reference to the honorable Senator in what I had to say.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa, that the Senate take a recess from five

o'clock until half past seven o'clock this evening.

The motion was agreed to.

## PETITIONS AND MEMORIALS.

Mr. MORTON presented a resolution of the Legislature of Indiana, in favor of the equalization of soldiers' bounties; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. DOOLITTLE presented resolutions of the Legislature of Wisconsin, in favor of aid being granted by the national Government for the construction of the Northern Pacific railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented resolutions of the Legislature of Wisconsin, recommending appropriations for the improvement of the navigation of the Mississippi river; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. SHERMAN. I am desired to present the memorial of the delegates of the Choctaw nation concerning their claims for very large sums, which they say are due to them by treaties with the United States. This is a subject on which the Senate have heard a good deal lately. It is a matter that ought to be thoroughly investigated; and I have prepared a resolution covering its reference, which I ask to have adopted now:

*Resolved*, That the memorial from the Choctaw nation of Indians, submitted this day, and all the reports and papers relating to the treaties and the claims of the said Indians against the Government of the United States, now filed among the papers of the Finance and Indian Committees, be referred to the Committee on Indian Affairs of the Senate, with instructions to examine said claims, and with leave to send for persons and papers, and to sit during the recess, to report by bill or otherwise at the next session of the Senate.

I am informed that some examination of the facts, as well as an inspection of the papers, will be necessary, and perhaps an inspection of the land, or something of that kind. In order to have the examination full and perfect, so that we may have definite action and settle the whole matter, I have prepared this resolution, and hope it will be adopted.

Mr. DOOLITTLE. The resolution provides, I understand, that the committee are to sit during the recess.

Mr. SHERMAN. May sit. They may want to take testimony, or to authorize the chairman to do it.

The resolution was considered by unanimous consent, and agreed to.

## REPORT OF COMMITTEES.

Mr. HARLAN, from the Committee on the District of Columbia, to whom were referred a memorial of citizens of Alexandria and a memorial of the city council and commissioners of election of Alexandria relative to the election held in that city on the 5th of March, 1867, asked to be discharged from their consideration, and that they be referred to the Committee on the Judiciary; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the petition of Ethan A. Jenks, late captain and brevet major seventh regiment Rhode Island volunteers, praying for pay and allowances from May 4 to September 9, 1863, while under sentence of dismissal from the service, to which he was afterward reinstated, reported a bill (S. No. 75) for the relief of Ethan A. Jenks, late a captain in the seventh regiment of Rhode Island volunteers; which was read and passed to a second reading.

## NEW EDITION OF THE RULES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment; and it was considered and agreed to:

*Resolved*, That the Chief Clerk be directed to prepare a correct edition of the Constitution, Rules of the Senate, Joint Rules of the two Houses, and the Manual, and that five hundred copies of the same be printed and bound for the use of the Senate.

## BANKRUPT LAW.

Mr. ANTHONY, from the Committee on



Printing, to whom was referred the following resolution, reported it without amendment; and it was considered and agreed to:

*Resolved*, That five thousand additional copies of the bankrupt law be printed for the use of the Senate.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

*Ordered*, That the memorial of J. H. Merrill, praying for compensation for services as captain in the naval brigade, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CONNESS, it was

*Ordered*, That the memorial and papers of John A. Suter be withdrawn from the files and referred to the Committee on Claims.

On motion of Mr. DAVIS, it was

*Ordered*, That the memorial of A. H. Markland, praying for compensation for property destroyed by United States soldiers in Paducah, Kentucky, be withdrawn from the files of the Senate.

On motion of Mr. MORRILL, of Maine, it was

*Ordered*, That the papers in the case of Mrs. Harriet W. Pond be withdrawn from the files and referred to the Committee on Claims.

Mr. RAMSEY. I move that the petition and papers in the case of J. B. Braden, of Minnesota, be taken from the files and referred, along with the new evidence which I now submit, to the Committee on Claims.

The motion was agreed to.

#### TRANSPORTATION OF FRICTION MATCHES.

Mr. CHANDLER. The Committee on Commerce have directed me to report a joint resolution (S. R. No. 30) amending the ninth section of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852, and I ask the unanimous consent of the Senate to put it on its passage.

There being no objection, the joint resolution was read twice by its title, and considered as in Committee of the Whole. It proposes to so far amend the fifth division of the ninth section of the act of August 30, 1852, that inspectors may, in the license therein provided for, exempt a steamer from the obligation to carry in a safe, chest, or compartment composed or lined with metal, compact packages of friction matches securely packed in strong, tight wooden chests or boxes, the covers of which shall be firmly fastened on by locks, screws, or other fastenings, and which shall be stowed in a safe part of the steamer designated in the license by the inspectors, and at a safe distance from any fire.

Mr. CHANDLER. I will state that a similar joint resolution was passed by the Senate at the last session, but failed in the other House through the absence of the chairman of the Committee on Commerce there. I simply renew it as it was passed by the Senate at the last session.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 70) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 71) to further define and amend an act for the punishment of crimes against the United States; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 72) to secure the speedy construction of the Union Pacific railroad, southern branch, and telegraph line, and to secure to the Gov-

ernment the use of the same for postal, military, and other purposes; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 73) granting lands to aid in the construction of a railroad and telegraph line from the city of Lawrence, in the State of Kansas, to the boundary line between the United States and Mexico in the direction of the city of Guaymas, on the gulf of California; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 74) to promote greater efficiency in the postal service on the Pacific coast; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 31) to remit or refund duties on agricultural implements imported into the United States as models; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 32) refunding to the State of Indiana expenses incurred for quartermaster and commissary stores, and for transportation furnished to militia of said State while engaged in repelling rebel raids during the late rebellion; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### FEES OF CONSULAR AGENTS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury and the Secretary of State be directed severally to communicate to the Senate all information in the possession of either relative to the disposition made of that portion of fees received by consular agents within the districts of salaried consuls that have been by such consular agents paid over to such consuls under the apportionment of fees of such agents by the President; and whether any salaried consul now in office has been permitted to appropriate, or has appropriated to his own use, over and above the amount of his salary any portion of any such or any other fees, and if so, the name of the consul, and the amount he has been permitted to appropriate, or has appropriated, and under what regulation, if any, such appropriation has been authorized, and on what provision of law such regulation is founded.

#### CLAIMS OF LOYAL TENNESSEANS.

Mr. PATTERSON, of Tennessee. I send to the Secretary's desk a resolution, which I ask to have read and adopted, referring a subject to the Committee on Claims.

The Secretary read the resolution, as follows:

*Resolved*, That the Committee on Claims be, and they are hereby, instructed to inquire into the propriety and expediency of paying the loyal people of Tennessee for the commissary and quartermasters' stores taken and used by the Federal Army in that State during the late war, and to report a bill authorizing the President of the United States to appoint, by and with the advice and consent of the Senate, a commission, consisting of three gentlemen, one of whom at least shall be learned in the law, whose duty it shall be to investigate such claims for commissary and quartermasters' stores taken and used by the Federal Army during the late war as may be presented to them by the loyal people of Tennessee, and authorizing said commission to give vouchers for the same in all cases where such claims are found to be correct and just.

Mr. CONKLING. Is that a resolution instructing the committee so to report, or to inquire into the expediency of doing that?

The PRESIDENT *pro tempore*. I understand it to be an instruction.

Mr. PATTERSON, of Tennessee. No, sir; it merely instructs the committee to inquire into the expediency of doing this?

Mr. CONKLING. I should like to hear the first part of the resolution read again.

The Secretary read as follows:

*Resolved*, That the Committee on Claims be, and they are hereby, instructed to inquire into the propriety and expediency of paying the loyal people of

Tennessee for the commissary and quartermasters' stores taken and used by the Federal Army in that State during the late war, &c.

There being no objection, the resolution was considered and adopted.

Mr. EDMUNDS subsequently said: I move to reconsider the vote of the Senate taken a few minutes ago agreeing to the resolution offered by the Senator from Tennessee, [Mr. PATTERSON.] I have looked at the resolution, and, without intending it I dare say on the part of the Senator, it certainly contains an instruction to the committee to report a bill providing for the class of claims named, and therefore I think it ought to be reconsidered and changed; but as I see the Senator from Tennessee is absent at this moment from his seat, I will merely enter the motion to reconsider, and will call it up when he shall be present.

The PRESIDENT *pro tempore*. The motion to reconsider will be so entered.

#### WITHDRAWAL OF LANDS IN CALIFORNIA.

Mr. NORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be, and is hereby, requested to inform the Senate under what authority the said Secretary, in December, 1864 and 1865, withdrew the public lands of the United States, situated between the cities of San Francisco and San José, in the State of California, and whether any reason exists why said lands should not be forthwith restored.

#### LIQUOR IN THE CAPITOL.

Mr. WILSON. I move to take up for consideration the concurrent resolution to amend the nineteenth joint rule of the two Houses, reported by the Committee on Public Buildings and Grounds in lieu of the joint resolution introduced by me to prevent the sale or use of liquors in the Capitol building.

The motion was agreed to; and the Senate proceeded to reconsider the following resolution:

*Resolved by the Senate*, (the House of Representatives concurring,) That the nineteenth joint rule of the two Houses be amended so as to read as follows, namely:

No spirituous or malt liquors, or wines, shall be offered for sale, exhibited, or kept within the Capitol, or in any room or building connected therewith, or on the public grounds adjacent thereto. And it shall be the duty of the Sergeants-at-Arms of the two Houses, under the supervision of the Presiding Officers thereof, respectively, to enforce the foregoing provisions. And any officer or employé of either House who shall in any manner violate, or connive at the violation of this rule, shall be dismissed from office.

The resolution was adopted

#### AMERICAN ATLANTIC CABLE TELEGRAPH.

Mr. RAMSEY. I move that the Senate proceed to the consideration of Senate bill No. 28.

Mr. GRIMES. What is it?

Mr. RAMSEY. Simply granting to a New York telegraph company permission to lay their wires along the coast. It gives no exclusive privilege at all.

Mr. GRIMES. I ask for the reading of the title of the bill.

The SECRETARY. "A bill (S. No. 28) to grant to the American Atlantic Cable Telegraph Company of New York the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe, via the Bermudas and Azores Islands."

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to vest the American Atlantic Cable Telegraph Company of New York with the right, power, and privilege to lay, land, and operate their cable or cables on the Atlantic coast, within the jurisdiction of the United States, for the period of twenty years from the approval of this act; but the company are to commence active operations within the space of two years. They are to have the right, power, and privilege to lay, land, and operate their cable or cables within any of the harbors, waters, inlets, towns, and cities on

the Atlantic coast offering the most practical and convenient landing, and to construct or erect all the necessary fixtures to accomplish the object of the act. The Government of the United States is at all times to have the preference in its use, upon terms that may be agreed upon between the Postmaster General and the company.

The Committee on Post Offices and Post Roads reported the bill with amendments, the first of which was in section one, line five, after the word "privilege" to insert "having acquired the necessary land therefor."

The amendment was agreed to.

The next amendment was in section two, line two, after the word "company" to insert "having acquired the necessary land therefor."

Mr. CONNESS. That is the same amendment as was made in the preceding section.

The amendment was agreed to.

The next amendment was to strike out the preamble of the bill, in the following words:

Whereas the American Atlantic Cable Telegraph Company of New York, organized and incorporated under the laws of the State of New York, for the purpose and intent to establish telegraphic communication between the United States and Europe, via Bermudas and Azores Islands; and whereas the American Atlantic Cable Telegraph Company desire the right of way and privilege to lay their cable or cables on the Atlantic coast of the United States: Therefore.

Mr. FESSENDEN. I should like to know whether there is any particular information to be communicated upon this subject; what this company is; what they have done; and what the prospects of their accomplishing anything are? I should like to inquire further whether we have not granted an exclusive privilege of this sort to some company or other within a year or two for a given length of time. I forget what the name of the company was, but the matter was assiduously debated here, and the question of granting the exclusive privilege was debated. If that is so it may be interfered with by this bill. I hope the chairman of the committee will explain this bill, and let us know what this company is and what they design to do?

Mr. RAMSEY. This bill was referred to the Committee on Post Offices and Post Roads, and there given as much consideration as the time of the committee would allow. We have been informed that this is an organized company of the city and State of New York, who desire no exclusive privilege, but simply the privilege to lay a second wire. We have one now to England, upon which the charges for communication are very onerous, and the public press and the people of the United States complain of it, and would like to see a rival company established. Inasmuch as these people ask no exclusive privileges the committee had no hesitation in according to them this bill, with the amendments such as they have submitted.

Mr. FESSENDEN. I will inquire further whether the Senator has looked at the act passed a year or two ago granting the same privilege to another company, and whether that was not an exclusive privilege for a given length of time.

Mr. RAMSEY. That is the Havana line. I imagine they have an exclusive privilege in that direction. This is to be a European wire.

Mr. FESSENDEN. I wish the Senator would turn to that act, and let us see whether this would not be interfering with that.

Mr. RAMSEY. That does not touch Europe. That is a Cuba wire, and cannot conflict with this.

Mr. FESSENDEN. Still I think the privilege in that case was exclusive for the West India islands.

Mr. RAMSEY. Possibly it may be so; and, if it is so, the privileges granted to this company would be nugatory and amount to nothing. That is the worst that would happen; but inasmuch as these people ask for no exclusive privilege, I thought, and the committee thought, that the Senate should not hesitate to grant their request.

Mr. FESSENDEN. I should like to see that act. I do not want to grant privileges that we have no authority to grant.

Mr. RAMSEY. If the Senator will bear with us a moment, probably we can find that law.

Mr. MORRILL, of Maine. I have some recollection of the act referred to, and this would undoubtedly fall within the terms of that act; that is to say, this company, by the terms of this bill, would be authorized to lay a line within the territory indicated by that act.

Mr. CONNESS. Has the Senator from Maine got the act?

Mr. RAMSEY. He has found it. It is on pages 47 and 48 of the laws of the first session of the Thirty-Ninth Congress.

Mr. FESSENDEN. That gives an exclusive privilege.

Mr. CONNESS. The exclusive privilege in that case relates to Florida.

Mr. FESSENDEN. Then there should be an exception of the shores of Florida in this bill.

Mr. RAMSEY. If the Senator from Maine insists upon it, and if there is any conflict, I will let the bill go over informally, and call it up again.

Mr. FESSENDEN. You should except the shores of the State of Florida.

The PRESIDENT *pro tempore*. The bill will be passed over for the present by common consent.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPIERSON, its Clerk, announced that the House had passed the bill (S. No. 49) to repeal a joint resolution entitled "A joint resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody, and the enrolled joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels; and they were signed by the President *pro tempore*.

#### TREASURY PRINTING BUREAU.

The PRESIDENT *pro tempore*. As there is nothing before the Senate, and the morning hour has very nearly expired, the Chair will call up the unfinished business of yesterday, which is House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration;" the pending question being upon the amendment offered by the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. I wish to modify that amendment before it becomes the subject of discussion.

Mr. HENDERSON. I desire to have the special committee provided for in the resolution that I offered day before yesterday to examine the Printing Bureau of the Treasury Department increased to five instead of three members.

Mr. SHERMAN. With regard to that committee a similar committee has been authorized by the House, and I think myself the committee should be a joint one. My attention has been called to the fact that committees are authorized to be appointed by each House to examine the same matter. If Congress deems this examination proper, it ought to be by a joint committee, and I trust the Senator will make it a joint committee. A member of the House the other day moved a resolution, which was adopted, on this same subject.

I desire to state further, to remove a public misapprehension in regard to the duplication of bonds, that a great many people, sometimes probably for speculative purposes, telegraph all over the country that large amounts

of duplicated bonds and currency have been discovered. I am authorized to say that in no case has a duplication been discovered, but in some cases coupons of the same number have been presented, the principal of the bonds amounting in those cases probably to sixteen thousand dollars in all; that in every case they have been examined, and it was found to be in two cases a mistake in stamping the numbers upon the bonds; and no doubt nearly all the cases that have occurred of presumed duplication of bonds have been where the numbers have been erroneously stamped; for instance, two numbers stamped 264 instead of 264 and 265. That has been the result of the examination of the Treasury Department. However, it is perfectly proper that Congress should examine into this subject. It is a serious matter. If there is any ground for it, it ought to be thoroughly examined. I move, therefore, that the committee authorized by the resolution be a joint committee, and that the resolution be changed so as to provide for the appointment of a joint committee. The Secretary of the Treasury ought not to be bothered with two commissions of the two Houses on the same subject-matter. They ought to have one joint committee, and it ought to be carefully and minutely examined.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) To carry out the object designed by the Senator from Ohio this should be made a concurrent resolution.

Mr. SHERMAN. I will make that motion, that it be made a concurrent resolution, providing for a joint committee of three members of the Senate and five members of the House, if you choose.

Mr. FESSENDEN. I will inquire if the House has not already passed a resolution appointing a separate committee on this subject?

Mr. SHERMAN. Yes; but I propose that the two should unite together and act jointly; otherwise, there will be a separate examination by each House. It would be better to have one careful examination by a joint committee of both Houses.

Mr. FESSENDEN. But will not this result in having two committees, one concurrent, and one a committee of the House? That has been already appointed. I approve entirely of the Senator's idea. I only want to be certain that he reaches his object.

Mr. SHERMAN. I think so. At any rate, the House could reconsider its action and appoint the same gentlemen on this committee.

Mr. CONKLING. I suggest to the Senator to allow this matter to lie over informally until a conference can be had with the mover of the committee in the other House, else it seems to me it would look like action superseding their action, or there would be two committees.

The PRESIDING OFFICER. The Chair will state the motion. The motion is that this committee act conjointly with a committee of the House.

Mr. SHERMAN. I would rather the Senator from Missouri, who moved in the matter, would take his own course in regard to securing a joint committee instead of two several committees.

Mr. HENDERSON. I rise simply to say that I was not aware that the House had taken any action on the subject when I offered this resolution.

Mr. GRIMES. It has not taken any action. A gentleman simply rose and proposed to offer a resolution; but objection was made, and the matter was carried over until to-day, as I understand.

Mr. HENDERSON. Then there is no objection to this action. If the House shall act on the subject and send us a resolution for a joint committee, I shall be perfectly willing to make the committee a joint one, and would prefer doing so. And in this connection permit me to say, if the public require to be comforted on this subject, that I offered the resolution without any idea of disturbing the public mind, without any information that ought to disturb the public mind; but it struck me that

a vast concern of this sort ought to be repeatedly examined; and there is no harm in doing so. Another thing: if the examination of the Printing Bureau, that prints the entire public securities of the country, all the notes of every character now used as a circulating medium—

Mr. TRUMBULL. I must interpose an objection to going on with this discussion, the hour having arrived when the unfinished business of yesterday comes up for consideration.

Mr. HENDERSON. I hope the committee will be made to consist of five members, and if the House sends us such a resolution as is suggested it can then be amended.

The PRESIDING OFFICER. The Senator from Missouri moves that the number of this committee be increased to five.

Mr. EDMUNDS. Mr. President—

Mr. TRUMBULL. I call for the regular order of business. This discussion is only proceeding by unanimous consent.

The PRESIDING OFFICER. As this subject has been proceeded with by unanimous consent, it must be laid aside and the regular order of the day taken up on the call of any Senator.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration."

Mr. DRAKE. I wish to modify the amendment which I offered yesterday to the amendment of the committee, and which I believe is the first matter before the Senate.

The PRESIDING OFFICER. The amendment, as modified, will be read.

Mr. DRAKE. I ask the Clerk to be so good as to modify it as I have directed, and let it come before the Senate in the modified shape in which, on the suggestion of several gentlemen, I have put it.

The Secretary read the amendment, as modified, which was to insert at the end of the fourth section of the amendment reported by the Committee on the Judiciary the following proviso:

*Provided, That no such State constitution shall be considered as entitling the State for which it is framed to such representation unless it provide that in all elections by the people for State, county, or municipal officers the elector's vote shall be by ballot.*

The amendment to the amendment was rejected.

Mr. TRUMBULL. I think in the tenth line of the fourth section of the amendment of the committee there should be inserted after the word "supplementary" these words, "and the other provisions of said act shall have been complied with." I move that amendment. Those words are in the House bill I will state, but they are omitted in this section of the Senate bill. The necessity for inserting them is this: if the members of the Senate have the bill before them they will see that the clause reads, beginning at the eighth line—

And if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, the State shall be declared entitled to representation, &c.

Now, something more than the fact that the Constitution is in accordance with the bill to which this is supplementary is requisite; for instance, the constitutional amendment must have been ratified, and it is necessary to put in these words which were in the House bill, so as to declare, not only that the Constitution which is framed must be in accordance with the act to which this is supplementary, but also that the other provisions of that act shall have been complied with. I presume there is no objection to the amendment.

Mr. FESSENDEN. I will inquire if we had not better use the words "and the constitutions approved." That is the language of the original act. One of the provisions, and a very important and essential provision in that act, was that the constitution should be approved by Congress. Now this leaves out

that and says simply if the constitution "shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary."

Mr. TRUMBULL. "And the other provisions of said act shall have been complied with." I propose to insert those words.

Mr. FESSENDEN. Would that cover as much as the words "and the constitutions approved by Congress?"

Mr. TRUMBULL. "And the other provisions of said act shall have been complied with."

Mr. FESSENDEN. "And the said constitutions shall be approved by Congress." I want those words in, because the reason why they were in the other bill was that we might retain our power, not knowing what sort of a constitution they would present.

Mr. TRUMBULL. Would the "other provisions of said act" be complied with if the constitution was not approved by Congress?

Mr. FESSENDEN. That would hardly perhaps be called a provision of the act, being something that must be done finally. I would rather those words be retained, because it was an essential idea that after all, although the constitution might contain the provisions specified, it might contain something else that would prevent its being approved by Congress.

Mr. TRUMBULL. Will the Senator look at it more closely? He will see in the tenth line the words "the State shall be declared entitled to representation." Declared by whom? By Congress. We have to act upon it.

Mr. FESSENDEN. "And if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, the State shall be declared entitled to representation."

Mr. TRUMBULL. And now I propose to put in the words which will be found in the eleventh and twelfth lines of the fifth section of the House bill on page 4, "and the other provisions of said act shall have been complied with."

Mr. FESSENDEN. I wish to add there "and the said constitution shall be approved by Congress."

Mr. TRUMBULL. I have no particular objection to those words.

Mr. FESSENDEN. They are in the original act.

Mr. TRUMBULL. I have no objection to putting in those words; they will follow the words I have proposed; and I accept them if they will avoid any controversy, though I think the object is fully covered by the other words.

The PRESIDENT *pro tempore*. The amendment of the Senator from Illinois will be modified as he proposes.

Mr. TRUMBULL. I presume there will be no objection to this amendment, though I do not offer it from the committee. I did not observe that these words were out. I presume there is no objection from any quarter to inserting them.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I now propose to offer an amendment covering the idea which I suggested yesterday in the few remarks I made on this subject. First, I move to strike out, in the first section of the substitute of the committee, all down to and including the word "entitled," in the fifth line, and in lieu of those words to insert "that before a convention shall be holden for the purpose of framing a State constitution under and by virtue of," and then after "1867," in line seven, to insert "commanding general in each district defined in said act;" so that the section will read thus:

That before a convention shall be holden for the purpose of framing a State constitution under and by virtue of an act to provide for the more efficient government of the rebel States, passed March 2, 1867, the commanding general in each district defined in said act shall cause a registration to be made, &c.

Then I have another amendment to propose to the second section.

The PRESIDENT *pro tempore*. I suppose it is best to take the question on each amendment by itself.

Mr. JOHNSON. I should like to hear them all, to see how they bear on each other.

Mr. FESSENDEN. I will send the other amendment to the desk.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the first section of the amendment reported by the committee.

Mr. TRUMBULL. I trust that amendment will not be adopted. I think we leave quite discretion enough to the commanding general. The effect of this amendment is to leave it entirely optional with him to make the registration or not. Now, sir, I understand the object of the legislation passed at the last session of Congress and the object of this bill is to afford to these people the means of forming a constitution and State government and resuming their position in the Union.

Mr. FESSENDEN. The objection which the Senator makes did not occur to me, and I am perfectly willing to leave in the words requiring a registration to be made before the 1st day of September, 1867.

Mr. TRUMBULL. Then if the Senator so modifies his amendment will he be good enough to tell me how the section, if amended as he proposes, will differ from the section as it now stands?

Mr. FESSENDEN. I do not know that it will change it really. I drafted the amendment to this section with reference to the next amendment, which I should like to have read.

Mr. TRUMBULL. If it makes no difference, except in phraseology simply, it is hardly worth while to have any discussion about it.

Mr. FESSENDEN. I am not so particular about that, but my object was to negative the idea that a convention could be held before the registration was made. I desired to have it distinctly declared that no convention should be held until after the registration was completed.

Mr. TRUMBULL. That is so as the section stands now.

Mr. FESSENDEN. Let the other amendment which I sent to the desk be read.

Mr. TRUMBULL. If that is read, perhaps we shall understand the question better.

The Secretary read the proposed amendment of Mr. FESSENDEN, which was to strike out in section two of the amendment reported by the Committee on the Judiciary all after the word "State," in line two, down to and including the word "Union" in line seven, and in lieu of those words to insert:

The commanding general shall furnish a certified copy thereof to the provisional governor of the State for which the same was made; and whenever thereafter the provisional government of said State shall by legal enactment provide that a convention shall be called for the purpose of framing a State constitution and establishing civil government, and shall furnish the commanding general with a duly authenticated copy of such act, the commanding general shall direct that an election of delegates to such convention shall be held at such time and place as he shall appoint and direct, of which at least—day's notice shall be given in such manner as the commanding general shall determine.

Mr. TRUMBULL. I now see what the design of the Senator is. The amendments in the first section, as he proposes them, do not alter its meaning, as I think, at all, but are mere matters of phraseology, about which I shall make no remark, as he has now modified them; but the amendment proposed to the second section, if I understand its purport—and if I do not the Senator will correct me—is to prevent any action being taken in any of these States for the purpose of forming a constitution and government in accordance with the act of the last session until the present governments in those States, provisional as they are called, shall have given their sanction and expressed their wish for the formation of such a constitution and government. That is the whole purport of it, as I understand. I am opposed to such an amendment as that for various reasons.

In the first place, I am not for continuing the loyal people of the rebel States under the control of those disloyal governments. This would leave the loyal element in all those States at the mercy indefinitely of the disloyal governments which have been organized there. Now, what is the complaint in regard to the governments which have been set up in the rebel States? Is it not that they are in the hands of disloyal men, that they are oppressive upon Union men, that they are unjust to the freedmen, that they do not afford the requisite protection for life and property? And are we to leave these people at the mercy of these rebel governments? Why, sir, it was for the very purpose of taking the control of those States out of the hands of those men that I voted for the bill of the last session, and I am unwilling to leave it at the mercy of those rebel governments.

Then again, sir, the object of this legislation, as I understand, is to afford a means by which the people of these States may organize governments upon a loyal basis and resume their position in the Union as members of the Union. I, for one, desire that, and I desire that at the earliest practicable period when it can be done with safety to the Union, and when State governments can be organized upon loyal principles and in accordance with the Constitution as it has been amended and the provisions of the act which we have passed.

I am unwilling entirely to leave it to these governments, which we have declared not to be legal governments, to determine this question. Why, sir, how were those governments got up? They were got up by the rebel element and under the control of the rebel element. That has been our complaint. In some remarks made by the Senator from Maine yesterday he expressed himself as opposed to forcing upon the people of any of these States a constitution. So am I. He is opposed to forcing them into the formation of a State government. So am I; and this bill proposes no such thing: it proposes to leave it to the registered voters, excluding certain leading rebels who are not to be registered, to determine through the delegates they shall elect to the convention whether they will form a constitution and State government in accordance with our legislation. Is there any force in this? It proposes to leave to those same voters after the constitution shall have been formed the power to decide whether they will adopt that constitution and form of government or not.

The whole object of the bill is to afford facilities to the people to give expression to their opinions. The object of this supplementary bill is to direct somebody to set the machinery in motion. What was the objection to the legislation of the last Congress? What was the defect in the law which it is now designed to remedy? The complaint was that it made no provision for inaugurating the necessary proceedings for carrying it into effect. It was said that in some of the States a political party, perhaps, would undertake to get up a State government in accordance with that bill; another effort might be made to get up a State government under the action of the provisional government, as the Senator from Maine now proposes, for if his amendment prevails no step can be taken in the formation of a State government until this provisional government inaugurated by and in the hands of the rebel element shall give it its sanction. I deny that these provisional governments represent the people in these States; they represent but a part of them. The Senator said yesterday that this legislation of ours was obnoxious to the same objection that had been made to the action of the President; that we complained of the President as guilty of usurpation in inaugurating the governments which now exist in the rebellious States. That is true; but we complained of that because he had no authority to do it; it was a usurpation on his part; but it is not a usurpation on the part of Congress, because Congress has the constitutional authority to move in this matter.

But usurpation or not usurpation on the part of the President, it would never have been a question of any material importance to me how the government was inaugurated in any of these rebellious States provided it had been inaugurated with the assent of the people—that is the substance of the thing—and had been loyal and in the hands of loyal men and protected loyal men and freedmen, in accordance with the Constitution and the present principles obtaining in the Government. That is what I want. The object of this bill is to afford the machinery and prevent collision in arriving at the formation of such a government. There is no force about it. I do not believe in forcing a government upon any of those States, any more than the Senator from Maine; and that is not the bill. I think it should be left to the people to determine, as was said by the Senator from Missouri [Mr. DRAKE] yesterday. It is true I did not vote for his amendment, because I thought we reached that point by the bill as it was; but the last thing I would do would be to leave it to these governments, which we have declared to be illegal governments, to determine that question. I trust the amendment may not be adopted.

Mr. FESSENDEN. It is a sufficient answer to the last remark of the Senator, that we have declared these governments to be illegal, to say that we have declared them to be legal. We have declared them to be illegal as State governments, but we have legalized them as provisional governments expressly by the bill which we passed at the last session, and we have given the right to the commanding general to avail himself of them so far as may be necessary, in his judgment, to that end or to any other end as existing legal provisional governments in those States.

Now, sir, I do not precisely agree with my friend from Illinois in his view with regard to this matter. The object of forming these State governments is not, as I understand it, to give protection to the loyal people there. That object is accomplished by the mode provided in the bill which we have passed, and that is by organizing military governments there for the purpose of protecting those people, and with full authority to do so. So far, therefore, as the protection of the loyal people in all their rights and privileges is concerned, we have given them the most efficient protection by putting them under the protection of the military. The object of this movement, as I understand it, is to provide a mode in which State governments may be formed, if it is considered desirable on the part of the people of those States to frame State governments at all. That was the object of the bill we passed at the last session; and the object of this I understand to be to protect the people in the details necessary to accomplish that purpose, to protect them in their right of suffrage and all their rights that are essential to free action in relation to that matter.

Now, sir, what complaint do we have to meet? I take it that the great complaint which has been made there and here on the floor of the Senate and on the floor of the House by our adversaries, and elsewhere, is that we do not desire that these people shall come back into the Union at all, that we are contriving modes to keep them out of the Union. That has been the Democratic cry against us from the beginning. Now, here are provisional governments in these States which represent the very people who are making this cry and who are the particular friends as we understand of those who are opposed to the Union party here. My object is simply that these organized governments, provisional governments, chosen by the people there—not by all the people to be sure, and partaking of the character which my friend assigns to them—being composed of men who by themselves and their friends here and elsewhere have made the complaint, shall be told, "We now give you the opportunity to frame a State constitution and to establish State institutions; we present them to you; if you desire it, signify it; you who have com-

plained; you who pretend that you want to come back into the Union; you who say you are kept out; we wish to give you the opportunity to decide that question for yourselves. You have got a provisional government framed in all the forms of government, a Governor and a Legislature elected by yourselves; you have made this complaint; you say that you are unreasonably kept out of connection with the Government of the United States. Now, then, you are the organs of the people; if you wish to have a State constitution and establish State institutions you have the power to say so; make it manifest by legal enactment: express your will, and when you have done so, if you desire it, we stand ready to afford you all the opportunities to do it fairly and freely under the act that we have passed; we take the control of the details of the preliminary proceedings, because we can do it more to our satisfaction and to the security of the whole people than we think you will do it; and therefore as to the details we carry them into effect; but it is for you to say whether you wish a State government or not, and henceforth if you do not say so make no complaint about it."

These provisional governments represent the people of those States, or if they do not they soon will. We have provided in the same act that in all elections hereafter to be held all males who have arrived at the age of twenty-one years, white and black, shall have the right to vote. The men now holding power in these governments that have been formed, which call themselves State governments, and which we have recognized as provisional governments, have been elected only for a time; their terms will expire; and if the present provisional governments selected by a portion of the people, as the Senator from Illinois says, do not choose to ask for a State constitution very soon, the people of those States and all the people of those States will be entitled in any event to elect new members, and if the public sentiment there is for a convention to frame a constitution they can then express it in a legal and proper way.

My simple purpose is that the very men who have made these complaints against us, and who now form the governments recognized by us and legalized by us, should have the power to decide whether or not they wish to frame a regular State constitution and come back to the Union. If I believed, or if I understood, as the Senator from Illinois does, that the object of this measure is to afford protection to those who have not got it now, that would be another thing; but we have done all that we judged to be necessary for the protection of the Union people, white and black, in those States by the bill which we have passed, and they are safe, as we understand, under the shadow of the military.

I do not know that my views will commend themselves to any other member of the Senate besides myself; but entertaining them very decidedly as to what is the most advisable method of deciding the question originally whether a convention shall be called or not, I have thought it my duty to move these amendments, and they are before the Senate for its action. I repeat that while I am as anxious as anybody that these States shall be back in full communion with us as soon as possible, I do not want them back a moment sooner than they are prepared to come with the right kind of feeling to do their duty by the whole people of the United States. And, sir, by—I use the word again—forcing them, by taking the matter into our own hands and deciding whether a convention shall be called in the first place, taking it out of the hands of the people of the States in fact, no matter if we do leave it to them to decide whether the constitution that may be framed by the convention is satisfactory to them or not afterward; but by taking it out of their hands entirely to decide the question originally whether they desire a convention or not, we expose ourselves to all the disadvantages of which I spoke yesterday. They may turn around and say to us that they did not



desire to come; that they have been forced back; that they do not thank us for forcing that question upon their consideration; it should be left to them. Although it is not a usurpation in us to do it—I do not pretend to say that it is—yet I do say that when we send the military there for the protection of the people, it is not, in my judgment, any of their business to decide in the first place whether a convention shall be called to frame a constitution. That is not for the military; but we may safely and properly say that the military are, if that question is decided upon, to see to the details and to take care that the whole matter is properly done.

But, sir, I will not elaborate upon this question. I have stated the general views I have. My amendments are before the Senate, and the Senate will judge of them.

Mr. HENDERSON. When the Senator from Maine yesterday first suggested this amendment it struck me that it was a proper amendment, and I thought at the time I would favor it upon the ground so very ably presented by himself, that the southern States hereafter should not be permitted to charge that they had been forced back into the Union against their consent; that we should make it obligatory on them in some way to express their desire to return. When my colleague first offered his amendment yesterday, which caused the Senator from Maine to make the remark that he intended to offer this proposition, it struck me favorably also. My reason for voting against my colleague's amendment will induce me to vote against the proposition now presented. In a certain view of the case that amendment of my colleague is correct; but it will be observed, by an examination of this bill, that the bill itself in the particular of obtaining the consent of the qualified voters upon this subject departs from the act we originally passed. Senators will see by examining the fifth section of the act of last session that we only required that the constitution, when submitted to the vote of the people, should be ratified by a majority of those voting. That is not the bill now before us. This bill goes further than that, and requires not only a majority of all those who may see fit to vote, but a majority of all the legally qualified voters according to the registration.

There are two guarantees provided in this bill for obtaining the consent of the people of the State preparatory to its admission; that is, to obtain evidence that the State desires to return to the Union. First, it is necessary that the delegates elected, when they come into convention, shall declare by a vote that "it is the wish of the people of such State to frame a constitution and civil government;" and after they shall have adopted a constitution it is to be submitted to the people, and not voted upon favorably by a mere majority of those voting, but by a majority of all the qualified voters as returned upon the registry. The fourth section of the bill now pending before us declares that—

If according to said returns the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same, &c.

It will be observed that we not only have the guarantee of the members of the convention that it is the desire of the people to return—those members being fresh from the people, just having received their votes, and having themselves assembled for the purpose of making a constitution preparatory to admission—but the bill departs entirely from the original reconstruction law which we passed. The Senator from Maine will discover that the fifth section of that law only requires a majority of those voting to approve the constitution; and if the bill now before us followed the original act in that respect his amendments would be altogether proper, or some measure of a similar character seeking to put the burden upon them of declaring their wish in some way to return.

Mr. FESSENDEN. I wish to ask the Senator whether we can with propriety depart from

the provisions of the original act in that regard? We agreed and stated to them that if they would adopt certain provisions in a certain way they would be received on the terms specified. Ought we now to make a departure from what we originally proposed? My friend from Massachusetts, who originally introduced this bill, thinks the bill weakened by that change, and that it ought not to be adopted.

Mr. HENDERSON. I very frankly say that it is a departure, and in that respect it may be worse. I do not pretend to determine that question; but I would suggest to the Senator that that provision is in the bill, and if it is to remain in the bill it secures the object that he contemplates by his amendment; and it seems to me that it secures it in a better mode than the mode adopted by himself, because the objection urged by the Senator from Illinois is certainly a very strong one, that, so far as Congress is concerned, we have at all times taken the ground that these provisional governments are void, and that we are under no obligation whatever to regard their acts. In the bill we passed a few days since we took occasion by an amendment to it, made in the House and agreed to by the Senate, to declare that those governments were provisional in their nature, and we took it upon ourselves to prescribe the qualifications of all voters that might hereafter vote under those governments. But the Senator will discover that without an election with the qualifications of voters prescribed as we desire, he leaves it entirely with those governments to determine whether there shall be any affirmative action or not. Suppose that in one of the States a majority of all the people, counting the negroes and white Union men, should be in favor of the State returning to the Union, they cannot, under this amendment, return, unless with the consent of the provisional government of the State. Certainly these provisional governments are in the hands of men who fought against us. I will not say that they are disloyal now; but they certainly were disloyal; and the members of those Legislatures were unquestionably elected by men who fought in the confederate armies, and a large majority of the voters were composed of that class of men. This amendment puts it in the power of the disloyal in these respective States to exclude from the polls the loyal men whom we have qualified to vote under the previous law, bringing in three eighths of the qualified voters by virtue of that bill. I mean the negroes, who had no voice in the election of the men whom it is now proposed to invest with the power of deciding whether or not a convention shall be called.

It struck me very favorably when presented yesterday; but on reconsideration I am inclined to think that it will work badly; and that we ought not to adopt it, and especially if the provision that a majority of all the qualified voters shall determine in favor of the constitution before it shall be adopted is to be retained in the bills. That secures all that the Senator from Maine can desire. It secures what I consider, and what he seems to consider, a very important requirement—a demonstration that a majority of the people qualified under this act wish to return. To ask that the present provisional government should express that wish does not determine the fact that a majority of those whom we have qualified to vote are in favor of returning. In that view, until I know whether the Senator will retain this departure from the original bill, I must oppose the proposition of the Senator from Maine, upon the very same reason that I opposed the proposition of my colleague yesterday.

The Senator from Maine asks whether we are not in honor bound to stand by the original proposition. I do not think so. Although I intend to favor this bill, and desire the speedy return of these States, I do not think we are obliged to stand by the proposition that was made a few days ago. We can supply other terms, and I think the Senator from Maine has had a very important requirement added this morning, lest the argument of estoppel should

be brought against us when these constitutions are brought here, and if he said that we are bound to accept them, that we shall not be allowed to consider the matter at that time. He offered a very important amendment a few moments ago, that the State constitution must not only be in accordance with the terms of the original proposition and in accordance with this act, but that it must be approved by Congress before representatives from these States are admitted. That leaves it entirely in our hands, when they present themselves here, to determine whether they have violated any of the provisions of these acts or whether there is something in their respective constitutions that we do not then like. Whether I shall feel called upon at that time to cast my vote against the admission of any members from these States or not, after the States shall have strictly complied with this law, is another question. I wish to reserve to myself the right at that time to say yea or nay. I am not bound by any act of Congress already passed, nor by any act that shall be passed to-day, nor by any act which may be passed during the present session of Congress or any other session, so as to be utterly unable to consider their constitutions when they present themselves.

Entertaining these views, I think the amendment of the Senator from Maine ought not to be adopted, at least until it is determined whether a full majority of the registered voters shall be required for the ratification of the constitution or not.

Mr. FESSENDEN. It has been suggested to me that it is understood from the reading of my amendment that it leaves it to the provisional governments to decide upon the whole thing and to conduct the details. That is not so. There is nothing in the world by my amendment left to the provisional government but to decide whether or not they want a convention to frame a constitution. If they decide in favor of it, all the details are to be conducted by the military authorities according to this bill.

Mr. JOHNSON. That will be so if your amendment is adopted.

Mr. FESSENDEN. Certainly.

Mr. STEWART. My view of the practical operation of this amendment is that if adopted we should be justly charged with having passed an act which, whether we intended it or not, would amount to practical obstruction. I desire to call the especial attention of the Senator from Maine to the practical operation of it if passed. In the first place, the legislation which we have passed, taken in connection with the constitutional amendment, probably disfranchises one half or perhaps three fourths of the members of the existing Legislatures in the rebellious States, and those now controlling the governments there. Our legislation disfranchises them during the present organization, and the constitutional amendment excludes them from office when the States shall have been restored to representation. Now, this amendment is saying to the rebels who are in the Legislatures, "We will exclude you from office, we will disfranchise you, and we will give you the power to say whether you will be excluded alone or whether you will take with you all the Union men of your States." It places it in the power of the President of the United States, who is supposed to be acting in harmony with these very men, to advise them to obstruct the congressional plan. It takes from the people who are allowed to vote and be registered under this bill the right to determine the question of restoration. It places it out of the power of the Union party or the friends of the Union to have any say in this question of restoration. I do not know but that after we have disfranchised these rebels they may be a little desperate, and want to keep their neighbors in the same situation. It seems to me that it would be rather natural that they should. If there were no disabilities on any of them, if they came in on equal terms with their neighbors, they might deal fairly and justly with this question; but inasmuch as they are not to participate in the Government they

may desire that their States should remain in their present condition, hoping for a reaction in the North; but the mass of the people of the South, those who were not leaders, those who are to be restored, have waited for that reaction as long as they propose to wait, and if you give the people of the South a chance they will act in favor of restoration. If you give disfranchised rebels the power to say how long this Union shall remain unrestored, I think perhaps they will say "always," for the restoration of the Union does not bring office to them. We have determined to make a discrimination between the leading rebels and the people; and having determined that, it is now proposed to say that the leading rebels shall determine for the people, and not the people for themselves, whether the people shall have representation in Congress.

If, after having legislated in such a manner as to disfranchise them, you say to them, "You may keep the State out as long as you please," I think we should be justly chargeable with contriving legislation which was calculated to postpone restoration. They would act just as we see a factious minority acting everywhere. They would want to make the situation as bad as possible. They would want to keep the people out just as long as possible. They would want everybody in as bad a situation as themselves. Then what would be the chance of restoration? First we must ask permission of the leading rebels. We say to the leading rebels, "You shall not be restored, but we submit to you to decide when the others shall be restored, whether you will stand alone or whether you will have millions at your back; we will not restore you; we will keep you disfranchised, and then allow you to keep disfranchised with you ten million people, and to have so much influence to sustain you in making a solid column of the whole South, and have them at your back to aid you in breaking up the Government." Why not allow the people to leave these leaders, enfranchise the people, and leave these rebel leaders in a hopeless minority. If the proposition were presented in that shape, what rebel would not say, "I will keep the South a unit; I will keep the South out; I will have the South stand together until the North is weary, until there is some reaction, and then they will let us in *en masse* or let us go?" Would he not say, "I will live under military rule until the North changes its opinion, until some financial crash comes; I will have hope as long as I have ten million people in the same box with me, for they cannot be permanently disfranchised?"

I will not vote to place the loyal people of the South under subjection to the rebels, and that is the practical operation of this amendment. As I remarked yesterday, the bill is already sufficiently dilatory in its provisions. It submits it to the people, in the first place, to elect delegates to meet in convention, and those delegates when they meet are to decide whether it is the wish of the people to have a State constitution formed. If a constitution is formed it is finally to be submitted to the voters; and unless a majority of all the voters registered vote in its favor it is not to be adopted. That election is to be on the simple question of the constitution without any other issue, without there being candidates in the field; and of course, therefore, it will be impossible to get all the people out to vote. If you get a two-thirds vote or half a full vote at such an election you will be doing well. But you must not only get one half of the people out to vote, but more than one half the people must vote for the proposition. Then there must be an overwhelming sentiment among the loyal people and among those who are not disfranchised by your bill, there must be an extraordinary unanimity before there can be a reconstruction under this bill as it stands, allowing the people to determine the question; but as long as the bill consults the voters, the people, let it stand as it is; but when it is proposed that the rebels who are to be disfranchised

shall determine this question, when you place it in their power, I say it is practical obstruction.

Mr. HOWARD. I shall vote for the amendment of the honorable Senator from Maine. I regretted very much that the amendment of the honorable Senator from Missouri, offered by him yesterday, was lost; and the more I have thought of the subject the better I have been satisfied as to the expediency of that provision, if it had been carried. What we wish, at least what I wish particularly, is to obtain an authentic expression of the people of the various rebel States upon the question of their willingness to come back into the Union, so to speak, and to enjoy the rights and privileges of States of the Union.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. HOWARD. I do not see any necessity for an interpolation.

Mr. GRIMES. I should like to be enlightened by the Senator's opinion.

Mr. HOWARD. Well, sir, I will hear the question.

Mr. GRIMES. I should like to inquire of the Senator whether, in his conviction, the present rebel governments of those States do reflect the sentiment of the people?

Mr. HOWARD. I am by no means sure that they do not reflect the sentiments of the people. If they do reflect the sentiments of the people, and the people are as disloyal and as hostile to the Government of the United States as their Legislatures appear to be, I for one am free to say that I will not vote to restore them to the Union.

Mr. GRIMES. Then the Senator entertains the opinion that all that large mass of people upon whom Congress has conferred the elective franchise are hostile to the Government. As a matter of course if those governments reflect the sentiments of the people of those States, of the majority of the people of those States, as the colored population are in some of those States in the ascendancy, there must be a large proportion of that class of people hostile to the Government.

Mr. HOWARD. I do not know how the fact may be in some localities; it is very possible that the Senator from Iowa may be correct as to certain localities, but I speak of the great mass of them. For one I will not consent to readmit into Congress Senators and Representatives whose constituencies at home are hostile to the maintenance and support of the Government of the United States, let their professions be whatever they may, and let their color be whatever it may. I do not believe in allowing traitors and traitor constituencies to be again in the enjoyment of the privileges granted by the Constitution of the United States. I am not in such hot haste as to restore the Union, as it is often said, upon principles of disloyalty and rebelism.

Now, sir, there is much force, in my opinion, in what the honorable Senator from Maine has said in regard to taking the opinion of the rebel provisional Legislatures. They have been elected by usurpation and in violation of the Constitution of the United States, by rebel constituencies, and they represent, so far as they possibly can do so, the interests, the feelings, the prejudices, and the malignity of unrepentant rebel communities. Before we admit them to a participation in the Government of the United States I wish to see these same Legislatures, humiliating as it may be to their pride, and the more humiliating the better, brought down to the stool of repentance, and made to see the error of their ways, and to give their consent freely again to reënter the Union and do their duty as citizens of the United States.

But some of our friends see, or think they see, in this proposition a result which will be unfavorable to the Union element in the rebel States. They ask us why we would appeal to the provisional Legislatures to decide the question of calling a convention to reform their constitutions, and why we would in the mean time

permit these provisional Legislatures to exercise uncontrolled power over the Unionists of the South; in other words, why we will permit the Union element to be subjected to the oppression, the injustice, and the insults which flow from such a source. There possibly may be some force in this objection; but I do not think it sufficiently weighty to induce me to vote for the immediate calling of a convention by military authority or by the authority of Congress, and thus establishing a State government to which the mass of them possibly may be opposed.

How will the matter stand in case the amendment of the honorable Senator from Maine is adopted? What will be the character of the constituency to whom these provisional Legislatures will be and must be responsible? In the first place, there is to be a registration of all the male people of the State above twenty-one years of age, and every man who is thus registered has to take the oath prescribed in this bill; that is to say, he is to swear, according to the frame of the bill, that he is not excluded from the right to vote by the fifth and sixth sections of the act to provide for the more efficient government of the rebel States; that he will support the Constitution and obey the laws of the United States, and will to the best of his ability encourage all others to do the same; so help him God. The whole voting constituency are to take this oath before any one of them is entitled to registration under the act, and after this registration is made the commanding general is to present a copy of it to the provisional governor of the State, who is to lay it before the provisional legislature for their action. Thus that legislature will become completely informed of the number of their constituents who have taken the oath of allegiance, so to speak, to the United States. They will know how many citizens of the State are prepared to emerge from a provisional government and enter into a regularly formed State government. It is very likely that a large proportion of the people of the rebel States will be thus registered. I presume that nine tenths of the whole male population will thus be registered; and the very fact of their taking this oath and becoming registered is a guarantee, will be construed as a guarantee to the United States and to their provisional governments, that they are anxious to throw off the provisional form and enter upon the regular form of State governments.

Now, sir, I wish to have these provisional Legislatures understand all these facts. I wish the fact of a large majority of their own constituents being in favor of a regular State government to be brought to their notice and knowledge; and then after they see this, and see that there is a large proportion of the people in favor of a State government, let them, if they dare, take upon themselves the responsibility of refusing to call a convention. Sir, I do not know what material they may be made of; but if they are composed of the ordinary material with which I am acquainted in this country, you could hardly anticipate that a southern provisional legislature, with such a showing before them, would refuse to proceed and call a convention. If they chose, however, to do so, if they chose to exercise the unjust and despotic authority with which they are now invested, it would only institute among the friends of readmission and the enemies of readmission in their own midst discussion which could not fail to result, and within some very short time, in the total overthrow of the secession party, and their expulsion from power at their domestic firesides.

I am, sir, in short, for taking every precaution that is practicable to obtain a free and full expression of the southern communities upon the great, fundamental, and elementary question of returning peaceably back into the Union and discharging their duties as States. If the mass of them are prepared to do this now, and furnish satisfactory evidence that they will behave themselves in future, I am willing to readmit them; but I am not in

haste for it. They took their own time to get out of the Union; let them take their own time to return. They took their own time to initiate the war; we took our own time to close the war. We are under no obligations to them. We do not propose to place ourselves under any obligations to them. They complain of coercion; they complain of injustice because we coerced them to lay down their arms. They complain of injustice because we do not readmit them, as they say, to their constitutional rights. We have now, for the first time in our history, proposed terms of reconciliation and readmission. Let them freely act upon it; let them accept or reject those terms, as they may prefer. If their interest, in their opinion, consists in rejecting our terms, let them stay out in the cold and cease to have any participation in the Government of the United States. But at all events, I am not for hastening them back into the Union contrary to the consent of a majority of their people, for a government founded upon the will merely of a minority of the people is no government at all; it cannot maintain itself for a twelvemonth in the face of an active and vigorous majority; it must necessarily be overthrown. A government by a minority is but another name for despotism.

Mr. STEWART. I should like to ask the Senator a question. Is it not a fact, a well-known fact, that a large portion of the members of the existing Legislatures at the South are excluded from holding office under the constitutional amendment, and excluded from voting under this bill? And is it not submitting it to a minority when you submit the question to the excluded class, whether they, being excluded in any event from participation in the Government, will or will not allow the majority of the people to be represented in Congress? Are you not submitting it, not only to a minority, but a bad minority, when you submit it to those Legislatures? They are an excluded class, who are not to be restored to their relations to the Union and to holding office; and yet you propose to leave it to them to decide whether the majority shall be represented or not.

Mr. HOWARD. I do not know how the fact may be in regard to the loyalty and eligibility of a majority of the members of their State Legislatures. I have never inquired into it. Undoubtedly there may be some members of their State Legislatures who will be proscribed by the fourteenth article of the Amendments to the Constitution. That we cannot help. Let them, if they dare, set themselves up against the manifest wishes of a majority of their own people, and how long will they maintain themselves? It will not be long before the voice of the majority will be the ruling and controlling power.

Mr. STEWART. I should like to inquire how the voice of the majority can be heard when you say it shall not be heard unless rebels will let them speak. No convention can be called, no voting can be done, unless the provisional Legislature say so. You put it in their power to stop the mouths of the people, and to keep them under your military rule, without letting them be heard. They cannot vote except by permission of the rebel Legislatures.

Mr. HOWARD. The Senator from Nevada seems to talk as if the present members of the rebel State Legislatures are to remain in office for life. Is that so? Does he not know that their terms of office expire annually, and in all cases biennially at farthest? This state of things can endure but for a few months at farthest, and then a majority of the legal voters of the State will revolutionize even the very provisional governments, and thus their voice will become potential and final. I hope, therefore, that if we are unable finally to adopt the amendment of the Senator from Missouri, we shall at least grasp at the security which is offered by the amendment of the Senator from Maine.

I do not, I confess, exactly coincide with the spirit of this bill when it declares that—

After the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days public notice shall be given, an election shall be held of delegates to a convention.

It leaves the whole thing, entirely and absolutely, unconditionally in the hands of the commanding military gentleman. It is for him, according to the bill, not for the provisional government, not for the people themselves, to pass upon the question of ordering an election for a convention. No, sir, it is not even for him to exercise any discretion over that subject, because by the bill itself we command him, we utter a command which he must obey, to issue his notice for calling a convention. That forces him to it without reference to the will or wishes of the people or of their representatives even in their bogus Legislatures. Is this fair? Suppose they do not want any convention, suppose they do not want to come back into the Union, shall we force them into the Union? That is a bad operation. You may lead a horse to the spring to drink, and you may persuade him and entice him by all the means in your power to swallow the water; but if he is indisposed to drink you cannot force him. It will be so with these rebels. If they are willing they will say so, and they will come back. If they are unwilling, we do not want them back; at least I do not for one. I want no members of the House of Representatives or of the Senate of the United States who are unfriendly to the maintenance of the Government of the United States, none who will seize upon the first opportunity to enter into another conspiracy for its overthrow. I want to see no members here or in the other House who are not heart and soul in favor of the preservation and maintenance of the Government of the United States as such; and I shall esteem it a calamity to see any man admitted to these seats who was unfriendly to that object. That is an object which we say is the paramount object, which is ever to be before our eyes, never to be lost sight of. We may differ in opinion as to measures, as to the mode of administration, as to the character of men, the character of officers; but men who profess to be true to the Union have no difference of opinion as to the propriety and necessity of adhering to it and maintaining it through weal and woe. I fear that there may be too many at this day in the South who would be willing to lend their aid in its destruction and overthrow.

The Senator from Illinois seems to think that we have sufficient security in the bill itself that no southern State will reorganize its State governments without the voice of a majority of the people. I do not understand the bill in this way. According to his scheme there are to be elected, under the order of the military commandant, delegates to a convention to frame a constitution. Those delegates as he knows very well from the terms of his bill, may be elected by a minority of the voters of the State. The bill does not require that even a majority of the registered votes of the State shall be given at that election. They may be all elected by a hundred or a thousand votes, while twenty thousand or forty thousand voters may remain at home. And after the convention is thus elected, the bill provides that its first duty shall be to "determine by a vote whether it is the wish of the people of such State to form a constitution and civil government according to the provisions of this act and the act to which it is supplementary." Thus the entire popular expression upon that, the most momentous question which can be conceived, is the voice of the members of the convention who may or may not, as the case may be, represent a majority of the voters of the State. Sir, that is not a fair and ample expression of popular opinion according to my view, and I much prefer either the amendment of the Senator from Missouri or the amendment of the Senator from

Maine, so far as the expression of popular opinion is concerned, to the bill itself.

Mr. WILSON. Mr. President, in the spring of 1865 the rebel cause went down, and in a few months the President of the United States permitted the rebels to use the machinery of their old governments, shut out two fifths of their population from any rights whatever, and to take possession and control of those States. They did it, and those States are in their possession. The rebels have possession of all the State governments with the exception of the Executives of Virginia, of Arkansas, and of Louisiana, Governors elected before the close of the war; but the Legislatures of those States are in rebel hands.

The other day we laid down the terms and conditions of restoration. We dictated terms and conditions as absolute as conquerors ever dictated; full and complete terms. At the time we did it everybody said here that the principles avowed in that act, the declarations there made, the conditions there laid down, were all right, but the practical mode to carry them out was wanting. That was the declaration in Congress and out of Congress. This supplementary bill was framed and introduced for the purpose of supplying that defect by providing a practical mode of carrying into effect the act of last session. Two amendments have been made by the House of Representatives to the original bill, which I think weaken the Union cause and our cause; and the Judiciary Committee have adopted another amendment, which I think weakens it in another direction. The effect of this amendment must be to continue or increase the power of the rebels who are in possession of the present governments, and to weaken our friends.

The population of the ten rebel States amounts to about eight million; four million six hundred thousand are white, and three million three hundred and sixty thousand are colored. Estimating the voters as one fifth of the population, there are nine hundred and twenty-three thousand white voters and six hundred and seventy-two thousand colored voters; leaving a majority in those States of only a quarter of a million white voters. We have clothed the colored men with the right of suffrage, and they have majorities in many of these States. There are thousands of loyal white men who were loyal all through the war; there are tens of thousands of men who were somehow or other compromised by the rebellion, who cannot take the oath of office, but who were against the rebellion and against the men who led them into the rebellion; who are for the Union, for the Constitution, for the old flag, ready to work for it, vote for it, and fight for it; men who are in political sympathy with a majority in both Chambers of Congress. We propose simply not to ask rebel Governors, not to ask rebel Legislatures, put in power by the consent of the President, to have anything to say or do about it. We do propose to ask the people themselves; propose to ask not the Governor of South Carolina, not the Legislature of South Carolina, but the people of South Carolina, where the colored population outnumber the whites by one hundred and twenty thousand, and where they have a majority of twenty-five thousand voters, to co-operate with us in the work of restoration. It is now proposed by this singular amendment not to give them the privilege, but to ask the consent of the rebel Legislature, and unless that Legislature consents to let them vote, to keep them out. Just so it is in Mississippi and Louisiana and Alabama. A majority in these States can be carried as easily for the Union as we can carry the State of New York or the State of Pennsylvania; and not only for the Union, but for candidates for Congress who will come here and vote as we vote, speak as we speak, and think as we think, if we will permit them to do it.

This bill was intended by me to put aside the rebel leaders and rebel Governors and Legislatures; to make them "take back seats;"

to bring the loyal men, the true Union white men and the black men whom we have enfranchised, into the front seats. Let them frame constitutions to secure their rights, and send representatives here who can take the oath and who can take part with us in the government of the country. That is the original bill, and that is its purpose. With the exercise of practical judgment, with good organization, scattering the great truth and the facts before the people, a majority of these States will within a twelvemonth send here Senators and Representatives that think as we think, and speak as we speak, and vote as we vote, and will give their electoral votes for whoever we nominate as candidate for President in 1868. These rebel States are ours if we will accept them. Do Senators desire to repel them? Does any Senator desire to keep these States out till after the next election? Surely no Senator can wish to go before the people in 1868 with these States out of their practical relations if we can restore them.

Who expects to see a rebel Senator or Representative from the State of South Carolina come to these Chambers? Do you distrust these black men who were true to us all through the war? They are as sure to vote for the cause of liberty, justice, and their country as they were to fight for their country in the war. Yet we are higgling about giving them the opportunity to vote after we have decided that they shall possess the right to vote. This proposition tends to prevent their having a chance to exercise the right to vote. We propose to ask their old rebel masters if they will consent that they shall have a chance to vote. That is the meaning of all this amendment.

Mr. HOWARD. The Senator from Massachusetts will allow me to call his attention to the clause in the law which we have passed on the subject of suffrage as it exists now, and will exist hereafter in the rebel States, although we may not pass this bill at all. It says:

"In all elections to any office under such provisional governments, all persons shall be entitled to vote, and none other, who are entitled to vote under the provisions of the fifth section of this act."

Where is the danger, then?

Mr. WILSON. It is practically this: we have given them the privilege of voting, but we want to give them a chance to do it, and the Senator does not want to have that chance given unless the rebel Legislatures consent to it. That is the truth of it, and you cannot argue around it or get over it.

Mr. TRUMBULL. They have all the machinery in their own hands.

Mr. WILSON. Yes, they have the machinery; they have the State organizations, and can, if they choose, so legislate that you cannot have an election. We have clothed them with the power; now let us give them an opportunity to vote. We can carry ninety-nine out of every one hundred of these colored voters for their country, for liberty, for equal and just laws. They will vote for loyal men, and not only loyal men, but men who love liberty and justice and humanity. They will fill these Chambers with such men, instead of with the rebel leaders whom we have disqualified and disfranchised. A rebel cannot come to these Chambers; he cannot take the test oath; and nobody now proposes to change that oath. We have disfranchised the rebel leaders, who are excluded from office by the constitutional amendment, so they are almost powerless. Do Senators fear these disqualified and disfranchised leaders? What is there to do? Just let us have these men registered, and give them an opportunity to vote. Let them elect a convention, and if they elect conventions that will make constitutions complying with the terms and conditions we have proposed, and if they send here loyal representatives who can take the oath, we can admit them. The power is all in our own hands.

The terms we have made are hard enough, and I have no heart to ask anything more. The time has come, in my judgment, when, having

laid down our conditions, having stamped our ideas and our principles on every foot of the rebel States, where they will remain while the continent lasts, for our friends there, those who have been true to the country's flag, those who have been emancipated, and those who want to do right, to have the opportunity to bring the States back to the Union. I do not believe there is any State in the South, unless it be the old State of Virginia and the State of Texas, that can maintain for three years an opposition to our ideas which the nation has imposed upon them, or can maintain a political antagonism to us. South Carolina and Mississippi and Louisiana and North Carolina are sure to vote as we vote during the years to come, unless we drive them from us. We have the power there; let us use it wisely. I know the men whom we have clothed with the suffrage there will vote for their own liberty, for their own rights, for the rights of their wives and children, for education, and for elevation.

We have heard of radical Radicals and of conservative Radicals. We know that the radicals of Radicals in this country are in the State of Missouri, lately a slave State. So it is in Tennessee, and so it will be in South Carolina within the next two or three years, and it must be so from the very nature of the contest. We must have in all these States a contest of principle. Our friends in Missouri have had this contest of principle. In our part of the country we are locally divided about little questions and measures, or about who shall be in power or who out; the great and fundamental principles of human rights are settled with us and have been settled for generations. There is no great contest about fundamental ideas or principles with us. In these States, however, there must be great contests of ideas and principles, and we shall find that there will be a liberal progressive party, a party of freedom, a party of enfranchisement, a party of liberal ideas, a party of popular education, a party that will go for elevating and improving the condition of the mass of the people, and that party must be in hostility to the old ideas and principles which pervaded that section of country. The result will be that in all these States we shall have a radical progressive party and a conservative party, and the radical men there will stand by the radical men of the country who have overthrown the slave power, overthrown slavery, saved their country, made the Republic forever free, passed the constitutional amendments, passed the civil rights bill, passed the enfranchisement acts, and made all men free and equal citizens. I think the time has come when we should give them the opportunity to act, and go to work and organize them so as to carry our ideas and our principles, which we believe will be for the good of the whole country. To do it we must begin the work; let into political action three million three hundred thousand blacks; put them in as an element of power. But while we do all this we should act generous toward all the men who have been in the rebellion, and take them by the right hand when they are ready to come with us and stand for the old flag, for the country, and for the ideas represented by the old flag in the struggles of the last six years.

Mr. NYE. Mr. President, I do not intend to occupy the attention of the Senate. Had I been here while the bill to which this is supplementary was pending, I should have taken occasion then to say what, though it be a little out of order, I desire to say now. First, however, I am a little surprised at the position of my conservative radical friend from Massachusetts, [Mr. WILSON.] Yesterday there was a proposition before the Senate to allow these people, in whom he has so much confidence, to say upon their ballot whether they desired a convention or not; but to that proposition the Senator, at the risk, as he said, of being called a conservative Radical, was opposed. I think he erred in judgment there. I think the Senate, before they get through with the discussion of this bill, will have to

return to the amendment proposed by the Senator from Missouri [Mr. DRAKE] before it will be satisfactory to the majority of this body. I prefer, however, if that cannot be carried, that the amendment of the Senator from Maine shall prevail.

In the first place, my conservative friend from Massachusetts entertains a wish in which I do not in the fullest measure sympathize. I am in no hurry to have these rebels come back; but when I say that, I do not intend to throw any impediment in the way of their coming just so soon as it is safe for the loyal men of this country to have that element so largely mingled with them. The course of legislation of this body seems to be to accommodate itself in all respects to the necessities of rebels. I take another view of the necessities of the hour. I am not unmindful of the terrible struggle through which we have just passed; neither am I unmindful of the importance of the settlement of this question; but, sir, the highest consideration that should move this body in legislating upon the means of reconstruction is what is required by safety to the institutions we so much love and for which we have given so much blood and treasure. The loyal necessities of this country are to be taken into consideration. I do not believe that you can ever make a rebel loyal. A conquered rebel is always rebellious.

I have a little regard, too, for the class of people that the Senator from Massachusetts so warmly embraces; but there is a law just as inflexible in the mental as in the physical world, that the stronger will govern and control the weaker to a great extent. I do not expect of the lately enfranchised people that they, with the swaddling-clothes of freedom yet around them, can battle with these giants of Gath against whom they are to come face to face, either with arguments or mental powers. It took almighty power in olden time to rear a ministry for immediate use—a power higher, greater than the power of this Senate to confer upon these recently enfranchised people. I expect nothing else but that for many years their old masters will to a great extent control the vote of their former slaves and servants. We need not expect too much from those newly-enfranchised people or a superiority over the white race. Go through the New England States, into their vast manufacturing establishments, and when the hordes that flock out from there go to the polls to vote they vote more or less as representing the wishes of their employer, although their employer may not say one word to them about it. Go among these people and you will find the same fact existing, that unconsciously they are more or less swayed by the will of their former master. They are taking, if I may use the expression, the unsteady tread of the infant; they are now walking with blind eyes to some extent, and my distinguished friend from Massachusetts will find that he is mistaken when he arrays his power against that of their former advisers and masters. Sir, it is going to take a long time to build this race up into the full stature of the manhood of freedom.

The Senator asks why I keep them out. I read in a paper yesterday, and in a paper from the State which the gentleman has such great confidence in carrying, as a reason why they should embrace early this opportunity to return, that the master had not yet lost his control over his former slave, and they had better take this offer before he did so as to carry his vote. There is sound reasoning in that; there is sound philosophy in that reasoning.

I think the proposition of the Senator from Maine is better than nothing. Why? Because I entertain no doubt that it will retard their coming back. I do not want them to come back as the avalanche. I want these rebels to want to come back before I want them to come back. I have no right to take a rebel *volens* and drag him in here; I would rather give him a propelling power the other way, much rather. [Laughter.] My friend WILSON wants him brought here—I beg pardon, the Senator



from Massachusetts—he is willing to have them come back if they come sandwiched between two black men. [Laughter.] Well, sir, if the sandwich and the covering are the same sort, I do not want either. I think there is great good sense in letting these rebels discuss this question among themselves. We have fed these men, taken them in their weakness and fed them from the bounty of this Government. On their increasing strength their rebel feelings outcrop and manifest themselves. I tell you and this Senate that those who are so anxious to bring these rebels into accord with loyalty in my judgment mistake the best interests of this country.

How often do we hear it said that had they the power they would repeat what they have already done; and who doubts it? Sir, when I voted for the appropriation to feed them the other day, I said I would feed them to show them that here was their only place of refuge and of safety. I want them to feel before they come here or are felt in this Legislative Hall or anywhere else, that they come because they have fed on husks long enough and find that there is no nutriment in them. I want them to return here because they love the institutions to which they return; and until that time comes every one of them that you marshal into your political forces is an element of political destruction.

Senators who oppose this amendment seem to solace themselves with the fact that these elections and this machinery are to be in the hands of the military commander. Mr. President, my regard for military power has increased since it put down rebellion. I have no apprehension of any abuse in the excessive exercise of power by the military; but the military that goes there, the officer that goes to control it goes by the will, the mandate of the Executive of this nation, who hates every lineament of this law; he has written upon it his condemnation; he has declared it unconstitutional, and its authors fools and crazy men. He it is that gives this military direction. Who do you think will go; and whoever does go how long will he stay if he carries into vigorous force the power of this law? No quicker, I venture to say, than an order for his displacement can be written and telegraphed.

Now, I wish to suggest another reason why I am for this amendment, if we cannot get the amendment of the Senator from Missouri. A few days ago, since the passage of this law, they held an election in an adjoining city, where the people utterly repudiated its power and defied its mandate. Upon that very election a case is being made up to-day to be presented to the Supreme Court of the United States to test the constitutionality of this whole law. I ask the Senator from Massachusetts where his reasoning would stand, and I ask my colleague from Nevada where his reasoning would stand, if the Supreme Court should declare the law unconstitutional? Who else but rebels could speak then in this reconstruction system?

Mr. STEWART. I will answer my colleague. If that is done, if it is not carried out, Congress will never let any of them in. We are under no pledges to do it in such an event.

Mr. NYE. I have been lulled by that siren song long enough. I do not know what Congress will do in this day of extreme cleverness and anxiety for new embraces. [Laughter.] I venture to make the suggestion to Senators upon this floor that that law has got to stand and to stand quickly before a tribunal that does not sympathize with Congress—I speak of its majority—in the measures of this great reconstruction.

I take for granted that in the zeal to pass a law for reconstruction all these reasons will not be overlooked; all these difficulties must be looked in the face; all of the exigencies that may by any possibility arise should be canvassed well before we cast our votes for immediate reconstruction.

Sir, I boast of being one of the humblest followers of radicalism. If by radicalism is meant to guard carefully the weak places of this Gov-

ernment against the approaches of rebel power, I am just as much of a Radical as I know how to be; and I do not know what a conservative Radical means. Now, sir, unfortunately for us, every great test measure is met either by the objection of the President or the Supreme Court. We are sandwiched literally between an unfriendly Executive and a hostile Supreme Court. Therefore I think we had better throw what safeguards we can around this, and I see, for myself, great wisdom in letting these rebels themselves discuss it. I would not keep the newly-enfranchised citizens from tasting the sweets of the power of this Government by any means, but I would guard them against being cheated and deceived in it. In this hurry, in this avalanche of coming States, I tell you, in my judgment, lies the greatest danger of the hour. If we are to take poison, let us take it in small doses, a little at a time; do not give us a fatal dose at once. These eleven rebellious States, coming as the wind comes, into these Halls of Congress, will shake the foundation upon which the Senate stands, even in Massachusetts. I regretted to hear the Senator say they had no issue in Massachusetts except as to who should hold place and who should not. Massachusetts is just as much interested in this great question as is South Carolina.

Mr. WILSON. Of course.

Mr. NYE. The Senator says of course, but he did not say so in his speech.

Mr. WILSON. I said we had only local struggles.

Mr. NYE. There is no local struggle in Massachusetts; there is not opposition enough to count as "scattering;" it is all one way; but there are States where this local opposition is frightfully strong, and if you mingle this element with the danger of the South coming here rebel end first, as I say with the rebel element of the North, and you are going to get more than a local question here in these Halls. My distinguished friend from Connecticut [Mr. Dixon] expects within two weeks that Connecticut will go Democratic, and when she does she is just as much to be feared as South Carolina, because she is not in accord with the vast swelling tide of public opinion of this nation. I do not say it will so go; but he hopes for it. They hoped for it in New Hampshire, but they failed. The strange thing is that while I know my friend from Connecticut is not a rebel, he laughs at the same thing they do—Democratic triumphs. Sir, the danger of the hour is in the haste of this legislation. I simply rose for the purpose of entering my protest against this compulsory process of bringing this dangerous element back.

Mr. WILSON rose.

Mr. NYE. I am not through yet. It always takes some nerve to defend a new position, and therefore I excuse my friend from Massachusetts for his nervousness. [Laughter.]

I rose to say that the original bill is not strong enough; I would have put more power into that bill if I had had the ability to do it, for it is written in all the past, it will be written in all the future, that nothing but power will control rebels and rebellion, and I am not so gingerly tender-footed on this question as not to be willing to declare the truth. I desire, in behalf of the institutions of the country I love, the only inheritance I possess, and the only inheritance that I expect to transmit to my posterity, to enter here my protest against hurrying this rebel element back to power.

Mr. MORTON. Mr. President, I have very great respect for the judgment of the distinguished Senator from Maine who offers this amendment, but I cannot vote for it. The effect of this amendment, as I understand it, is to enable the existing State governments in the rebel States to determine whether or not there shall be a convention, and whether or not there shall be reconstruction. We have declared those State governments to be provisional, but this amendment will enable them to perpetuate themselves and ordain themselves as continuing and permanent governments. These existing governments in the

South were elected by about half the people; they are composed almost exclusively of rebels; and now we are proposing to put into the hands of these State governments the determination of the question whether there shall be reconstruction or not.

I should like to inquire of grave Senators how we can go before the country and justify ourselves in finally submitting this question to these existing State governments. I ask, sir, if we have not, as a party, for two years past denounced them as illegal and unauthorized, and I ask have we not denounced them as being put by the President into the hands of rebels for rebel purposes, giving to the rebels of the South the exclusive machinery of domestic State governments? I ask if the present President has not even been threatened with impeachment for the erection of these governments? And yet now it is deliberately proposed to put into their hands the determination of the whole question of reconstruction, to say whether it shall take place or not. Sir, can we go before the country and justify ourselves in doing this thing?

The Senator from Nevada [Mr. Nye] talks about the danger of the hour. I will tell him where I think the danger of the hour lies. It is in even permitting the impression to go abroad that the great Union party is opposed to reconstruction, and for political purposes is holding it back. Whenever that impression shall fasten itself upon the minds of the people of this country we shall go into a minority. The success of the Union party, in my opinion depends upon speedy and successful reconstruction; and if we are able to go into the canvass of 1868 and have inscribed upon our banner "the rebellion suppressed, the Union restored, equal rights and liberty secured to all," there can be no successful opposition made to us, but we shall sweep every northern State, and perhaps some southern States, according to the prediction of the Senator from Massachusetts. But if by our speeches or our votes, here or elsewhere, we shall allow the impression to prevail that we are casting obstacles in the way of reconstruction, that we are making legal provisions which may be taken advantage of by southern rebels to hold reconstruction back, we shall receive the condemnation of the people. Sir, the danger to the Republican party consists in the lingering of this work, in its procrastination, in its being long drawn out. If we shall go into the canvass of 1868 with the southern States in a worse condition than they were at the end of the war, and no real progress made in the work of reconstruction, we may expect to meet very serious opposition; but if we shall go into that canvass with the work accomplished, with the Union restored, with liberty and equal rights secured to all, we shall have accomplished the greatest work that any political party ever accomplished, and we shall be everywhere triumphant.

Upon every ground of policy, upon every ground of consistency, we dare not now place the whole question back in the hands of these rebel State governments which we have so bitterly denounced ever since they were erected by the President. We can justify ourselves in that course upon no reason that has been offered here this day. I say let the work of reconstruction go on. So far from putting it into the power of these rebel State governments to stay the work, I am opposed even to submitting the question of convention or no convention to the people as proposed by the Senator from Missouri, and I am opposed to submitting that question to the convention when it meets. Let the convention be elected; let it form a constitution; let that constitution be discussed and submitted to the people. All then have the right to vote upon the constitution. They will by that election have had time for deliberation; they will have had the benefit of discussion; and I believe that any fair constitution which shall have been made in any one of these States will then be adopted. But it is now proposed to submit the work of

reconstruction to Legislatures elected last year or the year before, elected by half the people, and that half almost exclusively rebel. We submit the question to governments we have denounced as illegal, unauthorized, in violation of constitutional authority. Sir, we dare not do this thing.

Mr. WILSON. Mr. President, the honorable Senator from Nevada [Mr. NYE] near the close of his speech was pleased to say that I had assumed a new position and was nervously anxious for its vindication. I have assumed no new position. I have no occasion to assume new positions on questions growing out of slavery or this rebellion. For more than thirty years, in private life and in public life before the people, in nine years of public service in the Legislature of my own State and in fourteen sessions of the Senate of the United States I have fought and spoken and voted for country and liberty, against slavery, secession, and rebellion. In May, 1836, nearly thirty-one years ago, I committed myself fully and unreservedly to the anti-slavery cause in the hour of its peril and weakness, and from that time to the present in all the conflicts of opinion and in all the struggles that have shaken the continent I have uttered no word and given no vote that did not tend practically to advance the anti-slavery cause, and taken no position that has not been sustained by an overwhelming majority of the anti-slavery men in America. But in all these conflicts of opinion, in the conflict of arms, I have cherished no hatred toward any portion of my struggling countrymen of the North or of the South.

I have entertained no doubts of the results of the conflict either of ideas or of arms; and if I cherished no spirit of wrath or of hatred when struggling in a minority or battling for the overthrow of the great rebellion in arms, I surely cannot do so now when the ideas for which we have struggled are triumphant and the slave-master's power broken forever. Patriotism and liberty, justice and humanity, alike demand that we should embrace in our affections the whole country and the people of the whole country; that we should bury, deeper than plummet ever sounded, all the bitter memories of the conflicts, and strive to cultivate mutual faith and common trust. Having saved our country, having emancipated a race, having made them citizens of the United States, having clothed them with the civil rights that belong to citizens of the United States, having armed them with the ballot for the protection of life, liberty, and property, having imposed upon their old masters conditions of the complete recognition of their equal rights before and under the laws of the country, let us grace our great triumphs, which earth applauds and Heaven blesses, by words and deeds of Christian charity. This is no new position for me to take; I hope it is no new position for the Senator from Nevada to take.

The Senator from Nevada tells us that we seem to be influenced in our action by the necessities of the rebels. When and how have we been influenced by the necessities of the rebels? We put down their rebellion with the hand of war after more than six hundred bloody contests. We have moved steadily onward by legislation and constitutional amendments until we have crowned all by requiring as an unalterable condition that the rebels shall accept our ideas, principles, and measures, and complete the work of our hands. In this action have we been influenced by the necessities of the rebels?

The Senator from Nevada tells us that the rebel Legislatures are urged to early and prompt action ere the influence of the slave-masters shall be lost over the freedmen. So the Senator from Nevada is willing to vote for the pending amendment that puts reconstruction and restoration in the keeping of rebel Legislatures. I do not want rebel Legislatures to seize the opportunity to use the commanding power of their organizations to obtain the controlling influence in their constitutional conventions. I would not permit rebel Legisla-

tures which are organized to take a snap judgment, nor do I want them to delay the meeting of conventions. I would take the power out of the hands of these rebel Legislatures and place it in the hands of our district commanders. I would have the registration of the votes begin at once, for that registration will be a great preparation of the masses of the people unused to the exercise of political power.

The Senator tells us that the men we have emancipated and armed with the ballot are not prepared to exercise the right of suffrage intelligently, and it will take a long time to prepare them to do so.

Mr. NYE. I think I could not have said that. What I intended to say, and what I think I did say, was that it would take them a long time to grapple in the science of politics with those men who have spent a lifetime in it. I think so still.

Mr. WILSON. I agree with the Senator that it will take a long time for these emancipated men to learn to be able to grapple in the science of politics with the men who have controlled and still control the policy of those States. But we have clothed these emancipated men with power, and I want them to begin at once to exercise that power. The honorable Senator did tell us that they would be influenced more or less in their political action by their old masters, as the laboring men of the North were influenced more or less in their action by their employers. So we were told that these men would fight for their old masters, but they were true to country and to liberty in spite of the commanding influences of their masters, and they will be true to country and to liberty in spite of the influences of wealth or power.

I have, Mr. President, believed that the President committed an unpardonable offense against his country when he restored the rebels to power after the annihilation of the rebel armies. I have believed that the offices held in rebel States by rebels should be vacated. When the military government bill was pending, I moved an amendment providing that the offices filled by rebels should be vacated. I do not want rebels in power there or here, and therefore I want the people, the enfranchised black men, the men who have ever been loyal and true, and the repentant rebels to put these rebels out of power there as well as here. This bill is a practical mode of carrying into effect the conditions we have imposed. Its passage will hasten the day when the rebel chiefs must pass from power in these rebel States.

But the honorable Senator tells us that a case growing out of the Alexandria election is to be made up and taken to the Supreme Court of the United States, and that the court may pronounce all our legislation unconstitutional. It will be time enough for us to defer to the opinions of that court when they are promulgated. That court, I apprehend will pronounce no opinions for months to come. Let us go right onward then, complete the work we have begun, secure the adoption of the constitutional amendment, the revision of these State constitutions, the equality and enfranchisement of the freedmen, and the restoration of these States to their practical relations. Whatever may be illegal in the processes of reconstruction, if we legalize the result, no judicial tribunal can baffle or defeat the will of the nation.

We now occupy a commanding position; we dictate terms and conditions; we can devise practical modes of action to bring about as speedily as possible the desire of the nation, the final restoration of the States lately in rebellion. That restoration upon the conditions we have imposed will crown the great work in which we have been engaged. Then we can say that we were true to the cause of periled liberty; that we saved the life of the nation menaced by a gigantic rebellion; that we gave freedom to more than four million men; made them citizens of the United States; clothed them with civil rights and political

power, and made our country great and glorious and an example to the nations.

Mr. FRELINGHUYSEN. Mr. President, I have a word to say on this amendment. I take it for granted that the object of the reconstruction measure which the Senate adopted was the admission and not the exclusion of the rebel States. If the object was to keep the rebel States out of the Union, to keep that connection severed, all we had to do was to do nothing. It was entirely unnecessary that week after week and night after night we should have stayed here laboring to perfect a measure by which these States might be restored in their relations to the Federal Government. I take that, then, for granted, by reason of the action of the Thirty-Ninth Congress.

What is the objection to the bill which this amendment proposes to remedy? It is said to be this: that it is not desirable that any State should be introduced into the Union, or its relations restored to the Union, against its will. In that sentiment I suppose every Senator here will concur. That is all the object which is sought by the amendment, and in that we all concur. Why, then, should we not adopt the amendment? Simply because you do not get at the will of the people by adopting the amendment, and because the bill unamended does make ample provision to ascertain the will of the people. How? The bill provides that all the people, all male citizens who are twenty-one years of age, without distinction of race or color, shall have the right to vote for delegates to a convention. What then? Of course unless representative government is a failure, of course unless our own Government is a farce, those representatives, those delegates will represent the will and the sentiment of the constituency that elects them; just as we do; and that convention, when it is assembled, are, by the provisions of this bill, to vote whether they will form a constitution, or whether they decline to restore their relations to this Government, and therefore will form no constitution. Does not that get at the will of the people? As I said before, it does unless representative government is a farce.

But more than that: it is the very plan adopted and pointed out in the Constitution of the United States by which the will of the people is ascertained on any amendment that we propose to the American people. It is by the election of delegates who meet in convention that the will of the people is ascertained; and so they determine whether they will adopt an amendment to the Constitution or not. Can it be said that it is not a fair way of ascertaining the will of the people?

But again, Mr. President, can it be pretended that the expression of the sentiment of this convention, elected by all the people for the very purpose of ascertaining whether they will have a constitution or not, is not an infinitely fairer way of ascertaining the will of the people than to leave it to the provisional Legislature elected before the question was up, rebel in their tendencies, not elected by the whole people? Is it not a fairer way than any future Legislature of that provisional government, even when all the people vote?

That is one way which the bill provides to ascertain the will of the people; but there is another way. After the constitution is framed it must be submitted to the people, and, as I understand the act, it must be ratified by a majority of the votes of all who are registered. The language is, "of all who are qualified." Who are qualified? Those who are registered; and the language is identical in its signification as if it had said a majority of the votes of all who are registered.

So, then, delegates fresh from the people determine whether they will form a constitution or not. Then the constitution is submitted to the people, and it cannot become the law of the State unless a majority of all who are registered are in favor of it. In other words, every person who is registered, and who fails to vote, is counted as voting against restoring the relations to the Federal Government.

The distinguished Senator from Michigan says that he wants to see these rebel governments knocking at our door; he wants to see them brought to the stool of repentance. I do not want to have anything to do with the rebel governments. I do not want them knocking at the door. I want a government republican in form, clad in loyalty, coming to our door; and I want to see this nation open wide the portals and admit them. I think that there is much more danger, if you adopt the amendment, that you will see the loyal men of the South on the stool of repentance, humbling themselves in dust and ashes to a rebel government, asking them what? Asking them if they will just consent that they may take advantage of that law passed by the Congress of the United States; for if the rebel government, the provisional government says no, they must forever remain in their present miserable condition. I think the bill makes ample provision. I think the amendment will not bear the light of scrutiny.

Mr. President, in this bill I believe we have the basis of complete restoration. I believe we have what the people of this country will decree shall be a finality—no confiscation, no additions. There it is; it is the faith of the Government, and the faith of a Government is its religion, pledged to them. Let them comply with the terms, and we will fulfill it on our part. The people of this country approve the measure; the dominant party of the country are rejoicing over it; the Democracy, many of them, approve of it; the loyal men of the South adopt it; those who have been in rebellion are ready to take advantage of it.

I congratulate the country that the distinguished Senator from Maryland, [Mr. JOHNSON,] at a critical point in the history of this bill, rose to the height of his great duty and gave this measure the sanction of his vote; and it has commended it to a large portion of the population of this country, who have looked to him to get a direction to the view they shall take on many subjects of a political character. I regret that the President had not given it his signature. The benign results of the bill perhaps would have been more speedy, but they would not have been more certain.

Sir, this country is in no danger. This country is safe in the hands of the people who own it and who love it. I want to extend the franchise. I want it to be enjoyed by all these ten rebel States. The rush of this nation in its political career will cease when political freedom, when equality, when exact justice are secured to every man in this country, and we will never have peace until that day comes. When the waters all rise to a common level then the current and the torrent will cease.

Mr. President, what have we done? We have put down a rebellion which the world said was invincible. We have verified the declaration of the Constitution, that the Constitution and the laws are the supreme law of the land, not of the loyal States, but of the land, and every rood and acre in this broad continent bounded by its tide of waters. Sir, if the inhabitants of these ten States should evacuate those States, the Constitution and the laws would brood and hover there, and the first mortal that stepped upon that soil would come under the dominion and the ægis of those laws. We have verified the declaration of the Constitution, that war and peace and currency and controversies between the States are within the exclusive jurisdiction of the Federal Government. And we have verified another declaration of the Constitution: that the Federal Government has the right to pass all laws to carry these powers into execution; and those three propositions contained in the Constitution answer the whole veto message of the President.

Now, sir, the war being ended, the Constitution being vindicated, let us have harmony and peace, not by the sacrifice of any principle, but by obtaining all that Radicals or radical Radicals ever asked. Here is a measure that was passed a fortnight since by three

fourths of the Congress of the United States. Is it necessary now that we should say that all this action shall be nugatory and void, except the single act of registration, unless the provisional governments of these States consent that the people may take advantage of the legislation which we have enacted in their favor? I trust the amendment will not be adopted.

Mr. DRAKE. Mr. President, the whole range which this discussion has taken this morning upon the proposition of the honorable Senator from Maine has only confirmed me in the estimate which I placed upon the necessity and importance of the amendment that I submitted yesterday, to have the people in the rebel States themselves directly express their wishes in regard to the formation of a government under this act. It seems to be conceded on all hands, not only in the act reported by the committee, but in all the remarks of Senators on the floor since that report was presented and placed before the Senate, that in some way or other there should be on the part of that southern people an expression of their wish on the subject of the formation of a government loyal to the Union. The bill provides for that expression after a convention shall have been held and when the constitution formed by that convention shall be voted upon by the people. I thought that was taking the expression of opinion at the wrong end of the line, taking it at the end instead of the beginning.

Now, the Senator from Maine seems to think that there is still another way in which this expression shall be made; and he proposes that it shall be made in advance by the action of the provisional Legislatures now in office there. Upon this there is one single view which I have to bring to the attention of the honorable Senator from Maine, which has not been adverted to by any gentleman who has yet addressed the Senate, and which, in my judgment, is conclusive against his proposed amendment. Reference has been made by Senators here to the fact that these very Legislatures who have to initiate the movement under this amendment of the honorable Senator's to form a State government there were elected in times passed; but there is one thing in connection with that fact which has not yet been mentioned before the Senate by any gentleman, I believe, who has yet addressed it; and that is, that you have the question determined by the amendment of the Senator from Maine for the present people of the rebel States by a Legislature in each State which represents another, a different, and a past constituency. If these Legislatures were elected last year, they do not represent the constituency of the present year. If they were elected by the people in 1865, they still less represent the people of those States in 1867. It is, therefore, very plain to my mind that it would be a gross act of injustice to the people of those States in 1867 to allow a Legislature elected in 1866 or 1865, and representing an entirely different constituency, to speak for them upon this most important subject.

I am, therefore, constrained, Mr. President, to vote against the proposition of the honorable Senator from Maine; and I do trust, as it seems to be the common mind of the Senate, not only as shadowed forth in the bill, but as expressed in the remarks of Senators, that by the time this bill comes back into the Senate from the Committee of the Whole, it may be that, with that high frankness which should characterize this body on a reconsideration of all the arguments made use of here, some of the gentlemen who yesterday voted against the proposition which I made, to submit the whole question of a State government to the people directly in the beginning, will see finally that that is the true key-note of this whole transaction. My idea is that no State government shall by any possible device or machinery be forced upon those people. All the agency which Congress should have in this matter is to open the door for reconstruction, and leave it to that people to come in or to stay out, as they please. Therefore I am opposed to first

forcing them into an election of delegates, when they might not wish those delegates to act. I am opposed to any proceeding which looks like demanding of them to come in. I wish them to exercise their own unbiased will. If they desire to come back with a constitution and government loyal to the Union, let them come. If they wish to stay out because they do not desire to form such a constitution and State government as that, I say to them stay out for a hundred years to come. I do not want to force them.

Therefore it was that yesterday I thought I would invoke before this Senate and before the country the very fundamental idea of all our institutions, the consent of the people to their own government, and have that consent registered, recorded in the ballot-box of the country and in the archives of the country before they should take one step in it. Then, sir, we should stand in an impregnable position, to wit, that we have fairly and *bona fide* submitted to that people the question whether they will form such a government, and their recorded decision is either in favor of or against it, and the whole responsibility rests with them. Then, when that is done, the vocation of the Supreme Court to nullify the acts of a loyal Congress is gone. I hope, I yet hope, from what I have heard on the floor of the Senate this morning, and from my profound conviction that no pride of opinion will lead any Senator ever to adhere to a vote that he has given a moment longer than it seems to him wise to do so, that when the question comes up again upon this matter of starting at the foundation, building the foundation upon the voice of the people, and putting the superstructure up with that voice, and putting the very cap-sheet to the structure with that same voice, having that same people to bring it all here to us and say at last, "Sirs, here is what not a minority have done, not what a few oligarchs have done, but what the people have done; the people laid the corner-stone; the people built the superstructure; the people hand it over to you complete—it is my hope, sir, that at last a returning sense of wisdom in the Senate will induce them to make a provision which shall bring about that result, which, when brought about, ties those States to the Union with bonds which shall never be broken, and the fairness of the imposition of which they themselves can never question.

Mr. BUCKALEW. I believe the Senate has ordered a fight session upon this bill, and as it is nearly four o'clock I will move that the Senate resolve itself into executive session.

Mr. CONNESS and Mr. ANTHONY. Let us take a vote on this amendment?

Mr. TRUMBULL. I hope we shall not go into executive session at this hour.

Mr. CONNESS. There will be no further discussion, I presume, on the pending amendment, and we can get a vote upon it.

Mr. BUCKALEW. I withdraw the motion with pleasure. I have only to say that I shall vote for this amendment, and I should have cheerfully voted for the amendment offered yesterday by the Senator from Missouri if it had provided that a majority of the persons voting at the election proposed by him should have determined the question. The difficulty I had in my head in supporting his amendment was, that he proposed to count the persons who did not vote, and who, therefore, in my opinion, ought not to be included or considered in the determination of the question suggested by the bill.

Mr. SUMNER. Before the vote is taken I desire to make one remark. I certainly shall not be long, and I may crave the indulgence of the Senate when I say it is the first time I have said anything since the debate began yesterday.

In voting on the proposition of the Senator from Maine I ask myself one question: how would the Union men of the South vote, if they had the privilege, on the proposition now before us? They are unrepresented. We here ought to be the representatives of the unrepresented. How, then, would the Union



men of the South vote on the proposition of the Senator from Maine? I cannot doubt that with one voice they would vote no. They would say that they would not trust their fortunes in any way to the existing governments of the rebel States. Those governments have been set up in spite of the Union men; and during their short-lived existence they have trampled upon Union men and upon their rights. That region might be described almost as bleeding at every pore, and much through the influence of the existing governments. They owed their origin to the action of the President. So long as they continue their influence must be pernicious. I hear, then, the voice of every Union man from every one of the rebel States coming up to this Chamber and entreating us to refuse all trust, all power to these existing Legislatures. I listen to their voice, and I shall vote accordingly.

But I feel, nevertheless, that something ought to be done in the direction of the proposition of the Senator from Maine. I listened to his remarks, and in their spirit I entirely concur; but it seems to me that his argument carried us naturally to the proposition of the Senator from Missouri. That is a proposition to my mind founded in good sense, in prudence, in a just economy of political forces. It seems to me the Senator from Missouri begins at the right end. He begins with the people, and he proposes that the new governments, when constituted, shall stand on that broad base. The other proposition, the proposition of the committee, to my mind has too much the air of standing the pyramid on its apex. I am therefore for the proposition of the Senator from Missouri, and I hope that at the proper time he will renew it again and give us another opportunity of recording our votes in its favor.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Maine.

Mr. FESSENDEN. I shall ask for the yeas and nays on that as a test question. If it is voted down, I shall withdraw the other amendments.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. MORRILL, of Vermont, (when his name was called,) said: On this vote I am paired with the Senator from Iowa, [Mr. GRIMES.]

The result was announced—yeas 14, nays 33; as follows:

YEAS—Messrs. Buckalew, Davis, Dixon, Edmunds, Ferry, Fessenden, Howard, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Thayer, and Williams—14.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Drake, Fowler, Frelinghuysen, Harlan, Henderson, Hendricks, Howe, Johnson, Morton, Norton, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Tipton, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—33.

ABSENT—Messrs. Doolittle, Grimes, Guthrie, Morrill of Vermont, Riddle, and Saulsbury—6.

So the amendment to the amendment was rejected.

Mr. FESSENDEN. I will ask leave now to withdraw the other amendments that I submitted, as I considered this a test question.

Mr. JOHNSON. This is the first amendment.

Mr. FESSENDEN. This is the first, and it is a test question I suppose. There were two others that followed it and were part of the same proposition, which I now ask leave to withdraw.

The PRESIDENT *pro tempore*. The Chair hears no objection, and they are withdrawn.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled

bill (S. No. 49) to repeal a joint resolution entitled "A joint resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867; and it was thereupon signed by the President *pro tempore* of the Senate.

#### BILL INTRODUCED.

Mr. BUCKALEW. I move that the Senate resolve itself into executive session.

Mr. SHERMAN. Before that is done I ask leave to introduce a joint resolution.

Mr. TRUMBULL. I shall resist going into executive session, and I hope that the friends of this measure, if it has any, will sustain me in doing so. It is manifest that there is a disposition in some quarters to prolong action on the measure. If we can only vote on one amendment a day, with the amendments that are likely to be proposed, we may be here indefinitely.

Mr. SHERMAN. I ask leave to introduce a joint resolution, and I hope the Senator will allow that to be done.

Mr. TRUMBULL. Is there any such importance in that as to interrupt the business before the Senate?

Mr. SHERMAN. I should like to have it referred.

Mr. TRUMBULL. I have no objection to that, but I object to going into executive session.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 33) to relieve Robert M. Patton and Joseph E. Brown from disability to hold office; which was read twice by its title, and referred to the Committee on the Judiciary.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with the resolution of the Senate of the 31st of January, correspondence between the Department of State and the United States consul at Geneva with reference to the policy of the President toward the States lately in rebellion; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury, was read twice by its title, and referred to the Committee on Finance.

#### EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania.

Mr. TRUMBULL. I object to the interruption of the business before the Senate unless the Senate determines by a vote to go into executive session, and on that I shall ask for the yeas and nays. I express the hope that the friends of the passage of this bill will adhere to it and pass it. We see the effect of adjourning. We have had the debate of yesterday all over to-day, and you will have it all over to-morrow—

Mr. SHERMAN. I wish to inquire if a recess has been ordered this evening?

Mr. TRUMBULL. Yes, sir.

Mr. SHERMAN. Then we may as well spend an hour now in disposing of the executive communications and come back here in the evening and go on with the bill.

Mr. TRUMBULL. If the Senator from Ohio is in favor, when we have had a discussion here and got it to a close and are prepared for action, of going into executive session each day, and the majority of the Senate so decide, I cannot help it; but I do think that if you mean to get through with this bill within any reasonable time, you must adhere to it, and if there is a majority of the Senate in favor of it I hope it will do so. If it is not, let us give way to these side motions.

Mr. SHERMAN. I am in favor of this bill and expect to vote for it, and am willing to sit it out, if the Senator desires, to-night; but

certainly every day we ought to have an executive session. This is the usual hour and a proper time. We can spend an hour in executive session, and then come back this evening and perhaps dispose of the bill.

Mr. FESSENDEN. I wish to say to my friend from Illinois that I protest against his putting or attempting to put anybody here in the predicament he seems to desire. Now, I am in favor of this bill generally, but I want it amended. I have tried my own amendment, and that has failed. I am content when I am whipped to recognize the fact; but I do not wish it to be said, "If you vote to go into executive session, necessary as you may deem it, you are therefore against this bill." I do not admit that fact. I am in favor of passing the bill after it has been discussed and properly amended, if it needs amendment, and of taking such time for it as may be necessary. We are not particularly pressed in that regard; but I do think we ought every day, as we are having so many executive communications, and especially when we have agreed to take a recess and meet this evening, to have those communications referred to the proper committees. I am therefore in favor of the motion.

Mr. TRUMBULL. It must be apparent to every Senator, and to none more than the Senator from Maine, that after the passage of this bill, if it should pass, the Senate will necessarily be detained here a very considerable time. I am not aware of any other measure, except this, that is likely to keep the Senate here. This measure, if it passes, has to go to the House, has to be considered there; and no one knows better than the Senator from Maine that in a single day, with no other business before us, we could dispose of all the executive business twice over. I do not say that the Senator from Maine is opposed to this measure; I suppose he is for some measure of this kind; and I did not mean to be understood as saying that every person who should vote to go into executive session was opposed to this bill. What I meant to say was this: that from my experience in the Senate, if we adjourned each day at the close of a lengthy discussion, without proceeding any further than a vote upon a single amendment, when the discussion of the day is pretty much exhausted, we are likely to have it all over again at our next meeting, and we shall make very little progress. We tried this yesterday. We had the yeas and nays on going into executive session. We lost a great deal of time on the persistent motion to go into executive session. It was carried, and is very likely to be carried to-day. I can only do my duty, as I conceive it to be, having charge of this measure as chairman of the committee who reported it, and ask the Senate to continue this bill before the Senate, certainly until a later hour than this. It will take but a few minutes to read the executive communications; certainly it would not take an hour, a quarter or a third of our whole session. But if the Senate votes the other way I shall submit to it as willingly as the Senator from Maine.

Mr. CONNESS. I do not wish to take up any time in discussing the order of business; but I wish to say, as stated by the honorable Senator from Maine, that I am a friend of this bill, but also I think we should keep along with the executive business, and I shall vote now to go into executive session, and then vote with the Senator to stay here as long as he shall want us to do so this evening.

Mr. JOHNSON. I hope the honorable chairman of the committee will withdraw his opposition to this motion. There will be no difficulty in passing the bill either to-night or to-morrow. The House has adjourned over until Monday, as I understand, and there is executive business on the table which I understand requires immediate attention.

The PRESIDENT *pro tempore*. It is moved that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. On that I desire to have the yeas and nays.



The yeas and nays were ordered; and being taken resulted—yeas 23, nays 22; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Dixon, Drake, Fessenden, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sherman, Sumner, Williams, and Wilson—23.

NAYS—Messrs. Anthony, Davis, Edmunds, Ferry, Fowler, Frelinghuysen, Harlan, Howe, Morrill of Vermont, Norton, Tye, Pomeroy, Ramsey, Sprague, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, and Yates—22.

ABSENT—Messrs. Cameron, Cragin, Doolittle, Grimes, Guthrie, Morton, Riddle, and Saulsbury—8.

So the motion was agreed to; and after some time spent in executive session, the doors were reopened; and, on motion of Mr. SHERMAN, the Senate adjourned, with the understanding that the vote should be taken at four o'clock tomorrow on House bill No. 23.

## HOUSE OF REPRESENTATIVES.

FRIDAY, March 15, 1867.

The House met at twelve o'clock m.

Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### BARCLAY'S DIGEST.

Mr. BANKS, from the Committee on the Rules, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the present House the usual edition of Barclay's Digest, together with the Constitution, Rules, and Manual; and that John M. Barclay be allowed one dollar per copy for the copyright of the same.

### PRINTING OF LAWS.

Mr. BANKS. I am also instructed by the same committee to report the following additional rule:

**RULE**—When an act has been approved by the President, the usual number of copies shall be printed for the use of the House.

The usual number of copies will be fifteen hundred and fifty, the same number as are now published of the other documents provided for the use of members. The effect of this rule if adopted will be to have each act when approved by the President immediately printed for the use of members of the House. We now have no opportunity of getting at a law which has been passed, except by reference to newspapers in which it may be published or by application to the Clerk's office. I hope the rule will be adopted.

The question was taken on agreeing to the proposed rule, and it was agreed to.

### ANNOUNCEMENT OF MESSAGES.

Mr. BANKS. I am also instructed by the same committee to report the following as an additional rule:

**RULE**—Messages from the Senate and President of the United States, giving notice of bills passed or approved, shall be repeated from the Clerk's desk forthwith.

As messages are now delivered from the Senate, and also by the Secretary of the President, it is impossible for any member of the House to know what bills have been acted upon or what the action may have been. If this proposed rule shall be adopted, a message from the Senate or from the President will be forthwith repeated from the Clerk's desk. It will probably lead to a change in the manner in which messages are delivered here; so that the message from the Senate, for instance, instead of reading the titles of bills at length which have been acted upon by the Senate, will submit the message in brief, and it will be read at length from the Clerk's desk.

I am informed by the Speaker that the messages from the President announcing his action upon bills are now sent to the Speaker in writing, and those messages can be announced from the Clerk's desk at such time as the Speaker may direct.

Mr. FARNSWORTH. I would inquire of the gentleman from Massachusetts [Mr. BANKS] if this new rule proposes that all messages shall be reported at length from the Clerk's desk?

Mr. BANKS. It is limited merely to the announcement of the bills which have been acted upon.

Mr. FARNSWORTH. And to bring the bills up for action?

Mr. BANKS. No, sir; merely to announce that the Senate has acted upon such and such bills, or that the President has approved such and such bills.

Mr. PRUYN. I am very glad indeed the gentleman from Massachusetts [Mr. BANKS] has brought this subject to the attention of the House, for I think we have all felt the want of sufficient information in regard to what has occurred in the Senate from the manner in which messages from that body have been announced to this House. But I wish to suggest to the gentleman in reference to these messages that it would be an improvement upon his suggestion if the Speaker be requested to announce to the House the character of the message, or what may be the message from the Senate, in analogy to the proceedings in other legislative bodies in which I have always found that rule to prevail.

With regard to the messages from the President of the United States, if they come here in writing, as I understand the gentleman from Massachusetts [Mr. BANKS] to say they do, it would be proper of course that the Clerk should read them under the direction of the Speaker; but I think in regard to the messages from the Senate it would be more proper, it would show more respect to the Senate, and come with more effect before the House, if we should request our Presiding Officer to announce what those messages may be.

Mr. BANKS. The object desired by the gentleman from New York [Mr. PRUYN] can be obtained by the rule reported by the committee. I do not think it would be an improvement to have the messages announced by the Speaker. And I am quite sure it would impose a labor upon the Speaker which the House would not desire to put upon him. The announcement of the messages from the Clerk's desk by the reading Clerk would come from the officer of the House appointed for that purpose. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the rule was adopted.

### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate joint resolution No. 1, presenting the thanks of Congress to George Peabody; when the Speaker signed the same.

### PERSONAL EXPLANATION.

Mr. MUNGEN. Mr. Speaker, I rise to a personal explanation. In the report of my remarks made in Committee of the Whole on the Senate joint resolution appropriating \$1,000,000 for the starving poor of the South, I am reported as saying: "I cannot vote for the substitute offered by the gentleman from Massachusetts, [Mr. BUTLER.]" This might be construed to mean that I was unwilling to vote money for the support of the widows and orphans of those Union soldiers who died in southern prisons. Such are not my sentiments; for there is no one on the floor of this House who has a deeper sympathy for the class of persons above named. What I did say is this: "I cannot vote for the proposition of the gentleman from Massachusetts [Mr. BUTLER] as a substitute, but I would, if necessary, vote for it as an amendment when it would be in order to move it as such."

I was unwilling to allow a substitute like the one offered by the gentleman from Massachusetts to prevail, as it would deprive the starving orphans and women of the South of bread. I wish to place myself right on this question.

### QUALIFICATION OF A MEMBER.

Mr. ASHLEY, of Nevada, presented the credentials of RUFUS MALLORY, member-elect from the State of Oregon.

Mr. MALLORY then presented himself and took the oath prescribed by law.

### ADMISSION TO THE FLOOR.

Mr. BANKS. The Committee on the Rules have directed me to move the following amendment to the rules:

Amend Rule 134 by adding at the end thereof the following:

*Provided*, That ex-members of Congress who are not interested in any claim pending before Congress, and who shall so register themselves, may also be admitted within the Hall of the House. And no persons except those herein specified shall at any time be admitted to the floor of the House.

Mr. Speaker, one of the objects of this amendment to the rules is to prevent the obstruction of our business by the crowds of visitors that find their way upon the floor of the House on all occasions of great interest, subjecting the members as well as the officers of the House to great inconvenience. Another object of this amendment is to admit to the privileges of the floor persons who have hitherto been members of the House. I think that every gentleman will concede that we should extend to ex-members the courtesy of admission to the floor of this House, as they are admitted in the Senate. There has been a difficulty heretofore, arising from the fact that some ex-members of Congress have been professionally engaged in prosecuting claims before Congress. By this proposition persons thus interested are to be excluded; and ex-members of Congress desiring entrance upon the floor will be required to register themselves, in such manner as the Speaker may direct, as not being interested in the prosecution of any claim before Congress.

Another provision of this amended rule is that no other persons than those specified in the rule shall, unless by general consent of the House, be admitted to the floor by any officer of the House. If this provision be adopted, our rule on this subject will correspond precisely, I believe, with the rule which has been adopted by the Senate, where it has operated exceedingly well. I hope this proposed amendment to our rules may be adopted. I ask for the previous question.

Mr. BOUTWELL. Will my colleague yield to me for a moment?

Mr. BANKS. Certainly.

Mr. BOUTWELL. I wish to inquire whether there is to be any system of enforcing this rule. We have now a rule specifying certain classes of persons as entitled to the privileges of the floor and excluding all others. Yet during the last Congress, when it was my fortune to occupy a place in the outer circle of seats, I suffered daily, almost constantly, from the presence of persons who had no right to be upon the floor. They would occupy my seat and engage in conversation with members and other persons around me, so that during a large part of the time it was impossible for me to understand what was going on in the House.

Having had the good fortune at this session to get away from the outer circle of seats, I have for several days had upon my table a resolution which I intended to offer, providing for an enforcement of this rule with reference to admission to the floor of the House. I think there ought to be an understanding that the members of the Committee on the Rules or some other persons in the House should see to it that the Doorkeeper enforces the rule. And I believe I am prepared to give notice that if this rule be adopted, and if the Doorkeeper does not enforce it, I shall, acting in behalf of gentlemen who occupy the outer circle of seats, ask that the Doorkeeper be subjected to the censure of the House or removed from office.

Mr. BANKS. It is believed that this amendment to the rule, now reported from the committee, will accomplish the object desired by my colleague. It proposes to change the present rule by declaring that with the exception of those specified in the rule no person shall at any time during the sessions of the House be admitted upon the floor. The custom heretofore has been that, on the pressing application of members, gentlemen not privileged have

been admitted by the consent of the Speaker or by leave of the Doorkeepers. If this amended rule should be adopted, the officers of the House will feel prohibited by the express terms of the rule from admitting to the floor of the House any person not entitled to admission by the rule or by the order of the House. Such will be the effect as understood and desired by the members of the committee.

Mr. SPALDING. I desire to inquire of the gentleman from Massachusetts whether this amendment to the rule does not contemplate that those admitted shall register their names in a book to be kept at the door.

Mr. BANKS. It does.

Mr. SPALDING. That will be a safeguard.

Mr. BANKS. It is declared in the proposition which we submit that every ex-member of the House shall before admission register himself.

Mr. CHANLER. I ask the gentleman from Massachusetts to modify or enlarge this proposed new rule, so as to provide that any ex-member interested in any financial measure or appropriation of land shall also be excluded.

It seems to me that the rule is not sufficiently broad to embrace all who should be excluded from the floor. I do not see why ex-members of Congress who are interested in land grants or in appropriations or in measures of great importance to themselves should be admitted here when persons advocating claims are excluded. I suggest that the gentleman make his rule effective and just. It should include not only all persons having a personal interest in financial measures or measures granting lands or other measures of great importance, but persons interested in claims.

Mr. BANKS. It is not my province to make any modification of the resolution. I report it as unanimously agreed to by the committee.

Mr. CHANLER. Is an amendment in order? The SPEAKER. It is if the gentleman from Massachusetts yields for that purpose.

Mr. BANKS. I ask the previous question. The previous question was seconded—ayes sixty, noes not counted—and the main question ordered; and under the operation thereof the amendment to the rule was agreed to.

The SPEAKER. As this rule has been amended, the Chair will state that by the usage in both branches of Congress during their entire history, as the Chair believes, all persons who have received a vote of thanks by Congress are allowed admission to the floor, not by any written, but by an unwritten rule. The Chair understands that that usage is not to be changed.

Mr. PRUYN. A single suggestion in regard to the admission to the floor of persons of distinction and of the class to which the Speaker has just referred. The gentleman from Massachusetts informs me that the custom has always been for the Speaker to take the responsibility in such cases, and I hope that will be the understanding now.

The SPEAKER. That has been the usage; but since the present occupant of the chair has held the position he has felt it his duty not to give that consent, but has referred the matter to the Doorkeeper. The Chair does not like to take the responsibility, and therefore declined two or three years ago, when requested, to make any formal order. These cases can be acted upon by the unanimous order of the House.

Mr. PRUYN. One word further. It appears to be necessary that our Presiding Officer should have authority to admit these persons.

The SPEAKER. The usage has been to admit such persons, but the present Speaker has not ordered the Doorkeeper to admit them, although the custom still exists, as he understands, of admitting them.

Mr. PRUYN. I suppose the House will consent to a modification of the rule to meet that necessity.

Mr. BANKS. The object desired by the gentleman from New York, of allowing the admission of distinguished persons, can be easily attained by the Speaker asking the gen-

eral consent of the House for the admission of such persons at any time.

The SPEAKER. If it is the order of the House, the Chair will assume the responsibility; if not, he will throw the responsibility upon the House.

Mr. PRUYN. I hope the Chair will assume the responsibility.

Mr. HOLMAN. I hope he will not.

Mr. SCHENCK. As formerly understood those who had received by name the thanks of Congress were included. I suggest the propriety of having them included now by unanimous consent.

Mr. BANKS. That is understood.

The SPEAKER. The gentleman from New York suggests the modification. The Chair hears no objection, and the rule is therefore so amended.

Mr. BANKS moved to reconsider the various votes taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels; when the Speaker signed the same.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. THOMAS, the papers in the case of James Hooper, of Baltimore, were withdrawn from the files of the House.

On motion of Mr. PHELPS, the papers in the case of George A. Taylor and of Joseph Ballum were withdrawn from the files.

On motion of Mr. SCHENCK, the papers in the case of J. Roward, presented January 24, 1849, were withdrawn from the files.

On motion of Mr. GRISWOLD, the papers in the case of Hiram Slocum were withdrawn from the files.

#### EXECUTIVE COMMUNICATIONS.

Mr. BLAINE, from the Committee on the Rules, reported the following as an additional rule:

**RULE.**—Estimates of appropriations and all other communications from the Executive Departments, intended for the consideration of any of the committees of the House, shall be addressed to the Speaker, and by him submitted to the House for reference.

Mr. BLAINE. If any explanation is needed, I will state that the object of this amendment to the rules is to put in the possession of the whole House information that has hitherto been confined to the Committee on Appropriations. I ask the previous question on the adoption of the new rule.

The previous question was seconded and the main question ordered; and under the operation thereof the rule was agreed to.

The SPEAKER. The Chair will state that after the adoption of this rule he will notify the heads of the several Departments, so that their communications may be made in accordance with the rule adopted.

#### APPROPRIATION BILLS.

Mr. BLAINE. I am instructed by the Committee on the Rules to offer also the following amendment to the rules.

**Amend Rule 77 by inserting after the word "failure" in the twelfth line the following:**

In all cases where appropriations cannot be made specific in amount, the maximum to be expended shall be stated, and each appropriation bill, when reported from the committee, shall in the concluding clause state the sum total of all the items contained in said bill.

I ask the previous question upon the adoption of the amendment to the rule.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment to the rules was agreed to.

Mr. BLAINE moved to reconsider the vote by which the several amendments to the rules reported by him were agreed to; and also

moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. BLAINE. I am further instructed by the Committee on the Rules to report adversely upon the resolution offered by the honorable member from Ohio, [Mr. LAWRENCE,] proposing an amendment to the rules.

The resolution is as follows:

**Resolved,** That it shall be the duty of every committee to report to the House as early as practicable every bill and joint resolution referred to such committee, with the report or recommendation of the committee thereon; and no committee shall fail or neglect to make such report unless it shall be rendered impossible for want of time. But nothing herein shall change the existing rule regulating the order in which the committees are called for reports or enlarge the two morning hours allowed to committees to report.

The resolution was laid on the table.

#### CLAIMS AGAINST UNITED STATES GOVERNMENT.

Mr. BOUTWELL, by unanimous consent, introduced a joint resolution relative to claims against the Government of the United States; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### LEAVE OF ABSENCE.

Mr. BOUTWELL. I ask leave of absence for my colleague, Mr. WASHBURN, for the remainder of this session.

No objection was made, and the leave of absence was granted.

#### MARK HOWARD.

Mr. PERHAM, by unanimous consent, introduced a bill authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard; which was read a first and second time, and referred to the Committee of Ways and Means when appointed.

#### NEW YORK CUSTOM-HOUSE.

Mr. HULBURD. I rise to what I believe to be a question of privilege. I have a resolution which I think is privileged, and after it has been read a first and second time I shall consent that it shall go on the table, if it should not be the pleasure of the House to consider it now; but in connection with it I ask leave of the House to reply to the charges of a high Federal officer in the city of New York against the Committee on Public Expenditures of the last Congress. The Speaker will rule if it be a question of privilege after the resolution has been read.

The resolution was read, as follows:

**Resolved,** That the Speaker of the House be requested to appoint the Committee on Public Expenditures, and that said committee, when appointed, shall take into consideration a report made at the last session by such committee on the subject of the New York custom-house, and report what action is advisable in the premises.

The SPEAKER. The Chair rules that a resolution directing the Speaker to appoint one of the standing committees of the House is a question of privilege, and the resolution is in order and before the House.

Mr. SPALDING. I shall object to the appointment of any more standing committees of this House unless all shall be appointed.

The SPEAKER. That will depend upon the action of the House.

Mr. SPALDING. I know it will; but I shall object to it.

Mr. HULBURD. At the last session of Congress the Committee on Public Expenditures, of which I had the honor to be the chairman, were directed by a sub-committee, not exceeding three in number, to proceed to investigate alleged abuses and frauds in connection with the Boston and New York custom-houses. They proceeded to Boston, made their investigation, and submitted a report calling for no action. They then proceeded to examine the New York custom-house with no intent to do "nor set down aught in malice," applying themselves laboriously, patiently, earnestly, and unweariedly to the discharge of the duty devolved upon them. And on the very last days of the last session of the last

Congress they submitted their report, but it was too late in the session to act or expect action. That report, and a portion of the evidence also, appeared in the New York papers on Monday of last week. The collector of the port of New York immediately issued a card charging that the report of the committee was "spiteful," and that its animus was prompted by his inability to grant them the appointments for which they had made application. Sir, that is a very grave charge to make against the committee; and graver still when there is not a shadow of foundation for it. That committee never asked an appointment of Mr. Smythe that he did not accord. On the contrary, he tendered to them appointments which they never asked for, and never would accept. I leave that part of the matter there.

I now send to the Clerk's desk and ask to have read certain paragraphs from the Daily Globe of March 7, 1867, which I have marked:

The Clerk read as follows:

"Mr. DOOLITTLE. Mr. President, on Monday evening a newspaper was placed in my hand, in which I find a report of a committee of the last House of Representatives, submitted by Mr. HULBURD, of New York, which demands notice at my hands. It fills me with surprise and indignation. Without any notice to me, without calling upon me for any explanation, by inference and not by direct charge, by innuendo, not by positive averment, endeavors to create the impression that I received or agreed to receive \$5,000 or some other pecuniary or other benefit from Mr. Smythe, the collector of the port of New York.

"This charge, whether made directly or by implication, whether sought to be sustained by proof or innuendo, is absolutely and unqualifiedly false, and from whatever source it comes I pronounce it a base falsehood, a vile and cowardly slander."

"Mr. PATTERSON, of Tennessee. I see by the newspapers that I am involved in the same charge that is made against the Senator from Wisconsin, of having received \$5,000 from Mr. Smythe. I will dispose of that in a very few words. There is no direct charge, but there is an innuendo that I was to receive \$5,000 from the same person referred to by the Senator from Wisconsin. All I have to say that the document alluded to by him is false in its charges, false in its insinuations, and false in its innuendoes. I never received a copper from Mr. Smythe; and, if it were senatorial to say so, I would say that the insinuation is as false as hell."

Mr. HULBURD. It will be noticed that these gentlemen in their statements do not deny that there was an arrangement of the kind indicated. The report of the committee never charged that they received, either individually or collectively, a single dollar from Mr. Smythe, or through him in any way. The committee did feel that it was their duty to show the manner in which Mr. Smythe was conducting the office of collector of the port of New York. They did suppose that in order to show that manner, to show whether it was corrupt or not, it was within their province to prove the *quo animo* with which he was conducting it. And they had no other means of doing it except by proving his declarations and acts, and they deemed it proper to spread before the House and the country the testimony they thus obtained, and that is the head and front of their offending in this particular.

Mr. DOOLITTLE called upon me a day or two after the report of the committee was made public. He stated that he felt himself very much aggrieved, for the committee had charged him with receiving money from the collector of the port of New York. I disclaimed it. He said it would go abroad to the country and injure him. I told him I very much regretted any such result, for I had made no such charge in the report. He thought he ought to have been examined, and that his denial ought to have gone out with the report. Afterward, upon reflection, I wrote a note to Mr. DOOLITTLE, which I sent over to him by one of the pages of this House, in which I stated that I did not wish to do him injustice, and that if I had done so I regretted it; that I would give him an opportunity to make any explanation or denial that he might deem proper; that as the report was closed I would simply ask that it should be dated *pro forma* on the 2d of March, or, as the lawyers say, *nunc pro tunc*, now for then, and I would send it to the Pub-

lic Printer as addenda to the testimony of the report. At that very time the committee had in their hands notes not written out of the testimony of our minister at Paris, Mr. Bigelow, to be sent to the Public Printer. I strained a point in speaking of these dates, as he seemed to have a great desire to append a denial to the report. I mention this merely to show that there was no unkindness on the part of the committee toward Senator DOOLITTLE or any intention to do him injustice.

Since that report was made and published in the papers, my attention has been called to various other portions of the testimony, some of which have been printed and some not. I deem it my duty to say to the House that the fact that Mr. Smythe did have it in contemplation to give these gentlemen \$5,000 each does not depend upon the testimony of Mr. Smythe, or upon the testimony of any one man, or upon the testimony of any half dozen witnesses.

Mr. Speaker, I hold in my hand a portion of the testimony which was submitted to the committee, and which has been printed. I beg leave to read a sentence or two from the testimony of Mr. Phelps. He is speaking of an interview in the President's room, at which himself and Mrs. Perry, and perhaps Mr. Barr, were present:

"The President assured me that Phelps and Barr should have the general-order business, as above stated, they bringing proper testimonials. He remarked that he gave this to Barr and Phelps as much for the benefit of Mrs. Perry as for their benefit, because he wished to help her. He said, 'I suppose that you will make it all right with Mrs. Perry.'"

"Question. Was it not then determined what portion she was to have of this business?"

"Answer. She told Mr. Johnson the arrangement or interest she was to have, and Mr. Johnson then replied he was satisfied if she was."

"Question. What was the portion she was to have?"

"Answer. She was to have one third of the net profits."

"Question. Did you produce the testimonials required?"

"Answer. Yes."

"Question. Tell the committee about the substance of that interview."

"Answer. I said to the President there would be a great deal of contention among the New York politicians, who would try to get this, as it was a great thing; he patted me on the shoulder and said: 'Never mind, young man, I will stand by you.' He then remarked to Mrs. Perry: 'This will be all right; we left the matter in Mrs. Perry's hands, and she was to inform us when we should call again on the President; she sent word for me to come to Washington again shortly before Mr. Smythe was appointed, and we went and called upon the President, and had an interview with him alone, myself and Mrs. Perry; after we had a private interview with him he called out his Private Secretary, Colonel Browning, I think his name is, and he told me to state to him what I wanted, and he then wrote to the collector to give the general order business of the North river, from pier No. 59 to the Battery, to Edward R. Phelps and Thomas J. Barr, of New York; the President was present while the Private Secretary wrote this letter, and was talking in a low tone to Mrs. Perry, and when the letter was written he signed it. I think I can produce that letter; I came back with the letter, and as soon as Mr. Smythe was nominated and confirmed I presented the letter to him: he appeared to be very much confused, and put his hand up to his head and thought for a moment, and then remarked that the general order business was all disposed of; he said, 'It is very strange that the President never told me to reserve this for his friends;' and he also remarked that he had to agree to give a portion of the general order business to Senator DOOLITTLE's son, and a portion to Senator PATTERSON, the President's son-in-law, and one other person who I cannot now think of, before he would be confirmed; Mr. Smythe then remarked, he didn't have a chance to spare only a small interest in it for himself, and he asked us if we would not take one fourth interest in the whole business—that perhaps he could let us have that."

The witness failed to produce that letter. It was left with the collector, and he had destroyed or mislaid it, or he could not find it. Mark the statement: he says he had agreed to this before he could or would be confirmed. That is not the statement of the committee; it is the statement of a witness before the committee. Mr. Smythe himself does not deny that he had this in contemplation. It is true that in a letter which purports to be signed by him, addressed to the President of the United States, of the date of March 6, 1867, he declares:

"This purpose, as I testified to the committee under oath and again repeat here, was unknown to most of those whom I intended to commit the business to; was a purpose never executed, a half-formed project, speedily dismissed from my mind."

"A half-formed project!" "Speedily dismissed!" He should instruct better, as to dates and facts, the counsel who prepare his cards and epistolary pronouncements. Why, sir, half a dozen witnesses swore before the committee that at different places and occasions and times, widely distant and separate, he had distinctly stated to them individually that he made an arrangement of this kind. In the month of May he commenced it; and I have in my hand the testimony of a witness who swears to having been told by Mr. Smythe as follows:

"Sometime in October last, as near as I can remember, in a desultory conversation with Mr. Smythe, collector of the New York custom-house, he stated to the best of my recollection, that he had agreed to give, or was going to give, out of the general-order business \$5,000 to Robert Johnson, \$5,000 to Mr. Patterson or Mrs. Patterson, \$5,000 to a son of Senator DOOLITTLE, and retain in his own hands five or ten thousand dollars for political purposes."

Now, sir, how long it takes Mr. Smythe to incubate a project which he commenced upon in May and had not dismissed in October the House can judge as well as myself; whether the retention of it four or five months is in law or in fact a "speedy dismissal" anybody's good sense can determine. Mr. Smythe stated distinctly when before the committee that he had never had any conversation with Senator DOOLITTLE on the subject of the general-order business before he was nominated and confirmed; the postscript of his letter to the President states he had "never spoken to either Senator with regard to this matter," yet Mr. Spalding, of New York, a lawyer in good and regular standing, who was subpoenaed before the committee, testified that in conversation with Senator DOOLITTLE, the Senator told him that Mr. Smythe had conversed with him on the subject of the general-order business, and had agreed when the warm weather was over to have his son, who was then at Racine, come to New York and to give him a good appointment in the custom-house, with a share in the profits of the general-order business. Now, this is a witness's statement, not mine or that of the committee. But this I do say, that son did come to New York, and now has a good appointment in the custom-house under Mr. Smythe. I never charged that he participated in the profits of the general-order business; yet there are divers statements that it was the intention of Mr. Smythe that he should.

Here I dismiss the subject of the Senators and of Senator DOOLITTLE's son, with the simple remark that I feel authorized to say I have been advised in the last three days testimony might be had that would bring some of these matters to a yet more direct conclusion.

Now, Mr. Speaker, I wish to call the attention of the House to some charges that Mr. Smythe makes against this committee in the paper addressed to the President as to the manner in which they conducted the investigation, examination of witnesses, &c. He says:

"I was credulous enough to believe the committee when they informed me there was nothing before them which required contradiction or refutation on my part."

Why, sir, the committee never made any such statement to Mr. Smythe under any circumstances, in any shape, in any mode, in the remotest degree. The first witness which was sworn directly on his administration of his high office did give not mere presumptive or probable, but pointed evidence that he was flagitiously, corruptly, abusively administering his office. He continues:

"I was credulous enough to suppose that the testimony elicited in my favor, outweighing in quantity and quality all that which their ingenuity has garbled and distorted to my discredit, would go out with it. I was not enlightened as to their real purpose till they coined calumnies against you into interrogatories to me, and ordered their stenographer to suppress the indignant truth which nailed their false coinage to the counter."

This was addressed to the President of the United States.

Mr. ROSS. Is it in order to read the testimony on this question? I do not think it is applicable.



The SPEAKER. The Chair thinks it is applicable. This is a committee of the last Congress, of which the gentleman from New York was chairman. His report has been assailed, and he now offers a resolution to revive the committee to continue the investigation. The Chair thinks it is in order for the gentleman to give the ground for the proposed action.

Mr. HULBURD. Mr. Smythe also states in his letter, and I wish to call the attention of the gentleman who objects to it, for I am sure no member of an American Congress can be expected to sit in silence when such a charge is made against a committee of which he is or was a member, like the following:

"Much of my testimony they forbade their stenographer to record. Part of what was recorded they have suppressed. All of it they have distorted."

That is a very grave charge to make against a committee of Congress. Whether deserved will be seen. This committee went to New York to do its duty, having no preconceived purpose to hunt up proof against the Executive of the United States or against his officer, Mr. Smythe. They went there to conduct an investigation. So far from suppressing the testimony, they gave Mr. Smythe the very broadest latitude. There is but a semblance, a shadow of a shade for the allegation that the stenographer was forbidden to record his testimony verbatim as he uttered it, and to that I will soon call attention. Mr. Smythe in New York was invited to come before the committee. He made the fullest statement he chose. Subsequently he came twice into the committee-room; he revised his testimony; he struck out from his testimony; he added to it whatever he pleased without any objection, without any hindrance, without any limitation in a single particular.

In proof of the manner in which the committee in that respect treated him and discharged its duty, I send to the Clerk's desk to be read the statement of the stenographer who reported Mr. Smythe's testimony.

The Clerk read as follows:

WASHINGTON, D. C., March 14, 1867.

SIR: In reference to a published statement made by Mr. Henry A. Smythe, collector of the port of New York, that in the recent investigation held by the Committee on Public Expenditures in New York your stenographer was directed not to record part of his testimony, &c., I beg to say—having acted in that capacity—that I received no such directions from the committee. On the contrary, I reported Mr. Smythe's testimony verbatim.

You directed me to read Mr. Smythe's evidence for him when it was written out, and to allow him to make any alterations or erasures in it that he wished, and in accordance with your instructions I made whatever alterations and erasures in it that Mr. Smythe suggested.

I am, sir, very respectfully, yours,

JOHN O'LOGHLEN.

Hon. C. T. HULBURD, late Chairman of the Committee on Public Expenditures.

Mr. HULBURD. It seems to me that disposes of the question, so far as Mr. Smythe's testimony is concerned, that he was allowed the fullest liberty. As the reporter handed over the testimony written out so it went, without the change, addition, elimination, or interlineation of word or letter, as far as I have knowledge or belief, to the Public Printer.

In reply to some question, he said, on his first direct examination, that he had always voted the Democratic ticket. In the revision of his testimony he directed the stenographer to strike that out. I did not object to any emendation or to any alteration he chose to make. I regret the gentleman from Pennsylvania [Mr. BROOMALL] is absent. He conducted this examination of Mr. Smythe. If he were present he would verify in every respect the statement of the stenographer. As I said, there is a shadow of truth in one particular, that the stenographer was ordered not to take down one of his answers. Mr. Smythe was summoned before the committee a second time, and came to its committee-room, and when, among others, the question was put to him whether he had paid anything to Senators or their families, he had the flippant impertinence to say, "Yes, sir; I once gave Senator

Patterson's lady forty cents' worth of candy," I thought we, if he had not, ought to have some regard for the office, some regard for this lady, with whom I have not the honor of a personal acquaintance, but against whom I have heard no human being speak. I regarded the answer unbecoming and disgraceful to use a lady's name in that pert manner, and I did direct the reporter not to take it down. I cannot believe any right-minded man will think I erred. I desire to submit to the House whether it is expected of a committee when conducting an examination to allow frivolous impertinencies and personalities to be injected into the testimony of witnesses? I ask whether it is the duty of the person conducting the examination to allow such things to take place? I suppressed it. That was the only suppression, to my recollection, that was made in the committee-room of Mr. Smythe's testimony. He charges, it is true, in his letter that we refused to record his answers in reference to the Executive of the United States and the questions we put to him. The letter I had read answers all that, and I only add there is not a particle of truth in the statement in that adulatory particular.

Sir, we had no hostility to the Executive on account of this appointment. I never heard his motives impugned for nominating Mr. Smythe. I never doubted but that he thought the merchants of New York preferred him of all the candidates suggested for the collectorship. And in this particular no doubt Mr. Johnson thought right and did right. The only error he has committed in this connection has been that he did not promptly remove him when his unfitness and unseemly purposes and practices became known as they did months ago. The exact figures and proposed distribution of the general-order business were put in my hands as far back as last July. But, as I have already intimated, it was not our mission to hunt up testimony against the President, and we had no such desire; and I do marvel when I think of it how Mr. Smythe, over his own signature, could allow himself to make such an unfounded statement before the American people.

Mr. ELDRIDGE. I understood the gentleman from New York to say he suppressed a portion of his testimony for the reason that he did not think it was in good taste. I wish to know how he justifies himself in now spreading it upon the records of the country?

Mr. HULBURD. He has made a specific charge against the committee, that we have suppressed testimony.

Mr. ELDRIDGE. It was suppressed on account of the lady, I suppose, and in her behalf I inquire why now it is published?

Mr. HULBURD. It was suppressed on the ground it was impertinent and irrelevant. When he made the charge of suppression I deemed it but right that the character or nature of what had been suppressed should be made known in vindication of the committee.

I will say to the gentleman from Wisconsin, I hold in my hand thirty pages of Mr. Smythe's testimony not sent to the printer. I do not know that it will be. It will not be unless the House so direct. It is his last examination. If he alludes to that and wishes this committee to unfold the nature of that examination, the nature of his connection with a former stenographer reporting for this committee, I am content. He was before the committee to give an account of his negotiations to obtain, and how he did obtain, copies of testimony taken before the committee. I am willing the country should have it and his explanation of the transaction.

Mr. CHANLER. Why does the gentleman suppress the testimony, then?

Mr. HULBURD. There are two or three reasons why this was not sent to the printer. The stenographer says the chairman of the committee said to Mr. Smythe, on his request, before sending it to the printer, he should have an opportunity to revise it; and I have not had an opportunity of submitting it to him; and after some experience I have had in letting go out of hand testimony taken, I have not pro-

posed to send this testimony to New York for that purpose.

Another reason was this: the transaction to which it most particularly related, was surreptitiously obtaining from the committee's stenographer copies of testimony, by his own showing, I regarded most disreputable to an American gentleman, and, above all, utterly disgraceful to an officer of the Government, and as such I had purposed to let it slumber in the archives of the committee. But I do not know that I should forbear, and I will state the substance of it. The House is probably aware that stenographers are assigned to committees; they must take whoever is sent them. With a single exception, the Committee on Public Expenditures were fortunate in having faithful, competent reporters sent to them. A stenographer was sent to us in New York, and reported for us two or three days.

Before proceeding in this direction further just now, I must advert to another feature of the investigation. The committee desired the testimony of a Mr. Thompson, the early friend of Mr. Smythe, as his letter says, and, if I mistake not, connected at one time with the rebel Daily News, and I am not sure but a boarder in Fort La Fayette. The committee were desirous of having Mr. Smythe's friend testify before them. They sent a special invitation by the Sergeant-at-Arms to ask his attendance, but he could not be found. The committee directed a messenger to watch his house. He did so for twenty-four hours, but Mr. Thompson during that time did not enter it. We could not hear of his whereabouts. The committee adjourned, making and leaving for him a subpoena returnable at a future day. Within twenty-four hours after the committee adjourned Mr. Thompson was on "change," and was served with the subpoena. To that we are indebted to the fact that we were enabled to get his testimony.

The stenographer who reported for the committee before its adjournment lived in Brooklyn. After the adjournment of the committee he wrote out the testimony, and of course had in possession and control for two weeks or more the testimony and his original short-hand notes, and during that period made what use he pleased of them. When the committee resumed its session in New York Mr. Smythe came into the committee-room and asked if he could see his testimony and have a copy of it. I told him he could correct his testimony, but that we could not allow him to take a copy. Said he, "I can get a copy by paying for it in spite of the committee." I scorned the imputation, and told him I would like to see him do it. But, sir, the first thing I knew he did have a copy of certain portions of the testimony.

I first learned the fact here at Washington. I immediately took steps to procure the attendance of that reporter, who had already been dismissed by the stenographer of the House. He came here, and was asked how this testimony got out. He answered in these words, written down and signed by himself, and handed to me: "Some friend of Mr. Smythe's and mine advised him of my connection with the committee, and requested of me certain testimony which he specified as concerning him." The reporter said he was willing to make oath to the truth of this statement if required.

A MEMBER. What is the name of the stenographer?

Mr. HULBURD. Hemstreet. He stated that he also received two or three letters from Mr. Smythe, that he received so much money, and that he furnished to Mr. Smythe, at his request, the testimony of certain individuals. The committee then sent for Mr. Smythe. We did not ask the House to grant a warrant—as we were assured we might have properly done—to arrest him. We treated, or intended to treat him as a gentleman. We asked him, in the committee-room, to state how he came by the testimony. The testimony which I hold in my hand is the result of that examination. I will not take the time of the House to read



it. I will only say that he swore repeatedly before the committee that he had no knowledge that he was dealing with a reporter or any one connected with the committee of Congress, &c.

Now, sir, if the gentleman from New York does not see a reason why I did not care to spread out this blackening, disgraceful, damning record for Mr. Smythe, he has it from my lips.

Mr. CHANLER. My object in asking the question was to get the facts of the case. I could not see any reason for suppressing them. I certainly thank the gentleman very much for spreading them before the country so far as he has. I have no desire to defend Mr. Smythe or any other officer of the Government. I simply want to know why a chairman of so important a committee had suppressed a large portion of the testimony. He undoubtedly had good reason, as he has proved to the country.

Mr. HULBURD. The testimony is very voluminous. We examined over three hundred witnesses.

Mr. BARNES. Will the gentleman allow me to ask a question?

Mr. HULBURD. Yes, sir.

Mr. BARNES. I wish to ask if he has fully explained the charge he has previously made in his remarks with reference to the disreputable action of Mr. Smythe on that occasion. I wish to know if anything yet is suppressed in that gentleman's testimony before the committee?

Mr. HULBURD. As near as I understand it I will answer the question by giving Mr. Smythe's version of this transaction. Mr. Smythe swore that a female came to him at the custom-house on a certain day and offered for \$200 to give him a copy of the entire testimony; that he rejected the offer; that the same woman came to him a second time and told him some of this testimony was very important to him, &c. He also said, in answer to an inquiry, that he did not ask her name, that he was a little afraid to touch that point; but he says that on a subsequent day some man called upon him at the custom-house, to him unknown, who submitted a roll of manuscript which had marked upon it so many dollars, with the words that if he would give that amount of dollars he could have that testimony. He testified that he handed over the money and took the manuscript and asked no question, and had no idea who the man was that gave it to him. That was the explanation which Mr. Smythe gave in the committee-room. I thought it my duty to call to his attention the grave matter in which he had been engaged in trifling with the testimony taken by a committee of this House, and which might have resulted in great embarrassment, to say the least of it, to the stenographer.

Mr. BARNES. I desire to ask if this gentleman who was on trial, and whose official acts were being investigated, had not a right to a copy of the testimony from the chairman of this investigating committee, and if, in the absence of being furnished by the chairman with the testimony, it was not a natural conclusion that he, being on trial before the country, should desire to have the testimony taken in this *ex parte* investigation?

Mr. HULBURD. I am not at this moment sure, although I may be mistaken, that Mr. Smythe ever applied to the committee for a copy of any of the testimony except his own. I may be mistaken, but if he had done so I should have refused his request.

Mr. BARNES. I understood the gentleman to say that he had applied for that testimony and it had been refused him.

Mr. HULBURD. He applied for a copy of his own testimony, not any more.

I would like now uninterruptedly to finish the closing up of this matter. I told Mr. Smythe in the committee-room that he might have got the reporter into difficulty, and instead of expressing any regret, instead of saying I was not aware of that fact, he had the audacity to say, "I would like to know the address of that reporter, for if he has got into any trouble

in consequence of this matter I would like to send him my check for \$500." That is precisely what he said. Well, sir, I sent to Brooklyn, where this reporter lived, to procure Mr. Smythe's letters to him. I do not know that Mr. Smythe ever saw the reporter or communicated with him in any way, but money is a mighty quickener and a mighty eraser of facts and figures and of human memory. I have learned, and I think others on this floor must have learned, that it often has a wonderful effect; it often operates with more effect than did the Lethean waters of old. The reporter said he was unable to find the letters, in fact he so wrote to myself. Perhaps, as he said, he had destroyed them. I know not whether Mr. Smythe ever did send him a check or saw him, on his prompt return to New York; but Mr. Smythe knew that he was the reporter if the reporter can be believed, and here is his testimony saying that he did not know he had any connection with the committee.

Now, Mr. Speaker, if I felt at liberty to trespass upon the time of the House, the testimony of Mr. Smythe before the committee on this occasion would be interesting reading in view of what he and others had already testified. I do not propose, however, now to go into that matter; but there are one or two things in his letter to the President which still claims my notice and is deserving of the attention of the House.

Mr. CHANLER. Is it in order to call for the reading of that whole testimony now?

The SPEAKER. The gentleman's colleague has the floor for one hour, which will not expire for seventeen minutes.

Mr. HULBURD. I wish my colleague would allow me to go on with my remarks.

Mr. CHANLER. I do not wish to interfere with my colleague, but if he will allow me to do so I will make a motion that the testimony be read.

Mr. HULBURD. I cannot yield for that purpose. Mr. Smythe says in this letter that this office was never administered so efficiently or so economically as it is now, and that all the charges which the committee made in their report are entirely unfounded. He avers with reference to the removals that have been made that he has only "weeded out incompetency, ignorance, intemperance, and vice," and "filled vacancies with competent and honest men."

That is a most slanderous, audacious, incredible statement to be made by collector Smythe.

Why, Mr. Speaker, since last May and down to the 1st day of February last, that man has removed three hundred and eighty-one men from office, some, many of whom have grown gray in the public service, men of perfectly stainless character, men of intelligence, integrity, and character in point of probity, fitness for the respective positions held, the latchet of whose shoes he is not worthy to tie or unloose. Does Mr. Smythe intend to say that those three hundred and eighty-one removals were all of vicious, incompetent, and intemperate men? Does he mean to say that such was the character of the appointments made by Mr. Clinch, Mr. Barney, Mr. King, Mr. Draper, Mr. Schell, and others who have preceded him in that high office? I repeat it is not true if he does say it, and I declare here now on this floor that the number and the nature of the removals made by Mr. Smythe has embarrassed the transaction of business in the custom-house and utterly demoralized the public service there. The collector in his presidential letter, speaks feelingly of the wounds inflicted by the committee upon the hearts of those who were dear to him. No one could regret such result more than myself; but did Mr. Smythe forget that the three hundred and eighty-one removed men whom his letter virtually brands as incompetent, ignorant, intemperate, vicious, might also have those who were dear to each of them, and that such had hearts that could be pierced and lacerated by his remorselessly wholesale denunciation? During his term of office he

had also made up to February 1, 1867, one hundred and sixty-eight new or additional appointments.

He says he has put in competent and faithful men. When he removed or changed nearly the last of the old keepers of the public store-houses he certainly did not stop to find such qualifications as he enumerates. It was sworn before the committee that in one instance he had put in the place of a faithful, upright, competent man one not able when first launched to write his name in less than five minutes. Afterward by practice he was able to write it in three minutes, and finally he could sign his name in one minute. When he had so far advanced the witness afterward came into the committee room and asked to have struck from the record this statement of disqualification. That man is still a minor and hails by birth from the State of Tennessee.

Mr. CHANLER. Will my colleague state the name of that man?

Mr. HULBURD. I cannot yield now.

Mr. CHANLER. I did not know but he might have some long German name.

Mr. HULBURD. And in another instance in reference to inspectors, who in customs matters are charged with very responsible duties, and should be very competent and honest men, as I believe most are, he has removed officers who were perfectly honest and competent, and filled, in some instances, their places with very different men. He has put there at least one man, who is not able to speak a word of the English language. He has also appointed a man who at one time received \$700 in gold duties, which he gambled away. Under a cloud for a while, he again turns up promoted to a higher and more responsible office, with a larger salary, and which he holds at the present time. Another man proven to have received at one time a five-dollar gold piece for passing baggage unexamined: he too has been singled out for promotion and is now one of the public storekeepers, having in charge millions of dollars per chance of merchandise. This, too, is one of his meritorious advancements. So, Mr. Speaker, I might go on showing up the character of some of these appointments, *ad nauseam*, till the time and patience of the House had been exhausted.

If any gentleman wishes to know how these appointments were made, I answer: sometimes, I am assured, by sheetfuls at a time, without even the names being read over; made, I suppose, at the beck or on the solicitation or recommendation of some dexterous if not veteran politicians.

Now, what is the effect of all this and of Mr. Smythe's own example of selling official patronage? Only last week an entry clerk ~~or~~ being remonstrated with for an excessive charge, by a merchant, justified himself by answering over his shoulder, "Ask Mr. Smythe if such is not all right." No doubt at this time that feeling actuates more or less to a considerable extent the working force in the whole customs service in the port of New York. In that respect—bribery in a small way—corruption generally reigns there, until his whole administration of the custom-house is reeking with corruption. His management of the bonded warehouse and general-order business denotes the most shameless, flagitious, disreputable, utterly disgraceful, yet deliberate system of abuse, extortion, wrong, that has been developed in scores of years. The force of example, the example of superiors, is contagious and potent, very.

Now, I deem it my duty to call the attention of this House, in connection with the committee's investigation, to another fact, most disreputable, and, in my judgment, meriting the severest reprehension. Two years ago the same committee of this House were instructed to investigate the affairs of the New York custom-house. Mr. Barney, the then collector, tendered the committee a room, which they did not accept; and he offered to send to the committee-room any of the employes and attachés of the custom-house on the simple

request of the committee, without the formality of a subpoena.

I could not but be struck with the different manner in which the committee of the last session were met in their recent investigation. Men came to me clandestinely, Nicodemus-like, and said, "Do not summon me before the committee; I shall be removed if you do; do not ask me to testify, for to do so will cost me my place." Others wrote letters to me to the same effect. Some, however, on being subpoenaed, did come forward and testified squarely, as honest men should. And what is the result? Perhaps precisely what might be expected, for Mr. Smythe himself said in the committee-room, not when testifying, but in his peculiar and expressive language, that he wished to God he knew who in the custom-house were stirring this thing up before the committee; for every one of them would be a head shorter within twenty-four hours.

Mr. Ogden, the auditor of the custom-house, was subpoenaed and testified before the committee. He has never written to me; he has never indirectly communicated with me since. But I have a letter here from another person, who writes that Mr. Smythe called Mr. Ogden before him and said that "it was damned strange that he should go before that committee and testify to figures which he never saw; that if those who ought to be his friends would not stand by him better he had a great mind to turn around and bite." Now, Mr. Ogden is an intelligent gentleman, and has been connected with the custom-house for nearly if not more than a score of years, if I remember aright; and yet Mr. Smythe threatens to remove him from his place because he testified before a committee of the American Congress.

Another deputy collector, Mr. Stedwell, on a subpoena issued by the committee, came before the committee and testified. Mr. Smythe now threatens to remove that man from office. Unless he and Mr. Ogden come out in cards and tone down their testimony, deny or swallow their words that they have uttered in the committee-room under oath, it is most likely they will one or both be removed.

Now, I submit whether this Congress can afford to allow this condition of things to continue; whether we are willing that a Federal officer in high position shall be permitted to denounce, threaten, and remove men for the crime of having answered to the subpoena signed by the Speaker of this House, and testified before one of its committees.

It might, perhaps, well be asked what meat hath this fledgeling official fed upon that he should dare thus to flout Congress, through its constituted committees, by the utterance to human ear or to the listening air of such an audacious motive and half-formed purpose.

Again, Mr. Smythe says: "The second charge the committee make against him is that of having, while the business of the custom-house is decreasing, increased the expenditures from \$250,000 to \$300,000 a year."

Mr. Speaker, my authority for that is the Treasury Department. Those are not conjectural figures. In the public stores alone the expense during the present year is \$46,000 more than it was last year. It is sworn by one of the witnesses that only about four men can be well employed around a gangway; yet Mr. Smythe has so multiplied such appointees that at one time an average of sixteen men were standing around where only four could work. Of course the pay-roll is the object more than service; somebody's man wanted a place and the pay, and the collector, good easy soul, could not resist, until as I said, he has swelled the number to one hundred and sixty-eight additional.

The committee were taking testimony on this branch of the service, when hearing a large number of dismissals had taken place the committee hoped the abuse had been checked and would be corrected, and gave it no further consideration.

Mr. Smythe says again: "Another point

they make against me is for having contemplated a distribution or farming out of the profits of the general-order business." Sir, the committee must take the testimony as they had it before them. The testimony was that Mr. Smythe did contemplate such a distribution. More than that, it is shown to compass it he resorted to most questionable expedients. In the month of May the Treasury Department was in treaty for what are termed in New York as the "Getty stores," which were desired for public stores. A negotiation was going on through a special agent of the Treasury Department, then in the city. It is said when Mr. Smythe had been confirmed he sent for Mr. Getty and assured him that the United States did not wish those stores, but that if those stores could be put in at \$35,000—the Government was proposing at that very time to pay \$45,000—he Smythe would go in company with Mr. Getty in the general-order business and would send all the general-order business there; that he could make it worth \$100,000 per annum; that he did not himself wish to be known in the matter, &c. The Messrs. Gettys preferred to lease the stores to the Government. The special agent of the Treasury, knowing the stores were safe and commodious and every way desirable for Government use, much desired to obtain those stores. He asked a refusal from Saturday to Tuesday morning to enable him to write his views and get an answer back from Washington. It was granted; he wrote; Tuesday morning came, but no letter, and Mr. Smythe announced to Mr. Getty that no letter came, and he renewed his suggestion to go in company with Messrs. Getty and send the general order there. This was declined. Miller & Conger were directed by Mr. Smythe to rent the stores for general-order business. Now for the fact: the letter did come authorizing the leasing of the stores on Government account, and Mr. Smythe withheld the letter from the agent of the Treasury until the time agreed upon between the agent and Messrs. Gettys had passed, so that the stores could be had for general order as Mr. Smythe desired for himself and Gettys or for Miller & Conger, to whom he had conditionally sold the business for \$40,000. He then, as I said, renewed his proposal to Mr. Getty to go into company with him. Somebody balked this pretty arrangement of the collector to thwart the Department in this matter, undoubtedly by reporting the facts to the Department. Be that as it may, orders came from Washington to refuse to bond the Getty stores. That was the reason the operation on the part of Mr. Smythe with Gettys and with Miller & Conger fell through.

Now, Mr. Speaker, can you conceive of a more disreputable and flagitious transaction on the part of a Federal officer than such an attempt to thwart the purposes of his chief and head to subserve his own pitiful pecuniary purpose? If that is not mean official duplicity, official betrayal of public interests, downright base treachery, I do not know how to characterize it.

Mr. Speaker, Mr. Smythe has once a month since he has been installed in his present position taken an oath that he has never received anything, directly or indirectly, from the general-order business, from the cartage business, from the storage business, &c. Sir, it is in proof that Mr. Smythe, soon after coming into office, did have an account rendered to him for a fourth share of the cartage business, which amounted to \$250 per month. When this was offered to Mr. Smythe, he said to his secretary, "I do not want to receive that money. You take it and keep it, and when I want it I will call for it." So he did not have it technically pass into his accounts or into his pockets. Thus he was enabled very consistently, very conscientiously, to take his monthly custom-house oaths that he had not received, directly or indirectly, because he had it not entered in his bank account or lodged in his pockets. Two months after Mr. Smythe says to his secretary, "Have you any money in your hands for me?" "Yes, sir."

"How much?" "Five hundred dollars." "Then give me a check for it." He gives him a check for it. Yet, sir, that man swears every month, and he swore before the committee, he has never received a dollar from that source; yet in his last examination by the committee he did admit that monthly pecuniary one fourth share did continue on up to the present time, inuring to somebody's benefit.

More than that. On one occasion he made a most noticeable statement. It was sworn by a gentleman whom I would believe as quickly as I would any living man. "I am damned sorry I ever undertook to carry the President's daughters." The profanity does not appear in the reported testimony; but I remember the exact words used. Mr. Smythe and this witness confronted each other in my own private room. Mr. Smythe, on being reminded of the expression, replied that he never said so; that he never thought so; that he never had any occasion to say so. I give him the benefit of his denial. The witness said to him directly, "I do not know, Mr. Smythe, what you thought; I do not know what occasion you had to say it; but I do know you used those very words."

[Here the hammer fell.]

Mr. WOOD took the floor.

Mr. CHANLER. I hope my colleague's time will be extended.

Mr. WOOD. I do not object.

There was no objection; and Mr. HULBURD's time was extended.

Mr. HULBURD. Mr. Speaker, I have alluded to this testimony because of some denials elsewhere. I do not know any money ever went in accordance with it; but I do know from Mr. Smythe's own testimony that money did go to Washington. I do know from his testimony, as well as from that of others, that money did go to one or two ex-officials here out of this business in New York.

I wish to say, sir, I regard the transaction as abominable; I regard it as disgraceful; I regard it as demoralizing; I regard it as corrupt. I say that for a public officer to stand in New York and by arrangement with his agents, his ambassadors—and Mr. Thompson was his certified agent in some of these matters—to make an arrangement so that money could be filched from merchants and used here for any such imputed or suspected purposes, is more than an impropriety; it is, or ought to be, more than a misdemeanor, it should be treated as a crime.

Gentlemen ask me who is Mrs. Perry? I do not think she is a myth. Her veritable presence was proved more than once. It was in proof she was to share one third of the profits of this general-order business. A witness told me that if he had been asked the question he would have answered that Mrs. Perry had a written agreement to that effect, and that the President of the United States had read that agreement. The general-order business at that time was supposed to be worth from thirty-five to fifty thousand dollars a year.

Mr. Smythe makes another charge against the committee: that he had horrified the committee by an act of benevolence to this Mrs. Perry. He says when she came with a letter from the White House and asked for her share (by his own figures fixed at \$3,000) he told her the arrangement had fallen through, but he did, out of pure benevolence, give her at certain times \$300 or \$500 out of his own pocket. No doubt this was all pure benevolence. Does he forget or suppose it not known that only a few days ago this same woman applied to him again by letter for more? What was the answer of this benevolent, honorable United States official? He sent her more money, and said he would continue to do so if she would keep out of the way of congressional committees. Was that charity? So far as the committee with which I am connected are concerned we never sought her acquaintance in the committee-room or elsewhere.

Now I turn to another point; and I desire to ask whether it is proper that the importers and business men of New York should be sub-

jected to petty contributions and levies and extortions to make up sums for persons and papers in this city or elsewhere, to ex-officials, if not to officials in good and regular standing? I ask whether it is proper legitimate business should be black-mailed to a large or small extent for such purposes? I cannot but think this House owes something to the country, something to merchants, something to honest officials, something to its own dignity, to endeavor in some way to put a stop to all such things throughout the length and breadth of this land by rebuking all such practices, whether in high places or connived at in high places.

Sir, as a citizen of New York, in common with my colleagues, I feel proud of my State, an *imperium in imperio* in very deed. We feel proud of our Metropolitan city, whose wealth and commerce are the marvels of this continent. We know, we acknowledge, it has grown to what it is, not merely by its energy or the geographical position of our own State, but the tributary business of other States has built it up to what it is. The State has spread over all its surface a net-work of canal and rail improvements; its people and other people have used these avenues to carry seaward the magnificent achievements of skill and industry. This has made our commercial emporium great and potent, and enabled it to gather and clasp to its quickened breast the golden products of field and forest and mine and mountain, and enrichingly pour them into all the marts of trade and commerce of the world. In this purpose her ships visited every harbor of the seas, and brought home

"The wealth of Ormus and of Ind,"

to diffuse it over all our broad American lands. While this business was conducted legitimately and properly all rejoiced in our growth and prosperity. When dark times came, when

"The purple testament of bleeding war"

was opened in the spring of 1861, when no man could pierce through the gloomy darkness and see what was beyond, then the merchant princes, the business men of New York, came generously forward and subscribed their millions to aid the Federal Government in conducting the war. Ay, they made the Government presents not only of money and steamships, but they sent their sons to do duty in the march, in the trench, and tented field. When pirate Alabamas were upon the ocean destroying their ships and burning their merchandise, when seemingly the American commerce was annihilated, when everywhere, from the far Orient,

"Where the golden gates of day  
Open in the palmy East,"

to the furthest sunset wave of the West, there was scarce an American sail that dared to carry American merchandise beneath the American flag, and the merchants of New York felt that their Government, perchance, was not doing all it should and could to arrest these destroying ocean corsairs; they vented not their wrath but still opened their hands and did what was required to aid and sustain the Federal Government. At length peace came; they expected encouragement, and justice, and protection at the hands of the Government. Certes, they did not expect to see enthroned in their midst an official vampire to suck out little by little the life-blood of their business.

Is it any wonder they complain of such treatment? They who pay \$140,000,000 of gold duties yearly into the Treasury, and who have stood up and by the Government as they have for the last six years, surely deserve from its hands better than they are receiving. I do submit, under these circumstances, if it is proper or becoming for this Congress to allow this condition of things to continue.

Mr. Speaker, this committee have endeavored to do their duty in exposing these matters and directing attention to these abuses and corruptions. I am not aware that we prosecuted it with any personal vindictiveness or any unfairness. Of course we awoke animosity. I

am well aware that we could have taken a different course, and all would have been lovely and smooth and of good report. Almost incredible means were resorted to, to induce the committee to take this course; if not to desist, to at least change, to modify, to tone down, and to suppress. Place has been offered, personal violence threatened; the spectacle of political slaughter held up to deter me, and all for a simple effort to do my duty and nothing more.

Sir, I have read a record of the olden time, whether of fact or fiction I know not, that upon the occasion of a frightful fissure opening in one of the principal streets of pagan Rome, and widening day by day, when the oracles were dumbfounded thereat, the college of soothsayers declared, "Cast into the crevice your jewels and it will close up." A single Roman knight spurred his steed into the yawning chasm and it closed up and the city was saved.

I do not for a moment suppose the sacrifice of my humble self could promote a large public good, and yet I feel and I say that if this report, considerably prepared, as it has been, and based upon ample evidence, as it should be, and I think is, shall produce the effect of bringing abuses and frauds to an end in the custom-house at New York, as well as in custom-houses elsewhere, and cast up such a buttress and highway that henceforth, for a season at least, honest men can hold office and business men can have their honest rights, Government its proper dues, without extortion or bribery or corruptions or abuse, I shall have small concern what may betide my single self. I am but a waif floating in the atmosphere, and it matters little when or where or perchance how soon the final lodgment is made.

Notwithstanding all menaces, and if I assuredly knew they would all overtake me, in the condition of things we found existing in and about the New York custom-house, I would censure any man whom I found positively responsible therefor. I would mercilessly condemn my brother or my father for such conduct. Nay, sir, if Gabriel himself had so conducted such an office, if permitted, he should be impeached therefor before Heaven's high chancery. If that utterance be esteemed irreverent, I trust the recording angel, *a la* Uncle Toby, will drop a tear upon it and blot it out forever.

I insist, Mr. Speaker, that it becomes this House to show by its action that—

"Corruption wins not more than honesty."

I insist also that the President of the United States should beware lest he verifies Burns's couplet:

"Nae wonder he's as black's the grun,  
Observe wha's standing wi' him."

Now, Mr. Speaker, I admit that the report is a bad presentment for Mr. Smythe. I admit that it is a damaging and disastrous finding; I admit that the New York paper was correct that characterized it as a terrible indictment. But, sir, it is true, and believing it to be true, God help me I cannot go back of it!

I wish, in justice to the stenographers now present, to say I had no reference to reporters employed by the House or to the gentleman who has the superintendence of this whole business of reporting for the committees. In reference to the printing of the testimony of Mr. Smythe, I desire to follow the pleasure of the House. I have it here, and if it is the desire of the House that it shall be printed it is at their disposal.

Mr. WARD. I ask consent that the testimony in the hands of my colleague be printed.

No objection was made, and the testimony was accordingly ordered to be printed.

Mr. CHANLER. Before my colleague [Mr. HULBURD] yields the floor, I ask him to yield to me five minutes.

Mr. HULBURD. I will yield to him if he desires to ask me a question.

Mr. CHANLER. I do not. I ask the gentleman to allow me five minutes.

Mr. HULBURD. Well, I will give him five minutes of my time.

Mr. CHANLER. I wish to state in regard to this investigation that it brings before the House and the country truths sufficient to establish the necessity for a thorough reform in our civil service. I have no desire in speaking to this motion to defer the action of the committee if it can develop facts which will secure an honest administration of the public affairs of this country. If reform is to begin it should begin now, and nowhere can it begin with greater propriety than in the city of New York, or in the custom-house department of that city.

Nor was it necessary for the gentlemen composing the committee to assume in their report that they found the first proofs of corruption in the administration of this Government. Sir, it is an established fact in the history of this Government, from its foundation, that because the wise advice of Washington was not followed, because the organization of the civil service was not made distinct from political principles, we have gone on stumbling deeper and deeper in the mire of political filth until the women of the country, the highest department of our Government, are dropped down to the limit which this testimony discloses to the world.

I am an advocate of the reforms which the gentleman's report demand. At various times during the last Congress I presented for the consideration of the House a proposition bearing directly upon this question, and that proposition received scarcely a vote in this body as then organized. It was a proposition which struck directly at this system of corruption by stopping the system of black mail levied by political officials upon the humblest workmen in our navy-yards for political purposes. The House rejected my proposition, which was that no man employed in any department of the Government should belong to any political organization, or attempt directly or indirectly to influence the vote of any one in the Government service under him.

I suppose that this effort at reform is sincere and honest, and that it is not a partisan movement with a view to control the patronage of the Government. Without professing that motive I can understand that from the division in the Republican party it is desirable to remove the collector at New York. The whole country understands that. I do not rise here to defend that officer or his conduct, or in any way to palliate any act of his toward the committee, pertinent or impertinent. Let him suffer the consequences of his conduct, whatever they may be. But I cannot let this occasion pass without urging upon this House the necessity of a speedy reform, thorough and complete, of the civil service of this Government.

Mr. Smythe, so far as I know, has not been a member of any particular political party; and in striking him down no one suffers but his immediate and personal friends. So far as I understand his relations in public life, he has been connected with the Chamber of Commerce of New York. The error in his appointment was that a member of a special board for the protection of a particular interest was given the control of this office for that interest, when he should have been selected for the interest of the Government rather than the interest of merchants. That is the error of the whole system. By outside pressure the executive department of this Government is induced to appoint to high places men who are in the interest of particular parties and particular classes, and who are not put there for the public interest only.

Now, if the errors of the collector of the port of New York are venal, if he is to suffer decapitation, let the blow also fall on others as guilty as he. In the name of justice let him not suffer for the errors of a system which he found established when he came into this office. If he cannot resist the pressure brought to

bear upon him in reference to the making of local appointments in the city of New York, that is not his fault any more than it is the fault of the Executive who under direct pressure makes him the collector of the port of New York.

[Here the hammer fell.]

Mr. WOOD obtained the floor.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed a concurrent resolution to amend the nineteenth rule of the two Houses to prevent the sale or use of liquors in the Capitol building or on the grounds adjacent thereto, in which the concurrence of the House was requested.

The message further announced that the Senate had passed the following bill and joint resolutions, in which the concurrence of the House was requested:

A bill (S. No. 64) to provide for grading the public grounds, and for other purposes;

A joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department of the United States; and

A joint resolution (S. R. No. 30) amending the ninth section of an act to amend an act entitled "An act to provide for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852.

#### ADJOURNMENT TILL MONDAY.

On motion of Mr. ALLISON, it was

Ordered, That when the House adjourn to-day it be to meet on Monday next.

#### SURVEYS OF ILLINOIS AND ROCK RIVERS.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish this House with a copy of the report of General J. H. Wilson of surveys of the Illinois and Rock rivers.

#### LEAVE OF ABSENCE.

Mr. MILLER asked and obtained indefinite leave of absence for his colleague, Mr. MOORHEAD.

Mr. POMEROY asked and obtained leave of absence for his colleague, Mr. MCCARTHY, until Wednesday next.

#### NATIONAL BUREAU OF INSURANCE.

Mr. ELDRIDGE, by unanimous consent, introduced a bill for the creation of a national bureau of insurance; which was read a first and second time, and referred to the Committee on the Judiciary.

#### GOVERNMENT ORDNANCE.

Mr. LOGAN. I rise to a privileged question, and submit the following resolution for consideration at this time:

*Resolved*, That the Committee on Military Affairs of this House be immediately appointed, and are hereby authorized to sit during the recess, for the purpose of inquiring into the manner of procuring heavy ordnance for the United States service, the disbursements relating thereto, as well as the quality of the rifled and smooth-bore guns heretofore introduced and hereafter to be introduced into the said service. The committee shall have power to send for persons and papers, and to employ a clerk, who shall receive the same compensation as heretofore allowed. And the Secretary of War is directed to cause experiments to be made, and to supply from stores on hand, the property of the Government, such ordnance as may be required by the committee for operations necessary for the determination of the questions before the committee; as well as to detail officers and enlisted men, such as may be found necessary. And the committee shall report by bill or otherwise whenever they deem such action expedient.

Mr. ELDRIDGE. I object to this resolution.

The SPEAKER. The resolution is in the nature of a privileged question, relating, as the first part of it does, to the organization of the House by the appointment of one of its standing committees, and instructing it as to its duties. But the Chair would suggest to the gentleman from Illinois [Mr. LOGAN] that the latter part of his resolution directing the Sec-

retary of War to make certain disposition of the property of the Government will not be operative unless put in the form of a joint resolution.

Mr. LOGAN. I will modify the resolution so as to request the Secretary of War to do so and so; and I will explain in a few words my reasons for offering this resolution. I do not know that I am better acquainted than are other members of this House with the manner of purchasing ordnance; but I have examined the subject until I know something of it and of the expenses to the Government. I had an opportunity for some years at one time to know something about the cost of ordnance in this country. If members of this House will take the trouble to ascertain the amount of money that has been appropriated for ordnance that is and always has been of no service to the Government, and for the purchase of ammunition to be used for guns which have never been used, they will see the necessity of placing this subject of ordnance in charge of some committee of this House, that they may, from time to time, make such reports as will require the House to take some action in reference to this question.

I do not desire to take up the time of the House by going into details. I merely ask that the Committee on Military Affairs, the appropriate committee to examine the subject, be charged as a part of their duty with the investigation of the ordnance department, making such examinations and experiments as the interests of the public service demand. It certainly seems to me that there can be no reasonable objection to this proposition. Were this the proper time to enter into a discussion of the subject, I could exhibit evidences of expenditures in this branch of the service so entirely contrary to sound judgment and a proper economy that they would surprise gentlemen of this House. The expenditures in connection with the ordnance of the country have never been revised or examined by any of the committees of this House. I hope that the resolution which I present will be adopted.

Mr. ELDRIDGE. I would suggest to the gentleman from Illinois [Mr. LOGAN] that the Government has its proper officers for just the sort of duties he has suggested; and it seems to me that those officers are much better qualified (although I wish to make no imputation upon the ability of the Committee on Military Affairs) to perform this duty than are members of Congress.

Mr. LOGAN. Mr. Speaker, it is true that the Government has its officers to examine this matter of ordnance; it has its officers for the purpose of making purchases and contracts; but the action of those officers is not subject to the revision of Congress through any committee. It is for the purpose of making a change in this respect that I offer this resolution.

Mr. ELDRIDGE. It is for that very reason that I object.

Mr. LOGAN. Well, sir, I am interested in the Government having ordnance of the best quality at the lowest cost. If the gentleman from Wisconsin is interested differently I cannot help it.

Mr. ELDRIDGE. Not at all; but I have quite as much confidence in the officers of the Government having charge of this subject as I have in members of Congress. And further than that, Mr. Speaker, I do not wish to have this Congress made perpetual, either by its committees or otherwise.

Mr. LOGAN. I yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. Mr. Speaker, I entirely agree with the gentleman from Illinois [Mr. LOGAN] in regard to the propriety of the general object which he has in view, though I am not certain that he proposes the best way of accomplishing it when he moves the reference of this subject to the Committee on Military Affairs, now to be appointed for this special purpose. I have prepared, and for several days have been seeking an opportunity to introduce, a resolution providing for the appointment of

a select committee on ordnance, to which this whole subject may be referred. I shall, however, cheerfully sustain anything looking to the accomplishment of the object which the gentleman, in common with myself, has in view.

Let me say, for the information of the gentleman from Wisconsin, [Mr. ELDRIDGE,] that one of the difficulties at present existing is precisely this: the great guns of the United States are now manufactured under patents issued to Army men and ordnance men, to whom a royalty is paid for the use of those patents. The projectiles which are purchased by the Government in large quantities, and in some cases at least not used, are the invention of men connected with the ordnance department. In the Navy, there is a very distinguished officer who is the inventor of great guns used in that Department of the Government. While this wrong exists, no mechanic, no inventor, can obtain a fair trial, by experiment or by introduction into the service, for anything that does not receive the approval of the charmed circle controlling this whole matter. The consequence has been the expenditure of millions and millions of dollars without any adequate return. The consequence has been the manufacture of guns which, though they stood that slow process of firing which is the only test to which they were subjected in target practice, burst by the dozen when they were used in battle, either for hammering down Fort Sumter or for an attack upon Fort Fisher.

The fact is that more guns were lost, or rather more men were killed, upon our own side by the bursting of our own guns at the bombardment of Fort Fisher than were injured on the part of the enemy we attacked with these guns.

However, I do not wish to go into the merits of this matter. Whatever course Congress may take in regard to the matter there is a crying evil here which should be brought under the supervision of the law-making power and corrected, if we wish to save any of this vast expenditure to the Government.

Without taking up further time, I will say that I had intended proposing a joint standing committee of both Houses. Perhaps the gentleman's object might be accomplished in that way. I am certain something ought to be done. I will propose this as an amendment to the gentleman's resolution, if he will allow it.

Mr. LOGAN. I will hear it.

The Clerk read as follows:

*Resolved*, (the Senate concurring,) That the following be added to the joint rules of the two Houses, namely:

RULE — There shall be appointed a joint committee on ordnance, to consist of three members of the Senate and three members of the House, to whom shall be referred all matters in relation to ordnance and ordnance stores which shall come in question and be referred to them by either House; and also to inquire into the expenditures of the ordnance bureaus of the War and Navy Departments, and to report from time to time such measures in reference to those subjects as to the said committee may seem advisable.

Mr. LOGAN. I cannot accept the amendment.

Mr. SCHENCK. I understand the gentleman is apprehensive if he makes it a concurrent resolution the Senate will not agree to it. If he insists on the Committee on Military Affairs we can authorize the Speaker to leave a vacancy or two on that committee, to be filled when the Representatives come from the other States.

The SPEAKER. No Speaker has ever yet learned, that the Chair is aware of, how to make fragmentary committees. If he is ordered to appoint a committee he will do so, and the House can add other members hereafter if they should see fit.

Mr. BLAINE. I wish to make a single suggestion.

The SPEAKER. The Chair will state his reason, as the gentleman from Ohio seems to dissent. If he leaves the second place on the Military Committee vacant, and the gentleman whom he expects and desires to see elected is not elected, the gentleman who shall be elected would claim that place. The Chair does not



know how he is to appoint fragmentary committees without subjecting himself to endless complications.

Mr. SCHENCK. I will only say in defense of my suggestion that I do not see the difficulty. Everybody understands that the allusion is to Colonel Deming, my distinguished and valuable colleague, who stood second on the committee in the late Congress. If to our great regret, and a result which I will not permit myself to anticipate, but which is among the uncertain chances of an election, he should not be returned, there should be no objection, nor would it be just occasion of complaint, that another member should be placed, to fill the vacancy, either second, third, or even last on the list at the discretion of the Speaker. If the Chair will indulge me in making a remark, I will say if he ever expects there will be a time when Mr. Smith and Mr. Jones and all the various members of this House will be satisfied with the making up of the committees, then I am afraid he is waiting for a millennium which will never come.

The SPEAKER. The Chair expects no such millennium. When the duty devolves upon him of appointing the committees he will discharge that duty, of course subject to the censure of individual members. The Chair is not aware that any Presiding Officer has ever been compelled to make up fragmentary committees. He has consulted gentlemen who have held similar positions and who know the precedents, and they are unaware of the existence of any such instance. He is perfectly willing to appoint the Military Committee if the House sees fit; and the gentleman's resolution seems to take it out of the usual course.

Mr. BLAINE. I think the whole matter can be harmonized by making the ordnance committee a House committee. We can take it out of the course of joint action, and so arrange it as to control our own action.

Mr. LOGAN. I do not think it ought to be referred to a special committee, because it imposes a special duty. I regard the Committee on Military Affairs as the appropriate committee for the investigation of matters of this kind.

Mr. BLAINE. At the close of the last session of the Thirty-Ninth Congress this House proposed to add to the standing committees a joint committee on ordnance, but the Senate failed to concur in it. Now, if the House of the Fortieth Congress will reaffirm its judgment for a committee on ordnance, the investigation proposed by the gentleman from Illinois can be prosecuted with more directness than through the Military Committee. And I beg to say, under the admonition of the Speaker, that I would be the last one desirous of inflicting an injustice upon a soldier like Colonel Deming. If the committee is appointed, and he is re-elected and loses his place, I happen to know that he has a great deal of feeling on that point.

Mr. BANKS. I hope the resolution moved by the gentleman from Illinois will pass, and I shall be glad to vote for the committee proposed by the gentleman from Ohio, [Mr. SCHENCK.] One of the objects of this resolution is to ascertain whether there is reason for the appointment of a committee on ordnance. In regard to its appointment at this time there can be no difficulty whatever. It is perfectly competent, and certainly the House would be willing to make additions to the committee. It could be easily arranged by an order of the House that no member well skilled in the military affairs of the country should lose his place. I am certain that could be arranged in regard to this and in regard to other committees, so that there would be no difficulty.

Mr. BLAINE. Do I understand his name could be put in at a particular place or at the foot?

Mr. BANKS. The order can be made by the Speaker or the House.

Mr. BLAINE. I understand the Speaker to decline to make it. The House might possibly instruct him; but he has twice admonished us that he did not regard that mode as practicable.

The SPEAKER. The gentleman from Maine has scarcely understood the Chair. The objec-

tion of the Chair was to making a committee and leaving the second place on it vacant, thus apprising the House of his expectation that if some person should be elected he would be appointed thereto, and in case of the resignation, absence, or death of the chairman of the committee the person thus appointed would become chairman. Now, if the Chair appoints a committee the House can order that a certain person be placed upon it.

Mr. BANKS. There is no difficulty in arranging this matter. Whenever other members appear it is perfectly competent for the House to order a rearrangement, and doubtless it will do so.

Mr. BLAINE. Then the gentleman ought to make his committee special. If you make a standing committee, as the gentleman from Massachusetts suggests, it will be idle to suspend that committee afterward. If it is a special committee it becomes *functus officio* after it discharges its duties.

Mr. LOGAN. When the House is fully organized by the appointment of all the committees, if the chairman of the Committee on Military Affairs is desirous to have this investigation taken from that committee, then, at his suggestion, it may be done by resolution, and transferred to the other committee. There would be no objection to that at all; and if the House should think proper, there will be no difficulty in regard to the appointment of Colonel Deming on the committee, or any other gentleman.

As I remarked before, I have reasons that I have not time to explain for asking this committee to be appointed now; and I do not desire to be understood as reflecting upon any person in the ordnance department in offering this resolution. I desire that all the Departments of this Government shall be subjected to examination by committees of this House, and that such appropriations as are made from time to time by the House shall be subjected to scrutiny by committees, so that we may know whether the expenditures are properly or improperly made. No man ought to object to it. This is the only reason I have for offering the resolution. I am satisfied that the Departments expend a great amount of money, in regard to which neither Congress nor the people have any proper knowledge. I now move the previous question.

Mr. ELDRIDGE. I would inquire of the Chair how this resolution got before the House.

The SPEAKER. It is a privileged question.

Mr. ELDRIDGE. I understood the Chair to ask for objection, and I made objection.

The SPEAKER. And then when the gentleman was conversing with others around him, the Chair stated that it was a privileged question, as it related to the appointment of one of the standing committees of the House.

Mr. ROSS. Would it be in order to move to postpone this till next week?

The SPEAKER. It will be after the previous question is seconded.

Mr. BLAINE. I hope it will not be seconded.

On seconding the previous question there were—ayes 52, noes 49.

Mr. HOLMAN. I demand tellers upon seconding the previous question.

Tellers were ordered; and Messrs. HOLMAN and LOGAN were appointed.

The House divided; and the tellers reported—ayes 49, noes 57.

So the House refused to second the previous question.

Mr. BLAINE. I move that the further consideration of the resolution be postponed until the first Monday of December next, and upon that motion I demand the previous question.

The previous question was seconded and the main question ordered.

The question was put; and there were—ayes 56, noes 51.

Mr. ASHLEY, of Ohio, demanded tellers. Tellers were ordered; and Messrs. ASHLEY, of Ohio, and BLAINE were appointed.

The House divided; and the tellers reported—ayes 62, noes 48.

Mr. BANKS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 56, not voting 36; as follows:

YEAS—Messrs. Barnes, Beaman, Benjamin, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Chandler, Churchill, Reader W. Clarke, Coburn, Cornell, Driggs, Eldridge, Ferriss, Ferry, Getz, Hayes, Holman, Chester D. Hubbard, Hulburd, Humphrey, Julian, Kerr, Ketcham, Kitchen, Kountz, Ladin, Marshall, Marvin, Miller, Moorhead, Morgan, Morrisssey, Mungen, Newcomb, Niblack, Nicholson, Noell, Orth, Perham, Peters, Phelps, Poland, Pomeroy, Pruyn, Randall, Robertson, Ross, Scofield, Shanks, Sitgreaves, Smith, Spalding, Stone, Taber, Taffé, Thomas, Van Alken, Burt Van Horn, Van Tromp, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—69.

NAYS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Boutwell, Bromwell, Butler, Sidney Clarke, Cobb, Cook, Covode, Cullom, Dodge, Donnelly, Eckley, Eggleston, Farnsworth, Fields, Finney, Gravelly, Halsey, Hamilton, Hill, Hooper, Hopkins, Hunt, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, Loughridge, McClurg, Moore, Myers, Paine, Pile, Polsey, Raum, Schenck, Shellabarger, Stewart, Twitchell, Upson, Van Aernam, Robert T. Van Horn, Van Wyok, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—56.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Baldwin, Broomall, Cake, Daves, Denison, Eliot, Fox, Garfield, Glossbrenner, Griswold, Haight, Harding, Asahel W. Hubbard, Kelsey, George V. Lawrence, Leachin, Lynch, Mallory, McCarthy, McCullough, Mercer, Morrell, O'Neill, Pike, Plants, Price, Robinson, Sawyer, Selye, Stevens, Taylor, Trowbridge, William B. Washburn, and Windom—36.

So Mr. BLAINE's motion was agreed to.

Mr. BLAINE moved to reconsider the vote by which the consideration of the resolution was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 49) to repeal a joint resolution entitled "A resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867; when the Speaker signed the same.

#### COST OF ORDNANCE, ETC.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President be requested to inform this House what amount of money has been paid by the Government since April 13, 1861, for cannon, ordnance, projectiles, and small-arms by the War and Navy Departments respectively; to whom the said money was paid, and at what dates; also at what time contracts were made under which such articles were furnished, with copies thereof; and also that he be requested to inform this House whether any officers or employees are or have been parties to any alleged improvement in cannon, ordnance, projectiles, or small-arms proposed or made by the Government in either of said Departments, or interested, either directly or indirectly, by patent-right for any alleged improvement in ordnance, cannon, small-arms, or projectiles; and whether any royalty or premium has been charged or paid to any officer or employee in the War or Navy Department for the use of such patent-right either by the Government or the manufacturer of ordnance, cannon, small-arms, or projectiles, with the particulars thereof.

Mr. LOGAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NORTHERN PACIFIC RAILWAY.

Mr. ELDRIDGE, by unanimous consent, presented joint resolutions of the Legislature of the State of Wisconsin, in relation to aid by the national Government to the Northern Pacific railway; which were ordered to be printed, and to be referred to the Committee on the Pacific Railroad when appointed.

#### IMPROVEMENT OF THE MISSISSIPPI.

Mr. ELDRIDGE, by unanimous consent, also presented joint resolutions of the Legislature of the State of Wisconsin, relating to the improvement of the navigation of the Mississippi river, &c.; which were ordered to be printed, and to be referred to the Committee of Commerce when appointed.

## LAND WARRANT NUMBER 46318.

Mr. JULIAN, by unanimous consent, introduced a bill to authorize the issue of a patent on land warrant No. 46318, for one hundred and sixty acres, under the act of 1847; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed.

## GOVERNMENT ORDNANCE.

Mr. BANKS. I rise to a question of privilege, and submit the following resolution, upon which I call the previous question:

*Resolved*, That the Committee on Military Affairs of this House be temporarily appointed, and are hereby authorized to sit during the recess, for the purpose of inquiring into the manner of procuring heavy ordnance for the United States service, the disbursements relating thereto, as well as the quality of the rifled and smooth bore guns heretofore introduced and hereafter to be introduced into the said service. The committee shall have power to send for persons and papers, and to employ a clerk, who shall receive the same compensation as heretofore allowed. And the Secretary of War is requested to cause experiments to be made, and to supply from stores on hand, the property of the Government, such ordnance as may be required by the committee for operations necessary for the determination of the questions before the committee, as well as to detail officers and enlisted men such as may be found necessary. And the committee shall report by bill or otherwise whenever they deem such action expedient.

Mr. SCHENCK. I hope the gentleman from Massachusetts [Mr. BANKS] will modify his resolution so as to provide for the appointment of a select committee.

Mr. RANDALL. I object to the resolution. The SPEAKER. It is a privileged question, as the Chair ruled on a former occasion.

Mr. HOLMAN. Is it not in effect providing for the appointment of a select committee?

The SPEAKER. It provides for the appointment of one of the standing committees of this House.

Mr. ELDRIDGE. Is not this in effect the same resolution which the House voted down a few minutes since?

The SPEAKER. The other resolution was for the permanent appointment of the Committee on Military Affairs; this provides for its temporary appointment.

Mr. SCOFIELD. I move to lay the resolution on the table.

The question was taken; and upon a division, there were—ayes 57, noes 50.

Before the result of the vote was announced, Mr. PILE called for the yeas and nays on the motion to lay the resolution on the table.

The yeas and nays were ordered.

Mr. SCHENCK. I would inquire of the Chair, if the motion to lay on the table should not prevail, whether it would then be in order to move to amend the resolution so as to provide for the appointment of a select committee?

The SPEAKER. That motion would then be in order.

The question was taken; and it was decided in the affirmative—yeas 63, nays 56, not voting 42; as follows:

YEAS—Messrs. Barnes, Benjamin, Bingham, Blaine, Blair, Boyer, Brooks, Burr, Chanler, Churchill, Reader W. Clarke, Coburn, Cornell, Driggs, Eldridge, Farnsworth, Ferriss, Ferry, Getz, Holman, Chester D. Hubbard, Hulburd, Humphrey, Julian, Kerr, Kitchin, Koontz, Marshall, Marvin, Miller, Moorhead, Morgan, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Noell, Orth, Perham, Peters, Phelps, Poland, Pomeroy, Prunty, Randall, Robertson, Scofield, Sitgreaves, Smith, Spalding, Stone, Taber, Taffe, Taylor, Thomas, Van Aiken, Van Tromp, Henry D. Washburn, Stephen F. Wilson, Windom, Wood, and Woodbridge—63.

NAYS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Boutwell, Bromwell, Buckland, Butler, Sidney Clarke, Cobb, Cook, Covode, Cullom, Dodge, Donnelly, Eckley, Eggleston, Fields, Finney, Gravely, Halsey, Hooper, Hopkins, Hunter, Ingersoll, Judd, Kelley, Ketcham, Ladin, William Lawrence, Loan, Logan, McClurg, Moore, Myers, Paine, Pile, Polsley, Raum, Schenck, Shanks, Shellabarger, Twitchell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—56.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Baldwin, Broomall, Cake, Dawes, Denison, Elliot, Fox, Garfield, Glossbrenner, Griswold, Haight, Hamilton, Harding, Hayes, Hill, Asahel W. Hubbard, Kelsey, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, McCarthy, McCullough, Mercur, Morrell, O'Neill, Pike, Plants, Price, Robinson, Ross,

Sawyer, Selye, Stevens, Stewart, Trowbridge, Burt Van Horn, Ward, and William B. Washburn—42.

So the resolution was laid on the table.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RICHARD C. VAUGHAN.

Mr. NOELL asked and obtained leave for the withdrawal from the files of the House of the papers in the case of Richard C. Vaughan.

## FRENCH SPOILIATIONS.

Mr. MYERS. I ask unanimous consent to introduce and have referred a bill to provide for the adjustment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st of July, 1801.

Mr. SPALDING and others objected.

## CAPTURED COIN AND BULLION.

Mr. VAN WYCK, from the joint select Committee on Retrenchment, to which had been referred a resolution directing an inquiry to be made as to the proper disposition to be made of certain coin and bullion now on special deposit in the United States Treasury, submitted a report in writing, accompanied by a joint resolution, to cover in the Treasury certain coin and bullion.

The joint resolution was read a first and second time.

The joint resolution was read at length. It provides that the one hundred thousand dollars or thereabouts, in coin and bullion, now on special deposit in the Treasury of the United States, shall be sold by the Treasurer of the United States, and the money derived therefrom covered in the Treasury; and that the claimants thereto, the Richmond banks, may contest their right to the same in the Court of Claims.

Mr. VAN WYCK. I call the previous question on the joint resolution.

Mr. WILSON, of Iowa. I ask for the reading of the report.

The report was as follows:

The joint select Committee on Retrenchment, to which was referred the claim of the Richmond banks to certain coin and bullion now on deposit in the United States Treasury, make the following report:

On the 14th of March, 1865, the Legislature of Virginia passed an act authorizing a loan to the Commonwealth of \$300,000 in gold and silver coin by the several banks, and the application thereof to the use of the army of northern Virginia, authorizing the auditor "to pay over the same, on the footing of a loan to the confederate States, either to the secretary of war or to the general-in-chief of the confederate army, as the Governor may deem most expedient, to be used exclusively for the purpose of procuring subsistence for the army of northern Virginia;" directing the Governor "to obtain from the confederate authorities the best securities they may have in their power to offer." Accordingly seven banks furnished \$300,000, receiving State bonds as security therefor: \$100,000 is now in the Treasury of the United States, and is the subject of this report. The money was deposited by the State to its credit in three banks, then public depositories, as follows: Bank of Virginia, \$108,000; Farmers' Bank, \$112,000; Exchange Bank, \$80,000. The secretary of the confederate treasury caused to be delivered to the Governor of the State the following order:

TREASURY DEPARTMENT C. S. A.,  
RICHMOND, March 28, 1865.

SIR: The State of Virginia has advanced \$300,000 in coin to the Government for the use of the commissary department, and agrees to receive in absolute payment for the same cotton at the rate of fifteen cents per pound. You are hereby authorized to give an order to the fiscal officer of the State for two million pounds of cotton in payment of the same, &c.

G. A. TRENHOLM,

Secretary of the Treasury,  
A. ROANE, Esq., Chief Produce Loan Bureau.

Captain Strother, of the confederate army, had authority to receive the \$300,000. Just before the evacuation of Richmond he did receive \$271,000, the banks retaining \$29,000. He disbursed \$25,000 at Richmond, leaving \$246,000, of which \$54,000 were in checks drawn by the Bank of Virginia, and the Exchange Bank on their branches at Lynchburg. Captain Strother left Richmond on the 2d of April, 1865, with this sum of \$246,000 under his control, in company with officers of the banks, who had in charge between two and three hundred thousand dollars in coin belonging to the banks, each party in control of its own funds.

At Danville, on the 8th of April, Captain Strother agreed with the officers of the banks that in the event of his being cut off from General Lee's army he would restore the remainder of the funds to them, to be

credited on the bonds of the State which the banks then held. They then proceeded to Washington, Georgia. Captain Strother on the 21st of April, 1865, had remaining \$223,929, which he paid to the bank officers, taking a receipt for the same, stating that the same should be credited on the bonds, "provided the said coin and specie checks shall be delivered in Richmond." There was no statute authority authorizing this payment by Captain Strother. The bank officers canceled and destroyed the checks, and held the remainder of the fund, together with their own coin.

In May, 1865, the banks of Richmond obtained a permit from General Patrick to bring back their effects from Georgia, and started with the coin, about four hundred and fifty thousand dollars. Of this \$170,000 was of the fund received from Captain Strother. About eighteen miles from Washington they were robbed by confederate soldiers disguised in Federal uniforms of \$250,000 in coin. Of this \$105,000 belonged to the Bank of Virginia; \$145,000 had belonged to the Strother fund. The day after the robbers restored to the bank officers \$111,000. Of this one bag of \$9,000 was identified as the property of the bank; the remainder could not be so identified. After paying expenses the fund recovered amounted to about one hundred thousand dollars—subsequently delivered to General Steedman at Augusta, and now on special deposit in the United States Treasury.

This matter has been several times argued by attorney for claimants and Government before the Secretary of the Treasury and President. The above facts are those agreed upon at the last argument.

The bad faith commenced by Captain Strother was continued by the banks. At one time the petition stated "that there existed no contract or dealings between the banks and the confederate government by which it was entitled or had any interest in one dollar of the money in question." The officers of the banks verified by their oath this statement, yet its error is apparent from their own subsequently admitted facts. They also furnished affidavits from the officers of the confederate treasury department that the coin had not been under their control. From these allegations the Solicitor of the United States Treasury then said: "As to any interest of the confederate government in the coin, the only reason for supposing any such ever existed appears to be the fact that the coin was removed from Richmond simultaneously with the departure of the rebel authorities therefrom; but this was certainly in no way inconsistent with the private ownership asserted. The latter is directly and positively asserted by the sworn statement of the officers of the banks applying, and the former is negatived so far as it well could be by the statement of a person in the employ of the rebel treasury department." The President of the United States then issued an order for the restoration of the coin to the banks on certain conditions, which, in the judgment of the Treasurer, were not complied with.

Certain United States officers were still suspicious, and satisfied that the coin had belonged to the confederate government, when it was at last discovered that the negotiation had been carried on with the confederate war instead of treasury department.

The concealment and duplicity on the part of the banks show the character of their claims.

There can be no dispute that the banks loaned the State of Virginia \$300,000 in coin, expressly to be advanced to the rebel government. The banks received State bonds as security, and the State received a confederate order for two million pounds of cotton in payment. The contract was complete in law. From that moment the coin became forfeited to the United States Government.

Before the 21st of April, to wit, on the 9th, Lee had surrendered. On the 18th, Johnson had commenced negotiating for surrender; the chief of the confederacy was disguised and in flight; the headquarters of the rebellion, with all its hopes and treasure, were in an army wagon hastening to get beyond the Mississippi. It is idle to pretend that Captain Strother had the shadow of right to act as administrator of the effects of the dead confederacy and defraud this Government of its legal spoils of war. After the surrender of Lee all the property of the confederacy by that act passed to the control of the United States Government.

Strother had no more right to give to the Richmond banks \$223,929 than he had to give them two hundred and twenty-three thousand muskets had they been in his possession. It was a fraud upon this Government. The agents of the banks were *participes criminis*, and the banks should not receive any benefit therefrom, no matter what became of the property afterward. It was a conversion for the full amount at the time they took it.

The coin taken from Strother, with their own, was safely deposited in Washington, Georgia, by the banks' agents. They had no right to attempt its removal to Richmond, and therefore became liable to the Government for the amount, no matter how lost. It would be an easy matter to have a robbery by concert. The robbers took \$145,000 of the Strother fund and \$105,000 of the bank money. How did the robbers get a knowledge of the facts, and by what reason did they return \$111,000, a few thousand more than the bank fund stolen? Had the banks succeeded in putting in their vaults at Richmond the \$223,929, would they not have been clearly responsible to the United States in that sum? They have no claim to the \$100,000 now on deposit in the United States Treasury, but should be held liable for the \$29,000 retained by the banks from the \$300,000, for the checks they destroyed of \$54,000, the actual amount of coin they saved of the Strother fund, \$25,000, and the balance taken by the robbers and not restored.

The banks owned no bullion. No part of the \$300,000 loaned to the confederate government was in bullion; yet a part of the \$100,000 are fifty-seven

pieces of bullion, evidently taken early in the rebellion from the United States mints at Charlotte and Dahlonega.

Mr. KOONTZ. If the gentleman from New York will yield to me, I will move that the House adjourn.

Mr. VAN WYCK. If the House will second the demand for the previous question, I shall have no objection to yielding for a motion to adjourn.

Mr. PAINE. I would inquire of the Speaker how this happens to be a privileged report?

The SPEAKER. Because the committee was authorized to report at any time.

Mr. WILSON, of Iowa. If the gentleman from New York [Mr. VAN WYCK] intends to let this subject go over for action hereafter, not under the operation of the previous question, I shall make no objection; but I do not want the matter to go over under the operation of the previous question, cutting off all other business on Monday until this question is disposed of.

Mr. VAN WYCK. It is necessary that action upon this matter should be promptly taken by the House, so that it may receive the concurrence of the Senate at this session. It was not my purpose to prevent a proper examination and discussion of this question; but I will explain why it is necessary that there should be early action on the subject. This gold now in the Treasury was by the President, probably without a full examination of the fact, ordered to be delivered to the claimants, the Richmond banks, upon condition that they should file certain securities with the Treasurer of the United States. The securities offered were not deemed by the Treasurer sufficient, and he refused to deliver the gold. It is necessary that there should be some action of both Houses of Congress before the close of the present session, so that this gold may not be transferred to the vaults of these banks until their right to it shall be satisfactorily established before a court of justice.

Mr. WILSON, of Iowa. The gentleman will allow me to ask why it will not answer every purpose to pass a joint resolution declaring that the gold shall remain in the Treasury until further action on the part of Congress? My objection to this resolution is based upon that provision which proposes to carry this question to the Court of Claims. I do not know what may be the precise operation and effect of that provision. It may enlarge the jurisdiction of that court so as to reach and cover other cases.

Mr. VAN WYCK. It does not.

Mr. WILSON, of Iowa. I simply desire that Congress by its action shall compel the Treasurer of the United States to retain possession of this gold until further action on the part of Congress.

Mr. VAN WYCK. The effect of the joint resolution is to leave the decision of the question where it should be, with the Court of Claims. We propose that this money shall remain in the Treasury, and that these claimants shall go before the Court of Claims and establish, if they are able, their right to it.

Mr. WILSON, of Iowa. The reference of the question to that court is what I object to.

Mr. VAN WYCK. I have no objection to an amendment of the resolution so as to strike out the provision referring the question to the Court of Claims. This will conform to the suggestion of the gentleman from Iowa.

Mr. COOK. I rise to a question of order. The resolution reported by the committee must come before us as a substitute for the resolution introduced by myself and referred to that committee; and the question must first be taken, I submit, upon agreeing to the substitute reported by the committee for the original resolution.

The SPEAKER. The Chair overrules the point of order. When a bill is referred to a committee they can report it back with a substitute, or report back another bill which they themselves desire to have passed. The rule does not compel them to report back the bill referred to them unless it be a Senate bill, and

that must be reported back because it is the action of another body. A House bill can be reported back or not in the option of the committee.

Mr. WILSON, of Iowa. I move to amend by striking out of the joint resolution these words: "and that the claimants thereto, the Richmond banks, may contest their right to the same in the Court of Claims."

The amendment was agreed to.

Mr. COOK. I move to amend by providing that the coin shall be paid into the Treasury of the United States instead of being sold.

Mr. VAN WYCK. There are also included fifty-seven pieces of bullion, which I suppose will have to be sold.

Mr. COOK. I will also include the bullion, as it is as good in the Treasury as the coin. I demand the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN WYCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. LOGAN moved that indefinite leave of absence be granted to Mr. RAUM, who is called home by sickness in his family.

The SPEAKER asked and obtained leave of absence for Mr. PHELPS, for two days.

#### HENRY A. SMYTHE.

Mr. SCHENCK. I send up to be read for information a resolution which I shall offer when I get the opportunity.

The Clerk read as follows:

*Resolved*, That the Judiciary Committee of this House be instructed to inquire into the conduct of Henry A. Smythe, collector of the port of New York, in connection with the administration of his said office and in connection with his testimony and proceedings as a witness before the Committee on Public Expenditures of the Thirty-Ninth Congress, directed to examine into matters relating to the New York custom-house; and if, in their opinion, they shall find that said Smythe has been guilty of bribery or other crimes or misdemeanors the committee is instructed to report by articles of impeachment, or otherwise, to the House; and that said committee have authority to send for persons and papers, to examine witnesses, and to sit during the sessions of the House and during any recess of Congress; and that they be also authorized to use the testimony already taken by said Committee on Public Expenditures relating to the administration of affairs in the New York custom-house.

Mr. NICHOLSON moved that the House adjourn.

The House divided; and there were—ayes 20, noes 76.

Mr. NICHOLSON demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So the House refused to adjourn.

#### NEW YORK CUSTOM-HOUSE.

The SPEAKER. The House again resumed the consideration of Mr. HULBURD's resolution, on which the gentleman from New York is entitled to the floor.

Mr. WOOD. Mr. Speaker, at this late hour I do not intend to enter into any discussion upon this subject. I am sure the hour and a half my colleague devoted to it has given the House a sufficiency of the New York custom-house affairs for this day at least. I will only say, therefore, that up to the present time, up to the report of the committee of which my colleague is chairman, the collector of New York had a reputation and a character as a merchant, as a banker, and as a citizen beyond reproach; and it is due to the President of the United States, whether the facts alleged in this report be true or not, to say, as I say now, that no Federal appointment ever received so strong, so high a financial indorsement as that of Mr. Smythe, who is now ar-

raigned before the country. He was not appointed collector of the port of New York until the Chamber of Commerce of New York and the president of almost every one of our banking institutions and the almost entire mercantile community were united in his support.

I say this much not with any desire or intention of impugning the facts alleged in that report, nor with any design or intention of defending Mr. Smythe against these serious charges of crimes and misdemeanors. I have not the slightest intention of impugning the statements of my colleague, [Mr. HULBURD,] whose reputation here, and indeed in his own State, is beyond reproach. But, sir, it is due to every individual who is accused, and especially to a gentleman holding the high position of collector of customs for the largest collection revenue district in this or any other country, that he should not be thus tried and condemned upon *ex parte* testimony; but that before he is pronounced guilty he should have the privilege which is awarded to the meanest criminal in the lowest criminal court of our country.

Now, sir, so far as Mr. Smythe is concerned I do not know him personally. I never exchanged a word with him in my life. I have never made an application to him for any official favor, and I believe I have not a friend holding an office in the custom-house in New York. But, sir, I am satisfied that he is totally unfit for the office that he now holds. I am satisfied upon the evidence presented by this committee, whether the criminal charges are sustained or not, that he has not the capacity, certainly not the discretion, to fill a place of that magnitude and importance. He is no politician, he is not equal to the emergency in which he has been thus placed by this investigation. I have no doubt he has been the victim of sharpers in the city of New York. I have no doubt this committee have truthfully portrayed things which are disgraceful to the administration of the affairs of the custom-house in our city; but, sir, I believe many of these things are susceptible of explanation. I believe it is quite possible for some of the two or three thousand subordinates under that public officer to be guilty of criminal acts before the law and before the country for which, though the principal may be held responsible, he may nevertheless be innocent of any willful or criminal action himself.

Now, I desire to call the attention of the House and of the country to this fact: that it is impossible with the complicated revenue laws which govern the collection of the revenue not only in that, but in every other collection district in the country, for any collector to be cognizant of the things that are transacted around him. It is beyond the capacity of any man to go into the office of collector of the port of New York and discharge the duties without committing errors, or without being liable to some extent to the same accusations that are made here against this man. It is in consequence of the defects in our laws. For the last sixty years we have been passing one revenue law after another until we have made confusion worse confounded, so that the ablest lawyer in the country could not be qualified with less than six months' practical experience for the duties of the office, so as to be able to discharge them without serious errors. Mr. Smythe is a merchant, educated as such. He knew nothing of law, and was unfitted for an important executive trust. Not knowing what to do, not suspecting he was surrounded by thieves, he entered upon the discharge of his duties, and the exhibition which we now have proves more in my judgment his want of fitness for the position than his want of personal integrity.

It has been alleged by the chairman of the committee that Mr. Smythe said he was a Democrat. Sir, I think I know the Democracy of the city of New York, and I state on my own personal knowledge that he has never voted the Democratic ticket there.

Mr. HULBURD. I think I stated that he first testified before the committee that he had always voted the Democratic ticket; but when he came to revise his testimony he directed the stenographer to strike out a portion, which was done.

Mr. WOOD. Whatever may have been the gentleman's politics, he has never been identified with the Democratic party, but he has been a liberal contributor to the Republican fund of the city of New York. He has been prominent upon all political occasions in antagonism to the Democratic party, belongs to the Loyal League, and is at this time a member in good standing. [Laughter.] Therefore, so far as the attempt of my colleague to throw any odium upon the Democratic party growing out of this horrible exhibition is concerned, I throw it back upon him. I do not desire to make his political party responsible for the moral aberrations of one man; yet if that argument can be sustained he may have the benefit of the appointment. We do not want it.

In the early part of this session I offered for the consideration of this House a resolution proposing the appointment of a select committee to examine and revise the laws for the collection of revenue in this country. I did that after reading the report of my colleague [Mr. HULBURD] upon this subject. In my judgment that report is more important to Congress in exposing the defects of our existing laws than it is in attacking an individual officer. I hope the members of this House will read that report carefully, as well as all the testimony which we have not yet been permitted to read.

They will then see how much our great and important commercial interests are at the mercy of the collector of New York and of his creatures and subordinates. They will see, for instance, how a man who pays into the public Treasury from one hundred to five hundred thousand dollars a year in the form of duties may have his commercial credit ruined and his moral character destroyed merely by a subordinate of the custom-house walking into his counting-room, charging him with an attempt to defraud the revenue, and closing his place of business. We have an instance cited in this report where \$70,000 worth of wines were suddenly seized and the character of the importer was destroyed. And in order to be allowed to resume his business the importer submitted to be black-mailed to the extent of \$12,000 in gold; thus purchasing as it were the privilege of continuing his business by submitting to an extortion on the part of Government officials.

And here let me call the attention of the House especially to the inducements offered by the law for such practices. A certain portion of the property seized is to be distributed to the informer in the first instance; that in itself is an odious principle and wrong. Secondly, the collector, the surveyor, and the naval officer are allowed to divide among themselves another portion of the property seized; and thus a premium is offered for rascality. It is almost beyond the power of an honest man to remain honest in an office where he is allowed by law the opportunity of thus amassing a fortune of millions of dollars within the four years of his term of service. The temptation is too great for poor human nature. And from the days of Swartwout, who stole \$1,500,000 in one year, down to the present time, I do not believe any occupant of that office could stand up and defend the acts of all subordinates under him in reference to these seizures.

And I would say to the gentleman from Ohio [Mr. SCHENCK] that if he would take a more elevated and statesmanlike view of this whole question he would bring forward a proposition to remedy the law, so as to take away from the individual the temptation to commit these outrages upon the merchants of the country, upon the Treasury, and upon the Government. That is the defect of the existing law, and I call upon this Congress before its adjournment, either at this session

or at the next session, to do something to remedy the defect of the law.

Mr. HOOPER, of Massachusetts. If the gentleman from New York [Mr. Wood] will allow me, I will say that at the last session the law was changed in a very important particular, by requiring all the duties upon the article to be first paid and deducted before the division shall be made to which the gentleman refers.

Mr. WOOD. I am aware of that. But that is a very slight amendment; it is only the difference between gross receipts and net receipts, and it is a picayune way of remedying a fundamental difficulty in the law itself. There is nothing in that change of the law which would prevent a collector of a port or a surveyor or the naval agent or any deputy or inspector or subordinate, however humble, from walking into the gentleman's counting-room or into mine, and seizing the whole establishment and confiscating it at once upon the charge of attempting to defraud the Government and taking to himself a share of the proceeds.

Now, we want an entire revision of the laws relating to the collection of revenue. We want not only the codification of the laws which have been directed, but we want a revision and condensation of them; we want them all put in one general law, with provision for economizing the expense of collection, taking away from the public officer all inducements for imposition upon the importer and injury to the public Treasury. These are the important requisites which the public interest demands from the hands of Congress, and when we have done that we will have no more such reports as this which has been made in relation to the collector of the port of New York.

Sir, with reference to Mr. Smythe, I will say that until this report was made, until this investigation was instituted by Congress, and until its results were spread before the country, that gentleman's personal character was beyond reproach, and this proceeding only proves that however a man may be, however far above suspicion, the very moment he is called upon to fill a public office he is suspected of wrong doing and corruption. That, sir, is the radical defect in the organization of our civil service; a public servant is suspected of being dishonest as soon as he assumes his position. But, sir, it is not our duty to correct the morals of the people. I can only say that since the present occupant of the White House has occupied his present position this broad avenue has been thronged with applicants to get appointments for political considerations. In this case the President rose above all partisan claims and met the wants of the mercantile interests of the country, as expressed through the Chamber of Commerce of New York. If the collector whom he thus appointed has proved a traitor to his country, has indulged in corrupt practices, and thus brought disgrace upon his family and friends, it is but an additional instance of what is occurring in this country every day.

Sir, I do not defend the collector of New York from the charges made against him in this report. I am ready to admit that every word stated in this report is literally true. I believe that the gentleman who headed this committee could not be induced under any circumstances to bring in the report unless he believed every word of it to be true. But let us learn from this our duty as legislators. We are not the executive head of the Government. The responsibility of such appointments as these rests in the Executive, and if the President be not true to his duty—I was about saying he could be impeached. But if the facts stated in this report be true, and the President believes them to be true, I believe that he will do his duty. The collector of the port of New York is a subordinate officer of his; let him hold him to strict responsibility. I am for letting every department of this Government do its own duty within its legitimate sphere.

If there be any principle of our Constitution

more clearly defined than another, it is that there are three coordinate independent branches of the Government, a legislative power to enact laws, a judicial power to construe the laws, and an executive power to administer them. Do not let us encroach upon the functions of the executive power. Do not let us recall the days of the French Convention or of the Long Parliament of England by usurping executive powers; let us do our duty strictly within the legitimate sphere of the Constitution, and trust to the coordinate branches of the Government to do their duty within the same sphere.

Mr. HULBURD. I now demand the previous question on the resolution.

Mr. ROSS. Would it be in order now to move to postpone the further consideration of this question?

The SPEAKER. It will be in order if the previous question be not seconded.

Mr. ROSS. I think we had better postpone this matter.

The previous question was seconded and the main question ordered.

The question was upon agreeing to the resolution of Mr. HULBURD, which was again read, as follows:

*Resolved*, That the Speaker of the House be requested to appoint the Committee on Public Expenditures, and that said committee, when appointed, take into consideration a report made at the last session by such committee on the subject of the New York custom-house, and report what action, if any, is advisable in the premises.

The resolution was agreed to—ayes seventy-one, noes not counted.

Mr. HULBURD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HULBURD. I desire to say that I wish the Speaker to waive in this case the courtesy of putting the mover of the resolution upon the committee. For four years I have acted as scavenger among the filth and garbage of the investigations to which I have been assigned; and I would beg now to be excused.

The SPEAKER. By the parliamentary usage, as well as by the fact of the gentleman's previous service on the committee, the Chair would feel it his duty to appoint the gentleman unless the House excuses him.

Several MEMBERS. Oh, no.

The SPEAKER. The Chair thinks the House would not excuse the gentleman, but will put the motion if the gentleman insists upon it.

Mr. SCHENCK. I now offer the following resolution, which has already been read for the information of the House:

*Resolved*, That the Judiciary Committee of this House be instructed to inquire into the conduct of Henry A. Smythe, collector of the port of New York, in connection with the administration of his said office, and in connection with his testimony and proceedings as a witness before the Committee on Public Expenditures of the Thirty-Ninth Congress, directed to examine into matters relating to the New York custom-house; and if in their opinion they shall find that the said Smythe has been guilty of bribery or other crimes or misdemeanors, the committee is instructed to report by articles of impeachment or otherwise, to the House; and that said committee have authority to send for persons and paper, to examine witnesses, and to sit during the sessions of the House and during any recess of Congress; and that said committee be also authorized to use the testimony already taken by the said Committee on Public Expenditures relating to the administration of affairs in the New York custom-house.

Mr. Speaker, since the adoption of the resolution of the gentleman from New York, [Mr. HULBURD,] requiring the immediate appointment of the Committee on Public Expenditures, I am disposed to modify my resolution so as to devolve upon that committee the duty of making this investigation and report.

I have but a very few words to say upon the propriety of instituting, or rather continuing, this investigation. After the *exposé* which has been made, with the references to the testimony and the records, in regard to the conduct of this collector at New York, it seems



to me there remains nothing for the House, and there ought to remain nothing for him, except to demand an investigation which shall determine whether this is not a case coming within the contemplation of that requirement of the Constitution which imposes upon Congress the duty of impeaching the President, the Vice President, or any other civil officer of the United States who may be guilty of "treason, bribery, or other high crimes and misdemeanors." I am disposed to believe there is no other way of getting rid of this man. I am afraid that these very exposures will only make the President cling more closely to him. However that may be, Mr. Smythe occupies an exceedingly prominent and most responsible position before the country. As collector of the port of New York, he is a civil officer who in importance stands second only, if second, to a member of the Cabinet of the President. Through that custom-house and under his supervision passes a very large proportion of all the revenues by which this Government is sustained. But, sir, where such developments have been made in connection with an official holding an office of such consequence, I need not urge upon the House the obvious importance of measures looking to impeachment, if impeachment is in any case to be instituted against any civil officer whatever.

Mr. DRIGGS. Will the gentleman from Ohio allow me one word?

Mr. SCHENCK. Certainly.

Mr. DRIGGS. I desire simply to express my preference for the prosecution of this investigation by the committee that has already had charge of the subject. My view on this point is founded partly upon the fact that the gentleman who has heretofore served as chairman of this committee will be able to elicit testimony which will throw some new light on this question and exhibit facts of which the House has now no knowledge. I think that is the motive which actuated the chairman in having the committee revived. I think it is due to him that he should be allowed to place himself right, to vindicate himself before the American people. He has been assailed, and he should be permitted to carry out what he has already so well begun.

Mr. SCHENCK. My friend did not observe when I first rose that I expressed my purpose to modify my resolution and to put the duty on that committee instead of the Committee on the Judiciary. When the resolution was first prepared hurriedly at my desk we had no committee appropriate to the duty except the Committee on the Judiciary.

Mr. BUTLER. I suggest whether it is in accordance to precedent or according to any rule of procedure to send a resolution looking to impeachment to the Committee on Public Expenditures? It should be, it seems to me, a special committee. It may be constituted of the same gentlemen for aught I know or care. I should be glad if it were so.

Mr. SCHENCK. I do not know there is any precedent on this subject. I suppose the power of Congress over this subject in every sense is potential. We have usually had Committees on the Judiciary, because in the few cases where there have been impeachments they have been of judicial officers.

#### PRINTING OF THE BANKRUPT LAW, ETC.

Mr. BARNES, by unanimous consent, submitted the following resolution; which under the law was referred to the Committee on Printing:

*Resolved*, That twenty-five thousand copies of the bankrupt law, ten thousand copies of the amended internal revenue law, and ten thousand copies of the amended tariff bill on wool and woolsens, as passed by the Thirty-Ninth Congress, be printed for the use of the members of the Fortieth Congress.

#### NEW YORK CUSTOM-HOUSE—AGAIN.

Mr. WOOD. Do not the rules define the duties of the committees?

The SPEAKER. They define the duties of the committees, and then they generally say that they shall consider such other matters as

may be referred to them. The Clerk will read from page 165 of the Digest the rule in reference to the Committee on Public Expenditures.

The Clerk read as follows:

85. It shall be the duty of the Committee on Public Expenditures to examine into the state of the several public Departments, and particularly into laws making appropriations of money, and to report whether the moneys have been disbursed conformably with such laws; and also to report from time to time such provisions and arrangements as may be necessary to add to the economy of the departments and the accountability of their officers.

Mr. WOOD. I submit that rule cannot be construed so as to give that committee power to present articles of impeachment.

The SPEAKER. The Chair overrules the point of order upon two grounds. The committee are directed to examine into the several departments of the Government, and the collector of the port of New York is one of those departments and a very important one. The second ground is that while this rule declares what shall be the specific duty of the committee, the Chair has no doubt the House can order the committee to do anything it pleases.

This is only preliminary to the preferring of articles of impeachment. This only gives to the committee authority to present to the House articles of impeachment. It gives to the committee no more power than the rules now give to the gentleman himself. He may present articles of impeachment against any officer of the Government, and if the House sees fit they can adopt them without referring them to any committee.

Mr. WOOD. There is no precedent where the Committee on Public Expenditures has ever been authorized to do this thing.

The SPEAKER. The Chair's recollection bears the gentleman out in that statement.

Mr. SCHENCK. I have simply provided that the committee may report by articles of impeachment or in any other shape they may see fit. Until the House adopts such report, either in the shape of articles of impeachment or otherwise, it will have no validity. But I will strike out that part of the resolution which speaks of articles of impeachment, so as to require the committee to report, leaving the House to determine whether articles of impeachment shall be adopted or not.

Let us see how this matter stands. The committee made an inquiry into the conduct of this man and has made its report. Now, what is the defense we have heard to the conclusions of that report? Why that the revenue laws are very complicated; and therefore (I do not understand the logic) he could not help offering bribes. [Laughter.] That is the whole of it.

Why, sir, the very defense, excuse, or apology that has been made for the man ought not merely to call upon him to cry out in very agony, "Save me from my friends," but it ought to induce him to request to be relieved from any sort of excuse that is made for him.

Mr. WOOD. I submit to the gentleman that I did not attempt any defense of the collector of New York.

Mr. SCHENCK. Then I withdraw anything I have said in that particular.

Mr. WOOD. I distinctly declared that I did not attempt to defend Mr. Smythe, nor did I profess to be his friend. I did defend him from the charge of having belonged to the Democratic party, [laughter;] but beyond that I think I ventured no defense of his case.

Mr. SCHENCK. Well, sir, I differ from the Democratic party perhaps in this: if he be a Democrat let him be tried and exposed; but if he be a Republican by all means let him be tried and exposed. We are not of those who stand up to defend men because they belong to our party; but believe all the more if they are guilty that they should be brought to punishment, because they disgrace their general character as men as well as the character of the party with which they unfortunately happen to be connected, which attempts to stand upon its principles, high above all these things. I

do not care, therefore, whether he belongs to the Democratic or Republican party. I do care whether he be or be not a criminal. Everything that has been disclosed in this House points, perhaps unerringly, certainly with some degree of suspicion, to his guilt, and we cannot avoid looking upon him as a man who has been guilty of such high crimes that he ought to be relieved from the place he so unworthily occupies, and from which he is not perhaps likely to be removed unless Congress does intervene for that purpose.

Mr. RANDALL. Perhaps he will resign.

Mr. HULBURD. The gentleman from Ohio says perhaps he will be continued in. I beg to state that a gentleman told me day before yesterday that he heard Mr. Smythe say distinctly that he had a letter from the President's Private Secretary assuring him that he was all right, or as the expression was, "all hunky-dory," and he should continue on. [Laughter.] I want the House to understand that if we adjourn without doing anything the effect will be to keep this man in.

Mr. WOOD. I ask my colleague whether he believes, after this testimony which he himself has given to the House to-day and after his repeated allegations that Mr. Smythe is not to be believed under any circumstances, that Mr. Smythe made that declaration, and whether he believes, if he made such a declaration, he told the truth?

Mr. HULBURD. I think very likely he did make that declaration.

Mr. WOOD. Do you believe he made it?

Mr. HULBURD. I do.

Mr. WOOD. Do you believe he told the truth when he made it?

Mr. HULBURD. Oh, that is another thing, sir. [Laughter.]

Mr. WOOD. That is the main thing.

Mr. SCHENCK. I have another reason for proposing this investigation. Mr. Smythe, it appears, testified before the committee that he had always voted with the Democratic party, and afterward from some prudential consideration or other he had that portion of his testimony erased. Now, a member from New York rises in his place and says that Mr. Smythe never belonged to the Democratic party. If that is so, he is a perjurer. Now, sir, with such a charge made before this House, that that man was capable of swearing to a falsehood in that particular, have we not good reason to suspect his criminality in other things, and therefore good reason to pursue this investigation? I do not know or inquire where the weight of testimony will be upon that particular proposition if this is to be made in an issue in the inquiry, as perhaps it will not. But if weight is to be given to the statements made on this floor there is certainly a falsehood sworn to.

Sir, I take the gentleman from New York at his word. He charges this man with perjury. Here before this House, in the course of this debate, he charges him with having sworn to a lie.

Mr. WOOD. The chairman of the committee said that he afterward withdrew that statement.

Mr. SCHENCK. I believe that when an oath is already registered in Heaven he cannot wipe out the record. The fact is before the House that he swore to a distinct and positive fact, and afterward, for certain reasons known best to himself, he struck out that part of his testimony; but he did not thus change the fact that he had thus sworn, although he struck out the proof as written down in black and white by the stenographer.

Mr. ELDRIDGE. Does the gentleman intend to make profert of that record which he states is above?

Mr. SCHENCK. If I did, the gentleman would be the last messenger I would send there with any expectation of being able to procure it. [Laughter.]

I do not wish to detain the House further. I desire to move the previous question upon my

resolution. I have modified it so as to leave out that part about bringing articles of impeachment, and so that it will read:

*Resolved*, That the Committee on Public Expenditures of this House be instructed to inquire into the conduct of Henry A. Smythe, collector of the port of New York, in connection with the administration of his said office and in connection with his proceedings as a witness before the Committee on Public Expenditures of the Thirty-Ninth Congress, &c.

Mr. COVODE. I suggest to the gentleman whether he had not better strike out the latter clause of that resolution, which provides that the committee may sit during the recess of Congress. I would ask the gentleman whether the committee have not already sufficient testimony, or whether they cannot obtain enough in five or ten days, without letting this matter run in the summer months?

Mr. SCHENCK. The testimony will expand if we have hot weather. [Laughter.]

Mr. HULBURD. There will be no end to the investigation if the House expects the committee to hear all the testimony that may be offered on both sides. My own ideas, although I speak in the absence of my colleague on the committee, [Mr. BROOMALL,] that the committee can dispose of this matter next week, and I suggest to the gentleman from Ohio [Mr. SCHENCK] that he amend his resolution so as to authorize the committee to report at any time.

Mr. SCHENCK. I am a very accommodating man, and as I see no objection to that suggestion, I will accede to it, and I modify the resolution accordingly.

The SPEAKER. It requires unanimous consent to authorize a committee to report at any time.

Mr. SCHENCK. I trust there will be no objection.

No objection was made.

I now demand the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. ALLISON, (at four o'clock and ten minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of James S. Todd, of Bertie county, North Carolina, indorsed by 43 loyal citizens of said county, praying for a pension.

By Mr. CHANLER: The memorial of James Thompson, for relief.

By Mr. DONNELLY: The memorial of a convention of citizens of the United States, favorable to the improvement of the navigation of the Mississippi river, held in St. Louis, Missouri, February 13, 1867, together with a resolution of the Board of Trade of the city of Hastings, Minnesota, in favor of the said memorial.

By Mr. SCOFIELD: A petition from citizens of Cameron county, Pennsylvania, asking the repeal of the act which prohibits the Secretary of the Treasury from funding the legal-tender notes at a greater rate than \$4,000,000 per month.

#### IN SENATE.

SATURDAY, March 16, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. POMEROY presented a petition of citizens of Kansas, praying for the establishment of a mail route from Wamego to Council Grove in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a memorial of Charles C. Robertson, late lieutenant in the one hundred and eighty-sixth regiment New York volunteers, praying to be allowed the pay of second lieutenant while actually serving

in that capacity; which was referred to the Committee on Claims.

He also presented the memorial of J. G. Bigelow, praying compensation for services rendered as captain in the third United States volunteers or eightieth United States colored infantry, from the 6th of April, 1863, to the 23d of September, 1863; which was referred to the Committee on Claims.

Mr. HOWE presented resolutions of the Legislature of Wisconsin, in favor of the improvement of the navigation of the Mississippi and the Wisconsin and Fox rivers and Rock river; which were referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Wisconsin, in favor of an appropriation to aid in the construction of the Northern Pacific railway; which were referred to the Committee on the Northern Pacific Railroad.

Mr. YATES presented a memorial of the Hannibal and St. Joseph, Toledo, and Wabash, and the Chicago, Burlington, and Quincy railroad companies, expressive of the views of those companies as to the proper manner of constructing bridges across the Mississippi river; which was referred to the Committee on Commerce.

Mr. FOWLER presented a memorial of citizens of Tennessee, praying the appointment of a commission to make a geological and mineralogical survey in the States of Tennessee, North Carolina, Georgia, and Alabama; which was referred to the Committee on Mines and Mining.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

*Ordered*, That the memorial of Francis J. Brooke, praying for compensation for supplies furnished to the United States Army in Virginia in 1862 be taken from the files and referred to the Committee on Claims.

On motion by Mr. WILLIAMS, it was

*Ordered*, That the memorial of the executive board of the National Theological Institute be taken from the files, and with additional papers now presented, referred to the Committee on the District of Columbia.

On motion by Mr. WILLIAMS, it was

*Ordered*, That the petition of Mrs. Margaret A. Russell be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. HOWE, it was

*Ordered*, That the petition of Louisa Baird be taken from the files and referred to the Committee on Claims.

On motion of Mr. HOWE, it was

*Ordered*, That the petition of Michael Blessing be taken from the files of the Senate and referred to the Court of Claims.

On motion of Mr. HOWARD, it was

*Ordered*, That the petition of John Walters be taken from the files and referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on the Judiciary, to whom was referred the bill (S. No. 39) to provide means for the prosecution of the work on the distributing reservoir of the Washington aqueduct, reported it without amendment.

#### BILL INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 34) relative to the holding of courts in the southern district of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

#### TREASURY PRINTING BUREAU.

Mr. SHERMAN. I am directed by the Committee on Finance to report a concurrent resolution; and I ask for immediate action upon it.

The resolution was read, as follows:

*Resolved by the Senate*, (the House of Representatives concurring,) That the joint Committee on Retrenchment be, and are hereby, instructed to make a careful and minute examination of the method adopted by the Treasury Department to print the bonds, notes, and securities of the United States, what guards have been adopted to prevent fraud or mistake, and what additional guards, if any, ought to be adopted to prevent fraud or mistake; whether there has been any fraudulent or erroneous issue of

bonds, notes, or coupons, and if so, by whose fault or negligence, and the proper remedy and prevention thereof; and especially to examine the official conduct of those charged with the printing, registration, and issuing of any notes, bonds, or securities of the United States; and that said committee have power to sit during the recess of Congress, to send for persons and papers, to examine the same, and to take testimony, and report at the next session of Congress.

Mr. SHERMAN. The Committee on Finance thought it was better to make this a formal investigation, with a view to preventing the multitude of investigations proposed by the two Houses. On the motion of my friend from Missouri [Mr. HENDERSON] the Senate has ordered a committee to be appointed to make such an examination, and a proposition is also pending in the other House to appoint a House committee for the same purpose. We thought it better to refer the whole matter to the joint Committee on Retrenchment, which has already partially examined the subject. It is due to the public, and it is due to the Treasury Department, and it is due to the law-making power that this matter be carefully and thoroughly examined. The Treasury Department, I may say, desire an examination. They have themselves instituted a most rigid and careful examination of the whole matter; and they find no fraud and no real mistakes that are not easily explained. But for the purpose of satisfying the public mind and of satisfying Congress it is deemed proper to institute a careful examination of the whole matter. I have, therefore, made the language as full and broad as possible, and I hope the resolution will be adopted, and that this examination will be entered into rigorously.

Mr. ANTHONY. I ask the chairman of the Committee on Finance if this has not been examined once or twice at every session of Congress since we have had this Printing Bureau? Certainly I can recollect three examinations.

Mr. SHERMAN. That has been by select committees; but we want now to make an examination, if possible, that will end the matter. This resolution provides for a complete and full investigation. It is proposed with the consent of the Treasury Department. They desire an examination, and both Houses seem to desire one. The public mind is excited about it. I see in the newspapers every once in a while paragraphs stating that hundreds of thousands, or sometimes hundreds of millions of bonds are overissued beyond the extent authorized by law. Many of these statements are made for gambling purposes, merely to excite the public mind and affect the market. It is due to the Department to say that on all the careful examinations they have made they have found no cases of fraud, but have found some cases of erroneous numbering of coupons. At any rate to satisfy the public mind it is proper that there should be a fair and full investigation by a joint committee of the two Houses, to report at the next session.

Mr. ANTHONY. I do not object to the investigation, but I hope, with the Senator from Ohio, that it will be full and complete. It seems to me there ought to be some time or other when a public officer, after having gone through examination after examination, shall be presumed to have done his duty.

Mr. SHERMAN. Both Houses seem to desire to make an examination in this case. The Senate the other day, by a unanimous vote, ordered a special committee for this very purpose, and the other House are proposing to do the same thing. Now, we propose a formal and careful examination by a joint committee, with power to send for persons and papers and take depositions and examine fully.

Mr. GRIMES. I think such an examination as this ought to be made annually. I think, no matter how many examinations have been made in the past, the rule that is proposed by the Senator from Ohio that the Committee on Retrenchment, which we have made a standing committee of the two Houses, shall annually examine into all the transactions of this Printing Bureau, is very proper. It is the most im-

portant bureau in connection with the Government, and it cannot be too carefully guarded or too closely watched.

The resolution was considered by unanimous consent, and agreed to.

#### ABATEMENT OF DUTIES ON DAMAGED GOODS.

Mr. CHANDLER. The Committee on Commerce have directed me to report a bill, which it is deemed important by the Treasury Department should be promptly acted on, and I therefore ask that it be considered now.

The bill (S. No. 76) providing for the abatement of duties on merchandise damaged on the voyage of importation was read the first time.

Mr. EDMUNDS. I should like to ask the chairman of the Committee on Commerce what the difficulty with the law now is, and what this bill proposes to do?

Mr. CHANDLER. I send to the desk and ask to have read a letter from the Secretary of the Treasury, which explains it. There has been a decision of the Supreme Court, in consequence of which this legislation is necessary.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Is there objection to the present consideration of the bill?

Mr. EDMUNDS. Before I decide whether I object or not I want to know what is proposed.

The PRESIDING OFFICER. The letter sent to the desk by the Senator from Michigan will be read if there be no objection.

The Secretary read as follows:

TREASURY DEPARTMENT, March 14, 1867.

SIR: It has been recently decided by the Supreme Court of the United States, in the case of *Shelton et al. vs. Arthur W. Austin*, late collector of customs at Boston, that the twenty-first section of the act of 1st March, 1823, in connection with the proviso of the second section of the act of 2d March, 1857, prohibits the allowance of a reduction of duties on account of damage occurring on the voyage of importation, unless it is claimed before the goods are entered, and unless the entry is made by appraisement and not upon invoices.

The practice has been hitherto, in accordance with the fifty-second section of the act of 2d March, 1799, to admit of allowance for damage when proof thereof has been lodged in the custom-house within ten days after the landing of the merchandise in question, even though it may have been first completely entered.

In conforming the practice of this Department to the law as thus established much embarrassment will be experienced both by the Department and by the importers.

I therefore beg to submit herewith, in the form of a bill, such provisions relating to the subject of damage as commend themselves to the judgment of the Department.

These sections form a part of the revenue code already submitted to Congress, but are brought to your notice thus, in a different form, because of the necessity that has arisen to settle the policy to be pursued in the future.

I am, sir, very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. Z. CHANDLER, Chairman Committee on Commerce, Senate.

The bill was read at length.

Mr. MORRILL, of Vermont. I apprehend that bill changes the existing law materially, and I ask that the bill may be printed and postponed until Monday.

The PRESIDING OFFICER. Objection being made to the present consideration of the bill, it lies over under the rule. It will be printed, as a matter of course.

#### COURTS IN NEBRASKA.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes, to report it back with sundry amendments, and recommend its passage. I ask for its present consideration. It is necessary for the prosecution of justice in that new State that the bill should pass at this session, and I presume there will be no objection whatever to it.

By unanimous consent, the bill was considered as in Committee of the Whole.

The PRESIDING OFFICER. There are various amendments proposed by the Committee on the Judiciary, and perhaps it will facili-

itate matters to have the bill read as it will stand if amended. No objection being made, that course will be pursued.

The Secretary read the bill as proposed to be amended, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Nebraska shall hereafter constitute one judicial district, and be called the district of Nebraska; and for said district a district judge, a marshal, and a district attorney of the United States shall be appointed.

SEC. 2. *And be it further enacted,* That the said district of Nebraska shall be attached to and constitute a part of the eighth judicial circuit; and a term of the circuit court and district court of the United States for said district shall be held in the city of Omaha, in the State of Nebraska, on the first Monday of May and on the first Monday of November in each year.

SEC. 3. *And be it further enacted,* That the circuit and district courts of the United States for the district of Nebraska, and the judges thereof respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and performed by other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 4. *And be it further enacted,* That the district judge appointed for the district of Nebraska shall receive as his compensation the sum of \$3,500 a year, payable in four equal installments, on the first days of January, April, July, and October of each year.

SEC. 5. *And be it further enacted,* That the marshal and district attorney of the United States for the said district of Nebraska shall severally possess the powers and perform the duties lawfully possessed and performed by similar officers in other districts of the United States, and shall for the services they perform receive the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853.

SEC. 6. *And be it further enacted,* That all cases of appeal or writ of error heretofore prosecuted, and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nebraska may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court of the United States for the district of Nebraska, or to the supreme court of the State of Nebraska, as the nature of said appeal or writ of error may require; and each of these courts shall be the successor of the supreme court of Nebraska Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nebraska, prior to its admission as a State, the parties to said judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they had under the laws of the United States prior to the admission of said State of Nebraska into the Union.

SEC. 7. *And be it further enacted,* That, until a judge for said district shall be duly appointed, the district judge of the United States for the district of Iowa shall act as the district judge for Nebraska, and shall have and exercise the same jurisdiction and powers in the district hereby created as he has in the district of Iowa.

The amendments were agreed to.

Mr. EDMUNDS. I move to amend the first section which now reads "and for said district a district judge, a marshal, and a district attorney shall be appointed," by adding "by the President, by and with the advice and consent of the Senate." I suppose that will be the construction of it; but perhaps it is better to say so.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

#### OREGON AND WASHINGTON WAR CLAIMS.

Mr. HOWARD. The Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service, have had the same under consideration, and directed me to report it back with an amendment, accompanied by a very brief written report. I ask the consent of the Senate to take up the joint resolution and pass it now. It will occasion no discussion. It is merely to give a construction to an existing act of Congress.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to construe the second section of the act of March 2, 1861, entitled "An act to

provide for the payment of expenses incurred by the Territories of Washington and Oregon in the suppression of Indian hostilities therein in the years 1855 and 1856," so that whenever any claimant for property lost shall comply with all the terms and conditions of the act of March 3, 1849, on the subject of property lost in the military service, he shall be paid the amount of the award which was made by the commissioners who audited such claims, out of any money in the Treasury not otherwise appropriated.

The amendment was to strike out "award in his, her, or their favor which was made by the commissioners who audited such claims," and in lieu thereof to insert "judgments in his, her, or their favor entered by the Third Auditor, and certified by him, as required by the last named act."

The amendment was agreed to.

The joint resolution was reported to the Senate, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CAPTURED COIN AND BULLION.

Mr. WILLIAMS. I am instructed by the Committee on Finance to report back the joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury. The Finance Committee have taken no action on it, as it is a resolution that was considered by the joint Committee on Retrenchment, and by the instruction of that committee was reported to the other House. After being passed there it was brought to the Senate and inadvertently sent to the Committee on Finance. I ask the Senate to proceed to its consideration, as it is important that action should be had on it at this time. I find that it is necessary that I should propose an amendment, which will make it necessary to send the resolution back to the House of Representatives.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

It provides that the one hundred thousand dollars, or thereabout, in coin and bullion, now on special deposit in the Treasury of the United States, be paid into the Treasury.

Mr. WILLIAMS. There is a report of the Committee on Retrenchment accompanying this resolution. Certain banks in the State of Virginia claim \$100,000 now on special deposit in the Treasury of the United States, and the President has made an order that the money be paid to those banks on their complying with certain terms and conditions. The subject was referred to the joint Committee on Retrenchment, who have considered it and examined all the evidence bearing upon the question, and it is the opinion of that committee that this money should be paid into the Treasury of the United States; and that if those banks have any claims to it they should prosecute their claims before the Court of Claims.

Mr. JOHNSON. Can they do that?

Mr. WILLIAMS. This resolution does not now give the Court of Claims jurisdiction; but as reported from the committee it did provide that anybody claiming the money might prosecute a claim to it before that court; but that portion of the joint resolution was stricken out in the House of Representatives, so that as it now stands it simply provides that this money shall be paid into the Treasury. I suppose under the general law if these banks have a claim against the United States for \$100,000 in money, and the United States is holding that amount of money belonging to them, they can prosecute the United States before the Court of Claims.

Mr. HENDERSON. I would ask the Senator if this is the money that was captured with Jefferson Davis.

Mr. WILLIAMS. This is the money that was captured about that time. It was understood to be the money with that party.

Mr. HENDERSON. According to my recollection of the terms of the law defining the

jurisdiction of the Court of Claims, if it is the purpose of the committee to open the door for the prosecution of suits for the recovery of the money it will have to be done expressly by this resolution.

Mr. JOHNSON. That is my impression. I hope at any rate it will be postponed. I desire to look into it.

Mr. WILLIAMS. I move to amend the resolution by inserting after "United States" in line five the words "after said bullion is converted under the authority of the Treasurer into coin."

The PRESIDING OFFICER. The Senator from Maryland moves that the further consideration of the joint resolution be postponed until to-morrow.

Mr. SHERMAN. Before that question is put, I desire to say a word. It is important, not only for the government of the President, but for the government of the Treasurer, that this question should be settled. This money was placed as a special deposit in the Treasury of the United States. In my opinion the President has no right to order the money out of the Treasury; and if I were Treasurer I would not pay out the money on his order, because money can only be drawn from the Treasury in pursuance of law. General Spinner is a very accurate and exact man, and I do not believe he will pay the money on the order of anybody, unless it comes in the regular form by draft from the Secretary of the Treasury.

Mr. JOHNSON. Such things have been done.

Mr. SHERMAN. They cannot be without a violation of law in my judgment. I never heard of it. It ought not to be done. This controversy is in a nutshell. The banks of Virginia loaned \$300,000 of gold to the confederate government. The banks now deny that they loaned it, but claim that it was taken from them. At any rate, it is insisted now that this gold belongs to the banks, was their private property, and that if so it was restored to them at the time of the surrender, no private property being taken by the General Government under the surrender. If this gold belonged to the confederate government, so called, it falls by the rights of war into the rightful custody of the United States; it falls to the United States, and it ought to go to the Treasury of the United States, and the President has no power over its disposition.

That is the controversy. The House of Representatives, however, has undertaken to decide the controversy against the banks. The President undertook to decide it in favor of the banks. It seems to me that neither is right. The money ought to remain as it is, on deposit in the Treasury, and these banks ought to be authorized to commence a suit in the Court of Claims to establish their right. By the statements made by the Committee on Retrenchment—I have read the report—I have no doubt that it was the property of the confederate States, and is, therefore, now rightfully the property of the United States, but possibly that report may only contain the statement of one side of the question. If that report contains all the facts of the case I should decide in favor of the United States; but it seems to me the question ought to be settled by some competent tribunal. The Court of Claims is the proper one in such case.

Mr. EDMUNDS. Mr. President—

The PRESIDING OFFICER. The Chair will remind Senators that on a motion to postpone, the merits of the bill are hardly a proper subject of discussion.

Mr. EDMUNDS. I think that on a motion to postpone until to-morrow it is right to consider what the merit is, because the postponement until to-morrow may be a defeat of the measure.

The PRESIDING OFFICER. Unless there be objection the Chair will not interpose.

Mr. EDMUNDS. I wish merely to say that the Senator from Ohio is mistaken in supposing that the House of Representatives has un-

dertaken to decide this case against the banks. It has simply provided, as I understand, that this money shall go into the Treasury. Then any claimant of money that is in the Treasury, like any other claimant against the Government, of course will prosecute his claim in the Court of Claims.

Mr. SHERMAN. The jurisdiction of the Court of Claims is confined to certain specified cases, and it is clear that this would not fall within its general jurisdiction under the law.

Mr. WILLIAMS. I think the Senator is mistaken about it.

Mr. SHERMAN. Then there can be no objection to putting in a clause giving jurisdiction.

Mr. EDMUNDS. I think the Court of Claims has jurisdiction. There can be no objection, however, to putting in such a provision; but the mere fact that Congress provides that this money shall be paid into the Treasury, and shall go into the general account instead of the special account, is no decision against the claim, because whoever has a legal right to it can get it out just as easy by process of law one way as the other, and it cannot be got out, as the Senator from Ohio has rightly said, without some process of law. The President, in my opinion, has no more right to take it out than I have or anybody else.

Mr. WILSON. I hope this matter will not be postponed, because it is absolutely necessary that some decision should be made upon this subject before the adjournment of the present session; and as this joint resolution is to be amended, and will, therefore, necessarily have to go back to the House, I hope its consideration will not be postponed.

Mr. JOHNSON. The only reason I have for wishing the postponement is that I may become satisfied and the Senate may become satisfied that the Court of Claims has jurisdiction over the subject; for unless the Court of Claims has jurisdiction of the subject the banks cannot get the money out of the Treasury in case this resolution passes. As to the authority of the President to restore money placed on deposit under the circumstances under which, as I understand, this money has been placed, there may be differences of opinion. I recollect one case that occurred during the war, when there were some forty or fifty thousand dollars taken by the Government of an establishment in this city, they claiming that it was the receipt of a gambling transaction between the proprietor of a gambling-house and an officer of the Government. It was received upon special deposit in the Treasury, and afterward, upon their being satisfied that the money really did belong to the parties who claimed it and had not been received as the fruits of a gambling transaction, it was paid out by the Register without the consent of the President. The interpretation, as I understood at that time—I am not sure that it was right, and it is a dangerous practice if the interpretation be right—was that when the Government receive money upon deposit they are bound to deal with it just as any individual would be bound to deal with money placed in his hands on special deposit; it does not go into the Treasury, was not intended to go into the Treasury, from the very nature of the transaction; and not going into the Treasury, the Government holds it as anybody else would hold it under such circumstances.

As I have said, there is some danger in recognizing that principle now as a sound one, because there may be a great deal of money in the Treasury which may be considered as there in the nature of a deposit, and over that the President or the Secretary should not have, in my judgment, any absolute control. I am, therefore, in favor of the resolution, provided it be true that after the resolution shall be adopted, and the money shall go in the Treasury generally as the ordinary funds of the Government, there be a means left by which the owner, if the United States be not the owner, may recover it back by some legal proceeding. I forget the terms of the last acts in relation to

the jurisdiction of the Court of Claims, but my present recollection is that they are not sufficiently comprehensive to cover a case of this description. All I want is to be satisfied that they are. There certainly can be no error in making that point clear. I understood the honorable member from Oregon to say that jurisdiction was expressly given to that court by the resolution, originally reported, and that that provision in the resolution was stricken out by the House. I presume from that it must have been because they did not desire that the matter should be submitted to the jurisdiction of the Court of Claims.

The motion to postpone was not agreed to.

Mr. EDMUNDS. I think, on looking at the act establishing the Court of Claims and the acts amendatory thereof, it is extremely doubtful, now that I have them under my eye, whether the Court of Claims could entertain the jurisdiction of this claim without special authority. The jurisdiction seems to be confined to some special contract, express or implied, with the Government. This upon strictly technical common law principles might be an implied contract to repay money that the Government had no right to; but it would be doubtful whether the court would so construe it.

Mr. SHERMAN. I ask whether the court would not construe this very act of Congress as a decision by Congress on the subject? Would the court not regard it as a decision by Congress that the money belonged properly to the Treasury, and therefore ought not to be paid out?

Mr. EDMUNDS. I do not think they would do so; but I entirely agree to the propriety of providing in this very resolution that the Court of Claims shall have jurisdiction to determine the question. That will avoid all doubt.

The PRESIDING OFFICER. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 33.

Mr. WILLIAMS. I hope we shall be allowed to dispose of this joint resolution.

Mr. TRUMBULL. I shall not object if a vote can be had on the resolution; but if there is to be any further debate I must insist upon going on with the unfinished business.

Several SENATORS. There will be no debate.

The PRESIDING OFFICER. The unfinished business will be laid aside if there be no objection.

Mr. TRUMBULL. Not for any length of time. If the Senate is ready to vote on this resolution I make no objection to going on with it.

The PRESIDING OFFICER. The special order will be laid aside informally. The question is on the amendment moved by the Senator from Oregon [Mr. WILLIAMS] to House joint resolution No. 10.

Mr. CORBETT. Do I understand this amendment to give the right to prosecute this claim before the Court of Claims, or was that stricken out by the House, and is the question on the House amendment?

The PRESIDING OFFICER. The pending amendment is to insert after the words "United States" in the fifth line the words "after said bullion is converted by direction of the Treasurer into coin."

The amendment was agreed to.

Mr. SHERMAN. I move to amend the resolution by adding to it a provision that the parties in interest shall have leave to prosecute their claim in the Court of Claims, or any words that will effect that purpose.

Mr. EDMUNDS. I have drawn an amendment which will perhaps cover it:

And any party claiming said money and bullion may file a petition to be allowed and paid the same in the Court of Claims; and said court upon proceedings as in other cases shall hear and determine such petition.

Mr. JOHNSON. I suppose the word "parties" would include a corporation.

Mr. EDMUNDS. Certainly. A corporation is a party claimant.

Mr. CORBETT. Before this amendment is adopted, I should like to know a little further



about this money. As I understand, this money was captured at the same time that Jefferson Davis was captured, before the surrender or about that time. I think it was captured as rebel property like any other property belonging to the confederate States. If so, I should oppose the amendment giving the claimants the right to prosecute their claim before the Court of Claims. It seems to me that it was captured like any other property belonging to the confederate service, and is therefore properly the property of the Government of the United States. I shall vote against the amendment unless I can hear explanations that convince me to the contrary.

Mr. WILLIAMS. There is a question as to whether this was the property of the banks or the property of the confederate government. The banks claim that it was their private property. It is claimed on behalf of the Government that it belonged to the confederate government. That is one question in the case. It is not strictly property that was captured at the time Jefferson Davis was captured; but it was property that was deposited in the southern banks by officers of the confederate government, and was therefore claimed by the Government of the United States as property which had belonged to the confederate government, and which on that account became the property of the United States upon the dissolution of that government.

Mr. CORBETT. I call for the yeas and nays on the amendment.

Mr. JOHNSON. I do not think my friend from Oregon exactly understands the nature of the controversy between the Government and the banks. The money, as I understand, was captured at the time when Davis was captured. Whether it belonged to the confederate government will depend upon the manner in which that government got possession of the coin. If it was loaned to them by the banks, then the United States are entitled to hold it as captured property. If, on the contrary, it was taken by force from the banks by the confederate government, it belongs to the banks, unless we are willing to sanction the act of the confederate government in depriving the banks of their property. The whole effect of this amendment is to enable the banks to have that question tried. If it shall turn out that they had loaned the money, then it belongs to the United States. If it shall turn out that instead of loaning the money it was taken from them by force, then of course the United States would have no title, and they ought to be very willing to refund it. It would be more especially just if that should turn out to be the fact, because there are a great many widows and orphans depending more or less upon the stock which they hold in these banks; and if this money is taken from them the whole of their property may be swept from them. If it be the property of the banks and not the property of the Government, I think my friend will agree that it should be at once returned to the banks. All that this amendment does is to provide a judicial mode by which that question shall be tried. I am sure there is no reason to doubt that the judgment of the Court of Claims will be such as the law and the facts will justify. The judges of that court hold their offices by a law which may be repealed at any time by the Congress of the United States. Beside that, they are men of high character, eminent lawyers, all of them, and there can be no reason to doubt that they will decide the question fairly.

Mr. HOWE. I desire to know what is the specific question.

The PRESIDING OFFICER. The pending question is on the amendment moved by the Senator from Vermont.

Mr. HOWE. I should like to know what that amendment is.

The PRESIDING OFFICER. It will be read again.

The Secretary read the amendment, which was to add to the resolution:

And any parties claiming said money and bullion,

or any part thereof, may file a petition to be allowed and paid the same in the Court of Claims; and said court, upon proceeding as in other cases, shall hear and determine such petition.

Mr. HOWE. I think the Senate had better not agree to that amendment. The Court of Claims was organized for the purpose of trying questions of contract, or questions arising on contracts, to which the Government was a party; and I do not now remember that their jurisdiction has been extended beyond that. The question raised here is a question of title as to a specific sum of money, and the question is or may be one of great importance, and it seems to me it is a question which may more properly be determined by the Congress of the United States than by any tribunal it has yet created. I agree to the resolution. I think the money ought to be paid into the Treasury, and to be subject to the disposition of the Government, as other sums in the Treasury are; and if any one man can show a better title to this money than the Government can, let him come to Congress and establish that title. I do not see why this is not as fair a tribunal as the Court of Claims, and as fair even to the claimants. I think it is a question that had better be determined here than elsewhere.

Mr. CORBETT. I know that in prosecuting a claim of this kind for \$100,000 there is great facility employed in many cases to bring up evidence that would be satisfactory perhaps to many people, but that might not be satisfactory to Congress. I believe that this is the proper place to prosecute such a claim and the place to present the evidence with regard to this amount of money. I believe it is generally conceded and thought by the people of the United States that Jefferson Davis is a subject under the United States authorities as well as this money, that he has not been disposed of as yet; but he is held in custody, and I believe that this money should be held as belonging to the United States. I believe that it was captured as property belonging to the rebel government. Whether it was originally taken from the banks by force or whether it was loaned by them is a matter of no difference. The banks, as I understand, gave their support to the rebel government; they extended every facility in their power to perpetuate that government and to strengthen it in every way that they could do. Whether this money was taken from the banks or not is a matter of no difference; it was in the hands of the rebel government at the time that it was captured; is to be treated the same as any other property that was used for thwarting this Government, for thwarting its authority, and for maintaining the opposition to the United States Government and defeating its authority. Therefore I shall oppose this amendment. It opens the door for presenting many other claims; it opens the door to claims for all kinds of captured property that was taken from the rebel government; and if we consent to the prosecution of this claim before the Court of Claims we shall have claims without end. I shall oppose the allowing of the prosecution of any claim for property that was captured by our Army from that rebel government.

Mr. WILLIAMS. I wish simply to correct a statement made by the Senator from Wisconsin [Mr. Howe] as to the fact that there were no precedents for this amendment. I do not care whether the amendment is adopted or not; I should prefer not to have it adopted, as the House struck out of the resolution as it was reported from the committee that part which conferred jurisdiction upon the Court of Claims; but the act of March 12, 1863, provided that the Secretary of the Treasury should perform certain duties in regard to captured property, and declared:

"And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase money

which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

This act confers upon claimants the right to prosecute in the Court of Claims for the recovery of moneys that have been realized from the sale of captured and abandoned property; so that that does extend the jurisdiction of the Court of Claims; but it appears to me that there is no particular necessity for the adoption of this amendment. This claim, if it be a good one, can be preferred to Congress at any time, and if desirable provision can be made that the Court of Claims shall take jurisdiction of it.

Mr. HOWE. I did not undertake to say that there was not precedent for this. My attention was called to this subject under debate only a moment before I took the floor, and I did not at the time recollect any precedent for the proposition pending before the Senate. I do now recollect very well the act which the Senator from Oregon refers to. It may, to a certain extent, be a precedent for this; but I think we had better not follow the precedent. I think this amendment had better not be adopted.

Mr. EDMUNDS. As my friend from Oregon, who has charge of this matter, thinks, on investigation, it is best to leave the resolution without this amendment, and as the amendment is not, perhaps, as full as it ought to be respecting loyalty, I withdraw the amendment.

Mr. NYE. I am in favor of the amendment for this reason: I had a talk with the Treasurer this morning, and he says this deposit is in such a shape, a portion of it bullion, a portion melted coin, and a portion of it alloy, that it is impossible to determine what the amount is in any other way than by sending it to the Mint and having it coined, so that the amount can be ascertained.

Mr. WILLIAMS. That amendment has been adopted.

Mr. NYE. Then I think in relation to the other question we had better settle it ourselves. I merely wanted to make the statement that I understood from the Treasurer it was impossible to ascertain the amount of it until it was coined.

Mr. JOHNSON. We have no knowledge of the character of this transaction. When the subject was called up this morning I did not know the money was in the Treasury; but since the resolution has been before the Senate I am told that in fact the money was not captured when Davis was captured, never was in his hands, that it had been sent by the banks for safe-keeping from Richmond to the banks in Georgia, and it was in the Georgia banks at the time it was taken by our officer then in command, General Steadman. There was no pretense, therefore, for saying that it was confederate property, looking to those two facts alone. What I desire is merely that we should put the parties who may be entitled to it in a situation to recover the amount. The honorable member from Oregon supposes that it can be done under the law as it now stands.

Mr. WILLIAMS. No, sir, I suppose not; because this law only provides that the suit may be brought within two years after the suppression of the rebellion, and then the persons who are allowed to bring suit under the act must be persons whose loyalty can be established; and there is no question, so far as the facts in this case are concerned, that these banks furnished \$300,000 for the confederate government.

Mr. JOHNSON. Not this money?

Mr. WILLIAMS. That is the question. I am satisfied it was this money, but they claim that it was not this money, and the difficulty arises from the fact that Captain Strother, who had charge of the funds of the confederate government, when he made his escape from Richmond at the time it was surrendered to General Grant, took charge of the funds belonging to the banks and deposited all the funds, certain private funds belonging to the banks and certain funds belonging to the confederate government, in a certain bank in Georgia; and then the parties obtained a permit to

bring their money back and they undertook to bring it all back, that which had belonged to the confederate government and their own funds. But certain robbers arrested them on the way and stole a part of the money; but when those robbers found out that it was money that belonged to the United States, having once belonged to the confederate government, they kindly returned the money to those bank officers, and the banks claim that the money which was taken by the robbers was this confederate money.

Mr. JOHNSON. The honorable member tells me, and no doubt he is correct in his reading of the law, that no one can prosecute a suit in the Court of Claims who is disloyal. I do not know in what way it can be ascertained that a corporation is disloyal. I cannot imagine how a corporation can be indicted for disloyalty, tried for treason; and it may be that although it was managed by directors who were disloyal, nine tenths of the stockholders may have been loyal; and to prohibit, if that is the understanding of the honorable member, a bank from prosecuting in the name of the bank the money on the ground that some of the managers of the bank were disloyal would be to punish those whom we are bound to protect. That I am sure is not the wish of the honorable member.

Mr. WILLIAMS. I have no wish about it. I am simply giving you what the construction of the law is.

Mr. JOHNSON. If, therefore, that is the only difficulty, that is to say, the supposed disloyalty of claimants, I submit, with all proper respect, that that would not embrace this case; nor do I think that it would cover the case as it is supposed to be by the honorable member from Wisconsin. He says that this is not a case of contract, as he understands it, and that we never have given to that court jurisdiction in any other cases than cases arising upon contract. I had supposed that where money was taken improperly by one man from another, the owner might waive the tort and sue the party taking it on a contract implied by the law; and there is no distinction in the law establishing the Court of Claims, if I understand it, between an implied and an expressed contract. In voting for the resolution without the amendment I shall, therefore, act upon the hypothesis that the banks can sue in the Court of Claims and make out their title, if they can.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the resolution read a third time. The resolution was read the third time, and passed.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. TRUMBULL. I now call for the order of the day.

The PRESIDING OFFICER. The unfinished business of yesterday is before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration; the pending question being on the amendment reported by the Committee on the Judiciary as a substitute for the bill.

Mr. HOWE. I move to amend the fourth section of the committee's amendment by striking out in the eighth, ninth, and tenth lines the words "declared by Congress to be in conformity with the provisions of the act to which this is supplementary," and to insert "approved by Congress."

The PRESIDING OFFICER. The Chair understands that an amendment has already been adopted at that point.

Mr. HOWE. I do not mean to interfere with the amendment that was adopted. I forget where that comes in.

Mr. TRUMBULL. After the word "supplementary."

The PRESIDING OFFICER. The section will be read as amended in that particular.

Mr. TRUMBULL. It contains the words, "approved by Congress" now.

Mr. CONKLING. Let the whole section be read as it stands.

The Secretary read as follows:

Sec. 4. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

Mr. HOWE. I withdraw the amendment. I was not aware that those words were inserted. I now move to amend that section by striking out the word "representation" in the eleventh line, and inserting in lieu thereof "all the prerogatives of a State;" so that the clause will read:

The State shall be declared entitled to all the prerogatives of a State, and Senators and Representatives shall be admitted therefrom as therein provided.

I will simply say that by the law which we have recently enacted those communities are not merely deprived of the right of representation in the Federal Legislature, but they are denied the right of home government, local government. The section as it stands proposes in terms to restore to them, when these things shall have transpired, the right of representation; but does not, in terms, propose to restore them the whole prerogatives, the local prerogatives of States? I suppose the committee intended that that should follow, and I think it better to say so, so that we remove all disabilities and all restrictions, that when this thing is done then they become States in law and in fact.

Mr. TRUMBULL. If the Senator will look at the whole frame of the bill he will see that it provides not only for the formation of a constitution, but also a civil government for the State. If this constitution and civil government is approved by Congress, it is the constitution of the State, and as a matter of course it has the rights of a State. I think it is all embraced in the bill as it is. I do not think it would change the legal effect of it at all to insert the words which the Senator suggests. Probably, if we were considering this in committee I should not make any special objection to the Senator's suggestion; but I think the substance of it is in the bill; and unless there is something to be gained by it I suggest to my friend from Wisconsin we had better leave it as it is, as by adopting amendments we run into the hazard of making the bill incongruous. I do not to say that this particular amendment would make it incongruous; but the legal effect of the bill is precisely what the Senator states. I do not think there is any importance in the amendment, and therefore I suggest that it is hardly worth while to make it.

Mr. HOWE. If there is any incongruity between the provision which I propose to introduce and any other part of the bill, and the Senator from Illinois will point it out to me, I will endeavor to avoid it; or if the Senator can point me to any provision in the bill which now does in terms restore this right of local government to those communities, or proposes to restore it to them upon the happening of these events, I shall agree with him that this is not at all necessary. I was quite confident that this proposed nothing which the committee did not intend should follow upon the happening of these events, and I thought it was better to make the specific declaration that these consequences should follow, that the State should not only be entitled to the right of representation, but should be entitled to this other right, the right of local

government, which we took away from it by the recent act of Congress. For the purpose of being explicit I would rather see the amendment adopted.

Mr. HENDERSON. While in one view of the case it might be well to adopt this amendment, in another view, which will perhaps suggest itself to the mind of the Senator, it may not be proper to do so. It declares that the State shall be entitled to representation and to all the prerogatives of a State. In my view of the case, the United States having conquered this territory, we have powers over the territory perhaps that we did not have before. Now, suppose that sufficient guarantees may not be obtained upon the admission of these States by constitutional amendment operating upon all the States; then it may be desirable, when we come to admit these States, to take some guarantee by the way of compact. Possibly the rights of the conqueror may confer upon us the right to make a compact with these States binding upon the States. I am not disposed to say that such a thing could not be done. As I have already said, we may fail to get such guarantees as we need. But I do not wish to declare that when those States are admitted upon compliance simply with what we have done here they shall be entitled to all the prerogatives of any other State. That will be certainly the meaning of this proposition. I can imagine several reasons why this should not be adopted, or rather I can imagine several states of case in which it might be desirable to take guarantees that we have not here; and if we are to admit them, or if we are to obligate ourselves to admit them, we deny ourselves in honor the privilege then to take these further guarantees. Therefore, perhaps it would be well not to adopt an amendment of this sort. I merely throw out the suggestion.

Mr. HOWE. If the Senator from Missouri apprehends such a contingency as he has just suggested, it seems to me we should change the bill as it stands; we should refrain from promising them the right of representation. I cannot conceive that any one of these communities can come before us under the recent law and this addition to it in an attitude which would entitle them to the right of representation here, and would not entitle them to the right of exerting the home control which belongs to a State. When they entitle themselves to one of these prerogatives, they entitle themselves to the other. I conceive that there can be no state of case in which we ought to deprive them of one without depriving them of the other, and there can be no conceivable state of case in which we would be authorized to concede them the one without conceding them the other; and inasmuch as the bill now before us, or the amendment now before us, proposes to promise them one of these prerogatives, the right of representation here, I wish to have it promise them the other, that they might understand distinctly that the whole character of a State was to be restored to them.

Mr. FRELINGHUYSEN. The objection that occurs to me in reference to the amendment is that there is an implication that they have not now the prerogatives of a State. Some of the prerogatives of a State they may retain now. It may be important to treat them as retaining judicial powers, the power of being liable for their debts, of its being the identical State which contracted the debt. Therefore, I think it is better to avoid those questions than by implication throw out the idea that they have not those functions of a State.

Mr. HOWARD. In order to avoid all doubt and ambiguity on the subject, suppose we let it stand as we placed it when we passed the reconstruction bill of last session. If it be in order, I move to strike out all of this section after the word "assembling" in the eighth line as being useless, and worse than useless. It is tending to unnecessary and perhaps in the future pernicious complications.

The PRESIDING OFFICER. An amendment to an amendment is now pending, and

the amendment suggested by the Senator is not now in order. It will be in order when this is disposed of. The question now is on the amendment of the Senator from Wisconsin.

Mr. HOWARD. That is, to strike out the word "representation."

Mr. HOWE. And insert "all the prerogatives of a State."

Mr. HOWARD. I am opposed to that amendment. The proposition which we have made to the rebel States is a very plain one. It is that after they have complied with certain conditions—precedent—

"Said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding section of this bill shall be inoperative in said States."

There is the limit which Congress has already fixed and established: that on these States complying with certain conditions, plainly expressed and perfectly intelligible to all, they shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on taking the oath prescribed by law; that is, the so-called test oath of 1862. Now, sir, I am for carrying out this proposition equitably and strictly according to its terms and intent; and I am opposed to any alteration of it at this time. I do not believe in enacting a law one day and the next day changing it, or making a proposition one day and retracting it or modifying it the next. I do not therefore see any necessity for this portion of the section, and I shall move to strike it out at the proper time.

While I am up I beg to say further that this section is defective in providing that—

If the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

There seems to be perhaps, not an intentional omission, but an omission to repeat the requirement contained in the former acts, that persons presenting themselves for admission as Representatives or Senators shall take the test oath of 1862. That is a condition upon which I am strongly disposed to insist at all times. At any rate, I do not see the propriety of the present amendment.

Mr. CONKLING. I rise for the purpose of inquiring of the Senator from Wisconsin what the distinction is that he makes for this purpose between saying that States may then be entitled to representation and saying that they shall have all the prerogatives of States? I see, of course, there is a distinction for other purposes, but for this purpose I do not see it. If the Senator will be kind enough to indicate what he means, for one I can vote more intelligibly than I can now.

Mr. HOWE. I will state to the honorable Senator from New York what I understand to be the distinction. I understand an American State under our Constitution to be entitled to two great prerogatives, to say no more. One is the right to a certain amount of representation in the tribunal which makes laws for the nation and which chooses Presidents and Vice Presidents for the nation; and the other is the right to make all other laws and to institute a home government for the exercise of all powers which do not belong to the Government of the United States. I understand by the recent enactment of Congress both these prerogatives have been taken from those communities. Previous to that act they had been denied one of those prerogatives, that is the right to representation in Congress and the right to representation in the Electoral Colleges. The other prerogative, the right to maintain those local governments and wield those home powers, they enjoyed in a qualified sort of way so far as the President would allow them to enjoy them, but without any inhibition on the part of Congress; but by that act they were deprived of

both; the local governments were declared to be not the governments of States, but provisional governments, and were subjected to the Federal authority, and the right of representation was denied to them in terms altogether. Now, by this act it is proposed that upon the happening of certain events, in terms, the right of representation shall be given, and I wish that the other right, the right to maintain these local governments independent of Federal control, or any other Federal control than we exercise in New York, Massachusetts, or Wisconsin, should go at the same time.

Mr. CONKLING. If I could concede the occasion for anything more definite than we have in the bill already for this purpose, and if I could be sure that the phrase chosen by the Senator is adapted to that purpose and to no other, I should be with him entirely as to this amendment. But, in the first place, I doubt a little the signification of this expression, "all the prerogatives of a State." Without stopping to discuss that, however, it seems to me very clear that the bill as it will stand in connection with the acts already passed puts beyond a question the doubt which the Senator suggests. Certainly I think no one can suppose that after forming a constitution of government republican in its character, devising all the machinery of State government for every purpose, submitting the constitution ordaining it to the people, and having it ratified and accepted by Congress, and being permitted to resume the practical relations of a State with the Federal Government—nobody, I think, in the face of such a succession of provisions as this, could doubt for one moment that the full measure of a State for every purpose inside and out was left with these communities and conferred upon them as far as we have any power for that purpose. I have no partiality, for one, to the expression as it stands, except that in several bills and in the constitutional amendment this very phrase has been used; and it seems to me that the sameness and identity of it in all these cases recommends it.

Mr. JOHNSON, (to Mr. CONKLING.) Read the provision on page 6, commencing in the fifth line of the second section.

Mr. CONKLING. I refer, as the Senator from Maryland reminds me, in what I have said to this, among the other provisions of the bill, and covering this point:

"An election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union; said convention in each State, except Virginia, to consist," &c.

That is the very thing, that is the gravamen of this bill; and I cannot suppose that it is necessary to enlarge its subsequent phrases in order to define the very essence of the measure.

Mr. HOWE. Will the Senator allow me to ask him this question: does he not suppose that the civil government spoken of in that section, and which that convention is to institute, is actually the selection of a Governor and Legislature and judges?

Mr. CONKLING. Not actually the selection, but actually the foundation and provision in the most radical and capacious sense for the selection of a Governor and judges and everything else which pertains to State machinery or State function.

Mr. HOWE. Providing a charter which shall regulate the action of these tribunals when they are selected. The Senator knows very well that those communities have just such charters down there to-day, and have just such officers, Governors, Legislatures, and courts; and yet the Senator knows that by the recent act of Congress they have been denied the exercise, and are to-day denied the exercise, of the authority conferred upon them by those local charters.

Mr. CONKLING. Yes, Mr. President, and I propose, in order to make the argument for this proposition as strong as it can possibly be, to assume that there is a total obliteration of all civil governments in these States; that the

germ of civil government lives nowhere except as it resides in the people. That is as strong as you can put it. That is stronger than it is in the case of a Territory, if you please; and yet, if my memory serves me, this is the language we use in admitting a new State. The Senator shakes his head. He means to say that this is not the language used in an enabling act.

Mr. HOWE. I think it is not. We admit them, then, in terms on equality with the other States.

Mr. WILLIAMS. On an equal footing.

Mr. HOWE. And that is the language employed in the Constitution.

Mr. CONKLING. The gentlemen are altogether on a different point. I say the language which we have used in the second section of the bill, in providing what they may do in organizing governments and providing themselves with it, is the language, or the equivalent of the language, used in the enabling acts applicable to Territories. I am aware that we say upon another point that when they become States they become so upon an equality with all the other States. If Senators are prepared to embrace the theory that the Statehood of these communities is extinct, that they are in no sense States, either in the Union or out of it, then I can see it might be necessary to add something which, in addition to providing them State governments and giving them representation and giving them power of government within themselves, should gazette the nations of the world with the fact that we now admit that they have become States. But this bill was drawn, as these other bills have been, I think fortunately, to avoid the theories, one way or the other, upon which the country and parties are divided in that regard. It seems to me very clear that the bill is sufficient as it is; but I have no choice of phrases.

The amendment to the amendment was rejected.

Mr. HOWARD. I wish to offer an amendment to the bill to take the place of the oath which is contained on page 6. Before sending it to the Chair, I beg to explain the nature of it. The oath as inserted in the substitute under consideration is as follows:

I, —, of —, in the county or parish of —, in the State of —, do hereby solemnly swear (or affirm) that I am not excluded from the right to vote by the fifth and sixth sections of said act to provide for the more efficient government of the rebel States; that I will support the Constitution and obey the laws of the United States, and that I will, to the best of my ability, encourage all others to do the same: so help me God.

And it is provided that this "oath or affirmation may be administered by any registering officer." Now, sir, the substance of the oath is here to be understood by reference to the statute which we passed at the last session; and the party taking the oath is required by this bill to swear that he is not excluded by the terms of the former act; but he is not required to swear affirmatively what his qualifications are according to that act. This is a blind mode of putting an oath to an affiant or a deponent; and if this form of oath is suffered to remain in the bill, if we shall pass it, it will turn out, I fear, in the end that thousands, perhaps tens of thousands, of persons who are not in reality and in fact qualified as voters under the act which we have passed, will come forward and blindly and heedlessly take this oath without reference to the requirement of the act itself. Now, I propose, on the other hand, to state in the oath itself what the qualifications are, so as to bring these qualifications clearly and immediately to the mind and memory of the voter when he offers himself for registration. The form of oath which I suggest embraces all the requirements contained in the former act. I do not think there can be any objection to it. I will read it:

I, —, do solemnly swear, in the presence of Almighty God, that I am a citizen of the State of —.

It will be observed that this oath is to be signed by the deponent, the voter, and filed

in some safe depository by the military commandant who receives it:

I, ———, do solemnly swear, in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States and afterward engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I am sincerely and earnestly attached to the Government of the United States and the Union of the States under the same; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God.

Then I propose to add after the word "officer" in the twenty-second line the following clause:

And every person taking such oath, and in so doing swearing falsely, shall be deemed guilty of perjury, and on conviction be punished as provided by law.

The PRESIDING OFFICER, (Mr. POMEROY.) The amendment will be reported.

Mr. TRUMBULL. The Senator has just read it at length, and I do not know that it is necessary, unless some Senator wishes it, to have it read again. I trust the Senate will not adopt that long oath. The oath provided for in the bill is substantially that oath, leaving out that part of it which requires the voter to swear to his sincerity. There is no such thing as that in the oath in the bill. The Senator proposes that the voter shall swear that he is sincere. I would not give much for that kind of an oath. I do not think it is worth any thing.

Mr. HOWARD. No, sir; I think that is not contained in my amendment.

Mr. TRUMBULL. Let the Clerk read it.

Mr. HOWARD. I think the Senator has misapprehended it.

The Secretary read the amendment.

Mr. TRUMBULL. I do not know that it is necessary to incorporate all the laws of the land into this bill. It will be observed that the Senator has in this form of oath, as he provides it, a requirement that the voter shall swear that he is sincerely and earnestly attached to the Union. Now, what does that amount to? It makes oaths very cheap to require that kind of an oath of a person, to swear as to his sincerity. I will not take up time upon that.

Again, the Senator from Michigan proposes to punish for perjury a person who swears falsely. How are you going to prove that the man is not sincere? How are you going to prove that he is not in earnest? Are you going to put him in the penitentiary if you can prove that he was not sincere when he swears that he was sincere? The statutes now provide that when a person swears falsely, no matter where an oath is required to be administered, he is guilty of perjury. Do you wish to reenact that statute?

Again, the Senator, instead of adopting the form of the oath as it is prescribed here, that the voter is not excluded from the right to vote by the fifth and sixth sections of an act to provide for the more efficient government of the rebel States, adopts the oath that is therein referred to, and repeats it here; and he uses in his oath the word "disfranchised." He makes the voter swear that he is not disfranchised by any law of the United States. Why did he not put in all the disfranchising clauses, copy the whole of them, and make the voter swear to the whole of them?

Now, sir, I take it that the persons who make this registration of voters will explain to the persons who take the oath the meaning of these words. They will have before them, doubtless, the act to provide for the more efficient government of the rebel States, and they will know what class of persons are excluded, and will explain to any one who wishes

to understand it what is meant by requiring him to swear that he is not excluded by those sections. I do not think it necessary to copy those sections into the oath. I trust that the amendment will not be adopted.

Mr. HOWARD. I am not particular as to the retention of the phrase "sincerely attached to the Government of the United States." I do not regard it as very important. Still I look upon it as of some value. We are about to call before the board of registration in the various rebel States a multitude of men who know nothing whatever about the laws of the United States, men who can neither read nor write, by thousands and tens of thousands; and men who, though they may be able to read and write, care little for your oaths, and who are just as willing to go it blind now as they were four or five years ago. The Senator from Illinois seems to be entirely willing to bridge over the passage between rebelism and Unionism by suggesting to the voter that if he will swear that he is not excluded from the right of voting by a statute of the United States, of which he knows nothing, he may do so. Sir, I am opposed to this blind way of administering oaths and getting testimony. Why not, in so many words, when the voter presents himself before the board of registration, tell him what the qualifications which he must possess are before he is allowed to register his name?

Mr. TRUMBULL. Will the Senator allow me to ask him a question?

Mr. HOWARD. Certainly.

Mr. TRUMBULL. Why does not the Senator from Michigan put into his form of oath all the laws and the Constitution of the United States? He requires the voter to swear that he will support the Constitution and the laws of the United States. The voter does not know anything about them. Why not read the whole of them to him and swear him to them?

Mr. HOWARD. The presumption is, that every man knows something about the general principles of the Constitution of the United States. But here is a new condition of things. We are calling to the book men who have been in arms against us, men who have for four or five years last past condemned our authority and resisted it at the point of the bayonet; men who are even now, if they could have their own way, willing and anxious to renew the war, or at all events to take some steps by which they can shake off the authority of the United States and establish an independent government of their own. My idea is that when such a man offers himself for registration he shall be informed by the very terms of the oath itself which he is about to take what are the qualifications of a voter, and not permit him to come up and swear to an inference of law, or a conclusion of law, or to a mere legal opinion, which he would have to do under the form of oath as suggested by this bill. Let him know what the facts are; let the facts stare him in the face when he lays his hand upon the book, and not let him proceed to swear in general terms that he is not excluded by a statute of the United States, of which he may be perhaps, and will be in many cases, totally ignorant.

Sir, this is laying a snare for the consciences of thousands of men, and it is enabling additional thousands to come forward and take this oath and become voters who, if the facts were laid before them at the time they offer themselves, would not dare, in the face of the qualifications which they read, to take the oath and offer themselves as voters. I wish to protect the ballot-box against such impositions.

I tell you, sir, and I assure the Senator from Illinois, that the form of oath which he has suggested in this bill will weigh scarcely a feather with the great mass of the rebels at the South; and that is the view which has already been taken of it. Such is the light in which it has already been viewed by gentlemen in the rebel States who have written to me on the subject, who have seen the form and contents of this

oath. They say it is not worth a rush in the form it now stands. I confess, sir, that I shall hesitate long before I vote for a bill which opens the door to so much fraud as may be committed under it.

Now, sir, the act which we passed at the last session expresses the qualifications of a voter, states what they shall be, and defines those qualifications in very brief and in very clear terms. Why not in the form of an oath in which you are about to administer to the voter lay the whole thing like a map before him, so that he may know and judge for himself, and swear at his peril, and not permit him to swear by a mere reference to a former statute, which is not before him, and of which he may know nothing or at least very little.

Mr. SUMNER. From time immemorial statutes have been proverbial for their crudeness and technicality. There is no saying more common, I suppose, than that a person who is not somewhat versed in law had better not undertake to read a statute. There is a saying that comes to my mind of one of the Lord Chancellors of England to this effect: that he should be ashamed of himself if he could not answer a question of common law, and he should be ashamed of himself if he could answer a question of statute law without looking into the book. Now, this oath which the report of the committee prescribes is to impose upon the people at large, the common people, the duty of looking into the statute and of applying their minds to its interpretation. It seems to me that this is to expect too much. I think, therefore, my friend from Michigan has acted wisely in calling attention to this oath and in providing a substitute. I think it is important that in the oath there should be a precise enumeration set forth, in the plainest possible language, of the obligations assumed by the party.

I would go still further than my friend in the oath that I would prescribe. I would require a distinct subscription of what I regard as fundamental articles of political faith at this moment. I would require every person who has been in rebellion, before he shall be allowed to hold office or to vote, to take an oath, not only in general support of the Constitution and in allegiance to it, but specifically that he recognizes the unity of the Republic; that he will not lend himself hereafter to any scheme of secession; that he will not promote in any way any scheme to postpone the national credit or the national debt, or again to uphold the rebel debt by paying it in any form; and that he will support in all respects equal rights, the equality of all before the law. I should like to see such an oath as that prescribed to all in these rebel States who come forward as candidates for office or to vote. I know it may be said that they will take this oath vainly; in other words, that they will perjure themselves, and yet I do think that such a prescription as I now suggest would have a tendency to teach these people what we expect from them in reconstructing the States. However, the proposition of my friend does not go as far as I would go; but it is in every respect better than that of the committee, and I shall vote for it.

Mr. TIPTON. Mr. President, theory is something, but practice is much more. In reference to the necessity of such a provision as this I am inclined to remember how it was upon the soil of Missouri recently. After the disfranchisements ingrafted upon the constitution of Missouri and her laws I know that rebels from Missouri by the hundreds sought a paradise in the Territory of Nebraska in order to get clear of being disfranchised for their part in the rebellion in the State of Missouri, and they have since left us for a more congenial clime; they have emigrated to Texas. They are this day within those States now to be brought into the Union. There is no part or parcel of the propositions or amendments to this bill so distasteful to them as the one now before the Senate. That proposition, as I remember, as I heard it



read, is that they shall affirm that they have not been disfranchised. They were disfranchised in Missouri. They ought not to be permitted to run away from States that are in consonance with the progress of the age, into those States to stand in the way of loyal organizations there. Having been appealed to by those whom we regard as loyal representatives of a loyal population in these States, I would vote for the bill without this proposition, I suppose; but I should regret exceedingly to cast a vote for it without this proposition.

Mr. MORTON. There is a part of the amendment offered by the Senator from Michigan that I am not in favor of, simply because I think it would be the means of causing a great deal of perjury to be committed. I allude to that portion which requires them to swear that they are sincerely and truly attached to the Government of the United States. In point of fact, we know that the great mass of these rebels are not attached to and do not love the Government of the United States; but they will take this oath probably for the purpose of securing the right to vote. I think that that portion of the amendment which provides that they shall swear that they will support the Constitution and obey the laws of the United States, and will to the best of their ability encourage all others to do the same, is sufficient on that point. If the clause requiring them to swear that they are sincerely and earnestly attached to the Government of the United States is retained, the effect will be to induce these men to commit perjury upon a point on which they never can be convicted. A man will swear that he is sincerely attached to the Government of the United States, and yet you cannot convict him of perjury, although you can prove he has been a rebel. I say, in point of fact, we know that these men are not so attached, and therefore it is not worth while to insert that clause in the oath.

But sir, there is another portion of the amendment offered by the Senator from Michigan which I think of great importance, and that is that the oath shall set forth the disqualifications which the voter is required to swear he does not labor under. That is the form of the "iron-clad oath" that we take in this Senate. We are not simply required to swear that we are not subject to the disqualifications contained in a section of the law of 1862, but the disqualifications are set forth in the oath, and they are called to the attention of each member of the Senate when he takes the oath. We are not simply referred to a certain section of a law passed three or four years ago.

By the form of oath prescribed in the bill reported by the Committee on the Judiciary the voter is required to swear that he is not "excluded from the right to vote by the fifth and sixth sections of said 'act to provide for the more efficient government of the rebel States.'" Sir, not one person in a hundred in the rebel States will ever see the act referred to; and if the Senators on this floor had been called upon this morning to state what the substance of the fifth and sixth sections of that act was, perhaps they could not do it. If the Senator from Illinois himself had been asked this morning, before his attention was particularly called to it, what were the disqualifications contained in those two sections, or what the character of those sections was, perhaps he could not tell. And yet that is the form of oath that we propose to require of these people who never saw the original act of Congress, who do not know that there is a fifth or a sixth section in the act, who perhaps do not know what are the disqualifications contained in the act and never heard of them; men who cannot read and write; for more than one half of all the men who are called upon to take that oath cannot read and write. They are called upon to swear that they are not subject to the disqualifications mentioned in the fifth and sixth sections of a certain act, when they do not know what the sections are, and never read the act that contains them.

In my opinion, the oath should set forth briefly, but clearly, what these disqualifications are that they are required to swear they do not labor under, that their attention may be called to them as they take the oath, so that they may not commit perjury by inadvertence, or by ignorance, or in a way in which they could not be convicted for it. Why, sir, if you were trying to convict a man for perjury for taking the oath prescribed in the bill, you would have to go on and prove as a matter of fact that he was acquainted with the fifth and sixth sections of the act of Congress passed on the 2d of March, a thing you could not do in one case perhaps out of a hundred. As the Senator from Michigan says, it virtually nullifies the oath, it is a snare; it amounts to nothing.

Now, sir, the oath will not be very long as the Senator from Michigan proposes to amend it. It is not as long as the oath we are required to take in this Senate; and that occasions no particular delay. This oath is not to be taken at an election, where there is a great crowd around and there is a hurry and no time to administer the oath, but is to be taken when the voters are registered; and that is a continuing process from day to day until it is finished. The oath would not be inconveniently long. But, sir, unless the things are specifically stated in the oath which they are required to swear in regard to, they will not know anything about them; it will be a snare; and if they commit perjury they cannot be convicted of it.

As a mere matter of experience ourselves, suppose this oath had been submitted to every member of the Senate this morning, I ask you how they could have answered? There would not be a Senator willing to take the oath without first referring to the act to see what is contained in those sections, aside from the fact that we here having been called upon to pass upon this question have been made familiar with it. But if you were to submit this oath to the people of this city now, there is scarcely a man, unless he is anxious to become a voter, who could take the oath intelligently. To take it intelligently he must refer to the law, and if he cannot do it himself he must get somebody to read it to him. Therefore, to make this oath intelligent and to make it binding on the consciences of men, and to make it effectual and answer the purpose that we want it to answer, it should set forth just what the Senator from Michigan has put into it. I am in favor of that portion of his amendment, but the other part, requiring them to swear that they are sincerely attached to the Government, I am not in favor of, because that is simply a temptation to commit perjury. These men who want to vote are prepared to submit perhaps to the Government, but they cannot swear truly that they love it, and there is no use in asking them to do it.

Mr. HOWARD. If the honorable Senator from Indiana will move to strike out the words to which he refers I shall certainly make no objection to it, or I will have them stricken out of my amendment if he will designate them. I do not regard them as of much force. I am willing also to strike out that portion of the amendment which declares that the party shall be guilty of perjury in swearing falsely. I will amend my amendment in that way.

The PRESIDING OFFICER. The Senator from Michigan can modify his own amendment. It is not now in order to move to amend it.

Mr. FRELINGHUYSEN. I think if we look at this subject a little carefully we shall see that there is no necessity for adopting the oath which has been submitted by the Senator from Michigan. The fifth section of the reconstruction act passed at the last session provides:

"That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of the said rebel States, nor shall any such person vote for members of said convention."

In other words, the fifth section of the act disqualifies as voters those who are disfranchised from holding office under the fourteenth article of Amendments to the Constitution. Who are those persons? They are persons who, having once taken an oath as members of Congress, or as officers of the United States, or as members of a State Legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, has afterward given aid to the enemy. How many of those persons are there at the South? Here is an affidavit covering the side of a sheet of paper, which is to be submitted to every black man at the South. Six hundred and seventy thousand of them are to read, or have read to them, this affidavit who cannot by any possibility come under the provisions and prohibitions of the law. They have not been members of Congress; they have not held office under the General Government and taken an oath as such to support the Constitution, and then afterward given aid to the enemy. Not only is it useless that those six hundred and seventy thousand should take the oath, but it is useless that a vast majority of the white population of the South should take it. To whom would it apply? It would apply to those who have been members of Congress, members of State Legislatures, who held office under the General Government and had taken the oath to support the Constitution. Does the distinguished Senator from Michigan say that they would not understand the oath in the language in which it is framed in the bill? There is not a single man of them who would not understand it. All those to whom the oath is of any utility are men of intelligence, are as intelligent as our committees, and would fully understand it. I therefore submit that it is subjecting the Government to a vast amount of useless expense and expenditure of time, piling up affidavits by the thousand and hundreds of thousands, that men have not been members of this Senate, members of Congress, officers of the Federal Army, taken an oath of allegiance to this country, and then given aid and comfort to the enemy. It seems to me that every man of intelligence to whom the oath would apply will understand it in the terms in which it is stated in the bill as submitted by the committee.

Mr. FOWLER. The argument used by the Senator from New Jersey applies equally as well against the oath contained in the bill as against the oath contained in the amendment submitted by the Senator from Michigan. If it were proposed to strike out both of these oaths my position might be a little different in regard to that; but as it is not proposed to dispense with swearing altogether, of course it becomes a matter of importance to know which oath is best. The one proposed by the Senator from Michigan is a plain statement of facts, that every black man and every white man in the South can understand. It is a plain, simple oath, such as all of them can be perfectly well informed upon and can swear intelligently to. But the oath submitted in the bill is a very different one. As has been well stated by the Senator from Indiana, it is an oath that could not be intelligently taken by the Senators of the United States this day, although they have the bills before them and are now discussing them. It is an oath that could not be taken intelligently by one per cent. of all the inhabitants to whom it is to be submitted. The oath proposed by the Senator from Michigan is a plain, simple statement of facts, that every one has the power to understand, and it is the only oath that is proposed that is adequate to the purpose. If an oath is necessary, if it is deemed proper and important, this is certainly the oath which should be attached to this bill.

I think on the subject of the time requisite that there is very little difference really in the length of the oaths, and any objection whatever on that score that will apply to the oath submitted by the Senator from Michigan is equally applicable to the oath contained in the bill. I

was in hopes that the chairman of the Committee on the Judiciary, who is in charge of this bill, would adopt the one proposed by the Senator from Michigan at once. For one I am well satisfied that the people engaged in revolution, and it is true of other countries as well as this, will swear to anything, that they will take almost any kind of oath that may be submitted to them under present circumstances. I believe, for one, that very little value is to be attached to them. Nor does it militate materially against the character of the individual, because they look at this question in a very different light and from a very different stand-point of view from which we look at it. The only objectionable part of the oath submitted by the Senator from Michigan has now been stricken out, and I think it is, as modified, entirely pertinent to the subject, and is most admirably adapted to the occasion. I hope the Senator from Illinois will yet consent to adopt it.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Michigan as modified.

Mr. CONKLING. I ask to have the amendment reported in full as it now stands.

The Secretary read as follows:

I, —, do solemnly swear, in the presence of Almighty God, that I am a citizen of the State of —, that I have resided in said State for — months next preceding this day, and now reside in the county of —, or the parish of —, in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will to the best of my ability encourage others so to do; so help me God.

Mr. SHERMAN. I did not intend to offer, and probably shall not offer, any amendment to this bill; but let me state to the Senator from Michigan one or two objections to his amendment, which seem to me so apparent that if he takes the same view that I do he will abandon it. My own objection to this first section is that it provides an oath at all. The third section requires certain persons to be designated as judges of election, who are to register the voters, and they are required to be men who can take the iron-clad-oath, as it is called, the oath prescribed by the act of July 2, 1862. They must be loyal men, men who were loyal throughout the war. Then the first section authorizes these loyal men to register the voters, and they are to decide upon the qualifications of the voters. The first section provides that they shall include in the registration "only those persons who are qualified to vote for delegates by the act aforesaid." They are the judges of registration. They pass upon the qualifications of voters. They would not register any one that they did not believe qualified to vote under the law. Then, in addition to that, this bill provides that a certain oath shall be administered to each voter. Now, it seems to me it is scarcely worth while to administer this oath to all. I would authorize the oath to be administered by the registrars in their discretion. According to the laws of Ohio the oath is simply a question of discretion with the registering magistrate, and he may if he chooses administer the oath to the person applying and claiming to be a legal voter. He is not bound by that oath, nor are these persons bound by the oath. If they believe that the man who has taken this oath has committed perjury, they would not put his name upon the roll. The oath is only a mode of getting at the evidence of qualification.

Now, therefore, in administering the oath, it ought to be entirely discretionary with these officers who pass upon the qualification of voters. It seems to me, if any amendment is made at all, it ought to be a provision providing that they may administer the oath to the

person applying to be a voter, and then it would be well enough to administer the oath in the ordinary form to answer such questions as may be put to him touching his qualifications to vote, such as how long have you resided in this State? How long have you resided in this ward? How old are you? What part have you taken in the rebellion? Were you an officer of the Government of the United States before the war? All these are mere questions which are put to these persons as witnesses.

It seems to me that to require a stronger oath than this is simple folly. I would not require any, but would leave it entirely to the registrars at their discretion to administer the oath in case they wished to get information as to the qualification of the voter. Suppose a person should apply to have his name registered whom they knew was a legal voter; suppose a negro, whom they knew had lived in that ward and district all the days of his life, should apply to have his name put upon the roll: what would be the use of putting any oath to him when they knew he was a legal voter? It is simply idle. This requires this oath to be administered to everybody. I will venture to say there is not a similar provision in any election law in any State of the Union. Why, sir, when the Senator living in Detroit, if they have a registry law in Michigan, goes up and says, "I am a voter," the registrars put his name down because the judges who decide on that matter know he is a voter entitled to vote in Michigan, and no oath is administered. But these judges are required to administer this oath to every one, to men whom they know to be legal voters, who have always lived in the ward, parish, or county in which they offer to vote. How long would it take to register a thousand persons? These judges must administer this oath themselves. They cannot administer it to a thousand persons a day, nor to five hundred. What is the use of requiring this oath to be administered except when they have a doubt about the qualifications of the applicant? If they have a doubt, then they ought to administer a different form of oath, and put the person whose right to vote is doubted under various questions. They should examine him as a witness, and put to him the ordinary oath, to testify truly as to all questions that may be put to him.

Certainly, therefore, if I was to amend this proposition at all, I would move to strike out the oath, and simply provide that the registrars may, if they believe there is any doubt about the qualification of a voter, put to him the ordinary oath, and examine him touching his qualifications to vote. But since the committee have reported this form of oath, and require it of every person, I certainly would not make it more stringent and make it a long rigmarole—I do not use the word disrespectfully—but a long oath, the mere reading and recital of which will occupy day and days. If the oath of the Senator from Michigan is required, as it would be, to be put to every person entitled to vote in a county in Georgia, when would they make out the registry? It would take them months to do it. It seems to me, therefore, it is absurd to carry the thing so far as the Senator from Michigan proposes.

Mr. HOWARD. The Senator from Ohio makes war upon the very framework of the bill. If I understand him, he is dissatisfied with its provisions in this, that it does not leave to the board of registration discretionary authority to decide the question in all cases whether the person offering himself for registration is qualified or not.

Mr. SHERMAN. No, sir; the bill expressly does leave it.

Mr. HOWARD. I know the bill does; but the Senator from Ohio seems to think the bill defective in not leaving it wholly to the discretion of the board.

Mr. SHERMAN. When to put the oath. I think they ought not in all cases to be required to administer the oath.

Mr. HOWARD. I do not make war upon

the bill in that respect, Mr. President. I think the frame of the bill and the policy of the bill is all right in that regard. I do not think it ought to be left to the discretion of the board of registration to determine the question in all cases and without his oath whether the voter is a qualified voter or not. The Senator is ignorant probably of some statutes in the United States which take away from the board of election the power of determining the question whether or not the elector is qualified. In my own State, it is the right of the person offering himself and who has been challenged to take a certain oath, and thereupon to deposit his vote; this right is absolute and unconditional. The board have nothing to do with the question when that oath is taken, and the party takes it at his peril.

Now, sir, my ideas are in entire coincidence with the Committee on the Judiciary as to the authority to be given to the board. The committee say that the board shall register such persons only as are qualified according to the act which we have passed, and who shall, in addition to the fact of their being qualified, take the following oath. And why is this required? As the lawyers say *ex abundante cautela*, for greater safety, for greater caution. It is a species of evidence which is addressed to the board of registration, and they are to weigh it, although it is certainly not true that under this bill a person who takes this oath is absolutely entitled to be registered. I take it, some discretionary authority is left in the board.

What I want is precisely what I have said, that when a person offers himself as a voter the facts qualifying him as such shall be brought directly home to his attention and his understanding by the exhibition of the facts themselves in the form of the oath which he is required to take; so that there shall be no mistake about it; and not to permit him to swear to a mere inference of law as the bill proposes. By the bill he is required only to swear that he is not excluded by the operation of the fifth and sixth sections of the act of March 2, 1867. On the other hand, holding it to be the duty of Congress to take all security possible in the shape of evidence of his qualifications, I propose that he shall be made acquainted on the spot with the facts which constitute those qualifications. I think the amendment in its present shape cannot fail to receive the assent of the Senate. I have stricken out the two clauses to which objection was made as being useless.

One word, sir, as to the great and alarming length of this oath. I suppose if printed in an ordinary newspaper it would probably occupy about one square. It is not more than twice the oath embraced in the bill. Why, then, make an objection upon the ground that it is too long? The Senator from Ohio stigmatizes it, or endeavors to stigmatize it, as "rigmarole." Sir, are the qualifications which we have required in the act of March 2 mere rigmarole? Is it mere rigmarole to inform the voter, when he offers himself for registration, in the form of a printed oath, what are the qualifications which he must possess, and which he must swear that he possesses? Is it mere rigmarole to present the facts of the case plainly and with legal certainty to the man who is interested in them? That may be the Senator's style of pleading in the courts of Ohio; but that is not my understanding of certainty to a "common intent." My idea is to let a man be informed of what he is swearing to, and not ask him to swear to a conclusion of law, to swear blindly, without a knowledge of the facts.

Mr. CONKLING. Mr. President, for one I like the amendment of the Senator from Michigan, and I shall vote for it. I am satisfied, on reflection, that it will be a great deal better to have the oath state upon its face what it means than merely to enable the parties who are to take it by reference to some law which they may not know to ascertain its definition.

I cannot agree at all with the Senator from Ohio as to the objections to this oath and

requiring it in all cases, nor can I agree as to the propriety or safety of committing to the enrolling boards the office which he proposes. In the first place, the length of the oath is no objection to it in point of time or otherwise. Why? Because printed blanks are to be used, furnished to the persons who are to be registered, subscribed by them, and filed. Now, it is a matter of no consequence whatever, it does not shorten the process one moment, to invent an oath which is expressed in few words rather than in many; but on the contrary, I submit to the Senate, it would be a very certain mode of consuming time to prescribe an oath which would render it necessary to look up the law and refer to it, or have, as the Senator from Ohio seems to suppose this would render necessary, the enrolling board explain to the electors as they come up the meaning of the oath which they are to take. That would take time; and by as much as you shorten it, and by the omissions in the oath itself, put upon the board of registration the onus of making this explanation, by so much do you encumber and hinder the process of registration.

One other remark in reply to what was said by the Senator from Ohio. In the State of New York, as in the State of Michigan—I cannot say how it may be in other States—pretty much everything judicial is taken away from the board of registrars. Their duties are ministerial almost entirely. A man comes and takes an oath at his peril by which he puts his name upon the register. It is perjury if that oath is false, by our statutes. Still, even the amount of discretion left under registry laws like that to those boards is so great that it would be unsafe in communities like those for which we are legislating. In the State of Massachusetts or the State of Ohio, where not only the community is enlightened, but where it is divided into political parties, where there are committees and persons to act as sentinels, not only when the votes are cast, but when the registration is made, to challenge, to investigate, to scrutinize, you may safely leave a very broad discretion to the boards of registration. But, sir, may you for any such reason as that safely vest it in these boards of registrars; men to be appointed, how? By the military commandant of the district, selected either from his military *posse* or among other persons. Here is a board of three persons to enroll the voters in a certain county. It consists, perhaps, of two private soldiers and some citizen who is found able to take the oath which is prescribed for him as an officer. Is it to be supposed that it would be safe for that board to station itself somewhere and allow the electors of that county, if there is but one board in a county, which is one of the possibilities contemplated by this bill, would it be safe for this board to sit down and wait until all the electors had come? How long would it take? But if they came, would it be safe to trust to them the discretion of determining finally (because there is no appeal) who shall be entitled to vote, and who not? On the contrary, I submit that for abundant caution, as the Senator from Michigan has well said, the true way is to provide that these persons shall furnish to the electors printed oaths, which they make out beforehand, which may be circulated among the people, which they may understand, which they may subscribe at their leisure, and which they may come and present not all on one day; not a great number of them at the same time trusting to the dispatch of this board to examine and investigate and determine, but as they please, as they can find opportunity and access to the board, to the end that in addition to whatever the board may do, in spite of whatever the board may omit, we shall have record evidence of some sort that these even have a certain name, live in a certain precinct, claim a residence of a certain length of time, and are in all respects as specified in the oath which it is proposed they shall take.

Now, I submit that in addition to furnishing

very great additional safeguards for the attainment of the end which we all have in view—for certainly nobody means that anybody shall be restored to vote unless he is qualified under the statutes which have been passed and under this bill—in addition, I say, to furnishing great safeguards in that respect, it seems to me that nothing can facilitate so much, nothing can relieve these boards so much, nothing can expedite the business of registration so much as to furnish printed blanks which shall show at once all there is that enters into the oath, without reference to any law or constitutional amendment, and without any explanation or examination from the boards of registrars themselves. It will leave for them nothing to do except to affix their *jurat* when a man comes with his oath subscribed and proposes to file it. They are to sign their names at the conclusion of the words “subscribed and sworn before us on the — day of —,” and it is the only thing they have to do. Therefore, sir, I think on every account the amendment of the Senator from Michigan is wise, and I hope it will be adopted.

Mr. MORRILL, of Maine. I have tried to ascertain the difference really between the bill and the amendment offered by the Senator from Michigan as touching the real object of this bill; and it is very difficult for me to see any difference at all. What is the object of this oath? It is to prevent that class of persons who are excluded from participation in the reorganization of these States under the fifth section of the act here referred to from participating in it. That is the object. Now, how does the oath prescribed here effect that object? In what way? Simply as furnishing evidence to the board of registration; that is all. I cannot conceive that it is intended to have any other effect, or in fact that it can have any other effect. It requires the man who presents himself for registration to furnish evidence of the fact of whether he comes within the excluded class provided for in the act to which this is supplementary, and it puts him on his oath to disclose it, thinking that a more solemn form of interrogation. That is all there is of it.

If that is so, the only question to be settled is whether the provision in the original bill accomplishes that object. No one will say it does not if the man should swear truly. It is only upon the supposition that somebody will present himself who does not know what the fifth section of the act is that the amendment offered by the honorable Senator from Michigan is supposed to be necessary at all, because it will be found on an examination and careful analysis of the two that the amendment is identical in substance with the provision in the bill. It simply differs from it in the recital it makes of the terms of the statute to which it refers. For instance, the bill provides that the person offering himself for registration, before he shall be registered, shall swear that he does not come, in substance, within the fifth section of the act to which this is supplementary. By the amendment he is made to swear substantially and really the same thing, but he is required to go on and recite the terms of the fifth section; and that is all the difference there is. The legal effect is the same; the object is the same; and the result is the same, of course. All I want to say is that those who favor the oath stated in this bill really cannot have any well-grounded objection to the oath proposed by the Senator from Michigan.

But, Mr. President, I rose to advert simply to another point which has been adverted to by the honorable Senator from Ohio; and that is, that the administration of this oath ought not to be made imperative. I speak of it only by way of convenience. It ought to be left discretionary with the judges of registration. The object of the oath, I have said, is to furnish evidence to the registrars of the character of the person who offers to be registered. If they are satisfied by other evidence that he does not come within the excluded class, of

course there is no object in administering the oath; the time occupied in so doing is lost, and it is only an embarrassment. Therefore I should hope that the administration of this oath, if it is amended, will be left optional.

But, sir, while I am up let me say that I do not attach much importance to the oath any way. From what I have said it will be seen that I attach no importance to it except as furnishing a convenient mode of obtaining evidence as to the persons who are to be permitted by the fundamental act to organize these communities. Sir, if I had no other hope for the success of the reconstruction of those communities, States, towns, municipalities, than such as would arise on the oaths of these persons, I should have very little hope of the future of that country. I have noticed that during this discussion some Senators thought it was vastly important that these people should say that they are attached to this Government. I do not want them to say that. I do not believe they are. I hope the time will come when they will be, and I believe the time will come when these people will have different notions on that subject. Nor do I care, so far as this reconstruction is concerned, whether they say they are attached to the Government or not; nor do I attach the slightest importance to the declaration that they may make, as to whether they will in the future enter into another rebellion. Sir, if we have not settled that by arms forever, if this Government is not established to-day beyond the power of these men in the future, then God save the Commonwealth. We are to trust to events to settle this question of reconstruction, present, past, and future. There is a logic and a power in the events which this war has decided that will settle all these things and render the efforts of these little people so puny and insignificant in the future that these oaths, in my judgment, will be considered exceedingly trifling and unimportant.

Therefore, sir, I say that simply and only as a matter of evidence do I attach the slightest importance to any oath that may be required; and I repeat that in any oath that may be required, whether it is in general or, as the honorable Senator from Michigan proposes, in detail, I hope it may be left to the discretion of the parties making the registration, so that if they are satisfied upon other evidence then they will not take the trouble to administer the oath. As it now stands, as I understand it, it would require the officer making the registration in every instance before he could register the party to administer this oath.

Mr. DRAKE. Without wishing to prolong debate on this subject, I think that perhaps I can state some facts connected with the experience of Missouri in regard to an oath to be taken by voters which may be of some interest to gentlemen in forming their judgment upon this question. It so happens that in the constitution of Missouri an oath is prescribed as a necessary qualification for every voter which refers to the provisions of that constitution in the way that the oath now contained in the bill before the Senate refers to the act of March 2, 1867. There the voter is required to swear that he is well acquainted with the terms of the third section of the second article of the constitution of Missouri, and that he has never done any of the acts specified in that section. I am enabled to state as a matter of universal experience there that not one man probably in ten ever took that oath in order to vote who knew anything whatever of the contents of the third section of the second article of that constitution. I can state the further fact that known rebels there have taken that oath, first being very careful never to read the third section of the second article of the constitution. I have known men there to vote who said that they never had read that section of that article; and yet they would go up to the polls or before the registering officer and sign the oath and take it, and when they have been confronted by the registering officers with a reading of the

third section of the second article of the constitution many of them have instantly backed down and retired from the effort to have themselves registered. These are facts.

The very same state of case will arise in these southern States. Men will come up and swear by the general terms of the oath as embodied in the bill that they are not disqualified under the fifth and sixth sections of the act of March 2, 1867, when they have never read those sections and do not know anything about their contents. I am, therefore, in favor of the amendment proposed by the gentleman from Michigan which states in the oath the particular things which they are to declare; and I believe that in no other way than that can we get at anything like a discrimination in the southern States between those who are legally entitled to vote and those who are not.

Mr. WILSON. I desire, Mr. President, simply to say that the original oath merely contemplated that the person taking it should declare his sincere attachment to the Union and the Government of the United States; that he would steadfastly support the Constitution and obey the laws, and to the best of his ability engage others to such support and obedience. It was a question originally whether it was best to have any oath at all. The primary object of the oath was this: we have nearly seven hundred thousand new voters of an emancipated race; there is a great deal of hostility in some quarters to their voting, and it was supposed that requiring an oath of every elector that he would obey the laws, the laws of the United States giving these men the right to vote, we would prevent his disobeying the laws, or by violence or any other acts driving these people from the polls. That is the reason why an oath was put in the bill in the first place. The committee have amended it by putting in this provision in regard to persons who are disfranchised by the constitutional amendment. If that is to be in the oath, the amendment proposed by the Senator from Michigan certainly sets forth the facts of the case; and any person who takes the oath will understand it better in that form than the other. I have, therefore, no objection to that amendment under the circumstances of the case.

Mr. TRUMBULL. It was the House that put in this provision—

Mr. WILSON. I know.

Mr. TRUMBULL. It is not an amendment made by the Judiciary Committee; it comes here from the House in this form, and has not been stricken out. I am very free to say that I should be entirely satisfied myself with an oath of the voter that he would support the Constitution and obey the laws of the United States without anything else. I should have been entirely satisfied with that in committee; but the bill came to us from the House with this provision in it, and we thought it better, as they had put it in, not to get into a controversy about it. So far as I am individually concerned I should be quite as well satisfied with a simple oath that the voter would support the Constitution and obey the laws of the United States.

And now let me say a word as to this discrimination, which only applies to a few persons. This bill, and the one to which it is supplementary, do not disfranchise any one except those persons who are disqualified from holding office by our constitutional amendment. That applies only to the intelligent, educated classes of the South who have held office and taken an oath to support the Constitution of the United States in former times. That is the only class of persons to whom it applies, and there are not very many of them. They would be known to the registering officers probably all through the South. I do not think there is any importance in having the words in; and if a motion had been made to strike them out I should not have resisted it, although I would not make such a motion myself. I would be willing to leave it an oath merely to support the Constitution and obey the laws. I hope, however, we may get a vote on this question, and before

I sit down I desire to appeal to Senators to let us have a vote on it. It is not very material, perhaps, one way or the other whether the amendment is adopted or not.

Mr. SHERMAN. I wish to inquire of my friend from Illinois whether he puts the same construction, that this requires an affidavit in the case of every voter?

Mr. TRUMBULL. I think it does.

Mr. SHERMAN. Now, is that right? Is it worth while to require the oath of every black man that comes up to have his name registered? I will not offer any amendment, as I have said before, but it seems to me that it is throwing on these registrars an enormous amount of labor to take the affidavit of every person who comes forward to be registered. The great body of them cannot write their names, and they will not understand exactly what is meant, and every negro that comes up to be registered will have to make his mark on the paper. It seems to me to make the machinery cumbrous; but still I do not propose to offer an amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan to the amendment.

Mr. MORTON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Corbett, Drake, Edmunds, Fessenden, Fowler, Howard, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomerooy, Sumner, Thayer, Tipton, and Wilson—18.

NAYS—Messrs. Anthony, Buckalew, Davis, Dixon, Ferry, Frelinghuysen, Hendricks, Howe, Johnson, Morgan, Norton, Patterson of New Hampshire, Ross, Sherman, Stewart, Trumbull, Van Winkle, Willey, and Williams—19.

ABSENT—Messrs. Cameron, Cattell, Conness, Cragin, Doolittle, Grimes, Guthrie, Harlan, Henderson, Patterson of Tennessee, Ramsey, Riddle, Saulsbury, Sprague, Wade, and Yates—16.

So the amendment to the amendment was rejected.

Mr. SUMNER. Before proceeding to make the motion of which I gave notice the other day, I desire to move an amendment which is of little more than a verbal character, and the effect of which will be to remove ambiguity in a certain passage of the bill. I move in section four of the committee's substitute to insert the words "and registered" after the word "qualified" in line three; so that the section shall read: "that if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified and registered as herein specified." I believe the insertion of the word "registered" does not add anything to the meaning of the committee, but it removes an ambiguity which I fear, if the words are left as they are now—

Mr. FESSENDEN. It would be better to insert the word "all" before "the electors."

Mr. SUMNER. And perhaps there is no need of retaining the word "qualified."

Mr. TRUMBULL. I will state to the Senator from Massachusetts that that question was discussed in the House of Representatives; an effort was made there by a member from Ohio, I think, to let the submission of the constitution be decided by a majority of those voting at that election. It was understood there, and it was understood in the Judiciary Committee, that the section as it stands requires a majority of all the registered voters in favor of the constitution to adopt it. I think that is the meaning of it; it reads "a majority of the votes of the electors qualified as herein specified," not "a majority of those voting," but a "majority of the votes of the electors qualified as herein specified." Now, who are "qualified?" The registered voters.

Mr. SUMNER. Very well; but the word "registered" removes all ambiguity, and I hope it will be adopted, so that there can be no question on this point. I modify my amendment by moving to insert "all" before "the electors," and to substitute "registered" for "qualified;" so as to make the language read: "ratified by a majority of the votes of all the electors registered as herein specified."

Mr. DRAKE. I will make an inquiry of the honorable chairman of the committee, whether it was before the mind of the committee in framing this section that to require a majority of all the registered voters was changing the terms of the reconstruction act; for the reconstruction act says that the constitution shall be ratified by a majority of the persons voting on the question of ratification, not a majority of all the registered voters?

Mr. TRUMBULL. I will reply to the Senator from Missouri. I am aware that this does change a requirement in the act of last session, and it is a question for the Senate whether it will make that change. That is not the point now; the Senator from Massachusetts inquires what is meant by the language as it is. It will be, if any Senator should raise that question, for the Senate hereafter to decide, if it thinks proper, whether it shall require a majority of the registered voters to adopt the constitution. At any rate, that point should be expressed in language readily understood. I have no objection to make that clear one way or the other, which seems to be in controversy. In my judgment it is clear now; but if others think differently, I have no objection to adopting words that will make the meaning specific. Whether it shall be one way or the other is for the Senate to decide.

Mr. CONKLING. Then let us adopt this amendment.

Mr. TRUMBULL. I have no objection to the insertion of the words proposed by the Senator from Massachusetts, because, as the committee understood, the clause means that now.

Mr. JOHNSON. I cannot vote for this amendment; and I am not sure that the bill as it stands bears the interpretation which it will bear if the amendment be adopted. I am in favor of the provision on the subject to be found in the original act, that the decision of the majority of the voters is to conclude the question of constitution or no constitution. I can readily imagine that this state of things may exist; there may be some persons in these States who are against a return of the States to the Union, and they may be of that class who may have it in their power to influence that ignorant class to whom we have given the right of suffrage; they may be able to persuade them that the right will be much more secure if they remain under the General Government exclusively than they would be if they were placed under a State government; and it is putting, therefore, to some hazard, as I think, the return of these States to the Union, a result which we all, I suppose, have much at heart.

It is idle to deny that, however the question may be considered as settled now by the decision of Congress, and however it may be settled by the country, the black voter, as he now becomes in the South (whatever may be his condition in the future, whatever may be the condition of his descendants in the future) is in a state of absolute ignorance. It has been, for reasons which obviously will occur to us all, the policy of the South for the last twenty years to keep the blacks in a state of ignorance. It was evidently apprehended that the moment they became intelligent, the moment they came to know what were the rights of man, according to the theory of our Government, the institution of slavery would be in peril; and for the very purpose of guarding against that peril and preserving this domestic institution, which many of the southern people believed to be better fitted for their condition and what they understood to be the cause of constitutional freedom than anything else, they kept them in a condition more ignorant, generally speaking, than the inhabitants of this land when the land first received the step of civilization.

Hence, in my judgment, if there be a few whites who desire to keep these States as they now are, under military rule, under a belief that if the States are restored their influence will be diminished or entirely destroyed, as these poor negroes have been made to believe,



whether justly or not it is immaterial to inquire, that they are their friends, that they are the only parties in the South who are anxious to give them the rights of man, they may possibly be able to persuade the negroes that they will fail to enjoy those rights in a State government to be formed under the provisions of this bill. They may say to these men, "Stay away from the polls; do not vote; and the effect of your absence will be to defeat the plan of organizing a State and to leave you as you are, under, as you believe, the greater protection of the General Government, and above all, to remove you from the danger in which you will be if a State government is reorganized."

I think it was because of this danger, in part, that the provision upon this subject was incorporated with almost universal assent into the original act, and I see no reason now for altering it, except the reason suggested by my friend from Maine [Mr. FESSENDEN] yesterday in support of the amendment which he offered, that a State government should not be forced upon these people if a majority of the people were against it. That, if there were no other objections to suffering these States to remain as they now are, which, as I think, are objections paramount to the one stated by my friend from Maine, would be a good objection if those to whom we have just given the right of suffrage were intelligent enough to decide that question. Believing that they are not, but perfectly willing, that being the law, that they shall vote upon the question the one way or the other, choose delegates or not choose delegates, and then vote upon the constitution, for it or against it, I am decidedly in favor of providing that whether the State is or is not to become a government in itself and one of the States of the Union shall be tested by a decision of the majority of those voting.

Mr. BUCKALEW. Mr. President, this bill appears to me to be very remarkable as a law of elections on account of the entire absence of any provisions against fraud, either in the holding of the election, or in the polling of illegal votes, or in the returns to be made to the commanding generals of the several districts, or in the returns to be made by them subsequently. For aught that I can perceive fraud may be practiced by an officer or by an agent concerned in the execution of this law with perfect impunity. The sixth section of the amendment of the Judiciary Committee is also very general and objectionable with regard to the expense. It provides that all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under and by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated. There seems to be no regulation with regard to the amount of expense which is to be incurred, and an appropriation, as I understand it, is made here absolutely without any proceeding for the investigation of the amounts expended as to their reasonableness and necessity.

The act is, however, abundant in regard to oaths. The fifth section requires the officers of registration and of election to take and subscribe the oath prescribed by the act of July 2, 1862, which will exclude very large classes of persons from any participation in the control of these elections; and then in the first section the oath already spoken of in this debate is prescribed for voters. It is with regard to that that I propose to submit an amendment—

Mr. TRUMBULL. I would inform the Senator from Pennsylvania that there is an amendment to an amendment now pending.

Mr. BUCKALEW. I will suggest, then, that when it comes to be in order I shall move to amend the first section by omitting all those parts of the proposed oath which do not relate to obedience to the Constitution and laws of the United States.

Mr. WILSON. I feel constrained, Mr. President, to vote against this amendment. If this provision needs any qualification we should

make it in the other direction. The section as it now stands means a majority of the votes given on the question, and I have no doubt that would be the judicial decision. At any rate, I am sure that was the intention of the original bill, and I am surprised that anybody ever doubted it. It ought to be so—a majority of the votes given ought to determine it. Take the State of Virginia, lying close by us, as an illustration. There are about three hundred thousand voters in that State, including the new voters we have made. The question of ratification is to be submitted to the people of the State, and the more unanimous they are the fewer will be the number of votes cast. If there are three hundred thousand voters registered, one hundred and fifty-one thousand are required to vote for the constitution according to this amendment. In all the States when constitutional amendments or new constitutions are submitted to the people, unless the submission is on the day of a general election for officers, the vote is light. I do not believe there are half a dozen State constitutions that were adopted by the votes of a majority of all the voters of the States for which they were made. The effect of this amendment will be to retard the adoption of these constitutions and to postpone the admission of these States. I deem it to be the crowning act, the grandest act we can perform, to bring these States in, to restore them to their practical relations at the earliest day on the principles, terms, and conditions we have imposed, for these principles, terms, and conditions are sanctioned by patriotism, liberty, and justice. The sooner these ten rebel States incorporate into their constitutions these principles, terms, and conditions, the sooner these States accept the policy of the equality of man, the better for all. God speed that great work.

Sir, suppose these conventions meet, frame constitutions, and you require that they shall have for ratification a majority of all the votes registered, counting against them all the votes so cast and all the votes that are registered that do not come to the polls, what will be the consequence? Not one of these constitutions are sure of adoption. Suppose a constitution is submitted at harvest time, or when the people are largely engaged and pressed with business, a pressing time, when they are gathering cotton, when labor is very valuable, and men have to travel some distance to vote, and the people generally acquiesce in the constitution; there is no excitement about it, no opposition in the newspapers; no speeches against it; a majority will hardly go to the polls, and if a majority do not go to the polls it is defeated. We have seldom submitted to the people of Massachusetts a constitutional amendment for which we have obtained one half of all the votes of the State. We recently put into our constitution a provision with less than one fifth of the votes polled at the election. So it is all over the country. Look at the result in New York last autumn, when the question of calling a constitutional convention was submitted to the people of the State at the general election. Thousands of men who went to the polls to vote for officers failed to vote on that question. Thousands of men who vote for candidates take no interest in voting upon constitutional questions.

Sir, instead of adopting a policy that will tend to keep any of these States out a day, I believe it is the highest duty that can devolve upon us as statesmen to bring these States here on the terms we have imposed at the earliest possible day. Then will be finished the grand work in which we have been engaged—the preservation of the country, the general advancement of the cause of liberty. Then we shall have saved the country, made everybody free, secured everybody civil rights, given the right of suffrage to all men, without distinction of race or color, and brought these erring States back here, filled these seats, and have crowned the great work of the last seven years.

Let me say further, Mr. President, that it is

not policy to be smiting our friends in the face when they come here and offer to help us restore our country. Caring something for the ideas and principles we profess, and the triumph of those ideas and principles in the country, I protest against any vote or any legislation that tends to check or hinder the organization of these States on the terms we have proposed.

Mr. CONKLING. I desire to ask the Senator a question if he will allow me to do so.

Mr. WILSON. Certainly.

Mr. CONKLING. We shall all agree, I think, that when the registration takes place in the South, it will fail to contain the names of all the qualified voters in the various States. Now, I wish to inquire of the Senator whether he is in favor of bringing in any of these States when, after all the processes we have provided, there cannot be found among the rebels, whose names will be registered in spite of all we can do, the loyal white men and the black men—the three classes put together—enough to make a naked majority of the number borne upon the registration.

I do not mean to interrupt the Senator by making any further remark, but I should like to have the question answered in view of the fact, which I think we may assume, that these conventions, determining as they are to do the time when the vote is to be taken, will not be likely to put it at harvest or at high water or at any other impossible time to reach the polls. Assuming that a fair expression is to be had, I want to know whether it be sound that we are to insist upon bringing States in here without having any evidence that a majority of their people of all sorts and conditions put together are in favor of their coming in.

Mr. WILSON. I will answer that question. In the act fixing the terms and conditions of admission we provided that a majority of the votes given on the question of ratification should settle the question; and this bill which I introduced intended to adhere to that provision. That was the meaning of the original bill. That action of Congress was right, and we ought not to change the meaning of the act or the intention of it. The judicial construction of the bill as it stands would be that it means a majority of the votes cast, and in this opinion I am sustained by high legal authority.

Now, sir, we submit the terms and conditions to the people of each of these States; we provide for a registration. That registration may be made very complete; there is no difficulty in making it nearly perfect. Then we call on the persons registered to elect delegates to the convention; and they elect, by an overwhelming majority, delegates in favor of complying with the terms and conditions we have proposed, and those delegates meet and vote to make a constitution. They make a constitution, and incorporate into it all we have ever asked or can ask them to incorporate, guarantying and securing personal rights, and acting in perfect harmony with the general judgment of the people. Then the constitution is submitted to the people at a special election. Everybody knows that under such circumstances an election is a mere form. There is no contest over it; all men and all parties are agreed to it. Under such a state of facts, when the day of election should come we should find that less than half of the registered voters had voted. More than half the voters agreeing with those who have voted do not go to the ballot-box. Should not that constitution be adopted under such circumstances? Not only is that a probable case, but it is the common case with constitutions and amendments in all parts of the country. The great State of New York is to have a constitutional convention this year. Now, I venture to predict that if the constitution made by that convention be submitted to the people on a day when there is not a general election of public officers not more than a fourth or a third of the voters of that State will go to the ballot-box to vote upon it, unless there is a great contest over some of the principles of the constitution which

will bring out a vote. The more united the people are in its favor the fewer will be the votes cast. The contest will be in the choice of delegates. Then the people will vote. I would not object to requiring a majority of the registered voters to vote for or against the convention on the day of the election of delegates; but I do earnestly object to permitting the stay-at-homes to defeat a constitution framed in the interests of the country and the rights of man.

Sir, I believe these States will generally with very little effort elect delegates who will not only comply with the terms we have imposed, but a majority of most of the conventions that will be heartily in favor of them. I believe further that the men in favor of those conditions will at once enter upon the general direction and control of at least half of these States, and all of them in a very short time, and it cannot be otherwise. In those States there are nine hundred thousand white voters and over seven hundred thousand black voters. I have no question how these black men will vote so long as their rights are contested. When everybody acquiesces in them, when everybody builds school-houses for them, when everybody concedes all their rights, they may divide as other men do, but at present ninety-nine out of every hundred of these men will vote just as they fought, for the country, for freedom, for emancipation, for civil rights, for enfranchisement, for elevation, for improvement.

Mr. EDMUNDS. There seems to be a difference of opinion on that point.

Mr. WILSON. After we have secured to these men the suffrage we fear to trust them, do we? I have no fear on that point. They voted all right in Georgetown the other day; not a man of them on the wrong side. They voted all right in Alexandria the other day. They will carry every city from here to the Rio Grande if we give them the chance to do it. There are few Democratic negroes, and they cannot be Johnsonized. In these States there is a large class of Union men who were Union men in heart all through the war. They have twenty-five thousand white Union voters in Alabama for Union and liberty, and with the negro vote of that State they can carry it. If the organization, the speeches, the work that will be put forth in the State of Connecticut this year were put forth in the ten rebel States we could carry nearly every one of them by a decisive majority. Take South Carolina; there is a majority of at least twenty-five thousand black men who are voters in that State; there are some few white Union men; there are several thousand men who do not believe in the rebellion, who have abandoned the doctrine of secession, and who are with us in sentiment and feeling. I want to meet these friends of the country with the warm grasp of the hand, and not smite them in the face and send them back. It is not the part of wisdom; it is the blindest political action that was ever inaugurated by men.

We have fought the battle of ideas, and we have triumphed; we have fought the battle in the field, and we have won. We have dictated the terms and conditions of reconstruction, and they are in accordance with God's holy word, with the Declaration of Independence, and the rights of human nature. We want the work completed; we want these State constitutions to be like our constitutions. We want these people to acquiesce in these doctrines and have them the common, accepted, recognized ideas, for they will bring peace, order, and security to the freedmen, worth a thousand of your armies there. We want the grand work of renovation to commence in that part of our country, building up, elevating, improving the condition of the whole people. Gentlemen have the idea that it will not do to trust these people; that it will not do to trust even the black men after we have given them their rights. Do gentlemen want to go into the next presidential election and fight the battle in New York, Pennsylvania, New Jersey, and Indiana in face of the fact that

nearly four years after the conquest and surrender of the rebel armies we have not had capacity enough to complete the restoration of the States, and that even when we had made our own terms and conditions, and the men of those States were anxious to accept them, we would not allow them to do so? I venture to say that eight of these ten States have decisive majorities to-day in favor of taking these terms and conditions and adhering to them as long as their States shall last. The enfranchisement of seven hundred thousand freedmen—seven sixteenths of all their voters—changes the face of affairs, makes those States friends of the country, of liberty, and of the Republican policy.

The future of the South is for the unity of the Republic, the rights of man, and the radical Republican policy, if we will have it so. I want a policy of liberality to be at once inaugurated. It is time to stop all petty criticisms when your great and grand work is done and your own ideas are dominant. Give that people a fair chance to accept your terms, and thus end the great controversy. Why put conditions the only effect of which is to keep our friends out? There are men in those States who were compromised in the rebellion, who are proscribed by your constitutional amendment, who cannot come into this Chamber, who cannot take your test oath, who are spending time and money to spread Union and liberal ideas. These men are working for us now. They think as the majority of us think, and feel as we feel. They want to act with us, and I want them to act with us for the good of our common country. I do not, will not distrust them. I cannot repulse their advances nor chide them. I will meet them with the warm grasp of fraternity, and bid them God speed in the work of restoration.

Therefore, sir, I think that we ought to leave the ratification of these constitutions to a majority of the people of these States who cast their votes. They will be registered; they will go the ballot-box at the election for delegates. Then they will consider the great battle fought. When they elect delegates and when the constitutions are generally acquiesced in they will think the contest is all over. It is proposed that after all this, unless a majority of them go to the ballot-box and vote for these constitutions the work shall be lost. Why should that be? What is to be gained by it? Can we not trust the majority of the men who vote? I think we can, and I shall so vote.

Mr. NYE. Mr. President, I wish I had a part of the clear perception and far-reaching vision of the distinguished Senator who has just taken his seat. He seems to see with natural eyes what common people are not quite so observant of. The bill to which he seems so much attached, and which passed before I returned to my seat—arriving just in time to cast a vote to make it a law, notwithstanding the veto of the President—it seems did not fully meet the views of the large majority of both Houses of Congress, and when this supplemental bill is brought in here the honorable Senator from Massachusetts seems to think that its discussion is all out of order, and, recurring to the original bill, he says that it is so nominated in the bond. Now, sir, I concur with the majority of both branches of Congress that that bill needed some amendment; but the distinguished Senator seems to assume, and does assume, that these States should be treated in all respects as though they had been guilty of no wrong, no outrage; had been guilty of no sin to bring down on them the condemnation of this Government and the enlightened world.

Allow me to remind the Senator from Massachusetts that this is not a mere question of the admission of States, but it is a question of the admission of rebellious States, and a rebellion of that order that it clothed a nation in mourning. I repeat I have no longing to embrace the leaders of this rebellion, and I say that the common prudence which we exercise in the ordinary questions that arise in course

of business life requires that we should be over-cautious rather than wanting in caution in prescribing the mode for their coming back. I am not unmindful of the triumphs of the last six years; I have not had the honor of sharing in them so largely as the distinguished Senator from Massachusetts; but I yield to no one in an ardent admiration for the triumphs that have been achieved. It is to maintain those triumphs, to hold the fruits of those glorious triumphs, that this amendment is proposed. Had these States never rebelled I am free to say that a majority of the voters actually voting would have satisfied me; but they have rebelled, and I see in this movement the entering wedge to the unaccountable gushings of fraternal feeling of the distinguished Senator from Massachusetts toward them. Just before the close of the session of yesterday a resolution was introduced to relieve the disabilities of some gentlemen who come within the provisions of this bill. Sir, this is but "the beginning of the end." You let one loop-hole be made in the restrictions that surround these States in their coming in, and you will have a flood of them. If I understood this resolution to which I have alluded, it was to relieve the disability of Governor Patton. I stand here with the record to prove him one of the reddest-handed rebels in Alabama, and it is that class of men that I want to guard against; but it seems that in this moment of out-gushing sympathy we are going to embrace not only the disfranchised class in this bill, but everybody else that wants to come.

Mr. President, I have not the highest confidence in this registration of voters. We have right under our eyes here an example that should induce us to be cautious. The State of Maryland passed a registration law which forbade the registration of rebels or those that sympathized with rebellion during the war. In the autumn of last year that State was well nigh in rebellion upon that question. What is the result? The result is to-day that every man that sympathized with rebellion in Maryland is a voter and voted against the class of men not allowed to vote there that my friend so much loves and admires. Now, sir, what is the fruit of that registration? A Senator is elected to this body that crowned his ministerial career in Buchanan's administration by transferring a million of money from New York to New Orleans to be seized.

Mr. JOHNSON. I am very unwilling to interrupt the Senator, but it appears to me—he will permit me to say so—to discuss in advance the claims of a gentleman to a seat in this Senate who has been elected by a Legislature of a State by a pretty unanimous vote is going rather too far.

Mr. NYE. I did not intend to do that. I speak here as to this fruit of a registration, in which I say I have no confidence.

Mr. JOHNSON. I think, if my honorable friend will permit me to tell him, that he is entirely mistaken.

Mr. NYE. That is a question that will be discussed hereafter, upon which I do not desire to enter now.

Mr. JOHNSON. All I intended to say was that I should very much prefer, and, if the honorable member will permit to say so, I think the Senate would prefer, that he should reserve any remarks he may have to make upon the claims of that gentleman to the confidence of this body until he presents himself here.

Mr. NYE. I do not desire, Mr. President, at all to disturb the equilibrium of the honorable Senator from Maryland. I speak of the history of the past and the present. I am appealing to the good judgment of the distinguished Senator from Massachusetts not to put too much confidence in this registration. I tell you, Mr. President, that I have seen registrations for the last twenty-five years, and with all the care that is thrown about them there is always danger of frauds in them. For instance, in the city of New York you see Patrick O'Flanagan voting upon papers that were taken

out forty years before he was born [laughter] by a man of the same name, and that name never died. [Laughter.] A man twenty-one years old will vote upon papers that were taken out in 1816, and I have seen it done. Therefore I do not propose to place too much confidence in this registration; but I appeal to the honorable Senator from Massachusetts whether he will not at least require a majority of the registered votes to decide the question. He says no. I think that everything cautions us to act prudently in this matter. I undertake to say that with all the safeguards we can throw around this matter we shall be cheated enough; rebels will vote over this registration, and they will not take the oath as blindly as the Senator from Missouri [Mr. DRAKE] described this morning, and their apology will be that they did not know what the sections they swore about were. Let them know what the sections are, and let this nation know, when these States come here for admission with their representatives, that a majority of the registered vote is essential upon the question whether they shall have a constitution or not, or upon the question whether the constitution which is framed is adopted or not. Let our guide be a majority of the registered vote speaking upon that question.

I want once more to caution my friend against extending his Christian charity too far toward these men. Sir, we have a high example of the manner of which rebels were treated by Divine power. When the arch-rebel was convicted before a tribunal that unmasked rebellion to its nakedness, he was thrown over the battlement, kicked out, and he has never returned to disturb the peaceful reign of Him who reigns over all. Here my friend, reversing that great and divine example, says he wants to hug them at once—to reach out his hands for them. [Laughter.] It is simply a matter of taste, in which I do not share with the honorable Senator from Massachusetts. I hope that the Senate will have the manhood at least to say that a majority of the registered votes shall be required in the election upon the ratification of the constitutions formed by these States prior to their readmission.

Mr. TRUMBULL. I do hope that the Senate will come to a vote.

Mr. WILSON. Allow me the floor for a few minutes.

Mr. TRUMBULL. Let me say a word, and then I will yield to the Senator. I hope the Senate will come to a vote upon this question. There was an understanding yesterday that we should vote about this hour; but this general discussion, which is very gratifying to us all, if it goes on, will prevent our getting a vote today. I do not mean my remark for the Senator from Massachusetts, and I will now give way to him; but I appeal generally to the Senate to let us carry out the understanding of yesterday as soon as we can.

Mr. WILSON.\* Mr. President, I am quite anxious for the vote, and on this as on all pressing occasions I regret to consume precious moments, but I cannot permit the remarks of the Senator from Nevada [Mr. NYE] to pass unnoticed. I remind that Senator in the outset that this nation has been engaged in a mighty contest of ideas, a bloody struggle, in which all the passions of this people of the South and of the North have been aroused. That bloody struggle is ended, that contest of ideas is closed. Patriotism, humanity, and Christianity bid us of the North and of the South subdue, hush, and calm the passions engendered by the terrific conflicts through which we have passed, and to call the dews of blessing not the bolts of cursing down upon each other. We should remember the words of one of our own poets of freedom and humanity—

"Always he who most forgiveth,  
In his brother is most just."

I will remind the Senator from Nevada, too, that it is an easy thing to appeal to the prejudices, passions, and hates of the people of the South or of the North. Never was a greater

temptation to demagogism presented to popular leaders either of the North or of the South than now. It is an easy thing for a popular leader in the South to appeal to the passions, prejudices, and hates of that people whose fields have been blasted by war, whose wealth has been devoured, and whose sons and loved ones have fallen in a lost cause. It is an easy thing, too, for popular leaders in the North by appeals to arouse passions excited by the conflict of arms in the bosoms of men whose sons and brothers have sunk into bloody graves in defense of their periled country. Whatever the champions of the lost cause in the South may do, we of the North, whose cause is triumphant in the fields of war and of peace, should appeal not to the passions and prejudices and hatreds of the people, but to the heart and conscience and reason. Unreasonable passion may applaud violent appeals today, but unclouded reason will utter its voice of condemnation to-morrow.

The honorable Senator from Nevada is pleased to tell me that I am anxious to welcome rebels here. I do not propose to welcome rebels here; but I do desire to welcome tried and true men of the South, the representatives of the seven hundred thousand enfranchised black men, the ever loyal white men of the South, and the men compromised by the rebellion whose affections are again given to their native land, and who would now peril their lives for the unity of the Republic and the triumph of the old flag. I believe that the enfranchised black men of the rebel States, the men who have ever been loyal, and the men reluctantly compromised by the rebellion, who are for their country, and many fiery, generous, deluded young men of the South who have seen their political illusions vanish in the smoke of lost battle-fields, can immediately take the direction and control of these rebel States. I believe these States must pass into the hands of patriotic men who comprehend in their affections the whole country, of liberty-loving men who believe in the sublime creed of human equality. I believe these States will soon pass into the hands of radical and progressive men who are true to country, true to the equal rights of man, true to the laws of human development and progress. I would facilitate that great work; I would welcome these men into these Chambers with heart and hand. Does the Senator from Nevada wish to keep such men out of these Chambers?

Mr. FOWLER. I should like to ask the Senator from Massachusetts one question, and that is whether men who feel enough interest in the subject-matter of this election to register their names as voters will not feel enough interest in the election upon the constitution to cast their votes? Will not at least a majority of those who have taken the pains to get their names registered as voters vote upon the constitution?

Mr. WILSON. They may or they may not. There may be such general acquiescence in the constitutions formed by the conventions that they may think their ratification safe, and therefore it is not necessary to go to the polls. But, sir, I have a word to say to the Senator from Tennessee. When I was maintaining the same doctrine on the question of the admission of Tennessee last year that I am now maintaining, I had the same arguments to meet that I have to meet now. I have just as much confidence in the loyal men of these ten States as I had in the Senator from Tennessee and the loyal men of his State. It is a plain, clear case. The more united the people of a State are in favor of the constitution the fewer votes will be given for its ratification. Everybody will suppose it is going to pass as a matter of course, and therefore will not take the trouble to vote, and then they may wake up and find that because they have not brought out a majority of the registered voters the work is lost.

I have taken some little pains during the last two years to confer with southern men of every shade of opinion. When the loyal men of Tennessee came here I rejoiced to welcome

them, to meet them, to consult with them about their State, and I took the earliest opportunity to declare on this floor that I was in favor of the admission of Tennessee. I received some severe rebukes for that expression of opinion here and elsewhere; but I put it upon the record as my opinion that the State of Tennessee would be the first State in this Union that would give negro suffrage, and she has led the van. We trusted Tennessee, and we have been vindicated by events; and we shall be vindicated by events in every one of these States. Sir, we have provided by law that rebels cannot come into these Chambers. In the constitutional amendment we have disqualified several thousand leading rebels from holding office in their States or in the nation. Yet the Senator from Nevada and some other Senators fear these rebel leaders, though they are tied hand and foot. Sir, I am not alarmed at it.

Sir, I would say nothing unkind to any of the Senators around me, but it does seem to me that they are disposed to put restrictions, not upon our enemies, but upon our friends. We have proposed to the ten rebel States the exact terms and conditions of reconstruction and restoration. Our friends in those States will take the lead in conforming their State constitutions to the terms and conditions we have imposed. The progress of events, the currents around us and about us, are carrying our ideas, our principles, and our policy onward to enduring triumph. In introducing this bill, supplemental to the act proposing terms and conditions, I simply proposed to provide the machinery by which these ideas and principles we maintain, and these terms and conditions we have laid down, shall be carried into effect. In putting these restrictions upon the ratification of these constitutions which must embody our ideas and be in accordance with the conditions we have imposed we are putting burdens upon our own friends to carry. I disown and denounce this fatal policy.

Mr. FOWLER. I have a single remark to make. I think the Senator from Massachusetts entirely misunderstood my question. I certainly am not disposed to find fault with his position now or at any time. He has a right to take such a course as he thinks proper. I have no doubt that he is sincerely earnest and patriotic in his position; I know he is; but I am of the opinion that the persons who take the trouble to have themselves registered under this law will, a very large proportion of them at least, be sure to go to the polls for the purpose of accomplishing the object named in the law. On that subject, however, I may be mistaken, because it may possibly happen that there may be persons registered as voters who will not be disposed to carry out this measure in good faith. I am very well aware that in the State of Georgia especially many persons are earnestly endeavoring to carry out our bill in good faith, and that they are very earnestly and urgently opposed by two classes of persons, but particularly by the old rebel element, the members of which are unwilling to give up the positions they have already obtained. There will necessarily be a violent contest in every one of these States, and I believe those in favor of reconstruction will triumph in every one of the States, but most readily and surely in Georgia and Alabama. At the same time I am not of opinion that under such circumstances, particularly where the contest becomes very violent, any considerable number of the registered voters will remain away from the polls.

Now, if I understand the bill as interpreted by the Senator from Illinois, it amounts to precisely the same as the amendment offered by the Senator from Massachusetts, [Mr. SUMNER.] That amendment simply fixes definitely and specifically what the intention of the bill is. It makes that plain which without the amendment requires construction. I do not wish to throw anything in the way of this reorganization. I know very well that the persons in Georgia and Alabama to whom I have alluded are very earnest in their wishes that nothing

shall be thrown in the way of the passage of such a bill as this at the present time by Congress, as they are earnestly endeavoring to execute the law already passed in the best of faith. If anything further be required, it may be throwing obstacles in their way which they cannot readily surmount.

Another thing is to be considered, that all the colored persons in the South will vote. A great deal of distrust is entertained in the minds of some persons in regard to how they will vote, because of their want of intelligence. Let me say that although they are not learned, although they have never enjoyed the advantages of education, they understand their rights and their position and the advantages they are to have under the Government far better than a great many here suppose they do. They are not by any means so ignorant as some persons believe they are. For myself, knowing very much of them, I am satisfied that they are better prepared to vote than many here seem to suppose. They are not going to be so easily deceived as some Senators imagine. I am sorry to see here already a disposition to distrust them. It was the same thing in reference to every effort that was made to induce them to act in favor of the Government of the United States during the war. They were distrusted when an appeal was made to them to take up arms. They have been distrusted under all circumstances, and they are now. Perhaps this necessarily happens under such circumstances; but I have not the slightest fear on the occasion. True, some of them will be deceived; some white men are deceived; some of them will vote wrong; many white men do the same thing; but as a general rule they will be able to vote almost if not altogether as intelligently and as honestly as the corresponding class of white persons.

Mr. NYE. I do not rise to say anything more upon the question before the Senate, but to say a word in reply to the Senator from Massachusetts, to the suggestion he made that he proposes to put an end to this demagogism in the Republican party.

Mr. WILSON. I did not say that.

Mr. NYE. What did you say?

Mr. WILSON. What I said, if the Senator desires to know, was this: that there was a great temptation presented to members of the Republican party now to demagogue; and that was by continuing, now that the contest is over, the same kind of appeals to the feelings of the country that were made during the great struggle in which we were engaged, and which were proper then, but are not proper now. I think the time has gone by for appeals to passion or prejudice or anything of that kind; and that now, when the war is over, and we have carried all our ideas, we ought to soften the passions and prejudices that grew up in the war and try to bring together and harmonize all our countrymen, so as to carry forward and secure the cause of the country and of liberty and justice. That is what I said.

Mr. NYE. I understand now, from the short explanation the Senator has made, exactly what he meant, that he thought there was a temptation to demagogue. I pray, as all good men should, that he may not be tempted in that way. If the honorable Senator meant to say that the remarks I made were dictated by any spirit of demagogism he is entirely mistaken. I entertain no opinions upon the rebellion or with regard to the rebels that I have not heard him a thousand times express. I supposed he was right then, and my experience has convinced me that he was.

I simply suggested that my surprise was excited by this wonderful change in the honorable Senator. I have heard him talk loud and long here in regard to the rebellion and the rebels; and he burned it into my very soul that these rebels were extremely dangerous people to this country. I should like to know some time, if the Senator has leisure to explain, what has wrought this mighty change in his opinions of rebels. At the proper time I have no doubt

he will explain; but I repeat that the remarks which I made were prompted by no spirit of demagogism. I owe a duty to the whole country, and as great a duty to the loyal men of this country as to the rebels. My duty and his duty is to see to it that this reconstruction is built upon a basis that the waves of coming rebellion cannot rock. That is the duty of the statesman to-day. The question of individuals, and his love for this one and that, is of no importance; all that dwindles down into nothing. But the work of the statesman to-day is to so build up the breaches that the guns of treachery cannot again affect them. When I make an honest endeavor to do that, I submit to the honorable Senator's own sense of propriety whether it is becoming in him to charge me, or any other man who does that, with a spirit of demagogism? Sir, the Republican party stands upon no spirit of demagogism. It was born of the necessities of the hour. It was a coming together of all elements that were in favor of the country, and they are cemented by loyal blood. I submit again that it ill becomes the Senator from Massachusetts to charge people who stand by the doctrines of the party of which he was born into public life of demagogism in this hour, that advises to caution in this great work of reconstruction, when the proposition before us simply requires that a majority of the voters registered should say whether they will adopt the constitution or not. If that be demagogism I share fully in that spirit.

Mr. WILSON. Yesterday I took occasion briefly to state my views, and the Senator from Nevada seized the occasion to impute to me a change of position. I took no new position yesterday; I have taken no new position to-day. When the broken battalions of the rebellion surrendered, when the conflict of arms ended, I sought to close the long struggle by securing equality of rights and privileges to all men of every color and race. I sought to lift men up, not to pull men down. I have ever been against the control of these States by men animated by the spirit of the rebellion. I have been and now am against admitting rebels into these Chambers; but it is not the question now of putting rebels in power here, or of continuing them in power in the rebel States. The question is, Shall our friends, now loyal to the country, men who are with us and of us, have an opportunity to change their State constitutions, to remove the rebels now in power from power in those States, and send men into these Chambers who will think, speak, and vote as we think, speak, and vote?

The honorable Senator reminds me that we have heretofore agreed in fighting these rebels. Surely I have no more sympathy for them now than I had when they were engaged in the contest. We do not believe in rebels nor in rebel control in the States or in the nation. Shall we then tie the hands of our friends there who seek an early opportunity to incorporate our ideas into their constitutions, accept the conditions we have imposed, and take the direction and control of their States hereafter? The honorable Senator from Nevada and those who agree with him fear our enemies and distrust our friends. I do not fear our enemies, and I have confidence in our friends. This is the difference between the honorable Senator from Nevada and myself.

The honorable Senator from Nevada deems it matter of reproach that now the bloody contest is over, the rebels beaten, and their cause lost forever, that I should not entertain and express toward my defeated and fallen countrymen of the South the same stern condemnation, the same sentiments of censure and reproach. They are not alien enemies; they are not of another lineage and language. They are our countrymen; these States must continue for ages to come to be a part of our common country, and these people, their children, and their children's children, must continue to be our countrymen. I do not consider it either generous, manly, or Christian to nourish or cherish or express feelings of wrath

or hatred toward them. At this time, when these misguided and mistaken countrymen of ours have been conquered, when we have absolutely established our ideas, which must pervade and be incorporated into their systems of public policy, it seems to me to be a duty sanctioned by humanity and religion to heal the wounds of war. Sir, I have fought the battle for the country; I have fought this battle for the equal rights of man, not to pull down anybody nor to be the personal enemy of anybody on earth. That is my position now and it will be my position hereafter. Our words should not rekindle the prejudices, passions, and hatreds engendered by the bloody struggles of civil war, but our words should be fitted to the changed condition of affairs and the needs of our country.

Mr. DRAKE. What is the question now before the Senate?

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Massachusetts, [Mr. SUMNER,] which is an amendment to the amendment moved by the committee.

Mr. DRAKE. If I understand that amendment, the effect of it will be to require in the ratification of the constitution of any of these States the vote of a majority of all the registered voters.

Mr. SUMNER. That is it.

Mr. DRAKE. I regret very much to be compelled to differ from the distinguished Senator from Massachusetts as to that requirement. I wish to state what the operation of it will be. I can state it in a very few explicit propositions, which I think will instantly make the whole matter apparent to the mind of every Senator.

Suppose that in any one of these States there are fifty thousand registered voters. A majority of that number is twenty-five thousand and one. Suppose that in fact in that number of fifty thousand the number in favor of the constitution should be twenty-six thousand and the number against it twenty-four thousand. When the election would come off there would be many registered voters on both sides who would not vote. Every one who has voted under a registration law knows that not by any means all the registered voters ever do vote. In illustration of this I would refer to the case of my own city last November, where in a registered vote of nearly twenty-five thousand eight hundred nearly five thousand, about one-fifth of the whole number, did not go to the polls. Then, assuming that under no circumstances can the whole number of registered voters ever be got to the polls, let us apply that view to the figures which I have taken now as an example. If only one thousand of the twenty-six thousand in favor of the constitution should stay away from the polls the constitution is defeated, though ten thousand of the opponents of the constitution should do the same, for every one of the ten thousand, though absent, is still counted as a part of the opposing vote to be overcome.

Now, sir, this is contrary to the universally recognized principle applicable to all elections, that those who fail to vote are to be regarded as acquiescing in the will of the majority of those who do vote. For this reason, I consider it more just to all concerned, and more likely to secure a full vote, to make the result depend upon the majority of those who vote. Then, if any one stays away, he does so with the knowledge that his vote is lost, and that he is to be considered as consenting to the will of the majority. I say that it will be more likely to secure a full vote, for then every man on each side will feel that the result may depend upon his single vote; whereas if the other rule applies the opponents of the constitution, in order to lull its advocates into security and lead them to stay away from the polls, may themselves stay away, knowing that thus staying away every one of them is counted against the constitution. It is for these reasons that I cannot concur with the distinguished mover of this amendment.



The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Massachusetts.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Conkling, Edmunds, Fessenden, Fowler, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sumner, Thayer, Trumbull, and Yates—19.

NAYS—Messrs. Buckalew, Cole, Conness, Corbett, Cragin, Davis, Dixon, Drake, Ferry, Frelinghuysen, Harlan, Hendricks, Howe, Johnson, Morton, Patterson of Tennessee, Pomeroy, Ross, Sherman, Stewart, Tipton, Van Winkle, Willey, Williams, and Wilson—25.

ABSENT—Messrs. Cattell, Doolittle, Grimes, Guthrie, Norton, Riddle, Saulsbury, Sprague, and Wade—9.

So the amendment to the amendment was rejected.

Mr. MORTON obtained the floor.

Mr. HOWARD. I move that the Senate adjourn.

Mr. TRUMBULL. I hope not. I hope we shall continue until five o'clock, and—

Mr. JOHNSON. Take a recess.

Mr. TRUMBULL. And then determine whether we shall take a recess or not.

Mr. WILLIAMS. Let us take a recess now, if we are to take one at all.

Mr. SUMNER. We cannot get a vote tonight. There are a dozen amendments to be offered.

Mr. JOHNSON. Why cannot we get a vote to-night? Certainly we can.

Mr. TRUMBULL. I hope we shall not adjourn.

The PRESIDING OFFICER. The motion to adjourn is not debatable.

Mr. DRAKE. I hope the Senator from Michigan will withdraw the motion to allow me to offer a proposition.

Mr. HOWARD. I withdraw the motion momentarily to enable the Senator from Missouri to offer his proposition.

Mr. DRAKE. Mr. President—

Mr. MORTON. Who is entitled to the floor?

The PRESIDING OFFICER. The Chair recognized the Senator from Missouri before the motion to adjourn was made.

Mr. HOWARD. Then I insist on my motion of adjournment.

Mr. TRUMBULL. I wish the Senator would allow me to say a word.

Mr. HOWARD. Not a word.

Mr. TRUMBULL. Then I hope the Senate will vote down the motion.

Mr. HOWARD. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 33; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Conkling, Davis, Dixon, Fowler, Howard, Nye, Ross, Sumner, and Yates—12.

NAYS—Messrs. Anthony, Cameron, Cattell, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Henderson, Hendricks, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—33.

ABSENT—Messrs. Doolittle, Fessenden, Grimes, Guthrie, Norton, Kiddle, Saulsbury, and Sprague—8.

So the Senate refused to adjourn.

Mr. TRUMBULL. I now wish to state to the Senate, as I have had charge of this bill, that if Senators will forbear making speeches upon questions which I am sure the Senate will understand when they are proposed, and nobody's vote is changed by them, we can pass this bill or dispose of it in an hour. It is storming out; it is Saturday night; and my judgment is we had better take no recess, but hold on to the bill and finish it. Now, I do appeal to the friends of the bill not to make speeches in reference to it. If those who are opposed to it are determined to take up time, that we cannot help; but I do hope that the friends of the measure, if they have amendments even to propose, will not make speeches upon them. I trust we may go on with the bill and vote upon the amendments as they are offered, and dispose of it this evening.

Mr. MORTON. I am a friend of the bill,

and I desire to offer an amendment, which I do not propose to discuss, simply remarking that I believe the amendment we have just voted down was entirely immaterial; that the bill means just the same thing now that it would have done if that amendment had been adopted, and that upon that point the Senator from Illinois was right. The amendment that I offer is in section four, line three, after the word "specified" to insert "cast at said election;" so that the section will read:

That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, cast at said election, the president of the convention, &c.

I move the adoption of that amendment, and upon that I ask for the yeas and nays.

Mr. DRAKE. I would inquire of the Senator from Indiana whether perhaps it might not be more in exact keeping with the language of that section in the previous line to phrase the amendment, as he proposes now, by the use of the words "given upon the question of its ratification?" If the Senator thinks that there is any more uniformity in the language in that style it is at his service.

Mr. MORTON. I am not at all choice about the language. It means just the same thing. The votes "cast at said election," and the election is for ratification.

Mr. JOHNSON. Will the honorable member read the section as it will stand if amended?

Mr. MORTON. I will read the section as it will stand as I propose to amend it:

That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, cast at said election, the president of the convention shall transmit a copy of the same, duly certified, &c.

My amendment is to insert the words "cast at said election;" and upon that I ask for the yeas and nays.

Mr. TRUMBULL. I ask the Senator from Indiana to withdraw the call for the yeas and nays. The Senate by a vote has decided in favor of this principle.

Mr. EDMUNDS. Oh, no; and you said you did not think it necessary.

Mr. TRUMBULL. I said I did not think it necessary, but I voted that way to make it certain. I think we can carry the amendment without having the yeas and nays. I am for the amendment; that is, I am in favor of that principle. My other vote was given in order to make the meaning distinct.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana.

Mr. HOWARD. It seems to me that that amendment changes the purpose of the bill at the present time. As the bill now stands it requires a majority of the registered voters to ratify the constitution; and it is now proposed that that constitution may be ratified by a minority of the same voters. It may be ratified by a minority in this way: suppose that simply a majority of the registered voters of a rebel State attend the polls and vote on this question, and only a majority of that number ratify the constitution; the constitution, then, is not the work of the majority of the people of the State, but of a minority; and the governments which you thus propose to establish are to rest upon the basis, not of the consent of a majority of the people, but of a minority.

Mr. DRAKE. Will the Senator from Michigan allow me to make a suggestion to him at that point?

Mr. HOWARD. Yes, sir.

Mr. DRAKE. The universal rule is that those that do not go to the election and vote are counted with the majority, are considered as acquiescing in the will of the majority.

Mr. HOWARD. Will the honorable Senator undertake to say that that is a principle of law or practice or usage?

Mr. DRAKE. Undoubtedly a principle of law, undoubtedly a principle of practice, undoubtedly a principle of usage as is practiced here in this Senate Chamber every day. When a question is put, and no person says yes or no, all are considered as acquiescing therein.

Mr. HOWARD. It is a principle of law, I agree, in the elections of corporations; but I am not aware that there is any principle of law that goes further than that. We are here, sir, constructing the fundamental governments for new States which are to participate in the affairs of the Government of the Union. We are laying down the fundamental principles upon which these new State governments are to rest. Now, sir, as I have said before, I am opposed to the establishment of State governments in the rebel States unless it is perfectly clear that the assent of a majority of the voting population has been given upon the great question of organizing State governments and returning to the Union. I wish to see the fact appear affirmatively that the majority of the voting people are in favor of the establishment of State governments and coming back into the Union; and I am not content to leave it upon the mere possibility that there may be a majority in favor of it, and the mere possibility that it may rest upon the consent of only a minority of the people. I wish, in other words, to base these new governments upon the principle that a majority of the voting population demand them, or at least consent to them, and not leave that great question to any other contingency.

It may turn out that in some of these States to be reconstructed under this bill none, or but very few, except negroes, will vote upon the question, or register even. There is nothing compulsory in the act requiring persons to register their names. No man is registered unless he signs the oath inserted in the bill. Suppose that three fourths or eight tenths or nine tenths of the white population in some of the rebel States should see fit to refuse to register their names or have anything to do with this question at all. Such an event is not impossible. It will then happen that these newly-reconstructed governments depend almost solely upon the votes of negroes. Then, sir, we should see the halcyon days which present themselves so charmingly to the vision of the Senator from Massachusetts, [Mr. WILSON,] who has spoken so much on this subject. Instead of having governments in which white men participate, we may have governments in which only negroes participate; the white population in the mean time standing entirely aloof from them. Is this desirable? Is even the Senator from Massachusetts, who has rather slipperily, he will allow me to say, spoken of demagogism, and imputed it to persons who are not so swift as he to admit these new States, is even he content with the prospect which now stares him in the face under this amendment, of the establishment of purely negro governments in the South? And yet, because some of us on this side of the Chamber show a little hesitation and circumspection in this regard, he warns us against the temptation to demagogism, which is presented in the peculiar state of things at the South. What sort of ism is that which would tolerate the establishment of a government in even a rebel State founded solely upon negro votes and negro agency? Is that demagogism? And still the Senator from Massachusetts cannot fail to see that under this bill, if it shall be amended as he has proposed, the thing is possible; not only possible, but I apprehend in some cases very probable. I wish to guard against such a contingency. I am not quite demagogue enough to desire to see a purely negro government established, even in the rebel States, to the exclusion of white men.

Mr. MORTON. Before the vote is taken I want to say just one word. This is simply a question whether the stay-at-homes, political sluggards, sullen rebels, men who never take any interest in an election, and never go to an election, can defeat the work of reconstruction, defeat the will of the majority who do go to an election and take an interest in reconstruction and want the work to go forward. That is the whole question.

Mr. HOWARD. If that is the whole question, as the honorable Senator from Indiana says, I draw from it this inference, and it is an inference in which I shall hope to have

even his concurrence: that if it be not the wish of a majority of the people of the rebel States to come back into the Union under this bill, I desire to see them stay out. I am not ready to welcome a political community, in the shape of a recently rebel State, back into Congress by its representatives, the majority of whose people are opposed to coming back into the Union.

Mr. HOWE. Suppose they should stay at home and not vote at all?

Mr. HOWARD. In case they stayed at home, as the honorable Senator from Wisconsin says, and we could not get the expression of a majority in favor of that measure, I should say stay at home still, and stay out of the Union. I am not in such hot haste as to hurry these States back into the Union when there is a majority of their people opposed to it.

Mr. CONKLING. I am very sorry to prolong this debate; but yet I want to do so long enough to express my dissent as earnestly as I can from the idea which seems to prevail here, that we are under the necessity of disregarding safeguards and proprieties in order to bring in Representatives and insure representation to these States a little sooner than it might otherwise be done. Sir, the philanthropy of this age has been caricatured in the case of somebody who proposed to send a fine-tooth comb and a moral tract to the children of Timbuctoo; and in my judgment the caricature is no greater than it is in the case of those who propose to cure every evil that prevails in the South by giving representation in Congress a little sooner to these men. We appropriated the other day \$1,000,000 to feed the starving in northern Georgia and elsewhere in the South. I should like to know whether any one of the people for whom that appropriation was made would have been less cold or hungry or naked or thirsty if they had had men sitting in this House and the other for the last six months to make speeches or vote as the representatives of Georgia and these other States?

Now, sir, without dilating upon this, I deny, for one, that time is anything like so important as manner in what is called the reconstruction of these States; and that I need not be betrayed into any lengthy dissertation on this point, let me merely suggest to the Senate one case that may very likely arise. Take the case of Texas. I believe there are—I was about to give the area in square miles, but it is of no importance—enough to make five or six of the largest States to which we used to be accustomed—one hundred and eighty thousand square miles I thought it was, and a friend by my side [Mr. HENDERSON] agrees with me—destitute of railroads and facilities of locomotion, sparsely peopled, and put now under the command of an officer known to be radical, if I may use the phraseology of this day. Suppose a constitution is proposed there. The loyal people and the disloyal, so far as they are permitted by this bill, have a fair opportunity, but everybody understanding that, as the Senator from Massachusetts [Mr. WILSON] said, the election is *pro forma*, that it is of no consequence whether more or less go out, a constitution comes here from there ratified by a small number of people; a minority so small as to be contemptible as evidence of the popular wish in that State. Then an outcry is raised, as it will be, from Maine to California, that what was done in the case of a Territory, in the Administration of Mr. Buchanan, is to be repeated here, and that by the bayonet we are forcing upon an unwilling people a minority government. Is it worth while, sir? Why? The Senator from Maryland said that the negroes might be prevented by their masters from going to the election. Accepting such a possibility as that, I submit to him that it is the reason of all others why we should say to these masters in advance that a *sine qua non* of their restoration is, that they release from duress those negroes, if they possess the power to exert it, and allow them to go to the polls that a majority may vote.

But, sir, if it be true that they can detain from the polls a large body of the voting population, are we in advance to connive at the idea that a minority of one hundred or two hundred men in the State of South Carolina can manage in the first place the election which is to control the question whether a convention shall be held or not, and that then that same few hundred men can consummate the act of that convention, and fix as long as it shall endure the status of the people of that State as a member of the Union?

Mr. President, I have listened with great instruction to this debate. I have failed entirely to discover where the House of Representatives made its blunder, when, by a decided majority, the question being put and discussed, it insisted that, whatever else this bill should contain, it should not omit to require that a majority of that fraction of the people whose names are to be borne upon the registry shall assent to a restoration of representation. We all know that of the number of persons whom it is intended shall be registered, by no means the whole in any State will obtain registration. We know that in most of the States a very large per cent. will not. And now the idea seems monstrous to me that we are by the use of military agency to bring into relations with this Union any State in which, taking all sorts and conditions, black and white, loyal and disloyal, you cannot, even at the end of all these proceedings, obtain the consent of a majority of the registered people. Why, sir, the cry has been throughout the country by those opposed to the majority in this Chamber that we were denying the right of representation to men who were anxious and clamorous to come in; and now, forsooth, we are told, having added to those men the whole body of blacks in the South, the white loyalists belonging already to the voting population, that it is not safe for us, that it is not right for us to require that a bare majority shall concur in asking restoration.

Sir, my belief is, and I rose for the purpose of stating it, that we part with the sheet-anchor upon which this whole question depends; that we come to a "lame and impotent conclusion" in the legislative struggle in which we have been engaged for the last year, when we put in the hands of a minority, no matter how small, in every State, in the first place to pass conclusively upon the question whether a convention shall be called or not, and secondly, upon the question whether the will of that convention, as embodied in the organic law, shall become irreversible law as to the whole community which they profess to represent.

I hope, sir, for one, that this amendment will fail; and that if the language of the bill does not mean now, as the Senator from Maryland seems to think it does not, that a majority of the registered voters shall be required, some language will be substituted which will mean either that at the preliminary election to test the question of calling a convention, or else at the ultimate election to test the question of ratifying its proceedings, we shall have the outspoken assent of at least a naked majority of those whose names are borne upon the registration.

Mr. JOHNSON. Will the Senator permit me to ask him whether the bill provides that every man shall be registered? Can he not stay away?

Mr. CONKLING. Certainly he can stay away, and I derive strength to my argument from that fact. If we had a provision here by which all the men in a State entitled to registration were certain to receive it, it would give strength to the argument that a majority of all those ought not to be required in the vote adopting the constitution. But we are taking now the chances of a majority of only a fraction of the people; and so I have been arguing all the time. I borrow the illustration of the Senator from Michigan. Suppose in some State—and it is no forced supposition—a large number of people, of whites, who, although disloyal, are not technically excluded by the

constitutional amendment, fail to have their names registered; suppose they look with an averted face upon all this proceeding; that they turn away in disdain, as they have done from other propositions. The registry is to show only the residue of the people entitled to registration. And now we are asked to give up the safeguard that we have in requiring a majority even of that residue. I protest for that reason among others, and I say it is one of the strong reasons which enter into this argument.

Mr. MORTON. I do not know whether it is in order to argue in favor of a measure on this floor that it has been passed by the House of Representatives. This body has an equal right to pass upon the question without having the action of the House thrown into our faces as an argument why we should follow suit.

Now, sir, whence comes this remarkable tenderness for the rights of men who are too lazy, too indifferent, or too hostile to attend an election? It seems to me to consort very strangely with the action of this body in having recently imposed a military government on these States all at once to become so remarkably tender in regard to the rights of the stay-at-homes, of the indifferent, and of the hostile, as to allow them to check the whole progress of reconstruction.

I will take the case of Texas as the Senator puts it. Suppose that the constitution should be ratified only by a small minority even of the State of Texas. Still those who felt interest enough in the work of reconstruction went and voted, took part in the election. The rest from some cause stayed at home. Some were sullen; some were hostile; and there is a body of men in every State who never go to an election, who feel indifferent, and are willing that others shall act for them. In all of your large cities there is a large body of business men who ordinarily take no part in the elections and are willing to let others decide for them. Some feel themselves above what they call the business of politics. Others think they are too dignified to take part in it. Now, sir, suppose that we allow the stay-at-homes and the indifferents to vote a constitution down by simply staying at home in the State of Texas; I ask the gentleman what is he going to do about it? This bill makes no provision for taking a subsequent vote. It makes no provision for a second convention. No further action can be taken without further legislation on that subject; and the work of reconstruction comes to a dead halt because there is a small balance of power that stays at home; that will neither do one thing or another. Sir, if we are in earnest in this work of reconstruction, if we mean to restore this Union, I ask that we shall not voluntarily put into the power of ten or twenty thousand men to defeat the whole work by simply staying at home.

Take the case put by the Senator from Michigan. If the white men will stay at home; if they will fold their arms, and are too dignified or too venomous to vote, I say let the negroes vote for them; they deserve to be governed by the negroes. If they have the power to govern themselves by voting and thus to deprive the negroes of the power, and shall voluntarily refuse to exercise it, I do not want the Senator from Michigan to come here and make appeals for those men. Let them take the consequences.

Sir, I am in earnest about this work of reconstruction. I want it to go forward; and as I am a true Republican, and I believe the salvation of this country depends upon the maintenance of that party in power, I am in favor of speedy and successful reconstruction for the preservation and the continued power of the Republican party.

Mr. HOWARD. I do not propose to detain the Senate but for a moment. Let us illustrate the principles of the honorable Senator from Indiana, to carry them out in practice, and see to what results they may lead. Take a single rebel State. Suppose its voting population is three hundred thousand, for the sake of illus-

tration—two hundred thousand whites and one hundred thousand blacks. A registration is ordered by the military commandant in pursuance of the bill we have before us. The two hundred thousand white voters refuse to register their names, as they have the right to do. They do not see fit to participate in the proceeding. They dislike the project *in toto*. They are unwilling to reconstruct their State governments or to come back into the Union as a State, or to have anything whatever to do with a transaction that is intended to unite them again with the Government of the United States; and they therefore stay at home. They hate the Government of the United States, and they hate equally the black population to whom the appeal is also made. Notwithstanding this state of things the one hundred thousand black voters register their names, enter into an election, and adopt a constitution for that State. Does that constitution rest upon the will of the majority or upon the will of a minority? Clearly upon the will of the minority, and that minority a black population. How long, let me ask the Senator from Indiana, would a State government thus constructed endure? How is it to be maintained against the contemptuous opposition of the majority? Is it to be maintained by the intelligence and the superior patriotism of the black population against the persevering opposition, intrigues, and hatred of the white population? No, sir. It is to be maintained only by the bayonet and the sword. And, sir, I tell you, as I told you here two years ago, that such an ephemeral government, depending solely upon a minority, cannot sustain itself and cannot be sustained but by means of military force, and is but the merest idle and ridiculous mockery, a disgrace to the nation, and to the very name of republicanism.

Now, that such a state of things may possibly exist—

Mr. MORTON. Let me ask the Senator whether the people who refuse to register and refuse to go to an election and vote do not thereby fairly give their assent that the others who do go may speak and act for them?

Mr. HOWARD. No, sir; in a political proceeding of this kind, and after a rebellion in which the whole white population has been engaged, such an assumption cannot be safely acted upon.

Sir, go on with your government; establish your Legislature. Who are to be members? Black men. They may be honest men, and probably would be as honest as white men; but in the general very uninformed and ignorant men. Who are to carry on the business of their courts of justice? Black men; many of them ignorant; all of them more in need of protection than entitled to the administration of public affairs. Is it supposed that such a state of things can exist in this country? I tell you, sir, it is vain to expect peace and tranquillity under such an ephemeral, farcical government as that would be.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, [Mr. MORRIS.]

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Cameron, Cattell, Conness, Corbett, Cragin, Drake, Ferry, Hendricks, Howe, Johnson, Morton, Patterson of Tennessee, Pomeroy, Ross, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—22.

NAYS—Messrs. Anthony, Buckalew, Chandler, Cole, Conkling, Edmunds, Fowler, Frelinghuysen, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sumner, Thayer, Wade, and Yates—21.

ABSENT—Messrs. Davis, Dixon, Doolittle, Fessenden, Grimes, Guthrie, Norton, Riddle, Saulsbury, and Sprague—10.

So the amendment to the amendment was agreed to.

Mr. EDMUNDS. I now move to amend by adding after the words that have been just inserted these words:

At least three fifths of all the registered voters voting upon the question of such ratification.

It will be observed by the Senate that this

question does not raise any consideration touching those citizens of these States who are not registered. If they do not choose to be registered; if they do not choose to take the oath which we prescribe, they are left out as slugs, as stated by the Senator from Indiana, who are not entitled to any political rights at all. It is their own non-action that excludes them. This bill only operates, whichever way we may fix the majority, upon those who take the oath and are registered. Now, I think it right, under that state of circumstances, that in the important function of forming a constitution in these troubled and unsettled communities, there should at least come out and act upon the question in one way or the other three fifths of the registered voters. I do not require by this amendment, as it has been proposed before, that any majority of all the registered voters should vote in a particular direction for it; but my amendment only requires that there should come out and vote upon the question something more than a simple majority of those citizens who have taken the oath and have been registered, so as to get attention to the subject, and get an expression of the public so far as to require at least three tenths of the registered voters to vote in favor of the particular constitution. It will be observed that of the registered voters, as it now stands, only a majority of those voting are necessary to carry the constitution. Now, it may happen—

Mr. JOHNSON. If the honorable member will permit me, I wish to ask—I am not sure that I heard his amendment—whether he requires a majority of three fifths?

Mr. EDMUNDS. Yes, sir; a majority of three fifths of the registered voters.

Mr. JOHNSON. I have no objection to that.

Mr. EDMUNDS. The amendment requires that at least three fifths of all the registered voters shall vote one way or the other. The effect of that is only to require that one more than three tenths of the registered voters shall vote for the constitution. It seems to me that is reducing the political quorum low enough.

Mr. TRUMBULL. It is very manifest that under the proposition of the Senator from Vermont all that is necessary to defeat the constitution is for those who are opposed to it not to go to the polls.

Mr. EDMUNDS. No.

Mr. TRUMBULL. Certainly. You require three fifths to adopt it. Two fifths may defeat it by staying away. I understand the Senator's proposition to be that three fifths of the registered voters must vote.

Mr. EDMUNDS. Yes.

Mr. TRUMBULL. Then if three fifths do not vote the constitution is defeated.

Mr. EDMUNDS. Yes.

Mr. TRUMBULL. Therefore you put it in the power of two fifths by staying away from the polls to defeat the constitution. I hope such a proposition as that will not be adopted. Two fifths of the registered voters by staying at home can defeat the constitution under this proposition.

Mr. SHERMAN. My own impression is that the Senator from Vermont is substantially right in his proposition; but I would have said "a majority" instead of "three fifths." I do not look on this matter precisely in the light that others do. There is no doubt that people who will take the trouble to have their names registered, to file the oath, to go through all this machinery, in order to get the right to vote, will, three fifths of them at least, vote for or against the constitution on the question of its adoption. The very fact that a man is willing to subscribe an oath such as we require shows that he takes an interest in the subject-matter of the election, and desires to participate in forming this new government. No man will take the oath prescribed by the first section of this bill and have his name registered on the roll unless he intends to participate in forming and framing the constitution. The amendment now offered simply requires that three fifths of the registered voters shall take part in the elec-

tion. I think it is wise for us, as Republicans, to require this.

Mr. MORTON. I should like to ask the Senator from Ohio one question, with his permission.

Mr. SHERMAN. Certainly.

Mr. MORTON. I ask if under this amendment two fifths, by staying away, cannot defeat the constitution, when if they went to the polls and voted they would be beaten?

Mr. SHERMAN. What will be the result of that? The result will be that they will remain under military rule. They desire to relieve themselves from that. The people who intend to participate in this movement are those who are earnestly desirous to come back into the embrace of this Government, to be restored to representation, to have their business restored, to have their property protected, to have the various functions of a State government carried on in their midst. If a majority of the people stay away, refuse to assent to any constitution formed by their delegates, let them stay out. I would not give them the advantage of saying that they were forced back into the Union against their will. If a reasonable portion of them will not participate in this movement let them stay where they are, under military government.

I think this is a wise limitation. I have voted with the Senator from Indiana that a majority of all the registered voters ought not to be required, on the ground that there are a great many people who are indifferent, and many of the rebels themselves will stay away from voting, and probably will not take the trouble to qualify themselves for voting; but of those who are qualified to vote I have no doubt that three fifths will participate in the election on the question of the ratification of the Constitution.

Mr. TRUMBULL. Allow me to ask the Senator from Ohio if it is possible that it is a right proposition that two fifths by staying away from the polls can defeat a constitution which they could not defeat by voting, every one of them against it? You will teach men to stay away; that is the whole effect of the proposition. It is an encouragement for them not to come to the election.

Mr. SHERMAN. My answer is that there is no probability of such a result, because every man who will take the trouble to register his name and take the oath prescribed will probably vote for or against the constitution; or at least the great body of them will. Some few may not; but we have already provided for a reasonable margin; and now it seems to me that to require a majority of three fifths is not unreasonable. If these people are going to lay back in their position of quiet rebellion and resist all the movements we are now providing for them, all this machinery that we are now proposing to employ for their advantage, let them stay there, and stay there forever if they will.

Mr. JOHNSON. What is to become of those who are loyal and want to come back?

Mr. SHERMAN. They will be protected by the Government of the United States.

Mr. MORTON. Suppose there are fifty thousand registered voters in a State, thirty thousand of whom are in favor of the constitution and the remaining twenty thousand opposed to it. If those twenty thousand go to the polls they will be voted down, but if they stay away from the polls they defeat the constitution under this amendment by simply staying away, there not being three fifths at the polls.

Mr. SHERMAN. I have in my hands a letter from a man I used to know formerly, a prominent member of Congress from Virginia, who became a rebel and went into the war. He writes to me in regard to this very question, and makes the same objections that have been urged here so strongly. He says that there are probably one hundred and fifty thousand people in Virginia entitled to vote under the reconstruction act, and then he says that probably half the negroes will, at the first election at least,

not be sufficiently informed of their rights or not feel sufficiently the importance of voting to have themselves registered and enrolled to vote. He therefore supposes that a considerable number of negroes will not vote of their own motion, either from indifference or from some other cause. Then he says that an equal number of proud rebels, men who are not willing to acquiesce in the present condition of things, will not take the trouble to vote, and some will be excluded by the terms of the constitutional amendment, so that the probability is that not more than one half or three fifths of the whole voting population will be registered. I think it probable myself that not more than a majority of the voting population in any of the southern States will be registered. Now, we propose that if they hold a convention, that convention shall first proceed to say whether they intend to come into the Union, and then if they say so the convention is to form a constitution and it is to be submitted to the popular vote. It seems to me that as the delegates who vote for making a constitution will probably represent but a minority of their people, we ought to require at least a majority of that minority to participate in this Government, or else they ought to stand where they now are, subject to the jurisdiction of the United States.

I think, therefore, that this is not an unreasonable provision, and I hope Senators on all sides will take it as a kind of compromise between these opposing ideas, the one demanding a majority of all the registered voters, and the other simply a majority of those who choose to vote. I shall vote for the proposition of the Senator from Vermont; I think it is right.

Mr. TRUMBULL. Let us vote.

Mr. EDMUNDS. My friend from Illinois will pardon me, after he has made a speech about twice as long as I have on this question, if before the vote is taken I should reply to his proposition.

Mr. STEWART. I should like to have the amendment read. I want to get it in my mind, so that I can understand the argument.

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont will be again read.

The SECRETARY. It is proposed after the words "cast at said election," the amendment just adopted, to insert "at least three fifths of all the registered voters voting upon the question of such ratification."

Mr. EDMUNDS. Now, in reply to my friend from Illinois, and to the Senator from Indiana, I will say that there are various ways of putting things. The way that they have of putting it, that the effect of this is to allow two fifths to defeat the ratification of the constitution, is a very plausible way undoubtedly; but that only presents one single view of this question. When you look at it in the other point of view I think the proposition against their views would be still more startling than the one that they advocate; and that is, that without this amendment or some similar one a majority of one tenth of the people of any one of these States may control its destiny and may fix its government; and yet the Senators call that republicanism. If you do not make a provision of this description in the State of Virginia, if you suppose three thousand men voting on this question and sixteen hundred voting for the constitution and fourteen hundred against it, is it right that these sixteen hundred men should force a constitution upon the millions of the citizens of Virginia and the hundreds of thousands of its voters? The very committee of which the Senator from Illinois is chairman through him reported an amendment requiring an absolute majority of the whole number before such a constitution should be adopted.

Mr. HENDRICKS. Allow me to put a question to the Senator. This principle is not a new one. In the organization of States out of Territories I think it has never been required that there should be a majority of the voters who should express their views upon the constitution or in the selection of delegates; and

very recently a State has been admitted for which a population of eighty-eight thousand was claimed, and yet there were less than four thousand affirmative votes upon the constitution, clearly showing less than twenty thousand of the eighty-eight thousand in favor of the constitution; and I believe that the Senator from Vermont supported it.

Mr. EDMUNDS. I do not see the question. I believe that the Senator from Indiana did not support it.

Mr. HENDRICKS. I did not.

Mr. EDMUNDS. Now I have come on his ground and show some signs of political orthodoxy. I trust I shall receive the support of my distinguished friend from Indiana. It is time that in organized communities who are homogeneous, whose interests and views and opinions are in a social and in a political sense very generally or to a great degree the same, who have a common origin, a common language, a common education, a common social life, a common intermarriage, a common everything which enters into the composition of society, there is frequently no necessity for securities and safeguards of this description. But are we dealing with any such communities as these that I have described? Not by any means. We are dealing with communities a majority of whom, as it was stated by the Senator from Massachusetts, now appear for the first time from the depths of social and political degradation, not having had the opportunities of societies or education or freedom, or even protection of law, that other men have had. Placed side by side with them is a large proportion of disloyal white men, educated, affluent, powerful. Society, therefore, is discordant instead of homogeneous; it is entirely a new problem. And when we are setting up governments which are to stand forever, and which will be, when once set up, beyond our control, there cannot be too much caution in the movements and steps we take in the direction of instituting these governments.

Now, all that my proposition requires is that of the registered persons, the loyal men who come forward and have their names registered and receive the oath that is to be administered to them, there shall act upon this question just a fraction more than a simple majority, and that a majority of that fraction shall control for all, so that any fraction over three tenths of all the registered voters adopt our constitution, after all. Is that asking too much in a republican government? The great State of New York, with an enlightened representation of Delegates and Senators, is not trusted in its Legislature to vote away the people's money unless three fifths of all the members are present and acting upon the question. Now, then, when we are to set up beyond any control of ours, beyond any undoing, remember, these great States once more, is it unwise, is it unfit, is it extreme, to require that more than three tenths of the loyal and registered population should be affirmatively in favor of the constitutional charter of liberty under which they are to act? That is the question; and that being the question, I am content to have the Senate pass upon it.

Mr. CAMERON, (at ten minutes before six o'clock p. m.) Mr. President, it is getting late on Saturday evening, and it seems to me that there is no hurry about this bill. It is a very important one, and should be deliberately and carefully considered. I therefore move that the Senate adjourn, so that we may rest over Sunday, and bring our minds here on Monday morning in a condition to pass the bill without unnecessary debate.

Mr. TRUMBULL. I hope that motion will not be agreed to. I trust the Senate will stay and finish the bill.

The question being put, the Senate refused to adjourn.

Mr. CAMERON. I move that the Senate proceed to the consideration of executive business. There are several executive messages on the table that should be disposed of.

Mr. TRUMBULL. I hope not.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont to the amendment of the committee.

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Corbett, Edmunds, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Sherman, Sumner, Thayer, and Wade—19.

NAYS—Messrs. Cattell, Conness, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Hendricks, Howe, Johnson, Morton, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Stewart, Tipton, Trumbull, Van Winkle, Wiley, and Wilson—21.

ABSENT—Messrs. Davis, Dixon, Doolittle, Fessenden, Fowler, Grimes, Guthrie, Norton, Riddle, Saulsbury, Sprague, Williams, and Yates—13.

So the amendment to the amendment was rejected.

Mr. BUCKALEW. I now move the amendment which I before suggested—

Mr. EDMUNDS. If the Senator from Pennsylvania will allow me, I desire on this very point to propose the amendment first voted down, simply changing it from three fifths to a majority. I want to get a vote on it in that shape.

Mr. BUCKALEW. I give way for that purpose.

Mr. EDMUNDS. I now move the amendment which has just been voted down, changing it by striking out "three fifths" and inserting "one half." This amendment is to insert the words "at least one half of all the registered voters voting upon the question of such ratification."

Mr. TRUMBULL. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. Now, I desire to say a word. It does seem to me very singular that we should devise means here to defeat any formation of a government. Now, what is to be done to defeat the constitution under this proposition? Simply for all the rebels to go and get registered and then keep away from the polls themselves and keep everybody else away. I was willing to make this bill specific, as the House had it, and require a majority of the registered voters. I understood the bill from the Judiciary Committee to mean that; but the Senate did not so understand it, and voted against making it specific that way. I think it had better mean something; we had better know what it does mean. I am satisfied to have a majority of those who vote on the question ratify the constitution, but I am not satisfied to have the rebels get registered and then by staying at home have the advantage of keeping away those who are for the constitution. This allows a minority to prevent the organization of a government, for there never was an election held where all were able to get to the polls. It makes a man's vote who stays at home count more than the vote of a man who goes to the polls and puts it into the ballot-box. I am unwilling to sanction any such principle. It gives the opposition the advantage of all the stay-at-homes, while those in favor of conforming to the law and organizing a State government must be well able to get to the polls and put in their ballots in order to count as much as those who are opposed to it and who stay away.

Mr. EDMUNDS. I should like to ask my friend from Illinois whether as the chairman of the Judiciary Committee he did not report this bill requiring a majority of all the registered voters to vote for the constitution?

Mr. TRUMBULL. I will answer the Senator that I did; but the Senator from Vermont is one of the very persons who said it did not mean that.

Mr. EDMUNDS. It does not mean that.

Mr. TRUMBULL. If it did not mean that I wanted to make it specific; but we could not make it so.

Mr. EDMUNDS. Exactly. Therefore my



friend from Illinois must have had a recent illumination if he now thinks that the amendment which I propose is going to destroy the efficiency of this bill, because on his own confession he has reported, after consideration in committee, a proposition which is a great deal stronger than the one which I now propose, because he required not only that a majority of all the registered voters should come to the polls, but he required that a majority should act affirmatively for the constitution; and, therefore, if there was one eighth of them who voted the other way on his proposition, although a majority of the whole number acted, the constitution would be lost. Now, all I require is, following at an humble distance my distinguished friend, that only a majority shall act, and that one more than a quarter of all the registered voters shall adopt this constitution. I am sure that my friend, having reported in favor of a proposition of that kind, ought to be willing to adopt one like this.

Mr. CONNESS. I feel liberal in this matter as between the two Senators, and am willing to concede that each of them is consistent; but the reason why I have voted on the propositions that had been before this body persistently in one way is this: that I believe, so to speak, all of our friends in the South, all the loyal men, black and white, who are in favor of this scheme of reconstruction, will be sure to be registered and will be sure to vote. Now, I think that they can be trusted with reconstruction. I am not willing to put it in the power of those who are against this scheme of reconstruction, who were for the rebellion, to prevent reconstruction. That is my reason.

Mr. TIPTON. I have just this to say: that the more this question is discussed the more I feel an interest in it, and the Senator from Indiana [Mr. HENDRICKS] spoke the democratic truth when he said that such a rule as that now proposed, so subversive of the principle of democracy, would have kept a recent State out of this Union. That is true. You never required it of the people of a Territory. I represent a people who were permitted to come here in case they could show a majority in favor of a State organization; and I will not, therefore, under any circumstances or anywhere cast a vote by which some other constituency shall not come here by a single one of a majority. That is my democracy on a question of this kind. So far as it is said that men will stay away and not trammel this operation because as rebels they will not take the oath, that is not true in fact. So far are they demoralized all over the South that I understand their pulpit taught it to be a high Christian virtue everywhere that men should perjure themselves for the benefit of the confederacy; and when Mr. Lincoln's amnesty proclamation came within the lines they flocked to our headquarters everywhere and took the amnesty oath, and if they were taken the next day they were found with the amnesty oath in their pockets when they had been shot down with arms in their hands. I say that I am not here to legislate for the rebels of the South only incidentally as I am compelled to do so when I come here to legislate for the loyal men of the South. I have made my position clear and emphatic in Nebraska upon this question. I told my constituents there that if I came here I cared not to counsel with the loyal men of the North in regard to how I should cast my votes on a question of this kind, but I would come here to ask the loyal men of the South, and then I would vote to enfranchise the loyal men of the South, be he white or black, if necessary for the good of loyalty in the South, and that I would vote to enfranchise the African women of the South if necessary to protect the white and black loyalty of the South; and I have nothing to take back upon that subject of this kind.

I must declare that a superficial observer during the discussion this day would suppose our first business here was to legislate in behalf of rebels, forsooth! Sir, we went to a loyal minority when we went with arms in our hands

to release them; and I propose to go to that loyal minority now, and a minority perhaps that would be willing to give as good attention to the poor remarks I should make as many of the Senators here just at this present speaking. I go to that loyal minority and I say a majority of them, so help me God, shall control the destiny of their States and the destiny of the South and the destiny of the rebels of the South. For four years we have done without the representatives of disloyalty in this Chamber; for four years more we can do without the aid of the disloyal in authorizing States at the South; and loyal white men and loyal black men who have lately sustained the flag of the country will come to our aid in this matter. I am not willing that the disloyal, by any classification, by any mathematical calculation, shall be permitted to stay at home and assist in defeating the will of the loyal men of the North. This may be called spurious morality and philanthropy. I would simply suggest for the benefit of the Senator from the State of New York [Mr. CONKLING] that when he goes on a peddling mission with his finetooth combs he may find as much necessity for them in the pulchritude of the city of New York as in the humblest freedman's cabin in the whole State of South Carolina.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont, upon which the yeas and nays have been ordered.

The yeas and nays being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Drake, Edmunds, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Stewart, Sumner, Thayer, Wade, Williams, and Yates—24.

NAYS—Messrs. Conkling, Conness, Cragin, Ferry, Frelinghuysen, Morton, Pomeroy, Ramsey, Ross, Tipton, Trumbull, Van Winkle, Wiley, and Wilson—14.

ABSENT—Messrs. Cattell, Corbett, Davis, Dixon, Doolittle, Fessenden, Fowler, Grimes, Guthrie, Hendricks, Johnson, Norton, Riddle, Saulsbury, and Sprague—15.

So the amendment to the amendment was agreed to.

Mr. BUCKALEW. I now offer the amendment that I indicated before; in the first section of the amendment of the committee to strike out all after the word "said" at the commencement of the thirteenth line to the end, being the provision as to the oath, and in lieu thereof to insert—

And the registering officers appointed for the purpose aforesaid shall be authorized to administer oaths or affirmations to persons who shall desire to be registered, and examine their touching their electoral qualifications under this act and under the act to which this is a supplement.

The necessity of this amendment must be apparent in order to have anything like a complete and perfect registry instead of a rigid form of oath to be taken by every person who applies for electoral privileges under this law. I provide that these officers may administer all necessary oaths for the purpose of testing the legal qualifications of applicants to be placed upon the registry list. The bill makes no provision of that kind; it does not arm the officer with any authority to ascertain under oath the age of a person or any other qualification required by law. Under this amendment these officers could go on and make a registry which would be in exact conformity with the law. We avoid the questions discussed before under this clause.

Mr. TRUMBULL. I hope that amendment will not be adopted. The machinery which is to control the registrations and the proceedings of the election is not attempted to be put into this bill. We have not got up an election bill here, but simply a mode of inaugurating the election, leaving it to the commanding general to adopt the machinery. Probably he will adopt that which is in force in most of the States to carry out the law. We cannot undertake here to get up a perfect election bill. This is not designed for any such purpose, I would say to the Senator of Pennsylvania; but it is supposed that the commanding general there

will prescribe such regulations either of his own conception or will adopt those already in use in the States where he is in command as will carry out the bill. I hope the amendment will not be adopted.

Mr. BUCKALEW. I am not going to discuss this subject; but as a matter of course these commanding generals cannot pass laws especially for the administration of oaths. They can make rules and regulations, but they cannot enact of their own motion, at their own pleasure, a code for the administration of oaths and for the punishment of persons who commit perjury.

The amendment to the amendment was rejected.

Mr. CORBETT. I move to amend the amendment of the committee by inserting after the word "district" at the end of the tenth line of the first section the words:

Of which thirty days' notice previous to registration shall be kept posted in at least two places in each township or precinct, designating the places of registry; and books of registry shall be kept open at least thirty days next preceding the day of election in at least one township or precinct in each county or parish.

I offer this amendment in order to make this provision more distinct. It seems to me that under the section as it stands it is left entirely to the commanding general to give or not to give proper notice, as he may choose. If the commanding general who happens to be in command of any department desires that there should not be a registration of the proper number of votes he may neglect to take the proper precautions to have the people come out and register themselves. I have great confidence in the generals selected to command these districts, and in their subordinates, that they will probably do what is proper; but in order to prevent any mistake in this matter I offer this amendment, not with a desire to create any discussion or delay the passage of the bill, but to make this point specific, so as to prevent trouble hereafter. I hope the amendment will be adopted.

Mr. MORTON. This bill now, as I understand it, contains no requirement that public notice shall be given of the registration. Every registry law in every State requires that notice shall be given of the opening of the books for registration and notice of the election. It is required by the laws of every State, so that every person may be informed by publication in the newspapers or by advertisements posted up in public places. It is important that the utmost notoriety should be given because we know that there is a large ignorant population in this country, and this registration might be carried on in such a way that one half of that people would be entirely uninformed about it unless there be some positive requirement on that subject. We wish to get at the ignorant portion of the people who do not take the papers, who do not read; in other words, the colored people. There ought to be some provision giving them information as to the time and place when and where they can go and be registered. It should not be left to the discretion of the registering officer or of the commanding general. There should be a positive requirement of law on the subject.

Mr. CORBETT. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COLE. I suggest to the Senator from Oregon to modify his amendment by inserting the word "public" before "places;" so as to read: "notice in at least two public places in each township," &c.

Mr. CORBETT. I accept that modification.

Mr. HOWARD. I am unable to see any objection to this amendment; and if there be any I should really be happy to hear it stated by some gentleman who is opposed to it. It is perfectly simple in its intention and purpose, and that is to give notice to all persons interested in the registration residing in the county or in the parish of the times and places at which they can register their names. The absence of this notification I regard as a very

great defect in the bill. There will be thousands of persons who without such a notification will be in entire ignorance of the proceeding, and will be therefore deprived of the privilege of registering their names if they should be disposed to do so. I see no objection whatever to it, and hope it will be adopted.

The question being taken by yeas and nays, resulted—yeas 25, nays 13; as follows:

**YEAS**—Messrs. Buckalew, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Drake, Fowler, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, and Yates—25.

**NAYS**—Messrs. Ferry, Frelinghuysen, Hendricks, Howe, Johnson, Ramsey, Sherman, Stewart, Trumbull, Van Winkle, Willey, Williams, and Wilson—13.

**ABSENT**—Messrs. Anthony, Cattell, Cragin, Davis, Dixon, Doolittle, Edmunds, Fessenden, Grimes, Guthrie, Henderson, Norton, Riddle, Saulsbury, and Sprague—15.

So the amendment to the amendment was agreed to.

**Mr. BUCKALEW.** I move a correction of phraseology in the seventeenth line of the first section by striking out the word "said" and inserting "the act entitled as."

**Mr. TRUMBULL.** That is merely verbal, and I have no objection to it.

The **PRESIDENT pro tempore.** This verbal alteration will be made, no objection being interposed. The question is on the amendment reported by the Committee on the Judiciary as it has been amended.

The amendment, as amended, was agreed to.

**Mr. TRUMBULL.** I understand that when the bill is reported to the Senate we can have another vote upon any question. I shall wish to ask for a separate vote on the amendment of the Senator from Oregon, [Mr. CORBETT.]

The **PRESIDENT pro tempore.** The Chair understands that when the bill shall have been reported to the Senate it will be in order to amend it in any particular.

**Mr. TRUMBULL.** It is impossible to execute the bill with that amendment embodied in it, and I was taken by surprise at the vote of the Senate adopting it. I apprehend it did not receive consideration. It is utterly impossible to post up notice at two public places and keep the registry open for thirty days in every township throughout the South. You cannot find the men to do it.

**Mr. SHERMAN.** I move to reconsider the vote by which that amendment was adopted.

The motion to reconsider was agreed to.

The **PRESIDENT pro tempore.** The question recurs on the amendment of the Senator from Oregon.

**Mr. SHERMAN.** That amendment will defeat the purpose of the bill. It provides that before the registration is commenced thirty days previous notice shall be kept posted in at least two public places in each township or precinct, designating the place of registry, and that the books of registry shall be kept open at least thirty days preceding the election in at least one township or precinct in each county or parish. Now, as I understand the bill, the commanding general after the registration is made has to make his apportionment. The registration is to be sent to him for that purpose, and he is to examine it and see that it is all right. Then he makes his apportionment, and makes the arrangements for ordering an election; but according to this amendment the registry books are to be kept open for thirty days before the election. It seems to me this demands an impossibility. The number of notices required is entirely too great for every township. The bill, I suppose, does not contemplate more than three or four places of election in a county; but it leaves that matter to the military commander.

**Mr. TRUMBULL.** I will state to the Senator from Ohio and to the Senate that it would be utterly impracticable to find three persons of sufficient intelligence and learning in each township in all the southern States who could take the iron-clad oath, and keep this registry open for thirty days, nor would there be any

sort of necessity for it. The amendment would render inoperative the whole bill. It cannot be carried out.

**Mr. SHERMAN.** If it be kept in the bill we must repeal the test oath.

**Mr. TRUMBULL.** You would have to repeal the test oath, or you could not find persons to execute the law. I have been told that it would be very difficult to find the persons in some of the counties even, and we were strongly appealed to by men from the South to amend the House bill in that respect, and strike out the clause which requires the registering officers to take what is known as the iron-clad oath; and in answer to that call we did change the House bill by leaving it to the commanding general to designate the number of places at which elections should be held. The House bill required elections to be held in each precinct, and these officers to be appointed in each; but to obviate the objection that persons could not be found to make this registration and preside at the election who could take the oath, we have left it to the commanding general to designate the number of places of voting, so that if it were necessary, if he could get along in no other way, he need have but a single place of voting in a county. Perhaps that would be sufficient in many cases. In some sparsely-settled counties of the South, where the territory is not too large, the people may all vote at the county seat. But the requirement of this amendment to have books of registry at two places in each township and precinct would render the bill utterly impracticable of execution in many of the States.

**Mr. HOWARD.** The registration, as provided for in this bill, precedes the election, for it is not until after the registration has been completed by the military commander that an election is authorized. The second section says, "that after the completion of the registration hereby provided for in any State," &c., "an election shall be held." Now, sir, I want to know how persons interested in this registration are to learn where they are to go to register their names and to take this oath? What provision does the bill make for giving this information, this notice which every man ought to receive under the bill? There is no provision in the bill for giving notice, and there may be thousands and thousands, black and white, in any county or parish, who are in utter ignorance of the mode and manner by which they can register their names, ignorant even of the fact that a registration is to be had. Is it not fair that persons should receive this notice? Is it not the practice in every State of this Union where there is a registration act to notify the people of the times and places when and where the board of registration is to sit in order to enable them to go and register their names? Will the Senator from Illinois launch his scheme of reconstruction in the manner suggested by this bill, without notice, without knowledge, a proceeding in which only a select few would happen to be informed of the nature of the proceeding? Is this the kind of reconstruction which he asks? Is he not content with the other provisions of the bill, that a minority shall serve as the basis of these new State governments, but is he seeking to conceal the proceedings from the voters?

**Mr. SHERMAN.** If my friend will give way, I think as this is a mere matter of detail it can be arranged satisfactorily to all parties.

**Mr. HOWARD.** All I want is reasonable notice.

**Mr. SHERMAN.** Notice is proper. I move to strike out all after the two first lines of the amendment of the Senator from Oregon. The two first lines are all that is necessary, providing for notice, leaving the form and manner of the notice to be settled by the commanding general.

**Mr. HOWARD.** Perhaps that will be satisfactory.

**Mr. SHERMAN.** I propose simply to leave in the amendment the words "of which thirty days' notice previous to registration shall be given by the commanding general."

**Mr. HOWARD.** Leaving the mode and extent of the notice to the commanding general?

**Mr. SHERMAN.** Yes; that is better. In some cases he can do it by advertisement where there are newspapers.

**Mr. HOWARD.** Undoubtedly that would be much better than the bill as it stands.

**Mr. WILSON.** I take it the voting places in the South are as clearly defined as they are anywhere else in the country.

**Mr. HOWARD.** But the Senator from Massachusetts will allow me to say that this registration is not required to take place at a voting place in these States at all.

**Mr. WILSON.** I think I understand the bill.

**Mr. HOWARD.** I question it.

**Mr. WILSON.** I have no controversy on that point; but I think I do, and I think my votes on this question show it, and I know that the Senator's votes do not show it in regard to him. The voting places in those States are clearly defined, and that commander who did not have the persons registering the voters visit every voting precinct and give proper notice would violate his duty, and if the registrars did not do that they would violate theirs. Their duty will be clear and plain to go to the places of voting to give the proper notice and to see to it that every person is registered if possible. After the registration is made it must be returned to the commander, and the commander, on the basis of registration, divides the State up into as many delegate districts as there are members of the most numerous branch of the State Legislature, basing the apportionment on the number of persons registered. After all this is done he must then give notice of not less than thirty days of an election to take place for delegates; so that it is impossible to comply with the latter clause of the amendment proposed by the Senator from Oregon; but if that clause be left out I have no objection to the amendment, because notice of the fullest kind ought to be given; and further than that, the registrars ought to visit every voting precinct to see to it that the people are well notified and that they are properly registered. They will appear and vote unquestionably not by counties, but in their voting places in that part of the country, and they will have the officers there to register them. If this is not done, we are not to get the proper sense of the people.

**Mr. HOWARD.** The Senator from Massachusetts, as it seems to me, confounds the proceeding known as the registration with the election itself.

**Mr. WILSON.** No, I do not.

**Mr. HOWARD.** I rather drew that inference from what the Senator said; but I understand him now, and he will allow me to go on. The first proceeding is the registration. The commandant is required before the 1st day of September, 1867, in each district defined by the act which we have just passed, to cause a registration to be made of the male citizens of the United States of the proper qualifications. Suppose we pass the bill to-day and it becomes a law: it thereupon immediately becomes the duty of the military commandant to commence this proceeding known as the registration in each of the counties and parishes. This registration must be completed before an election can be called.

**Mr. WILSON.** Before the 1st of September.

**Mr. HOWARD.** Not only by the 1st of September, but before an election can be called, for it is necessarily a preliminary preceding the election, as nobody can participate in the election who is not registered.

Section two says:

That after the completion of this registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint or direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates.

There must be notice of at least thirty days before the election takes place; and necessarily this space of time, thirty days, must intervene between the completion of the registration and

the holding of the election. The registration may take place at any time after the passage of the bill before the 1st of September, and it will be the duty of the commandant to give the notice of the election. Why not, then, require him to give a notice of thirty days, or any other reasonable notice, of the registration? What I object to is to the concealing from the great mass of the people—I say concealing, because concealment is the result—that a registration is about to take place. I do not like this mode of doing things in the dark. Let us do it openly, and do not let us give even the rebels the excuse of saying that they had not been notified of the registration, as this in its present shape would furnish them.

Mr. WILSON. I must confess that I hardly see why it is necessary that the Senator should be talking about concealment. I am sure nobody here desires to conceal anything.

Mr. HOWARD. What I mean is the suppression of the fact by the non-appearance of formal official notice. That is what I mean by concealment, of course.

Mr. WILSON. I endeavored to make an explanation of the provisions of the bill, but the Senator did not seem satisfied with it, and so he restated precisely and exactly the position I had taken. Now, if this bill be what he says it is, how in the world can he vote for this amendment? This amendment not only requires notice, but says the registration shall be kept open till within thirty days of the time of voting. That is an utter impossibility. The registry must be closed, must go to the commandant, and the commandant must upon it apportion delegates and then call the convention. It is the latter part of the clause moved by the Senator from Oregon to which I objected, and which is contrary to the theory of the bill. The first part of the amendment requiring notice I do not object to. I am willing that thirty days' notice or forty days' notice shall be required, or any notice that is deemed proper to enable all concerned to know all about it; for it is of vital importance to those who want to organize these States by the patriotic and loyal efforts of all to have the black people receive abundant notice and have an opportunity to be registered, because the active, earnest, leading rebels will quickly find out when the registrar is around, and I want the men on the plantations, the black men, to find out; and therefore I am willing to adopt the first part of the amendment, but the latter part of it is in conflict with the bill, and I hope will be abandoned.

Mr. CORBETT. My object in offering the amendment was to require that in each voting precinct, whether it be a county or a parish or a township or other subdivision, public notice should be given so that all would have a chance to be registered. I wish to have the notice given in the usual places of voting, whether the voting precinct embraces a whole county or a township or some smaller subdivision, so that the fact that a registration is to be made may be brought to the knowledge of the colored people especially, so that they may know that they can register their names. There may possibly be a design on the part of the employers of the colored people in some cases to prevent the news reaching them that they will be entitled to have their names registered, and it is necessary to have public notice given and notices posted up so that the news may be circulated among all the people and all may understand what is being done. If these notices are stuck up in public places and torn down by interested parties I want them put up again. I want all to have sufficient notice so that they may register their names. If the negroes have holiday on Saturday, let them have a chance to register themselves on Saturday. It may be necessary in some cases to require the boards to sit in the evening, so as to give them a chance to register themselves then if they have no opportunity to do it during the day. The planters may try and keep them busy at work, so that they will not have a chance, even within thirty days, to leave the plantation

for the purpose of registering their names. I want to provide against these contingencies; and lest a commander may not issue a proper notice, why is it not competent for us to insert in this bill a requirement that he shall give proper notice and that the notice shall be displayed at particular places? I propose to have the notice displayed in each voting precinct. In many cases a whole county or parish may constitute but one voting precinct. I think that covers the case.

I am opposed to striking out of the amendment what gentlemen seem to regard as unnecessary detail. I do not so esteem it. I think, with great deference to the committee, that it involves a fundamental principle. I do not like to insist upon a thing that is deemed improper by gentlemen older and more experienced than myself; but it strikes me that some such provision as I have proposed is necessary.

Mr. CHANDLER, (at six o'clock and fifty minutes p. m.) I move that the Senate adjourn.

Mr. TRUMBULL. I call for the yeas and nays.

Several SENATORS. Oh, no; we will vote it down.

Mr. TRUMBULL. I withdraw the call.

The Senate refused to adjourn.

Mr. TRUMBULL. I am exceedingly sorry that my friend from Oregon should have offered this amendment, or that the friends of the bill should have consented to allow any such amendment to go upon it. If I can get the attention of Senators, I wish to say that if you are going into detail to fix the mode of proceeding of your commanding general, you cannot finish this bill without rerefering it and getting up a general election law. It is not intended to do any such thing in this bill. We have left it to the commanding general to do, what? It shall be his duty to cause to be registered "the male citizens of the United States twenty-one years of age and upward, resident in each county or parish in the State or States included in his district." He must take the steps to register all these male persons; and now you propose to say how much notice he shall give of where the persons shall go to register. You must leave this to the commanding general.

Well, but some one says, the commanding general may not do this fairly, he may not register the men. If you have got a commanding general that does not purpose to execute this law, you cannot execute it at all. Our whole legislation in regard to the South turns upon the carrying out of our law by the commanding general. The whole object of this bill is to set the thing in motion; and if you are going to permit amendments to be put upon the bill as to the detail of how much notice shall be given before a man shall be registered when are we to get through with it? It does not want any notice of that kind; let him be registered at anytime. I do not care whether there is notice or not. It is the duty of the commanding general to register every male citizen in his county or district except those who are disfranchised by the act to which this is supplementary; and if he does not do it, he violates his duty, and we will hold him and the President responsible for it.

Mr. CORBETT. I should like to ask whether it is the intention that the commanding general shall send his men around with a book to register these men all over the country?

Mr. TRUMBULL. It is intended that he shall send his men to every house, if it is necessary, to register them. The commanding general is directed to make a registry of the voters; and I should presume that any man fit to be a commanding general would know the propriety of giving notice and urging these people to come in.

Mr. CORBETT. As I understood the gentleman some time ago, he said there could not be enough men in all the precincts to be gotten order to register these names. Now, if you have enough men to send around to register

these names, why not enough for the other purpose?

Mr. TRUMBULL. There cannot be found in each township a sufficient number to carry out the Senator's amendment. There are twenty, perhaps forty, townships in some counties; and he would require books to be opened at two places in each township. That would require six persons in each township who could take the test oath. Could you get a hundred persons in a county who could do that and who could attend to this business for thirty days? Besides, there is no necessity for it. That is the provision of the amendment to which I was replying. We want no provision of this kind in the bill; and if you are going to make amendments as to details, how much notice shall be given, and where the particular place of voting shall be, and the manner of contesting the election, the manner of challenging voters; if you mean to go into all these details you have got to get up a new bill entirely, and you cannot get it up in the Senate by one Senator offering one amendment and another another; you had better refer the bill to some committee to prepare a general election law. The Judiciary Committee undertook to do no such thing. This is a House bill, not prepared in the Senate. The Senate committee have reported, it is true, a substitute for it; but it is the House bill rewritten almost *verbatim*. There is very little change from the House bill; and I trust if we are to pass any bill at all, those who are in favor of the passage of the bill will vote against these amendments of detail, one detail requiring another. This amendment requires thirty days' notice before anybody shall be registered. It wants no notice at all before you register any one. It wants notice that the registering officers are about, just as notice is given that your revenue officers go about; and then let everybody come in and be registered at any time. If it is necessary, men must be sent into every locality, for it is the duty of the commanding general to cause these people to be registered, and if he does not do it, he does not perform his duty and what the law requires of him. He will find it his interest to give all the notice he can, to spread it abroad, and get the people to come in and be registered with facility. But if we undertake to put these details into the bill we cannot do it here in open Senate. Now, I do hope my friend from Oregon will not press his amendment.

Mr. HOWARD. I do not understand that it is so particularly the duty of the military commandant to make this registration as the Senator from Illinois appears to do.

Mr. TRUMBULL. It is the language of the bill.

Mr. HOWARD. He says this is the language of the bill. It is true, the bill says that the commanding general in each district "shall cause a registration to be made of the male citizens of the United States," &c. That is what the bill says. He is not to do it himself in person, and it is not to be expected. The bill casts upon him in reference to registration simply this duty, as expressed in section three of the bill:

That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration.

So that, after all, the sole connection of the commanding general with the business of registration is that he appoints in each election district three loyal persons to make and complete the registration, and that is all the connection he has with it. Now, according to the Senator from Illinois, it is quite sufficient that the commanding general shall appoint three loyal persons in each county, if a county should happen to be an election district, or in any other description of election district that may happen to exist. He says, of course it is the incumbent duty of the general to see to it that this registration is completed; and it would seem that he intends to hold him responsible for any dereliction or failure in the completion of this

registration of which he may not be in anywise guilty. The persons to perform this duty are to be appointed by him, and they and not he are responsible for it. Now, suppose he appoints three ignorant, inattentive, drunken, perhaps, careless men, who do not want any registration really to be taken; they stay at home, attend to their private business or their private amusements, and let the business of registration go; nobody is informed when or where his name can be entered upon the register, and no registration takes place in that district. Is this a compliance with the law? And because these three persons are charged with this duty the Senator holds it to be quite sufficient, and that no printed notice is requisite to carry the knowledge of the fact that there is to be a registration home to the business and bosoms of the persons who are interested in it. It seems to me this is leaving matters at loose ends; and now that we have it in hand, it is our duty to see to it that notice is fully and fairly given so that everybody interested in the matter may avail himself of the registration.

Mr. TRUMBULL. I have no doubt that my friend from Michigan, who is utterly opposed to this bill, and has been from the beginning—

Mr. HOWARD. By what authority does the Senator from Illinois make that assertion?

Mr. TRUMBULL. From the course of action which the Senator has taken it is very manifest that he would throw any obstacle in the way of its passage which he properly could as a Senator here.

Mr. HOWARD. Mr. President, that is an imputation which I deny; it is totally unfounded and unjustifiable. I have taken part in the discussion, and propose to do so still.

Mr. TRUMBULL. Mr. President, I judge of the Senator's designs by his votes and his speeches. No amendment, however objectionable it may be, which has been proposed, the tendency of which would be to defeat the bill, I think has failed to receive his vote; and I expect him to criticise and find fault with any provision that is in the bill, and to favor any matter of detail which is likely to embarrass the operation of the bill. I expect that from his course here hitherto; he is very consistent in his course, has been during the whole time this bill has been before us; and I expect him to follow it out. I have no doubts, however—I do not mean to say that of the Senator from Michigan—there are persons who do not want these States reconstructed and restored to their former positions in the Union, at any rate within any proximate time.

Now, sir, I do not propose to answer all the objections that are raised in detail. I abstained from saying anything when the Senator from Oregon offered this amendment originally, because it seemed to me so palpably inconsistent with carrying out the provisions of the bill that it would not receive the sanction of the Senate. I supposed that a majority of this Senate were in favor of the act of the last session of Congress; I supposed they were in favor of a bill to carry that into effect. If, however, I am mistaken in that, of course they will load the present proposition down with amendments improper, impossible of execution, will go into details about the time of notice and all those little things which will prevent action upon the bill. I had hoped we might get a vote to-night. I shall take no time in discussion further than when amendments are offered, if they are persisted in, stating what seems to me to be the objection to them if there is objection. I hope we may vote on the amendments with as great expedition as is consistent with a proper understanding of them.

Mr. HOWARD. Mr. President, I do not recognize the right of the Senator from Illinois to take me to task in this personal way at all. He has no right to impute to me a factious opposition to the progress of this bill through the Senate. It is very true that I have endeavored to amend the bill in various ways; but I have acted honestly and sincerely with a desire to perfect this bill, and make it conform to my

own ideas of what is right and proper; and because my ideas upon this, the most important subject that has ever come before the Senate, do not happen to concur with his, because I happen to dissent from his views in respect to certain provisions of this bill, it does not become that Senator, let me say to him with all proper respect, to take me to task in this very imperious and schoolmasterly style. I do not recognize his authority, and I shall be very much obliged to him for the future if he will forbear to attempt to bring me to the stool of lecture in the manner he has assumed to do here. I have as much right, I take it, to discuss this question or any other question in the Senate as has the Senator from Illinois; and it is a little offensive, let me say to him, to be taunted with the unfounded taunt that I, and others here, judging from our conduct during this discussion, are opposed to all restoration of the States. Sir, I fling this unmanly imputation back into his teeth, and say to him that there is no Senator here more willing to enact a just and proper statute upon the subject of restitution of the rebel States than I am; but I will not be dragged by any Senator into the adoption of views or principles or provisions of law in which I have no confidence; and I am just vain enough to suppose that my own opinions are as sound upon this question as are those of the Senator from Illinois. I acknowledge no superior, and least of all do I acknowledge a dictator, here or elsewhere.

The amendment to the amendment was rejected.

Mr. NYE. I desire to present the following amendment to come in at the place where the rejected one was proposed to be inserted:

The registration shall be completed twenty days previous to the day of voting, and at least three copies of the completed registry shall be posted in each voting precinct designated by the commanding general of the district.

Mr. TRUMBULL. The bill already provides that it must be completed more than thirty days before, so I suppose there is no object in having it twenty.

Mr. NYE. Does it provide for posting?

Mr. TRUMBULL. It provides that no election can take place until after the registration is returned, and it requires at least thirty days previous notice of the election. So there must be more than thirty days' notice. It does not require the posting up of the registration.

Mr. NYE. I understood that provision of the bill, but that provision does not require the essential part, the posting up of notice.

Mr. TRUMBULL. I will say but a word about that as I promised to take but little time. This is another of those details that it is proposed to put into the bill; and I think if you undertake to amend the bill in that way in the Senate you will have a very incongruous bill: it will result in having to recommit it and having an election bill prepared. I hope it will not be adopted.

Mr. NYE. I have only one word to say on the subject. The great object of registering votes is to advise the people who are voters; and I venture the assertion that there is not a registry law in any State of this Union but what requires that the list of voters shall be posted a given time before the election. The object is that persons who are desirous of having a fair and honest vote may examine the registry and see whether any name upon it is a voter or not. In New York I think they require the notice to be posted ten days and prescribe the manner of posting it; in Michigan twelve days I think are required; and in every State where there is a registry law the requirements of posting the registry always follows of course; so that any one can go and see whether Mr. NYE has registered his vote as living at such a number and such a place, to inquire whether he lives there, and then can ascertain whether there is such a voter living at that place. The object here will be to see if men have registered their names as voters who come within any of the provisions that exclude them from voting; and the inhabitants of the place will

know much better about it than the commanding general. I hope that that amendment will prevail so far as the posting of notice is concerned; at least I hope the Senator from Illinois will not object to it.

Mr. TRUMBULL. There is certainly no objection to posting the notice. The Senator from Nevada will not understand me as opposed to that. I think that should be done.

Mr. NYE. Then let it pass.

Mr. TRUMBULL. The objection to the amendment is that we cannot undertake in this bill to go into all the details. If you do, in how many places are you to post up the notices of holding an election, what kind of notice must you give, and how is the election to be conducted, and who is to provide the ballot-boxes? Who is to do all these things? They are all to be done. We have not provided who is to furnish the ballot-boxes or how it is to be done. We have left this election to be conducted under the direction of the commanding general; and I say to my friend from Nevada I think it very proper that the list of voters should be published that everybody may see it. There are a great many things that he and I know would be very proper in conducting this election, not one of which is put into this bill. Does the Senator from Nevada mean or does the Senate mean that we shall make this bill perfect in regard to the machinery of the election or to undertake to provide it all? If the Senate come to that conclusion let it rerefer the bill at once, for there are forty such amendments that would have to be made to carry out that view. I oppose this amendment, not because I think it wrong in itself, but because I think we should not undertake to go into the machinery of the election in this way.

Mr. NYE. All I desire to say in answer to that is that you have undertaken in this bill to prescribe certain things that these commanders shall do.

Mr. TRUMBULL. Generally.

Mr. NYE. This is a great general thing that pertains to this election which is about to take place, more important than anything else; and I trust I shall not be considered as captious when I suggest that it is the very life of the registry. I want to say one more thing that the commander shall do—let him fix the details as he pleases—that this notice shall be published at least twenty days before the election in three public places, so that the registry may be scrutinized.

The amendment was rejected.

Mr. WILSON. I propose the following amendment as an additional section:

*And be it further enacted,* That the duties hereby imposed upon the commanding general of each district and the powers conferred may, with his consent, be performed and exercised by the acting Governor of any State who shall take an oath or affirmation faithfully to do and perform the same, and shall take and subscribe the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office."

I wish simply to say that in Virginia, Arkansas, and Louisiana we have Governors who can take the iron-clad oath. They are men who have been Governors of those States for several years, who know the public men of their States, who know the public sentiment there, and I think, with the assent of the commanding general of their districts, they can discharge these duties better than any persons who may be appointed as general officers. There are only three Governors who can take this oath, and under the amendment the assent of General Schofield, General Ord, or General Sheridan, in each of the respective cases, must be obtained before they can perform these duties. I believe that with their knowledge of men and their knowledge of their States and of the localities of voting and of everything pertaining to those matters, if the commanders would assent to it, these three Governors, or any one of them, could discharge the duty better than any one of those generals. This provision was in the original bill, but it was stricken out by the House of Representatives. I believe, in fact I know, that some of the most



earnest men in Virginia, in Louisiana, and in Arkansas, are in favor of it, and were in favor of it before it was brought into either of these Chambers.

Mr. CONNESS. I have three objections to this amendment. One is that it will destroy in the respect to which it applies, or is proposed to apply, the uniformity of the plan, making different sources of authority to put the scheme in operation. Another is that it will enable, if adopted, military commanders who have a desire to do that to shuffle off from themselves the responsibility of putting it into operation. The third is that I would sooner trust either of the military commanders who have been named in these States than I would either of the so-called loyal Governors. I desire to put it in that direct manner. I hope for these reasons the amendment will not be adopted.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment made as in Committee of the Whole.

Mr. SUMNER. I wish in some way to get at some of the propositions on which we have voted in committee. There are several of them on which I desire to have another vote.

Mr. TRUMBULL. You will have full opportunity when they are offered again.

The PRESIDENT *pro tempore*. The amendment made as in Committee of the Whole was one amendment, striking out all of the bill after the enacting clause and inserting a substitute.

Mr. DRAKE. I understand that it is now in order to offer amendments to the amendment agreed to in committee.

The PRESIDENT *pro tempore*. Certainly.

Mr. DRAKE. Then I move to amend that amendment by inserting as a new section, to come in after section two, the following:

*And be it further enacted, That at the said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates as aforesaid the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election and to make return of the votes given thereat as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall be returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the whole number of voters registered in any State as aforesaid have voted for a convention, then such convention shall be held as hereinafter provided; but if a majority of such whole number of voters registered shall have voted against a convention, then no such convention shall be held under this act.*

It will be perceived by the Senators present that this is the same amendment which I offered in committee, and having expressed myself very fully in regard to it then, I do not propose any further discussion of it at this time. I have been led from various things that have come to my knowledge since it was voted upon in committee to entertain the hope that the objections of some gentlemen of the Senate who voted against it before have been removed, and that I may now look for their support. I would make this single remark in regard to it, that the Senate having in committee definitively settled the question that a majority of the votes given upon the question of the adoption of the constitution when that shall be framed shall control the ratification of the constitution, instead of a majority of the whole number of registered voters, I simply submit to the judgment of the Senate whether it is not better, under all the circumstances, that this expression should be taken at the hands of the people at the very beginning, and that then a majority of all the registered voters should be required to set the machinery in motion for making a constitution.

I do not wish to consume the time of the Senate; they have indulged me very politely in reference to the discussion of this matter; and I submit this amendment to them in the earn-

est hope that it may commend itself to their judgment.

Mr. CONKLING. I should like to ask the Senator a question before he takes his seat. I wish he would explain the idea of the concluding language of his amendment. If I understand the amendment, it is that if a majority of all those registered vote for a convention, a convention shall be held; and if a majority of all those registered vote against a convention, no convention shall be held. Now, suppose a majority do not vote either way, what would the law be under the amendment? If the amendment provided that in case a majority of those registered vote in favor of a convention a convention should be held, and otherwise not, of course I would understand the idea of that, and we should all understand it alike; but I ask the Senator to be good enough to state what his view was in using the language that if a majority vote for it, a convention shall be held, and if a majority vote against it, it shall not be held. Suppose a majority of those registered do not vote either way, what will be the result then?

Mr. DRAKE. Of course the gentleman from New York need not ask me what will be the result. He sees the result just as plainly as any one can see it, and I see it too; but it never occurred to me as within the range of possibility that there would not be a majority of the registered vote one way or the other. It is certainly possible that it might occur that a majority of the registered vote would not vote either way; I understand that, now that the gentleman has called my attention to it; but it never occurred to me before as a contingency to be guarded against.

Mr. CONKLING. Then I will ask the Senator to modify his amendment, choosing his own language, so as to provide that if a majority of all those registered vote for a convention it shall be held, and otherwise no convention shall be held as the result of that vote, which will carry out the idea he has.

Mr. DRAKE. There does not occur to me any objection to that modification.

Mr. SHERMAN. Reflection on the proposition made by the Senator from Missouri since he offered it the other day, has led me to the conviction that it may be well enough to take the sense of the people who are on the registry as to whether they desire a State government; and if the Senator would make his proposition conform to the action and deliberate judgment of the Senate, so as to require only a majority of those voting at the election, I would vote for the proposition. The bill itself provides that a majority of the delegates to the convention must first declare the desire of the people to form a State government. That is one mode of ascertaining the sense of the people; but as there is to be an election of delegates, there is no impropriety and no inconvenience in requiring each voter at that election to declare his own opinion on the question. Perhaps it is a better way of getting at the wish and opinion of the people of these States, instead of relying on the vote of the delegates after they are elected; but the proposition as now made simply defeats this bill.

Mr. DRAKE. That is not my intention.

Mr. SHERMAN. That will be the probable result. The Senator himself convinced the Senate by a few remarks he made a while ago that it was unwise to require a majority of all the registered voters to concur in ratifying the constitution. If his argument was good then, the same argument ought to apply now. I think it would be well enough in the preliminary election for delegates to require each voter to vote for or against a State government under this law; and if a majority of those who vote declare in favor of forming a State government under the law, let that be considered the sense of the people, and let the convention meet and at once form a government to carry out the wishes of their constituents. There is but very little difference between an expression by the convention itself after the members are elected and an expres-

sion by the people; but as there must necessarily be an election to elect the delegates, it is just as well to take the sense of the people in the beginning; probably it would be better, as the law we passed at the last session submits the whole matter to the people, and says that if the people of the rebel States do so and so we will admit them to representation. I can see the force of the argument which would submit the question at the outset to the people in the election of delegates; and then, if the commanding general finds that a majority of the people of the State have voted in favor of a convention, he calls the convention, the delegates having been elected by the same vote which passed upon the question of a State constitution. If the Senator from Missouri will modify his amendment so as to require only a majority of those voting at that election to determine the question, I shall vote for it, and I think that is probably the best way to get the sense of the people.

Mr. TRUMBULL. Since this amendment was offered the other day I have individually consulted the members of the committee in regard to it, and as the object to be attained is a common one, a majority of the committee—and perhaps I am justified in saying that such is the unanimous opinion of the committee—agreed that if it would avoid discussion, and would be more satisfactory to some of our friends to ascertain the wishes of the people by a direct preliminary vote rather than by a vote of the delegates, there would be no serious opposition to the proposition. I do not exactly feel authorized to say for the committee that they are in favor of this amendment. We thought upon consultation that the best mode was that which is provided in the bill, and let the question of the wish of the people to form a constitution and State government under our legislation be decided by the delegates whom they shall elect, and let that question enter into the election of delegates, because if the delegates elected were opposed to taking action they would defeat the formation of any government even after the people had voted directly to form one. But I agree with the Senator from Ohio that I think a majority of those voting should decide that question.

I have thought it important to adhere to the legislation of last session. The legislation of last session provided that the State constitution, when submitted to all the people for ratification, should be ratified or rejected, according as a majority of those voting on the question should decide, and I was very sorry that the amendment of the Senator from Vermont [Mr. EDMUNDS] was adopted, which changes that principle, and is a departure from the plan which we laid down. If this amendment which the Senator from Missouri offers could be adopted, with the modification suggested by the Senator from Ohio, leaving it to the majority of those who shall vote in the election of delegates to decide whether there shall be a convention or not, I should not seriously object to it. I see no way, however, of reaching it except by voting down this amendment in the form in which it is proposed, and then if it were offered in the other form I should not object to it. I suppose this being an amendment to an amendment is not now amendable. The only way to get at it would be to vote down this amendment; and then if another amendment should be offered, leaving it to a direct vote of the people to decide at the first election by a majority vote whether they will have a convention or not, I should not seriously oppose it.

Mr. JOHNSON. The chairman of the committee is right in supposing, at least so far as my information extends, that the members of the committee, including himself, would be willing to accept of this amendment if it was at once to secure the passage of the bill. In giving my assent, however, it was not because I believed it was necessary or even advisable. Looking at the peculiar character of the people who are to be called upon to decide the question of convention or no convention,

my impression is that it can be much better decided by the convention than may be selected than by the people at the time they give their votes. But for the reason stated by the chairman, if the honorable member from Missouri will modify his amendment so as to require only a majority of those who shall vote, I will give it a very willing assent. I do not think it is proper to require a majority of the whole number.

Mr. DRAKE. I thank the honorable chairman of the Judiciary Committee, and the honorable Senator from Maryland, who has just taken his seat, for the manifestation of a disposition to entertain this amendment favorably, if modified. I have no objection myself personally to the modification of the amendment. I have it here just in the form the gentlemen suggest, differing in no respect from that presented, except in the last sentence, the language elsewhere being precisely the same. If that will commend it to the Senate, I would feel very much gratified indeed to have it meet the approval of the Senate, for I really think it desirable.

Mr. TRUMBULL. Perhaps the whole had better be read.

Mr. JOHNSON. I ask that it be read.

The Secretary read as follows:

*And be it further enacted.* That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates as aforesaid the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election and make return of the votes given thereat, as hereinafter provided, shall count and make return of the votes given for and against a convention; and the commanding general, to whom the same shall have been returned, shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be given against a convention, then no such convention shall be held under this act.

Mr. JOHNSON. That will do.

Mr. CONKLING. It seems to me the proposition to require at the election to which that amendment relates a majority of all the votes registered is a very different proposition from the one we voted upon. I understood the Senator from Massachusetts, [Mr. WILSON,] who made perhaps an opposition as successful as any Senator made to the report of the Judiciary Committee and the action of the House, to place his objections very largely upon the idea that the more unanimous a State might be in favor of the constitution the lighter the vote would naturally be; and I think he used the expression that it would be a mere formal election, a ratification *pro forma* of something which everybody favored; but, said the Senator, when you elect delegates to the convention, when you pass upon the question whether the convention shall be held, there will be in that election enough of controversy to bring out a large vote on both sides. And yet when we come applying to that election the proposition to ask that a vote shall be necessary, which I undertake to affirm will not probably exceed one third of the legal votes in the State, we are told that the proposition is the same that it would be if we sought to apply it to this *pro forma* election to ratify a constitution. So I understood the gentleman from Ohio to say.

Mr. WILSON. You must not understand me to say so.

Mr. CONKLING. I have not understood the Senator from Massachusetts to say so. I only say that at one part of this bill the enemies of this proposition put their action upon a ground which indicates that in another part of the bill it would be very proper, and when we come to that the gentlemen who vote in that way see no distinction between the case as we made it before and as we seek to present it now.

Of course I am not idle enough to suppose that anything I can say would vary at all the conclusion to which any gentleman has come, or would be likely, with the Senators absent

and the Senators present as they are, to produce any effect or impression whatever. I wish to say, however, that if I supposed this bill was to be voted upon here ultimately, with the Senate composed precisely as it has been since some of the Senators left the Chamber, I should look with great apprehension, with a feeling of great disquiet upon what the Senate in that event would be about to do; because I can conceive of nothing more repugnant to the idea which, as I understand it, has lain at the foundation of the action of the Union party of this country for the last year in Congress and out than the notion apparently insisted upon here that we are to erect in these States governments based upon the absence of majorities, based upon the consent of minorities, and that we are to throw away on the threshold all the opportunities that we have to erect governments there established upon principles really republican.

I want to make but one other remark, and that is this: by just as much as we establish requirements insisting upon a majority of all the legal voters in a State, by so much we indemnify the blacks and the ignorant and helpless of both colors against an invasion of their rights; by so much we offer a reward, an inducement to rebels, and to those unfriendly, to allow the poor and the ignorant to come to the polls, and to induce them to do so. Why? Because they need their suffrages to give life to the institutions they seek to form. On the contrary, the moment that at either of these elections, and more especially at both of them, we make a provision by which with impunity the governing spirits in these States can dispense with the attendance of a majority of those entitled to the suffrage, that instant we not only license, but we offer an inducement to the exercise of all the influences which will banish, which will discourage, which will hinder the poor, the ignorant, and the oppressed from asserting their rights.

I will take the State of South Carolina, as that has been used as the favorite illustration. Is it worth while, when in South Carolina a majority of all the voting population is composed of those men whom recently we have disenthralled and enfranchised, to make provision by which that voting majority can be ignored and excluded with impunity? The Senator from Massachusetts says we are afraid to trust our friends. How strangely he mistakes the argument which I, for one, seek to put forward on this proposition. So far from that, sir, we seek provisions in this bill which shall not only make it necessary to invite these men to take the part which we propose that they shall take, but which shall render their participation essential, which shall render the participation of these black men that desideratum without which the barons of the South will not be able to establish State governments, in lieu of that military government and that provisional government which exists to-day.

For one, sir, I am not afraid to trust these men; far from it. I want to trust them; and I want a provision which in South Carolina will show the world, when a result has been had, that these black men, either all of them or a majority of them, have been allowed to participate, and that they have participated. I do not want a condition of things by which with impunity the men hostile to them, the men hostile to the longevity if not to the existence of this Government, are able, minority though they be, in the first place to inaugurate, and in the last place to consummate the institutions under which that community is to resume what the late President called its proper relations with the Union.

Mr. WILSON. I shall vote most cheerfully for this amendment. I see a marked distinction between taking the sense of the people on the day of the election of delegates and taking the sense of the people called to adopt or reject the constitution. The great struggle in each of these States will be on the day of electing delegates. There will be candidates for the convention. They and their friends will

make personal efforts to bring out the voters. There will be opposing candidates, and the vote will be a large vote. The real judgment of the State will be taken on that day; and I am willing that on that day when the people are at the ballot-box they shall declare for or against a convention.

My objection to requiring a majority of the registered voters to vote for the adoption of the constitution was this: I do not believe that the average of the constitutions in the country ever received the vote of one third of the legal voters of those States. If Senators will examine the fact, as I had occasion to do a few years ago with some little interest on a matter in which I had some concern, they will find that constitutions and constitutional amendments are adopted by a very small vote of the people. Unless the day of voting be fixed on the day of a general election, in which the great interests of all are concerned, the vote will be a very small vote. Then to give the men who have been defeated in electing delegates, defeated before the people, in the convention, and in the results of the convention, an opportunity by staying at home to be counted and put down the convention, I thought a mistake, and I think so now.

But, sir, on this question of electing delegates, you will find this whole rebel region of country stirred to its profoundest depths. There will be a struggle for the control of the conventions. Let me here express the opinion—the declaration may be taken for what it is worth; it is a matter of opinion—that you will find the great masses of the men we have just enfranchised at the ballot-box on that day voting for a convention and voting to elect delegates who will make constitutions there that will secure them forever the right of suffrage and their other rights; and you will find the secessionists at the polls. If they are beaten there, if they lose the convention, the natural resort of these men would be, if you give them the privilege by staying at home to be counted, to stay at home and keep everybody else at home.

There is to be an election on the fourth Monday of April, I understand, in New York, to elect delegates to a constitutional convention. There will be a great struggle; there will be a large vote on that day; but let that convention meet and make a constitution, and let it be one on which parties agree generally, and then submit it to the people on a day on which there is no other election, and if it brings out two hundred thousand of the eight hundred thousand voters of New York it will be a miracle. Ought the great masses who are satisfied with it and stay at home to be counted against it? Surely not. Look at the vote in the States that have adopted constitutional amendments within a few years. My own town, with a vote of eight hundred, cast but sixty or seventy votes, and the State, with two hundred and forty thousand voters, cast only about twenty-five thousand votes on a very important constitutional amendment, on which some of us divided and took part against it.

Mr. EDMUNDS. What was it?

Mr. WILSON. To put in the constitution a clause requiring a naturalized citizen to be two years resident in the State. Some of our men opposed it. I opposed it. It went into the constitution. I predicted that it would go out in two or three years, and it did go out. We cannot get the masses of the people out to vote on the adoption or rejection of a constitution, unless there is something that divides parties strongly upon it and it is on the day of general election. Now let us have this amendment. We shall get the vote out on the day of the election of delegates, and then we shall get a fair expression of the people who are registered on the subject. I would rather trust the vote of the people on that day than trust the vote of the delegates that will be elected.

Mr. HENDRICKS. I believe the Senator from Missouri has so modified his amendment as that a majority of those voting shall control

the question whether the convention shall sit. That is the present proposition. Now, Mr. President, my opinion is it is wholly unimportant whether this amendment be adopted or not; and I think the country is not so stupid as to suppose that because there is this apparent popular element thrown into this movement, it is therefore a popular movement; in other words, that it secures the real voice of the people, and that it will be a republican form of government as coming from the people.

The thing stands just in this way: we have established over them a military government; we have stripped them of the provisions of the common law which secure to them the trial by jury and other important rights; and we now say to them at the point of the bayonet, "Adopt this constitution, or live under this military government." It is wholly unimportant whether they vote on the constitution, or the question of their agreeing to this movement be postponed to a period when they can give a more intelligent vote upon the constitution itself. The whole thing is required of them. A free voice of the people is impossible, and I would not be willing that the vote should be taken without expressing this opinion on the subject. A discussion of the formation of a republican government, of establishing free institutions, of the right of the people to govern themselves, of the right of the people to decide their form of government, seems to me to be absurd in the presence of such movements as were inaugurated at the last session of Congress. It is saying to the people of these States, "Adopt a constitution such as we suggest and require, or live under a military government."

I have given my support to the bill as it came from the committee, because I think that almost any form of State government where the people are allowed to vote, where courts will be returned to their jurisdiction, where the right of trial by jury will be returned to the people, where the writ of *habeas corpus* will be restored to them, is better than the present condition which we have established. I do not care a farthing whether the proposition of the Senator from Missouri is adopted or rejected; it is wholly unimportant. It will mislead nobody. It may produce difficulty in some localities. It may get up a strife before the people are prepared to act intelligently on the subject. What voice do we want? We want to know the free voice of the people upon the constitution that is submitted as their form of government. That is the only important question. That question can only be submitted after the convention has done its work and when the constitution has been framed. When they come to vote now, all they vote on is simply this: are you willing to call a convention to establish negro suffrage, or do you prefer to live under a military government? That is the question that is first presented. It is the only question that they vote upon.

I think myself that this bill is more desirable if the people will act upon it intelligently and calmly and wisely, so far as it is possible for them to do, than to live under the present divided sort of government down there. We have an unlawful government, a government not lawful, and yet it is called a provisional government. What that thing is will be submitted perhaps to the historians and the statesmen to follow us. What an unlawful government, provisional in its character and having some authority is, I cannot undertake to define; but that is the civil institution which the law of last session recognizes. The people are to live, as matters now stand, in the southern States under a provisional government, not a lawful State government, and under a military government. The provisional government may exercise such authority as the military government allows to it. It may be very different in the different States. I think it is the most unfortunate sort of government that was ever established on earth. If you have a straight out despotism the people soon learn to know what it is and become accustomed to the yoke and do not care very much about it; but this

uncertain form of government, one thing one year and quite a different thing the next year, is certainly the most objectionable possible form.

Then the question is submitted to the people, "Will you have this or the other which we now propose to you; you may make a State government provided you will make it according to our pleasure?" That is what we now propose. "If you propose State governments according to our pleasure it is all right. We first submit the question to you, will you make a State government according to the pleasure of Congress?" They vote upon that; the delegates are elected; and they form a constitution according to the pleasure of Congress. Then the people once more in the exercise of their own freedom say, "We will do as Congress says we shall do." That is the whole of this business. It may result in good. It cannot be worse than the present condition of affairs. I shall be very glad when the people there settle down upon something. I want to see them represented here.

The Senator from New York asked the question whether the people would starve less, whether they would shiver in the cold for want of clothing less, if they were represented in Congress. I did not know that it was unimportant to a State that she should be represented in the Congress of the United States until it was thus presented by the Senator. Will the people suffer less from poverty in the great State of New York if they are not represented in the Senate? And yet the distinguished Senator would say to all of his people, "Fight to the death rather than be stripped of your equal representation in the Senate." Of course he would say that. It is not a question of bread and butter; but it is a question of the right of the people to representation where their laws are made. It is the greatest right that is enjoyed by any community in the world. The bill of last session and this bill will establish in this country the proposition that Congress may dictate to the States the form and fashion of their State governments, and when they make them to conform to the pleasure of Congress they shall become valid, and when not according to the pleasure of Congress they may be declared illegal.

I have said thus much simply because some of the argument assumed that this business, when completed, would be the voice of the people; the constitutions when formed would be their constitution, and not ours. I do not so regard it; but I think it is better for the people to organize, even under this, than to live under the law that was passed at the last session. So far as the particular proposition that is now before us is concerned, in my judgment, it is as unimportant as anything possibly can be.

Mr. HOWE. The point made by the Senator from Indiana [Mr. HENDRICKS] against the republican character of the governments recently established for these southern communities, I think, is very well taken. I do not think the government we have provided for them in the recent act of Congress is republican. The mistake into which the Senator has fallen, as I think, is in supposing that those governments were made to take the place of republican governments. The governments which they take the place of are not republican. It may be that they come a little nearer that character than those military authorities which we have established there; but if they were nearer republican in their character than the military governments by which we have replaced them, they were not so loyal as those by which we have replaced them. We found the people of those different States under governments which did represent a considerable portion of their people; but then the portion of the people which they represented was not the whole body of the people; it was only a part, after all, and that the rebel, the disloyal part. Now, we have replaced those governments representing only a part of the people, and that the disloyal part, by governments representing a fewer number

of the people, I must confess, but then they represent only the loyal. Disloyal governments are removed to make place for loyal governments, neither being republican in their character. So much for that.

Now, Mr. President, as to the amendment pending, I wish to vote for it because I believe in it. It presents us no question of the establishing of governments by minorities. There is nothing of the kind. It does not make that possible. If there is a majority of the people in any of these districts opposed to the government or the constitution or the convention which this bill provides, they can defeat it by going to the polls and voting against it. But I have heard since I have become a member of the Republican party a great deal said first and last about the beauty of equal rights and of equal justice, and I supposed there was some beauty in it because I have heard so much said about it; but you can never make me believe, I think, that there is any equality of rights or of justice in the proposition which makes the wishes of the man who stays at home, plowing upon his farm or at work in his shop, countervail and annul the wishes of the free elector who mounts his horse or takes to the footpath and goes to the election and deposits his vote. That is not equal right or equal justice, or if it be, equal rights and equal justice are not the beautiful commodities they have been cracked up to be.

One word, sir, in reply to some remarks which have been submitted with great force by the Senator from New York. If I supposed that we were providing for an election in any of those communities in which slaves were to go to the polls and deposit their votes with masters, then I should feel with the Senator from New York that there was a necessity for some provision by which the master should be compelled to let his slave go and vote. But I do not perceive that to be the work in which we are engaged. It seems to me that we are opening an election at which only free men are to be heard, an election at which the supreme law says that all men may vote. True, some of them have been slaves; but they are slaves no longer. If I supposed there were to be remaining in those communities any moral influence of any kind or measure, any higher law than that which we enact, by which the old master could keep his former slave from the polls, I would not commit these prerogatives of a State to any such community under any such circumstances, and it ought not to be done. That is all I care to say on this question.

Mr. CRAGIN. I am in favor of this amendment as it is now proposed, and for this reason: if in the outset, before any convention is held, it is apparent that the majority of those who vote are against a convention, it is certainly useless to go through with the work of forming a constitution that shall be submitted to the people and then rejected. As the amendment now stands, proposing that a majority of those who vote shall decide the question whether a convention be called or not, I am in favor of it.

Mr. President, for more than a year past the Macedonian cry has come up to these Halls from the white loyalists of the South and from the freedmen there, "Come and help us." By our recent legislation we have reinforced the white loyalists by giving the right to vote to the freedmen of the South, and in addition to this we have given them the aid of the military power of this Government to protect them in their rights. Sir, in voting to-day I have tried to give such votes as should deprive the rebels, those who have been making war upon these white loyalists and these freedmen, of the power to defeat the wishes of these men in reconstructing these States. I desire that these States shall be reconstructed and in the hands of the loyal men there, white and black; and for one, I shall give no vote here that will enable the rebels by staying away from the polls or otherwise to defeat the will of the majority of the loyal men there. I desire that as soon as possible this military government shall

be removed from these States, and that a State government, republican in form, officered and controlled by Union men, those who love the Union and the flag, shall take the place of this military government. I rejoice that the signs that come to us since the passage of the military reconstruction bill are so favorable. I rejoice that there are signs that the people there are moving in the right direction, and that the time is not far distant when we shall see this Government restored, when we shall see men from these States here in our midst, men who can take the iron-clad oath, for none others can come. Such men I am willing to associate with; such men I want to associate with; and for that reason I rejoice in these signs.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President—

Mr. DRAKE. I will suggest to the Senator from Oregon, with his permission, that the adoption of this amendment makes another amendment in the third section necessary, and if he will allow me, while the subject is up—

Mr. WILLIAMS. That is what I was going to propose, to amend the third section.

Mr. DRAKE. I have it prepared here, and with the permission of the honorable Senator from Oregon, I will offer it. I move to amend section three of the amendment made as in Committee of the Whole, which will now be section four, by striking out after the word "shall" in the twelfth line the words—

First determine by a vote whether it is the wish of the people of such State to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary, and if so, shall proceed to frame such constitution.

And to insert:

Proceed to frame a constitution and civil government according to the provisions of this act and the act to which it is supplementary.

Mr. TRUMBULL. There is no need of striking out these words and then reinserting them. All the change that is necessary is to insert the word "proceed" in the fourteenth line, and leave the words that are in the bill as they stand. Those words are there, and it will be much better understood, I think, by the Senators who have the bill in their hands, simply to insert the words which are necessary to make the bill conform to the amendment which has been adopted, than it will be to strike out a whole sentence and then insert it in manuscript, which will not be before us.

Mr. DRAKE. With all respect to the honorable Senator, I will suggest to him that if his mode of amendment is the one adopted it requires taking out words in two places. It cannot be done otherwise.

Mr. TRUMBULL. That is very easily done. Strike out words in two places and insert one word, "proceed," and you have the amendment.

Mr. DRAKE. Very well; I will agree to that course if the Senator will designate the words to be stricken out.

Mr. TRUMBULL. After "shall" in the fourteenth line strike out "first determine by a vote whether it is the wish of the people of such State," and insert the word "proceed;" and in line eighteen strike out the words "and if so, shall proceed to frame such constitution."

The PRESIDENT *pro tempore*. Does the Senator from Missouri accept that modification?

Mr. DRAKE. That accomplishes it in the same way, and I have no objection to it.

The amendment was agreed to.

Mr. TRUMBULL. There is another amendment necessary to complete this. In the eleventh line, after the word "and" should be inserted the words "if a majority of the votes given on that question shall be for a convention, the commanding general," and the word "he" in the twelfth line should be stricken out; so as to read:

And if a majority of the votes given on that ques-

tion shall be for a convention, the commanding general shall notify the delegates to assemble in convention, &c.

As it stands it would be inconsistent with the amendment that has been adopted, because it would positively require the commanding general to call a convention, which he is not to do except in that contingency. I therefore move that amendment in the third section as it is printed, but which will now be section four.

Mr. CONKLING. But we are going to vote on the question again of making it a majority of the registered votes, and if that shall be adopted we shall want this clause to conform to that.

Mr. TRUMBULL. We have already adopted this principle, requiring a majority of those voting.

Mr. CONKLING. If the Senator will excuse me, I intend to move, if no other Senator does, to strike out those words and put them back as the amendment was before it was modified, and if that vote should happen to prevail—we have not had an opportunity of taking it yet—then the amendment which he now proposes ought to correspond with that, and whether it is put first or last is a mere matter of convenience.

Mr. SUMNER. I had proposed to renew the amendment that I offered, to strike out the word "qualified" and insert "registered," and also to insert the word "all" before the words "the electors."

Mr. TRUMBULL. We may as well decide one thing at a time. If the Senator from New York desires to have another vote on that question, why not take it on the words I propose and have it settled here?

Mr. CONKLING. We have not had a vote upon it. The mover modified it, so that we got no vote on the question, and it is the desire of several Senators to have a direct vote upon it.

The PRESIDENT *pro tempore*. The Secretary will read the amendment that is now before the Senate.

The SECRETARY. It is proposed to amend section three, now made section four, by inserting after the word "and" in the eleventh line the words "if a majority of the votes given on that question shall be for a convention the commanding general;" and in the twelfth line to strike out the word "he;" so that it will read:

And if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, &c.

Mr. TRUMBULL. Now, I submit to my friend from New York that if he desires a distinct vote on that question, perhaps it might be taken on this amendment, which I suggest merely to conform to the other, and then if this is rejected, it will be necessary to change the other; and if it is adopted, it will avoid the necessity of two votes.

Mr. CONKLING. I have no preference about it. The Senator from Massachusetts [Mr. WILSON] was going to move an amendment, as I understand, to take the sense of the Senate, as it might have been taken had the Senator from Missouri adhered to his amendment as originally offered, but he modified it so as to require a majority of those voting in place of a majority of those registered; and if it be agreeable to the Senator from Illinois, I will move now to take the sense of the Senate upon that question, or after the vote is taken on his amendment.

The PRESIDENT *pro tempore*. Does the Senator from Illinois withdraw his amendment?

Mr. TRUMBULL. No, sir. I was suggesting to the Senator to take the vote on my amendment. Why not have a test on that?

Mr. CONKLING. That cannot be done, because if it is not adopted the Senate will have to go back and take a vote on the amendment which it is proposed to modify, whereas if the vote is taken on my proposition the Senator's amendment will follow to correspond.

Mr. TRUMBULL. The only object is to

save two or three votes, if the Senator from New York will understand my purpose. This raises the precise question. If this amendment which I have proposed is adopted, then he does not wish to make any motion, for that settles it.

Mr. CONKLING. Most certainly. There is where the Senator is wrong. This would have to be modified in conformity to that, because it is a preceding section, and you have two votes, whereas if you vote on this your amendment will follow as a matter of course.

Mr. TRUMBULL. It is very difficult, it seems, to make myself understood. The amendment already adopted leaves the decision to a majority of those voting. That is already adopted. Now, I propose an amendment to conform to that already adopted, leaving it to a majority of the votes. If the Senate refuse to adopt my amendment, then we have got an expression of the opinion of the Senate that the other must be changed. If the Senate adopt my amendment, that is the end, and one vote settles it.

Mr. CONKLING. That is precisely my proposition. If the Senate does not adopt this amendment it must go back, having voted upon this, and voted upon the preceding amendment which it wants to modify, whereas if the vote is taken first on that, this follows as a matter of course without any vote at all. It is a question between two votes and one; that is all.

Mr. TRUMBULL. I insist on my amendment. I cannot make the Senator from New York understand it as I do. Let us see how the Senate will vote on this amendment.

Mr. CONKLING. I think I understand it. The amendment was agreed to.

Mr. CONKLING. Now, if it is in order, I move to amend the amendment offered by the Senator from Missouri, so that it will read:

If a majority of the voters registered as aforesaid shall vote in favor of a convention, then such convention shall be held as hereinafter provided.

I need not state the residue of the amendment; otherwise the convention is not to be held.

Mr. DRAKE. I will state that it is prepared in the other amendment just in accordance with that general idea.

Mr. CONKLING. I am aware of that; still I must offer it in this form to be in order; so that the proposition is simply now to require a majority of the registered voters, instead of a majority of those voting.

Mr. POMEROY. That amendment having been agreed to in Committee of the Whole, it is not now in order to amend it.

Mr. CONKLING. It was not in Committee of the Whole, but in the Senate.

Mr. TRUMBULL. But the amendment having been agreed to in those very words and in its present form, I suppose it is not now in order to amend it.

Mr. CONNESS. Let us take a vote on it by unanimous consent.

Mr. TRUMBULL. We could have done it a moment ago, but the Senator refused to take it.

Mr. CONKLING. I think my motion is strictly in order, for I move to strike out the words which the Senator from Missouri has inserted. A motion to strike out and insert, the amendment having been adopted, not in Committee of the Whole, but in the Senate, I submit is in order. That must be so.

Mr. TRUMBULL. As I understand the state of the question, it is this: in the Senate, since we came out of committee, the Senator from Missouri has moved an amendment which the Senate has adopted. The Senator from New York, after it is adopted, proposes to strike out a portion of it. That is the question. I submit that he cannot get at it in that shape.

The PRESIDENT *pro tempore*. It is not in order, in the opinion of the Chair, to move to strike out a portion of an amendment which has already been agreed to.

Mr. CONKLING. Then I will move to reconsider the vote by which the amendment



of the Senator from Missouri was adopted if the point of order is insisted upon.

The PRESIDENT *pro tempore*. That motion is in order.

Mr. CONKLING. There was no division on that amendment, so that the question whether I voted one way or the other does not arise.

Mr. DRAKE. I very much hope the amendment proposed will not prevail. I think it had better be allowed to stand as it is.

The PRESIDENT *pro tempore*. Let the motion be stated before you begin to argue it. The Senator from New York moves to reconsider the vote by which the amendment proposed by the Senator from Missouri was adopted.

Mr. TRUMBULL. On that I simply wish to say that the Senator from New York has avowed his purpose in moving to reconsider to be to change it from a majority of those voting to a majority of all the registered voters. We all understand it. Let us take a test question on reconsidering; those who are opposed to the change can vote against reconsideration; and it will be a saving of two or three votes.

Mr. CONKLING. We had better have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. SUMNER. I desire to make one remark. I said nothing when the question was up before; but I cannot allow the vote to be taken now without expressing in one word the ground on which I shall place my vote.

We have just come out from the fires of a terrible rebellion, and our special purpose now is to set up safeguards against the recurrence of any such calamity, and also for the establishment of peace and tranquillity throughout that whole region. There is no Senator within the sound of my voice who is not anxious to see that great end accomplished. How shall that be done? Is it by founding your governments on a majority or on a minority? If these were common times, then I should listen to the argument of the Senator from Missouri, [Mr. DRAKE,] and also of the Senator from Indiana, [Mr. MORTON,] to the effect that the government might be founded on a majority of those who actually vote, although they were really a minority of the population; but at this moment, when we are seeking to recover ourselves from the rebellion and to guard against it in future, I cannot expose the country to any such hazards. Let us take the precaution to found our governments now solidly, firmly, on a majority, not merely a majority of those who vote, but a majority of all the registered voters. Then will your Government be rooted and anchored in principle, so that it cannot be brushed aside. How was it when the rebellion began? Everything was done by minorities. It was a minority in every State that carried it into rebellion. I wish now that the new government should be planted firmly on a majority, so that it can never again be disturbed. I can see no real certainty of security for the future unless you set up that safeguard.

The Secretary proceeded to call the roll.

Mr. JOHNSON (when Mr. HENDERSON's name was called) said: I agreed to pair off with the Senator from Missouri. He would have voted in favor of the reconsideration, and I against it.

The calling of the roll was concluded, and the result announced—yeas 21, nays 18; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Conness, Corbett, Edmunds, Fessenden, Fowler, Frelinghuysen, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Sumner, Thayer, Wade, Wilson, and Yates—21.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cragin, Drake, Ferry, Harlan, Hendricks, Morton, Ramsey, Ross, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Wiley, and Williams—18.

ABSENT—Messrs. Cattell, Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Howe, Johnson, Norton, Patterson of Tennessee, Riddle, Saulsbury, and Sprague—14.

So the motion to reconsider was agreed to.

Mr. HENDRICKS. As the bill is now open for discussion and amendment, I move that the Senate adjourn.

Mr. EDMUNDS. Oh, no; it was agreed that that should be a test vote.

Mr. ANTHONY. If we adjourn now, we shall have all these speeches over on Monday, and I do not think we can have them more than once around to-night. [Laughter.]

The PRESIDENT *pro tempore*. The motion to adjourn is not debatable.

The motion was not agreed to, there being on a division—ayes 12, noes 25.

Mr. CONKLING. I now move my amendment. The amendment is that a majority of the voters registered—

Mr. DRAKE. It is all written in the last sentence of my amendment, as I proposed it originally.

Mr. CONKLING. Not precisely. I do not want to take it as written in the first place, because I do not think it expresses the idea. I want to move to amend by saying that "if a majority of the voters registered as aforesaid shall vote in favor of such convention the same shall be held; otherwise no convention shall be called."

Mr. POMEROY. I suggest to the Senator that he had better use the words "that the delegates elected to such convention shall not assemble."

Mr. CONKLING. Very well; "such convention shall not assemble."

Mr. TRUMBULL. While the Secretary is preparing that amendment, I desire to say that the amendment being changed in this form, I prefer the bill as it was reported by the Committee on the Judiciary, and I think we had better reject the amendment. It is manifest that this is merely working in a circle. The delegates are to be elected to the convention at the same time that the people vote upon the question. Now, suppose that a majority of the delegates are opposed to a convention, opposed to forming a constitution, and a majority of the registered voters vote in favor of forming a constitution; will you get any? What is the practical effect of it? What did the Senator from Nebraska [Mr. TITTON] tell you the other day? That a majority of the voters in Nebraska voted in favor of forming a constitution, and their delegates met together and dispersed without forming any constitution. Nothing was accomplished by it. You have to act through representatives.

Mr. FESSENDEN. There was no harm done.

Mr. TRUMBULL. There was this much harm done: you took a vote, but it amounted to nothing. Now, we have provided in this bill, as it came from the Committee on the Judiciary, in the usual form, that the delegates themselves shall determine when they meet together whether it is the wish of the people to form a constitution and State government in accordance with these acts, and that question will enter into the election of delegates. There is the safety. The candidate will be questioned to know whether he is in favor of forming a government under the act, and if he is not he will not be elected; and a majority will speak through the candidate. I shall therefore vote against the amendment, although I was willing to acquiesce, because there were members of the Senate who seemed to attach some importance to it. I confess I did not think there was any considerable importance in it—in the amendment as proposed by the Senator from Missouri. I thought we got at the wishes of the people quite as well by the bill as it came from the committee; but others thought differently, and I was willing to take it if it was left to a majority vote.

I wish to say that there is one serious objection, in my judgment, to requiring a majority of those registered, and if I can get the attention of the Senate for one moment I desire to call it to this view of the question. It is desirable that the people of the South should participate in the formation of these governments. That is the object of the Senator from New York. He desires to have a majority of the people, and all the people if he can, participate in the formation of these governments. Now, you are holding out to them an inducement not to par-

ticipate; you are encouraging them to take no part. How? Because that is the easiest way to defeat the formation of the government on the part of those who wish to do it. You submit to the people whether they will ratify the constitution that has been formed; but what do you require? You require a majority of all those registered to vote for the constitution. Then how are you going to defeat the constitution? What would you do and what would I do if we were in any of these rebel States and wanted to defeat the formation of a constitution? We would stay away from the polls; and the man who stayed away from the polls would not only be equal, as was said a moment ago by the Senator from Wisconsin, [Mr. HOWE,] to the one who mounted his horse or took the footpath and went to the polls, but his vote is to be superior, because he has the advantage of all the stay-aways on his side. All those who are favorable to the constitution cannot go to the polls. Some will be sick. It will be impossible for others to go. They never can all go; it is an impossibility. Out of one hundred thousand voters probably you would never get more than ninety thousand to the polls. Now, take one hundred thousand voters and suppose that sixty thousand were in favor of the constitution and form of government, and only forty thousand opposed to it. The probabilities are two to one that your government would fail. The forty thousand would stay away, and at least ten thousand out of that sixty thousand would be unable to get to the polls. Nobody would go to the polls to vote against the constitution, because a vote would count more by staying away than by going. Out of the sixty thousand of the one hundred thousand voters who were favorable to the constitution it is not probable you could ever get fifty thousand of them to the polls. The other forty thousand, by keeping away as many as they could, particularly among the colored population, persuading them not to go to the polls, occupying them in business away from the polls, would defeat the formation of the government. So far from having a majority rule, you provide by this species of legislation for a minority to control.

Mr. MORTON. Mr. President, this question has been decided, I believe, by the Senate in one form. The Senate has decided that it will only require a majority of the votes cast to ratify the constitution. But it is now proposed, in the very beginning of this work, before the people of the South are fairly aroused, before there has been much discussion there, to require a majority of all the votes registered to have a convention. I know that the Senator from New York, who offers this amendment, is earnestly in favor of reconstruction; but I know it will be said out of this Senate and over this land that this is an intentional obstacle to reconstruction. We shall be charged with having provided a method by which the rebels can stave off the work of reconstruction and continue in existence the present rebel State governments. That will be simply the effect of it. We shall have to meet that charge, and defend ourselves the best way we can.

Now, sir, I take it that those who voluntarily stay away from an election thereby tacitly consent to be bound by the action of those who go to the election. We are doing business on that principle in the Senate every day. Important bills are passed here, millions of dollars voted away, and not one vote cast. The silence of the body is taken as evidence of their consent to the measure. When men voluntarily stay away from an election, because of their indifference, because of their hatred, or from any other cause, they must be held tacitly to consent that those who take the trouble to go to the election shall decide the questions for them. We have a right to receive their conduct upon that hypothesis.

Now, sir, if we want to provide a way by which the rebels can put off indefinitely this work of reconstruction, by which they can indefinitely prolong the existence of the present

rebel State governments, the amendment suggested by the Senator from New York will answer that purpose precisely. But, sir, if we are in earnest about this work of reconstruction, if we wish to bring it to a termination within a reasonable time, let us simply provide—and I am willing to agree to that—that a majority of the votes cast at this preliminary election shall decide the question whether there shall be a convention or not.

Mr. DRAKE. I was very much in hopes that this question would have been finally disposed of without my troubling the Senate with any further remarks in regard to it; but, sir, I cannot suffer this matter to pass without saying a few words.

I fully concur in the views expressed by the honorable Senator from Illinois and the honorable Senator from Indiana. I wish to call the attention of the Senate to one view of this matter, which seems to me to have great weight. We are legislating for an election to be held, not among a people who are fully informed in regard to all matters and can see all the bearings of the actions of different men, but for a people who have not been accustomed to these things; and here is a game of deception which could be played upon the poor men in the South who are not acquainted with such matters that has not been adverted to. Suppose that the rebels do not want to vote upon this question. Suppose they do not wish to have a majority vote for a convention. All they have to do in order to create the impression that there is no necessity for the men in favor of a convention to vote upon it is for themselves to stay away from the polls and conceal from those men the fact that a vote of a majority of all the registered voters is necessary to carry the question. When they have done that they have accomplished all. They have told them it is not worth while for them to go.

But, sir, suppose this view has not any force in it, then I fall back upon the proposition which was enunciated by the honorable Senator from Massachusetts [Mr. WILSON] a while ago, and after the enunciation of which I was, I confess, very much surprised at his vote to reconsider this amendment, to wit, that the great point of interest in the election will be that which is personal. You may take any election you please, sir, and you will find the great point of interest in it is always that which is personal to the candidates who are before the people; and that personal consideration, and the desire to have particular individuals elected to the convention, or to defeat particular individuals who are candidates for the convention, will lead to a larger vote of the people twice over at that election than you can ever get upon the adoption of the constitution. Therefore it is that if the people go to the polls it is almost inevitably certain, when they go there to elect delegates, a majority will vote for the holding of a convention or against it; but yet it is in the power of a minority there, by the course that I have mentioned, to deceive the majority, and induce them not to vote on the question of convention or no convention, to keep from them the knowledge that that question is to be voted upon, and make them believe that nothing is to be voted for but candidates to the convention. Sir, with all respect to the honorable gentleman from New York, I consider that this amendment, if adopted, is one which is extremely dangerous to the success of reconstruction in some of these States, if not perhaps fatal.

Mr. WILLIAMS. I will briefly state one or two reasons why I cannot vote for the amendment proposed by the Senator from New York. I think after we have established this machinery for reorganization that we ought not so to provide that the proceedings may be stopped at any stage until a constitution is made and submitted to Congress. Now, if this amendment proposed by the Senator is adopted, when the question of convention or no convention is submitted to the people, if a majority of the registered voters do not vote for a convention, then all proceedings are forever stopped, and

there is no way in which the people of that State can proceed to reorganize the government without further legislation by Congress. Now, sir, at the time that that question may be submitted to the people they may not be enlightened as to the advantages of a State organization. Many of them may feel indifferent as to whether or not their practical relations with the Union are restored, and they may not attend the polls for the purpose of voting. But if this bill so provides that at that election there shall be delegates elected, and they shall proceed to form a State constitution, it may be that between the time when they vote upon the question of convention or no convention, and the time when the constitution is submitted to them, they may change their opinions; and it may be that thousands and tens of thousands of men who were opposed to a State organization at the time the question of convention or no convention was submitted to the people may be willing to favor a State organization when the constitution is submitted for ratification or rejection. Now, sir, these delegates assemble. Before the convention meets the people will not know what sort of a constitution will be formed by those delegates. Some of them may have apprehensions that a constitution will be made so that it will not be acceptable to them, and for that reason they may avoid the election; but when the delegates assemble and frame a constitution, and that constitution is submitted to the people, then they may see that it is such a constitution as will induce a very large majority of the people to vote for its ratification; and in that way the constitution may be submitted to Congress.

It should be remembered that we are not bound by any of these proceedings, from the initiatory step that is taken, up to the time that the constitution is submitted to Congress; but when these proceedings are completed and the constitution is formed and presented to Congress, then we have the right to review all that has taken place in one of these States, and if in our judgment it is not advisable that that State should be readmitted, or its representation be received, we have the right to reject the constitution and the representation, and say to those people they shall proceed under further legislation, such as we may enact, for a new reorganization.

I think it will be a fatal step for us to so provide in this law that at the very first step, when the preliminary question as to whether or not there shall be a convention is submitted to the people, to put it in the power of those who are hostile to this movement, or who are indifferent to it, to stop all proceedings, at once to paralyze the efforts of those people in the States who are desirous to return to the Union. It seems to me to be the part of wisdom to let this proceeding go on. There will no doubt be more or less irregularity; there will no doubt be more or less hostility evinced and conflict then; but let the proceedings go on from beginning to end. Do not provide a way in which those proceedings can be permanently stopped until a constitution is formed, and the people can see what the constitution contains, and act upon it; and then when the constitution is submitted to Congress, Congress can determine whether or not those proceedings have been such as to express the judgment of a majority of the people. If, when that constitution is submitted to Congress, it appears that it does embody the judgment of a majority of the people of the State, and is a republican constitution in form, and recognizes the equal rights of all the citizens, then Congress can admit the State. If such be the fact, to be ascertained by Congress when the constitution is submitted, what difference does it make as to these preliminary proceedings in the formation of that constitution? I say that Congress reserves to itself the right to reject that constitution if it sees that it does not embody the sentiments and wishes and views of a majority of the people, and is not acceptable to them.

I desire to see this experiment tried. We have passed a bill providing what those people shall do, what their constitution shall contain. We now propose to provide the machinery by which that work shall be accomplished. Now, let us allow the experiment to be fairly tried in each one of these States; and if we are satisfied when the experiment is tried that all has been done that ought to be done, let the State be readmitted; if not, let it be rejected. These are my reasons for opposing this amendment.

Mr. FESSENDEN. It is quite natural, Mr. President, at any rate it is quite common, not to say almost invariable, when a man has expressed an opinion that he is very apt to stick to it. That is my case; but I do not think it is so manifest in the case of some other gentlemen who seem to have changed front a little. If I recollect rightly, the honorable Senator from Missouri, when he first offered this amendment required that the constitution should be adopted by a majority of the registered voters. I think I am not mistaken. He now tells us that if we adopt his original idea he thinks it will be very injurious, if not fatal. It seems that he is of that class of people who are willing to admit that they can be wiser to-day than they were yesterday. I believe it is the same case also with the honorable Senator from Illinois, the chairman of the Committee on the Judiciary; for if I am rightly informed, it was understood by that committee, when this bill was reported, that it embraced the idea, not on this particular vote, but on the adoption of the constitution finally, that it should be adopted by a majority of the registered voters; and yet we now find the honorable Senator, the chairman of the Committee on the Judiciary, contending most strenuously against that requirement, and thinking it will be almost fatal. I am very glad to find that gentlemen can so readily convince themselves that it is possible for them to be in error. I wish I could.

But with regard to the particular question before the Senate, I confess that I do not like the proposition exactly, and yet I am obliged to take it. I remarked the other day when I suggested an amendment, or was speaking of one which I thought I might suggest, that if the amendment of the Senator from Missouri was adopted it might render the one which I should propose unnecessary. That was not adopted, however, and therefore I proposed my amendment. Perhaps I should not have objected to both of them. It struck me then, and I cannot get rid of the idea, and that is precisely the difficulty that meets my mind; I cannot get rid of the idea that it is our duty so to fix this matter that we shall not have it thrown in our teeth that by virtue of military power exercised in these States we have forced a State into the Union by the vote of a minority of its people. If this was an ordinary proceeding in an ordinary case, and we were called upon to make provision for the framing of a constitution in the first place, and the adoption of it afterward, I should accede, without the slightest hesitation in the world, to the correctness of the rule that a majority of those who voted should govern; that that should be taken as the expression of the will of the people. It has been so heretofore, and as a general rule, as an almost invariable rule, it should be so. But, sir, be it remarked—and that was the difficulty that I wanted to avoid—we sent to these people a military government, proposed originally for one single purpose, and that purpose was simply and solely to protect the loyal people of those States against oppression, the minority from being oppressed by the majority. That was the idea, and the only idea. But we ingrafted upon it a plan for the reconstruction of those States. As we left it, I would have been satisfied to leave it to-day, and that is, that having provided protection for the loyal people, for the minority against the majority, we should leave them to work out their own salvation in their own way with reference to forming a constitution, we retaining the power to judge of the mode in which it was framed, and the provisions of it after-

ward. We were, and should have been, perfectly safe on that. We could know how that constitution was adopted, whether regularly or irregularly; if irregularly, whether in such a mode that we could waive the irregularity, which we would have a perfect right to do; or whether it had provisions in it that prevented our acceptance and adoption of it. It would have been all in our power, perfectly so.

But, sir, we are not content with that. Instead of leaving it to the people to work the matter out in their own way, as I would be perfectly willing to do, retaining the power of supervision, we go further and say, this military government which we send there shall take the initiative, and not only take the initiative, but shall govern all the details and settle the manner in which that is to be done. Now, sir, you see the danger of this. I see it, or I think I do. They are not a people satisfied, or likely to be satisfied, with what we do. The large majority of the white population, probably nineteen twentieths of them, are disposed to find fault with everything we do, disposed to place themselves, if not in an attitude of rebellion, in an attitude of hostility; and I think it becomes us to look well that we give no proper occasion, and not only no proper occasion, but no plausible occasion for accusations of that kind that may be made against us.

Hence, sir, the proposition which I submitted to the Senate, and which I do not mean to argue again since the Senate have decidedly rejected it. The proposition was founded on the idea that there should be no ground of complaint; that the men who went out should be the men who should ask to come in; that those who complained the loudest should be those who should ask us to take them back; so that it would not lie in their mouths in any shape or form to say afterward that there had been any military force brought to bear upon them, for they were to be left to do as they pleased with regard to the matter; but on the ground (although I did not agree with the reason) that that would be leaving our friends there at the mercy of their enemies in this matter of voting in this particular question, the Senate decided that they would not take that idea. Had they taken it I would have voted against this proposition, because we should have taken away all sort of pretense of complaint that a military government had forced on the people there what the people were not willing to receive.

But the Senate rejected it, and the same difficulty occurs to me again. This military government which we send there we not only call upon to take charge of and protect the people, but we call upon that military government to direct all the civil affairs of that people in the operation of framing a constitution and establishing a State government. We go further than the original idea of the act of last session, which, in my judgment, was a proper idea, and expose ourselves to the very charge that has been made against this Administration, of framing a government by a minority, and putting the people in those States in the hands of a minority.

Now, sir, I want to guard against that, and that is my only reason. I wish to have something on the record which will show that the majority of that people have decided that they will have a convention.

Mr. HOWE. Every man has a right to vote against it.

Mr. FESSENDEN. Undoubtedly every man has a right to vote against it; but if there is to be a vote for it, if the convention is to meet, and if a constitution is to follow, and that constitution is to be adopted, framed as it is under the direction and almost under the control of the military which we send there, I wish to have it to say most distinctly and directly that a majority of those people have decided that question, and not leave it to a mere vote of a majority of those who do vote, and have it thrown in our teeth afterward that it was done under the fear of the military.

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That, sir, is my only reason for having voted as I have voted, and as I propose to vote.

I do not like the principle; but it must be remembered that this is an anomalous case, anomalous in all respects; in the first place, anomalous and strange from the particular circumstances in which those people are placed; in the next place, anomalous and strange in the fact that all is to be done under the control of the military government which we send down to direct their affairs. It is the part of wise men to shun the appearance of evil, and I do not wish to have even a pretense upon which it can be said that we have exercised an undue control, and that the expression of the polls is not the expression of the people themselves who are to be affected by what is to be done.

As to this argument that the minority can defeat the majority, I cannot see any particular force in it; and why? Because if those people want it they can say so; if they do not want it they can stay at home; it will be perfectly well understood. If, as my friend from Massachusetts [Mr. WILSON] says, everybody is likely to be in favor of it down there, all the colored people, all the white Union people, and a very large proportion of those who were rebels, there is no difficulty in their expressing their opinions on the subject at the polls; and a minority staying away, if a majority go to the polls and vote for a convention, will not affect the question one way or the other. I see no difficulty in that respect; and with regard to that which seems to trouble the mind of my friend from Indiana on the subject, I am perfectly willing to meet my constituents or anybody else's constituents upon that question, and tell them why I did it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. TRUMBULL. On that I suppose we had better have the yeas and nays.

Mr. CONKLING. I thought you took the other as a test question.

Mr. TRUMBULL. I did; but I find some Senators voted for a reconsideration in order to have a direct vote on the question itself. I have been so informed by a member of the Senate.

The yeas and nays were ordered.

Mr. JOHNSON. I have paired off on this question with the Senator from Missouri, [Mr. HENDERSON.] He would have voted in favor of the amendment and I against it.

The question being taken by yeas and nays, resulted—yeas 17, nays 22; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conklings, Corbett, Edmunds, Fessenden, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Sumner, Wade, Wilson, and Yates—17.

NAYS—Messrs. Buckalew, Cattell, Conness, Craig, Drake, Ferry, Fowler, Frelinghuysen, Harlan, Hendricks, Howe, Morton, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wiley, and Williams—22.

ABSENT—Messrs. Anthony, Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Johnson, Norton, Patterson of New Hampshire, Patterson of Tennessee, Riddle, Saulsbury, and Sprague—14.

So the amendment was rejected.

Mr. EDMUNDS. I move to amend—

Mr. DRAKE. I suggest that the question is now to be taken on my amendment.

Mr. EDMUNDS. I suggest to the Senator from Missouri the question now will be on an amendment to that amendment which I am about to propose.

Mr. DRAKE. I beg pardon; I thought the Senator was going to offer another proposition.

Mr. EDMUNDS. Inasmuch as the Senate has proceeded to consider this amendment in this way, perhaps not strictly in order, I propose to add the following words, merely the proviso which was agreed to before:

*Provided further*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

Mr. TRUMBULL. I suggest whether it is

now in order to move to amend the amendment?

The PRESIDENT *pro tempore*. It is not in order.

Mr. EDMUNDS. The Senate has proceeded to consider the question of amending this very amendment, and it is a little late for Senators now to raise the question of order.

The PRESIDENT *pro tempore*. There was no question raised on the last amendment. Perhaps that was not in order.

Mr. EDMUNDS. Very good, sir; I can move it after the amendment is adopted. I merely followed the practice of the Senate.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Missouri.

The amendment was agreed to.

Mr. EDMUNDS. I now move to amend the amendment reported by the committee by adding immediately after the amendment just adopted the following proviso:

*Provided further*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

Mr. CONNESS. Is not that the same question we have just voted upon?

Mr. EDMUNDS. No, sir.

Mr. CONNESS. The same in substance.

Mr. EDMUNDS. I will explain that this amendment is a mere coincident to the one that the Senate by a large majority has agreed to in the other part of the bill. I presume there will be no objection to it. There ought not to be, certainly.

Mr. TRUMBULL. I desire simply to say that this is precisely the vote we have voted upon, with this difference: if a majority of the registered persons can by any means be kept away from this election, the constitution is defeated. I look upon all these movements as obstacles to reconstruction, as obstacles in the way of carrying out the legislation of Congress. This holds out an encouragement to those who wish to defeat the action of Congress to stay away and take no part in these proceedings except to have their names registered. If you cannot get enough to register to constitute a majority who do not desire any action to take place, all they have to do is to keep away from the polls, take no part in the formation of the government. This is the same thing as requiring a majority of all the registered voters to vote in favor of calling the convention, because it requires that a majority shall vote upon that question, and encourages everybody who wants to defeat the object to stay away from the polls.

Mr. EDMUNDS. The force of that argument may be best illustrated by this very body. We require every day a majority of the body to vote upon every question; and yet one half of that majority and one over controls the legislation of the Senate every day. Now, then, is it any argument against having a majority of the Senate here acting that we are to require only one over a half of that majority to act? Is it any argument in favor of a Senate composed of only a quarter of its number that only a quarter are necessary to control its action when a majority are here? It is certainly a new argument if it be one; and one that the public in forming constitutions and requiring majorities to act one way or the other ought to have discovered before this time.

Now, the proposition is to set up governments in these States. How are they to be set up? Are they to be set up by our will, independent of the will of the people over whom they are to operate, and whose lives and property are to be affected by their administration, or are they to be set up by the concurrent will of the representatives of the people here and of the people themselves there? That is the question. I take it we shall all agree that they are to be set up by the concurrent will; that it must not only be our will and our wish as representing the nation, but that these local governments, if they deserve the name of governments in any

form or pretense or pretext free at all, must be local governments that are acted for or upon at least by a majority of the people over whom they are to operate.

Now, how are you to get at the opinion of that majority? How are you to find out whether the majority of that people are willing or unwilling to have the particular kind of government which may be produced for them? The Senator says if people, after being registered, will not go and vote against having a particular form of government, then a dozen men in any State may set up one for them. Is there any more strength in that argument than there is in the reverse of it, that if a majority of the people are not willing to come out and act one way or the other the government shall not be instituted? Is it to be assumed that the votes on this question are to be all one way for a convention, or all against a convention? I take it not.

Now, then, it will certainly be a startling proposition for the people of this country, when they reflect upon it, and we shall hear of it again, if it be said, in addition to what has been said by my friend from Maine, that at the point of the bayonet we not only enforce order and security there, which was what we began to do, but impose upon that people, good, bad, and indifferent, the black man and the loyal white man and the ex-rebel, to call him such, and the present rebel, if there be any such there, and I suspect there are—impose upon all that community, operating upon all of them alike, a government which is to be set up by less than a majority of the loyal people themselves, who are called upon to act upon it; and not only set up by less than a majority, but set up by our express vote, by refusing a provision of this kind, by less than a majority acting either way. Any number, however small, are to be authorized to set up these governments; and when this convention is called it will be noticed that the duty by this law is imposed upon it imperatively to frame a constitution, not, as is usual in the case of ordinary conventions, being left free to deliberate whether they can agree upon a constitution or not, or whether they can frame one which they think ought to be submitted to the people, but they shall form a constitution which shall be sent to the people. Having said that, ought we not to take this little precaution of requiring that, of those who have taken the oath and been registered, a majority shall act, as we are required here to act, upon that question? I did not intend to have said a word, because I supposed the question was settled. I have only said this in justice to myself in reply to my friend from Illinois.

Mr. HENDRICKS. Anywhere else than in the Senate I should think it unreasonable, after such a protracted discussion of these subjects, to represent and rediscuss a question that is on the surface, that can be understood by the reading of it. I think we ought to come to a vote on the questions involved in this bill. If it is the pleasure of the Senate to adopt this proposition, I am perfectly satisfied with it. If it is not, then I think when the Senate says so it ought to be considered as decided. This thing of sitting here all night and acting in a circle is not very agreeable.

Mr. WILLIAMS. "Swinging around the circle."

Mr. HENDRICKS. It is about as agreeable as that was. [Laughter.]

Mr. EDMUNDS. The Senate adopted this very amendment in another part of the bill by a large majority.

Mr. HENDRICKS. Then why offer it again?

Mr. EDMUNDS. So as to apply it to this proposition which is now for the first time introduced into the beginning of the bill.

Mr. CONKLING. To make it harmonious.

Mr. HENDRICKS. Then if the Senate have agreed to it, I do not care about it one way or the other; I am perfectly satisfied. If the Senate have agreed to it let us adopt it.

Mr. TRUMBULL. The Senate has not agreed to it.

Mr. HENDRICKS. But this thing of rediscussing a question I am tired of.

Mr. HOWARD. The object which has been had in view by Senators who have sought to amend this bill as it came from the hands of the Judiciary Committee, has been to get some security in the form of the expression of the will of the majority of the people of the rebel States showing their willingness to come back into the Union. That has been my great object, and I believe that has been the great object of other members who have sought to introduce amendments.

Now, sir, the Senator from Illinois tells us, for the tenth time at least, that he looks upon all such propositions as this as obstacles to reconstruction, as if we were under some great and obvious obligation to pass some act for the reconstruction of the rebel States and their immediate admission into the Union. Sir, I acknowledge no such obligation. I acknowledge only the obligation which we have assumed upon ourselves in the form of the statute which we passed this present month. That I have often said I am willing to carry out faithfully according to its true spirit and intent. What is that, sir? That statute holds out this proposition to the people of the rebel States:

That when the people of any of said rebel States shall have formed a constitution and form of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, &c.

Who are meant by "the people" of the rebel States, according to the clause which I have read from this statute? Does it mean to include a minority only of the people of those States? Did we say to the people of the rebel States, "A minority of your own numbers shall have authority to form a constitution?" No, sir; our language is "the people" of those States; and we then proceed in the same clause to define what we mean by the people of those States, to wit: every male citizen twenty-one years old and upward, of whatever color he may be. We included in the term "people" both blacks and whites who have reached the age of majority, and we intended that all those people should have an opportunity to participate, in some form, upon this great question of forming a constitution by which they could secure their readmission into the Union. We meant that, and we meant nothing less and nothing else; and now we are told by the Senator from Illinois and those who adhere to the principles of his bill that a mere minority of the people themselves, constituting a majority of those actually voting upon this most important question, will answer the requirements of the bill, and that this will be entirely republican.

Sir, I am opposed to this minority principle entirely. What we have a right to require as a preliminary is an expression of the people of the rebel States upon the question of their willingness to form a constitution and to be readmitted upon it into the Union; and I insist that that is the greatest security we can take. Suppose there is a majority of them unwilling to come back into the Union, unfriendly to the Union, disposed to throw it off again, and to seize upon the first opportunity to wage war against it, or to avail themselves of any opportunity that may offer to escape from its authority and form an independent government, as they endeavored to do in 1861, will the Senator from Illinois say that such a community, with such a majority, is fit to be readmitted into the Union? Will he say there is no danger in admitting such a political community? Certainly I think he will not; and that is the very point upon which I contest this question. That is the fundamental principle. If a majority of them are willing; if a majority are loyal; if a majority of them will take the oath which is prescribed in this bill—a majority of the whole people—then I shall be prepared to

say it is time to think about reconstruction for that particular State; but until that preliminary question is satisfactorily settled by some provision of law, I can assure the ardent Senator from Illinois, who accuses us of being opposed to reconstruction, that I shall vote against all his projects of reconstruction.

I do not wish to expose my country to the trials she has undergone during the last four or five years by this unnecessary and imprudent haste which seems to actuate the Senator from Illinois. Let us act wisely, circumspectly, and seize upon every reasonable security within our reach before we attempt to take this most important step of admitting rebel communities again into Congress. I think, sir, that the statute itself to which I have referred plainly contemplates—I so understood it—that when this business of reconstruction is to be launched in the rebel States it shall only be carried forward in those States where there is a majority of the people, black and white, in favor of reconstruction and readmission.

Mr. TRUMBULL. The Senator from Michigan tells us he was in favor of the reconstruction bill passed at the last session of Congress. That reconstruction bill, in its very words, says that the constitution shall be submitted to the people and ratified by a majority of those voting upon it—

Mr. HOWARD. I did not say anything to the contrary.

Mr. TRUMBULL. I understood the Senator to vote here to-night to require something more than that. I understood him to vote for a proposition offered by the Senator from Vermont, that it should be something more than that. Will he now undertake to fall back upon the bill which he repudiates? Let us see what the bill to which he is committed himself says:

And when such constitution shall be ratified by a majority of the persons voting on the question of ratification—

Mr. EDMUNDS. That is not inconsistent with this.

Mr. TRUMBULL. That is inconsistent with this, because you say that a majority of those voting on the ratification of the constitution shall not be sufficient unless they constitute more than half of all the registered voters.

Mr. EDMUNDS. This proposition does not say any thing of the kind.

Mr. TRUMBULL. The proposition that the Senator offered says that very thing, if I understand it.

Mr. EDMUNDS. Then you do not understand it.

Mr. TRUMBULL. Then I do not understand it. I ask the Secretary to be kind enough to send me the bill under consideration, with the amendment of the Senator from Vermont, which was adopted, to the fourth section. [After receiving the bill.] This is the amendment which has the sanction of the Senator from Michigan, and which the Senator from Vermont says makes no such requirements as I have stated:

The constitution shall be ratified by a majority of the votes of the electors, qualified as herein specified, cast at said elections, at least one half of all the registered voters voting upon the question.

At least one half of all the registered voters must vote upon the question. But what did your reconstruction bill say? It said that if a majority of those voting upon it, whether they were half of the registered voters or not, voted for it, you would accept it.

Mr. EDMUNDS. It was silent on that point.

Mr. TRUMBULL. It said it would accept it. It was not silent.

Mr. EDMUNDS. But it is silent on the point as to how many shall vote.

Mr. TRUMBULL. Of course; but it is silent also as to requiring a great many other things. When the Congress of the United States said in its law that if a majority of those voting on the question vote in favor of it we would receive it, because it does not say any-



thing more and is silent as to other things have you a right to make other requirements? Any requirement beyond this is inconsistent with this. Why, sir, if you have the right, after having said that if a majority shall vote in favor of the adoption of the constitution of those who do vote, Congress will receive it, so far as that question is concerned; if you have a right to go on and say that it shall not be received unless a majority of all the registered persons vote, you have a right to say it shall not be received unless nine tenths of all the registered persons vote.

Mr. EDMUNDS. Is there any distinction between that and requiring this oath?

Mr. TRUMBULL. Unquestionably there is a distinction between that and requiring an oath. The oath that we have required is not inconsistent with the provisions in the bill.

Mr. EDMUNDS. You prescribe that the voter shall have another qualification beside being a citizen.

Mr. TRUMBULL. What is it?

Mr. EDMUNDS. That he shall take this oath.

Mr. TRUMBULL. This oath is only the evidence of the requirements of the bill. Does the Senator from Vermont mean to say that when we say in an enabling act to a people, "You may form a constitution and adopt it by a majority of those voting on it," we have a right afterward, because we did not say in it "We will not require anything else," to make other requirements?

Mr. EDMUNDS. If my friend will allow me, I mean to say that in passing an act such as we did at the last session and this one we now propose to supplement, we have a perfect authority in law, in justice, in morals, and in expediency to make any alteration that it seems fit to us now to make by adding to it, changing it or doing any other thing that expediency or justice, as now developed, require us to do. That is what I mean to say.

Mr. TRUMBULL. I can understand that position. The Senator from Vermont means to say that we have a right to disregard the legislation of the last session and change it as expediency shall seem to us to justify. That is perfectly well understood; but that is not the position in which the Senator from Michigan placed himself. He put himself in the position of denouncing as a minority proposition one which requires a majority of those voting on the question only, and not a majority of those registered. That was the provision of his own bill that he supported.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. TRUMBULL. Certainly.

Mr. FESSENDEN. I ask him whether when he reported this bill he did not understand himself as reporting that on the adoption of the constitution a majority of the registered votes should be required?

Mr. TRUMBULL. I did.

Mr. FESSENDEN. I should like to ask the further question: did he understand himself when he was doing that and supporting that idea that he was obstructing reconstruction, which he now accuses everybody else of?

Mr. TRUMBULL. I understood the bill to require a majority of all those registered to vote in favor of the ratification. That was the House bill.

Mr. FESSENDEN. The Senator so reported.

Mr. TRUMBULL. I reported the House bill.

Mr. FESSENDEN. And agreed to it, did you not?

Mr. TRUMBULL. I did.

Mr. FESSENDEN. Now, then, I should like to ask the other question: whether he understood himself when he favored that and sustained it that he was obstructing reconstruction?

Mr. TRUMBULL. No, sir, I did not understand that I did that with any purpose of obstructing reconstruction. I thought it was a bad provision.

Mr. FESSENDEN. Then the Senator should not impute that purpose to others who have the same idea now. That is all I wish to say.

Mr. TRUMBULL. That provision of the bill I voted to change. It was thought best in committee not to do it; and I was for carrying out the views of the committee. The Senate, however, did not agree with me in that. I was for making it specific and having it understood. The Senate, however, determined by a decided vote to change that. And now, when an attempt is made by indirection to arrive at the same thing which the Senate has voted down, and I find the Senator from Michigan placing it on the ground that it is a minority proposition and a thing he is utterly opposed to, I think I have a right to call his attention to the act of last session to show that it is in perfect harmony with the bill which he supported. That is what I mean to say.

I look upon this proposition as submitted by the Senator from Vermont as very objectionable, because it seems to me to hold out an encouragement to stay away from the polls. I think the object should be to induce everybody to go to the polls. I would rather say to the people of the South, "A majority of those voting upon this question will settle it, and therefore all of you go there and vote."

Mr. FESSENDEN. Suppose there is not more than a baker's dozen of them.

Mr. TRUMBULL. There will be an inducement to them when this is to decide the question. Even those opposed to the formation of a constitution and government will go there to vote it down. But when you say that their votes will have more weight by staying away than they will by going you encourage them not to go, and they have more weight just in that proportion which the whole number of those who could vote exceeds the number of those who actually do vote; and we all know that the number who are entitled to vote is always larger than the number who actually do vote. But, sir, I hope we may have a vote on this question. I do not wish to argue it. I only desired to put myself right, and to meet these accusations that somebody is for a minority government.

Mr. MORTON. I am advised that there are other amendments to be offered to this bill—

Mr. EDMUNDS. Let us vote on this.

Mr. MORTON. I will wait until a vote is taken on the pending amendment. I shall then make a motion to adjourn until Monday morning at ten o'clock. We cannot get through to-night.

Mr. TRUMBULL and others. We can get through to-night as well as any other time.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Corbett, Edmunds, Fessenden, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Sumner, Thayer, Wade, Wilson, and Yates—21.

NAYS—Messrs. Cattell, Conness, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Hendricks, Johnson, Morton, Ramsey, Ross, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—18.

ABSENT—Messrs. Davis, Dixon, Doolittle, Fowler, Grimes, Guthrie, Henderson, Norton, Patterson of Tennessee, Pomeroy, Riddle, Saulsbury, Sherman, and Sprague—14.

So the amendment was agreed to.

Mr. MORTON. I now move that the Senate adjourn until Monday morning at ten o'clock.

Mr. CONNESS. I hope not.

The motion was not agreed to.

Mr. FESSENDEN. I hope the Senator will now vary his motion and move an adjournment simply.

Mr. DRAKE. I move that the Senate do now adjourn.

Mr. CONNESS. I hope not.

The motion was not agreed to; there being on a division—ayes 14, noes 19.

Mr. HOWARD. If it is in order, I offer at this time the form of oath which I suggested while we were in Committee of the Whole.

The PRESIDENT *pro tempore*. It will be in order.

Mr. HOWARD. I hope it will be read by the Secretary.

Mr. CONNESS. The whole Senate understand it, and I hope we shall vote upon it without reading it now. We have voted once upon it.

Mr. HOWARD. It is possible that there may be some gentlemen present who did not hear it read before.

Mr. TRUMBULL. Let it be read.

The Secretary read the amendment, which was to strike out the form of oath prescribed in the first section and to insert the following in lieu thereof:

I do solemnly swear in the presence of Almighty God, that I am a citizen of the State of —, that I have resided in said State for — months next preceding this day, and now reside in the county of — or the parish of — in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never taken an oath as a member of Congress of the United States or as an officer of the United States, or as a member of any State Legislatures, or as an executive or judicial officer of any State to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God.

Mr. HOWARD. I will inquire of the Clerk whether the words "or affirm" are in the amendment after the word "swear?"

The SECRETARY. They are not.

Mr. HOWARD. They ought to be there, and I wish to have them inserted.

The PRESIDENT *pro tempore*. Those words will be inserted.

Mr. HOWARD. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOWE. I wish simply to say that I voted against this amendment when it was up before; I came into the Senate Chamber, and without understanding the pending question cast my vote and immediately retired on business. I think I was mistaken; I shall change my vote now, and vote for it.

Mr. HOWARD. I beg simply to say, without spending any time on this subject, that in that form of oath is embodied a succinct and clear statement of all the qualifications necessary for a voter under the act which we passed this month. Instead of referring to a former statute to ascertain the qualifications of voters, they are all inserted in that form of the oath briefly and clearly.

Mr. JOHNSON. And that oath is to be administered to all the black voters, I understand.

The question being taken by yeas and nays, resulted—yeas 26, nays 15; as follows:

YEAS—Messrs. Cameron, Chandler, Conkling, Corbett, Cragin, Drake, Edmunds, Fessenden, Fowler, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Ramsey, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—26.

NAYS—Messrs. Anthony, Buckalew, Cattell, Cole, Conness, Ferry, Frelinghuysen, Hendricks, Johnson, Sherman, Stewart, Trumbull, Van Winkle, Willey, and Williams—15.

ABSENT—Messrs. Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Norton, Patterson of Tennessee, Pomeroy, Riddle, Saulsbury, and Sprague—12.

So the amendment was agreed to.

Mr. DRAKE. I wish now to offer the amendment that I offered in committee in relation to the vote by ballot, which the Secretary has on his desk.

Mr. SUMNER. I think we had better adjourn. ["Oh, no."]

Mr. TIPTON. I move an adjournment.

Mr. DRAKE. I think we can have a vote in a very few moments.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The amendment now proposed by the Senator from Missouri will be read.

The Secretary read the amendment, which was to amend the [fourth] fifth section by adding the following proviso:

*Provided*, That no such constitution shall be considered as entitling the State for which it is framed to such representation unless it provide that at all elections by the people for State, county, or municipal officers the electors shall vote by ballot.

Mr. DRAKE. I do not propose to make any remarks in regard to this amendment. I simply ask a vote upon it, and call for the yeas and nays upon that vote.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Drake, Edmunds, Fessenden, Fowler, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Sumner, Thayer, Tipton, Trumbull, Wade, and Yates—22.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Corbett, Cragin, Ferry, Frelinghuysen, Hendricks, Johnson, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Van Winkle, Wiley, Williams, and Wilson—19.

ABSENT—Messrs. Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Norton, Patterson of Tennessee, Pomeroy, Riddle, Saulsbury, and Sprague—12.

So the amendment was agreed to.

Mr. TRUMBULL. I move to reconsider the vote just taken; and on that question I desire to say a word. I appeal to Senators to consider for a moment what is done by that amendment. I voted for it with a view to make the motion to reconsider. We have in all our legislation from the beginning abstained from undertaking to dictate to a State, after it was in the Union, as to the regulation of the suffrage.

Mr. FESSENDEN. Is this for putting it into their constitution?

Mr. TRUMBULL. It is for putting it into their constitution as a fundamental article that there shall never be any other way of voting except by ballot.

Mr. DRAKE. No, no.

Mr. TRUMBULL, (to the Secretary.) Let me have the amendment.

Mr. DRAKE. It does not say that there shall never be any other way.

Mr. TRUMBULL. Let us see if it does not:

*Provided*, That no such constitution shall be considered as entitling the State for which it is framed to such representation unless it provide that at all elections by the people for State, county, or municipal officers the electors shall vote by ballot.

They must provide that in the constitution. Mr. FESSENDEN. If my friend will allow me, I will state that when I voted for the amendment I supposed it had reference simply to the voting on this constitution and convention.

Mr. TRUMBULL. That is provided for in the bill.

Mr. FESSENDEN. Then I voted under a misapprehension, and I am very glad the Senator has given me an opportunity to correct it.

Mr. TRUMBULL. I apprehend a great many Senators voted under a misapprehension; but still the Senate seems disposed to vote for amendments offered by anybody. I notice that some Senators—

Mr. JOHNSON. Let us take a vote.

Mr. TRUMBULL. Very well; if the Senate understand the effect of it. My object in voting as I did was to call the attention of the Senate to it a second time. This was voted down once when offered in committee; but it is offered here to-night again, and on a yeas and nays vote it receives a majority, departing from our reconstruction bill, putting in a new condition that must be in their constitutions, that none of these States shall be entitled to representation until they provide in their constitutions that the mode of voting shall be by ballot. If the majority think proper to vote that way so be it.

Mr. YATES. I understood this amendment, and I understood it to mean precisely what my colleague says; and I undertake to say we have just as much power and the same right under the Constitution to say that voting shall be by ballot as to say that these States shall provide in their constitutions that negroes shall vote at all.

Mr. SUMNER. Of course.

Mr. YATES. It is precisely the same power. We have long since yielded the point that Congress has the power to prescribe terms to these southern States. My colleague has come to the ground that was maintained a year ago by the Senator from Massachusetts and myself, that Congress had the power to declare who should be voters in these rebel States, and I say in all the States of the Union. We have, at any rate, the same power to provide that the voting shall be by ballot as we have to say that negroes shall vote at all.

Mr. WILLIAMS. Mr. President, I do not consider this so much a question of power as a question of expediency and good faith. At the last session of Congress we adopted a bill in which we provided that upon certain terms and conditions these States should be entitled to representation in Congress, and now we propose to add another condition, and we propose to make the mere mode of voting a question upon which shall turn the restoration of this Union. Can we afford to stand upon that ground? Can we defend ourselves upon the ground that a State, because the people may not see proper to adopt a certain mode of voting, shall not be entitled to representation in Congress or to be regarded as a member of this Union? I say that, it seems to me, is putting this great question of reconstruction upon a very small and narrow ground; and if we adopt this proposition, then we may proceed and adopt others, and we may proceed to specify in detail every provision which one of these State constitutions shall contain, and then hold up to them the solemn mockery that they are to frame a constitution when we proceed to prescribe in detail every provision which the constitution shall contain.

Now, sir, we have required, for the sake of protecting the rights of the people that the constitution shall contain certain great fundamental principles; but I deny that it is expedient or just that we should now proceed and require that their constitutions should contain certain forms and modes of transacting their business within their States. It seems to me that is trifling to some extent with those people. One day we adopt a law and the next day we tinker it up. We one day prescribe certain conditions and send forth to those people a proclamation that if they will comply with certain terms and conditions they shall be received back into the Union; and then, when they begin to exhibit a disposition to comply with the terms and conditions that we have proposed, before they can make a fair and reasonable start, we add another condition, and so we pile condition upon condition; and where is this thing to stop? Can these people depend upon anything we say or do in reference to this matter? Do we not furnish them with an argument to say, "If we do comply with these conditions you now propose, tomorrow or next week or next month you will add other terms and conditions, and it is in vain for us to try to seek readmission into the Union, for it is manifest that your object is, by adding terms to terms, to protract and to perpetuate this division in the country?" Now, sir, I say that good faith demands that we should adhere substantially to the provisions of the act we passed at the last session, and that we should not attempt to make this great question of reconstruction, upon which the hopes and the happiness of the millions and the prosperity of this country depend, to turn upon a mere question as to whether the people shall vote in a certain manner in those States.

Mr. SUMNER. Mr. President, the argument of the Senator from Oregon proceeds on the theory that this is a little question. He belittles it and then puts it aside. He treats it as a question of form and then scorns it. Sir, it may be a question of form, but it is a form which is vital to the substance; it is vital to that very suffrage which the Senator undertakes to vindicate. Does the Senator know that at this moment the great question which tries British reformers is this question

of the ballot? To that our heroic friend in England, John Bright, has dedicated his life. He is seeking to give the people of England vote by ballot. He constantly looks to our country for the authority of a great example; and now the Senator from Oregon seeks to overturn that example. I will not, by my vote, consent to any such thing. I wish to reinforce the liberal cause, not only in my own country, but everywhere throughout the world; and that cause, I assure you, is staked in part on this very question. No, sir; it is not a small question; it cannot be treated as trivial; it is a great question. Call it if you please a question of form, but it is so closely associated with substance that it becomes itself substance. I hope, therefore, that the Senate will not recede from the generous and patriotic vote that it has already given. I hope that it will stand firm by one of the truest principles of republican institutions. Ask any student of republican institutions now what is one of the admitted triumphs of those institutions, and he must confess it is vote by ballot. There can be no doubt about it. Do not dishonor that vote; declare that it shall be embodied in the constitutions of all those rebel States. The Senator from Oregon raises no question of power. Congress has the power. That is enough. You must exercise it.

Mr. STEWART. There are a great many things these people ought to put into their constitutions which are matters of substance. I presume they ought to provide in their constitutions for a judiciary system; I presume they ought to provide in their constitutions for a Legislature; I presume they ought to provide various other things in their constitutions. The question is shall we make an entire constitution for them because there are material things which it is proper to put into the constitution. I believe most of these ten States vote by ballot. I know of only one, Virginia, that votes *viva voce*.

Mr. CONNESS. Kentucky votes *viva voce*.

Mr. STEWART. Kentucky is not provided for in this bill.

Mr. TRUMBULL. I can state how that is. In the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas votes are given by ballot. By the constitution of Arkansas all elections were required to take place *viva voce*; but it was changed to the ballot by an act of November 23, 1846. In Virginia all elections are *viva voce*.

Mr. STEWART. So that there is no great departure from this ballot system in the ten States. This requirement is, then, not called for by any great violation of the republican principle. Nine of the ten States do it now and will continue to do it undoubtedly, and Virginia very likely will change her constitution and adopt that form, so that there is not even a pretense of necessity for Congress acting a part which will be regarded as bad faith. If we put in this bill before it is acted upon in the South new conditions in addition to the machinery we propose to provide, if we say now in this bill "You shall not come in upon the terms we have offered," we shall subject ourselves to the charge of trifling. We shall lose more than we shall gain by imposing this condition upon Virginia, thereby adding a condition that there is no apparent necessity for, violating our solemn pledge that we made at the last session. By this course we shall put an argument in the mouths of our enemies that our object is to embarrass reconstruction; and if the Union party goes before the country with that charge made upon grounds that can be sustained, I fear the result. If there is to be obstruction, let it come from rebels; but let us act in good faith; let us abide by our pledges; and if failure comes, let it come from broken pledges on the other side; and the same Union party that has stood by us heretofore will ever stand by us. The terms that we have offered to the South are fair and just and liberal; they are indorsed by the country; and it is better to stand where

we can stand firmly and surely than to be changing our minds for little things and run the chance of losing all.

Mr. MORTON. Mr. President, I would inquire whether it would be in order to move a substitute for this amendment?

Mr. DRAKE. The question now is on reconsideration.

The PRESIDENT *pro tempore*. It would not be in order now.

Mr. MORTON. I will then offer it when it is in order; but I simply desire to say that I spoke in favor of this amendment yesterday, and voted for it a few minutes ago. On further reflection, however, I am now inclined to modify my action to some extent. I admit the full importance of the ballot; at the same time I agree with the Senator from Oregon in his proposition that it will not do for us to hamper the work of reconstruction by too many conditions. Let us put in the great fundamental condition, for instance, of universal suffrage, and perhaps we should stop there. I, however, do not agree with him that we cannot make a change in regard to the method of voting so far as the preliminary elections are concerned. They have not accepted our proposition; they have taken no action; the pledge has not been accepted; no rights have vested under it; and we are at perfect liberty up to this time to modify or amend the bill passed by the last Congress, or even to repeal it. There is one thing we can do with propriety: we can provide as instructions to these commanding generals that the preliminary elections, the election of delegates and the election on the ratification of the constitution, shall be by ballot.

Mr. STEWART. That is already provided in the bill, that the voting at those elections shall be by ballot in every State.

Mr. MORTON. I shall then vote against the amendment.

Mr. WILLIAMS. I agree to that; I think we have that power; but this amendment provides that there shall be no representation until the ballot is in the constitution. That I am opposed to.

Mr. TRUMBULL. If the Senator from Indiana will look at section five of the bill he will see it provides for the ballot in the elections under this bill.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider.

Mr. SUMNER. I hope we shall not reconsider.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment.

Mr. DRAKE. With the permission of the Senate, I will modify the amendment slightly, because it has been suggested to me that if it were adopted in its terms it might not include elections for members of Congress. If the Clerk will read the amendment as I propose to modify it, by leaving out the words I have marked in brackets, the naked question will be presented of requiring the ballot at all elections.

The PRESIDENT *pro tempore*. The amendment, as modified, will be read.

The Secretary read it, as follows:

*Provided*, That no such constitution shall be considered as entitling the State for which it is framed to such representation, unless it provide that at all elections by the people the electors shall vote by ballot.

Mr. DRAKE. The words left out are "all elections by the people for State, county, and municipal officers." I wish to leave out those words.

The PRESIDENT *pro tempore*. The amendment is so modified. The question is on the amendment as modified.

Mr. BUCKALEW. It is a little troublesome to have the same question recur several times. I spoke on this particular amendment, or one similar to it, on a former occasion, and gave the reasons that occurred to me against its adoption in this particular bill; and it was then I believe rejected by a very decided vote of

the Senate. I shall not repeat the argument which I then made. One suggested by me was that a provision of this kind is or may become an obstacle to electoral reform, which in my opinion points either to the abolition or modification of the system of voting by secret ballot. I rise now for the purpose of answering one remark made by the Senator from Massachusetts, to correct the statement made by him that the tendency among English reformers in recent years is in favor of this system of voting by ballot. As I happen to have in my hand a decisive authority upon that point, I will read it. I read from the most recent work on parliamentary reform by Earl Grey. He says:

"How the votes at elections ought to be taken will also require to be carefully considered in framing a new reform bill. One question, of course, will be, whether the system of voting by ballot ought to be adopted, for it is not to be supposed that this old article of the radical faith will be abandoned, or that it will fail even now to command the support of many eager partisans. But there are strong signs that the more than ample discussion the subject has undergone has brought the majority of the public to the conclusion that the opponents of secret voting have had the best of the argument, and the weight of authority inclines to the same side, especially since it has been so decidedly adopted by Mr. Mill in his work on Representative Government. It is needless, therefore, for me to enter in a question which has been completely exhausted, and I will content myself with observing that even if the arguments against the ballot upon principle were less conclusive than I consider them to be, there would be a strong objection to it on the ground of the facilities it affords for abuse and partiality in the conduct of elections."—*Earl Grey on Parliamentary Government and Reform*, pages 253, 254.

And he proceeds then to state a most powerful argument against the adoption of this principle in the proposed reform of the representation of the people in the British Houses of Parliament. What I rose for, then, at the present moment was to protest against the accuracy of the impression which seems to be entertained by the Senator from Massachusetts with reference to the thought and discussion abroad upon this subject.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. DRAKE. I ask for the yeas and nays. The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 22; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Drake, Edmunds, Fowler, Harlan, Howard, Howe, Morgan, Nye, Sumner, Thayer, Tipton, Wade, and Yates—17.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Corbett, Cragin, Ferry, Essenden, Ervinghaysen, Hendricks, Johnson, Morton, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wiley, Williams, and Wilson—22.

ABSENT—Messrs. Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Morrill of Maine, Morrill of Vermont, Norton, Patterson of Tennessee, Pomeroy, Riddle, Saulsbury, and Sprague—14.

So the amendment to the amendment was rejected.

Mr. FOWLER, (at half past ten o'clock.) I move that the Senate do now adjourn.

On a division, the yeas were 17 and the nays 22; so the motion was not agreed to.

Mr. SUMNER. The Senate has been occupied for two days in the discussion of questions, many of them merely of form. I propose now before this debate closes to call its attention to one of substance, with which, as I submit, the best interests of these rebel States and all the Republic at large are connected. I send to the Chair an amendment, to come in at the end of section four.

The Secretary read the proposed amendment, as follows:

*Provided*, That the constitution shall require the Legislature to establish and sustain a system of public schools open to all, without distinction of race or color.

Mr. SUMNER. On that I should like to have the yeas and the nays.

The yeas and nays were ordered.

Mr. SUMNER. I shall vote for this bill; not because it is what I desire, but because it is all that Congress is disposed to enact at the present time. I do not like to play the part of Cassandra; but I cannot forbear declaring my conviction that we shall regret hereafter that we have not done more. I am against procrastination;

but I am also against precipitation. I am willing even to make haste; but following the ancient injunction, I would make haste slowly. In other words, I would make haste so that our work may be well done and the Republic shall not suffer. Especially would I guard carefully all those who justly look to us for protection, and I would see that the new governments are founded in correct principles. You have the power. Do not forget that duties are in proportion to powers.

I speak frankly. Let me then confess my regret that Congress chooses to employ the military power for purposes of reconstruction. The Army is for protection. This is its true function. When it undertakes to govern or to institute government, it does what belongs to the civil power. Clearly it is according to the genius of republican institutions that the military should be subordinate to the civil. *Cedant arma togæ* is an approved maxim, which cannot be disregarded with impunity. Even now a fresh debate in the British Parliament testifies to this principle. As late as March, of this year, only a fortnight ago, the Royal Duke of Cambridge, cousin to the Queen and commander of the forces, expressed himself as follows:

"The practice of calling out troops to quell civil disturbances is exceedingly objectionable; but it must not be forgotten that the initiative in such cases is always taken by the civil authorities themselves."

This declaration, which is confined to a particular case, embodies an important rule of conduct, which to my mind is of special application on the present occasion.

By the system which you have adopted the civil is subordinate to the military, and the civilian yields to the soldier. You accord to the Army an "initiative" which I would assure to the civil power. I regret this. I am unwilling that reconstruction should have a military "initiative." I would not see new States born of the bayonet. Leaving to the Army its proper duties of protection, I would intrust reconstruction to provisional governments, civil in character and organized by Congress. You have already pronounced the existing governments to be illegal. Logically you should proceed to supply their places by other governments, while the military is in the nature of police, until permanent governments, republican in form and loyal in character, are organized. During this transition period permanent governments might be matured on safe foundations and the people educated to a better order of things. As the twig is bent the tree inclines; you may now bend the twig. These States are now like a potter's vessel; you may mold them to be vessels of honor or of dishonor.

From the beginning I have maintained these principles. Again and again I have expressed them in the Senate and elsewhere. At the last session I insisted upon the Louisiana bill in preference to the military bill. In the earliest moments of the present session I introduced a bill of my own, prepared with the best care I could give, in which I embodied what seemed to me a proper and practical system of reconstruction, with provisional governments to superintend the work and pave the way for permanent governments. This bill, which I now hold in my hand, is entitled "A bill to guaranty a republican form of government in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, and to provide for the restoration of these States to practical relations with the Union." Its character may be seen in its title. It is not a military bill or a bill to authorize reconstruction by military power; but it is a bill essentially civil from beginning to end.

The principles on which this bill proceeds may be seen in its preamble, which with the permission of the Senate I will now read:

Whereas in the years 1860 and 1861 the inhabitants of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas changed their respective constitutions so as to make them repugnant to the Constitution of

the United States; and whereas the inhabitants of these States made war upon the United States, and after many battles finally surrendered, under the rules and usages of war; and whereas the inhabitants of these States, at the time of their surrender, were without legal State governments, and, as a rebel population, were without authority to form legal State governments, or to exercise any other political functions belonging to loyal citizens, and they must so continue until relieved of such disabilities by the law-making power of the United States; and whereas it belongs to Congress, in the discharge of its duties under the Constitution, to secure to each of these States a republican form of government and to provide for the restoration of each to practical relations with the Union; and whereas until these things are done it is important that provisional governments should be established in these States with legal power to protect good citizens in the enjoyment of their rights and to watch over the formation of State governments, so that the same shall be truly loyal and republican: Therefore.

With this preamble, which exhibits precisely the necessity and reasons of reconstruction, the bill begins by declaring that the provisional governments shall convene on the fourth Monday after its passage, and shall continue until superseded by permanent governments created by the people of these States respectively and recognized by Congress as loyal and republican. It then establishes an executive power in each State, vested in a governor appointed by the President, by and with the advice and consent of the Senate, and not to be removed except by such advice and consent. The legislative power is vested in the governor and in thirteen citizens, called a legislative council, appointed by and with the advice and consent of the Senate, and not to be removed except by such advice and consent. All these being officers of the United States, must take the test oath prescribed already by act of Congress; and the bill adds a further oath, to maintain a republican form of government, as follows:

I do hereby swear (or affirm) that I will at all times use my best endeavors to maintain a republican form of government in the State of which I am an inhabitant and in the Union of the United States; that I will recognize the indissoluble unity of the Republic, and will discountenance and resist any endeavor to break away or secede from the Union; that I will give my influence and vote to strengthen and sustain the national credit; that I will discountenance and resist every attempt, directly or indirectly, to repudiate or postpone, in any part or in any way, the debt which was contracted by the United States in subduing the late rebellion, or the obligations assumed to the Union soldiers; that I will discountenance and resist every attempt to induce the United States or any State to assume or pay any debt or obligation incurred in aid of rebellion against the United States, or any claim for the loss or emancipation of any slave; that I will discountenance and resist all laws making any distinction of race or color; that I will give my support to education and the diffusion of knowledge by public schools open to all, and that in all ways I will strive to maintain a State government completely loyal to the Union, where all men shall enjoy equal protection and equal rights.

I know well the whole history of oaths, and how often they are the occasions of perjury by the wholesale. But I cannot resist the conclusion that at this moment, when we are taking securities for the future, we ought to seize the opportunity of impressing upon the people these fundamental principles on which alone our Government can stand. You may exclude rebels, but their children, who are not excluded, have inherited the rebel spirit. The schools and colleges of the South have been nurseries of rebellion. I would exact from all who seek the public service, or even the elective franchise, a pledge to support a republican government; and to make this pledge perfectly clear, so that all may understand its extent, I would enumerate the points which are essential. If a person cannot give this pledge he ought to take no part in reconstruction. He must stand aside.

From this requirement the bill proceeds to enumerate certain classes who shall be excluded from office, and also from the elective franchise. This is less stringent than what is known as the Louisiana bill. It does not exclude persons who have not held office, unless where they have left their homes within the jurisdiction of the United States and passed within the rebel lines to give aid and comfort to the rebellion; or where they have voluntarily contributed to any loan or securities for the benefit of any of the rebel States or the central government thereof; or where as authors, pub-

lishers, editors, or as speakers or preachers, they have encouraged the secession of any State or the waging of war against the United States.

The bill then provides for executive and judicial officers and for their salaries under the provisional governments; also for grand and petit juries; also for a militia. But all officers, jurors, and militiamen, must take the oath that they are not in the excluded classes, and also the oath to support a republican form of government.

The bill then annuls existing Legislatures; also the acts of conventions which framed ordinances of secession and the acts of Legislatures since, subject to certain conditions; and it provides that the judgments and decrees of court, which have not been voluntarily executed and which have been rendered subsequent to the date of the ordinance of secession, shall be subject to appeal to the highest court in the State organized after its restoration to the Union. Safeguards like these seem to be essential to the protection of the citizen.

Besides these provisions, the bill does what it can for education by requiring as follows:

That it shall be the duty of the governor and legislative council in each of these States to establish public schools which shall be open to all without distinction of race or color, to the end that where suffrage is universal, education may be universal also, and the new governments find support in the intelligence of the people.

Such is the outline of the provisional governments. The bill then provides for permanent governments truly loyal and republican. For this purpose the governor must make a registration of male citizens twenty-one years of age, of whatever color, race, or former condition, and on the completion of this register shall invite all to take the oath that they are not in the excluded classes, and also the oath to maintain a republican form of government; and if a majority of the persons duly registered shall take these oaths, then the Governor is to order an election for members of a convention to frame a State constitution. Nobody can vote or sit as a member of the convention except those who have taken the two oaths; but no person can be disqualified on account of race or color. All persons qualified as voters are eligible as members of the convention.

The constitution shall contain in substance certain fundamental conditions, never to be changed without the consent of Congress, as follows:

First. That the Union is perpetual;

Secondly. That slavery is abolished;

Thirdly. That there shall be no denial of the elective franchise, or of any other right, on account of race or color, but all persons shall be equal before the law;

Fourthly. That the national debt, including the pensions and bounties to Union soldiers, shall never be repudiated or postponed;

Fifthly. That the rebel debt, whether contracted by a rebel State or by the central government, shall never be recognized or paid, nor shall any claim for the loss or emancipation of any slave, or any pension or bounty for service in the rebellion be recognized or paid;

Sixthly. That public schools shall be established which shall be open to all without distinction of race or color;

Seventhly. That all the persons excluded from office under this act shall be excluded by the constitution until relieved from their disability by act of Congress.

The constitution must be ratified by the people and submitted to Congress. If Congress shall approve it as republican in form and shall be satisfied that the people of the State are loyal and well-disposed to the Union, the State shall be restored to its former relations and the provisional government shall cease.

Such is the bill which I should be glad to press upon your attention, creating provisional governments and securing permanent governments. It is not a military bill, and on this account, in spirit and form, if not in substance, it might be preferred to that which you have begun to sanction. Besides, it contains

abundant safeguards. I regret much that something like this cannot be adopted. It is with difficulty that I renounce a desire long cherished to see reconstruction under the supervision of Congress, according to the forms of civil order, without the intervention of military power. I am sure that such a bill would be agreeable to the Unionists of the rebel States; and this with me is a rule of conduct which I am unwilling to disregard. They are without representation in Congress. Let us be their representatives. I hear their voices gathered into one prayer. I cannot refuse to listen.

But if this bill cannot be adopted, then I ask that you shall take at least one of its provisions. Require free schools as an essential condition of reconstruction. But I am met by the objection that we are already concluded by the military bill adopted a few days ago, so that we cannot establish any new conditions. This is a mistake. There is nothing in the military bill which can have this interpretation. It is only a few days old, so that whatever may be its character, nothing is as yet fixed under its provisions. It contains no compact, no promise, no vested right, nothing which may not be changed if the public interests require. There are some who seem to insist that it is a strait-jacket. On the contrary, this very bill asserts in positive terms "the paramount authority of the United States." Surely this is enough. In the exercise of this authority, it is your duty to provide all possible safeguards. This must be done. To adopt a familiar illustration, these States "must be bound to keep the peace." Nothing is more common after an assault and battery. But this can be done only by good laws, by careful provisions, by wise economies, and securities of all kinds.

Sometimes it is argued that it is not permissible to make certain requirements in the new constitutions, although when the constitutions are presented to Congress for approval we may object to them for the want of these very things. For instance, it is said that we may not require educational provisions in the new constitutions; but that we may object to the constitutions when they are formed, if they do not contain this safeguard. This argument forgets the paramount power of Congress over the rebel States, which you have already exercised in ordaining universal suffrage. Who can doubt that, with equal reason, you may ordain universal education also? And permit me to say that one is the complement of the other. But I do not stop with this assertion as the power. The argument that we are to wait until the constitution is submitted for approval, is not frank. I wish to be plain and explicit. We have the power, assured by reason and precedent. Exercise it. Seize the present moment. Grasp the precious privilege. There are some who act on the principle of doing as little as possible. I would do as much as possible; believing that all we do in the nature of safeguards must redound to the good of all and to the national name. It is in this spirit that I have now moved, to require a system of free schools open to all without distinction of caste. For this proposition I now ask your votes.

You have prescribed universal suffrage. Prescribe now universal education. The power of Congress is the same in one case as in the other. And you are now under an equal necessity to exercise it. Votes by the hundred thousand will exercise the elective franchise for the first time, without delay or preparation. They should be educated promptly. Without education your beneficent legislation may be a failure. The gift you bestow will be vain. I was unwilling to make education the condition of the suffrage; but I ask that it shall accompany and sustain the suffrage.

Mr. President, I plead now for Education. Nothing can be more beautiful or more precious. Education decorates life, while it increases all our powers. It is the charm of society, the solace of solitude, and the multiple of every faculty. It adds incalculably to the resources of the individual and to the resources of the community. Careful inquiry has estab-



lished what reason declared, that labor is productive in proportion to its education. There is no art which it does not advance. There is no form of enterprise which it does not encourage and charter. It brings victory, and is itself the greatest of all victories.

In a republic Education is indispensable. A republic without education is like the creature of imagination, a human being without a soul, living and moving blindly, with no just sense of the present or the future. It is a monster. Such have been the rebel States. They have been for years nothing less than political monsters. But such they must be no longer.

It is not too much to say that had these States been more enlightened they would never have rebelled. The Barbarism of Slavery would have shrunk into insignificance, without sufficient force to break forth in blood. It appears from the census before the rebellion that in the Slave States there were not less than 493,026 native white persons over twenty years of age who could not read and write, while in the Free States, with double the white population, there were but 248,725 native whites over twenty years of age thus blighted by ignorance. In the Slave States the proportion was 1 to 12; in the Free States it was 1 to 53. The number in Free Massachusetts, with a population of a million, was 1,005, or 1 in 517; the number in Slave South Carolina, with a population under 800,000, was 15,580, or 1 in 7. The number in Free Connecticut was 1 in 277; in Slave Virginia 1 in 5; in Free New Hampshire 1 in 201, and in Slave North Carolina 1 in 3. In this prevailing ignorance we may trace the rebellion. A population that could not read and write naturally failed to comprehend and appreciate a republican government.

This contrast between the rebel States and the loyal States appeared early. It was conspicuous in two Colonies, each of which exercised a peculiar influence. Massachusetts began her existence with a system of free schools. The preamble of her venerable statute deserves immortality. "That learning may not be buried in the grave of our fathers," her founders enacted that every township should maintain a school for reading and writing, and every town of a hundred householders a school to fit youths for the university. This statute was copied in other Colonies. It has spread far, like a benediction. At the same time Virginia set herself openly against free schools. Her Governor, Sir William Berkeley, in 1671, in a reply to the Privy Council of England on the condition of the Colony, testifies as follows: "But I thank God there are no free schools nor printing, and I hope we shall not have these hundred years; for learning has brought disobedience and heresy and sects into the world, and printing has divulged them. God keep us from both." Thus spoke Massachusetts, and thus spoke Virginia in that ancient day. The conflict of ideas had already begun. Can you hesitate to adopt that statute which is so well justified by time? It began in an infant Colony. Let it be the law of a mighty Republic.

The papers of the day mention an incident, showing how the original spirit of the Virginia Governor still animates these States. A motion to print two hundred copies of the report of the State Superintendent of Public Education was promptly voted down in the Senate of Louisiana, while a Senator, in open speech, "denounced the public education scheme as an unmitigated oppression, an electioneering device, an imposition, which he intended to bring in a bill to abolish if they were allowed to go on legislating." With such brutality is this beautiful cause now encountered. It is as if a savage rudely drove an angel from his tent.

Be taught by this example, and do not hesitate I entreat you. Remember how much is now in issue. You are to fix the securities of the future, and especially to see that a republican government is guaranteed in all the rebel States. I call them "rebel," for such they

are in spirit still, and such is their designation in your recent statute. But I ask nothing in vengeance or in unkindness. All that I propose is for their good with which is intertwined the good of all. I would not impose any new penalty or bear hard upon an erring people. Oh no, I simply ask a new safeguard for the future, that these States, through which so much trouble has come, may be a strength and a blessing to our common country, with prosperity and happiness everywhere within their borders. I would not impose any new burden; but I seek a new triumph for civilization. For a military occupation, bristling with bayonets, I would substitute the smile of peace. But this cannot be done without education. As the soldier disappears his place must be supplied by the schoolmaster. The muster-roll must be exchanged for the school register, and our headquarters must be in a school-house.

Do not forget the grandeur of the work in which you are now engaged. You are forming States. Such a work cannot be done hastily or carelessly. The time which you give now will be saved to the country hereafter a thousand fold. The time which you begrudge will rise in judgment against you. It is a law of nature that just in proportion as the being produced is higher in the scale, and more complete in its functions, all the processes are more complex and extended. The mature liberty which we seek cannot have the easy birth of feeble types. As man, endowed with reason and looking to the Heavens, is above the quadruped that walks, above the bird that flies, above the fish that swims, and above the worm that crawls, so should these new governments, republican in form and loyal in soul, created by your care, be above those whose places they take. The Old must give way to the New, and the New must be worthy of a Republic, which, ransomed from Slavery has become an example to mankind. Farewell to the Old! All hail to the New!

Mr. FRELINGHUYSEN. Mr. President, the distinguished Senator who has just addressed the Senate tells us that States are about to be born of the bayonet. I protest against that declaration. We have been engaged here for weeks in adopting measures for the reconstruction of the rebel States, and if the vote of the distinguished Senator was not secured, he failed to vote or speak against this proceeding; and now, when the work is about consummated, late on Saturday night, and when we are about to take the final vote and to adjourn, he with all the power of his influence gives it out to the world that we are establishing States that are to be born of the bayonet. No, sir; no. The constituents of these States are as free to form constitutions or not to form them as any community that ever existed, and I for one will not submit to be charged with being a party to the formation of States by the bayonet. What has the bayonet to do with it? The military commander, it is true, provides the formality which is adopted under our direction for holding an election; but we have provided over and over again that nothing can be done except by the free ballot of a majority. Is there any bayonet pricking voters up to the polls to adopt our sentiments? Do we force universal suffrage upon the South by the bayonet? That charge we have had from the other side of the House; but I will not submit, without my protest, to receive it from this side of the House.

The proposition is that we shall provide free schools without distinction of race. The reconstruction law already provides that there shall be no discrimination in legislation on account of race or color. The fourteenth amendment has that provision, and that amendment must be a part of the constitution before any one of these States can be introduced. There is, therefore, no necessity for that part of the Senator's amendment. Then, sir, shall we, as a Federal Government, undertake to provide free school systems for the States? Have we any right to do it? None whatever. We have no

right to do it in Massachusetts or in New Jersey, and we shall have no right to do it in Alabama or in Georgia when they become States. And, sir, for us to undertake now to add new conditions to the reconstruction measure which the Thirty-Ninth Congress adopted I hold to be bad faith. When we have said to these States, "If you comply with our terms as stated in the reconstruction act you shall be restored to representation," and when they are now taking measures to accept our proposition, are we to say to them "Oh, just a little more; you must give a homestead to every colored man in the South; you must give education to every freedman, or else the bargain is undone?" That is not the way to do business. As I understand the very description of an upright man to be, and it is so of an upright nation, that he swears to his hurt, and changes not. It has been said that when savages make a treaty, if they give a whiff of tobacco smoke over it that little formality not only makes it binding, but makes it sacred. And that you may buy a truce of pirates, and after they have made the bargain they will live to it; and if you should have the very inmates of our penitentiaries turned together as a community, whatever depredations they might commit upon each other, if they formed a society good faith would be their religion, and would be adhered to. Let this nation keep its faith. I hope, Mr. President, that the amendment will not be adopted.

Mr. STEWART. As I expect to vote for this bill, it is rather unpleasant on every occasion to hear it branded as a very bad measure. If any gentleman considers this a bad bill I think it is his duty to vote against it. If he thinks it is an enormity, if he thinks it is a violation of republican principles, let him vote against it. When I believe a bill is bad I state to the Senate that that is my judgment, and I vote against it. But it seems to me that a Senator who means to vote for a bill ought not to speak of it in that way, and seek to get the credit before the country of having advocated some things higher and better than we are willing to adopt. After we have labored for days and weeks to get the best bill we can, and have finally agreed upon a measure, it seems to me that there is an implied understanding that those who vote for the bill indorse it. It appears, however, to have become somewhat the habit in the Senate to put yourself on the record for a bill, and yet denounce the bill before the country. I say again that if I thought this was a bad bill I would vote against it, but if I vote for a bill I will defend it before the country. After we have been laboring in these Halls for weeks and months to prepare a bill which is the result of the combined wisdom of all, it is hardly fair for one Senator to pronounce it a bad bill; to say that it provides for organizing governments by military power; that these are not to be republican governments; and to lecture the Senate for being about to perpetrate a great outrage upon republican principles. If the Senator from Massachusetts votes against the bill, he takes no responsibility in the matter; but now it will be said, "Out of your own mouths we will condemn you: here is one of your party who voted for the bill and he denounces it as an outrage upon republican principles!"

Mr. SUMNER. I used no such language.

Mr. STEWART. Did not the Senator from Massachusetts say that this was organizing by the military, and that it was not republican for the military to organize civil governments?

Mr. SUMNER. Very well.

Mr. STEWART. Did not the Senator denounce it as born of the bayonet; and shall we not hear that remark continually repeated throughout the canvass next fall? If the Senator is with us for this bill, is it fair to send us before the country branded as voting for a bill to create governments born of the bayonet? If the Senator is against the bill, let him denounce it; but do not let us make the admission for the Republican party that these governments are to be born of the bayonet, and that we are attempting to organize States in that

way. I do not want that admission to bind me, for I intend to deny it. We give these people at each step of this process an opportunity to vote fairly and freely, and I believe the South will accept it in good faith and the voice of the people will be heard. I expect to defend the measure hereafter, and I expect to deny the charge, when it comes from the Copperheads, if it does next fall, that these organizations are born of the bayonet.

Mr. PATTERSON, of New Hampshire. Mr. President, I do not rise to debate, but simply to ask a question of the Senator from Massachusetts. I heartily approve of the proposition which he has laid down of universal education, especially in these southern States, and would be glad to have such a requisition laid on all the States of the Union if it were not unconstitutional; but I wish to ask him this question: does he think it possible to establish a system of common schools in these southern States corresponding to the common-school system of New England unless he first confiscates the large estates and divides them into small homesteads, so that there may be small landholders who shall support these schools by the taxation which is laid upon them?

Mr. SUMNER. I do.

Mr. PATTERSON, of New Hampshire. You think it is possible?

Mr. SUMNER. I do certainly; most clearly.

Mr. MORTON. I intend to vote for this proposition. I regard it as a fundamental condition. I regard the education of these people as essential to reconstruction. When you add to the uneducated whites the uneducated negroes you have a full half of the whole voting population unable to read and write; and we cannot expect the men who own the property voluntarily to tax themselves to provide education for the others. When you get outside of the towns of the South you find the colored people living upon the large plantations; the rebel whites own their homes, their shanties, and not one in fifty of those colored people owns ten dollars. They are unable to maintain themselves without employment, and their education must be provided for by the State or they will remain uneducated; and until they are educated the political power will remain almost entirely in the hands of the present rebel-educated classes.

We are all interested in this matter. Republican government may go on for awhile with half the voters unable to read or write, but it cannot long continue. Intelligence is the very foundation of republican government. We have all said it a thousand times and we all believe it; and now, sir, at this last, this most important hour in this great work of reconstruction, let us provide for the education of these people.

I would have been in favor of having the colored people of the South wait a few years until they were prepared for suffrage, until they were to some extent educated; but the necessities of the times forbade that; the condition of things required that they should be brought to the polls at once; and we have done that; but now let us provide against the danger by making provision for this steady education of these people. I say the proposition is fundamental in its character; its importance cannot be overestimated, and I hope that it will be placed as a condition upon complying with which they shall be permitted to return. If we say so now they will comply with it, and it will not delay the work of reconstruction one hour; but we cannot say so when their constitutions come here unless we lay down the condition now.

Mr. CONNESS. I shall simply content myself with voting against this amendment proposed without giving the reason why at this hour; but since the bill before the Senate for which I intend to vote has been arraigned here as a provision for producing States to be born of the bayonet, and as I in part represent a State which was literally born of a military order, not of the bayonet (though perhaps as much born of the bayonet as any of the States

which will be organized under this act and the act to which it is supplementary will be so born) the accusation or denunciation comes home to me. The civil government of the State of California was the product of a military order; and it is not now less free, it is not less generous, it is not less courageous, it is not less patriotic for that reason. I will not at this time say anything upon the good taste of the denunciation of this measure that has taken place. Under other circumstances I would not allow it to pass without, not my simple protest, but without some attempt to analyze what has been said in that connection.

Mr. HENDRICKS. I do not desire that my vote against this amendment shall be understood as expressing an opinion on my part that a general system of education is not important to the public. My convictions are very well established upon that particular subject; but I vote against this amendment and all such amendments to this bill upon the ground that I think the Congress of the United States has no power under the Constitution to make a constitution for a State, any article or any section of any article of a State constitution. What shall be in a State constitution depends altogether on the will and pleasure of the people of that State. Whether Congress may afterward hold that constitution to be republican in form is altogether another question; and the power of Congress to judge of that particular question confers no power upon Congress to prescribe in advance a form of government to a State.

Upon that ground I vote against the amendment. I would vote against it also on another ground. I was a member of the committee that reported this bill to the body. I suggested such amendments as I thought were right in the committee; and I thought it my duty to stand by the majority of the committee. I believe all of the committee except myself were in favor of the bill; I am not, and was not in the committee; but I suggested in the committee such amendments as I thought ought to be made, and I can see no propriety on the part of Congress, no fair dealing, no honesty to propose a proposition to the States at the last session and then in this bill, which is supplementary thereto, and which proposes simply to carry that into practical operation, to add conditions not suggested to the people at the last session. I cannot think it is right. I would not think it right for a man in any business transaction to treat me so; and therefore I stand by the committee, and have done it in the Senate, upon that general proposition. I have felt myself committed to it; and should feel so now were I a friend of the bill. Being an enemy to the bill—no, I will not say that—but, not being in favor of the bill, I do not feel authorized to do otherwise upon this particular question than I would do if I were a friend to it. I think we have no power to say to any State, North or South, one thing or another shall go into its constitution. If we can make one article or one section of an article, we can write the constitution out here in the Senate Chamber and say to a State, "Adopt this or you never come into this Union again."

Mr. SUMNER. Mr. President, the question of power, I take it, must be settled in this Chamber. You have already most solemnly voted in favor of requiring in every constitution of the rebel States suffrage for all, without distinction of color or race or previous condition. Now, the greater contains the less. If you can do that you can do everything. If you can require that magna charta of human rights you can require what is smaller. Now it is already fixed in your statutes, enrolled in your archives, that Congress has this great power over the rebel States. I do not say whether it has this great power over other States; that is not now the question; but it has the power over the rebel States. That power is derived from several sources; first from the necessity of the case, because the State governments there are illegal, and that whole region has passed, as in the case of

Territories, under the jurisdiction of Congress. There is no legal government there except that which Congress supplies. Then again you have another source in the military power which is at this moment established over that region. Then again, still further, you have in that great clause of the Constitution of the United States by which you are authorized to guaranty to every State a republican form of government. There is enough. Out of these three sources, these three overflowing fountains, you have ample authority in this case. You have exercised it now by prescribing in their constitutions suffrage for all: I ask you to go one step further, and to prescribe education for all.

But I am met here by personal objections; I am asked why I have not brought this forward before. Sir, I have brought it forward in season and out of season. I have on the table before me a speech of mine made in 1865, in which, in laying down the great guarantees that we were to seek, I declared them as follows: "First, the unity of the Republic; second, enfranchisement; thirdly, the guarantee of the national debt; fourthly, the repudiation of the rebel debt; fifthly, equal suffrage; and sixthly, education of the people." Therefore from the beginning I have asked this guarantee, believing as I do most clearly that under the Constitution now you may demand it. If you may demand it, if you have the power, then do I insist it is your duty to do it. Duties are in proportion to powers. You have not these great powers intrusted to you merely for display or idleness, but they are for employment to the end that the Republic may be advanced and fortified.

Then I have been reminded very earnestly by two Senators that I have used strong language in saying that these governments will be open to the imputation of being born of the bayonet. This is not the first time that I have used that language in this Chamber with reference to this very policy. From the beginning I have protested against any policy of reconstruction proceeding from the military power. I have asserted again and again that it was contrary to the genius of republican institutions and to a just economy of our political forces. I have not been hearkened to. Others have pressed the idea of military power; and now as I submit, as I am about to record my vote in favor of the proposition, I cannot but express my sincere and unfeigned regret that Congress did not see its way to a generous measure of reconstruction which should be purely civil in its character, having in it no element of military power. Such a proposition you had before you at the last session in the Louisiana bill, which I sought to press day by day upon your attention; and when at the last moment the military bill was passed, I, from my place here, declared that I should deem it my duty at the earliest possible moment in this session to press the Louisiana bill or some kindred measure founded on a different principle.

I was early tutored in the principles of Jefferson; I cannot forget his message where he lays down among the cardinal principles or what he calls "the essential principles of our Government," and consequently those which ought to shape its administration. I quote his own words: "The supremacy of the civil over the military authority." This he records as one of the "essential principles of our Government." Imbued with that principle I had hoped that Congress would see the way to establish at once civil governments in all those States, and not subject them to military power except so far as might be needed for the purposes of protection. That is the true object of the Army. It is to protect us; it is not in any way to make constitutions or to superintend the making of constitutions. At least so I have read the history of republican institutions, and such are the aspirations that I presume to express for my country.

Mr. HENDRICKS. Mr. President, the argument suggested by the Senator has no force if at all addressed to myself, with which he

started out. He suggested that if Congress had the power to prescribe as a condition for the return of these States that they should allow universal suffrage, then Congress could go so far as to impose his amendment. I have no doubt of that; but I did not vote for that proposition, and the objection I make to this was equally strong to that; but I want to ask the Senator when he was considering a bill which was regarded as a finality, why did he not propose this as a condition then? If there is a matter of dispute between him and myself, and that has to be settled between us as honorable gentlemen, and he makes his proposition for settlement for me to accept or reject, is it not his duty to state his proposition in full, and when I come to accept it, is it right, is it fair, is it honest for him to say, "I will not do it now unless you go still further?" If he finds that my necessities have pressed me up to the proposition which he has made, then shall he in honor take advantage of that and press me still further? I believe the majority is bound by the proposition of the last session.

The source of authority for this sort of thing is not found, I think, where the Senator seeks it. When he says it is found in necessity, that is a source of authority and power for anything; it depends upon the notions of each man; it is like the Chancellor's foot as a measure of justice or the Chancellor's conscience, independent of law and precedent, for the settlement of disputed cases. It is no rule.

The war power, the military power, is also referred to. What has that to do with the present case? There is no war, and he knows it. He knows there is no occasion because of a state of war for the establishment of military authority in any State of this Union. From Maine to the Rio Grande there is peace, a peace more profound, perhaps, than has ever been known in the country, anonymous letters to the contrary notwithstanding; a community that cannot make resistance; a community that is crushed; a community that is crying for a supply of bread; a community in which it is said sixty thousand are likely to die of starvation. In such a case, it is not generous to press a fallen foe. No power can be found in the military authority of the Government for Congress to make a constitution for a State.

I do not intend to protract this discussion; I have not done it in the progress of this bill; I believe the Senator from Massachusetts has not; he has reserved his great proposition, one that was to startle the country, for the last hours of the debate. It was to be the ornament, the dome upon the capitol of this restoration policy, and his rhetoric was to be the last flourish in the controversy. Now, if he is through, I suppose we can get to a vote, and that will give much more pleasure than anything I can say. I should like now upon this bill simply to say "no."

Mr. SUMNER. I have not risen to protract the debate, but to call attention for one minute to this question of power. I propose that we shall require in these constitutions a provision for free schools. Have we not the power to do it? The very reconstruction act to which this bill is supplementary, has the following language: "And when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same," and after a great many other things besides that are done, their representatives may be admitted into Congress.

Mr. WILLIAMS. I should like to ask the Senator a question for information, and it may save the necessity of saying anything. Does he mean by this proposition that each of these States shall appropriate money enough out of its treasury to support a system of common schools throughout the entire State?

Mr. SUMNER. I mean that each State shall provide in its own way for a system of common schools within its own borders.

Mr. WILLIAMS. I beg the Senator's pardon; but his amendment says that the State shall "establish and sustain" a system of pub-

lic schools. Does that impose upon each State the necessity of appropriating from its public treasury the necessary amount of money to sustain schools?

Mr. SUMNER. From the State treasury? Yes.

Mr. WILLIAMS. Then another question. Does this proposition mean that each school shall be equally open to persons without distinction of race or color, that there shall not be such a thing as a school for white children and a school for black children, but that each and every school shall be open to children of both races?

Mr. SUMNER. If I should have my way, according to the true principle, it would be that the schools, precisely like the ballot-box or the rail cars, should be open to all. But the proposition is necessarily general in its character; it does not go into details; but I submit that it is important that we should declare this in advance, so that when their constitutions come here and are submitted for our approval they may not complain if we object to them because they do not provide free schools. My proposition is in the nature of notice to all these States that if they expect their constitutions to be approved they must insert in those constitutions a provision for free schools.

Mr. COLE. Mr. President, it is quite too late in the evening for me to indulge in anything like protracted remarks, and I will only add a word to what has already been said in favor of this proposition.

It seems to me that at this time we should not forget that the people of the communities for which we are now legislating are accustomed to a condition of things very different from that which we wish to inaugurate. Upon their statute-books at this time and for many years past have been laws against education, making the instruction of a large class of their population a penal offense. This view of the case alone, it seems to me, should justify some provision of this nature.

The mover of this amendment has very fully and eloquently proclaimed to us the difficulties that result in a republican Government from the want of education. We should all be able to judge of the advantages of education in free Governments. It is, as I believe, and I think I may assert without the fear of contradiction anywhere, the chief corner-stone of free Governments; and in my judgment one of the most creditable acts of the last Congress was the establishment of a Department of Education, and I hope the time will soon arrive when each branch of the national Legislature will have a standing committee on the subject to take into consideration this great interest of the Republic. The national Legislature has heretofore made liberal grants of the public lands to the States for purposes of education. We know that in many of those communities which were lately in rebellion the school fund thus granted has been diverted and put to other uses than that which was intended by the Congress of the United States. There should be some correction of this evil, some guarantee that there shall not be hereafter a violation of the trust created by these donations of the General Government for educational purposes.

I am warmly in favor of the amendment now presented, and I hope it will be sanctioned by the Senate.

Mr. BUCKALEW. I rise to express the opinion that the Senator from Massachusetts [Mr. SUMNER] is not open to criticism for the sentiments which he has expressed upon this occasion, nor for the position which he has assumed. The former are justified by facts, which are open and known to all; and the latter is a necessity imposed upon him as the representative of a special class of people in the country. He says that these States to be called into being under the provisions of this and a prior bill will be States born of the bayonet; in other words, of military power. This figure of speech represents nothing but the actual, honest, notorious, indisputable truth. The section of country about which our legislation is

now concerned is by act of Congress divided into five military departments, and over each of these is, or is to be, placed an officer not less in rank than a brigadier general of the Army of the United States, with power to take jurisdiction not only of civil affairs, but to exercise criminal jurisdiction, to institute military tribunals, both courts-martial and military commissions, for the trial and punishment of offenders, and with no limitation upon the power of the military dictator set over the district, except that when he proposes to take life there may be an appeal to the President of the United States. That is the condition of things established by the act to which this bill is a supplement.

Now, sir, what does this bill do? It provides in a section of country thus subjected to military rule the most unlimited, for the organization of civil governments, State governments; and how? The military commander of the district is to appoint whomsoever he pleases to act under whatsoever rules he may prescribe, according to his own pleasure, his own unregulated will, as agents and officers to execute the plan of reorganization proposed. And these, his appointees, owing no obedience to any known law, and without rule or regulation for their conduct other than that which he shall prescribe, are to proceed to enumerate the inhabitants, or rather to register the electors among them, preliminary to, what? Why, sir, to their exercise of the most valuable and fundamental privilege of freemen—the institution of government for themselves. And for any abuse of power, for any fraud, for any corruption, for any outrage, for any misconduct whatever, this bill and its predecessor are utterly destitute of any provision for punishment.

And then what next? After the returns are made to this military commander he has control of the assembling of the convention by which a constitution is to be formed. All subsequent proceedings up to the time when the plan is consummated, so far as it can be consummated in the State concerned, is to be under his absolute control. And we are told in this debate that it will be improper for us to insert any regulation whatever to prevent fraud or to cause this proceeding to be regular, efficient, and fair to the citizen. We will not even authorize these officers, who are to be appointed by him, to administer legal oaths for the ascertainment of the most necessary fact in compiling the registration upon which suffrage is to be based. It is said the military commanders can make all necessary regulations. That was the answer given me when I proposed an amendment, as it was the answer given when other amendments introducing regulations into the administration of this system were offered. Described, then, in general terms and according to the plain and unquestionable fact, this section of country is under absolute military rule; and this whole proceeding for the reorganization of civil governments according to the wishes and according to the pleasure of Congress is to be absolutely and entirely under the control of the military power. There is not one jot of judicial power or authority to be exercised through any court or magistrate in or about the whole proceeding from beginning to end. Well, then, and truly did the Senator from Massachusetts describe these prospective States as States to be born into existence and to take their places among our States by virtue of the bayonet; or, to abandon the figure of speech and to use plainer language, by military power. That he should be called to account for this language; that the accuracy, the propriety, fitness, and timeliness of this description should be impeached, is most surprising.

I rose, sir, in behalf of common reason and fairness to protest in his behalf—although I am a volunteer upon the occasion—against the justice of the criticisms which have been leveled against him, or rather against his remarks.

Mr. STEWART. I wish to say to the gentleman that his apology in behalf of the Sen-

ator from Massachusetts is entirely satisfactory.

Mr. BUCKALEW. Then, sir, I will proceed to the other point; and I propose to make that equally plain, and I hope equally satisfactory. It has been objected to the Senator from Massachusetts that he comes forward here near the close of the debate, at a late hour in the evening, with a new proposition; with a condition, or a guarantee, or a provision, (however you may describe it,) which looks to something further, which looks to something beyond what has heretofore been proposed. Now, sir, I justify the Senator from Massachusetts for this as well as for his description of these new States or of the manner in which they are to come into existence. The Senator from Massachusetts is the pioneer of agitation upon this floor, and he has filled that position for years. I have not been an inattentive observer of the general course of debate and of the general succession of events in this Chamber and in this Government during the last five or six years. And, sir, the propositions which the Senator from Massachusetts makes one year and which are criticised by his colleagues as extreme, inappropriate, and untimely, are precisely the propositions which those colleagues support with greater zeal and vehemence, if possible, than he, the year following. In short, sir, we can foresee at one session of Congress the character of the propositions and of the arguments with which we are to be favored at the next in this Chamber, by looking to the pioneer man, who goes forward in advance, his banner thrown out, his cause announced; the means by which it shall be carried on and the objects in view proclaimed with force and frankness.

Now, sir, the Senator from Massachusetts sees as clearly as I see, and as other reflecting men see, that this measure of reconstruction, as it is facetiously termed, adopted at the late session, to which the present bill is a supplement, is not the conclusion [Mr. SUMNER. Of course not.] of our agitations in this country upon this subject of reconstruction and upon the relations of the two races in the southern country; and with that caution which a sagacious man is bound to exercise, or at least may well exercise, he gives us notice in advance that this gulf is not closed up, that there are debates and difficulties and questions in the future, and that warm passions will be abroad. When the reconstruction bill, so-called, was passed near the close of the late session, I endeavored then, stating my views upon that subject, to give reasons for believing that it was not a measure of adjustment. I do not believe that Congress alone will ever settle this question, this sectional difficulty about which we have had war, and about which we are now passing laws—I mean the relations of race—and it never will be settled until it is settled by the sovereign people themselves at their popular elections, when they shall choose to somewhat reorganize and “reconstruct” our political parties; when it shall be decreed by them that there shall be a settlement; when they shall begin to choose agents to represent them pledged to end our sectional disputes with all the troubles which attend them.

I say, then, that in my opinion the Senator from Massachusetts stands justified by the necessities of his position as the pioneer man of his political organization in saving the point of honor for himself for the future, in preparing himself to point back in future times to this very debate and to other debates of the present session, in which he has indicated clearly that your contrivances for patching up a hollow treaty of peace between the North and South did not deceive or bind him, and that he should be at perfect liberty to resume or continue that career of agitation which no doubt his friends think useful, but which those who differ from him in opinion must be permitted to think pernicious.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from

Massachusetts, [Mr. SUMNER,] upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Chandler, Cole, Corbett, Drake, Edmunds, Fowler, Harlan, Howard, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—20.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conkling, Conness, Cragin, Ferry, Fessenden, Frelinghuysen, Hendricks, Johnson, Morrill of Maine, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Willey, and Williams—20.

ABSENT—Messrs. Cameron, Davis, Dixon, Doolittle, Gimes, Guthrie, Henderson, Norton, Patterson of Tennessee, Pomeroy, Riddle, Saulsbury, and Sprague—13.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment made as in Committee of the Whole, as amended.

The amendment, as amended, was concurred in, namely, strike out all of the House bill after the enacting clause and in lieu thereof insert:

That before the 1st day of September, 1867, the commanding general in each district defined by an act entitled “An act to provide for the more efficient government of the rebel States,” approved March 2, 1867, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: “I, ———, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God;” which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any State, in such time and places therein as the commanding general shall appoint and direct, of which at least thirty days’ public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such State in the year 1860, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said State in the year 1860, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words “For a convention,” and those voting against such a convention shall have written or printed on such ballots the words, “Against a convention.” The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint such loyal officers or persons as may be necessary, not exceeding three in each election district in any State, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and

upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification; and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all elections in the States mentioned in the said act to provide for the more efficient government of the rebel States, shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe an oath faithfully to perform the duties of their said office, and the oath prescribed by the act approved July 2, 1862, entitled “An act to prescribe an oath of office.”

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word “article,” in the sixth section of the act to which this is supplementary, shall be construed to mean “section.”

The PRESIDENT *pro tempore*. If no further amendment be proposed, the question is, Shall the amendment be engrossed and the bill read a third time?

Mr. THAYER. I desire to move a reconsideration of the vote by which the amendment offered by the Senator from New York [Mr. CONKLING] was rejected. I voted with the majority on that vote.

Mr. WILLIAMS. That has been voted on three times already.

Mr. DRAKE. I rise to a question of order. That amendment was voted upon—

Mr. CONKLING. Not at all.

Mr. DRAKE. The gentleman will allow me to state my point. That amendment was offered by the gentleman from New York to my proposition while it was pending, after the vote on my proposition had been reconsidered. The vote on the amendment of the gentleman from New York was adverse to it, and then the vote on my amendment was taken again, and that amendment was carried. Now, sir, I submit to the Chair the point of order that there can be no motion now to reconsider the vote on the amendment of the gentleman from New York until the vote on my amendment shall be reconsidered.

Mr. CONKLING. Why not? This can be reconsidered.

Mr. DRAKE. But the first thing the gentleman has to get at is the order in which the propositions can be reconsidered. The last vote was on my amendment, and that vote must be reconsidered before the gentleman can reconsider the vote on his amendment.

Mr. SHERMAN. There is still another



point. The amendment made as in Committee of the Whole, as amended, has been agreed to; and that is the end of it.

The PRESIDENT *pro tempore*. There was a reconsideration of this same amendment, and there can be but one reconsideration of the same vote. The Chair is of opinion that this motion is not in order.

Mr. CONKLING. I beg to suggest that no reconsideration has been had of the amendment that I offered. A reconsideration was had of the other amendment offered by the Senator from Missouri. This is the amendment which he declined to offer, and there has been no reconsideration of this. I submit to the Chair that there is no point of order to be made upon reconsidering a vote when it has not been before reconsidered. Certainly it is in order to reconsider this amendment now if it ever would have been; and it must be in order once to reconsider a vote.

Mr. SHERMAN. The Chair is perfectly right. The proposition of the Senator from Missouri was voted upon and reconsidered; the other was a mere amendment or appendage to that, and as a matter of course the disposition of the main proposition disposed of the amendments pending to it. The proposition of the Senator from Missouri having been once reconsidered, and that being the principal proposition upon which the other amendment was founded, it cannot be again reconsidered.

Mr. CONNESS. I wish to say that although being against the proposition of the Senator from New York, I voted for the reconsideration to give him an opportunity to try his proposition again in the Senate. It having been once voted down in committee, and then a second time deliberately voted upon in the Senate, and in a fuller Senate than we have now, whether the motion be strictly in order or not, I do not think it exactly the fair thing to make the motion again at this time.

Mr. EDMUNDS. I merely wish to say on the point of order, in reply to my friend from Ohio, that although we have once reconsidered a vote adopting a proposition, when we have again on that reconsideration adopted the proposition it is just as much open to a motion to reconsider the last vote as it ever was; and we have frequently reconsidered the same proposition two or three times. The only way to cut off further reconsideration is to move a reconsideration and have that motion disagreed to. I do not know whether this vote ought to be reconsidered. I merely make the suggestion lest we are led to establish a bad precedent.

Mr. TRUMBULL. I really hope the Senator from Nebraska will withdraw this motion to reconsider and let us dispose of this bill. We have had two distinct votes upon this same proposition.

The PRESIDENT *pro tempore*. The Chair has ruled the motion out of order, and no appeal has been taken. The question is, Shall the amendment be engrossed and the bill be read a third time?

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. WILSON. I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 38, nays 2; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelighuysen, Harlan, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Sherman of New Hampshire, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—38.

NAYS—Messrs. Buckalew and Hendricks—2.  
ABSENT—Messrs. Cameron, Davis, Dixon, Doolittle, Grimes, Guthrie, Henderson, Norton, Patterson of Tennessee, Pomeroy, Kiddle, Saulsbury, and Sprague—13.

So the bill was passed.

Mr. TRUMBULL. I think the bill had better be printed as passed by the Senate, so that it may go to the House as a printed bill. I move that it be printed.

The motion was agreed to.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and (at eleven o'clock and fifty minutes p. m.) the Senate adjourned.

## IN SENATE.

MONDAY, March 18, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of Saturday was read and approved.

### SENATOR FROM MARYLAND.

Mr. JOHNSON. I beg leave to present the credentials of Hon. Philip Francis Thomas, elected one of the Senators of Maryland for the term of six years commencing on the 4th of the present month. I move that he be permitted to take the oath of office.

The PRESIDENT *pro tempore*. The credentials will be read.

Mr. HOWARD. I have no objection to the reading of those credentials, but I desire to make a motion that they be referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The credentials will be read.

The Secretary read the credentials.

Mr. HOWARD. I now renew my motion to refer those credentials to the Committee on the Judiciary.

Mr. JOHNSON. Mr. President, I should like to know the reason which influences the honorable member to depart in this case from what has from the first been the almost universal usage of the Senate, to receive the Senator-elect upon his credentials; and if there be in point of fact reasons why he should not continue a Senator they have been made the subject of subsequent examination.

Before, however, the honorable Senator assigns his reason, I hope to be excused for availing myself of this occasion to say that in point of loyalty to the Government now the honorable member who has been chosen by the Legislature of Maryland to represent herein this body is just as sound as I am or as any member of this body. What may have been his opinions of the causes which led to the late war, or what may have been his opinion of the manner in which the war was conducted, I am perfectly satisfied that if he is admitted to his seat in this body he will be found faithfully performing the trust reposed in him and observing in all particulars the oath which he will be required to take. He has done nothing which will render it improper by him to take that oath; and I know him so well from a long and an intimate acquaintance as to be justified in saying, and it is due to him to say, that if he had at any time done any act falling within the prohibition of that oath he would be the last man in the land to take it. The fact, therefore, that he is willing, as I understand, to take that oath is conclusive evidence with me, and will be with all who know him, that he has done nothing inconsistent with the duty which he owes to the Government of the United States. I hope, therefore, my honorable friend from Michigan will not make this case an exception from the general rule of suffering the member to take his seat on the faith of his credentials, and if there be any grounds upon which the Senate may suppose or the honorable member may suppose that he should not continue in this body they will be made matter of subsequent examination.

The Senate is now about, as I trust, to close its session; and it may be important, and in the judgment of Maryland, no doubt, it is supposed to be important, and in that opinion I concur, that Maryland should have two representatives on this floor. The whole effect of refusing to receive the member upon his credentials is to leave her, as she now is, with only one representative here. I make an appeal, therefore, to my friend from Michigan to suffer the honorable member to be inducted into office by taking the same oath that he has taken and which each of us has taken.

Mr. HOWARD. Mr. President, the honor-

able Senator from Maryland very properly asks me for my reasons for making the motion to refer the credentials. Of course I am bound to respond so far as I am able in my present condition of voice. Personally I have little knowledge of the political history—

Mr. JOHNSON. I cannot hear the honorable member.

Mr. HOWARD. The honorable member from Maryland will pardon me for speaking so low; in the condition of my throat I dare not raise my voice higher. It is matter of common rumor that the gentleman who is now the applicant sympathized warmly with the rebels during the late civil war. One rumor which has reached my ear is that he performed an act tending to give aid and comfort to the rebels during the existence of the rebellion. Of course I shall not vouch for the truth of these rumors. Judging from some remarks which were reported in the newspapers as having fallen from the lips of the applicant directly after his election in Maryland, I infer, if there be any truth in the newspaper account of his speech, that at present he does not feel a very warm attachment to the body as a member of which he now offers himself. At all events, whatever may be the truth of these rumors, I submit to the honorable Senator from Maryland that it is entirely fitting and proper that this matter should be investigated by the committee both in reference to the Senate of which he proposes to become a member and especially in reference to himself. Surely I think if I labored under such rumors I should be entirely willing, nay, anxious, that the proper committee of the body should inquire into their truth before I offered to take the oath and to participate in the legislation of the body.

What I say, Mr. President, I do not say out of any spirit of unkindness or prejudice in regard to Mr. Thomas, but merely that an investigation may be had by the Committee on the Judiciary and a report made.

Mr. JOHNSON. Mr. President, I do not certainly know to what rumor the honorable member refers in relation to any particular act of the Senator-elect of aiding the rebels. I can imagine that he refers to what was stated on the floor on Saturday evening, that he had while Secretary of the Treasury transferred a large amount of money from New York to Louisiana, in anticipation of what he supposed would then take place, the rebellion, that it might be there to be seized by the rebellion if it should occur. I have mentioned that to my colleague, and he authorizes me to say that there is not one word of truth in it. The transfer of funds that he made while Secretary of the Treasury in 1860 was of some seven or eight hundred thousand dollars from New York to Washington, to meet the necessary disbursements of the Government, and the whole of it was disbursed here. The only other sum that was transferred by his order was a sum of some eighty or one hundred thousand dollars from Arkansas, where it was, to New Orleans, where it was needed, and where it was all expended before the rebellion commenced. I have already said, Mr. President, in what I have stated, that from my knowledge of the character of the honorable gentleman, his word upon that subject will carry with all who know him claims to absolute confidence.

It is possible—that I know nothing—that he may have supposed the war might have been avoided. He was not alone in that opinion. It was entertained by thousands and is now entertained by hundreds of thousands in the loyal States or in the States called loyal; and I have no doubt that many of them are to be found in the State which the honorable member so ably represents; but I submit that that is no reason for disfranchising them from office. All that I know of the conduct of the gentleman, and I suppose I had better opportunities of knowing, or as good opportunities at least of knowing, as those who have started the rumor, is that he took no part against the Government during the war. He remained at his own home in the pursuit of his profession and

never raised his arm, or as far as I am advised, raised his voice against the Government of his country. It is possible (and in that others in Maryland share with him) that he may have believed, and doubtless did, that the government of Maryland as it was recently administered was not republican in form; that it existed upon the suffrages of not more than about one fourth of its population. He may have spoken in decided terms of what he considered to be the injustice and the unconstitutional principle involved in that condition of things. In that the honorable member will pardon me for saying I fully concur, not because I was disloyal—

Mr. HOWARD. Mr. President, the Senator from Maryland will allow me to say one word. I did not allude to the principles of the gentleman in reference to the State of Maryland or his connection with Maryland politics at all in what I said. He is reported in a newspaper report to have said directly after his election that the present Senate of the United States had done all in their power to dissolve the Union by war and fighting, in which they had failed, and that now were seeking to attain the same end by legislation. I do not give the language of the speech, but simply refer to it; and I think that is the substance of the speech as reported. I think that a very unkind remark of the applicant if he made the remark. I do not vouch for the truth of his having made such a remark. If a man can be called a strictly loyal man, attached to the Government of the United States, who holds that the entire action of Congress in the prosecution of the late civil war and the suppression of the rebellion by an appeal to arms was after all an effort on the part of Congress to destroy and dissolve the Union, then I have lost my knowledge of the meaning of language. A man who thinks that all our legislation for the prosecution of the late war was in hostility to the Government and to the Union cannot be held to be a strictly loyal man. Now, sir, it seems to me that the honor and the reputation of the applicant himself are concerned in the investigation of that one particular fact if there be no more. Did he say so, or did he not say so?

Mr. JOHNSON. I know nothing of the speech to which my friend refers; I have not seen it; but what I do know is that in the letter accepting his nomination there will be found nothing at all inconsistent with what will be his duty to the Senate if he becomes a member, or his duty to the country; and I therefore send that letter to the desk, and ask that it be read.

The Secretary read as follows:

ANNAPOLIS, March 16, 1867.

GENTLEMEN: I have had the honor to receive your joint letter of the 12th instant, informing me of my election by the General Assembly as a Senator of the United States for the term of six years from the 4th of March instant.

I receive this evidence of the confidence of the representatives of the people of Maryland with profound gratitude; and in accepting the distinguished honor conferred upon me, I beg to offer the assurance that in the new sphere of service to which I am about to be removed I shall spare no effort to serve my native State with fidelity and zeal, and with a determined purpose to maintain unimpaired all her rights as a coequal sovereign member of the Federal Union.

The country, as all are aware, is at this moment surrounded by embarrassments from which there are few persons who can discover an avenue of escape. The union of the States as it came from the hands of its authors is, this day, disrupted by the absence of ten of its members from the Federal councils, and the lovers of free government are looking with intense anxiety for a change in the condition of our internal relations. There are many who despair of early relief; but judging from the known patriotism of the great masses of the people of the North and West, as well as the deep-seated love of a common country which animates the hearts of the representative men of those great sections, in and out of Congress, I cannot allow myself to believe that the work of restoration will be delayed to any very remote or indefinite period of time.

Reason will, I trust, soon resume her empire over the minds of men of all sections, and the passions engendered by the late civil strife will so far subside as to give full play to that "sober second thought" under the influence of which our beloved country has been more than once rescued from impending perils.

Influenced by such hopes and desires, I shall repair to the seat of Government with undoubting confidence that at no distant day the Union of our fathers will be restored in all its integrity, and that our

country will resume the career of greatness and power which, under the guidance of wisdom and patriotism, surely is its manifest destiny.

I have the honor to be, with great respect, your obedient servant,

PHILIP F. THOMAS.

Lieutenant Governor COX, *President of the Senate*, and OLIVER MILLER, Esq., *Speaker of the House of Delegates*.

Mr. JOHNSON. Now, Mr. President, I submit to the honorable member and the Senate that the gentleman who could write a letter of that kind is not one from whom the country is to apprehend any danger; on the contrary, that it proves him to be in all respects our equal in loyalty to the Union. I hope, therefore, that my friend will not continue to think it his duty—a feeling that I am sure animated him in making the proposition—to persevere in his resolution to have these credentials referred to the Committee on the Judiciary. If we are to be responsible for newspaper reports of what we may say, often written by those who are inimical to us personally, and more often politically, there is not one of us who would bear the test of examination; or rather, to speak more correctly, there is not one of us who ought not to be sent to some committee for the purpose of having our loyalty investigated. If the honorable member is permitted to take his seat, I know him well enough to be assured—and I cannot too often repeat it—that he will be faithful to the duty which will then be upon him, and that if upon examination, if any should be made thereafter into his conduct during the war, any fact should be established showing that he would be an unworthy member of this body, there is no one upon the floor who would more certainly and more promptly vote him out of the Chamber. But I share in no such apprehension. Knowing the man now for some twenty odd years, I know that his word will be as sacred as the word of any member of this body; that his oath will be as sacredly kept as the oath will be kept of any member of this body. And I ask, therefore, in the name of justice and in behalf of my State, that in this preliminary mode (not departing from the almost universal usage) he shall be permitted to take the oath, and that the investigation, if any shall be deemed necessary, may hereafter be made.

Mr. NYE. Mr. President, there is a question in this case which I think it is eminently proper that the Judiciary Committee should inquire into. It is claimed by men in the State of Maryland whose loyalty has never been questioned, men who have been active in defense of the Union while others have been passive at least, that the election at which the present Legislature of Maryland was elected, which has performed the high duty of sending a Senator here, was a palpable fraud upon the existing laws of Maryland. The Union people, at least some of them who have conferred with me upon the subject, assert that fact. They say that they had a law standing upon their statute-book which prevented all persons who had aided or sympathized with the rebellion from voting at their elections; but at the last election that law by some operation was disregarded, and persons of all kinds, those who had been engaged in rebellion and sympathizers with it, were permitted to vote, and by their votes the Legislature was elected that has sent here this gentleman as Senator. If that be true, it seems to me eminently proper that the Judiciary Committee should inquire whether any act that Legislature performed, so far as it affects this body, can be regarded as binding.

I am informed of another thing which the honorable Senator from Maryland will be prepared to answer in a moment if the applicant is here, that when he resigned from Mr. Buchanan's Cabinet a short time before the rebellion broke out in its fury he said in letters that he was forced to leave from the fact that he could not concur in the propriety of any attempt to reinforce Fort Sumter, or words to that effect, in which he denied entirely the power of coercion. If that be true, it shows certainly what he was then. If that be not

true, the Judiciary Committee in one hour can say so.

Again, it is charged by some—whether it is true I know not—it has been already denied by the honorable Senator from Maryland—that a large amount of money was transferred by the then acting Secretary of the Treasury from some point to New Orleans that was there seized for the confederate government; that the time the money was sent it was a well-known fact that there was no one in power in the city of New Orleans but those who sympathized with the effort to secede, and that that money was there seized.

I say again that as to the truth of these things I know not, but they are matters of public report. If they are true, if he has done these things, it seems to me they disqualify him from taking a seat in this body. If they are not true, it is certainly due to the gentleman himself that a report of the proper committee, which can soon be made, should disabuse the public mind in regard to them. I do not know anything of those things myself; but I do know that many of the most prominent citizens of Maryland who have all the time enjoyed the confidence of the loyal people of that State are not willing that this applicant should be admitted to a seat without investigation.

Now, sir, I have discharged my duty. I know the Senator from Maryland says we can investigate these things afterward and act then, but I hardly think if the applicant be once admitted that would be done in this hour of forgiveness, this hour of good feeling. It seems to me that we should know the truth of these things before he is admitted. If he is a proper man certainly he should be admitted; if improper, he should be rejected. The committee will very soon be enabled to judge from the facts whether he has sympathized with rebellion to such an extent as to disqualify him for a seat in this body.

Mr. DRAKE. Mr. President, if I understood the honorable Senator from Maryland in his opening remarks in regard to this matter, he was guarded in the expression which he made concerning the applicant now for admission into this body. I understood the honorable Senator from Maryland to say that there was no question as to the loyalty now of the gentleman whose credentials have been presented here this morning. I should like to know from the honorable Senator from Maryland whether I understood him correctly?

Mr. JOHNSON. I beg the Senator's pardon. I did not hear his question.

Mr. DRAKE. I stated that I understood the honorable Senator from Maryland, in his opening remarks upon this subject, to say that there was no question about the loyalty to the Government now of the gentleman whose credentials have been presented.

Mr. JOHNSON. I did.

Mr. DRAKE. I would call the attention of the Senate to that guarded form of expression on the part of the honorable Senator from Maryland. The gentleman whose credentials have been presented may be loyal now and may have been very disloyal in time past. I think that the very expression used by the honorable Senator from Maryland is one which justifies the reference of these credentials to the committee.

Mr. JOHNSON. I will reply to the question of the honorable member from Missouri in a moment. I do not know that the honorable member from Nevada heard me when I said that the charge made against the Senator-elect of transferring funds to New Orleans in anticipation of the rebellion is positively denied.

Mr. NYE. I stated in the remarks I made that that charge was denied.

Mr. JOHNSON. Now, in relation to what may have been the conduct of the Maryland Legislature, my friend will pardon me for saying that over the Legislature of Maryland this body has no jurisdiction. It would be a dangerous, a most dangerous principle, to hold that it is in the power of Congress to supervise

the deliberations of the State governments. To do so now may answer the purpose of a party, but it will be pregnant with mischief. The time may come when the propriety of the legislation of Nevada may be called in question; she may be charged with disloyalty as evinced by the deliberations of her legislative body, and in that way her Senators may be evicted from this floor, or at least new Senators who may be elected in their place not received. Within the limits of the Constitution the States are absolutely independent of the General Government; and it is the privilege of every man in every State to comment freely, boldly, upon the conduct of any party who may be in power; and as illustrating the necessity and the wisdom of permitting that license, permit me to say to the honorable member that he has indulged in it more than once in relation to a coordinate department of this Government. He has over and over again assailed the motives of the Executive. He did it in the exercise of his undoubted right; but in doing so he manifested no disloyalty within the meaning of that term as known to the Constitution; and the honorable member from Michigan, by whom this motion has been presented to the Senate, has done the same thing over and over again; and I claim the right, whenever I shall deem it my duty to do so, to comment freely and courteously upon the conduct of every department of the Government, legislative, judicial, or executive. We shall cease to be freemen when we hold ourselves bound to speak in bated breath of the conduct of any branch of the Government. It is only by discussion, free and unrestrained, that the liberties of the country can be sustained by restraining every department of the Government from trespassing beyond the limits of its constitutional power; and if, therefore, Maryland or the gentleman in whose behalf I am now speaking has at any time questioned the conduct of any department of this Government in proper terms, it was but the exercise of a right common to the citizens of Nevada, and a right which the honorable member himself in the instance to which I have adverted has more than once exercised.

Now, sir, in relation to the question of the honorable member from Missouri, permit me to say to him that to impeach the loyalty of any member of this body upon a rumor of former disloyalty may involve us all more or less in trouble. I have heard it said of members elsewhere, to say nothing of those here, that in the beginning of the rebellion they shared in the opinions of the South; they believed either that the South possessed the right to leave the Union because of the right to secede, or they believed that the treatment the South had received from the northern States was such as to justify leaving it as a revolutionary right. But I listen to no such reports. It is sufficient for me, if there be any member of this body who may have been included in any such reports, to know that he is willing to take that oath, and that after taking it he fulfills the duty which the oath imposes.

Permit me also to say, in answer to the special question of the honorable member from Missouri, that he has altogether misunderstood me. I stated that in relation to the present loyalty of my colleague I supposed no one would doubt; but did I mean to say by that that he had all through our troubles been disloyal? Did the honorable member not hear me when I said that he was willing to take that oath, and that I knew he would forfeit his life rather than take it unless he could take it with a clear conscience? And if he can take that oath with a clear conscience, he is as loyal as the honorable member from Missouri is or ever was, or as the honorable member from Nevada is or ever was. In relation to opinions preliminary to the outbreak of the war, and in relation to opinions expressed during its progress, there are to be found differences everywhere. Many sternly loyal, to be found in the Army as well as in civil life, were of opinion that the war might

have been avoided, and were of opinion that, the war upon us, it might have been conducted in a way more likely to achieve its object—the restoration of the Union; and many are now of opinion that Congress, having in 1861 declared that the war was waged for the simple object of effecting a restoration of the States with all their rights unimpaired, it has in that respect not been true to its plighted faith; but does that prove disloyalty? As well might it be alleged that I and those who have concurred with me in differing from the honorable member from Massachusetts [Mr. SUMNER] in relation to some of the propositions which from time to time he has laid upon the table were disloyal. I never charged or believed that the honorable member from Massachusetts, in offering his propositions from time to time, which, as I thought warranted against the rights of the States that had been in rebellion, was disloyal; and I am sure he will do me the justice to say that he never supposed that in resisting them I showed any want of loyalty. Upon both sides there was an honest difference of opinion; and without knowing what my colleague may have said from time to time in relation to the causes which produced the war, or in relation to the mode in which the war was conducted, I can say this, as I think, with a perfect conviction of its truth, that he has never uttered a word which can be tortured into disloyalty in the sense which I understand that term bears constitutionally. I am not seeking in his behalf, and he would repudiate it if I attempt it, to avoid an investigation. I only assume, not in his behalf, but in behalf of my State, that he shall be permitted to qualify upon his credentials, and then he, I am sure, will desire that the fullest investigation shall be made.

The honorable member from Nevada has brought another charge upon rumor, which I never before heard; that in resigning his post as Secretary of the Treasury, he did it upon the ground, and so stated in his letter, that he did not concur with what was then understood to be the determination of President Buchanan to succor Fort Sumter. He tells me that that is wholly unfounded. There is no such a word to be found in his letter, and he resigned merely because, as he believed, the President was about to interfere with the customs in a way not authorized by the law of the land, to collect them outside, without statute, an opinion which was entertained by all the law officers of the Government at the time when the rebellion broke out; and we passed a law to enable it to be done. But neither in that letter, as I am advised, nor in anything that he has ever written can there be found any evidence at all that he is not as loyal as either of us.

Mr. NYE. The great point of difference between the party with which the distinguished Senator acts and myself on this subject has been that that party has contended that each House of Congress had a right to investigate for itself and determine for itself the propriety of admitting or rejecting any member that presented himself for admission to either body. The honorable Senator has spoken several times upon that subject, and if it was possible for me to be convinced, I should certainly have been convinced under his reasoning. Now, the time arrives for the application of the theory for which he and those who act with him have constantly contended when we come to investigate the propriety of the admission of a member from Maryland, and very much to my surprise the honorable Senator opposes it. He says admit him first and investigate afterward. To that theory I desire simply to enter my dissent.

The honorable Senator from Maryland cannot expect me to stand here as an accuser and vouch for the truth of what I have brought forward. I have never in my life seen this gentleman, and I never heard of him except as Secretary of the Treasury; but I repeat that upon the theory on which this Senate is divided, the honorable Senator from Maryland is stopped from taking the position which he now assumes. How often have we heard it offered, not only from him but others, that each House

should judge for itself of the elections, qualification, and returns of its members. When judge? When the application is submitted.

I simply desire to say, that good loyal men of Maryland say to me that they desire the privilege of appearing before this committee to show that this man was not only disloyal before the rebellion broke out, but that he has sympathized warmly with it throughout. I do not know whether that is true or not, but I do know that these men who have stood like a breakwater between the lashing waves of rebellion and saved to us temporarily the State of Maryland are at least entitled at the hands of this body to a fair investigation into the supposed charges that may be made. That is all I ask, all I require. I think that is right.

When the honorable Senator from Maryland says that Nevada's Legislature may be inquired into, the remark has no terror for me. I am ready for it. I claim that it is entirely proper for this body to inquire what are the proceedings of a Legislature that has sent a member to this body. We inquired last year into the proceedings of the Legislature of the State of New Jersey, and the result of that inquiry was that the sitting member in that case was decided not to be entitled to his seat. The only difference between that case and this is that he was permitted to take the oath and take his seat, and then the Senate on investigation held that he was not entitled to retain it. In that case as in this, however, the action of the Legislature was investigated. Does the honorable member from Maryland mean to say that if the conduct of that Legislature was fraudulent and this election was the result of that fraud, it would not be proper for this body to inquire into it and so declare? If he yields that point, I insist upon it the next follows, and if that Legislature was fraudulently elected, and the fruit of that fraud was the sending of a man illegally to this body, we have a right to inquire into it.

The honorable Senator from Maryland will not deny the fact that upon the statute-book of Maryland, until it was recently repealed by this Legislature, if indeed it has been repealed, there was a law that forbade the voting at their elections of rebels and rebel sympathizers. That law, I repeat, if common rumor, if the reports of the papers, if the assertions of representative men from Maryland, whose word the honorable Senator would not disparage here or elsewhere, are to be believed, has been utterly disregarded; and men who have worn the rebel uniform, and stepped to the music of anything but Yankee Doodle or Hail Columbia, controlled the late election in Maryland, and the fruit of it is that they have sent here, as the loyal men claim, a man who deeply sympathized with the rebellion.

Now, it seems to me that it is entirely proper, ay, more, it amounts to a solemn duty on the part of this body to inquire whether or not this is true. I hope this reference will be made in justice to Maryland, in justice to the applicant, and in justice to this body itself.

Mr. TRUMBULL. Mr. President, I was not fortunate enough to hear all the remarks which were made by the Senator from Michigan, [Mr. HOWARD,] who, I believe, raised this objection. There may be something more specific in his objection that led him to make the motion to have these credentials referred than I am aware of. I am certainly opposed to allowing any person to take or occupy a seat in this body who is an enemy of his country, or who participated in the late rebellion by giving it aid and comfort or in any other way. But, sir, while that is so, I do not think it is the business of this body to inquire into the political opinions of gentlemen who are elected by the several States as members of the Senate. The States exercise their own judgment in making selections for representatives here; and while I deny that they have a right to send here an enemy of the country, or one who has participated in rebellion against the country, and think we have the right to object upon the threshold and

to exclude from this body any such person, I do not know what there is in this case that should justify the motion which I believe the Senator from Michigan made as to these credentials. What is it? Is there any specific charge? I do not understand that there is.

It is said that this gentleman's politics are not right. There are a great many men whose political opinions are not right. I think my friend from Nevada said that this body had a right under the Constitution, in judging of the election, qualifications, and returns of its members, to decide upon the propriety of admitting a member. Sir, it may have the power; but it has no right to decide on the propriety of admitting a member. There is no such right vested in the Senate, and it would be an abuse of its power in its discretion to admit members to this body. We are bound by the Constitution which we have sworn to support to admit members who come here possessing the qualifications required by that instrument. Though we might have the power to violate our oath and our duty to the Constitution, we should have no right to do it. We do not judge of the propriety of sending a particular person here.

But, sir, if this question is referred to the committee, what is there for the committee to investigate? I should like to know from my honorable friend from Michigan or Nevada.

Mr. JOHNSON. The Legislature of Maryland!

Mr. TRUMBULL. Investigate the Legislature of Maryland! That would be taking a step that has never been taken in this body. Maryland is recognized as one of the States of this Union, having an equal right with the State of Nevada to send Senators here; and what would my good friend from Nevada have said if, when his credentials were presented the other day and read, which we were all so much pleased to hear, some person had risen and said that he had seen it intimated in a Nevada paper that the Legislature of Nevada was not properly elected, that there was some man holding a seat in it who ought not to have been declared elected because he got some illegal votes, and that we should have left our friend from Nevada upon the threshold of the Senate until we inquired whether anybody in the mining districts of Nevada hunting after gold had voted when he ought not to have voted. I should not have been willing to do without the services of my friend here while that investigation was going on. I should have thought we had better admit him notwithstanding any such suggestion of anybody.

Now, sir, it will not do to assume the position that every person who disagrees with us politically is an enemy of his country. It is one thing to disagree about the mode and manner of maintaining the Union, one thing to differ about the proper mode of prosecuting the war, one thing to differ as to the best mode of putting down the rebellion, and another thing to join the enemies of the country to destroy the Union. There was a great difference of opinion all over this country on these points. I am not for entering into any investigation to inquire whether this man was right in his opinions or not. If there is any specific charge presented by the Senator from Michigan or the Senator from Nevada upon his responsibility here as a Senator that the gentleman whose credentials are presented has been engaged with the enemies of the country to overthrow the Government, if either Senator will make that statement, I will join with him to go into this investigation, and if the facts sustain the charge I shall be in favor not only of referring the credentials, but of denying him a seat, and if he were in his seat I would vote to turn him out on such a state of facts being established.

But I do not understand that any such allegation is made. I do not know what the committee is to do when the credentials are referred. I understand that this gentleman proposes—and if he does not do it he cannot take his seat—to go to your table, sir, and, appealing to the supreme Ruler of all for the truth of what

he says, declare that he has taken no part in this rebellion, and has given it no aid or comfort. *Prima facie*, at least, if he does that he is entitled to his seat. Now, is there anything before us to overcome the *prima facie* case? Is there anything presented to us to show that this is untrue? If so, what is it? It seems to me that our plain duty upon the presentation of these credentials is to allow the gentleman to be sworn as a member of the body, unless there is something to overcome the *prima facie* case which is in his favor. He is certainly entitled to be sworn in unless there is something to satisfy us beyond mere newspaper rumor, beyond mere suggestion, something that is tangible and strikes us as a matter of truth, of public notoriety, or some record evidence that might be presented here at the threshold which should overcome this *prima facie* case and make it proper to investigate the matter in the first instance.

As a general rule, Mr. President, all persons having regular credentials are admitted, not only in this, but in all legislative bodies, I think, in the first instance to be sworn in as members. It is only in a very few instances that that rule has been departed from in this body; and in those instances it has only been departed from upon evidence submitted at the time the objection was made showing that there was reasonable ground to suppose that the party was not entitled to his seat. It has never been done, I think, under any other circumstances.

Mr. GRIMES. And the objection has been supported by remonstrances.

Mr. TRUMBULL. And even where remonstrances have been presented the party has been admitted to be sworn in the first instance. I recollect when I first came to the Senate, a dozen years ago, there was a remonstrance of a portion of the members of the Legislature by which I was elected denying my right to a seat. It was presented here at the same time that I appeared to be sworn in as a Senator; but I was permitted to be sworn and took my seat, and an investigation was afterward had, and the Senate decided that I was properly entitled to the seat. My friend from Iowa [Mr. HARLAN] was sworn in as a member of the Senate at the same time. There was also objection to his right to a seat, and that was investigated, and at the next session the Senate decided that he was not entitled to his seat. He was permitted to hold his seat during a whole session, and at the next session the Senate decided that he was not entitled, under his election, to retain his seat, and therefore he went a second time before the Legislature, and was a second time elected. That has been the usual course even in the face of a protest in writing denying the right of the person to be sworn as a member. I see nothing in this case, so far as I have heard—as I said I was not fortunate enough to be in when the Senator from Michigan first commenced his remarks—to justify us in departing from the usual mode of proceeding, and I trust the gentleman will be permitted to be sworn upon his credentials.

Mr. FESSENDEN. Mr. President, prior to the unfortunate and unhappy war in which we have recently been engaged there was, I believe, no instance on record, at least I never heard of any, in which, where a gentleman claiming to have been elected a member of the Senate presented his credential in due form, he was not considered entitled to take the oath and take his seat in the Senate, subject of course to any objections that might afterward be made. There have been but two instances since that I recollect in which this usage has been departed from. One was the case of a gentleman who was appointed Senator from Oregon, [Mr. Stark,] and who came here to take his seat. Before his credentials were presented I received a large package of papers tending to show that he was disloyal, that he had expressed disloyal sentiments, sentiments adverse to the Union and in favor of the rebellion.

Mr. TRUMBULL. That was during the war.

Mr. FESSENDEN. Yes, sir; that was during the war. I speak of that as the first instance. I presented those papers at the time the credentials were submitted, and I think I made the motion myself that the credentials, with those papers, should be sent to the Committee on the Judiciary, and that we should have a report prior to his being permitted to take his seat. That was resisted on the ground of the uniform usage which had prevailed before, gentlemen claiming that the proper course to take would be to allow him take the oath, and then have the matter investigated afterward. I contended, however, that in that state of things, in my judgment, the Senate had the power, and it was their duty to assume the responsibility when charges of disloyalty were made, of refusing to allow the member to be sworn; because, although it would be in the power of the majority then to keep him out if he was disloyal, it might require, and would require, if he was once admitted, two thirds to remove him. The majority of the Senate, I think quite a large majority, acceded to the correctness of these views, and the papers were all referred to the Committee on the Judiciary, who made a report. I think the report was in his favor; at any rate, he was afterward sworn in and served out his term of office.

The only other instance that I have been aware of is the case of the honorable Senator from Tennessee, [Mr. PATTERSON.] It was alleged against him that he had taken an oath of office under the southern confederacy, and on that statement, which was not denied, his case was also referred to the committee, and he was not allowed to take his seat until it had been investigated.

Mr. JOHNSON. The fact was admitted.

Mr. FESSENDEN. Yes, the fact was admitted.

Mr. PATTERSON, of Tennessee. The Senator from Maine will allow me to remind him that I demanded an investigation in that case.

Mr. FESSENDEN. I am aware that the Senator was perfectly willing to meet an investigation; but I am speaking of the precedent merely. The fact itself was admitted, and on the admission of that fact it was contended that the papers should all be referred to the Committee on the Judiciary, and an investigation had previously to his taking his seat, and that course was taken.

In both those instances there were specific charges: in one supported by numerous affidavits making the specific allegation of disloyalty; in the other, the admitted fact, admitted by the Senator claiming the seat himself. In similar cases even now I would be in favor of referring the credentials to a committee previous to the Senator being allowed to take his seat in the Senate. But, sir, it is a precedent that is not to be followed except in a case calling for it on specific grounds. Wherein do those cases differ from the present? Here, the gentleman claiming to be a Senator from Maryland, presents credentials in due form. A Senator rises and states that he has heard it rumored that he was disloyal, and he has seen it stated in a newspaper that he had made a speech in which he spoke disrespectfully of this Senate. I think, if my memory serves me, that all that he is said to have stated in that newspaper has been said, and more than that, repeatedly on this floor by my friend from Kentucky [Mr. DAVIS] with regard to the action of the Senate being revolutionary, &c., and he holds his seat to this day, although we have the perfect power, so far as number of votes is concerned, to expel him at any time, if we should see fit; and he was resworn a very short time ago without objection, although I could point to the record where he has expressed opinions very much more sharp than those that were read from the newspaper.

We will lay, then, the character of our precedent and the newspaper out of the question, and look at what is said by my friend from



Nevada and my friend from Michigan. It is rumored that this gentleman was disloyal, that he expressed disloyal sentiments, found fault with the Government in divers ways. Why, sir, I say with all respect to the Democratic party, if you act on that ground you could hardly have a Senator of that party on this floor. I am certain that with regard to the leaders of the Democratic party in my section of the country you could not find one that could come here and take a seat if he is to be kept out on these grounds; or it would be very difficult at any rate. It has been a very common expression among gentlemen of that political faith. I agree, therefore, with my honorable friend from Illinois that with regard to these opinions expressed it would be going very far, indeed, to undertake to say that if they were proved beyond any question we could safely take the ground that men who had expressed such opinions were not entitled to seats in this body. But, at any rate, supposing it to be true, no Senator here and no person brings any specific charge, exhibits any proof. There is no remonstrance, no fact stated with reference to the whole thing upon anything except mere rumor out of doors, going to affect the position of this gentleman in relation to that matter.

Now, sir, can it be said, when no members of the Legislature of Maryland have remonstrated, no persons from Maryland have sent a remonstrance here, no proof is exhibited, no statement in writing is made, nothing for which anybody is responsible, that we can with any propriety refuse to allow this gentleman to take his seat in this body upon his taking the usual oath? It strikes me that it would be not only an unwise, but a most extraordinary proceeding; and although exceedingly sorry that Maryland has been so unwise as to elect a gentleman of that political faith to a seat in the Senate, I do not feel that I should be justified in any way whatever in interposing any obstacle to his taking his seat on this floor.

There is another objection made, and that objection arises from the constitution of the Legislature of Maryland. My friend from Nevada will allow me to say that that is not like the case of New Jersey. In the case of New Jersey, the claim of Mr. Stockton, we did not undertake to investigate the question whether any of the members of that Legislature were properly elected. The question there was, whether those who were elected had proceeded legally in the choice of a Senator. That we always have a right to do. That is unquestionably our right and our duty. What they have done in the process of an election, whether they have gone according to the forms and substance of law, and made a legal election, it is undoubtedly our right to investigate and our duty to investigate. That is a common inquiry; but it is a totally different question, and I never heard it raised or pretended that this body had the right to go into the question of the election of the members of the Legislature and inquire whether or not they were legally and properly chosen. Every legislative body in this country by its constitution has the right to settle the question of the election of its own members. We claim it; we have it by the Constitution of the United States; the House of Representatives has it; every legislative body in the country has it. Over that there is no control; they are the exclusive judges of questions of that description. If there are irregularities, violations of law, or anything of that sort, in the formation of the body, I do not see how we can remedy that matter or how we can go beyond the mere question of whether the election was legal in point of form, so far as the members themselves constituting the Legislature chose to make it. I do not know but that there might be extreme cases presenting themselves in which the Senate would go into that question. I cannot say that there might not be a case so strong and so extreme of violence at the ballot-box, of an overruling of the will of the people making a Legislature, and the getting

of power by usurpation, that I would not inquire into it; but in a case of this description, presenting itself as it does, it seems to me that there is no severe occasion calling for our interposition in a question of that description.

Sir, it is not the thing, in my judgment, for us to interpose an objection to a gentleman taking his seat on this floor simply because rumor, not common, but rumor has it that there is something wrong either in relation to the man or to his election. If there has been anything wrong in the formation of the Legislature of Maryland, why do not the minority of the Legislature of Maryland put themselves on record and send their remonstrance against the election on that ground? Has a single man who voted in the election of Mr. Thomas, a member of the Legislature of Maryland, presented his remonstrance or his objection to the man, and put his name to it, or to the election and put his name to that, or to the form of the election as it was, or to the election of the Legislature, thus making it illegal, and put his name to that? Not one, as I understand it. Now, sir, although I should be very much better pleased to have seen another man here than Mr. Thomas—I know nothing about him individually except by slight reputation—yet in a matter affecting the constitution of this body and our modes of proceeding, I am unwilling to give my vote in favor of a precedent which I think would be very dangerous, and which is certainly at war with the whole history of the body since it was constituted originally. Therefore, unless something more is shown than has been shown by the honorable Senator who made the motion, or by my friend from Nevada, I shall feel compelled to vote to allow Mr. Thomas to take the oath and admit him to a seat in the Senate.

Mr. SHERMAN. There is no question of constitutional law raised in this matter, and it is with us simply a question of the order of business. The right of the Senate to pass upon the elections, qualifications, and returns of its members is given by the Constitution. Ordinarily, when a paper is presented in due form, showing the election of any citizen of the United States with the requisite qualifications by any State, he is admitted to his seat. We have the right, however, to pass upon the election, returns, and qualifications of the member. Whether we do it before he is sworn into office or afterward is simply a matter of discretion in the body. Our right as judges, given to us by the Constitution, would undoubtedly authorize us to pass upon his qualifications before administering the oath of office. There can be no doubt about that. It is therefore simply a question of the order in which the business of admitting the new member shall be transacted. In ordinary cases the oath is administered because it is presumed no objection will be made, or if objection be made afterward, that objection is inquired into and the action of the Senate can then be reconsidered.

It seems to me that in the present condition of the country there is enough on the public records and in the history of the country which we have before us to induce us to refer the credentials of the gentleman, who now claims to be a Senator from the State of Maryland, to the Committee on the Judiciary. That is the view I take of it. The last action we have from this gentleman before the war is at least indicative of a very singular state of mind, or a very singular opinion. I admit that mere political opinions ought not to exclude any one from a seat on this floor. Unless those opinions go to make him what we call disloyal to the Government they ought not to exclude him from taking the oath of office. But I call attention to the letter of this gentleman when he resigned his position as Secretary of the Treasury under Mr. Buchanan. After acts of war had been committed against the Government, after the Star of the West had been fired into, after the war had commenced practically, and he was then a member of the council of the President of the

United States, in resigning he wrote a letter addressed to the President, an extract from which I will read:

"MY DEAR SIR: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston."

This gentleman retired from the position of Secretary of the Treasury, where he had charge of the finances of the country, because, he said, the United States had no power to collect the duties at the port of Charleston. Why had we no power to collect them? Simply because at that time Charleston, being in the State of South Carolina, was not in the Union; South Carolina had seceded, and therefore we had no authority to enforce the revenue laws in the city of Charleston; therefore secession was a constitutional right; the Union was dissolved. On this basis, which denies the authority of the United States in the city of Charleston, after the ordinance of secession, he retired from the Cabinet of the President of the United States, occupying a position which of all others required him to enforce the revenue laws of the United States.

Now, to say the least of it, this position of the gentleman who presents himself as a member of this Senate from the State of Maryland places him in a very embarrassing situation; one that would require at least explanation before he takes his seat here in a body composed of Senators of the United States, and after a war in which we have enforced the authority of the United States, not only in Charleston, but over the whole southern States. He started out before the war, proclaiming the idea that secession was a constitutional remedy, and that by secession South Carolina had withdrawn from the Union, and that there was no authority to enforce the laws of the United States in the State of South Carolina.

Mr. JOHNSON. Where did he say that?

Mr. SHERMAN. That is what it means practically. I hardly think the Senator would quibble on the words "under existing laws," because the existing laws were just as much in force then in Charleston, South Carolina, undoubtedly as they were in the city of New York, unless the ordinance of secession which had then just been passed had carried the State out of the Union.

Mr. HOWARD. The Senator will allow me to inquire if there was not then existing the law passed in 1832 for the collection of the revenue in insurrectionary States?

Mr. SHERMAN. The force law was only temporary in its character.

Mr. JOHNSON. If the honorable member will permit me, as I do not want to reply to him—

Mr. SHERMAN. I trust Senators will allow me to finish what I have to say.

Now, Mr. President, we have no official record from that time to this, or until the election of this gentleman as Senator from Maryland; we do not know, I have no information myself, and the Senate has none, at least none has been disclosed to us of the course of this gentleman during the war. We certainly did not hear of him aiding the Government or aiding the United States or contributing to put down the rebellion. If he has done so, it has certainly escaped my observation or recollection. Perhaps even that should not be sufficient as the evidence of disloyalty. But my impression was very injuriously affected against the gentleman now claiming a seat from the speech referred to by the Senator from Michigan, and also by the Senator from Maine. If that speech was only like the speeches of my friend from Kentucky, denouncing the conduct and the course and policy of the Senate of the United States, it would be but a mere difference of opinion. We have no authentic record of that speech, we have nothing but what we find in the newspapers; but let me

read what is said by this gentleman in this speech as reported in the Baltimore American, a newspaper published in the principal city of his own State, and that must have had an opportunity to report him correctly. If it is incorrectly reported, it is because the information we have is not correct. Let me read this speech, made on the 11th of March, 1867:

"Mr. Thomas was subsequently introduced and thanked the caucus."

That was after he was nominated.

"During his speech he said that if permitted to take his seat in the Senate"—

He seemed to doubt that—

"he pledged himself to assert the rights of the State. The men now assembled at Washington before the war occurred were bent upon destroying the Union. They went to war, believing it tantamount to dismemberment, and were now bent on the establishment of a military despotism."

All that might have passed as a part of the language of partisan warfare; but he said:

"He would go there to face these men, who are now and always were traitors to the Union."

Mr. SUMNER. "Always were?"

Mr. SHERMAN. Yes, sir, "and always were traitors to the Union." If this is a correct report of this speech it is certainly singular that this gentleman should come here under the peculiar circumstances by which we are surrounded and seek to take a seat among us, who are and always have been traitors to the Union, as he says. Why, sir, here are the men who fought to maintain the Union, who caused four hundred thousand lives, perhaps, to be sacrificed during the war in that effort, who involved our country in debt to the amount of \$3,000,000,000, who have gone through this terrible war; but he says that during all this time and before we were traitors to the Union, that we entered into this war for the purpose of dismembering the Union! We have no evidence of his course of conduct during the war from the time he resigned his place in Mr. Buchanan's Administration until he comes forward and makes this speech; and under such circumstances it seems to me he does present himself in such an attitude that we have a right to inquire into his loyalty to the Union. If we are traitors and he loyal, then we ought to vacate these places and give way to a Senate of the United States composed of men like himself. If this language was not used, if this information is incorrect—we take it only as a part of the history of the country—the Judiciary Committee, which will examine this matter, can very properly inquire into it.

I would not exclude this gentleman for political opinions. I will not exclude him for any mere informality. He has been duly and legally elected by the Legislature of Maryland, and the only ground upon which we can exclude him is by such evidence as would convince us that he is disloyal to the Government of the United States. If we have that evidence, either in the form of newspapers or in such a way as to exhibit a reasonable ground to believe that he is disloyal to the Government of the United States, we are bound to make an inquiry before we arm him with the authority of a Senator of the United States and administer the oath of office. Certainly, with no feeling against this gentleman, no personal unkindness to him, it does seem to me that this is a case which falls within the exception stated by the Senator from Maine himself, where it is proper to refer it to the Judiciary Committee. If they find that this speech is an error of the newspaper, and was not the utterance of the newly-elected Senator, as a matter of course they can inform us of that fact.

In the admission of new Senators from this time forward we shall be compelled to be careful and guarded. I will not myself vote unreasonably to exclude any man who comes here with the credentials of any of the existing or loyal States of the Union or any of the reconstructed States when they come back with Senators. I am not disposed to be harsh and hard with them. I want them simply to show a loyalty and fidelity to the United States that would authorize them to sit here in the councils of the

Government and join with us in making laws upon which will depend the safety, honor, and dignity of the United States. But it does seem to me that if this speech was uttered by the newly-elected Senator he is not in a position to come here and take his seat by our side, and we should shrink from our gravest and most serious duty if we allowed men with these opinions, showing their disloyalty, to participate in making laws for the people of the United States.

Mr. MORTON. If Mr. Thomas made that speech it is enough to put this Senate upon inquiry. If with his opinions he regards the members of this Senate as disloyal and traitorous from the beginning, and himself a patriot, the converse of the proposition must be true, that if we are loyal he must be a traitor. I think an utterance of that kind is enough to put this Senate upon inquiry, and that it is due to the character of the Senate that these credentials should go to the Committee on the Judiciary. I will remark further that after having heard that speech read I should like to know something about the history of this man during the war. He has probably been doing something upon the one side or the other, and I think we should be informed as to what course he has taken in reference to the rebellion.

Mr. SAULSBURY. Mr. President, I thought the time was passed, after the din of arms had been hushed, after the people of this whole country, North and South, were looking for a renewal of kindly feelings, when we should hear honorable gentlemen who have occupied the highest positions in their States and in the country charged with being disloyal. Suppose that Mr. Thomas, the Senator-elect from Maryland, had in a political speech used such language as that; is there a Republican Senator upon this floor who, during the last six years, has not charged his political opponents with being disloyal, with being copperheads, with being traitors? Why, sir, you have not got a press in the country scarcely that has not charged upon the whole of the opponents of your party disloyalty and want of fidelity to the country just as broadly as the charge purports to have been made in that speech.

But, Mr. President, I read a report of the remarks of the Senator-elect from Maryland on that occasion, but in a different paper. I read the report of his remarks in the Baltimore Gazette. There was nothing of the kind reported. You bring here now a paper which has for years charged every opponent of its own principles with disloyalty. It manufactures a report of a speech made by the Senator-elect from Maryland, and that is brought as evidence that he did make it. Sir, have you not heard the President of the United States upon this floor charged with being unfaithful to his country, and in substance and effect with being a traitor? Is there a day that passes over your head that some member of the dominant party in the heat of debate does not charge his political opponents with having been unfaithful to the country, and even with being so now?

Sir, I profess to know something of the Senator-elect from Maryland, because I do not reside a very great distance from him. I know at least from reputation, and from having visited the town near which he resides, that he was leading a quiet, peaceful life during this war. Sir, when military despotism was being exercised in the States of Maryland, when a judge of that State was dragged from his bench and beaten over the head with pistols until he was insensible, because he dared to charge the grand jury of one of the counties of his district that men had not the right without warrant and due process of law to arrest their neighbors, no one undertook to make a charge affecting the character of Governor Thomas. One of the early recollections of my boyhood's days was Governor Thomas, then a young member of the bar, afterward honored by his constituents with a seat in Congress and elected Governor of the State. Having maintained a high character for ability and for patriotism all his life, now that he is elevated to the position of Senator of the United States

we are to be told, on a report found in a political paper that never knew how to speak a kind word or a just word of its political opponents, that he is unfaithful to his country. Sir, if he had been unfaithful to his country, is it possible that the military vigilance of this country could not have discovered some act in all his life for six long years to give you an opportunity to exclude him from this body?

Now, sir, the letter that he wrote upon resigning his seat in the Cabinet of Mr. Buchanan is produced. He differed from the Administration simply in reference to the collection of customs under the existing law. I ask you, sir, whether you did not supply that defect afterward by passing an act through this body and the other House to give to the President of the United States the power to collect the revenue off Charleston harbor? It was upon that point, and that point alone, as appears from the letter, that he differed from the President of the United States. Was it not reasonable, sir? You had no law authorizing the collection of revenue there off the harbor. You had no custom-house officer. You refused yourselves to confirm a custom-house officer in Charleston, if my recollection is right, and subsequently brought in a bill and passed it through both Houses of Congress giving the Executive the power to collect revenue off that harbor; but that was after the resignation of Governor Thomas.

Mr. JOHNSON. I think my friend from Ohio has, undesignedly I am sure, done great injustice to the gentleman whose seat is in question in the construction which he puts upon his letter of January, 1861. In that letter he states that he will be unable to agree with the measure which, as he understood, the President, with the consent of the rest of his Cabinet, was about to adopt, because in his view there was no law which authorized the adoption of any such measure. All the officers of the Government of the United States located in Charleston had resigned. It was impossible, therefore, to collect the duties upon imports, if there should be any, in the ordinary way in which they were collected; and the measure proposed was to have them collected outside by sending a vessel of war and appointing a collector to be on board of her, and to make her for the time being the custom-house at that port. He said, and as I think properly as far as the law of the land was concerned, that the President had no authority under the then existing legislation to adopt any such measure.

During the period of nullification Congress passed what was called the force bill, and it was a part of that bill that the President was authorized to collect duties outside of the port of Charleston. The ordinance which the people of the State of South Carolina had passed provided, and made it a penalty for doing so, that no duty should be collected at all upon any importations that might come into that port, and they prohibited any court, Federal or State, and any officer belonging to any such court, Federal or State, from sanctioning any measure by which the question of the legality of that ordinance of nullification or the right of the United States to collect, notwithstanding the ordinance of nullification, the duties there, should be tried. The Congress of that day, consisting of as able men and as patriotic men as have ever been found in Congress since, was of opinion that there could be no collection outside of the port under the laws existing at the period without additional legislation, and that additional legislation was had by the force bill. That legislation was of course temporary in its nature.

The law on the subject, therefore, had expired in January, 1861, when the letter which the honorable member has read was written, and Congress afterward, acting precisely upon the hypothesis on which Governor Thomas acted, that it required legislation to authorize a collection of duties outside of the port where they were only authorized to be collected by the existing law, passed the act of July 13, 1861,

by the second section of which they gave that authority; but that law was not in force when he wrote his letter in January preceding; and as he thought he was bound by his oath of office to execute no law except under the authority which the law gave, and that he could not therefore be authorized to make collections in the way proposed by that Administration, he resigned. Now, what fault was there in that? If I had been in his situation I would have concurred with the majority of that Cabinet, because, in the then condition of things, I would not have inquired whether there was a law or not; I would have enforced the collection of the duties. But in the exercise of an honest opinion, justified by the mere legal question, he left that Administration. I might ask my honorable friend if he thinks it was a great act of treason to leave that Administration?

Mr. SHERMAN. I can only say that there were others who went out at the same time, and perhaps he went out on the same ground as Floyd and Thompson and Cobb and others, while Stanton, Dix, and a different class of men went in.

Mr. JOHNSON. Why does the honorable member think himself justified in saying that he went out perhaps on the same ground as those men, when he has read his letter of 1861, which shows the specific ground and no other ground? If I recollect aright, the ground assigned by one of the members of that Cabinet—Thompson, of Mississippi—was that the President, contrary to what he understood him to have pledged to the authorities of South Carolina, was about to reinforce Fort Sumter; but there is nothing of that in this letter.

Now, in relation to that speech, did he make it? What paper has the honorable member read from? A violent partisan paper. I wish to say nothing disrespectful of the press in any way, but I suppose it is no treason to the press to state that what they assert in relation to public men who differ from them in opinion is to be taken with many grains of allowance. I know in relation to myself personally that I have been often misrepresented by that press. I have never noticed it. I was satisfied to stand upon my own character, and to vindicate myself at the proper time and in my own way, without entering into any newspaper controversy; and that is the conduct which I shall pursue in the future. Now, I am told that that speech is reported in two or three other papers in a very different way.

Mr. DOOLITTLE. If the Senator will allow me, I looked into the paper, the Chronicle, which has been read, and it purports to quote from a telegraphic dispatch from Annapolis to the Baltimore American.

Mr. JOHNSON. So I supposed.

Mr. DOOLITTLE. That dispatch as it appeared in the Baltimore American is copied in the paper here.

Mr. JOHNSON. Who sent the dispatch? Nobody knows. Is he entitled to credit? Nobody knows. Is he not a traitor himself? Nobody knows. We are here asked to exclude this gentleman from the usual privilege accorded almost universally to every member who appears with the credentials of his State upon the authority of one we know nothing about, to be found in a newspaper which is known to be thoroughly partisan in its character.

If the honorable member used these expressions certainly he would not have my approval; and I am equally satisfied if he used them at all it was under circumstances which he must in the end regret. I am authorized by him to say that he has not the slightest recollection of saying a word which would have justified such a statement as that. All that he did say, as the honorable member from Maine has said, was what has been said on this floor over and over again and in the other House. But suppose he did use that language. The President of the United States, in a speech, thought proper to call two members of Congress traitors. Did anybody propose to impeach him upon that ground? I never heard of it, what-

over other grounds there might be. Any opinion which he entertains politically of the tendency of the actions or the purpose of any individual members of Congress is a matter with which Congress has nothing to do. Now, suppose I thought, as my friend from Kentucky has often thought, that what this Senate was about to do was inimical to the interest and safety of the country, and I had said that to do so would be treason to the country, would that justify the Senate in expelling me? I suppose no one will for a moment so state.

Upon one occasion, I remember, Mr. Webster in the Senate of the United States, in refusing his support to a proposed appropriation of \$3,000,000 to General Jackson to enable him to meet an anticipated war, said that he would not vote for it if the enemy were battering down the Capitol.

Mr. PATTERSON, of Tennessee. Thundering at the gates of the Capitol.

Mr. JOHNSON. Thundering at the gates of the Capitol, and that was said to be treason by Mr. Adams in the other House. He was told, or rather the House were told, by Mr. Adams that a man who would utter such a sentiment as that would in a moment take the other step, and would join the enemy; that there was but one more step to take, and that was to join the enemy. Did anybody propose to expel Mr. Webster from the Senate of the United States? And yet in one view, and in what would have been my view, he would have been false to his duty to the country. He ought not to have hesitated in the contingency which he stated from giving the appropriation to enable the Government of the United States to preserve the Capitol; but it was a political opinion which he had a right to indulge if he thought proper, if he really entertained it.

Mr. President, since the last session commenced the debates in the other House—I suppose I am at liberty to refer to them—and the debates here have been often exceedingly violent. The President here has been denounced, I was about to say in the most virulent terms; his motives and conduct assailed with a bitterness never before heard in this Chamber. Does anybody propose to expel the members who indulge in such remarks? Certainly not.

Mr. DOOLITTLE. The Senator will remember that a member was called to order for using such language. The Senator and myself raised the point of order, and we were decided to be out of order in raising that point of order on the Senator from Massachusetts [Mr. SUMNER] in a debate.

Mr. SHERMAN. The Constitution says that no man shall be called to account anywhere else for language uttered in debate here.

Mr. JOHNSON. Undoubtedly; but the Constitution does not say that a man who is a traitor in feeling or uses language that is traitorous in the extreme is not to be expelled from this body. For what he says in debate he is personally responsible nowhere else; but if he declares sentiments in this body which the body may think are unfit to be declared to the Senate, insulting to the Senate, and at war with his duty to the country, the Senate have a right to expel him; but they have never attempted to exercise any such right, as such cases have actually occurred.

Now, the honorable member from Ohio relies, first, upon a letter which proves directly the reverse, when the facts are understood, of the intent which he assigns to it; and he relies, in the second place, upon a telegraphic dispatch sent from Annapolis on the night of the day of election. We do not know even that the man heard the speech, and if we were certain that he heard the speech we do not know that he was capable of representing it fairly, and we do not know, if he heard it and was capable of representing it fairly, that he wanted to represent it fairly.

As I said before, to act upon any such proof as that is the establishment of a principle

which is to govern the conduct of the Senate which will come home to plague the inventors. None of us are safe. An investigation in advance of the admission of a Senator upon his credentials is no more in the power of the Senate than an investigation after he has been admitted. If, therefore, any newspaper editor thought proper to say that the honorable member from Ohio had charged treason upon Congress, had been false to his duty, and was a traitor in principle, any Senator would have the same right to get up and ask that there should be a committee to inquire into the fact, saying that it was due to the dignity of the body.

The honorable member from Indiana says he wants it to be ascertained what was the conduct of this gentleman during the war. What for? Suppose he took no part. Was any man obliged to go into the Army of the United States upon the pain of disloyalty unless he was called there by the authority of the United States? Has not every man in a state of war the right to stay at home unless his country calls him? Is any man to be denounced as disloyal because he refuses to volunteer? How many of us would come within that definition of disloyalty? How many of us went into the Army voluntarily or otherwise? Not one in twenty; but we are not disloyal on that account, as I hope.

Now, we have no evidence at all, as my friend from Maine stated, coming from anybody except an unknown and unauthorized reporter, that this gentleman has said one word inconsistent with his duty to his country and the duty to the Senate, which is always coequal with the duty to his country. He offers himself ready to take that oath; and if the honorable member from Ohio, instead of relying upon an anonymous dispatch as showing the real sentiments of this gentleman, will refer to that which ought to be conclusive, in the absence of conclusive evidence to the contrary, the letter which he sent to the Legislature accepting his post, he will find no reason at all to doubt but that he is as loyal as the honorable member himself.

Mr. STEWART. Mr. President, I am clearly of the opinion that this reference ought to be made. It is apparent from the discussion, so far as it has gone, that there are matters which ought to be inquired into. There has been a great deal said during the last few years with regard to the power of Congress over this very thing, to ascertain the loyalty of members who present themselves for admission. The question here raised is only a question as to the order of business, whether the committee are to investigate first where there is a charge of disloyalty, or whether it is to be investigated after the member has been sworn. If such a charge is made merely on newspaper rumor, I think it is due to the party, and due to the Senate, that it should be investigated. We shall have a large number of persons coming up here, if the South is restored, from the ten States now unrepresented, and it will be drawing an invidious distinction if we refuse now to refer this case to the Judiciary Committee, if we insist on such a reference of those cases. When this charge is made, I think the Judiciary Committee should be instructed to inquire into it if we intend to guard this body against, not only persons who were disloyal heretofore, but against those who entertain disloyal sentiments now. If we intend to guard it, as it is agreed on all hands we ought to guard it, it seems to me the natural order of proceeding whenever the question comes up is to refer it in the first place to the committee, in order that the party may be fully exonerated if he is not guilty of anything of the kind.

Mr. JOHNSON. I would ask the honorable member if there is not a difference between Maryland and the States that have been in rebellion?

Mr. STEWART. I do not suppose there is any difference between an individual in Maryland who aided the rebellion and an individual in South Carolina who did the same thing. I

think the individual in Maryland, where he was free from coercion, who gave aid and comfort to the rebellion is much more guilty than one in South Carolina, where the entire people went into rebellion and there was no power of the Government to protect him who desired to remain loyal. I think the distinction is in favor of the party who lived in South Carolina, where no one loyal man had the moral or physical force to withstand the power of the community. I should not be as careful in criticising a person from South Carolina as I would a gentleman in a loyal State who freely and voluntarily, without any appearance of coercion, aided the rebellion. I would make allowance for a man in South Carolina that I would not for a man in Maryland.

Mr. JOHNSON. The honorable member does not understand me. I mean to say that Maryland is to be considered as loyal a State as Nevada, and the presumption is, therefore, in relation to Maryland, when her Senator presents himself here, that he is just as loyal, and his State has as perfect a right to send him, as the honorable member or the State which he so well represents had to send him. The presumption in regard to States which have been in rebellion would be the other way.

Mr. STEWART. There is no doubt that the presumption in favor of every man is that he is innocent until he is proved to be guilty. The presumptions are that Mr. Thomas is innocent, but when there is a suggestion that there may be guilt it is then incumbent on the body to investigate it. The presumption is in his favor, and we should proceed to this investigation with all the presumption in favor of innocence. The fact that you investigate an alleged offense, when there is a suggestion of crime made, does not change the presumption. The presumption is that every gentleman who presents himself here is innocent of any offense that would disqualify him; and I shall go into the investigation fully impressed with all the presumptions in favor of innocence, but when the suggestion is made in the Senate that there may be guilt and an investigation is proposed, to refuse to investigate now will set an example that I say will embarrass us hereafter if we are to investigate such allegations in the future. The only question here is as to the order of business, for it is admitted that the investigation will be proper at some time. If we refuse to examine this case at this stage we shall be treating very cruelly some men against whom the suggestion is made hereafter. If we admit this gentleman before there is an investigation, a reference hereafter in the first instance will be regarded as a condemnation. Suppose we refuse this reference to-day and to-morrow a gentleman comes here from Kentucky who has been in the rebel army or against whom such a charge is made, a reference of that case in the first instance will be looked upon as sanctioning the charge. If the rule be that when a suggestion is made an investigation shall be had, then a reference gives no color to the charge; but if on this preliminary motion you make a distinction between one man and another, the reference of any case to the committee in the first instance gives color to the charge and condemns the gentleman whose case is so referred.

Mr. CONNESS. Mr. President, I listened with attention to the honorable Senator from Maryland when he was up in the construction that he gave to the passage read by the honorable Senator from Ohio from the letter of resignation of this gentleman, whose credentials are now under consideration; and I confess my surprise, when I come to read the paragraph, at the construction placed upon it by the honorable Senator from Maryland. It is not, as the Senator has stated, a resignation on the ground that Mr. Thomas did not believe there was legal power to enforce the collection of the revenue outside of the harbor of Charleston, South Carolina, at all, but upon other grounds. I will read from his letter addressed to the President:

"MY DEAR SIR: It has not been in my power, as

you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

Involving, as a matter of course, the entire political issues there. He says it has not been in his power to agree with a majority of the Cabinet in reference to these things, and he then continues:

"Nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston."

A proposition entirely in the future, and referred to as in the future, not then considered and decided; and he utters it as his opinion that he thinks he shall not be able, when that point is considered and determined upon, to agree with the President; but he utters his emphatic dissent from the conclusion arrived at by a majority of the Cabinet of the President upon "the condition of things in South Carolina," meaning the entire political issues there, if it means anything.

When this question was first presented to-day, and the motion to refer made, I listened with attention to what was said by the honorable chairman of the Judiciary Committee and by the distinguished Senator from Maine, and as the matter then stood I should have voted against the proposed reference; but the production of this letter, which had passed from my recollection at the time, puts the question, as I think, in a totally different aspect, and makes it my duty to vote not only for a reference, but to urge a close investigation. I will say further, that my vote will never be given to admit into the Senate any man who was either so weak or so vicious in 1861, in the month of January, as not to be able to find law enough to defend the honor and existence of this country, more especially any man who left the Cabinet of the President of the United States upon the ground that he could not discover power enough or justify his conscience in such a defense. I do not know any better time or occasion to make this point, and I know of no case in which it may be more clearly made than in the present instance. I do not, however, wish to prejudice this case. I would sooner have the entire letter than the extract of it given here, which of course the committee will have before them, so as to have the context, the entire surroundings, the history of the action of this gentleman when a member of President Buchanan's Cabinet. I think it is eminently proper that the credentials be not now received, or, if they be received, that they be referred and this matter investigated. I shall give my vote for that investigation.

Mr. JOHNSON. I have but a word to say. The honorable member from California is under a clear misapprehension as to the meaning of that letter. The circumstance to which reference is made by the writer is that all the officers of the customs had resigned, and there was, therefore, no means of collecting the duties there; and the only question which was before Governor Thomas at the time was, whether in the absence of the legal mode of collecting the duties by the custom-house officers, it was in the power of the President to have the duties collected outside the port in a vessel-of-war. To do that he supposed required legislation. To do that in the opinion of Congress in 1832 legislation was necessary. To do that in the opinion of Congress in 1861 legislation was necessary, for they passed the second section of the act of July 13 of that year for that purpose.

Mr. CONNESS. I beg the pardon of the honorable Senator, who is generally so correct in his analysis and statement. It is as clear from this letter as anything which was ever written that the declination spoken of and referred to was not put upon that ground; on the contrary, it is specifically stated by him that he thinks he shall not be able to agree with the President when that question is considered; but upon the other issues—what other issues?

"the present condition of things in South Carolina"—differs entirely with a majority of the Cabinet.

Mr. JOHNSON. In relation to the collection of the customs.

Mr. CONNESS. Not at all. I beg the honorable Senator's pardon.

Mr. DAVIS. Mr. President, I have been referred to by two or three of the gentlemen who have taken part in this debate, and therefore I intervene a word in it. In my condemnation of the measures of Congress I have never characterized or denounced the members of the Senate as traitors; I have never denounced any of their measures as treasonable, but I have denounced many of them as revolutionary.

Mr. President, I know but one test of fidelity to the Government, and that is the support of the Constitution. I know of but one measure of loyalty, and that is an honest adherence to and support of the Constitution. Whatever Senator or citizen sustains the Constitution as he understands it in good faith, in my judgment supports the Constitution. Whatever Senator deliberately, willfully, and knowingly votes for a measure which he believes is an infraction of the Constitution, acts for the time with the purpose to overthrow the Constitution, to subvert the Government, and to revolutionize it, and he is disloyal.

As has been stated in this debate, I have often said, in the course of my remarks in the Senate Chamber, that particular measures which I opposed were revolutionary. In my judgment they were revolutionary, and the deepest conviction of my mind and of my soul was and still is that they were revolutionary and utterly subversive of the Government.

Now I will say a word in relation to the question before the Senate. "Each House" is, by the Constitution, "the judge of the elections, returns, and qualifications of its own members;" and "each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member." The Senate in the trial of these different classes of questions is a different tribunal. In judging of the elections, returns, and qualifications of its members, it acts by a simple majority of the body; and the judgment of a simple majority of the body rules the point: but in relation to the expulsion of a member it is different. It requires the concurrence of two thirds to expel a member, and that is the security which the Constitution throws around the seats of the members of the Senate. The proposition is not now to expel a Senator from his seat; it is to pass upon one of the questions of the return, the election, or the qualifications of the gentleman who presents himself from Maryland, claiming a seat in the Senate. There is no objection to the return. That is admitted by all gentlemen to be in due form of law. The Senator from Nevada [Mr. NYE] referred to the election of this Senator as affected by the election and composition of the Legislature itself which sent him to the Senate. As the Senator from Maine [Mr. FESSENDEN] has properly said, that is a matter into which the Senate cannot make inquiry at all. The only other point is the qualifications of the Senator. The Constitution provides:

"That no person shall be a Senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not when elected be an inhabitant of that State for which he shall be chosen."

He must be thirty years of age, nine years a citizen of the United States, and an inhabitant of the State which elects him; these are the three single and simple qualifications of a Senator, and the Senate has no constitutional or legal power whatever to add to these qualifications.

What is the implication made in this debate against the gentleman who presents himself as Senator from Maryland? Forsooth he has charged in a speech that the Senate consists of a body of traitors. Suppose he had said so, what of it? Does his refraining from having



made a declaration of that kind constitute a qualification for his admission into the Senate? It may be that the charge was made; it may be that it was falsely and maliciously made. If so, then it becomes a question for investigation upon a movement for his expulsion after his admission. It is not a matter to be inquired into in relation to age, residence, or qualification, which are the only three points in regard to which the Senate can make inquiry on the preliminary step of admitting a Senator to his seat. As the majority of the Senate may decide either one of these points, so is it to remain irreversibly adjudged; but when you come to the question whether this gentleman has maligned the Senate, whether he has falsely charged it with treason against the country, that is not matter of qualification, nor can it be tortured into a matter of qualification. It may amount to such conduct as would demand his expulsion from the Senate, or it may not amount to such conduct as that according to the judgment of different Senators.

Now, sir, what do gentlemen propose to do? Here is a matter which, if it can be made a charge and a cause of proceeding against this gentleman at all, must be made in the form of a motion for his expulsion, and it must be sustained by the votes, not of a majority, but of two thirds of the Senate to have any practical effect against him. I maintain that it is now premature to enter into that matter. If the return of this gentleman as a Senator from Maryland is in due form, if there is no question as to his possessing the constitutional qualifications, then according to all the precedents except two, as stated by the Senator from Maine, he is entitled to take his seat; and then if he has maligned the Senate, if he has slandered the Senate, if he has committed a *scandalum magnatum* for which he ought to be expelled from his seat, that is a point to be subsequently investigated, and which cannot be inquired into at this stage of the business. It must be deferred until he takes his seat, and then be properly considered. After he has taken his seat, that may be made the subject of inquiry by the Senate, and Senators may vote that it is or is not sufficient cause for his expulsion according to their judgment.

Mr. President, I have but one more word to say. I should feel myself humiliated if I could vote for the expulsion of a man from the Senate because he had charged me as a Senator with being a traitor. The charge of disloyalty has been made against me thousands of times, I suppose, but never has it reached me. I do not feel scorn for such a charge; I feel nothing but coldest contempt. I know that all such charges are utterly and flagitiously false. I know I have been as true to the Constitution of the country and to the Government of the country formed by that Constitution as any gentleman that lives; and what care I for the scoffs and flings and slanders and denunciations of a false, foul, and venomous press in throwing out charges of disloyalty against me? I feel, I will not say an unutterable scorn, but I feel an indifference to all such charges that can never be reached or disturbed.

I know, Mr. President, that in the heat of debate I have sometimes indulged in sharp language, to use the phrase of the honorable Senator from Maine, and it may be vituperative language; but I have never attempted willfully to infringe the privileges of the Senate or of any of its members. I have never charged any of them with being traitors; I have never charged any of their measures with being treasonable; but I have charged, and if it was the last word I had to utter at the judgment seat of my Maker I would charge, that many of their measures have been and are revolutionary, subversive of the Constitution and of the form of government as I understand it, which we are all sworn to support. In making this charge it has never been my purpose to trespass the freedom of debate. I trust the time will never come when the freedom of debate will be hushed in the Senate Chamber. At any rate, so long as an individual humble as myself shall be allowed

to hold a seat here, I will indulge in that freedom of debate guaranteed to me by the Constitution of my country, and the exercise of which is the highest duty that I can perform to my constituents and my country.

Mr. HOWARD. Mr. President, I do not concur at all with the doctrine of the Senator from Illinois that it is incompetent for the Senate to inquire into the propriety of suffering an applicant who comes here to take a seat in this body. On the other hand, whenever there is reasonable suspicion that such an applicant cannot truthfully take the oath prescribed in the act of 1862, I hold it to be the duty of the Senate to refer the matter for the purpose of inquiry and information. Otherwise we might, in some cases at least, be winking at perjury and setting aside the very act which we passed for the protection of this body against rebellion. It is a matter of mere inquiry and in the nature of an inquiry. We all know the books of parliamentary law lay it down as one of the rules that inquiry is always justified upon the grounds of public rumor. It is laid down in the books of parliamentary law that even the impeachment of an officer of the Government may be based upon public rumor. Such, doubtless, at one time was the parliamentary law of England; but I will not stop to go into these points.

It is said by the learned Senator from Maryland that the letter to which reference has been made, written by this applicant, dated the 14th of January, 1861, does not present as the ground of his resignation from the Cabinet of Mr. Buchanan the fact that he, Thomas, was opposed to the reinforcement of Fort Sumter, and the learned Senator would have us believe that the letter to which reference has been made refers solely and simply to the alleged illegality of attempting to collect the revenues at the port of Charleston out of the port; and we are told that this resignation was sent in because Secretary Thomas refused to perform such an illegal act as to collect the revenues of Charleston beyond the limits of the port of Charleston. Now, sir, on a careful inspection of this letter, with other contemporaneous documents equally authentic, it is impossible to come to anything but a directly opposite conclusion, and to hold that the great reason, and probably the sole reason, of the resignation of that Secretary, was his opposition to the project of Mr. Buchanan to reinforce Fort Sumter.

Mr. JOHNSON. Will the honorable member read that part of the letter?

Mr. HOWARD. Yes, sir; I will read enough, I trust, to satisfy the honorable Senator that I am correct. On the 8th of January, 1861, Jacob Thompson, the Secretary of the Interior, and afterward an arrant rebel as we all know, sent in his resignation to Mr. Buchanan. Keep the dates in mind, January 8 is the date of Mr. Thompson's letter of resignation, and in that letter Mr. Thompson says:

"I learn, however, this morning, for the first time, that the steamer *Star* of the West sailed from New York last Saturday night with two hundred and fifty men, under Lieutenant Bartlett, bound for Fort Sumter. Under these circumstances I feel myself bound to resign my commission, as one of your constitutional advisers, into your hands."

"With high respect, your obedient servant."

On the next day President Buchanan replied to the letter of Secretary Thompson, in which the President said:

"This promise was faithfully observed on my part. In order to carry it into effect I called a special Cabinet meeting on Wednesday, 24 January, 1861, in which the question of sending reinforcements to Fort Sumter was amply discussed both by yourself and others. The decided majority of opinions was against you. At this meeting, the answer of the South Carolina 'commissioners' to my communication to them of 31st December was received and read. It produced much indignation among the members of the Cabinet. After a further brief conversation I employed the following language: 'It is now all over, and reinforcements must be sent.' Judge Black said at the moment of my decision that after this letter the Cabinet would be unanimous, and I heard no dissenting voice. Indeed, the spirit and tone of the letter left no doubt on my mind that Fort Sumter would be immediately attacked, and hence the necessity of sending reinforcements there without delay."

The purpose of Mr. Buchanan and a majority of the Cabinet was clearly and distinctly declared as early as the 2d of January to reinforce Fort Sumter and to protect it against an anticipated attack of the rebels, and therefore Mr. Thompson on the 8th of the same month sent in his resignation. Thompson's reason is plainly expressed, and it is that reinforcements are to be sent to Fort Sumter. Three days after that we find Secretary Thomas, the present applicant presenting himself here for a seat in this body, writing to President Buchanan in the following words:

"MY DEAR SIR: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina."

What were those "measures" relating to the "condition of things in South Carolina?" The very measures which Mr. Buchanan and a majority of the Cabinet had agreed upon. The reinforcement of Fort Sumter and its defense by force of arms against any attack of the rebels, was one of the measures at least, and it was beyond all doubt the important measure. Now, Mr. Thomas informs the President that it has not been in his power to agree with the President and a majority of his Cabinet advisers "in the measures which have been adopted in reference to the present condition of things in South Carolina;" that is to say in plain language, without circumlocution, "I was opposed to the scheme of reinforcing Fort Sumter; I preferred to let the rebels make an attack upon Fort Sumter and carry it by dint of shot and shell; and your scheme of reinforcing it for its own defense was one in which I could not concur, and therefore, because I could not concur, I resign my seat in your Cabinet." So up to this moment I can draw no distinction in point of morality or of loyalty between Jacob Thompson, afterward an arrant traitor, and Mr. Thomas, who now presents himself for a seat in this body.

But, says the Senator from Maryland, this letter related solely to the objections of Secretary Thomas against collecting the revenue out of the lines of the port of Charleston. Sir, it does not relate to that subject at all. Mr. Buchanan had not, according to the very terms of this letter, at that time resolved upon such a course. The very language contradicts it; for the language of Mr. Thomas is:

"Nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston."

There are in this letter plainly two subjects of which the writer treats. The first is the reinforcement of Fort Sumter; the second is a project, not yet agreed upon, of collecting the revenues of Charleston beyond the limits of the port. So much for that, Mr. President.

One word further. I do not know whether the learned Senator from Maryland denies as a matter of fact that the applicant called the present Congress of the United States traitors, as reported in the speech which has been read. But it is a rumor; it is true it is a newspaper rumor. That it is very generally believed cannot be doubted. If he made such an observation, if he declared the majority in Congress to be traitors, and stated that he was coming here to face traitors, it cannot reasonably be supposed that a man who entertained these views at the breaking out of the rebellion should have maintained a very scrupulous neutrality during the conflict. If in 1861 he believed Congress to be a band of traitors, bent upon the destruction of the Government by waging war against the rebel States, it would be most remarkable that, living so near the frontier where the conflict was raging, he should have abstained entirely from rendering aid and comfort to the oppressed and persecuted party. His impulses were all in that direction, and if opportunity presented, if such were his sentiments, I cannot doubt, for one, that he would have embraced that opportunity. It is for the very purpose of ascertaining how far

he went in his glowing sympathy for the rebels during the war that I desire to make this inquiry. If he has lent aid and comfort to the rebellion in any degree he cannot truthfully take the oath which is prescribed to him, and is not fit to be admitted on this floor.

Mr. GRIMES. I move that the further consideration of this subject be postponed until to-morrow.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

Mr. GRIMES. I now desire to offer a resolution.

The PRESIDENT *pro tempore*. Petitions and memorials are in order.

Mr. GRIMES. How long does the morning hour last? Does it go beyond one o'clock?

The PRESIDENT *pro tempore*. The Chair will receive petitions and memorials.

Mr. FESSENDEN presented the petition of Mary Douglas, Mary Josselyn, and Mary Lancaster, widows of revolutionary soldiers, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MORRILL, of Maine, presented the memorial of Joseph A. Van Brunt, one of the owners of the bark Aug. Gaudien, praying that an American register may be issued for that vessel; which was referred to the Committee on Commerce.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of the equalization of soldiers' bounties; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Rochester to Leroy, from Glencoe to Greenleaf, from Waverly to Glencoe, from Minneapolis to Big Stone lake, and from Monticello to Waverly, all in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. PATTERSON, of Tennessee, presented a memorial of the Legislature of Arkansas, in favor of granting the same aid to the Union Pacific railway, southern branch, as has been granted to the Union Pacific railway and its northern branches; which was referred to the Committee on the Pacific Railroad.

Mr. FRELINGHUYSEN presented a letter from the Assistant Secretary of the Treasury, addressed to the chairman of the Committee on Finance, relative to sales of land made by the direct tax commissioners of South Carolina; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented a memorial of late officers of the first regiment Iowa volunteer cavalry, praying payment for an alleged balance due that regiment on account of an error; which was referred to the Committee on Military Affairs and the Militia.

Mr. VAN WINKLE presented the memorial of David D. Porter, vice admiral United States Navy, praying relief for the widow and children of the late Major D. P. Heap, paymaster United States Army; which was referred to the Committee on Pensions.

Mr. MORTON presented resolutions of the Legislature of Indiana, in favor of the interposition of the Government of the United States to effect the release and liberation of Rev. John McMahon, a citizen of Indiana, now in prison for an alleged violation of Canadian laws; which were referred to the Committee on Foreign Relations.

#### PAPERS REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of Dennis Sullivan, on the files of the Senate, be referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Captain Daniel Ellis, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 8th instant, information respecting any armed expeditions against the Indians in the western territory, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

He also, from the same committee, to whom was referred a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made on account of the medical department of the Army for the year 1866, reported a recommendation that the report lie on the table and be printed; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 19) to clothe the maimed and destitute soldiers, reported it without amendment.

#### WEST VIRGINIA WAR EXPENSES.

Mr. WILSON. The Committee on Military Affairs and the Militia have instructed me to report a bill supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion," approved June 21, 1866.

Mr. VAN WINKLE. I hope the Senate will take up for consideration the bill just reported from the Military Committee. It consists of but three lines, and is intended to supply an accidental or clerical omission in the bill relative to the war expenses of West Virginia, passed at the last Congress.

Mr. FESSENDEN. I presume it is all right, but I should like to hear some reason for the bill.

Mr. VAN WINKLE. The original act omitted to vest in the Secretary of War the power to draw warrants for any money to be paid under it; and it is thought necessary that the Secretary of War should have that power. He refuses to draw the warrants unless authority to do so is conferred by Congress. Similar bills for Missouri and other States have conferred that authority on the Secretary of War; but in the West Virginia bill that clause was accidentally omitted. As the items come under the head of military expenditures, it is simply proposed to allow the Secretary of War, at his discretion of course, to draw these warrants.

The bill (S. No. 77) was read three times, and passed.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 15th instant, information in relation to the withdrawal of public lands situated between the cities of San Francisco and San José, in California, from preemption, sale, and location; which was ordered to lie on the table.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions of the Senate:

A bill (S. No. 22) in relation to a certain tract of land in Burlington, Iowa;

A bill (S. No. 60) to change the name of the steamship Paonshun;

A joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; and

A joint resolution (S. R. No. 30) amending the ninth section of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit

in the Treasury; and also that the House had agreed to the amendment of the Senate to the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, with amendments, in which the concurrence of the Senate was requested.

The message further announced that the House had passed a resolution, in which the concurrence of the Senate was requested, proposing to amend the joint rules of the two Houses by providing for a joint Committee on Ordnance.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 78) authorizing the payment of the first regiment of Iowa volunteer cavalry; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 79) to confirm certain sales made by the direct tax commissioners for South Carolina to persons in the Army, Navy, or Marine corps, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic Dock, Brooklyn, New York; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 81) to provide for the consolidation of the Indian tribes, and to establish a qualified territorial government in the Indian Territory; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 82) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 35) to authorize the Commanding General of the Army to permit traders to remain at certain military posts; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### ARMS FOR TENNESSEE.

Mr. FOWLER. I move to postpone all prior orders and take up the joint resolution directing arms to be furnished to the State of Tennessee.

The motion was agreed to; and the joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee, was considered as in Committee of the Whole.

The resolution was reported from the Committee on Military Affairs and the Militia with two amendments. The first amendment was to strike out the preamble in these words:

Whereas the arms and equipments for the militia of the State of Tennessee were taken or destroyed by the rebel authorities during the late rebellion, and the present Executive, Governor W. G. Brownlow, in order to enforce the laws of the State, deems it necessary to employ the militia of the State for that purpose: Therefore.

The amendment was agreed to.

The next amendment was to add to the res-

olution "to be accounted for by the State of Tennessee to the Government of the United States;" so as to make the resolution read:

*Be it resolved, &c.*, That the Secretary of War be, and is hereby, directed to furnish arms and equipments to the State of Tennessee, sufficient for two thousand five hundred militia, to be accounted for by the State of Tennessee to the Government of the United States.

The amendment was agreed to.

Mr. BUCKALEW. I should like to hear some explanation of this resolution.

Mr. FOWLER. I will state briefly the reasons why I have offered the resolution. Governor Brownlow informs me, as I was well aware, that we are entirely destitute of arms in the State of Tennessee, and our militia need arms for various purposes, for the same purposes that they are needed in the other States, and I think we have the same right to them as other States. I asked the Secretary of War for them, and he informed me that he did not feel authorized without a resolution of Congress granting him the power to give the arms to the State; and hence the necessity for this resolution.

Mr. BUCKALEW. I believe there is some general law on this subject which applies to all the States represented in Congress, and what I desired to understand was, the particular reason applicable to the State of Tennessee; why a special measure of this kind was necessary. One thing we know, that we have United States troops in that State, and whatever of armed force is necessary for the preservation of order is, I suppose, furnished by the United States at present. I desire to know the peculiar reasons applicable to the State of Tennessee inducing the passage of a special measure applying to that State alone.

Mr. FOWLER. I think I could give the Senator the reasons in a very short time. The Governor of our State feeling in need of arms and of troops called on the Government for arms and could not receive them. He states himself the reason: the Legislature had authorized him to use troops to prosecute persons who are offending against the laws of the State, and endeavoring in a certain portion of it to overthrow the State government. They are assassinating and murdering Union men and others in the State; and for that reason the Governor of the State of Tennessee wishes these arms placed in the hands of the militia of the State to enforce the laws and preserve order there.

Mr. PATTERSON, of Tennessee. I do not intend to oppose the resolution; but I wish my colleague would state in what counties of the State such things as he charges have occurred, and what evidence he has of their having occurred.

Mr. FOWLER. My colleague himself knows that Senator Case and every male person in his family were assassinated for no other reason than because they were Union men. It has been done in different parts of the State; but I shall not discuss that question here. I will not take up the time of the Senate on the subject. I have given the reasons of the Governor, which were before the Secretary of War and which are in my possession, and they are adequate for my purpose. But beyond all this, the State has a right to the arms and ought to receive them.

Mr. PATTERSON, of Tennessee. I ask my colleague if rebels have not been shot down there as well as Union men?

Mr. FOWLER. If my colleague places himself here in the attitude of defending rebels let him do so.

Mr. PATTERSON, of Tennessee. No, sir; I occupy no such position. I will interpose no obstacle in the way of the State getting arms; but I will ask my colleague if rebels have not been shot down in Tennessee as well as Union men?

Mr. FOWLER. I hope so. I believe they have been; and I think that will be perhaps the use to which the arms will be applied.

Mr. PATTERSON, of Tennessee. I have

no objection to the arms being furnished to the State.

Mr. BUCKALEW. Mr. President, it is said that the State of Tennessee is entitled to arms under the general law. We should have, then, a report from the War Department giving special reasons, giving some explanation to us why that general law is not applied in this case. Tennessee being an organized State, recognized by us as a member of the Union and represented here, is subject to the provisions of our general statute on this subject as to the distribution of arms. I have heard no reason stated why we should pass a special bill to bestow upon the authorities of that State the arms in question. We have no report from the War Department, which we ought to require in a case of this kind.

Now, as to arming the militia of that State, it is to be remembered that the general law which we passed preventing the organization of the militia in the States which were in insurrection does not apply to Tennessee. There is no prohibition on the authorities of that State to organize and arm their militia. It is not necessary, therefore, that we should pass a bill to relieve that State from the operation of the prohibition which we have made general as to all the other States which were in rebellion. It is certainly an extraordinary thing that we are called to vote a distribution of arms to the State of Tennessee when she must at present stand on the general footing of all the other States which are represented in Congress; and that we should be called upon to pass it without one word of explanation from the War Department or from the General of our armies. I shall certainly vote against this measure as it is presented to us, without some more adequate explanation than that which we have received.

Mr. FOWLER. I believe I entirely concur in the opinion of the Senator from Pennsylvania in reference to this matter generally. I will state, however, that the practical question, so far as the State of Tennessee is concerned, is this: the Governor made a call on the Secretary of War for the State's proportion of arms, and the Secretary of War informs me that he is not authorized to grant the arms. Under that state of facts—I am certain the Senator from Pennsylvania will believe my statement, although it is not in the shape of an official report from the Secretary of War—our purpose is by this resolution to get the arms, and unless this resolution be passed we cannot obtain the arms. Congress is going to adjourn shortly, and I should be very sorry to have Congress adjourn without giving authority to the State of Tennessee to obtain these arms. If we cannot obtain them from the source from which we are entitled to obtain them, of course the State will have to purchase the arms herself.

Mr. PATTERSON, of Tennessee. I wish it understood distinctly that I have no objection to the arms being granted to the State of Tennessee. Perhaps she is entitled to them.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. SAULSBURY. As I wish to record my vote against this measure I ask for the yeas and nays on its passage. I recollect the time when the State of Delaware was deprived of every arm by the action of the Federal authorities. Arms and ammunition bought and provided by the State were taken away by the Federal authorities, and the State has never been able to recover them. If it be necessary to enforce the laws in my State, we are without arms or ammunition with which to do it. I think the State of Delaware has as much right to have her own arms and ammunition, bought by money out of her public treasury, restored to her as the State of Tennessee has to have arms and ammunition furnished to her by the Federal Government. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 39, nays 5; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Frothingham, Harlan, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—39.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, and Saulsbury—5.

ABSENT—Messrs. Grimes, Guthrie, Hendricks, Howard, Norton, Riddle, Sprague, Stewart, and Trumbull—9.

So the joint resolution was passed.

#### LAWS OF NEW MEXICO.

On motion of Mr. TRUMBULL, the joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature held at Santa Fé from 3d day of December, 1866, to 31st day of January, 1867, was considered as in Committee of the Whole. It provides that the laws passed by the Legislative Assembly of the Territory of New Mexico at its last session, which began on the 3d day of December, 1866, and ending on the 31st day of January, 1867, and signed by W. F. M. Army, acting secretary and acting Governor of the Territory, shall have the same force and effect as though the same had been approved and signed by the Governor duly appointed, subject to the future revision and approval of Congress.

Mr. TRUMBULL. This is a joint resolution to declare valid the laws passed by the last session of the territorial Legislature of New Mexico. In that Territory there was no Governor last year. Under the law the secretary of the Territory acts as Governor. The secretary was removed about a year ago by the appointment of a successor; but that successor never went to New Mexico and took possession of the office, but the acting secretary, Mr. Army, continued to perform the duties of secretary, and acting as Governor he approved the laws passed by the last territorial Legislature of New Mexico. The Attorney General is of opinion that Mr. Army was not in office, although his successor had not qualified; that the removal was complete. But he actually acted. He was the acting secretary and Governor. There is a dispute as to the validity of the laws, and the territorial Legislature desire that they shall have the sanction of Congress. The joint resolution is reported from the Committee on the Judiciary, and I presume there will be no objection to it.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### WASHINGTON AQUEDUCT.

Mr. HARLAN. I move that the Senate now proceed to the consideration of Senate bill No. 39.

Mr. SHERMAN. As I know that bill will give rise to debate, I should like now to submit a motion that the Senate proceed to the consideration of executive business.

Mr. HARLAN. I do not think it will give rise to debate. The Committee on the District of Columbia are unanimous in favor of its passage.

Mr. SHERMAN. I am in favor of it, but I know it will give rise to debate, because the subject was debated at the last session and at one or two sessions before.

Mr. FESSENDEN. I will state to my friend from Ohio that it was not debated here in the Senate; there was no objection to the appropriation in the Senate; but the House of Representatives refused by a very decided vote to make the appropriation; and in the committee of conference we were compelled to give it up. I do not believe there will be any chance of getting this bill any further than through the Senate now. I think it is a very important matter, but the House manifested a fixed determination not to appropriate anything more for the aqueduct.

Mr. HARLAN. I would be very glad if the Senate would pass the bill, and if it should

fail in the other House let the responsibility be with that House. I think the objection to the appropriation originally in the House was more personal to the party in charge of the work than to the appropriation itself.

Mr. FESSENDEN. I have no objection to taking up the bill.

The motion was agreed to; and the bill (S. No. 39) to provide means for the prosecution of the work on the distributing reservoir of the Washington aqueduct was considered as in Committee of the Whole.

It proposes to appropriate \$150,000 for the purpose of deepening and otherwise improving the distributing reservoir of the Washington aqueduct; but no part of the sum thus appropriated is to be used for any other purpose whatever.

Mr. MORRILL, of Vermont. I ask the Senator from Iowa if he will not be content with striking off \$100,000, leaving the appropriation \$50,000?

Mr. HARLAN. I will not, for this reason: the whole appropriation necessary to complete the distributing reservoir is estimated to be \$287,000; and it is believed that \$150,000 will deepen and improve and complete one half of that reservoir and construct a wall across the center of it, which would secure healthy water for the employes of the Government at the Departments, and also to a great extent guard against danger from fire, if this means of supplying water should be cut off. Fifty thousand dollars would not complete one half of the reservoir, and hence would be comparatively useless.

Mr. CONKLING. I desire to inquire of the Senator who has this bill in charge who is to have the actual expenditure of this money?

Mr. HARLAN. I only know from a newspaper statement of what was done during the last Congress. I understand that by a bill then passed the work was put under the control of the chief Engineer of the War Department.

Mr. FESSENDEN. And the whole business of overseeing the public works has been assigned to General Michler.

Mr. CONKLING. Is there no middle man, no contractor between the Government and the work?

Mr. FESSENDEN. None at all. It is all under the control of General Michler. Whether he actually expends the money or whether it is done by the Secretary of the Interior I cannot answer; but he is the man who is now in charge of all these works here.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### CHOCTAW AND CHICKASAW TRUST FUNDS.

On motion of Mr. HENDERSON, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 18) for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians.

To enable the Secretary of the Interior to pay the claims of certain Choctaw and Chickasaw Indians, and other loyal persons, as are provided for in the forty-ninth and fiftieth articles of treaty concluded with the Choctaw and Chickasaw Indians on the 28th of April, 1866, the resolution proposes to authorize the Secretary of the Interior to sell such of the stocks held by the United States in trust for the benefit of those Indians as he may deem expedient and proper; but no further sale of the stocks is to be made than may be necessary to pay these claims.

The Committee on Indian Affairs proposed to amend the resolution by adding to it:

*Provided*, That no such stock shall be sold and no money shall be paid on such claims, unless the Secretary of the Interior shall have first examined and ratified or approved the awards made by commissioners, as stipulated in the forty-ninth and fiftieth articles of said treaty: *And provided further*, That nothing contained in this act shall be construed as recommending for his approval any awards already made under said treaty.

Mr. SHERMAN. I cannot consent to allow this measure to pass. It brings up the old question of the Choctaw and Chickasaw claims.

At the request of a party interested and others I introduced a resolution the other day referring the whole matter of the Choctaw and Chickasaw claims to the Committee on Indian Affairs with instructions to take testimony, to examine persons and papers, and to report at the next session. I do not think we ought now to interfere with these trust bonds and pay any of the debts provided for by that treaty until after a full examination. It is only one branch of a very difficult question, and as the committee have authority now to examine the matter fully and report at the next session, and their report will no doubt be decisive on the subject, I trust this resolution will be suffered to lie over. It authorizes the sale of the bonds held in trust for these Indians, which are a very large amount nominally, though some of them are of little value. It raises a very difficult question, and I trust it may lie over until the next session.

Mr. MORTON. I should like to inquire of the Senator from Missouri how long the Government has held these stocks and what stocks they are?

Mr. HENDERSON. It would take me a considerable length of time to answer that question; but I can state to the Senator that these were annuity funds belonging to the Choctaw and Chickasaw Indians for their lands sold in the State of Mississippi, and those funds were invested in various State and United States stocks which are held by the Secretary of the Interior, and the interest annually paid to the Indians.

Mr. MORTON. I have some knowledge of the character of these stocks and of the condition of this whole transaction, and I ask the Senator from Missouri to let this resolution lie over.

Mr. FESSENDEN. I think it had better go over.

Mr. HENDERSON. I shall make no objection to that; but before the question passes off I desire to say a word. Under the treaty of 1866 with the Choctaws and Chickasaws there was a provision to the effect that the President of the United States should appoint commissioners to adjust the claims of the loyal Indians who were driven out from among those tribes during the rebellion, and those commissioners were to report to the Secretary of the Interior. The President appointed the commissioners, and they went on and adjusted the claims, and then made a report to the Secretary of the Interior. That report is now lying before the Secretary. He has not yet had time to examine it. The Senator from Kansas [Mr. ROSS] some time since offered this joint resolution. I went to the Secretary of the Interior to see him on the subject, and he stated that he had not yet approved the report. The treaty requires that upon the approval of the Secretary of the Interior payment shall be made from any moneys in his hands belonging to the Indians. The Secretary of the Interior has no moneys belonging to these Indians; but he has bonds of theirs in his hands, and he wishes authority, in case he shall find that the report is correct, to sell a sufficient quantity of these bonds to pay what is due to the loyal Indians. That is the whole case.

These Indians are suffering; they are poor; they were robbed of everything they had and driven out from the midst of the tribe. These bonds are on hand belonging to the tribe, and if they are sold these claims can be paid. If they are not sold the claims cannot be paid. Hence I have added a proviso to the resolution, lest our legislation should be construed by the Secretary of the Interior as indicating a desire upon our part that he should pay the claims, a proviso that no such stock shall be sold and no money paid on such claims unless the Secretary of the Interior shall first examine and approve the awards made by the commissioners, as stipulated under the forty-ninth and fiftieth articles of the treaty, and that nothing contained in the resolution shall be construed as recommending for his approval any awards already made under the treaty. If this resolu-

tion is passed it will simply have the effect of enabling the Secretary of the Interior, in case he finds the awards to be correct, to get the funds to pay them. It is claimed that we are largely indebted to the Choctaws and Chickasaws. The question has been before us several times upon Indian appropriation bills. Lately the question came up and a proposition was made to appropriate a part of the funds, but it was objected to. It is claimed that we owe them \$2,000,000; but I am not prepared to say that we should appropriate any money from the Treasury. If we intend to pay the loyal Indians who have been driven out from among the tribe, there is no other way of paying them than the resolution proposes, and it ought to be passed. If the Senate wishes further consideration I am utterly indifferent to the matter, and will allow it to lie over; but I have considered it and know exactly what the question is.

Mr. MORTON. I do not desire to go into the discussion of this matter now; but I will state that there are reasons why these bonds should not be sold, independent of the question of the awards referred to in the resolution. I think I can satisfy the Senator from Missouri in a private conversation of ten minutes that these bonds ought not to be sold. I ask, therefore, that the resolution shall at least lie over until to-morrow.

Mr. HENDERSON. I have no objection. The PRESIDENT *pro tempore*. The joint resolution will be postponed by common consent.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

On motion of Mr. TRUMBULL, the Senate proceeded to consider the amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

The first amendment of the House was to insert after the words "United States," in line five of page 2, of the Senate amendment the words:

That I have never been a member of any State Legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof.

Mr. TRUMBULL. There can be objection to that; it is an addition to the oath.

The amendment was concurred in.

The second amendment of the House was in page 5, line four, after the word "the" after it occurs the second time to insert "registered."

Mr. JOHNSON. What is the effect of that?

Mr. TRUMBULL. The effect is to require a majority of all the registered voters to adopt the constitution when it is submitted to them for ratification. While I do not mean to take up any time in objecting to this amendment, and am willing, if the Senate think proper, to concur in it and end this matter, I do not think it is right. I know there is a very strong feeling in favor of adopting the provision just as the other House has amended it, but I think it is a mistake, and I wish to say, in a word or two, why I think it a mistake. The House amendment requires for the ratification of the constitution that a majority of all the registered voters shall vote in its favor. It will be submitted at an election when there are no candidates. There will be no opposing individuals running for office, no inducements to bring men to the polls except simply to vote for or against the adoption of the constitution. Now, take the State of Georgia; suppose there are a hundred thousand voters in it, and sixty thousand of those voters are in favor of the constitution, but forty thousand against it. If those forty thousand stay away from the polls, will not the constitution be defeated?

Mr. FESSENDEN. How?

Mr. TRUMBULL. If sixty thousand are for it, you cannot get fifty thousand of them



to the polls at such an election; and hence it will be defeated. I will state to the Senator from Maine what I think is the objection to this provision, and I believe he will see it at once. If the constitution is liberal, is of such a character as he and I would approve, and it is apparent that the truly loyal men; aided by the colored voters, are going to get possession of the State and form a liberal government, I apprehend that the rebels will be against it; and in that event, by staying away from the polls, under this amendment they have a greater weight than they would have by going and voting, because you can never get all the voters to the polls. Those opposed to the constitution have the benefit of the absentees.

The illustration I gave was that in Georgia if there are sixty thousand men in favor of the ratification of the constitution, I do not believe it will be possible to get fifty thousand of them to the polls, and then the forty thousand opposed to the constitution will defeat it. If, on the other hand, the constitution should be objectionable, if it should not be a liberal constitution, and you only require a majority of those voting, it will be in our hands at last and we can protect the people, for it comes to us and must be approved by us before it can be operative. This proposition, however, would put it in the hands of the disloyal to defeat a liberal constitution. I am afraid it will be in their power to defeat the reorganization of State governments in some of these States, because a majority of all the registered voters will not be got out to the polls to vote for the constitution. I know that I myself agreed to the proposition originally in this very form, for it is just the way the Committee on the Judiciary reported it, and I assented to it and I shall assent to it now if the Senate think it best, and I am willing to move that we concur in the amendment; but the discussion satisfied me that it would be better to have it the other way, and if I thought the feeling of the Senate would sustain me I would ask that the Senate disagree to the amendment. With the reflection which I have had I think its adoption is not the best course.

Mr. SHERMAN. I agree with the Senator entirely as to the impropriety of this modification; and I submit to him whether at the next session, if the constitution fairly represents the will of the people, and that is evident from the circumstances of the case, Congress can then waive this condition? This is the last act of the people there in reconstruction, and if the bill be allowed to pass in this shape, Congress may then, if it be deemed proper and expedient, waive this formality. I see no practical difficulty in the way. It is true, I think, that at the next session probably it will appear that a majority of all the registered voters have not voted for the constitution; but still we can waive that objection. I therefore see no sufficient difficulty in the way to induce us to have a controversy with the House about this matter, although I agree with the Senator as to what he has said about it.

Mr. SUMNER. I hope there will be no controversy with the House; but I hope there will be no understanding that hereafter we are to waive what we now require. I make this remark now in order that hereafter, if any proposition to waive one of these requirements shall be made, it shall be fully understood that there was a protest against it in advance.

Mr. WILLEY. I hope then, sir, if nothing is to be waived hereafter, that we shall settle the question now. The amendment of the House, it seems to me, settles the question of reconstruction under this bill; that is to say, it settles the question by leaving the States as they are. From what I know of southern sentiment, and what I know of the condition of affairs in the South, I believe most sincerely that the bill in the form in which it comes from the House will result in nothing. I do not believe that you can get a majority of the registered voters in the South upon the adoption of the constitution which will be presented to them to vote upon it

either on the one side or the other. Under this proposition the secession element in the South, those who want no reconstruction, those who want to keep the Union element in the South still under the ban and under the foot of their oppression, can accomplish it simply by non-action, and they will do it. On the other hand, it will be found, in the practical operation of matters there, that on a vote on this question it will be impossible to bring more than two thirds of the negro voters to the polls. By the time when this proposition shall be presented to them they will not have been sufficiently educated as regards their duty in the premises to know exactly what to do. About the towns, about the villages, about the military posts they can be instructed, and they can be brought to the polls; but in the interior of the country, upon the plantations, I will venture the assertion, and affirm it here, it will be found in the result of the experiment that the influence of their employers still remaining upon them will prevent a large proportion of the field hands from coming to the polls at all. I will further venture the assertion that the secession element, those who want no reconstruction, those who want no practical relations with the Union, will prevent the adoption of any constitution which will be presented to them at the election contemplated in this bill.

Therefore, sir, desiring as I do to see those States, as speedily as may be practicable, restored to their practical relations, I shall feel constrained to vote against this proposition. I would prefer to see the simple bill of last session, without this supplementary bill at all, presented to the southern people, believing that the negroes and the loyal sentiment in primary assemblies would in a shorter time organize governments in the southern States than they will be organized under the operation of this bill if it is allowed to remain as it is. The bill, if passed as it is, settles the question, not of reconstruction, but of non-reconstruction. You will have no practical relations restored to the government of the southern States under the operations of this bill, in my opinion.

Mr. WILSON. Mr. President, I regret very much that this amendment has been made. I think that it is a great mistake, made not in the interest of reconstruction, and not in the interest of the friends of the principles upon which reconstruction is based; that its practical operation will be against the friends of reconstruction upon these principles and not for them. In other words, I think the amendment is in the interest of those who are opposed to the reconstruction of these States on the terms and conditions proposed by Congress.

Sir, who to-day in these States are opposing reconstruction upon the terms we have proposed? The old rebel chiefs and leaders. Howell Cobb was here weeks ago, and went home to Georgia the other day, and advised the people of Georgia to have nothing to do with it. Other rebel leaders there are giving the same counsel. It is so in other States. Who is fighting the battle there for reconstruction and acquiescing in the terms and conditions we have proposed? Governor Brown came here this winter with other leading men from that State, consulted with the friends of the constitutional amendment and the friends of negro suffrage, heard their views, heard what they had to say, and went home with the resolution to do all he could in favor of acquiescing in the terms and conditions Congress might propose; and he seized the earliest moment that he could to advise the people of Georgia to acquiesce in the constitutional amendment.

Now, sir, who are to carry it out? Who are the men that will do it? It will be the men who are in favor of the constitutional amendment, men who are in favor of negro suffrage, men who are in favor of making the constitutions of these States in harmony with the terms and conditions and principles we have laid down.

We all know that this bill came in here for the purpose of carrying out the measure of the last Congress in favor of reconstruction. We know that that measure was proposed by the friends of the country and of the equal rights of all men, the friends of enfranchising the black man and of weaponing his hand for defense; the friends of taking the governments of these rebel States out of the hands of their rebel possessors, and giving the whole people, including the seven hundred thousand enfranchised black men, the right to reconstruct their own local governments, and to fill those governments with truly loyal men. We all know that the measure was introduced for that purpose. We know that from the Potomac to the Rio Grande the loyal white men, the colored men whom we have enfranchised, and the repentent and fair-minded rebels, the men who mean to be with the country in the future, accept the terms and conditions we propose, and are willing to go into the elections, willing and desirous of organizing their States and complying with all that we demand. In face of that fact and of the fact that the rebel leaders all through the South know that this action will take these States out of their control, that their Governors, their Legislatures, and their leaders must go out of office, that men who hold views contrary to their own must take the control of those States if they are reorganized, in view of the fact that these men are counseling non-action, taking no part in the contest or opposing what we do, this Congress of the United States proposes to give these rebels the advantage of counting everybody who will stay at home.

Mr. President, I say the proposition is the most extraordinary proposition that ever emanated from a body of practical or sensible men. It is a proposition to enable the rebel leaders to take advantage of all the persons who are hostile to these terms and all the persons who cannot go to the polls to vote. We know that in a great presidential election, in a great political struggle, not more than four fifths of all the votes are cast. Take the elections of 1860 and 1864, and not more than four fifths of the votes were cast. Georgia has been referred to by the Senator from Illinois. Georgia has from two hundred to two hundred and twenty-five thousand voters; say two hundred thousand. One fifth of that number, forty thousand will not, under any spur and circumstances, go to the ballot-box. That leaves one hundred and sixty thousand who will vote. Now, we require that the vote shall be over one hundred thousand in order to carry the constitution when it is made; and it has got to be made. We have declared that it shall be made, and these conventions will not make any constitutions that do not comply with our terms. I say the constitution must be made in accordance with the principles we have laid down. They must, they will comply if they are made at all. If the enemies of this reconstruction policy obtain the control of a convention they may make nothing at all; but they will make no constitution and send it here or think of sending it here unless it accepts the great fundamental principles we have laid down.

Now, sir, I venture to say it will require a most extraordinary exertion to obtain a majority of the whole vote in any one of these States to carry one of these constitutions after they are made. If it was submitted to the people of my State with that requirement, the chances would not be one in a thousand to carry it. I do not believe there is a constitution in the country, unless it was adopted on the day of a general election, that ever received a majority of the votes of a State. I venture to say there is not a loyal State in the Union framing a constitutional amendment and submitting it to a vote of the people, unless it be on the day of general election, which brings out the people for the election of their public officers, where it would bring one half the voters to the polls.

As I said the other day, the State of New

York is to elect delegates on the fourth Monday of April, I understand, to a constitutional convention. Then will be the great contest as to who shall control that convention. There will be rival candidates for delegates. All the interest and passions of parties will be aroused. The interest of individuals will be aroused. New York will be canvassed all over. Men will be brought to the polls. Money will be expended to bring out the lame and the halt and the stay-at-homes. There will be a great vote, and it will determine the character of that convention. But let the convention frame a constitution, and especially if it be one generally acceptable to the people, and submit it to the people on any other day than the day of their general election, and not one fourth of the people of New York will go to the ballot-box and vote for or against it. That is our constitutional history. If you will take the history from 1789 to this time and examine the votes given for the adoption of constitutions and the votes given on constitutional amendments, you will find that the popular votes have always been very small.

I think this whole policy tends against prompt reconstruction. I am free to say that considering all the condition of the country; considering that we have triumphed in our principles; considering the liability that we have that a State may drop off here, and if it does it may be construed by these rebel leaders as the beginning of a reaction; considering the fact that the President of the United States is hostile to our policy; considering the fact, or what is said to be a fact, that the Supreme Court is hostile to it; considering the fact that Congress has dictated all the terms and conditions, and that this is complying with those terms and conditions, I say, sir, that the policy is made against our friends and not for our friends. That is my own deliberate conviction on the subject.

While there are some questions of law on which I never feel at liberty to express an opinion, yet on a question of this character I choose always to follow my own convictions, because I think I am about as well acquainted with these matters as most of the men who surround me. I have for two years consulted with loyal men in the South, with the representatives of black men, with rebels of all stripes and kinds. I have endeavored, as far as I could, to post myself up on the condition of those States, and to act upon the policy of bringing them in here at the earliest possible moment when we can do so in harmony to carry out our principles. I want them to do our work. I want them to aid in completing this great cause. Therefore, I want our friends to take these States; and if they have any capacity for organization, any capacity to use the power that is in their hands, they can control these States; they can elect the conventions; they can frame their constitutions; they can make them in harmony with us; and when they have done that, they can elect in several of these States, and I think a majority of them, men who will come here true to the country and who believe in the principles embodied in the constitutional amendment and in their own revised constitutions.

Mr. FESSENDEN. I see that this matter is to keep us here till midnight. Gentlemen are making their old speeches over again. I have not heard a new idea suggested in this discussion. I think we may as well go into executive session, and I therefore move to proceed to the consideration of executive business.

Mr. MORRILL, of Vermont. Oh, no.

Mr. FESSENDEN. We may as well. We shall not get through with this matter till midnight. We have got to hear the whole debate over again.

Mr. TRUMBULL and Mr. SHERMAN. Let us take a vote.

Mr. FESSENDEN. If we can take a vote I will withdraw my motion; but I do not want to stay here until midnight again to hear the same things over and over.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House.

Mr. JOHNSON. I do not rise to debate it. The patience of my friend from Maine I am sure will not be exhausted by the time I shall occupy. I voted for the original bill, or the amendment reported by the Committee on the Judiciary, from a sincere desire to have the States back on almost any terms. I would not be in favor of negro suffrage if I was permitted to vote upon that question alone; but I believe that the interest of the country requires that the States should be back, even requiring negro suffrage. I concur with the honorable member from Massachusetts in thinking that if this amendment is sanctioned the whole measure will be defeated. It would have been rather better, or rather much less likely to be defeated, if a majority of all the registered voters should be required in the beginning to decide whether there should be a convention or not; but we have required only a majority of a majority for that purpose. If the convention who may be elected in that way decide that the constitution shall be adopted, then the question submitted to the people is a single question of constitution or no constitution; and my word for it, upon that question not one half of the registered voters will go to the polls. The result will be that those who are in favor of negro suffrage, in which I class, as I suppose without offending, my honorable friend from Massachusetts, [Mr. SUMNER,] will be defeated in their object. They cannot have it hereafter unless they get it now. If you pass the bill in the form in which it passed this body I think it will be accepted, and the effect of that acceptance would be to secure that suffrage in all the southern States; but if you leave them to choose for themselves, either by an actual vote or by refusing to vote, whether there shall be that suffrage or not, the suffrage will not be extended to the blacks.

Mr. FESSENDEN. I do not know but that I must insist on my motion.

Mr. TRUMBULL. Nobody else wants to make a speech.

Mr. CONNESS. Let us have a vote.

Mr. WILSON. I ask for the yeas and nays on concurring in the amendment. I want to record my vote against it.

Mr. DRAKE. Mr. President—

Mr. FESSENDEN. I believe my motion is in order to go into executive session. I have not withdrawn it. I see the debate is going on precisely as I supposed it would, and we are to have the same thing over and over again. I do not want to stay here until midnight.

The motion was not agreed to.

Mr. DRAKE. I do not intend, as the Senator from Maine intimates, to make over again any speech that I have made heretofore in regard to this particular question; but I wish to say before the vote is taken that I am sincere and in earnest in voting for this bill as it passed the Senate, from a desire that these southern States shall be, at as early a day as may be consistent with the public interest, under a compliance with the law as it now stands, readmitted to their places in the Union. I do very sincerely desire that when they choose to form constitutions in accordance with the requirements of Congress they shall be allowed to come back; and I have a very profound regret that the House of Representatives should have interposed to the passage of this bill what I believe is to be a fatal obstacle probably in several of those States to the whole plan of reconstruction.

There would have been very good reasons for requiring the vote of a majority of all the registered voters at the outset, when the registration shall have been just completed; but to postpone it to the last stage, when you never can get a vote upon the mere question of adopting a constitution such as you can get upon the election of delegates to a convention, and when every man whose name stands on the register and who shall have died in the

mean time, and every man whose name is on that register and who shall have removed from the State in the mean time, is to be counted against the constitutions, as well as those who choose to stay at home—when they have put it in this shape, I think they have planted there one of the greatest obstacles to reconstruction that could be put there; and, sir, I am constrained to believe that it was intended to plant that obstacle there.

If the Senate really means to open the way for reconstruction, then the only course it has is to refuse to concur in this amendment, and to refuse to the end. I would rather refuse it now and go home and come back next fall or next winter and take the sense of the country upon this proposition than to agree to this thing now.

For these reasons, whenever the question comes up on concurring in that amendment I shall vote against concurrence, and I do hope that every Senator who really desires to see the southern States reconstructed under the principles that we have laid down will vote the same way.

Mr. SAULSBURY. There is no member of this body who always listens with more pleasure than myself to the speeches made by the honorable and distinguished chairman of the Military Committee of this body, [Mr. WILSON.] Sometimes in my own State, after he has been there to enlighten us upon political questions and how we should cast our votes, I have been asked how was it possible for men who differed so widely in political opinions and whose actions in the Senate are controlled, if not by so opposite motives, by such opposite ideas, should have such personal respect for each other, and I have said to my people, I respect an honest man wherever I find him, and I think the Senator from Massachusetts is an honest and frank man.

I find him to-day, sir, the open and avowed advocate for negro suffrage. My mind has been refreshed from some little review of his record. I find him during the last political campaign visiting the great State of New York, and at a town or a city (I do not know whether it be a town or a city) called Yonkers telling them that negro suffrage was not in controversy. If my memory serves me right, he visited the State of New Jersey, and he enunciated the same truth. He visited the State of Delaware; he made several political speeches in that State; and we were assured, according to the record of his speeches published in the newspapers, that that was not a question in the political issue. The elections were decided against the Democrats and in favor of the party of which the honorable Senator is so distinguished a member. I find now that it is claimed that that question was decided in those political campaigns. I ask the honorable Senator if negro suffrage was wrong prior to the last general election, was not an issue, how it has become right since, and how it is now right.

Mr. WILSON. I will simply say to the Senator, without taking up any time of the body, that at all times, on all occasions, from the beginning, I have been in favor of negro suffrage pure and simple, manhood suffrage, and have given everybody here and everywhere else, who cares anything about my opinions, to understand that that was my opinion. The speech to which he refers was a simple declaration that the Republican party in that State had not accepted that as an issue in the canvass; but everybody knew very well what my opinions were, and I was not backward in telling them.

Mr. SAULSBURY. Then all I have got to say in reply is, that the Republican party is, as it professes to be, a progressive party.

Mr. EDMUNDS. I take the liberty to make a suggestion touching the question under consideration, and that is this amendment. The objection to it is that the voters will not come out on the simple question of ratifying the constitution. It will be perfectly proper for the constitutional convention that frames the constitution to provide by an ordinance that the

election for State officers under the new government should take place on the same day that the constitution is submitted to the people. That is not unusual in new States. I think it highly desirable when these constitutions come here that we should have something more than the parchment. We should know into whose hands actually the government is going; we should know the men and their history who are elected by the people. It will be a pretty good sign as to the status of these new communities. Therefore the objection made by my friend from Massachusetts that nobody will come out can be entirely gotten rid of, because you can have a proper, and in my judgment a necessary election of State officers, which will induce everybody to come out, and one which I think ought to be had before we undertake to approve these constitutions and send them back we do not know to whom.

Mr. MORTON. Before the vote is taken I desire to enter my protest against this amendment made by the House. It has been said by the Senator from Massachusetts, and I agree with him entirely, that although not so intended, it is an amendment in the interest of rebels who are opposed to reconstruction. It provides that every sick man, every lazy man, every man who is too busy to go to the polls, every sullen rebel, and every friend of reconstruction who by any cause is kept from going to the polls, shall be counted as voting against the constitution. I have heard no man express the opinion that he believed, upon a naked election held for the purpose of ratifying a constitution, a majority of all the registered voters would be brought to the polls; and thus the constitution might fail, although perhaps there was an actual majority in the State in favor of ratifying it, and although four fifths of all the voters who felt inclined or felt willing or took interest enough in the matter to go to the polls should vote in favor of the ratification.

Let me ask the distinguished Senators who are in favor of this amendment what will be the effect in these rebel States if in the course of this year or the fore part of next year elections shall be held and these constitutions shall fail of ratification for want of a majority of all the registered voters? Then the whole work falls to the ground. There is no provision in either of these bills for undertaking a second convention or a second constitution, and we are in a much worse condition than we are now.

In my opinion, it is unreasonable to permit the men who stay at home from any cause to be counted against those who go to the polls. As has been said, we know from actual experience, every intelligent man knows that in every election, I do not care how much excitement there may be—take the great election of 1864, between Lincoln and McClellan—there are thousands of men who fail to go to the polls. In my own State there were thousands of the friends of Mr. Lincoln, who from various causes failed to go to the election; and so it was in the other States. We do not require this principle in the most important elections. We do not conduct any of the business of life, in corporations, in deliberative assemblies of any kind, on this principle.

Mr. POMEROY. We do in corporations.

Mr. MORTON. It is suggested that we do in corporations. So far as the construction of deliberative bodies is concerned, like this, or a House of Delegates, we may fix a certain number and require that to be a quorum; but it is a stated body where men are appointed to go and meet for an express purpose, and clothed with authority. It bears no comparison whatever to an election, to the idea of requiring a quorum in an election. In the States where they required a majority vote it has been found to be inconvenient, and I believe has now been abolished in all. In some of the States it was formerly required that a candidate should receive a majority of all the votes cast, and if he did not there was no election. It was found

to be inconvenient, that it could not be continued, and it has been changed.

Sir, the idea of permitting all the men who stay at home from indifference, hatred, sickness, sullenness, laziness, ignorance, or any cause to be counted against the constitution, seems to me to be unreasonable. It will be said that this clause has been put in for the very purpose of enabling the enemies of reconstruction to avail themselves of the absence of men from whatever cause to defeat reconstruction, and thus by defeating reconstruction continue in power these existing rebel governments that we have so bitterly denounced.

The PRESIDENT *pro tempore*. The question is on the amendment of the House of Representatives.

Mr. DRAKE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WILSON. I suggest that instead of taking the question on concurring, we insist and ask for a committee of conference.

Mr. EDMUNDS. That is not in order.

Mr. WILSON. It can be done by general consent.

Mr. EDMUNDS. I object.

Mr. DRAKE. The question now is simply on concurrence, is it not?

The PRESIDENT *pro tempore*. That is the question.

Mr. NYE. I paired off with the Senator from Indiana [Mr. HENDRICKS] on all questions pertaining to this bill where our votes would disagree. I do not know how he would vote upon this question if he were here.

Mr. JOHNSON. He would vote against the amendment.

Mr. NYE. Then I shall not vote.

The question being taken by yeas and nays resulted—yeas 21, nays 24; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Connors, Corbett, Edmunds, Fessenden, Fowler, Harlan, Henderson, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sumner, Thayer, Wade, and Yates—21.

NAYS—Messrs. Anthony, Buckalew, Cattell, Cragin, Dixon, Doolittle, Drake, Ferry, Frelinghuysen, Howe, Johnson, Morton, Norton, Ramsey, Ross, Saulsbury, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Davis, Grimes, Guthrie, Hendricks, Howard, Nye, Riddle, and Sprague—8.

So the amendment was non-concurred in.

Mr. WILSON. I move that the Senate insist on its disagreement and ask for a committee of conference.

The PRESIDENT *pro tempore*. That motion is not in order. The next amendment will be reported.

The Secretary read the third amendment of the House of Representatives, which was after the word "specified" in line five of page 5 of the Senate amendment, to strike out the words "cast at said election, [at least one half of all the registered voters voting upon the question of such ratification.]"

Mr. TRUMBULL. This is a part of the previous amendment really, and ought to be disagreed to according to the last vote.

Mr. JOHNSON. But it is in a different part of the bill. Of course everybody will vote against this who voted against the other.

Mr. TRUMBULL. It is in the same part of the bill. The word "registered" came in in the line previous, and this follows. It is all one amendment, but we are voting twice. We ought to disagree to this.

The amendment was non-concurred in.

The fourth amendment of the House was to add the following proviso to section 6 of the Senate amendment:

*Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

The amendment was concurred in.

Mr. TRUMBULL. I believe all the House amendments are now disposed of. I suppose it is not necessary to ask for a committee of

conference; our action can go back to the House, and they can then take action.

Mr. HENDERSON. Is there not an amendment with regard to the holders of office in the State of Virginia? Has that been acted upon?

The PRESIDENT *pro tempore*. There is no other amendment. All the House amendments have been disposed of.

#### JOINT COMMITTEE ON ORDINANCE.

The PRESIDENT *pro tempore* laid before the Senate the following resolution from the House of Representatives:

*Resolved*, (the Senate concurring,) That the following be added to the joint rules of the two Houses, namely:

RULE—There shall be appointed a joint committee on ordinance, to consist of three members of the Senate and three members of the House, to whom shall be referred all matters in relation to ordinance and ordinance stores and small-arms which shall come in question and be referred to them by either House; and also to inquire into the expenditures of the Ordnance Bureaus of the War and Navy Departments, and to report from time to time such measures in reference to those subjects as to the said committee may seem advisable.

On motion of Mr. WILSON, the resolution was ordered to lie on the table.

#### EXECUTIVE SESSION.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, March 18, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

Mr. HOLMAN. I move to dispense with the reading of the Journal of Friday last.

The motion was agreed to.

Mr. HOLMAN. I ask leave to introduce resolutions of the State of Indiana for reference to the Committee on Foreign Affairs.

The SPEAKER. The Chair cannot receive anything but the regular order of business.

Mr. HOLMAN. Not by unanimous consent?

The SPEAKER. The Chair cannot ask unanimous consent during the morning hour on Monday.

The regular order of business is the call of the States and Territories for bills and joint resolutions for reference only, not to be brought back by motions to reconsider.

#### INFRINGEMENT OF PATENTS, ETC.

Mr. CHANLER introduced a bill to prevent infringements and frauds upon patents, and for other purposes; which was read a first and second time, ordered to be referred to the Committee on Patents when appointed, and to be printed.

#### MEMBERS QUALIFIED.

Mr. BLAINE. I rise to a question of privilege, and ask that the members-elect from the State of New Hampshire who are now present may be qualified.

Accordingly Mr. JACOB H. ELA and Mr. AARON F. STEVENS appeared and took the oath prescribed by law.

#### NATIONAL SCHOOL OF SCIENCE.

Mr. CHANLER introduced a bill to establish a national school of science; which was read a first and second time, ordered to be referred to the Committee on Mines and Mining when appointed, and to be printed.

#### EXTINGUISHMENT OF NATIONAL DEBT.

Mr. RANDALL introduced a bill to authorize the issue of Treasury notes not bearing interest to be used in providing a sinking fund for the extinguishment of the national debt; which was read a first and second time, ordered to be referred to the Committee on Banking and Currency when appointed, and to be printed.

#### DUTY ON SCRAP IRON, ETC.

Mr. CAKE introduced a bill in relation to duties on scrap iron, &c.; which was read a first

and second time, and ordered to be referred to the Committee of Ways and Means when appointed.

#### FRENCH SPOILIATIONS.

Mr. MYERS introduced a bill to provide for the adjustment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st of July, 1801; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### CRIMINAL CODE FOR THE DISTRICT.

Mr. WELKER introduced a bill to provide a criminal code for the District of Columbia; which was read a first and second time, ordered to be referred to the Committee for the District of Columbia when appointed, and to be printed.

#### PUBLIC SCHOOLS IN THE DISTRICT.

Mr. WELKER also introduced a bill to provide a system of education for the public schools of the District of Columbia; which was read a first and second time, ordered to be referred to the Committee for the District of Columbia when appointed, and to be printed.

#### CUTTING TIMBER ON PUBLIC LANDS.

Mr. SCOFIELD introduced a bill to legalize an act of the Legislature of the State of California, and to grant the right to cut timber from the public lands within the county of Alpine, in the State of California; which was read a first and second time, and ordered to be referred to the Committee on the Public Lands when appointed.

#### ELI M. DENNISON.

Mr. ECKLEY introduced a bill for the relief Eli M. Dennison, late crier of the supreme court of the District of Columbia; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

#### EFFECT OF CERTAIN LAND PATENTS.

Mr. CLARKE, of Ohio, introduced a bill to declare the effect of certain land patents; which was read a first and second time, and ordered to be referred to the Committee on the Public Lands when appointed.

#### FEES OF CLAIM AGENTS, ETC.

Mr. SCHENCK introduced a bill to regulate the fees of claim agents and attorneys, and for other purposes; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and to be printed.

#### PAY OF OFFICERS OF THE ARMY, ETC.

Mr. SCHENCK also introduced a bill to repeal the twelfth section of an act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes;" which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and to be printed.

#### MUSTER-ROLLS FOR STATES.

Mr. SCHENCK also introduced a joint resolution directing the Secretary of War to furnish certain muster-rolls to the different States; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and to be printed.

#### OBSTRUCTION OF RAILROADS.

Mr. LAWRENCE, of Ohio, introduced a bill to define and punish certain crimes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### QUALIFICATION OF JURORS.

Mr. LAWRENCE, of Ohio, also introduced a bill in relation to the qualification of jurors in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### DEPOSIT OF TRUST FUNDS IN TREASURY.

Mr. LAWRENCE, of Ohio, also introduced a bill to authorize the deposit of trust funds in the Treasury of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### PUNISHMENT OF CERTAIN CRIMES.

Mr. LAWRENCE, of Ohio, also introduced a bill to repeal certain parts of the act approved April 30, 1790, entitled "An act for the punishment of certain crimes against the United States;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### REV. JOHN M'MAHON.

Mr. HOLMAN presented the following preamble and resolution of the Legislature of the State of Indiana; which were referred to the Committee on Foreign Affairs, and ordered to be printed, namely:

Whereas in the late raid upon Canada, in the year 1866, known as the "Penian movement," Rev. John McMahon, a quiet and estimable citizen of Anderson, Indiana, and pastor of the Catholic church at that place, was arrested by the Canadian authorities, indicted, tried, and convicted for violation of the Canada laws, and is now serving out a sentence, under such trial and conviction, for life; and whereas at the time of the arrest of said McMahon he was on his road to Montreal, Canada, on private business, and was by accident thrown among the sick and wounded engaged in said movement, and while administering to the needs of such sick and wounded, from the impulses of pure humanity, was arrested as aforesaid, intending in no way to participate in said movement: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our Senators in Congress be instructed, and our Representatives requested, to use their influence, and such other lawful means within their power, to secure the speedy release and liberation of Rev. John McMahon from such imprisonment.

*And be it further enacted,* That his Excellency the Governor be requested to transmit a copy of these resolutions to each of our Senators and Representatives in Congress.

#### CANCELLATION OF LEGAL TENDERS.

Mr. WILLIAMS, of Indiana, introduced an act to suspend so much of an act entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,'" approved April 12, 1866, as authorizes the Secretary of the Treasury to cancel \$4,000,000 of legal tenders per month; which was read a first and second time, and ordered to be referred to the Committee of Ways and Means when appointed.

#### YANKTON LAND DISTRICT, DAKOTA.

Mr. JULIAN introduced a bill for the enlargement of the Yankton land district in the Territory of Dakota; which was read a first and second time, and ordered to be referred to the Committee on the Public Lands when appointed.

#### CAPTURE OF JEFFERSON DAVIS.

Mr. UPSON introduced a bill to authorize the payment of the reward offered by the President of the United States in April, 1865, for the capture of Jefferson Davis; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

#### AQUILLA LOCKWOOD.

Mr. DRIGGS introduced a bill providing for the payment of the claim of Aquilla Lockwood, for property destroyed during the war; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

#### WISCONSIN AND LAKE SUPERIOR RAILROAD.

Mr. DRIGGS also introduced a bill granting lands to the States of Wisconsin and Michigan, to aid in the construction of the Wisconsin and Lake Superior railroad and its branch; which was read a first and second time, and ordered to be referred to the Committee on the Public Lands when appointed.

#### SOLICITOR OF COURT OF CLAIMS.

Mr. WILSON, of Iowa, introduced a bill making the office of solicitor of the Court of

Claims a bureau in the office of the Attorney General, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### IOWA AND MISSOURI STATE LINE RAILROAD.

Mr. WILSON, of Iowa, also introduced a bill granting land to the Iowa and Missouri State Line Railroad Company, and for other purposes; which was read a first and second time, ordered to be referred to the Committee on the Public Lands when appointed, and to be printed.

#### WILLIAM M'GARRAHAN.

Mr. WILSON, of Iowa, also introduced a bill for the relief of William McGarrah; which was read a first and second time, and referred to the Committee on the Judiciary.

#### GOVERNMENT OF THE ARMY.

Mr. DODGE introduced a bill to amend the act of April 10, 1806, to establish rules and articles for the government of the armies of the United States; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and to be printed.

#### GOODS FURNISHED BY SUTLERS.

Mr. DODGE also introduced a joint resolution in regard to goods furnished by sutlers to officers, soldiers, &c.; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs when appointed.

#### RAILROAD TO THE PACIFIC.

Mr. DONNELLY introduced a bill to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read a first and second time, ordered to be referred to the Committee on the Pacific Railroad when appointed, and to be printed.

#### NAVIGATION OF ZUMBRO RIVER, MINNESOTA.

Mr. DONNELLY introduced a bill to grant certain lands to the State of Minnesota, to aid in the improvement of the navigation of the Zumbro river, in said State; which was read a first and second time, and ordered to be referred to the Committee on the Public Lands when appointed.

#### EQUALIZATION OF BOUNTIES.

Mr. WINDOM presented joint resolutions of the Legislature of the State of Minnesota, relative to the law equalizing bounties to volunteers; which was ordered to be referred to the Committee on Military Affairs when appointed.

#### UNION PACIFIC RAILROAD, SOUTHERN BRANCH.

Mr. CLARKE, of Kansas, introduced a bill to secure the speedy construction of the Union Pacific railroad (southern branch) and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, and ordered to be referred to the Committee on the Pacific Railroad when appointed.

Mr. CLARKE, of Kansas, also introduced a bill to amend an act entitled "An act granting lands to the State of Kansas to aid in the construction of the southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas," approved July 26, 1866; which was read a first and second time, ordered to be referred to the Committee on the Public Lands when appointed, and to be printed.

#### NATIONAL BANKING LAW.

Mr. HOOPER, of Massachusetts, introduced a bill to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof, and for



other purposes;" which was read a first and second time, ordered to be referred to the Committee on Banking and Currency when appointed, and to be printed.

#### CALL OF STATES FOR RESOLUTIONS.

The SPEAKER stated that the remainder of the morning hour would be consumed in calling States for resolutions, commencing with the State of Ohio, where the call was suspended.

Mr. SCHENCK submitted the following resolution, and demanded the previous question on its adoption:

*Resolved, (the Senate concurring,) That the following be added to the joint rules of the two Houses, namely:*

**RULE**—There shall be appointed a joint committee on ordinance, to consist of three members of the Senate and three members of the House, to whom shall be referred all matters in relation to ordinance and ordinance stores and small-arms which shall come in question and be referred to them by either House; and also to inquire into the expenditures of the ordinance bureaus of the War and Navy Departments, and to report from time to time such measures in reference to those subjects as to the said committee may seem advisable.

Mr. CHANLER. Is that in order?

The SPEAKER. It is.

Mr. CHANLER. Is it divisible?

The SPEAKER. It is not divisible. In order to make a resolution divisible each part must be able to stand by itself if the other part should be rejected. If the first part of the resolution were rejected the other part would be a nullity.

Mr. CHANLER. Is an amendment in order?

The SPEAKER. Not during the call for the previous question.

Mr. BURR. Does the resolution contemplate the immediate appointment of the committee?

The SPEAKER. It does if the Senate concur.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BARQUE JANE C. WOODRUFF.

Mr. ASHLEY, of Ohio. I submit the following joint resolution, and call for the previous question:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to issue a certificate of registry or enrollment and license to the barque Jane C. Woodruff, now owned by Denison Steele, of Toledo, Ohio, and George Berriman, of Erie, Pennsylvania, citizens of the United States: Provided, That there shall be paid on the materials used in the construction of said vessel of foreign manufacture a tax equal to the internal revenue tax.*

Mr. HUMPHREY. I hope the gentleman will let me move the following as a substitute:

*Resolved, &c., That the Secretary of the Treasury be, and he is hereby, authorized to issue certificates of registry or enrollment and license to the vessel Jane C. Woodruff and the schooner Alpha, of Hamilton: Provided, That there shall be paid on each of said vessels a tax equal to the internal revenue tax upon materials and construction of similar vessels of American build.*

Mr. ASHLEY, of Ohio. As the gentleman was a member of the Committee on Commerce, I accept the amendment.

Mr. FARNSWORTH. A great number of petitions were presented during the last Congress in reference to this subject.

Mr. HOLMAN. Is debate in order?

The SPEAKER. It is not.

Mr. FARNSWORTH. If we pass any bill it should be a general one. I hope the previous question will not be seconded.

Mr. ASHLEY, of Ohio. It is a copy of a resolution passed at the last session.

Mr. HOLMAN moved that the joint resolution be laid on the table.

The House divided; and there were—ayes 54, noes 30.

Mr. HOLMAN. I do not object to its refer-

ence to the Committee on Commerce when appointed.

So the resolution was laid on the table.

#### WEST POINT MILITARY ACADEMY.

Mr. BINGHAM submitted the following resolution, on which he demanded the previous question:

*Resolved, That the members of the Military Committee of the Thirty-Ninth Congress who are re-elected to the Fortieth Congress are hereby authorized and directed to prosecute, during the recess, the investigation into the management and general administration of the West Point Military Academy, which was ordered at the late session, and which was not undertaken for want of time; that they be empowered to send for persons and papers, and to employ a clerk at the rate of compensation paid to the clerk of the Military Committee.*

The House divided; and there were—ayes 20, noes 38; no quorum voting.

The Chair ordered tellers; and appointed Messrs. BINGHAM and UPSON.

The House divided; and the tellers reported—ayes ten, noes not counted.

So the question was not seconded.

Mr. CHANLER. I rise to debate the resolution.

The SPEAKER. Debate arising, the resolution goes over.

#### BOOKS AND PUBLIC DOCUMENTS.

Mr. ECKLEY. I offer the following resolution, and demand the previous question thereon:

*Resolved, That all books and public documents, except the Congressional Globe, of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto under the resolution of the last House of Representatives, shall now be delivered by the officers having possession of the same to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled, according to the rate of distribution established.*

Mr. LAFLIN. Will the gentleman withdraw the demand for the previous question?

Mr. ECKLEY. I do not.

Mr. UPSON. I move to lay the resolution on the table.

On laying the resolution on the table there were—ayes 33, noes 60.

Mr. KELLEY. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. KELLEY and ECKLEY.

Mr. PAINE. I ask unanimous consent to have read a letter on this subject by Hon. Mr. Hart, a late member of the House.

Mr. JUDD. I object.

Mr. EGGLESTON. I rise to a question of privilege in connection with this subject. One week ago to-day a resolution of precisely the same kind was before the House, being introduced by my colleague, [Mr. ECKLEY.] The reporter of the Associated Press, by mistake, gave me the credit for introducing it. I desire to say that I was absent in New York on that day and the credit should have been given to my colleague. I am opposed to the resolution.

The SPEAKER. That is not a question of privilege.

The House divided; and the tellers reported—ayes 33, noes 62.

Mr. UPSON. I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 69, not voting 48; as follows:

**YEAS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Beaman, Benjamin, Bingham, Boutwell, Broomall, Reader W. Clarke, Eggleston, Ela, Ferriss, Garfield, Hooper, Chester D. Hubbard, Hulburt, Julian, Kelley, Ketcham, Laflin, William Lawrence, Loan, Mercier, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Plants, Pomeroy, Schenck, Scofield, Taber, Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, Windom, and Woodbridge—46.

**NAYS**—Messrs. Ames, Baker, Banks, Blair, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Chanler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Hamilton, Hayes, Holman, Hopkins, Asahel W. Hubbard, Hunter, Judd, Kerr, Kitchen, Logan, Loughridge, Mallory, McCullough, Miller, Moore, Morgan, Morrissey, Munger, Perham, Peters, Pike, Polsley, Prayn, Randall, Robertson, Robinson, Sawyer, Shanks, Shella-

barger, Sitgreaves, Smith, Stewart, Taffe, Taylor, Twitchell, Van Auker, Van Trump, Van Wyck, Cadwalader C. Washburn, Thomas Williams, William Williams, James F. Wilson, and Wood—69.

**NOT VOTING**—Messrs. Archer, Baldwin, Barnes, Blaine, Cake, Churchill, Cornell, Dawes, Denison, Eliot, Ferry, Fields, Finney, Gravelly, Griswold, Haight, Halsey, Harding, Hill, Humphrey, Ingersoll, Kelsey, Koontz, George V. Lawrence, Lincoln, Lynch, Marshall, Marvin, McCarthy, McClurg, Moorhead, Morrell, Noell, Phelps, Pike, Poland, Price, Raum, Ross, Selye, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Trowbridge, William B. Washburn, John T. Wilson, and Stephen F. Wilson—43.

So the resolution was not laid on the table.

The question recurred on seconding the previous question.

Mr. BROOMALL. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. BROOMALL and BUCKLAND.

The House divided; and the tellers reported—ayes 59, noes 29.

So the previous question was seconded. The main question was then ordered.

Mr. UPSON. I demand the yeas and nays on agreeing to the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 43, not voting 53; as follows:

**YEAS**—Messrs. Ames, Baker, Banks, Blair, Blair, Boyer, Brooks, Buckland, Burr, Butler, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dodge, Eckley, Eldridge, Fox, Getz, Glossbrenner, Gravelly, Hamilton, Hayes, Holman, Hopkins, Asahel W. Hubbard, Humphrey, Hunter, Judd, Kerr, Kitchen, Logan, Loughridge, Mallory, McCullough, Moore, Morgan, Morrissey, Perham, Peters, Pike, Poland, Polsley, Prayn, Randall, Robertson, Robinson, Sawyer, Shanks, Shella-barger, Sitgreaves, Stewart, Taffe, Taylor, Twitchell, Van Auker, Van Trump, Van Wyck, Cadwalader C. Washburn, Thomas Williams, William Williams, James F. Wilson, and Wood—67.

**NAYS**—Messrs. Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Benjamin, Bingham, Boutwell, Broomall, Donnelly, Eggleston, Garfield, Chester D. Hubbard, Hulburt, Julian, Kelley, Ketcham, Koontz, Laflin, William Lawrence, Loan, Mercier, Miller, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Plants, Pomeroy, Scofield, Taber, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, John T. Wilson, Windom, and Woodbridge—43.

**NOT VOTING**—Messrs. Allison, Anderson, Archer, Barnes, Bromwell, Cake, Churchill, Cornell, Dawes, Denison, Driggs, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Griswold, Haight, Halsey, Harding, Hill, Hooper, Ingersoll, Kelsey, George V. Lawrence, Lincoln, Lynch, Marshall, Marvin, McCarthy, McClurg, Moorhead, Morrell, Munger, Noell, Phelps, Pike, Price, Raum, Ross, Schenck, Selye, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Thomas, Trowbridge, William B. Washburn, and Stephen F. Wilson—53.

So the resolution was adopted.

Mr. ECKLEY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a concurrent resolution in regard to the duty of the joint Committee on Retrenchment.

The message further informed the House that the Senate had passed bill of the House No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, with an amendment, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed joint resolution of the House No. 10, in relation to certain coin and bullion on deposit in the Treasury, with an amendment, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed a joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of March 2, 1867, relating to property lost in the military service, and an act (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska; and in both of which he was directed to ask the concurrence of the House.

## FENIAN INVASION OF CANADA.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House such information as he may have of the results of the late trials of citizens of the United States under the charge of complicity in the so-called Fenian invasion of that Province.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WOOD. I desire to ask the chairman of the Committee on Foreign Affairs whether his committee designs to make any report in regard to the resolution referred to that committee expressive of sympathy with the Irish republic and the pending rebellion in Ireland?

Mr. BANKS. I will answer that question when another resolution which I hold in my hand is disposed of.

## WITHDRAWAL OF FRENCH TROOPS.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to this House, if not incompatible with the public interest, the latest official information which may have been received in regard to the withdrawal of French troops from the Mexican republic.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WOOD. Will the gentleman from Massachusetts [Mr. BANKS] now answer the question which I asked a few minutes ago?

Mr. BANKS. The Committee on Foreign Affairs have had under consideration the matter referred to them, but I am not authorized to make a final report now. Other meetings will be held, and before an adjournment takes place I shall have an opportunity to make a statement on this question.

## ORDER OF BUSINESS.

Mr. HOLMAN. I call for the regular order of business.

The SPEAKER. The first business in order is the motion of the gentleman from Minnesota, [Mr. DONNELLY,] made on Monday last, to suspend the rules in order to enable him to submit a resolution in relation to the Fenian movements in Ireland.

Mr. WILSON, of Iowa. I move that the House now proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

## LIQUOR IN THE CAPITOL.

The first business on the Speaker's table was a concurrent resolution of the Senate, to amend the nineteenth joint resolution of the two Houses to prevent the sale or use of liquors in the Capitol building or grounds adjacent thereto.

The resolution was read, as follows:

*Resolved by the Senate*, (the House of Representatives concurring,) That the nineteenth joint rule of the two Houses be amended so as to read as follows, namely:

No spirituous or malt liquors, or wines, shall be offered for sale, exhibited, or kept within the Capitol, or in any room or building connected therewith, or on the public grounds adjacent thereto. And it shall be the duty of the Sergeants-at-Arms of the two Houses, under the supervision of the Presiding Officers thereof, respectively, to enforce the foregoing provisions. And any officer or employé of either House who shall in any manner violate, or connive at the violation of this rule, shall be dismissed from office.

The question was upon concurring in the resolution.

Mr. BLAINE. Before the vote is taken upon concurring in this resolution I deem it proper to state that for four years past, during the time I have had the honor of a seat in this House and you, Mr. Speaker, have had the honor of presiding over this House, there has

been no liquor sold in this end of the Capitol. I am perfectly willing to help the Senate expel liquor from their end of the Capitol building; but we do not need the reform over here. The resolution was concurred in.

## ISSUES BY TREASURY DEPARTMENT.

The next business on the Speaker's table was a concurrent resolution of the Senate relative to the duties of the joint Committee on Retrenchment.

The concurrent resolution was then read, as follows:

*Resolved by the Senate*, (the House of Representatives concurring,) That the joint Committee on Retrenchment be, and are hereby, instructed to make a careful and minute examination of the method adopted by the Treasury Department to print the bonds, notes, and securities of the United States, what guards have been adopted to prevent fraud or mistake, and what additional guards, if any, ought to be adopted to prevent fraud or mistake; whether there has been any fraudulent or erroneous issue of bonds, notes, or coupons, and if so, by whose fault or negligence, and the proper remedy and prevention thereof; and especially to examine into the official conduct of those charged with the printing, registration, and issuing of any notes, bonds, or securities of the United States; and that said committee have power to sit during the recess of Congress, to send for persons and papers, to examine the same, and to take testimony, and report at the next session of Congress.

Mr. COVODE obtained the floor.

Mr. WILSON, of Iowa. Inasmuch as this resolution will probably give rise to discussion, I would ask the gentleman from Pennsylvania [Mr. COVODE] to allow me to move to lay aside this concurrent resolution for the present.

Mr. COVODE. I would prefer to have the resolution disposed of at this time, inasmuch as a few days ago I made a motion to have a select committee appointed to investigate certain charges made on this floor and elsewhere with regard to malfeasance in the Treasury Department.

This resolution of the Senate comes before us in such a shape as to postpone the settlement of this question until after the meeting of the next session of Congress. Now, if it be true that fraudulent or irregular issues of fractional currency, or bonds, or other issues of the Government have been made from the Treasury, or that Government bonds or coupons have been duplicated, (and it is admitted that duplicate coupons have come in and been redeemed,) the sooner this question is looked into and that bureau of the Department shut up the better. The postponement of this investigation until the next session of Congress will give the individual who is charged with this practice an opportunity of going on issuing as many spurious or duplicate bonds as he may see fit. The people of this country want to know whether the bonds they may have in their possession are genuine or not. It has been admitted that coupons of duplicate bonds have been presented and redeemed.

Mr. LAWRENCE, of Ohio. I would ask the gentleman from Pennsylvania [Mr. COVODE] what authority he has for saying that it is conceded that spurious or duplicate bonds have been issued? It was stated in the debate in the Senate a day or two ago that the allegation that fraudulent bonds have been issued was a mistake.

Mr. COVODE. A gentleman from New York, a member of the Committee of Ways and Means, who gave attention to this matter, stated in his seat on one of the last evenings of the last session that there had been duplicate bonds issued, and also an overissue of fractional currency, if I understood him aright. Now, Mr. Speaker, this statement has gone abroad, and it is time that the public mind should be set at rest on this question.

Mr. CHANLER. Will the gentleman state for the information of the House the amount in money of those bonds and that spurious currency?

Mr. COVODE. From Mr. Colby's letter I understand that there have been such coupons to the amount of \$16,000 taken up, and his statement does not come down to the present date, but only to the 1st of November last. We have no evidence with regard to what

number of spurious duplicates have been redeemed since November 1, 1866.

Mr. ALLISON. I wish to ask the gentleman from Pennsylvania whether he is not aware that the interest account at the Treasury balances to day? If there had been a spurious issue of bonds it would be detected in balancing the accounts at the Treasury.

Mr. COVODE. I am not aware of that. I am advised this morning from the highest source that the investigation with regard to this question has not been gone through with, and the report has not been made.

Mr. GARFIELD. I desire to ask the gentleman whether he means to declare here that it has been acknowledged or discovered that any spurious bonds at all have been issued? Are the alleged irregularities anything more than a mere duplication of numbers? Does the gentleman say that there is any evidence that there has been an issue of spurious bonds to the amount of \$16,000?

Mr. COVODE. I have already said that the gentleman from New York stated that there had been—

Mr. GARFIELD. An issue of spurious bonds?

Mr. COVODE. Duplicate bonds.

Mr. GARFIELD. Ah, that is quite a different thing.

Mr. HOOPER, of Massachusetts. I think that the gentleman from Pennsylvania rather overstates the remark to which he refers as having been made by the gentleman from New York. I think that gentleman spoke only of some irregularities with regard to the records; but since this question has come up, within the last few days I have taken particular pains to look into this matter at the Treasury Department; and the Register, Mr. Colby, stated to me that up to this time the whole amount of counterfeit or altered coupons, or coupons in which any irregularity has been detected, is but \$16,000. He showed me a detailed statement, by which it appeared that seven eighths of those coupons were not printed at the Treasury Department, but were printed by the Bank Note Company.

Mr. SCOTFIELD. With the consent of my colleague, [Mr. COVODE,] I would like to ask the gentleman from Massachusetts a question. Do I understand the gentleman to say that there are \$16,000 of coupons or \$16,000 of bonds?

Mr. HOOPER, of Massachusetts. Sixteen thousand dollars of coupons. All the coupons in regard to which there was any irregularity amounted to \$16,000.

Mr. SCOTFIELD. That would make the amount of the bonds to which the coupons belonged something over half a million dollars.

Mr. HOOPER, of Massachusetts. A great many of them were coupons of bonds undoubtedly regular, in regard to which it could be traced where they had been altered. The supposition is that parties may have stolen these coupons, and then changed the numbers in order to prevent their being traced through advertisements or by detectives having knowledge of the numbers stolen.

Mr. SCOTFIELD. I was not interrupting to throw any suspicion upon the Treasury. In making the inquiry my object was to ascertain the amount supposed to be irregular. If there are \$16,000 of irregular coupons, then we would have something over half a million of bonds in all.

Mr. HOOPER, of Massachusetts. But these were not, as I will state, irregularities of bonds. There was no evidence of any such irregularity. In many cases it was in numbering the coupons. These coupons are numbered by a machine, and in several instances it was evidently an error. For instance, there would be two of 941, none of 942, and the next number would be 943. There was no evidence of overissue or fraudulent issue of bonds by the Department.

Mr. COVODE. If the member from Massachusetts is right in his suggestion, it would be better for all of the parties connected with the Treasury to have it made a matter of rec-

ord. We should have the testimony regularly taken and spread before the country, so that the public mind may be put at rest. I will say, what every gentleman knows, that it is not at rest to-day on these questions.

Mr. O'NEILL. I am one who should like to see the public mind at rest, but my impression is this is not the way to accomplish it. This constant agitation of the same matter is rather calculated to produce unrest. Now, I ask my colleague whether in the circle of his acquaintance he has ever known of any man, woman, or child who held invalid bonds?

Mr. COVODE. There is no telling who has a genuine bond or who has a spurious one, or rather who has a duplicate bond. There is no question or doubt but they were made upon the same plate; and of the gentleman who is in charge of this Department every gentleman in this House has been suspicious, probably for years, of his character. I have had these suspicions myself for twelve years. It is and has been a matter of astonishment that he should be retained in a position the most important, perhaps, connected with the revenues of the country.

Mr. O'NEILL. One word more. I wish to say generally, in the first place, that for one I am opposed to any further skirmishing with the finances of the country; and next, in reply to my colleague, I will venture the statement that in the community from which I come, which has been one of the heaviest purchasers of United States bonds and securities, there is not a man, woman, or child who has received a fraudulently issued bond, or who has lost by any counterfeit bond. If there has been any such case I have not heard of it.

I learn to-day from the gentleman from Massachusetts, [Mr. HOOPER,] as I learned the other day from the public prints, that the total amount of irregularities is \$16,000, and these irregularities chiefly arise from errors in printing. I hope the gentleman's resolution will not prevail.

Mr. COVODE. I will not yield again until I have concluded what little I have risen to say.

Now, sir, if there be no person hit by this proposed investigation then why all this fluttering? If I were at the head of this Department I would hasten the investigation and as soon as possible quiet the public mind. I should be unwilling to let the matter go over the summer till next December, so as to leave power still in the hands of corrupt men, if any there be, to issue false and fraudulent currency and securities. I do not understand these parties object to the investigation; why then do gentlemen rise up here and make objection? The head of the Department does not object to it. I deem it to be a duty that this investigation should proceed. I move, if in order, my resolution for the resolution of the Senate.

The SPEAKER. It is not in order to move a House resolution for a Senate concurrent resolution.

Mr. COVODE. I gave notice on last Thursday I would introduce my resolution.

Mr. BINGHAM. I demand the previous question on the Senate resolution.

Mr. CHANLER. What does the gentleman from Pennsylvania propose to do if he finds the fraud as extensive as he says?

Mr. COVODE. If the frauds are as extensive as I have been induced to believe they are, I would lock up that Department and stop making spurious money within three days.

Mr. BINGHAM. I insist upon the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. COVODE. I call for the yeas and nays on concurring in the resolution.

The yeas and nays were not ordered.

The concurrent resolution was then agreed to. Mr. BINGHAM moved to reconsider the vote by which the concurrent resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GOVERNMENT OF THE REBEL STATES.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

The amendment of the Senate was reported, as follows:

Strike out all after the enacting clause and insert: That before the 1st day of September, 1867, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, \_\_\_\_\_, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of \_\_\_\_\_; that I have resided in said State for \_\_\_\_\_ months next preceding this day, and now reside in the county of \_\_\_\_\_, or the parish of \_\_\_\_\_, in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God;" which oath or affirmation may be administered by any registering officer.

Sec. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union; said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such State in the year 1860, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said State in the year 1860, to be apportioned as aforesaid.

Sec. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates as aforesaid the words, "For a convention," and those voting against such a convention shall have written or printed on such ballots the words, "Against a convention." The persons appointed to superintend said election and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

Sec. 4. *And be it further enacted*, That the commanding general of each district shall appoint such loyal officers or persons as may be necessary, not exceeding three in each election district in any State, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said con-

vention; and the returns thereof shall be made to the commanding general of the district.

Sec. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

Sec. 6. *And be it further enacted*, That all elections in the States mentioned in the said act to provide for the more efficient government of the rebel States, shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe an oath faithfully to perform the duties of their said office, and the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office."

Sec. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Sec. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

Sec. 9. *And be it further enacted*, That the word article in the sixth section of the act to which this is supplementary shall be construed to mean section.

Mr. WILSON, of Iowa. It is my purpose to move to concur in the Senate amendment with certain amendments which I am directed to offer by the Committee on the Judiciary. The first amendment is in section one, line twenty-two, after the word "States" to insert the following as a part of the oath prescribed:

That I have never been a member of any State Legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof.

I will state the purpose of this amendment. It has been ascertained since the passage of this bill that certain executive and legislative officers in at least one of the rebel States have not been required to take the oath prescribed by the constitutional amendment to support the Constitution of the United States, as for instance in the State of Virginia, where the executive and judicial oath has been for years omitted. Therefore it is feared that while those persons were intended to be included within the provisions of the third section of the constitutional amendment submitted to the States by the Thirty-Ninth Congress, they would not in fact be so included. That section provides that—

"No person shall be a Senator or Representative in Congress or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies thereof."

Now, although all persons were intended to be included in that section who have held executive, judicial, or legislative offices in any State and afterward went into the rebellion, yet those who did not take the oath to support the Constitution of the United States would not, by the terms of this bill, be brought within the exclusion of the third section of the constitutional amendment. The provision of the bill, therefore, ought to be extended in its operation, so that those parties shall not be permitted to take advantage of their own wrong.

Mr. SPALDING. I would like to inquire if the gentleman is not assuming what does not belong to the qualification which is contained in the constitutional amendment when he says it was intended to include every legis-

lative officer of those States. It occurs to me that our object was to exclude men who had once taken the oath to support the Constitution of the United States and then fought against that Constitution.

Mr. WILSON, of Iowa. That is my statement.

Mr. SPALDING. Now, you propose to take in any man who did not take the oath, but who, peradventure, ought to have taken it.

Mr. WILSON, of Iowa. And who afterwards engaged in rebellion.

Mr. SPALDING. Exactly; will that not include every official in those States?

Mr. WILSON, of Iowa. It is confined to the same class of officers, executive and judicial.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me a word?

Mr. WILSON, of Iowa. Certainly.

Mr. STEVENS, of Pennsylvania. The State of Virginia in 1849, in anticipation of the rebellion, repealed all laws requiring the oath of allegiance to the Government of the United States of America, and from that time forth no such oath has been administered in the State; and I take it that this is to supply that deficiency.

Mr. WILSON, of Iowa. It is.

Mr. STEVENS, of Pennsylvania. Of course, and very properly.

Mr. BLAINE. Will the gentleman allow me to ask him a question?

Mr. WILSON, of Iowa. Yes, if it be in relation to this amendment.

Mr. BLAINE. It is in relation to the bill.

Mr. WILSON, of Iowa. If it is not in relation to the amendment I cannot yield. I ask the previous question on the amendment to the amendment of the Senate.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. WILSON, of Iowa, resumed the floor.

Mr. GARFIELD. I desire to inquire of the Chair whether, when these amendments proposed by the Committee on the Judiciary are disposed of, it will be in order to propose amendments to a preceding part of the bill?

The SPEAKER. When the amendments offered by the committee are disposed of it will then be in order to offer amendments to any part of the bill.

Mr. SPALDING. Will it be in order to move to concur in the amendments of the Senate.

The SPEAKER. The question will then recur on concurring in the Senate amendment as amended.

Mr. WILSON, of Iowa. The second amendment which I am directed by the Committee on the Judiciary to offer is upon page 10, in section five, lines three, four, and five, to strike out the words "cast at said election, [at least one-half of all the registered voters voting upon the question of such ratification;]" so that it will read:

SEC. 5. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the electors qualified as herein specified, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling, &c.

Mr. SPALDING. I desire to know if a motion to concur in the Senate amendment is not a privileged question?

The SPEAKER. It is; but a motion to amend has priority.

Mr. SPALDING. I wish at the proper time to make a motion to concur in the Senate amendment.

The SPEAKER. The Clerk will read the rule on the subject on page 14 of the Digest.

The Clerk read as follows:

"A motion to amend an amendment from either House takes precedence of a motion to agree or disagree."

Mr. SPALDING. Then it will be in order for me to make that motion after the amend-

ments are acted on; otherwise I would have no opportunity at all.

The SPEAKER. The gentleman from Ohio can arrive at his object by inducing the House to vote down these amendments, and then the question will recur on agreeing to the amendments of the Senate.

Mr. SPALDING. I had been led to believe that the first question in order would be on concurring in the Senate amendment.

The SPEAKER. It would be, but if any gentleman moves to amend the Senate amendment that motion has precedence.

Mr. WILSON, of Iowa. The object of this amendment is to restore this provision of the bill to the same condition in which it went to the Senate.

Mr. SHELLABARGER. I wish to suggest to the gentleman from Iowa [Mr. WILSON] that he insert the word "registered" before the word "electors" in the third line, so that it shall provide that "the constitution shall be ratified by a majority of the votes of the registered electors qualified," &c.

Mr. WILSON, of Iowa. I have no objection to that amendment.

Mr. CHANLER. I would ask the gentleman from Iowa if the effect of that amendment would not be to make the registration of the voters the test of the will of the people rather than their ballots?

Mr. WILSON, of Iowa. My construction of the term "qualified electors" is that it includes the registered electors, those who are qualified to vote.

Mr. CHANLER. That is not the point I make. If I understand the amendment of the gentleman from Ohio, [Mr. SHELLABARGER,] its effect is to make the majority of the registered voters the test of the will of the people.

Mr. SHELLABARGER. I will state that my interpretation of the word qualified refers not to the matter of registration but to the right to be registered, and it has been so decided in contested-election cases here. A man is a qualified voter who has the right to be registered; and there was a decision made by the Thirty-Ninth Congress that a man who was not registered, but who was entitled to be registered, was a voter. I therefore state to my friend from Iowa [Mr. WILSON] that unless he will accept the amendment I have suggested, I will, if I have the opportunity, move to insert the word "registered" before the word "voters."

Mr. WILSON, of Iowa. I have no objection to the amendment of the gentleman from Ohio, [Mr. SHELLABARGER,] although I do not think it will change the effect of the section. I will modify my amendment in that respect; and I now call the previous question on the amendment as modified.

The previous question was seconded and the main question ordered.

Mr. MARSHALL. As this is an important amendment I ask for the yeas and nays on its adoption.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 29, not voting 36; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eekley, Eggleston, Ela, Farnsworth, Ferriss, Fields, Garfield, Gravely, Hamilton, Hayes, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Marvin, McClurg, Mercer, Miller, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Pomeroy, Robertson, Sawyer, Schenck, Seofield, Selye, Shanks, Shellabarger, Smith, Spalding, Aaron P. Stevens, Thaddeus Stevens, Taylor, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Windom, and Woodbridge—98.

NAYS—Messrs. Blair, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Holman, Humphrey, Kerr, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Pruyn, Randall, Robinson, Sitgreaves, Stewart, Taber, Van Auken, Van Trump, and Wood—3.

NOT VOTING—Messrs. Archer, Barnes, Brom-

well, Sidney Clarke, Dawes, Denison, Elliot, Ferry, Finney, Griswold, Haight, Halsey, Harding, Hill, Hooper, Asahel W. Hubbard, Laffin, George V. Lawrence, Lynch, McCarthy, Moorhead, Morrill, Phelps, Pike, Pile, Poland, Price, Raum, Ross, Stone, Taffe, Thomas, Trowbridge, William B. Washburn, John T. Wilson, and Stephen F. Wilson—36.

So the amendment was agreed to.

Mr. WILSON, of Iowa. I notice that in the first section of the amendment of the Senate, the act of the 2d of March, 1867, is described as "An act approved March 2." As it was not approved, but passed over the veto of the President, it should read "act passed," &c.

The SPEAKER. The word "approved" is an error of the printer; the engrossed bill contains the word "passed" and not "approved."

Mr. WILSON, of Iowa. I move to amend the sixth section of the amendment of the Senate by adding thereto the following:

*Provided, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.*

The amendment was agreed to.

Mr. WILSON, of Iowa. I now move that the House concur in the amendment of the Senate as amended; and on that I call the previous question.

Mr. DONNELLY. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. I must decline to yield; I ask the sense of the House on the question.

The previous question was seconded upon a division—yeas 83, nays 11.

The main question was then ordered; and under the operation thereof the amendment of the Senate, as amended, was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CAPTURED COIN AND BULLION.

The next business upon the Speaker's table was the amendment of the Senate to joint resolution of the House No. 10, in relation to certain coin and bullion on special deposit in the Treasury.

The amendment of the Senate was to insert after the word "States" in line four the words "after said bullion is converted by direction of the Treasurer into coin."

Mr. VAN WYCK. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. VAN WYCK moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN H. ELLIS.

The next business on the Speaker's table was Senate bill No. 25, for the relief of John H. Ellis, a paymaster in the United States Army; which was read a first and second time.

Mr. LOAN. I ask that this bill be put upon its passage at this time.

The question was upon ordering the bill to be read a third time.

The bill was read at length. It provides for the allowance to John H. Ellis, in the settlement of his accounts as paymaster, of \$3,673 91, being the amount lost in consequence of the larceny of \$19,093 91 of the public moneys from his custody at Fort Leavenworth, Kansas, on the night of January 1, 1866, if the Paymaster General shall deem him justly entitled to this credit, and shall certify his approval of it.

Mr. WARD. I wish to ask the gentleman whether this claim was not submitted to the Committee of Claims of this House during the last Congress, and considered by that committee?

Mr. LOAN. It was not. It was considered by the Senate committee during the Thirty-Ninth as well as the present Congress, and



has been favorably reported upon several times unanimously.

Mr. WARD. Has it been considered by any committee of this House during this or any former Congress?

Mr. LOAN. No, sir; it is a Senate bill.

Mr. WARD. Well, I suggest to the gentleman that he allow the bill to be referred to the Committee of Claims when appointed.

Mr. LOAN. When the House shall have heard the statement I propose to make I think members will be satisfied that the bill should be passed now.

This bill was referred to the appropriate Senate committee of the Thirty-Ninth Congress, and was reported upon favorably by the unanimous vote of the committee. During the closing hours of the session it happened not to be called up in the Senate. At the present session the bill has been again referred to the Committee on Claims of that body. It has again received the unanimous sanction of that committee, and has been passed by the Senate without a division. The evidence in this case is record evidence; and it shows this to be a very meritorious and just claim. The accounts of this officer cannot be settled without the passage of a bill of this kind. I ask the Clerk to read the report of the Senate committee, which I think will exhibit the case satisfactorily to every member.

Mr. SPALDING. I desire to ask the gentleman from Missouri why he is not willing that this bill shall take the usual course and be referred to a committee. Certainly the accounts need not be closed up before the next session of Congress.

Mr. LOAN. This case has undergone full examination during the Thirty-Ninth Congress. The statement of the accounting officers, which is embraced in the report, shows, I think, the entire justice of the claim. When the report shall have been read I think the gentleman will be fully satisfied. I call for the reading of the report.

The Clerk read as follows:

The Committee on Claims, to whom was referred a bill for the relief of John H. Ellis, a paymaster in the United States Army, have had the same under consideration, and beg leave to report:

That while the said Ellis was engaged in the discharge of his duties as paymaster as aforesaid at Fort Leavenworth, in the State of Kansas, there were stolen from him funds belonging to the United States, amounting to the sum of \$18,635 91, on the night of the 1st of January, 1866.

On the application of the said Ellis, a board of officers, consisting of Colonel J. V. D. Reeve, thirteenth United States infantry; Brevet Lieutenant Colonel G. W. Yates, of the thirteenth Missouri cavalry; and Lieutenant R. A. Torrey, thirteenth United States infantry, were detailed by Brevet Major General Elliott to examine and report upon the robbery aforesaid. The facts connected with said robbery are set forth in their report, as follows:

"The board find that a safe containing Government funds to the amount of some nineteen thousand dollars, as stated by Major Ellis, additional paymaster United States Army, was stolen from the office of Major Ellis within the limits of the post of Fort Leavenworth, Kansas, some time during the night of the 1st instant, (January, 1866.) The circumstances were these: The office, which is a room in a building used for such purposes, situated on the east side of the parade, was left, during the night in question, in charge of an orderly to Major Ellis, named W. L. Fulcher, a private in the thirteenth Missouri cavalry; said orderly, together with Major Bowson's orderly, Albert Godfrey, of one of the volunteer regiments United States, occupying a room directly in the rear of the office robbed. Mr. Kemper, clerk in the employ of Major Ellis, and who usually slept in the same room with the orderlies, on returning to the office on the morning of the 2d instant, found the hall doors, also the door of the office, locked; and going in, after opening the door with pass-key, found the safe gone, and informed Major Ellis of the fact without delay. Privates W. L. Fulcher and Albert Godfrey, the orderlies in question, were absent, and had left in their room a large part of their soldiers' clothing, and several things were found in the pockets of their pants, among which a large bunch of keys of various sizes, an awl with broken point, and some small pieces of iron, filed down as if to fit the wards of the lock of the safe. Two pairs of trousers, one coat, and one vest, (citizens'), the property of Mr. Kemper, were taken from this room. It seems to have been the practice of Major Ellis to permit no one to go to the safe for the purpose of getting money, doing all the handling of it himself; and had always kept it under his own eye, unless he had reason to suppose that his clerk was in his office. Major Ellis did not think a guard necessary for the protection of Government money when in safe, preferring to keep it in quarters where he lives, or in his office, with his clerk to keep watch.

On the night in question Major Ellis was in his office until about eight o'clock p. m., before which time the clerk came in, and it was supposed by Major Ellis that he (the clerk) intended to remain in the building during the night, as usual was his custom. On the contrary, Mr. Kemper went out, remaining out all night, thus affording thieves an opportunity to do their work. It would seem that Major Ellis took all care that seemed necessary for the safe-keeping of the money in question, and that due vigilance had been used for its proper keeping."

In the affidavit of Kemper, the clerk, he states: "About eight o'clock p. m. of the 1st of January, 1866, affiant returned from Leavenworth city, where he had been during the day, and found Major Ellis in the office with the safe in which he kept the Government money. Shortly afterward he left for the night, leaving affiant in the room with the safe, the safe-keys being in possession of Major Ellis. The orderly in daily attendance, having performed his duties for the day, left the office. Being desirous of seeing a friend in the city, who was about leaving on a journey, affiant concluded to return to the city, and knowing the comparatively small amount of money in the safe, and considering it entirely safe and prudent to leave the premises without notifying Major Ellis of his intention to do so, he locked and securely fastened the door of the office; and not deeming it possible for any one to break into the room and carry the safe past the guard, whose duty it was to challenge every one passing after tattoo, he returned to the city."

The report and finding of said board were approved by General Elliott, and are, in the opinion of the committee, fully sustained by the evidence.

The robbers were pursued and overtaken, and turned out to be the aforesaid orderlies who were in attendance as aforesaid. They were brought back to camp, tried, convicted, and sentenced to ten years' service in the penitentiary. There were recovered from them the sum of \$14,786 of the money stolen, and two saddles and two horses, out of the sale of which the sum of \$175 was realized, leaving a deficit lost by the robbery of \$3,673 91.

Major Ellis files with the papers before the committee a statement of F. E. Hunt, paymaster in charge of the district at the time of the robbery, certifying to the care, integrity, and faithful official conduct of Major Ellis, and that, in the opinion of said Hunt, the said Ellis "took due care of the public money in his possession at all times." And on this certificate of Paymaster Hunt the Paymaster General has made an indorsement, concluding as follows: "I concur in the belief, as stated by Colonel Hunt, that Major Ellis has been duly careful of the public money in his charge."

Concurring in the finding aforesaid of the board of officers aforesaid, and with the Paymaster General, that said Ellis was a careful custodian of the public money in his charge, and at the time of the robbery was guilty of no remissness of duty, or carelessness of conduct, that would, legally or morally, render him liable for the unrecovered money stolen, the committee recommend the passage of said bill.

Mr. LOAN. I desire to state that this matter has undergone the revision of Major Ellis's superior officer, who acquits him of all blame, believing that he is neither morally nor legally bound to reimburse the money. The bill merely proposes to refer the matter to Paymaster General Brice, that he may revise these accounts and ascertain whether Major Ellis is entitled to be allowed this amount of money, it having been lost without any fault on his part.

Mr. WARD. Mr. Speaker, I had the honor to be a member of the Committee of Claims during the Thirty-Ninth Congress. A large number of claims of this character came before that committee, claims for bonds and moneys stolen, obligations of different sorts destroyed or lost in various ways. The claims of this character amounted in the aggregate to millions of dollars. Now, Mr. Speaker, I think that we should not pass claims of this sort without submitting them to the consideration of some committee. I have great respect for the Senate Committee on Claims, and also great respect for the opinions and wishes of the gentleman from Missouri; but I believe that we should not thus early in the session establish the principle of permitting the passage through this House of a bill which will charge the Government with the payment of money (and such will be the effect of this bill if the Paymaster General should certify that in his opinion the claim is proper) without the examination of the claim by any committee. I trust the gentleman will allow me to enter a motion to refer this bill to the Committee of Claims when appointed.

Mr. LOAN. I demand the previous question.

Mr. WARD. I hope it will not be seconded.

Mr. LOAN. I withdraw it for a moment, and yield to the gentleman from Michigan.

Mr. DRIGGS. When this bill was first read I was inclined to vote against it, but after hearing the report of the committee read, after the

statement that this theft was committed by men in the United States service, in whose charge it was placed, that they were pursued, convicted, and imprisoned, I feel it is a bill that ought to be passed.

Mr. LAWRENCE, of Ohio. I ask the gentleman from Missouri whether the amount of the deficit does not depend entirely upon the unsworn testimony of Major Ellis?

Mr. LOAN. It does not.

Mr. LAWRENCE, of Ohio. There is nothing to show there is any sworn testimony as to the amount of money lost.

Mr. LOAN. Depositions are here. They were referred to the committee.

Mr. LAWRENCE, of Ohio. I think it is better to leave this subject to the Committee of Claims.

Mr. WARD. If the previous question be voted down, will not my motion to refer be in order?

The SPEAKER. It will.

Mr. LOAN demanded the previous question.

The House divided; and there were—ayes 31, noes 52.

So the previous question was not seconded.

Mr. WARD. I move that the bill be referred to the Committee of Claims when appointed.

The motion was agreed to.

Mr. WARD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BARR BAHYMER.

Mr. CLARKE, of Ohio, by unanimous consent, moved that leave be granted to Barr Bahymer for the withdrawal of his papers from the files of the House.

The motion was agreed to.

COMMITTEE ON PUBLIC EXPENDITURES.

The SPEAKER announced the following as the standing Committee on Public Expenditures: Calvin T. Hulburd, New York; John M. Broomall, Pennsylvania; Asahel W. Hubbard, Iowa; Tobias A. Plants, Ohio; Henry P. H. Bromwell, Illinois; John Coburn, Indiana; John A. Peters, Maine; Stephen Taber, New York; Thomas E. Noell, Missouri.

DONAHUE, RYAN, and SECOR.

The next business on the Speaker's table was Senate joint resolution No. 17, for the relief of Donahue, Ryan & Secor; which was read a first and second time.

Mr. SCOTFIELD moved that it be referred to the Committee of Claims when appointed.

The motion was agreed to.

Mr. WARD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARKET SQUARE, BURLINGTON, IOWA.

The next business on the Speaker's table was Senate bill No. 22, in relation to a certain tract of land in Burlington, Iowa; which was read a first and second time.

Mr. WILSON, of Iowa. I move that the bill be put upon its passage.

The bill provides that a certain ordinance adopted by the city council of Burlington, Iowa, on December 10, 1866, devoting Market square to certain public purposes, and providing for the location of certain railroad tracks upon certain streets, and for other purposes, is hereby ratified, approved, and made legal and valid, so far as it relates to said public square; and it further provides that said ordinance shall operate to convey to the Burlington and Missouri River Railroad Company the rights in the premises known as Market square on the terms and conditions and for the purposes therein designated, and shall have the same force, operation, and effect as if the fee simple title to said Market square and streets were owned by said city at the date of said ordinance.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ERIE AND ONTARIO SHIP-CANAL.

The next business on the Speaker's table was Senate joint resolution No. 26, providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; which was read a first and second time.

The bill directs the Secretary of War to cause surveys, with plans and estimates of cost, to be made by an officer of engineers for a ship-canal to connect Lakes Erie and Ontario or the navigable waters thereof, of suitable location and dimensions for military, naval, and commercial purposes, and that the expenses of the same be defrayed from the sums appropriated in the acts of June 23, 1866, and March 2, 1867, for examinations and surveys relative to the improvement of harbors and rivers on the northwestern lakes.

Mr. HOLMAN. I rise to a point of order, that this bill makes an appropriation.

Mr. VAN HORN, of New York. The appropriation has already been made.

The SPEAKER. The Chair overrules the point of order. A bill to be an appropriation bill must itself take money out of the Treasury.

Mr. HOLMAN. It diverts appropriations for other purposes.

The SPEAKER. This does not take money out of the Treasury, but refers to appropriations made in previous bills.

Mr. VAN HORN, of New York. I ask to have the bill put on its passage, and demand the previous question.

Mr. HOLMAN. I move to lay the bill on the table.

The motion was disagreed to—yeas 24, noes 59.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time.

Mr. HOLMAN. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 24, not voting 56; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Burr, Butler, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Dodge, Donnelly, Driggs, Eckley, Ferriss, Fox, Garfield, Gravelly, Hamilton, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Ketcham, Ladin, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Marshall, McClurg, Miller, Moore, Mungen, Myers, Neell, O'Neill, Orth, Perham, Plants, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Thaddeus Stevens, Stewart, Taffe, Taylor, Thomas, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—83.

NAYS—Messrs. Boyer, Broomall, Covode, Eggleston, Getz, Glossbrenner, Holman, Kerr, Kitchen, Koontz, Mercur, Morgan, Nicholson, Polsley, Randall, Robinson, Selye, Sitgreaves, Taber, Van Auker, Van Trump, Ward, Thomas Williams, and Wood—24.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Banks, Barnes, Brooks, Buckland, Cake, Cullom, Dawes, Denison, Elia, Eldridge, Eliot, Farnsworth, Ferry, Fields, Finney, Griswold, Haight, Halsey, Harding, Hayes, Hill, Asahel W. Hubbard, Humphrey, Kelley, Kelsey, George V. Lawrence, Loan, Lynch, Marvin, McCarthy, McCullough, Moorhead, Morrill, Morrissey, Newcomb, Niblack, Paine, Peters, Phelps, Pike, Pile, Poland, Price, Pryun, Raum, Ross, Shellabarger, Spalding, Aaron F. Stevens, Stone, Trowbridge, Van Wyck, William B. Washburn, and Stephen F. Wilson—56.

So the bill was passed.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHANGE OF NAME OF A VESSEL.

The next business on the Speaker's table was the consideration of Senate bill No. 60, to

change the name of the steamship Paonshun; which was read a first and second time.

The bill authorizes the owners of the steamship Paonshun to change the name of the same to Nevada.

Mr. HOOPER, of Massachusetts. I ask that this bill be put on its passage.

Mr. CHANLER. Is this reported by any committee?

Mr. HOOPER, of Massachusetts. It is a Senate bill. This is a new steamship built for the China trade and afterward purchased for service on the Pacific, on the Northwest coast. The owners wish to call it Nevada instead of the outlandish Chinese name. No register has ever been issued as yet.

Mr. PAINE. I move to refer the bill to the Committee on Commerce when appointed. I know the chairman of that committee in the last Congress, who is now absent, [Mr. WASHBURN, of Illinois,] as well as the second member of that committee, [Mr. ELIOT,] who is also now absent, were opposed to allowing the change of name of any vessels during the Thirty-Ninth Congress. Hence I hardly think it proper to ask the consent of the House to have it done in this case. There may be some extenuating circumstance in this case, but I think it is a dangerous precedent.

Mr. HOOPER, of Massachusetts. The gentleman will allow me to state that this is a new vessel, that no register has ever been issued for it, but that the former owners had given notice that they intended to call it by the name of Paonshun.

Mr. PAINE. I cannot see how there can be any necessity for the passage of such a bill as this, even if what the gentleman states is true, and I am opposed to its passage.

Mr. O'NEILL. Perhaps I can explain this matter to the satisfaction of the gentleman from Wisconsin, [Mr. PAINE.] This ship was purchased before she was built, while on the stocks in the ship-yard in New York. The owners afterward desired to change her name from the Paonshun to the Nevada. The vessel had never left any port, the ship had never floated, and therefore the principle referred to as laid down by the Committee on Commerce does not apply in this case.

Mr. PAINE. If the facts stated be true, then the owners can give this vessel any name they please without any legislation here.

Mr. HOOPER, of Massachusetts. Oh, no; because they had given notice of the name. I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

Mr. SPALDING. I move to lay the bill on the table.

The question was put; and there were—yeas 44, noes 43.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. PAINE and HOOPER were appointed.

The House divided; and the tellers reported—yeas 42, noes 57.

So the House refused to lay the bill on the table.

The bill was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I desire to offer a resolution.

The SPEAKER. The gentleman must wait until the business on the Speaker's table has been disposed of.

Mr. FARNSWORTH. I move to suspend the rules so as to dispense with proceeding further with the business on the Speaker's table.

The question was put; and there were—yeas 32, noes 65.

So (two thirds not voting in the affirmative) the rules were not suspended.

Mr. SPALDING. I move that the House do now adjourn.

The question was put; and there were—yeas 50, noes 62.

So the House refused to adjourn.

#### LIVES OF PASSENGERS ON STEAMBOATS.

The next business on the Speaker's table was joint resolution of the Senate No. 30, amending the ninth section of an act to amend the act entitled "An act to provide for the better security of the lives of passengers on vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852; which was read a first and second time.

Mr. EGGLESTON. I ask that that bill be put upon its passage now.

The bill was read.

Mr. HOLMAN. It seems to me that it would be safer to refer that bill to the Committee on Commerce when appointed.

Mr. EGGLESTON. I will state to the gentleman that the Committee on Commerce of the last Congress reported this joint resolution at the last session, but it failed in the Senate. The Senate have now passed it. It carries out a very desirable object in providing for the carriage of matches.

Mr. SHELLABARGER. I would inquire of my colleague if the object of this joint resolution is not to dispense with what is now required by law, the procurement of safes for the purpose of carrying matches on steamboats?

Mr. EGGLESTON. The object of this bill is to so change the law of 1852 that matches packed in compact boxes lined with zinc and securely fastened with screws may be carried upon steamboats, instead of requiring them to be carried in safes for the purpose. In 1852, when the act was originally passed, matches were packed in paper, and consequently it was necessary to have them carried in safes. But that precaution is not now necessary.

The bill was then read the third time, and passed.

Mr. BEAMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. BLAINE. As the rules now stand, this afternoon is the only time during this week when the rules can be suspended. We can proceed with the business on the Speaker's table to-morrow or any other day. I therefore move that the further execution of the order to consider business upon the Speaker's table be postponed for this day.

Mr. THOMAS. I have a proposition that I desire to bring before the House at some period of the session, and in order to do so I would like to move that at any time during the present session of Congress it shall be competent for the House to entertain a motion to suspend the rules; which of course would be done by a two-thirds vote. My object is to give the House the same power in that respect on any day of this session that it now has on Mondays after the expiration of the morning.

Mr. BLAINE. Very good, I think that is right.

Mr. CHANLER. I object.

Mr. BLAINE. I now insist upon my motion to postpone for the present the further execution of the order to proceed with the consideration of business on the Speaker's table, and then the motion of the gentleman from Maryland [Mr. THOMAS] will be in order.

The motion of Mr. BLAINE was agreed to.

Mr. THOMAS. I now move that during the remainder of this session of Congress a motion to suspend the rules shall be in order at any time, the same as on Monday after the morning hour.

Mr. HOLMAN. Is not the motion of the gentleman from Maryland [Mr. THOMAS] in effect a proposition to change the rule, and as such must it not lie over for one day before it is considered?

The SPEAKER. On Monday, after the morning hour, two thirds of the members present can suspend or change any rule.

Mr. ELDRIDGE. If the two Houses should fix upon a day of adjournment, would not motions to suspend the rule then be in order at any time?

The SPEAKER. They would be in order at any time during the last ten days of the session. The Chair is of opinion that this session is now within ten days of its close.

Mr. ELDRIDGE. Then what need of adopting the motion of the gentleman from Maryland, [Mr. THOMAS?]

The SPEAKER. The time for adjournment has not been definitely determined upon, and consequently that rule cannot apply to the action of the House.

The question was taken upon the motion of Mr. THOMAS; and upon a division, there were—ayes 78, noes 25.

So (two thirds voting in the affirmative) the motion was agreed to.

#### STATE GOVERNMENT OF MARYLAND.

Mr. THOMAS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the testimony taken by the Judiciary Committee of the last House of Representatives, in pursuance of resolutions of that House, concerning to some extent affairs in Maryland, and now in the custody of the Clerk of this House, be committed to the Committee on the Judiciary, with instructions to complete the inquiries which the last committee was instructed to make; and to inquire whether the people of Maryland have a State government republican in form, and such as Congress can consistently, with the requirements of the Constitution of the United States, recognize and guaranty.

Mr. THOMAS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COMPENSATION FOR SLAVES ENLISTED.

Mr. SCHENCK. I ask consent of the House to introduce for consideration at this time a joint resolution suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States.

The SPEAKER. The joint resolution will be read for information.

The joint resolution was read at length. It provides that all further proceedings under section twenty-four of the act of Congress approved July 24, 1864, to award compensation to the masters of slaves drafted into the military service of the United States, and to award compensation to persons to whom colored volunteers may owe service, and under the second section of the act approved July 28, 1866, making appropriations for payment to persons claiming service or labor from colored volunteers or drafted men, be, and the same are hereby, suspended; and the Secretary of War is directed to dissolve all commissions appointed under the said sections, and to make payments to the commissioners and clerks for the service rendered by them upon their making report of their proceedings to the War Department.

Mr. NICHOLSON and Mr. BROOKS objected.

Mr. SCHENCK. I move that the rules be suspended in order that I may introduce this joint resolution for action at this time.

Mr. BROOKS. Will the gentleman from Ohio [Mr. SCHENCK] allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. BROOKS. I would ask the gentleman if, in the absence of any representation from the States of Tennessee and Kentucky upon the floor of this House at this time, he thinks it would be quite right to press his proposition now?

Mr. SCHENCK. I make this motion at the earnest solicitation of some of the best people in Tennessee.

Mr. SCOFIELD. Was not a similar bill passed at the last session?

Mr. SCHENCK. In January of this year a bill was passed suspending the payment of any of these claims, requiring that a report should

be made, through the Secretary of War, to Congress before any payment of money should be made. That bill became a law; but that act did not suspend the action of the commissioners. This commission is now in full blast, the commissioners receiving eight dollars per day, and running up large expenses by the employment of clerks, &c. These commissioners, by their awards, are rolling up a large amount of these claims, to be used hereafter as a corruption fund to trade upon or for other purposes. This bill proposes to suspend all proceedings—

Mr. NICHOLSON. I rise to a point of order. I submit that a motion to suspend the rules is not debatable.

The SPEAKER. The Chair sustains the point of order.

On the motion to suspend the rules,

Mr. BROOKS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 24, not voting 47; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Brownell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eekley, Ela, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Hamilton, Hayes, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Judd, Julian, Kelley, Kitchen, Koontz, Laffin, William Lawrence, Logan, Marvin, McClurg, Miller, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Platts, Poland, Polster, Pomeroy, Robertson, Ross, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Taylor, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—92.

NAYS—Messrs. Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Holman, Kerr, Marshall, Morgan, Morrissey, Mungen, Niblack, Nicholson, Neill, Pruyn, Randall, Robinson, Signaves, Taber, Van Auker, Van Trump, and Wood—24.

NOT VOTING—Messrs. Allison, Archer, Banks, Barnes, Calk, Chanler, Coburn, Dyes, Denison, Eggleston, Eliot, Finney, Griswold, Haight, Halscy, Harding, Hill, Humphrey, Ingersoll, Kelsey, Ketcham, George V. Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, McCarthy, McCullough, Mercur, Moorhead, Morrell, Phelps, Pike, Price, Rann, Selye, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Taffe, Thomas, Trowbridge, William B. Washburn, Stephen F. Wilson, and Woodbridge—47.

So (two thirds having voted in favor thereof) the rules were suspended.

During the roll-call,

Mr. GARFIELD said: I desire to announce that the gentleman from Iowa, Mr. ALLISON, is detained from the House by sickness.

The result of the vote was announced as above stated.

The joint resolution was introduced and read a first and second time.

Mr. SCHENCK. Mr. Speaker, I do not propose to enter into any debate on this subject. I think the proposition explains itself, and will commend itself to the judgment of the House. I simply repeat the statement that we have not, by any legislation heretofore adopted, suspended the proceedings of these commissioners, but have only provided that their reports shall be transmitted through the Secretary of War to Congress, and that no payments shall be made until further action by Congress. The object of this joint resolution is to dissolve the commission for the present, thus putting a stop to all proceedings until Congress shall otherwise direct.

Mr. COOK. With the consent of the gentleman from Ohio, [Mr. SCHENCK,] I wish to say that a bill similar to this was passed in the House at the last session, but failed in the Senate; so that the House has once already expressed its opinion on this question.

Mr. SCHENCK. I believe the gentleman is correct. The House has already passed a bill or joint resolution in substance the same as this; but it did not receive the concurrence of the Senate.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the

vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DUTY ON UMBRELLAS AND FURNITURE SPRINGS.

Mr. KELLEY, by unanimous consent, introduced a joint resolution fixing the rate of duty on umbrellas and on wire spiral furniture springs; which was read a first and second time.

The joint resolution provides that from and after its passage there shall be levied, collected, and paid upon umbrellas, parasols, and sunshades imported from foreign countries, when made of silk, no lower rate of duty than that now imposed upon piece and dress silks, namely, sixty per cent. *ad valorem*; and when made of other materials than silk, the duty is to be fifty per cent. *ad valorem*. The joint resolution further provides that wire spiral furniture springs imported from foreign countries, manufactured of iron wire, shall be required to pay the same rate of duty now imposed on iron wire, namely two cents per pound and fifty per cent. *ad valorem*.

Mr. KELLEY demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KELLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASYLUM FOR DISABLED VOLUNTEERS.

Mr. BUTLER, by unanimous consent, introduced a joint resolution authorizing the Secretary of War to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for disabled volunteer soldiers, and for other purposes; which was read a first and second time.

The joint resolution authorizes the Secretary of War to turn over the barracks, buildings, and other property of the United States now at Camp Chase, near Columbus, Ohio, to the board of managers of the National Asylum for disabled volunteer soldiers, for the use and benefit of said soldiers.

It also authorizes the Secretary of War to sell such surplus clothing and quartermaster and medical stores as he may deem expedient at first prices to the National Asylum for the use of the disabled soldiers therein.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EMPLOYÉS IN CURRENCY BUREAU.

Mr. FARNSWORTH, by unanimous consent, introduced a joint resolution to extend to the employés in the first division of the National Currency Bureau of the Treasury Department the provisions of the joint resolution approved the 28th of February, 1867, giving additional compensation to certain employés in the civil service at Washington.

The joint resolution was read a first and second time.

Mr. FARNSWORTH. I desire to state that according to the understanding, I believe, of every member of this House, the joint resolution passed near the close of the last Congress did embrace these employés, but by a singular construction of the First Comptroller they are shut out. They are employés who work more hours and get less pay than any other employés in the Treasury Department. There is no earthly doubt in my mind that the law does embrace these people, but they are

shut out by this construction of the First Comptroller.

Mr. SCHENCK. I presented this morning the memorial of the watchmen and other employes in the quartermaster's department, who are also shut out by the construction of the Comptroller. It was referred to the Committee on the Judiciary. I ask the gentleman to modify his resolution so as to include them.

Mr. FARNSWORTH. The gentleman had better provide for them in a separate resolution. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MONEYS COVERED INTO THE TREASURY.

Mr. WASHBURN, of Wisconsin, by unanimous consent, introduced a joint resolution directing certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury; which was read a first and second time.

The preamble states that there is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury, and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property without the sanction of Congress, and that it is but proper such claims should not be settled and paid without first receiving the approval of Congress; and the resolution then directs that all moneys thus held by the Treasurer of the United States shall be at once covered by warrants into the United States Treasury by authority of law.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### STRAW WRAPPING-PAPER, ETC.

Mr. BLAINE. I desire to make a brief explanation preparatory to submitting a motion to suspend the rules. During the consideration of the internal revenue bill in the House there was an amendment adopted to put "straw wrapping-paper" on the free list. It was intended afterward to add wrapping-paper made from "wood," but the opportunity did not occur in the House, and it was suggested that the matter could be properly adjusted in the Senate. But in that branch also it was neglected, and the assurance was given that it should be rectified in the conference committee, by retaining the tax on straw paper or removing it from the paper made of wood. Either arrangement would be fair; but to exempt the one and tax the other is certainly to make an injurious discrimination. But in the conference committee, by some oversight or mistake, the matter was neglected. And on Saturday last, finding on an examination of the amended internal revenue act that "straw" paper was placed on the free list, while paper made from "wood" is still left subject to a tax of five per cent., I addressed a line to the late chairman of the Ways and Means Committee, now an honored Senator from Vermont, [Mr. MORRILL,] for an explanation of the matter. To my inquiry Mr. MORRILL made the following reply:

WASHINGTON, D. C., March 16, 1867.

MY DEAR SIR: Your favor of this day is at hand. I did certainly suppose that "straw wrapping-paper" was stricken from the exempt list in the tax bill in the committee of conference. It is very plain that if wrapping-paper made of straw is exempt, then that made of "wood" should also be exempt. Being used for the same purposes they should be placed on an equality, or if any discrimination is made, it

ought not to be against an enterprise in its infancy, and as yet of small magnitude.

Very truly yours,  
JUSTIN S. MORRILL.

Hon. JAMES G. BLAINE.

Now, I have drawn up a bill to meet this difficulty, which I think no gentleman can object to. It affects the revenue to a very inconsiderable amount. The object simply is to exempt wrapping-paper made of wood, the same as paper made of straw is now exempt from tax. The title of it is, "A bill to exempt wrapping-paper made of wood from internal tax."

The bill was read a first and second time. It provides for the exemption from internal tax, from and after the passage of this act, of wrapping-paper made of wood.

Mr. GARFIELD. I ask the gentleman from Maine to allow an amendment by inserting the word "corn-stalks."

Mr. BLAINE. I am perfectly willing to accept that, because they all ought to be on the same footing.

Mr. GARFIELD. It is a very important manufacture.

No objection being made, the amendment of Mr. GARFIELD was agreed to.

Mr. JUDD. I ask the gentleman from Maine to include the manufacture of ladders.

Mr. BLAINE. That is raising another question, and I cannot accept it. This is not original legislation, but simply by way of correction. The late chairman of the Committee of Ways and Means, who is a man of great accuracy, admits that this was a mistake. I call the previous question.

Mr. JUDD. I desire to say a single word. I think the gentleman will have no objection to my proposition when he hears my statement. I am advised that every manufacture from wood was put on the free list under the last internal revenue law except the article I named. One of my constituents has addressed me a complaint on this subject during this session of Congress.

Mr. BLAINE. I will cheerfully vote for a bill to meet that object if the gentleman will introduce it on its own merits. It is hardly cognate matter in the connection in which it is offered.

Mr. JUDD. As I understood the letter of the gentleman from Vermont, it is an argument for putting wrapping-paper made of wood on the same basis as similar paper made of straw, and understanding it thus I think while we are equalizing these things we should place all sorts of manufactures from wood upon the same basis and allow this poor ladder business to come in upon the free list.

Mr. BLAINE. I cannot think it appropriate in this bill.

The SPEAKER. Even if the gentleman from Maine should allow the amendment, it would not be germane to this bill. Its title is in relation to wrapping-paper.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The title was amended by adding the word "corn-stalks."

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WASHINGTON TEMPERANCE SOCIETY.

Mr. PERHAM. I ask unanimous consent to introduce a bill to authorize the Washington Temperance Society to issue certificates of stock without revenue stamps.

Mr. SPALDING. I move that the House do now adjourn.

The SPEAKER. The Chair will consider that motion as an objection to the bill.

The motion was agreed to; and thereupon (at three o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:  
By Mr. GLOSSBRENNER: The petition of John

Butler, of Carlisle, Pennsylvania, a soldier in the war of 1812 with Great Britain, praying for a pension.

By Mr. PIKE: The memorial of the river improvement convention, held in St. Louis, Missouri, February 13, 1867.

By Mr. SCHENCK: The memorial of employes of the Quartermaster General's office, praying for such legislation as will entitle them to the twenty per cent. extra compensation allowed by law to other Government employes.

By Mr. VAN WYCK: The petition of Samuel Strong, praying for relief.

Also, the petition of Michael Maher, praying that the pension certificate issued to him be dated January 31, 1864, instead of March 4, 1865.

By Mr. WINDOM: The memorial of the Legislature of Minnesota, for the establishment of a mail route from Rochester, in Olmstead county, to Leroy, in Mower county, by way of Pleasant Grove, Hamilton, and Spring Valley.

#### IN SENATE.

TUESDAY, March 19, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the resolution of the Senate instructing the joint Committee on Retrenchment to examine into the method adopted by the Treasury Department to print bonds, notes, and securities of the United States, and what guards have been adopted to prevent frauds and mistakes.

The message further announced that the House had concurred in the resolution of the Senate to amend the nineteenth joint rule of the two Houses to prevent the sale or use of liquors in the Capitol building or the grounds adjacent thereto.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax;

A joint resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States;

A joint resolution (H. R. No. 16) fixing the rate of duty on umbrellas and wire spiral furniture springs;

A joint resolution (H. R. No. 17) authorizing the Secretary of War to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes;

A joint resolution (H. R. No. 18) to extend to the employes in the first division of the National Currency Bureau of the Treasury Department the provisions of the joint resolution approved February 28, 1867, giving additional compensation to certain employes in the civil service at Washington; and

A joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

#### PETITIONS AND MEMORIALS.

Mr. WILLEY presented the petition of Henry Birch, Charles Stewart, and George Neitzey, praying compensation for paving and grading certain streets in Washington city, District of Columbia; which was referred to the Committee on Claims.

Mr. NORTON presented a memorial of citizens of Iowa and Minnesota, praying the establishment of a mail route from Decorah, Iowa, to Rushford, Minnesota; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Minnesota, in favor of the equalization of bounties to volunteers; which was ordered to be printed, and referred to the Committee on Military Affairs and the Militia.

He also presented memorials of the Legislature of Minnesota, in favor of the establish-



ment of mail routes from Rochester to Leroy, from Glencoe to Greenleaf, from Waverly to Glencoe, and from Minneapolis to Big Stone lake, in that State; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. JOHNSON presented a memorial of James Hooper, praying compensation for the loss of the bark General Berry while in the Government service, destroyed by the rebel privateer Florida; which was referred to the Committee on Claims.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. COLE, it was

Ordered, That the petition of Charles Minturn, president of the Contra Costa Steam Navigation Company, praying compensation for transporting the mails from San Francisco to Oakland and Petaluma, California, be taken from the files and referred to the Committee on Post Offices and Post Roads.

On motion of Mr. DAVIS, it was

Ordered, That the petition of William Riggs, praying compensation for services rendered the Union armies as scout and guide in 1864 and 1865, be withdrawn from the files and referred to the Committee on Claims.

On motion of Mr. SHERMAN, it was

Ordered, That P. A. Wheeler have leave to withdraw his petition and papers, presented December 18, 1865.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the memorial of Joseph A. Van Brunt, reported a joint resolution (S. R. No. 36) authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Gaurdien; which was read and passed to a second reading.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of election for the cities of Washington and Georgetown, District of Columbia, reported it with amendments.

Mr. MORGAN, from the Committee on Finance, to whom was referred the bill (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York, reported it without amendment.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 41) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis, reported it without amendment.

#### ACADEMY OF SCIENCES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment; and it was agreed to:

Resolved, That there be printed of the Report of the National Academy of Sciences for 1866, in addition to the usual number, one thousand extra copies for the use of the Academy.

#### HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax—to the Committee on Finance.

A joint resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States—to the Committee on the Judiciary.

A joint resolution (H. R. No. 16) fixing the rate of duty on umbrellas and on wire spiral furniture springs—to the Committee on Finance.

A joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury—to the Committee on Finance.

#### DONATION OF PROPERTY AT CAMP CHASE.

The joint resolution (H. R. No. 17) authorizing the Secretary of War to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes, was read twice by its title.

Mr. SHERMAN. That resolution was fully considered by the Military Committee at the last session, and passed in the form in which it is now before us, and it is scarcely worth while to refer to it. It simply gives to an asylum for disabled soldiers certain old property at Camp Chase. It has received the assent of the committees and of both Houses, and simply failed on an amendment between the two Houses at the last session. I hope it will be passed now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Secretary of War to turn over the barracks, buildings, and other property of the United States now at Camp Chase, near Columbus, Ohio, to the National Asylum for Disabled Volunteer Soldiers, for the use and benefit of those soldiers. It also authorizes the Secretary of War to sell such surplus clothing and quartermaster's and medical stores as he may deem expedient, at first prices, to the National Asylum for the relief of disabled volunteer soldiers therein.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EXTRA COMPENSATION TO CIVIL EMPLOYÉS.

The joint resolution (H. R. No. 18) to extend to the employés in the first division of the National Currency Bureau of the Treasury Department, the provisions of the joint resolution, approved February 23, 1867, giving additional compensation to certain employés in the civil service at Washington, was read twice by its title.

Mr. WILLIAMS. I send to the Chair a communication that I desire to have read before that resolution is referred, and which I desire to accompany it.

The Secretary read the following communication:

TREASURY DEPARTMENT.  
COMPTROLLER'S OFFICE, March 19, 1867.

SIR: In the Chronicle of yesterday morning a communication appeared stating that the Comptroller had decided that the ladies employed in Mr. Clark's Note Bureau were not entitled to the twenty per cent. allowed by the joint resolution of February 23, and containing what the editor of the Chronicle denominated "caustic" remarks. And on yesterday Mr. FARNSWORTH introduced and had passed through the House another joint resolution apparently to correct a supposed erroneous decision of the Comptroller.

The Comptroller never made any such decision as that stated in the communication. On the contrary, more than ten days since I informed Mr. Clark that the females employed by him in his bureau were entitled to the twenty per cent.; and this is the only decision made by the Comptroller upon that point. I stated the same thing to Mr. FESSENDEN the same day or the day before.

I did make a decision that excluded most of the male employés in Mr. Clark's bureau for two reasons: First, if their compensation was insufficient it was fully within the power of Mr. Clark or the Secretary to increase it at pleasure, there being no limitation, as in the cases of officers, clerks, messengers, watchmen, &c. Second, if they worked over time, they were paid for it, which was not the case with the other persons above named. During the month of February they were thus paid, and in no instance, to which my attention was called, a person employed at seven dollars per day was paid during February forty-four days, amounting to \$280. If twenty per cent. be added, his compensation for that month would be \$336. All the male employés excluded in the Note Bureau (and none others were excluded) were and are paid upon the same principle.

Some exception has also been taken to the decisions in relation to some of the employés of the quartermasters' and perhaps of some other offices. In relation to these employés, I remark that they were not within the terms of the resolution, and it is perfectly competent for the head of the proper Department to increase their pay if that now allowed is not enough, and in such cases a resolution of Congress is not needed.

I am, very respectfully, your obedient servant,  
R. W. TAYLOR.

Hon. JOHN SHERMAN, Chairman Senate Committee on Finance.

Mr. WILLIAMS. I move that the joint resolution, together with that communication, be referred to the Committee on Finance.

The motion was agreed to.

#### ACKNOWLEDGMENT OF DEEDS.

Mr. PATTERSON, of New Hampshire. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (S. No. 38) further to provide for the acknowledgment of deeds in the District of Columbia, to report it with an amendment in the form of a proviso; and I ask that the bill be put upon its passage at this time, if there be no objection to it.

Mr. SHERMAN. What is it about?

Mr. PATTERSON, of New Hampshire. Let it be read.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. EDMUNDS. Let it be read for information.

The Secretary read the bill, which provides that hereafter acknowledgments of deeds or the conveyance of real estate in the District of Columbia may be taken by the recorder of deeds for the District or by a single justice of the peace, and it declares any such acknowledgment heretofore taken by a single justice of the peace to be a valid acknowledgment.

Mr. PATTERSON, of New Hampshire. I will state that the bill has been considered by the judges of the district court, and they thought it to be desirable that it should pass.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment reported by the Committee on the District of Columbia was to add at the end of the bill the following proviso:

*Provided*, That nothing in this act shall be held to impair the title of bona fide purchasers who, by conveyances and formal acknowledgments have, prior to the passage of this act, acquired paramount titles under existing laws.

Mr. TRUMBULL. I should like to hear the whole of that bill read.

The Secretary read the bill.

Mr. TRUMBULL. That is a very important matter, passing laws to make valid deeds that were not valid before; or making a certain class of acknowledgments evidence of the validity of deeds which were not so before. I will inquire what committee reported this bill?

Mr. PATTERSON, of New Hampshire. It is reported from the Committee on the District of Columbia, and that amendment was drawn by the judges of the supreme court of the District.

Mr. TRUMBULL. The fact of its being drawn by them I do not think should insure its passage here. I recollect that a year or two ago a bill was passed, very inconsiderately as I think, affecting titles here, and this is likely to give rise to some trouble in regard to the acknowledgment of deeds.

Mr. MORRILL, of Maine. The Senator will allow me to ask him whether it affects anything more than the matter of evidence?

Mr. TRUMBULL. I am not prepared to say what the effect of it may be. If the Senators from New Hampshire and Maine have examined this matter with the existing laws and have seen that the effect of it is proper, I do not know that I shall feel called upon to object to it. I think it is a bill that ought to have been considered in the Judiciary Committee.

Mr. MORRILL, of Maine. I have not examined it at all; but as I heard it read it occurred to me it was simply touching the matter of evidence, and not touching the validity of the instrument at all.

Mr. TRUMBULL. So I understand; but the matter of evidence will affect the title. Here is a conveyance recorded forty years ago, acknowledged before a single justice of the peace. Now the record, I presume, in this District is evidence. If you have the original deed, you might prove it, and the acknowledgement perhaps be of no importance; but suppose you have not the original deed and the conveyance was put upon the records here years ago, acknowledged before a single justice of the peace; that would be no evidence. Now, you pass a bill which declares that that shall be evidence.

What the effect of that would be upon other titles I am not exactly prepared to say, and do not wish to discuss at this moment.

Mr. MORRILL, of Maine. In such a case as supposed by the Senator undoubtedly the parties would be driven to other evidence; but I can hardly conceive of a case where justice would fail for the want of a resort to evidence. I suggest that it is to meet exactly such difficulties that this bill is found to be a necessity, and as I caught the substance of the bill in its reading I believe all existing rights are saved. As the Senator is reading the bill he will see whether all existing rights are saved. Then the query is, whether this amounts to anything more than to supply a defect in the method of obtaining evidence without prejudice to the rights of parties. If it is that, and only that, I can see no difficulty in it.

Mr. TRUMBULL. I can conceive that very great difficulties may grow out of this. It may change the burden of proof. The proviso declares—

That nothing in this act shall be held to impair the title of *bona fide* purchasers who, by conveyances and formal acknowledgments have, prior to the passage of this act, acquired paramount titles under existing laws.

That would put the burden of proof on the parties who claimed lands, and may have been in possession of them for years, of proving the *bona fides* of the transaction, and their acknowledgments must be formal. This makes one class of informal acknowledgments perfect, but declares that other acknowledgments of deeds conveying title to parties adverse to these must be formal.

Mr. PATTERSON, of New Hampshire. The law as it now stands requires that an acknowledgment must be taken by two justices of the peace.

Mr. TRUMBULL. I think it is very proper to correct that. I see no possible objection to this bill, so far as authorizing the recorder and justices of the supreme court to take acknowledgment of deeds. The only difficulty about it is what its effect may be in making valid past transactions.

Mr. PATTERSON, of New Hampshire. There are two cases where acknowledgments were made before a single justice, and we want to cover those cases.

Mr. HARLAN. In this District the law now requires that an acknowledgment of deeds shall be taken before two justices of the peace. In nearly all the States of the Union one justice of the peace is competent to act under the local laws. The object of this bill is to correct what seemed to be an unnecessary formality. It also provides that the recorder of deeds may take acknowledgments; which is the case in nearly all the States of the Union. The committee intended merely to correct this useless formality in taking the acknowledgment of deeds. It is not supposed by the Committee on the District of Columbia that it would affect the validity of deeds. It is merely the confession on the part of the individual signing the deed that he has signed it, and nothing more. If, however, the chairman of the Committee on the Judiciary thinks it of sufficient importance to have it referred to another committee, perhaps it ought to go to the Committee on the Judiciary; and I have no objection to its going there. I hope it may go there if the chairman has any doubt about the propriety of it.

Mr. TRUMBULL. I have no sort of objection to this bill so far as it devolves this duty upon one justice of the peace and the recorder. I think that very proper. The only difficulty I had about it was, whether curing these defective acknowledgments heretofore made might not, perhaps without any intention on the part of the committee, interfere with existing titles. It is always dangerous to correct by a legislative act past transactions, because men have made their bargains and dealt upon the law as it stood.

Mr. PATTERSON, of New Hampshire. I will simply say that the law now requires that the acknowledgment shall be made before two justices, and there are two instances where it

was made before a single justice, and it was to make those two cases valid that this bill was introduced.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PAYMENT FOR SLAVES ENTERING THE ARMY.

Mr. TRUMBULL. A few moments ago a joint resolution was referred to the Committee on the Judiciary suspending all proceedings in relation to payment for slaves drafted or received as volunteers into the military service of the United States. A bill of this same purport was before the Committee on the Judiciary at the last session of the last Congress, and reported upon favorably. It was a House resolution, and as this is the same matter over again I see no object in referring it again to the committee; and I ask that the committee be discharged from its further consideration, and that the Senate proceed to act upon it.

The PRESIDENT *pro tempore*. The Senator from Illinois asks that the Committee on the Judiciary be discharged from the further consideration of the resolution indicated by him, and that the Senate proceed to its consideration. It requires unanimous consent. The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers into the military service of the United States. It proposes to suspend all further proceedings under the twenty-fourth section of the act of Congress approved February 24, 1864, to award compensation to the masters of slaves drafted into the military service of the United States, and to award compensation to persons to whom colored volunteers may owe service, and under the second section of the act approved July 28, 1866, making appropriations for payment to persons claiming service or labor from colored volunteers or drafted men; and it directs the Secretary of War to dissolve the commissions appointed under those sections, and to make payment to the commissioners and clerks for the services rendered by them upon their making report of their proceedings to the War Department.

Mr. DAVIS. I hope that the chairman of the Committee on the Judiciary will either postpone the consideration of that resolution until the next session or will assign to-morrow or some special day for its consideration. I object to its consideration at this time.

Mr. TRUMBULL. I suppose it is rather too late to object to its consideration now as an objection, because I had already called the attention of the Senate to it, and had the committee discharged, and it has been brought before the Senate by the unanimous consent of the Senate.

The PRESIDENT *pro tempore*. The Senate have already agreed to consider it.

Mr. TRUMBULL. And it has been read at length. I will state to the Senator from Kentucky that this is a joint resolution of the same purport as the one we had before us at the last session of Congress, and which I repeatedly sought to get the action of the Senate upon. It passed the House at the former session, and has now passed the House again, and I think it quite important that we should have action upon it. I should not resist its being acted upon to-morrow instead of to-day if there is any special reason for it; but it is an old matter that has been before us frequently; and while I should not object to its going over until to-morrow, if it can then be disposed of, if the Senator from Kentucky desires it to be considered to-morrow rather than to-day, and has any particular reason for it, I hope it will certainly be disposed of to-morrow if it does go over. I shall not, of course, resist any personal reason he may have for its going over, if it is not with a view to delay it.

Mr. DAVIS. The Senate will recollect that this bounty has been solemnly pledged by an act of Congress to the owners of slaves enlisted into the service. This proposition, therefore, involves the plighted faith and the contract of the Congress of the United States in the form of a law. At the last Congress the House attached a clause to one of the appropriation bills repealing the act of Congress that promised this bounty to the owners of slaves; and in that form that amendment to one of the appropriation bills was reported to the Senate. The Senate then considered the question whether they would repudiate this debt or not, and the Senate struck from the appropriation bill the clause that was attached to it by the House, so that the subject now has the plighted faith of the Senate in three different forms. By the act of 1864 this bounty of \$300 to the owners of the slaves who enlisted into the Army was deliberately and solemnly pledged by the Congress of the United States. The House introduced upon an appropriation bill a clause repudiating that debt and proposing to violate the solemn faith of the Congress and Government of the United States. The Senate took into consideration the amendment of the House to one of the appropriation bills repudiating the contract, and they expunged that repudiation from the appropriation bill. At the last Congress, after the Senate had reiterated its plighted faith and reaffirmed its contract with the owners of slaves, by which the Government bound itself to pay this bounty to them, it deliberately and formally appropriated the money for the payment of these bounties. It is to repudiate this thrice affirmed solemn and deliberate contract of the Government of the United States that this resolution has been introduced again.

Now, Mr. President, if the Senate are determined to repudiate their contract, to violate the plighted faith of the Government, and in this way to bring repudiation and dishonor upon the contracts of the United States Government, I cannot prevent it; but I want the Senator to have this subject fixed for a particular day, when I wish to enter my solemn remonstrance with the Senate against this violation of its often repeated plighted faith.

Mr. TRUMBULL. The Senator has now made his solemn protest. I do not know that it could be much more solemn than he has made it on the present occasion. [Laughter.]

Mr. DAVIS. I can make it a little more lengthy, if not more solemn. [Laughter.]

Mr. TRUMBULL. It certainly struck me, and I doubt not the whole Senate, with great solemnity when he delivered it; and I think now under the solemn influence that pervades the Senate we had better go on with the bill. I do not see any object in postponing it.

Mr. DAVIS. I wish to put my armor in a little better order. I know the prowess of the honorable Senator from Illinois, and I know how heady he is when he gets upon the wrong track, and I want to endeavor to arrest him if I can. I therefore hope the matter will not be considered at the present time.

Mr. TRUMBULL. I hope we may go on with it.

The PRESIDENT *pro tempore*. There is no motion made to postpone, and the resolution is before the Senate as in Committee of the Whole.

Mr. DAVIS. I object to its consideration at this time.

Mr. TRUMBULL. It is too late to do that.

The PRESIDENT *pro tempore*. The Senate has voted to proceed to the consideration of the resolution, and therefore an objection now does not affect it.

Mr. DAVIS. Then I ask the Senator from Illinois to fix to-morrow for its consideration; and if he will have it considered let it come up then.

The PRESIDENT *pro tempore*. Is there any motion to postpone? The Chair hears none.

Mr. TRUMBULL. I do not wish to be discourteous to my friend from Kentucky. I

understand that the postponement is not for delay.

Mr. DAVIS. Not at all for delay.

Mr. TRUMBULL. If the Senator will interpose no objection then, and it will come up tomorrow, I shall not oppose to its going over.

The PRESIDENT *pro tempore*. The joint resolution will be passed over by common consent.

#### INDIANA MILITARY CLAIMS.

Mr. MORTON. I am instructed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 32) refunding to the State of Indiana expenses incurred for quartermaster and commissary stores and for transportation furnished to militia of said State while engaged in repelling rebel raids during the late rebellion, to report it back, with a recommendation that it pass; and if there be no objection I should like to have the joint resolution considered at the present time.

Mr. FESSENDEN. I should like to hear it read first.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the joint resolution. It provides that the expenses incurred by the State of Indiana for quartermaster and commissary stores and transportation furnished by the State to the Indiana militia during the late rebellion while engaged in repelling rebel raids, guarding against raids and insurrections, or while in any way engaged in the military service of the United States during the rebellion, "shall be duly and properly examined by the proper departments or bureaus, under the direction of the Secretary of War, who shall cause to be paid and reimbursed to the State all such expenses as shall be found to have been necessarily and properly incurred, and an appropriation is made for that purpose out of any moneys in the Treasury not otherwise appropriated."

The PRESIDENT *pro tempore*. The question is on the present consideration of this joint resolution. Is there any objection? The Chair hears none.

Mr. SHERMAN. If that is pressed to a vote I shall move to insert the word "Ohio" after the word "Indiana." It is to pay the expenses of the Morgan and other raids, and as a matter of course Ohio ought to be included as well as Indiana.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to amend the joint resolution by inserting the word "Ohio."

Mr. FESSENDEN. I should like to hear some explanation of these bills that are brought in here for particular States. I hope the chairman of the Committee on Military Affairs will tell us what the necessity is for this, and why it is here.

Mr. WILSON. This is a claim on the part of the State of Indiana for stores furnished troops at the time of the Morgan raid and other times when raids were threatened and troops were called out for the defense of the people of that State. I understand that this amount of money was paid by the government of the State of Indiana, and that the State now asks the Federal Government to audit and settle the accounts. This resolution authorizes the Secretary of War to make this examination and settle the accounts according to the rules and regulations of the War Department. The resolution was introduced by the Senator from Indiana, who is a member of the committee, who was Governor of the State at that time, and who can, I have no doubt, answer on any points required. I leave the matter in his hands.

Mr. PATTERSON, of Tennessee. After the word "Ohio" I move to insert "Tennessee."

The PRESIDENT *pro tempore*. It is not now in order.

Mr. MORTON. By this resolution I am not asking that the Government of the United

States shall accept the accounts of the State of Indiana absolutely. It provides that the Secretary of War shall audit and pay such accounts for "such expenses as shall be found to have been necessarily and properly incurred." These expenses were incurred in subsisting and transporting the militia of Indiana while engaged in military service growing out of the late rebellion. So far as the pay of the troops is concerned that has already been allowed by the Government of the United States. The most of the accounts for the service of the men have been already audited and paid. Other accounts have been audited and not yet paid for want of an appropriation. Now, sir, I am asking that the expenses incurred by the State in subsisting and transporting these men at the very same time shall be allowed. If it is proper for the Government of the United States to pay for the services of the men, it is equally proper for the Government to pay for quartermaster and commissary stores and transportation. There is no question in my mind in regard to the propriety of this resolution. The accounts have been properly kept; but I am not asking the War Department to accept our accounts absolutely. I have provided in the resolution that the War Department shall pass upon the propriety and necessity of incurring these expenses, to avoid any objection that might be made on that account. I will state that I am advised that Congress has from time to time made appropriations of a similar character, especially for the State of Pennsylvania; and I can perceive myself no objection to the passage of the resolution.

Mr. WILLIAMS. I should like to inquire of the honorable Senator if he can give any estimate as to the amount that this resolution will probably appropriate?

Mr. MORTON. A letter I have just received from home estimates the amount of expenditure of the State in this respect at about three hundred thousand dollars.

Mr. FESSENDEN. I think the resolution had better go over until to-morrow. I want to look at it. It is drawn in such very broad and general terms that it may cover anything and everything. It is not drawn with that care or guarded as these resolutions ordinarily are. I wish to look at it and see how that can be done.

Mr. RAMSEY. If this resolution is to go over, I ask the Senate to proceed to the consideration of Senate bill No. 28.

The PRESIDENT *pro tempore*. This subject is not yet disposed of. Does the Senator from Indiana consent to the postponement?

Mr. MORTON. I am unwilling to have it go over for the reason that the Senate is probably drawing to its adjournment, and it is necessary to pass it at once in order that it may be acted upon by the House of Representatives. I am anxious to have the matter settled at this session. For that reason I desire to press the resolution to-day.

Mr. FESSENDEN. I cannot consent that a resolution so very broad in its terms as this is shall be acted upon without an opportunity to examine it properly, and therefore I must interpose an objection to it. It is broader than any resolution I ever knew to be passed here, and exceeds the usual breadth and length and everything else that usually attends resolutions of this sort coming from the Committee on Military Affairs, though they are exceedingly liberal and generous.

Mr. MORTON. I think the objection taken by the Senator from Maine is not well founded. The resolution is definite in its terms. It states the character of the expenses incurred, and the occasion on which those expenses were incurred; and then, for the purpose of meeting the very objection that the Senator makes, that resolution provides that the War Department shall be made the judge of the necessity and propriety of incurring those expenses.

Mr. FESSENDEN. I will state to the Senator that I do not want to interpose any sort of

obstacle in the way of everything being done that should be done; but we have never been in the habit here, that I know of, of passing, knowingly, resolutions appropriating money on the ground of what might be considered by a Secretary necessary and proper. We judge of what is necessary and proper here, and lay down certain rules for ascertaining the amount that may be due, and, ordinarily, fix the amount. It ought to be examined by a committee to see what the nature of the claims is, and a limit fixed. That is the ordinary course. Now, this is broader still; most extraordinary in its terms:

Guarding against raids and insurrections, or while in any way engaged in the military service of the United States during said rebellion.

That includes everything. It is a general sweep. And then the resolution leaves it to the War Department to decide what is necessary and proper. I will state to the Senator in all frankness that we never pass resolutions of that character here. We generally lay down the principles upon which the allowance shall be made, and know something about the claims in the first place, and fix a maximum. I remember several cases. There was one in which the State of Minnesota was very much interested, for guarding against Indian hostilities, a case that was quite as pressing as this one; and in that case we insisted that the claim should be audited in a particular way, in the first place, and then fixed a maximum beyond which they should not go before we would allow it to pass.

Now, as general as this is, it certainly would be beyond all precedent that I know anything about, in auditing these claims. Whatever expense has been properly incurred by the State of Indiana in defending itself against the enemy should be paid; but there cannot be occasion for any such great hurry about it. All the States are waiting, more or less, for the settlement of their war expenses, and there certainly should be an opportunity for proper examination, and a proper limitation should be fixed.

Mr. MORTON. I beg leave to say that in my judgment this resolution lays down as definite principles as can be laid down in determining the character of these claims. These troops were employed in repelling rebel raids and guarding against them, and in the service of the United States in other ways. If they were in the service of the United States at all during the rebellion—and that is a question of fact—the State is entitled to compensation for what she has disbursed. How much more definite can it be made unless the Senate itself will examine these accounts? The Senate will never do that. It has never done it in any similar case, and if that condition is to be attached the State might as well abandon her claims.

For the purpose of guarding against the objection that some of these expenses were not perhaps necessarily incurred, I have put in a provision that the War Department shall be the judge upon that subject; and certainly that is subjecting the State to enough scrutiny. I think that where a State like Indiana that has been invaded and been subjected to invasion, has incurred expenses in defending against them, the accounts made up by the State government ought to be accepted by the Government of the United States, and they ought to be received as having been honorably and honestly made. But, sir, I do not ask that. We are willing that the War Department shall pass upon these claims, one by one, and determine upon their propriety. Unless the Senate will examine them by its own committee, what can be provided more definite?

If this is laid over now it goes over to the next session. I want the appropriation made for the purpose of enabling the examination to go forward. It will be sometime before the State gets the money anyhow. The investigation must first be made. If the matter be put off now it is equivalent to a postpone-

ment of a year. It seems to me there ought to be no objection to the passage of the resolution.

Mr. FESSENDEN. This resolution has not even been reported by a committee. It does not appear on its face to have been reported by the authority of any committee.

The PRESIDENT *pro tempore*. It has been reported this morning from the Committee on Military Affairs.

Mr. FESSENDEN. I understand from the chairman of the committee that it is not reported from that committee, and it does not appear to be so on its face.

Mr. MORTON. How is that?

Mr. FESSENDEN. I understand that this resolution is not reported by the committee.

Mr. MORTON. I should like to hear the chairman's statement on that point.

Mr. WILSON. I will relate the fact precisely as it stands. This joint resolution was introduced by the Senator from Indiana and referred to the Committee on Military Affairs. At the time the matter came before the committee there were but three members present. The Senator was anxious to report it, and I said to him that he might report it to the Senate. A majority of the committee was not present, and the report was made by common assent of those present without an examination by a quorum of the committee.

Mr. MORTON. I ask the Senator from Massachusetts if he did not himself instruct me to report the resolution back?

Mr. WILSON. There was not a quorum of the committee present, and it was simply the understanding of those present that it might be submitted to the Senate, each member of the committee to be left at liberty to take his own course with regard to it. I thought from what the Senator said that he was exceedingly anxious to get the matter before the Senate at this session; but there was not a majority of the committee present to consider it, and of course the committee as an organization should not be held responsible for it. The Senator reported the joint resolution with my assent in order to bring it before the Senate and give him an opportunity to explain it.

Mr. MORTON. There was the same number present when this instruction was given to me by the chairman of the committee that were present when many other matters were passed upon that have been or will be reported to the Senate. If it was not proper for the number of the committee who were then present to direct the resolution to be reported back, the chairman of the committee understands it much better than I do. I reported it back according to his instructions, and supposed that in doing so I was doing what was right.

Mr. FESSENDEN. This shows the very great danger of acting upon bills in this way. They come in here at a little session, when Congress is kept together for a special purpose, and Senators desiring to get matters through procure them to be reported without an examination according to our rules of proceeding. It is a very incorrect, very loose, and very dangerous mode of proceeding, and I must enter my objection against it.

Mr. MORTON. I desire to have this matter understood. If this resolution is not considered as having been reported by the committee let it be referred back, and I shall know how to be governed hereafter in my action on such subjects. I presume there were as many persons present in committee when this matter was considered by it as there were present when many other things are agreed to be reported. I will not say that the objection is a capacious one, but I simply want to have it understood what the rule is, so that I may be governed by it hereafter.

Mr. FESSENDEN. I will say to the honorable Senator that the invariable rule is to require a majority of a committee.

Mr. WILSON. All important bills referred to the Military Committee are taken up and examined carefully when a majority is pres-

ent. We had a majority of the committee early the morning when this was taken up; and we passed on some nominations, although the nominations were mostly those to which nobody made any objection. This matter was brought up just before the close of the meeting of the committee, when there was only one member present, beside the Senator and myself. The other member of the committee, who had been in, making a quorum, was then out. The Senator expressed his anxiety to have the matter come before the Senate at this session, and I stated to him that he might report the joint resolution to the Senate, supposing that there could be no misunderstanding about it on his part or on mine, but that it would be understood that the committee as an organization had not examined it and could not be held responsible for it. That has been done once or twice; members of committees report a bill without committing the committee to it. It has been done by other committees of this body.

Mr. FESSENDEN. It has never been done by any committee of which I have been a member.

Mr. RAMSEY. If this matter goes over, I desire to move that the consideration of Senate bill No. 28 be resumed.

The PRESIDENT *pro tempore*. The matter before the Senate must be disposed of. The question is on the amendment offered by the Senator from Ohio.

Mr. FESSENDEN. The bill is not before the Senate. I requested that it be read in order that I might understand what it was, to see whether I would object to it or not, and I have been constantly stating my objection.

The PRESIDENT *pro tempore*. The Chair put the question to the Senate, whether they would proceed to its consideration, and no objection being made the Chair regarded the bill as before the Senate, and an amendment to it was offered by the Senator from Ohio.

Mr. WILLIAMS. I ask the honorable Senator from Indiana if he will not consent to let this joint resolution lie over until to-morrow morning, so that it may be compared with precedents in other cases, and its conformity to those precedents ascertained? That course will save time and discussion, I think. I believe it is quite usual here, when a request is made by a Senator to have a bill lay over a day, so that he can examine it, to accede to his request. That is my understanding of the practice.

Mr. MORTON. The only objection is, the late period of the session. A postponement of this matter for one day, endangers the passage of the joint resolution through the House of Representatives. That is the only objection on my part. I care not how much examination there is of it. If the Senator from Oregon is specially desirous that it shall be laid over, I shall consent; but at the same time I give him my reason why I think it is not advisable.

Mr. WILLIAMS. I am not so particular about it myself, but I am satisfied that there are other gentlemen more experienced in these matters who desire to examine the measure, and who will object to its passage at this time; and it is probable that upon examination and some formal amendments, it may be passed without much controversy.

Mr. MORTON. Very well. Let it go over.

Mr. WILLIAMS. I move that its further consideration be postponed until to-morrow. The motion was agreed to.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that he had approved and signed the joint resolution (S. R. No. 1) presenting the thanks of Congress to George Peabody;

The joint resolution (S. R. No. 15) for the relief of freedmen or destitute colored people in the District of Columbia; and

The bill (S. No. 49) to repeal a joint reso-

lution entitled "A resolution to provide for the removal of the wreck of the steamship Scotland," approved January 29, 1867.

#### BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 84) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 85) to authorize the Southern Minnesota Railroad Company to construct a bridge across the Mississippi river between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. TIPTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 87) to further define the qualifications of members of Congress; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 37) for the relief of First Lieutenant Henry B. Mears; which was read twice by its title, and referred to the Committee on Claims.

On motion of Mr. CRAGIN, the bill (S. No. 24) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, and the joint resolution (S. R. No. 10) proposing an amendment to the Constitution of the United States, heretofore introduced by him, were ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 38) authorizing the chief of Engineers to employ assistant civil engineers; which was read twice.

Mr. WILSON. I should like an explanation of that.

Mr. MORRILL, of Maine. I ask for its present consideration, and I will make a statement. It is known to the Senate that Congress at the last session ordered pretty extensive examinations and surveys to be made by the engineer department in several directions. It is said by that department that the regular force at their command is not adequate to the speedy and efficient execution of this work, and this resolution has the approval of that department. The Senate will judge of the propriety of it. If there be no objection to it I ask for its present consideration; otherwise, let it go to the Committee on Commerce.

Mr. SHERMAN. This resolution provides for giving these persons the pay of a colonel of Engineers. What is that? That is a way of fixing compensation that I thought we had abandoned some years ago.

Mr. BUCKALEW. I think this ought to be referred to some committee.

Mr. SHERMAN. I think it ought to go to the Committee on Public Buildings and Grounds, because I suppose the chief duty is in relation to public works in this District.

Mr. MORRILL, of Maine. Oh no; it has reference to civil engineers to assist in the surveys and examinations of rivers and harbors.

Mr. BUCKALEW. I move that the joint resolution be referred to the Committee on Commerce.

The motion was agreed to.

Mr. RAMSEY asked, and by unanimous



consent obtained, leave to introduce a bill (S. No. 88) making additional appropriations for the current expenses of the Indian department, which was read twice by its title, and referred to the Committee on Indian Affairs.

#### CALIFORNIA HARBORS.

Mr. COLE. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, authorized and required to cause investigation to be made as soon as practicable by the officers of the United States coast survey in California as to the existence of a harbor in the vicinity of Point Salles, on the coast of California; and that the Secretary of War be, and he is hereby, authorized and required to cause estimates to be made by the proper officers of the amount necessary to be expended to render such harbor available for the purposes of commerce.

Mr. MORRILL, of Maine. That had better go to the committee.

Mr. COLE. Very well; I move that it be referred to the Committee on Commerce.

The motion was agreed to.

#### DISCLOSURE OF EXECUTIVE PROCEEDINGS.

Mr. CONNESS. I offer a resolution, and ask for its present consideration:

Whereas it has frequently happened that the proceedings of the Senate in executive session have been published in the newspapers of the country in violation of the injunction of secrecy imposed thereon: Therefore,

*Resolved*, That a committee of three Senators be appointed by the Chair to inquire into and investigate the subject and report to the Senate; and that the committee have power to send for persons and papers, and to employ a clerk if found necessary.

Mr. CONKLING. Before I know whether to object to the resolution or not I should like to hear from the Senator what the object is.

Mr. CONNESS. If the Senator will listen to the reading of the resolution again, I think he will readily perceive the object. If it is taken up I am prepared to state more fully.

Mr. CONKLING. I did listen to all I could hear; I was interrupted for a moment while the preamble was being read.

Mr. CONNESS. Let the resolution be read again.

Mr. CONKLING. I should like very much to hear it.

The Secretary read the resolution.

Mr. CONKLING. If the Senator has no objection, I wish he would let it lie over to another day.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution to-day.

Mr. CONNESS. If the Senator from New York objects, of course it will lie over; but I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there objection?

Mr. CONKLING. I hardly wish to object; but I would rather make a suggestion to the Senator and confer with him about it.

Mr. CONNESS. Then I consent to its lying over.

The PRESIDENT *pro tempore*. The resolution will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes.

The message also announced that the House insisted on its second and third amendments to the amendment of the Senate to the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. J. F. WILSON of Iowa, Mr. G. S. BOUTWELL of Massachusetts, and Mr. S. S. MARSHALL of Illinois, managers at the conference on its part.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled

bill and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 22) in relation to a certain tract of land in Burlington, Iowa;

A joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; and

A joint resolution (S. R. No. 30) amending the ninth section of an act to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate proceeded to consider the second and third amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

Mr. TRUMBULL. I move that the Senate insist upon its disagreement, and agree to the conference asked by the House.

Mr. FESSENDEN. I do not know that I shall object to that; but I wish to call the attention of the Senator from Illinois to the fact that when the bill to which this is supplementary, at one stage of its progress, came from the other House, it came here with a request for a committee of conference, and a motion to have a committee of conference was denounced by him in very strong terms. It was said it was a question of too much importance to be sent to a committee of conference. If the Senator has really changed his mind, and now thinks a conference can be advantageously had, I shall not make any objection.

Mr. TRUMBULL. I will say to my good friend from Maine that this is a disagreement on a single point. It does not open the whole bill. In that case the whole bill was open to a conference committee. This difference is upon a single point.

Mr. FESSENDEN. My friend has great ingenuity, and he can get away from anything, I have no doubt. He finds that there is some utility in a committee of conference, and that we are not to be destroyed by agreeing to have one after all.

Mr. TRUMBULL. I am very happy to have the congratulations of my friend from Maine upon this occasion; but I confess now I do not care very much about a committee of conference on this question. I do not know that there is very much to confer about. Still the other House have asked it, and as the disagreement is on a single point, I am willing to agree to it. If the Senate think otherwise I shall be quite satisfied.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the conferees on the part of the Senate, Messrs. TRUMBULL, WILSON, and BUCKALEW were appointed.

#### CORRECTION OF A MISTAKE.

Mr. SHERMAN. The House of Representatives have sent us a joint resolution to correct a mistake of the Enrolling Clerk, which ought to be passed at once. The Committee on Finance have examined it informally, and I desire to have it put upon its passage immediately.

The joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes, was read three times, and passed. It proposes to correct a mistake in the enrollment of the act of March 2, 1867, by inserting the words "Canada long-wools" in the paragraph headed "class two, down combing-wools."

#### CLOTHING FOR DESTITUTE SOLDIERS.

On motion of Mr. WILSON, the bill (H. R. No. 19) to clothe the maimed and destitute soldiers, was considered as in Committee of the Whole.

It proposes to require the Secretary of War

to furnish annually one complete suit of clothing to each invalid soldier, who is an inmate of any regularly constituted "Soldiers' Home" in the United States, out of the stock on hand in the quartermaster's department. Such clothing is to be delivered to the managers of such institutions upon their requisition therefor, accompanied with such certificates as to numbers and condition as the Secretary of War may prescribe.

Mr. SHERMAN. We passed this morning a bill to accomplish all that we ought to do in this direction. There is a fund amounting to some eight million dollars, I think, to the credit of the disabled soldiers, which is placed under the charge of the National Asylum for Disabled Soldiers. We passed a bill this morning which authorized this fund to draw from the quartermaster's stores clothing for disabled soldiers at the original cost price, to be paid out of the fund. There is, therefore, in my judgment, no occasion for the passage of this bill. The only difference this would make would be that the clothing would be supplied out of the current appropriations for the War Department, or out of the supplies on hand of the quartermaster's department; but by a bill introduced by the Senator's colleague in the other House they are paid out of this fund, and it is the proper method of paying them. I see no occasion for the passage of this bill.

Mr. WILSON. This bill came to us from the House some days ago. I suppose the object is to provide for cases where there are asylums established by the States and by local communities. The soldiers in those establishments would not be provided for, I think, by the bill already passed. We have a large quantity of clothing on hand at this time which will last for a great while; and it was supposed that some of it might as well be worn out by these soldiers. If the Senator thinks the case is covered by the other bill, I shall not be very persistent in pressing this.

Mr. TRUMBULL. Under the other bill they have to pay for clothing.

Mr. SHERMAN. But they have to pay for it out of a fund which has \$8,000,000 to its credit.

Mr. TRUMBULL. I will state how I understand this matter to stand. This bill will apply only to a class of persons who are in the Soldier's Homes in the various States. I can illustrate it best perhaps by referring to the one that is near my own residence. We have at Chicago a Soldier's Home, which has in it, I think, about one hundred soldiers ordinarily, entirely supported by contributions of benevolent persons. They have put up buildings and I think have raised probably two hundred thousand dollars in all. There are usually ninety or one hundred, sometimes more than a hundred soldiers there, some of them very destitute. Those who are able perhaps pay something, but they come to Chicago to be treated, a good many of them, for their eyes, and are entirely destitute. The establishment takes care of any soldier who is in that condition. The object of the bill is to furnish a suit of clothes to each one of that class of persons. That is the extent of the bill. I think the Senator from Ohio can have no objection to it. It is not intended as a general bill to furnish all soldiers.

Mr. SHERMAN. But it provides for furnishing one suit of clothes annually, and is to be continued.

Mr. TRUMBULL. But only while the United States has the clothing on hand. We have a vast amount of clothing now laid aside. It was provided for our armies during the war, it being supposed they would want it. Of course in time this clothing will become moth-eaten, and will be of no value to the Government. It will be a great relief to some of these charitable institutions to get some of this clothing. If the Government has not got it it will not be distributed under the bill. The extent of it is very little, and I really think there cannot be any objection to the bill. I trust the Senator from Ohio will withdraw his objection and let it pass.

Mr. SHERMAN. I have no objection to voting a suit of clothes to all the disabled soldiers in these charitable institutions.

Mr. TRUMBULL. That is the extent of it.

Mr. SHERMAN. No; it provides for one suit annually. Now, after this year national soldiers' asylums will be organized in every State of the Union with ample funds, and they will be under the regulation of persons authorized by the Government. Then every person who is entitled to receive the benefits of an asylum will go to these places and be subject to the discipline and the authority of the United States, and the clothing will be distributed by officers or persons appointed by the United States authorities. This provision would continue these persons in private charitable institutions, while the object of the law providing national asylums is to secure to the beneficiaries of this money homes provided by the national Government. If this bill were confined to one suit of clothing now I would not object to it.

Mr. TRUMBULL. Very well; strike out the word "annually."

Mr. SHERMAN. I have no objection to the bill with that amendment.

Mr. TRUMBULL. I move, then, to amend the bill by striking out the word "annually."

Mr. WILSON. Very well.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### BRIDGES OVER THE MISSOURI AND MISSISSIPPI.

Mr. HENDERSON. I move that the Senate proceed to the consideration of Senate bill No. 19.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 19) declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, to be legal structures and post roads.

The Committee on Post Offices and Post Roads reported the bill with amendments. The first amendment was in section one, line eighteen, to strike out the words "the State of Missouri" and to insert "any State in which any portion of said obstruction or bridge touches;" so that the clause will read:

And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

The amendment was agreed to.

The next amendment was to insert as section five the following:

Sec. 5. And be it further enacted, That the Missouri River Railroad Company, authorized by the Legislature of Kansas, may construct a bridge across the Missouri river, at or within two miles of the corporate limits of the city of Leavenworth, Kansas, upon the same terms and conditions provided for in this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. The title was amended so as to read: "A bill declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, and a bridge to be constructed over the Missouri river at or near Leavenworth, Kansas, to be legal structures and post roads."

#### SENATOR FROM MARYLAND.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. JOHNSON. Before that is done I ask the honorable member to permit me to make a motion which I am about to make. I presented

yesterday the credentials of Hon. Philip Francis Thomas as Senator on this floor. In consequence of the statements made on the floor of the Senate in relation to his right to a seat as a Senator, he informs me this morning that he is exceedingly anxious to have the inquiry made as to the truth of the charges at the earliest moment. He has requested me, therefore, to move that his credentials be referred to the Committee on the Judiciary. I make that motion.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. ANTHONY, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 73) to exempt ladders from internal tax.

A joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to the States lately in rebellion;

A joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BOYNTON, as Chaplain of the House of Representatives of the Fortieth Congress; and

A joint resolution (H. R. No. 23) relative to the publication of the treaties and laws of the United States.

#### ENROLLED RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury; and it was thereupon signed by the President *pro tempore* of the Senate.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. TRUMBULL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its disagreement to the second amendment of the House, and agree to the same.

That the House of Representatives recede from its third amendment to the amendment of the Senate, and agree to the same, with the following amendment: on page 5, line eleven, after the word "assembling" insert "and if it shall moreover appear to Congress that the election was one at which all the registered and qualified voters in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State," and that the Senate agree to the same.

LYMAN TRUMBULL,  
CHARLES R. BUCKALEW,  
HENRY WILSON,  
*Managers on the part of the Senate.*  
JAMES F. WILSON,  
GEORGE S. BOUTWELL,  
SAMUEL S. MARSHALL,  
*Managers on the part of the House.*

Mr. JOHNSON. What is the effect of that? I do not understand.

Mr. TRUMBULL. The effect of it is this: the House recede from the disagreement to our amendment, which required, as the Senate will remember, a majority of the votes cast, a majority of the registered voters voting at the election, and agrees to it with this addition, which is, that when the constitution is presented Congress must be satisfied that all the registered voters in a State had a full and fair opportunity to vote, and that the constitution meets the approval of a majority of the qualified voters.

Mr. JOHNSON. I am satisfied.

Mr. PATTERSON, of Tennessee. Do I understand that a majority of all the registered voters is not now required?

Mr. TRUMBULL. The word "registered"

is put in before "qualified," but that does not alter it at all. The Senate disagreed to that before, though it might very properly have agreed to it. It is now left to a majority of the qualified registered voters voting upon a constitution; and a majority of the votes cast determines the question, provided a majority of all the registered voters participate in the election, just as we left it; and the other provision is that Congress must be satisfied when the constitution comes here that everybody has had an opportunity to participate in the election.

Mr. FESSENDEN. I should like to have the chairman of the committee explain what is meant by the expression that it shall be made to appear that all the electors have had the opportunity to vote without the influence of fraud.

Mr. TRUMBULL. That means freely.

Mr. FESSENDEN. It says "freely" before.

Mr. TRUMBULL. This is repeating it. We wanted it thoroughly indoctrinated into the minds of these people.

Mr. BUCKALEW. I have but one remark to make. The gentlemen who constituted the Senate branch of this joint committee of conference were not particularly charmed with the phraseology of the amendment, but conceded to the House the insertion of these words, supposing it would do no harm. On the other, the vital point, to wit, the question of the number of votes to be required at the election, the House consented to our position. We therefore considered that we were carrying off the honors of the battle, and would allow these words to go in.

Mr. MORRILL, of Vermont. I should like to hear from the Senator who represented the minority on this committee of conference. [Laughter.]

Mr. TRUMBULL. The Senate has got what it wants.

The report was concurred in.

#### HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 73) to exempt ladders from internal tax—to the Committee on Finance.

A joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BOYNTON, as Chaplain of the House of Representatives of the Fortieth Congress—to the Committee on Appropriations.

A joint resolution (H. R. No. 23) relative to the publication of the treaties and laws of the United States—to the Committee on Printing.

The joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to the States lately in rebellion, was read twice by its title.

Mr. POMEROY. Let that lie on the table for the present. It can be considered informally by the Committee on Public Lands without a formal reference.

The PRESIDENT *pro tempore*. The resolution will lie on the table.

#### EXECUTIVE SESSION.

The Senate again proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 19, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. BINGHAM, the reading of the Journal of yesterday was dispensed with by unanimous consent.

#### DUTY ON WOOL AND WOOLENS.

Mr. BINGHAM. Congress at its last session passed a bill laying additional duties on imported wools and woolen goods. But when

the bill came to be enrolled an error was committed by the accidental omission of three words. I ask unanimous consent to introduce a joint resolution to correct the error. It will explain itself, without further words from me.

The joint resolution was read at length. The preamble states that in the enrollment of the bill entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March 2, 1867, the words "Canada long wools" were inadvertently omitted from the paragraph designated under the heading "Class two, combing-wools," although said words were in the engrossed bill, and were intended to be a part of the act as passed by the Thirty-Ninth Congress.

The joint resolution provides that the aforementioned act be amended by inserting the words "Canada long wools" after the words "down combing-wools," in the paragraph headed "Class two, combing-wools."

No objection being made, the joint resolution was received; read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ISSUE OF AGRICULTURAL COLLEGE SCRIP.

Mr. JULIAN. I ask consent of the House to introduce a joint resolution relative to the issue of agricultural college scrip to the States lately in rebellion.

Mr. BURR. Let the joint resolution be read.

The joint resolution was read at length. The preamble of the joint resolution recites that on the 3d day of April, 1866, by the authority and direction of the President of the United States, agricultural college scrip, covering nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina, under the act of Congress of July 5, 1862, providing for agricultural colleges; that by the same authority the General Land Office is now preparing to issue scrip in like manner to the States of Virginia, Georgia, and Mississippi; and that said action of the President takes for granted that said States are restored to their proper constitutional relation to the Union, and are to be recognized in all respects as entitled to the rights of the other States of the Union, which questions Congress alone can rightfully determine.

The joint resolution prohibits the further issue or delivery of such scrip to any of the States lately in rebellion against the United States, except the State of Tennessee, or the acceptance of such scrip, or of any heretofore issued, by the registers or receivers of any of the land offices of said States, until they shall be fully restored to their rights as States by Congress.

Mr. BURR. I object to the introduction of this joint resolution.

Mr. JULIAN. I move that the rules be suspended in order to permit the introduction of the joint resolution at this time.

The question was taken; and upon a division, there were—ayes 53, noes 19; no quorum voting.

Tellers were ordered; and Mr. JULIAN and Mr. NICHOLSON were appointed.

The House again divided; and the tellers reported that there were—ayes 69, noes 18.

So (two thirds voting in the affirmative) the rules were suspended.

The joint resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JULIAN. I call for the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. BURR. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 24, not voting 86; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Hamilton, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hubbard, Hunter, Judd, Julian, Kelley, Kelsey, Ketoham, Kitchen, Krontz, Ladin, William Lawrence, Lincoln, Logan, Lousbrenner, Mallory, Marvin, McClurg, Mercer, Miller, Moore, Morrell, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polesky, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taff, Thomas, Townbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen E. Wilson, Windom, and Woodbridge—103.

NAYS—Messrs. Archer, Barnes, Brooks, Burr, Eldridge, Fox, Getz, Glosbrenner, Haight, Holman, Kerr, Marshall, Morgan, Morrissey, Niblack, Nicholson, Noell, Pruyn, Randall, Sitgreaves, Taber, Van Aiken, Van Trump, and Wood—24.

NOT VOTING—Messrs. Boyer, Butler, Chanler, Dawes, Denison, Eliot, Griswold, Halsey, Harding, Hayes, Hill, Hooper, Humphrey, Ingersoll, George V. Lawrence, Loan, Lynch, McCarthy, McCullough, Moorhead, Mungen, Myers, Phelps, Pike, Price, Raum, Robinson, Ross, Selye, Stewart, Stone, Taylor, Robert T. Van Horn, Ward, William B. Washburn, and Thomas Williams—36.

So the joint resolution was passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRINTING OF NATIONAL CURRENCY, ETC.

Mr. MILLER. I ask unanimous consent to introduce for consideration at the present time a joint resolution directing the Secretary of the Treasury to cause the national bank notes, bonds, and other Government printing to be done at the Government Printing Office in the city of Washington.

Mr. RANDALL. Let the joint resolution be read for information.

The joint resolution, which was read, recites in the preamble that it is inexpedient to have the Government printing done in the city of New York or other cities when the same can be done in the Government Printing Office at Washington as cheaply, or more cheaply, beside avoiding the expense of expressage. The joint resolution therefore proposes to direct the Secretary of the Treasury to cause the printing of the notes, bonds, and other Government printing to be done at the Government Printing Office in Washington; provided the same can be done as well and as cheaply as in the city of New York or elsewhere.

Mr. RANDALL. I object.

Mr. MILLER. I move to suspend the rules to permit the introduction of the joint resolution.

On the motion there were—ayes 26, noes 57.

Mr. MILLER. I call for the yeas and nays.

The yeas and nays were not ordered.

So the motion to suspend the rules was not agreed to.

#### INTERNAL TAX ON LADDERS.

Mr. JUDD. I ask unanimous consent to introduce for consideration at this time, a bill entitled "An act to exempt ladders from internal tax."

The SPEAKER. The joint resolution will be read for information, after which the Chair will entertain any objection which may be made.

The bill, which was read, provides that ladders manufactured in whole or in part from wood, from and after the passage of the act, be entitled to the exemption provided for in section eleven of the act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March 2, 1867.

There being no objection, the bill was introduced, and read a first and second time.

Mr. SPALDING. I should like to hear some explanation of the bill.

Mr. JUDD. I propose to have read a short letter from one of my constituents, which will, I think, explain this matter so clearly that no gentleman on this floor will object to the passage of the bill.

The Clerk read as follows:

CHICAGO, March 8, 1867.

DEAR SIR: In reading the amended revenue tax bill just passed I am surprised that ladders of all kinds are not included in the list of articles exempted from taxation, as about everything else made of wood is included in the bill. Probably the article was not thought of by any member of Congress or it would have been named in the list.

Within a few years past several factories have been started in different cities of the Union, making the manufacture of ladders an exclusive business, and by this means this class of goods have been much improved; but we have been so heavily taxed on all materials used, as well as on the article when sold, that it has been a precarious business. Now, that the tax has been removed from the entire class of wooden articles, with the exception of ladders, I have felt that to ask you would so get your influence to amend the law so as to include ladders of all kinds. Hoping you will consider an amendment of the kind an act of justice, and labor to secure it.

I am truly yours,

C. G. UDELL.

Hon. NORMAN B. JUDD.

Mr. JUDD. Mr. Speaker, I have tested the accuracy of the statements contained in that letter by a reference to the internal revenue act, approved March 2, 1867. If members desire it I will read the various exemptions of articles manufactured of wood. It will be found that things, belonging to substantially the same class, but of very much greater magnitude as articles of manufacture than ladders, are by that act put upon the free list, while ladders have been omitted. The manufacture of ladders is a very small business at present, and needs, I think, the little encouragement which this exemption will give it. I hope the House will pass the bill.

Mr. GARFIELD. I would inquire of the gentleman whether the raw materials entering into the manufacture of ladders are taxed. With regard to many articles included in the free list the tax has been taken off because the materials entering into their manufacture have already paid tax. It seems to me that to select a single article like this and put it upon the free list will be an exceptional kind of legislation, in which we ought not to engage at the present time. The bill passed yesterday at the instance of the gentleman from Maine [Mr. BLAINE] was merely to correct a mistake in the law in reference to a matter that had been legislated upon.

Now, if the gentleman may put in ladders or any other specific article in the free list, some other gentleman may vote to put in something else, and so we may go on perpetually.

I hope the gentleman will let me move to refer this bill to the Committee of Ways and Means when appointed.

Mr. JUDD. I will say to the honorable gentleman from Ohio that the larger portion of the cost of these things is the labor involved in their manufacture. The principal material is wood, but there are iron spikes and nails which I assume are necessary to be used for the completion of the article.

I will call attention to some of the articles exempted under the act to which this is an amendment: "brush-blocks." I do not see any reason why we should exempt brush-blocks and not ladders:

"Casks, churns, barrels, wooden brushes and broom handles, tanks, and kists made of wood, including cooperage of all kinds, bungs and plugs, packing-boxes, nest-boxes, and match-boxes, whether made of wood or other materials; wooden hames, plow beams, split-bottom chairs, and turned materials for the same unmanufactured, and saddle-trees made of wood, and match-boxes heretofore made on which a tax has not been paid.

Horse-rakes, horse-powers, tedders, hames, scythe-snaths, hay-forks, hoes, and portable grinding mills. Potato-hooks, pitchforks, manure and spading forks.

Pumps, garden-engines, and hydraulic rams. Sleds, wheelbarrows, and hand-carts, and fence made of wood."

As was stated yesterday, ladders were overlooked, or they, too, would have been exempted. I demand the previous question.

Mr. GARFIELD. I hope it will not be seconded.

The House divided, and there were—ayes 41, noes 41.

Mr. RANDALL called for tellers.

Tellers were ordered, and Mr. RANDALL, and Mr. JUDD were appointed.

The House again divided and the tellers reported—ayes 49, noes 44.

So the previous question was seconded.

The main question was then ordered to be now put.

Mr. EGGLESTON. I hope the gentleman will modify his bill so as to include "stoves."

Mr. JUDD. I will do anything, I will say, if in order, for my friend from Ohio; but when I asked yesterday to have this added to a bill to which I thought it was germane, gentlemen told me not to embarrass their measure and they would help me to pass mine. Mine is here now, and I hope the gentleman will not embarrass it with his proposition.

Mr. GARFIELD moved that the bill be laid on the table.

Mr. RANDALL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 61, not voting 48; as follows:

YEAS—Messrs. Allison, Anderson, Archer, James M. Ashley, Barnes, Beaman, Blair, Boutwell, Boyer, Brooks, Broomall, Reader W. Clarke, Driggs, Eldridge, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Haight, Holman, Hulburt, Humphrey, Hunter, Ketcham, Laffin, Lincoln, Morgan, Mungen, Newcomb, Niblack, Nicholson, Noell, Orth, Paine, Perham, Polsley, Pomeroy, Randall, Robertson, Schenck, Shanks, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Twitchell, Upson, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Thomas Williams, William Williams, and Wood—59.

NAYS—Messrs. Ames, Delos R. Ashley, Baker, Benjamin, Bingham, Bromwell, Buckland, Burr, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Culom, Dodge, Donnelly, Eckley, Eggleston, Farnsworth, Ferry, Gravely, Hamilton, Hayes, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Judd, Julian, Kelley, Kerr, Kitchin, William Lawrence, Logan, Loughridge, Mallory, Marshall, McClurg, Mercier, Miller, Moore, Morrell, O'Neill, Peters, Pile, Plants, Poland, Ross, Sawyer, Scofield, Shellabarger, Aaron F. Stevens, Stewart, Taffe, Taylor, Thomas, Trowbridge, Van Wyck, Henry D. Washburn, Welker, James F. Wilson, and John T. Wilson—61.

NOT VOTING—Messrs. Baldwin, Banks, Blaine, Butler, Cake, Chanler, Cornell, Covode, Dawes, Denison, Ela, Eliot, Ferriss, Griswold, Halsey, Harding, Hill, Hooper, Ingersoll, Kelsey, Koonz, George V. Lawrence, Loan, Lynch, Marvin, McCarthy, McCullough, Moorhead, Morrissey, Myers, Phelps, Pike, Price, Pruyn, Raum, Robinson, Selye, Stone, Ward, William B. Washburn, Stephen F. Wilson, Windom, and Woodbridge—43.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PAINE demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The House divided; and there were—ayes 56, noes 53.

So the bill was passed.

Mr. JUDD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate concurred in the first and fourth amendments, and disagreed to the second and third amendments of the House to the amendment of the Senate to House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

It also informed the House that the Senate had passed a bill and joint resolutions of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 39) to provide means for the prosecution of work on the distributing reservoir of the Washington aqueduct;

A joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session

of the Legislature held at Santa Fé from the 3d day of December, 1866, to the 31st of January, 1867; and

A joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee.

#### WASHINGTON AQUEDUCT.

On motion of Mr. STEVENS, of Pennsylvania, Senate bill No. 39, to provide means for the prosecution of the work on the distributing reservoir of the Washington aqueduct, was taken from the Speaker's table, and read a first and second time.

Mr. STEVENS, of Pennsylvania. I move its reference to the Committee on Appropriations when appointed. It contains an appropriation.

Mr. KELSEY. I move its reference to the Committee of the Whole.

Mr. STEVENS, of Pennsylvania. I think it ought to go the Committee on Appropriations.

The SPEAKER. The motion to refer to the Committee of the Whole has priority.

The question being taken on the motion to refer to the Committee of the Whole, it was disagreed to—ayes 37, noes 56.

The bill was then ordered to be referred to the Committee on Appropriations when appointed.

#### GOVERNMENT OF THE REBEL STATES.

On motion of Mr. WILSON, of Iowa, the House took up from the Speaker's table the message of the Senate in relation to the amendments of the House to the amendment of the Senate to House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

Mr. WILSON, of Iowa. I move that the House insist upon its amendments disagreed to by the Senate, and request a committee of conference, and on that I demand the previous question.

Mr. BINGHAM. I move that the House recede from its amendments.

Mr. HOLMAN. I ask that the amendments disagreed to by the Senate be reported.

The Clerk reported the amendments, as follows:

On page 5, line four, after the word "the," where it occurs the second time insert the word "registered."

On the same page, after the word "specified" in line five strike out the words "cast at said election, (at least one half of all the registered voters voting upon the question of such ratification)."

The section, as amended, reads as follows:

SEC. 5. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session then immediately upon its next assembling, &c.

The previous question was seconded and the main question ordered.

The question was stated first on the motion to recede.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 78, not voting 23; as follows:

YEAS—Messrs. Archer, Barnes, Bingham, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Reader W. Clarke, Coburn, Cornell, Eldridge, Ferry, Fields, Fox, Getz, Glossbrenner, Haight, Halsey, Hamilton, Holman, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Hunter, Kerr, Kitchin, Koonz, Mallory, Marshall, Miller, Moore, Morgan, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Noell, Orth, Plants, Poland, Polsley, Pruyn, Randall, Robinson, Ross, Sitgreaves, Smith, Spalding, Stewart, Taber, Thomas, Twitchell, Van Auken, Van Trump, Henry D. Washburn, John T. Wilson, Wood, and Woodbridge—62.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Blaine, Boutwell, Broomall, Butler, Cake, Churchill, Sidney Clarke, Cobb, Cook, Covode, Dodge, Driggs, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Finney, Garfield, Gravely, Hayes, Hopkins, Hulburt, Judd, Julian, Kelley, Kelsey, Ketcham, Laffin, Wil-

liam Lawrence, Lincoln, Loan, Logan, Loughridge, Marvin, McClurg, Mercier, Morrell, O'Neill, Paine, Perham, Peters, Pile, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, and Windom—78.

NOT VOTING—Messrs. Banks, Bromwell, Culom, Dawes, Denison, Donnelly, Eliot, Griswold, Harding, Hill, Ingersoll, George V. Lawrence, Lynch, McCarthy, McCullough, Moorhead, Myers, Phelps, Pike, Price, Raum, Stone, and William B. Washburn—23.

So the motion was disagreed to.

The question recurred on the motion to insist on the amendment of the House disagreed to by the Senate, and ask for a committee of conference; and it was agreed to.

The SPEAKER appointed as conferees on the part of the House Messrs. WILSON, of Iowa, BOUTWELL, and MARSHALL.

#### ENROLLED BILL AND RESOLUTIONS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 22) in relation to a certain tract of land in Burlington, Iowa;

Joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; and

Joint resolution (S. R. No. 30) amending the ninth section of "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes,'" approved August 30, 1852.

#### CHAPLAIN OF THE HOUSE.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to introduce and put upon its passage a joint resolution to authorize the payment of Rev. C. B. BOYNTON, as Chaplain of the House of Representatives of the Fortieth Congress.

Mr. HOLMAN. Let it be reported.

The joint resolution was read at length. It authorizes Rev. CHARLES B. BOYNTON to draw the amount appropriated for the payment of the Chaplain of the House for the Fortieth Congress, and appropriates a sum sufficient to pay him the usual salary for the present fiscal year.

Mr. STEVENS, of Pennsylvania. The Department construes the law in such a manner that unless the name of the Chaplain is given he cannot draw the amount appropriated for his pay. A similar joint resolution for the same purpose was passed last year.

Mr. MUNGEN. I would inquire of the Chair what is the usual salary of the Chaplain?

The SPEAKER. That is not a question of parliamentary rules; but the Chair can answer the gentleman. The salary is about nine hundred dollars.

No objection being made, the joint resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### IMPROVEMENT OF THE MISSISSIPPI.

Mr. PILE. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Speaker of this House be requested to appoint a special committee on the improvement of the Mississippi river and its tributaries, to consist of seven members, to whom shall be referred all memorials, petitions, maps, surveys, and reports in relation to the improvement of the Mississippi river and its tributaries, and the construction of levees on the lower Mississippi and Red rivers, with authority to sit during the recess of this House, and to employ a clerk at the same compensation as clerk of the Committee on Commerce, for the purpose of examining the progress of work on



the upper and lower rapids of the Mississippi river: the character of lands offered by the State of Louisiana to the United States Government as security for guarantying bonds of said State to be used in the construction of levees, collect facts and statistics relating to these subjects; and that said committee be instructed to report at the next regular session of this House by bill or otherwise.

Mr. SPALDING. I object.

Mr. CHANLER. I will object unless the gentleman will include the wharves and docks of the city and harbor of New York.

Mr. WARD. And the Hudson and Susquehanna rivers.

#### PUBLICATION OF LAWS AND TREATIES.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to introduce for consideration at this time a joint resolution relative to the publication of the treaties and laws of the United States.

The joint resolution was read at length. It provides that so much of section seven of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as relates to the publication of the treaties and laws of the United States, shall be extended to the States not therein designated and to the Territories; provided that the Clerk of the House is hereby authorized to print the laws and treaties of the United States as aforesaid in three newspapers in Louisiana.

Mr. KELSEY and Mr. CHANLER objected to the introduction of the joint resolution.

Mr. STEVENS, of Pennsylvania. The object of this joint resolution is merely to make the provisions of the section of the act referred to in it apply to all the States and Territories alike; and also to allow the publication of the laws and treaties of the United States in three newspapers in Louisiana, instead of two only, as now provided by law. It is urged that the publication in two papers in Louisiana will not be sufficient.

Mr. KELSEY and Mr. CHANLER withdrew their objection.

The joint resolution was then received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLERKS IN THE DEPARTMENTS.\*

Mr. NOELL. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Secretaries of War, Navy, Treasury, State, Interior, the Postmaster General, and the Commissioner of Agriculture be requested to report to this House the number and names of clerks and employes in their respective Departments, their grades and classes, with length of service, and the State, Territory or district from which each was appointed.

Mr. CULLOM objected.

#### CLAIMS OF LOYALISTS FOR DAMAGES.

Mr. STEVENS, of Pennsylvania. I desire, if it shall be the pleasure of the House, to call up for consideration at this time a motion submitted by myself on the 11th instant, to reconsider the vote by which the House referred to the Committee of the Whole the bill of the House No. 29, relative to damages done to loyal men, and for other purposes. I desire to call up the motion for the purpose of making a speech upon it while the committee of conference on the disagreeing votes of the two Houses on the supplementary reconstruction bill are engaged upon that subject. I will agree to yield as soon as that committee come in with their report. I desire to make the speech to-day, as otherwise I probably will not have an opportunity to make it this session.

The SPEAKER. The motion to reconsider is a privileged question. The gentleman from Pennsylvania, rising to call up that motion, is entitled to the floor for one hour.

Mr. BOYER. I rise to a question of order. I desire to know whether my colleague [Mr. STEVENS] is entitled in this way to get possession of the floor without a suspension of the rules?

The SPEAKER. The Clerk will read Rule 49, to be found on page 164 of the Digest.

The Clerk read as follows:

"When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same or succeeding day; and such motion shall take precedence of all other questions, except a motion to adjourn; and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any member may call it up for consideration."

The SPEAKER. This bill was introduced March 11, 1867; read twice, and referred to the Committee of the Whole. On the same day the gentleman from Pennsylvania, [Mr. STEVENS,] having voted with the majority on the reference of the bill, moved to reconsider the vote by which it had been referred. That motion being called up now has priority of all other questions except a motion to adjourn.

Mr. BOYER. Would it be in order now to move that the motion to reconsider be laid on the table?

The SPEAKER. That motion will be in order when the gentleman from Pennsylvania [Mr. STEVENS] shall have concluded his remarks. He is entitled under the rule to one hour to discuss the question.

Mr. WOOD. I desire to inquire whether the gentleman gave notice within the rule of his intention to move a reconsideration.

The SPEAKER. The motion was entered on the day on which the bill was referred.

Mr. WOOD. Is there any record of that fact?

The SPEAKER. The motion is journalized. Otherwise it could not be called up. On page 6 of the Daily Order of Business for Monday, March 18, will be found the following:

*Motions passed and motions to reconsider pending—Privileged.*

March 11, 1867. A bill (H. R. No. 29) relative to damages done to loyal men, and for other purposes. Read twice and referred to a Committee of the Whole House for to-morrow, and ordered to be printed. Mr. STEVENS moved to reconsider the vote referring said bill. Question. Shall the said vote be reconsidered?

Mr. WOOD. I desire to ask the gentleman from Pennsylvania whether he intends to withdraw the motion, or to move the previous question at the conclusion of his speech and deprive this side of the House of all opportunity to reply to him.

Mr. STEVENS, of Pennsylvania. I will say to the gentleman that I do not intend to move the previous question. I propose to allow the fullest debate which gentlemen can desire. I do not wish to prejudice in any way the rights of gentlemen on that side.

Before proceeding with my remarks I ask the Clerk to read the bill now before the House on the motion to reconsider.

The Clerk read as follows:

Whereas it is due to justice, as an example to future times, that some proper punishment should be inflicted on the people who constituted the "confederate States of America," both because they, declaring an unjust war against the United States for the purpose of destroying republican liberty and permanently establishing slavery, as well as for the cruel and barbarous manner in which they conducted said war, in violation of all the laws of civilized warfare, and also to compel them to make some compensation for the damages and expenditures caused by said war: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the public lands belonging to the ten States that formed the government of the so-called "confederate States of America" shall be forfeited by said States and become forthwith vested in the United States.

SEC. 2. *And be it further enacted*, That the President shall forthwith proceed to cause the seizure of such of the property belonging to the belligerent enemy as is deemed forfeited by the act of July 17, A. D. 1862, and hold and appropriate the same as enemy's property, and to proceed to condemnation with that already seized.

SEC. 3. *And be it further enacted*, That in lieu of the proceeding to condemn the property thus seized as enemy's property, as is provided by the act of July 17, A. D. 1862, two commissions or more, as by him may be deemed necessary, shall be appointed by the President for each of the said "confederate States,"

to consist of three persons each, one of whom shall be an officer of the late or present Army, and two shall be civilians, neither of whom shall be citizens of the State for which he shall be appointed; and that the said commissions shall proceed to adjudicate and condemn the property aforesaid, under such forms and proceedings as shall be prescribed by the Attorney General of the United States, whereupon the title to said property shall become vested in the United States.

SEC. 4. *And be it further enacted*, That out of the lands thus seized and confiscated the slaves who have been liberated by the operations of the war and the amendment to the Constitution or otherwise, who resided in said "confederate States" on the 4th day of March, A. D. 1861, or since, shall have distributed to them as follows, namely: to each male person who is the head of a family, forty acres; to each adult male, whether the head of a family or not, forty acres; to each widow who is the head of a family, forty acres—to be held by them in fee-simple, but to be inalienable for the next ten years after they become seized thereof. For the purpose of distributing and allotting said land the Secretary of War shall appoint as many commissions in each State as he shall deem necessary, to consist of three members each, two of whom at least shall not be citizens of the State for which he is appointed. Each of said commissions shall receive a salary of \$3,000 annually and all his necessary expenses. Each commission shall be allowed one clerk, whose salary shall be \$2,000 per annum. The title to the homestead aforesaid shall be vested in trustees for the use of the liberated persons aforesaid. Trustees shall be appointed by the Secretary of War, and shall receive such salary as he shall direct, not exceeding \$3,000 per annum. At the end of ten years the absolute title to said homesteads shall be conveyed to said owners or to the heirs of such as are then dead.

SEC. 5. *And be it further enacted*, That out of the balance of the property thus seized and confiscated there shall be raised, in the manner hereinafter provided, a sum equal to fifty dollars, for each homestead, to be applied by the trustees hereinafter mentioned toward the erection of buildings on the said homesteads for the use of said slaves; and the further sum of \$500,000,000, which shall be appropriated as follows, to wit: \$200,000,000 shall be invested in United States six per cent. securities; and the interest thereof shall be semi-annually added to the pensions allowed by law to pensioners who have become so by reason of the late war; \$300,000,000, or so much thereof as may be needed, shall be appropriated to pay damages done to loyal citizens by the civil or military operations of the government lately called the "confederate States of America."

SEC. 6. *And be it further enacted*, That in order that just discrimination may be made, the property of no one shall be seized whose whole estate on the 4th day of March, A. D. 1865, was not worth more than \$5,000, to be valued by the said commission, unless he shall have voluntarily become an officer or employe in the military or civil service of the "confederate States of America," or in the civil or military service of some one of said States, and in enforcing all confiscations the sum or value of \$5,000 in real or personal property shall be left or assigned to the delinquent.

SEC. 7. *And be it further enacted*, That the commission shall put a just and impartial valuation on all the property thus seized and forfeited, and when such valuation shall be completed in the several States all the said commissioners shall meet in the city of Washington and assess the \$500,000,000 aforesaid, as well as the allowances for homestead buildings, *pro rata*, on each of the properties or estates thus seized, and shall give notice of such assessment and apportionment by publication for sixty days in two daily newspapers in the city of Washington, and in two daily newspapers in the capitals of each of the said "confederate States."

SEC. 8. *And be it further enacted*, That if the owners of said seized and forfeited estates shall, within ninety days after the first of said publications, pay into the Treasury of the United States the sum assessed on their estates respectively, all of their estates and lands not actually appropriated to the liberated slaves shall be released and restored to their owners.

SEC. 9. *And be it further enacted*, That all the land, estates, and property, of whatever kind, which shall not be redeemed as aforesaid within ninety days, shall be sold and converted into money, in such time, and manner as may be deemed by the said commissioners most advantageous to the United States: *Provided*, That no arable land shall be sold in larger tracts than five hundred acres: *And provided further*, That no longer credit shall be given than three years.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I am about to discuss the question of the punishment of belligerent traitors by enforcing the confiscation of their property to a certain extent, both as a punishment for their crimes and to pay the loyal men who have been robbed by the rebels, and to increase the pensions of our wounded soldiers. The punishment of traitors has been wholly ignored by a treacherous Executive and by a sluggish Congress. I wish to make an issue before the American people and see whether they will sanction the perfect impunity of a murderous belligerent, and consent that the loyal men of this nation, who have been despoiled of their property, shall remain without remuneration, either by the rebel property or the property of the nation.

To this issue I desire to devote the small remnant of my life. I desire to make the

issue before the people of my own State, and should be glad if the issue were to extend to other States. I desire the verdict of the people upon this great question.

This bill is important to several classes of people.

It is important to our wounded and maimed soldiers, who are unable to work for their living, and whose present pensions are wholly inadequate to their support. It is important to those bereaved wives and parents whose habiliments of woe are to be seen in every house, and proclaim the cruel losses which have been inflicted on them by the murderous hands of traitors.

It is important to the loyal men, North and South, who have been plundered and impoverished by rebel raiders and rebel Legislatures.

It is important to four millions of injured, oppressed, and helpless men, whose ancestors for two centuries have been held in bondage and compelled to earn the very property a small portion of which we propose to restore to them, and who are now destitute, helpless, and exposed to want and starvation under the deliberate cruelty of their former masters.

It is also important to the delinquents whose property it takes as a fine—a punishment for the great crime of making war to destroy the Republic, and for prosecuting the war in violation of all the rules of civilized warfare. It is certainly too small a punishment for so deep a crime, and too slight a warning to future ages.

No committee or party is responsible for this bill. It is chargeable to the President and myself. Whatever merit it possesses is due to Andrew Johnson. In the summer of 1864 he said in a public speech:

"Let me say now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state and we are seeking security, let us fix the foundations of the Government on the principles of eternal justice, which will endure for all time.

"Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers, so freely poured out, will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain.

"Why all this carnage and devastation? It was that treason might be put down and traitors punished. I say the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy.

"Treason must be made odious, and traitors must be punished and impoverished; their great plantations must be seized and divided into small portions, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of rebellion is past. It is high time it was. I have been most deeply pained at some things which have come under my observation. We get men in command, who, under the influence of flattery, fawning, and caressing, grant protection to the traitor, while the poor Union man stands out in the cold."

This is all the eloquent language of Andrew Johnson as "he was." This was the text which I took up and elaborated in a speech to my constituents at Lancaster in September, 1865, and which has been much criticised by humane sympathizers with rebels. Andrew Johnson was the apostle whose preachings I followed. His doctrine pervades and animates this whole bill. Whatever of justice is in it is due to him. I call upon his friends to stand by him in this, his favorite policy. If you now desert him, who can you expect to defend the "much-enduring man" at the other end of the avenue? Having thus rendered unto Cæsar the things that are Cæsar's, I will proceed to defend the course recommended by him, who above all others knows what is due to traitors.

This bill, it seems to me, can be condemned only by the criminals and their immediate friends, and by that unmanly kind of men whose intellectual and moral vigor has melted into a fluid weakness which they mistake for mercy, and which is untempered with a single grain of justice, and to those religionists who mistake meanness for Christianity, and who forget that the essence of religion is to "do unto others what others have a right to expect from you." It is offensive to certain pretentious doctors of divinity who are mawkishly

prating about the "fatted calf, the prodigal son, and the forgiving father." They forget that there is no analogy between the cases. The thoughtless youth having received a part of his father's estate, and probably taking a load of corn to market, fell into bad company and contracted the loathsome vice of drunkenness, and spent the money in rioting and debauchery, and, like all drunkards, made his bed with the swine and fed on husks; but like one case only in a thousand he reformed, joined the total abstinence society, washed himself clean, brushed his clothes, and with repentant steps returned to his father's house. Well might his aged parent rejoice; well might he kill the fatted calf at such a rescue. But how venial was such offense compared with this murderous rebellion!

When the great ancestor of this bloody race had slain his brother, and tremblingly met his Judge and sought for pardon, what was the answer? "The voice of thy brother's blood crieth unto me from the ground. And now art thou cursed from the earth, which hath opened her mouth to receive thy brother's blood from thy hand. When thou tillest the ground it shall not henceforth yield unto thee her strength; a fugitive and a vagabond shalt thou be in the earth." When Cain cried out that his "punishment was more than he could bear," the Judge who administered justice in mercy drove him forth into stern, inexorable exile. He taught no forgiveness for such sins. He prated of no "fatted calves."

I proceed to consider the bill. By the act of 17th July, 1862, treason is made punishable by death or some smaller punishment, at the discretion of the court. Before punishment can be inflicted for treason or misprision of treason the party must be duly convicted in a court of the United States. Not so with the balance of the bill. All the rest of that law (after the first four sections) refers to persons engaged in the belligerent army, or officially connected with the government known as the "confederate States of America," or to those who voluntarily aided that power. While that law supposed that most of the people composing that army and government were traitors, yet they are dealt with in all the provisions which refer to confiscation merely as belligerents making an unjust war. The forfeitures which follow from a conviction for treason are left to the operations of the common law.

The fifth section enacts that—

To insure the speedy termination of the present rebellion it shall be the duty of the President of the United States to cause the seizure of all the estates and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and apply and use the same and the proceeds thereof for the support of the Army of the United States.

Then follow the enumeration of all the officers of the army and navy of the confederate government; all the civil officers of said government; all persons engaged in the army or navy, or aiding said confederate States of America, unless they laid down their arms within a given time.

To secure the condemnation of property thus seized, proceedings *in rem* are to be instituted wherever the property may be found, which proceeding shall follow the proceedings in admiralty or revenue cases, and the same shall be condemned as enemies' property, and become the property of the United States, and the proceeds paid into the Treasury of the United States. (Seventh section act of 17th July, 1862.) The eighth section provides that the court shall make all necessary orders, and the marshal shall make deeds and conveyances for such property to the purchaser, and then such titles shall be good and valid.

This law is unrepealed. It is in full force, and stands on the statute-book as one of the laws which the President swore to execute. (Would to God he had obeyed his oath! Let us see that we obey ours.)

It may be objected that the Government is stretching its powers in making such confiscations. That was a question well considered

when the act of 1862 was passed. It must be remembered that this is not an open question; we are merely considering the enforcement of an existing law. But I will briefly review some of the arguments in favor of the right. We are treating these belligerents simply as enemies, and their property as enemies' property now in the possession and power of the conqueror. By the law of nations in its most stringent provision all the property, liberty, and lives of a conquered enemy who has waged an unjust war are at the disposal of the victor. Modern civilization will seldom justify the exercise of the extreme right. The lives, the liberty, and, in most cases, the real property of the vanquished are left untouched. The property, however, of the vanquished is held in some shape liable to pay the expenses and damages sustained by the injured party. If peace is brought about by treaty, it is usually stipulated that the expenses and damages shall be paid by the defeated belligerent. As such remuneration must be levied as taxes on the subjects, it does subject all their property to this burden. Where there is no government capable of making terms of peace, the law-making power of the conqueror must fix the terms. This gives them sufficient right to take just such property as it may deem proper. Where the subdued belligerent is composed of traitors, their personal crimes aggravate their belligerent offense and justify severer treatment, just as a tribe of savages are treated with more rigor than civilized foes.

From such a people much more might and ought to be exacted than from an honorable enemy. Whenever example requires it, heavy fines should be imposed and the criminals reduced to poverty, as was properly required by our excellent President. Vattel says:

"When, therefore, he has subdued a hostile nation, he undeniably may, in the first place, do himself justice respecting the object which has given rise to the war, and indemnify himself for the expenses and damages which he has sustained by it."

Halleck (page 457) says that by strict right property on land and real estate is subject to seizure, though seldom enforced with an ordinary enemy.

All writers agree with Vattel (page 369)—

"Thus a conqueror who has taken up arms not only against the sovereign, but against the nation herself, and whose intention it was to subdue a fierce and savage people, and once for all to reduce an obstinate enemy, such a conqueror may with justice lay burdens on the conquered nation, both as compensation for the expenses of the war and as a punishment."

Apply these principles to the case in hand. The cause of the war was slavery. We have liberated the slaves. It is our duty to protect them, and provide for them while they are unable to provide for themselves. Have we not a right, in the language of Vattel, "to do ourselves justice respecting the object which has caused the war," by taking lands for home-steads for these "objects" of the war?

Have we not a right, if we chose to go to that extent, to indemnify ourselves for the expenses and damages caused by the war? We might make the property of the enemy pay the \$4,000,000,000 which we have expended, as well as the damages inflicted on loyal men by confiscation and invasion, which might reach \$1,000,000,000 more. This bill is merciful, asking less than one tenth of our just claims.

We could be further justified in inflicting severe penalties upon this whole hostile people as "a fierce and savage people," as an "obstinate enemy," whom it is a duty to tame and punish. Our future safety require stern justice.

What more "savage or fierce people" than they who deliberately starved to death sixty thousand prisoners of war; who shot or reduced to bondage all captive soldiers of the colored race; who sought to burn our cities through secret agents; who sent infected materials into our most populous towns to destroy non-combatants, old men, women, and children, by the most loathsome and fatal diseases; and who consummated their barbarism by the assassination of the mildest of rulers and the best of men? If this is not a "fierce and sav-

age enemy" whom we have a right to reduce to absolute submission and dependence, point me out one to which the language of Vattel will apply. You would do great injustice to those mild savages who owed us no allegiance by pointing to those who perpetrated the massacre of Wyoming; or to the Camanches or the wild Indians of the West, or the fierce tribes of the Oronoco—and yet you seize their lands and expel them from their native country.

I suppose none will deny the right to confiscate the property of the several belligerent States, as they all made war as States; or of the confederate States of America; for no one ever denied the right of the conqueror to the crown property of the vanquished sovereign, even where the seizure of private property would not be justified by the circumstances.

That would give us all called for by the first section of the bill. I believe Texas has about one hundred and ten million acres. She retained all her public lands at the time of annexation on the condition of paying her own debts; and afterward called on the United States Government for the payment of those very debts, and procured it. I know not how much the other States may have; possibly enough to make up, with Texas, one hundred and fifty million acres. But it is said that any of the property of the sovereign is subject to seizure by the conqueror; in ordinary wars between monarchies such is the fact; but that is not the case where war is made on a whole hostile people—"a fierce and savage people." But, admitting the limitation to prevail, still it does not obstruct us.

Here is a belligerent made up of men whose crimes had forfeited all their rights, independently of their belligerent liabilities. But beyond that, the case of republics is very different from absolute governments, where the people are responsible for nothing, are guilty of nothing. The sovereign and his estate may well be distinguished from his subjects and their estates. But in republics, the people—the whole people—are the sovereigns. All the responsibility of the acts of the Government falls upon all the people. Their individual property must answer for the expenses, damages, and indemnities which fall on the Government of the nation. The Romans, from whom we derive our national law, held that the private property of every citizen might be seized, because he was a sovereign, a part of the governing power.

But it matters not what you may think of the efficiency of the act of July 17, 1862. The laws of war authorize us to take this property by our sovereign power; by a law now to be passed. We have a subdued enemy in our power; we have all their property and lives at our disposal. No peace has been formed. No terms of peace or of reconciliation have been yet proclaimed, unless the proclamation of the President can make peace and war. The Constitution denies him any power in either case. Then, unless Andrew Johnson be king, the terms of peace are yet to be proclaimed. Among those terms, as we have shown, we have a right to impose confiscation of all their property—to "impoverish" them, as Andrew Johnson has told us; to "divide their large farms and sell them to industrious men." This is strict law and good common sense. Now, then, without reference to any former act, we have a right to seize the property named in this bill, and ten times more. You behold at your feet a conquered foe, an atrocious enemy. Tell him on what terms he may arise and depart or remain loyal. But do not embrace him too hastily. Be sure first that there is no dagger in his girdle. The President has been throwing thick around him decrees and proclamations and speeches upon subjects wholly beyond his jurisdiction. He assumes that his declaration of a fact creates a fact, however false it may be. His constitutions dictated to hordes of rebels; his declaration that the States are States in the Union; his proclamation that peace is restored, he has cunningly put forth as cumulative evidence of the condition of the "confederate States." Not one of them is any better than waste paper.

All put together are but accumulated nonsense. Does he expect to deceive or to bewilder Congress by such incoherent assumptions? I think that Congress will proceed in that calm, unimpassioned, but unwavering course which distinguishes the statesman from the demagogue.

Having, as I conceive, justified the bill which I seek to have enforced, let us now look to the provisions of the bill under consideration:

The first section orders the confiscation of all the property belonging to the State governments, and the national government which made war upon us, and which we have conquered. I presume no one is prepared to object to this unless it be those who condemned the conquest. To them I have nothing to say, except to hope that they will continue consistent in their love of the rebels; to show an exuberant humanity into which is merged and submerged all the exalted feelings of patriotism.

The second section requires the President to execute an existing law which he is sworn to execute, but the performance of which oath is in abeyance. Certainly such law should be enforced or repealed; it is a mockery to allow it to stand on your statute-books and be not only not enforced, but violated every day by the executive government.

The third section furnishes a more convenient and speedy mode of adjudicating such forfeitures, and more consistent with the military condition of the conquered States.

The fourth section provides first that out of the lands thus confiscated each liberated slave who is a male adult, or the head of a family, shall have assigned to him a homestead of forty acres of land, (with \$100 to build a dwelling,) which shall be held for them by trustees during their pupillage.

Let us consider whether this is a just and politic provision.

Whatever may be the fate of the rest of the bill I must earnestly pray that this may not be defeated. On its success, in my judgment, depends not only the happiness and respectability of the colored race, but their very existence. Homesteads to them are far more valuable than the immediate right of suffrage, though both are their due.

Four million persons have just been freed from a condition of dependence, wholly unacquainted with business transactions, kept systematically in ignorance of all their rights and of the common elements of education, without which none of any race are competent to earn an honest living, to guard against the frauds which will always be practiced on the ignorant, or to judge of the most judicious manner of applying their labor. But few of them are mechanics, and none of them skilled manufacturers. They must necessarily, therefore, be the servants and the victims of others unless they are made in some measure independent of their wiser neighbors. The guardianship of the Freedmen's Bureau, that benevolent institution, cannot be expected long to protect them. It encounters the hostility of the old slaveholders, whether in official or private station, because it deprives these dethroned tyrants of the luxury of despotism. In its nature it is not calculated for a permanent institution. Withdraw that protection and leave them a prey to the legislation and treatment of their former masters, and the evidence already furnished shows that they will soon become extinct, or be driven to defend themselves by civil war. Withhold from them all their rights, and leave them destitute of the means of earning a livelihood, the victims of the hatred or cupidity of the rebels whom they helped to conquer, and it seems probable that the war of races might ensue which the President feared would arise from kind treatment and the restoration of their rights. I doubt not that hundreds of thousands would annually be deposited in secret, unknown graves. Such is already the course of their rebel murderers; and it is done with impunity. The clearest evidence of that fact has already been shown by the testimony taken by the "Central Directory." Make them independent of their old masters, so that

they may not be compelled to work for them upon unfair terms, which can only be done, by giving them a small tract of land to cultivate for themselves, and you remove all this danger. You also elevate the character of the freedman. Nothing is so likely to make a man a good citizen as to make him a freeholder. Nothing will so multiply the productions of the South as to divide it into small farms. Nothing will make men so industrious and moral as to let them feel that they are above want and are the owners of the soil which they till. It will also be of service to the white inhabitants. They will have constantly among them industrious laborers, anxious to work for fair wages. How is it possible for them to cultivate their lands if these people were expelled? If Moses should lead or drive them into exile, or carry out the absurd idea of colonizing them, the South would become a barren waste.

When that wisest of monarchs, the Czar of Russia, compelled the liberation of twenty-five million serfs, he did not for a moment entertain the foolish idea of depriving his empire of their labor or of robbing them of their rights. He ordered their former owners to make some compensation for their unrequited toil by conveying to them the very houses in which they lived and a portion of the land which they had tilled as serfs. The experiment has been a perfect success. It has brought the prosperity which God gives to wisdom and justice. Have they not a right to it? I do not speak of their fidelity and services in this bloody war. I put it on the mere score of lawful earnings. They and their ancestors have toiled, not for years, but for ages, without one farthing of recompense. They have earned for their masters this very land and much more. Will not he who denies them compensation now be accused, for he is an unjust man? Have we not upon this subject the recorded decision of a Judge who never erred? Four million Jews were held in bondage in Egypt. Their slavery was mild compared with the slavery inflicted by Christians. For of all recorded slavery—Pagan, heathen, or Mohammedan—Christian slavery has been the most cruel and heartless; and of all Christian slavery American slavery has been the worst. God, through no pretended, but a true Moses, led them out of bondage, as in our case, through a Red sea, at the cost, as in our case, of the first born of every household of the oppressor. Did He advise them to take no remuneration for their years of labor? No! He understood too well what was due to justice. He commanded the men and the women to borrow from their confiding neighbors "jewels of silver and jewels of gold and raiment." They obeyed him amply, and spoiled the Egyptians, and went forth full-handed. There was no blasphemer then to question God's decree of confiscation. This doctrine then was not "satanic." He who questions it now will be a blasphemer, whom God will bring to judgment. If we refuse to this downtrodden and oppressed race the rights which Heaven decreed them, and the remuneration which they have earned through long years of hopeless oppression, how can we hope to escape still further punishment if God is just and omnipotent? It may come in the shape of plagues or of intestine wars—race against race, the oppressed against the oppressor. But come it will. Seek not to divert our attention from justice by a puerile cry about fatted calves!

The fifth section provides that \$500,000,000 shall be raised out of the confiscated property for two purposes: the increase of the pensions of our soldiers and the payment to loyal despoiled citizens. Is there any injustice in this? We have seen that by the law of nations they were liable to pay all the expenses and damages of the war. Those expenses cannot be less than five billion dollars, including our debt and what was paid with taxes; the damages were probably half a billion more. To exact but one tenth part is mercy unexampled in national magnanimity. In the great mutiny in



India, in which so many millions of the original owners of the soil were engaged, and who held proprietary rights under well-defined titles, the Government declared that their engagements had been canceled by the rebellion, and that the proprietary right in the soil was confiscated to the Government, which would dispose of that "right as to it might seem fitting." No one ever complained that this exceeded the power of the victors. Why so tender when a small punishment is to be inflicted on our enemy? Three hundred million dollars put at interest at six per cent. would just about double present pensions. Eight dollars a month to men unable to work is wholly inadequate to their necessities. That rate was fixed when the pay of soldiers was but eight dollars per month; it is now sixteen dollars. The increased price of all the necessities of life renders that necessary. The pensions should be increased in the same proportion. Their present allowance is a mere mockery; it must be doubled out of some fund. Shall it be at the cost of loyal men, or of those who mangled and slew our noble soldiers? You talk of pity. Pity for whom? Your tears flow for pompous traitors; ours for maimed, halting, crippled patriots.

I know there is a cry for the perfect impunity of the enemy. It is a dangerous and unwholesome doctrine. Inflict salutary punishments to prevent future civil wars and to punish the criminals; "their brothers' blood cries to us from the earth which has opened its mouth to receive their brothers' blood from their hands;" all this blood cannot sink into the ground unavenged; the ghosts of these murdered martyrs will not down, but will haunt their murderers to the bar of eternal judgment.

Is there anything in the practice of nations to condemn this confiscation? Nothing; but everything to justify it. When a city or people in alliance with Rome conspired to levy war against her, on being conquered she was not unfrequently deprived of half her population and their lands taken and given to Roman colonists. Where all is justly forfeited, including their lives, to leave them a part is great mercy. I need not cite the examples of Greece and Macedonia. They were severer than Rome. Now, I would not exact much personal punishment. I have never believed in bloody penalties. I have long since adopted the milder views of Boccarria and Montesquieu. But when I say that, it does not mean impunity to criminals. Heavy pecuniary punishments should take the place of personal inflictions. Rome at one time decreed that no blood should be shed except in hostile conflict. But for making war on the republic and lesser crimes she interdicted to the "malefactor fire and water," which was the form of her sentence of banishment. Such banishment involved the forfeiture of all their estates, real as well as personal. While they allowed the malefactor to depart with life they reduced him to poverty. Such was the fate of Cicero when he went into exile. It was from the study of this Roman law, no doubt, that our learned President took the idea contained in his speech, "traitors must be impoverished." He will, I hope, pardon us for not being hard-hearted enough fully to carry out his wishes.

Certain gentlemen seem hard to learn, either from the writings of learned publicists, or from the passing and visible events of the present age. The German empire had many features similar to our own. It was composed of thirty-eight States, each independent in its own municipal government and laws, but each subject to the general government of the empire in whatever came within its jurisdiction. By its constitution all the States were pledged to perpetual union. This pledge had come down to them through ages. It had a congress of members from each of the States, which was sitting permanently, whose acts were to bind each member of the confederacy. War broke out between two of the principal Powers. The minor States ranged themselves under the banner of the one or the other. Prussia triumphed.

Did the constituent parts say, "We lay down our arms; peace ensues; and we claim our old rights as they were under the constitution of the German empire? We could not go out of that empire, for our constitution declared that it should be perpetual." No. None of the vanquished Powers were so idiotic as to set up such pretenses. No one was foolish enough to suggest it to the conqueror. Prussia took up these submissive States and dealt with them according to the universally-acknowledged laws of war. She first imposed the expenses of the war upon the conquered belligerents according to what she deemed equitable. Austria bore forty-five millions, Saxony ten millions, Bavaria three millions, and so on. She refused to let the States participate in the Government, but incorporated several of them into the kingdom of Prussia. Why do not these injured parties invoke the indignation of the civilized world? Because they knew that the verdict would be against them. They knew that the war destroyed the constitution of the German empire and annulled the treaties of 1815; that all must be subject to the will of the conqueror. Where is our statesmanship that we suffer the enemy to escape from the payment of the costs and damages of the war? Where is our patience that we suffer them to clamor about rights under the Constitution? Where is our courage that we suffer the President to head this new rebellion?

The remaining part of the sum levied, to wit, \$200,000,000, is to remunerate loyal men in both sections who in consequence of their loyalty have been plundered and had their property destroyed by the invading armies and raiders of the enemy, or by the unjust seizure and confiscation of the property of loyal men in the rebel States. Who objects to this? Whoever does let him put his name on record, that the country may fairly judge on which side his sympathies lie. By the usages of nations the property of the citizens of the belligerent Power taken or destroyed as a military necessity is paid by the Government. But property taken or destroyed by the enemy is not paid by the Government. Strictly speaking, the property of citizens of the hostile Government, though friendly to the conqueror, cannot be charged to the victor. But in civil wars it seems to me that a distinction should be made, and those who had suffered for their adherence to the parent Government should be taken care of in adjusting the conditions of peace. We know there are loyal men in the South who are large sufferers. There are a still larger number in the North who are made larger sufferers, neither of whom have any chance of being remunerated except through this congressional legislation. Neither of them can ever receive a dollar out of the Treasury of the United States. I know not whether \$200,000,000 will pay them. Certainly it would be a great relief. I need not enumerate the sort of damages to which I refer. Southern loyalists who have suffered are everywhere to be seen. The valley of Virginia and the course of Sheridan's operations are full of them. The smoking ruins of Lawrence and Chambersburg, almost every county of Missouri and Maryland, and the frontier portions of Ohio are samples of the latter.

If the war had been between two regular Governments, both of which survived the war, the victor in the treaty of peace would require the vanquished to pay all such damages as well as all the expenses of the war. If neither had conquered the other they would probably be silent, and each bear his own loss. Congress is dictating the terms of peace. If she does not provide for these meritorious claimants she will be bound in honor to pay them out of the national Treasury. If she does not, individuals will be wronged and the nation dishonored. This bill is very merciful toward a cruel, outlawed belligerent, who, when their armies were dispersed, would gladly have compromised if their lives were saved. Those who will be affected by this bill will not exceed seventy thousand out of a population of six million whites, for this is a people of aristocrats

and subjects; of a proud nobility and a cringing, poor peasantry. Those seventy thousand persons own about three hundred and ninety million acres of land out of the five hundred millions in the confederate States. This, together with the town property, cannot be worth less than \$10,000,000,000. This estimate includes no man's property who was worth less than \$10,000; nor does it include any personal property, which may perhaps swell it to \$12,000,000,000. The fine proposed would be but one twentieth of their estates. Were ever such great malefactors so gently dealt with? It were well if all their large estates could be subdivided and sold in small tracts. No people will ever be republican in spirit and practice where a few own immense manors and the masses are landless. Small independent landholders are the support and guardians of republican liberty.

But it is said that very many of these men have been pardoned by the President, and their forfeited estates restored to them.

I must take the liberty to deny that any pardon, or any other power vested in the President, can withdraw these forfeited estates from the confiscation decreed by Congress. Nothing less than an act of Congress can divest them from the United States and bestow them on the pardoned belligerents. No one denies that the President possesses the pardoning power. This power is conferred on the Chief Executive for wise purposes, to correct the errors and mistakes of courts, and imperfections of human laws. Bacon says:

"The power of pardoning offenses is inseparably incident to the Crown, and this high prerogative the king is intrusted with upon a special confidence that he will spare those only whose case, could it be foreseen, the law itself may be presumed willing to have excepted out of the general rules which the wisdom of man cannot possibly make so perfect as to suit every particular case." (6 Bac. Abr., 138.)

How well the President has adhered to the object of this high prerogative others must judge. The special pardons granted cannot indeed be over four thousand of the subjects of confiscation.

The pardons are granted for the crime of treason.

I shall not question that such pardons may be pleaded in bar of any prosecution for treason, and save the traitor's property from the forfeiture which results from the conviction of that crime.

But the act of July 17, 1862, under which these forfeitures arise, has no reference to treason, (except the first four sections, under which we do not ask the action of the Executive.) It declares the property of certain belligerents, enemies of the United States, subject to seizure, and orders it to be appropriated, as enemies' property, to the service of the United States Government. In perfecting the forfeiture it does not pretend to prosecute the owners for crime, but treats their property as that of any enemy who was captured as lawful prize. How can the President by a pardon restore the property thus vested in the United States? Suppose the delinquent were an alien enemy, and as such his property or land was ordered to be seized by act of Congress? Could the President dispense with that law by his sovereign power and arrest the forfeiture in its transit to the Treasury? The belligerent has been guilty of no crime as belligerent of which the Executive could absolve him. Neither the war-making power nor the power to make peace is in the President. The power to declare war is vested in Congress alone. The power to make peace rests with the President and the Senate. The power to dispose of the property of a conquered people is vested in the sovereign law-making power of the nation, which in this Republic is Congress. A king of England once claimed and exercised the right to dispense with an act of Parliament; but the Parliament vindicated its rights, and by an act (1 Ws., 111) declared all such pardons and charters void, and that no "dispensation by non obstante of or to any statute or any part thereof be allowed." Have we the courage and the virtue of our British ancestors?



But at the most the pardons extend to but fourteen thousand out of seventy thousand wealthy belligerents. While there is not the least pretense in law that the President, by pardon or otherwise, can wrest this property from the Government, yet it is melancholy that the Executive should confederate with traitors, and by his own act and on his own individual responsibility attempt to take billions out of the Treasury of the United States to enrich bloody traitors; to impose burdens on the loyal men who risked life and property to save the nation that fawning rebels might live in affluence and glorify him. But even if all those now pardoned were beyond our reach, there are still several thousands who are not shielded by these potential charters. That will suffice for the small sum which this bill requires.

While all must mourn over the melancholy spectacle of the attempted robbery of loyal men and the suffering relations of the martyrs of liberty by one who should be their guardian, let us deal fairly and place the responsibility where it justly belongs. Andrew Johnson before he was President held, as we have seen, the following language. In a speech already referred to, made in the summer of 1864, he said:

"Why all this carnage and devastation? It was that treason might be put down and traitors punished; therefore I say that traitors should take a back seat in the work of reconstruction. [No "restoration" then.] I say the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government. [Then there was no being in the Union and entitled to "equal rights."] Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of rebellion is past. It is high time it was. I have been most deeply pained at some things which have come under my observation. We get men in command who, under the influence of flattery, fawning, and caressing, grant protection to the traitor, while the poor Union man stands out in the cold, often unable to get a receipt or a voucher for his losses."

How well he describes men when they get in command, "who, under the influence of flattery, fawning, and caressing, grant protection to traitors, while loyal Union men stand out in the cold." For some time after he "got in command" he held the same honest language; but, unfortunately, he had inherited the prime minister, the chief bane of his predecessor, who, oily and adroit, gradually gained his confidence and misled his judgment. He boasts that the plan of the Administration is his plan, invented by him and carried on by him. This is doubtless true. It cannot be the President's plan, for it contradicts all his well-considered declarations; but in process of time he was beguiled. While he was "clothed and in his right mind" he uttered the thoughts and sentiments of a statesman; but Seward entered into him, and ever since they have both been running down steep places into the sea. Nor do I expect he will be cast out without "sore rending."

Without impeaching the motives of the President, it is the duty of Congress, in vindication of its proper rights and prerogatives, to declare that he has arrogated to himself powers and attempted to do and enforce acts for which he can find no warrant in the Constitution and laws of the nation. Invested as he is with the command of the Army and Navy, with all the executive powers of the different Departments, if he should be permitted to usurp still further powers, and take control of the States, and the organization of Congress, is there not danger that some future Executive, some ambitious Cæsar, will cross the Rubicon and march his legions upon the capital? While protecting the President in the exercise of all his legitimate duties, and in times of national peril making large allowance for patriotic acts of doubtful legality, great care should be taken that he does not draw to himself all the powers of Government and thus enable him to become a despot. This is one of the sacred duties

of Congress, which if they fail to discharge they deserve the severest censure, for they betray a nation; nay more, they betray the cause of universal liberty. To maintain this position is difficult, and requires great fortitude and moral courage. How apt is poor human nature to yield to the smiles or the frowns of power. How difficult to determine to cast from you all chance of influence and patronage? How difficult to resist the temptations of office and emolument? And yet all this must be done, or this great people, instead of being free, will become the heritage of tyrants.

Ten States of this Union have cast off their allegiance, and by the common acknowledgment of all have forfeited all their rights under the Constitution. To become again legitimate States in the Union, so as to entitle them to equal rights with the other States, the Constitution requires the sanction of Congress. It matters not whether such power is attributed to the provision to admit new States or to the clause guarantying republican forms of government; in either case Congress is the only power authorized to act; so has the Supreme Court of the United States decided in *Luther vs. Borden*, and elsewhere. The law-making power providing for the case, the President's whole functions are to execute the laws. If the "confederate States of America" are a conquered Power, the President, as Commander-in-Chief, may hold them in military rule until the sovereign power of the nation declares by what laws they shall be governed. Sovereignty rests with the people and is exercised through their representatives in Congress. But the President has assumed not only the military control of those conquered States, but he has attempted to give the force of laws to his proclamations and decrees, whereby he has determined what acts shall entitle them to all the rights of States in the Union. He has imposed upon them forms of government without their consent and without the consent of Congress. He has allowed a small minority of their votes to register his constitutions, and, without submitting them to the ratification of the people, he has declared them legitimate organic laws and the States "reconstructed." He has imperiously required of Congress to treat them as equal in all their rights to the loyal States, without inquiring whether they are entitled to representation, and dogmatically informed them that their only power is "each House for itself to inquire into the qualification and election of members who present themselves and claim their seats." If his order is not obeyed he obstructs legislation and "forbids" Congress to pass laws in the absence of such members. What more could a king do but place the crown upon his head? The king of England, for one hundred and fifty years has not ventured to oppose his single will to the will of the nation, and veto a bill which had passed the Parliament of the realm. England has had her servile and timid Commons ready to register the edicts of the Crown; but for the last hundred years such a body would have been hurled from power and doomed to infamy by the English people and by history. We are now undergoing the test of courage and the integrity of a Republican Congress. How many may be craven none can tell. For who can judge of his own strength? History will record their names. Men now obscure may thus obtain the advantage of becoming famous.

But it is said that Mr. Johnson is but carrying out the policy of Mr. Lincoln. That, if true, would not justify his errors. But it is not true. In the midst of the war Mr. Lincoln had but little time or little occasion to examine into the question of reconstruction. Until the enemy was conquered everything was made subservient to that great object. Attempts to distract the "confederate" government were made by recognizing parts of her territory as loyal. Such was the case with small portions of Louisiana. The President encouraged them

to assume the form of a State; but Congress never sanctioned it. The President by his message and proclamation of December, 1863, suggested a mode of reconstruction; but in it he distinctly disclaimed all right to control Congress in the matter, and declared that his suggestion of a plan did not exclude other plans. He said:

"For the same reason it may be proper to say that, whether members sent to Congress from any State shall be admitted to seats constitutionally, rests exclusively with the respective Houses, and not to any extent with the Executive."

He defines more carefully what he meant in this proclamation in a well-prepared speech delivered three days before his death, (11th of April, 1865.) He said:

"In this I have done just so much and no more than the public knows. In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction (as the phrase goes) which I promised, if adopted by any State, should be acceptable to and sustained by the executive government of the nation. I distinctly stated that this was not the only plan which might possibly be acceptable; and I also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States."—*National Intelligencer* of April 12, 1865.

How different from our present Secretary of State!

That good man, who never willingly infringed upon the rights of any other department of the Government expressly accorded to Congress alone the power to declare "when or whether members should be admitted to their seats in Congress from such States." It is not to be denied that his anxiety for the admission of members from Louisiana—or rather from New Orleans and adjoining parishes—gave uneasiness to the country. The people had begun to fear that he was misled, and was about to fall into error. If he would have fallen into that course, it is well for his reputation that he did not live to execute it. From being the most popular, he would have left office the most unpopular man that ever occupied the executive chair. But that overruling Providence that so well guided him did not permit such a calamity to befall him. He allowed him to acquire a most enviable reputation, and then before there was a single spot upon it, "he sailed into the fiery sunset,"

"And left sweet music in Cathay."

Here, if there were anything in common but their station, what a temptation to draw a parallel. But it would be unprofitable; especially in this debate. For what we say at the graves of admired friends or statesmen or heroes is not biography. The stern pen of history will strip such eulogies of their meretricious ornaments. But there is no danger that the highest praise that the most devoted friends could bestow on him would ever be reversed by posterity. So solid was the material of which his whole character was formed that the more it is rubbed the brighter it will shine. Mr. Lincoln, also, was of humble origin, (and who is not that is formed of the coarse clay of humanity?) and earned his living by manual labor. But he had too good taste ever to boast of the accident of his birth, or to weary the public ear with the tautological recital of his mental employments. He rose to the Chief Magistracy of the great Republic by his sterling patriotism, sober habits, and modest worth. He was not thrown into power by any moral or political convulsion. His elevation was no accident, but the result of the cool judgment of a nation of freemen. No man ever assumed such vast responsibilities under such difficult circumstances, except, perhaps, William the Silent. How similar in their lives; how alike in deaths.

If there was danger, and I admit there was some apprehension that Mr. Lincoln would be beguiled by his chief adviser into a course which would have tarnished his well-earned fame, that good Guardian who had guided him so well kindly preserved him from that calamity. Death is terrible. Death in high places is still more lamentable; but every day

is showing that there are things more terrible than death. It was better that his posthumous fame should be unspotted than that he should endure a few more years of trouble on earth. All must regret the manner of his death; yet, looking to futurity and to his own personal position, it may be considered happy. From the height of his glory he beheld the promised land, and was withdrawn from our sight. In the midst of the most exquisite enjoyment of his favorite relaxation he was instantaneously taken away without suffering one pang of death. Like the prophet of the Lord who knew not death, he was wrapt from earth to heaven along a track no less luminous than his who ascended in a chariot of fire with horses of fire. Would to God that some small portion of the mantle of our Elijah had fallen on his Elisha.

Previous to the conclusion of the preceding speech Mr. STEVENS's hour expired, but it was extended by unanimous consent.

Mr. CHANLER obtained the floor.

Mr. STEVENS, of Pennsylvania. Unless the gentleman from New York desires to go on I will merely say if the House does not want to consider the bill now, I will move its further consideration shall be postponed until the second Tuesday of December next.

Mr. CHANLER. I yield for that motion.

The SPEAKER. The gentleman will have the floor when its consideration is resumed.

The motion was agreed to.

Mr. MUNGEN. May I respectfully ask the honorable gentleman from Pennsylvania, [Mr. STEVENS,] what he will do in view of the oath he has taken to support the Constitution of the United States, article one, section three, clause nine, which says that "no bill of attainder or *ex post facto* law shall be passed," if the honorable gentleman's peculiar ideas of right and wrong enable him to now enact a law in the face of the Constitution, which is clearly *ex post facto*, or in other words retroactive? In our country, and under our laws, the people are sovereign; and the very law introduced by the gentleman admits that there was no law violated. The rebels had but put to practical results the doctrine of the leaders on the other side of the House as to the right to secede.

Mr. STEVENS, of Pennsylvania. No lawyer will ever call this a bill of attainder. If the gentleman is a lawyer and has read the bill, I presume he has asked the question inadvertently. [Laughter.]

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury; when the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its disagreement to the second and third amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 38) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration; had agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed Messrs. TRUMBULL, WILSON, and BUCKALEW as conferees on the part of the Senate.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia; and

An act (S. No. 39) to provide means for the prosecution of the work on the distributing reservoir of the Washington aqueduct.

The message also announced that the Senate had passed a bill of the following title with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 19) to clothe maimed and destitute soldiers.

The message further announced that the Senate had passed joint resolutions of the following titles without amendment:

Joint resolution (H. R. No. 17) authorizing the Secretary of the Treasury to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes; and

Joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes.

#### COLORADO CONTESTED-ELECTION CASE.

Mr. SCOFIELD gave notice to all the members interested in the contested-election case of Colorado that he would call it up to-morrow immediately after the reading of the Journal.

#### DESTITUTE IN THE SOUTH AND SOUTHWEST.

Mr. WOODBRIDGE moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

Mr. BUTLER. I modify my amendment by substituting the following for it:

Strike out all after the enacting clause and insert the following in lieu thereof:

That the several district commanders of the military districts defined by an act entitled "An act to provide for a more efficient government for the rebel States," approved March 2, 1867, shall have power to assess and collect by military authority, ratably upon all persons within their districts respectively, owning more than one hundred and sixty acres of or who shall have an income of more than \$600 a year, such sum or sums as such commander may deem necessary to relieve and provide for the destitution and pauperism of the people in his district, not within the provisions of the act concerning abandoned lands, refugees, and freedmen: *Provided*, That all moneys raised by such assessments shall be applied to the purposes of such relief and no other.

*And be it further resolved*, That for the purposes of collecting such assessments such commanders shall severally have, in addition to their military authority, the same powers and authority to levy and collect, by sale or otherwise, such assessments as was vested by law in the tax commissioners under an act entitled "An act for the collection of direct taxes in insurrectionary States, and for other purposes," passed June 7, 1862, and the acts amendatory thereof, so far as the same may be applicable, which power of levy, collection, and sale may be exercised by said district commanders severally, either in person or by a commissioner duly appointed by each of said military commanders, and all acts and proceedings in such assessment, levy, and collection shall be as valid to all intents and purposes as if done and carried on under and by virtue of the provisions of said last mentioned act.

*And be it further resolved*, That the sums as raised by assessment shall be distributed and applied for relief as aforesaid by the several district commanders respectively, either by such officers or military commissions as they may detail, or through the agents of the Bureau of Abandoned Lands, Refugees, and Freedmen of their several districts at his election, who shall be the agents of said district commander for this purpose, and said district commander shall cause a full, true, accurate, and explicit account to be kept, and return to be made, of his receipts and expenditures, and of his doings under and by virtue of this act, to the Secretary of War, who shall audit and adjust such accounts in the same manner as the accounts of the disbursing officers of the War Department are audited and adjusted.

*And be it further resolved*, That to meet the pressing exigencies of the wants of people of his district, the commander of each of said districts may require for, and receive from the Commissary General of Subsistence, such rations of food, from time to time, as he may deem sufficient to meet such exigencies and afford proper relief, to be distributed by him in the manner aforesaid, and said commander shall out of the sums so assessed and collected, as soon as may be, reimburse and pay the subsistence department for all the rations as required by him at the prime cost thereof, with a reasonable amount for transportation of the same: *Provided, however*, That no relief shall be given or afforded to any able-bodied unmarried man or to any family wherein an able-bodied inmate is residing who is not continuously

employed in some manual labor during the time of giving such relief.

Mr. BUTLER. With the leave of the committee, I will withdraw the modification of the amendment.

Mr. SCHENCK. I move it as a substitute for the previous substitute offered by the gentleman from Massachusetts, [Mr. BUTLER.] And as this debate may go over, I ask that it may be printed.

The CHAIRMAN. That cannot be ordered in committee.

Mr. WOODBRIDGE. Mr. Chairman, in discussing this question I shall assume that there are thousands of our fellow-citizens within the lately rebellious States who are now, and for a few months to come will be, suffering for want of food. We have a report from the Christian soldier, General Howard, that such is the fact; and I may say that in private conversation with that gentleman he assured me of the necessity of material aid and the propriety of legislative action. I am told by my friend from Ohio [Mr. BINGHAM] that since it has been intimated that General Howard was not in favor of this appropriation he has received a letter from him, stating that no person is authorized to make such a declaration.

I will read a statement respecting the condition of the poor of the South from the New York Times:

"THE CRY OF ANGUISH.—We have neither money nor corn. Can and will you let me have fifty bushels till I can make a crop? I will surely pay you. I have fifteen freedmen hired and we can get no corn. If your Christian people could see our sufferings, I feel that the sympathetic tear would come to their eyes. Only think for a moment: last year we had eleven weeks and no rain. Our corn fell in the fields, and there is nothing but abject want before us."

"So writes Mr. H. Edmonds, of Ridgeway, Fairfield district, South Carolina, in a letter received yesterday by the Southern Famine Relief Commission of this city. His appeal comes with the indorsement of Rev. Richard Fuller, D.D., of Baltimore, to whom he is personally known. His letter represents a distress that reaches through nearly every district of South Carolina, and includes not fewer than a hundred thousand people. Planters have no seed to put into the ground and no bread to feed the laborers needed to prepare the ground for a crop. Whole families are known to have lived on corn husks for weeks."

"What is true of South Carolina is also true of large sections of middle and northern Georgia, and of more than half the counties of Alabama. Some sections of North Carolina and Mississippi are in the same condition, though not to the same extent. But it is believed, on the authority of much painstaking inquiry, that there are at least three hundred thousand people in the above States who must have relief from the benevolently disposed people of the North to prevent suffering which the heart shrinks from contemplating. The South is too deeply impoverished to feed her own starving population, and the bread and the seed must come from the North."

"The simultaneous appeal appointed to be made from all the pulpits throughout the country to-morrow should be responded to with a generosity that will give the Commission \$100,000 to expend in its timely and benevolent work. Mr. James M. Brown, No. 61 Wall street, is the treasurer, and will see that the money is faithfully applied to the uses for which it is contributed."

Now, sir, such being their condition, I am in favor of the resolution. Sir, the amendment proposed by the gentleman from Massachusetts, [Mr. BUTLER,] to which I am opposed, as I am also equally opposed to the substitute for the same offered this morning, was not, in my estimation, presented with the idea that it would meet the approval of the House, but rather with the intention of defeating the original measure. I for one do not like such legislative finessing. I prefer to meet a question upon its merits fairly and squarely. The gentleman well knew when he introduced the substitute that he was placing members of the House in a disagreeable if not in a false position. The constituency which we represent do not demand the passage of such a proposition. The people who are to be aided thereby do not demand it. It is unwise to vote for it, and by voting against it the gentleman well knows that we may subject ourselves to the calumnies of demagogues as being recreant to the interest and false to the necessities of those widows and orphans who have nothing left on earth but the fair fame of fathers and brothers who gave up

their lives on the altar of their country. Sir, such a proposition partakes more of the arts of the politician than the high and manly purpose of the statesman.

I shall vote for the original resolution without fear that my constituents will blame me for a want of sympathy or generosity on the one hand, or for undue extravagance in the expenditure of the public money on the other. My sympathy for the heroic dead is as great as that of the gentleman from Massachusetts. The soldier's memory is as sacred to me as it is to him, and when the proper time comes I trust I shall not be far behind the honorable gentleman in relieving the necessities of their widows and orphans, both from my private purse and from the public chest. I say with him, God bless the noble soldiers who, through rivers of blood, have saved our beloved country, and borne our flag aloft so successfully that it now floats over every sea, the hope of the oppressed and the fear of the oppressor. God bless their widows and orphan children, and palsied be the hand and dumb the tongue that would not by act and word conduce to their comfort and support.

Sir, I am equally opposed to the proposition introduced this morning by the gentleman from Massachusetts as an additional substitute. As I gathered from the reading of it by the Clerk, it provides that the military commanders of the various districts may assess those owning over one hundred and sixty acres of land or having an income of more than \$600 per annum to an amount sufficient to feed the starving poor of the South. It seems to me to be thrust forward as an easy, cheap, and I may say illegal method of effectuating the gentleman's Quixotic scheme of general confiscation. The scheme cannot be justified under the Constitution, or in the present condition of the country under the laws of war, or under that principle of sovereignty which is above the Constitution and enables every Government to do that which may be necessary in order to protect the national life.

When the gentleman from Massachusetts [Mr. BUTLER] was at New Orleans, where he so well and so faithfully and so gloriously served his country, he could under the laws of war take the property of the rebel citizen and apply it either to the preservation of the health of the city or the lives of the people. If the gentleman claims that the southern States are now under the exclusive and absolute control of Congress, and that his measure is in the nature of a tax, then it is illegal and unjust, because it is indefinite, unequal, and without apportionment. If he justifies it upon the doctrine of sovereignty superior to the Constitution, then it is illegal, unwise, and unjust, because it is partial in its operation, and to be applied without condemnation or any of the ordinary procedures of law.

I know it has been said upon the floor of this House, and more especially by gentlemen upon the other side, that the recent legislation of Congress providing for the more effective government of the rebellious States is unconstitutional; that it cannot be justified by the Constitution, or under the laws of war, because war is no longer existing, and hence is improper and cannot be sustained.

Passing over that clause of the Constitution which says that Congress shall guaranty to every State and the people thereof a republican form of government, I strike higher ground, and justify the law upon the doctrine of sovereignty, that inherent and necessary power which rests in every Government on earth. The decalogue, in which it is written by the finger of God, "Thou shalt not kill," is the law for the guidance of every individual soul. And yet who does not know that when a man is called upon to defend his own life that right is superior even to the divine command?

It is so with nations. Let me illustrate. When Napoleon I offered to cede the territory of Louisiana to the United States, President Jefferson was troubled because he could find no authority in the Constitution, or in the

Federalist which expounded it, for making the purchase. He consulted his friend, an eminent lawyer, who told him that he had looked into the wrong book; that the constitutions of no nation in Christendom, written, verbal, or traditional, contained any such provision; that it was an attribute of sovereignty and belonged of right by the law of nations to every independent Government on earth, and the purchase was made under that sovereignty, which authorizes a Government to do that which its own preservation demands.

And so in the present case. The first and paramount duty of the Government is to protect its citizens in their persons and property. When it fails to do that its vital force is gone; it becomes a dead carcass, and is no longer a living power. Such being the case, it was within the power of Congress, by virtue of its sovereignty, to pass such regulations and ordain such measures as would give to every citizen in the southern States the protection which Government is under obligation to provide. When Government fails to give that protection, then it is absolutely destroyed. Now, this being the case, we had the right, in the exercise of sovereignty, to use all the means and forces which a Christian nation ever uses to preserve the life of the nation. We cannot justify the measure introduced by the gentleman from Massachusetts [Mr. BUTLER] upon that or any other tenable ground; and hence I am opposed to it.

The first, the coldest, and the most heartless objection made to the passage of the resolution is that the condition of the public Treasury will not justify its passage. Sir, when a house is on fire and a sweet child is at the window crying for help, and the chances are that it may be saved although danger might attend the attempt, shall the fireman hesitate until the flames envelope the child? When the drowning man is struggling in the wave shall the strong swimmer hesitate to save him lest, perchance, the exposure may increase his cold. Sir, should this great nation, burdened it is true with debt, burdened it is true with taxes, but boundless in its resources, exhaustless and immeasurable in its recuperative energies, fail to accord sustenance to thousands of its starving citizens? I have no patience with such reasoning. It belongs to the politician, and not to a statesman having in view his duty to his fellow-man and his responsibility to God.

Sir, the next objection is that if we grant this relief the money we appropriate will be bestowed upon enemies. What if it should be? Are they enemies at war? Do the cruel and bloody laws of war, which justify a nation in inflicting every injury in its power upon its enemy, now prevail? By no means. Peace has returned. We have turned from the long and bloody night of war to the sweet and dawning morn of peace, and amid the parting clouds the grand old arch has struck high in the heavens. If enemies at all, they are no longer enemies in war, and our divine Teacher says, "If thine enemy hunger, feed him; if he thirsts, give him drink." But, sir, these are not our enemies. They are the poor, downtrodden, oppressed whites of the South, whose condition formerly was but little removed from that of the slave, and who now, in their time of trouble and starvation, demand our sympathy and aid. Although the men were driven into the war, who will brand as an enemy the poor woman remaining at home and struggling for the sustenance of herself and children, even while her husband was fighting against our flag? Who shall say that the infant drawing a miserable sustenance from the half-starved mother's breast is an enemy of the country? And yet, sir, it is such as they that cry to us for help.

The next objection is that there is enough at the South to provide for all its people were it properly distributed. For the sake of the argument grant it. That it is not so distributed we all know. That the starving poor cannot control the matter is perfectly apparent.

The illustrations used by the gentleman from

Massachusetts were addressed to the passions rather than the reason of the House. What if Mississippi has appropriated \$20,000 to aid in the defense of that arch traitor, Jefferson Davis? What if the women of Texas have converted soldiers' clothing into money, and for the purpose of endowing an institution over which Robert E. Lee presides, or have sent a pair of game chickens for his private table? Do such facts change the question? Are the starving poor responsible? Not at all. As well might we say that the children of the unfortunate drunkard should be left to starve, because the father, if he were sober and industrious, would be able to support them.

Sir, these are the three objections which have been urged against the passage of the resolution; and certainly no one of them commends itself to my judgment.

Mr. WASHBURN, of Indiana. Will the gentleman give way a moment that I may send up and have read as a part of his speech a letter on this subject from the poet Whittier?

Mr. WOODBRIDGE. I presume it is better than anything I can say. I yield of course.

The Clerk read as follows:

A PEACE AND GOOD WILL LETTER FROM THE POET WHITTIER.

AMESBURY, 4th Third month, 1867.

MY DEAR FRIEND HASKELL: I have noticed with great satisfaction a movement in your city for the aid of the people of the South. Threatened as they are in many places with actual starvation, there can be no doubt of our duty to relieve them to the extent of our ability. This obligation is not affected by the question of their loyalty or disloyalty. They must be fed.

I am sure it will be done, and done cheerfully. Massachusetts, so fiercely denounced by the rebel press and hated with such blind ferocity by the great mass of the men and women of the late confederacy, has never entertained any feeling of hate toward the people of the South. She was forced sadly and reluctantly to put forth all her energies for the preservation of the Union and the suppression of armed rebellion. She made for this object terrible sacrifices of her best blood; her heart still aches with its bereavements, and the bitter memory of the cruel treatment of her sons; but now, when those so lately in armed conflict with her are actually suffering for lack of food, I think I know the good old Commonwealth well enough to promise that she will not stop to make nice discriminations, nor to take counsel of revenge, but will give liberally, "upbraiding not."

In the providence of God an opportunity is afforded us to overcome evil with good, to magnanimously overlook the insane hatred still manifested toward us; and, so far as any action of ours can do so, to convince the people of the South that while resolved, for their good as well as our own, that slavery and treason shall have no possibility of resurrection, we have only kindness and good will for themselves, and that our hearts and purses are open to aid them in recovering from the evils resulting from civil war and social changes.

May I trouble thee to hand the inclosed to the fund committee, and oblige thy friend,  
JOHN G. WHITTIER.

Mr. WILLIAMS, of Indiana. I ask the gentleman to yield to me for a moment to have an extract from a paper read.

Mr. WOODBRIDGE. I decline to yield further.

Mr. Chairman, I thank the gentleman from Indiana [Mr. WASHBURN] for causing to be read an article from the sweetest of all our poets, John G. Whittier, a citizen of Massachusetts, and an early and earnest pioneer of the anti-slavery cause. It represents the true feelings of that noble old Commonwealth, which is a worthy representative of the grand old fathers who more than two centuries ago unfurled the flag of freedom upon the sacred rock of Plymouth. From that spot were disseminated those principles which were the key-notes of the Declaration of Independence, and upon which is raised our beautiful temple of liberty. In the language of another poet:

"Ay, call it holy ground,  
The soil where first they trod,  
They left unstained what there they found—  
Freedom to worship God."

It also represents the feelings of the people of Vermont, a State born into the Union amid convulsions and difficulties which would have intimidated and awed men less brave and patriotic than her fathers were, and preserving a record so pure that she is called the star which never sets. Her people are already burdened with taxation, but are ready to endure more and suffer more when our flag is assailed

or our people cry for bread. I have no fear for the little Green Mountain State; and believe, sir, that every man and woman within her borders would call their Representatives recreant to duty should they oppose the passage of this resolution.

The question simply is, shall we extend governmental aid to these starving millions? Great God, has it come to this, that the American Congress in this century of the Christian era shall close their ears to the cry of thousands of their starving fellow-men for bread, bread, when we have enough and to spare! When the people of Ireland were famishing Congress hastened to their aid and appropriated money and provided ships to carry food to the starving. Will we allow it now to be said that we are worse than infidels, and refuse to provide for our own? I know there is a vacant chair at almost every table, and broken hearts in almost every family at the loss of father, son, lover, or brother in this dreadful war. The starving soldier as he dragged his weary limbs from the fetid prisons of the South; the maimed soldier who goes upon crutches through the streets; the hundred battle-fields, rich with the sacred blood of our martyred heroes, cry out for vengeance, but there comes a voice from Heaven, saying: "Vengeance is mine; I will repay, saith the Lord."

The tears, the groans, the blood of our heroes are bottled, and in God's time will be poured in inexorable wrath upon the guilty heads who were the responsible instigators of the terrible and causeless rebellion. Already the incipient curse is upon them. Their land, once basking in the sunny smiles of prosperity and peace, is now ruined by the ravages of war. Their homes are desolate, their fields are at waste, their industries are destroyed, their wealth is scattered, and gaunt famine stalks their streets.

When altars were reared to the unknown God the conqueror dragged at his chariot wheels thousands of the conquered to become his slaves; but now that the true and living God has been revealed, and "an eye for an eye and a tooth for a tooth" has yielded to the sublime teachings of forgiveness and a heavenly charity, let us, by the passage of the resolution, show to the South and to the world that with malice toward none and with charity toward all, we will pursue the right.

Believing that the proposition is just, I shall vote for it, and hope it may receive the favorable consideration of the House. I now yield to the gentleman from Pennsylvania.

Mr. KOONTZ. Mr. Chairman, I will detain the committee but a short time while I present the reasons I have for supporting the Senate resolution. What does the resolution propose to do? To empower the Secretary of War to issue supplies of food sufficient to prevent starvation and extreme want among all classes of people in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution. It appropriates \$1,000,000 for that purpose, which sum is to be distributed under the direction of the Commissioner of the Freedmen's Bureau.

If it be true in point of fact that by reason of a failure of the crop and other causes any number of persons are in danger of starvation, then, sir, the simple statement of the proposition ought to be an argument sufficiently powerful and convincing to secure the passage of the resolution by this House without a dissenting voice. Wherein consists the evidence of this fact? It comes to us in the shape of an official report from the head of the Bureau of Refugees, Freedmen, and Abandoned Lands. The business of this House is generally digested and arranged by the various committees thereof. They investigate the matters presented to their consideration, and, after a careful examination of the testimony, present their views to the House in a report. In nearly every instance a report coming from persons in whom the House confide constitutes the basis of action for all who are not upon the committee. Now, sir,

in this case, it is true, we are not acting upon a report of a committee of this House, but upon a report of the head of one of the most important bureaus in the Government; and from the high character of the person who presents the report we are bound to believe that there was sufficient evidence to justify him in making it. The operations of his bureau have been extended over that section of the country where the theater of war was, and he would necessarily, from personal observation and the observation of his subordinates, have more accurate information as to the condition of the people there than any other person. I am not prepared to say how long this bureau has been in operation, but it has been organized long enough to satisfy my mind that its head, if even a person of ordinary intelligence, could not fail to have correct knowledge as to the character, habits, wants, and condition of the people over whom his jurisdiction extends.

But, sir, this report comes from one in whom the loyal millions of the nation confide. Beside the experience which General Howard has had in the bureau over which he presides, and which entitles his opinions to great weight, his patriotism, his bravery exhibited in the shock of battle, and his high Christian character have won for him the admiration, esteem, and gratitude of his countrymen. I accept the report, therefore, as true, coming from an officer of experience, patriotism, and enlightened judgment. This report is as follows:

WAR DEPARTMENT, BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED LANDS.  
WASHINGTON, March 8, 1867.

Sir: In answer to the resolution of the Senate of the United States I have the honor to report as follows:

From official sources, and confirmed by gentlemen from different sections of the South, my estimate is 32,662 whites and 24,238 colored people, making in all 56,900, who will need food from some source before the next crop can relieve them. The number of rations for all per month, 1,707,000. For five months, the probable time required, 8,535,000 rations, at twenty-five cents per ration, the estimated cost, will be \$2,133,750. Of this sum an appropriation has already been made for the five months to the amount of \$625,000, leaving an additional sum required of \$1,508,750. This sum I deem sufficient to meet the extreme want occasioned by failure of the crop, and other causes referred to in the resolution of inquiry. The present appropriation is ample, provided the issues be confined to the classes named in the Freedmen's Bureau act; but the additional sum named will be required should the issue be extended as contemplated in the foregoing estimate.

The following table affords the detail of the estimate for the several States where want is reported to exist.

Very respectfully, your obedient servant,  
O. O. HOWARD,  
Major General, Commissioner Bureau of Refugees, &c.  
Hon. B. F. WADE, President of the Senate.

Here, sir, is brought to our knowledge the frightful and appalling fact that nearly fifty-seven thousand human beings on the continent of North America, and within the jurisdiction of the Government of the United States, are in danger of actual starvation. And what are the arguments advanced by those who would make us believe that we ought not meet this demand promptly and unhesitatingly? Why, sir, we are told that some of these people who will be benefited by this resolution were rebels; that they tried to destroy our Government; and all the animosities and resentments engendered by the war are aroused; and the fiercest passions of the heart are appealed to to prevent the Congress of the United States from doing a noble, generous, and praiseworthy act. Doubtless some who were rebels will be relieved by this bill; but I will not stop to ask myself the question, when a human being is in danger of starvation, what his past life has been, much less to scan closely all his acts and recall to memory those deeds which would tend to arouse in my heart anger, hatred, vengeance, and all that is wicked in human nature, when charity, love to our fellow-man, and all that is akin to the divine attributes should alone be invoked.

Among the noble works that the Christian people of this nation are engaged in is that of raising money and sending missionaries into heathen lands to feed, clothe, enlighten, civilize, and Christianize those people. And in the

midst of this glorious work, so creditable to us, and which will redound to the enduring fame and honor of our nation, in the midst of all the civilizing and humanizing agencies that are now working out the amelioration of the condition of man, are we going to cast so dark a stain upon the honor of our country, and so huge a blot upon the civilization of the age, by placing it upon the record of this House that the Congress of the United States refused to give bread to nearly sixty thousand starving people who live under the same Government with us? Sir, there is no one who looks upon the crime of treason perpetrated by the leaders of the late rebellion with more horror than I do. I believe that the people of this country have not yet realized in all its fearful and frightful proportions the enormity of this monstrous crime of treason against the Government. But the people who are to be reached by this generous act, rebels though they may be, are of that class who were always to be pitied rather than condemned. I mean the deluded masses of the people, who, if left to themselves, would never have engaged in the work of rebellion, but were made the tools of their more artful and designing leaders. And now, when through executive clemency the leading traitors escape punishment, and the wealthy ones are pardoned and have their valuable estates restored to them, would it not be cruel indeed were we not to meet the demand for bread for the starving poor?

But it is urged that we should withhold this charity because the southern people are unwilling to contribute to alleviate the wants of their people, and because the Legislature of Mississippi have contributed \$20,000 for the defense of Jefferson Davis. Suppose this be true, does it follow that because they do not do their duty that we should imitate their example? If they are determined to persist in their folly, which has brought such widespread destruction and devastation upon our country, must we necessarily be guilty of a gross act of inhumanity?

I concur with the gentleman from Minnesota [Mr. DONNELLY] that this will prove a most powerful measure of reconstruction; that it will carry conviction to the minds of those heretofore deluded people that we are not disposed to deal with them in a spirit of harshness and vindictiveness. But whether it accomplishes this or not it matters not. I maintain that it is a high and solemn duty resting upon us to do this, and we should perform it regardless of other and minor considerations. But a short time since the civilized world applauded the munificent donation of the philanthropist, Mr. George Peabody, for the relief of the destitute poor of the South. If such an act is commendable in an individual, is it not equally so in a nation? If acts of disinterested benevolence and charity render the name of an individual immortal, would they not lend imperishable honor and renown to a nation? It will ever be remembered to the lasting credit of the United States that they have been prompt in meeting the demands made upon them for the suffering poor of other countries. Let us bear in mind, though, that while acts of national charity form the brightest part of a country's history, that national honor may be dimmed by acts of vindictiveness and barbarism.

Sir, among the acts of the four eventful years of civil war that will stand out conspicuously upon the page of history is that of General Grant, who, when the forces of Lee were driven from their strongholds at Petersburg and Richmond and were compelled to surrender to the resistless legions of the Republic, ordered rations to be dealt out to a beaten and vanquished foe. If amid the reverberations of the guns which had just ceased their work of death and carnage the commander of the Union armies could deal out rations to an armed but beaten adversary, cannot the Congress of the United States, now when war no longer exists and peace is fast spreading its halcyon wings over the nation, rise above the passions and prejudices that have been invoked



here, and in the spirit of true Christian charity and benevolence extend this boon to a starving people?

Sir, while I hold a seat upon this floor I shall steadily resist any effort that may be made to reinstate in the high places of trust and power the rebels who sought to overthrow the Government, believing that it belongs to the loyal people of the country to settle and adjust the questions that have grown out of the war. But for the honor and reputation of the nation, for the preservation of her good name and fame among the nations of the earth, out of the respect that we have for the opinions of mankind, now and in the future, let it not be said that in this nineteenth century, in a land of school-books and Bibles, where intelligence is wide-spread, and charity and benevolence among the characteristics of her people, that the Representatives of a great, free, prosperous, and enlightened people would refuse to give bread to their starving countrymen. All the teachings of Christianity, as well as the promptings of humanity forbid it. I trust the resolution will pass.

Mr. DONNELLY. I desire to submit the following letter and accompanying extract from the New York Tribune, to be read by the Clerk. The Clerk read as follows:

39 PARK ROW, NEW YORK, March 15, 1867.

DEAR SIR: Permit me to invite your attention to the inclosed article which I wrote for the New York Tribune, and to express the hope that the House will adopt the joint resolution giving \$1,000,000 for the relief of a fearfully afflicted people.

Very truly yours,  
EDW. BRIGHT,  
Corresponding Secretary of Southern Famine Relief Association.

Hon. I. DONNELLY, Washington, D. C.

#### THE NUMBER OF SUFFERERS IN THE SOUTH.

To the Editor of the Tribune:

Sir: Every philanthropic heart must feel grateful for what you have done in behalf of the famine-stricken people of the South; but I every day see the evidence that the severity and magnitude of their distress is most imperfectly appreciated by the people of the North. As one of the secretaries of the Southern Famine Relief Commission, I have had, by correspondence and personal conversation, some special opportunities for knowing the sweep and desolation of the famine that is felt in large sections of the southern States, and with your permission I will state what has been the result of my inquiries.

The destitution which now claims relief is not limited to the line of "Sherman's march." It is felt with the utmost rigor in counties north and south of the territory over which he passed. It is not a destitution produced by the rebellion so much as by the drought that made tens of thousands of acres planted in corn in Alabama, Georgia, and South Carolina as fruitless as a desert. The corn crop was blasted before it was two feet high, and many large fields did not produce a single ripened ear.

The chief sufferers by this destitution are not the persons who instigated and perpetuated the rebellion, but poor men and unoffending women and children, who had no agency in the conspiracy against the life of the Republic. Major General Scott, the district commander at Charleston, says that Government rations are now only issued to persons too old or too young to support themselves, including the sick and infirm in hospitals and asylums. Consequently there is fearful destitution among the colored people of South Carolina; and so there is also in Georgia and Alabama. Governor Jenkins says that the number of colored persons in Georgia who need immediate relief is thirty thousand.

The whole number of people in imminent need of relief in southern States is not fifty or sixty thousand but full three hundred thousand. Of these there are probably twenty-five thousand in Mississippi and North Carolina. Of Alabama, Hon. M. H. Cruikshank, commissioner for the destitute, and a man who has the confidence of more than one of our best major generals, says that there are not less than forty thousand persons in that State that will have to be fed by public charity until a crop is matured, and a larger number than this who will require partial relief. Of Georgia, Governor Jenkins says that sixty thousand of its white population and thirty thousand of its colored people greatly need relief. Governor Orr says that five hundred thousand bushels of corn is estimated to be the least that will supply the destitution of South Carolina, and those best qualified to judge put the number of the destitute at one hundred thousand persons.

These carefully made estimates exceed three hundred thousand people who must be wholly or partially relieved by charity for the next three or four months. If no more than ten dollars' worth of food be allowed to an individual, it will take \$3,000,000 to supply the lack of food in the States to which I have referred.

Some of your readers may regard this as an incredible statement, but it is corroborated, I am sorry to say, by the very full correspondence and personal conversations I have had with southern men within the last seven weeks.

The fact is, the poverty of the South is extreme, and the destitution of food occasioned by the late drought is appalling; and if help is not given in the form of bread to eat and seed to plant and sow, the famine will not only be calamitous in its immediate results, but will also be perpetuated through another year.

I know that the Southern Famine Relief Commission (Mr. James M. Brown, No. 61 Wall street, treasurer,) is using every means within its reach to induce the people of these northern States to relieve the distress which has fallen upon the South. Much has been already done by it; but it needs thousand where it has received hundreds.

E. B.  
NEW YORK, March 15, 1867.

Mr. FARNSWORTH obtained the floor.

Mr. BUTLER. Will the gentleman yield to allow me to send a letter to the Chair to be read, which I have received since I have been in the House this morning?

Mr. FARNSWORTH. I will do so.

The Clerk read the following letter:

REPORTERS' GALLERY,  
HOUSE OF REPRESENTATIVES, March 19, 1867.

DEAR SIR: A gentleman just up from North Carolina informs me that in the city of Newbern, in that State, there are hundreds of blacks and whites almost starving. He also states that a subscription of \$2,500 was raised there in a few days for Jeff. Davis, but not a cent has been raised for the benefit of any one else. A Yankee firm in business there, seeking to propitiate favor and custom, sent to the ladies in charge a twenty-dollar greenback as a contribution to the fund. It was returned with a haughty refusal to receive any contribution whatever from a Yankee source for such a "noble purpose;" and a suggestion that the donors might carry out their abolition principles by giving it to the "starving niggers who have no masters to care for them now."

General BUTLER.

Mr. ELDRIDGE. Who wrote that letter?

The Clerk stated that there was no signature.

Mr. ELDRIDGE. Is it in order to have anonymous letters read in the House?

The CHAIRMAN. It is in order for any gentleman to have a letter read as a part of his speech.

Mr. WILLIAMS, of Indiana. I ask the gentleman from Illinois to allow me to have read an extract from a southern paper published where the people are impoverished beyond comparison consequent upon the burning of Columbia by Wade Hampton.

The Clerk read a portion of the extract, as follows:

"The city of Washington is now, according to common rumor, a den of thieves and prostitutes. Men and women both sell their labor daily for gold."

Mr. WOOD. I rise to a question of order. I submit that it is not in order to read anything that is positively indecent.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SPALDING. I believe the gentleman from Illinois [Mr. FARNSWORTH] has the floor.

The CHAIRMAN. The gentleman yielded to the gentleman from Indiana to have a letter read from a South Carolina paper.

Mr. VAN TRUMP. I would like to know when the hour of the gentleman from Illinois will expire.

Mr. FARNSWORTH. In about sixty minutes from the present time. [Laughter.]

Mr. BURR. I would inquire whether my colleague adopts as a portion of his remarks the communication a portion of which has just been read by the Clerk?

The CHAIRMAN. (having examined the paper.) The Chair sustains the point of order, that the communication is not decorous in its character.

Mr. FARNSWORTH. I will state that I know nothing of the character of the communication. I yielded to the gentleman from Indiana [Mr. WILLIAMS] to offer it, and I now yield to him to make an explanation.

Mr. WILLIAMS, of Indiana. As the Chair has intimated that the article which I sent to the Clerk's desk to be read was "not decorous" in its character, I desire to explain. It is an original editorial article of recent date (only the 9th of this present month) from a newspaper called the South Carolinian, published at Columbia, one of the places where the people are alleged to be suffering most from loss of their property and destitution. If "indecorous," it only shows therefore the more strongly the temper of these for whom aid is

now solicited, and how little they appreciate such magnanimity or benevolence. Nothing could be more bitter, nothing more offensive, than the spirit which breathes through the whole article. This is the shape which the appeal to our charity takes in that quarter. The editor meets the benevolent intentions of the people of the North, and of their representatives here, by declarations published to the world denouncing this Congress of whom they ask aid as thieves and robbers. I submit, under these circumstances, that the communication is in order.

The CHAIRMAN. It may be in order in South Carolina, but not here. [Laughter.]

Mr. FARNSWORTH. I will detain the committee but a very few minutes. I am opposed to this resolution, not, I trust, because I am uncharitable or unmerciful. I believe that I am as ready to give according to the extent of my means as any other gentleman who advocates this measure on this floor for the relief of the destitute of this or any other country. And if facts are presented to the House to show that any number of people are actually suffering for bread I will stretch a point, and go as far as any gentleman in voting an appropriation from the Treasury of the United States. But, sir, that evidence is not presented in this case. There is nothing but rumors and outside information from letter-writers to show that there is such suffering as is here represented. General Howard, in his report, does not pretend that there is actual suffering existing in the South for want of bread. But an estimate is made that before another crop can be gathered in the southern States it is probable somebody there will suffer. And it is upon that predicate that we are asked to vote a million of dollars out of the Treasury of the United States for those people, to be bestowed and distributed there just as one single gentleman may see fit. Now, so far as that gentleman is concerned, I have very great confidence in him, and the very highest respect for him; but I will not consent to vote \$1,000,000 which have been wrung from the sweat and toil of my constituents to any portion of the people of the United States in this manner. This is an unheard-of precedent. Sir, how long ago is it that the Senate sent us a bill to relieve the suffering people of Portland who were left homeless and houseless after that terrible conflagration of last summer? The House refused to pass it, and very rightly, too. We have never appropriated in this manner one single cent from the Treasury of the United States for any portion of the people of the United States.

Mr. WOODBRIDGE. Will the gentlemen from Illinois [Mr. FARNSWORTH] allow me to interrupt him for a moment?

Mr. FARNSWORTH. Certainly.

Mr. WOODBRIDGE. I would ask the gentleman if the American Congress did not appropriate money to relieve the starving men and women of Ireland? And is not this the first instance in the history of this country where relief has been asked for our own people?

Mr. FARNSWORTH. I have said nothing in regard to Ireland.

Mr. STEVENS, of Pennsylvania. Ireland has votes of which we are very much afraid, especially those of us who play that game.

Mr. FARNSWORTH. I can say this; I never voted money either for Ireland or any other country to be distributed for any such purpose as this. It may be true that Congress voted money for Ireland; but my remark was that in the history of this Government we have never appropriated money in this manner for the poor of the United States or of any part of it. This is a new precedent, and if followed out to its logical consequence, the same principle which will justify the appropriation of \$1,000,000 for the starving people of the South, would demand of Congress that we should hunt out the starving poor of every city of the United States and contribute to their relief.

Mr. BINGHAM. Will the gentleman yield to me for a moment?

Mr. FARNSWORTH. Certainly.

Mr. BINGHAM. I ask the gentleman if he does not know that during the first session of the Thirty-Ninth Congress, we appropriated between four and five million dollars for the express purpose of furnishing clothing and rations to the freedmen and refugees of the late insurrectionary States, and whether he did not vote for it?

Mr. FARNSWORTH. I have said nothing about that. It is very true that for the purpose of carrying on the operations of the Freedmen's Bureau, and for feeding and clothing the four million of heretofore slaves, whose shackles had just been struck from their limbs, and who were left destitute, we did appropriate money, and I will again vote to do so, if necessary. But we are now asked to appropriate money to feed and clothe their former masters and rebels.

Mr. BINGHAM. The gentleman will please remember that the refugees never were slaves.

Mr. STEVENS, of Pennsylvania. We gave several million dollars to the Freedmen's Bureau for the freedmen and refugees, about two thirds of which has been appropriated to the disloyal whites of the South.

Mr. FARNSWORTH. And we are now asked to appropriate still another million dollars for the disloyal whites of the South.

Mr. BOYER. Will the gentleman from Illinois, [Mr. FARNSWORTH] allow me to ask him a question?

Mr. FARNSWORTH. Certainly.

Mr. BOYER. Does not the gentleman know that during the first session of the Thirty-Ninth Congress a joint resolution was passed appropriating clothing for the suffering inhabitants of Portland?

Mr. FARNSWORTH. No money was appropriated.

Mr. BOYER. I ask the gentleman to allow that joint resolution to be read by the Clerk.

Mr. FARNSWORTH. I cannot yield now to have anything read. I say that we have never, to my knowledge, appropriated a dollar of money for the destitute people of Portland. It is true we let them have some tents and clothing, and I believe we allowed them more time in which to pay their taxes. But we have appropriated no money for the people of Portland. My statement is correct. Does any gentleman deny it?

Mr. BOYER. Does the gentleman say that we appropriated nothing but tents for the people of Portland?

Mr. FARNSWORTH. I say we appropriated no money. Does the gentleman deny that?

Mr. RANDALL. Let the resolution in relation to Portland be read.

Mr. FARNSWORTH. I do not think that is necessary.

Mr. BOYER. I desire to ask the gentleman whether we did not also adopt a joint resolution remitting certain duties and taxes imposed upon the people of Portland?

Mr. FARNSWORTH. Oh, yes; we gave them further time to pay their taxes; we gave them some tents and some clothing; but I say again—and the gentleman dare not deny it—we have never appropriated from the Treasury of the United States one dollar for any such purpose as this.

Mr. BOYER. The resolution now before the House does not propose an appropriation of money except as—

Mr. FARNSWORTH. I decline to yield further. I was about to say that the principle which enters into this bill, and which it is claimed demands that we shall appropriate this money for the destitute and suffering of the South, would demand that we should send committees to all the cities of the country to hunt out the poor and the suffering and supply their wants. If it is right in principle to supply in this way the wants of fifty or one hundred thousand people, scattered over the country, it must be equally right to supply the wants of one individual, and hence whenever any member of Congress has a constituent in destitute circum-

stances, with no prospect of bread until the next harvest, it becomes the duty of such member to introduce a bill to relieve that suffering constituent by taking money from the Treasury of the United States to furnish him with bread. I ask members of the Fortieth Congress whether they are prepared to establish a precedent of this kind? Do they think it would be wise to do so? For my part, I think it would be very unwise.

The gentleman from Ohio [Mr. BINGHAM] said the other day that there were no suffering poor in the North; that in Ohio nobody was suffering from destitution. Why, sir, I think the gentleman is mistaken.

Mr. BINGHAM. The gentleman will allow me to correct his statement. I said, and I repeat now, that there is not in the State of Ohio a human being suffering for bread for whom there does not exist at this moment ample provision by law; and there has not been a time within the last ten years when such has not been the case.

Mr. FARNSWORTH. Oh, yes; there is the poor-house—

Mr. BINGHAM. There is more than the poor-house. The provision of our law is that the officers of the poor in the several townships shall in cases of destitution give immediate relief without regard to the poor-house.

Mr. FARNSWORTH. Well, that is a very wise law.

Mr. BINGHAM. It is a wise law; and let us exhibit in our legislation similar wisdom and humanity.

Mr. FARNSWORTH. That is a very wise law indeed. Ohio had better send a copy of her law to South Carolina, so that the latter State may imitate so good an example.

It is true that we of the North do provide for our poor; and when we have not laws covering the case and making it the duty of some official to look after them and supply their wants, we have our charitable societies. Many of our poor are supported by charity. Why, sir, there is not a city in the United States that does not contain some suffering poor. There does not pass over our heads a winter during which some people in every northern city would not suffer for want of food and fuel but for the relief extended by private charity or by public officers and institutions. But, sir, it is not the duty of Congress to relieve such suffering by the appropriation of money raised by taxation, taxation which falls upon both the rich and the poor; for there is scarcely anything that we eat or wear that is not taxed. Almost everything consumed by the poor man in my district is taxed. Now, sir, shall we take a portion of the money raised by taxation, wrung from poor men, and distribute it among the poor of other sections of the country? No, sir, I cannot see the propriety of such a proposition; and I trust it will not receive the sanction of this House.

Mr. Chairman, I have said about all that I desire to say on this subject. I have sought to discuss it soberly and calmly, and in such a manner as to secure if possible reflection upon the question before it is voted upon.

I will now move that the committee rise.

Mr. ELDRIDGE. Before the gentleman submits that motion, I desire to make a suggestion to him if he will allow me.

Mr. FARNSWORTH. Certainly.

Mr. ELDRIDGE. If I understand correctly the distinction which the gentleman has attempted to draw—I may not have comprehended his idea exactly—he takes the position that legislation appropriating clothing, tents, food, &c., and remitting taxes and duties, is not the same in principle as an appropriation of money from the Treasury to aid those who are in a suffering condition. I, for one, am unable to appreciate the distinction that the gentleman from Illinois attempts to draw, and I wish to know whether I understand him or not.

Mr. FARNSWORTH. I do not understand that we remitted any taxes, but only that we postponed the collection of the taxes.

Mr. BOYER. I hope, then, that the gentle-

man will permit the Clerk to read the acts to which I refer.

Mr. ELDRIDGE. I ask the gentleman to allow that to be done so that the House may clearly understand this matter.

Mr. FARNSWORTH. I yield for that purpose.

The Clerk read as follows:

Joint resolution to authorize the President to place at the disposal of the authorities of Portland, Maine, tents, camp and hospital furniture, and clothing, for the use of families rendered houseless by the late fire.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to place at the disposal, without charge, of the city authorities of Portland, Maine, such clothing condemned or ordered sold, and such surplus camp and garrison equipment, bedding, and hospital furniture, on hand, as can be spared by the Army, for the use of families rendered houseless and destitute by the recent conflagration; and that it shall be the duty of the quartermaster's department to deliver these articles at Portland, and to take the receipt for the same of the mayor of the said city, and properly dispose of them where no longer needed.*

Approved July 14, 1866.

Joint resolution for the temporary relief of the sufferers by the late fire in Portland, in the State of Maine.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue is hereby authorized to suspend the collection of such taxes as may have been assessed, or as may have accrued prior to the 5th day of July, 1866, in the first collection district of the State of Maine, against any person residing or doing business and owning property in that portion of the city of Portland recently destroyed by fire, and who, in the opinion of said Commissioner, has suffered material loss by such fire: Provided, That such suspension shall not be continued after the close of the next session of Congress.*

Approved July 27, 1866.

An act for the relief of sufferers by fire at Portland.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on all goods, wares, and merchandise which may be sent from places without the limits of the United States, as gratuitous contributions to the relief of sufferers by the fire which occurred at Portland, Maine, July 4 and 5, 1866, shall, when imported at the port of Portland, and consigned to the proper authority for distribution, be admitted free of duty.*

*SEC. 2. And be it further enacted, That there shall be allowed and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials actually used in buildings erected on the ground burned over by said fire, a drawback of the import duties paid on the same: Provided, That said materials shall have been imported at the port of Portland during the term of one year from and after the said 5th day of July, 1866.*

Approved July 27, 1866.

Mr. ELDRIDGE. I now ask the gentleman and the House whether there really is any practical distinction between the joint resolutions which the Clerk has read and the joint resolution which is now pending before the House? I ask whether there is any distinction in fact or principle between loaning any property of the United States on account of the misfortune of the people, or the actual appropriation of money from the Treasury for the same identical purpose.

Mr. FARNSWORTH. I think I can see a wide distinction. In the case of the sufferers at Portland, we let them have tents and clothing lying about and for which the Government had no use. We allowed them to receive goods from abroad without the payment of import duty, and we also suspended the collection of taxes there for one year. In the South we have not collected taxes for six years. We have authorized ships to carry them provisions and other donations. We have done everything for the South which we ever did for the sufferers at Portland, and more, too. There is a wide distinction between loaning tents and clothing, and, if you please, making donations of surplus clothing on hand to the suffering and destitute, and paying money directly out of the Treasury of the United States. It is true, these tents and clothing did cost money at one time, but it is also true that they were things we had on hand for which the Government had no use.

There is a great distinction between the two things. We passed an act the other day authorizing the Secretary of War to distribute to the inmates of Soldiers' Homes one suit of clothing each every year. This was giving to

the disabled soldiers clothing which the Government has on hand; but if my colleague had introduced a bill appropriating \$100 in cash to each one of those men every year you would have seen the gentleman from Wisconsin jumping to his feet and making the point of order, because the bill made an appropriation, that it should be referred to the Committee of the Whole on the state of the Union. Giving clothing is not appropriating any money. There is a distinction made in our rules, in the law, and in practice.

Mr. ELDRIDGE. If the gentleman will allow me, I concede that there is a distinction made between the appropriation of one thing and the other so far as our rules are concerned; but I must say that the gentleman has failed to satisfy me that there is any distinction in principle. And I wish to suggest to the gentleman if the distinction in his own mind is not really this: that in the one case the appropriation was for white folks and in the other it is for blacks?

Mr. FARNSWORTH. I do not understand the gentleman's point. I believe a portion of these are whites; and the very thing which he calls an appropriation was not made for blacks.

Mr. ELDRIDGE. Well, the gentleman got the other thing so mixed in his mind that I thought perhaps he was mixed on this. [Laughter.]

Mr. FARNSWORTH. My impression is that the mixing is on the other side of the House. [Laughter.] I suppose it will be quite in vain to attempt to satisfy the gentleman that there is a distinction in the two cases.

Mr. LOGAN. I desire to ask my colleague a question. Is it not the fact that upon the discharge of nearly a million of soldiers at the end of the war there were on hand large quantities of clothing, camp and garrison equipage, part of which had been condemned, and the greater part of which was no longer serviceable for any purpose so far as the Army was concerned, and that out of that kind of property of the United States the relief was granted to the people of Portland?

Mr. FARNSWORTH. My colleague is right in regard to that.

Mr. LOGAN. And is it not the fact that there is a distinction in regard to giving relief, if you apply individually? Is there not a difference between giving away a pair of partly worn-out pantaloons or boots and putting your hand in your pocket and buying a new pair to give away? [Laughter.]

Mr. FARNSWORTH. Practically I think there is.

Mr. ROBINSON. Will the gentleman permit me to make a correction?

Mr. FARNSWORTH. Certainly.

Mr. ROBINSON. The gentleman from Illinois, taking the suggestion of some persons around him, said there had been an appropriation made by Congress for the relief of Ireland. I rise to correct that statement. There was never an appropriation made for the relief of Ireland by Congress. It did pass the Senate and was reported to the House of Representatives; but owing, I believe, to some difficulty which President Polk had as to its constitutionality, it was referred to a committee which I presume was unfriendly to the measure, and so it slept the sleep of death and never was passed. I trust, however, although I rose simply to correct this statement, which seemed to be taken for a fact, that we shall have no trouble of that sort in this case. There is no constitutional question here, and I trust we shall vote this relief to our brethren of the South with alacrity.

Mr. COVODE. Will the gentleman from Illinois allow me a few words?

Mr. FARNSWORTH. Certainly.

Mr. COVODE. I feel impelled to make a few remarks upon this subject since it has got to be somewhat a question of conscience. In that view of the subject I want to call the attention of the House to a historical incident that is in some respects parallel to this. Gentlemen who have read the history of the Kings in the Old Testament will recollect that when

the Assyrian army under Benhadad came up to overrun Samaria and destroy the people of God, the prophet of the Lord appeared unto King Ahab and told him to go out and fight, and promised that the enemy should be delivered into his hands, that it was His will they should be totally destroyed. The king hesitated and finally consulted King Jehoshaphat who suggested another course. But yet he concluded to go out and fight. So he went and organized battle for six days and on the seventh, when the battle closed one hundred thousand Assyrians lay dead on the field. The rest of the enemy fled to the city of Aphek and there the Lord smote the enemies of Israel again and a wall fell on them and killed twenty-seven thousand.

A great deal has been said here to-day by the gentleman from Vermont [Mr. WOODBRIDGE] and my colleague from Pennsylvania [Mr. KOONTZ] with regard to vengeance belonging to the Lord, &c. I want to show how the Lord executed judgment in the olden time. The servants of Benhadad went to him where he was hid in an inner chamber and said that the kings of Israel were merciful men, and perhaps Ahab would spare his life. Now Benhadad had no more expectation of having his life spared than Jeff. Davis had when he was running in petticoats away from our cavalry. But when his servants told him this, Benhadad told them to go to King Ahab and see how that was; but how did they go? did they go as these men come up, demanding their rights and desire to control the Government? No; they put on sackcloth and ropes round their heads. They went, under flag of truce, probably, and said to Ahab, "We know thou art a merciful man; we ask thee to spare the life of our King Benhadad." That is just what these people in the South are saying now. Now, although it was the command of God that all the Assyrians should be destroyed, Ahab replied to these messengers—"Is my brother yet alive? Bring him to me." And they brought Benhadad, and Ahab stooped and took him by the hand and lifted him up into his chariot, and pardoned him and all his bloody crew.

The prophet of the Lord appeared to Ahab that night, and told him that inasmuch as he had not obeyed the command of the Lord, he should lose his own life, and all his sons should lose their lives. What did Benhadad, the unrepentant enemy do? He went back into Assyria and raised another army, and came up at the head of it against Israel again, for the purpose of destroying the life of the man who had pardoned him. He charged his soldiers that they should pay no attention to the common people of Israel, but destroy the life of King Ahab.

Mr. BARNES. I rise to a question of order. I submit that the actions of an ancient Assyrian king have nothing to do with the question now under consideration.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. COVODE] is in order and will proceed.

Mr. COVODE. King Ahab, knowing that he had violated the command of the Lord, began to be fearful of wearing his kingly robes, and put them upon Jehoshaphat, while he himself slipped away in the ranks. They took after Jehoshaphat; he turned and said, I am not King Ahab; they ceased pursuing him, but an arrow accidentally shot struck him between the joints of the harness, and wounded him so that he died that evening. And not only was Ahab killed, but every son he had was destroyed because Ahab had not obeyed the command of the Lord.

Now, I ask gentlemen if they suppose the Lord is done with punishing the rebels of this country? They have not yet repented and acknowledged their sins; they only regret that they had not succeeded in their rebellion.

I approve of the substitute of the gentleman from Massachusetts, [Mr. BUTLER,] which provides immediate relief from our commissary and paramount relief by taxing the wealthy

rebels; and while I am willing to contribute myself, I am not willing to burden an over-taxed constituency for the purpose.

Mr. FARNSWORTH. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union, according to order, had had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States; and had come to no resolution thereon.

Mr. BUTLER. I move that the substitute offered by me in Committee of the Whole for Senate joint resolution No. 16, together with the amendment to my substitute offered by the gentleman from Ohio, [Mr. SCHENCK,] be printed.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 19) declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, and a bridge to be constructed over the Missouri river at or near Leavenworth, Kansas, to be legal structures and post roads; in which the concurrence of the House was requested.

#### ORDER OF BUSINESS.

Mr. WOOD. I move that the House now adjourn.

Mr. WILSON, of Iowa. I hope the gentleman from New York [Mr. WOOD] will not press that motion now. I desire to state that the committee of conference upon the disagreeing votes of the two Houses on what is known as the supplementary reconstruction bill have unanimously agreed upon a report. That report has already been adopted by the Senate, I understand, and it will come over here in a few minutes for our action. I hope the House will act upon that report before we adjourn to-day.

Mr. WOOD. I will withdraw for the present my motion to adjourn.

#### CLOTHING OF DESTITUTE SOLDIERS.

Mr. JUDD. I ask unanimous consent to take from the Speaker's table the amendment of the Senate to the bill of the House No. 19, to provide clothing for maimed and destitute soldiers. The amendment consists of but one word.

No objection was made.

The amendment of the Senate was to strike out the word "annually" in the second line of the bill.

Mr. JUDD. I move the amendment be concurred in.

The amendment was concurred in.

#### WAIT TALCOTT.

Mr. FARNSWORTH. I ask unanimous consent to introduce for consideration at the present time a bill to authorize the Commissioner of Internal Revenue to make certain credits to Wait Talcott.

The bill, which was read for information, provides that the Commissioner of Internal Revenue be authorized, in settling the accounts of Wait Talcott, late collector of internal revenue for the second district of Illinois, to credit him with the sum of \$556 93, being the amount stolen from Richard A. Smith, deputy collector, on the night of February 17, 1865, by breaking open the safe wherein the said Smith had deposited that amount of money, collected as taxes for the Government.

Mr. FARNSWORTH. I have here a letter from the former Commissioner of Internal Revenue. I ask the Clerk to read it.

Mr. ALLISON. I desire to reserve the right to object; but I am willing that the letter shall be read.

The Clerk read as follows:

TREASURY DEPARTMENT,  
OFFICE OF INTERNAL REVENUE,  
WASHINGTON, June 21, 1865.

SIR: In reply to yours of 14th instant I have to say that the statements and certificates forwarded by Mr. R. A. Smith, one of your deputies, in support of an application for credit for moneys stolen from him, have been carefully examined, and I am fully convinced that the loss was not the result of any carelessness on his part, and that he should be reimbursed for the amount.

This office having no authority to make such reimbursement, the papers are herewith returned.

Very respectfully,

JOSEPH J. LEWIS, *Commissioner.*

WAIT TALCOTT, *Collector, &c., Rockford, Illinois.*

Mr. ALLISON. I insist on my objection.

Mr. FARNSWORTH. I move, then, to suspend the rules in order to allow the introduction of the bill.

The motion was not agreed to.

#### TAXATION OF NATIONAL SECURITIES.

Mr. WASHBURN, of Indiana. I ask unanimous consent to introduce the following resolution:

*Resolved*, That in any future system of funding our national securities, the right to tax for municipal and State purposes should be directly granted.

Mr. GARFIELD. I object.

#### TRANSIT ACROSS THE ISTHMUS.

Mr. BANKS, by unanimous consent, submitted the following resolutions; which were read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire and report what measures have been taken by foreign Governments or capitalists to secure the control in the interest of rival nations of any of the routes or franchises for the transit across the Isthmus of Panama or Nicaragua, Honduras, or Tehuantepec, and to report what action, if any, it may be advisable for the Government of the United States to take to secure the interests of American commerce on such transit routes.

*Resolved*, That the committee be authorized and empowered to send for persons and papers, and to take such measures as they may judge expedient and necessary to collect and submit the facts for the information of the Government and people of the United States.

Mr. BANKS moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS. I move that the usual number of copies of these resolutions be printed.

The motion was agreed to.

#### STAMPED FRANKS.

Mr. RANDALL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on the Post Office and Post Roads of this House when appointed be instructed to report a bill declaring the use of stamped franks illegal.

Mr. GARFIELD. I object.

Mr. RANDALL. I move that the rules be suspended to allow the introduction of the resolution.

The motion was declared not agreed to.

Mr. RANDALL called for the yeas and nays.

The yeas and nays were not ordered.

So the motion was not agreed to.

#### PAYMENT OF ASSISTANT ASSESSORS.

Mr. HOOPER, of Massachusetts. I ask unanimous consent to introduce a joint resolution to authorize payment for the services of assistant assessors of internal revenue who have taken the oath prescribed by law.

The joint resolution was read for information, as follows:

*Resolved by the Senate and House of Representatives, &c.*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to allow and pay to assistant assessors of internal revenue, who have taken the oaths prescribed by law, the compensation allowed by law to such assistants for services actually rendered by them prior to the time of taking such oaths, upon the presentation of the necessary vouchers.

Mr. BUTLER. I object.

Mr. HOOPER, of Massachusetts. I hope my colleague will allow me to make an explanation.

Mr. BUTLER. I understand it thoroughly.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that

they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

A joint resolution (H. R. No. 17) authorizing the Secretary of War to turn over certain property of the United States, at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes; and

A joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes.

#### MOUNT VERNON MANUFACTURING COMPANY.

Mr. WOODBRIDGE asked unanimous consent to introduce a joint resolution referring the claim of the Mount Vernon Manufacturing Company to the Court of Claims.

Mr. HOLMAN objected.

Mr. WOODBRIDGE moved to suspend the rules for the purpose indicated.

The rules were not suspended.

#### CORRECTION IN POST ROUTE BILL.

Mr. COOK. I ask unanimous consent to introduce a bill to change a certain post route in the State of Illinois. It is merely to correct an error which occurred in the post route bill.

There was no objection, and the bill was introduced, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### COMMITTEE CLERKS.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution:

*Resolved*, That the clerks of the several committees of this House, who were serving as such at the close of the second session of the Thirty-Ninth Congress, be entitled severally to receive pay at the same rate as heretofore during the present session, or until their successors may be appointed.

Mr. ROSS. I object.

Mr. SCHENCK. I will modify the resolution so as to read "shall receive" instead of "be entitled severally to receive;" and I move to suspend the rules in order that the resolution may come before the House.

The House divided; and there were—ayes 30, noes 61.

So the rules were not suspended.

#### RESERVE OF GOLD.

Mr. MORRELL, by unanimous consent, introduced a bill to provide for a reserve of gold in the Treasury and national banks, and for other purposes; which was read a first and second time, and referred to the Committee on Banking and Currency when appointed.

Mr. ALLISON. I move to reconsider the vote by which the bill was referred, as I think it should go to the Committee of Ways and Means.

Mr. MORRELL. I do not object to that reference, and I hope the bill will be referred to the Committee of Ways and Means when appointed, and ordered to be printed.

There was no objection, and it was ordered accordingly.

#### WILLIAM TOWNSEND.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill for the relief of William Townsend; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SAMUEL SILVER.

Mr. LAWRENCE, of Ohio, by unanimous consent, also introduced a bill for the relief of Samuel Silver; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. WARD moved to reconsider the vote by which the bills were referred to the Committee on the Judiciary, for the purpose of referring them to the Committee of Claims.

The motion was agreed to.

Mr. WARD then moved that the bills be referred to the Committee of Claims.

The motion was agreed to.

Mr. WARD moved to reconsider the vote

just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

It further informed the House that the Senate had passed a bill (S. No. 77) supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying a military force to aid in suppressing the rebellion," approved June 21, 1866.

#### UNITED STATES COURTS FOR NEBRASKA.

Mr. WILSON, of Iowa. Before submitting the report from the committee of conference, I ask unanimous consent to take from the Speaker's table Senate bill No. 61, to provide for a district and circuit court of the United States for the district of Nebraska, and for other purposes.

There was no objection, and the bill was taken up, read a first and second time, and referred to the Committee on the Judiciary.

#### GOVERNMENT OF THE REBEL STATES.

Mr. WILSON, of Iowa, submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to House bill No. 33, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its disagreement to the second amendment of the House, and agree to the same.

That the House of Representatives recede from its third amendment to the amendment of the Senate, and agree to the same, with the following amendment: on page 5, line eleven, after the word "assembling," insert "and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State;" and that the Senate agree to the same.

JAMES F. WILSON,

S. S. MARSHALL,

GEORGE S. BOUTWELL,

*Managers on the part of the House.*

LYMAN TRUMBULL,

C. R. BUCKALEW,

HENRY WILSON,

*Managers on the part of the Senate.*

Mr. WILSON, of Iowa. The second amendment, which the Senate by this report agrees to, is one which inserted in the third line of the fifth section the word "registered" before the word "electors," by which the clause was made to read "the constitution shall be ratified by a majority of the votes of the registered electors."

The other amendment of the House from which the conferees on the part of the House agreed to recede is the one by which the words "cast at said election [at least one half all the registered voters voting upon the question of such ratification]" are stricken out. We agreed to recede from that amendment, so as to leave the section in that respect as the Senate passed it, with the addition of the amendment which has been read; so that it will now read as follows:

SEC. 5. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, [at least one half of all the registered voters voting upon the questions of such ratification,] the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors



in the State; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

The effect of the amendment is this: that after the ratification of the constitution by the vote of the electors, Congress shall have the power to determine whether that election was a fair one; whether it was conducted in such manner as that every person entitled to vote could have voted if he desired; that he was not kept away from the polls by intimidation or fraud; and in addition to that, that Congress shall also be satisfied that the constitution is one which meets the approval of a majority of all the electors of the State.

Mr. BROOKS. Will the gentleman permit me to ask him by what process, what *modus operandi*, Congress is ever to determine whether these elections have been conducted in the manner prescribed?

Mr. WILSON, of Iowa. The gentleman has had some experience in relation to that. [Laughter.]

Mr. BROOKS. I have had too much—too much. [Laughter.]

Mr. WILSON, of Iowa. Probably the gentleman can answer the question from his own experience better than I can, for my answer would be only theoretical. If when the constitution shall be presented to Congress for approval a portion of the people of a State should represent that the election which has resulted in the alleged ratification of the constitution was unfair, that the voters were kept away from the polls by intimidation or by fraud, or were prevailed upon by fraudulent means to vote for the constitution when they intended to vote against it, or *vice versa*, then Congress, through its appropriate channel, a committee, perhaps, can examine into the facts the same as we do into the election of a member, and determine whether there has been fairness in conducting the election, whether the will of the majority of those who actually voted is expressed in the result, and whether those who were entitled to vote but did not vote were restrained or kept away from the polls by fear, intimidation, threats, or fraud.

Mr. BROOKS. I have no doubt my unfortunate countrymen of the South will be very much in the condition I was in during the Thirty-Ninth Congress. But I had and have this advantage over them; that as often as Congress turns me out just so often do the people send me back again by an increased majority. That is an advantage which under this bill the southern people will not have. What I have to say, and I think I have once before called the attention of the House to it, is that nothing is settled by this bill. No matter what the South may do, no matter what compliance they may make with the requirements of the law, the whole thing is to be a contested-election case upon the floor of this House, with an opposition of more than two thirds of the members to control the result.

Mr. WILSON, of Iowa. When this bill shall have become a law, Congress will have proposed a complete plan of reconstruction for the people of the South; and by the amendment embraced in the report of the committee of conference it is proposed to give notice to the people of the South that their action under this legislation must be fair; that every man entitled to vote must have a chance to vote without restraint and in the absence of fraud; that unless that is done we hold in our hands the power to send the case back to them until they shall comply with the law.

Mr. WILLIAMS, of Pennsylvania. I wish to inquire of the gentleman from Iowa [Mr. WILSON] whether the effect of this surrender on the part of the House is not merely to substitute inferior evidence for that which is higher and may be called demonstrative in its character? In other words, whether we are not to

take the opinion of Congress instead of the evidence furnished by the record of the votes?

Mr. WILSON, of Iowa. We are to have the opinion of Congress upon whatever evidence may be presented, whether record or otherwise. And the judgment of Congress will be expressed by the votes of the two Houses.

Mr. WILLIAMS, of Pennsylvania. Undoubtedly.

Mr. STEVENS, of Pennsylvania. When this bill went to the committee of conference it required a majority of the registered voters. When it comes back here from the committee of conference it requires only a majority of those who voted, no matter how few they may be.

Mr. WILSON, of Iowa. It must be a majority of the qualified electors.

Mr. MARSHALL. As I have agreed to the report of the conference committee, it may be proper for me to make a brief statement in order to avoid misunderstanding and misrepresentation. It is well understood that I do not agree to the theory of the majority of this House in regard to reconstructing or restoring the southern States to their proper relations. The conference committee had imposed upon them the simple duty of seeing to the details of this bill. As I understand it, the majority of the House have agreed upon their plan of restoration, at least to the extent of this bill. And as a member of the committee of conference my duty was to look to the details of the bill.

Now, I much prefer the plan proposed by the committee of conference to the one adopted by the House, and upon which the disagreeing votes of the two Houses took place. It seemed to me that the plan adopted by the House put into the hands of the majority here the power to entirely defeat restoration under the plan now proposed by Congress. The vote on the ratification of the constitution by the people is to be taken months and possibly a year after the registry is made. Under the plan adopted by the House the result would be this: all who might die between the time of registration and the time of voting would be counted against the ratification of the constitution; all who should move from their district after registration would be so counted; all who should remain at home on the day for voting on account of sickness, or from business, or for any other of the many causes which keep men away from the polls, would be counted against the constitution, and although there might be in fact a very clear majority of the qualified voters, as prescribed by the law to which this is supplementary, in favor of the constitution, yet under the plan of the House as originally passed here it might be rejected, unless Congress disregarded the act which is now about to be passed.

Now, the difference between that plan and the one agreed upon by the committee of conference is very manifest. But if a majority of this House are in favor of the restoration of the southern States on any plan whatever, and are not merely paltering with this question for the purpose of keeping these southern States entirely out of the Union for an indefinite period, it seems to me that the plan now proposed is altogether preferable to that originally passed by the House, and it is with this view, and in regard alone to settling the details of the bill already agreed upon by the House, that I have given my consent to the report of the conference; not that I have yielded any of my opposition to the plan proposed by the majority of this House.

Mr. ELDRIDGE. I move that the report of the committee of conference be laid on the table; and on that motion I call for the yeas and nays.

The SPEAKER. The report if laid on the table will carry the bill with it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 26, nays 101, not voting 36; as follows:

YEAS—Messrs. Archer, Barnes, Boyer, Brooks,

Burr, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Marshall, Morrissey, Mungen, Niblack, Nicholson, Neell, Pruyn, Randall, Robinson, Ross, Taber, Van Aukon, and Wood—26.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Caka, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Briggs, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Gravelly, Halsey, Hamilton, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pile, Polsley, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Stewart, Taft, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—101.

NOT VOTING—Messrs. Benjamin, Bromwell, Chanler, Dawes, Denison, Eliot, Finney, Garfield, Griswold, Harding, Hayes, Hill, Hulburd, Kelsey, George V. Lawrence, Lynch, McCarthy, McCullough, Moorhead, Morgan, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Price, Raum, Selye, Sitgreaves, Smith, Thaddeus Stevens, Stone, Taylor, Van Trump, and William B. Washburn—36.

So the report was not laid on the table.

The question recurred on agreeing to the report.

Mr. WILSON, of Iowa. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. PILE, (at five o'clock and five minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BEAMAN: The proceedings of a meeting of the citizens of Atlanta, Georgia, and also the petition of Volney Spaulding and 172 others, citizens of the State of Georgia, praying that the branch mint at Dahlonega be transferred to and located at Atlanta, and also for uniting with the branch mint building rooms properly arranged for the United States court, post office, and revenue offices.

By Mr. HALSEY: The memorial of the representatives of Thomas W. Harvey, deceased, for extension of his patents for manufacturing wood-screws.

By Mr. SPALDING: The petition of Francisco Bernandez, of Honduras, for a special act of naturalization in his behalf.

By Mr. WILSON, of Ohio: The petition of John Murphy and others, citizens of Washington and the District of Columbia, praying for a charter to certain persons therein named for the construction of a railroad from Washington to Cincinnati.

#### IN SENATE.

WEDNESDAY, March 20, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of women of Ohio, praying that they may be allowed the elective franchise; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented the petition of John Haerberle, praying that an American register may be granted to the schooner C. W. Chapin; which was referred to the Committee on Commerce.

Mr. HARLAN presented two memorials of citizens of the District of Columbia, complaining of the condition of the turnpike road between Washington and Bladensburg, and praying that measures be instituted to compel the proprietors of the road to comply with their charter; which was referred to the Committee on the Judiciary.

Mr. HOWE presented the petition of Clarissa Britain, administratrix of the estate of Calvin Britain, deceased, praying payment of a balance due Calvin Britain as agent of the

United States at St. Joseph's harbor, in Michigan; which was referred to the Committee on Claims.

Mr. SUMNER. I present a petition of citizens of Florida, in which they set forth the evils to which they are exposed from the existing State government, and they entreat the action of Congress in such a way as to place their State government in the hands of truly loyal men. As that subject has already been acted on I move that this petition lie on the table.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. YATES, from the Committee on Territories, to whom was referred the bill (S. No. 11) to admit the State of Colorado into the Union, reported it without amendment.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of the law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny, reported it without amendment.

#### LONG ISLAND, BOSTON HARBOR.

Mr. HOWARD. The Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 63) to authorize the entry and occupation of a portion of Long Island, Boston harbor, have instructed me to report it back with an amendment. I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of War to take possession of that portion of Long Island, in Boston harbor, Massachusetts, belonging to James T. Austin, for the purpose of erecting thereon a fort and such other structures as may be needed for military purposes; and to direct the payment of \$5,000 for that purpose, according to the agreement between the agent and representative of James T. Austin and the United States.

The amendment was to add to the bill the following proviso:

*Provided*, That said amount shall not be paid until the Attorney General of the United States shall be satisfied that the title of said portion of said island has been fully transferred to the United States free from all incumbrance, and that the person receiving the money is competent to act in the premises.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### DIPLOMATIC COSTUME.

Mr. SUMNER. The Committee on Foreign Relations have directed me to report a joint resolution.

The joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service of the United States was read twice by its title.

Mr. CONNESS. I should like to hear that resolution read at length.

The Secretary read the joint resolution, as follows:

*Resolved, &c.*, That all persons in the diplomatic service of the United States are prohibited from wearing any uniform or official costume not previously authorized by Congress.

Mr. SUMNER. Perhaps the Senate may be disposed to act on the resolution now. It is reported from the committee unanimously. I do not wish to press it if there be objection; but it is a proposition which explains itself.

Mr. CONNESS. I have no objection to its present consideration.

The PRESIDENT *pro tempore*. No objection being made, the joint resolution is before the Senate as in Committee of the Whole.

Mr. CONNESS. I should like to have some statement made concerning what uniform Congress has authorized or is likely to authorize. We have been already informed that the uniform of our ministers varies; that some of

our ministers appear in the garb worn by generals in our service; that in other cases they conform to the garbs worn at the different Courts where they are, and that in other instances our ministers wear common citizen's dress. Now, I should like to have an explanation from the chairman of the committee as to what this resolution proposes and is to do.

Mr. STEWART. I should like to hear the resolution read.

Mr. SUMNER. Let the resolution be read, and that will be an answer to the Senator from California.

The Secretary again read the resolution.

Mr. CONNESS. That does not answer me. I do not see that that means anything.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. SHERMAN. I do not see what right we have to prevent a minister abroad from wearing the uniform of our Army if he chooses.

Mr. SUMNER. The Senator is aware that there is an existing habit among our ministers in Europe of wearing uniforms of other countries in the nature of Court costumes, and this is often required before they are presented. The Committee on Foreign Relations, on considering the subject, have unanimously come to the conclusion that it is expedient to prohibit the wearing of any such uniform or official costume unless it shall be sanctioned previously by act of Congress. We feel that our ministers abroad should not be required by any Government to which they are addressed to wear a uniform or costume unknown to our own laws. This is very simple, and, I submit, not unreasonable.

This question is, perhaps, more important than it appears. On its face it is of form only, or rather it is of dress. But I am not sure that it does not concern the character of the Republic. Shall our ministers abroad be required to assume a uniform unknown to our laws? The ministers of other countries appear at the Courts where they are presented in the very dress which they would wear before their sovereigns at home. What is good enough for their own sovereigns is, I understand, good enough for other sovereigns. And surely the dress in which one of our ministers might appear before the President of the United States ought to be sufficient anywhere. Its simplicity is to my mind no argument against it.

It has been sometimes said, gravely enough, that if our ministers appear in the simple dress of a citizen, according to the requirement of Mr. Marcy's famous dispatch, they may be mistaken for "upper servants." If this be the case they will have very little of the stamp of fitness. I am not troubled on this head. Their simplicity would be a distinction, and it would be typical of the republican Government which they represent. Amidst the brilliant dresses and fantastic uniforms of European Courts a simple dress would be most suggestive.

This is an old subject, which I trust may be disposed of at last. Mr. Marcy enjoined simplicity in the official dress of our foreign representatives, and dwelt with pride on the well-known example of Dr. Franklin. But his instructions were not sufficiently explicit, and they were allowed to die out. Some of our ministers appeared in a black coat, and were not mistaken for "upper servants." But gold lace at last carried the day, and our ministers now follow the prevailing usage of European Courts. A simple prohibition by Congress will put an end to this petty complication and make it easy for our ministers to follow abroad the simple ways to which they have been accustomed at home.

Mr. SHERMAN. All I wish to know is whether General Dix or any other minister could wear the uniform of our Army if he chose. The rule, if I understand it, in some foreign countries, is that a person must appear at Court in some kind of uniform. If none is provided by his Government or authorized by his Government then he adopts a certain uniform according to the custom of the coun-

try to which he is accredited. Perhaps, however, I am not correct.

Mr. SUMNER. The object of this joint resolution is to encounter that precise requirement of foreign Governments, and to put our ministers on an equality with those of other Governments. I have already said that ministers of other countries may appear at the Courts to which they are addressed in the uniform or costume in which they may appear before their own sovereign. I take it the Turkish minister is not obliged to assume in Paris or London any official costume peculiar to France or England; but he appears as he would appear before his own sovereign. Now, it seems fit that an American minister should enjoy the same equality with the Turkish minister or the minister of any other Power. I do not see how this can be accomplished unless he appears before the sovereign of the country to which he is accredited as he would before the Chief Magistrate of the American people—in other words, in the simple dress of an American citizen. This is the whole case in a nut-shell.

Mr. SHERMAN. The Senator does not yet answer my question: will this prevent an American minister abroad from wearing the uniform of an officer of the Army of the United States, such as he would be entitled to wear under our laws if here?

Mr. SUMNER. If he would be entitled under our laws there would be no difficulty.

Mr. SHERMAN. We have a law which authorizes a volunteer officer who has attained the rank of a brigadier general, for instance, always on state occasions to wear that uniform.

Mr. SUMNER. Then I think he might wear that.

Mr. CONNESS. I do not see what this resolution does.

Mr. SUMNER. It simply prohibits what is now done by certain ministers in Europe.

Mr. JOHNSON. I was not at the meeting of the Committee on Foreign Relations to-day because of my engagements elsewhere; but I submit to my friend, the chairman of the committee, that the language of this resolution would prevent a minister from wearing a military uniform known to the United States. It says "any uniform." It would compel him to appear in plain dress. If that is the purpose of the committee, it had better be stated expressly, I think.

Mr. SUMNER. I think there need be no objection to it on that ground.

Mr. JOHNSON. I do not know. The words are very comprehensive: he is not to wear "any uniform." Certainly our uniform is a uniform. I think my friend had better, perhaps, correct the phraseology of the resolution if he does not propose to prohibit the use by our ministers of our military uniform.

Mr. CONNESS. If it was stated in the resolution that our ministers were prohibited from wearing any uniform, but required to appear in citizens' dress, then we could understand it, and they would understand it; and if it should be amended in that way we should have a chance to vote for it understandingly, if we approved of it. As it is, I do not see that the resolution does anything but provide a rule to be understood.

Mr. SUMNER. I think there can be no misunderstanding. The ministers are simply to follow Congress; and as Congress has not authorized any uniform or official costume, they can have none unless they come within the exceptional case to which Senators have alluded. Certain persons who have been in the military service are authorized, under existing acts of Congress, to wear their military uniform on public occasions. Of course this resolution cannot interfere in any respect with that provision. It leaves the act of Congress under which they are allowed to wear a uniform in full force. It is only applicable to those cases to which no act of Congress is applicable.

Mr. CONNESS. Then why not plainly state

that our ministers are forbidden to appear at foreign Courts in any other than citizens' dress; except in cases where they are authorized to wear the uniform of an American military officer according to the rank they have held in the Army? Then we should understand it.

Mr. SUMNER. I think the resolution provides substantially this very thing. There is no difference between the Senator and myself in our desires.

The joint resolution was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

The message further announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 19) to clothe the maimed and destitute soldiers.

The message also announced that the House had passed a bill (H. R. No. 74) to change a certain post route in the State of Illinois; in which the concurrence of the Senate was requested.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A joint resolution (H. R. No. 17) authorizing the Secretary of War to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes;

A joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes;

A bill (H. R. No. 19) to clothe the maimed and destitute soldiers; and

A bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

#### ORLEF E. DREUTZER.

Mr. HOWE. The Committee on Claims, to whom was referred the petition of Orlef E. Dreutzer, praying to be allowed \$337 47 in coin, less the amount of fees received by him for services rendered as consul of the United States at Bergen, in Norway, from November 4, 1865, to May 24, 1866, have directed me to report a bill directing payment of that sum, and as I presume there can be no objection to it, the committee having thoroughly investigated the case, I ask for its present consideration.

By unanimous consent, the bill (S. No. 89) for the relief of Orlef E. Dreutzer, late consul of the United States to the kingdom of Norway, was read three times, and passed.

#### EXPENSES UNDER RECONSTRUCTION BILL.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 7) providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States," to report it back without amendment and recommend its passage; and as it is deemed very important to pass it at once, and it will take no time, I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to appropriate sufficient money, out of any money in the Treasury not otherwise appropriated, to defray the expenses of carrying into full effect in all its parts an act entitled "An act to

provide for the more efficient government of the rebel States," passed March 2, 1867, with all its supplementary acts; but the amount is not to exceed \$500,000.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 90) granting lands to each of the several States for the support of universities for females; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 91) to complete the title of the heirs of Baca; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 92) providing for a change of the time of electing a mayor and other officers for the city of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 93) to authorize the retirement of Major General Ethan Allen Hitchcock; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 74) to change a certain post route in the State of Illinois was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### ATLANTIC DOCK WAREHOUSES.

Mr. MORGAN. I reported yesterday morning from the Committee on Finance a bill authorizing the sale of the Government warehouses on the Atlantic dock, Brooklyn, and I move that it be now taken up.

The motion was agreed to; and the bill (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York, was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury, in his discretion, to sell the property on Atlantic dock, Brooklyn, New York, being warehouses numbers fifty-four, fifty-six, and fifty-eight, now owned by the Government, the sale to be made at public auction to the highest and best bidder therefor, in ready money, after giving notice thereof six weeks in succession in two daily papers printed in the city of New York.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, requested the return to the House of the bill (S. No. 60) to change the name of the steamer Paonshun.

#### CHOCTAW AND CHICKASAW TRUST FUNDS.

Mr. POMEROY. I move to take up the joint resolution (S. R. No. 18) for the sale of certain stock, held in trust for the Choctaw and Chickasaw Indians. It was laid aside temporarily the other day at the suggestion of the Senator from Indiana, [Mr. MORTON.] I wish to move an amendment that I think will make it satisfactory to him, and have it passed.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution, the pending question being on the amendment reported by the Committee on Indian Affairs, to add to the resolution the following proviso:

*Provided*, That no such stocks shall be sold, and no money shall be paid on such claims, unless the Secretary of the Interior shall have first examined and ratified or approved the awards made by commissioners, as stipulated in the forty-ninth and fiftieth articles of said treaty; *And provided further*, That nothing contained in this act shall be construed as

recommending for his approval any awards already made under said treaty.

Mr. JOHNSON. I am unable to understand the amendment without hearing the resolution read. I therefore ask that it be read in connection with the amendment.

The SECRETARY. The resolution, if amended as proposed, will read as follows:

*Be it resolved, &c.* That to enable the Secretary of the Interior to pay the claims of certain Choctaw and Chickasaw Indians, and other loyal persons, as are provided for in the forty-ninth and fiftieth articles of treaty concluded with the Choctaw and Chickasaw Indians, on the 28th of April, 1866, the said Secretary of the Interior is hereby authorized to sell such of the stocks held by the United States in trust for the benefit of those Indians as he may deem expedient and proper; but no further sale of said stocks shall be made than may be necessary to pay said claims: *Provided*, That no such stocks shall be sold, and no money shall be paid on such claims, unless the Secretary of the Interior shall have first examined and ratified or approved the awards made by commissioners, as stipulated in the forty-ninth and fiftieth articles of said treaty: *And provided further*, That nothing contained in this act shall be construed as recommending for his approval any awards already made under said treaty.

Mr. JOHNSON. I ask the chairman of the committee to state the circumstances connected with this case. I am told there is a large amount involved.

Mr. HENDERSON. I stated the facts the day before yesterday when the Senator was not here. I called up the resolution, and something was said by the Senator from Indiana [Mr. MORTON] about the effect; that it was very impolitic to pass it, and I thought an impression was left on the Senate by the remarks of the Senator that perhaps there was an effort to get through a measure that was inexpedient and improper within itself. I of course did not stop to explain it at the time, the Senate was busy. We have now but little time to consider measures of this importance. I really had no desire about it and no feeling about it; and when the measure came before the committee I felt that it ought to be guarded, and very carefully guarded. I saw the necessity for the passage of the measure in a certain contingency, and that is the confirmation by the Secretary of the Interior of the awards that have been made under the treaty of 1866, and over that officer we have no control in the premises; but in the contingency of his confirming the awards, of course there must be some provision made for their payment.

This case arises from the troubles among the Choctaws and Chickasaws growing out of the recent rebellion. There was a division in the tribes, and the disloyal portion being a majority drove the loyal Indians out. They went to Kansas, and their property was confiscated by their government at home, and their property was otherwise seized upon by individuals belonging to the tribes. When the treaty was made in 1866 the forty-ninth article of it provided that a commission should be appointed by the President to take an account of the damages sustained by these loyal Indians who had been driven out from among the Choctaws and Chickasaws. That commission has been appointed since the ratification of the treaty, and has reported damages sustained by these Indians to the amount of somewhere in the neighborhood of three hundred thousand dollars. The fiftieth article provides that certain Indian traders and individuals there mentioned by name whose property was seized should also be indemnified, but the amount was not to exceed fifty or sixty thousand dollars, I forget which. The commission on that subject has also estimated the damages, and that report is now before the Secretary of the Interior. I will read from the treaty of 1866. The forty-ninth article is:

"And it is further agreed that a commission, to consist of a person or persons to be appointed by the President of the United States, shall be appointed immediately on the ratification of this treaty, who shall take into consideration and determine the claim of such Choctaws and Chickasaws as allege that they have been driven during the late rebellion from their homes in the Choctaw and Chickasaw nations on account of their adhesion to the United States, for damages, with power to make such award as may be consistent with equity and good conscience, taking into view all circumstances, whose report,

when ratified by the Secretary of the Interior, shall be final, and authorize the payment of the amount from any moneys of said nations in the hands of the United States as the said commission may award."

The fiftieth article provided:

"Whereas Joseph G. Heald and Reuben Wright, of Massachusetts, were licensed traders in the Choctaw country at the commencement of the rebellion, and claim to have sustained large losses on account of said rebellion by the use of their property by said nation, and that large sums of money are due them for goods and property taken or sold to the members of said nation and money advanced to said nation; and whereas other loyal citizens of the United States may have just claims of the same character"—

provision was made for a commission to examine and allow the claims. There was no limitation on the amount to be allowed under the forty-ninth article; and I understand, as I have stated, that the report under that article is in the neighborhood of three hundred thousand dollars; and the report under the fiftieth article is up to the limitation. Now, there are no moneys in the hands of the Secretary of the Interior belonging to these Indians with which to pay these claims. The Senate will observe that the treaty authorizes the payment of the amount from any moneys of said nations in the hands of the United States, as the commission may award. There are no moneys of theirs now on hand, but there are these stocks.

I was asked by the Senator from Indiana to explain what the stocks were; and since that time I have ascertained the amount and the character of the stocks, and I shall submit the statement to the Senate, and it is for the Senate to determine whether they will put any of these stocks in the market or not. I called upon the Secretary of the Interior before the committee acted on this question and asked him if he had ratified the reports. He informed me that he had not done so; that he had not yet had time to examine them. The disloyal Choctaws and Chickasaws, as it is charged, are urging that the claims be not allowed, that is, that the reports be not confirmed. A citizen of the State of the Senator from Maryland, I believe, is attorney for the nations, and he has resisted the ratification of the report in a very able argument and brief filed, which I had the pleasure of looking over, and in which perhaps there are some facts that would go against the ratification of the reports. Perhaps they are strong enough, in the estimation of the Secretary, to prevent the ratification; I do not know. He tells me that he has not yet examined them, and will not ratify them without a very careful examination; but if he should ratify the reports there is no money in his hands to pay the claims. I understand that these Indians are suffering, and that they need the amount of which they have been robbed. On the other hand, it is alleged that they have proved forty times as much as they ever lost. I do not know the truth of these statements, and it is entirely beyond our jurisdiction. If the Secretary ratifies the reports the money will have to be paid some time or other, and the only funds the Indians now have out of which to pay it are not in money, but in bonds.

The Chickasaws have \$17,000 of Illinois State bonds, \$90,000 of Arkansas bonds, \$141,000 of Indiana bonds, issue of 1857, \$14,599 of Maryland bonds, \$512,000 bonds of the Nashville and Chattanooga Railroad Company, \$100,000 bonds of the Richmond and Danville Railroad Company, \$170,666 bonds of the State of Tennessee, \$172,741 United States bonds due January and July, 1868, \$165,000 United States bonds, due in 1882 and 1885. The securities held in trust for the Choctaw nation are \$2,000 Missouri bonds, \$450,000 Virginia bonds, and \$2,000 United States bonds; and the Choctaw school fund consists of \$19,000 Missouri bonds, and \$102,000 United States bonds.

It will be observed that some of these bonds ought not to be put into the market at present. The remark of the Senator from Indiana the other day may have led the Senate to suppose that we were undertaking to rob the Indians of their annuities. It is no such thing; this

resolution does not undertake to do anything of that sort. I will state further that it was examined in a full committee, and they know exactly what they have reported. The interest on the bonds of Indiana has not been paid for some years; and if those bonds were put in the market now they would be sold for little or nothing. Probably they ought not to be put in the public market for sale until the State of Indiana, as she designs to do very soon, shall have made provision for their payment, which will appreciate them in the market. I apprehend that was all that the Senator from Indiana meant by his suggestion. Then the bonds of the Nashville and Chattanooga Railroad Company, held for the Chickasaw Indians, ought not to be put in the market, because they, too, have paid no interest for some years. The Richmond and Danville Railroad Company bonds ought not to be sold, for they are in the same condition.

Mr. POMEROY. I have an amendment to propose to guard all those cases.

Mr. HENDERSON. The bonds of the State of Tennessee are in the same condition. No interest has been paid since the beginning of the rebellion. They amount to \$170,000. They ought not to be sold, nor ought the bonds of the State of Missouri to be sold. It appears, therefore, that there are but the \$172,000 and \$165,000 of United States bonds that could be safely sold at present of the Chickasaw funds. It will be observed that the Choctaw Indians have no United States bonds except \$2,000. The Senate may, therefore, very properly say at present that it would be improper to sell any of them.

I have stated the facts to the Senate, and they know them as well as the committee. All I have done in regard to this matter is to provide in the amendment of the committee that no legislation on the part of Congress shall indicate to the Secretary of the Interior that he ought to affirm these reports. I know of nothing else out of which the claims can be paid, except these securities, and it is for the Senate to determine whether it is proper now to sell these securities or not. The Kansas Senators think that the Indians who have been driven into the State of Kansas, and who are perfectly destitute, ought to be allowed something at present to relieve their wants, and they urge the passage of the measure. They can speak of its necessity better than I can. The Committee on Indian Affairs have simply guarded the bill so as to prevent any greater danger than must necessarily result from the payment of a debt which is placed entirely beyond our jurisdiction or control, a debt which becomes complete and perfect, provided the Secretary of the Interior shall affirm the reports of the commissioners appointed under the treaty.

Mr. POMEROY. I will not consume time in this discussion. I will merely state that the refugee Indians who have been in Kansas have suffered the loss of all things, and this is simply an effort to reimburse them for something. There is no way of doing it except by allowing the Government to sell some of the stocks that belong to the whole tribe. I have drawn up a proviso which I intend to offer to guard against the points the Senator from Missouri has made, and after the present amendment shall have been acted upon I shall offer the following proviso:

*Provided, That no sale shall be made of any of the stocks issued by the State of Indiana, or of any stocks at less than the par value.*

This will prevent any stocks being sacrificed; and as the Government is responsible for the par value of all these stocks, it ought not to sell any of them for less than par. This amendment will guard every point I think, and as soon as the pending amendment is disposed of I shall offer it.

Mr. DOOLITTLE. I suppose these debts will have to be paid, whenever they are ascertained to be due by the Secretary of the Interior, by virtue of the provisions of the treaty; but the treaty provides that they shall be paid out of moneys belonging to the Indians in the

hands of the United States. Now, the truth is that the United States are indebted to the Choctaw nation, as is claimed by the Choctaw nation, to the amount of nearly two million dollars, funds in the hands of the United States due to the Choctaws. It is true, this claim has been disputed on the part of Congress, and controversies have arisen in regard to it; but that there is a large unsettled balance in favor of the Choctaws in the hands of the Government I believe nobody who has ever investigated the subject can doubt for a single moment. Now, I suggest that if this money now be paid for the purpose of settling the damages suffered by the loyal Indians, the Treasury of the United States ought to pay it, and we ought not to sacrifice these bonds, the interest of which supports the schools and the government of these Indians.

I shall not go into a lengthy statement of the facts, but any person who will examine them will be satisfied that there is a large amount due from the Government of the United States to the Choctaw nation, and this amount ought to be paid out of that fund and not out of the fund which is set apart for the schools and for the support of the government. I think that if these bonds as they are situated were forced into the market to raise \$300,000 it would sacrifice the whole fund; or if, as the Senator from Kansas suggests, the Government of the United States is to guaranty that they shall sell at par, we may just as well pay the money. How could you sell the bonds of Arkansas, and the bonds of Virginia, and the bonds of the Nashville and Chattanooga Railroad Company, and the bonds of the Richmond and Danville Railroad Company at par? We may just as well put our hands in the Treasury and take out the money and pay it as to sell these bonds with our guaranty that they shall sell at par, because we shall have to pay the money. Inasmuch as we owe the Choctaw nation very much more than \$300,000, and I have no doubt, on investigation by any persons who will examine it, it will be found to be at least \$1,500,000, we had better pay this money out of what we owe them than sacrifice these bonds.

Mr. HARLAN. When the provision which the Senator from Missouri, the chairman of the Committee on Indian Affairs, has read was put in the treaty, there was no controversy on the subject on the part of the delegates of the Choctaw and Chickasaw Indians. They are intelligent people, cultivated people. They are as highly educated, perhaps, as a majority of the citizens of the United States. They themselves represented that there were certain licensed traders with them at the beginning of the late war, with stocks of provisions and goods which were taken from the traders and used by that people, and they were perfectly willing to pay for them, but stipulated that the maximum amount to be thus paid should not exceed \$90,000, I think.

Mr. HENDERSON. No; less than that.

Mr. POMEROY. It was cut down in the Senate at the time of the ratification of the treaty to \$50,000, I think.

Mr. HARLAN. At all events the maximum amount which they were willing to pay was placed in the treaty.

Mr. HENDERSON. The Senator from Iowa is right. I see by reference to the treaty it was \$90,000.

Mr. HARLAN. It was then stated that there were certain Choctaw and Chickasaw Indians who had been driven away by the majority of the tribe, the organization having gone into the rebellion formally, and having by treaty given in their adhesion to the confederate government. They stipulated in the treaty to pay that portion of these tribes for all the property destroyed under their confiscation laws of all that part of the tribe who had been driven North on account of their adhesion to the Government of the United States. It is, however, just to these people to say that they thought there were but few who would present claims of this kind, and that the aggregate



amount would not be great, but they manifested a perfect willingness to pay all that those who had been thus driven away were justly entitled to—the value of their houses and orchards and fencing and herds of cattle and horses that had been destroyed by their fellow-members who adhered to the confederate government. In principle it is right to pay them. Whether the award which has been made is just or not I am not prepared to say. I have understood that the chiefs and officers of these two tribes of Indians say that the cases were examined at too remote a place from the former homes of these people, and therefore that they were unable to get rebutting testimony to show that the amount claimed was exorbitant. If that be found to be true, I apprehend the Secretary of the Interior will order a reexamination and a new award; but if this adjudication has been carefully gone into and the award is correct, the principle is right that the disloyal portion of the tribe should divide their funds with the loyal portion to the extent that they themselves have wantonly damaged them; and that is all there is in the proposition—to compel the disloyal Choctaws and Chickasaws to pay the loyal portion of those two tribes the fair value of the property that they themselves destroyed when they drove the loyal Indians North, and when they themselves went South and gave in their adhesion to the confederate government.

With the amendment proposed by the Senator from Kansas, it seems to me that damage can accrue to these people. They themselves were willing, as I personally know, to pay all that was justly due. They will say so now. They are perfectly willing to pay all that is justly due as the fair value of the property thus destroyed.

I apprehend that the loyal Indians would be willing to take these bonds at par probably in payment of their claims; but with the amendment proposed by the committee, that nothing shall be paid until the Secretary of the Interior shall examine the subject and be satisfied that the amount is fairly due, it seems to me there is no danger of wrong being done to these tribes of Indians.

The amendment was agreed to.

Mr. POMEROY. I now move to further amend the resolution by inserting after the word "claims" in line twelve:

*Provided, That no sale shall be made of any stock issued by the State of Indiana, nor shall any stock be sold for less than the par value thereof.*

The amendment was agreed to.

Mr. SHERMAN. This measure is an illustration of the absurdity of our relations with the Indians. It is now proposed that we alter a treaty without the consent of the other party. If this treaty was regarded like a treaty with Great Britain or France, the proposition would be absurd. We propose now by act of Congress to alter a treaty, and sell the property of a foreign nation held by us in trust, against their remonstrance. The Senator from Missouri informs us that the Choctaw and Chickasaw tribes insist that these bonds shall not be sold; that the award now pending before the Secretary of the Interior is wrong, and they resist it. It is proposed now, in violation of the treaty, which says that these claims shall be paid out of moneys in the hands of the United States, that we shall take bonds held by the United States in trust and sell them against the remonstrance of the Indians. This shows the continued absurdity of our relations with the Indian tribes.

Mr. STEWART. Allow me to inquire of the Senator if it would not be as easy to make a direct appropriation of the money?

Mr. SHERMAN. That is precisely what I want to come at. The money that is paid under pretense of selling their bonds will have to be made good by the Treasury. We have no power to sell these bonds; we have no right to sell them. It is a violation of every principle of law and equity to seize the property of these Indian tribes and sell it without their consent. It would not be tolerated between foreign na-

tions for a moment. We treat these people as foreign nations; and now, in violation of every principle of public law, we propose to seize their property, which happens to be in our hands in trust, and sell it, against their remonstrance, for what it will fetch, perhaps, so that it does not bring under par; and the result will be precisely what the Senator from Nevada says, that the United States, out of its own Treasury, must make this money good. That will be the result. On the other hand, if the matter be left as it stands under existing laws, the Secretary of the Interior will examine this award; he will pass upon it after hearing the arguments *pro* and *con*. The claims of the loyal Indians are secured by the treaty; the claims of the traders are secured by the treaty; and when the Secretary of the Interior shall have adjudicated and fixed the amount due to these various classes of creditors, he has authority to pay them out of the money of these Indians in his hands. The whole subject of the amount of money due to them is now referred to the Committee on Indian Affairs, with instructions to ascertain that amount.

Mr. MORRILL, of Maine. Allow me to ask the Senator from Ohio what provision of the treaty is violated by this act?

Mr. SHERMAN. A principle of the law of nations is violated. You propose to take the property of these Indians, which is secured to them by treaty, and against their consent sell it.

Mr. MORRILL, of Maine. I understood the Senator to say that this violated a treaty stipulation.

Mr. SHERMAN. Not at all.

Mr. MORRILL, of Maine. The other question I may discuss by and by.

Mr. SHERMAN. The treaty says that these awards that are made for the benefit of individuals shall be paid out of certain moneys. There is no money in the Treasury now for their use. There may be eventually by the adjustment of conflicting claims between the United States and the tribe. It is proposed, while there is no money in the Treasury, to take the property of these Indians which is held by us in trust for their schools and for their children, and against their consent to appropriate their school fund to pay certain persons whose claims have grown out of the war; and this against their remonstrance, as we are informed by the chairman of the Committee on Indian Affairs.

It seems to me it is no great hardship to wait until the amount due the Indians is adjusted between them and the United States, and then they will be paid. But to seize upon a trust fund in our hands, and against the remonstrances of the Indians to sell it, is an act of injustice that will compel us from mere shame to take the money out of the Treasury of the United States and restore the trust fund. It is to that I object. I know many persons are very desirous to have this resolution pass; but I do not think that, acting for the Indians, we ought to undertake to do what, if we were dealing with foreign nations who could enforce their obligations against us, we would not undertake to do.

Mr. POMEROY. The only difference between the Senator from Ohio and those who advocate the passage of this joint resolution is, that he proposes to have these claims paid ultimately, after a report shall have been made to Congress hereafter; and those who are trying to carry out the provisions of this treaty stipulation desire to have them paid as soon as the Secretary of the Interior shall settle upon them as being just and equitable. If he does not come to that conclusion, they are not to be paid at all. I wish to remind the Senator from Ohio of one fact that he seems to have lost sight of. The Government of the United States has no money in its hands belonging to these Indians out of which to pay these awards, from the fact that the former treaty provided that the money in the hands of the United States should be invested in safe and profitable stocks, and those stocks are the

money of the Indians. They are not trust funds that come from some other source.

Mr. SHERMAN. But the Senator must be aware that these identical bonds were in the hands of the United States before the last treaty was made.

Mr. POMEROY. Certainly.

Mr. SHERMAN. They never contemplated, therefore, the taking of those bonds to pay these claims.

Mr. POMEROY. But these bonds are all the moneys the Indians have from which anything can be paid. These bonds accrued from the sale of their former reservation before they went to their present homes. The Government of the United States, instead of holding the money under that former treaty, were required to invest it in safe and profitable stocks. Whether the Government has done that or not I do not know; but this resolution merely provides that their money, now held by the United States in the shape of bonds, shall be used to meet the awards provided for by the treaty. This does not determine the question whether the award shall be approved or not. It does not rest on the Secretary of the Interior with the weight of a hair; he is at entire liberty to reject the award as though this joint resolution had not passed. The Senator from Ohio wants to postpone the case to another session of Congress. The claims must be paid; it is only a question of paying them now or a year hence.

Mr. HARLAN. I think the objection made by the Senator from Ohio is merely technical. At the time this treaty was made by these Indians and the United States, they knew the exact condition of their funds as well as it is known now. To suppose this interpretation of the phraseology is correct is to suppose that they intended to commit a fraud on the loyal portion of their tribe. I know this was not their intention, nor was it the intention of the very able legal adviser whom they employed to assist them in considering this treaty. It was a perfectly open transaction, and they were perfectly willing to pay what was justly due for the property actually destroyed. The controversy now, as I understand it, is that they claim that the award is too great, that the cases have not been carefully examined; or, if so, they have been examined at a place and time when and where the organs of the tribe had not an opportunity to introduce rebutting testimony; and this objection to the conversion of the bonds has arisen, as I suppose, merely to secure a reexamination of the cases. It never would have arisen, in my opinion, had it not been for the amount of the award made.

I am inclined to think also that the Senator is in error on technical grounds as to his objection to the passage of this joint resolution. Originally the value of these bonds was money in the hands of the United States. It has been placed in this form with the consent of the Indians, the Indians, however, not knowing what stocks the money was to be invested in, but the investments doubtless were provided to be made in good stocks, nothing more. It was money originally, and has been invested in these bonds. These people were at the time, and I do not doubt they are now, perfectly willing to agree to the conversion of a sufficient amount to pay what is justly due. The question is whether all the money awarded is due from the disloyal portion of these Indians to those who claim to be loyal; and that is the only substantial question in controversy. Then practically, I suppose, the Committee on Indian Affairs have provided a sufficient barrier to fraud in insisting that this case shall be reexamined by the Secretary of the Interior. He will look into it. He surely is an impartial umpire. He can have no interest the one way or the other; and when he shall have carefully reviewed the whole case, if, in his opinion, that amount is justly due to the loyal Indians for depredations committed on them by the disloyal portion of the tribe, it ought to be paid.

Now, as to the claim these Indians set up against the United States under former treat-

ties, personally I happen to know that no such claim has been recently set up by these Indians in any formal way. All they insisted on was that their former treaties should not be disturbed. They think they are entitled to something under former treaties. They may be; if so, the United States doubtless will pay them. But that question was not entered into, nor did it become a part of the consideration of this arrangement. It was a voluntary arrangement on the part of those who were disloyal or rebel Indians to pay the damages which they had committed on the loyal portion of the tribe, and I see no propriety in deferring it for a year, unless we are to favor the rebel portion of the tribe rather than those that adhered to the interests of the United States.

Mr. MORRILL, of Maine. This is not a complicated question, and to my mind the justice of it toward the Indians for whose relief it is designed is obvious from a simple statement of the facts.

The object of this resolution is to relieve the distress into which a portion of these tribes have fallen growing out of the difficulties of the late rebellion. They were loyal to the Government; their property was destroyed; and they were thrown into great distress. Of that distress at the present time there is no manner of doubt. It is very great; and I say to the honorable Senator from Ohio, who raises this objection, that while we are providing a million of money to relieve the supposed distresses in another section of the country, we cannot overlook the real distress into which these poor people have been plunged. It must be remembered that they are in a community that do not recognize any claims on them whatever for support, and they are unlike the people for whom we appropriated \$1,000,000 the other day in this particular. The necessity, therefore, is exigent; the demand is imperative that we should relieve these people in some way.

We undertook—I speak of the Committee on Indian Affairs—to relieve them at the last session when the civil appropriation bill was before the Senate. We undertook to put upon that bill some relief for these people by way of appropriating a sum of money to be charged hereafter against these Indians with whom we had treaty stipulations, and out of which they claim grows a large indebtedness to them of some two million three hundred thousand dollars. But, sir, the chairman of the Committee on Finance met us with the argument, "that is all unsettled; that is all in the future; that is doubtful; that is an unsettled claim, and therefore we will not honor a draft drawn against an unsettled claim to be determined in the future;" and on the whole the argument seemed to be so conclusive that at any rate the claim was not allowed.

Then the Committee on Indian Affairs, having the same subject under consideration and the same object in view, said, "We must relieve these people in another way; these loyal people have claims on this tribe, and the tribe are in some sense the creditors of the Government; we have got the means in our hands if we do not owe them; we are trustees, and we can relieve these people; if we will not relieve them and charge it over against the debts which they hold due, we have the trust funds in our hands, and we can relieve them there, and we ought to do so." Now, my honorable friend from Ohio says there is an objection to that. In the first place, I understood him to say that it would violate a treaty stipulation; but I suppose he did not intend that. There is no treaty stipulation about it whatever.

Then how does it violate any principle of public law? Let us see. How came we to be the trustee of these persons? Growing out of former treaties we owed these tribes a certain sum of money; a million and a half of money, if you please. It was our business to pay the money. Why did we not? Why, sir, dealing with the Indians as we always have, we said we will not pay the money to these Indians because they will spend it; but we will consti-

tute ourselves self-constituted trustees for the Indians. We made no contract with them; we simply declined to pay the money over to them. If we violated any principle of public law it was in the fact that we did not give them their dues; but we arrogated to ourselves that we were wise and they were foolish, and if we paid the money to them they would spend it. It is not necessary for me to refer to the action in 1857 by those who were in power here at that time; but if you will look at the trust fund you will see what disposition was made of it. This trust fund, instead of being held sacred for these Indians, was, under the power of Congress and under the influence of Congress, put into the hands and turned over to carry forward certain railroad enterprises in the southern States. It has been pretty much sacrificed. I hope when that question comes up we shall have the magnanimity to say that as in our wisdom we would not trust the Indians to take care of their own funds, and as we invested it in this way, we will make it good; but that is not this question.

Now, sir, we hold this money in trust for these tribes. Does anybody deny that we can pay a sum of money which may be found due to the loyal people from those tribes for the destruction of the property of that loyal portion of the tribes? That is the question, and that is all the question.

That being the state of the case, we instituted a commission to ascertain if there had been any destruction of the property of the loyal people, and if so, to what amount, to the end that it should be paid by the tribes. The only question that there is in controversy is the amount of that award; and by the terms of the submission it was to be submitted to the final determination of the Secretary of the Interior. It awaits that. When the Secretary of the Interior passes upon that award, then, by the stipulations between the Government and the tribes, there is so much money as he shall find due to these Indians who have been proved loyal during the war, and the resolution is predicated upon the idea that he will find something due; and in case he does find something due, then we say he shall have power to sell of so much of the funds which came into our hands as money, and which was by us arbitrarily put into those funds, not exceeding \$300,000, as shall meet the sum which he thus finds due.

To repeat, I submit that, in the first place, the exigencies of these people demand this relief. I submit, in the second place, that the way for their relief has been agreed upon between the Government and the tribes. It only awaits to make the payment. The money is in our hands; and we violate no principles of comity, no treaty stipulations, no principles of public law whatever. It will turn out as the honorable Senator from Nevada suggested undoubtedly, that if we take so much of this money and appropriate it to the payment of these Indians, and in the future it should be found that we owed it to these people and ought to have paid it to them instead of appropriating this fund in this way, we shall have to make it good; but not otherwise. I therefore submit that there is no difficulty about this case.

Mr. MORTON. The objection that I took to this resolution the other day has been obviated by the amendment offered by the Senator from Kansas, in excepting from sale the Indiana stocks. The principle involved in the resolution that the disloyal shall pay for the losses suffered by the loyal is right in itself; but I simply want to call the attention of the Senate to the fact that we are prescribing for the disloyal Indians a rule that we are not willing to apply to disloyal whites in the South. We have required the disloyal Indians by treaty to indemnify the loyal Indians for their losses of property; but we do not require the disloyal whites of the rebel States to indemnify the loyal whites for the loss of their property. The equity is quite as strong in favor of the loyal whites of the South, who have lost everything and been driven from their homes, as it

is in favor of the loyal Indians who have lost everything and been driven from their homes. I do not say that this is an argument why this resolution should not pass. I simply remark that we are willing to apply a rule to feeble and helpless Indians that we are not willing to apply to arrogant rebels in the rebel States.

Mr. JOHNSON. If these Indians are, in consequence of their adherence to their obligation to the Government, in a state of suffering, almost in a state of starvation, I think it is our clear duty to provide for them. The only question with me is, whether the provision which we are asked to make is a proper one. If I understand the treaty which was made in 1866, it went, in relation to this subject, upon the hypothesis that there was, or would be when the award should be made in pursuance of it, money in the hands of the Government adequate to meet what might be found to be the extent of the damages which these loyal Indians had sustained. At that time and now, as we understand from the committee to whom the subject has been referred—and the former Secretary of the Interior who now honors us by his presence will set me right if I am wrong—there was a very large claim made by the Choctaws and other Indians whose property we are now about to take, against the United States, amounting, I believe, in the aggregate to some two million dollars. I understand the honorable member from Maine to say that he believes that that claim is due either in whole or in part; certainly due to an extent that would be sufficient to meet any demands which the loyal Indians may succeed in making good before the Secretary of the Interior.

Now, I can very well imagine, and such I understand is the statement of the Indians, that when they agreed to that provision of the treaty which is involved in this debate they supposed that the amount which they might be found to owe would be discharged out of the debt due by the United States to them. At that time, as now, the United States held in trust for the Indians bonds of the several States which they had purchased with the moneys that came into their possession belonging to the Indians. It was thought better for the Indians, to whom those moneys were then due, that the United States should invest the amount in stocks to be selected by themselves, and they selected the stocks of several of the States and stocks in some of the railroads. But that was made as an investment, and it was made under the belief that it would result in giving to the Indians more than the actual amount of the par value of the stocks. It was supposed that it would be a good speculation for them; and the United States, in the discharge of their duty as faithful trustees, wishing that the money which they owed to the Indians should be profitable to them instead of lying in the Treasury where no interest was accruing upon it, invested it in stocks which they expected to appreciate; and they were in process of appreciation.

My friend from Kansas has removed one of the objections to the resolution upon your table which struck me as fatal to it, mentioned by the honorable member from Indiana and by the honorable member from Ohio, in providing that the stocks so held shall not be sold by the Secretary of the Interior unless they bring par; but does that protect the Indians? These stocks were worth a great deal more than par, have been worth more than par since the investment was made, and they will be, it is to be hoped, worth a great deal more than par in the future. Now, one of two things will be the result if you sell their stocks at par: that the Indians will be deprived of the very benefit which it was the purpose of the investment to secure, or that the United States will feel themselves bound, as I think they will be, to make good the difference between the par value of the stock, if we sell it at par, and its appreciated value in the future.

My idea is, that we have no right to speculate upon the property of these Indians. If

we owe them, as I understand "the honorable member from Maine to admit, a large sum of money, then the proper mode to provide against the suffering which it is the object of this resolution to guard against, is to pay out of the Treasury a sufficient sum to provide for their immediate wants. But that is not what we propose to do. We propose to do what the honorable member from Ohio, I think very properly says, is, upon the doctrine of the law of nations, inadmissible. We propose to sequester property and sell it against the protest of the parties to whom it belongs in order to comply with a provision in this treaty, as we construe it, which may result in loss to the owners of the property, although it is admitted that we owe to the owners of the property debts more than sufficient to pay the amount which may fall due under the treaty of 1866 now in the Treasury. It seems to me, therefore, that that is clearly wrong; to my mind, obviously wrong.

I know nothing about what has been done under the treaty, and if there is any wrong in it, that I suppose will be redressed by the supervision to which it is made subject of the Secretary of the Interior. But I understand that the Indians, whose property we are now asked to dispose of for the purpose of meeting this award, insist that the whole extent of the damage done to the Indians called loyal is but thirty or forty thousand dollars at the utmost; and they have obtained an award before this commission amounting to upward of three hundred thousand dollars; and the effect of sequestering the stocks which we now hold for the Indians will be to break up all their schools. That, I suppose, is not the purpose of the Senate, whatever may be the circumstances, to bring about. How are those schools to be supported? You take from them the fund with which they now support them, and you hold in your hands the funds which you owe them, and say you will not pay them except at your own pleasure hereafter, and in the mean time all their schools are to be shut up. That seems to me to be obviously unjust.

Mr. MORRILL, of Maine. The error, if I may be permitted to say so, under which the honorable Senator from Maryland argues, is in supposing that this is an adversary proceeding against the Choctaws. This resolution is precisely in harmony with the stipulations of the treaty entered into by all these Indians in 1866. I will read the article of the treaty and see if this is not the logical, necessary, and equitable deduction from that provision of the treaty. I refer to article forty-nine of the treaty entered into last year:

"And it is further agreed that a commission, to consist of a person or persons to be appointed by the President of the United States, shall be appointed immediately on the ratification of this treaty, who shall take into consideration and determine the claim of such Choctaws and Chickasaws as allege that they have been driven during the late rebellion from their homes in the Choctaw and Chickasaw nations on account of their adhesion to the United States, for damages, with power to make such award as may be consistent with equity and good conscience, taking into view all circumstances; whose report, when ratified by the Secretary of the Interior, shall be final."

Here is the point:

"And authorize the payment of the amount from any moneys of said nations in the hands of the United States as the said commission may award."

Now, one thing is very clear: that by force of this treaty, by this treaty stipulation, these tribes in any event were to pay such damages as should be ascertained by this commission to the persons who claimed that they had been damaged by the destruction of their property. That is not doubted. It was to be paid upon the finding of the commission and the approbation and the approval of the Secretary of the Interior. Paid out of what? How paid? Paid out of any money in the hands of the Government. What money had we belonging to those nations in our hands? We had this money, and no other. We had these stocks, and no other, unless you look to the indebtedness which has been talked about here. What propriety was there in calling these stocks money? This was

money due these people under an original treaty. They considered it money. They looked to us as holding such money in our hands. They have never consented to the investment of that money in stocks. It does not lie in our mouths to say that these stocks belong to the Indians. They do not. We owe them the amount of money which we invested in the stocks, and therefore they employed this language in the treaty. We owe them money; \$1,500,000. It matters not to the Indians that we have invested it in stocks. We shall never be able to clear the skirts of this nation, we shall never be able to satisfy the conscience of this nation, and we shall never be able to meet the claims of the Indians by saying to them we took this \$1,500,000 and invested it in stocks, United States stocks or railroad stocks. I say it is money, money then and money now; and when they used this language in the treaty, they expected that whatever was found due these loyal Indians should be charged on that money. Therefore, we are acting in the strictest conformity with the spirit and the letter of that article of the treaty when we propose by this resolution to say that whatever sum shall be found by the Secretary due these loyal Indians under that commission shall be paid out of the money in the hands of the Government that is represented by the stocks, to raise which the Secretary of the Interior is authorized to make the sale of the securities which represent that money.

Mr. CORBETT. I move to amend the joint resolution by adding to it the following additional proviso:

*And provided further*, That the same amount realized from the sale of said stocks shall be reinvested in United States stocks out of any money that may be found due said tribe on the final settlement with said tribe.

My object in offering this amendment is that it may be satisfactory to all parties. It is supposed there is quite a large amount of money due this tribe. They claim by a former treaty something like two million dollars. If that amount be found due to them, or any portion of it, I propose that the money on the final settlement with them be reinvested in United States stocks. I presume that that amendment will be satisfactory to all.

Mr. MORRILL, of Maine. There is no possible objection to that that I know of, except it may be doubtful whether it was not an entirely arbitrary act on the part of the Government in investing this money in stocks originally; and if in the future a sum of money such as is contemplated should be found due to these Indians it may be questionable whether they ought not to have a voice in what shall be done with it, whether they want to continue the trust.

Mr. POMEROY. I think there is no objection to the amendment.

Mr. MORRILL, of Maine. I think that the tribe by request or petition can have those stocks sold if they desire it at any time. There can be no objection to it.

The amendment was agreed to.

Mr. DOOLITTLE. I desire to present this question in another shape, that is altogether more satisfactory to me, and in which I think it will be equally satisfactory to the Senate. I propose a substitute for the resolution; so that it shall read in this way:

That to enable the Secretary of the Interior to pay the claims of certain Choctaw and Chickasaw Indians, and other loyal persons, as are provided for in the forty-ninth and fiftieth articles of treaty concluded with Choctaw and Chickasaw Indians on the 28th of April, 1866, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum of money sufficient to pay the same, not exceeding the sum of \$250,000: *Provided*, That in the future adjustment of the claim of the Choctaws under the eleventh and twelfth sections of the treaty of the 22d of June, 1855, the said sum shall be charged against the said Indians: *And provided also*, That no money shall be paid on such claims unless the Secretary of the Interior shall have first examined and ratified or approved the awards made by the commissioners as stipulated in the forty-ninth and fiftieth articles of the treaty of April 28, 1866: *And provided further*, That nothing contained in this act shall be construed as recommending for his approval any awards already made under said treaty.

If I can get the ear of the Senate on this

subject for a moment I will state this case. I think it will be more satisfactory to the Senate to dispose of the question in this way, and certainly it will be more just to the Indians themselves. Under the treaty of June, 1855, we agreed with the Choctaw nation to pay them for the lands which we had acquired of them and had sold, and for the lands which we had acquired of them and had not sold, a certain sum of money which should be determined by the Senate of the United States. It was left by the Indians to the Senate. The question was presented to the Senate, and the Senate made their award, in which they decided that the Indians should be paid for the lands sold, what the lands brought over and above the expenses of sale, and for the lands which they had on hand and not sold, twelve cents an acre; and the Secretary of the Interior was directed to make up that amount. He did so. It amounted to the sum of \$2,300,000. We, by the award of this Senate, by the treaties made with those tribes, were bound to the payment of that sum of money. But, sir, when the appropriation was asked for, as long ago as 1859, again in 1860, and again in 1861, the amount seemed so large that when it came up and was offered on the appropriation bills it was resisted by the Committee on Finance, and after a struggle in the Senate a provision finally was made to this effect, which I will read, in the appropriation bill of March, 1861:

"For payment to the Choctaw nation or tribe of Indians on account of their claim under the eleventh and twelfth articles of the treaty, &c., \$500,000"—Two hundred and fifty thousand dollars to be paid in money and \$250,000 to be paid in bonds, &c., with this proviso, similar to the one which I have inserted in the proposed substitute:

*"Provided*, That in the future adjustment of the claim of the Choctaws under the treaty aforesaid, the said sum shall be charged against the said Indians."

This was in 1861. The rebellion came on directly after. It came on while \$250,000 of this money was still in the Treasury of the United States. In 1862 we provided by a law of Congress that, inasmuch as the Choctaw nation had sided with the rebellion, we would confiscate their annuities and the allowance which had been appropriated. The amount of their annuities and the amount of the \$250,000 which was appropriated was confiscated under the act of Congress of 1862, and was used in defraying the expenses of the loyal refugee Indians who were driven out of the Indian Territory into the State of Kansas. From year to year, while the war was going on, we confiscated their annuities. We did not confiscate the principal sum, and it never was confiscated. By the treaty made with these Indians in 1866 it was provided that any moneys due to the Indians remained due to them, but none of the annuities which accrued during the war were to be paid. The money was to be paid to them, to commence after the end of the fiscal year 1866. The tenth article of the treaty is as follows:

"The United States reaffirm all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith; and further agree to renew the payment of all annuities and other moneys accruing under such treaty stipulation and acts of legislation, from and after the close of the fiscal year ending on the 30th of June, in the year 1866."

Now, Mr. President, these are the moneys in our hands. We owe the money to these Indians; and when a man owes another man money he has money in his hands. It was these moneys which we owed to these people, which they agreed might be applied in the satisfaction of these debts. The claim of Heald and others of \$90,000, and the claim of the loyal Indians who were driven out and stripped by the rebellion, were to be paid out of the moneys in the hands of the United States. We have the amount. I know gentlemen start back and say the amount is large. But there is still \$1,800,000 due to these Indian tribes. I admit that it is a large sum of

money; but the award and the law and the treaty bind you with as much certainty as you are bound to one of the bonds issued by the United States Government. There is no doubt about it. Now, then, owing them the money, let us pay this award out of the money we owe them, and not sacrifice the trust fund.

Mr. POMEROY. I think the Senator must be satisfied that we cannot pass the measure at this session if his amendment should be adopted, appropriating money. There is no committee in the House to consider this bill if it contains an appropriation; and it is simply wasting the time of the Senate to consider it, and we shall not pass the measure at all.

Mr. SHERMAN. It has been rejected about six times.

Mr. DOOLITTLE. The claim has never been rejected.

Mr. SHERMAN. It was debated and discussed in the House of Representatives when I was a member there, and there was a very long and elaborate debate upon it in the Senate. This is an old claim growing out of the stipulations of a treaty in regard to lands before they were removed to this Indian country; the treaty of 1823. The claim which the Senator is now seeking to get an indorsement of is one that is about forty years old.

Mr. DOOLITTLE. I seek no further indorsement than was given by Congress in 1861.

Mr. SHERMAN. I will state further, that after a long and elaborate debate, in which Mr. Sebastian, not now a Senator, made a report, it was assented to by the Senate, but was never accepted by the House. It was an old controverted question as to the amount that should be paid for certain lands embraced in the treaty. If this amendment is adopted we recognize the validity of this claim. By the action of the Senate, on my own motion, the other day, the Senate referred this whole matter to a committee of this body, with instructions to make a full and minute examination of the claim and report at the next session. Now, when there is no Committee on Indian Affairs in the House, when there is no Committee on Appropriations there, it is proposed to thrust this old claim thus provided for into the Senate and make this a recognition of the claim. It seems to me that is very unwise. We ought not to do that.

Mr. DOOLITTLE. I ask the Senate to make no more recognition of the claim than was made by Congress in 1861, for the amendment follows precisely the language which was then adopted by Congress. It simply admits the fact that they have a claim. No one can deny it. The treaty declares it: the award of the Senate made it.

Mr. SHERMAN. There was no award.

Mr. DOOLITTLE. I think my honorable friend will find, when he comes to examine it, that there was an award. If there was no award made by the Senate, and the amount is not fixed, and you go into the stipulations of the treaty itself, I think the Senator will find that the amount due these Indian tribes is largely in excess of the award; because the complaint that was always made by those who represented the Indians was that in that very award of the Senate some six or eight hundred thousand dollars was taken from the amount which was due to them. But, however that may be, without fixing at all the amount that may be due, if there is anything wrong about the amount it can be adjusted; the committee can examine and report; but as to there being more than this amount of \$250,000 due I have no more doubt than that we sit in this Chamber; and I think it is better, dealing with the Indians, for us to pay out the money in our hands than it is for us to take their trust funds, bonds, &c., and perhaps sacrifice them in the market. That is the reason why I submit this proposition. I shall take the sense of the Senate upon it. I simply express my views as they appear to me.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Wisconsin.

Mr. STEWART. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POMEROY. We cannot make any such appropriation at this stage of the session.

Mr. WILLIAMS. I should like to hear the amendment read before I am called on to vote upon it.

The Secretary read the amendment.

Mr. POMEROY. I hope this amendment will not be adopted. It opens up the question of a disputed claim, in the first place, that we are not prepared to pass upon, and in the next place it is an appropriation of money when we do not need to appropriate a dollar; and there is no committee, as has been stated, in the House of Representatives to consider an appropriation bill. It is only another method of defeating the measure before the Senate.

Mr. DOOLITTLE. I think a resolution from the House appropriating \$500,000 was passed a short time since.

Mr. POMEROY. I say there is no Committee on Indian Affairs there. It is the Committee on Indian Affairs that will have to consider this question.

Mr. DOOLITTLE. There must be some committee or some organization in the House that looks to appropriations, where they can appropriate half a million in the morning before breakfast almost.

Mr. POMEROY. The Senator must recollect that he agreed to this resolution in committee with all the other members of it. The resolution that is now before the Senate, not the substitute, is the very resolution that the Senator himself agreed to in committee with all the other members of the committee.

Mr. DOOLITTLE. I never refer to what occurs in committee; but as allusion is made to it, I will state that this same matter was presented in committee. I there expressed my preference for a direct appropriation. It is true, if the resolution was to pass in the form in which it was reported from the committee, I was in favor of the amendment which the honorable Senator from Oregon [Mr. CORBETT] has suggested, to wit, that there should be a provision that these trust funds that were sold should be restored again after they were paid their money.

Mr. POMEROY. That amendment has already been agreed to.

Mr. DOOLITTLE. I say, if the resolution is to pass as it came from the committee, I prefer it with the amendment offered by the Senator from Oregon; but I maintained in committee just as I maintain now: that I think it is better for us to appropriate the money and pay the claim, and then charge it over when we come to the final adjustment of the claim of the Choctaw nation.

Mr. CORBETT. This subject was fully discussed in the committee, and the Senator must know that we came to the conclusion that neither the Senate nor the House would agree to an appropriation at this time of \$250,000 for this purpose, and therefore we determined to report this resolution, and, as I supposed, it would be reported with the amendment that I have offered. I presume it was inadvertently omitted and overlooked; and hence I have offered it in the Senate. I trust that the Senate will reject the proposition offered by the Senator from Wisconsin, and that they will pass the joint resolution as we have amended it.

Mr. STEWART. I move to amend the amendment by adding the following additional proviso:

*And provided further,* That the said sum of money hereby appropriated shall be received by said Indians in full satisfaction of the claims of said Indians under said treaty.

Mr. DOOLITTLE. I do not think that would be just, because the amount claimed by them is \$1,800,000; and the Secretary of the Interior, presenting all the facts—his letter is before the Senate—stated that that was the sum that was clearly due, in his judgment. Now, to say that \$250,000 shall be accepted in full payment would not be right.

Mr. STEWART. I want a settlement of this claim at some time. Although the statute of limitations may not run against it, the facts connected with it and the merits of it are so remote that they have pretty nearly vanished from the memory of man. If we make this payment now, it will be an indorsement implying that a large amount is still due. The claim will continue to swell as long as you make payments upon it and renew it from year to year. It is an entirely unascertained, vague, ancient, stale claim. If we are to make any appropriation in regard to it, I want it to be the last appropriation, and to have that understood.

Mr. FESSENDEN. I will inform my friend, if he will allow me, that we made the last appropriation in 1859 or 1860. We paid them \$1,200,000, I think, as a compromise, in full, as we supposed.

Mr. HENDERSON. The Senator from Maine proposed it as a compromise; but I do not think it was accepted on the other side.

Mr. FESSENDEN. The money was paid, at any rate.

Mr. DOOLITTLE. Allow me to state to the Senator from Maine the precise language used on that occasion to refresh his recollection. I will read from the appropriation bill. I know there was a good deal of discussion upon it, in which the Senator from Maine and Robert W. Johnson, of Arkansas, took part. Who it was that made the proposition which was finally accepted I do not remember; but this is the section:

"For payment to the Choctaw nation or tribe of Indians, on account of their claim under the eleventh and twelfth articles of the treaty with said nation or tribe, made the 22d of June, 1855, the sum of \$500,000; \$250,000 of which sum shall be paid in money; and for the residue the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States authorized by law at the present session of Congress: *Provided,* That in the future adjustment of the claim of the Choctaws under the treaty aforesaid, the said sum shall be charged against the said Indians."

Now, in the course of the whole of that discussion, it will be found that it was conceded by gentlemen in the Senate, even those who resisted what was asked for by the Committee on Indian Affairs, when Mr. Sebastian was chairman, that there was \$1,200,000 due. The controversy was about that which was over and above the sum of \$1,200,000. After a long controversy, as it was urged that the Indians were in a suffering condition and needed money, this provision was put into the appropriation bill to appropriate \$500,000, with the understanding that when you came to the final adjustment of the amount claimed the \$500,000 should be charged against them; but that was not a settlement; it was not accepted in full at all, therefore the amount of the claim remains precisely where it stood then, by virtue of the treaty and by the avowal made by the Senate.

Mr. STEWART. I do not think the same objection can be urged against the proviso that I offer that may be urged against the law that is referred to. I think the language in this proviso is more definite and better calculated to cut off the various claims that will come in, all of which I believe to be unjust. I suggest to the Senator from Maine that at that time Congress omitted some very important words. They did not make it definite that that should be received in satisfaction of all claims. If we do not put a stop to them by some kind of legislation we shall never get to the end of these claims. It is unfortunate that more appropriate words were not used in that law. I think I have avoided that difficulty in the proviso that I have presented to the Senate.

Mr. FESSENDEN. The better way would be to vote down all the amendments, and then to vote down the resolution itself.

Mr. STEWART. I will make one other remark. I think we made a great mistake in reviving the claims of these disloyal Indians by the treaty of last year. I think it was wrong.



Mr. HENDERSON. Why did you not object then?

Mr. STEWART. I did, and called for the yeas and nays, and Senators were very angry with me for so doing. I should like to see an end of these stale obligations that come up in this form. I am utterly opposed to making any appropriation, if we are bound to make any appropriation at all, until we know that that appropriation will be a final one. Now, the law that has been read appropriating \$500,000, which, as the Senator from Maine states, it was supposed would settle the whole matter, is presented here as an indorsement for further appropriations. If we keep on legislating in that way the claims will continue and increase as time advances.

Mr. MORRILL, of Maine. I think the proposition of the Senator from Nevada would be regarded as an extraordinary proposition made by any civilized people to any civilized community; and I think it would be a savage proposition if it was made to savages. I am not surprised that it is made, because from the little knowledge I have of the history of our conduct with the Indians I think it is just about on a par with the morals and the good faith and the equity that we observe toward the Indians. Here is a proposition to carry out the judgment of a commission entered into by the Government of the United States with an independent nation. That is the way we stand toward the Indians and the world. It has been adjudicated and only awaits now the approval of one of the high functionaries of the Government of the United States to say how much is due; and the Senate are considering the propriety of paying what shall be found due according to the stipulations of the high contracting parties; and the Senator from Nevada thinks it comports with the dignity of the Government and equity and good conscience to say that if we pay that sum it shall be in full of all demands, without knowing what those demands are, or caring to know apparently.

Now, sir, these tribes, these independent nations with whom we make treaties solemnly here, say we owe them \$2,300,000; and committees of this body who have investigated it think that is true; and the commission appointed by the Government have found so much due; and yet the Senator from Nevada rises here and says, "If you seek to carry out the commission instituted by this Government, and which now awaits execution by an appropriation of \$300,000, I insist upon it that that shall be in full of all demands." If I had any reason to suppose that the honorable Senator knew anything about the claim, whether it was due or undue, whether, in other words, it was not an entire sham, I could understand how he could make such a proposition as that; but when the records of the Senate for the last two or three years disclose the fact, and within a month past a discussion on this floor has shown that committees of this body have reported some two millions or more due these Indians, I cannot understand how a Senator can rise here and propose to make the payment and enforcement of a stipulation which we have openly entered into a condition that it shall absolve us from all obligations to the payment of debts we may owe these Indians.

I hear it said, "it is best to vote this down, and then vote down the resolution." Well, I think that is manly compared with any attempt to evade it. If the Senate of the United States are not sufficiently informed on this subject to vote intelligently on the resolution they ought to vote it down or postpone it to a day when we can have a full consideration of it. I do not object to that. If Senators are not well informed on the subject they ought to do it; but to undertake to give it a side blow, to undertake to put upon it an amendment which ignores your obligations and breaks your faith with parties with whom you solemnly contract by treaty stipulations, I object to.

Mr. STEWART. It appears that the Senator from Maine thinks this is a savage proposition. I suppose we are dealing with savages,

and I suppose there are a great many savages between us and the Indians that we ought to deal with more savagely than we do. I suppose we are dealing indirectly with savages; but I do not think we are savage enough to the middlemen who are generally connected with these transactions.

These Indians went to war with the United States. They had an old, stale claim that Congress had not paid, some forty years old. They forfeited all their claims upon the generosity of Congress; they forfeited all their legal claims; they became rebels. The rebellion cost the Government of the United States a very large amount of money. After that, we find a treaty passed through here which revives these stale claims that are uninvestigated, which was wrong to begin with, which we should not have passed; and now we are asked to make an appropriation on account, before there is investigation and before the Senate has any information as to how much is to be paid under this treaty, which I claim should not have passed.

Mr. MORRILL, of Maine. My friend will allow me to say that he is arguing all out of the facts. We do not ask any such thing. The resolution has no reference whatever to the claims unascertained. We simply say that when the Secretary shall determine that any particular sum is due under the stipulations into which the Government of the United States entered with these tribes he shall pay, out of the funds in his hands, the amounts so found due. That is all there is of it.

Mr. STEWART. Then, as I understand it, these claims that fall due under this particular provision of the treaty, which Congress has failed to make an appropriation for, which are questioned entirely, without the report of the Secretary before us, without knowing whether we shall ever be called upon to appropriate a cent, we are called upon to enforce in advance before we have them before us.

Mr. HARLAN. I desire to ask the Senator if he is now discussing the merits of the original proposition as reported by the Committee on Indian Affairs, or the amendment as proposed by the Senator from Wisconsin.

Mr. HENDERSON. Neither one.

Mr. STEWART. You make an appropriation by the amendment of the Senator from Wisconsin of this amount of money, do you not?

Mr. HARLAN. If the Senator will allow me, the original proposition is not to appropriate from the Treasury a single dollar.

Mr. STEWART. I know; and I am not discussing the original proposition.

Mr. HARLAN. In the adjustment between the rebel portion and the loyal portion of these Indians the rebel portion agree to pay the loyal portion the value of the property which they destroyed when they drove the loyal Indians North, and to pay it out of the moneys in the hands of the United States belonging to these rebel Indians.

Mr. STEWART. I understand that treaty perfectly. It was this: the United States very graciously and very generously revived these old claims that should have been repudiated at once after these Indians rebelled; but said at the same time, "We will punish you severely; we will give you money that does not belong to you, that you have no title to, but we will come down on you, and make you give it to the other Indians."

Mr. HENDERSON. The Senator is mistaken. In the treaty of 1866 there was not a dollar given to the Indians at all.

Mr. STEWART. There was a claim revived.

Mr. HENDERSON. Not at all. There was no claim revived even. The Senator is mistaken.

Mr. STEWART. I am not mistaken. You say in that treaty of 1866 that they shall have all that is due them under former treaties. You revive their claims. The language is:

"The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with

regard to the Choctaw and Chickasaw nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith; and the United States further agrees to renew the payment of all annuities," &c.

Now, it was admitted that these treaty stipulations had been broken by the Choctaw and Chickasaw nations. There was no obligation on the part of the Government in regard to those claims. They were old claims, forty years old. The Indians had rebelled, broken their treaty stipulations. There was no obligation in the world on us; but these claims are to be revived.

Mr. HARLAN. I am sure the Senator from Nevada desires to know what the facts were, and would not intentionally misrepresent them. On that point, the facts are these: Congress passed a law authorizing the President of the United States to declare void treaties previously made between these Indians and the United States; but in point of fact this declaration on the part of the President had never been made, and when the war terminated, therefore, it left these treaties in full force on account of the act of Congress itself and the refusal of the President of the United States to make any such declaration. The new treaty that was made merely obligated the Indians to sanction the payment of the interest that had accrued on their bonds during the whole period of the war to the refugee portions of these tribes. The negotiators did not deem, under the law as it then existed, that they had authority to declare those treaties void, because Congress had provided that the President might do so if he thought proper, and he never did so.

Mr. STEWART. But this treaty, so far from declaring these former obligations void, renews them; and before any appropriation is made upon that I want to see what the extent of those obligations is. It seems to me before any appropriation is made on account of former obligations we should ascertain the extent of those obligations and have a final settlement. I think we made a great mistake in renewing the obligations which the Indians had broken; we ought never to have recognized these old, stale, questionable claims of the Indians. I say we made a great mistake in renewing them, and before we legislate further I want to fully understand the subject.

Mr. SHERMAN. Since the Senator from Wisconsin has brought this matter again before the Senate, at a period when certainly there ought to be no action upon it, I feel it my duty, as I was connected with the subject in the House of Representatives seven years ago, to call the attention of the Senate to its history. Now, I state that the Senate of the United States never recognized or approved what he calls the award of \$2,300,000; that this award, as he calls it, was an estimate made in 1847. The subject was again brought before the Senate of the United States by Mr. Sebastian, of Arkansas, in 1859 and 1860 and 1861. I have looked up the Journal of the Senate, and will now show the history of this proposition.

On the 2d of February, 1861, Mr. Sebastian, from the Committee on Indian Affairs, moved an amendment to the Indian appropriation bill, in which he recognized this claim, asserting it to be \$1,202,560 85, setting out the provisions and the terms of the claim. This was debated in the Senate and it was rejected by a vote of 17 yeas to 27 nays. I see that my friend from Maine took a part in the debate and offered an amendment. After debate, the proposition was rejected by the Senate. However, a motion was made a few days afterward, the bill still being pending in the Senate, to reconsider that vote, and it was reconsidered by a vote of 29 yeas to 15 nays. Then the proposition was amended, and Mr. Sebastian reduced the claim from \$2,300,000 to \$1,202,560 85, and that was said to be "the undisputed balance" due. He fell more than a million dollars in what he said was the undisputed balance. A long debate occurred in the Senate as to whether that amount was due, and the amendment containing the reduced appropriation was finally carried by a vote of yeas 21, nays 20; one majority.

That is the history of the action of the Senate. They voted down a proposition to appropriate \$2,300,000, and the proposition to appropriate \$1,202,000 only prevailed by one majority. It came to the House of Representatives as an amendment to the Indian appropriation bill. I was then chairman of the Committee of Ways and Means and remember the matter distinctly. It was examined; we then had more time to examine such matters than we have now, and we rejected it. I cannot now go into the reasons of the rejection because I do not like to speak about a matter of this kind without reading up; but I know the House treated the action of the Senate in 1847 as entirely nugatory. The claim itself was not believed to be a just one. The House of Representatives, by a very large vote after debate, rejected the claim; and my impression is that the Committee on Indian Affairs of the House reported against it; but I shall not be positive on that point. At any rate, the House after debate rejected the scheme; but finally a committee of conference—it is one of those things which are apt to occur in committees of conference, but they ought never to occur—agreed on this patched-up, incoherent, provision which we find in the law. The Senate proposition appropriated \$1,202,000 in full satisfaction of the whole claim; but the House, refusing to agree to the Senate's proposition, rejecting the whole claim, a committee of conference patched up this mongrel affair, which is now read as a law, recognizing the whole claim of \$2,300,000. The fact is that neither House recognized the claim. The Senate rejected it, but afterward a reconsideration was had, and it prevailed by one majority, the amount being reduced. The House rejected it entirely, and the \$500,000 appropriation was put in by a committee of conference in order to get rid of the controversy.

That is the whole history of the matter. We know that this claim is an old claim, and it will be pressed upon us year after year. Therefore it was that to avoid this controversy I introduced a proposition that the Committee on Indian Affairs should give this matter a full and impartial examination, going to the root of the controversy, and should report to us the truth of the whole case. On that committee the Senator from Wisconsin will have an opportunity to be heard, for he is a member of that committee. The Committee on Indian Affairs can examine it. But now for us to again recognize what the Senator says is an undisputed claim of \$2,300,000 by appropriating \$300,000 more out of a fund which does not exist, it seems to me is improper legislation at this time. Sending it to the other House in the present condition of things, without a Committee on Indian Affairs, without any standing committees except the Committee on Military Affairs and one or two others, would either lead to its sudden passage there without the full consideration that the magnitude of the subject demands, or it would lead to the defeat of the whole proposition. I think, myself, the whole subject might very properly go over until the next session. But I see a very great difference between the proposition now presented by the Senator from Wisconsin, which recognizes the existence of this old claim, and the proposition reported from the Committee on Indian Affairs, which merely, in my judgment, in violation of the law of nations, seizes upon the trust fund and applies it without the consent of the Indians to whom it belongs.

Mr. DOOLITTLE. I ask the Senator from Ohio to read the proposition of Mr. Sebastian which passed the Senate.

Mr. SHERMAN. The Senator can read it himself. I will hand him the book; it is half a page long.

Mr. DOOLITTLE. I will read just what was passed by the Senate upon Mr. Sebastian's motion:

"For carrying into effect the eleventh article of the treaty with the Choctaw tribe of Indians made the 22d day of June, 1835, and the award of the Senate made pursuant thereto on the 9th of March, 1859, the sum of \$1,202,565 85, being the undisputed

balance due them, so much thereof as the proper authorities of the tribe shall determine to be necessary for the payment of the claims which, by the twelfth article of the treaty, the Choctaws have assumed to pay, and of such other liabilities of the tribe as they may ascertain and determine to be just, shall be paid over on their requisition at such time and in such manner as they shall request; and the residue remaining after satisfying such claims and liabilities shall be held in trust for the benefit of the Choctaws, according to the provisions of the thirteenth article of said treaty."

In lieu of making such payments in money, the Secretary of the Treasury may, at his discretion, issue to the Choctaws, on their requisition as aforesaid, certificates of stock in the name of the United States, bearing interest at the rate of six per cent. per annum, payable semi-annually at the Treasury of the United States; said certificates to be redeemable in ten years or sooner, at the pleasure of the President of the United States and to be transferable by the proper authorities of the Choctaw nation in such form as the Secretary of the Treasury shall prescribe."

Now comes the disputed part of the claim:

"Provided, That the question whether the undetermined balance not now appropriated of \$1,130,000 of the sum reported by the Committee on Indian Affairs as due the Choctaws under the treaty and award aforesaid, is a legitimate charge against the Choctaw, by the terms of the said award, be reserved for the future decision of the Senate."

The Senate by a vote of 29 to 15 at that time declared that there was an undisputed balance due these Indians of \$1,202,565 85; the rest of the claim was disputed.

Mr. SUMNER. The former amendment of Mr. Sebastian said that \$2,300,000 was "the undisputed balance"—the same language.

Mr. DOOLITTLE. The Senate voted that down by 17 to 27. The Senate decided that that was not an undisputed balance; and then they decided by a vote of 29 to 15 that \$1,202,000 was an undisputed balance, and that the remainder of the claim was to be reserved for the further decision of the Senate, because it had been submitted by the Indians in the treaty to the Senate to make the award; and while the Senate at that time did not pass the precise sum found due by the award, it settled the principles of adjustment and directed the computation to be made by the Secretary of the Interior. When the appropriation made by the Senate in 1861 went to the House, it is true, the House rejected it; but after a conference between the two Houses the provision which I have read from the law was inserted. And what was that provision? It said in substance that \$500,000 should be appropriated on account of this claim and charged against the Indians in the first settlement. It was not a proposition that they should receive \$500,000 in full; no proposition declaring that to be the whole amount of the claim; but it recognized that the claim existed and made an appropriation on account in part payment. When the Senate then decided the undisputed balance to be over one million two hundred thousand dollars, and we have only appropriated \$500,000, I insist that it is clear and beyond question that much more than two hundred and fifty thousand dollars of money is now in our hands belonging to these people, and which money we ought to pay over ourselves rather than take their trust funds and put them upon the market, and perhaps sacrifice them.

Mr. STEWART. I thought I understood this question, and now I see that I did perfectly. This claim is forty years old. It was reported by a Senator from Arkansas that there was an undisputed balance of \$2,300,000. That was rejected; and then he offered a proposition declaring that there was an undisputed balance of \$1,202,000. In that shape the Senate passed it, but the House rejected it, and a conference committee agreed on an appropriation of \$500,000, which the Senator from Maine [Mr. FESSENDEN] supposed was a settlement of the affair. Five hundred thousand dollars from \$1,200,000 leaves \$700,000; and yet it is now stated to-day again that there is an undisputed balance of \$2,000,000. It seems to an outsider who does not understand the ins and outs of the Indian business, that a claim which is that old and that elastic should be examined before there is anything more paid on account, before it is taken out of the statute of limitation by any more pay-

ments. It appears that a treaty was made last year which undertakes to revive these old claims. It undertook to revive this stale claim, which certainly must have been repudiated by these Indians going into rebellion. That treaty, as I remember it, simply reaffirmed the prior treaty obligations; but it seems that under this reaffirmation of the treaty obligations the Secretary of the Interior has ordered a commission, and this commission has reported a very large amount to be due; and before that comes to Congress for investigation, in anticipation that there will be a favorable opinion from the Secretary of the Interior, we are asked again to pay something on account and revive this old claim. Those of us who are not conversant with these matters would be much better satisfied if the claim was first investigated and adjusted by somebody, so that we could pay it and get a receipt in full; because a claim that can vary all the way from seven hundred thousand dollars to two million three hundred thousand dollars is a dangerous claim. I think we have not sufficient information for us to legislate upon the subject.

Mr. MORRILL, of Vermont. We have already consumed nearly three hours upon this subject and obtained a vast deal of information; but I think there is quite as much information yet to be given to the Senate as we have already received. Certainly the Indian doctors do not seem to agree this morning very well in relation to this claim. I therefore ask whether my friend from Kansas, who has this resolution in charge, will not consent that it be postponed until next session, or that it be recommended to the committee?

Mr. POMEROY. I hope we shall be allowed to have a vote on the amendment of the Senator from Wisconsin, and after that is voted down, if we are not then able to pass the resolution, I want it either killed or postponed.

Mr. MORRILL, of Vermont. I must say that I think this simply a useless consumption of time, for I do not believe there is anything like a majority of the Senate ready for any final action upon so important a subject.

Mr. POMEROY. This bringing in of an old claim by the Senator from Wisconsin is only trying to get from the Senate an indorsement of what the Senate cannot indorse and are not prepared to indorse. It does not belong to this measure, properly, at all. I think if that amendment be voted down, there will be no difficulty in disposing of the joint resolution.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free;

A joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases;

A joint resolution (H. R. No. 27) to change the name of Moritz Judkiewicz to Morris Judd; and

A joint resolution (H. R. No. 28) for the relief of soldiers who are entitled to artificial limbs.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 7) providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States;" and it was signed by the President *pro tempore*.

## DUTIES ON UMBRELLAS AND SPRINGS.

Mr. MORRILL, of Vermont. The Committee on Finance, to whom was referred the joint resolution (H. R. No. 16) fixing the rate of duty on umbrellas and on wire spiral furniture springs, have directed me to report it back and recommend its passage; and I ask for its present consideration. It is merely to correct a mistake.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It provides that hereafter there shall be levied, collected, and paid upon umbrellas, parasols, and sun-shades, imported from foreign countries, when made on silk, no lower rate of duty than that now imposed upon piece and dress silks, namely, sixty per cent. *ad valorem*, and when made of other materials than silk the duty shall be fifty per cent. *ad valorem*; and that wire spiral furniture springs, imported from foreign countries, manufactured of iron wire, shall be required to pay the same rate of duty as now imposed on iron wire, namely, two cents per pound, and fifteen per cent. *ad valorem*.

Mr. MORRILL, of Vermont. I will merely state that in 1864 the duties upon piece silk were raised to sixty per cent., and through inadvertence the duties on silk umbrellas were not raised, but remained at thirty-five per cent. Until recently, the importers did not find out this fact, and the manufacture has continued here. But recently the importers have ascertained that they can import umbrellas at thirty-five per cent. Of course, with the duty on silk at sixty per cent., this is utterly destructive of all American manufactures of the article. It is certainly reasonable and proper that there should be the same rate of duty on the umbrellas that there is on the raw material.

In regard to the other article of spiral wire springs, there is a specific duty on iron wire; and when it is manufactured into the form of spiral springs there is an *ad valorem* duty; so that iron wire in the form of spiral springs can be imported cheaper than it can in the form of wire. This merely puts the same rate of duty on the springs as on the wire, and I trust there will be no objection to it.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases, and the joint resolution (H. R. No. 28) for the relief of soldiers who are entitled to artificial limbs, were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 27) to change the name of Moritz Judkiewicz to Morris Judd, was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free, was read twice by its title, and referred to the Committee on Finance.

## EXECUTIVE SESSION.

On motion of Mr. DRAKE, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 20, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was partially read, when

Mr. SHANKS moved that the further reading of the Journal be dispensed with.

The motion was agreed to.

## IMPRISONMENT OF REV. JOHN McMAHON.

Mr. SHANKS, by unanimous consent, sub-

40TH CONG. 1ST SESS.—No. 15.

mitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be, and they are hereby, instructed to investigate the cause of, and any facts connected with, the imprisonment for life in Canada, of Rev. John McMahon, a citizen of Anderson, Indiana, and pastor of the Catholic church at that place, and what means, if any, should be taken for his relief; and for such purpose have power to send for persons and papers, and that said committee report their investigation to this House as early as practicable.

## AMERICAN CLAIMS AGAINST GREAT BRITAIN.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire why the claims of American citizens against the British Government, commencing with those reported by the President, January 19, 1859, in compliance with a resolution of the Senate of June 14, 1858, and including also all that have arisen since that time, have not been paid, and to report what, in the judgment of the committee, ought to be done in order to secure a speedy settlement of all said claims.

Mr. LOGAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MEMBER SWORN IN.

Mr. BLAINE. I rise to a question of privilege. I desire to announce that Hon. JACOB BENTON, a member-elect from the State of New Hampshire, is now present and ready to take the oath of office.

Mr. BENTON presented himself and was duly qualified by taking the oath prescribed by law.

## STEAMSHIP PAONSHUN.

Mr. O'NEILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Senate be requested to return to the House of Representatives joint resolution (S. R. No. 60) to change the name of the steamship Paonshun.

## LAND CLAIMS IN CALIFORNIA.

Mr. JULIAN, by unanimous consent, introduced a joint resolution respecting sales of the public lands and preemption and homestead claimants thereof between the cities of San José and San Francisco, in California; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed.

Mr. CHANLER moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## FORFEITURE OF BONDS.

Mr. JULIAN. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for the forfeiture to the United States of the bonds granted to the several States of the South in 1856, to aid in the construction of certain railroads, which grants have expired by limitation.

Mr. BROOKS. I suppose we may as well stop their railroads as we have stopped their schools.

Mr. ELDRIDGE. I object.

Mr. JULIAN. I move to suspend the rules.

Mr. SCOFIELD. I cannot yield for that purpose. I yield to the gentleman from Illinois.

## STANDING COMMITTEE ON LABOR.

Mr. BAKER, by unanimous consent, submitted the following preamble and resolution; which was read, considered, and agreed to:

Whereas in view of the greater liberty and larger recognition of manhood which have followed the suppression of the rebellion, it is eminently fitting that the Government should be placed, if possible, in better relation with the working people of the country: Therefore,

*Be it resolved*, That the select Committee on the Rules be instructed to inquire into the expediency of constituting a standing committee of this House on labor, and to report the result of their inquiry by resolution or otherwise.

## CLERKS' FEES, ETC.

Mr. KELLEY, by unanimous consent, intro-

duced a bill to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. CHANLER moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## IMPORTATION OF WORKS OF ART DUTY FREE.

Mr. ALLISON, by unanimous consent, introduced a joint resolution providing for the importation into the United States of certain works of art duty free; which was read a first and second time.

The joint resolution provides that from and after the passage of this joint resolution any object of art imported by any individual or association of individuals for presentation as a gift to the United States Government, or to any State or city government, shall be admitted free of duty under such rules and regulations as the Secretary of the Treasury may prescribe.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLISON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ACCOUNTS OF LINE OFFICERS OF THE ARMY.

Mr. LOGAN, by unanimous consent, introduced a joint resolution authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases; which was read a first and second time.

The bill directs the Second Auditor to audit and settle the accounts of line officers of the Army to the extent of their pay for their services as such due them from the United States in all cases where they shall make affidavit of their inability to make their monthly report or returns by reason of their having been prisoners in the hands of the enemy, or by any accident or casualty of war they have been unable to account for property in their possession.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 19) to clothe the maimed and destitute soldiers; and

An act (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

## DESERET.

\*Mr. HOOPER, of Utah, by unanimous consent, presented the constitution of the State of Deseret; which was ordered to be referred with the accompanying papers to the Committee on Territories when appointed.

## COLORADO CONTESTED-ELECTION CASE.

Mr. SCOFIELD. Mr. Speaker, I wish to call the attention of the House to the resolution referred to the Committee on Elections in reference to the Colorado contested-election case.

The House referred to the committee certain credentials and some other papers of persons claiming seats, with instructions to

report at an early day as to the *prima facie* right to the seat. The committee having examined the papers, recommend the adoption of the following resolution:

*Resolved*, That the papers and evidence relating to the right of A. C. Hunt and George M. Chilcott to a seat in the Fortieth Congress as a Delegate from the Territory of Colorado be referred to the Committee of Elections, with instructions to report which, if either, of said claimants is entitled thereto; and that the committee have power to require the service of such notices, and grant such time for taking further evidence, as they may deem proper.

The SPEAKER. The Clerk will read the resolution reported by the minority of the committee.

The Clerk read the following resolution, recommended by the minority of the committee:

*Resolved*, That A. C. Hunt, Esq., is *prima facie* entitled to the seat in this House as Delegate from the Territory of Colorado, pending the contest of his right to the same by George M. Chilcott, Esq.

Mr. COOK. I ask leave to offer as a substitute the following resolution agreed upon by my colleague on the committee [Mr. Urson] and myself:

*Resolved*, That George M. Chilcott is *prima facie* entitled to the seat in this House as Delegate from the Territory of Colorado pending the contest of his right to the same by A. C. Hunt, Esq.

Mr. WILSON, of Iowa. I offer the following amendment to the resolution reported by the majority of the committee, to come in at the end:

And pending the action of the committee and the House thereon, George M. Chilcott be sworn in as the sitting Delegate from the Territory of Colorado.

Mr. SCOFIELD. Mr. Speaker, it will be observed by the resolution reported by the majority of the Committee of Elections they ask that the whole case be referred to them, with permission to examine the facts and report upon the merits of the case. It appeared by the papers which the House referred to the committee that an election was held on the 7th of August last, and the returns from the several counties were filed according to law with the secretary of the Territory. The election laws of the Territory provide that—

"The secretary of the Territory, auditor, treasurer, or any two of them, in the presence of the Governor, shall proceed \* \* \* to canvass the votes given for all territorial officers, and the Governor shall give a certificate of election to the person having the highest number of votes for each office."

It appears by the papers sent to the committee by the House that on the 5th of September following the election the board of canvassers met in the presence of the Governor and canvassed the votes. The statement of the result is given in the report of the board of canvassers, signed by Frank Hall, secretary of the Territory, and Richard E. Whitsitt, auditor of the Territory. They report that they found, on counting the votes taken in the presence of the Governor, that George M. Chilcott had 3,529 votes and A. C. Hunt 3,421 votes, giving Chilcott a majority of 108. It appears, however, by the papers sent to the committee that we could go no further than the fact that the Governor, notwithstanding the board of canvassers ascertained that Chilcott had 108 majority, gave the certificate, not as the law requires, to the person having the highest number of votes, but to the person having the least number of votes, aside from the scattering.

It was alleged by the counsel for Mr. Chilcott that the committee were not bound by the certificates of the Governor, because it was not in form. They allege that inasmuch as the law requires that he should give the certificate upon the finding of the board of canvassers to the person having the highest number of votes, he should allege that fact in the certificate to show that he was authorized to give it, and inasmuch as the certificate only referred to an election and omitted all allusion to the canvass and the certificate of the canvassers, simply concluding with the words "duly elected," the certificate was insufficient, and the committee ought to report that Mr. Hunt was not entitled *prima facie* to the seat. The majority of the committee could not agree altogether in the views of the counsel for Chilcott.

But while the case was being argued, Mr.

Hunt introduced Governor Cumming himself, who gave the certificate, as his counsel, or his friend to argue the case. The Governor undertook to explain to the committee why no allusion was made in his certificate to the count of the canvassers. He informed us that he considered himself one of the board; that when the secretary and auditor agreed to this, the treasurer not agreeing to it, he counted himself one of the board and united with the treasurer which made a tie of the board, having no legal canvass, and therefore he was at liberty to make the certificate upon the facts as he understood them. In corroboration of the statement of Governor Cumming to the committee was the certificate of these canvassers, certified to us under the seal of the Territory, reciting that they did have a canvass in the presence of the Governor on the 5th of September, and found that Mr. Chilcott had received a majority of 108 votes.

But inasmuch as the House had sent this certificate to them with the other certificate, and it was therefore included in the resolution which required us to report who was *prima facie* entitled to the seat; and inasmuch as the Governor who made the certificate came before us voluntarily and stated that it was in violation of the report of the canvassers, and therefore made in violation of the law, the majority of the committee did not feel authorized to say that they were concluded by that certificate, informal as some of us believed it to be, and in conflict with the other facts presented to them.

The question then came up as to whether Mr. Chilcott was entitled to a seat on these papers. When we came to examine his certificate we found that it was given in the month of February last, by Frank Hall, the secretary and acting Governor of the Territory of Colorado. I suppose the members of the last House who are now members of this House are aware that Governor Cumming was in Washington about that time; and that while he was absent from the Territory, according to the laws of the United States and of the Territory, the secretary of the Territory becomes the acting Governor, and as such is entitled to perform all the duties of Governor for the time being. Now, in the absence of Governor Cumming, the secretary of the Territory, Mr. Hall, took the report of the board of canvassers on file in his office, and as acting Governor made a certificate, under the seal of the Territory that Mr. Chilcott, having a majority of 108 votes, was entitled to a seat in this House as Delegate from Colorado.

Now, the majority of the committee were of opinion that the power of giving a certificate having been once exercised by Governor Cumming, however wrongfully, whether in violation of the report of the board of canvassers and the laws of the Territory or not, then it could not be again exercised by some gentleman or other who might happen to be acting as Governor after that time. Therefore they came to the conclusion that from the papers before them neither of the gentlemen was *prima facie* entitled to a seat as Delegate from that Territory. They therefore report the resolution which has been read by the Clerk, asking that the House shall refer the whole case to them, and that they be authorized to examine, as in other contested-election cases, and determine which one of these claimants, if either, was duly elected.

Now, I suppose it would be proper for me to say that the resolution reported by the committee, as it now stands all connected together, would not perhaps receive the sanction of a majority of the members of the committee. But that sanction was made up, as I may say, by piecemeal. When the question was submitted to the vote of the committee whether Mr. Chilcott was *prima facie* entitled to a seat in this House as Delegate from the Territory of Colorado, there was a majority of the committee who held that he was not so entitled, and a minority who held that he was. And when the question was submitted whether Mr.

Hunt was *prima facie* entitled to the seat there was a majority who held that he was not, and a minority who held that he was so entitled. And had a resolution been submitted to the committee that neither of these gentlemen was entitled to the seats I suppose there would have been a majority opposed to that resolution. I have thought it proper to state this fact in exoneration of those members of the committee who appear to have concurred in the resolution of the committee, but who I see, by the motion of the gentleman from Illinois, [Mr. Cook,] do not propose to sustain the resolution before this House.

Mr. PAINE. Will the gentleman from Pennsylvania [Mr. SCOFIELD] yield to me for an inquiry?

Mr. SCOFIELD. Certainly.

Mr. PAINE. I would like to ask the gentleman from Pennsylvania two questions. It seems that a minority of the committee, including three of its members, have made a report in this case in favor of Mr. Hunt. Another minority of the committee, comprising two of its members, have made a report in favor of Mr. Chilcott. Now, added together, they comprise five members, or a majority of the committee. And yet we have before us another report from the same committee, which purports to come from a majority of the committee, that neither of the claimants is *prima facie* entitled to the seat, which, however, can have been approved by but four members of the committee. Now, I ask the gentleman from Pennsylvania how that report can come before us as the report of the majority of the committee, when a majority of the same committee have agreed to report that one or the other of these claimants is entitled to the seat?

Mr. COOK. With the consent of the gentleman from Pennsylvania, [Mr. SCOFIELD,] I will reply to the question of the gentleman from Wisconsin, [Mr. PAINE.] Two of us on the committee were willing to concur in the report of the committee, but assented to it with the reservation that if an effort should be made by a minority of the committee to give the seat to Mr. Hunt one of us would move to amend the resolution of the minority as has been moved this morning. We deemed that no particular harm could arise from the adoption of the report of the committee, but we believed that great wrong would result if the report of the minority should prevail.

Mr. PAINE. One more question, if the gentleman from Pennsylvania will permit. If I have correctly understood his statement, the evidence which was referred to the committee by the House, which accompanied the resolution requiring them to determine who had the *prima facie* right to the seat, showed that Mr. Chilcott received a majority of the votes at that election; that the lawfully-organized board of canvassers so decided in the presence of the Governor. Am I right in this?

Mr. SCOFIELD. Yes, sir.

Mr. PAINE. Then I desire to ask the gentleman from Pennsylvania why, in view of that state of facts, the committee did not find that Mr. Chilcott was *prima facie* entitled to the seat?

Mr. SCOFIELD. I am not authorized, I suppose, to state the reasons which influenced other gentlemen in casting their votes. For myself I can say that, when we had agreed that the certificate given by the Governor was vitiated by the statement made to the committee by the Governor himself, and by the report of the board of canvassers, I did not feel warranted in falling back upon the next *prima facie* paper. I preferred that we should get authority from the House to examine the merits of the whole case. I presume—though we had no explanation on that point before the committee—there is an allegation that, although the returns from the several counties showed that Mr. Chilcott had one hundred and eight majority, that majority is made up in some degree of votes which were illegal. I presume, though I do not know, that this is the allegation; and therefore we preferred to hear the



whole case before determining upon it any further.

Mr. PAINE. Will the gentleman permit me to make one further remark?

Mr. SCOFIELD. Certainly.

Mr. PAINE. When I voted to refer this case to the Committee of Elections to determine who had the *prima facie* right to a seat here, I meant to have the committee, so far as my vote could authorize it, examine all the evidence referred to them in this case, and I meant to have them decide, upon such an examination of the evidence, who is *prima facie* entitled to a seat here in the absence of any other proof contradicting or supporting the allegations of the respective claimants. But it seems from the gentleman's statement here that the committee have not taken this as the rule by which they were bound in determining who is entitled *prima facie* to a seat here. Instead of regarding themselves as obliged to look into all the evidence before them, and decide upon that evidence in the absence of other contradictory or substantiating proof, who was entitled to a seat, they have, it seems—and I ask the gentleman whether such is the fact—undertaken to find somewhere in the evidence some one single document which would in itself entitle one of the claimants to the seat, although contradicted by the other evidence in the case.

Mr. FARNSWORTH. I wish to inquire of the gentleman from Pennsylvania whether the committee had any evidence, any legal testimony before them, aside from the certificates, and if so, what was it?

Mr. SCOFIELD. We had four papers referred to us by the House. The first was a certificate of Governor Cumming in favor of Mr. Hunt; the second was the certificate of the secretary, Frank Hall, acting as Governor, in favor of Mr. Chilcott; the third was a certificate of the board of canvassers, stating the number of votes given for each candidate; and the fourth was a proclamation of Governor Cumming, stating what he had done. Those, I believe, were all the papers referred to us by the House; they are at least all I recollect. The only thing in addition to those which influenced the committee was a statement made by Governor Cumming when arguing the case for Mr. Hunt; which statement I have already detailed.

Mr. FARNSWORTH. I ask the gentleman from Pennsylvania whether there is any law to authorize the board of canvassers to make a certificate?

Mr. SCOFIELD. I will refer to the law. The election laws of the Territory provide that—

"The secretary of the Territory, auditor, treasurer, or any two of them, in the presence of the Governor, shall proceed \* \* \* to canvass the votes given for all territorial officers, and the Governor shall give a certificate of election to the person having the highest number of votes for each office."

Mr. FARNSWORTH. Does that law authorize the board of canvassers to make a certificate which upon its face would be evidence before the committee or any court? These men are to proceed to count the votes in the presence of the Governor, and the Governor is to give a certificate of election. Is there any law authorizing or requiring these men to make any certificate of their canvass, or would such certificate be any evidence unless sworn to?

Mr. SCOFIELD. I have read to the gentleman all the law I know on the subject. Perhaps it would be thought by many gentlemen that the law imposing the duty to canvass the votes for a Delegate to represent the vast interests of a young Territory would imply that they should make some kind of record of the conclusion to which they came; that it should not be carried around in their memory or to be given in parole, to be forgotten as soon as the breath cooled with which it was uttered. That is to be determined by each gentleman for himself. I understand the word "canvass" to mean to examine as well as to count. I suppose, without having looked at the definition of the word, it authorized these men to scrutinize the returns and to see whether they

were right; I mean the returns from the several counties. They added up the votes and announced to the Governor the conclusion to which they came, and thereupon the Governor should give the certificate to the person having the highest number of votes. That is the opinion I have of it.

I am not here to advocate the right of Mr. Chilcott to a seat as a Delegate or Mr. Hunt. I stand by the position of the committee which I represent here: that is to authorize the committee to examine all of the facts, to go back of the board of canvassers, and to report which one of these gentlemen was duly elected by having the highest number of legal votes. I now yield to the minority of the committee.

Mr. POLAND. Mr. Speaker, I had not intended to occupy a moment in reference to the reports of the committee from the majority and minority on this contested-election case. Having been unable to agree to the report of the majority, and having signed the report of the minority, it is perhaps due to the person interested, the person claiming the seat as a Delegate here, and whom the minority of the committee report is *prima facie* entitled to a seat—it is, perhaps, due to him that I should say a word concerning this case and the report of the majority of the committee.

This matter, sir, was referred to the Committee of Elections with directions to make a report which of these parties was *prima facie* entitled to a seat upon this floor. What, Mr. Speaker, is the fair meaning of that direction? What were the committee bound to understand they were set to do by this resolution of the House? I understand the law in reference to the meaning of this term "*prima facie* entitled to a seat" to be which of these parties presents regular credentials. If neither of them has regular or formal credentials according to the law, then neither of them is entitled *prima facie* to a seat. If one has credentials which according to the law are regular and formal upon their face and the other has not, then the one who has received the formal credentials is the one entitled to a seat; and the committee under this resolution thought it had no right to go behind the papers themselves to hear any evidence, that it had no right to hear any testimony in regard to what the facts were in relation to who had the majority of votes or who had not.

Mr. Hunt, who claimed to be entitled to a seat on this floor as Delegate for the Territory of Colorado, presented credentials that were signed by the Governor of that Territory. By the organic law of Congress establishing that Territory, and also by the law of the Territory itself, the Governor is made the certifying officer of the election of Delegates, and no other officer has any right, power, or authority to give a certificate.

Now, the first question would be, whether the certificate of the Governor itself is sufficient, whether it is formal, whether the legal value of that paper upon its face entitles it to be termed credentials. The objection to it was that he did not in terms say that Mr. Hunt, to whom he gave the certificate, had a majority of the votes; but he did say that he was duly elected; and that, in my judgment, is equivalent to saying that he had a majority of the votes cast. If he had not he could not be duly elected; and as I understand it, this is the approved form in which credentials of members of Congress from all the States of the Union have uniformly or generally been sent here.

But I need not stop to make any argument upon that point, because upon that the majority of the committee were agreed. The majority have reported that neither of the claimants is entitled *prima facie* to a seat. They say that the certificate which was given to Mr. Hunt is sufficiently legal and formal upon its face. How happens it, then, that the conclusion of the majority of the committee has been arrived at? Why, they say that Mr. Hunt, not content to rest his claim upon the strength of that paper itself, "introduced Governor Cumming

in its support." Now, although that may in one sense be true, yet in substance it is not true. The fair meaning of the language used by the committee upon this subject is that he was introduced as a witness, was introduced to testify to something, or to say something in support of that certificate which the certificate itself does not contain. That is not true in point of fact. Governor Cumming came before us declaring that he appeared simply and solely as counsel to argue the question of law presented on the face of these credentials in favor of Mr. Hunt, to whom he had given the certificate. Therefore it is not true, as the fair meaning of the language, that Governor Cumming was introduced to give information to the committee which was not conveyed to them by the papers themselves. He appeared before us as any lawyer would come with his client to argue the question presented upon the face of the papers, which was the only question that we had to decide.

In the course of his argument questions were put to him by members of the committee in relation to what the facts were. Now, Mr. Speaker, in my judgment we had no right to put any such question if we had called Governor Cumming upon the stand as a witness and had him sworn as such under the resolution of the House, for we had no right to hear a word of testimony from him or anybody else. We were confined by the resolution under which this case was submitted to us by the House to these papers, and these alone; and when the committee go aside from them and say they undertook to decide this question upon what Governor Cumming said, it is an entire departure from their duty under the resolution under which they were acting.

There is an unfortunate difference of opinion, as well as a difference of recollection, between the members of the committee in relation to what Governor Cumming did say. My own recollection is that he did not say any such thing as the majority of the committee say he did; but inasmuch as we differ in relation to that, and the recollection of the majority of the committee is different from mine, I will not attempt to say which of us is right in reference to that. The point is, no matter what Governor Cumming said, we had no right to hear him say anything on the subject except what he chose to say in his argument as an opinion in relation to the letter. It was sufficient for us to say who had the paper evidence, who had what the law required as credentials to entitle him to the seat as Delegate. It cannot be pretended that anybody but Mr. Hunt had any credentials at all. Nothing can be found, either in the organic law or in the laws of the Territory itself, giving to anybody but the Governor the right to sign the certificate. Neither the secretary nor the treasurer nor the auditor who were authorized to aid in counting the votes were entitled to give credentials. Now, the only person entitled by any law to certify the election to us is the Governor of the Territory himself.

Well, it is said that this Mr. Hall undertook to make a certificate as acting Governor of the Territory. Sir, what does the law mean when it says, "The Governor shall certify?" It means the Governor for the time being. It does not mean the Governor for last year or the Governor for the next year, but the Governor at the time of the transaction, the current Governor if I may use the expression.

It seems to me, therefore, that under the resolution of the House sending this case to us, merely for us to determine upon the face of the papers sent to us who had the *prima facie* title to the seat, the very fact that is reported by the majority of the committee, that Mr. Hunt had a certificate from the Governor which was legal and sufficient upon its face, is an end of this preliminary inquiry. I agree that it is not in a legal sense conclusive; that we may go behind that certificate for proof when the case comes to be heard before the committee upon its merits. We can then take other testimony; and this paper presented by Mr. Chilcott as his credentials may perhaps be regarded as proper

proof upon which the committee may act in deciding the final case. But as credentials upon the preliminary investigation the paper is of no value at all, because the law does not invest the officer who made it with any authority whatever to make a certificate to take the place of credentials here or anywhere else.

Mr. MILLER. Will the gentleman from Vermont [Mr. POLAND] state to the House which one of these claimants had the majority of the votes polled, so far as it appeared before the committee?

Mr. POLAND. We had no evidence on that subject.

Mr. MILLER. Did not the certificate of the board of canvassers state that fact?

Mr. POLAND. That certificate was not before us as evidence.

Mr. SCOFIELD. I do not suppose the gentleman from Vermont [Mr. POLAND] means to say that the report of the board of canvassers, officially signed and certified under the seal of the Territory, was not before the committee; but the gentleman means that the result of the canvass of that board was not evidence before the committee.

Mr. POLAND. The paper signed by the secretary and auditor of the Territory of Colorado was presented to the committee by Mr. Chilcott as part of his credentials. The chairman of the Committee of Elections [Mr. DAVES] announced to the parties when they appeared before us that the committee would not receive any evidence; but that we were merely to receive the papers produced and put forward as credentials. One of the claimants produced the certificate of the Governor of the Territory that he, Mr. Hunt, was duly elected. The other claimant, Mr. Chilcott, produced a certificate signed by the secretary and the auditor of the Territory that he had received a majority of the votes cast.

Mr. SCOFIELD. I am not certain what the chairman of the committee may have said to the claimants, nor is it important. But whatever authority was conveyed by the language of the resolution of the House referring this matter to the committee that authority the committee had. That resolution directed that all the papers relating to the election of Delegate from the Territory of Colorado—not the papers relating to the certificate, but all the papers relating to the election of delegate—should be referred to the Committee of Elections, with instructions to report at an early day as to which claimant, if either, had a *prima facie* right to a seat.

Mr. POLAND. I understand that by the resolution of the House we had referred to us the credentials of each of these claimants, or what was claimed to be credentials. We were not instructed at all to go into an examination of the facts and determine anything about who had the most votes. This paper signed by the secretary and auditor of the Territory of Colorado was before us, and was presented by one of these claimants as part of his credentials.

Now, the only question we had to decide was whether the paper thus presented was credentials or not, or was better credentials than the one presented by the other claimant. In my judgment it was no credentials at all. Whether it is evidence to be considered upon an investigation of the merits of the case, when it comes before us for determination, is altogether another affair. It was not laid before us as any such evidence, but as the credentials of the person claiming the seat. The only question for us to determine was which one of these claimants, if either of them, has legal credentials. In my judgment one of them has no credentials at all. The paper he presents as credentials is no better than credentials signed by me or by any other member of this House. The other gentleman has credentials which I regard as legal in form, signed by the officer authorized by law to sign it.

Mr. SCOFIELD. I now yield to the gentleman from Illinois, [Mr. Cook.]

Mr. COOK. Inasmuch as I have come to a conclusion directly the reverse of that which

has been adopted by my colleague upon the Committee of Elections, the gentleman from Vermont, [Mr. POLAND,] I desire to state to the House in a few words the reasons which have influenced me in arriving at that conclusion. I believe, as that gentleman does, that the Committee of Elections were directed by the House to determine which of these claimants had a *prima facie* right to a seat here as Delegate from the Territory of Colorado, and who should be allowed to occupy the seat until the final determination of the case. I believe that the papers and the facts which were proper to be considered by that committee do show that Mr. Chilcott has the *prima facie* right to a seat; and I think I can defend that proposition. Before proceeding, however, to do so, I wish to give my view of the facts appearing before the committee which have been commented upon by my colleague on the committee, [Mr. POLAND.]

The gentleman says that nothing was properly before the committee, nothing could properly be considered by the committee, except the papers which were referred to us and which we had in our hands. My judgment is different. The parties came before the committee claiming seats in this House by virtue of this election, and they were represented also by their respective counsel. Governor Cumming, who was the counsel of Mr. Hunt, made on the part of Mr. Hunt admissions which I contend bind him as effectually as though made by himself. It is true that a certain paper presented was claimed to constitute the credentials of Mr. Hunt; but in presenting that paper Governor Cumming made such a statement of facts as in my judgment rendered the paper of no validity whatever. Governor Cumming admitted that this paper was given in direct contravention of the finding of the board of canvassers of the Territory who canvassed the votes cast for the candidates for Delegate; that the majority of the board of canvassers decided that Mr. Chilcott had received a majority of one hundred and eight; and that he (Governor Cumming) had taken it upon himself, in contravention of the decision of the board of canvassers, to give the certificate to Mr. Hunt.

It is said that Governor Cumming was not sworn as a witness and could give no evidence before the committee. But, Mr. Speaker, he could make an admission; and he did do so before the committee. If a man should come into court with a note of hand, that note might be *prima facie* evidence of good cause of action; but if he should admit that that note of hand was a forgery or had been stolen, I apprehend it would destroy his cause of action. I look upon this paper of Mr. Hunt, with the accompanying admission of Governor Cumming, very much in this light.

Now, sir, I desire to say something upon the question whether this paper presented by Mr. Hunt was valid upon its face. I protest against the argument which is attempted to be drawn from the fact that this certificate is substantially like those given to members-elect from many of the States. The argument is not a fair one, and I will state the reason. We provided by law two years ago what should be the form and character of certificates given to those elected members of this House; and by that law we directed the Clerk of the House to place upon his roll the names of men who had certificates embracing certain facts. When a man claims his seat as a member, and presents such a certificate in accordance with that law of Congress, that certificate is of course *prima facie* evidence of his right to a seat.

Mr. POLAND. I would like to inquire of the gentleman from Illinois whether the form of credentials for members of the House was not the same before the passage of that statute as it has been since, and whether the statute was not passed for the very purpose of meeting a difficulty that had arisen in relation to the accepted form of credentials of members of the House.

Mr. COOK. I have not time to answer that

question as fully as I would wish to do; but I will say that the form of certificate of a man claiming a seat as a member from a State is prescribed in the law. A Delegate from a Territory stands upon an entirely different footing. The law does not prescribe what shall be the form of the certificate of a person claiming a seat as a Delegate.

Mr. POLAND. Mr. Speaker—

Mr. COOK. My colleague on the committee must excuse me. I cannot yield now.

Mr. POLAND. I desire to say a word of explanation.

Mr. COOK. I presume the gentleman will have an opportunity after I get through to say what he desires; I cannot yield at present.

Now, sir, under what circumstances can the Governor of the Territory certify that a man is elected a Delegate from that Territory to this House under these circumstances, when the secretary of the Territory, auditor, treasurer, or any two of them, in the presence of the Governor, shall canvass the votes given for Delegate, the Governor shall give a certificate of election to the person having the highest number of votes? Then the Governor can give a certificate to the man who has the highest number of votes.

I wish to call the attention of the House to this fact: that the Governor, in the discharge of this duty, is in the exercise of a limited special jurisdiction, and not in the discharge of any duty like that of a court of general jurisdiction, where the presumption would be in favor of the legality of his acts. He is in discharge of limited special jurisdiction, and must confine himself distinctly within the limits of the authority conferred upon him by the statute, and that authority must appear affirmatively in every step taken in the matter.

Now, what authority had this Governor? He had the authority to give a certificate to the man who had the highest number of votes after the board of canvassers should have determined by an actual canvass how many votes had been cast for each candidate, and he had no other authority. By his own admission, made before the committee, he has given his certificate to the man whom the board of canvassers has determined has the minority of votes by one hundred and eight. I say that he has not only no authority to give a certificate to a person whom the board of canvassers had determined was not elected, but that the certificate should show upon its face that the authority was exercised in conformity with the law conferring it. He has a right to give a certificate under certain circumstances, and that certificate should show the facts to exist upon which the right to give it depended.

If he had the right to give this certificate, if it is *prima facie* evidence of the election of the person who holds it, it would have been *prima facie* evidence of the same fact if it had not shown that any election had taken place, if it simply said, "Sir, you are elected a Delegate to Congress." If we may dispense with one condition-precedent, we may dispense with all of them. The result is as precisely illustrated in this case, the Governor may give a certificate on his own motion to a man whom the people have rejected, to a man certified by the regular election officers to have received a minority of the votes cast at this election.

There are two questions to be determined. The first is, ought it to appear upon this certificate that the Governor has acted in conformity to law in giving it? Ought the facts which must exist to authorize the Governor to give it to appear upon it? It does not appear that the Governor had any right to give it, because the law of the Territory, construed in connection with the organic law, provides that the board of canvassers shall determine who has received the majority of votes. That certificate does not show that the board of canvassers have ever acted. The evidence shows that they did act, and that Mr. Chilcott received a majority of the votes. If it need not be shown by the certificate what person received the majority of votes as found by the board of canvassers, then nothing

ing need appear except the statement, "Sir, you are elected a Delegate." By this construction the law of the Territory is set aside and rendered nugatory. How does it protect the rights of the people, how does it furnish evidence to the man really elected, if indeed the Governor may disregard the finding of the board of canvassers, or if his certificate need show nothing in relation to it?

The second question is, does this certificate show the law has been complied with? If it be admitted that the certificate ought to show existence of facts necessary to entitle the holder to a seat in this House according to law, then does this certificate show that the law has been complied with. Here is the law:

"SEC. 36. The secretary of the Territory, auditor, treasurer, or any two of them, in the presence of the Governor, shall proceed within fifty days after the election, and sooner if all the returns be received, to canvass the votes given for all territorial officers, and the Governor shall give a certificate of election to the persons having the highest number of votes for each office. In case there shall be no choice, by reason of any two or more persons having an equal number of votes for the same office, the Governor shall call a special election in the manner provided in this act."

What does that mean? It means the Governor shall give a certificate to the man who has been found by the board of canvassers to have the highest number of votes. That is exactly what it means. No man will contend that it means anything else. This certificate, in order to show a compliance with the law, must show that it is given to the man found by the board of canvassers to have the highest number of votes. But it does not show anything of the sort. It shows, taken together with the admission before us, which must be considered as a part of this case, that it was given to a man who had the minority of the votes. It therefore does not comply with the law, and it is not *prima facie* evidence of a right to a seat in this House.

It is said that the "current" Governor, to use the expression of the gentleman from Vermont, must give the certificate. Suppose the Governor dies the next day after the election, will it be contended that no certificate can be given by his legal successor? I take it that position would not be assumed.

Mr. BLAINE. Suppose he gave it before he died.

Mr. COOK. I will come to that. The proposition I am discussing is whether a certificate must be given by the man whom my colleague on the committee calls the "current" Governor, and the answer must be if the Governor has not given the certificate required by law his successor may do it. But the question is put to me: suppose the power is exhausted. That is a pertinent question. If the power is exhausted, then I grant it cannot be exercised by any subsequent Governor. But what exhausts the power? Giving a certificate which is *prima facie* evidence of a right to a seat exhausts the power. The power is not exhausted by giving to a man something which is no certificate of election. I submit to my friend from Maine, [Mr. BLAINE,] who propounded the question to me, that if this Governor had certified some scrap of poetry, for instance that which was sent to us by the late Commissioner of Public Buildings, it would not have exhausted the power to give a certificate, nor would it have prevented his successor from giving one.

Did Governor Cumming exhaust the power? Did he ever give a legal or valid certificate of election? If he did not, he did not exhaust the power. I hold that he did not, consequently a second certificate of election given by the secretary of the Territory in due form of law certifying that the votes had been canvassed, and by the board of canvassers it was determined that one man had received so many votes and the other so many, and that the majority in favor of Chilcott was one hundred and eight, is *prima facie* evidence of the right of Mr. Chilcott to a seat.

I do not well see how it can be that when

one certificate is positively good beyond all doubt we can say that neither has a *prima facie* right to a seat in this House. If the first certificate is legal, it gives the holder the right to the seat. But the fact of the first certificate not being in compliance with the law, taken in connection with the admission before us which shows that it was given in direct contravention of law, does not show a *prima facie* right to the seat on the part of the Delegate holding the certificate, and consequently Mr. Chilcott, who received a majority of the votes according to the decision of the regularly-constituted tribunal, the board of canvassers, has the *prima facie* right, and ought to be admitted to a seat on this floor, while the Committee of Elections is investigating the question and determining upon evidence to be taken which of them was really elected by the people. We ought not, in my opinion, to give such construction to this certificate as to make it *prima facie* evidence of matters not stated in it and which did not exist, that is, that Mr. Hunt had received a majority ascertained in the manner provided by law, and thus to defeat the right, allow a man not elected to take a seat on this floor, allow the Governor to nullify the law of the Territory, the action of the board of canvassers, and the will of the people.

Mr. SCOTFIELD. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOTFIELD. I now yield five minutes to the gentleman from Maine.

Mr. BLAINE. Mr. Speaker, it seems to me that the duty of the House in this case is perfectly apparent. I do not agree with the minority of the committee in their report, that Mr. Hunt should have the seat; still less do I agree with a smaller minority of the committee that Mr. Chilcott should have it. The majority report is that there is good ground for declaring that neither one has a *prima facie* right to the seat. Now, if we sustain that report, we certainly do no injustice to either of the parties. We do not admit Mr. Hunt to the prejudice of Mr. Chilcott, nor the latter to the prejudice of the former.

In so far as the mere *prima facie* goes on the question of the certificate of Governor Cumming, on a careful reading of it all I have to say is that it resembles as nearly as I can remember three certificates on which I have taken my seat for three successive terms in this House. And in answer to the gentleman from Illinois I will say that I think a certificate given for a member of the House ought to be good for a Delegate from a Territory. I say, however, that there is enough evidence here to raise at the threshold a doubt of Mr. Hunt's right to a seat, and that doubt being of a serious nature he should not be sworn in. But the majority of the committee stopped there and told us, after an examination, that neither of these claimants had a *prima facie* right to the seat; and that neither party will be prejudiced by allowing each of the claimants to serve on the other a notice of contest, and giving a full and definite hearing by the committee before the House shall act finally upon this question.

Now, I do ask my Republican and Union friends here, with whom I concur, not to allow party prejudice to come into this case. Both of these claimants have rights; they have the right to be heard fairly and fully before the Committee of Elections of this House, and then before the House itself, and I submit that the motion of the gentleman from Iowa, [Mr. WILSON,] to give Mr. Chilcott a seat here, is to prejudice this case at the outset against the submitted report of the committee. Now, I do not think this House as an impartial body can afford to do any such thing. I hope, therefore, that the report of the Committee of Elections will be sustained.

Mr. SCOTFIELD. I now yield to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. Mr. Chairman, I shall take

but a short time to present my views upon this case. I have no interest in this case, except the attainment of a just and legal result upon the question referred to the Committee of Elections. I feel no personal interest whatever in the contest for this seat.

I understand the objection to the claim of Mr. Hunt to a seat in this House as Delegate from the Territory of Colorado to rest mainly upon this fact: not that his certificate is invalid, informal, incomplete, or insufficient as evidence of a *prima facie* right to the seat, but that Governor Cumming, who issued that certificate, came before our committee and made certain statements in reference to the right of Mr. Hunt to this seat. Now, on that point I only desire to say this: that there was no evidence referred to our committee at all. As my distinguished colleague on the committee [Mr. POLAND] has said, the simple question referred to us was which of these gentlemen upon the credentials offered by them respectively was *prima facie* entitled to the seat. That excludes the idea that we should go into an examination of parole evidence, or of witnesses, for the purpose of determining the right to the seat.

The gentleman from Illinois [Mr. COOK] says that the Governor of the Territory came before our committee and made certain admissions. Suppose he did make certain admissions before the committee, of what value or weight are those admissions? Every lawyer here knows that if those admissions are of value at all they are of value as evidence; and if those admissions came before us at all in a way to be taken cognizance of by us they came before us as testimony; yet we had no right to consider any testimony, and we did not assume to consider any; under the resolution of the House it would have been exceeding our authority to attempt any such investigation.

But it is claimed that the certificate presented by Mr. Hunt does not state facts sufficient to entitle him *prima facie* to a seat as Delegate. Now, what does that certificate state? I beg leave to call the attention of gentlemen upon the other side to the fact that the certificate states in express terms the existence of every fact necessary to sustain the right of Mr. Hunt to a seat here. It does not state, it is true, that an election was held on a certain day and that at that election a certain number of votes was cast for Mr. Hunt in this precinct, a certain number in that precinct, a certain number in another precinct, and so on. But it does state that "in accordance with the laws of Congress and the laws of the Territory of Colorado, Mr. Hunt was duly elected a Delegate to the Fortieth Congress from the Territory of Colorado."

I submit, viewing this matter as a lawyer, and in no other light than as a mere question of law, which in truth it is, it is clear almost beyond controversy that Mr. Hunt has the *prima facie* right to the seat; for it is utterly impossible that the recitals in this certificate shall be true and yet that Mr. Hunt shall not have received the highest number of votes. If he was duly elected a Delegate Mr. Chilcott could not have been elected at all. The language of this certificate excludes the conclusion that any other person than Mr. Hunt had the highest number of votes, or that the election was irregular, or that the certificate itself was prematurely, corruptly, or fraudulently issued. In form the certificate is almost a copy of the one by which I hold my seat on this floor, and very few gentlemen here hold any more formally perfect credentials. It substantially follows the requirement of both the law of Congress and the law of the Territory. It was executed and attested as required by law.

It is contended that Governor Cumming came before us and made certain admissions. Upon this point I desire to say there is a singular lack of harmony among the members of the committee with regard to the facts as they transpired before us. I am entirely certain that I heard no admissions of this kind made by Governor Cumming. I am also entirely certain that when Governor Cumming was

called upon before our committee to state the facts on the point in question he expressly refused to do so, saying that that was not the time or the occasion for going into a statement or investigation of the facts. He expressly declined to appear before our committee in the capacity of a witness in any sense whatever; and he also went so far as to say that whatever he might have stated in regard to the facts he desired to withdraw. I say further that on that occasion he said in so many words that by the result of the election Mr. Hunt was duly elected a Delegate, and had received the clear majority of the votes, and was entitled to the seat. If, therefore, he did make the admissions alleged, let us take all his statements together, as a plain principle of common sense and of law requires, and give Hunt as well as Chilcott the benefit of them, if such irrelevant matters must be brought into this controversy at this stage.

Mr. COOK. With the consent of my colleague on the committee, I will ask him a single question. When Governor Cumming said that he declined to go into the question of fact, was not that remark made in reply to a question of the chairman of the committee as to the reason which had induced him to give a certificate contrary to the finding of the board of canvassers?

Mr. KERR. My impression is that the remark was made in reply to an inquiry addressed to him by the gentleman from Michigan, [Mr. URSON,] and not in reply to a question of the chairman of the committee. It is immaterial, however, from what source the question came. I simply state my recollection of the fact as it transpired before the committee.

Now, Mr. Speaker, I submit that upon the papers referred to the committee Mr. Hunt is entitled to be sworn in and to occupy the seat pending the further contest, according to the legal method of procedure of his right. And I am strengthened in this conviction by the view which I take of the duties of the territorial Governor under the law. I hold that in this respect the territorial Governor possesses precisely the same rights and the same powers, and is required to perform precisely the same duty as the Governor of a State in the case of a member-elect to this House. He is required to perform simply a ministerial duty, that of issuing a certificate of election to the person duly elected to the office. That duty the territorial Governor in this case has discharged. He has issued this certificate. In doing this, he exhausted the power conferred upon him by law. There remained no residuum of power that could be exercised by any other officer. There could be but one Governor of Colorado competent to act upon this question. He was the Governor, and he performed that duty; and in doing so he exhausted the power. How, then, could another gentleman who might under the law become temporarily entitled to act as Governor attempt to undo that which he had done, to set aside his certificate and issue another? Frank Hall, who issued the certificate five months afterward to Mr. Chilcott, and styled himself "secretary of state and acting Governor," does not explain how he became acting Governor; nor does it appear why he, five months before, when all the facts were fresh in his memory, attested and countersigned the certificate of Mr. Hunt, as secretary of the Territory. The whole proceeding on his part involves him in such inconsistencies as are entirely inexplicable, except after a full examination of the case upon the evidence and the merits. His conduct has very much the appearance of having been prompted by some political exigency.

It may be said that the acting Governor discovered from the facts presented to him that the first certificate was prematurely issued or that it was even wrongfully or corruptly issued, and that under these circumstances it became his duty to correct the error. But I submit, Mr. Speaker, that this would be an erroneous in-

terpretation to place upon the duties of this officer. I insist that if a wrong of that kind was committed by the Governor the acting Governor could not remedy it in this way. I hold that the facts constituting such a wrong would afford the material for a successful contest of the right of the claimant, and that those facts should be presented to this House in the nature of evidence on an examination and trial of the case upon its full merits, but not upon a mere *prima facie* inquiry as to the sufficiency of credentials. What the facts upon such an examination may prove to be I am wholly uninformed.

It is said the committee is somewhat embarrassed by the fact there is also a return of the board of canvassers in this matter. Well, there is a return of what purports to be of a portion of that board, but that cannot be considered a credential. It could only be presented to our committee for consideration in the nature of evidence, or as a part of Mr. Chilcott's *prima facie* case. No depositions or testimony or parole evidence came to us under this inquiry. It will not do to say that if a notary public, in performing the functions of his office in this city, should make a certificate which should be offered in a court of justice as evidence of certain facts stated in it, the President of the United States could come into that court of justice and say that the commission to that notary was fraudulently or wrongfully issued, and that his official act is null and void. Certainly that could not be done, because the court could only judge of the sufficiency of that act of the notary public as a mere *prima facie* case. The court could not go behind the record to inquire in that preliminary way whether proper acts had preceded the making of the certificate of that notary public or not. It is attempted in this case to violate that simple rule of law. I submit it cannot with any propriety be done.

I wish to say one word more in conclusion. I have not any particular personal objection to the adoption of the report of the majority. I do not know that it will much injure either of these parties. I submit this minority report in company with others, because I feel it to be my duty to do so.

Mr. MYERS. I desire to ask the gentleman one question, and that is whether the evidence before the committee did not fully establish that Mr. Chilcott had one hundred and eight majority of the votes cast, and whether there was any evidence to contravene that?

Mr. KERR. Do you address that to me?

Mr. MYERS. Yes, sir.

Mr. KERR. Then my answer is that there is not a solitary scintilla of evidence of the facts stated by the gentleman from Pennsylvania; not one particle, as I understand it. But the very contrary; that Mr. Hunt had a majority of the votes, and was duly elected.

Mr. MYERS. I find in the report submitted by the majority of the committee that the board of canvassers returned that Mr. Chilcott had received one hundred and eight majority, but that the Governor gave the certificate to Mr. Hunt, who had no majority. He said he was duly elected, but he does not follow out the law and say he had the highest number of votes. It is admitted, both in the minority and majority reports, that the evidence is that the board of canvassers certify Mr. Chilcott received one hundred and eight majority; and that will determine my vote in favor of the proposition of the gentleman from Iowa to admit Mr. Chilcott to the seat to which he is *prima facie* entitled.

Mr. KERR. I wish to make a short reply to the gentleman from Pennsylvania. I have said there was no such evidence before the committee, and I repeat it. This pretended return of the board of canvassers was not introduced as evidence at all. It was introduced, if at all, by Mr. Chilcott as part of his credentials. If he had introduced certificates like that one, I say they would have no legal force before this House in this preliminary inquiry.

The gentleman says the return of the board of canvassers shows that Mr. Chilcott had a majority. I say it is not necessary any certificate should show that. The law only requires one of the contestants shall have the highest number of votes cast. Neither is required to have a majority.

Mr. MYERS. The highest number of votes.

Mr. KERR. Now, then, suppose the certificate of the Governor had followed the language of the law and certified that Mr. Hunt had received the highest number of votes, which might not have been an absolute majority of those cast, for there may have been a number of candidates: in accordance with the law of Congress, and in accordance with the law of the Territory of Colorado, Mr. Hunt then would have been duly elected a Delegate to the Fortieth Congress.

Now, I ask the gentleman from Pennsylvania whether he can imagine that the facts stated in Mr. Hunt's certificate can be true, and yet that it can also be true that Mr. Chilcott received the highest number of votes?

Mr. SCOFIELD. I cannot yield further to my colleague, [Mr. MYERS,] I yield five minutes to my colleague on the committee, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, I take it that this case, like most other legal cases, depends upon getting right definitions. The question that was to be tried by the Committee of Elections was as to who had the *prima facie* right to a seat. Now, sir, what does that mean?

First, the committee have dealt with it as meaning that they should ascertain who had such a paper as was provided by the law to show the party to have been elected. If that is what *prima facie* meant in your resolution, then the majority of the committee were right in disposing of it in that view and holding that neither party had given to the committee such a paper as entitled them to report that he had a good title to start with.

Now, I will waive the question whether the certificate signed by the Governor and presented by Mr. Hunt would be good under the law on its own face. I will admit that it would be a good certificate, a matter about which I have very serious doubts, however. Then I invite my fellow-members to this idea, and it is about all the idea I wish to present. My colleague on the committee [Mr. POLAND] says that the committee were stopped short in their investigation by seeing a paper laid before them which looked like a good paper under the law, and that they could not look beyond that. Now, that may do very well, it seems to me—and I submit it with deference—in a trial of a horse case or something of that kind, but it strikes me as strange law when an American Congress is inquiring whether a man is entitled to take a seat under the laws of Congress in this House. It is too narrow.

I put it to my friend what he would do in a case like this: suppose Mr. Hunt had come before the Committee of Elections and said, "I procured that certificate by a larceny," would my friend stop short and say that the Committee of Elections are bound to say that that paper was good enough under the laws and made a *prima facie* case? Or suppose he had said it was a forgery, would my friend say that the committee, having that fact confessed before them, were bound to report to the House of Representatives that it was a good *prima facie* case because the certificate read right on its face? Now, it seems to me, it is not characterizing it too severely to say that that is not very sound law, logic, or sense.

Well, sir, what did happen in this case? Why, just this, according to what seems to be confessed, though I was not present at the meeting, and therefore only state the facts as they were stated to me in the committee afterward, when I was present: it was admitted that under the law authorizing three men to make a canvass, and authorizing the Governor, who was to stand by and see it done, to give a certificate of election, two of the canvassers



concurrent in making a report, and the third did not, whereupon the Governor and this third man made a count utterly in violation and defiance of law, upon which count the Governor gave a certificate to the man who was thus declared, in violation and defiance of law, to have the majority of votes.

Now, I would like to know whether the Committee of Elections are bound to take cognizance of no fact like that stated and confessed right in the committee-room, that a certificate was procured in direct, acknowledged palpable fraud of the law, and whether we are to give legal significance to a certificate in the face of such an admission. If we are, then, according to the admission I made in the outset, Mr. Hunt is entitled to the seat. If not, then there is no *prima facie* case; because the paper is the same as stolen or procured by forgery or fraud. There is nothing, therefore, under the law making a *prima facie* case.

Mr. SCOTFIELD. I yield a few minutes to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. Mr. Speaker, this case was sent to the Committee of Elections by a resolution, which directed all the papers filed in the case to go to that committee. The papers were—first, the certificate of Governor Cumming that Mr. Hunt was duly elected a Delegate from the Territory of Colorado; second, the certificate of the board of canvassers that Mr. Chilcott had received a majority of all the votes cast at that election for Delegate; third, the certificate of the acting Governor of the Territory that Mr. Chilcott had been duly elected; and fourth, the authenticated returns from the several counties of the Territory giving the same result that was ascertained by the board of canvassers of the Territory. I find nothing said in the report of the committee about the latter class of papers, though they were all sent to the committee by order of the House.

Having this case before them upon these papers, the Committee of Elections have not been able to present to this House a conclusion as to which one of these claimants is *prima facie* entitled to the seat. The case, therefore, comes back to the House in the same condition in which it went to the Committee of Elections. And we are now to consider it upon the same papers and evidence that the House referred it to the committee.

It is not my purpose to find fault with the action of either the majority or the minority of the Committee of Elections. They may settle their differences of opinion among themselves. I propose to treat the case as though it were originally before the House, and without regard to the action of the committee; for we have no particular light given us by the committee, and we may safely and properly treat the case as though it had never been referred.

Now, what do we find? We find that Mr. Hunt presents a certificate of the Governor to the effect that he had been duly elected Delegate from the Territory of Colorado. But we also find in the case the certificate of the board of canvassers upon which, by the terms of the law, the Governor of the Territory was required to base his certificate of the fact of election, for he is required to certify the result found by the canvassers. That paper is now here as a part of the case. When we compare the certificate of the Governor with the paper upon which by law he was bound to base it, we find that the certificate is false. The result, as certified by the board of canvassers, is that of all the votes cast for Delegate to Congress George M. Chilcott received a majority of one hundred and eight. Yet, in the face of that report of the board of canvassers, which the law requires the Governor to follow, he certifies that Mr. Hunt was duly elected; that is, though Mr. Hunt has but a minority of the votes cast, the Governor certifies that he was duly elected. This destroys the certificate of the Governor, and leaves Mr. Hunt without any evidence of title to the contested seat.

What further do we find? We find among the papers filed by Mr. Chilcott with the Clerk of this House, and directed by the House to be sent with the other papers to the Committee of Elections, the authenticated election returns from the several counties of the Territory. It was upon the returns from the counties that the territorial board of canvassers were to act, and upon which they did act. Looking into those returns from the several counties, and adding up the votes for Mr. Chilcott and the votes for Mr. Hunt, as therein exhibited, we find that they show a majority of one hundred and eight votes for Mr. Chilcott. The board of canvassers of the Territory, acting in pursuance of law upon these county returns, ascertained the result that I have mentioned—that Mr. Chilcott had a majority of one hundred and eight votes. The county canvassers and the territorial canvassers exactly agree; and the certificate of the latter officers follows the finding returns of the former officers. Thus, the certificate of the territorial canvassers is supported by the authenticated returns from the several counties. And that is the case on the part of Mr. Chilcott, and no one can doubt his right to the seat except upon the ground that a fraudulent certificate of a Governor is better evidence of title than an ascertained majority of votes which stands in conflict with it.

Now, it has been said by the gentleman who represents the majority of the Committee of Elections that it has been alleged, or probably will be alleged, that there was illegal voting at the election for Delegate. Of course that matter cannot be considered by us at this time. That is a matter which belongs to the contest which the resolution proposes shall proceed between the two claimants for this seat. But inasmuch as there has been a little traveling beyond the record in that direction, I may say, on the other hand, that it may be alleged, and is affirmed, that before the canvass by the territorial officers was completed Governor Cumming asserted that he did not care what the canvassers might find, for he had determined to give the certificate to Mr. Hunt in any event. That this was the determination of the Governor is proved by the papers which we have before us, and on which we are now acting. These papers disclose that he did give the certificate to Mr. Hunt in violation of the finding of the board of canvassers, which he by law was bound to follow.

I only speak of this because of the suggestion made by the gentleman from Pennsylvania, [Mr. SCOTFIELD,] that it may be alleged that the majority for Mr. Chilcott, as returned by the board of canvassers, was made up, at least in part, of illegal votes. And I may further say, that finding this majority of one hundred and eight had found its lodgment in the office of the secretary of the Territory before the day of the canvass, through the returns sent up from the several counties, the Governor and some of Mr. Hunt's friends immediately telegraphed for the removal of the secretary (who was a fair and just officer, and who stood in the way of the fraud contemplated) prior to the date fixed by law for the canvass, of the votes by the territorial officers. This was during the time when the presidential party was "swinging round the circle." But, sir, this is all outside of the case, as well as outside of the record; and I only mention it because of the remark made by the gentleman from Pennsylvania.

I ask the House to pass upon this case, not according to the view presented by the gentlemen representing the minority of the committee, regarding this simply as a question whether the certificate given by Governor Cumming follows the law in its language, requirements, and form. I ask the House to act upon the case as it appears before us from all of the papers filed by the two claimants. When we come to determine the case upon these papers we find that, instead of Mr. Hunt having a *prima facie* case by virtue of the certificate given by the Governor, he is asking for admission on a document which is proved to be false by the other papers filed in the case, papers

made in pursuance of law, and which it was the duty of the Governor to follow.

Let me make one further remark in support of the amendment I have offered. During the Thirty-Ninth Congress both Houses declared that the people of Colorado had so far advanced in the establishment of a permanent community and the development of the resources at their command as to be entitled to representation in both Houses—a Representative in this Hall and two Senators at the other end of the Capitol; in other words, that Colorado ought to be a State. That was the judgment of Congress with regard to the importance of the constituency which these claimants claim title to represent in this body. It seems to me that justice to this important constituency demands the present admission of one of these claimants pending the contest between them. The resolution of the committee without the amendment which I have submitted would, if adopted, leave the people of Colorado without any representative here until the end of the contest shall have been reached. This would be unfair and unjust. I therefore ask the House to adopt the amendment I have offered, that Mr. Chilcott shall be sworn in as the sitting Delegate pending the action of the committee and the House upon this case; and I ask this because the papers and evidence before us show conclusively that Mr. Chilcott is entitled to the seat by virtue of his having received a majority of the votes cast by the people of Colorado.

Mr. SCOTFIELD. I now yield to my colleague on the committee, the gentleman from Michigan, [Mr. UPSON.]

Mr. UPSON. Mr. Speaker, I concur with the view so well presented by my colleague on the committee, the gentleman from Illinois, [Mr. COOK,] and consider that Mr. Chilcott has the *prima facie* right to the seat, according to the papers referred to the committee. This view of the case has been so clearly exhibited by the gentleman from Illinois, and also by the gentleman from Iowa, [Mr. WILSON,] that I would not say a word on the question, but that, as allusion has been made, somewhat irregularly perhaps, to the proceedings that took place before the committee, it may be advisable for me to say a word in verification or corroboration of what has been stated by my colleague.

The action of the Governor of Colorado in this case, as evidenced on the face of the papers, and by his own declarations before the committee, appears to me a gross outrage upon the rights of the people of that Territory, committed in direct defiance of their expressed will through the ballot-box; and I shall not believe, until it shall be evidenced by a deliberate vote, that this House will consent to ratify this outrageous proceeding on the part of the Governor by admitting Mr. Hunt even temporarily to a seat in this House.

I agree with my colleague mainly in the views which he takes in relation to the organic law of Colorado, and insist that on the face of the paper as required by that organic law the Governor should show the man declared elected has received the highest number of votes, and that he should certify to that fact as the ground upon which he is authorized to give the certificate. The language of the organic law is that "a certificate thereof shall be given by the Governor accordingly." The man who receives the highest number of votes it is provided shall be declared elected, and a certificate thereof shall be given accordingly. The certificate is to be given in accordance with the fact.

Now, it was insisted in argument before the committee on behalf of Mr. Chilcott that the certificate was defective in not showing that fact. He alleged that it was in violation of the law and not in accordance with the return of the board of canvassers. Governor Cumming himself appeared before the committee on behalf of Mr. Hunt, and endeavored to rebut that allegation. The question being propounded whether the certificate was issued

before there had been a canvass, he replied that no canvass of the votes was declared or made. He then went on of his own suggestion to state the fact that two of the board were for Mr. Chilcott and one for Mr. Hunt, and that he coincided with the one for Mr. Hunt. The question was then put to him, "If that was so what right had you to issue the certificate to Mr. Hunt?"

He then finding himself embarrassed by his statement, said that he was not there as a witness. The recklessness with which he trampled upon all law in giving the certificate to a man who had not a majority of the votes was only equaled by the unblushing coolness with which he appeared before the committee and attempted to justify his palpable violation of the law.

The gentleman from Maine [Mr. BLAINE] says this is in violation of all precedent. I will call his attention to one. I will refer him to the report of the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the committee in the Thirty-Seventh Congress in the case of *Daily vs. Morton*. I quote from the Reports of Contested-Election Cases, page 403:

"Mr. Morton accordingly received the certificate of election, and Mr. Daily took the position of contestant. Subsequently the Governor of the Territory gave Mr. Daily a certificate of election on the ground of alleged fraud in the vote counted for Morton; revoking in said certificate as far as he was able the certificate before given to Mr. Morton. Between these two certificates as *prima facie* evidence of an election, entitling the holder to be sworn in in the first instance and occupy the seat pending the contest, the House decided at the last session in favor of that held by Mr. Daily, and he has accordingly occupied the seat, and Mr. Morton has been the contestant during the pendency of the contest."

Now, that goes further than I would go. It not only set aside the first certificate, but gave the *prima facie* case to the man with the second certificate. In this case Mr. Chilcott has the only certificate in accordance with the decision of the board of canvassers, and the first certificate does not show that it was given to the man who received the highest number of votes. The Governor admits that he gave it in violation of law. It was perhaps necessary at that time, in order to send a telegraphic dispatch to give encouragement to the celebrated Philadelphia convention. I do not know of any other reason.

[Here the hammer fell.]

Mr. WILLIAMS, of Pennsylvania. Allow me to ask a question. I find in the report of the committee they have overruled the certificate of the Governor as null and void. They proceed to say thereupon that there was no legal certificate because the power was exhausted by the act of Governor Cumming, and they infer therefrom that Mr. Chilcott has no *prima facie* case. They assume there has been no evidence which would entitle a party to a seat here short of the certificate of the Governor. Is that so? In the absence of superior cannot inferior evidence be admitted in accordance with the well-settled principle of common law, which says the best evidence in the nature of the case should be produced. The certificate of the Governor being null and void, what is the duty of the committee but to find in accordance with the rule to which I have referred, the next best *prima facie* evidence. The meaning of the term, as I understand it, is that evidence which, in the absence of any contradiction, would be conclusive of the case. Then, I take it that the evidence of the return of the election which the committee had before them is Mr. Chilcott's case. I ask my colleague whether, in the absence of any other evidence, the logical result is not that Mr. Chilcott has such a case as will entitle him to a seat in the absence of any evidence to contradict it?

Mr. SCOFIELD. That is a very long question. [Laughter.] I suppose the gentleman wanted to ask a question and did not expect or desire an answer, because the question is of itself an argument. I will give it, however, a kind of answer. My colleague must remember that a committee is not exactly like a judge on the bench. It is in part like a jury to determine the facts. We pass upon the law and

upon the facts at the same time. They are both often complicated. It is difficult sometimes to get a majority of nine lawyers to agree upon what the law is, and when we come to the jury part, my colleague knows it is an old maxim that there is nothing so uncertain as the verdict of a jury upon a state of facts.

Mr. WILLIAMS, of Pennsylvania. Except the decision of a judge.

Mr. SCOFIELD. I was not aware that that is any more uncertain. When a majority of the committee came to the conclusion that under the state of facts presented to us we would not say that the certificate of Governor Cumming entitled Mr. Hunt to a seat as Delegate, we then considered the certificate given to the other claimant, Mr. Chilcott, and came to the conclusion—at least a majority of us—that that certificate also was not good. But the House should remember that of the six gentlemen who voted against the validity of the certificate given to Mr. Hunt only three of those same gentlemen voted against the validity of the certificate given to Chilcott. It was a kind of cross-fire. There were six against one certificate and six against the other, and three of those who were against the first certificate were in favor of the second, and *vice versa*.

Now, we undoubtedly have fallen upon secondary evidence and reported that the certificate of the board of canvassers reciting the fact was not sufficient upon which to base a report in favor of Mr. Chilcott. But the majority of the committee were of opinion when the House referred the papers to us to say which one was entitled to a seat *prima facie* that it contemplated our going no further. In the case of *Koontz vs. Coffroth* at the last Congress there was no certificate of election. That was a Pennsylvania case, and the Governor who heard it came to the same conclusion that the committee have come to in this case, namely, that neither of the claimants was entitled to a certificate from him. Therefore when the House referred this case to us, it referred it in order to get a report upon the secondary evidence, and accordingly upon that secondary evidence the committee reported. I stand by the report of the committee that neither one of the claimants upon the papers is entitled to a seat. But if the House can fall back upon the secondary evidence it of course is nothing to me. I stand by the report and shall so vote.

I wish, however, to make an allusion to a remark made by the gentleman from Vermont, [Mr. POLAND.] I thought he stated with some roughness—we call it that way in the woods where I live—that the statement of the majority of the committee was not true.

Mr. POLAND. If the gentleman will allow me, I stated that the impression that was conveyed by the language of the committee was not true. I certainly did not intend to charge the gentleman from Pennsylvania or any member of the committee with conveying intentionally a false impression; but I say, the language of the report of the majority of the committee in saying that Mr. Hunt was not content to stand upon the credentials that he presented, but introduced Governor Cumming to support the case, does convey the impression that he was introduced to state some facts which were not stated in his credentials, when the fact is, as the gentleman himself will admit, that he appeared there professionally, to act merely as an attorney to argue the question of the legal validity of the credentials that he had given. Although in one sense the language is true, it conveys a meaning which the facts do not justify.

Mr. SCOFIELD. I understood the gentleman before very much as I do now. He used the words "not true," which was a pretty strong term, not to say offensive. The gentleman from Ohio [Mr. SHELLABARGER] might have satisfied the gentleman, if he had referred to it, that he entirely misapprehended the statement of Governor Cumming. After the argument had been heard the committee had occasion to discuss this question among themselves, and it is proper for me to state, because the

chairman of the committee desired it, that he placed his judgment and his vote upon the confession of Governor Cumming that the certificate was made against the count of the canvassers in his presence. I think the gentleman from Vermont [Mr. POLAND] was not present; but the gentleman from Ohio, [Mr. SHELLABARGER,] who was not present at the time the argument was made by Mr. Cumming, obtained his version of the fact from the chairman of the committee, the gentleman from Massachusetts, [Mr. DAWES.] What I wished to say was, that if the statement of Governor Cumming had been vague and uncertain, the chairman of the Committee of Elections would not have based his judgment upon it, or given it as the reason why he had determined to lay aside the certificate which the Governor had issued.

I now relinquish the floor, asking the Chair to state to the House the order in which the votes will be taken upon the several propositions pending before the House.

The SPEAKER. The majority of the Committee of Elections have reported a resolution giving the seat to neither of the claimants at present. The gentleman from Indiana, [Mr. KERR,] on behalf of a minority of the committee, moves as a substitute for the resolution of the majority of the committee, that Mr. Hunt is *prima facie* entitled to the seat. The gentleman from Illinois [Mr. COOK] moves to amend the substitute proposed by the gentleman from Indiana [Mr. KERR] so as to admit Mr. Chilcott to the seat for the present. Pending which the gentleman from Iowa [Mr. WILSON] moves to amend the original proposition by adding thereto what will be reported by the Clerk.

The Clerk read as follows:

And that pending the action of the committee and the House thereon, George M. Chilcott be sworn in as the sitting Delegate from the Territory of Colorado.

The SPEAKER. The question will be first taken upon the amendment of the gentleman from Iowa, [Mr. WILSON,] it being to perfect the original proposition.

The question was taken; and upon a division there were—ayes 76, noes 52.

Before the result of the vote was announced, Mr. KERR called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 36, not voting 87; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Benton, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Hamilton, Hayes, Hooper, Hopkins, Chester D. Hubbard, Hulburt, Ingersoll, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Loan, Logan, Marvin, McCarthy, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Polsley, Robertson, Sawyer, Schenck, Selye, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—91.

NAYS—Messrs. Archer, Barnes, Bingham, Blaine, Blair, Boyer, Burr, Cake, Chanler, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Mercer, Morrissey, Mungen, Niblack, Nicholson, Noell, Poland, Pruyn, Ross, Scofield, Shellabarger, Sitgreaves, Smith, Stewart, Taber, Van Aiken, Van Trump, and Wood—36.

NOT VOTING—Messrs. Banks, Bromwell, Brooks, Dawes, Denison, Eliot, Griswold, Halsey, Harding, Hill, Asahel W. Hubbard, Hunter, Kelley, Ladin, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marshall, McClurg, McCullough, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Randall, Raum, Robinson, Spalding, Stone, Ward, William B. Washburn, Stephen F. Wilson, and Woodbridge—37.

So the amendment of Mr. WILSON, of Iowa, was agreed to.

The question then recurred upon the amendment of Mr. Cook to the substitute proposed by Mr. KERR.

Mr. COOK. As the adoption of the amendment of the gentleman from Iowa [Mr. WILSON]

son] will accomplish substantially what I desired to effect, I will withdraw my amendment.

The question then recurred upon the amendment of Mr. KERR to the resolution reported by the majority of the Committee of Elections, namely, to strike out all after the word "Resolved" and insert in lieu thereof the following:

That A. C. Hunt, Esq., is *prima facie* entitled to the seat in this House as Delegate from the Territory of Colorado, pending the contest of his right to the same by George M. Chilcott, Esq.

The question was taken, and the amendment was not agreed to.

The question then recurred upon the original resolution, as amended, which was as follows:

*Resolved*, That the papers and evidence relating to the right of A. C. Hunt and George M. Chilcott to a seat in the Fortieth Congress as a Delegate from the Territory of Colorado be referred to the Committee of Elections, with instructions to report which, if either of said claimants is entitled thereto; and that the committee have power to require the service of such notices and grant such time for taking further evidence as they may deem proper; and that pending the action of the committee and the House thereon, George M. Chilcott be sworn in as the sitting Delegate from the Territory of Colorado.

The resolution, as amended, was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### QUALIFICATION OF A DELEGATE.

Mr. WILSON, of Iowa. I now ask that Mr. GEORGE M. CHILCOTT be sworn in as the sitting Delegate from the Territory of Colorado, in pursuance of the resolution just adopted by the House.

Mr. CHILCOTT then appeared and took the oath prescribed by law.

#### REGISTRATION OF VESSELS.

Mr. SCOFIELD. I now ask leave to introduce for consideration at this time a joint resolution to authorize the Secretary of the Treasury to prescribe rules and regulations for the registration of certain vessels built for use on the western and northwestern lakes, upon the payment of internal revenue tax on the materials used in the construction of similar vessels of American build.

Mr. TROWBRIDGE. I object.

#### LEAVE OF ABSENCE.

Mr. ELDRIDGE asked and obtained leave of absence for one week for Mr. MORGAN, of Ohio, on account of sickness in his family.

W. W. POTTER AND W. R. INGRAHAM.

Mr. VAN AERMAN asked and obtained leave to have withdrawn from the files of the House the petitions and papers in the cases of W. W. Potter and William R. Ingraham.

#### MORITZ JUDKIEWICZ.

Mr. BUCKLAND, by unanimous consent, introduced a joint resolution to change the name of Moritz Judkiewicz to Morris Judd; which was read a first and second time.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUCKLAND moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 60) to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes;

An act (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York;

An act (S. No. 89) for the relief of Orlef E.

Dreutzer, late consul of the United States to the kingdom of Norway; and

Joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service of the United States.

The message also announced that the Senate had passed, without amendment, a joint resolution (H. R. No. 7) providing for the expenses of carrying into effect the act entitled "An act to provide for the more efficient government of the rebel States."

#### ARTIFICIAL LIMBS FOR SOLDIERS.

Mr. VAN HORN, of New York, by unanimous consent, introduced a joint resolution for the relief of soldiers who are entitled to artificial limbs; which was read a first and second time.

The joint resolution, which was read at length, provides that out of any appropriations made or that hereafter may be made for supplying with artificial limbs soldiers who have served in the war against the rebellion, the Secretary of War shall be authorized to pay to such soldiers at their option, in lieu of the order for such limbs, an amount of money equivalent to the contract price of the limbs.

Mr. CHANLER. I suggest to my colleague that he should include in this bill a provision authorizing the Secretary of the Treasury to issue bonds to cover the expenditures authorized to be made under the bill.

The SPEAKER. The gentleman from New York [Mr. CHANLER] may not have noticed that, according to the provision in the first part of the resolution, this money is to come out of any appropriations made for this purpose.

Mr. VAN HORN, of New York. I desire only to state that this resolution is word for word the same as one which was passed by the House toward the close of the last session, but which failed to receive the action of the Senate.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the joint resolution, it was passed unanimously.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. BINGHAM. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States.

Mr. FARNSWORTH, (at two o'clock and forty minutes p. m.) I move that the House adjourn.

Mr. RANDALL. I call for the yeas and nays on that motion. I regard this as a test question upon the bill which the gentleman from Ohio [Mr. BINGHAM] proposes we shall consider.

The yeas and nays were ordered.

The question was taken; and there were—yeas 58, nays 58, not voting 48; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Baldwin, Beaman, Benjamin, Blair, Boutwell, Broomall, Butler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dodge, Driggs, Eckley, Farnsworth, Ferris, Fields, Finney, Garfield, Ela, Farnsworth, Ferris, Fields, Finney, Garfield, Gravely, Hopkins, Asahel W. Hubbard, Hulburt, Ingersoll, Judd, Kitchen, William Lawrence, Lincoln, Loan, Logan, Mallory, McCarthy, Moore, Newcomb, Paine, Perham, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Thaddeus Stevens, Taber, Twitchell, Upson, Bart Van Horn, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, and Wood—58.

NAYS—Messrs. Anderson, Archer, Baker, Bingham, Blaine, Boyer, Brooks, Buckland, Chanler, Churchill, Coburn, Donnelly, Eggleston, Ferry, Fox, Getz, Glossbrenner, Haight, Hamilton, Hayes, Holman, Chester D. Hubbard, Humphrey, Julian, Kerr, Koontz, Marvin, McClurg, Mercer, Miller, Morrell, Morrissey, Mungen, Myers, Niblack, Neill, O'Neill, Orth, Pike, Platts, Poland, Pruyn, Randall, Robinson, Ross, Sitgreaves, Smith, Stewart, Taffe, Taylor, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, Thomas Williams, Windom, and Woodbridge—58.

NOT VOTING—Messrs. Ames, James M. Ashley, Banks, Barnes, Benton, Bromwell, Burr, Cake, Dawes, Denison, Eldridge, Elliot, Griswold, Halsey, Harding, Hill, Hooper, Hunter, Kelley, Kelsey, Ketcham, Laffin, George V. Lawrence, Loughridge, Lynch, Marshall, McCullough, Moorhead, Morgan, Nicholson, Peters, Phelps, Pike, Polsley, Pomeroy, Price, Pruyn, Raum, Selye, Spaulding, Aaron F. Stevens, Stone, Thomas, Trowbridge, Ward, William B. Washburn, Welker, and Stephen F. Wilson—48.

The SPEAKER. On the motion to adjourn there are—yeas 58, nays 58. The Chair votes in the negative; and the House refuses to adjourn.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 7, providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States;" when the Speaker signed the same.

#### DESTITUTE IN THE SOUTH AND SOUTHWEST.

The question then recurred on Mr. BINGHAM's motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BEAMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 52, not voting 48; as follows:

YEAS—Messrs. Anderson, Archer, Baker, Barnes, Bingham, Blaine, Boyer, Brooks, Buckland, Burr, Chanler, Churchill, Donnelly, Eggleston, Ferry, Fox, Getz, Glossbrenner, Hamilton, Hayes, Holman, Hooper, Chester D. Hubbard, Hulburt, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koontz, Mallory, Marvin, Miller, Morrell, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Neill, Orth, Perham, Pike, Platts, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Stewart, Taffe, Taylor, Thomas, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, and John T. Wilson—64.

NAYS—Messrs. Allison, Baldwin, Beaman, Benton, Blair, Boutwell, Broomall, Butler, Reader W. Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dodge, Driggs, Eckley, Farnsworth, Ferris, Fields, Finney, Garfield, Gravely, Hopkins, Asahel W. Hubbard, Ingersoll, Judd, William Lawrence, Loan, Logan, McCarthy, Mercer, Moore, Myers, O'Neill, Paine, Peters, Polsley, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Twitchell, Upson, Bart Van Horn, Cadwalader C. Washburn, Thomas Williams, William Williams, Windom, and Wood—52.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Banks, Benjamin, Bromwell, Cake, Sidney Clarke, Coburn, Dawes, Denison, Ela, Eldridge, Elliot, Griswold, Haight, Halsey, Harding, Hill, Hunter, Kelley, Kelsey, Laffin, George V. Lawrence, Lincoln, Loughridge, Lynch, Marshall, McClurg, McCullough, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Raum, Sawyer, Selye, Spaulding, Stone, Taber, Ward, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, and Woodbridge—48.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

Mr. BINGHAM. Mr. Chairman, I desire the gentleman from Pennsylvania [Mr. MILLER] to withdraw his amendment to the amendment to the original joint resolution offered by the gentleman from Massachusetts, [Mr. BANKS.] I make the appeal in order that I may perfect the resolution by moving to amend the amendment moved by the gentleman from Massachusetts [Mr. BANKS] by striking out the appropriation of \$1,000,000 and inserting after the word "prescribed" the following:

And to that end the Secretary of War is hereby authorized and directed to apply the appropriations heretofore made and unexpended for the use of the Freedman's Bureau, the same to be expended under the direction of the Commissioner of said bureau, and provided."

So that there will be no additional appropriation in the coming year.

Mr. MILLER. I will withdraw my amendment if I can renew it again.

The CHAIRMAN. The amendment of the gentleman from Ohio is not now in order.

Mr. VAN TRUMP. Mr. Chairman, hoarseness of voice and a very sore throat admonish

me that I ought not to undertake to address the House on the present occasion. I desire to make but a few remarks in explanation, as well as in justification, of the vote which I propose to give upon the joint resolution now before the House. The resolution itself involves a principle of startling importance, and should not be passed upon without due and serious consideration.

Two controlling doubts have rested upon my mind in regard to the proposition contained in this resolution: first, as to the constitutional power of Congress to appropriate money as a simple, naked, and unqualified charity; and second, as to the agency through which it is proposed that this charity shall be administered. Sir, I look in vain among the provisions of the Constitution, either express or implied, for any expression or indication giving clear and undoubted authority to Congress to lay its hands upon a single dollar of the public treasure except for the ordinary and legitimate purposes of Government. It is a fact not to be overlooked or disregarded that none of the recognized commentators upon our Constitution—Story, Rawle, or Sedgwick—have alluded in the remotest degree to this wholesale and indiscriminate power of Congress, as now sought to be exercised, to appropriate the money of the people in the total absence of any mutual valuable consideration moving from its beneficiaries. I have neither had the time nor the opportunity, since the inauguration of this debate, to look into the works of these authors; but I challenge the friends of this resolution, whether on the Democratic or the Republican side of the House, to produce a single sentence from these leading expounders of the great organic instrument of the Government which will sustain the power now attempted to be exercised in the uncontrolled disposition of the public treasure. It is, therefore, at least a mooted question, about which there may exist an honest difference of opinion, and to the correct solution of which each member must bring such lights and such convictions as he may have upon the subject. Sir, so far as my action is concerned, I could not give my support to this resolution even upon the theory of a doubtful assumption of constitutional power. It struck me as somewhat unusual, if not slightly amusing, Mr. Chairman, to see some of our friends on this side of the House quoting the Thirty-Ninth Congress as an authority which was not to be questioned upon a point of constitutional power. In looking over the list of laws passed by the last Congress, the very titles of a large number of them do not impress the mind very strongly with the belief that the Constitution was much in the way of any measure or project desired by the majority in that Congress. I admit that a legislative act, even when brought to the test of judicial construction, is sometimes treated as a species of quasi adjudication upon doubtful questions of constitutional power and construction. But this principle only applies where the question is doubtful and where there has been a long and unconflicting line of clear and explicit legislative precedent in favor of such construction. There is no recognized rule of constructive interpretation which can give this power to the Legislature upon any language used in the Constitution. Gentlemen upon this floor have claimed that we have numerous legislative precedents for such appropriations. This may be so; but I have no recollection of a single instance where a money appropriation has been made for any such purpose.

The allusions made to the action of Congress upon the subject of the Greek revolution and the Irish famine, unless I am greatly mistaken in my recollection, do not sustain the proposition contained in this resolution. The only proceedings of Congress of any positive character in relation to the struggle of the Greeks to throw off the Mussulman yoke in 1825, was embodied in simple resolutions of sympathy and encouragement. No money was

voted; no material aid was tendered. During the session of 1826, Mr. Livingston offered the following resolution in the House:

*"Resolved, That the Committee of Ways and Means be instructed to prepare and bring in a bill making an appropriation of \$50,000, to be expended under the direction of the President, in the purchase and transportation of provisions for the suffering inhabitants of Greece."*

The resolution was laid on the table, and was never afterward taken up. So, too, in relation to the famine in Ireland a few years ago. My memory is greatly at fault if Congress appropriated a single dollar in money or provisions for the relief of the Irish people. The tender of a public vessel for the transportation of private donations did not necessarily involve the money power of Congress. Nor would a single or a few instances of like appropriation present such a line of kindred and consecutive precedent as would establish even a legislative construction of the powers of the Constitution. If this power, thus claimed, were not, in effect, a new question; if it was not practically the first time in the history of American legislation in which Congress seriously proposed to exercise this doubtful power over the money of the people to a large amount; then, even as a member of that class of legislators which the honorable gentleman from Massachusetts [Mr. BUTLER] so sneeringly denominates as "strict constructionists," I should with great pleasure record my vote in favor of the power thus assumed for so noble and praiseworthy an object. But in times like these, so eminently and fearfully revolutionary in their character—when constitutions and the great organic principles of the Government are kicked about like foot-balls in these Halls of legislation—I glory in the character of a rigid and unbending constitutionalist.

Sir, if this was a mere matter of expediency or humanity, and not a question of solemn constitutional power, reaching up to the obligations of the oath we have taken to support and maintain that Constitution, there is no gentleman on this floor who would more cheerfully vote for this bill than I would. If I were satisfied of our constitutional power over this subject, no fear of the precedent we would thus establish for future legislation, no apprehension of popular disfavor, no impression that this donation might be ungratefully received on the part of the objects of our bounty, would repel me from voting for even five times the amount proposed in this bill. It has every sympathy of my heart. I was deeply impressed with the touching and eloquent appeal of my colleague, [Mr. BINGHAM.] Every impulse of my heart throbbed responsive to the noble and gushing sentiments of that impassioned invocation; but legislation under a written Constitution like ours means something more than mere passion and sentiment. The passions, and even the duty, of the heart is one thing; the stern and logical necessity of reason, the imperative obligations of a sworn and conscientious public duty, is quite another and a different consideration. The dictates of this paramount obligation I cannot, dare not, disregard. Entertaining these doubts upon the question of constitutional power, I am compelled, reluctantly compelled, to record my vote against the passage of this bill.

One word, Mr. Chairman, as to the proposed channel through which this charity is to be administered. That would be a stumbling-block in my way, even in the absence of constitutional doubts. The Freedmen's Bureau is an institution created for a specific and clearly-defined purpose. The resolution now under consideration provides for no scheme of distribution. There is no clear and well-defined declaration of the trust. The precise object of the charity is not made manifest by any clear description of its beneficiaries. It simply adopts the bureau as its agent, without any instructions whatever. The whole management and disposition of this fund, then, is subject to the mere discretion, to say nothing of the prejudice and partisan feeling, of these bureau superintendents. My confidence in

this most anomalous department of the Government will have to be much more decided and ardent than it now is to make me willing to intrust it with the management of a fund of this magnitude, while the object of the fund remains so vague and indefinite. And more than all this: even if this appropriation involved no higher question than that of legislative expediency, we have from this people no petitions upon our tables asking for this charity: no satisfactory evidence before us that they will accept this donation at our hands. Indeed, Mr. Chairman, in the light of occurring events around us, it would not be at all surprising if they should wholly reject it. It is folly to shut our eyes to the relations of the parties. Congress, by passing this resolution, will voluntarily put itself in the position, with reference to the southern people and its past and current legislation, of holding a whip of scorpions in one hand and a cruse of oil of the Good Samaritan in the other. The picture would be curious, but it would be strictly truthful and historic. Now, I am in favor of no such ridiculous and absurd position as that. Is this House ready to do so? You have already done so by legislation now actually pending on the Speaker's table. Who among us can read the most extraordinary bill introduced by the distinguished gentleman from Pennsylvania [Mr. STEVENS] on yesterday, or that powerful and most concentrated gall of bitterness, his speech, upon its introduction—a bill and a speech which seeks to wrest from its owners, by an exertion of mere legislative power and as a punishment of crime without trial or conviction, more than five hundred millions of property—without feeling in the depths of his heart that such legislation, coupled with any rational idea of Christian charity, is but the merest mockery of justice, and the very acme of insult and degradation.

Sir, the action of an American Congress in regard to the southern people should long ago have been based upon one of two distinct and unequivocal propositions. There should have been no doubt of the political status of that people from the moment they laid down their arms and submitted themselves to the Federal authority; they should, every man, woman, and child of them who had been identified with the rebellion, either have been driven into the Gulf of Mexico, or have been taken back trustingly and kindly into all their former relations with the Union. This intermediate and unrelenting torture, in the nature of an extra-judicial punishment, is unchristian and inhuman, and is fast making the American name a by-word and a reproach among even the monarchical nations of the earth.

I know not how the southern people will feel on this question; but this much I do know: that if I were in their place, with every right belonging to them as men and citizens trampled under foot, with organized and undismembered States made subject to all the burdens, and stripped of all the privileges of the common government, with their civil courts abolished, and a military despotism placed over them as the sole and irresponsible arbiter of their lives and property; I say, sir, that under all these circumstances of tyranny and oppression, if I were one of them, with all the instincts of an American freeman still in my possession, I would die by the slow and terrible process of starvation rather than touch one dollar of this congressional charity.

Mr. Chairman, what the people of the South now most stand in need of is, not bread, but justice; not charity, but constitutional liberty; not a mockery of woe, but a manly appreciation as peers; not a doubtful bounty, but a real and full fellowship in the great and glorious privileges of a Federal Union, which shall recognize, under the Constitution, the perfect equality of States, reestablishing civil law where military despotism now dominates, and insure to them the blessings of representative government instead of an abject and degrading vassalage. Give to this downtrodden people these great heritages of American freemen and we shall hear no more of want and destitution.



They will then be able to take care of themselves, and will neither need nor solicit alms.

Sir, in my humble opinion, the Congress of the United States will best discharge its whole duty to the Constitution, to humanity, to a Christian civilization, and to a wise and noble statesmanship, by according to the southern people, standing as organized and legitimate States within the Union, all their political rights, and all their just powers of local self-government, as equal members of the confederacy. To do this would, indeed, be a heavenly charity; not as a humiliating gift, not as an unsolicited donation, not as an indifferent alms by the wayside; but in the spirit of that higher and broader charity which pertains to masses of men rather than to individuals, and which recognizes the principles of justice and ignores all sense of wrong and oppression. A policy like this would do more to heal the great wounds of the country, more to inaugurate peace and harmony and mutual respect among the distracted sections, than if you were to pour out the entire treasure of the nation as an alms to a proud and high-spirited people.

I am at a loss, Mr. Chairman, to understand the motive and the spring of action which impels the other side of the House, although they are somewhat divided in their position as to the bill now before us, to propose to vote \$1,000,000 to a people whom they have oppressed by a studied system of hostile legislation unparalleled in modern times. Is it intended as some reparation for the wrongs thus inflicted upon them? Is it, at last, compensation rather than charity? Is reaction in the Republican mind, like reaction in all other over-excitements, whether moral or physical, about to take place, and thus restore the popular feeling to that normal condition of quiet and repose so well calculated to bring about a good understanding between parties now hostile and belligerent? If there is any feeling of this sort connected with this measure on the part of those who advocate this bill as members of the party on the other side of the House, why not frankly apply the real remedy at once, with straightforward directness and earnestness? Several gentlemen on the Republican side put the merits of this bill upon the ground that it would tend to bring about reconstruction and reconciliation. If that is a thing desired by our friends on the other side of the Hall, or by a portion of them, there is a much more effectual mode of accomplishing the object. Repeal your Freedmen's Bureau bills, your civil rights bills, your negro suffrage bills, and your military reconstruction bills, and you will do more to reunite a divided people, more to put the country on the high-road to prosperity and greatness, more to reinvigorate all the channels of trade, of commerce, and of the industrial arts, than you can by all the money you can create by paper-mills and steam printing-presses, when applied in the way of a loose and indefinite charity to a people who are too proud to acknowledge or even accept the favor as an alms, and who are too much broken down by political oppression to be permanently benefited by its reception.

For these reasons, sir, and for many more which might be enumerated, I shall earnestly and conscientiously record my vote against the passage of the bill.

Mr. WOOD. The honorable gentleman from Ohio yields to me the residue of his time. It is not my intention, sir, to prolong this debate to any length. I wish merely to present six reasons which influence my mind and which determine me to vote against the passage of the pending joint resolution. I shall not elaborate these points or detain the committee from proceeding to an immediate vote.

Mr. Chairman, I will not vote for the pending joint resolution for the following reasons:

First, Because Congress has no power under the Constitution to make appropriations of public money for charitable purposes;

Second, Because neither the southern States nor people have applied to Congress or the Government for such aid;

Third, Because the arguments which have been advanced in this House in favor of the appropriation by those who have participated in passing measures destructive of the political rights of the southern States and oppressive of the southern people place the gift proposed on grounds insulting and derogatory;

Fourth, Because the money will be disbursed through the agency of the Freedmen's Bureau, whose agents in many cases are not only unsafe custodians of public money, but disqualified by prejudice against the white people of the South to make an impartial distribution of funds for charitable purposes;

Fifth, Because the sudden philanthropy of those who propose this measure at this time, immediately preceding the southern elections, is calculated to excite suspicion that political and not benevolent motives lie at the bottom of the proposition;

Sixth, And because the Freedmen's Bureau has already over two million one hundred thousand dollars to its credit unexpended, which can be used by its chief to relieve any cases of actual want that may exist among the southern people.

Mr. Chairman, for these reasons, without any attempt to go into any discussion explanatory of them, I shall vote against the pending measure. I state very broadly and explicitly that either one of them would prevent this measure from receiving my vote.

Mr. BINGHAM. Mr. Chairman, I desire that the committee shall come to a vote upon this question, and I now offer an additional proviso to come in after that offered by the gentleman from Massachusetts, [Mr. BANKS.]

The CHAIRMAN. The pending amendment, as offered by the gentleman from Massachusetts, [Mr. BANKS,] will first be read.

The Clerk read as follows:

*Provided*, That there shall be expended from the appropriation herein made, under the direction of the Commissioner of Agriculture, the sum of \$50,000 for the purchase of seeds, to be distributed among the destitute people of the South by the Commissioner of the Freedmen's Bureau.

Mr. BINGHAM. I move to add the following proviso:

*And provided further*, That no part of the money herein appropriated shall be used for the purposes aforesaid until the unexpended appropriations heretofore made by existing law for the use of the Freedmen's Bureau shall have been first applied to the purposes herein specified, under the direction of the Commissioner of said bureau.

Mr. BINGHAM. The committee will see, if this proviso is incorporated in the resolution, not one cent can be drawn from the Treasury for the purpose specified in the original Senate resolution until all the money unappropriated by existing laws for the use of the Freedmen's Bureau shall have been first applied to the purpose specified in the original resolution, to wit, to supply the wants of the destitute and famishing in the southern and southwestern States.

Mr. SCHENCK. If I understood my colleague, he would take it away from the loyal and give it to the disloyal.

Mr. BINGHAM. I regret very much that my colleague labors under so strange a hallucination. The gentleman from Pennsylvania [Mr. STEVENS] yesterday reminded the House truly that in the appropriation made in the several cases passed in the Thirty-Ninth Congress there was no limitation to the loyal; and he stated also very truly that in the expenditure of that money the disloyal who happened to be refugees within the meaning of those statutes were provided for by the Freedmen's Bureau.

But the occasion for this enlargement, Mr. Chairman, is this: there are large numbers of poor whites, as they are known in the several States of the South, who are not refugees; and I undertake to say a majority of those who are now suffering never were disloyal to your flag, who cannot be relieved at all by your existing laws, even though the existing appropriation were sufficient for that purpose, for the reason that those laws restrict the Freedmen's Bureau to the use of funds for the re-

lief first of freedmen, that is to say, men who have been slaves, and second of refugees, that is to say, men who are in the sense of that word refugees escaping.

Mr. SCHENCK. I will answer my colleague, if he will allow me to interrupt him.

Mr. STEVENS, of Pennsylvania. I ask to be allowed to make an explanation, as the gentleman referred to me.

Mr. BINGHAM. Certainly.

Mr. STEVENS, of Pennsylvania. When we established the Freedmen's Bureau we appropriated several million dollars, since which time we have appropriated about twelve million dollars for the same purpose, for the freedmen and refugees. It did not mean loyal or disloyal; it meant refugees who were suffering, whether they were loyal or disloyal; and upon the reports, so far as I have observed them lately, in many parts of the country about three fourths of the persons fed were white refugees. That far the statement of the gentleman is true. Now, I do not see any reason why they should not go on the same way, unless you want to bring in a class of sturdy beggars to be fed.

Mr. SCHENCK. I understand my colleague to have yielded to me for a moment. I wish to be understood about this matter in the remark I made about giving preference to the disloyal. If my colleague will look at General Howard's report he will find that what we call the Bureau of Freedmen is in fact by law a Bureau of Refugees, Freedmen, and Abandoned Lands. He will find, too, in the provisions made for the relief to be given under the bureau as thus organized by law some ten or twelve million dollars have already been given. It is the practice to give, in the first place, as a matter of course, to the freedmen, for they are named, not by preference to others, but there is a distinction made by the general epithet, and I suppose I may appeal to my colleague to know whether they belong to the loyal class rather than the disloyal. In the next place to the refugees, and I admit without stating whether they are loyal or disloyal. Practically, every starving man, woman, or child who has come to the bureau asking for rations has been treated as a refugee, and has received these rations, and the returns from Richmond and other points, where three whites to one negro were fed by rations issued under the direction of the Freedmen's Bureau, will show that no inquiry was made beyond the fact whether they were needy or not.

General Howard, near the close of his report, says that for all these purposes the \$5,000,000 last appropriated is ample. What, then, further is asked? That somebody who has not been thus fed, that somebody who is not a freedman or a refugee, who is not a destitute man, woman, or child, who has come petitioning for rations, shall be taken care of; and, if I understand it, it can only be the sturdy disloyalist, too lazy to work, but still wanting to be supported at the expense of the Government of the United States.

Mr. BINGHAM. I am very much obliged to my colleague [Mr. SCHENCK] for making the statement he has made, and I intend, too, that he shall be understood. He has stated here now in the hearing of the committee that no starving man or woman or child, whether loyal or disloyal, has been denied relief by the Freedmen's Bureau. If that be the case, then, if the gentleman favors that conduct of the bureau, he cannot object to the amendment which I have offered, which requires the bureau in the future not to inquire whether the starving poor have been loyal or disloyal. And that being the case, I would like to know what becomes of the objection of my colleague, that we propose to transfer this fund from the loyal to the disloyal? And in this connection I beg leave to say further that in the report to which my colleague has referred General Howard has notified the Congress of the United States that not merely \$1,000,000, but \$1,500,000 additional will be needed for this purpose; and yet I feel at liberty to say this much, that General Howard—

Mr. LOGAN. Will the gentleman allow me to interrupt him a moment?

Mr. BINGHAM. Well, yes.

Mr. LOGAN. I desire to say, in connection with what the gentleman has said about the report of General Howard, that I am told by an honorable member of this House that General Howard stated to him this morning in a committee-room of this House that he had ample appropriations now unexpended to supply the wants of all classes of persons in the whole South, without one dollar more, until December next.

Mr. BINGHAM. And I will say one thing further—if the gentleman pleases: that General Howard told me this day in this Hall—if I may be pardoned for stating what he said—

Mr. LOGAN. I can give the gentleman the name of my informant.

Mr. BINGHAM. I do not doubt the accuracy of the statement made by the gentleman; but I want to state as one of the reasons why I offered the amendment which was ruled out of order by the chairman, to strike out this appropriation of \$1,000,000, that General Howard himself informed me that under the existing law he could not appropriate the money he now had to relieve all the suffering indiscriminately, for the reason that by the very terms of your law the relief is limited to freedmen and refugees. Now, having had somewhat to do in framing the last bill in the Thirty-Ninth Congress, I undertake to say, with all respect to my colleague, [Mr. SCHENCK,] that the word "refugees" has not been construed by the Freedmen's Bureau to embrace people who are dwelling within the States of their nativity, who are refugees from no one and from no law, but who are starving in their own houses.

Mr. SCHENCK. I am certain that is a mistake.

Mr. GARFIELD. I would like to inquire of my colleague [Mr. BINGHAM] if he knows how much money there is now in the hands of the Freedmen's Bureau unexpended which can be used for the purpose of assisting distressed people in the South?

Mr. BINGHAM. I do not know precisely, but I infer from my interview with General Howard that there might possibly be \$1,500,000 which could be appropriated to this purpose, if my amendment should be adopted.

Mr. ALLISON. If I understand the gentleman correctly, he says that the Commissioner of the Freedmen's Bureau is now restricted to assisting refugees and freedmen.

Mr. BINGHAM. In supplying food.

Mr. ALLISON. Yes, in supplying food.

Mr. BINGHAM. Certainly he is.

Mr. ALLISON. And that he cannot use any of the funds heretofore appropriated, except in that way, unless there be additional legislation.

Mr. BINGHAM. That is what I understand.

Mr. ALLISON. Now, I desire to know from my friend from Ohio whether or not his proviso will enlarge in any sense the existing law. It does not seem to me to have that effect.

Mr. BINGHAM. I beg leave to say that it does enlarge it to just this extent—

Mr. SCHENCK. Will my colleague allow me to say—

Mr. BINGHAM. No, sir, I cannot yield now; and let me say that I do not intend that this cause shall be higgled and chopped to pieces by its enemies.

I am obliged to the gentleman from Iowa for making the suggestion. The proviso I have offered does enlarge existing legislation to this extent: that whether the famishing poor in the South be black or white, whether they be freedmen, refugees, or other persons, the funds heretofore appropriated for these very purposes, but limited to freedmen and refugees can, if the proviso be adopted, be applied to the relief of whatever persons may be famishing for bread, whether or not they answer the description of refugees or freedmen.

Mr. STEVENS, of Pennsylvania. I desire to ask the gentleman what is included in the term "refugees?" Have the officers of the bureau, in relieving destitution, ever made any distinction between the poor loyalist and the poor disloyalist?

Mr. BINGHAM. I have always understood that the term "refugee" has a specific and definite meaning in the law, and never did apply to any person except those who have been expelled from their own region of country, or of their own choice have sought refuge elsewhere.

Mr. STEVENS, of Pennsylvania. All I can say is that nine out of ten of those who have been fed by the Freedmen's Bureau have been disloyal men who had become poor.

Mr. BINGHAM. Well, if that be so, the gentleman ought not to object to my proviso, unless it really be his purpose that when men are dying from hunger, an inquest shall be held to determine whether they fall within the definition of refugees or freedmen, and that unless the question be decided in the affirmative we shall let them die. That is the position which is assumed here.

Mr. GARFIELD. I wish to ask my colleague [Mr. BINGHAM] a question. I have just been reading his proviso, and I do not wish to do any injustice to his purpose; but it seems to me that if he has a definite design in his mind he has failed to express it in language which will carry out what I think is desired by the mass of those who will vote with him. If I construe correctly the language of the proviso it simply forbids the expenditure of another dollar by the Freedmen's Bureau under existing laws until all the money now at the disposal of the bureau shall be diverted to this object and expended in carrying it out?

Mr. SCHENCK. That is precisely what it does.

Mr. GARFIELD. I ask my colleague [Mr. BINGHAM] to permit the proviso to be again read; and I think that when he has carefully observed its language he will be obliged, as a lawyer, to confess that its effect will be precisely this: to divert from its regular uses every dollar already appropriated for the Freedmen's Bureau, and expend it for the purpose specified in this joint resolution.

Mr. SCHENCK. And then, when that fund has been expended, the officers of the bureau can draw upon this appropriation of \$1,000,000 for the same purpose.

Mr. GARFIELD. Yes, sir; that is the effect of the proviso. It will not only apply to this single purpose the appropriation now made, but will divert to the same object the fund already appropriated; so that not one dollar will go toward the purposes of the Freedmen's Bureau as hitherto administered.

Mr. BINGHAM. I will relieve my colleague. I thought the text of the joint resolution would be used in its construction. But my colleague has overlooked that matter, and has confined himself to the language of my proviso. But in order that my colleague may be relieved, I will repeat this at the risk of putting into the statute, if this proviso be adopted, what may be called surplusage or tautology and agree that the words "to supply food" shall be inserted in the proviso as in the original text of the joint resolution, and thereupon my colleague cannot hesitate in his judgment of the matter.

Mr. GARFIELD rose.

Mr. BINGHAM. Not now. I want the committee to understand this. There is no mistake about it. Let me refer to the original text of the joint resolution. The Secretary of War is empowered and directed to issue supplies of food sufficient to prevent starvation and extreme want to any and all classes of the people in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution, and that such issues shall be made through the Freedmen's Bureau under such regulations as the Secretary of War shall prescribe. The proviso which I

wish to follow it, giving the suggestion of my colleague touching this matter of food, will be as follows:

*Provided further.* That no part of the money herein appropriated shall be used for the purpose aforesaid until all unexpended appropriations heretofore made by existing law for the purpose of the Freedmen's Bureau to supply food shall have been first applied to the purpose as herein specified, under the direction of the Commissioner of said bureau.

Now, Mr. Chairman, having made that correction, I take the opportunity to say—

Mr. BOUTWELL. I apprehend the gentleman has not met the difficulty in the original bill. The original bill provides that the Freedmen's Bureau may issue supplies of food and clothing, and may also furnish shelter to freedmen and refugees.

Mr. BINGHAM. I am aware of that.

Mr. BOUTWELL. Under that the bureau has set up asylums in various parts of the South where they take care of the sick and infirm. If I understand the proposition before the committee, as modified by the gentleman from Ohio, it destroys at once the power of the Freedmen's Bureau to issue supplies of clothing to the destitute or to keep up these asylums.

Mr. BINGHAM. I put the words of limitation so that the agent appointed is to draw until he has expended the fund designated by law for the supply of food.

Mr. BOUTWELL. This limits the issue of supplies to certain goods—to the supply of food. Now, then, you prevent, by the proviso of the gentleman from Ohio, that \$1,000,000 being expended until the money now on hand in the Freedmen's Bureau shall be expended according to the provisions of this joint resolution, to wit, furnishing food, so that we prohibit the furnishing of any more clothing.

Mr. BINGHAM. The gentleman is mistaken. By the insertion of the words "heretofore provided for furnishing food" he is only limited to that extent.

Mr. GARFIELD rose.

Mr. BINGHAM. I desire to make a statement. I know what the gentleman from Massachusetts refers to. In the original bill, passed at the first session of the Thirty-Ninth Congress, there were about three million dollars appropriated distinctly for supplying food, a million and a half for the distinct purpose of supplying clothing, and another large amount of money distinctly for the purpose of transportation. There was another definite sum that was appropriated distinctly for the purpose of education. Now, these words of limitation here are to this effect: that he shall first exhaust the fund appropriated by existing law for the purpose of supplying food.

Mr. SPALDING. Does my colleague believe in the resolutions of 1798?

Mr. BINGHAM. I do not know why my colleague puts such a question.

Mr. GARFIELD. Allow me to put a practical question. I want to know of my colleague whether these appropriations to which he refers were not made in the lump for all the purposes?

Mr. BINGHAM. They were not; they were definite and distinct. I have stated it two or three times. My colleague makes an inquiry which furnishes the key to this whole matter. I supposed the committee understood it, but I will state again that under the existing laws there are definite appropriations, which I understand are unexpended, for the purpose of supplying destitute freedmen and refugees with bread. Now, the amendment which I offer is simply to extend the provisions of these existing laws so that the Commissioner of the Freedmen's Bureau may apply these definite appropriations now unexpended under existing laws to supply food to all classes of persons in the southern and southwestern States who are famishing for bread, without the limitation of the words "freedmen or refugees." That is all there is of it.

Mr. PILE. Will the gentleman yield for a suggestion?

Mr. BINGHAM. Yes, sir.

Mr. PILE. I suggest that we are all agreed that it is desirable to reach the object aimed

at by the gentleman from Ohio; but the difference of opinion seems to me to be with reference to the method of reaching it so as not to conflict with existing laws or interfere with the charities already provided for through the Freedmen's Bureau. Hence it seems to me, in order to accomplish the object, we had better vote down all the various amendments, and then substitute a resolution for the Senate resolution. That, I think, will make the matter perfectly clear.

Mr. BINGHAM. There will be no difficulty in doing that if the gentleman from Massachusetts, now in the House, would withdraw his pending substitute, so that another might be offered.

Mr. PILE. I desire to have a substitute that I have drawn read for information.

The Clerk read as follows:

That the Secretary of War be, and he is hereby, authorized, through "the Bureau of Freedmen, Refugees, and Abandoned Lands," to extend at his discretion the distribution of food and clothing authorized to be issued to refugees and freedmen of the rebel States, so as to include any destitute women or children or helpless aged persons.

Mr. BINGHAM. I hope the gentleman will not limit it in that way, but modify it so as to include all destitute persons.

Mr. PILE. I think my proposition is very broad. It says women, children, and helpless aged persons.

Mr. BINGHAM. I know it does, but does the gentleman mean to say that all persons in middle life are to be excluded? Sir, if gentlemen are disposed to trifle with this I throw down the gauntlet and defy them. I do not propose to insult starving men because they happen to be in middle life. I yielded to the gentleman, not supposing he would offer such a proposition, but that he was going to limit it simply to those who were suffering; and I now appeal to him to change the words of his substitute so that it will include all classes who are suffering.

The CHAIRMAN. The proposition is not pending as an amendment. It was read for information.

Mr. PILE. I have no objection to modifying it as the gentleman suggests.

Mr. STEVENS, of Pennsylvania. I move that the committee rise.

The CHAIRMAN. The gentleman from Ohio has the floor.

Mr. STEVENS, of Pennsylvania. I did not know he had been up all this time. I supposed he had said enough. [Laughter.]

Mr. DONNELLY. I desire to have an amendment reported for information.

Mr. BINGHAM. I will hear it.

Mr. DONNELLY. I desire to move the following proviso:

*Provided, however,* That the total amount so to be expended for food shall not exceed \$1,000,000, unless it becomes apparent to the Commissioner of the Freedmen's Bureau that further expenditures are absolutely necessary to save men, women, and children from death by starvation.

Mr. BINGHAM. That comes in at the end of my proviso?

Mr. DONNELLY. Yes, sir. I ask the gentleman to accept it as a modification of his amendment.

Mr. BINGHAM. I accept it, to come in at the end of the proviso I have moved. I now move that the committee rise and report the joint resolution and pending amendments to the House.

The CHAIRMAN. It is not in order to move to report a bill or joint resolution from the Committee of the Whole while any amendment thereto is pending.

Mr. BINGHAM. Then I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, according to order, had had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the

southern and southwestern States, and had come to no resolution thereon.

Mr. BINGHAM. I now move that when the House again resolve itself into Committee of the Whole and resume the consideration of Senate joint resolution No. 16, all general debate upon the joint resolution and amendments thereto shall be terminated in two minutes.

Mr. FARNSWORTH. I move that the House now adjourn.

The question was taken upon the motion to adjourn; and upon a division, there were—yeas 58, noes 50.

Before the result of the vote was announced, Mr. RANDALL called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 61, not voting 37; as follows:

YEAS—Messrs. Allison, Ames, Baker, Baldwin, Boutwell, Broomall, Butler, Cake, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cornell, Covode, Cullom, Dodge, Driggs, Eckley, Eggleston, Elia, Farnsworth, Ferriss, Fields, Finney, Garfield, Gravelly, Hooper, Hulburd, Hunter, Judd, Kitchen, William Lawrence, Lincoln, Loan, Logan, McCarthy, McClurg, Mercer, Miller, Moore, Morrill, Newcomb, O'Neill, Paine, Perham, Polsley, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Thomas, Twitchell, Upson, Burt Van Horn, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Windom, and Wood—66.

NAYS—Messrs. Anderson, Archer, Barnes, Benton, Bingham, Blaine, Boyer, Brooks, Buckland, Burr, Coburn, Donnelly, Eldridge, Ferry, Fox, Getz, Glossbrenner, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Julian, Kerr, Ketcham, Koontz, Mallory, Marvin, McCullough, Morrissey, Mungen, Myers, Niblack, Nicholson, Noell, Orth, Peters, Pile, Poland, Pruyn, Randall, Robinson, Ross, Strigevay, Smith, Spaulding, Stewart, Taber, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Henry D. Washburn, John T. Wilson, and Woodbridge—61.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Banks, Beaman, Benjamin, Blair, Bromwell, Cook, Dawes, Denison, Eliot, Griswold, Harding, Ingersoll, Kelley, Kelsey, Laffin, George V. Lawrence, Loughridge, Lynch, Marshall, Moorhead, Morgan, Phelps, Pike, Plants, Pomeroy, Price, Raum, Selye, Stone, Taffe, Taylor, Van Wyck, Ward, William B. Washburn, and Stephen F. Wilson—37.

So the motion was agreed to; and accordingly (at four o'clock and fifteen minutes p.m.) the House adjourned.

## IN SENATE.

THURSDAY, March 21, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. NORTON presented resolutions of the Legislature of Minnesota, in favor of exempting from duty all live stock coming into that State from the Red river settlements; which was referred to the Committee on Commerce and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of appropriations for the improvement of the State road from St. Cloud to Fort Abercrombie, in Dakota Territory; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of a wagon-road from the western line of that State to Helena, in the Territory of Montana; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of the establishment of a daily mail route from Rushford, in that State, to Decorah, Iowa; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of a branch extension of the United States military road between Fort Howard, Wisconsin, and Fort Wilkins, Michigan, from the village of Shawano to the village of Wanson; which was referred

to the Committee on Public Lands, and ordered to be printed.

## REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 4) for the relief of William Shunk, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was recommended the resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs, reported it with amendments.

Mr. MORRILL, of Vermont, from the Committee on Finance, to whom was referred the bill (H. R. No. 73) to exempt ladders from internal tax, reported adversely, and moved that it be postponed indefinitely; which was agreed to.

Mr. WILLIAMS. I am unanimously instructed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 18) to extend to the employes in the first division of the National Currency Bureau of the Treasury Department the provisions of the joint resolution approved 28th February, 1867, giving additional compensation to certain employes in the civil service at Washington, to report it back and recommend its indefinite postponement. It is the unanimous opinion of the committee that these explanatory resolutions ought not to be passed. Numerous applications have been made from different Departments for similar resolutions; and if one is passed another must be, and there will be no end to this sort of legislation. As the letter addressed to the committee by the Comptroller explains his decision to the effect that he holds that the female employes in the Currency Bureau can be paid their twenty per cent. compensation, and that his decision only excludes male employes there who are paid by the day and whose pay may be increased at the pleasure of the head of the division, it is regarded as inexpedient to commence this sort of legislation, and the committee have concluded not to extend the application of the resolution referred to in this report beyond the classes designated in it. I move that this joint resolution be indefinitely postponed.

The motion was agreed to.

## SENATOR FROM MARYLAND.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Committee on the Judiciary, to whom have been referred the credentials of Hon. P. F. Thomas, chosen a Senator of the United States by the Legislature of Maryland, be authorized to send for persons and papers for the purposes of said reference.

## OLDENBURG CONSUL AT NEW YORK.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the President of the United States be requested to communicate to the Senate, if not in his opinion incompatible with the public interest, copies of any recent correspondence on the files of the Department of State relating to the exequatur of the consul of the Grand Duchy of Oldenburg, residing at New York.

## REGENTS OF SMITHSONIAN INSTITUTION.

Mr. FESSENDEN. By expiration of their term of office two of the Regents of the Smithsonian Institution on the part of the Senate have gone out, and it is necessary to fill the vacancies. I move, therefore, that the two vacancies in the Regents on the part of the Senate be filled by appointment by the Chair.

The motion was agreed to; and the President *pro tempore* appointed Mr. TRUMBULL and Mr. DAVIS.

## WRAPPING-PAPER.

Mr. MORRILL, of Vermont. The Committee on Finance, who have had under consideration the bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, report it back without amendment, and recommend its passage. I

ask for its present consideration. I presume there will be no objection to it.

By unanimous consent, the bill was considered as in Committee of the Whole.

Mr. MORRILL, of Vermont. I will merely say that under the recent act passed by Congress amending the internal revenue laws, wrapping-paper made of straw is exempt from tax. I am free to say that I should prefer that all wrapping-paper should be subject to a tax; but having exempted that made from straw, it is very apparent that that made from wood and corn-stalks, used for identically the same purpose, ought also to be exempt.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### BOUNTY TO MISSOURI TROOPS.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 6) placing certain troops of Missouri on an equal footing with others as to bounties, to report it back without amendment, and recommend its passage.

Mr. DRAKE. I ask the unanimous consent of the Senate for the present consideration of that joint resolution. The matter has been reported upon two or three times by the Military Committee of the Senate, and this resolution has now passed the House of Representatives, having been thoroughly investigated by the Military Committee of the House, and as it relates to a most meritorious body of troops who rendered in every way most efficient service in the State of Missouri during the entire rebellion, I would earnestly ask the Senate to give unanimous consent to its present consideration.

Mr. TRUMBULL. If it is to take any time I shall feel constrained to object to it, because I desire to call up the joint resolution from the House suspending the operations of certain commissioners who are assessing damages for slaves. I expected to get it up yesterday, but found it impossible to do so, another matter having the attention of the Senate. If this measure is not to lead to discussion I shall not object.

Mr. DRAKE. I am not aware that it will lead to any.

Mr. TRUMBULL. Has the Senator any assurance that it is not to be opposed?

Mr. DRAKE. I have never heard a word of opposition to it from any quarter.

Mr. TRUMBULL. I will not object if it does not cause delay.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of this joint resolution? The Chair hears none.

The joint resolution was considered as in Committee of the Whole.

It provides that the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, also all those borne on the rolls as "slaves," shall be considered as placed on an equal footing with the volunteers as to bounties, and that all laws relating to bounties shall be applicable to them as to other volunteers.

Mr. FESSENDEN. I should like to have some explanation of this measure. I do not know exactly what it means.

Mr. DRAKE. I will state that under the authority of an act of Congress there was organized in the State of Missouri for the special purpose of repelling the movements of rebel troops from the southward there, and of keeping the rebel element in Missouri in subjection, a body of ten thousand troops. Those troops have never yet been placed upon the same footing with regard to bounties with the other troops of the United States, and this is simply a resolution to put them in that position, nothing more. There is nothing beyond that in the resolution. It has been reported upon two or three times by the Military Committee of this body, as I stated before; and now it has

been reported upon favorably by the Military Committee of the House, and has passed the House and has come to us for concurrence. I earnestly hope that the matter will commend itself to the judgment of the entire Senate as being only right and proper that these men, who were in all respects exactly the same as the other volunteers of the United States, except that they were organized for the specific purpose of resisting the rebellion on the soil of Missouri, and performed their duties there, should be put on the same footing with all the other troops. I know of no explanation that can be given beyond this, except to say that in the whole Army of the United States during the rebellion I hardly think there was a body of men who more faithfully performed their duty and who rendered more acceptable service to the country than this body of troops did. I hope very much that the explanation will be satisfactory to the honorable Senator from Maine.

Mr. HOWARD. I have been informed, and I suppose correctly, that these troops served not only within the limits of Wisconsin, but that they served generally beyond the limits of that State, like other volunteers, wherever they were ordered.

Mr. DRAKE. Certainly they served where ever they were ordered; but the specific object of the first formation of that body of troops by President Lincoln was to resist the influences that were at work in that State to take it out of the Union and to resist aggressions from the southward. They were mustered in for three years, and during the war served not only in the State, but out of the State wherever they were required to serve; but the primary object was that which I have stated.

Mr. FESSENDEN. I wish to know why they do not come under the act making appropriations for bounties.

Mr. DRAKE. My colleague, who is more familiar with that matter, can probably explain it to the Senator from Maine.

Mr. HENDERSON. In the early part of the war the United States troops in Missouri were called out of the State in order to go into Tennessee and Kentucky, leaving us there almost entirely defenseless. An incursion was made into the State. A proposition was made by the then acting Governor of the State, Governor Gamble, that he would raise ten regiments over our quota, ten regiments more than we were bound to raise under the call of the War Department, provided they should not when raised be sent out of the State. Mr. Lincoln accepted the proposition of Governor Gamble, and the ten regiments were raised. That was in the early spring of 1862. In March, 1862, the Senator from Massachusetts reported a bill to prevent the raising of more than ten regiments under the order which was made by the War Department, but providing that those ten regiments might be mustered into the United States service, and put upon an equal footing with other troops, but no more. After they had served two years, under an opinion given by Mr. Whiting, who was then acting as Solicitor of the War Department, they were refused bounty. They were paid by the United States; they were subsisted by the United States; and they were, as we supposed, upon an equal footing in all respects with other volunteers; but, strange to say, after two years' service this refusal came to pay them bounties. They, however, went on and served out their time until the close of the war. Some of them served three years and four or five months, and all of them served over three years.

Mr. HOWE. Do I understand the Senator to say that they were mustered into the service of the United States?

Mr. HENDERSON. Yes, sir, that is my understanding. It is proper for me to say, however, that Mr. Whiting took the contrary ground. He said they were local troops. Such was not my understanding. I have not the act before me; but I will turn the Senator's attention in a few moments to the act passed in March, 1862, to which I have alluded.

Much to my surprise, this decision was made that these troops were not entitled to bounty. They were entitled to pensions; they were entitled to pay; they were entitled to subsistence; and they were regarded in Missouri in every respect as United States troops; but this opinion of Mr. Whiting treated them as State troops. Early in January of 1866 I submitted a resolution asking the War Department why bounty had not been paid to these troops, and in answer to that resolution Mr. Stanton sent to the Senate, under date of May 19, 1866, a report, from which I will read:

"The question as to whether these bounties were payable under existing laws having arisen in the Pay Bureau, it was referred to the Solicitor of the War Department for investigation and opinion. That opinion, which was adverse to the claim under existing laws, has been excepted to by able counsel on the ground that certain facts and legal enactments were overlooked which materially affect the question."

Mr. Whiting, in giving his opinion, was utterly unaware, it seems, of the act of March, 1862, which in effect mustered these troops into the service of the United States. Four regiments in Maryland, accepted under the very same terms, were paid their bounty; and I never knew that any distinction was made until we received this opinion. But, says the Secretary:

"But the Secretary has not felt at liberty to make so large an expenditure of money against the opinion of the law officer of the Department, when all doubts might be removed by legislative action. He has, therefore, declined to pay these bounties until plainly directed by Congress."

"Reports of the meritorious service of these troops elsewhere than in the State of Missouri during the war, by military commanders cognizant of the facts, are herewith submitted. These reports are believed to be correct in fact. Whether in view of the service the claim for bounties should be paid appears to be a question of legislative discretion, that can be appropriately determined only by Congress. From the military reports the claim seems to be meritorious."

"Very respectfully, sir, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War."

Mr. FESSENDEN. Then they served out of the State of Missouri?

Mr. HENDERSON. Certainly; and the Secretary of War sent here reports of the commanders under whom these troops had served. I propose to read from these military commanders in regard to these troops. I have before me the opinion of Mr. Whiting, which Senators will see in the document to which I have alluded, and also the opinion of the Paymaster General. - Mr. Whiting clearly overlooks the act of March, 1862; but I will first read the report of General E. B. Brown:

St. Louis, January 29, 1866.

Sir: In reply to your request asking me to inform you if the Missouri State militia served with me in any other State than Missouri, and if that service, if rendered, was done willingly, I have the honor to state that from June 1, 1862, to January 18, 1863, I was on duty in the field in southwest Missouri and Arkansas, and during most of that time had the command of the southwestern district, which was the advance line of the Union forces, and that the larger proportion of the troops with me were Missouri State militia. That repeated raids and expeditions were made into Arkansas during that time by these troops, and there was no hesitation on their part to perform their duty cheerfully. The official reports will show that some of these expeditions resulted in important captures of the property and troops of the enemy, and that all were successful affairs. The Missouri State militia served with me for three years, side by side with volunteers under another name, and I never recognized any difference in the kind or value of service they performed.

I am, very truly, your obedient servant,

E. B. BROWN,

Late Brigadier General of Volunteers.

Colonel SAMUEL P. SIMPSON, Adjutant General of Missouri, Jefferson City.

General James Totten says—I will not read all of his communication:

"As you are aware, I was one of the very first among those whose position and surroundings brought them in contact with the rebellious spirits of 1861 in Missouri; and the greater portion of my military life since the initiation of the rebellion has been within the borders of Missouri and her sister State, Arkansas, and always, more or less, in connection with the men of those States." \* \* \* "They marched with myself and other officers within and without the State of Missouri—crossed and recrossed the borders between Arkansas and their own State, on various occasions, by night and day, in winter and summer, and at all times with zeal and alacrity—a cheerful willingness, which, on certain of these occasions, proved anything else than pleasure trips to those concerned."



General Pleasanton says:

"During the year 1864, while I was serving in the 'Department of Missouri,' upon various occasions, I had occasion to observe the gallant conduct and *esprit du corps* which characterized this force. Especially during the campaign against Price in the fall of that year it was more conspicuous.

"They have never, to my knowledge, refused to leave the line of the State, which the terms of their enlistment as a local force might be construed to justify, but they were always ready to follow, seek, and fight the enemy either within or without the borders of their State.

"I am impressed that in all respects they possessed the characteristics of other United States volunteers."

Remember, these communications were sent here by the Secretary of War in answer to my resolution. General McNeil says:

"I have always found the different regiments of Missouri State militia ready and willing to march whenever or wherever ordered, and to meet the enemies of the Union where they could find them. No other troops have performed so much service in Missouri, and no troops have fought better when in action. They have always been orderly, subordinate, and dutiful, as well as vigilant, patriotic men, patient of endurance."

It is evident that Mr. Stanton was clearly of opinion that these troops were entitled to bounty; I think that is manifest from his letter; but he declines to pay it, because of the opinion of the Solicitor, given, as I have stated, in utter ignorance of the legislation of Congress. I will now read what General Curtis says of these troops:

"These troops I always considered United States volunteers, subject to duty in and out of the State, and I considered them perfectly reliable everywhere. I often sent them beyond the Missouri border to fight, and many of them poured out their blood on distant battle-fields for our cause and country; and I have also shared with them the conflicts which mingled in common graves their bodies with their comrades from Iowa, Illinois, and Kansas.

"Governor Gamble claimed more immediate command of the 'B. M. M.'—

the enrolled militia of Missouri, with which these 'Missouri State militia' seem to have been confounded—

"but as to the 'M. S. M.' my authority was considered absolute, even to the extent of prohibiting this force from meddling with any protection of a master over his slaves. And no troops, as a class, were more loyal and devoted to the cause and means adopted to destroy the rebellion.

"There was only a sort of implied agreement that this corps should, as far as convenient, be kept in and near Missouri; but whenever service required it, I sent them beyond our State lines, and never heard a murmur of objection.

"Surely these troops are entitled to bounties and the grateful consideration of our country.

"Respectfully yours,

"S. R. CURTIS, Major General."

I have also a letter of General Rosecrans to the same effect, and a letter of General Clinton B. Fisk, of General J. W. Davidson, of General Herron, and of all other commanders who ever commanded these troops. There is one difficulty in the resolution, and that is that it makes no appropriation whatever; and I suppose it is now too late to undertake to amend it in that respect. It is only a mere declaration that these troops shall be put upon an equal footing with other troops, and it will require a subsequent appropriation in order to get any money. It does not, therefore, amount to anything in its present shape.

Mr. DIXON. I ask the Senator how large an appropriation will be required.

Mr. HENDERSON. There were ten regiments of troops, ten thousand men, to be paid a bounty of \$100 each. Five hundred of them have already received it, leaving nine thousand five hundred to be paid.

Mr. HOWE. The Senator will allow me to suggest that it seems to me the question whether they were State troops or United States troops is a question of fact rather than a question of law, and it depends simply on the fact whether they were or were not mustered into the service of the United States.

Mr. DRAKE. They were mustered in.

Mr. HOWE. I do not see the evidence of it from the papers read; and if they were mustered into the service of the United States, I do not see any possibility for any misunderstanding as to their rights.

Mr. DRAKE. It is only under the decision of the Solicitor of the War Department, as I understand my colleague to say.

Mr. HOWE. But the decision of the Solicitor is based upon the allegation that they were not in fact mustered into the service of the United States.

Mr. DRAKE. But I understand my colleague to say that when he made that decision the Solicitor overlooked the law of the United States in regard to them.

Mr. HOWE. But the law did not muster them into the service. If they were mustered in, it was by the act of a mustering officer, and not by statute; but the Senator has not read to us the statute on which he relies to establish the national character of these troops.

Mr. HENDERSON. I said that I would read the law as soon as I could turn to it. I have it now before me. It is in these words; I read from the act of February 13, 1862:

"That no volunteers or militia from any State or Territory shall be mustered into the service of the United States on any terms or conditions confining their service to the limits of said State or Territory, or their vicinities, beyond the number of ten thousand in the State of Missouri, and four thousand five hundred in the State of Maryland, heretofore authorized by the President of the United States, or Secretary of War, to be raised in said States."

Mr. HOWE. Let me suggest to the Senator that that would by implication perhaps authorize these ten regiments to be mustered into the service of the United States upon an agreement that they should not be sent beyond the limits of the State, but does not establish the fact that they were, any one of them, mustered into the service of the United States; and it does establish the fact that, if they were mustered in at all, they were mustered in upon the express understanding that they should not be sent beyond the limits of the State; they were to be troops confined to the service of Missouri, and only serving the national interests so far as the national interests were concerned in the defense of Missouri.

Mr. HENDERSON. These troops, the Senate will observe, were not mustered into the service of the State of Missouri, but they were mustered into the service of the United States according to my view of the subject. They could not otherwise have been paid under our laws. From time to time, during their three years and four months of service, they were paid from appropriations made under the laws of Congress. They were paid by the paymasters of the United States Army. How in the world they were ever borne upon the rolls and paid every month or two by the paymasters of the United States Army I am at a loss to know, unless they were in the service of the United States. They were raised under an order of Mr. Stanton, the Secretary of War. They were United States troops to all intents and purposes, with the exception of a provision in the order raising them, and that, the Senate will observe, was to prevent their being taken out of Missouri, as our former troops had been taken, because we had raised our full quota before; but when our troops got into difficulty in Kentucky and Tennessee our State was deprived of its volunteers, not only those that the State had raised, but those who had come from Wisconsin so generously to help us, and we found ourselves with an invasion entering the southwest corner of the State, and without any defense at all, and then these troops were raised upon the implied promise that they would not be sent down into Tennessee and other sections of the country unless we could spare them. That was the agreement. Now, I will state that these troops were organized and put into the service under the act of July, 1861. They could never have been put into the service otherwise. These troops never considered that they had a right to object to going out of the State. To be sure, there was a sort of implied agreement to that effect, but it very soon became necessary for them to leave the State, and they always went whenever called upon. Some of these troops fought in almost every battle in the West. They were at Prairie Grove and at Pea Ridge, and, as General Curtis says, numbers of them left their bones on those battle-fields side by side

with the troops of other States. I never heard an objection made to their going out of the State; and here is the report of every commander under whom they served, sent by Mr. Stanton, upon that subject. Clearly if any troops are entitled to bounty these are.

Mr. HOWE. I make no objection to the payment of these troops simply because their service was confined to the State of Missouri. If the United States offered to accept their services on those terms, it was perfectly legitimate to do so. I do not think it was discreet to do so, but they had a right to do so, and it ought not to prejudice the rights of these regiments. But if the Senator makes it clear that they were borne on the rolls and were paid by our officers, he has established the fact conclusively that they were mustered into the military service of the United States.

Mr. HENDERSON. Surely so. The State never paid them a dollar.

Mr. HOWE. It nowhere appears on the face of the papers that they were so enrolled or so paid.

Mr. HENDERSON. They never could have got into the service otherwise.

Mr. HOWE. If it is within the personal knowledge of the Senator from Missouri that they were so borne on the rolls and so paid I am satisfied.

Mr. HENDERSON. I am satisfied that they served three years and four months and that the State of Missouri never paid them. The quartermaster's department transported them from place to place, and they were considered in all respects on an equal footing with all other troops of the United States, with the bare exception of the implied agreement at the time they were enlisted that they should be confined in their operations to the State of Missouri, but that was not respected, and it was utterly void. Mr. Lincoln never had any authority to muster troops into service under such an agreement. The act of 1861 provided that troops might be mustered into the service in a certain way; but when once mustered in under the statute they could be ordered anywhere, and these troops so regarded it. It never was understood that they were not bound to go under the orders of their commanders, and they went wherever they were ordered, and they did not consider that they had a right to object. In all respects they are as much entitled to bounty as any troops that served.

The truth of the matter is that they did more valuable service in our State than any other troops raised in the State; I will not say better than any troops that came from other States to assist us, but in comparing their services with those of other troops raised in our State I am frank to say that they rendered us more valuable service than any other troops.

Mr. EDMUNDS. Why?

Mr. HENDERSON. Because they were the best class of men. They were the very best class of soldiers, as testified to by the certificates of the various officers who had them in charge, sent here by the Secretary of War, and from which I have read.

But it will be observed that this resolution is a mere declaration that they are upon an equal footing with other troops in that respect; it does not appropriate a dollar. It will be clearly within the discretion of Congress hereafter, when making appropriations, to appropriate or not pay these bounties. I suppose, of course, it will be regarded as a sort of implied obligation that Congress shall provide an appropriation to pay the bounties; but they are not bound to do it.

Mr. FESSENDEN. I wish to call the Senator's attention to the expression "also all those borne on the rolls as slaves." What does that mean?

Mr. HENDERSON. I am not particular about retaining that clause. I have no objection to its being stricken out. There are but few of that class. The Senator is familiar with the legislation which provided for paying the owners of slaves \$300 for their slaves who enlisted. That has been repealed.

Mr. FESSENDEN. Not yet; and we may have to pay both.

Mr. HENDERSON. I will state what this means. I suppose that legislation will be repealed; but this means that the slaves themselves shall be paid \$100 bounty, instead of the masters being paid \$300; and that being the case, Congress will make money by passing the resolution. Instead of paying each owner in Missouri \$300 for his slave, if you pay \$100 to the slave himself you will make money, and you can even out of the surplus funds pay the bounty to these ten regiments, and still save money.

Mr. FESSENDEN. When that provision of law is repealed, as probably it will be, I shall have no objection to this clause standing as it is; but while that stands unrepealed I do not want the Government to be called upon to pay bounty both to the master and to the slave.

Mr. HENDERSON. I have no objection to striking out that part of the resolution and letting it rest, to be settled by a subsequent resolution.

Mr. FESSENDEN. After this explanation, I have no objection to the resolution with that amendment.

Mr. HENDERSON. I move to amend the resolution by striking out the words "also all those borne on the rolls as slaves."

Mr. THAYER. I rise simply to add a word in support of the reports which have been read from different officers in regard to these troops. I can speak from personal knowledge that no troops rendered more efficient service to the cause of the United States than these ten regiments, both out of the State and in the State of Missouri. They were regarded as a part of the United States forces, and never considered as a mere State force. To withhold what is asked for them, that is, placing them on the same footing with other troops of the United States, would be doing them a great wrong.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. CORBETT. Before the resolution is passed I should like to make a suggestion. Does not this open a very wide range for every State to bring in bills for the payment of its troops? I have no doubt that this claim is very proper and very just; but the question in my mind is, whether by adopting this resolution we should not involve the Government in very great expense, and largely increase our debt. As I understand it, the Senator from Ohio has proposed an amendment that troops of Ohio shall be included; and I understand that many other States furnished troops in a similar manner. I know that California furnished troops for three years or during the war. I have no doubt that all these States will bring in their claims; and it seems to me that the passage of this resolution will involve us in a very heavy expense and tend to increase the debt of the Government very materially.

Whether it would not be as cheap for the States themselves to pay these expenses instead of adding to the national debt by the national Government providing for all the troops raised by the several States, is a question for the Senate to determine. I am inclined to think that it would be better for the States to provide for these volunteers. The debt of our nation is very large, and it appears to be constantly increasing, and all these bills tend to the swelling of the large amount with which this Government is already burdened.

I wished merely to call the attention of the Senate to the fact that if we adopt this measure there will be a large class of claims presented here for the reimbursement of the several States for expenses incurred during the war for their State troops. I wish to do justice to the troops of Missouri and every other State, but as a matter of policy I am almost inclined to vote against this proposition, because it is opening the door to a large class of

claims that will be presented to the Government for payment.

Mr. WILSON. I ask the Senator from Oregon if he has carefully examined this measure?

Mr. CORBETT. I have not; but I understand that these troops have rendered efficient service. I understand also that there are troops in the same position which were raised by Ohio.

Mr. WILSON. I beg the Senator's pardon. There is nothing of that kind in the resolution. This resolution refers to a class of troops raised under a special act in 1862, ten thousand in Missouri and four thousand five hundred in Maryland, authorized by President Lincoln; and this joint resolution refers only to the troops raised under that act, and can be applied to no others. The Maryland troops, in fact, have been paid the bounty, and this resolution only provides for the Missouri troops. If the Senator had read the joint resolution carefully, and then read the law of 1862, I think he would never have made his suggestion.

Mr. CORBETT. I ask the Senator if this is not the same measure to which the Senator from Ohio offered an amendment?

Mr. WILSON. No. It has nothing to do with it. This is a special thing to meet a special case.

Mr. CORBETT. Then I have misapprehended the proposition.

Mr. POMEROY. I wish to call the attention of the Senator from Massachusetts to the fact that an amendment has been made to this joint resolution depriving the colored soldiers of Missouri of any bounty. I should like to know how that can be justified.

Mr. HENDERSON. Well, Mr. President—

The PRESIDENT *pro tempore*. It becomes the duty of the Chair at this time to call up the unfinished business of yesterday.

Mr. POMEROY. I will not interrupt the taking of a vote on this measure.

Mr. FESSENDEN. I will state to the Senator from Kansas that the reason the amendment was made to which he alludes was simply this: slaves were enlisted under a special law by which we agreed to pay their masters a certain sum, and that question is still pending. This is a mere bounty. If we have to pay two bounties, one to the master and the other to the slave, it will make a case that does not exist in regard to any other troops. I have no objection to paying the bounty to the slaves if we have not got to pay it to their masters; but as the law now stands we must pay the masters.

Mr. POMEROY. I very much prefer to pay the slave.

Mr. FESSENDEN. I agree with the Senator on that point; but we cannot pay them both.

Mr. HENDERSON. Another reason why the clause as to slaves should be stricken out of this resolution is that it is a proposition to pay slaves generally. I do not know how many slaves were "borne upon the rolls." It does not apply to the slaves of Missouri alone, but to slaves generally.

The joint resolution was ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 29) to extend to the employés of the quartermaster's and subsistence departments at Washington the provisions of the joint resolution giving additional compensation to certain employés in the civil service at Washington, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes.

#### ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker

of the House had signed the enrolled joint resolution (H. R. No. 16) fixing the rate of duty on umbrellas and on spiral wire furniture springs, and it was signed by the President *pro tempore*.

#### REPORTS ON THE MISSISSIPPI RIVER.

Mr. ANTHONY obtained the floor.

Mr. POMEROY. I call for the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is now before the Senate.

Mr. POMEROY. I will state that the Senator from Wisconsin [Mr. DOOLITTLE] is willing to withdraw his amendment to it this morning, and we can pass it without debate.

Mr. ANTHONY. I have the floor, and I hope I shall be allowed to make a report.

The PRESIDENT *pro tempore*. The Senator from Rhode Island has the floor, but the unfinished business of yesterday is before the Senate.

Mr. ANTHONY. I ask the unanimous consent of the Senate to make a report, which I have been trying to make for three or four days.

Mr. POMEROY. I have no objection to that.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five thousand copies of the report of General Humphreys on the physics and hydraulics of the Mississippi river, &c., have instructed me to report it back with an amendment. The committee thought that printing this book at this time, which would cost some eighteen thousand dollars, was too expensive, and they have therefore instructed me to report against printing that, but in favor of printing the supplementary report, which will be comparatively inexpensive, and to which I believe the Senator from Missouri, [Mr. HENDERSON,] who was very anxious upon this matter, assents. The amendment is to strike out the heavy appropriation and merely to print the smaller work. I ask for the present consideration of the report.

Mr. DOOLITTLE. I shall not object to that if it leads to no discussion.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That five thousand copies each be printed for the use of the Senate of the following documents, to wit:

1. Report upon the physics and hydraulics of the Mississippi river; upon the protection of the alluvial region against overflow; and upon the deepening of the mouths, based upon surveys and investigations made under the acts of Congress directing the topographical and hydrographical survey of the delta of the Mississippi river, and submitted to the Bureau of Topographical Engineers, War Department, under date of August 5, 1861, as prepared by Captain A. A. Humphreys and Lieutenant H. L. Abbott; and
2. The report of Brigadier General A. A. Humphreys on the same subject, submitted to the Secretary of War under date of May 31, 1866.

The amendment reported by the Committee on Printing was to strike out all after the word "Resolved" and to insert:

That five thousand copies be printed for the use of the Senate of the report of Brigadier General A. A. Humphreys on the subject of the levees of the Mississippi river, submitted to the Secretary of War under date of May 31, 1866.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### LATE SUPERINTENDENT OF PRINTING.

Mr. ANTHONY. I am also directed by the Committee on Printing to report the following resolution, and to ask for its present consideration:

*Resolved*, That the Committee on Printing be directed to inquire if there be any deficit in the accounts of the late Superintendent of Public Printing, and if any purchases of paper or other material were made by him in violation of law or willfully to the prejudice of the public interest.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. As it is probable that it will be impracticable to pursue this investigation at this session, I think it is only justice to an officer who has been connected with the

Government that I should read a letter from him addressed to me, which has induced me to offer this resolution:

WASHINGTON, March 20, 1867.

Sir: During the past week the newspapers have contained statements concerning myself which are calculated to make an unfavorable impression upon the public mind. I allude to the report that I am a defaulter to the Government; that I made heavy purchases while in office in violation of law, &c.

Believing these reports to be willful perversions of facts; knowing them to be untrue in each and every particular; confident of my ability to remove any doubt of my integrity as an officer of the Government; and feeling it to be due to the Government as well as to myself that this matter should be examined into, I take the liberty to ask you to do me the favor to bring the subject before the honorable body of which you are a member, that such an investigation may be had as will lead to the truth or falsity of these rumors.

I have the honor to be, very respectfully, your obedient servant,

C. WENDELL,

Late Superintendent of Public Printing.

Hon. H. B. ANTHONY,

Chairman Committee on Printing.

There is upon our desks a communication from the Congressional Printer, in reply to a resolution of the House, which I suppose it is not improper for me to refer to in this connection, in which it is stated that certain purchases of paper were made in November last, and if that paper had been purchased under the price and at the weight of the last contract there would have been a saving to the Government of \$72,000; and the impression has gone forth that that amount was improperly given to favored parties. A large portion of this \$72,000 would have been saved by the reduction in the weight of the paper. Under the last contract the committee have reduced the weight of the paper materially, which will make a saving to the Government of forty or fifty thousand dollars annually, and would make up perhaps fifteen thousand dollars of this sum of \$72,000. The paper could not have been bought at that time except under the old contract price, because the contractors agree to furnish all that the Government wants, and the Government agrees to take it at the contract price. If paper is sold upon a falling market, the Government loses; if upon a rising market, the contractor loses. At the time this paper was bought the price in open market was about two cents under the contract price, and it has since fallen five cents more; so that a large portion of this sum could not have been saved, because the Government was obliged to buy the paper, and had contracted for the price of it. Whether the Superintendent of Public Printing bought more paper than he should have bought is the subject of this inquiry. Upon that I have no information, and of course can give no opinion; but I thought it was fair, as this investigation is to be ordered, and as it probably cannot be made at this session, that his statement should go to the public with the allegations that have been made against him. The resolution was adopted.

#### SALE OF SHIPS TO BELLIGERENTS.

Mr. CHANDLER. I ask the unanimous consent of the Senate to make a report from the Committee on Commerce.

The PRESIDENT *pro tempore*. The Chair will receive it, if there be no objection.

Mr. CHANDLER. The Committee on Commerce, to whom was referred a memorial of ship-builders, ship-owners, merchants, and others of New York, praying that the law be so amended as to allow the sale and employment of American vessels by friendly belligerents, have directed me to report a bill in accordance with the prayer of the petitioners; and if there be no objection, I will ask to put the bill on its passage.

The bill (S. No. 94) declaratory of the law in regard to the sale of ships to friendly belligerents was read and passed to a second reading.

The PRESIDENT *pro tempore*. The Senator from Michigan asks the unanimous consent of the Senate to consider this bill at the present time.

Mr. DOOLITTLE. If the unfinished business is only laid aside informally, and this bill gives rise to no discussion, I have no objection.

Mr. SUMNER. I feel it my duty to state here that this subject was referred—

Mr. DOOLITTLE. If this bill is to lead to discussion, I must insist on going on with the unfinished business.

Mr. SUMNER. I do not wish to discuss it, but merely to make a statement. This subject was referred to the Committee on Foreign Relations and was considered by them yesterday. The committee came to the conclusion that at this time, under the peculiar circumstances of the case and bearing in view pending negotiations and claims of the United States, it was not expedient to recommend any legislation thereon. The committee did not direct me to make any report on the subject, but the bill that was referred to them is now on their files in the room below. I make this statement that the Senate may be aware that the subject has already had the consideration of another committee. I do not intend, however, at this moment to make any opposition.

Mr. CHANDLER. This memorial has been before the Committee on Commerce since the 9th of February. How it came before another committee I know not. It does not belong to any other committee. It belongs to the Committee on Commerce, and has been acted upon by them. But as the bill may lead to discussion I will allow it to go over, and give notice that I shall call it up at an early day.

The PRESIDENT *pro tempore*. The bill will go upon the Calendar.

#### CLAIMS OF LOYAL TENNESSEANS.

Mr. PATTERSON, of Tennessee. Some days ago I offered a resolution on the subject of the payment of the loyal people of Tennessee for commissary and quartermaster stores taken and used by the Federal Army during the war, which was adopted. After the adoption of the resolution my friend from Vermont [Mr. EDMUNDS] moved a reconsideration with a view to modify the language of the resolution. I have no objection to the reconsideration to the end that he may suggest the modification he desires. I simply ask to have the subject referred to the committee, though I do not require any action at the present session. I hope the Senate will proceed to the consideration of the motion to reconsider.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on reconsidering the vote on the adoption of the resolution.

The motion was agreed to.

Mr. EDMUNDS. I ask that the resolution be read.

The Secretary read it, as follows:

*Resolved*, That the Committee on Claims be, and they are hereby, instructed to inquire into the propriety and expediency of paying the loyal people of Tennessee for the commissary and quartermasters' stores taken and used by the Federal Army in that State during the late war, and to report a bill authorizing the President of the United States to appoint, by and with the advice and consent of the Senate, a commission, consisting of three gentlemen, one of whom at least shall be learned in the law, whose duty it shall be to investigate such claims for commissary and quartermasters' stores taken and used by the Federal Army during the late war as may be presented to them by the loyal people of Tennessee, and authorizing said commission to give vouchers for the same in all cases where such claims are found to be correct and just.

Mr. EDMUNDS. I move to amend that portion of the resolution requiring the committee to report a bill authorizing the appointment of a commission by striking out the word "report" and inserting "inquire into the expediency of reporting."

Mr. PATTERSON, of Tennessee. I accept the amendment of the Senator from Vermont. The resolution, as modified, was adopted.

#### AMENDMENT OF BANKRUPT LAW.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 95) to amend the act to establish a uniform system of bankruptcy throughout the United States, approved March 2 1867; which was read twice by its title.

Mr. TRUMBULL. I ask for the reading of the bill at length.

The Secretary read the bill. It proposes to repeal the first clause of the second section of the bankrupt law, which requires the appointment of registers in bankruptcy to be made by the judges of the district courts upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States. It is to be the duty of the several district courts of the United States to appoint in each congressional district within their respective districts one or more registers in bankruptcy to assist the court and the judge in the performance of their duties under the act, and all the provisions of the act in relation to registers in bankruptcy are to apply to the registers so appointed.

Mr. TRUMBULL. I shall not ask to have this bill referred. I will state that in introducing this bill I consider myself authorized to say that it meets the approval of the Chief Justice, who thinks that this is imposing an unusual burden upon him, and it is with his approbation and approval that I introduce it. I ask to have it go upon the Calendar. I shall desire to call it up as soon as an opportunity offers.

Mr. CONNESS and others. Call it up now.

Mr. TRUMBULL. Several Senators say, "Let us pass it now." If Senators will agree to it, I should like to have it considered.

Mr. FOWLER. I hope it will not be called up at the present time.

Mr. POMEROY. The bill may be entirely satisfactory to the Chief Justice, and yet not satisfactory to everybody else.

Mr. TRUMBULL. Very well; let it go upon the Calendar.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered today.

#### WRAPPING-PAPER.

Mr. SHERMAN. I move to reconsider the vote on the passage of House bill No. 72, which was passed a short time ago. I wish to have it reconsidered with a view to offer an amendment from the Committee on Finance, which, on a moment's explanation, everybody will agree to.

The PRESIDENT *pro tempore*. It is moved to reconsider the vote on the passage of the bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax.

The motion was agreed to.

Mr. SHERMAN. I now move to reconsider the vote ordering the bill to a third reading.

The motion was agreed to.

Mr. DOOLITTLE. If this is to lead to any discussion I shall be compelled to insist on the unfinished business.

Mr. SHERMAN. I presume there will be no discussion.

Mr. DOOLITTLE. I think the unfinished business had better be disposed of one way or the other.

Mr. SHERMAN. I offer the following amendment to the bill as an additional section from the Committee on Finance:

*And be it further enacted*, That every national banking association, State bank, banker, or association shall pay a tax of ten per cent. on the amount of the notes of any town, city, or municipal corporation paid out by them after the 1st day of May, 1867, to be collected in the mode and manner in which the tax on the notes of State banks is collected.

If any Senator wishes an explanation of the amendment, I will send to the desk a letter from the Comptroller of the Currency. It is merely to extend the same tax to shiplasters issued by certain southern cities that is imposed on the notes of State banks. Perhaps the letter of the Comptroller had better be read. That will explain it.

The Secretary read the letter, as follows:

TREASURY DEPARTMENT,  
OFFICE OF COMPTROLLER OF THE CURRENCY,  
WASHINGTON, March 21, 1867.

DEAR SIR: Our National Bank Examiners in St. Louis, Memphis, and New Orleans report that the city authorities at those points issue scrip or "shiplasters," payable to bearer, to circulate as money. Notices of this practice have also appeared in print.

I inclose a printed slip out from a southern newspaper, and also a letter from the German National Bank of Memphis, in reference to the practice.

Section seventy-two of the internal revenue act, passed March 3, 1865, and amended July 13, 1866, imposes a tax of ten per cent. upon the notes of any person, State bank, or State banking association, paid out by any incorporated bank after August 1, 1866.

But this is not broad enough to cover the case in question. These cities can flood their respective sections with irredeemable shinplasters without limitation.

I do not know of any way to prevent their issue and circulation except by taxation, and I suggest whether the subject is not one of sufficient importance to warrant a special amendment to the act in order to reach the case?

May I ask your consideration of this matter?

Very respectfully yours,

H. R. HULBURD, *Comptroller.*

Hon. JOHN SHERMAN, *United States Senate.*

The amendment was agreed to.

Mr. TRUMBULL. I move to amend the bill by adding the following as an additional section:

*And be it further enacted,* That ladders manufactured in whole or in part from wood shall be entitled to the exemption provided for in section eleven of the act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March 2, 1867, from and after the passage of this act.

Mr. MORRILL, of Vermont. It is perhaps ungracious to object to this amendment; but there will be no end to these exemptions if we begin to tolerate them in this manner. I would have much preferred not to exempt any kind of wrapping-paper with which this bill commences. I think it is an article that ought to be subject to tax; but having exempted that made from straw, it was certainly eminently proper that we should go on and exempt that made from wood and corn-stalks. Now, if the amendment proposed by the Senator from Illinois, which is in substance a bill that passed the House, shall be adopted, there are more than fifty articles that can come in with the same propriety. Ladders made of wood is the subject. Those do not compete with any other article. There are many things which ought to be exempted in preference to these. If we are going to exempt articles made of wood, why not exempt shoe-pegs? Why not exempt furniture? We could go into more than a hundred articles that have claims paramount to this one. I hope, therefore, that the Senate will not adopt the proposition; and for another reason, that the revenues—

Mr. DOOLITTLE. I must insist on the unfinished business, as this matter is leading to debate.

Mr. MORRILL, of Vermont. I have but a single word to say.

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. DOOLITTLE. When the Senator has finished, another Senator will want to reply.

Mr. MORRILL, of Vermont. The revenues of the Department are diminishing day by day, and there is not going to be anything like the amount that was anticipated, either from customs or internal revenue. I think that we cannot with any propriety diminish the amount of revenue of the Government at this session.

Mr. DOOLITTLE. I must insist, as this bill is evidently leading to a discussion, that we shall go on with the unfinished business. The unfinished business was only informally laid aside to allow this proposition in regard to shinplasters to pass, supposing it would take no time; and now we have got up the tariff question. I must insist on the unfinished business, unless a vote can be taken without further debate.

Mr. SHERMAN. I hope we shall be allowed to take a vote on this bill. If not, I shall move to postpone the unfinished business. It is important that this bill should be acted upon.

Mr. CONNESS. I intend, when the unfinished business is taken up, to make a test question on recommitting it to the committee, where it ought to go.

Mr. SHERMAN. Very well; then I hope

we shall be allowed to finish this matter now. The proposition to exempt ladders is rather a small one I think.

Mr. TRUMBULL. I hope the Senator will not object to it. I have a little statement that I desire to submit in regard to it.

Mr. SHERMAN. I hope the Senator will not encumber this bill with it.

Mr. TRUMBULL. I hope the Senator from Ohio and the Senator from Vermont will both consent to it. I will state why I suppose this bill passed the House. This is a House bill that I have offered as an amendment, containing a single section—

Mr. DOOLITTLE. As I have cut short the honorable Senator from Vermont—and I cannot cut short one Senator without insisting as against others—I must insist on proceeding with the unfinished business.

Mr. SHERMAN. Then I will move that the unfinished business be postponed.

Mr. DOOLITTLE. The Senator has not the floor.

Mr. SHERMAN. The Senator from Illinois has the floor.

Mr. DOOLITTLE. No, the Senator from Illinois has not the floor. The unfinished business comes up.

Mr. CONNESS. Who has the floor?

Mr. DOOLITTLE. I was entitled to the floor on the unfinished business, and gave way informally that certain matters might be disposed of.

The PRESIDENT *pro tempore*. The Chair did not understand that the unfinished business was informally passed over. Motions were made by unanimous consent to proceed to other business, and the Senate accordingly proceeded to consider many bills and motions. I understand, though I may be wrong, that the unfinished business of yesterday has gone over by common consent, and can only be taken up by a motion to that effect.

Mr. TRUMBULL. If that be so, I will proceed with my statement. I am in order I suppose.

Mr. DOOLITTLE. I will state to the Chair that when the Chair called up the unfinished business I had the floor, and was about to make a statement before withdrawing the amendment that I offered yesterday. Gentlemen appealed to me to give way informally for matters that would lead to no debate, and I have repeatedly stated, as those questions came up, that if they would not displace the unfinished business, I was willing that they should be taken up.

Mr. TRUMBULL. If the Senator will give way for five minutes we shall get through with this.

The PRESIDENT *pro tempore*. The Chair has stated his understanding, and it must be appealed from to be got rid of.

Mr. DOOLITTLE. I do not propose to appeal from the decision.

Mr. TRUMBULL. Then, I believe I am entitled to the floor. I understand the reason for passing this little bill was this: in the manufacture of ladders it is the work that makes them valuable; nearly the whole value of the ladder consists in making it; and we have exempted in the internal revenue law most articles of wooden-ware; I think nearly all. This matter was thought to be of sufficient importance to authorize its exemption by the House; and I have a letter explaining it which I will read, as it is short:

CHICAGO, March 3, 1867.

DEAR SIR: In reading the amended revenue tax bill just passed I am surprised that ladders of all kinds are not included in the list of articles exempted from taxation, as about everything else made of wood is included in the bill. Probably the article was not thought of by any member of Congress, or it would have been named in the list.

Within a few years past several factories have been started in different cities of the Union, making the manufacture of ladders an exclusive business, and by this means this class of goods have been much improved; but we have been so heavily taxed on all materials used, as well as on the article when sold, that it has been a precarious business. Now, that the tax has been removed from the entire class of wooden articles, with the exception of ladders, I

have felt that to ask you would so get your influence to amend the law so as to include ladders of all kinds. Hoping you will consider an amendment of the kind an act of justice, and labor to secure it,

I am truly yours,

C. G. UDELL.

Hon. NORMAN B. JUDD.

This gentleman is a manufacturer of ladders, it seems, at Chicago. Most other wooden articles have been exempted, and there can certainly be no distinction between this and the making of barrels and churns and casks and broom-handles and things of that kind. I hope, as it is a small matter, the Senate will suffer it to go on this bill, as they have made an amendment to it, and the bill must go back to the House at any rate. It can affect the revenue but very little.

Mr. MORRILL, of Vermont, called for a division on the amendment.

Mr. TRUMBULL. I hope the Senate will adopt this amendment. If Senators will not vote, I shall have to call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. Now, as the yeas and nays are to be called, I hope Senators will understand this sufficiently to give their votes upon it. We have exempted in the internal revenue bill nearly every article of wooden-ware from taxation.

Mr. MORRILL, of Vermont. Great numbers we have not.

Mr. TRUMBULL. Nearly all, the chief value of which consists in the labor upon them. It is so stated in this letter which I have just read to the Senate, and I presume it is correct. Now, it is proposed to exempt ladders. A bill for that purpose has passed the House of Representatives. We have got up a bill exempting wrapping-paper, which we have amended. It has got to go back to the House at any rate, and this is another bill that passed the House exempting ladders. The House was so well satisfied of the propriety of it that they passed a separate bill on the subject. It may just as well be put on here with wrapping-paper, and disposed of in that way. The Senator from Vermont objects to it. I hope the Senate will allow the manufacture of ladders to be exempted from taxation, as casks and churns and barrels and wooden brushes and broom-handles and tanks and almost all things made of wood are exempted, and certainly there can be no reason why ladders should not share the fate of the others. That is all there is of it.

Mr. MORRILL, of Vermont. It is hardly worth while on so small a question to argue it, but we are constantly whittling away the resources of the Treasury, so that at last there will be but a very inconsiderable sum left. Now, it is true that we have exempted some articles of wooden-ware; many of them without any propriety. It first began with exempting casks, and then was extended to barrels, and then to tubs and pails, and it has constantly grown until it has in fact included the larger proportion of manufactures made of wood; but yet there are many articles that are still left subject to tax; for instance, mop-handles; and I could mention many other articles. I do not see why we should go on in this manner. I know that it is very difficult for gentlemen to resist the importunities of those who happen to have an establishment in their districts that ask for an exemption of taxation upon manufactures that exist there. It is through these personal importunities that we are compelled to make these various amendments reducing the revenue. I trust that this amendment will not be adopted, because if we adopt this we must certainly go much further.

In relation to these ladders, there are many of them that are made to be used in mercantile establishments, and made with a good deal of art, nicely finished; and therefore, if we exempt ladders made of wood, we should exempt all of that class. We have another class of ladders that are made partly of wood and partly of iron. The next claim that will come in will be to exempt those. I trust we shall not adopt the amendment.

Mr. TRUMBULL. Mop-handles are usually



made partly of iron. These ladders, I believe, are made entirely of wood.

Mr. MORRILL, of Vermont. Many mop-handles are made exclusively of wood.

Mr. TRUMBULL. Well, you can exempt wooden mop-handles if you desire to do so. I have no objection to it.

Mr. MORRILL, of Vermont. I do not desire it.

Mr. TRUMBULL. I wish to read over the list of exemptions, as the Senator from Vermont makes a point on this matter and thinks the revenues of the country will be lost if we do not tax a ladder, a thing that is needed by every farmer in the country. I know the policy adopted in the Senate was to exempt articles of this kind. Now, I will read over what is made free:

Casks, churns, barrels, wooden-brushes, and broom-handles.

Broom-handles are in if mop-handles are not.

Tank, and kits made of wood, including coo-perage of all kinds, bungs and plugs, packing-boxes, nest-boxes, and match-boxes, whether made of wood or other materials; wooden hames, plow beams, split-bottom chairs, and turned materials for the same, unmanufactured, and saddle-trees made of wood, and match-boxes heretofore made on which a tax has not been paid.

Horse-rakes, horse-powers, tedders, hames, scythes, snaths, hay-forks, hoes, and portable grinding mills. Potato-hooks, pitchforks, manure and spading forks.

Pumps, garden engines, and hydraulic rams. Sleds, wheelbarrows, and hand-carts, and fence made of wood.

Now, sir, all these articles are exempted, and certainly ladders come within the purview of these articles. But the Senator from Vermont gets up and gravely appeals to the Senate that you are constantly diminishing the revenue. Why, sir, we have a great deal more revenue than we know what to do with.

Mr. MORRILL, of Vermont. We shall not have this year.

Mr. TRUMBULL. You have more money in the Treasury than you know what to do with; and you have got there now one hundred and forty or one hundred and fifty million dollars in cash. The people have demanded that there should be a reduction of this taxation. But when a bill to exempt ladders, which has passed the House, comes up here, the Senator from Vermont insists that the revenues of the country will be lost if we agree to it. If the Senate think so they can vote it down. I shall take up no more time about it.

Mr. MORRILL, of Maine. I will ask my friend from Illinois if he will accept an amendment which I will propose, to strike out the word "ladders" and insert "all articles made of wood?"

Mr. TRUMBULL. Wooden-ware?

Mr. MORRILL, of Maine. Wooden-ware. I am sure all these are embraced in the argument, and I really do not see why, after the long list of wooden manufactures exempted, it should not apply to the whole as well as a part.

Mr. TRUMBULL. I should have no objection to that. That is not the House bill, but I think it should be so, as I think it would embrace scarcely any other article.

Mr. MORRILL, of Maine. Then I move to strike out "ladders" and to insert "all articles manufactured of wood."

Mr. DIXON. I suggest to the Senator from Illinois to include sewing-machines. They are an important article that I think ought to be exempted.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine, which will be read.

The SECRETARY. In the second line of the amendment it is proposed to strike out the word "ladders" and insert "all articles;" so as to read:

That all articles manufactured, in whole or in part, from wood, shall be entitled to the exemption, &c.

Mr. TRUMBULL. That will not do.

Mr. CONNESS. I should like to inquire

of the Senator from Maine whether that will include nutmegs made from wood? [Laughter.]

Mr. MORRILL, of Maine. I think it would.

Mr. CONNESS. The Senator on my right [Mr. FERRY] is anxious about it.

Mr. WILSON. And include wooden hams also. [Laughter.]

The amendment to the amendment was rejected.

Mr. EDMUNDS. I think the Senator from Illinois, judging from his speech, did not intend to have these articles exempted that were made partly of iron, and I move to strike out the words "in whole or in part" in his amendment, and to insert the word "wholly;" so that it will read, "that ladders manufactured wholly from wood shall be entitled to the exemption," &c.

Mr. TRUMBULL. I have no objection to that.

The PRESIDENT *pro tempore*. The Senator from Illinois modifies his amendment in that way.

Mr. FESSENDEN. I think this is very careless legislation, and I really hope the amendment will not be adopted. I do not feel disposed to argue it; but the disposition is very strong to legislate hap-hazard, without knowing where it is going or what it will touch one way or the other. If a matter is brought in here for a specific reason, which reason is given, the disposition is on all these questions to pile on something else, without knowing what the effect is to be. I have heard the argument before as to the surplus now in the Treasury, and I do not feel disposed to discuss that. I really think the Senate had better not legislate in the dark in this way, at hap-hazard, in making these exemptions from taxation. I hope the amendment will not be adopted.

Mr. CAMERON. I trust this whole proposition will be voted down. I think it wrong to legislate for a special purpose or for the benefit of particular individuals in this way. I take it that this is offered for the benefit of some manufacturer in Chicago or along there. We shall have our whole revenue system destroyed if Senators come forward at a moment like this with propositions for special cases. When we legislate upon the currency or the revenue of the country we should take time to deliberate upon it. Every proposition like this interferes with the whole system and affects the whole country. I trust that at this time at least, at the end of the session, we shall not begin a new system.

Mr. TRUMBULL. I should like to know of the Senator from Pennsylvania and the Senator from Maine if their argument does not go to the whole bill. What is the bill? The bill is to exempt a particular article which the Senator from Vermont is advocating. He is not afraid that the Government will be bankrupted and our revenues diminished if we exempt wrapping-paper. He goes for that. That is his bill. Now, I want to know if you can exempt one article in that way, whether the argument of the Senator from Pennsylvania does not go to that as well as the other?

Mr. FESSENDEN. Allow me to ask the Senator if there is not a difference. A motion is made by the Senator from Vermont to exempt one kind of paper made of one material, because we have exempted another kind of paper made of another material, with which it would come in competition. That is the reason given, and seems to be a fair reason.

Mr. TRUMBULL. The reason given here is that you have exempted one kind of wooden-ware, and why not another?

Mr. FESSENDEN. But do ladders come in competition with churns or with wooden pails or anything of that sort? If the Senator can convince me of that I will go with him.

Mr. TRUMBULL. I will ask the Senator from Maine if broom-handles come in competition with broom-handles?

Mr. FESSENDEN. That is a different question.

Mr. TRUMBULL. You have exempted broom-handles.

Mr. FESSENDEN. And therefore, the Senator says, we should exempt ladders! If the Senator will prove that ladders come in competition with broom-handles or churns, I will yield to the force of the argument.

Mr. TRUMBULL. If the Senate exempts wooden-ware, the chief value of which consists in the labor put upon it, I want to know if ladders do not come within that reason? The argument of the Senators who are alarmed about the revenue goes to the whole bill.

Mr. SHERMAN. I simply desire to make a statement. These two propositions are not very important; and that they are here I suppose grows out of the fact that they have no Committee of Ways and Means organized in the House, and interested parties there move that certain articles be exempted, and pass a bill. The bill which was called up by the Senator from Vermont simply provides that where wrapping-paper is made of wood it shall not be taxed, as wrapping-paper made of straw is free. That is just and proper; because the tax is a discrimination against a new kind of wrapping-paper which is being made out of wood and other material. I think that is right, although it is rather an insignificant matter, and might just as well have been provided for at the last session or the next session. I took occasion, however, as this bill was pending, to correct a very important abuse that has grown up in the southern cities in supplying the people with shinplasters. Now, the Senator proposes to add an exemption in favor of ladders. The Committee on Finance considered that subject, and they thought it was too small to enter upon at this session.

Mr. TRUMBULL. How about this other matter?

Mr. SHERMAN. That was a case of injustice, where a discrimination was made against wrapping-paper made of wood rather than of straw; and therefore, although it was a small matter, it was a case of injustice. All the people who make ladders will pay the same tax, and therefore there will be no injustice done, and the matter may go over until the next session. The whole thing is of but little importance, and I do not think we should waste time on it. I presume at the next session we shall be prepared to exempt ladders, and perhaps many other things.

Mr. CAMERON. The argument in favor of exempting paper made from wood is that it is a new interest, scarcely yet understood. But a few manufactories have been established, and they are just beginning to make the article. It comes in competition with wrapping-paper made from straw, and it is therefore right, inasmuch as that article is exempt, that this should be exempt also. It is not so with ladders. Anybody can make a ladder. I suppose the Senator from Illinois could make one himself if he had great need for it. I believe I could do so certainly. But the manufacture of paper from wood does require relief, and it is right that it should receive it until we understand the proper mode of manufacturing the article.

The amendment was rejected.

The amendment of Mr. SHERMAN was ordered to be engrossed, and the bill to be read a third time.

Mr. TRUMBULL. I think we had better vote the bill down now.

The bill was passed.

On motion of Mr. SHERMAN, the title was amended by the words "and for other purposes."

HEIRS OF JOHN E. BOULIGNY.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House joint resolution No. 8, in reference to the Bouligny case.

Mr. FESSENDEN. That is very important, and I think we had better take it up.

Mr. TRUMBULL. It will be remembered

that two days ago I got the attention of the Senate to the House joint resolution suspending the operations of the commissioners who are assessing damages for slaves enlisted in the Army in certain States.

Mr. FESSENDEN. This is a very important matter, and will take but a moment.

Mr. TRUMBULL. It was then put over at the instance of the Senator from Kentucky, [Mr. DAVIS.] Yesterday the Senate was occupied all day with other business, and it was impossible to get attention to it.

Mr. FESSENDEN. You can take it up in a few moments. This is very important, and it is a House resolution.

Mr. WILLIAMS. This is also a resolution suspending the operation of a bill passed at the last session.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny.

The preamble recites that during the last hours of the Thirty-Ninth Congress an act was passed, without discussion, for the relief of the heirs of John E. Bouligny, granting to them land warrants for seventy-five thousand eight hundred and forty acres of land; and that by the solemn judgment and decision of the Supreme Court of the United States, after full hearing, it was in the year 1853 adjudged that the private land claim on which the act is based was invalid, null, and void; and that Mr. Justice Nelson, who delivered the opinion of the court, declared that there was no record evidence of any such land grant as was set up, "that none had been produced, though a thorough examination of the archives of that date, both at New Orleans and Paris, had been made, and no records could be found;" and that it was also declared by Judge Nelson that there was not the "slightest ground for the claim set up" to a tract of land running back from the Mississippi river to the Atchafalaya, and that, at the most, the petitioners could not claim, under any grant or survey, over two thousand five hundred or three thousand acres, instead of about half a million, the report of which decision is found in 15 Howard's Reports, page 14; and that this private land claim, after full review by Hon. M. Burchard, Solicitor of the General Land Office, in 1838, was declared as invalid and void; and that this pretended private land claim had its origin in 1717, and was a part of the celebrated Mississippi scheme, with which John Law, known for his connection with the South Sea bubble, was a party; and that to revive and legalize this claim will revive and legalize claims to the amount of many million acres; and that there is grave reason for believing that the act was passed under a misapprehension of the facts. For these reasons, the resolution directs the Secretary of the Interior to suspend the execution of the law until the further order of Congress.

Mr. TRUMBULL. I think that preamble ought not to pass.

Mr. DRAKE. Certainly not.

Mr. TRUMBULL. When the bill the execution of which it is now proposed to suspend was under consideration here, the Senator from New York, not now a member of the body, Judge Harris, explained it to the Senate. I do not profess to understand it. I am not objecting to the resolution; but the recitals in the preamble are not true. The bill was explained to the Senate. Then there are a great many recitals in the preamble that I know nothing about. Perhaps the Senator from Oregon has examined them and knows their truth; but I happen to know personally that Judge Harris investigated the case and made a statement in regard to it when the bill was before the Senate. I think the preamble had better be stricken out.

Mr. WILLIAMS. I supposed the recitals

in the preamble were intended to refer to the proceedings in the other branch of Congress.

Mr. TRUMBULL. It will not when passed; it will then refer to the proceedings here as well as there.

Mr. WILLIAMS. So far as I am concerned, I have no particular fancy for any such preamble. The only reason I did not report in favor of striking out the preamble was because the joint resolution having already passed the House, I did not think it worth while at this stage of the session to send the resolution back to the House with any amendment. But the preamble amounts to nothing, so far as any practical effect is concerned, and I am willing to strike it out.

Mr. TRUMBULL. I move to amend the joint resolution by striking out the preamble. The amendment was agreed to.

Mr. DRAKE. I should like, with regard to this matter, to inquire of the honorable Senator from Oregon whether he knows from investigation that there are facts which justify this suspension of an act of Congress.

Mr. WILLIAMS. I will answer the Senator's question; but if he will excuse me, I desire first to have a verbal amendment made to the resolution, which is necessary in consequence of the preamble having been stricken out. It now reads:

That the Secretary of the Interior be directed to suspend the execution of said law until the further order of Congress.

I move to strike out the words "said law" and insert the title of the act with the date of its approval.

The PRESIDENT *pro tempore*. That amendment will be made, no objection being interposed.

Mr. DRAKE. I wish to know from the honorable Senator from Oregon whether from any investigation which the committee has made he is satisfied that the public interests require the suspension of action under this act of Congress, or whether the committee has acted merely upon the allegations contained in the preamble which the House of Representatives has adopted and sent to us. That is a point upon which I desire information.

Mr. WILLIAMS. I do not know that it can be regarded as a compliment to the committee to suppose that it has reported back this joint resolution and recommended its passage without any exemption, and simply because the preamble to the resolution contains certain recitals. I will say to the honorable Senator that the committee did examine the records and evidence submitted in this case, and came to the conclusion that the public interest and justice to the Government demanded the passage of the joint resolution now before the Senate; and I will make a brief statement of some of the grounds upon which the committee reached this conclusion.

I hold in my hand a statement on behalf of the heirs of J. B. Bernard Dauterive, praying for the confirmation of a land claim in Louisiana called the "Bayou Goula Concession," which statement was made to the Committee on Private Land Claims of the House of Representatives. This statement, which consists not only of a narration of facts but an argument in favor of the claim, is as strong for the petitioners, no doubt, as the facts would warrant; and upon this "statement" it is very easy, in the view of the committee, to demonstrate that the bill which was passed at the last session of Congress was founded in a great mistake, and that it would work manifest injustice to the Government.

In 1717 the Mississippi Company, who had a charter from the King of France, made a concession to one Duvernay, which concession was located at some point upon the Mississippi river above the city of New Orleans; but there is no evidence in this record as to the exact location or boundary of that concession or grant. So far as that concession is concerned, it is correctly described in the opinion of the Supreme Court in a case reported in 15

Howard; and I will simply refer to that opinion, and read one or two extracts, to show the view of the Supreme Court as to the concession made to Duvernay. The court say:

"As it respects the first ground of title, the grant to Duvernay in 1717, no record of it has been produced, and after a thorough examination of the archives of that date, both at New Orleans and at Paris, and in the appropriate offices for the deposit of such records, none can be found. The only proof furnished is to be found in the historical sketches given to the public of the first settlement of Louisiana by the French Government, under the direction of the 'Western or Mississippi Company,' together with some documentary evidence relating to the settlement of the plantation by Duvernay through his agents, such as powers of attorney and some intermediate transfers of the titles in the course of the agency. But unfortunately neither the historical sketches nor documentary evidence furnish any information as to the extent of the grant or its boundaries."

That statement of the Supreme Court is entirely borne out by the evidence submitted to the committee. Nowhere does it appear what the extent or boundaries of the grant were. In another place the Supreme Court say:

"And in the second place, the tract claimed as derived from Duvernay is without boundaries or location. The only description that has been referred to, or which we have been able to find after a pretty thorough search even in the historical records, is that it was a grant of a large tract upon the right branch of the Mississippi river, opposite Bayou Manchac, a point some thirty leagues above New Orleans."

The Supreme Court, in referring to that grant made by the Mississippi Company to Duvernay, say that there is no evidence as to its location, but the statement is that it is located somewhere on the Mississippi river above the city of New Orleans; and that there is no evidence as to the boundaries of that concession. No evidence was ever submitted to any tribunal as to the grant, and the only testimony in regard to it is derived from the allusions made in the history of the early settlement of Louisiana to such a concession; but it is assumed, and no doubt is true, that the Mississippi Company did make a certain grant to this man Duvernay. The "statement" of these claimants to the Committee on Private Land Claims of the House assumes that the concession to Duvernay extended four leagues up and down the Mississippi river, and back four leagues to the Atchafalaya river, so that according to the statement made in the petition the grant consisted of a tract of land about twelve miles square.

The committee to whom this subject was referred at the last session of Congress assumed that the heirs of Dauterive were entitled to the whole of the grant made to Duvernay, which, according to this "statement," consisted of twelve miles square of land lying on the Mississippi river, and reported a bill providing that the heirs of Bouligny should have one sixth of that tract of land. If that be true that the petitioners are entitled to that entire tract of land according to the concession made to Duvernay, then the bill that was passed at the last session ought not to have passed, in the judgment of the present committee, for the reason that the bill of the last session assumed that this tract of land twelve miles square contained 455,040 acres of land, and the bill provides that one sixth of that, 75,840 acres, shall be granted to the heirs of Bouligny. It is perfectly manifest that in this there was a great mistake, for if that concession be a tract twelve miles square, then, according to the judgment of the committee, there can be in that tract only 92,160 acres of land instead of 455,040 acres. The tract only contains 92,160 acres, because there are but 640 acres in a square mile, and the tract being twelve miles square or 144 square miles, 640 multiplied by 144 gives 92,160 as the number of acres. The bill of last session proposes to give, as one sixth of that tract, to the heirs of Bouligny more than 75,000 acres of land, when the whole tract does not contain exceeding 100,000 acres of land. Taking the statement made in this petition, granting to the petitioners all they claim in it, they cannot make out that they are entitled

altogether to more than 100,000 acres of land, and yet the bill assumes that within that tract there are 455,040 acres of land.

Mr. DRAKE. I am satisfied.

Mr. WILLIAMS. Well, Mr. President, I proceed further. I wish to show an additional reason for the action of the committee at this time. Extraordinary as it may seem, the petitioners in this case do not claim according to the Duvernay claim; but the facts are that after Louisiana passed from the hands of the French to the Spaniards, the Spanish Governor, O'Reilly, reduced this concession, after it had been conveyed to Dauterive, to the extent of twenty arpents front upon the Mississippi river. Subsequently Unzaga, the Spanish Governor who succeeded O'Reilly, returned to Dauterive twenty more arpents, making a tract of land forty arpents in extent upon the Mississippi river, and, according to the claim of the petitioners, extending back to the Atchafalaya river twelve miles. Now, to show that the present committee is not mistaken, I wish to refer simply to what is claimed here. Read from the "statement" of the petitioners:

"The concession as made to Paris Duvernay, and acquired by Dauterive, had four leagues front on the Mississippi, and ran back to the Atchafalaya. The claimants derive their information in relation to this extent of the grant from a written statement by Dauterive himself. It would perhaps be possible to ascertain the locality of the original grant by discovering the situation of another grant made on the 2d June, 1769, to Louis Dufosse, which is stated to be bounded by Dauterive, and which is recorded on folio 214 of the record of French concessions in this land office. But the size of this original grant is not now a subject of material inquiry, as the present claim is made under a confirmation by Governor Unzaga.

"On the 16th of August, 1769, O'Reilly arrived at New Orleans. (1 Martin's History, 362,) and after having reduced the inhabitants of that city to passive obedience, he visited in the middle of the month of December the settlements on the Mississippi as far as Pointe Coupée. (2 Martin's History, 16.) It seems that he there treated the property of the colonists in as despotic a manner as he had previously treated their persons. He reduced Dauterive's land to twenty arpents. It was an act of brutal violence, which could confer or destroy no right; but the claimants are compelled to submit to the effects of O'Reilly's order. These observations are made only to guard against any misconstruction of their present application, which is only for the confirmation of so much of the original grant as O'Reilly and Unzaga consented to leave to them."

This petition is full of statements to that effect, that they only claim according to the confirmation made by Unzaga. When Unzaga became Governor of the Territory of Louisiana he declared that Dauterive should have a tract of land extending forty arpents up and down the Mississippi river, and he ordered one Andry to survey that tract, which survey was made and returned to Unzaga, and approved by him, and that survey only shows that Dauterive is entitled to a tract of land of this width upon the Mississippi, and extending back to the Atchafalaya river, a distance of twelve miles; and it is only for the confirmation of this claim that the petitioners make application to Congress, and they expressly repudiate any claim founded upon the Duvernay grant, because that grant never was bounded or surveyed; no one ever knew its extent, and it has never been recognized by any subsequent Government; it was not recognized by the Spanish Government, and has not been recognized by the American Government. Now, assuming that the present claimants are entitled to one sixth of this grant, supposing it to be a mile wide upon the Mississippi river, and to extend back to the Atchafalaya river, a distance of twelve miles, the whole amount of land embraced within those boundaries would only be eight thousand and eighty acres, and one sixth of that would be thirteen hundred and forty-six acres of land; so that according to their own showing, by a simple application of arithmetic to the representations made in the "statement" of the petitioners, they are only entitled to thirteen hundred and forty-six acres of land, if they are entitled to anything, instead of to seventy-five thousand eight hundred and forty acres, as provided for in the bill passed at the last session of Congress; and the committee do not intend, as I understand by this report, to express any conclusive opin-

ion as to the right of these petitioners to these thirteen hundred and forty-six acres of land, but they believe the bill passed at the last session of Congress is founded in a gross mistake and works great injury to the Government, and therefore its operation ought to be suspended until the further order of Congress. It may be a subsequent question, and it is a question about which, I must confess, there are still grave doubts as to whether these heirs are entitled to these thirteen hundred and forty-six acres.

Mr. JOHNSON. If I recollect aright, when the bill the execution of which we are now asked to suspend was pending before this body, it was stated by the honorable Senator from New York, not now with us, that he had examined the whole subject very carefully, and that the right we were about to recognize was, in his opinion, a very clear one. I think he stated that the claim had been more than once reported upon favorably by committees of each branch, and that bills had been reported in each branch confirming the title, and passed by each branch; but they had failed to become laws because of the want of time in the respective branches to concur with each other at the same session. From what the honorable member from New York stated, and from my recollection of the case in 15 Howard, I think the honorable member from Oregon and the committee in whose behalf he acts are laboring under a great misapprehension as to the decision of the Supreme Court to which he has referred. The case came before the Supreme Court under the act of 1834. The terms of that act referred exclusively to equitable titles, leaving legal titles to stand upon the general law.

The case with relation to this grant as it came to the Supreme Court, and as reported in 15 Howard, was held by the court, if I recollect aright, to be a legal and not an equitable title, and that being a legal and not an equitable title, the court had no jurisdiction over it. Mr. Justice Nelson gave the opinion of the court coming to that result; but he went on, extra-judicially, to express an opinion of his own in part upon the validity of the title itself irrespective of the inquiry whether it was an equitable or a legal title. I have not read his opinion lately; but I have a recollection that when I did read it he failed to satisfy me that he was right. But however that is, Mr. Justice Curtis, Mr. Justice McLean, Mr. Justice Campbell, and another judge, one I believe speaking for all the dissentients, stated that it was not to be understood that the Supreme Court had formed, or that it was right to express, any opinion upon the title; and from the manner in which that statement is made in the report upon the authority of the dissenting judges, I am strongly inclined to the opinion that in their view the title was a valid one, but not one to be passed upon by them for the reason I have stated, that their authority was only to examine into equitable and not legal titles.

Now, Mr. President, upon, not a hasty examination, as the chairman states, but upon the examination of a very eminent professional man, we passed almost unanimously, I believe, the law which we are now asked to suspend; and we are now, at the last days of the session, asked to suspend it upon the ground that we made a mistake. Who says we made a mistake? The House of Representatives, in passing that preamble, tells us that we have made a mistake, and we have stricken the preamble out. It seems to me to be rather reflecting upon the Senate, however the House would have been justified for itself, to tell us, as they virtually do by this preamble, that we did not know what we were about when we passed that bill. How do they propose to correct the assumed error? Not by providing that the law is not to be executed until Congress shall have an opportunity of repealing it, if they shall think it ought to be repealed, upon the ground that it never should have passed; but we are asked to suspend the provision of the act altogether until Congress shall declare that it be executed.

Now, what is the effect of that? The Senate may, upon examination, be satisfied that the title was a valid one; the House of Representatives may think differently; and although we may think it was a valid title, and consequently that the law which we are about to suspend ought not to be suspended, but ought to be executed, and upon thorough and mature examination come to that result, we are placed in a situation in which we shall be restrained from doing what is right unless the other branch concur with us in saying that the law ought to be executed.

I object, therefore, if anything be done suspending the operation of this law, to the manner in which we are now asked to do it. If the honorable member would amend the resolution so as to provide that the law shall not be executed until Congress shall have had an opportunity to repeal it at the next session, it would not be so obnoxious to objection; but to place our sense of justice in the keeping of the House of Representatives, and that, too, upon the faith, in part, of a preamble which is not true, in relation to the decision of the Supreme Court, seems to me to be entirely wrong.

Of the merits of the title, I repeat that I know nothing except as I collected them from the honorable member from New York, and from my recollection of what was said in relation to the title by Mr. Justice Nelson. I am willing to believe, and do believe, notwithstanding the opinion of Mr. Justice Nelson, that the title is a valid one; and I am more inclined to believe it, because, in addition to the statement of the honorable member from New York that it was valid, as I understand what fell from the judges who dissented from that part of the opinion of Mr. Justice Nelson, they were under the impression that it was a valid title.

If the honorable member from Oregon will adopt the suggestion I have made, that the law be suspended until the termination of the next session of Congress, so that Congress may have an opportunity to repeal it, I shall vote for it; and if he does not accept the suggestion to so modify it, I ask him to permit the bill to lie on the table until the morning, that I may propose an amendment to that effect, and that I may in the mean time examine the decision in 15 Howard, to which he adverted. There can be no harm in that, I am sure. I can assure the honorable member that I will examine it by to-morrow morning, and be ready either to abandon all objection to the form in which this resolution comes from the other branch, or to prepare an amendment to effect the object which I have just stated. I move, therefore, that the further consideration of the resolution be postponed until to-morrow.

Mr. WILLIAMS. I hope the honorable Senator from Maryland will not labor under any misapprehension as to the position of the present Committee on Private Land Claims; and I advise him that it is not because the Supreme Court has made any decision that they report in favor of the joint resolution now before the Senate; and I wish to satisfy the honorable Senator, as I can do in one minute, from the statement of the petitioners themselves, that the bill of the last session ought not to have passed, notwithstanding all that has heretofore been said and done in reference to the subject. I call the attention of the honorable Senator to this statement from the petition of these heirs; and of course they would not state the case against their own interest; they say in the document from which I have already read:

"We are thus brought to the important question, How much of the original of 1717 was left to Dauterive by O'Reilly and Unzaga? In 1772 Andry, the Governor's surveyor, was directed to survey Dauterive's land, Governor Unzaga having consented to leave him in possession of forty instead of twenty arpents front. Andry went on the land, examined the improvements, a road of four leagues in length, which had been made on the grant, and reported to the Governor that they had surveyed for Dauterive forty-four instead of forty arpents in a certain locality. All this was expressly approved by Governor Unzaga;

in other words, as stated by the Supreme Court. Unzaga confirmed the original French grant *pro tanto*.

"Under these circumstances, we present ourselves with a claim for so much of a French concession of 1717 as was approved and confirmed by the Spanish Government in 1772."

All that these petitioners claim is simply what was confirmed by Unzaga, which was forty arpents, forty acres broad on the Mississippi, extending back twelve miles to the Atchafalaya river, and yet the bill of the last session allows them the entire concession that was made by the Mississippi Company to Duvernay, extending twelve miles front on the Mississippi river and twelve miles back, giving to these people twenty times as much as they claimed in their own memorial, and all the way through it you will find by examining it that all the claim they make is simply a claim for their proportion of a tract of land in Louisiana forty acres broad on the Mississippi river, and extending back twelve miles, and these heirs of Bouligny are only entitled to one sixth part of that. Here is the great mistake that has been made.

In reference to the Supreme Court of the United States, I acknowledge that the case was dismissed for want of jurisdiction in that court or in the district court of the United States for Louisiana; but Mr. Justice Nelson in delivering the opinion of the court examines the Duvernay title and declares it entirely invalid on the ground that nobody knows where the location was made, and on the ground that it had no boundary and it had never been surveyed from the time the concession was made by the Mississippi company to Duvernay. The only survey ever made was of the grant that was given to the purchaser from Duvernay by Unzaga, the Spanish Governor; and it is upon that survey that these petitioners claim, and the whole of that tract, according to the boundaries of it as they set it forth in their petition, contains only a little over eight thousand acres of land, and there is no computation of figures that can make it contain more. Then while these claimants only claimed a grant of a little over eight thousand acres of land, the bill of last session goes upon the assumption that the claim is over four hundred and fifty-five thousand acres.

I am indifferent as to the particular form of the resolution, and am disposed in that respect to accommodate the honorable Senator from Maryland; but I think it is desirable that this matter should be disposed of at this session in some way, so that the parties may be relieved from their suspense about it.

Mr. JOHNSON. My motive in asking the postponement was not to defeat the measure, but simply for the purpose of examining into the question which it involves, and particularly into the decision of the Supreme Court. I assure the honorable member that if he calls up the joint resolution to-morrow morning I shall interpose no obstacle to its then being acted upon finally. I therefore renew my motion to postpone until to-morrow.

The motion was agreed to—ayes eighteen, noes not counted.

#### CHOCTAW AND CHICKASAW TRUST FUNDS.

Mr. POMEROY. I move that the Senate now proceed to the consideration of the unfinished business which was laid aside at one o'clock. The Senator from Wisconsin desires to withdraw his amendment, and then I think we can pass the joint resolution without discussion.

Mr. MORTON. There was a resolution under consideration the day before yesterday which was left as the unfinished business for yesterday, but it was crowded out by other measures. It will take but a short time to dispose of it and I should be glad to have it taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No.

18) for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians.

Mr. DOOLITTLE. I desire to say that when I proposed the pending amendment my attention was not called to the fact that the claims for which awards have been made are against the Choctaw and Chickasaw nations separately, and from information that has come to me I ascertained that about two thirds of these awards are against the Chickasaw nation and one third against the Choctaw nation. The fund out of which I desired to pay the awards is a debt due by the United States to the Choctaw nation alone. I find, therefore, that my amendment is hardly applicable to the case, and I cannot do justice to the case by insisting upon it. I am therefore constrained to withdraw the amendment.

The PRESIDENT *pro tempore*. If no objection be made, leave will be granted to withdraw the amendment. The Chair hears no objection, and the amendment is withdrawn.

Mr. SHERMAN. I move that the joint resolution be recommitted to the Committee on Indian Affairs, and I hope that will be taken as a test question.

Mr. POMEROY. I hope that will not be done. It has had the attention of the Committee on Indian Affairs already and has been reported unanimously from that committee.

Mr. SHERMAN. My purpose is to postpone action on this subject of the sale of the bonds, which is really a financial question, until after the awards shall have been made by the Secretary of the Interior. From the debate I am satisfied that this ought to be done. There is no necessity to authorize the sale of these bonds until after the amount of the debts has been ascertained. It may be that the Indians would prefer to pay the debts out of their other funds, or by that time they may have other means of paying them. At any rate there is no occasion for providing the means now.

Mr. POMEROY. This is only providing for the payment of the awards in case they are approved by the Secretary of the Interior. It does not require him to sell any bonds.

Mr. SHERMAN. There is no necessity for changing the existing law or changing the treaty or making provision for the payment of the awards, until the awards are made and submitted to us. It seems to me that we ought not in advance to undertake to sell the trust funds of these Indians, a portion of which is devoted to the support of their schools, until the matter is ascertained and submitted to us upon the report of the Secretary of the Interior.

Mr. POMEROY. The Senator is not aware of the fact, and does not understand the fact, that these Indians are now in an entirely destitute condition. They were driven into my State, and they are to return to the Indian country in the spring. They have nothing to commence with when they go there, and can do nothing unless they have some compensation for the losses they sustained by being driven out. This is a method of providing that compensation.

Mr. SHERMAN. From what was stated yesterday by the Senator from Iowa, who was Secretary of the Interior at the time the treaty was made, I understood that the amount awarded in this case is far beyond what the tribe supposed it would be. I am told that it is eight or ten times as much as the Indians expected. They are disappointed with it, and they intend to contest it. Certainly we ought not against their wishes to sell their securities—for they are not ours—held by us in trust for them, until that question is settled. We ought not to provide for changing the treaty until after the amount is adjusted.

Mr. POMEROY. This does not provide for any change in the treaty.

Mr. SHERMAN. It provides for the sale of bonds in order to produce money.

Mr. POMEROY. It only provides for producing money to pay the awards provided for in the treaty, and the amount does not exceed the amount named in the treaty. If these Indians could be returned to their own coun-

try in any season of the year when they were in condition to support themselves, there would not be so much cruelty about it; but they must be returned this spring, and they have no funds and no means to do anything with. I hope this provision will be made. But I shall not discuss the question.

Mr. FESSENDEN. I should really like to understand what the true condition of this question is. It was mixed up yesterday with another question which had nothing to do with it apparently, and with which certainly I can see no connection. I understand that on one side it is claimed—and I should like to know where the truth lies—that the Chickasaws, for whose benefit this resolution is intended, were a portion of the tribe who for being loyal were driven out from the tribe, and after the rebellion was suppressed, a new treaty was made with the Chickasaw tribe proper, as well as with the Choctaws, made with that portion of the tribes who were rebels in point of fact; and in that treaty thus made with them, in which certain claims of theirs were recognized against the United States, provisions were inserted to the effect that they should pay to these people who had been driven out for their loyalty for certain property of theirs which they had taken and confiscated and put into the treasury of the nation. Those claims thus made have been submitted to a commission, and have been ascertained so far as the commission is concerned, and reported to the Secretary of the Interior, but have not yet been examined by him, owing to the want of time and their voluminous character; and it is not known what the decision will be. The provision of the treaty is that these claims, when ascertained, shall be paid out of moneys belonging to the Chickasaw nation in the possession of the United States. Now, there are no moneys, technically, belonging to them in the possession of the United States; but there is a certain trust fund belonging to them, consisting of bonds of the United States, to more than a sufficient amount to pay these claims. This resolution proposes, in case the claims are confirmed by the Secretary of the Interior, to sell a portion of the funds thus belonging to them for the purpose of paying the claims, there being nothing else out of which to pay them.

If that is the simple state of the fact, I am disposed to agree to the resolution, especially as it is alleged that these loyal Indians have been reduced from a state of affluence to poverty, absolute want, and suffering by the act of the rebel portion of the tribe, who are the majority, who drove them out; and that unless we make some provision for them in this way they must continue in a state of starvation.

Now, sir, on that statement, taking it to be true, I do not see any very particular objection to doing it. "Money" is a technical term, and the Secretary of the Interior, I think, understands that he has no authority to sell the trust funds, and he wants this resolution passed for the purpose of enabling him to raise money to pay these claims in case he affirms them. The Senator from Ohio objects, that these funds are set apart for schools, &c. I understand the fact to be that they are general funds for general uses, schools among other things; and that there are sufficient stocks which may be sold without material loss, being stocks of the United States, sufficient to pay these claims.

If that was all there was of the case, I should vote to give the authority asked, because in the first place it is perfectly manifest on that statement that the tribe whom we are trying to protect are those who were against us, who rebelled and drove out loyal Indians from among them, and who have been kept in a state of starvation ever since the tribe confiscated their property, and put it into their treasury. This is merely calling on them to pay back what has been decided to be justly due to those whom they drove out, and drove out in a state of starvation.

On the other hand, however, it is said that in point of fact this money is not going to



these Indians, but is going into the hands of agents and speculators, who are merely pursuing their private claims and trying to have these funds sold for the sake of putting money into their own pockets. If that is the state of the fact I should like to know it, and I should like to know what the justice of their claims is. If that is the case, it calls for an explanation; and if it is not the case and the facts be substantially as I have stated them, there is no reason in the world why we should not give the authority to raise the money necessary to support these Indians and give them what is due to them out of any funds we have in our hands belonging to the rebel tribe.

Mr. POMEROY. As I understand the case, the Senator from Maine gave the exact version for it; but with regard to his last remark, in relation to agents, I will say that I never heard of any agents in connection with this claim. I never heard the objection that this money is not going to the Indians. So far as I know, and so far as I believe, it will all go to the Indians where it belongs. I know nothing to the contrary, and I never heard anything to the contrary.

Mr. HARLAN. The Senator from Maine has stated the case clearly and exactly, I think, according to the facts as they exist, except that he has made one omission, and that is this: according to his information the case has not been examined. There were commissioners appointed by the President to go down among these people and examine the claim of each loyal person who had been driven out. That commission went to the vicinity of the location of these refugee Indians near Fort Smith and Fort Gibson, and there took testimony, as I understand, in the presence of attorneys for the tribes, some three attorneys appearing for one of the tribes, and five attorneys, I think, appearing for the other. After this testimony had been taken one of the commissioners went down into the lands owned by the tribes proper, consulted with the governor of each tribe, as they call the chiefs of the Choctaws and Chickasaws, and the governor of the tribe introduced additional rebutting testimony, examining specifically every case, and where the governor had doubt of the validity of a claim, introducing rebutting testimony.

This much is due to the facts as to the investigations that have been had. These commissioners have reported the testimony, with their conclusions as to the amount due to each one of these loyal Indians, and that report is now before the Secretary of the Interior. As I understand, the Secretary has not reviewed the testimony, and has not ultimately awarded the amount found to be due by the commissioners. The Indians or attorneys for them, as I understand, have asked the Secretary of the Interior to review the whole case; and to enable him to do so the Committee on Indian Affairs have proposed an amendment to this joint resolution, which has been adopted and is now a part of the resolution, authorizing the Secretary to review the whole case, and if in his opinion it should be necessary, of course to send it back to the ground where the witnesses live in order that the whole case may thus be reviewed. But the only question for the Senate to decide, it seems to me, is whether the provision of the treaty shall be carried into effect as originally intended, and whether the disloyal portion of the Choctaws and Chickasaws shall pay the damages which they inflicted on the lands and stock of the loyal part of those tribes that were driven north. They have agreed to do it, and do not object to doing it to-day. They do not, as I understand, object to the conversion of these bonds; but they merely claim that the Secretary of the Interior must review the case, and ascertain whether the award made by the commissioners is too great or not. It is larger than they had expected; but this grows out of the fact that there were more Choctaws and Chickasaws driven north than they supposed. They being more in number, and having lost more property on account of their being more of them who were

driven north than they had supposed, of course augments the amount.

I do not know whether any part of this money will go to anybody else than Indians or not. The rule of the Department has been, and I suppose is now, and will continue to be, not to pay one dollar of any such award to any other person than the Indian or individual himself. The money, I doubt not, will be hereafter, as it has been heretofore, paid to the Indian himself, who is the claimant; and if he chooses to pay a part of that money to an attorney for advice after he receives it, of course the Government cannot control it. That they have employed legal advisers I suppose is true; but if the Secretary of the Interior carries out what has been the rule of the Department heretofore, and I doubt not as now, he will pay the money to the Indians, and when once put into their hands they will of course do as other men do who collect claims.

Mr. SHERMAN. I want a little information from the honorable Senator in regard to the article of the treaty. If this money was intended for the relief from pressing distress of the loyal Indians who were driven out, and was to be used in that way, I could not resist the application, because the treaty provides for the payment of these claims; but this money is due in the nature of damages to particular Indians. It does not go to the Indian tribe, or even to the loyal Indians, but goes to particular Indians whose property was destroyed or injured, and also goes to other persons named, Heald & Wright, traders, whose property it is alleged was destroyed. It is not probable that the money paid under this arrangement will go for the relief of the Indians; but very likely the claims have been assigned, and are now in the hands of assignees.

Mr. HARLAN. I can only say as to that that the Department has always heretofore refused to recognize any agent or attorney in transactions of this kind.

Mr. SHERMAN. In cases of assignment?

Mr. HARLAN. Such claims cannot be assigned properly under the laws of the United States. I think there is a law prohibiting the payment of money due to Indians to any attorney. It can only be paid either to the Indian himself directly, or through the agent appointed by the President of the United States, by and with the advice and consent of the Senate, who gives bond for the faithful performance of this duty, with securities, as any other disbursing officer of the Government.

Mr. SHERMAN. The treaty is so worded that it does not confine the payment to Indians. It authorizes the payment of these claims, and authorizes their payment from any moneys of the nation in the hands of the United States, as the commission may award. It does not confine the payment to Indians; and there is nothing in the public laws that I know of to prevent any Indian assigning his claim. Then a large portion of the money is to go to Joseph E. Heald and Reuben Wright, who stand in the position of other claim agents.

Mr. HARLAN. I know nothing of the holders of the claims of these traders; but I think there is no controversy over that matter. When that treaty was made the delegates of these Indian tribes were perfectly willing to pay these traders, as they said, for provisions which were in the Territory when the war began, and which the authorities of these tribes seized and used. The traders were unable to go North; and although they had no legal claim, the Indians were perfectly willing to pay them a certain amount, and there was no controversy over it, except that a maximum was fixed beyond which payment should not be made.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to recommit the joint resolution to the Committee on Indian Affairs.

The question being put, the motion was declared to be not agreed to.

Mr. CONNESS. I ask for the yeas and nays on the motion to recommit, and I hope

the motion will be agreed to. I have heard a great deal that has been said on the subject. When it was first discussed yesterday I was disposed to vote with the honorable Senator who has charge of the resolution [Mr. POMEROY] and with my friend who sits behind me, [Mr. HARLAN;] but I am entirely satisfied now that it is one of those cases which ought to be very thoroughly examined before we take any further step in the matter. So far as the loyal Indians, who are proposed to be the beneficiaries, are concerned, I should be willing to make any appropriation for their benefit; but there is more than that contained in this proposition, as I believe. I believe the Indians are not all the parties to be benefited by the passage of this resolution and by the additional indorsement of this claim. I am convinced that it ought to have a thorough investigation before we give it further indorsement, and I hope that will be done.

Mr. POMEROY. The Senator may not be aware that it has been before the Committee on Indian Affairs.

Mr. CONNESS. I am quite aware of it, and I have great confidence in that committee; otherwise I would not propose to refer it again.

Mr. POMEROY. They reported this resolution only three days ago unanimously.

Mr. CONNESS. I am aware of that; but they did not go down to the marrow of this case in their recent investigation of the subject. This claim has grown, or that upon which it was founded, until it has become a mammoth one.

Mr. POMEROY. The Senator may not be aware that the Senator from Wisconsin has withdrawn the amendment which refers to that question, and this resolution has nothing to do with the old claim.

Mr. CONNESS. It is unpleasant to me to support this motion, because I have no want of confidence in the honorable Senators who are advocating this measure; but I think safety requires that we should recommit it for investigation. I think it is being urged by persons who are more deeply interested in it than Indians.

Mr. MORRILL, of Maine. I should like to ask the Senator from California what precise point he desires to have examined by the committee? Is it to be recommitted for any special purpose?

Mr. CONNESS. I desire the merits of the entire question to be examined before any further indorsements of it be had by action here.

Mr. FESSENDEN. I think the Senator misapprehends; probably he did not hear the remarks I made this morning. This has no sort of connection with that old claim to which he refers. It arises under a different treaty. All the discussion of yesterday upon that old claim was entirely out of place, and had no sort of connection with this question.

Mr. SHERMAN. It was then pending.

Mr. FESSENDEN. It came up then on an amendment proposed by the Senator from Wisconsin, which has now been withdrawn.

Mr. MORRILL, of Maine. It has nothing to do with the question as it is now presented.

Mr. CONNESS. Well, Mr. President, upon a subject that I am not exactly informed upon, and which Senators like those who rise before me profess to be exactly informed upon, it is very difficult for me to persist; and I withdraw my persistence in this case. I have great confidence in those Senators; but it would give me much more pleasure and satisfaction as a Senator here to see an investigation made before this measure is passed. Nevertheless, my defense is due to those Senators to this extent, and I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The motion to recommit has been decided in the negative.

Mr. HENDERSON. I move to amend the joint resolution by adding as a new section:

*And be it further resolved, That if the Secretary of the Interior shall not approve or confirm the awards*

already made, the President shall, on being notified thereof, appoint other commissioners, who shall take testimony and report as provided by the terms of said treaty; and the President may fix the times and places for the meeting of said commissioners for taking testimony on the claims presented. And the Secretary of the Interior is hereby required to pay the amount of award due to each Indian in person; and no part thereof shall be paid to any assignee, agent, or attorney.

The amendment was agreed to.

The joint resolution was reported to the Senate, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading; and was read the third time, and passed.

#### AGRICULTURAL MACHINERY.

Mr. MORGAN. The Committee on Finance, to whom was referred the joint resolution (S. R. No. 31) to remit or refund duties on agricultural machinery imported into the United States as models, have instructed me to report it back without amendment and recommend its passage. If it is to be passed at all, it should be passed promptly. I therefore ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. MORGAN. The tariff act of 1864 exempted this machinery from taxation, and the tariff act of 1865 extended the exemption for one year, and it expired on the 3d of March, 1866. The principle has been established by Congress. Not only this, but it was on the free list in the tariff bill pending at the last session.

Mr. MORRILL, of Vermont. I have no objection to the passage of this resolution; but I suggest to the Senator from New York whether if we are to be called upon to act on the tariff again it is not advisable to take the House bill in relation to articles of statuary, works of art, that have been given to various municipalities, and whether that should not be incorporated in the same bill with this. It is better to have as few of these bills as possible; and if we are going to be called on to act upon the subject to which I have referred, I suggest the propriety of considering both together.

Mr. MORGAN. If there be no objection from other quarters to that course, I shall make none.

Mr. FESSENDEN. This had better go over till to-morrow.

Mr. MORGAN. Very well. I move to postpone the joint resolution until to-morrow.

The motion was agreed to.

#### PAYMENT FOR SLAVES ENTERING THE ARMY.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the House joint resolution No. 15.

Mr. MORTON. There is unfinished business of the day before yesterday which was crowded out yesterday by other matters. I desire to take it up now and have it disposed of. It will take but a short time to dispose of it, and I think it is entitled to precedence. The business to which I refer is joint resolution No. 32, providing for reimbursing the State of Indiana moneys expended during the rebellion. Since the question was before the Senate the other day I have learned that resolutions of the same character have been passed in regard to Missouri, Pennsylvania, and West Virginia. I have seen the act in regard to West Virginia making provision for allowing expenses of precisely the same character. I am told that Missouri and Pennsylvania have been paid expenses of the same kind. There are but two States that have any claims of that kind, as I am advised, Indiana and Ohio. The claim of Ohio, I think, is quite small. Special acts have been passed in regard to each other State—

Mr. TRUMBULL. I submit to the Senator from Indiana that my motion is in order, and I hope he will allow the joint resolution to which I have referred to come up.

The PRESIDENT *pro tempore*. The motion of the Senator from Illinois is in order, and being first made must be first put.

The motion was agreed to; and the joint

resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States, was considered as in Committee of the Whole.

It suspends all further proceedings under the twenty-fourth section of the act of Congress, approved February 24, 1864, "to award compensation to the masters of slaves drafted into the military service of the United States, and award compensation to persons to whom colored volunteers may owe service;" and under the second section of the act approved July 28, 1866, "making appropriation for payment to persons claiming service or labor from colored volunteers or drafted men." The Secretary of War is to dissolve the commissions appointed under these sections, and make payment to the commissioners and clerks for the services rendered, upon their making report of their proceedings to the War Department.

Mr. DAVIS. Mr. President, I am sorry that the honorable Senator from Illinois presses this measure with so much pertinacity. I had hoped that his own consideration of justice and of the plighted faith of the Government in relation to this subject would have induced him to consent that the measure should be silently dropped. It is simply an effort to induce Congress to take up the matter of repudiation. That position cannot be doubted by any gentleman who will understand the facts of the case. On the 24th of February, 1864, Congress passed an act containing this section:

"Sec. 24. And be it further enacted, That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of \$100 now payable by law for each drafted man shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer, on being mustered into the service, shall be free."

The Senate will recollect that persons who were liable to be drafted into the military service were allowed to commute that obligation by the payment of \$300 each. The aggregate amount thus paid by way of commutation was some ten or twelve million dollars. In the act which I have read this fund is set apart by the law of Congress to pay to the loyal owners of slaves that should be enlisted into the military service, or who might volunteer, \$200 each; and to the owners of those who might be drafted, \$100 each. Here is the simple law, the obligation and contract of Congress and of the United States in the form of a law, that all loyal owners of slaves who would encourage them to enlist into the military service of the United States should receive \$300 for each one voluntarily enlisted, and \$100 for each slave who might be drafted. Under the faith plighted by this law many of the loyal owners of slaves in Kentucky and in Maryland induced them to enlist into the military service; and many enlisted into the military service without consulting with their owners at all. When this law, in its plain, explicit terms, says that here is a fund arising from commutation, which, by the report of the War Office, amounts to ten or twelve million dollars, that shall be appropriated to the payment of bounties for every loyal man's slave that may be enlisted into the service of the United States, not exceeding \$300 each, I ask if there can be a plainer pledge, a plainer contract on the part of the Government with the owners of this sort of property, that they should have in the form of bounty from that fund not exceeding the sum of \$300 for each enlisted slave?

What is the proposition now under consideration? It is simply in substance and effect to repudiate this contract. The law from which

I have read was passed in 1864. At the first session of the last Congress, the House of Representatives inserted in one of the appropriation bills a clause repealing this law; and the appropriation bill in that shape came to the Senate. The Committee on Finance recommended a disagreement to the House provision repealing the law. The subject was discussed in the Senate, and after consideration the Senate acted in conformity with the recommendation of its committee and disagreed to the clause of the House bill repealing the law which I have just read. This action of the Senate was submitted to the House and the House concurred in this adherence of the Senate to the good faith of Congress, thus refusing to repudiate the solemn obligation of the Government, and reaffirming it.

Here was this matter then again deliberately acted upon. The House of Representatives endeavored to lure the Senate to a violation of the faith of the Government and of Congress. The Senate refused to be so lured and decided, and so did Congress, solemnly, after argument and after conference between the two Houses on the disagreeing votes, that the faith of the Government should be preserved and that this \$300 bounty should be paid. That was a sacred form, and a more solemn form in which Congress decided to preserve its faith with the owners of this property. The Secretary of War, though, from time to time refused to appoint commissions to assess the value of these slaves, not exceeding \$300 each, until 1866, when in one of the appropriation bills this clause was inserted:

"That so much of any money in the Treasury known as the 'commutation fund'—"

the fund that was set apart and was pledged by the act of 1864, for the payment of these bounties—

"as may be necessary be, and the same is hereby, appropriated for the payment to loyal persons claiming service or labor from colored volunteers or drafted men, the amounts heretofore or hereafter to be awarded them under the provisions of section twenty-four of the act entitled 'An act to amend an act entitled 'An act for enrolling and calling out the national forces,' approved February 24, 1864,' which I have just read—"

"for each person so claimed to be held to service or labor, who has enlisted or been drafted into the military service of the United States."

Now, Mr. President, here is the faith of the Senate three times solemnly pledged to the payment of these bounties. I ask, then, if the Senate should not in good faith pay these bounties to the loyal owners of the slaves who were thus enlisted. I remember that a day or two ago the present incumbent of the chair [Mr. FREELINGHUYSEN] enunciated this beautiful sentiment: that the plighted faith of a nation was its religion, and that that plighted faith ought to be observed with all the solemnities of the most religious obligation. It was a just and a beautiful sentiment, and uttered in handsome, classic language. I think that that sentiment of national morals, of good faith between the Government and its citizens, ought to find an echo in the bosom of every American statesman and of every honest man. I am amazed at the persistence of the House of Representatives, and especially at the persistence of the honorable Senator from Illinois, in endeavoring to coerce the Senate into this flagitious violation of its faith and of the faith of the Government. Why, sir, if a private individual was to make the same efforts to evade the payment of his debts he would render himself infamous; he would bring down upon himself the dishonor of his neighbors and of the community in which he lived; and he would no longer receive credit or trust or respect in that community. Sir, the faith of the Government of the nation ought to be held more sacred if possible than that of an individual. The highest obligation that I can conceive of is the obligation of a Government to its loyal people. I can conceive of no covenant, no obligation that should be held more sacred than that of a Government to its people.

Mr. President, it need not be said that the consideration of this law and of this promise

of the Government was man, and that man cannot be property. There is hardly a civilized nation on earth; certainly none of the States of the United States of America; that has not recognized the existence of property in African slaves. I have before me the celebrated case of *Somerset*, decided by Lord Mansfield in 1772. In that decision Lord Mansfield recites again and again that a century before Sir Philip Yorke, then attorney general, and Lord Talbot, solicitor general, two of the ablest men, he said, of that or of any age, had held that slavery existed in England. In this very case of *Somerset* he decides explicitly, in the plainest terms, that slavery then existed in England; that there were seventeen thousand slaves at that time in Great Britain, worth seventy-five pounds each; and he says, in the plainest language, that if *Somerset* had been sold as a slave the obligation to pay the money would have been sustained as a legal obligation, and judgment would have been rendered upon it in his own court. I will read a short paragraph from that decision:

"The question is, if the owner had a right to detain the slave for the sending of him over to be sold in Jamaica."

I will state the facts in the case. *Somerset* was a slave born in the colony of Virginia. From Virginia he was taken to Jamaica or one of the West India Islands, and from that island he was taken by his owner to England. The owner afterward determined to take *Somerset* back to Jamaica as a slave, and some persons interfering with him in his purpose in England he placed *Somerset* on board of a ship in the Thames. A friend of *Somerset* sued out a writ of *habeas corpus* directed to the captain of the ship to show cause before Lord Mansfield in the Court of King's Bench why he detained *Somerset*. The captain, Captain Knowles, reported these facts to Lord Mansfield, and Lord Mansfield decided expressly that slavery existed in England; that *Somerset* was a slave; that if *Somerset* had been sold and a bond executed for the consideration money the laws of England would have held that a valid contract upon a valid consideration, and that his own court would have sustained the obligation and have rendered judgment upon it. What principle then did he decide? He decided simply this: that there were laws in operation in England at that time that would prevent the owner of *Somerset* from taking him from that island to one of the colonial possessions of Great Britain as a slave, and therefore he granted the writ of *habeas corpus*. Here is what Lord Mansfield says:

"The question is, if the owner had a right to detain the slave for the sending of him over to be sold in Jamaica. In five or six cases of this nature I have known it to be accommodated by agreement between the parties. On its first coming before me I strongly recommended it here; but if the parties will have it decided, we must give our opinion. Compassion will not, on the one hand, nor inconvenience on the other, be to decide; but the law: in which the difficulty will be principally from the inconvenience on both sides. Contract for sale of a slave is good here: the sale is a matter to which the law properly and readily attaches, and will maintain the price according to the agreement."—*Loft's Reports*, page 17.

We have heard a great deal of misrepresentation about this celebrated case of *Somerset*, and, in the language of Curran, that Lord Mansfield decided that slavery could not exist in England; that the moment a slave touched that soil he stood redeemed, regenerated, and disenthralled by the irresistible genius of universal emancipation. Sir, that was only a grand rhetorical flourish; there was no truth in it. There were in England at that time seventeen thousand slaves. I have traced the history of the subject of slavery in England, and it had existed there for more than a hundred years. Slaves had been bought and sold there. They had been distributed as assets among the distributees of a decedent who owned them. The slave trade had been recognized in various forms. But I am not going into that subject. I read this decision merely to show that if *Somerset* had been sold on a credit by his owner

to a subject of Great Britain in the island of England, and if when the note for the consideration money fell due it had not been paid, and a suit had been instituted in the court of King's Bench where Lord Mansfield was the presiding judge, he himself solemnly said the law would attach an obligation to him and would require the money to be paid by judgment; and there were many cases of that kind.

I have here various opinions given in this country. I am not going to read them. I will merely refer to them. I have the decision in the case of *Prigg vs. Pennsylvania*. I have the decision of the case arising in the State of Ohio. I have other decisions, all recognizing the fact that property exists in slaves in any State that chose to establish the institution. There never was a court of the United States or of a State that decided the contrary until this war commenced. You may take the decisions of all the circuit courts, and especially the circuit courts in the western States, where questions connected with slavery were of frequent occurrence; you may take the decisions of all the State courts from Wisconsin to Massachusetts, including the judgment of Judge Shaw, and the unanimous decision of the superior court of Massachusetts; and they all recognize the existence of property in slaves in the States that chose to establish the institution. I will not read any of these cases. But, sir, all the courts of the United States that have passed upon the subject recognize property in slaves just as in any other subject of property, so far as it concerns the States or the countries which have established that institution. That the honorable Senator will not deny.

Now, Mr. President, when the Government chooses by its own law to enter up its solemn promise that where slaves are enlisted it will pay, if the enlistment is voluntary, to the loyal owner \$300, and where the Senate and Congress in two or three forms affirmed that proposition, I ask if the Senate ought to consider now this subject of a repudiation of such an obligation.

I might as well state my own experience in relation to slavery in a few simple words. At the beginning of the war I owned eighteen slaves, or rather I was owned by eighteen slaves, [laughter.] for I had to do a great deal more work than any of them did. I had two men that enlisted; and I will state the circumstances under which I became their owner. I owned the wife of one and his children. His wife and he importuned me to purchase him. I did buy him for the sum of \$1,000; and in a year or two he went free because he enlisted into the Army and became a soldier. He never reimbursed me for the amount of money which I paid for him.

I had another man who enlisted in the Army. I bought him when he was some six or seven years of age, and I made a house boy of him. Like all house boys, he did not do much work. Well, sir, after awhile the war commenced; the drum beat; and it summoned recruits, and negro recruits. This young fellow, that I had given \$600 for when he was six or seven years old, took it into his head that he would turn soldier; and he did turn soldier. Now, I ask you, sir, if I have not a claim upon my country for the bounty which it promised me?

But that is not all. I have not got done with my experience in relation to slaves yet. This boy had a mother, and he induced his mother to desire to have the same home. Upon his importunity and her importunity I purchased her; and I gave \$900 for her. Well, she was a young woman and was having children, and she had four or five children, during which time anybody who knows anything of raising negroes and family negroes will know she was not of much value to me. She had a free husband, who lived pretty much upon me. [Laughter.] He used to come there every night, burn my fuel all night, and eat my bacon, corn, and potatoes. [Laughter.] After awhile he took it into his head that he would become a soldier,

too. He did so. She had four likely young children. She had never rendered me as much service as would pay her expenses; but under the bill of the honorable Senator from Massachusetts, [Mr. Wilson,] freeing the wives and children of soldiers who went into the Army, her husband came and claimed that she and all her children were free; and away they went. [Laughter.]

Then this man that I bought for \$1,000 had a wife. I raised her. Some I bought; some I raised; some I inherited. His wife was a very valuable woman; exceedingly so. She was of value beyond money. I have seen the day when I could have got \$2,000 for her. I never doubted after the war commenced that emancipation of the slaves would ensue. I told my neighbors and friends it would be so. I saw that it would come. I told some Union men who were very much attached to slavery, "If this war is made instead of securing slavery it will result speedily in its overthrow, and the northern men will soon arm your own slaves and turn them in hostile array against you, your wives, and your children." I never doubted it. I could have sold my slaves then for large sums of money; but my slaves were not for sale. They were my family. I had raised them. Next to my wife and children they were the dearest in the world to me; and I would have protected them, and have protected them, next to my wife and children. I knew that emancipation would come. If I had been operated upon by the mere matter of lucre, I would then have sold these slaves; but there were no considerations connected with earth or with life that would have induced me to sell them.

But, sir, I am still not done with my experience in relation to slavery. There was an old family servant by the name of John. He is about five years older than I am. He is now—

Mr. JOHNSON. How old are you?

Mr. DAVIS. Well, he is seventy years old. He is not so old as the honorable Senator from Maryland by about from five to ten years. [Laughter.] I had old John ever since my memory. He was a mill boy; he was an errand boy. I had my origin in the primeval days of Kentucky, and our mothers and our housewives used to have a good deal of spinning done, and they had looms in their own families, or some neighbor's daughter was a good weaver, and they would send the warp to the weavers and bring the wool home; and John was the boy that always went to the mill. John always took me with him then. I rode behind him. If a big boy wanted to impose on me, John would defend me; and if a big negro boy wanted to impose on him, I would fight and cry a great deal for John; and in that way we got along. In the course of nature John went off to a brother of mine; he sold him. A few years ago, John was old, and he came to me and said he wanted to get back into the family. He had a wife, almost blind, one of the greatest termagants I ever saw, [laughter,] and he and his wife solicited me to buy him; he said he wanted to get back into the family. "Well," said I, "John, if you were a strange negro I would not have you and your wife for \$500; but as you will insist upon it I will buy you." I did so. I bought him and his wife. They lived with me contentedly, having little or nothing to do, and a house to themselves, and a patch of garden, and all that sort of thing, until this "cruel war," as I believe General Sherman called it in a letter that he wrote to an Episcopalian clergyman, came on; and John took it into his head that he must be free. "Well," said I, "John you are not able to support yourself now, and if you go off free you will be in a state of want; if you are tired of living with me, just find a man who will agree to support you when you are not able to support yourself, and if he will bind himself to support you and your wife, I will give him \$400—\$200 apiece." That did not suit John; he wanted to be free; so he went off into freedom. Well, sir, my wife writes me that after

about six months, John has come back and is now on my premises. I told him, "Whenever you are not able to support yourself come back and you shall have a home and plenty as long as I can give it to you."

But, sir, I owned another very valuable young slave. A brother-in-law of mine and myself established a cotton farm; but I got tired of the business and sold out to him. This boy came back to my premises some time last summer. He was a very valuable boy, then in fine health, honest, industrious, and truthful. I was supporting him and giving him \$150 a year; but in December last he was attacked with inflammatory rheumatism, and has not been able to do a hand's turn since, and I have been supporting him all the time since, and may have to do so. If he should continue in that helpless condition I will do so. John and I are wedded together as long as we both live; there is no doubt about that; and so is this boy, too, as long as he is unable to support himself. No human being that ever was a member of my family shall want while I have the means of supplying his wants.

Mr. President, I have given this narrative just for this simple purpose: it is something like an exhibit of slavery generally as it existed in the State of Kentucky, and of the present negro population of that State in their relationship and their dependence upon their former owners generally. It seems to me that if there are entanglements, the relations, the ties, the obligations that subsist between the late owners and their property, when the nation, in its legislation, by its solemn laws, has pledged itself that where the young and the best slaves were taken into the Army their owners should be compensated to a certain extent, and afterward the wives and children of those who did go into the Army were liberated—under such circumstances if Congress, even by improvident legislation, promised and pledged itself to pay \$100 bounty in case of draft and \$300 bounty in case of voluntary enlistment, the good faith, the humanity, and the self-respect of Congress, of the Senate at least, and every member of it, ought to induce them to let the matter rest.

Mr. SAULSBURY. I never hear the honorable Senator from Kentucky address the Senate that I do not listen with the most profound attention. When questions of constitutional law are to be discussed in this body, and I wish to be enlightened upon those questions, I turn involuntarily to the able Senator from Kentucky. I have received many lessons from him. There may be other members of this body to whom, on those questions that arise in courts of justice, and the practical questions that arise in discussions of such matters, I listen with as much respect as I do to the honorable Senator from Kentucky; but, sir, having sat in this body for eight years, there is no man for whose opinions and whose judgment I have such a profound respect as I have for the opinions of the honorable Senator from Kentucky when he rises to discuss a question of constitutional law or those great principles that underlie our Government.

I have listened to him to-day, sir. I have heard him tell some of his own experience in reference to slavery. I have heard from him nothing that has not been my own. I, too, am a sufferer pecuniarily from the legislation of Congress on this subject. But, sir, when that legislation was instituted I protested against it as a usurpation of power. I said the Congress of the United States had no right to take my private property and appropriate it for their uses without giving me just compensation. My voice in that debate was inefficient, unheard. Congress did it. To-day I am called upon to vote on the question whether the Treasury of the United States shall supply my losses or whether I shall bear them as an individual. I rise in my place here to say I will bear them as an individual; I will never vote a dollar of the public Treasury to pay me for an individual loss.

I know, sir, the argument that may be produced: "You had no right to do it, and therefore you are bound to pay for it;" but in the inception of your legislation I protested against it.

Mr. DAVIS. I will ask the honorable Senator one question. Do you believe that negroes were property?

Mr. SAULSBURY. I do.

Mr. DAVIS. Is there not a plain constitutional provision that requires the Government to make just compensation for private property taken for public use?

Mr. SAULSBURY. There is.

Mr. DAVIS. Were not the negroes that enlisted into the Army taken for public use?

Mr. SAULSBURY. No, sir. There is the point upon which the honorable Senator and I differ. I will vote no dollar to pay out of the public Treasury to anybody, whether he is a Senator or a member of Congress or anybody else, for doing an act that I think was wrongful and disgraceful, if the Senator will pardon the word, a wrong done to me personally. When my negroes were taken, what few I had, it was not put upon the ground that they were taken as private property for public uses. It was done from political considerations that I thought were insufficient. I did not believe the doctrine then. I said they were not justified in taking my negroes, what few I had, and I had but very few. They did not put it upon the ground that they took them as private property for public uses; but they went on the grand humanitarian ground. They were going to elevate a degraded race and make the negro equal to the white man. I then uttered my feeble voice against it as an outrage upon my constitutional rights. Having taken that position, I shall never vote one single dollar to reimburse myself or anybody else situated as I am.

Mr. President, history will open up before the gaze of the American people a bright record. They will look upon it and they will see it. It is beginning to be opened now. When a proposition is made in the American Senate to pay southern slaveholders the value of slaves, which I then protested were wrongfully taken from them, we must examine the consistency of our record. This bill, if it is passed, to pay southern slaveholders, will benefit me some little; but thank God I can afford to dispense with your munificence, and if it is passed I certainly shall never take a dollar of it. But, sir, let me tell you, while that was my feeble utterance then, what is my utterance now. I hope there is no slaveholder in the United States who would accept the bounty extended by this bill. Let it go. It has passed. It is in the past. We can look upon it as one of those incidents of life which may happen at great revolutionary moments; but the sober second thought of the people perhaps will reconsider the judgment. I appeal to the Senator from Kentucky, and I appeal to every man situated as he is—

Mr. CONNESS. Will the honorable Senator give way for a motion to proceed to the consideration of executive business?

Mr. SAULSBURY. I shall be through in a moment. I hope that now that the clangor of arms is hushed, that in the whole length and breadth of this land there will not be one slaveholder who will come to your Treasury asking for relief. Let no such demand be made. I hope that no voice will come up from the men who were born in the midst of that institution, and I from my earliest recollections was surrounded with negro quarters, asking for compensation. You say you have restored the Union; so be it. Then we can all unite and thank God in one common voice; but we do not come knocking at your Treasury for a dollar. So far as I, as one individual, am concerned, whatever may be the fate of the proposition, no dollar from your Treasury shall be put into my pocket. I hope our southern friends will allow this bill to pass without making any demand. Let us show, as southern men, who have been injured by

your legislation, that we will not ask it from you. In the future, sir, all we ask of you is, do justice, love mercy, and walk humbly before your God.

Mr. CATTELL. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope we shall have a vote. I think we can take a vote without any further discussion.

Mr. SUMNER. I hope we shall vote.

The PRESIDENT *pro tempore*. Does the Senator from New Jersey withdraw his motion?

Mr. CATTELL. Yes, sir.

The joint resolution was reported to the Senate without amendment.

Mr. FESSENDEN. I should like to hear the resolution read at length.

The Secretary read it.

Mr. FESSENDEN. It reads "that all further proceedings be, and the same is hereby, suspended." It should be "are suspended."

Mr. TRUMBULL. It is a House resolution. It reads "be, and the same is hereby, suspended."

Mr. FESSENDEN. "All further proceedings is."

Mr. TRUMBULL. Perhaps the grammar is not very accurate. It was an error probably in the enrolling.

Mr. JOHNSON. I do not rise to debate the resolution. I wish merely to say that in my opinion it violates the plighted faith of the nation, and I am so strongly impressed with that conviction that I ask that the vote be taken by yeas and nays on the passage of the resolution.

The joint resolution was ordered to a third reading, and was read the third time.

The PRESIDENT *pro tempore*. On the passage of the resolution the Senator from Maryland asks for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and concluded the call.

Mr. CORBETT. I do not know that I understand this resolution thoroughly. I understand that it merely suspends the action of commissioners who are at work that is not necessary, a law having gone into effect cutting off these claims. Therefore, if I understand aright, I shall vote "yea."

Mr. WILSON. If the Senate will allow me to make one word of explanation, I should like to vote on this resolution.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. It cannot be done unless by unanimous consent. "Yea" or "nay" is the word.

Mr. CONNESS, (to Mr. WILSON.) You can make your explanation on some other bill.

Mr. WILSON. Then I cannot vote on the resolution.

The result was announced—yeas 32, nays 7; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Fowler, Harlan, Henderson, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Sumner, Thayer, Tipton, Trumbull, Wade, Williams, and Yates—32.

NAYS—Messrs. Buckalew, Davis, Doolittle, Johnson, Patterson of Tennessee, Van Winkle, and Willey—7.

ABSENT—Messrs. Dixon, Ferry, Fessenden, Frelinghuysen, Grimes, Guthrie, Hendricks, Howard, Morrill of Maine, Norton, Riddle, Sprague, Stewart, and Wilson—11.

So the joint resolution was passed.

#### PORT OF DELIVERY AT CHESTER.

Mr. CAMERON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 96) to establish a port of delivery at Chester, Pennsylvania; which was read twice by its title.

Mr. CAMERON. I hope the Senate will give me a minute or two to pass this bill. It is a mere matter of form relating entirely to my own State and extending the boundaries of the collection district of Philadelphia. The



bill is necessary, and will be of great advantage to the immediate neighborhood. I have shown it to all the members of the Committee on Commerce and they agree to it.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks the unanimous consent of the Senate to consider the bill at this time.

Mr. TRUMBULL. Does it come from a committee?

Mr. CAMERON. It is agreed to by the committee and approved by the Treasury Department.

Mr. TRUMBULL. It ought to come from a committee.

The PRESIDENT *pro tempore*. Is there any objection? The Chair hears none, and the bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill, which provides that Chester, in the district of Philadelphia, shall be a port of delivery, and that a surveyor shall be appointed, who is to reside there, and receive a salary of \$500 per annum.

Mr. CAMERON. Chester is within two miles of the present limits of the district. A large manufacturing business is growing up there and a large trade. It is desirable that vessels should be permitted to unload their cargoes at Chester instead of carrying them fifteen miles up the river and then bringing them down in lighters. It will be an advantage to the Government, and a great convenience to the people of the neighborhood. I hope the Senate will indulge me by passing it now, so that I may get it through the other House at the present session.

Mr. TRUMBULL. I have no sort of objection to the bill; but I think it is the first instance since my service in the Senate that I have known a bill introduced and passed without any reference to a committee, unless it was to correct a mistake or something of that sort. I suggest to my friend from Pennsylvania to let it go to the Committee on Commerce, and it can be reported back in the morning and passed, merely to preserve the proper mode of doing business in the Senate. It cannot go to the House to-day, for the House has adjourned. I have no objection to the bill.

Mr. CAMERON. I hope it will pass now, because we shall gain a day by it. I will say in addition that my State has asked nothing this year, I believe. I do not make many motions here, and do not disturb other gentlemen, and I trust they will indulge me in passing this bill.

Mr. TRUMBULL. It ought to be referred. The bill was reported to the Senate without amendment.

Mr. TRUMBULL. I move to refer the bill to the Committee on Commerce.

Mr. CAMERON. I hope it will not be referred. It has been shown to all the members of the committee and approved by every one of them. There can be no objection to it.

The motion to refer was not agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### EXTRA COMPENSATION TO CIVIL EMPLOYEES.

The joint resolution (H. R. No. 29) to extend to the employés of the quartermaster's and subsistence departments at Washington the provisions of the joint resolution giving additional compensation to certain employés in the civil service of the Government at Washington was read twice by its title.

Mr. WILLIAMS. I move that that resolution be indefinitely postponed. The subject was considered by the committee this morning, and I stated to the Senate reasons for our action.

The motion was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting an estimate of appropriations necessary to fulfill the stipulations of the treaty with the Chippewas of the

Mississippi, concluded on the 19th of March, 1867; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the Senate of the 18th instant, information as to the number of persons employed under the acts for the collection of the direct tax in the insurrectionary districts within the United States, and the amount of salaries paid; which, on motion of Mr. TRUMBULL, was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Treasurer of the United States, transmitting an account of receipts and expenditures for the service of the Post Office Department for the fiscal year ending June 30, 1866; which was referred to the Committee on Post Offices and Post Roads.

He also laid before the Senate a communication from the Secretary of War, transmitting, in further answer to the resolution of the Senate of March 8, respecting armed expeditions against the Western Indians, a report of Lieutenant General Sherman; which, on motion of Mr. WILSON, was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of March 12, a report from the Quartermaster General respecting the organization and equipment of the Government fire department of the city of Washington; which was referred to the Committee on the District of Columbia.

He also laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 15th instant, reports from the Secretary of State and the Secretary of the Treasury relative to the disposition made of that portion of fees received by consular agents within the districts of salaried consuls, that have been by such consular agents paid over to such consuls under the apportionment of fees of such agents by the President.

Mr. WILSON. I move that those papers lie on the table, and that the written matter, the manuscript, be printed. There is a large amount of printed matter there that it is not necessary to print.

The motion was agreed to.

#### RICHARD CHENERY.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 40) to provide for the payment of a certain claim; which was read twice by its title.

Mr. EDMUNDS. Let the resolution be read at length for information.

The Secretary read the resolution, which appropriates such an amount of money as shall be found to be due Richard Chenery under a recent act of Congress for his relief, for the purpose of paying the same.

Mr. CONNESS. I ask the Senate to consider the resolution at the present time. It is to correct an error in an act recently passed, which the chairman of the Committee on Indian Affairs will explain in a word. I hold in my hand the act which provides for the examination of this account; but it did not make an appropriation for the amount found due.

Mr. HENDERSON. You should amend the resolution so as to refer distinctly to that act.

Mr. CONNESS. It says "the recent act passed for his relief."

Mr. HENDERSON. You should name the act and the date of its passage.

Mr. CONNESS. It refers sufficiently to the act.

The PRESIDENT *pro tempore*. The Senator from California asks for the present consideration of the joint resolution. The Chair hears no objection.

Mr. JOHNSON. I submit to my friend from California that the language is rather awkward, as he will see on its reading.

Mr. HENDERSON. The resolution should refer to the date and the title of the act, so that there can be no mistake on the part of the Secretary.

Mr. CONNESS. I think all these objections are really technical. There has been no act passed for the relief of this man but the one I hold in my hand, and the resolution refers to that act. It cannot refer to anything else. If, however, there be a real objection to it, I will allow it to lie on the table until the morning; but I do not think it necessary at all. I ask the Senate to remember that we have at present no member from California in the other body; and I do not wish to delay the resolution at this hour longer than we can avoid. If any Senator will suggest an amendment, of course I shall have no objection to it.

Mr. FESSENDEN. Let it refer especially to the act.

Mr. CONNESS. I will amend it so as to refer to the act for the relief of Richard Chenery.

Mr. HENDERSON. The object of it is right.

Mr. EDMUNDS. It should be limited to the \$8,000 named in the other act, and not left to a general appropriation.

Mr. HENDERSON. The bill that passed did not require the Secretary to pay \$8,000. I will state that it was an act passed at the late session. I drew the bill myself. It was a bill of one section, and I omitted the appropriation clause. The object of this bill, as I presume, is to appropriate a sufficient amount of money to pay it. That is all there is in it.

Mr. CONNESS. I accept the amendments proposed.

Mr. HARLAN. I am not willing to vote in favor of this bill to amend another law unless I can be informed of the substance of the law to be amended.

Mr. CONNESS. I will read the substance of the law to be amended:

That the Secretary of the Interior is hereby authorized to examine the claim of Richard Chenery, of California, for \$8,000 alleged to be due to him for beef furnished to George F. Armstrong, temporary Indian agent for the tribes of Indians on Russian river and at Clear Lake, and for which said Armstrong executed receipts dated March 23 and May 23, 1852; and if he shall believe from such examination that the property was furnished in good faith, and that the Government is justly indebted to the claimant as alleged, he shall cause the amount so found due to be paid: *Provided*, That in no event shall any greater sum than \$8,000 be paid therefor.

That is the act we passed; and now this is to provide an appropriation for the payment of such an amount as shall be found to be due, which was omitted.

Mr. EDMUNDS. I move to amend the resolution by inserting after the word "money" the words "not exceeding \$8,000."

Mr. CONNESS. I have no objection to the amendment. The amount will be less than that in all probability.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. HARLAN. I think this is one of a class of old claims which were of a very loose character. I think they were all examined in the Interior Department, and that part of them which was found to be just by the then Commissioner of Indian Affairs was long since paid. I apprehend that this is the remnant of a claim the justice of which is very doubtful. I think it had better go over.

Mr. CONNESS. This does not provide for paying the claim; it proposes an appropriation out of which the claim shall be paid if found to be due. The claim was examined fully by the Committee on Indian Affairs on its merits, and the bill providing for it passed by both Houses of Congress. This is to supply a provision that was left out of that bill.

Mr. HENDERSON. I am not willing to let the statement of the Senator from Iowa stand as it is made. It rather leaves the impression that this claim has once been examined by the Secretary of the Interior and rejected. I will state to the Senator that I can find no evidence of that fact in the Depart-

ment. I find a rejection of the claim simply because the Department had no money with which to pay it. There were some claims originating at the same time that were examined. The claim of Mr. McKee was examined, and a portion of it allowed and a portion rejected. The Senator may perhaps have an impression of this claim as connected with those old claims that originated in California. I believe there was nothing anywhere to be found in the Department going to show that this claim was not a correct and proper claim. The House of Representatives passed a bill allowing the claim positively and directing its payment. I was utterly unwilling to declare for the payment of the claim, but made it obligatory upon the Secretary of the Interior to examine it, leaving it entirely with him to say whether it should be paid or not, and that he should not pay more than the principal of the claim, that he should pay no interest under any circumstances. I was not aware that it had ever been examined by the Department, except so far as to say that there was no money to pay it, and hence it was unnecessary to look into it.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 97) supplementary to an act incorporating the Newsboys' Home, and providing for the relief of certain minor children in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 98) for the relief of Chauncey N. Noteware; which was read twice by its title, and referred to the Committee on Claims.

#### PARIS EXHIBITION.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Foreign Relations be instructed to consider the expediency of passing a resolution expressive of the sense of the nation that the American department of the World's Exhibition at Paris shall not be opened on the Sabbath day.

#### INDIANA WAR CLAIMS.

Mr. MORTON. I move to take up Senate joint resolution No. 32, to reimburse the State of Indiana for expenses incurred in repelling rebel raids during the late rebellion.

The motion was agreed to.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

Mr. MORTON. I trust the Senator from Vermont will withdraw that motion. The executive business will keep for a day or two; but if this resolution is laid over it is gone.

Mr. SHERMAN. By leaving it now as the unfinished business it will come up in the morning at perhaps the most favorable time for it.

Mr. EDMUNDS. It will be the unfinished business, and entitled to precedence.

Mr. MORTON. Yes; but that involves the loss of a day. A day's delay may be fatal to it, while the executive business will keep for a day or two.

Mr. EDMUNDS. It is quite evident that this measure cannot be finished to-night. It is a claim of a nature that embraces a good deal of inquiry, and the subject will create considerable discussion. It involves a principle that interests my own State as, if it be adopted, we have similar claims. Inasmuch as my motion leaves this matter in a position where it will be the first business to-morrow, I think my friend from Indiana ought to yield, and I hope we shall proceed to consider the filling of the vacant offices.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, March 21, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was partly read.

On motion of Mr. SCHENCK, the further reading of the Journal was dispensed with by unanimous consent.

#### TWENTY PER CENT. INCREASED COMPENSATION.

Mr. SCHENCK, by unanimous consent, introduced a joint resolution to extend to the employes of the quartermaster and subsistence departments at Washington the provisions of the joint resolution giving additional compensation to certain employes in the civil service of the Government at Washington; which was read a first and second time.

Mr. HOLMAN. I would suggest to the gentleman from Ohio [Mr. SCHENCK] that his joint resolution should be made broad enough to embrace other laborers in the employ of the Government in Washington, in the navy-yard for instance.

Mr. SCHENCK. When this subject was before the House, at its last session, it was stated that there had been an advance of wages made to those laborers. This resolution is meant to apply to those in the employ of the quartermaster and subsistence departments at Washington, who are not included under the provisions of the present law by some construction of the department, although it was supposed they would be covered by the law.

Mr. HOLMAN. There has been in point of fact, then, an increase in the wages of the laborers in the navy-yard here?

Mr. SCHENCK. So I understand.

Mr. JULIAN. The laboring men and mechanics in the navy-yard here have not had any late increase of their wages, and they are now absolutely suffering by reason of insufficient compensation. I hope the gentleman will include them.

Mr. SCHENCK. I have no objection to have them included if they have not yet received any advance of wages. But I think that matter better be inquired into, and if deemed necessary let a distinct proposition be introduced for their relief. I have confined this joint resolution to those who have been excluded by the express construction given to the present law.

Mr. BENJAMIN. I would ask the gentleman to modify his resolution so as to include the employes in the Government Printing Office, who I think are more poorly paid than any other employes of the Government. They are not included within the present law giving increased compensation to certain employes in the civil service of the Government at Washington.

Mr. SCHENCK. I prefer that gentlemen shall bring in separate propositions to include the cases which they may think demand additional legislation. I have embraced in this proposition two cases in which by construction the accounting officers have excluded persons whom Congress intended to include. If there are other cases which upon inquiry are found to be of the same meritorious character, I shall not object to any legislation which may be necessary to cover those cases; but I think they had better be included in separate propositions.

Mr. JULIAN. I ask the gentleman to yield to allow me to offer a separate proposition to meet the case to which I have referred, and take the sense of the House upon it.

Mr. SCHENCK. I think we had better take the vote first on this proposition.

Mr. CHANLER. I suggest to the gentleman from Ohio that he should include in his resolution the employes in the Patent Office. They have been asking us with great justice for an increase of pay, but have not been embraced in our legislation heretofore. I have no objection, of course, to paying the employes in the quartermaster department; but certainly it is hardly fair to do this thing by piecemeal when there are in the other departments cases fully

as necessitous as any in this particular department.

Mr. SCHENCK. I can only answer the gentleman from New York [Mr. CHANLER] as I have answered other gentlemen. These two cases were intended to be included in the resolution which we passed, but by a construction of the accounting officers have been ruled out. I do not understand that other cases stand on the same footing. At any rate, I prefer to confine this resolution to that of which I have had knowledge brought to me by distinct information from the department, not expressing, however, any opposition to any extension of the provision which it may be deemed proper to make hereafter.

I demand the previous question.

Mr. DONNELLY. I ask the gentleman to yield to me, that I may offer an amendment to include those who are in charge of the steam fire-engines in connection with the quartermaster department.

Mr. SCHENCK. This does include them. I insist upon the call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the joint resolution,

Mr. WARD called for the yeas and nays.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. The regular order being called for the morning hour now commences; and the first business in order is the call of committees for reports.

#### UNITED STATES COURTS IN NEBRASKA.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back, with a recommendation that it pass, the bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes.

The question was on ordering the bill to be read the third time.

The bill, which was read at length, provides in the first section that the State of Nebraska shall hereafter constitute one judicial district, and be called the district of Nebraska; and for said district a district judge, a marshal, and a district attorney of the United States shall be appointed, by and with the advice and consent of the Senate.

The second section proposes to enact that the district of Nebraska shall be attached to, and constitute a part of, the eighth judicial circuit; and a term of the circuit court and district court of the United States for said district is to be held in the city of Omaha, in the State of Nebraska, on the first Monday of May and on the first Monday of November in each year.

The third section provides that the circuit and district courts of the United States for the district of Nebraska, and the judges thereof respectively, shall possess the same powers and jurisdiction, and perform the same duties, possessed and performed by other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

It is provided in the fourth section that the district judge appointed for the district of Nebraska shall receive as his compensation the sum of \$3,500 a year, payable in four equal installments, on the 1st days of January, April, July, and October of each year.

The fifth section proposes to enact that the marshal and district attorney of the United States for the said district of Nebraska shall

severally possess the powers and perform the duties lawfully possessed and performed by similar officers in other districts of the United States, and shall for the services they perform receive the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853.

The sixth section provides that all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nebraska, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings is to be directed by the Supreme Court of the United States to the circuit or district court of the United States for the district of Nebraska, or to the supreme court of the State of Nebraska, as the nature of said appeal or writ of error may require; and each of these courts is to be the successor of the supreme court of Nebraska Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nebraska, prior to its admission as a State, the parties to such judgments and decrees are to have the same right to prosecute appeals and writs of error to the Federal courts as they had under the laws of the United States prior to the admission of said State of Nebraska into the Union.

The seventh section proposes to enact that until a judge for said district shall be duly appointed the district judge of the United States for the district of Iowa shall act as the district judge for Nebraska, and shall have and exercise the same jurisdiction and powers in the district created by this act as he has in the district of Iowa.

Mr. WILSON, of Iowa. Mr. Speaker, the act for the admission of Nebraska into the Union did not provide for United States circuit and district courts there; hence it is necessary to pass this bill. I offer, not as coming from the Committee on the Judiciary, but on my own responsibility, the following amendment:

Add the following as a new section:

SEC. 8. *And be it further enacted*, That the associate justice of the Supreme Court assigned to the eighth circuit shall receive, in addition to his salary, the sum of \$1,000 per annum, to defray his traveling expenses, to be paid in the same manner as his salary is now paid.

Mr. BOUTWELL. Will the gentleman yield to me a moment?

Mr. WILSON, of Iowa. Certainly.

Mr. BOUTWELL. Mr. Speaker, I think it ought to be stated to the House, in reference to the amendment just proposed by the gentleman from Iowa, that the majority of the committee thought it unwise as a precedent to allow to a judge of the Supreme Court pay for traveling expenses within his circuit. It is a part of the duty of a judge to follow the circuit in the performance of the business with which he is charged. To be sure, an allowance of this kind has been made in one instance—in the case of the judge of the ninth circuit. There was a stronger reason for the allowance in that case than can be urged in any other; but to allow this species of compensation generally would, it seems to me, result in evil.

Mr. WILSON, of Iowa. Mr. Speaker, I stated when I offered the amendment that it did not come from the committee; that I offered it simply on my own responsibility.

Mr. BOUTWELL. I understood that; but I wished to state the view of the committee on this question.

Mr. WILSON, of Iowa. Now, Mr. Speaker, I wish to state, in regard to this amendment, that the eighth circuit is the most extensive of the nine now existing.

Mr. ELDRIDGE. I wish to inquire of the

gentleman from Iowa whether the salary of this judge was not raised by a bill which we passed in the latter part of the last session?

Mr. WILSON, of Iowa. It was not.

Mr. ELDRIDGE. What is the salary of the judge?

Mr. WILSON, of Iowa. Six thousand dollars for the associate judge of the United States allotted to the eighth circuit. There was no change made in the compensation of the members of the Supreme Court.

Mr. ELDRIDGE. The salary of the judge is now fixed by law at \$6,000. I wish to inquire further if any such salary is paid to any other judge except the judge of the circuit of California?

Mr. WILSON, of Iowa. The same amount of salary is given to the judge of the ninth circuit; that is, the California and Oregon circuit. Mr. Speaker, I do not think, when the expenses of the eighth circuit are compared with those of the members allotted to any other circuit, this proposition will be considered any more than fair. It is a most extensive circuit in point of territory; one which embraces as much business if not more than any other, and requires the judge to be absent from his home nearly the whole year.

Mr. ELDRIDGE. Allow me to suggest that the expenses which are allowed to the judge of the ninth circuit are for the purpose of paying for travel from California to Washington, and not on account of the extent of his district. The gentleman from Iowa thinks it would be right to give a judge of the circuit, as proposed by this amendment, traveling expenses because of the extent of his circuit. It seems to me there is no analogy between the two cases, no reason for the one growing out of the fact of the other.

Mr. WILSON, of Iowa. The analogy is this: that the amount of travel done by the judge of the eighth circuit is greater than that performed by the judge of the ninth circuit, and he is required to be absent from his home a much greater part of the year than the judge who is allotted to the ninth circuit.

Mr. SPALDING. Will the gentleman from Iowa yield?

Mr. WILSON, of Iowa. Yes, sir.

Mr. SPALDING. Mr. Speaker, I wish to say that this is a very inopportune moment to attempt to increase the salaries of justices of the Supreme Court. We are here now simply awaiting to consummate an important measure, and it is now proposed by this bill, or the amendment to it, to raise the salary of one of the justices who has been paid for some years the same salary as all the other judges of the Supreme Court, simply because he has an addition to his circuit.

Mr. WILSON, of Iowa. That is not the only reason.

Mr. SPALDING. It is proposed to give him an increased salary of \$1,000 because he has this additional duty imposed upon him. The argument is unsound.

Mr. WILSON, of Iowa. That is not the argument I make at all; it is not because we are adding Nebraska to the circuit.

Mr. SPALDING. I want to say to the gentleman and to the House that all the other circuits are being enlarged from time to time, and as some of the justices cease to breathe and their numbers are reduced until they shall reach seven, their circuits must of course be enlarged until seven shall do the duty which is now done by nine. Now, when the Congress shall meet again for regular business we can, if we deem it necessary, increase the salaries of all the judges. But I do object at this closing hour of the session to raising the salary of one single judge. I think it is bad legislation, it is unprofitable legislation, it is dangerous legislation. We are always in more danger during the last hours of the session than during the preceding months, because business is carried through without due attention, without reflection, without being properly matured in the hands of the committee. I hope the

gentleman will not take his own circuit and enlarge the salary of his justice and leave the other justices unprovided for.

Mr. WILSON, of Iowa. I will endeavor to give a reason for doing so.

Mr. SPALDING. I am not quite through yet. I desire to say that in my circuit the judge has to travel a great deal further than formerly. The circuit has recently been enlarged so as to embrace the States of Ohio, Michigan, West Virginia, Kentucky, and Tennessee, and the justice has to perform duties in all those States. Yet no one asks for an increase of his salary. Now, if the judge of the Iowa circuit is to have an increase of salary let us increase the salary of all the justices.

Mr. WILSON, of Iowa. I should be entirely willing to increase the salaries of all the judges of the Supreme Court. I do not think the salaries they now receive are adequate to the labor exacted from them or the position they occupy. Now, sir, I am not asking that this compensation shall be given merely because Nebraska is added to the eighth judicial circuit. But it is because, as I have already stated, that circuit is one of the most extensive of the circuits, and one that requires more of the time of the judge than probably any other circuit in the entire number. I will leave this question for the House to determine. I think it is nothing more than fair and just that the judge should have the proposed increased compensation. I now call the previous question upon the bill and pending amendment.

The previous question was seconded and the main question ordered.

The question was upon the amendment of Mr. WILSON, of Iowa, to add to the bill the following:

SEC. 8. *And be it further enacted*, That the associate justice of the Supreme Court, assigned to the eighth circuit, shall receive, in addition to his salary, the sum of \$1,000 per annum, to defray his traveling expenses, to be paid in the same manner as his salary is now paid.

The amendment was not agreed to.

The bill was then read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TESTIMONY AFFECTING A SENATOR.

Mr. HULBURD. I am directed by a majority of the Committee on Public Expenditures of this House to submit a report accompanied by a resolution, which I send to the Clerk's desk to be read.

The Clerk read as follows:

The Committee on Public Expenditures, while engaged in the investigation ordered by the House, have taken testimony which apparently inculcates one or more members of the Senate, and in the opinion of the committee it is proper to report the fact to the House, that such action may be taken as comports with the courtesy due from one House of Congress to the other. The committee, therefore, recommend the adoption of the following resolution:

*Resolved*, That the House having been informed by one of its committees that testimony has been brought to the knowledge of said committee, which testimony apparently inculcates one or more members of the Senate, the House therefore direct that all such testimony be transmitted to the Senate for its information.

Mr. HULBURD. I desire now to call the previous question upon this resolution.

Mr. SPALDING. I would inquire of the gentleman from New York [Mr. HULBURD] if the adoption of this resolution would involve any further continuance of the present session of Congress?

Mr. HULBURD. I do not think it will.

Mr. TABER. Will my colleague yield to me for a few moments?

Mr. HULBURD. Certainly.

Mr. TABER. As one of the minority of the Committee on Public Expenditures I desire to say that I do not concur in the report made by the majority of the committee. To my mind the evidence that has been adduced before the committee is entirely insufficient to

support the conclusion of the majority of the committee; and in order that the House may understand the question fully I will ask that the testimony be now read.

Mr. HULBURD. The House will recollect that the Committee on Public Expenditures were also instructed by the House to take into consideration the report and testimony submitted by the Committee on Public Expenditures of the last Congress. The report of the committee submitted to-day is based upon that testimony, together with the evidence which one witness has given before the committee of the present Congress.

Now, if the House should require the reading of all the testimony, it will probably take about six days to do it. I submit to the House that in this matter the conclusion to which the committee have come is based not only upon the testimony of the single witness examined by the committee of this Congress, but also upon the testimony taken by the committee of the last Congress during weeks of their investigation. If one portion of this testimony is to be read upon which to predicate the action of the House, then I must ask the House to order that the rest of the testimony shall also be read, if it shall take one day, or even one week as it will to read it.

After the previous question shall have been seconded, I will yield to members who may desire to speak upon this subject.

Mr. ELDRIDGE. I would like to make an inquiry of the gentleman.

Mr. HULBURD. Very well.

Mr. ELDRIDGE. The House certainly cannot vote understandingly upon this question with the information now furnished to them. Even the gentleman does not pretend that the testimony upon which he commented the other day, standing alone, would justify the resolution he now asks the House to adopt. Now, it seems to me he cannot ask us to act upon testimony which is not presented to the House. The gentleman the other day gave us a very full commentary upon the testimony taken by the committee of the last session. Why does he not now state the additional facts that may have come to the knowledge of the committee of this House, so that we may act understandingly, and not send a virtual impeachment of one of the Senators of the United States to the other House of this Congress without knowing exactly what we are doing or upon what testimony our action is founded? I trust the gentleman will, at all events, give us a statement of the facts upon which he asks this extraordinary action of the House.

Mr. HULBURD. I have not the slightest objection to going into this matter and having the testimony of this witness read; but I submit to the gentleman from Wisconsin that the committee have reflected somewhat upon this subject, and the majority of the committee have come to the conclusion, after consultation on the part of the chairman with some members of the House, that it would be most decorous, most courteous, would afford the least occasion for scandal, if there be any scandal in the matter, to transmit this testimony with this resolution to the Senate for their information. If they regard it as of any moment, they will of course through an appropriate channel order an investigation. If they do not regard the matter as of moment, they will treat the resolution and evidence as a nullity. If the matter remains with the Committee on Public Expenditures, we cannot in courtesy to the Senate prosecute the investigation in that direction any further. It would be discourteous.

What shall we do with this testimony? We propose that, together with the testimony taken by the committee of the previous Congress, it shall be transmitted to the Senate for their information, without giving any special publicity to it or attracting to it unnecessarily any attention. This did seem to us, it does seem to us now, the most decorous and proper course we can possibly pursue in reference to this matter.

Mr. BROOKS. Will the gentleman yield to me for a moment?

Mr. HULBURD. Certainly.

Mr. BROOKS. As I understand the view of my colleague, [Mr. TABER,] though I have had no conversation with him, his objection is not to the reference of this matter to the Senate, the appropriate body to sit in judgment upon its own members, but to the language which is twice used in the resolution—the words “apparently inculcates.” Now, I need not tell my colleague on the other side [Mr. HULBURD] the meaning of the word “inculcates.” It is a very hard word—a word which, in view of the signification of its root in the Latin, is almost the most offensive word which could be used in this connection. And although this word is qualified by the adverb “apparently,” I submit that the House is not quite ready to say that this evidence “apparently inculcates” two Senators. Though there is evidence upon the subject, the knowledge of that evidence is as yet confined to the committee, except so far as we can gather its purport from the scraps of it which have appeared in the newspapers. I am quite satisfied with the argument of my colleague on the other side that the matter should be referred to the Senate for their investigation or action, and that the testimony should be submitted to that body. But it seems to me that the common courtesy between the two Houses, apparently necessary for the preservation of the dignity of each and every member, should impress us with the importance of using, when sending such matter to a coordinate body, language which cannot be considered discourteous, and which will not seem to imply at the very start even an apparent condemnation.

I suggest, therefore, to my colleague that he modify the resolution by striking out the words “apparently inculcates” and inserting instead the words “has reference to.”

Mr. BROOMALL. “Affecting.”

Mr. HULBURD. I have no objection to modifying the resolution by striking out “inculcates” and inserting “affects.” But we must give some reason for this unusual course of proceeding.

Mr. BROOKS. I suggest that the gentleman insert instead of “apparently inculcates” the words “has important reference to;” so that the language will read, “which testimony has important reference to one or more Senators.”

Mr. ELDRIDGE. I desire to put an inquiry to the Chair. If we should adopt this resolution and transmit to the Senate the testimony taken by our committee, in what relation would we stand to that testimony? Would it be under the control of the House for any purpose contemplated by the resolution under which it was taken? Would not the Senate have the exclusive control of the testimony?

The SPEAKER. The Chair will answer, certainly not. It is like transmitting copies of the files of the House to the Supreme Court, as is sometimes required.

Mr. ELDRIDGE. I do not understand the resolution to refer to copies. Does it say copies of the testimony? I understand it refers the testimony as taken, and it was with that idea I suggested to the gentleman that it should be a copy only.

Mr. HULBURD. I submit to the suggestion.

The SPEAKER. The Chair thinks that is a proper suggestion. Does the gentleman accept the modification of the gentleman from New York, [Mr. BROOKS?]

Mr. HULBURD. No, sir.

Mr. TABER. I desire to say that I differ entirely with the committee in the conclusion to which they have come upon the testimony that has been produced before them. All the material testimony that was taken before them has been published in one or more of the New York papers, and I suppose has been read by every Senator. The Senate have had precisely the same kind of information laid before them to excite their suspicion as has been laid before

this House, with the exception of the witnesses that have been examined by the committee. Now, if it is in order that the testimony be read here, I ask that a small portion of it may be read so that those who differ with the majority may be justified in their action. It strikes me it is a manifest impropriety for this House to undertake to determine whether a Senator is inculpated or not in a matter that may just as properly, if not with a great deal more propriety, be taken up in the Senate, and which they have the same reasons for taking up as we have, with, as I have stated, the single exception of the testimony that has been produced before the committee. I hope that the testimony will be read.

Mr. BROOMALL. Will the gentleman from New York yield?

Mr. HULBURD. Certainly.

Mr. BROOMALL. As a member of the committee I have no objection to the reading of the testimony asked for by my colleague on the committee. I wish, however, to have it distinctly understood that the majority of the committee, in reporting this resolution, do not volunteer the publicity sought to be given to this testimony, and if the House chooses to drag it out the responsibility is upon the House and not upon the committee. It seems to me that when a committee of this House comes, inadvertently or otherwise, upon testimony affecting a member of the other branch, the sooner, and with the less publicity, the matter can be got before the other branch, the better. There is a great deal of impropriety, I think, in our giving publicity to that which the Senate might not choose to publish, or might think of little importance. I know that it is asking something of this House to trust the judgment of one of its committees about the propriety of referring the testimony which has come within its reach immediately to the other branch without hearing or reading it; but it strikes me the House ought to have that much confidence in one of its committees.

Mr. BINGHAM. Allow me to make an inquiry: whether it is possible to communicate, under the existing rules of the Senate, anything from this House and prevent its being published by that very act to the Senate and to the world? Can it be done at all?

Mr. BROOMALL. I do not see why it cannot be.

Mr. BINGHAM. How can the Senate receive it without its being published?

Mr. BROOMALL. If I understand the inquiry correctly, it is whether it can be done without the Senate publishing it.

Mr. BINGHAM. That is just what I mean.

Mr. BROOMALL. I will say it is the business of the Senate to publish it if that body thinks proper to do so. The responsibility is with the Senate. What I mean to say is that there is some impropriety in our publishing this thing in advance of whatever action the Senate may take in the matter.

Mr. BINGHAM. My friend does not apprehend the point. The communication proposed to be made to the Senate is not simply this resolution offered to the House, but the testimony that has been taken which affects a Senator or Senators of the United States. Now, it having communicated it to the Senate, that body cannot receive and act upon it at all without publishing the testimony. Therefore the remark of the gentleman in regard to the duty of the Senate in publishing this matter to the world amounts to nothing at all.

Mr. BROOMALL. I understand the question entirely, and I think I understood it before. When the Senate shall receive this testimony, if it shall choose to publish it it may. If it does not so choose, I think it will not be impossible to have that testimony read in the Senate with closed doors. The Senate can withhold this testimony from the world if it so chooses.

Now, the testimony asked to be read here by the gentleman from New York [Mr. TABER] is the testimony of a single witness taken



within the last two or three days. That testimony alone would amount to little or nothing. But that testimony, taken in connection with a considerable portion of the testimony interspersed throughout that which the committee of the last Congress took, and which it would take days to read, is what makes out the whole case contemplated by the committee. Now, if my colleague on this committee [Mr. TABER] desires it, I have no objection to the reading of this testimony. But I wish it to be understood that the action of the committee is not based upon that testimony alone, but also upon the testimony taken throughout a series of weeks and very voluminous, bearing occasionally upon this particular point, and at the same time largely upon a great many other points. The reading of the testimony of the one witness will enlighten this House but little. But, as the chairman of the committee [Mr. HULBURD] says, if the House wants all the facts before it acts, then we must content ourselves with staying here to have the testimony all waded through by the Clerk some six or ten days before we can adjourn.

Mr. ELDRIDGE. There is a difference of opinion between the members of the committee as to the effect of the testimony which has been given before them. A majority of the committee, it seems, think that the testimony inculcates one or more Senators. Another member of the committee, after reading the testimony, with equal candor perhaps thinks that it has no such effect. Now it has already been brought before the country by the committee that in the judgment of a majority of that committee the effect of that testimony does inculcate a Senator. I ask the gentleman from Pennsylvania [Mr. BROOMALL] if the committee can do more than that? If the testimony is not damaging to the character of Senators, can the committee do more than they have already done by spreading upon the records of this House and before the country the statement that they have come to the conclusion that the character of a Senator is impugned by this testimony?

Now, since there is a difference of opinion among the members of the committee, it seems to me that there is a likelihood of doing injustice to a Senator by this general conclusion expressed by the committee; and that it is due to Senators as well as to the House that all the facts should be spread before the House, in order that we may judge whether they do inculcate a Senator or not.

Mr. BROOMALL. The gentleman from Wisconsin [Mr. ELDRIDGE] I think has failed to understand the remarks I have made. I think there is no difference in the minds of the committee upon the effect of the testimony taken within the last two or three days. We all agree that that testimony standing alone would not be sufficient. My colleague upon the committee, [Mr. TABER,] who asks for the reading of that testimony, seems to be of the opinion that there is no other testimony of the kind. I have already stated that the committee base their request for this action of the House upon the testimony taken within the last two or three days, in connection with that taken throughout a course of weeks by the committee of the last Congress.

Now, I have already said that I have no objection to this testimony being read if it is the pleasure of the House; but I desire it to be understood that the committee do not volunteer the publicity of this testimony; and I wish the House also to understand that the testimony referred to by the gentleman from New York [Mr. TABER] is only a small part of the testimony upon which the action of the committee is based.

Mr. NOELL. I wish to say in reference to this resolution that a part of the testimony upon which it is based was taken by a committee of the last House of which I was not a member. Now, without hearing the testimony of all of the witnesses together, and examining it with reference to the question at issue, I

would be unwilling to support any such resolution as this.

Now, I do not understand that any committee appointed by this House and charged with certain specific duties have the right, or that it is within the province of that committee, to go outside of the duties with which they are charged and constitute themselves a grand inquisition to examine into the conduct of any citizen or officer whose conduct the committee have not been directed to investigate. This committee has been charged with an investigation into the conduct of a Federal officer, and yet in that investigation they undertake to inquire into the conduct of others with which they were not charged at all.

Now, sir, the impropriety of this thing shows itself perhaps in this case as forcibly as in any that could be presented. Here is a question on which the minds of the committee are not directed, originating before a committee which preceded us, a committee in the Thirty-Ninth Congress, and by that committee certain statements were made, and the minds of this committee not being directed to that point, they not being charged with the investigation, took no pains, and could be expected to take no pains, to elicit the truth in regard to the transaction. They were not charged to inquire into the conduct of any Senator or of any person outside of the conduct of the one they were to inquire into. It seems to me that it is not in order in a case like this to take a piece of random evidence, taken by one committee, for another committee to take that without cross-examination, without seeing the witnesses, without any of the usual proceedings necessary to elicit the truth; I make the point of order that this committee cannot connect these two pieces of testimony together and frame them into a criminal proceeding against persons in reference to whom they were not charged to inquire. I make the point that the committee has no right to report any resolution of this kind, the subject not having been referred to them. They have no right, sir, to use disconnected portions of testimony.

Mr. BROOMALL. Does the gentleman raise the point of order on the resolution?

The SPEAKER. If the gentleman makes the point of order the Chair overrules it. It is too late to make the point of order, as the resolution has been debated. If it had been made in time the Chair would have overruled it, as this whole subject of the New York custom-house has been referred to that committee.

Mr. BROOMALL. I only say in answer to my colleague on the committee that it did not set itself up as a general investigating committee into all the offenses against the United States. It was charged with a certain investigation, and it was strictly within the limits of the matter referred to it that this has come to light.

I will say now, as I have said already, if it is the pleasure of the House to hear the testimony read to which my colleague on the committee refers, I think the majority of the committee will make no objection to it, always letting it be understood that this is but a small portion of the entire case, and that the House will be but little enlightened after hearing this as to the entire matter within the scope of the committee's resolution. I have already said it would take weeks to get the entire information, and I think the House will have to trust something to the judgment and honesty of the committee in matters of this sort. I am ready to yield to hear that testimony read.

Mr. HULBURD. With the leave of the House, I ask that the resolution may be amended so that it will read "apparently affects" instead of "inculcates." I understand that will meet with my colleague's views.

Mr. BROOKS. I have no objection to that. "Affects" is an innocent word.

Mr. BROOMALL. But it will do.

Mr. HULBURD demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. TABER demanded the yeas and nays.

The yeas and nays were not ordered.

The House divided; and there were—ayes 77, noes 19.

So the resolution was adopted.

Mr. HULBURD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLORADO CONTESTED-ELECTION CASE.

Mr. SCOFIELD. I rise to a privileged question. The resolution of the House authorized the Committee of Elections to require notice in the Colorado contested-election case and to extend the time for taking testimony. I am instructed by the committee to say they have acted on the subject; and I ask that the resolution I send up shall be read for information.

The Clerk read as follows:

*Resolved*, That A. C. Hunt, the contestant in this case, be allowed to serve notice on George M. Chilcott, sitting Delegate from the Territory of Colorado, within the time allowed by law, counting the 20th day of March, 1867, as the day upon which the result of the election was determined; and the service of answer by the sitting member and all proceedings subsequent shall conform to the provisions of the act of February 19, 1851, except that one hundred days shall be allowed for taking evidence; and the testimony already taken shall not be considered by the committee.

Mr. SCOFIELD. I desire to say this action had the unanimous concurrence of the committee. It requires no action of the House.

The SPEAKER. The Chair thinks it had better be adopted by the House.

The resolution was agreed to.

#### HENRY A. SMYTHE.

Mr. HULBURD, from the Committee on Public Expenditures, reported the following resolution, on which he demanded the previous question:

*Resolved*, That it is the sense of this House that Henry A. Smythe should be immediately removed from the office of collector of the port of New York; and that the Clerk of the House cause a certified copy of this resolution to be laid before the President of the United States.

Mr. BUTLER. I ask the gentleman to yield to me.

Mr. HULBURD. Certainly.

Mr. BUTLER. Without going into the merits of the question as to the conduct of the collector of the port of New York—

Mr. WOOD. May I inquire whether this resolution is before the House?

The SPEAKER. It is before the House.

Mr. WOOD. Did the Chair ask whether there was objection?

The SPEAKER. The Chair does not see how objection could prevent its introduction. The subject was referred to the committee.

Mr. BUTLER. I was about saying, without going into the merits of the question as to the conduct of the collector of the port of New York, I desire simply to call the attention of the House to the precedent proposed to be established. He proposes, as I understand, first that the House shall vote a want of confidence in an executive officer, and secondly that the House shall ask that officer to be removed. I believe that according to the custom of Parliament this House asks nothing of the President of the United States; we have one way in which to demand that an officer shall be removed, and that is by impeachment and in no other way. We do not demand it of his superior, we do not demand it of his coconspirator, but we demand it in the name of the people of the United States, of the high court of justice established by the Constitution for the purpose of trying such questions; and therefore I do not want to adopt in free and independent America as the voice of the people the practice of the Parliament, of the Commons of Great Britain, of asking the king or intimating to the king we have not confidence in his officers and humbly

implore his gracious Majesty if he will be kind enough to listen to the voice of his faithful Commons. Let us maintain the high place and dignity of a coördinate branch of the Government; and if the House do find on that question—and I express no opinion, because I have none—they have enough to justify them, I have confidence in the House that we will speak the voice of the people in the only form known to the Constitution.

Again, sir, I have another objection. If the President would consent to remove on our request it would be the trial of a man behind his back, when he has no opportunity to be heard by himself or his counsel. I pray, however, in making this observation I shall not be understood as throwing the slightest blame or imputation on the committee. I speak of the precedent. It would be a precedent that a high officer might be removed without the possibility of being heard himself or by his counsel, which, I think, is contrary to the genius of our institutions. They are for old-fashioned Saxon fair play.

Mr. BINGHAM. Let me inquire of the gentleman, if I will not interrupt him, whether the testimony upon which this resolution rests has ever been published to the House?

Mr. BUTLER. I do not know that it has been.

Mr. BROOMALL. It has all been published as it was reported to the House.

Mr. BUTLER. But the point which I think my friend appreciates is that we have not heard the other side.

Mr. BINGHAM. I do appreciate it.

Mr. BUTLER. I have been brought up in that school which demands *audi alteram partem*. But without going into this latter consideration I ground myself first upon the dignity and rights of the House, the constitutional mode in which it should speak, and claim that we shall in no degree by the shadow of a shade lay down our high prerogative.

I beg pardon for having detained the House on this question. Gentlemen who are experts in parliamentary learning will argue the question much better than I can.

Mr. RANDALL. I ask the gentleman from New York to yield me three minutes.

Mr. HULBURD. I do so.

Mr. RANDALL. It is not my purpose in any manner whatever to defend or palliate the conduct of Mr. Smythe. With that I have nothing to do. But as a member of this House I have a right to suggest that the House should not be placed in a wrong position upon this subject or upon any other. We have nothing whatever to do with the executive department of the Government. If this House thinks Collector Smythe has been guilty of malfeasance it is within its province to impeach him as far as is provided in the Constitution. But that this House should travel out of the line of custom or the path of duty and express an opinion upon the removal of an officer is a thing that, in my judgment, is entirely wrong.

Mr. BUTLER. Will the gentleman allow me a single word? Suppose we should ask the President of the United States to remove Mr. Smythe and he should say he would not do it; where would we be then?

Mr. RANDALL. If the President would say what I would say, he would tell you to mind your own business. [Laughter.]

Now, while I think it due to myself to say that this man Smythe should be got rid of in a proper manner, if not for malfeasance, as alleged by the committee, certainly for his folly and total unfitness for the position to which the President assigned him—

The SPEAKER. The morning hour has expired, and the resolution goes over till tomorrow.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 16) fixing the rate of duty

on umbrellas and on wire spiral furniture springs; when the Speaker signed the same.

#### DESTITUTE IN THE SOUTH AND SOUTHWEST.

Mr. BINGHAM. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States; and pending that motion I move that all general debate upon the resolution be terminated in two minutes.

The question being taken on the latter motion, it was agreed to—ayes 52, noes 30.

Mr. FARNSWORTH. I demand the yeas and nays on the motion to go into the Committee of the Whole. There are a number of bills on the Speaker's table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 56, not voting 36; as follows:

YEAS—Messrs. Ames, Anderson, Archer, James M. Ashley, Baker, Banks, Barnes, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Churchill, Cornell, Finney, Fox, Geiz, Glossbrenner, Haight, Hayes, Hill, Holman, Hooper, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Julian, Kerr, Ketcham, Koonitz, Ladin, Lincoln, Mallory, Marshall, Marvin, Miller, Morrill, Morrissey, Mungen, Niblack, Nicholson, Noell, Orth, Peters, Pile, Plants, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Spalding, Stewart, Taffe, Taylor, Twombledge, Twitchell, Van Aernum, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Henry D. Washburn, Wood, and Woodbridge—72.

NAYS—Messrs. Allison, Delos R. Ashley, Baldwin, Beaman, Benjamin, Benton, Blair, Butler, Cake, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corvode, Dodge, Driggs, Eckley, Eggleston, Farnsworth, Ferriss, Fields, Gravelly, Hopkins, Chester D. Hubbard, Judd, Kitchen, William Lawrence, Loan, Logan, Loughridge, McCarthy, McClurg, Mercer, Moore, Myers, Newcomb, O'Neill, Paine, Perham, Polesky, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Upson, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and Windom—56.

NOT VOTING—Messrs. Boutwell, Bromwell, Burr, Cullom, Dawes, Denison, Donnelly, Ela, Eldridge, Eliot, Ferry, Garfield, Griswold, Halsay, Hamilton, Harding, Humphrey, Kelley, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Raum, Selye, Stone, Taber, Thomas, William B. Washburn, John T. Wilson, and Stephen F. Wilson—36.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair), and resumed the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

The pending question was on the amendment of Mr. BINGHAM, to add to the proviso offered by Mr. BANKS the following:

And provided further, That no part of the money herein appropriated shall be used for the purpose aforesaid until all unexpended appropriations heretofore made by existing law for the purpose of the Freedmen's Bureau, to supply food, shall have been first applied to the purpose as herein specified, under the direction of the Commissioner of said Bureau.

Mr. BINGHAM. I desire to appeal to the gentleman from Massachusetts [Mr. BANKS] to withdraw his pending amendment, so that I may offer an amendment to the body of the bill.

Mr. BANKS. I withdraw my amendment for the purpose stated.

Mr. BINGHAM. I now withdraw my amendment to the amendment of the gentleman from Massachusetts, and move to strike out all after the word "prescribed" in the original resolution, as follows:

And that the sum of \$1,000,000 be hereby appropriated from funds in the Treasury of the United States not otherwise appropriated, the same to be expended under the direction of the Commissioner of the said Bureau for the purchase and issue of the said supplies of food.

And insert in lieu thereof:

And to that end the Secretary of War is hereby authorized and directed, through the Commissioner of the Freedmen's Bureau, to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations.

So that the resolution will read as follows:

That the Secretary of War be, and he is hereby, empowered and instructed to issue supplies of food sufficient to prevent starvation and extreme want to any and all classes of persons in those southern and southwestern States where the failure of the crops and other causes have occasioned wide-spread destitution; that the issues be made through the Freedmen's Bureau under such regulations as the Secretary of War shall prescribe. And to that end the Secretary of War is hereby authorized and directed, through the Commissioner of the Freedmen's Bureau, to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations.

I ask the attention of the committee to this fact: by the original resolution an appropriation of \$1,000,000 has been directed, and this amount does not make one dollar of additional appropriation, but simply enables the Commissioner of the Freedmen's Bureau to extend this relief, according to the terms of the original resolution, to such as are famishing for bread in the southern and southwestern States out of the existing appropriations, without regard to classes.

I desire to correct what is manifestly a misapprehension which many gentlemen, I have no doubt, honestly entertain. I have learned in such a way as to render it perfectly certain—and a requirement of an official answer by this House will confirm what I say—that the Commissioner of the Freedmen's Bureau, although he considers the existing appropriation by law sufficient for that purpose, is, nevertheless, so limited and restrained by the exact terms of the statute as that he cannot provide bread for the famishing men, women, and children of the South and Southwest.

#### MESSAGE FROM THE PRESIDENT.

The committee informally rose to receive several messages in writing from the President of the United States, communicated by Mr. W. G. MOORE.

#### RELIEF OF DESTITUTE IN THE SOUTH—AGAIN.

The committee resumed its session.

Mr. FARNSWORTH. I rise to a point of order. I think the rule recently adopted requires these messages to be immediately reported at the Clerk's desk.

The CHAIRMAN. We are in committee now and not in the House.

Mr. FARNSWORTH. I hope, then, that the committee will rise for that purpose.

Mr. BINGHAM. I hope it will not do any such thing.

Mr. FARNSWORTH. I understand the rule is imperative. If there is a veto, message it is important that it should be presented.

The CHAIRMAN. The Chair is informed that there is no veto message communicated.

Mr. SHELLABARGER. I wish to make an inquiry of my colleague. I trust I shall be able to vote for his proposition, but I wish to understand whether this amendment will become incorporated in the Freedmen's Bureau law so as to permanently enlarge the power of the officer at the head of that bureau as to the distribution of the appropriation?

Mr. BINGHAM. I understand it becomes incorporated this far: that it extends the privilege of the Freedmen's Bureau, subject to the limitation that the powers of the bureau so extended to persons other than freedmen shall expire when the unexpended appropriation shall have been exhausted.

[Here the hammer fell.]

Mr. BUTLER. Mr. Chairman, in the first place I would like to inquire to what time debate is limited?

The CHAIRMAN. Five minutes for and five minutes against each amendment. The pending amendment is that which has been offered and advocated by the gentleman from Ohio, [Mr. BINGHAM.] The Chair understands the gentleman from Massachusetts to rise to oppose the amendment.

Mr. BUTLER. I propose, Mr. Chairman, to present a few suggestions for the purpose of showing why the amendment offered by the gentleman from Ohio should not be adopted;

and I think that, in view of the fact that the gentleman has spoken three times on this question, I shall ask him to interpose his good offices and his great influence with the House to secure for me the privilege of speaking somewhat longer than five minutes. I will promise not to consume very much time.

In the first place, let us see what the Freedmen's Bureau has done. I speak from official reports. During the year ending November 1, 1866, by order of the President of the United States, two hundred and eighty-seven thousand one hundred and twenty-two acres of land and two thousand six hundred and five pieces of town property, amounting altogether to more than ten million dollars, were taken from the freedmen, to whose benefit they had been appropriated by act of Congress, and returned to the white men of the South who had been engaged in the rebellion. We are now asked to aid still further the white men at the expense of the freedmen.

What else has been done? During the fifteen months closing with August, 1866, as appears by the report of General Howard, four million five hundred and seven thousand nine hundred and twenty-two rations were distributed to refugees in the South, in addition to the rations furnished to freedmen. General Howard further states:

"The number of rations issued to the colored people has constantly decreased. They have found labor, for which they have received support and in some cases good wages. Although many complaints are made of the amount of rations issued to the freedmen, the fact of the constant decrease of their demands is very creditable. The issue to whites increased until June 30, 1866, when the issues to freedmen and refugees were about equal throughout the South."

Again, sir, at the request of the Governor of Alabama, rations to the amount of \$40,000 per month for the period of three months were issued in the State of Alabama, principally for the relief of the white people. Yet, notwithstanding all this expenditure, we are asked to encroach still further upon the provision made for the freedmen, for the sake of aiding whom? Not merely the women and the children, not merely the sick and the disabled, but the able-bodied rebel, who, lounging at the corner grocery, refuses to work, while the "mudsills" of the North are obliged to work in order that they may pay taxes for the support of the Government. Shall the "mudsills" of the North be taxed to support in lazy, whisky-drinking idleness the self-styled "aristocracy" of the South?

And we are told that, after we have for such a purpose as this diverted a million or two millions of the money appropriated for the benefit of the freedmen we are to bring in a deficiency bill to supply the amount thus withdrawn from the legitimate purposes of the Freedmen's Bureau. For my part I am opposed to such legislation, and I desire to enter my protest against it in every form, even though the legislative experience—I was about to say "chicanery"—of my friend from Ohio restricts me to five minutes in which to enter my protest against what he has advocated in his speech of an hour.

It is said, sir, that the people of the South are starving, and I accept that statement as fact. My friend from Vermont [Mr. WOODBRIDGE] told us that this was the work of the Lord, quoting the passage, "Vengeance is mine: I will repay, saith the Lord." Be it so. It would seem as if an avenging Providence had sent this starvation especially upon those parts of the country where the Union prisoners were starved: in the vicinity of Richmond and Salisbury and Andersonville and Millen and other places in the South where our soldiers underwent so much suffering. The men and women who stood by and viewed without compassion the miseries endured by our noble soldiers will, if they experience a little starvation themselves, be able to realize what was suffered in southern prisons by those who fought our battles.

[Here the hammer fell.]

40TH CONG. 1ST SESS.—No. 17.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. BINGHAM. I hope we will have the vote now.

Mr. SPALDING. I move to amend by striking out the last word.

Mr. Chairman, from the commencement of this discussion my mind has somewhat wavered in regard to the correct determination of this matter. It is in obedience to the instincts implanted in our nature to be charitable, benevolent, and kind, and in obedience to the civilization of the age I was inclined to vote for the resolution as it came from the Senate; but when the gentlemen on the other side of the House made their elaborate arguments in support of the proposition, when the gentleman in particular—I allude to the gentleman from New York—said we might give this donation of \$1,500,000 as a premium for our persecution of the rebels, I was brought to a stand. Sir, I can fully appreciate the argument of my friend from Pennsylvania [Mr. COVODE] who sits before me, when he says his son was reduced to the point of starvation in the rebel prisons.

Mr. COVODE. If the gentleman will indulge me, I will state that I sent quite a number of boxes of provisions to the South during the war when our men in their prisons were starving, which were forwarded under General BUTLER from Fortress Monroe, under flag of truce; but, sir, not one of them ever reached its destination. That is my donation.

Mr. SPALDING. I have but little time. I wish to say I can appreciate the force of the argument or appeal made to us when he instances the condition of our starving brothers and sons in rebel prisons. None of us can contemplate those scenes without emotions of horror. They were not only starved, but we recollect the "dead line," to which they were induced to crawl with the offer of food, and if they passed the line they were shot dead for thus transgressing the rules. We cannot hold such scenes in too much horror.

I had two sons, my only two sons, dragged to a rebel prison. They were not, to be sure, reduced to the point of starvation, but they were reduced to much suffering. Now, if these two boys had been reduced, as the son of my friend, to the point of starvation at Salisbury, if I saw the man who reduced them to the starving point at my door-stone at the point of starvation I could not resist the appeal to my humanity to give a crust of bread to save that dying rebel from starvation.

I object to the amendment offered by the gentleman from Massachusetts, [Mr. BUTLER,] because it is not offered in good faith. We are endeavoring to take care of the widows and orphans of our soldiers who served in the war. The gentleman does not say we are paying \$30,000,000 a year to the widows and orphans of our soldiers. They are not reduced to starvation.

The CHAIRMAN. The gentleman's time has expired.

Mr. SPALDING. One word more. The question with me is one of fact. If these men of the South, rebels though they be, murderers of our sons and brothers though they may be justly charged, if they are starving, or about to starve, I say let the Freedmen's Bureau feed them. I approve of the amendment of my colleague, [Mr. BINGHAM.]

Mr. PILE. Is a substitute in order?

The CHAIRMAN. It is not in order at this time.

Mr. WOODBRIDGE. Mr. Chairman, in order to show the feeling of the soldiers of the Army who suffered in the prisons of the South in relation to giving food to the starving people of the lately rebellious States, I propose to read an extract from a letter of a Union soldier living in my own district. He says:

"I recall the horrors of rebel prisons, where I spent over fourteen months. At one time in Charleston jail five of us were in one small, condemned cell. Three were sick with fever. We had no medical attendance. We had for food seven hard biscuits each

week and one pound of rusty bacon. With all this experience of what it is to be hungry, I think I ought to be capable of judging rightly in regard to that charity which is due to others; and though I hate the rebels bitterly, and remember how they starved us in their dungeons, yet I say, now that they are in want and are starving, let us feed them. It will be but a fitting exemplification of that 'charity which suffereth long and is kind, which vaunteth not itself, is not puffed up.'

"To refuse to extend aid to starving women and children because their fathers and brothers and husbands and sons were guilty of starving our soldiers is a part of that same spirit which actuated them in their treatment of our prisoners."

"As one whose health has been permanently ruined by months of starvation in rebel prisons I make an appeal in favor of feeding these rebels, not with a false sympathy for their present position, but because I believe in feeding the hungry and clothing the naked, however great may be their crimes."

This is an answer to the statement made by the gentleman from Massachusetts that the Union soldiers of the Army are not in favor of this resolution.

Mr. STEVENS, of Pennsylvania. Who wrote the letters Mr. Greeley indorses?

Mr. WOODBRIDGE. This is a letter in a paper edited by the gentleman's particular friend, a member of the Thirty-Ninth Congress. I do not hesitate to say that the letter expresses the opinion of our soldiers who have suffered starvation in the prisons of the South.

Mr. LOGAN. Mr. Chairman, I presume some in this House have suffered as prisoners, but I do not consider that as an argument bearing on this question.

But I will call the gentleman's attention to another thing. It is not important to this House whether the soldiers are for this joint resolution or against it. The important thing, sir, is to know whether it is right and meets with the approval of gentlemen's consciences. If, however, the gentleman will look at the resolutions passed by the association of soldiers in the District of Columbia, in New York, and in the West he will find they are almost unanimous against the passage of this joint resolution. In a meeting called by the soldiers, known in the District of Columbia as Post No. 1, they passed the resolutions which were published in the Chronicle.

Mr. WOODBRIDGE. I recollect very well the resolution referred to by the gentleman from Illinois. It purports to emanate from "The Grand Army of the Republic," and thanking General LOGAN and General BUTLER for their manly opposition to this joint resolution. It seems to me to be like an unappreciative audience at the play, applauding the player in his weakest part. I hope there is enough of humanity in Congress to pass the resolution. I do not know what this "Grand Army of the Republic" may be, but in my judgment a portion of their last resolution, both in its letter and its spirit, seems to be wanting in those elements of nobleness and charity which distinguish the brave man from the coward.

[Here the hammer fell.]

Mr. BROOMALL. The gentleman, I understand, withdraws his amendment, and I renew it.

Mr. Chairman, while I am not willing to vote additional money for this purpose, yet I am willing to devote the money already appropriated to the Freedmen's Bureau to one of the identical objects for which that bureau was established, as understood by the Commissioner himself. I believe it is well known that in the exercise of his duties he did not inquire when he saw cases of extreme suffering whether the sufferers were residents or refugees, or even whether they had been rebels or not, before giving them the necessary relief. I believe it is known that such was the condition of things up to May last, when the President of the United States made his first attack upon the Freedmen's Bureau. I know that in May and June last there were distributed in the district embracing Kentucky and Tennessee seven thousand one hundred rations to negroes and seventy-four thousand three hundred rations to white men; and I know from General Fisk, the upright and benevolent officer who had

charge of that district at that time, that no inquiry was made whether these men were strictly within the meaning of the term refugees or not; the only inquiry was whether or not they were starving. But in June or July last orders came from Washington to that particular district forbidding the use of this money for any other purpose than that which came within the strict meaning of the law; and while there I knew of cases of extreme suffering on the part of persons who had been as loyal to the Government as any gentleman in this House, but who could not be relieved because they were residents and not refugees within the strict meaning of the law.

I had prepared and intended to offer for this entire joint resolution what I conceived to be necessary to restore the original construction put upon the Freedmen's Bureau laws by the Commissioner of the bureau himself; and it is in these words:

That the several acts of Congress relating to the Bureau of Refugees, Freedmen, and Abandoned Lands shall be so construed as to permit the Commissioner of the said bureau, in his discretion, to extend relief to cases of extreme suffering, whether the sufferers are embraced within the meaning of the terms refugees and freedmen or not.

On reading the joint resolution as now modified by the gentleman from Ohio [Mr. BINGHAM] I find, if I understand the English language, that it means precisely the same thing, and therefore I shall vote for it, and I trust it will pass the committee and be reported to the House. I think the humane and Christian gentleman standing at the head of the bureau may be trusted to extend this relief on the part of the Government to proper cases. I have no fear of the power being abused in his hands.

Many of these people are innocent of all crime against the Government. Very many of those who are guilty were deluded and beguiled by false leaders into treason. It is the duty of our Government temporarily while things are unsettled in the South, pending the business of reconstruction, to protect them at least against starvation. The great crime was not theirs. They were at most but followers. It is the misfortune of the South that under the peculiar policy of the present Executive the greatest punishment is falling upon the least guilty.

It is stated to me by those around me that the amendment of the gentleman from Ohio [Mr. BINGHAM] does not mean that which my proposed amendment does. And if it does not, then I want my amendment substituted for his.

Mr. BINGHAM. It does mean that, and I do not care who states to the contrary.

Mr. BROOMALL. And I believe it does.

Mr. LOGAN. I do not desire to detain the Committee of the Whole by any discussion of the amendment which has been offered by the gentleman from Ohio, [Mr. BINGHAM.] But I desire to say a few words in reply to some remarks that have been made by the gentleman from Vermont, [Mr. WOODBRIDGE.]

Sir, I cannot see what the question of bravery or soldiery conduct has to do with the passage or defeat of this joint resolution. I was very sorry to hear the gentleman from Vermont say that the resolutions of the soldiers alluded to by me only show the distinction between brave men and cowards. I dislike to hear such remarks; I do not think they come with good grace from any man who has never had the opportunity of testing his own courage or determining whether he is a brave man or not. I do not think such a man should undertake to question the bravery of any other man.

Now, these soldiers passed these resolutions because they thought Congress had no right to pass this joint resolution appropriating this amount of money for charitable purposes; not at all in reference to bravery or soldiery conduct or soldiery bearing.

Now, I opposed the passage of this joint resolution because I thought it was wrong; and I now say to the gentleman that if the House is to pass this joint resolution appro-

riating \$1,000,000 from the Treasury of the United States to assist the suffering people of the South, then I shall at the proper time offer an amendment to appropriate \$1,000,000 to assist the suffering people in the valleys of the Mississippi and Ohio rivers, who have been driven from their homes and have had their property destroyed by the late freshet in those two rivers. I propose to offer it because I believe the people of the loyal portions of this country have the same right to the protection of the law and the charity of the Government that the people of the disloyal sections have. It is not asked by the people of my State or the people of Indiana or Missouri. But they are entitled to it upon the same principle that those are entitled to it whom gentlemen are so anxious to give this charity to, who live within the confines of the States where treason once existed, and where I believe it still exists.

That is all I desire to say: to make that reply to the remarks of the gentleman from Vermont, [Mr. WOODBRIDGE,] and to give notice of the amendment I propose to offer.

Mr. BROOMALL. I withdraw my amendment to the amendment.

Mr. BUTLER. I renew the amendment to the amendment, because I understand I can get the opportunity to speak now only by moving some amendment which I do not mean. That is a new revelation to me in my short experience in legislative life.

I desire to reply to some of the observations that fell from the gentleman from Vermont, [Mr. WOODBRIDGE,] as well as to call the attention of the House to the course pursued by the gentleman from Ohio, [Mr. BINGHAM.]

The gentleman from Vermont was kind enough the other day to tell the House that I was no statesman. Now, I agree to that; and I am sorry such is the fact. I just escaped being a statesman, I suppose, by not being elected to the Thirty-Ninth Congress. [Laughter.]

Mr. WOODBRIDGE. I simply desire to state to the gentleman from Massachusetts [Mr. BUTLER] that I said no such thing, made no such charge, and the gentleman knows it.

Mr. BUTLER. Then he means to say that I am a statesman, [laughter,] and I am very much obliged to him. Now, a word more in regard to the action of the 'soldiers of the grand Army of the Republic. I received from them unsolicited and unasked, a resolution approving my course. And so long as I have the approval of the soldiers of the Army, I can very well do without the approval of those who were engaged in wearing out the soft cushions of the seats in this House during the entire war; I can survive the one if I have the other.

Now, I am not here to say anything that may be considered at all personal in its character. But I desire to ask the attention of the House to the fairness of the course of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. I rise to a question of order. The gentleman has no right to raise a question of fairness upon my conduct here at this time of day.

Mr. BUTLER. What does the gentleman say?

Mr. BINGHAM. I raise the point of order that the gentleman has no right to reflect upon my conduct here by raising the question of fairness.

Mr. BUTLER. Well, unfairness, then; I will admit that I was mistaken in calling it a question of fairness. [Laughter.]

Mr. BINGHAM. I call the gentleman to order.

Mr. BUTLER. I will withdraw the question of fairness; I admit that none can be raised. Will that do? [Laughter.]

Now, in regard to this joint resolution, I have one further consideration to present. I ask members here if they are ready to vote an appropriation of \$1,000,000 in any form before they decide the question which is involved in the amendment proposed by the gentleman from Ohio, in front of me, [Mr. SCHENCK?]

That amendment provides that district commanders may relieve the distressed people of their districts by distributing aid to them from the stores of the Army, and then tax the rich rebels to pay for those stores.

Gentlemen talk about confiscation, and say that this is unconstitutional. Now, it would seem that there is nothing constitutional except to put the hand into the Treasury of the United States. As I have said already, I ask no confiscation of any rebel property; but I ask that the rich of the community shall support the poor and suffering.

Mr. BINGHAM. I move that the committee rise for the purpose of closing all debate upon the joint resolution and the pending amendment.

Mr. SCHENCK. That will cut off all debate.

Mr. BINGHAM. Certainly it will.

Mr. SCHENCK. I have offered an amendment, upon which I should like to speak for five minutes, inasmuch as my colleague [Mr. BINGHAM] has spoken an hour.

Mr. BINGHAM. I insist upon my motion, that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, according to order, had had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States, and had come to no resolution thereon.

Mr. BINGHAM. I now move that when the House again resolve itself into the Committee of the Whole, and resume the consideration of Senate joint resolution No. 16, all debate upon the joint resolution and amendments thereto shall terminate in five minutes.

Mr. SCOFIELD. I rise to a question of order. I would ask the Chair if it is in order to move to close all debate on the entire joint resolution or only on the pending section?

The SPEAKER. There is but one section.

Mr. SCOFIELD. I should think we might afford two sections for an appropriation of \$1,000,000.

Mr. LAWRENCE, of Ohio. I move to amend the motion of my colleague [Mr. BINGHAM] by substituting "two hours" for "five minutes." I desire to say a few words on this joint resolution myself.

Mr. SCOFIELD. I ask that the messages received from the President to-day be now laid before the House.

No objection was made.

#### WITHDRAWAL OF FRENCH FROM MEXICO.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit to the House of Representatives, in answer to their resolution of the 18th instant, a report from the Secretary of State, with an accompanying paper.

ANDREW JOHNSON.

WASHINGTON, March 20, 1867.

The SPEAKER. The Chair understands that this message is in answer to a resolution of the House, calling for information in relation to the withdrawal of the French troops from Mexico.

Mr. BANKS. I move that the message and accompanying paper be referred to the Committee on Foreign Affairs, and be ordered to be printed.

The motion was agreed to.

#### ARREST OF AMERICANS IN ENGLAND, ETC.

The SPEAKER also laid before the House, the following message from the President of the United States:

*To the House of Representatives:*

In answer to a resolution of the House of Representatives of the 7th instant, relative to the arrest, imprisonment, and treatment of



American citizens in Great Britain or its Provinces, I transmit a report from the Secretary of State on the subject.

ANDREW JOHNSON.

WASHINGTON, March 20, 1867.

Mr. BANKS. I move that the resolution and accompanying paper be referred to the Committee on Foreign Affairs, and be ordered to be printed.

The motion was agreed to.

#### FENIAN TRIALS IN CANADA.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit to the House of Representatives, in answer to their resolution of the 18th instant, a report from the Secretary of State, with its accompanying papers.

ANDREW JOHNSON.

WASHINGTON, March 20, 1867.

The SPEAKER. The Chair understands this to be in answer to a resolution of the House calling for information in relation to the late trials of United States citizens in Canada.

Mr. BANKS. I move that the message and accompanying papers be referred to the Committee on Foreign Affairs, and be ordered to be printed.

The motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair will state that he is informed that no further message from the President may be expected to-day.

Mr. SCOFIELD, (at two o'clock and ten minutes p. m.) I move that the House now adjourn.

The question was taken; and upon a division, there were—ayes 46, noes 62.

Before the result of the vote was announced, Mr. SCOFIELD called for the yeas and nays on the motion to adjourn.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes seventeen, noes not counted.

Before the result of the vote was announced, Mr. SCOFIELD called for tellers on ordering the yeas and nays.

Mr. BLAINE. Oh, do not do that.

Mr. SCOFIELD. I will withdraw the call for tellers and for yeas and nays, if it is understood that we shall have in the Committee of the Whole more than five minutes allowed for debate.

The motion to adjourn accordingly was not agreed to.

The question was upon the motion of Mr. LAWRENCE, of Ohio, that there be allowed two hours for debate upon Senate joint resolution No. 16, instead of five minutes as proposed by Mr. BINGHAM.

The question was taken; and upon a division, there were—ayes 44, noes 61.

So the motion was not agreed to.

The question recurred on the motion of Mr. BINGHAM, that when the House again resolve itself into the Committee of the Whole on the state of the Union, all general debate terminate in five minutes.

Mr. BROOMALL. I move to amend the motion by striking out "five minutes" and inserting in lieu thereof "one hour."

Mr. BINGHAM. All that I wish to say is this—

The SPEAKER. Debate is not in order except by unanimous consent.

Several MEMBERS objected.

Mr. BINGHAM. I modify my motion so as to say "twenty minutes" instead of "five minutes."

Mr. BROOMALL. I insist on my amendment, so as to allow one hour for debate instead of twenty minutes.

The amendment was agreed to; there being—ayes 58, noes 56.

The motion of Mr. BINGHAM, as amended, was adopted.

#### RELIEF OF DESTITUTE IN THE SOUTH—AGAIN.

Mr. BINGHAM. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the joint resolution (S. R. No. 16) for the relief of the destitute of the southern and southwestern States.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

Mr. SCHENCK. Mr. Chairman, I desire to inquire whether there is an amendment pending.

The CHAIRMAN. There is an amendment pending to strike out the last word, which the gentleman from Massachusetts [Mr. BUTLER] has spoken in favor of, but which no one has opposed.

Mr. SCHENCK. Well, sir, I am opposed to it because it will tend, as they say, to "perfect" the original bill.

I desire to call the attention of the committee to a fact of which gentlemen seem to have lost sight, that there is pending a substitute for the substitute offered originally by the gentleman from Massachusetts [Mr. BUTLER.] That gentleman proposed that instead of devoting \$1,000,000, as provided in the Senate bill, for the relief of these persons at the South, who are represented to be in circumstances of destitution, we shall appropriate that amount for the benefit of the widows and orphans of the Union soldiers who were starved to death in rebel prisons. Subsequently, the gentleman submitted another substitute, which, for the sake of simplifying the position of the question, I, with his consent, adopted as my own, proposing not to deny help to the destitute in the South, but only to provide a different mode of furnishing such help, so that instead of taking the necessary means from the Treasury of the United States, the means shall be raised by assessment upon the richer rebels themselves.

If there be in the South any destitute persons beyond those who are now provided for through the Freedmen's Bureau I am not opposed to extending aid to them. But just here I will say I have not a doubt that this whole matter is greatly exaggerated. Where ever work is to be done, wherever honest labor is to be put forth by men for their own support, no people are more apt to call upon Hercules instead of putting their own shoulders to the wheel than these same southern rebels. While they had their negroes to work for them we did not hear this cry for assistance; but this means of support being taken away none are more ready than they to make negroes of the "mudsills" of the North, who are expected cheerfully to work and pay taxes for the support of those who despise them.

I desire to say also that gentlemen who are in favor of the original bill have pursued here a course not particularly consistent with good taste, however wise it may be in any other aspect. Having claimed for themselves, because they support this appropriation of \$1,000,000, all the liberality and all the courage, the next thing I suppose will be to claim, so far as this debate is concerned, all the magnanimity. After having exhausted the argument on this side in speeches of an hour's length, some gentlemen having spoken two or three times, they still claim to entertain and amuse, if not instruct, the House by reading anonymous articles published in newspapers at the North, professing to give what some soldier has said upon this subject.

Sir, instead of quoting an anonymous letter in order to furnish some testimony on this subject of destitution at the South, I propose to call to the witness-stand a rebel himself. Everybody knows who Pirate Semmes is, that infernal villain who swept the seas in order to destroy the

commerce of this country as an indirect way of breaking down the Government to which he, as a scoundrel rebel, was opposed. That pirate rebel Semmes has become an editor after going through various mutations. Hear what he says on "the labor question" in the Memphis Bulletin, which he now conducts. His testimony is as follows:

"We could scour the pine woods of Mississippi and Alabama to-morrow, and drive before us hundreds and thousands of active, stalwart young white laborers, who are wasting their time in utter and entire idleness, because they are too proud or too lazy to work. Many of the families to which these young vagabonds belong are almost in a starving condition, some of them being the actual recipients of charity from the Freedmen's Bureau."

[Here the hammer fell.]

Mr. BUTLER, by unanimous consent, withdrew his amendment.

Mr. SCHENCK. I move to strike out the first word.

Now, then, sir, having produced the testimony of a rebel himself, and therefore not anonymous testimony, I am willing to present it as a set-off against any anonymous publication which may have found its way into the New York Times, or any other paper, intended to bolster up this cause.

This editor bears testimony on another point, to which I wish to call the attention of the House. He says these lazy vagabonds, these stalwart bodied men, who are drifting about through these southern States where this destitution is said most to prevail, are doing so leaving their families and connections in almost a starving condition. The first proposition I make upon that is, that they shall be required to go to work and support themselves and their starving families; and the next is that the testimony proves what I affirmed yesterday, when he goes on to say those starving families are driven to get help from the Freedmen's Bureau. That Freedmen's Bureau is in fact, and we know it to be so, in the name of refugees, giving to all persons, men, women, and children, who come to them in a state of destitution.

Now, sir, what have we done for the Freedmen's Bureau? We have given some ten or twelve million of dollars in various appropriations for subsistence and aid to the destitute of the South. We have given it to freedmen and refugees, but in practice all, black and white, are treated as refugees who come in apparent destitution and demand help from the agents of the bureau. Here is a rebel from the South admitting that the families of these lazy vagabonds are at this very time receiving this help from the Freedmen's Bureau, which they need not receive but for the laziness of those who ought to support them. Yet we are asked either to divert the money already appropriated for the Freedmen's Bureau to feed such lazy vagabonds, or else to add, as the Senate proposes, \$1,000,000 in addition to what we have already appropriated.

What does my amendment propose? It proposes to tax those who are able in the South to support their own poor. We have this power over them. We can direct it to be exercised through our military commanders. My word for it you will find it to be a wholesome power.

I have studied this rebel animal in different points of view, and I have always found this to be the fact in regard to him, let him be of whatever variety or species he may: whenever you do toward him any act of magnanimity he is sure to construe it into some concession made to his superiority, or to attribute it to some timidity on your part, by which you are afraid to deny to him what he demands. Instead, therefore, of taking money out of the public Treasury to be thus construed into an act of apprehension on our part that unless we coax them they will do further mischief, I would say let their poor be fed and make them feed them themselves.

I have had a little experience in this matter in a small way. When in command of one of the military departments of this Government during the late war, I found the rebels in Harford county, Maryland, were disposed to burn down, and did burn down, the property of

those officers of the United States who were engaged in enforcing the draft. But it was easily stopped in this way: by ascertaining from the county records the assessable property in the vicinity of the property thus destroyed, having an appraisement made of the property burned, and then distributing the assessment for five miles around, so as to make these people pay for the property to which the torch had been thus applied. After that was done twice no more property was burned.

Now, if we make these richer rebels pay for the support of their destitute laboring population there will not be much more wailing coming up from the South, nor much more occasion for the gentleman from Vermont to make one of these poetic speeches in which, as is the case with other poetry, he seems to draw upon his imagination for facts as well as figures.

Mr. LAWRENCE, of Ohio. Mr. Chairman, I have occupied no part of the time of the committee, and I would not do so now but that I am unwilling to go upon the record by voting for or against any of the propositions before us without a few words in explanation of my position. To understand the questions we are called upon to decide a brief examination of existing laws is necessary. By the original Freedmen's Bureau law it is provided:

"SEC. 2. That the Secretary of War may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct."—*Freedmen's Bureau Act of March 3, 1865; 13 United States Statutes-at-Large, 508.*

The act of July 16, 1866, to continue in force the Freedmen's Bureau law provides:

"SEC. 5. That the second section of the act to which this is an amendment shall be deemed to authorize the Secretary of War to issue such medical stores or other supplies and transportation, and afford such medical or other aid as may be needful for the purposes named in said section: *Provided*, That no person shall be deemed 'destitute,' 'suffering,' or 'dependent upon the Government for support' within the meaning of this act, who is able to find employment, and could by proper industry or exertion avoid such destitution, suffering, or dependence."—*14 United States Statutes-at-Large, 173.*

It will be seen that these acts extend relief to two classes of cases. "The destitute and suffering refugees and their wives and children," constitute the first of these classes. This designation embraces that portion of the white people of the South who, "through good and through evil report," during all the dreary years of the rebellion still cling to the flag of the Union, and for their loyalty were driven from their homes, in numberless cases despoiled of their property, and thus were left in a destitute and suffering condition. The next class of people relieved by these laws is designated as the "destitute and suffering freedmen and their wives and children."

I scarcely need remark that the freedmen were always loyal, so much so that the rebel congress and the rebel leaders never dared to attempt to arm them in aid of rebellion. These two classes of people thus protected from the horrors and torture of starvation, constitute in all probability full three fourths of all the destitute and suffering in the rebel States.

The appropriations made by Congress for the charitable and humane purposes I have named, were, in the appropriation act of July 13, 1866:

For clothing for distribution.....	\$1,170,000
For commissary stores.....	3,103,250
For medical department.....	500,000
Total.....	\$4,773,250

The other appropriations in this act are for salaries, stationery, printing, transportation, schools, &c. (14 United States Statutes-at-Large, 92.)

The "deficiency appropriation act" of March 2, 1867, appropriates \$1,500,000 for the same purposes.

Of these appropriations there remain now unexpended, and subject to the control of that patriot and Christian statesman, Major General O. O. Howard, Commissioner of the

Freedmen's Bureau, applicable to the relief of destitute refugees and freedmen, \$2,100,000.

General Howard, in his letter of March 8, 1867, to the President of the Senate, referring to the amount thus appropriated and subject to his order, says:

"The present appropriation is ample, provided the issues [of rations] be confined to the classes named in the Freedmen's Bureau act."

General Howard further says:

"From official sources, and confirmed by gentlemen from different sections of the South, my estimate is 32,002 whites and 24,238 colored people, making in all 56,000, who will need food from some source before the next crop can relieve them. The number of rations for all for one month, 1,707,000. For five months, the probable time required, 8,535,000 rations, at twenty-five cents per ration, the estimated cost, will be \$2,133,750. Of this sum an appropriation has already been made for the five months to the amount of \$825,000, leaving an additional sum required of \$1,508,750. This sum I deem sufficient to meet the extreme want occasioned by failure of the crop and other causes referred to in the resolution of inquiry."

From these facts it is manifest that provision has been made for full three fourths of all the destitution and suffering in the rebel States by appropriations directly from the national Treasury. The remaining one fourth is confined almost exclusively, though not entirely, to the rebels or those who sympathized with the rebellion.

And now, Mr. Chairman, the question arises as to what should be done for these?

The Senate passed and sent to us Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

The resolution proposed to empower and direct the Secretary of War to issue supplies of food sufficient to prevent starvation and extreme want among all classes of the people in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution; the issues to be made through the Freedmen's Bureau, under such regulations as the Secretary of War might prescribe. One million dollars is appropriated for the purpose, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

There are now before us, in lieu of and by way of amendment to this, two other propositions. The one offered by my colleague [Mr. BINGHAM] proposes simply to direct the officers of the Freedmen's Bureau to expend the \$2,100,000 appropriated for the refugees and freedmen for the benefit of all people of all classes, loyal and disloyal, in the rebel States who may be in a destitute condition, thus diverting in part this money from the purpose for which it was appropriated, and taking it in part from the suffering classes for whom it was designed. The other proposition is that offered by my colleague, [Mr. SCHENCK], which authorizes the several district commanders appointed under the act of March 2, 1867, "to provide for a more efficient government for the rebel States."

To assess and collect by military authority, ratable upon all persons within their districts respectively, owning more than one hundred and sixty acres of land, or who shall have an income of more than \$600 a year, such sum or sums as such commander may deem necessary to relieve and provide for the destitution and pauperism of the people in his district, not within the provisions of the act concerning abandoned lands, refugees, and freedmen.

And the substitute of my colleague [Mr. SCHENCK] further provides—

That to meet the pressing exigencies of the wants of people of his district, the commander of each of said districts may require for, and receive from the Commissary General of Subsistence, such rations of food, from time to time, as he may deem sufficient to meet such exigencies and afford proper relief, to be distributed by him in the manner aforesaid, and said commander shall out of the sums so assessed and collected, as soon as may be, reimburse and pay the subsistence department for all the rations as required by him at the prime cost thereof, with a reasonable amount for transportation of the same.

From these different propositions it will be seen that they both contemplate a provision to relieve the destitution of all the people of the rebel States, disloyal as well as loyal. The question of difference, therefore, is not whether the provision should be made and the relief

furnished, but the real question of difference is, whether the whole expense should be charged upon the national Treasury, or whether a small portion of it should be collected from the great rebels whose crimes of treason created the necessity for it.

The Freedmen's Bureau law provides for three fourths of all the destitution and suffering in the rebel States; and now to justify us in charging the national Treasury with the expense of the residue is to assume that the rebel States will add to the crime of treason and rebellion the cruelty and meanness of a refusal to supply the wants of their own rebel poor. Sir, I will not attribute to them this cruelty and meanness, but if they deserve this great reproach it is high time we should compel them to save from starvation and want the small portion of their people not already provided for through the Freedmen's Bureau. For one, sir, I will vote for the substitute offered by my colleague, [Mr. SCHENCK,] but I will not vote for that of my other colleague, [Mr. BINGHAM.] I will not vote for it for several reasons.

[Here the hammer fell.]

Mr. FARNSWORTH. I move that the committee rise. There are several bills on the Speaker's table that ought to be acted upon.

The motion was disagreed to.

Mr. LAWRENCE, of Ohio. I move to strike out the first word of the amendment of my colleague, so that I may have an opportunity to complete what I had to say.

I now proceed to state as well as I can in the brief space of time allotted to me some of the reasons why I will not vote for the amendment of my colleague, [Mr. BINGHAM.]

And first, it will leave the provision already made for refugees and freedmen utterly inadequate. It will rob the loyal to supply the disloyal.

General Howard in the letter I have already referred to says:

"The present appropriation [the unexpended \$2,100,000] is ample, provided the issues be confined to the classes named in the Freedmen's Bureau act, [refugees and freedmen,] but the additional sum named [of \$1,508,750] will be required should the issue be extended as contemplated, [to all the destitute.]

But, sir, I cannot be deceived as to the latent effect, if not the purpose of this scheme. Once inaugurated it will call for more and more appropriations, and they will be made, and thus the Government will assume the stupendous work of providing for all the rebel poor, and the loyal North, the maimed and wounded soldiers of the Union Army who survived the cruelties of the rebellion, will be taxed to pay the expenses.

But I object to this scheme, secondly, because no officer, citizen, legislative or municipal body of the South has asked of Congress any such relief.

I object to this scheme, thirdly, because if appropriations be necessary they should be made by the provisional legislatures in the rebel States, for these can act more efficiently and economically than Congress.

I object fourthly, that it is unjust to tax the people of the loyal States for the support of the rebel poor, while the rebel States are abundantly able to make ample provision for them.

And finally, it is the duty of Congress to avoid unnecessary appropriations and to inaugurate the practice of rigid economy, so as to save the people from oppressive taxation.

I will not enlarge upon these objections at any great length. The bare statement of them, it seems to me, ought to be sufficient.

I do not urge any constitutional objection to these measures. My colleague [Mr. VAN TRUMP] has made an argument on that subject which has great weight so far as the power of Congress is concerned in the appropriation of money for charitable purposes in States with lawfully organized State governments, and where war in fact and in law has ceased.

And this scheme does extend to the State of Tennessee, where peace exists and where a

State government also in legal form now is in operation. But as to the remaining ten rebel States, they are without any legal State governments, and are therefore subject to the legislative control of Congress in every respect, so far as may be necessary to organize and guarantee to each a republican form of government.

During this discussion it has been repeatedly said that it is but the dictate of humanity that the wants of the starving poor should be supplied, and that true Christianity forbids that we should stop to inquire whether those who need our aid are loyal or rebel. Sir, I agree to all this. I would not in a great work of humane charity stop to inquire whether the suppliant for bread was my friend or my enemy. In the private relations of life or in acts of statesmanship I would spurn such an idea. But as the custodians of the public Treasury, clothed with the power of deciding who should bear the burdens of relieving those who may be destitute in the South, we should be both just as well as generous.

And now, sir, in view of the facts I have stated, who is there upon this floor that dare go to his constituents and tell them that after having made provision out of the national Treasury for three fourths of all the destitute in the rebel States, without having made any such provision for the loyal States, and without having given the bounties to our soldiers which they so richly deserve and have so earnestly asked in vain—who is there here that dare tell his constituents in the loyal States that he voted to tax them to supply the residue of the destitute of the rebel States while those States were able to make provision from their own resources, and Congress had the power to compel them to do so? For me, sir, I will go to my constituents with no such message.

Sir, I believe no one has ventured to say the rebel States are unable to provide for those whose destitution is not already covered by the charitable aid of the Freedmen's Bureau laws. There is in each one of these rebel States a government, not legally established; I know, as a State government, but recognized as provisional by the sixth section of the recent act of Congress, known as "the military reconstruction act." The Legislature of Mississippi appropriated \$20,000 to aid in the defense of that arch traitor, Jeff. Davis, for his great crime of treason to the country. And shall we be now told that this State is unable to aid in relieving the wants of its poor? These provisional governments for two years have been levying and collecting taxes, paying salaries, and keeping in operation all the machinery of government. Why shall we not pay these expenses as well as that which is now asked of us?

In the bill passed only a day or two since, supplementary to "the military reconstruction act," a section was inserted, which I had some humble part in originating, requiring the conventions called in those States to pay the expenses incident to reorganization of their State governments. For two years these States have not only paid the expense of local government, but during the last fiscal year the internal revenue tax on cotton amounted to some twenty million dollars. If these States cannot contribute to the support of their destitute, let us at once cease to levy or collect taxes from them. But this would be so unjust and so unjustifiable that no one has ever asked or advocated exemption from taxation either for local or national purposes.

Mr. Chairman, I congratulate our friends on the other side of this Chamber opposed to the Republican party. It is manifest from the discussions that they will be almost unanimous in supporting the scheme of relieving all the destitute of the South out of the national Treasury, and this although the charity is to be dispensed through the agents of the Freedmen's Bureau.

When the Freedmen's Bureau act was passed, many of the same gentlemen denounced it as unconstitutional and as a grievous charge on

the public Treasury. The President's veto met their entire approval.

The act then furnished relief to a starving population, mainly loyal, at a time when as now the rebels would make no provision for the relief of destitute refugees or freedmen in their midst. It was then a necessity dictated by humanity.

But now, when it is proposed to extend the operation of this bureau so as to feed and clothe a large rebel population out of the national Treasury, and thus to relieve the wealthy rebels of the South from burdens which they ought to be compelled to bear, their partisans on this floor are not embarrassed with constitutional scruples, and have become wonderfully charitable and humane, not in the interests of loyalty or loyal men, but in the interests of the new beneficiaries, whose support is to be charged upon the national Treasury.

Mr. Chairman, I would not omit any imperative duty to avoid an increase of the burdens on the national Treasury; but when justice demands that the burdens shall be borne elsewhere, I feel it a duty to practice that justice which relieves the national Treasury. The load of taxes is already sufficiently large. Let us not violate the public confidence and the public sense of right by yielding to unjust demands under the specious guise of philanthropy, which has no element of real benevolence on which to rest.

Mr. PILE. I am opposed to all the amendments and substitutes for the original Senate resolution, and I am opposed to the original resolution itself. I do not intend to make a speech, but simply wish to state the ground of my opposition, and then to indicate a substitute which, if I have the opportunity, I shall offer for the original resolution.

I do not believe in clothing the subject of confiscation with the false guise of taxation. If we intend in good earnest to proceed under the law to confiscate the property of rebels and apply it to the relief of the suffering loyal people of the South, let us put our measures in a plain and direct shape. Let us not disguise confiscation in the deceptive garb of taxation, with the additional objection of spreading through all the southern States the machinery of tax-assessors and tax-collectors in the form of military officers, involving an expense five times as great as the amount originally proposed to be distributed for the purpose of affording the required relief.

I am opposed to appropriating any more money to the Freedmen's Bureau. I have it from General Howard himself that the appropriations already made are ample for the purposes required. I am opposed to conferring upon the Freedmen's Bureau or the Secretary of War authority to grant relief to any man in the South, white or black, loyal or disloyal, who is able to work. If disabled or aged or helpless persons, men, women, or children, should be famishing for bread, and should apply to me for relief, I would grant them food without asking whether they had been loyal or disloyal, whether they had been guilty of crime or had led lives of innocence. Having relieved their immediate distresses and needs, I would then say let them be punished, according to law, for any crime of which they may have been guilty.

These being my views, Mr. Chairman, I shall, if the other amendments and substitutes be voted down, as I hope they will be, offer as a substitute for the original resolution of the Senate the proposition which I hold in my hand. It is in plain language, and will, I think, effectually meet all the requirements of the case. It is as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of War be, and is hereby, authorized, through the Bureau of Refugees, Freedmen, and Abandoned Lands, to extend at his discretion the distribution of food and clothing authorized by existing laws to be issued to refugees and freedmen in the late insurrectionary States so as to include all destitute women, children, or helpless persons in said insurrectionary States: *Provided*, That this extension shall not continue longer than the current year.

This proposition will obviate the objection urged by several gentlemen, that we propose to feed able-bodied rebels, who ought to earn food and clothing by their own labor; while it will extend the required relief to the women and children and helpless persons who are unable to work, and who, as General Howard states, must starve unless speedy assistance be afforded, because they are not able to earn their bread, and because between them and the wealthy ruling classes of the South there is no sympathy, so that the latter will extend them no aid.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. I withdraw my *pro forma* amendment.

Mr. MILLER. I move to amend the amendment of the gentleman from Ohio [Mr. BINGHAM] by adding the following:

That \$75,000 thereof be applied by those in charge of the Freedmen's Bureau to purchase seeds through the Agricultural Department to furnish such persons in said late-rebel States with seeds as may need the same to raise provisions for themselves: *Provided*, That seeds are only to be furnished to such as are not possessed of means to purchase; and their ability to do so is to be determined by those who are to distribute the seeds.

Mr. Chairman, as I understand the proposition of the gentleman from Ohio in its present form, it does not call for any additional appropriation. It appears that some two million one hundred thousand dollars remains at the disposal of the Freedmen's Bureau unexpended. The object of my amendment is that at least seventy-five thousand dollars of this amount shall be expended for the purchase of seeds to enable these needy persons at the South to raise provisions for themselves.

Now, if these seeds are furnished with proper judgment it will be a great blessing to that section of country. I understand that applications are daily made for seed from these States to the Agricultural Department, and from the large number of letters received by the Commissioner it is evident that unless some additional appropriation be made it will be impossible to furnish seed to the loyal northern States, and also to those lately in rebellion.

Mr. BUTLER. I ask the gentleman whether the gardens in the South have not already been planted?

Mr. MILLER. I will say, Mr. Chairman, in answer to the honorable gentleman from Massachusetts, [Mr. BUTLER,] that he must recollect that there is a material difference between his State and that of the southern States, sometimes denominated the sunny South. In the former gardens are made but once in a year, while in the latter planting continues the greater part of the year, so that as one crop is maturing another is being planted, and of course it requires seed to enable them to plant; and surely the honorable gentleman is in favor of encouraging industry even with those who took part in the rebellion.

I understand from gentlemen who come from the South that in many places the crops have been almost entirely destroyed, and of course when they again undertake to cultivate their land they will require this seed. If my colleague's bill be passed, and the land is divided up into small farms, this seed will most certainly be necessary. I do not think this money can be better applied than for this purpose. It will only be for this and the coming season.

Now, sir, I do not see how there can be any objection to this proposition. It will enable these persons who are destitute to raise in a short time sufficient food for themselves and families. I take no objection to the gentleman's amendment. I think I am justifiable, from the report of General Howard, in saying that these southern people are in a state of starvation and that we ought to feed them. It ought not to be limited to women and children and old men. If the men down there cannot get work and are starving, I think we ought to feed them without regard to their age until they can procure employment and no longer.

I will add that I am in favor of the amendment of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. PILE. Let me ask the gentleman whether it is not a fact that there is abundant testimony of the great scarcity of labor all over the South, that more labor is needed and required than can be supplied, and that every man who is able to work can and ought to support himself, and if he will not, he ought to starve?

Mr. MILLER. I know that is the report, but whether it is true or not I cannot say. If these men cannot get work they ought not to be allowed to starve, and the way to give them employment is to furnish seeds and encourage the tilling of the soil, and in a short time they will have food sufficient for their support and to spare; and I will add, Mr. Chairman, that I have every confidence in those having charge of the distribution of provisions; that it will not be furnished to those who are not destitute and in great danger of starvation.

Mr. STEVENS, of Pennsylvania. I think my colleague had better add a small appropriation to send down gardeners to do the work for them. [Laughter.]

[Here the hammer fell.]

Mr. WASHBURN, of Indiana. I rise to oppose the amendment of the gentleman from Missouri. I wish to call attention to the fact that the original Freedmen's Bureau bill, to which this whole appropriation will be referred, controls and governs as to the parties who are to be affected. I will read the proviso showing who will be entitled to this bounty if this appropriation should pass. It shows that all those who can support themselves will not get a single dollar of this money.

Mr. BINGHAM. Everyone ought to know that, and I am glad the gentleman has referred to it.

Mr. WASHBURN, of Indiana. The proviso to which I refer is as follows:

*Provided, That no person shall be deemed "destitute," "suffering," or "dependent upon the Government for support," within the meaning of this act, who is able to find employment, and could by proper industry or exertion avoid such destitution, suffering, or dependence.*

The question was taken on Mr. MILLER's amendment, and it was disagreed to.

The question then recurred on Mr. BINGHAM's amendment.

Mr. FARNSWORTH. I move to insert "of helpless or disabled," so that it will read "all classes of helpless or disabled persons." As it now reads it is to be given to all classes of persons. They may have as much property as they please elsewhere, but if they happen to be in temporary want they are to be supplied with all these things.

Mr. BINGHAM. That is not an amendment to my amendment, but to the original text.

Mr. PILE. I hope all these amendments will be voted down, so that we may get to the resolution.

The CHAIRMAN. The amendment of the gentleman from Illinois is not now in order.

Mr. BINGHAM's amendment was agreed to.

Mr. FARNSWORTH. I now move my amendment, to insert after the word "classes" the words, "of disabled or helpless persons." It will confine the issue of these supplies to helpless or disabled persons.

Mr. SCHENCK. Is it the object of the gentleman to supply those who are disabled from having performed military service in aid of the rebellion?

Mr. FARNSWORTH. It is well understood, I suppose, that I am not at all in favor of this joint resolution; but if it is to pass, I want to have it put into as good shape as possible. At least let the benefits of the measure be confined to the needy, helpless, and disabled, and not extended also to the sturdy and strong.

Mr. BINGHAM. I rise to oppose the amendment of the gentleman from Illinois, [Mr. FARNSWORTH.] It must be apparent to members here that if his amendment be adopted, an able-bodied freedman who may be starving for food, could not receive assistance under this joint resolution. We here know the fact,

and the country knows the fact, that millions of acres of land have been devastated by the recent floods in the valley of the Tennessee. The report has come officially to your Freedmen's Bureau that the inhabitants of that district, of all classes, without distinction, are famishing for bread. Their houses are filled with the waters; their lands are covered with the waters; the products of their land have been swept away by the floods; and yet the gentleman stands up here and says that because the people may own lands that are inundated by water, and are able-bodied, therefore they must be left to starve.

Mr. FARNSWORTH. Will the gentleman allow me to say—

Mr. BINGHAM. No, sir; I hope his proposition will be voted down.

Mr. LAWRENCE, of Ohio. Will my colleague—

Mr. BINGHAM. No, sir, not now. And I desire to say further that by the terms of the original law controlling the regulations of the Secretary of War he can only supply the famishing with food. They may be able-bodied and still be famishing. Can you not trust your Secretary of War, as you have trusted him heretofore? Cannot you trust your Commissioner of the Freedmen's Bureau, as you have already trusted him with \$12,000,000? Who ever heard of either of them furnishing food to able-bodied men who had the means to obtain a subsistence for themselves? It is a reflection upon their integrity; and for their sake, if for nothing else, I hope the committee will vote down the amendment of the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. BROOMALL. I move to amend the amendment of the gentleman from Illinois by striking out the words "disabled or" and inserting the words "destitute and;" so that that portion will read: "all classes of destitute and helpless persons."

Mr. BINGHAM. I hope the gentleman will take out the word "and" and put in the word "or."

Mr. BROOMALL. I think it is better as it is.

Mr. FARNSWORTH. I accept the amendment of the gentleman from Pennsylvania, [Mr. BROOMALL,] and modify my amendment accordingly.

Mr. BINGHAM. Then a person must be both helpless and destitute to be entitled to receive assistance.

Mr. FARNSWORTH. The gentleman from Ohio [Mr. BINGHAM] says it is the duty of the Government to aid and feed able-bodied men who own acres of land if it should happen to be covered with water just now. Now, I wish to say to him that any man in the valley of the Mississippi who owns a plantation, even though it may be covered with water, can procure food before he is able to raise it on his plantation. I want to know of him if he considers it the duty of the Government to supply bread to men who own land, and who can obtain bread by selling their land, and by their own labor? Have we arrived to that point that no matter how broad a man's acres may be, how well able he may be to labor, yet if he happens by some untoward circumstance to be for the present deprived of bread, he shall not be called upon to dispose of any of his land for bread, or to earn it by his own labor, but he may come to the Treasury of the United States to get means to obtain it?

Mr. STEVENS, of Pennsylvania. With the permission of the gentleman, I will say that three of my constituents went down there with several thousand dollars to purchase land, and every one of them was robbed and murdered.

Mr. FARNSWORTH. All over the country there are people who have land, but no bread. All over the country there are men who have stout and healthy bodies who have no bread. They, however, obtain bread by the sweat of their faces or by selling some of their land for it. And while a man has strong arms to labor with or an acre of land to sell it is his duty to earn or buy his bread for himself, and not come

to the Government of the United States as a beggar and ask for it.

Mr. BINGHAM. I move to amend the amendment of the gentleman from Pennsylvania [Mr. BROOMALL] by striking out "and" and inserting "or;" so that it will read "all classes of destitute or helpless persons."

Mr. FARNSWORTH and others. Oh, no! Mr. BINGHAM. Gentlemen may say "Oh, no," but I say "Oh, yes." I ask the gentleman to accept it.

Mr. BROOMALL. I think my amendment means precisely that now. But I have no control over it myself and cannot now modify it, because it has been accepted by the gentleman from Illinois [Mr. FARNSWORTH] as a part of his amendment.

Mr. BINGHAM. I move to amend the amendment by striking out "and" and inserting "or." And I beg leave to say that if it means the same thing as the other no one can well object to the change I propose. If it does not mean the same thing, then I submit that the difference is just this: that before relief can be extended to a person he must not only be destitute, but also helpless, physically helpless. If it means just the same thing, then I ask gentlemen why they object to striking out the word "and" and inserting the word "or?" For if you substitute the word "or" for the word "and," then if they be destitute they can be helped, or if they be helpless they can be helped. That is all there is of it.

Mr. SCOFIELD. I do not suppose the gentleman means to say that if a person is helpless but not destitute the bureau should assist him?

Mr. BINGHAM. No, sir; but I mean to say this: a person may be helpless away from home and yet not be destitute, or not without means of support when at home; or he may be without food and yet not be physically helpless. He may have been stricken with paralysis, or smitten with blindness, amidst the terrible calamities which have swept over this country.

Mr. BUTLER. I am opposed to the amendment of the gentleman from Ohio, [Mr. BINGHAM,] and in order to demonstrate my position, I will ask the Clerk to read as a part of my remarks the plan of the President of the United States.

The Clerk read as follows:

*Extract from Diary of Rebellion Record, volume six, page 25, December 15, 1862.*

"Governor Johnson, of Tennessee, this day issued an order assessing certain individuals in the city of Nashville, in various amounts, to be paid in five monthly installments, in behalf of the many helpless widows, wives, and children in the city of Nashville who have been reduced to poverty and wretchedness in consequence of their husbands, sons, and fathers having been forced into the armies of this unholy and nefarious rebellion."

*Extract from Appleton's American Encyclopedia, volume —, page 769.*

"About the same time [later part of 1862] Governor Johnson published an order assessing the wealthy secessionists of Nashville and the vicinity to the amount of \$60,000 for the support of the poor during the winter."

Mr. SCHENCK. That is the plan embraced in my substitute.

Mr. BUTLER. Now I ask how my friend from Ohio, [Mr. BINGHAM,] who has got over on the other side not only in body, but in spirit, [laughter,] can afford to go against the policy of the President, to which I call his attention? There it is; that is the example set us by that "great and good man" when he had the power and the inclination. He taxed the rich secessionist in order to feed the wives and children of the poor men who had been forced into this "nefarious rebellion." Now, I want to do the same thing: nothing more and nothing less.

Now, before I sit down, I want to make another suggestion to our friends on the other side, because I know what weighs on their minds. I would ask them how they can vote for the amendment of the gentleman from Ohio, [Mr. BINGHAM,] recognizing, as it does, that abomination of abominations, the "negro bureau," which they have always opposed?

[Here the hammer fell.]



The question was upon the motion of Mr. BINGHAM to amend the amendment of Mr. FARNSWORTH by striking out "and" and inserting "or;" so that it will read "all classes of destitute or helpless people."

Mr. SHELLABARGER. I desire to give notice that when the proper time shall have arrived I will move to amend by adding the following:

*Provided*, That no person shall be deemed within the benefits of this act whose helplessness is owing to injuries received in the military service of the rebellion.

The question was taken upon Mr. BINGHAM's amendment to the amendment of Mr. FARNSWORTH; and upon a division, there were—ayes 59, noes 39.

Before the result of the vote was announced, Mr. FARNSWORTH called for tellers on the amendment to the amendment.

Tellers were ordered; and Mr. FARNSWORTH and Mr. BINGHAM were appointed.

The committee again divided; and the tellers reported that there were—ayes seventy-seven, noes not counted.

So the amendment to the amendment was agreed to.

Mr. BINGHAM. I move to amend by striking out the last word.

I desire to say, Mr. Chairman, that it does not become a gentleman who recorded his vote fifty times for Jefferson Davis, the arch-traitor in this rebellion, as his candidate for President of the United States, to undertake to damage this cause by attempting to cast an imputation either upon my integrity or my honor. I repel with scorn and contempt any utterance of that sort from any man, whether he be the hero of Fort Fisher not taken or of Fort Fisher taken. [Laughter.] I stand here also in the name of the American people to repel with scorn the attempt to levy charity by confiscation, in violation of the Constitution of my country. That, sir, is the proposition which the gentleman dares to offer in an American Congress in the sacred name of charity. [Here the hammer fell.]

Mr. BUTLER. Mr. Chairman—

The CHAIRMAN. All debate by order of the House is exhausted.

Mr. BUTLER. I understood the Chair to state a while ago that all debate would close at fifteen minutes past three o'clock.

The CHAIRMAN. The Chair stated that the hour to which debate had been limited would expire at eighteen minutes after three o'clock.

Mr. BUTLER. So that the gentleman from Ohio had just enough time to make a personal attack upon me.

The CHAIRMAN. No debate is in order.

Mr. BUTLER. I ask the privilege of replying to the gentleman from Ohio.

The CHAIRMAN. The gentleman can ask the privilege of the House, but not of the committee.

Mr. BUTLER. I ask it of the committee. The CHAIRMAN. The committee is not competent to grant the privilege.

Mr. ELDRIDGE. I hope that by unanimous consent the committee will grant the gentleman the privilege. This is a subject which I should be glad to have ventilated.

The CHAIRMAN. The committee must rise for that purpose. The Chairman is acting under the express order of the House, that all debate be limited to one hour.

Mr. FARNSWORTH. I move that the committee rise.

On the motion there were—ayes 45, noes 58. Mr. STEVENS, of Pennsylvania. I call for tellers.

Tellers were ordered; and Messrs. FARNSWORTH and BINGHAM were appointed.

The committee divided; and the tellers reported—ayes 67, noes 62.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union having, according to

order, had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States, had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had indefinitely postponed a joint resolution and a bill of the following titles:

Joint resolution (H. R. No. 18) to extend to the employes in the first division of the National Currency Bureau, Treasury Department, the provisions of the joint resolution approved February 28, 1867, giving additional compensation to certain employes in the civil service at Washington; and

An act (H. R. No. 73) to exempt ladders from internal tax.

The message also announced that the Senate had passed an act (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, with amendments, in which the concurrence of the House was requested.

#### RELIEF OF DESTITUTE IN THE SOUTH—AGAIN.

Mr. FARNSWORTH. I propose to move to reconsider the vote restricting debate in Committee of the Whole on this bill; but before making that motion I will yield to the gentleman from Massachusetts, [Mr. BUTLER,] who desires an opportunity to reply to the gentleman from Ohio.

The SPEAKER. It will require unanimous consent for the gentleman from Massachusetts to make his remarks at this time, as the bill is not before the House, but in Committee of the Whole. If the gentleman will indicate how much time he desires, the Chair will ask unanimous consent for him to proceed now.

Mr. BUTLER. Ten minutes.

Mr. ELDRIDGE. I hope the House will grant unanimous consent, and not permit the gentleman from Massachusetts to be "bottled up" in this manner. [Laughter.]

The SPEAKER. If no gentleman objects, the Chair will understand that the gentleman from Massachusetts has unanimous consent to speak for ten minutes.

There was no objection.

Mr. BUTLER. Mr. Speaker, I am under infinite obligations to the House for its kindness in my behalf; and I will endeavor to avoid trespassing unduly upon its time.

I have never concealed, Mr. Speaker, the fact which is now so offensively put forward, that before the war I, in the convention of my party, voted fifty-seven times for Jefferson Davis for President. I thought him the representative man of the South, and I hoped by his nomination to prevent threatened disunion. I was foiled, and disunion came. The difference between me and the honorable gentleman from Ohio is this: while Jefferson Davis was in the Union, a Senator of the United States, and claiming to be a friend of the Union I supported him; but he now supports him when he is a traitor. [Laughter.] I left him as soon as he left the Union. [Renewed laughter.] I saw the error of my ways and repented; but I did not expect that a blow would be made against me from that direction, from the side of the House that supported him then and have supported him ever since, and are still supporting him and his friends.

I did not mean to impugn the honor of the gentleman from Ohio or his integrity. I only said that I thought he was on the other side of the House.

Mr. BINGHAM. Will the gentleman pardon me. If the gentleman had qualified his remark by saying that he only thought so, I would not have said a word in reply. The gentleman did not qualify his words by any such expression.

Mr. BUTLER. The words I used, if I am not mistaken, were these: that he was in spirit, as he was in body, on the other side of the House. I thought so then, I think so now; I

said so then, I say so now, [laughter,] and I cannot take it back.

The gentleman has the bad taste to attack me for the reason that I could not do any more injury to the enemies of my country. I agree to that. I did all I could, the best I could. Other men of more ability could do more; and no man is more ready to give them the highest plaudits for valor and discretion and conduct than I am. And because I could not do more I feel exceedingly chagrined; but if during the war the gentleman from Ohio did as much as I did in that direction I shall be glad to recognize that much done. But the only victim of the gentleman's prowess that I know of was an innocent woman hung upon the scaffold, one Mrs. Surratt. And I can sustain the memory of Fort Fisher if he and his present associates can sustain him in shedding the blood of a woman tried by a military commission and convicted without sufficient evidence in my judgment.

Mr. BINGHAM. Mr. Chairman, I desire to make a remark or two, and I hope I will have the consent of the House.

The CHAIRMAN. How long does the gentleman want?

Mr. BINGHAM. Five minutes.

There was no objection.

Mr. BINGHAM. Mr. Chairman, although I have seen ten years of service in the Congress of the United States, the gentleman will look in vain for one remark of mine personal to any man upon this floor save when I replied to gratuitous assaults upon me; and I beg leave to add, scarcely a word of mine can be found in the proceedings of this House which can be construed into unkindness toward a fellow-member. I have observed the amenities of debate in the House and the amenities of personal conduct out of the House in such measure as I trust entitles me to the respect and consideration of those who know me best. Sir, the gentleman talks about matters of taste in which he is doubtless a master, and as a matter of taste constitutes himself my judge and undertakes to decide upon the integrity of my conduct as a sworn Representative of the people. I respectfully challenge the gentleman's fitness to be my accuser and deny his right to judge of my official conduct. When I had thus answered the gentleman's gratuitous assertion that I had abandoned and betrayed my principles, feeling that he had done dishonor to himself and injustice to me, he vainly seeks to qualify his rude assertion by saying that he only said he thought so. Sir, if he had said that he only thought or feared that I had abandoned principle because I ventured to differ from him, it would never have disturbed my equanimity and would have elicited no reply from me. Indeed, sir, what the gentleman thought about my official action would have given me no more concern than it would concern me to know what his thoughts are upon the question "who killed Cock Robin." [Laughter.]

But, sir, the gentleman has shown the same want of consideration for the rights of others in the remarks he has just made by the favor of this House as was shown by him when this day he first assailed my official action without excuse or provocation. By what right, sir, does the gentleman now constitute himself the judge, not only of his peer upon this floor, but the judge of men who were his peers in the field, men who stood in the day of battle only where brave men dare stand, in the thick darkness of the great conflict where the earthquake and the fire led the charge, and the victory was won not without suffering and death?

The gentleman denounces me as having executed an innocent person without evidence. I have executed no person, but acted as the advocate of the United States on the trial of persons who were charged with and convicted of the assassination of Abraham Lincoln. The gentleman pronounces, with the assurance of Sir Oracle, that an innocent woman was on that trial convicted without sufficient evidence. By what right does the gentleman thus assail

me, or the tribunal of true and brave and honorable men who found the facts upon their oaths and pronounced the judgment? What does the gentleman know of the evidence in the case, and what does he care for evidence when he thus assails the official conduct of the men who constituted the court?

Does the gentleman hope to condemn me for the judgment that was pronounced by the brave men who were constituted by the order of your President a court to hear and determine that issue of life and death upon their oaths according to the evidence? He cannot, sir, condemn me for the act of others, whatever he may endeavor. Malice itself, sir, cannot hold me to answer for the judgment of others. It is due to justice to say that the judgment of that honorable court is not without testimony to sustain it. Sir, I leave this accusation by saying to the gentleman, in the words of a man who, though pronounced by a cynical poet—

"The wisest, brightest, meanest of mankind,"

was a man, the latchet of whose shoes the gentleman would be unfit to unloose, that it is the duty of a "good judge to hear patiently." The gentleman constitutes himself my judge without right, and pronounces judgment against me without a hearing.

As the gentleman thus seeks to condemn me unheard and without warrant of law or color of justice in his high position as a statesman, I would remind him of another utterance of the Lord High Chancellor of England, that "Statesmen of greatest depths and compass have been touched with an inward sense and knowledge of Deity."

Let those who have witnessed the gentleman's bearing in this controversy toward me, and who have heard his rude and unwarranted judgment upon my official conduct here and elsewhere, decide whether he has exhibited the character of a good judge, a great statesman, or a gross calumniator. Whether in the discharge of the delicate trust committed to me on the trial of those convicted of assassination I condemned and executed the innocent, or even the guilty, with or without evidence, I leave to the charitable speeches and just judgment of men and the recorded facts of history.

While I offer no apology for my official conduct on that trial, I beg leave to say that it was fit that the assassination of the chosen of the people, in the capital of the people and in the felt presence of their laws, not for his crimes but for his virtues, should be investigated, and that swift judgment should fall upon those guilty of his murder, and who would not spare his life, even at the moment when from his great soul the words went up to our common Father: "Charity toward all and malice toward none." When summoned to that stern duty I protested that I was not equal to the task, and those who summoned me to its discharge know best with what reluctance I entered upon it. But, sir, upon the record that has been made I stand and defy the gentleman's calumny.

Mr. STEVENS, of Pennsylvania. I move that the House adjourn. We have had enough for the present.

The SPEAKER. The Committee on the Rules desire to report to-day, and have been waiting to do so.

Mr. STEVENS, of Pennsylvania. I withdraw the motion for the present.

#### COMMITTEE ON EDUCATION AND LABOR.

Mr. BANKS. The Committee on the Rules, to whom was referred the resolution offered by the gentleman from Illinois [Mr. BAKER] for the appointment of a standing committee on labor, respectfully report that as the recent establishment of a Department of Education seems to render necessary the organization of a committee on that subject, they propose the adoption of the following rule, upon which I call the previous question:

**RULE**—There shall be appointed at each Congress a Committee on Education and Labor, to consist of nine members, to whom shall be referred all peti-

tions, bills, reports, and resolutions on those subjects, and who shall from time to time report thereon.

The previous question was seconded and the main question ordered; and under the operation thereof the rule was adopted.

Mr. BANKS moved to reconsider the vote by which the rule was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST OFFICE DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting an account of receipts and expenditures for the service of the Post Office Department for the year ending June 30, 1866; which was laid on the table, and ordered to be printed.

#### INDIAN TREATIES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting an estimate of appropriations necessary to fulfill treaty stipulations with the Chippewa Indians west of the Mississippi; which was laid on the table, and ordered to be printed.

#### MILEAGE.

Mr. WILSON, of Iowa, by unanimous consent, submitted a report from the Committee on the Judiciary on the Speaker's inquiry as to the mileage due to members of the Fortieth Congress. The conclusion of the report was read as follows:

The committee, therefore, conclude that members of the present Congress who were members of the Thirty-Ninth Congress are not entitled to receive any payment on account of mileage until the first day of the session commencing on the first Monday of December, 1867.

The report was agreed to; and, on motion of Mr. WILSON, of Iowa, it was ordered to be printed.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States.

#### PROPERTY LOST IN MILITARY SERVICE.

Mr. MALLORY. I ask unanimous consent to have taken from the Speaker's table and referred Senate joint resolution No. 22, declaring the meaning of the second section of the act of March 2, 1861, relative to property lost in the military service.

No objection was made.

The joint resolution was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

Mr. ALLISON moved to reconsider the vote by which the joint resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADJOURNMENT.

Mr. STEVENS, of Pennsylvania, (at three o'clock and forty-five minutes, p. m.) I now renew my motion that the House adjourn.

The question was taken; and upon a division, there were—ayes 45, noes 69.

Before the result of the vote was announced, Mr. STEVENS, of Pennsylvania, said: I ask for the yeas and nays on the motion to adjourn: we have been here long enough for one day.

The question was taken upon ordering the yeas and nays; and there were—ayes seventeen; not one fifth of the last vote.

Before the result of the vote was announced, Mr. FARNSWORTH called for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. FARNSWORTH and Mr. AMES were appointed.

The House again divided; and the tellers reported that there were twenty-six in the affirmative.

So (the affirmative being more than one fifth of the vote last taken) the yeas and nays were ordered.

The question was taken upon the motion to adjourn; and it was decided in the negative—yeas 49, nays 85, not voting 80, as follows:

**YEAS**—Messrs. Allison, Delos R. Ashley, Baldwin, Beaman, Benton, Blair, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Dodge, Eggleston, Farnsworth, Ferriss, Fields, Finney, Gravely, Hooper, Judd, William Lawrence, Logan, McCarthy, Mercour, Moore, Newcomb, O'Neill, Paine, Perham, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Taylor, Upson, Van Wyck, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—49.

**NAYS**—Messrs. Ames, Anderson, Archer, Baker, Banks, Barnes, Benjamin, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Churchill, Culom, Donnelly, Driggs, Eckley, Ela, Eldridge, Ferry, Fox, Getz, Glossbrenner, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Julian, Kerr, Ketcham, Kitchen, Koontz, Ladin, Lincoln, Loan, Loughridge, Mallory, Marshall, Marvin, Miller, Morrissey, Mungen, Myers, Niblack, Nicholson, Noell, Orth, Peters, Pile, Plants, Poland, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Spalding, Stewart, Taber, Taffe, Thomas, Trowbridge, Twitchell, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Ward, Henry D. Washburn, Stephen F. Wilson, Wood, and Woodbridge—85.

**NOT VOTING**—Messrs. James M. Ashley, Boutwell, Bromwell, Chanler, Cornell, Dawes, Denison, Eliot, Garfield, Griswold, Harding, Ingersoll, Kelley, Kelsey, George V. Lawrence, Lynch, McClurg, McCullough, Moorhead, Morgan, Morrell, Phelps, Pike, Pomeroy, Price, Raum, Selye, Stone, Robert T. Van Horn, and William B. Washburn—30.

So the motion to adjourn was not agreed to.

#### RELIEF OF DESTITUTE IN THE SOUTH.

Mr. BINGHAM. I move that the rules be suspended and that the House now resolve itself into the Committee of the Whole upon Senate joint resolution No. 16. I will state that all I desire is to have the consideration of that joint resolution concluded in Committee of the Whole and have it reported to the House.

Mr. FARNSWORTH. Before that question is voted upon I move to reconsider the vote by which debate upon this joint resolution was terminated in the Committee of the Whole.

Mr. BINGHAM. I move to lay the motion to reconsider on the table.

The question was taken; and upon a division there were—ayes seventy-four, noes not counted.

So the motion to reconsider was laid on the table.

The question occurred on the motion of Mr. BINGHAM, that the House resolve itself into the Committee of the Whole upon Senate joint resolution No. 16.

Mr. BINGHAM. All I desire is to have the joint resolution acted upon in the committee and reported to the House, so that we may have a vote upon it to-morrow.

Mr. STEVENS, of Pennsylvania. I call for the yeas and nays upon the motion to go into the Committee of the Whole.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 53, not voting 29; as follows:

**YEAS**—Messrs. Ames, Anderson, Archer, Baker, Banks, Barnes, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Chanler, Churchill, Culom, Donnelly, Driggs, Eggleston, Eldridge, Ferry, Fox, Getz, Glossbrenner, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koontz, Ladin, Lincoln, Mallory, Marshall, Marvin, Miller, Morrissey, Mungen, Niblack, Nicholson, Orth, Peters, Pile, Plants, Poland, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Shellabarger, Sitgreaves, Smith, Spalding, Stewart, Taber, Taffe, Taylor, Thomas, Trowbridge, Twitchell, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Henry D. Washburn, Stephen F. Wilson, Wood, and Woodbridge—82.

**NAYS**—Messrs. Allison, Delos R. Ashley, Baldwin, Benton, Blair, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Dodge, Eckley, Farnsworth, Ferriss, Fields, Finney, Gravely, Hunter, Ingersoll, Judd, William Lawrence, Loan, Logan, Loughridge, McCarthy, McClurg, Mercour, Moore, Morrell, Myers, Newcomb, Noell, O'Neill, Paine, Perham, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Upson, Van Wyck, Cadwalader, C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—53.

NOT VOTING—Messrs. James M. Ashley, Benjamin, Boutwell, Bromwell, Cornell, Davies, Denison, Ela, Eliot, Garfield, Griswold, Harding, Hopkins, Kelley, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Pomerooy, Price, Raum, Selye, Stone, and William B. Washburn—29.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States.

The pending question was upon the following amendment, offered by Mr. FARNSWORTH:

In line three, after the word "classes" insert the words "of destitute or helpless persons."

The amendment was agreed to.

The question recurred upon the substitute offered by Mr. SCHENCK for the following, offered by Mr. BUTLER:

Strike out all after the resolving clause and substitute as follows:

That the sum of \$1,000,000 be appropriated, to be expended under the direction of the Secretary of War, in relieving the widows and children of Union soldiers starved to death in the rebel prisons of Andersonville, Salisbury, Libby, Millen, and Belle Isle.

The substitute of Mr. SCHENCK was read, as follows:

Strike out all after the resolving clause and insert: That the several district commanders of the military districts defined by an act entitled "An act to provide for a more efficient government for the rebel States," approved March 2, 1867, shall have power to assess and collect by military authority, ratably upon all persons within their districts, respectively, owning more than one hundred and sixty acres of land, or who shall have an income of more than six hundred dollars a year, such sum or sums as such commander may deem necessary to relieve and provide for the destitution and pauperism of the people in his district not within the provisions of the act concerning abandoned lands, refugees, and freedmen: *Provided*, That all moneys raised by such assessments shall be applied to the purposes of such relief, and no other.

SEC. 2. *And be it further resolved*, That for the purpose of collecting such assessments, such commanders shall severally have, in addition to their military authority, the same powers and authority to levy and collect, by sale or otherwise, such assessments as were vested by law in the tax commissioners, under an act entitled "An act for the collection of direct taxes in insurrectionary States, and for other purposes," passed June 7, 1862, and the acts amendatory thereof, so far as the same may be applicable; which power of levy, collection, and sale may be exercised by said district commanders severally, either in person or by a commission duly appointed by each of said military commanders, and all acts and proceedings in such assessment, levy, and collection shall be as valid, to all intents and purposes, as if done and carried on under and by virtue of the provisions of said last mentioned act.

SEC. 3. *And be it further resolved*, That the sums so raised by assessment shall be distributed and applied for relief as aforesaid by the several district commanders, respectively, either by such officers or military commissions as they may detail, or through the agents of the Bureau of Abandoned Lands, Refugees, and Freedmen of their several districts, at his election, who shall be the agents of said district commander for this purpose; and said district commander shall cause a full, true, accurate, and explicit account to be kept, and return to be made of his receipts and expenditures, and of his doings under and by virtue of this act, to the Secretary of War, who shall audit and adjust such accounts in the same manner as the accounts of other disbursing officers of the War Department are audited and adjusted.

SEC. 4. *And be it further resolved*, That to meet the pressing exigencies of the wants of people of his district, the commander of each of said districts may require for and receive from the Commissary General of Subsistence such rations of food, from time to time, as he may deem sufficient to meet such exigencies and afford proper relief, to be distributed by him in the manner aforesaid; and said commander shall, out of the sums so assessed and collected, as soon as may be, reimburse and pay the subsistence department for all rations so required by him at the prime cost thereof, with a reasonable amount for transportation of the same: *Provided, however*, That no relief shall be given or afforded to any able-bodied unmarried man, or to any family wherein an able-bodied inmate is residing, who is not continuously employed in some manual labor during the time of giving such relief.

The question being taken on agreeing to the substitute of Mr. SCHENCK, it was declared not agreed to.

Mr. SCHENCK called for tellers.

Tellers were ordered; and Messrs. SCHENCK and BOYER were appointed.

The committee divided; and the tellers reported—ayes 49, noes 68.

So the substitute of Mr. SCHENCK was not agreed to.

The question recurred on the amendment of Mr. BUTLER, to strike out all after the resolving clause and insert the following:

That the sum of \$1,000,000 be appropriated, to be expended under the direction of the Secretary of War, in relieving the widows and children of Union soldiers starved to death in the rebel prisons of Andersonville, Salisbury, Libby, Millen, and Belle Isle.

The question being taken on the amendment, it was declared not agreed to.

Mr. BUTLER called for tellers.

Tellers were ordered; and Messrs. BUTLER and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 35, noes 68.

So the amendment was not agreed to.

Mr. PILE. I now offer the following substitute:

Strike out all after the resolving clause and insert in lieu thereof the following:

That the Secretary of War be, and is hereby, authorized, through the Bureau of Refugees, Freedmen, and Abandoned Lands, to extend at his discretion the distribution of food and clothing authorized by existing laws to be issued to refugees and freedmen in the late insurrectionary States so as to include all destitute women, children, and helpless persons in the said insurrectionary States.

Mr. ALLISON. I ask for the reading of the resolution as already amended by the committee.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives, &c.*, That the Secretary of War be, and is hereby, empowered and directed to issue supplies of food sufficient to prevent starvation and extreme want among all classes of destitute or helpless persons in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution; that the issues be made through the Freedmen's Bureau, under such regulations as the Secretary of War shall prescribe; and to that end the Secretary of War is hereby authorized and directed through the Commissioner of the Freedmen's Bureau to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations.

Mr. FARNSWORTH. I move to amend the text of the resolution by inserting after "southern and southwestern States" the words "and all other parts of the United States;" so that this relief may not be confined to any particular section of the country, but may be extended wherever destitution exists.

On the amendment of Mr. FARNSWORTH there were—ayes 40, noes 60.

Mr. FARNSWORTH called for tellers.

Tellers were ordered; and Messrs. FARNSWORTH and BINGHAM were appointed.

The committee divided; and the tellers reported—ayes 44, noes 66.

So the amendment was not agreed to.

Mr. SHELLABARGER. I renew my amendment, as follows:

*Provided*, No person shall be deemed within the benefits of this act whose helplessness is owing to injuries received in the military service of the rebellion.

The committee divided; and there were—ayes 42, noes 39.

Mr. SHELLABARGER demanded tellers.

Tellers were ordered; and Mr. SHELLABARGER and Mr. NIBLACK were appointed.

The committee again divided; and the tellers reported—ayes 41, noes 69.

So the amendment was disagreed to.

Mr. BROOMALL. I move the following as additional sections:

SEC. 2. *And be it further resolved*, That for the purpose of reimbursing the Government for the moneys expended under this act, the several district commanders for the military districts defined by an act entitled "An act to provide for a more efficient government for the rebel States," approved March 2, 1867, shall have power to assess and collect by military authority, ratably upon all persons within their districts, respectively, owning more than one hundred and sixty acres of land, or who shall have an income of more than \$600 a year, such sum or sums as such commander may deem necessary to relieve and provide for the destitution and pauperism of the people in his district not within the provisions of the act concerning abandoned lands, refugees, and freedmen.

SEC. 3. *And be it further resolved*, That for the purpose of collecting such assessments, such commanders shall severally have, in addition to their military authority, the same powers and authority to levy and collect, by sale or otherwise, such assessments as were vested by law in the tax commissioners, under an act entitled "An act for the collection of direct taxes in insurrectionary States, and for other

purposes," passed June 7, 1862, and the acts amendatory thereof, so far as the same may be applicable; which power of levy, collection, and sale may be exercised by said district commanders severally, either in person or by a commission duly appointed by each of said military commanders, and all acts and proceedings in such assessment, levy, and collection shall be as valid, to all intents and purposes, as if done and carried on under and by virtue of the provisions of said last mentioned act.

The committee divided; and there were—ayes 27, noes 61.

So the amendment was disagreed to.

Mr. LOGAN. I move to add the following proviso:

*Provided*, That the Secretary of War shall not extend the expenditure beyond the appropriations already made for the Freedmen's Bureau for the current year.

The committee divided; and there were—ayes 50, noes 58.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Mr. LOGAN and Mr. ARCHER were appointed.

The committee again divided; and the tellers reported—ayes 55, noes 64.

So the amendment was disagreed to.

Mr. BUTLER. I move to insert after the words "insurrectionary States" these words, "except Tennessee." I do not want to put her in such bad company. She is reconstructed, and has her own government.

The amendment was disagreed to.

The question then recurred on Mr. PILE's substitute, as follows:

Strike out all after the enacting clause and insert the following: "That the Secretary of War be, and is hereby, authorized, through the Bureau of Refugees, Freedmen, and Abandoned Lands, to extend at his discretion the distribution of food and clothing authorized by existing laws to be issued to refugees and freedmen in the late insurrectionary States, so as to include all destitute women, children, and helpless persons in the said insurrectionary States."

Mr. PILE demanded tellers.

Tellers were ordered; and Mr. PILE and Mr. PETERS were appointed.

The committee divided; and the tellers reported—ayes 50, noes 65.

So the amendment was disagreed to.

Mr. LOGAN. I move to add to the original resolution the following:

*Provided*, That the expenditure shall not extend beyond the appropriations already made for the Freedmen's Bureau.

Mr. BINGHAM. That is already in the bill.

Mr. LOGAN demanded tellers.

Tellers were ordered; and Mr. BROOKS and Mr. JUDN were appointed.

The committee divided; and the tellers reported—ayes 65, noes 45.

So the amendment was agreed to.

Mr. BINGHAM. I move that the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, according to order, had had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States, and had directed him to report the same back to the House with several amendments.

Mr. BINGHAM. I move the previous question on the bill and amendments.

Mr. ALLISON (at four o'clock and fifty-five minutes) moved that the House adjourn.

Mr. BINGHAM. If the previous question is seconded, I am willing to allow it to go over till to-morrow.

Mr. RANDALL. I object.

Mr. ALLISON. Then I insist on the motion to adjourn.

The House refused to adjourn—ayes 44, noes 63.

The previous question was seconded and the main question ordered.

Mr. STEVENS, of Pennsylvania. I now move to adjourn, and on that I demand the yeas and nays.

Mr. FARNSWORTH. I understood the gentleman from Ohio to say that he would

allow the matter to go over till to-morrow. A good many gentlemen have gone home.

Mr. BINGHAM. The gentleman is aware that my own friends object.

The yeas and nays were ordered.

Mr. BLAINE. I think there is an agreement on our side of the House, as the previous question is seconded, not to adjourn.

Mr. PAINE. What does the gentleman mean by "our side of the House?"

Mr. BLAINE. I mean the side in favor of feeding the starving.

The SPEAKER. No debate is in order.

The question was taken; and it was decided in the negative—yeas 64, nays 65, not voting 35; as follows:

YEAS—Messrs. Allison, Ames, Baldwin, Benton, Blaine, Blair, Broomall, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Covode, Cullom, Dodge, Driggs, Eckley, Farnsworth, Ferriss, Fields, Finney, Gravely, Hooper, Hopkins, Hunter, Judd, Ladin, William Lawrence, Loan, Logan, Loughridge, McCarthy, McClurg, Mercer, Miller, Moore, Morrell, Newcomb, O'Neill, Paine, Perham, Peters, Pile, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taylor, Unson, Van Wyck, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Windom, and Wood—64.

NAYS—Messrs. Anderson, Archer, Baker, Banks, Barnes, Bingham, Boyer, Buckland, Burr, Chanler, Coburn, Donnelly, Eldridge, Ferry, Fox, Getz, Glossbrenner, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koontz, Lincoln, Mallory, Marshall, Marvin, Morrissey, Mungen, Myers, Niblack, Nicholson, Noell, Orth, Poland, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Stewart, Taber, Taffe, Thomas, Trowbridge, Twitchell, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Henry D. Washburn, and Woodbridge—65.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Beaman, Benjamin, Boutwell, Bromwell, Brooks, Cornell, Dawes, Denison, Eggleston, Ela, Eliot, Garfield, Griswold, Harding, Ingersoll, Kelley, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Plants, Pomeroy, Price, Raum, Selye, Stone, William B. Washburn, John T. Wilson, and Stephen F. Wilson—35.

So the House refused to adjourn.

Mr. BINGHAM. Mr. Speaker, if the House adjourns, by common consent cannot the vote be taken on this resolution to-morrow at one o'clock without delay?

The SPEAKER. If the House adjourns with this resolution pending as it is now, with the two amendments reported by the Committee of the Whole, it will come up the first thing after the reading of the Journal to-morrow morning, under the operation of the previous question, and it cannot be debated.

Mr. BINGHAM. What I desire is, to get a vote on the resolution; and if the House is ready to vote upon it to-morrow without any dilatory motion, with that view I move that the House adjourn.

Mr. LAWRENCE, of Ohio. I believe that motion is not in order, no business having intervened since the vote just taken on the motion to adjourn.

The SPEAKER. The motion is not in order.

Mr. ALLISON. I move that when the House adjourn it adjourn to meet on Saturday next.

Mr. BINGHAM. I ask unanimous consent that the vote be taken to-morrow at one o'clock.

Mr. FARNSWORTH. I move a call of the House.

The SPEAKER. The Chair will first count the House, as the call is not in order under the operation of the previous question unless upon a count a quorum is found not to be in attendance. Does the gentleman state that there is not a quorum present?

Mr. FARNSWORTH. I do not state that.

Mr. ALLISON. I insist on my motion.

Mr. SCHENCK. Has the main question been ordered upon this joint resolution.

The SPEAKER. It has.

Mr. FARNSWORTH. I move to reconsider the vote by which the main question was ordered.

The SPEAKER. That motion is not now in order. The pending motion, which was made as the Chair understands in order to have some

business transacted before another motion to adjourn can be made, is the motion of the gentleman from Iowa, [Mr. ALLISON,] that when the House adjourn to-day, it be to meet on Saturday next.

The question was taken on the motion of Mr. ALLISON, and it was not agreed to.

Mr. WOODBRIDGE. I move that the House now adjourn.

The question was taken; and upon a division, there were—yeas 68, nays 44.

Before the result of the vote was announced, Mr. BINGHAM called for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 30, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Baker, Baldwin, Benton, Bingham, Blair, Boutwell, Boyer, Broomall, Butler, Calk, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Dodge, Driggs, Eckley, Ela, Eldridge, Farnsworth, Ferriss, Fields, Getz, Glossbrenner, Halsey, Hamilton, Hill, Hopkins, Hulburd, Humphrey, Hunter, Judd, Julian, Kerr, Ketcham, Kitchen, William Lawrence, Loan, Logan, Loughridge, Mallory, Marvin, McCarthy, McClurg, Mercer, Miller, Morrell, Newcomb, Niblack, Nicholson, O'Neill, Paine, Perham, Peters, Pile, Poland, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Taber, Trowbridge, Twitchell, Unson, Burt Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—82.

NAYS—Messrs. Anderson, Archer, Buckland, Burr, Donnelly, Ferry, Gravely, Haight, Holman, Asahel W. Hubbard, Chester D. Hubbard, Koontz, Mungen, Myers, Noell, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Spalding, Stewart, Taffe, Van Aernam, Van Auker, Robert T. Van Horn, Van Trump, Windom, and Woodbridge—30.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Banks, Barnes, Beaman, Benjamin, Blaine, Bromwell, Brooks, Cornell, Cullom, Dawes, Denison, Eggleston, Eliot, Finney, Fox, Garfield, Griswold, Harding, Hayes, Hooper, Ingersoll, Kelley, Kelsey, Ladin, George V. Lawrence, Lincoln, Lynch, Marshall, McCullough, Moore, Moorhead, Morgan, Morrissey, Orth, Phelps, Pike, Plants, Pomeroy, Price, Raum, Selye, Sitgreaves, Smith, Stone, Taylor, Thomas, Van Wyck, William B. Washburn, Stephen F. Wilson, and Wood—52.

So the motion was agreed to; and accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: Resolutions of Soldiers' and Sailors' Union of Washington city.

By Mr. BEAMAN: The petition of citizens of Michigan, each of whom lost a leg in the service, praying for the passage of a law for the relief of soldiers who having lost a leg in the service have been obliged to obtain an artificial leg at their own expense.

Also, the petition of John McKerity, praying for an act of Congress authorizing the Secretary of the Treasury to issue an enrollment and license to the schooner China and bark Southampton.

By Mr. KOONTZ: The petition of D. S. Beckstesser, of Bedford county, Pennsylvania, praying for an appropriation to defray the expenses incurred by him in a prosecution brought against him in the United States court at Pittsburg, Pennsylvania.

By Mr. WINDOM: A memorial of the Legislature of Minnesota, for a mail route from Hutchinson, in McLeod county, via Lynn, Collins, Lake Preston, Beaver Falls, to Redwood Falls, in Redwood county, Minnesota.

Also, a memorial of the Legislature of the State of Minnesota, for a mail route from Rushford, in Fillmore county, in said State, to Decorah, in the State of Iowa.

Also, a memorial for a grant of lands to aid in the construction of a wagon-road from the western line of the State of Minnesota to Helena, in the Territory of Montana.

Also, a memorial of citizens of Dakota Territory, asking for a grant of lands to aid in the construction of the Minnesota and Missouri River railroad.

#### IN SENATE.

FRIDAY, March 22, 1867.

Prayer by Rev. E. H. GRAY.

On motion of Mr. STEWART, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a public meeting of soldiers and sailors held in Washington city on the 18th instant, in favor of the passage of a just and equitable bounty law, and increasing

the pay of employes of the Government, and the employment of none but soldiers or sailors upon the Capitol police force, and the establishment of a Bureau of Education; which were ordered to lie on the table.

Mr. FERRY presented the petition of H. Bingham and others, citizens of Connecticut, praying Congress to take the necessary steps to carry into effect the laws of the United States which are now set at naught in the Territory of Utah, and particularly to protect citizens of the United States without distinction of race, occupation, or religion in the enjoyment of their rights as citizens in that Territory; which was referred to the Committee on Territories.

Mr. COLE presented a petition of citizens of California, praying for a reorganization of the United States district court for the southern district of California; which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented the petition of A. B. Davis, President of the Union Plank or Turnpike Road Company, praying for the passage of a law purchasing out the roadway and franchises of the Washington and Rockville turnpike, and taking the same under the authority of the United States or transferring the roadway and franchises to the Union Plank or Turnpike Road Company; which was referred to the Committee on the District of Columbia.

Mr. RAMSEY presented resolutions of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of a railroad from the head of Lake Superior to the Pacific ocean, and also the construction of a railroad from the falls of St. Anthony to a point of junction with the Northern Pacific railroad on the Red River of the North; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from New Auburn to New Ulm, in that State; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of the improvement of the Mississippi river, commencing near the mouth of the Minnesota river, to the falls of St. Anthony; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. NORTON presented a memorial of the Legislature of Minnesota, in favor of a grant of lands to aid in the construction of the Sioux City and St. Paul railroad of the State of Iowa, the Minnesota Valley railroad of Minnesota, and the Lake Superior and Mississippi railroad of Minnesota; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of the Owatonna and State Line railway; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of a tri-weekly mail line from Carver to Glencoe, in that State; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

RICHARD BUSTEED, JUNIOR.

Mr. VAN WINKLE. I am instructed by the Committee on Pensions, to whom was referred the petition of Richard Busteed, jr., to report a bill for his relief, and I am further authorized by the committee, in consideration of the peculiar circumstances of this case, to ask for its present consideration.

By unanimous consent, the bill (S. No. 99) for the relief of Richard Busteed, jr., was read twice by its title, and considered as in Committee of the Whole. It directs the Secretary of the Interior to cause to be paid to Richard Busteed, jr., late captain battery C, Chicago light artillery, the sum of \$1,247 66, being



the pension of a captain from the 7th day of November, 1861, the date of his honorable discharge from the service, until the 30th day of January, 1867, the date from which a pension has been granted to him.

Mr. VAN WINKLE. I should like to state that the petitioner in this case was in the early part of the war shattered considerably by the recoil of a piece of ordnance, and in that situation he became afflicted with rheumatism, and that has progressed to such an extent that he is utterly and entirely helpless. He cannot stand on his feet or move in bed without the assistance of several persons. He requires four or five attendants daily. He has spent all the money he had, to the amount of \$7,000, and is entitled, as the committee think, to this relief. Having asked at such a time as this that a private bill should be taken up for consideration, I feel bound to make this statement. The man is utterly helpless. He may not live until another session. He has spent all his own means and incurred debts, and his mind is troubled on that point. He cannot move, according to the testimony of the younger General Howard, without the assistance of three or four persons. It is at the instance and particular request of the general that I have brought this bill forward at this time, and I trust it will pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### LAND ADJOINING BROOKLYN NAVY-YARD.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 41) for the purchase of land adjoining the navy-yard at Brooklyn; which was read twice by its title.

Mr. ANTHONY. I ask that the resolution be read at length.

The Secretary read it, as follows:

*Resolved, &c., That the Secretary of the Navy be authorized to complete the purchase of the property adjoining the New York navy-yard, known as the Ruggles property, without the previous assent of the State of New York: Provided, The title is otherwise approved by the Attorney General.*

Mr. ANTHONY. This resolution has met the approval of the Committee on Naval Affairs, and the Department is very anxious that it should pass. It merely provides for the purchase of some property adjoining the navy-yard at Brooklyn without the previous assent of the Legislature of New York, which is required by a general law. The property has been bargained for; the money has been appropriated, and is now in the Treasury; and some other parties who are desirous to get possession of it, I believe, have had the address to prevent the Legislature from giving its assent except upon conditions that will not be acceptable to the Government; and the Department is quite willing to take it without the assent. I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. CONKLING. Let the resolution be read again.

The Secretary read it.

Mr. SHERMAN. There seems to be no limit as to the price.

Mr. ANTHONY. The appropriation is already made; the land has been bought; and they have only been waiting for this assent.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. MORGAN. I should like to have the resolution lie over for a few moments, before being acted upon finally, until I can make some inquiry on the subject. What was the original law authorizing this purchase? Did that require the assent of the State of New York?

Mr. ANTHONY. There is a general law that requires the assent of the Legislature of the State to any purchase in a State made by the Government, a law passed in 1841. This

purchase was made under the authority of an appropriation bill for \$90,000. The money was appropriated and is now in the Treasury; the land has been bargained for, and the parties are prepared to transfer it; but I believe the gas company in Brooklyn desire to obtain a portion of the same land, and are endeavoring to get the Legislature to refuse its assent unless the Government will consent to a transfer of some of its territory, which the Department think would be injurious. The Department is quite willing to accept the land without the assent of the Legislature. It is not against the consent of the Legislature, but without its being formally given under the law of 1841.

Mr. RAMSEY. If this matter is to pass over, I should like to present some resolutions.

Mr. MORGAN. I do not object to it.

The joint resolution was passed.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 20) to pay bounty to certain Missouri troops who served for three years during the late war, asked to be discharged from its further consideration, the Senate having acted on a House bill on the same subject; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 12) fixing the pay of the clerks at the Springfield armory, asked to be discharged from its further consideration, legislation having been had on the subject; which was agreed to.

Mr. MORGAN. The Committee on Finance, to whom was referred the joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free, have had it under consideration, and have instructed me to report a bill of two sections covering this object, and also the object of another joint resolution which was under consideration yesterday, to remit or refund duties on agricultural machinery imported into the United States as models, as a substitute for the joint resolution; and I ask for its present consideration.

Mr. MORRILL, of Maine. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. SUMNER. The Committee on Foreign Relations have directed me to report a bill, and to ask for its immediate consideration. It is a bill similar to the one on which the Senate acted last evening on the motion of the Senator from California, [Mr. CONNESS.]

The bill (S. No. 100) supplementary to an act for the relief of Hiram Paulding, rear admiral United States Navy, was read and passed to a second reading.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks for the present consideration of this bill. It requires unanimous consent.

Mr. MORRILL, of Maine. I object.

Mr. SUMNER. It is reported from the Committee on Foreign Relations.

Mr. MORRILL, of Maine. I dare say.

Mr. SUMNER. The Senator can have no objection to it. It is merely to correct an error.

Mr. MORRILL, of Maine. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

Mr. CORBETT. I am directed by the Committee on Commerce, to whom was referred a joint resolution (S. R. No. 27) to authorize the leasing of certain real estate in San Francisco, to report it with an amendment, and to ask for its present consideration.

Mr. MORRILL, of Maine. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred a bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, reported it without amendment.

Mr. SUMNER. I now ask the Senate to take up the little bill that I reported a few minutes ago. It is a bill to correct a mistake in an act passed during the last days of the last session.

The PRESIDENT *pro tempore*. I understand that to be objected to.

Mr. SUMNER. The Senator from Maine, I take it, does not object now.

Mr. MORRILL, of Maine. That is a violent presumption. I am inclined to think I shall object. I sat here all day yesterday to observe the rules of the Senate, with a view of presenting some bills and reports, and was unable to do it, and I made up my mind that I would ask to have the rules enforced to give us all a fair chance.

Mr. SUMNER. Will not the Senator allow an error to be corrected?

Mr. MORRILL, of Maine. If the honorable Senator will allow me to introduce a bill and joint resolution, I shall withdraw my objection.

Mr. SUMNER. Very well.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BORNSTON, as Chaplain of the House of Representatives of the Fortieth Congress, reported it with amendments.

Mr. HOWARD, from the Committee on Claims, to whom was referred the memorial of the New England Emigrant Aid Company, praying to be indemnified for the destruction of property at Lawrence, in Kansas Territory, in 1856, asked to be discharged from its further consideration; which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges, reported it without amendment.

#### BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 101) to divide California into two judicial districts; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 103) to conform the rules of practice and pleading in the courts of the United States to the laws of the respective States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 104) to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 42) for the relief of certain officers of volunteers; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### JEFFERSON DAVIS.

Mr. WILSON. I submit the following resolution, and ask that it be laid upon the table and printed:

A concurrent resolution respecting Jefferson Davis.

Whereas Jefferson Davis, a citizen of the State of Mississippi, was captured by a military force in the service of the United States on the 11th day of May, 1865, and has since been held in confinement as "a prisoner of war" and "a prisoner of State" in Fortress Monroe, Virginia; and whereas the said Jefferson Davis stands charged on the highest authority with the heinous crime of conspiracy to murder

the late President of the United States, Abraham Lincoln, and is also indicted for treason; and whereas the said Jefferson Davis has persistently declared his innocence of the offenses charged against him, and through his legal advisers, by all means known to the law, has sought and demanded a speedy and public trial by due process of law before a civil tribunal of competent jurisdiction; Therefore,

*Resolved by the Senate, (the House of Representatives concurring) That the longer confinement of the said Jefferson Davis without a trial, or the assignment of a specific time for a trial, is not in accordance with the demands of justice, the spirit of the laws, or the requirements of the Constitution, and that common justice, sound public policy, and the national honor unite in recommending that the said Jefferson Davis be brought to a speedy and a public trial, or that he be released from confinement on bail, or on his own recognizance.*

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that this resolution be laid upon the table and printed.

Mr. SAULSBURY. I hope not. I should like the Senate to take some action on that subject. If the motion is not debatable, I will say nothing on the subject now.

The PRESIDENT *pro tempore*. It is not debatable.

The motion was agreed to.

#### CHANGE OF NAME OF VESSEL.

Mr. STEWART submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the House of Representatives be requested to return to the Senate Senate bill No. 60, entitled "A bill to change the name of the steamship Paonshun."*

#### HIRAM PAULDING.

Mr. SUMNER. Now, I trust the Senator from Maine will withdraw his objection to the bill that I reported.

Mr. MORRILL, of Maine. With pleasure.

Mr. SUMNER. I ask that the bill that I reported a few moments ago be now taken up.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 100) supplementary to an act for the relief of Hiram Paulding, rear admiral United States Navy. It appropriates a sufficient sum to pay the claim of Rear Admiral Hiram Paulding, as provided for by an act of Congress passed at the last session, the sum not to exceed \$3,653 92.

Mr. TRUMBULL. What is that?

Mr. SUMNER. It is to correct an error.

Mr. TRUMBULL. What sort of an error?

Mr. SUMNER. There was no appropriation in the other bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### REMISSION OF DUTY ON WORKS OF ART.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House joint resolution No. 8.

Mr. MORGAN. I reported a joint resolution a short time ago, and asked for its consideration; but it was objected to, and was laid aside for the moment until the Senator from Maine could make some reports. I hope the Senator from Oregon will allow that to be considered now.

Mr. WILLIAMS. I wish to have this resolution determined as soon as practicable, as it should be passed at this session.

The motion was agreed to.

The PRESIDENT *pro tempore*. That resolution is before the Senate.

Mr. WILLIAMS. If it is before the Senate it may be laid aside informally to enable the Senator from New York to take up the resolution to which he refers.

Mr. MORGAN. I ask the present consideration of the report which I made a few moments since, and which was objected to for the time being.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 25) for the importation into the United States of certain works of art duty free.

Mr. MORGAN. The committee report a substitute for the joint resolution in two sections, which I hope will be adopted.

The Secretary read the amendment, which was to strike out all after the enacting clause of the resolution and to insert the following:

That from and after the passage of this joint resolution any object of art imported by any individual or association of individuals for presentation, as a gift, to the United States Government, or to any State or city government, shall be admitted free of duty, under such rules and regulations as the Secretary of the Treasury may prescribe.

*And be it further resolved, That the Secretary of the Treasury be, and he is hereby, authorized to refund the duties paid on any steam agricultural machinery imported into the United States during the current fiscal year as models or for experimentation, and to remit the duties on any steam machinery of like description which may be imported for such purposes prior to the 30th of June, 1868.*

The amendment was agreed to.

Mr. SHERMAN. I am directed by the Committee on Finance to propose an amendment in the form of an additional section, and as it proposes to save to the Government about thirty or forty thousand dollars a year I presume no one will object to it. It is to add the following as an additional section:

*And be it further resolved, That the Secretary of the Treasury is hereby authorized and required to discontinue the employment of any officer or person employed under the acts for the collection of direct taxes in the insurrectionary districts within the United States whenever, in his judgment, their service is no longer needed; and he is hereby authorized to devolve upon any officer or officers of internal revenue in said districts any portion of the duties imposed in said acts, who shall perform said duties without additional compensation.*

I will simply state that I have a communication from the Secretary of the Treasury, which was referred to the Committee on Finance yesterday, stating that quite a number of these officers are no longer needed, and the service may be discharged by the internal revenue officers who have been organized in those States since the close of the war. Most of these offices are now mere sinecures, the officers drawing large pay without doing any service. This amendment is for the purpose of discontinuing them and yet preserving their duties.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the resolution to be read a third time. It was read the third time, and passed; and its title was amended by adding the words "and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that he had been directed by the House to return to the Senate, in accordance with its request, the bill (S. No. 60) to change the name of the steamship Paonshun.

The message further announced that the House had passed the joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States, with amendments, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 15) suspending all proceedings in relation to payment for slaves drafted or received as volunteers in the military service of the United States, and the enrolled bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes; and they were thereupon signed by the President *pro tempore* of the Senate.

#### HEIRS OF JOHN E. BOULIGNY.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouigny.

Mr. JOHNSON. This resolution was postponed yesterday on my motion, to give me an opportunity to examine, as well as the time allowed me would enable, the title to the land

to which the resolution refers, and I have come to the conclusion that the title is very clear. I listened to the honorable member from Oregon [Mr. WILLIAMS] with all the respect which I sincerely entertain for his opinion, and have under the same feeling read with care the opinion of Mr. Justice Nelson in the case reported in 15 Howard, but without being at all satisfied that they were right; on the contrary, so far as that case is concerned, being satisfied that the honorable judge was wrong. It is too late to discuss the title now, as one would desire to discuss a question of that description, at anything like length, or to state elaborately the grounds upon which my opinion rests.

The title is said to have been derived originally from a grant made by the King of France in 1717. The party to whom that grant was made is stated to have assigned it to another party, the ancestor of the present claimants. In November, 1762, that part of Louisiana called, I believe, Lower Louisiana, was ceded by France to Spain, and the Spanish Government sent to take possession of it in their behalf a General O'Reilly. He did take possession, and acted, as history tells us, with an excess of cruelty such as has rarely ever been exhibited by civilized man, hanging and shooting, without any distinction of color or race. Finally, with reference to the grant, he ordered it to be surveyed, limiting it to an extent of front upon the Mississippi river less than was supposed to have been called for by the original French grant, and that survey was made by the surveyor general of France in that territory. Under that survey the ancestor of the present claimants took possession of the land and remained in the undisturbed possession of it for very many years.

In 1824 Congress passed an act, not I believe applicable to Louisiana, authorizing the holders of inchoate titles under grants from Spain or France to institute proceedings before a board of commissioners. In 1835 a supplementary act was passed, giving to the claimants in Louisiana a right to appear before the register and receiver of the land office there for the purpose of making good any claim to lands in Louisiana that they might present. Under that act these claimants did claim this very land; and, as is stated by the register and receiver, the claim itself received full examination, and they adjudged it to be a good one, and, as they were bound to do by the act of 1835 and by the original act, they reported their decision to Congress; but from some cause or other it was not acted upon. I think there is no doubt that if it had been acted on at that time that decision would have been confirmed. Then the title to these very lands would have been beyond dispute. But by the act of 1835 the decision of the receiver and register was only to become operative when it should be sanctioned by Congress; and the failure of Congress to pass upon the subject of that award placed the claimants in the situation in which they were before the act of 1835 was passed.

Then, in 1837, Congress passed another act on the subject, not in relation to this particular claim, but in relation to all claims of an analogous character, by which the claimants were authorized to file a petition in the nature of a bill in chancery in the district court of the United States claiming to have their right examined and decided. That was done, I think, in 1838; but I may be mistaken as to dates, and if I am the mistake is immaterial; but the case came on to be heard before the late Judge McCaleb, whom I knew personally, and who was certainly a very eminent jurist, perfectly familiar with that particular branch of the law which was involved in this class of cases. After a full examination before him, upon all the testimony that was produced on each side, and an argument in behalf of the United States as well as the claimants, he came to the conclusion, and as he said with perfect confidence that he was right, that the title was a good one, the claim a good one, and he so adjudged. If it had stopped there, this title would have been beyond dispute, and the heirs would now be

in possession of the property; but the act of 1837 authorized an appeal from the decision of the district judge, and that appeal was had, and the case came on to be heard in the Supreme Court at the term whose decisions are reported in 15 Howard.

I have not time to read, nor is it necessary, the grounds upon which Mr. Justice Nelson stated the opinion which he had formed upon the subject. He said it depended first upon the validity of the original French title; and that gave rise to two questions: first, whether France had ever made the grant; and second, whether if she made the grant, it was made in such form as would separate the land entitled to be granted from the public domain, the Supreme Court having decided in a variety of cases that none of these Spanish or French grants are to be considered as operative at all unless they are made in such terms as show that it was the purpose of the grantor to make some specific conveyance of a part of the public domain; and although it was not necessary to do so by metes and bounds so as to enable a surveyor to run out the lines, yet it was necessary so to describe the land that a surveyor could approximately form a survey. He expressed very great doubt whether there was any such French grant; and doubting upon that subject, he takes up the second branch of the title, what was done by the Spanish Government of Spain by the treaty of November, 1762, and he is not satisfied, although he is evidently in very great doubt, but that the proceedings under that branch of the title were not sufficient to give title to the claimants so far as that title was made to depend upon the original French grant; because he very properly states that what was done by Spain, by Governor O'Reilly, what was done by the Spanish surveyor, and what was followed after the survey was made and the survey approved, referring as they did to the existence of a French grant, were very persuasive, if not conclusive, evidence to show that the French grant had been made. But in relation to what was done by the Spanish Government after they became the owner he came to the result that there was no mode of ascertaining exactly what portion of the property was segregated from the public domain; and in that particular, with all due deference to the learned judge, I think he was in obvious error, if one may be permitted respectfully to say that a judge commits an obvious error, particularly a judge such as he of whom I am now speaking.

At the time when these grants were made—they were made in very large quantities—the rear end of the land granted was a morass, hardly rescued from the state in which apparently it had been placed by nature originally, or by some subsequent causes from the waters, and it was impossible for a surveyor to run the lateral lines back to the extreme limit which the grant would have authorized. What they did, then, was to run a front line of the extent called for by the grant, and to run a very short distance a lateral line, but run it only in the direction which they supposed the line was thereafter to take; and if I know anything of the proceedings under these titles—and I have had a good deal of opportunity of knowing, having tried a good many of these cases—that mode of making the survey was always held to be sufficient; and whether the land passes or not beyond the limit of the lateral lines was made not to depend upon the fact of the extent of those lines, but upon the fact of the direction of the lines themselves, taken in connection with the grant; and if they did not cover as much land as the grant called for, then the lines were to be extended in the direction in which they were run by the surveyor, so as to include a quantity as large as the grant called for.

The learned judge's opinion, therefore, even supposing that the question was before him, was, as I think, erroneous in point of law; but the question was not before the court. As I have stated, the appeal was taken under the provisions of the act of 1837; and the act of

1837 dealt exclusively with inchoate titles, not perfect titles; with equitable, and not legal titles; and hence the court decided, as they had done in every other case which had been brought before them under the act of 1824, or any one of its supplements, that they had no jurisdiction, or that the court below had no jurisdiction to pass upon any other than an inchoate title, however clear it might be, the parties holding perfect titles being at perfect liberty to institute actions of ejectment. A minority of the court, Mr. Justice Curtis, Mr. Justice McLean, Mr. Justice Wayne, and Mr. Justice Campbell, held very properly that they had no right to pass upon the question of title or no title; and the manner in which their dissent upon that question is stated is to me almost conclusive that in their judgment the title was a good one, and that they would have come to that conclusion if the case had been properly before them. I send to the desk the book containing the dissenting opinion of Mr. Justice Curtis, and I ask that the Secretary be permitted to read it.

The Secretary read as follows:

"Mr. Justice CURTIS: Justices McLean, Wayne, Campbell, and myself do not understand the opinion which has been delivered by Mr. Justice Nelson as intended to express the judgment of this court upon the validity of the complete French grant, alleged by the petition to have been made by the Western Company to Paris Duvernay in 1717, or upon the effect of the alleged confirmation of such alleged complete French title, or any part thereof, by the Spanish Governors, O'Reilly and Unzuaga. The trial of such a title not being within the jurisdiction of this court upon this petition, according to the repeated decisions of this court, and the plain terms of the act of May 26, 1824, under which we derive our authority, it seems equally clear that the questions, whether there is any sufficient evidence that such a grant was made, or whether it could be located, or whether it embraced the premises in question, or whether it had been in part or in whole confirmed, and how extensive such confirmation, if made, was, are questions not judicially before us; for these questions belong exclusively to the trial of that legal title.

"In our judgment, this embraces the whole case. It exhausts every allegation in the petition, which makes no claim to any incipient or imperfect French or Spanish title. It alleges only a complete French grant, and a confirmation to Dauterive, who was then in possession under it, of part of the land.

"Now, the first section of the act of 1824 provides that a person claiming lands by virtue of a French or Spanish grant, concession, warrant, or order of survey, which might have been perfected into a complete title, may present a petition to the district court setting forth fully, plainly, and substantially, the nature of his claim to the lands, particularly stating the date of the grant, &c., under which he claims; and then it continues: 'and the said court is hereby authorized and required to hold and exercise jurisdiction of every petition presented in conformity with this act, and to hear and determine the same.' Unless, therefore, the petition is presented in conformity with this act, the special and limited jurisdiction which the act confers does not exist. The title shown down by this petition being a complete title, derived from the Western Company and confirmed by the Spanish authorities, and the petitioner not having shown fully, plainly, and substantially, or even by the most obscure suggestion, any other title, we cannot perceive how this court has any jurisdiction under the act of 1824. We add, however, that if, as in the case of Davenport's heirs, at the present term, the petition did duly aver facts, constituting in point of law an imperfect title, we should not consider the petition defective, though it might state an erroneous legal conclusion from those facts, and call the title a perfect one. That is not this case, as may be seen by recurring to the petition.

"Our opinion is, that this petition should be dismissed for want of jurisdiction, without prejudice to any legal title of the petitioners, and that no opinion should be expressed by this court upon any question of fact or law arising upon the evidence."—15 Howard's Reports, page 23.

Mr. JOHNSON. I think I am justified in repeating what I said just now, that those judges were very much inclined to the opinion that the title was a good one; and I am not at all surprised at it, because, as I have said, the only doubt about the title was, first, whether the French grant had been made in fact; second, whether what was done under it by the Spanish Government was so done as to segregate this property from the public domain.

These claimants have had rather a hard time of it. They got a decision in their favor in 1838 by the register and receiver under the act of 1835, and that was not acted upon by Congress. They then, under the authority of the act of 1837, went into the district court and presented their case, stating all the facts of the case, and they obtained a decision in

that court confirming their title, and the opinion is stated in very decided terms by the judge, who, I may say without any disrespect to the judges of the Supreme Court, was, perhaps, because of his greater familiarity with the law on the subject, more competent to decide the question than any one of them; and then upon an appeal the result was what I have stated, that a majority of the Supreme Court held that they could not pass upon the question because they had no jurisdiction; and it is now stated that the title is to be considered as a bad one because one of the judges thought proper, in performing what no doubt he supposed to be his duty, to express doubts about the title, although the question with him, if he took the same view with his associate judges, was just as clearly out of the jurisdiction of the court, as it was in their opinion, because he held, and he could not but so hold, the act of 1824 and the act of 1836 being very clear on the subject, that the district court had no authority to examine into a legal title, and as in his opinion the title here was a legal title alone, if there was any title, the case must be dismissed. Then they went to Congress; and what was done by Congress? I do not know that I have all the reports before me; but in 1860 the claimants presented their petition and it was referred to the House Committee on Private Land Claims. On the 6th of April, 1860, that committee made a report through their chairman, Mr. NOELL. I will not read the report; but it is full upon the subject. That committee came to the conclusion that the title was perfectly good, but the report was not acted upon. It was renewed again and referred to the same committee when Mr. Thayer, of Pennsylvania, was chairman of the committee, and he made a report to the same effect. The bill which we are now asked to suspend was reported by the Committee on Private Land Claims of this body, through its then chairman, Judge Harris; and in the speech with which he supported the bill, as reported in the Globe—of course I shall not fatigue the Senate by reading it—he said that the committee had made a thorough examination of the subject and had come to the conclusion that the title was a valid one and ought to be allowed, and they so reported in the bill. It was debated in the Senate and passed by a vote of 30 yeas to 10 nays, not without examination, not without discussion.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call up the unfinished business of yesterday, which is Senate joint resolution No. 32.

Mr. WILLIAMS. I should be glad if the measure before the Senate were allowed to be finished at this time. I hope the Senator from Indiana will consent to that. I think it will take but a few minutes.

Mr. MORTON. I prefer to go on with the unfinished business. I have been trying to get action on that subject for two or three days past.

Mr. JOHNSON. I have no objection to yielding the floor.

Mr. MORTON. I am afraid the unfinished business will lose its place if it is not proceeded with.

The PRESIDENT *pro tempore*. The unfinished business of yesterday being the joint resolution (S. R. No. 32) refunding to the State of Indiana expenses incurred for quartermaster and commissary stores, and for transportation furnished to militia of said State while engaged in repelling rebel raids during the late rebellion, is now before the Senate as in Committee of the Whole.

Mr. MORTON. I understand that the Senator from Maine [Mr. FESSENDEN] has prepared an amendment which he proposes to offer. If so, I should like to hear it.

Mr. SHERMAN. There is an amendment pending which I should like to have voted on first.

Mr. MORTON. The Senator from Ohio offered an amendment to include the State of Ohio within the provisions of this resolution.



I hope that amendment will not be adopted. I will state that special acts have been passed in favor of West Virginia, Missouri, and Pennsylvania, providing for the same class of claims; and I submit that there is no reason why Ohio should be attached to this measure. If Ohio has claims of this character it is perfectly competent for her Senators to introduce a bill covering them. Special bills have been passed in regard to other States, and I trust this measure will be allowed to go through without encumbering it by adding the claim of Ohio or any other State.

Mr. SHERMAN. Mr. President, there can be no possible objection to including our State. These expenses all grow out of certain raids made upon the States of Ohio and Indiana; they affected our people as well as the people of Indiana. These raids did not affect any other States but those two. Large numbers of the population were called to Cincinnati on the occasion. Many of the very soldiers provided for in this measure came from Indiana to Cincinnati. They went from all parts of the two States, and gathered there to repel the Kirby Smith raid, and also to meet and overcome the force of Morgan, who entered Indiana, traversed a good portion of that State, and then passed through a portion of Ohio, and was finally captured with his command. These two raids in different years caused the principal items of expenditure that would be allowed under this resolution. I trust Ohio will be included in it. It will certainly not weaken the measure, because if there is any reason for it so far as Indiana is concerned, there is certainly the same reason as to Ohio. No other States need be added, because no others are in the same condition. The States which were the scene of war were in a very different condition from States like Ohio and Indiana, who were suddenly called upon to repel a public enemy.

Mr. PATTERSON, of Tennessee, rose.

Mr. FESSENDEN. I should like to know how far this is to go. If it is to begin with Indiana and then Ohio is to be added, and then Tennessee, and then Kentucky, and then Missouri, and I do not know how many more States, all the States who may fancy they have claims generally for these things, I must oppose the whole of it. I was disposed to amend this resolution so as to guard it properly and let it go; but if it is going to include so much as to swamp us in this way I shall be opposed to the whole of it. I wished to propose some amendments; but I want to know how far it is to go.

Mr. POMEROY. I have no objection to the measure of the Senator from Indiana, but during what was called the Quantrell raid and Price raid in my State bills were incurred which have been audited under a commission, and the Senate has agreed to an appropriation of \$259,000 to meet those expenses, but it has not yet passed the other House. I should be glad to move that proposition as an amendment.

Mr. SHERMAN. That has nothing to do with this case.

Mr. POMEROY. It is precisely like this.

Mr. SHERMAN. Here is a case where Ohio and Indiana paid money to raise troops for the purpose of repelling raids.

Mr. POMEROY. Our State paid this \$259,000, audited the claims and sent them here for payment. A bill for that purpose has passed the Senate, but I shall not move it as an amendment to this measure unless other States are included in it. If that be done I shall feel it my duty to move such an amendment.

Mr. FESSENDEN. I hope the amendment to include Ohio will be rejected. It will only open the door for a good many others; and it is not exactly fair when a Senator from one State has his bill pending to load it down in this way with amendments. I am willing to take this measure on its merits, confined to the cause of Indiana; but if we put upon it everything Senators choose to move as amendments, adding a thousand matters that we do not understand,

I shall be constrained to oppose the whole, and to ask that there be a thorough examination of all these claims before any bill is passed, and let them come here under some official recommendation.

Mr. PATTERSON, of Tennessee. I am willing to withdraw all objections to the measure proposed by the Senator from Indiana. John Morgan was killed in my town, within a short distance from where I live, and Tennessee suffered more, perhaps, than any State in the Union from these raids; but still I am willing to withdraw all objection and to withdraw my amendment, reserving, however, the privilege to present the matter in another form.

Mr. MORTON. I have just learned from the remarks of the Senator from Kansas that Kansas has claims of the same kind, a bill for which has already passed the Senate. Then West Virginia has been provided for; Missouri has been provided for; Pennsylvania has been provided for, and Kansas also has been provided for so far as the action of the Senate goes. It seems to me, in view of the action of Congress, there ought to be no objection to the passage of this joint resolution, provided it is in a form that will meet the views of Senators with proper limitations. So far as the claims of Ohio are concerned, the Senator from Ohio can present a bill or resolution covering that case. I should have no objection to its being put into this measure but that I do not want my resolution loaded down in such a way as to make the impression on the Senate that it covers a great deal. Let each State be provided for by itself in a special act, as has been done already in the case of four States.

Mr. EDMUNDS. I move to recommit the joint resolution to the Committee on Military Affairs. I make the motion because a bill which shall cover this subject and do justice to all the States alike ought to be carefully prepared, providing for a commission that should hear similar and analogous claims of all the States at the same time, so as to do justice to all upon the same ground. The State of Vermont, to my personal knowledge, has expended nearly or quite one hundred thousand dollars, just, proper, legitimate expenses, which she was obliged to submit to in the raising of her troops, in protecting herself against raids that were actually made upon her, and others that were threatened. Now, I think it invidious to provide for one State without providing for the others. I think the just claims of Indiana ought to be examined and settled; but the only way that all these claims can be examined and settled will be under a bill which shall provide for commissioners who shall hear and examine them and report them to the War Department, and then an appropriation may be made. This bill being recommitted to the Committee on Military Affairs, they ought to examine it carefully and make a provision of the nature that I suggest, and then report it back and let it be passed.

The Senate will bear in mind, according to the statement of the chairman of that committee, in debate the other day, that this resolution has not been considered, in the appropriate and correct sense of that term, in that committee at all. It was simply reported as a matter of favor to the Senator from Indiana, that he might bring it to the attention of the Senate. Now justice, security to the public, and at the same time, to the Treasury, requires that this subject should be carefully examined and provision made for a commission that shall not be limited to any one State alone, or a series of commissions, limiting in some general way the extent of their inquiry, requiring evidence and vouchers, and then report to the War Department. It is with that view that I make the motion to recommit.

Mr. MORTON. I hope the motion to recommit will not prevail. It comes at a very late hour, and will certainly be fatal to this resolution, as the Senator must well understand. No better illustration of the impropriety of putting on different States can be made than the proposition of the Senator from Ver-

mont. He says a raid was made into that State which caused the State of Vermont to expend nearly one hundred thousand dollars. Whether that was an act of war or simply an act of public robbery might be a question open for discussion. If an act of public robbery, the Government of the United States cannot be called upon to pay the expenses. If an act of war properly connected with the rebellion, the case is different. Now, I submit to the Senator from Vermont that it would be unfair to the State of Indiana to ask the consideration of her claim to be connected with or to be influenced by the consideration of the claim of Vermont in the case of the St. Albans raid. Why, then, discriminate among States? A similar act has been passed in regard to Pennsylvania, in regard to West Virginia, in regard to Missouri, and in regard to Kansas; and now the proposition to reimburse Indiana is to be loaded down by considering claims upon the part of Vermont and upon the part of Ohio. I submit that this is not dealing with even-handed justice with the several States. The State of Vermont is ably represented, and her claim can be presented, and will undoubtedly be dealt with fairly by the Senate, and will not suffer by being disconnected with this case; but if my resolution is to be loaded down by the claim of Ohio, by the claim of Vermont, by the claim of Tennessee, there may be an apparent aggregate of claims that will frighten Congress. I submit that that is not dealing with the State of Indiana as four other States have been dealt with already. There is no more reason for doing what the Senator from Vermont proposes now than there was when these other special acts were passed. I submit, therefore, that as an act of justice between the States this proposition should not be insisted upon.

Mr. EDMUNDS. One reply, which ought to be a satisfactory one, that can be made to my friend from Indiana is that the proposition which he submits in this resolution, as I understand it, is altogether a different one from that which has been passed in respect to the States he has named. Those acts, so far as they have been passed since I have had the honor to be here, and so far as I recollect, have been acts appointing a commission of examination and inquiry, and then, awaiting a reexamination by the War Department, an appropriation has been made to pay them. It is really a proceeding of inquiry. Here, however, is a joint resolution which directs the Secretary of War to settle the claims of the State of Indiana, and to pay them, not only for her national troops mustered into the national service, but for all the expenses of her militia during this whole period. It is not by its peculiar phraseology, as I construe it, confined to her militia raised for the purpose of repelling any one raid, but its language is so broad as that fairly under the resolution, if we pass it, the State of Indiana will be entitled to be reimbursed for all her militia and military expenses of every description. I do not say, by any means, that that is the intent of my honorable friend; I do not think it is; but the Secretary of War will be guided, not by the intent of the Senator from Indiana, but by the words of the resolution. Now, ought we to consider or to pass a resolution of that kind? Obviously not.

Then, again, I beg leave to suggest to my friend from Indiana that the raid into Vermont bore quite as much of a warlike character while it lasted, and was backed by a more powerful enemy, the Canadians close at hand, and a more safe asylum than were the raids that were made into the State of Indiana. There can be no distinction against Vermont on that ground. Then, further, I said when I was up before, which appears to have escaped the notice of my friend, that a very large part of this sum of \$100,000, which I stated in round numbers—I do not mean to say that that is the exact amount—was for expenses incurred by the State of Vermont in the first call by the nation for troops that were raised and sent when we had no Army regulations or special instructions from the War Department as to



this or that class of expenses; and while there was no extravagance, no waste, no peculation of any description, when the accounts for these necessary expenditures came to be submitted to the War Department, they took out the Blue-Book of Army Regulations and just cut out from our account of money thus honestly and necessarily spent every dollar that did not conform to the regular Army standard. Of course it was a gross injustice. I do not say it was an injustice in a technical sense on the part of the War Department officers in refusing it, because perhaps they were right in their construction.

Mr. MORTON. I should like to ask my friend from Vermont whether claims on behalf of the State of Vermont have been adjusted and paid by the Government of the United States?

Mr. EDMUNDS. I do not quite understand the question.

Mr. MORTON. It is whether the claims of Vermont have been adjusted by the Government of the United States, except so much as has been rejected?

Mr. EDMUNDS. Certainly. The claims of the State of Vermont, so far as they were agreed to by the War Department, have been paid, or all but a small balance, and so far as they were not agreed to they were not paid. I take it it is the same with Indiana precisely.

Mr. MORTON. No, sir.

Mr. EDMUNDS. Then, if there is no obstacle in the law there is no necessity for this resolution. I take it the Senator from Indiana does not assume the position that he is introducing this joint resolution for the purpose of compelling the War Department to obey some existing law, but he is endeavoring to enlarge the existing law so as to embrace a class of cases not now embraced by the law as it stands; and that is precisely the status of the State of Vermont. Her claims are just. I dare say the claims of the State of Indiana are; I do not question that now; but we have had no inquiry into that; the committee has not inquired into it. I dare say they are just. I know those of the State of Vermont are. Now, then, why do we distinguish? Why do we direct in one case that the Secretary of War shall settle and pay, when in the case of West Virginia we merely provided a commission of inquiry?

I think, Mr. President, that every consideration of fairness, of justice, and of prudence requires that this subject should be sent back to the committee.

Mr. MORTON. So far as the special acts in the case of West Virginia and other States provided for appointing commissioners there was a reason for it that does not exist in the case of the State of Indiana. A part of the claims covered by those special acts had not been paid by the several States, but were to some extent unliquidated. The Senator from Maine is mistaken in saying that this resolution requires payment of all the expenses incurred. The resolution expressly provides that the Secretary of War shall be authorized to determine whether the expenses were necessarily and properly incurred. In drawing the resolution I took occasion to guard the interests of the Government. If the Senator will read it he will find it so.

Mr. EDMUNDS. If my friend will allow me, I will read it.

That the expenses incurred by the State of Indiana for quartermaster and commissary stores, and transportation furnished by the State to the Indiana militia during the late rebellion while engaged in repelling raids, guarding against raids and insurrections—

Now the phraseology changes—

or while in any way engaged in the military service of the United States during said rebellion, shall be duly and properly examined by the proper Departments or bureaus, under the direction of the Secretary of War, who shall cause to be paid and reimbursed to said State all such expenses as shall be found to have been necessarily and properly incurred, and that an appropriation is hereby made for that purpose out of any moneys in the Treasury not otherwise appropriated.

This limitation as to the necessity and pro-

priety relates to the intrinsic nature of the service performed. Therefore, if it was necessary and proper that the State of Indiana, in order to preserve her domestic peace, should raise her militia, and put them on foot and transport them hither and thither, it is a part of the duty of the Secretary of War to pay for that. That is to say, every step of precaution which the State of Indiana thought it necessary to take, and did take, in the way of guarding against apprehended raids, or apprehended insurrections of her own citizens, is to be paid for out of the public money of the United States.

The question is whether that is not going to a length that we have never gone before. The States as far as my observation and reading have gone have always kept up their militia systems, and kept their troops armed and drilled and disciplined at their own expense for the purpose of preserving the domestic peace of their own citizens within their own borders. Now, why should the State of Indiana in her loyal and populous and well-governed community come forward with a claim to be paid for these precautionary measures for preserving the peace of her own citizens and within her own borders, when every other State has done exactly the same thing, and has never thought of asking pay for it. That is the question, and I undertake to say that you cannot put any other construction on the language of this resolution than that which I have given, because this provision is made for repelling rebel raids, guarding against raids and insurrections, and then the phraseology changes to the alternative "or," it then proceeds to say, "while in any way engaged in the military service of the United States," so that it is not necessary for the payment of these claims, under this resolution, that this militia should have been under orders from the War Department; it is not necessary that they should have been in any way engaged in the service of the United States. This additional clause about the service of the United States is alternative and cumulative, not qualificatory and in the way of limitation.

Therefore I think I was right when I said this went the length of paying all the military and militia expenses of the State of Indiana during the war, because they all must have been incurred either in repelling rebel raids or in guarding against domestic violence and insurrection at home; and if you treat every other State in the same language with which you are to treat the State of Indiana by the resolution, the amount of money to be raised by taxation for the next twenty years will not begin to pay it. I do not say it is therefore unjust, I only say it is therefore totally impracticable.

Mr. MORTON. I submit that the objection taken to the resolution is clearly a special demurrer. No one can read the resolution without understanding that all these expenses have been incurred on account of the rebellion and growing out of it. There is some exception, however, taken to the phraseology, and I understand the Senator from Maine has prepared an amendment which will perhaps obviate all the objection taken by the Senator from Vermont. But this resolution clearly contemplates nothing but expenses incurred in the State for repelling raids and keeping down rebellion in the State and guarding against raids from other States.

So far as the troops being in the service of the United States is concerned, that is specially provided for; and then comes the general safety clause, for the safety of the Government, that the Secretary of War shall be made the judge as to whether these expenses were necessarily and properly incurred. There is no necessity in this case for a special commission. They could do nothing more than will be done by the War Department on these claims and vouchers to be sent here. The case is essentially different from that of the State of Missouri and the State of Pennsylvania. The State has audited these claims. They have

passed through the hands of the war department of the State; they are in perfect form; but notwithstanding their form, and although I think the Government would be bound to accept the honor of a State in the presentation of such accounts, it is finally referred to the decision of the Secretary of War as to whether these claims were necessarily and properly incurred. I should like to ask the Senator from Vermont this question: whether the claims of the State of Vermont for quartermaster and commissary stores and transportation have been allowed by the general Government?

Mr. EDMUNDS. A part of them have been allowed, and a part of them have not. As I said before, these claims were allowed that came within what used to be called Army regulations, when I say the fair construction of the original law under which the States were called upon makes no such limitation; but provision was made, and the declaration was made, that the States should be reimbursed for their necessary expenses. When the War Department came to audit the vouchers and accounts, which were all in regular form, they said that no expense was necessary or proper except that provided in the regulations for the government of the regular Army which were provided for a state of peace. Hence, there were hundreds and thousands and tens of thousands of dollars which were perfectly just, to my certain personal knowledge, because I had charge of the settlements with the War Department, and was in the midst of it when the expenditure was made, which were rejected, and have not been paid to this day. But of course that is no reason why any just claim of the State of Indiana should not be paid, because they did injustice to us. That is not my point; but I say there ought not to be this haste, and that we ought to consider this general subject altogether in the spirit of a mutual desire to do justice to all the States, and dispose of it. That is the reason I object to this haste about it; and that is why I think it ought to be sent back to the committee.

Mr. MORTON. It appears now from the statement of the Senator from Vermont that a part of her claims for quartermaster and commissary stores and transportation have already been allowed and paid. So far she is that much better off than the State of Indiana. Not one dollar of our claims of that character has been paid. I do not know of any existing general law that provides for the payment of such claims. There is a general law providing for the payment of the militia of the several States, engaged as our militia have been, under which the Government of the United States has paid the State of Indiana several hundred thousand dollars, and audited claims for certain other amounts, the appropriation for which is now exhausted; but that act does not extend, as I understand it, beyond pay for services. There is no general law authorizing payment of claims of the character this resolution covers, but special laws have been passed in the cases of Missouri, West Virginia, Pennsylvania, and Kansas. It appears now that the State of Vermont, without a special law, has gotten a part of her claims of this character allowed. So far she has been fortunate. Having been fortunate so far, I submit that it is not in good taste for the State of Vermont to stand in the way of other States getting what they have paid out. But if it was proper that a general law should be enacted for claims of this character, why was not that objection made when four other States have been provided for?

Mr. FESSENDEN. Let me say to the Senator that in those cases I am informed, and such is my memory, that the act provided for a commission in the first place. A commission was authorized to be appointed to examine the claims and report such sums as had been actually paid by the several States and were properly vouched; and the report of that commission when it was returned was subject also to revision by the accounting officers of the Treasury Department. The difference between the

cases, then, is that the Senator dispenses with the examination by a commission in the first place, and there has not even been an examination by the Committee on Military Affairs any further than has been stated. There is the distinction between the cases. I am not saying that this allowance may not be proper, but I do not want those cases used as an argument, because Congress was very particular about them to have them examined in that way.

Mr. EDMUNDS. With the leave of the Senate, I should like now, in furtherance of what my friend from Maine has said, to call the attention of the Senate to the provisions made by the law providing for West Virginia, which is a sample. I happen to have it in my hand. The first section provides that—

"The President shall appoint three commissioners, whose duty it shall be to ascertain the amount of moneys expended by the State of West Virginia in enrolling, supplying, equipping, subsisting, transporting, and paying such State forces as have been called into service in such State since the 20th day of June, 1861, to act in concert with the United States forces in suppression of rebellion against the United States."

Then the second section provides:

"That the commissioners so appointed shall proceed at once to examine all the expenditures made by said States for the purpose herein named, allowing for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, supplying, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which West Virginia may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in said State. And no allowance shall be made for any troops which did not perform actual military service in full concert and co-operation with the authorities of the United States, and subject to their orders."

It then proceeds to give further detail as to how the commissioners shall proceed, and requires them to allow no expenditures at greater rate than the laws of the United States or the Army regulations allowed in similar cases. Then it provides that when they ascertain these balances they shall send them to the Treasury Department, and the proper accounting officers shall again go over the subject and report to the Secretary of the Treasury. If it then appears that anything is due within the scope of these limitations it is to be paid.

Now, I submit to my friend from Indiana—and I do not wish him to feel that what I say is in any spirit of hostility to that claim, but only in a spirit of having a fair inquiry and a distinct limitation, so that we shall all understand it—I submit to him that there is a decided and a manifest contrast between this law, which we only passed on the 21st of last June, and the resolution now upon the table.

Mr. MORTON. I submit that upon the reading of that law and my resolution there is no safeguard for the Government of the United States furnished by the law that is not equally furnished by my resolution. The discretion is placed in the War Department expressly to determine as to the necessity and propriety of incurring these expenses, the propriety of their being paid by the Government of the United States; and these claims, by the general law governing the Treasury Department, must be examined by the accounting officers without a special provision on that subject. No matter how much they may have been examined by the War Department, no matter though they may have been passed by a special commission, the general law still requires the Secretary of the Treasury to have them examined and audited before they are paid. That applies to all cases without a special enactment.

Mr. FESSENDEN. The Senator is mistaken about that. There is a general law applicable to all cases where there is no particular law; but this would take these claims out of that general law. As he has drafted the resolution they would not go through that ordeal.

Mr. MORTON. That is not my experience. Accounts that have passed the War Department, under the general law passed in 1861, have still undergone special revision in the Treasury Department.

Mr. FESSENDEN. That is in force unless another law is passed afterward taking a particular case out of the purview of the general law.

Mr. MORTON. I think unless some act was passed exempting these claims from such revision by the Treasury Department, they would still have to be revised by the Treasury Department, and have to pass through the ordinary machinery of that Department.

Mr. EDMUNDS. I wish to ask my friend from Indiana whether there is not a very decided difference between his resolution, which declares that the State shall be paid for her militia used in guarding against raids and insurrection, and that clause of the law as to West Virginia which provides that none of her troops shall be paid unless they were acting under the express orders of the United States department commanders, and were therefore in substance and effect United States troops, operating for the benefit of the United States, and under the control of United States officers. Is there not a very wide distinction between those two classes of cases, saying nothing about the methods of accountability?

Mr. MORTON. The militia of the State of Indiana when called out were as much engaged in the service of the United States in repelling rebel raids as though they had been mustered into the service of the United States, and were as much entitled to be paid, and the State is as much entitled to be reimbursed for the expenses incurred. There can certainly be no distinction raised on that point that contains any substance. The question is submitted to the War Department whether these expenses were properly incurred as a part of the suppression of the rebellion and protecting against the consequences of it. If further security can be provided than the resolution contains, it has not yet been pointed out.

Mr. HENDERSON. I do not wish to offer any opposition to the Senator's bill, but in the present shape of the measure I cannot give it my support. It ought certainly to be better guarded than it is.

Mr. FESSENDEN. I have prepared several amendments to it, to which the Senator from Indiana has agreed.

Mr. EDMUNDS. It ought to go back to the committee.

Mr. FESSENDEN. I think so, too; but I say I have drawn several amendments which I believe the Senator from Indiana has agreed to.

Mr. HENDERSON. My impression is that any amendment that does not require these expenses to be confined, as the Senator from Vermont very properly says, to an expenditure for militia that acted under the command or under the authority of the United States officer, and also any provision that will prevent the report that may be made of expenses from going before the accounting officers of the Treasury, ought not to be adopted. For some years I made an effort to get passed a bill allowing a similar claim to Missouri. In 1864 I prepared the measure from which the Senator from Vermont has read, and which was afterward adopted by the Senators from West Virginia in the passage of a measure for their State. When the proposition was presented before the Senate and discussed here, it was thought proper to guard the bill by the provision which now appears in the respective laws, requiring that the report of the commission that was originally required should be subjected to an inspection by the accounting officers, not of the War Department, but of the Treasury. In the case of Missouri three commissioners were appointed to examine the claims, and they examined them with reference to the laws of the United States. No claim could be paid to the militia that had been contracted at a greater rate than that allowed by the laws of the United States to the volunteers in service under the Federal laws. The Senator from Indiana will see that he provides in the measure now pending—

That the expenses incurred by the State of Indiana for quartermaster and commissary stores, and transportation furnished by the State to the Indiana

militia during the late rebellion while engaged in repelling rebel raids, guarding against raids and insurrections, or while in any way engaged in the military service of the United States during said rebellion, shall be duly and properly examined by the proper departments or bureaus, under the direction of the Secretary of War, who shall cause to be paid and reimbursed to said State all such expenses as shall be found to have been necessarily and properly incurred, and that an appropriation is hereby made for that purpose out of any moneys in the Treasury not otherwise appropriated.

Now, sir, suppose that the State of Indiana paid to her militia twice as much per month as Federal volunteers received; are we to allow and pay the amount actually expended by the State of Indiana? Suppose that for transportation a double amount was allowed; are we to pay that double amount? Suppose that there was a system of extravagance in subsisting the Indiana militia; are we bound to pay it? Suppose that no law or rule was adopted in supplying the subsistence department of the militia; are we to allow it? There is certainly no limitation here. In the bills providing for the other States it will be found that no greater amount was to be allowed to the militia in the way of payment, no greater amount in the commissary department, no greater amount in the quartermaster's department, than was allowed in similar departments in the Federal service. I suggest to the Senator from Indiana that a provision of that sort ought to be inserted in this bill. We ought not to obligate ourselves beforehand to pay all the expenses that may have been incurred, no matter what or how they may have been incurred. It is better to guard the proposition in such a manner that exorbitant and unreasonable expenses shall not be allowed.

Again, sir, suppose that the State of Indiana called out militia when it was not actually necessary, and when the department commander in the Federal service in charge of that State thought that it was unnecessary, or, indeed, not only intimated, but declared that he did not want their services, and suppose that they acted independently of the Federal authorities, are we under any obligation whatever to pay the expenses thus incurred? I think not; and hence it was that in the Missouri bill, which was the first passed, it was provided that no expenses should be paid except those that arose in the payment of troops that were raised by the Governor under the express orders of the department commander, or used subject to his orders and his control in repelling invasion. I certainly would be unwilling to pay any expenses that did not accrue under circumstances of that sort. I am utterly unwilling to say that the Federal Government for all time to come shall be responsible for the payment of the demands that may accrue under the orders of the Governor or the Legislature of a State in suppressing insurrection therein, unless it be done with the concurrence at least of the officers of the United States.

Mr. FESSENDEN. I will state to the Senator the propositions of amendment that I intend to make to this resolution, and he will see how far they will obviate his objections. I propose to insert the words "and paid" after the word "incurred," in the third line. The resolution, as I propose to amend it, will read:

That the expenses incurred and paid by the State of Indiana for quartermaster and commissary stores, and transportation furnished by the State to the Indiana militia during the late rebellion while engaged in repelling and guarding against rebel raids—

I stop there, and then commence again at the ninth line:

shall be duly and properly examined by the accounting officers of the Treasury, and the amount allowed for the same shall be paid out of any moneys in the Treasury not otherwise appropriated.

Then I propose to add this proviso:

Provided, That all allowances under this resolution shall be subject to and made under such rules as now determine the allowances for commissary and quartermaster stores and transportation furnished for military service: And provided further, That no allowance shall be made for such stores and transportation unless the same were furnished for troops recognized and paid by the United States.

Mr. HENDERSON. Certainly that amendment will remove many objections to the reso-

lution; but I suggest to the Senator from Maine that in all probability no accounts will be allowed under that amendment. I cannot conceive that the accounting officers of the Treasury will feel themselves under any obligations at all to allow any payment whatever under the amendment.

Mr. EDMUNDS. It does not cover your objection about their being called out by authority of the Federal commander.

Mr. HENDERSON. Of course not.

Mr. FESSENDEN. What objection is that?

Mr. HENDERSON. The Senator from Vermont intimates that the amendment would not cover the requirement that I make, that that they should have been called out by authority of a department commander, or else accepted and used under his command.

Mr. FESSENDEN. I have provided for that. This, I understand, was a sudden thing, and the militia that were called out have been actually paid by the Government as United States troops for that service. If they have been actually recognized and paid as troops by the General Government for that purpose, I consider that a recognition.

Mr. HENDERSON. Undoubtedly that was a recognition of their service.

Mr. FESSENDEN. In such a case, I think the quartermaster stores, &c., should be paid for also. The troops being recognized by the Government, the stores provided for them should certainly be paid for.

Mr. HENDERSON. Will the Senator read that portion of his proposition requiring the accounting officers of the Treasury to examine the accounts?

Mr. FESSENDEN. The resolution will read thus:

That the expenses incurred and paid by the State of Indiana for quartermaster and commissary stores, and transportation furnished by the State to the Indiana militia during the late rebellion, while engaged in repelling and guarding against rebel raids, shall be duly and properly examined by the proper accounting officers of the Treasury, and the amount allowed for the same shall be paid out of any moneys in the Treasury not otherwise appropriated.

Mr. HENDERSON. I do not know but I was mistaken in supposing that the accounting officers would not feel under any obligation to allow these accounts under that provision.

Mr. FESSENDEN. And then the proviso comes in, in regard to the mode of making the examination.

Mr. HENDERSON. The accounting officers will perhaps deem it their duty under that provision to examine the accounts; but there are no rules, as I understand, prescribed in the examination. Are they to examine and allow them only to the extent that they would allow similar claims in the Federal service?

Mr. FESSENDEN. That is precisely what it means.

Mr. HENDERSON. With that provision of course the objections that I have urged to the measure would be very greatly removed.

Mr. FESSENDEN. The language is:

*Provided*, That all allowances under this resolution shall be subject to and made under such rules and regulations as now determine allowances for commissary and quartermaster stores and transportation furnished for military service.

Mr. HENDERSON. That improves it very much. I do not wish to put myself against this measure, and I do not wish the Senator from Indiana to so consider. At the same time, I think perhaps the better plan would be to refer it back to the committee, and let the committee take a copy of the measure that was adopted for West Virginia and Missouri and adapt it to the case of Indiana and any other State having similar claims.

Mr. FESSENDEN. I think that would be better. It would be very much more satisfactory to me.

Mr. HENDERSON. There are other claims of this sort. There are claims from almost every State; and if we get out of the beaten track we have adopted, and which I think is a perfectly safe one, perhaps we shall open the doors of the Treasury to very large claims in the future. I concur with the Senator from

Vermont that the better way would be to recommend it. I have a printed copy of the Missouri bill in my hand, and it would take but a very few moments to adapt it to the case of Indiana and make this measure similar to the measures that we have already adopted, and which have proved a protection to the Treasury. I think that would be the better plan.

The PRESIDENT *pro tempore*. The question is on the motion to refer this joint resolution to the Committee on Military Affairs.

The question being put, there were, on a division—ayes 14, noes 10; no quorum voting.

Mr. EDMUNDS. We shall have to ask the yeas and nays. We cannot get Senators to vote without.

Mr. MORTON. I call for the yeas and nays. I will simply say that this motion, if agreed to, will kill the bill for this session.

The yeas and nays were ordered.

Mr. TRUMBULL. I simply wish to say that I voted to refer it because the chairman of the Military Committee thought it ought to be committed with a view to having some amendments made.

Mr. SHERMAN. Before I vote, I will ask the Senator from Indiana whether the Missouri bill will not substantially accomplish the object for the benefit both of Ohio and Indiana, if he has examined the subject.

Mr. MORTON. I have not. The Missouri bill was adapted especially to Missouri, and Missouri received millions of dollars where Indiana only claims hundreds of thousands. Missouri has been provided for, and can very well afford to oppose this resolution. I consider that this resolution, as guarded by the amendments offered by the Senator from Maine, as being a safer measure than the Missouri bill. I think it would be safer to leave this matter to the direct inspection of the War Department than to send out a roving commission. We have had enough of these roving commissions. The Secretary of War, in his examination of this matter, can appoint as many commissions as he sees proper to examine these very accounts. I am satisfied with the amendment offered by the Senator from Maine, and will accept it. We know very well that Congress is drawing to its close, and that there will be no legislation after this week, and the recommitment of the resolution of course is the end of it. That is very well understood.

Mr. HENDERSON. I really think the remark of my friend is very unkind, and perhaps quite unnecessary, that Missouri having got millions of dollars could very well afford to oppose this resolution. I will state to the Senator that Missouri has not received one cent for all the expenditures made. She has received no more than the State of Indiana.

Mr. POMEROY. What has become of the money?

Mr. HENDERSON. The claims have been reported here by a commission who were in session some seven or eight months, and they are now undergoing an examination before the accounting officers of the Treasury; and not one dollar will be paid to the State until they have been subjected to the closest scrutiny by those officers. I understand they are casting aside a great many of the claims that were allowed by the commission.

Now, sir, let me make one further remark. For several years in this Senate I attempted to provide a measure on this subject that would be unobjectionable, and it was a long time before I could get a measure sufficiently guarded to induce the Senate to adopt it. I had much trouble in getting a recognition of the claims of my State, and I can assure the Senator that if he goes through the same experience that I have had it will be a long time before he gets the claims allowed, and he will cease to become at all excited at opposition to a measure that he desires to put through immediately. The Senator has been here but a very short time. This is the 22d of March, and he took his seat on the 4th. I was for several years after I came to the Senate attempting to get a recognition of these claims on the part of Missouri

before I could succeed in even getting a bill passed.

I do not wish to be understood as putting myself in the way of these claims. But let me say to the Senator that the passage of this resolution will enable the War Department to pass upon claims that under the law now must be passed upon by the accounting officers of the Treasury. The resolution, as he proposes it, breaks down the safeguards around the Treasury of the United States, and provides that the war officers may adjust and allow them, and not the officers of the Treasury Department. He does not seem to appreciate the fact that he is absolutely removing the bars that now protect the Treasury. Hence it is that I desire to subject this measure to exactly the same scrutiny that was applied in the case of Missouri, and in the case of all the other States. I do not oppose it on account of the fact that it is from Indiana. I should have made a similar opposition in the case of any other State. As I said before, there are a large number of such claims to be presented. Indiana is not the only State that will present them. Almost every State in the Union has such claims. The Senator on my left [Mr. SHERMAN] says he wants Ohio put in. I suppose Ohio will be added to this very resolution. I shall vote to add it; but when we add Ohio to it I want Ohio to be subject to exactly the same rules that were applied in the case of Missouri, and in the case of the other States that have been provided for heretofore. I do not suppose a dollar has been paid to the State of West Virginia. The Senator from that State perhaps can tell me.

Mr. VAN WINKLE. Not a dollar. The commission is now sitting and exercising a very rigid scrutiny, notwithstanding that all the claims were made out in due form and considered by the Legislature, who rejected \$60,000 of them, which they paid themselves, and would not present to the Government because they were not in proper form.

Mr. HENDERSON. Now, the Senator from Indiana complains that he does not get his measure through in eighteen days. He took his seat here on the 4th of March. The Senators from West Virginia and myself have for four or five years attempted to get an adjudication of the claims of our respective States, (for they existed from the very beginning of the rebellion down to the present time,) and we have gone through the experience that the Senator from Indiana has only had eighteen days of; we have gone through it for years. I really am a little astonished at his excitement and at his unnecessary remark that Missouri had received millions and could very well afford to resist a similar claim in favor of Indiana. Why, sir, I do not wish to protect the Treasury any more in the case of Indiana than in the case of my own State. I provided all these safeguards in the bill that I originally drew in behalf of the State of Missouri; I put them all in, and I would only subject his State to the very same restrictions to which I subjected my State.

Mr. MORTON. Perhaps the State of Missouri has not actually received the money, but she has got a special law passed by which she expects to receive millions where we expect to receive hundreds of thousands. Her claims are enormous compared with ours. I do not say they are not just; but, sir, ours are a mere bagatelle compared with the claims that Missouri has presented to this Government for payment.

Now, as to the length of time I ought to be here in order to get a bill through, I am not exactly prepared to meet that argument. I hope that the State of Indiana will not be held in abeyance until I have had an experience of three or four years in the Senate. I think that the justice of the claims ought not to be made to depend upon conditions of that kind. When the Senate has recognized the rights of States to be paid for claims of this character, and special acts have been passed for several States, I think the argument wants force that

the Senator who is asking an allowance of that kind for his State has been here but a short time. Sir, the right of the State of Indiana to have this resolution passed does not depend on the number of days I have been here or the number of years the Senator from Missouri has been here, but depends upon the character of the claims; and as this Government has recognized the rights of States in four cases to be paid for claims of this character, I think the argument falls to the ground.

So far as the limitations are concerned, the amendment prepared and presented by the Senator from Maine is equally guarded, is equally stringent on behalf of the Government, as the provisions of the act for the State of Missouri. The difference is that the examination is to be made by the Departments here under the direct supervision of the Government itself, having full power to reject all claims for expenses that they deem to have been unnecessary or improperly incurred, instead of being intrusted to a roving commission off into Indiana, or anywhere else, for the examination of claims. This Government never does a more unsafe business than when it puts its claims or the liquidation and assessment of damages into the hands of these roving commissions. I think that this is a safer measure for the Government than the one in the case of Missouri.

Mr. VAN WINKLE. I cannot find it consistent with my views of my duty here to vote to allow the claims of the State of Indiana to be settled and adjusted on any other rules and principles, as regards their investigation and scrutiny, than were applied to similar claims of my own State. A reference of this subject to the Secretary of War means nothing else than a reference to his clerks; that these claims are to go through the usual form of any demand presented to the War Department. The character of the service and all those matters connected with them are subjects that the clerks there cannot properly take into consideration. In the case of the claims of West Virginia commissioners have been sitting now for some time, who are subjecting them to the most rigid scrutiny. Although the greatest pains were taken by the State, even going so far that our vouchers were made out on United States blanks, were scrutinized by our adjutant general and military officers, then subjected to the examination of a committee of the Legislature, who rejected, as I stated awhile ago, some sixty thousand dollars of them simply because they were not in proper form, although the State paid them, we have submitted cheerfully to all these conditions, and our case is now in process of adjustment. The amount is but two or three hundred thousand dollars; but so far as it goes it is something to us.

Some years ago the claim of Missouri was presented, and was discussed and examined here in the Senate, and, as I understood the principle upon which these claims should be allowed, was fixed. I believe the Pennsylvania bill had previously passed without the same scrutiny or the same terms and conditions. But finding these bills were coming in from several States, the Senate investigated thoroughly the subject, and adopted a form by which the relief was to be granted to the State of Missouri. Being aware of that, when our claim came up for consideration, the Committee on Military Affairs reported a bill based upon that of Missouri. We were entirely willing to agree to it, and accepted it cheerfully, and it is now being acted upon. We have been somewhat delayed, it is true, but we are perfectly willing to lose whatever these commissioners shall not find just and right. But a small portion of our demand is for commissary stores and subsistence and transportation and things of that kind. Our militia were out repeatedly and under circumstances for which we make no claim. We might have presented a much larger bill. We might probably have fairly asked for more compensation than we have. But, sir, I will conclude as I began, by saying that I cannot find it consistent with my views

of my duty here to vote to pay Indiana under circumstances which were not granted to my State, and thus tacitly acknowledge that a more rigid scrutiny and stronger vouchers and things of that kind should be demanded from the State of West Virginia than from the State of Indiana.

The Secretary proceeded to call the roll.

Mr. JOHNSON (when his name was called) said: I intended to have said a word before the yeas and nays were called. I rose merely for the purpose of saying that according to my knowledge of the practice of the Departments, the reference of these claims to the Department would be a much better security for the Government than their reference to any board of commissioners. I therefore vote "nay."

The result was then announced—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Conkling, Corbett, Dixon, Doolittle, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ross, Tipton, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—26.

NAYS—Messrs. Cole, Conness, Davis, Johnson, Morton, Nye, Patterson of Tennessee, Ramsey, Sumner, Thayer, and Wade—11.

ABSENT—Messrs. Cameron, Cattell, Cragin, Drake, Fowler, Grimes, Guthrie, Hendricks, Howe, Norton, Patterson of New Hampshire, Riddle, Saulsbury, Sherman, Sprague, and Stewart—16.

So the motion to recommit the bill to the Committee on Military Affairs was agreed to.

#### RELIEF OF DESTITUTE IN THE SOUTH.

The Senate proceeded to consider the amendments of the House of Representatives to the joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States, which were in line five, after the word "classes" to insert "of destitute or helpless persons;" and in line ten to strike out all after the word "prescribed" to the end of the resolution, and to insert in lieu thereof the following:

And to that end the Secretary of War is hereby authorized and directed, through the Commissioner of the Freedmen's Bureau, to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations: *Provided*, That the expenditure shall not extend beyond the present appropriations already made for the Freedmen's Bureau.

Mr. TRUMBULL. I hope that the Senate will concur in the amendments of the House.

The PRESIDENT *pro tempore* put the question, and declared that the amendments were concurred in.

Mr. MORTON. I call for the yeas and nays.

Mr. CONNESS. It was an almost unanimous vote. I do not see the necessity of calling for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 9; as follows:

YEAS—Messrs. Cameron, Chandler, Conkling, Conness, Corbett, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Anthony, Buckalew, Cole, Dixon, Doolittle, Morton, Patterson of Tennessee, Ross, and Wade—9.

ABSENT—Messrs. Cameron, Cattell, Cragin, Davis, Fowler, Grimes, Guthrie, Hendricks, Howe, Norton, Nye, Patterson of New Hampshire, Riddle, Saulsbury, Sherman, and Sprague—15.

So the amendments were concurred in.

#### HEIRS OF JOHN E. BOULIGNY.

Mr. WILLIAMS. I move that the Senate resume the consideration of House joint resolution No. 8.

Mr. FESSENDEN. Let us take that up. It ought to be settled.

Mr. TRUMBULL. We have occupied all the morning hour with that, and I hope the Senator will allow me to call up a little bill that I introduced yesterday.

Mr. FESSENDEN. This is very important, and it ought to be passed at once.

Mr. TRUMBULL. It has already occupied the attention of the Senate for two or three days.

Mr. FESSENDEN. It is very important.

Mr. TRUMBULL. It is a private claim.

Mr. FESSENDEN. No; it is to prevent a great fraud. It proposes to suspend the operation of an act passed at the last session.

Mr. WILLIAMS. I hope this joint resolution will be taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon.

The motion was agreed to.

Mr. TRUMBULL. I ask the Senator from Oregon now, as this resolution is up, if he will let it lay aside for a short time to allow me to take a vote on the bill to relieve the Chief Justice from the appointment of these registers in bankruptcy.

Mr. CONKLING. I hope not. I hope there will be no extraordinary proceeding to get up a bill which I do not think ought to be considered, and certainly ought not to pass. If a single objection will prevent its being taken up, I object to it.

Mr. WILLIAMS. If it could pass without discussion I would not object; but that will evidently lead to debate.

The PRESIDENT *pro tempore*. The resolution which is before the Senate will be proceeded with if no motion to postpone is made.

The Senate resumed, as in Committee of the Whole, the consideration of the joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouigny.

The PRESIDENT *pro tempore*. Upon this resolution the Senator from Maryland [Mr. JOHNSON] is entitled to the floor.

Mr. JOHNSON. I stated, I think just before the resolution was postponed before the morning hour expired, that this title had been passed upon favorably by three committees of Congress, never decided against by Congress; but, on the contrary, the decision was in favor of it by both branches of Congress at different times, although they did not act conjunctively. I stated also that the last committee who reported on the subject, of which the late member from New York [Mr. Harris] was the chairman, examined it very thoroughly. I now understand that besides himself, who was very competent to investigate a question of this description, it was examined with as much care as he would have examined a case before him judicially by the late Senator from Vermont, [Mr. POLAND,] and who concurred in thinking that the title was a good one, and who, I have no doubt, is still of that opinion; and I need not say to those to whom I am now addressing myself that his opinion upon a question of that description is entitled to every possible weight.

Then the case stands thus: Congress has heretofore, upon every occasion that they have been called upon to examine the question through their committees, decided in favor of the claim. The registers and receivers who were made judicial officers for the purpose, under the act of 1836, decided in favor of the claim. The judge of the district court in Louisiana decided in favor of the claim. The Supreme Court of the United States only, as I think, avoided so deciding, the majority of them, because the question was not before them, the court below having no jurisdiction, as they thought, of a title which if it existed at all was a legal title, and of course upon an appeal the Supreme Court of the United States had no jurisdiction.

Then a few days since, after a full examination, as they tell us, by the Committee on Private Land Claims, composed in part of the two gentlemen to whom I have adverted, members of eminence in their profession before they went upon the bench, who increased their eminence as jurists after they got upon the bench, they decided in favor of the claim, and the Senate by a vote of 30 to 10 confirmed their report, and passed the bill which we are now asked to suspend. And when are we asked to suspend it? A few days before it is known that Congress will adjourn. And we are asked to suspend it, so far as the House is concerned, be-



cause of facts stated in the preamble, which are so wholly unfounded in point of fact, or which are not made good by any evidence before the Senate of the United States, that they have by a vote nearly unanimous stricken out the preamble. Then we are asked to suspend this law only because the House say that perhaps some mistake was committed, discarding as we do the grounds upon which they suppose a mistake was committed. We are to suspend it until Congress shall order otherwise. That puts it in the power of the House; no matter what may be the opinion of the Senate in relation to the claim, to defeat the claim altogether. If the resolution is to pass I propose to amend it by striking out the words "until the further order of Congress," and substituting for them "until the end of the next session of Congress." I shall offer that amendment at the proper time.

**THE PRESIDENT pro tempore.** The Senator from Maryland moves to amend the resolution in the fourth line by striking out the words "further order" and inserting "close of the next session;" so that it will read:

That the Secretary of the Interior be directed to suspend the execution of the act entitled "An act for the relief of the heirs of John E. Bouligny" until the close of the next session of Congress.

**Mr. JOHNSON.** I do not offer it now. I said I would offer it at the proper time.

**Mr. WILLIAMS.** I have great confidence in the opinion of the honorable Senator from Maryland when he understands a case; but manifestly, from what he has said this morning, he has not examined the facts connected with this report, and of course his argument is not entitled to as much weight as it would otherwise be. Now, I invite the attention of the Senator and of the Senate to what I am about to say, and then I know the Senator will admit that the bill that passed the last session of Congress committed a gross injustice upon the Government of the United States.

The Senator who made the report in favor of the bill that passed at the last session referred to antecedent reports, and decisions, and seemed to rely upon those, without any particular examination of the case; and the honorable Senator has pursued the same course. He says that the register and receiver at one time decided in favor of this claim? I say they never made any such decision. I have the decision of the register and receiver here. They decided that the heirs of Dauterive were entitled to a tract of land forty arpents front on the Mississippi river and extending back to the Atchafalaya river.

**Mr. JOHNSON.** That is all they get.

**Mr. WILLIAMS.** No, sir; the bill that passed at the last session allows these heirs a tract of land four leagues in front up and down the Mississippi river, and extending twelve miles back, when the register and receiver decided that they were only entitled to a tract of land forty acres broad on the Mississippi river, and extending back to the Atchafalaya river. I have the decision here, I will read it. Here is the decision, *verbatim et literatim*:

"The heirs of Bernard Dauterive claim the confirmation of their title to a tract of land in the parish of Iberville, on the west bank of the Mississippi, having forty-four arpents front, and running back to the Atchafalaya, with the exception of so much thereof as has been confirmed to other persons, or has been sold by the United States, for which they intend to claim compensation from the United States.

"The part of this tract is designated on the returned township plats of township No. 10, range thirteen E, as lots thirty-four to forty-seven inclusive; but this part (front) is not claimed, but only what still remains unconfirmed or unsold behind the said front tract, and between their side lines and the Atchafalaya.

"The above-described tract"—

I hope the honorable Senator will pay particular attention to this, as he depends upon this decision—

"is a portion of the grant made in 1718 by the Western Company to Paris Duvernay"—

They confirmed a portion of that grant, but the bill that was passed at the last session gives to these heirs the entire grant that was made to Paris Duvernay—

"settled for him in 1719 by Dubuisson and sixty other

men, and sold in 1765 by Claude Tremanay de Chamfret, the agent of the said Paris Duvernay, to the said Bernard Dauterive. The portion now claimed is so much of the said original grant as was confirmed to the said Bernard Dauterive by the Spanish Governors O'Reilly and Unzaga, and this claim is made without prejudice to the rights of the claimants to other lands under the said original grant by the Western Company. We are, therefore, of opinion that this claim ought to be confirmed."

The register and receiver confirmed to the heirs of Dauterive the tract of land that was granted by the Spanish Government to Dauterive, while the bill of last session gives to these heirs the tract that was granted to Paris Duvernay. This decision expressly says that it confirms only a part of the Duvernay grant, and that part is a tract of forty-four arpents up and down the Mississippi river, and extending back to the Atchafalaya river; so that they confirmed a tract of land forty acres wide instead of twelve miles wide, which makes a considerable difference, in my judgment, in the amount of land. The district court made the same decision. The district court did not confirm the claim of the Duvernay grant, but confirmed to these heirs the claim that was allowed to them by the Spanish Governor, Unzaga. They confirmed to these heirs a tract of land forty arpents wide on the Mississippi river, and extending back to the Atchafalaya, instead of a tract of land twelve miles wide on the Mississippi river and extending back to the Atchafalaya, as this bill of last session allowed.

Now, sir, I will refer to the decision of the court to show that I am not mistaken. The court proceeded to recite the grant to Duvernay, and then said:

"And being further satisfied that after the transfer of the said Province of Louisiana by France to Spain, under the treaty made between the two Governments on the 3d of November, 1762, Don Luis Andry, surveyor general of the said Province of Louisiana, acting under the authority of Don Louis de Unzaga y Amezaga, Governor of the said Province under the Government of Spain, did, on the 12th day of March, 1772, make a survey of a portion of the said tract comprised in the aforesaid grant acquired by the said Jean Antoine Bernard Dauterive from Duvernay, having forty-four arpents front on the right bank of the Mississippi river, with the side lines opening and extending to the Atchafalaya, as is represented and described in the plat and process-verbal of said survey on file and marked 'B. No. 21'; and that, on the 12th day of July, 1772, the said Unzaga, Governor of said Province aforesaid, did approve the said survey conformably to the plan and process-verbal of survey of the said Andry, surveyor as aforesaid, with the depth to the Atchafalaya as shown by the letter of the said Unzaga attached to the said survey and marked 'B. No. 22'; and that the same was a recognition and confirmation of the title of the said Jean Antoine Bernard Dauterive, who was then a resident of the said Province of Louisiana, to the land represented and described in the said plat and process-verbal of survey, with the depth between the side lines to the Atchafalaya river, or a grant anew of the same by the said Governor, having full power and authority to grant the same, and that a portion of said tract fronting on the Mississippi river to the depth of forty arpents from said river, and no more, was disposed of to the Spanish Government or otherwise by the heirs after the death of the said Dauterive.

"And being further satisfied that the petitioners are the heirs and legal representatives of the said Jean Antoine Bernard Dauterive," &c.

It then proceeds:

"The heirs and legal representatives of the said Jean Antoine Bernard Dauterive are the true and legal owners of, and have good title against the United States, the defendants in and to the lands claimed in their petition, granted as aforesaid to Paris Duvernay, and afterward confirmed as aforesaid to the said Jean Antoine Bernard Dauterive by the Spanish Government, having forty-four arpents front on the Mississippi river, and extending in depth to the Atchafalaya river."

That was the decree of the court, confirming to these heirs a tract of land having a front of forty-four arpents on the Mississippi river and extending back to the Atchafalaya. That case was taken to the Supreme Court. Now as to the decision of the register and receiver, I will say that it was reversed by the Solicitor of the Treasury, and his opinion is here. The claim, as allowed by the register and receiver, was repudiated by the Solicitor of the Treasury.

**Mr. STEWART.** How much land was granted running along the river?

**Mr. WILLIAMS.** Forty-four arpents along the river.

**Mr. STEWART.** And running back how far?

**Mr. WILLIAMS.** To the Atchafalaya river.  
**Mr. STEWART.** How much would that be?  
**Mr. WILLIAMS.** It would be forty acres.  
**Mr. STEWART.** But how far would it run back from the river?

**Mr. WILLIAMS.** Forty acres front and running back twelve miles.

**Mr. SHERMAN.** An arpent is not an acre.  
**Mr. WILLIAMS.** It is something like an acre.

**Mr. HENDERSON.** Fifty-nine yards.

**Mr. WILLIAMS.** Now, sir, it appears that all the decisions that have heretofore been made on this subject in favor of these heirs have only been to the extent or effect of allowing to them a tract of land forty-four arpents front on the Mississippi river, and extending back twelve miles to the Atchafalaya river, and those decisions have been reviewed and disapproved. The decision of the register and receiver has been disapproved by the Solicitor of the Treasury; and that made by the district court, by the Supreme Court, notwithstanding it is true that the case was dismissed in point of fact in the Supreme Court, because the district court had not jurisdiction.

It has been said that reports have been made favorable to this claim by committees of the House and by committees of the Senate. I have the report here of Mr. NOELL, to which reference has been made, and I have the bill that was reported by Mr. NOELL to the House; and I ask the attention of the honorable Senator from Maryland to that bill. It shows that this claim, since Mr. NOELL reported his bill, has grown from a tract of land of a few thousand acres up to one containing about half a million acres. Here is the bill of Mr. NOELL:

"Mr. NOELL, from the Committee on Private Land Claims, reported the following bill:

"A bill for the relief of the heirs and legal representatives of Jean A. B. Dauterive.

*Be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the claim of the heirs and legal representatives of Jean Antoine Bernard Dauterive, late of Louisiana, to a certain tract of land in said State, having forty-four arpents front on the Mississippi river and extending in depth to the Atchafalaya river, bounded above by a line beginning on the Mississippi river," &c.

That is the bill reported by Mr. NOELL, accompanied by a report upon which the honorable Senator relies. The bill of Mr. NOELL only proposes to allow to these heirs a tract of land forty-four arpents front on the Mississippi river, and extending back to the Atchafalaya river; but by some hocus-pocus this claim has grown, under the manipulations of committees, from a claim containing perhaps eight or ten thousand acres of land up to one of half a million. The bill that was passed at the last session proposes to give to the heirs of Louis Bouligny seventy-five thousand acres of land as one sixth of the trust, assuming that the original grant to Duvernay had been recognized by all these prior decisions. It is the most astonishing blunder that I have ever known to be committed.

**Mr. FESSENDEN.** There is no proof that he is the only heir.

**Mr. WILLIAMS.** That is assumed among the papers without any specific evidence on the subject, further than the finding of the district court.

Now, sir, this report that was made at the last session by Mr. Thayer refers to the decision of the register and receiver, and to the decision of the district court, as allowing to these heirs the whole tract of twelve miles each way that was granted to Duvernay, when both decisions on their face show that neither tribunal recognized any claim broader on the Mississippi river than forty-four arpents, instead of twelve miles.

It is upon these grounds that the committee are of the opinion that the bill passed at the last session ought to be suspended. We do not undertake to decide at this time that the heirs of Louis Bouligny may not be entitled to one sixth of the land contained in a tract forty-four arpents front on the Mississippi river and extending back to the Atchafalaya river. That point we do not at this time decide; but the

committee are clearly of the opinion that there is no evidence anywhere, no decision anywhere, entitled to any respect, that gives to the heirs of Dauterive a tract of land twelve miles broad on the Mississippi river and extending back twelve miles to the Atchafalaya river.

Reference has been made to the acts of the Spanish Governor as acts of cruelty and oppression; but, sir, I will ask if the United States ever undertook to indemnify the old French citizens of Louisiana for the oppressive acts of the Spanish Governor who succeeded, after that territory was transferred by France to Spain, to the administration of public affairs? Has the Government ever assumed to do anything of that kind? When these Spanish Governors came there they found this country shingled over with these immense claims, covering miles and leagues, and in order to promote the prosperity of the country, and to fill it with people and extend agriculture, they reduced these immense claims to reasonable proportions; and they reduced this claim of twelve miles in extent each way to one of much less dimensions; and I say the grant to Duvernay has never since been recognized by any Government, by the Spanish, by the American, or by any Government. It is a grant of the existence of which there is no evidence except in historical allusions; a grant the exact location of which nobody can define; the boundaries of which nobody can describe; a tract of land that has never been bounded or described by any surveyor, and of which there has never been a plat made so far as I can learn from these proceedings.

Without occupying more time, I will simply say that while the committee do not decide that the heirs of Louis Bouligny may not be entitled to one sixth of this tract of forty-four arpents from and extending back to Atchafalaya river, it is perfectly clear that they are not entitled to that tract which was originally granted to Duvernay by the Mississippi Company; and as the bill that was passed at the last session recognizes their right to that entire tract, it is the opinion of the committee that the operation of that bill should be suspended. To allow that bill to be carried into effect would rob this Government of an immense amount of land, because the bill of the last session only provides for one sixth of the claim. There are five subsequent similar claims to come forward, amounting to half a million acres of land. To allow that bill to be executed would be to work a great wrong upon the Government, and would be recognizing a claim that is not founded in law or in justice.

Mr. JOHNSON. The honorable member is right in supposing that I relied upon the judgment of the register and receiver and of the courts and of Congress; and I supposed that they all related to a title that would embrace the number of acres of which seventy-five thousand acres would be one sixth. He is, therefore, right now in correcting me so far as relates to the judgment of the register and receiver and the opinion of the committee of which Mr. NOELL was the chairman; but he is not right so far as relates to the report made by Mr. Thayer; he is not right in relation to one or two of the bills which I understand have been passed by each branch. I can imagine why it was that Mr. NOELL and the district judge confined their judgment to the one sixth, or to the amount which was claimed under the Spanish recognition of the title. The Supreme Court of the United States, in the opinion to which I have referred, as given by Mr. Justice Nelson, were clear in believing that if there were any evidence at all satisfactory to that tribunal to show the existence of the French grant, it would be incumbent upon the United States to recognize it; and Mr. Justice Nelson seeks to avoid the claim as made under the French grant upon the ground of the want of evidence of the existence of that grant, and upon no other ground. He evidently was of opinion—and in that I have no doubt he was right—that if the claimants could show a French grant such as they had

alleged, the United States would be bound to recognize it, notwithstanding Spain had disavowed it in part; and for very obvious reasons, as I think, to those who will reflect at all upon the law of nations in relation to that subject.

When Spain became the grantees of the territory by the cession from France in 1762, they were bound to recognize all the antecedent grants made by France; and their failure to recognize, if they did fail to recognize, this grant in its entirety, was a wrong upon the grantees who held the French title. Now, we take the place of Spain; we have become the grantees of this land under Spain; and if Spain was bound and held the territory under the obligation to recognize the French grant, I say, with all becoming confidence, we are bound to recognize it. Every one knows who is at all familiar with the law of nations on the subject that when one nation obtains by cession a territory from another, all the private claims that may exist to land in that territory fall within the protection of the successor; and being under his protection it is his duty to recognize them; and whoever takes the property from him becomes a successor to that duty. I state, therefore, very confidently, that the Supreme Court, as far as they are considered as speaking through Mr. Justice Nelson, were clearly of opinion that if the French grant in point of fact existed, the claimants were entitled to all that was covered by that grant.

Now, my friend from Oregon says that it is not known that that grant was ever located. Well, suppose it is not. Whose fault was that? Not the fault of the claimants. As long as France remained the sovereign of the territory it was her duty to segregate it from the public domain; and when, without doing it, Spain became her successor, it was Spain's duty not to interfere with that segregation. And yet what does she do? She takes possession of it violently, and then afterward agrees, or is supposed to agree, that she will recognize the claim for a part; and yet if there was any claim at all under France it was not for a part, it was for the whole. The conduct, therefore, of Spain in recognizing it only in reference to a part, while it recognizes it as a title derived from France, while it establishes the existence of the French grant, clearly establishes a wrong on the part of Spain.

But however that may be, the amendment which I propose is to let the act we have already passed fall altogether unless both branches of Congress shall hereafter say that it ought to be allowed, and I therefore move that amendment, that instead of making the operation of the law that we have passed depend upon the order of Congress, it shall stand or fall just as Congress may hereafter repeal or not repeat the grant or modify it.

Mr. WILLIAMS. I simply wish to say as to that amendment that I do not think it ought to be adopted for the reason that if these heirs have any claim to any land there it must be a distinct claim for a portion of another and a separate tract of land, and when they present that claim, if the operation of the bill is suspended, it can be considered as a distinct application for another appropriation. But if the bill is simply suspended until the end of the next session, it may possibly be forgotten or overlooked; there may be some difficulty in getting the matter before Congress, and the claim may be finally satisfied when it is apparent as it seems that it ought not to be satisfied. I do not think that by passing the resolution in its present form we embarrass the claim of the heirs in any way.

Mr. JOHNSON. The result, then, is that although the Senate of the United States may be perfectly satisfied, or are now or shall in the end be perfectly satisfied, that the claim is a just one and ought to be allowed, we cannot allow it without the consent of the other House.

Mr. WILLIAMS. That is true of every claim.

Mr. JOHNSON. But we have allowed this

now, and the only question is as to its suspension. If you want it suspended to enable us to examine into the propriety of passing that bill, put it in a form that will leave the bill in our power.

Mr. STEWART. I hope the amendment will be adopted. It appears that there is some claim, if it is only an undivided sixth portion of the eleven thousand acres. I do not think the committee have adopted the exact way to compensate them for that, giving lands and estimating them by acres. There may, perhaps, have been a mistake in that. I think if the Government of the United States has taken their land and appropriated it, the fair way would be to ascertain its value, whatever there may be of it, and pay for it. But if the Senate pass this resolution, with the preamble, asserting that the claim is a fraudulent one—

Mr. WILLIAMS. The preamble has been stricken out.

Mr. JOHNSON. But there is no other reason given for this action.

Mr. STEWART. I think to pass it in this shape would prejudice the case. If we postpone the operation of the law until after the next session, I think there will be no difficulty in the Committee on Private Land Claims ascertaining the exact nature of the claim; and on the report of the committee we can act at the next session. I believe there will be no difficulty in disposing of the subject then. I am certain the members of that committee will not forget it. But I fear that the passage of the resolution now in this shape will prejudice the claim. I hope the amendment will be adopted; and then at the next session we can pass such a measure as will be just.

Mr. FERRY. I trust as a member of the Committee on Private Land Claims that this amendment may not be adopted. The bill as it passed at the last session is palpably a very gross injustice to the United States; and at this session we ought not to leave a possibility that that bill shall at any future time be executed. The matter involved is not simply the seventy-five thousand acres of land which are given to the heirs of John E. Bouligny, but it involves the establishment of the liability of the Government of the United States to pay an amount exceeding half a million of dollars to the heirs of Dauterive; and so long as this bill stands unsuspended and unrepealed that liability of the Government exists, and the representatives of the remaining heirs of Dauterive may present their claim, and, relying upon the acknowledgment and establishment by Congress of the liability of the Government to them, successfully prosecute it before Congress. All the facts in this case have been so completely detailed by the chairman of the committee that I think it is not necessary for me to recapitulate them again.

The difficulty from the beginning has been this: that while the claimants have only asked for one sixth part of the Spanish grant, embracing a few thousand acres, the committee of the last session, by a very gross error, which is to me perfectly inexplicable, have adopted as the basis of their action an old, undetermined, and invalid French grant which no court has ever recognized, no officer of the Government has ever recognized, which Congress has always repudiated; and recognizing that old French grant have upon that basis proceeded to establish the liability of the Federal Government to pay over this enormous amount to the heirs of Bernard Dauterive.

Now, if the amendment is adopted, the result is simply that which has been briefly stated: if in the hurry of legislation next winter, or from any other cause, the matter slips by the session, the Treasury is robbed, clearly, unequivocally robbed of an amount in value exceeding \$500,000; whereas, on the other hand, if the execution of the bill of last session is suspended until the committee before whom the papers now are shall have an opportunity fairly and finally to adjust this claim, no injury can hap-

pen to the Government; no injury can happen to the claimants under the bill, because that to which they are really entitled, if entitled to anything, (which I very much doubt,) will be given to them by the report of the committee at the ensuing session; and the fact that Congress has been willing to grant them something upon their claim at a former session will be a strong cause for the passage of anything which the committee at the next session may report as being that to which the claimants are fairly entitled under the old Spanish grant. I think if the amendment is adopted there is danger of gross injustice to the Government. I think if the resolution as it came to us from the House, now that the preamble is stricken out, shall be adopted, no injury can be done to any one, but justice will probably be administered to all.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland.

The amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The amendments were ordered to be engrossed and the joint resolution to be read a third time. It was read the third time, and passed.

#### AMENDMENT OF BANKRUPT LAW.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill amendatory of the bankrupt act.

Mr. CONKLING. I should like to understand the situation of that bill. I believe it has never been referred to any committee, but simply introduced for reference.

The PRESIDENT *pro tempore*. The question is on taking up the bill.

Mr. CONKLING. I inquire of the Chair if it is so situated that it can be taken up by a vote of the Senate, or whether it requires unanimous consent.

The PRESIDENT *pro tempore*. It is under the control of the Senate, in the opinion of the Chair. The question is on the motion of the Senator from Illinois.

Mr. CONKLING. Is a motion in order now to commit that bill to the Committee on the Judiciary?

The PRESIDENT *pro tempore*. The question is on taking it up. If it is taken up it will then be in order.

The motion of Mr. TRUMBULL was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 95) to amend the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867.

Mr. CONKLING. I now move that this bill be committed to the Committee on the Judiciary.

Mr. TRUMBULL. Before the bill was introduced it was informally considered by the committee. There can be no object whatever in recommitting it except to defeat it. If the Senator from New York desires to do that he may as well meet it directly. There is nothing, I presume, in the wording of the bill that needs any consideration by a committee. It consists of two sections, and is in print on the tables of Senators. The first section proposes to repeal that clause of the law which requires the appointment of registers of bankruptcy to be made by the judges of the district courts upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States.

Mr. CONKLING. I desire to understand the statement made by the Senator in regard to the consideration of this bill by the committee.

Mr. TRUMBULL. I stated that the bill had been informally considered in the committee before it was introduced into the Senate, and that there could be no object in the rereference of it to a committee.

Mr. CONKLING. I desire to inquire whether the Senator means us to understand that it was favorably considered by the Judiciary Committee?

Mr. TRUMBULL. I did not state whether it was favorably or unfavorably considered. I stated that it had been informally considered, and that there was no object in referring it. I do not know how a majority of the committee would vote upon it. It was not before us for the purpose of voting. I presume, however, it would have the assent of a majority of the committee, but I do not know how that is; no vote was taken upon it; nor do I think it material.

The second section provides that it shall be the duty of the several district courts of the United States to appoint these registers. The bill simply relieves the Chief Justice from this very unpleasant and burdensome duty. It will be remembered, perhaps, that when the bankrupt bill was under consideration at the last session of Congress, the Committee on the Judiciary, of which the Senator from New York was not then a member, reported in favor of striking out this clause at that time in the bill as it came from the House, and devolving the duty upon the district courts, so that this measure had the sanction of the Judiciary Committee at the last session of Congress.

Mr. CONKLING. The Senate did not adopt it.

Mr. TRUMBULL. The Senate, however, refused to concur. I think there was a tie vote in the Senate on that question. I have now introduced a bill to repeal that clause of the law, and the question is for the Senate to determine whether it will relieve the Chief Justice from this burdensome duty. Clearly he cannot have the necessary information to determine who are proper registers in bankruptcy for the various districts in the remote States of the Union. He is not furnished with a clerk to examine the papers that are sent to him, and I understand that the mail comes loaded with recommendations from most of the districts in the United States in favor of different persons. He has no clerks at his hand to assort these papers and arrange them and make what is called a brief of the various recommendations; and if he is to discharge this duty he ought to have some assistance.

Then there is another objection which is worthy of consideration. It is certainly questionable whether the law itself is constitutional. The Constitution of the United States authorizes Congress to vest the appointment of inferior officers in the President alone, in the heads of Departments, or in the courts of law. Now, it is competent in Congress to vest this power of appointment in the courts of law, in the district courts; but it is not competent under the Constitution to vest it in the Chief Justice. He is not a court. He is the presiding officer of one of the courts, the Supreme Court of the United States. The law does not give to the district courts the appointment of these officers, as the Constitution authorizes Congress to do; but it gives them authority on the nomination of the Chief Justice of the Supreme Court of the United States to make the appointments. In other words, it makes the district courts hold the same relation to the Chief Justice of the Supreme Court of the United States that the Senate holds to the President of the United States. Who appoints officers of this Government? Does the Senate do it; or does the President make the appointments? We hold a negative on the President; that is all. We advise and consent to his nominations, but we can appoint nobody by ourselves. Does the Constitution of the United States confer upon Congress authority to transform a court into an advising and consenting body similar to the Senate? Clearly the Constitution does not authorize Congress to vest the appointment of inferior officers in the chief justice of any court. It may be vested in a court, but not in the chief justice, unless the chief justice should constitute the whole court; and then it would be because vesting it in him is the same thing as vesting it in the court. But, sir, whether it be constitutional or not, I think it very impolitic,

and it is imposing upon the Chief Justice an unnecessary and burdensome duty, which he ought not to be called upon to perform. In my judgment this bill ought to pass.

Mr. CONKLING. I took the liberty of inquiring of the Senator from Illinois whether he intended the Senate to infer that this bill had been in any sense favorably considered by the Judiciary Committee, because I thought from his remark his understanding or recollection was different from my own as to what took place. My recollection is, that there was an expression of opinion in the Judiciary Committee, and that that expression was very decided against the propriety of introducing this bill; and I asked the question, thinking that the Senator's recollection was different in that respect from my own. The members of the Judiciary Committee are here, and they doubtless will know whether the Senator is right in his recollection or whether it is not correct upon that point.

I wish to say that this particular point was considered very carefully and discussed very earnestly in the House of Representatives on more than one occasion. The provision as it stands was not a rambling provision, nor one inserted without what was deemed very sufficient reason. I think that every gentleman who knows anything about the judgment of the other House upon this matter will agree with me that it is entirely out of the question to pass, during this session or at any session, such an amendment to the law as that which is now proposed. There is another section of the bankrupt bill which some gentlemen have been giving their attention to, an amendment of which might have a better chance than this; but if repeated votes, votes which at times defeated the bill without this provision, are any evidence of the judgment of men, it is entirely clear that no such provision as this could be passed in the other House.

Now, Mr. President, one word as to the *onus* which it imposes on the Chief Justice. I dissent entirely from the statement made by the Senator from Illinois on that point. Nobody, I take it, supposed that the Chief Justice was to go in person or in any way to exercise visitatorial functions in all the localities from which these registers are to be taken. On the contrary, the expectation was that as the practice is in reference to selecting persons for the highest official trusts, so the usage would be in regard to these officials; that the Chief Justice, in reference to the State of Ohio, for instance, would call to his aid the Senators and Representatives from that State, although it is his own State, and learn from them the qualifications and the merits of the applicants in each particular locality; which would lead to the presentation to him of recommendations by persons known to him, and the making of such statements as would satisfy him of the propriety of making particular nominations. That was the view with which this particular provision was inserted in the law; and I confess that I for one see no difficulty whatever in its being carried out now; and I cannot believe that the selection of all these registers would occupy more than two days by any plan of selection, however careful it may be that he may adopt, unless he should choose to discard altogether the information he could get from Senators and Representatives, and go into the investigation of miscellaneous recommendations coming from people known and those unknown.

As to the constitutionality of the provision as it passed, which I understand to be simply that these appointments shall be made by the district judges, but selected from the persons nominated by the Chief Justice, I will say that the special committee having the bankrupt bill in charge in the other House, which was composed in part of lawyers of conceded ability, considered, and so did the lawyers of the House, that there was no question about it; and I know that some of the lawyers of the country with whose standing we are all very familiar, and who have considered this ques-

tion more recently, have no doubt whatever upon the point. I have only to add in that regard that I shall deem it very unfortunate if any question shall be raised, by the action of Congress or otherwise, as to the constitutionality of the provision. I can see how it might disquiet and unsettle and disturb those who are interested in the measure, and I cannot see how it can have any other effect.

I hope this bill will be committed to the Committee on the Judiciary, so that if upon examination they find that it is really wise to attempt the change now, we may have the judgment of the committee to that effect, and, on the contrary, if their opinion is the reverse, that we may have the benefit of that.

Mr. JOHNSON. The Chief Justice very naturally, I think, is exceedingly unwilling, if he can be made constitutionally, to discharge this duty. I have not seen him, nor have I heard directly from him; but from what I have heard I doubt very much whether, he will perform the duty; and what I wish to suggest is, that if he does fail to perform it perhaps the law will fail altogether. We might of course have left the selection of registers to the district courts, but we have not done that. By the law as it stands they have no authority to appoint a register without a nomination by the Chief Justice. The appointing power, therefore, which we have conferred on the district courts is with the two combined, just as is the appointing power in the President and the Senate. Neither has it altogether, and neither can exercise it alone. My fear, therefore, is that if the Chief Justice, either because he thinks we have no right to impose the duty upon him or because it will interfere with his other judicial duties, will not perform this duty, the law may fail altogether.

I repeat I have no knowledge except what I hear in the way of rumor; but I see it stated that he has declined acting until the Supreme Court shall be in session. I infer from that (for I cannot imagine what he desires to consult the judges of the Supreme Court upon, unless it be that) that he proposes to take the opinion of that court as to the constitutionality of this provision, and I am by no means certain that the judges will not hold that Congress have no authority to impose this duty upon any one of the judges. My recollection is that some of the original pension acts, passed soon after the organization of the Supreme Court, devolved a portion of the duty upon the judges of the circuit courts to examine into claims for pensions, and they held that that was not a judicial matter; that Congress had no authority to impose the duty on them; they might or might not discharge it; and some of them did and some did not.

My apprehension is that if he takes, as I see by the papers he means to take, the opinion of the judges of the Supreme Court on the validity of this legislation of ours, they will come to the conclusion that it is one which we had no right constitutionally to adopt, and hence he will decline to discharge the duty. Then what is to become of the bankrupt act? How are the registers to be appointed?

I know it may be said—I think the honorable member from New York suggested to me in private—that the whole effect of deciding that particular provision to be unconstitutional would be to strike that out and leave the rest of the law to stand; but I do not understand the principle upon which that suggestion was made to be the rule. If two subjects in a bill are so connected together as not to be separable in their nature, then if any portion is decided to be illegal the whole falls. Then, if I am right in thinking that this appointment, as we have conferred it, is an appointment vested in the two combined, and not intended to be vested in one, then if they shall come to the conclusion that one of the combinations is one which we had no right constitutionally to make, the other will drop; the law will fail.

I therefore concur with my friend from Illinois, the chairman of the committee, that we should make this change if we can. Now,

it is said, and may be said correctly, (the honorable member from New York may predict certainly the fate of this measure,) that a provision like this, striking out the clause giving the Chief Justice the nomination, would not meet the concurrence of the other House. That is possible; but then we get clear of our obligation, as I understand it, in proposing to strike it out. If the House refuses to concur, the law stands as it is; but I do not know that the House will so act; I have no judicial notice, so to speak, that the House will so decide, and particularly when it is brought to their attention at the instance of the Chief Justice, who is very anxious, as I understand, to get clear of this particular duty. His judicial duties now, if he discharges them properly, as I have no doubt he designs to do, are sufficiently arduous. I do not know any office in the gift of the Government more important and which requires more close and exclusive attention than that of the Chief Justice of the United States or judge of the Supreme Court. I think their whole time ought to be taken in studying the great questions which they are called upon to decide, in becoming masters of jurisprudence in all its branches; and to place either of them in a position which apparently gives him political power is to injure the country and at the same time injure the judge. I am therefore very anxious to relieve him so far as I am concerned.

Mr. DIXON. When the bankrupt act was on its passage before the Senate I had very great objections to the provision vesting in part the power of appointment in the Chief Justice. I doubted its constitutionality. I agree with the Senator from Illinois that there is a very grave question as to the power; in fact I do not believe there is any power in Congress to vest the appointment in any mode in the Chief Justice as has been done. But, sir, that was not my principal objection, although that is a serious objection, and one which ought to be raised here if anywhere, although the Senator from New York thinks it ought not to be raised here. Certainly, if there is objection we ought to consider it; here is the very place to consider it in the first instance. We do not want an unconstitutional law on the statute-book upon a subject of this kind.

But, sir, my principal objection is of another character. I think the Chief Justice is not the proper man to make these selections; not that I have not perfect confidence in him; no man on this floor has greater confidence in the Chief Justice of the United States than I have; I consider him as pure and spotless as he is able; but I say this is not the proper business of any Chief Justice. I do not wish to vest in the Chief Justice of the United States political power of this kind. I, in the first place, do not wish to burden him with it; and in the second place, if I were willing to impose on him that burden, I do not think it a proper duty for him to perform. What have we seen? The rush has commenced, the testimonials are pouring in upon him with regard to these appointments, and this has already assumed a political character. It cannot be otherwise. The applicants are sending in their testimonials, not only as to their qualifications, but as to their politics. That I am informed is the case in the part of the country in which I live. Ought the Chief Justice be subjected to this? It certainly is not kind to impose upon him this duty. Therefore, as I say, while I consider him a man out of the reach of any improper influence as much as any man who ever lived, I do not wish to impose upon any Chief Justice of the United States a duty of this character. I think the law ought to be repealed.

Mr. EDMUNDS. I believe that I voted against giving this power to the Chief Justice when the bankrupt bill was under consideration; but a majority of the Senate having decided to leave it there, all of us who were in favor of the general principles of the bankrupt law, including I believe my distinguished friend from Maryland, voted for the bill. Now, it is said by my friend from Maryland that he sees

by the papers that the Chief Justice is about to consult his colleagues on the bench as to the constitutionality of this provision, and by implication it is—

Mr. JOHNSON. Permit me to correct the honorable member. I did not say that, certainly did not mean to say it; I said I saw he was about to consult his colleagues, and I can imagine no other purpose of consulting them except this.

Mr. EDMUNDS. Very well, take it so. Then the irresistible inference is that if upon such a consultation *ex parte*, in private, he should come to the conclusion that this provision of the law is not constitutional, he would not exercise the duty that the law imposes upon him of making these nominations. Now, in the first place, I wish to enter my protest in advance against the Chief Justice or any other citizen, be he high or low, the President of the United States or the General of the armies, or whoever he may be, undertaking to get the opinion of the Supreme Court upon any question upon a law that may come before them for consideration in advance and *ex parte*. And in my judgment there would be no more justification in the Chief Justice refusing to obey what this law requires him to do, after such a consultation and after such advice, than there would before, because it drives us to this alternative: we pass a law, and any officer who is required to do something under it has it in his power, on account of his official or other relations to some court, to get their individual opinions as to how they are going to hold the law, valid or invalid; and if they think they shall hold it invalid, then he nullifies it; and that is to be his justification. The practice of the Government, I believe, so far has been, and the only practice upon which Government can be securely administered, to obey the law which the law-making power passes, including the approval of the Executive—to obey and execute that law until on a proper case, with regular parties, and after fair deliberation and argument, and both sides of the controversy are contested, it shall be held to be invalid.

Now, what should we say as to any executive officer of the country, the President of the United States, for illustration, if upon doubtful and debated and disputed questions we should be told that he had privately got the opinion of the Supreme Court that such and such provisions which we had enacted into a law, either with or without his consent, would not stand, and therefore he did not choose to put them in force? Either some very serious consequences would happen to him, whoever he might be, or the Government might be entirely broken up. It is the business of the Supreme Court to decide cases, not to act as counsel even for one of their fellows; and the fact that this officer happens to be the Chief Justice is no more reason for his getting an *ex parte* opinion in advance than it is for any other citizen—not a particle. I do not by any means suppose that he intends to do it; I am sure he cannot intend to do it, because, to my mind, it would be exceedingly improper and unfair.

Then the question is, what are we to do? We have passed this law; we have passed it upon consideration here, against my opinion as to its propriety, and against very grave doubts that in my humble and limited knowledge of the law I have as to its constitutionality; but we tested the question in this body, and decided by a considerable majority that we would allow it to stand as it is.

Mr. TRUMBULL. A tie vote.

Mr. EDMUNDS. My friend from Illinois says it was a tie. No matter; a majority decided to leave it as it is. I wished it to be otherwise; I wish it were otherwise now; but if we go into the consideration of questions of this sort over and over again at the same session, when they have been before fully considered, merely because we impose an inconvenient and disagreeable duty upon some officer, we shall never have any end of such things, and the country will be worse off than before. I take it, my friend from Maryland will agree



and my friend from Illinois will agree, I have no doubt, that if these registers are appointed and proceed to exercise the functions of their office, their acts will be held to be valid as between the bankrupt and his creditors, although the court on some case made may hereafter decide that the appointment was not regularly made. I believe the principle of law to be clearly admitted by everybody that the title of an officer to the office he holds—and that is this question—cannot be contested in a suit *inter partes* where he merely acts as between them. In a suit against him these registers might run some risk if they had any power, to harm anybody and the question could be raised; so that no great injury will result even if it should be ultimately held that these appointments ought not to have been made in that way.

Therefore, while I agree that it ought to be otherwise, and voted that it should be otherwise, the House by a large majority and the Senate by some majority have decided recently to leave it as it is. I think, then, we should only do injury to the public rather than good if we undertook to disturb it. These are my reasons for voting against on this particular question what under other circumstances I would be glad to vote for.

Mr. DIXON. I desire to ask the Senator from Vermont a question which he is competent to answer. Suppose the register were appointed illegally, and that were admitted; suppose the law provided that this important officer, register in bankruptcy, should be appointed by the mayor of Washington, who is acknowledged to have no power whatever over the subject, who could not be vested with power to make the appointments—in a case like that I ask the Senator whether there would not be a question as to the validity of the certificate of discharge granted to a bankrupt by a register so appointed?

Mr. EDMUNDS. Undoubtedly there would be a question, because you can scarcely state a case in which there will not be a question; but I will state in answer, to my friend with entire frankness for his benefit, though I do not usually give opinions gratis, that in my opinion a certificate of discharge granted under those circumstances would be valid, because the question of the validity of the certificate of discharge must necessarily and exclusively arise, so far as the bankrupt and his creditors are concerned, in a suit by some creditor to enforce payment of a balance of some old debt notwithstanding the certificate, and in such a suit, in my opinion, the court would not go into an inquiry—I believe the decisions are uniform on that point—as to the rightfulness of the appointment of the officer holding the office that he professed to hold. I think that if the register were *de facto* a register, the question as to whether he were *de jure* such or not could not be considered.

Mr. SHERMAN. The proposition now is to relieve the Chief Justice from a very unpleasant and onerous duty. Before I make one or two observations on that point, I desire to answer the objection made to this proposition.

The Senator from Vermont objects that it shows a kind of inconsistency or uncertainty in our legislation that we are now asked to undo what we have done so recently. With the example just before us of the repeal of a law which passed the Senate by a unanimous vote of the body, it is scarcely necessary to pay much attention to an admonition of that kind. The bill we have just repealed was, I think, passed a short time ago without a division.

Mr. HENDERSON. Oh, no. The yeas and nays were called upon it, and the vote was 39 to 10.

Mr. SHERMAN. Then it was passed by the Senate by a vote of three to one, after a statement made by the Senator who had it in charge; and now we repeal it with scarcely any contest. We are doing that all the time. The proposition which it is now proposed to

repeal only failed of being stricken out of the bankrupt bill by a tie vote.

The Senator from New York says the House of Representatives will not agree to this measure. It seems to me that argument is rather too often used here. If the House of Representatives will not agree to it there is no harm done by our passing it, and we shall have done our duty by sending it there. I think it is not right, though we constantly do it, and I often do it myself, to say here what the House will do or will not do. We ought to act upon the questions that come before us on their merits, and let the other House act according to its judgment and on its responsibility. That is undoubtedly the parliamentary rule, though we all violate it to some extent.

Now, what is the real character of this proposition? It proposes to relieve the Chief Justice from the duty of nominating registers in bankruptcy. The number of registers is not fixed. By law they cannot be less than one for each congressional district, and consequently they cannot be less than about two hundred and forty; and they may be ten thousand, because there is no limit in the law. There may be just as many registers as the courts choose to appoint; but there cannot be less than two hundred and forty. The Chief Justice has no power to appoint these registers. The Constitution does not give him the power, nor enable us to give him the power, because he is not a court. The district courts may exercise that power; but we say in our law that before the district courts shall exercise the power the Chief Justice shall nominate, so that the truth is that we require the appointment to be made by the Chief Justice, and it is indirectly violating the Constitution.

But waiving that question for a moment, look at it as a matter of expediency. Is it right for us to require an appointment to be made upon the nomination of a person who has no right to appoint? I say it is not. Now, what is the result? The result is that the Chief Justice is overrun, and has been from the date of the passage of the bankrupt law, with applications without number. I have not seen him since the passage of the bankrupt law; but I have sent to him myself not less than fifty letters containing applications to be nominated as registers in bankruptcy, and I have no doubt my colleague has done the same, and so, probably, has every Senator. The result is that he has to examine a voluminous correspondence, because when he opens a letter he cannot tell whether it relates to an application to be a register or to some important private business of his own. He must examine these letters, and not only that, but he is now—at least I am informed from the best authority—that he is overrun by visitors who, having no knowledge of the precious character of his time, prevent him from performing the ordinary functions of his office as Chief Justice, so that he has no time to write opinions. He has to deny himself to everybody in order to prevent the invasion of his time. This is what I am informed; I have not seen him myself.

The Senator from New York thinks this duty can all be done in two days. If the Chief Justice had nothing to do except to go and see the members or call on the members he might prepare lists in two days; but the people would not be satisfied with that. Every man who wants to be a register in bankruptcy thinks his application more important than anything else, and he wishes to see the Chief Justice. If he sees one person he cannot deny himself to others. Then if we go and recommend persons to him he must hear us patiently. If the member from the district and the Senator from the State disagree, he must hear a controversy between them. The result is, that although the duty itself might properly be discharged if he was at liberty to take up the matter and dispose of it as he can the docket of his court, and do it promptly, yet when he is compelled to hear all sorts of representations, to read all these letters, to go into the exam-

ination of the recommendations of the various persons suggested as registers, it does impose upon him a duty which is totally inconsistent with his office; a duty which we know from the nature of it is unpleasant and obnoxious. It compels him to deal out patronage when he should not have anything to do with it. There is no necessity for bringing him in contact thus with Senators and Representatives to settle controversies between them.

In accordance with the vote I have always given on this question—for I have always voted against giving the nomination to the Chief Justice—I am in favor of this bill. I am willing to confer the power to appoint registers upon the district courts who have to pass upon their doings. These registers are mere aids to the judges of the district courts. They prepare the schedules and designate the forms, and to a great extent act as commissioners or masters in chancery under the practice of many of the States. They are mere aids to the district courts, and it seems to me they ought to be appointed by the district courts. It is true that in some cases the district judges are not men who agree with us in political opinions, and perhaps not very good men always, and they may not appoint such persons as we would like to have; at the same time they are the best persons who can be constitutionally designated to make these appointments, because these registers are their aids, and it is right that the district courts should have the power to designate men in whose judgment they have confidence to discharge this duty. The courts can remove them when they do not discharge properly the duty imposed on them by law. Besides, the proper making of these appointments requires local information which the district judge must necessarily have. The lawyers from all parts of his district practice before him, and he would know best who to appoint, he would know best the character of mind of the various lawyers of the district.

This is an important consideration, I know, from the number of applications that are sent to me from all parts of the State of Ohio, and, indeed, from all parts of the United States, for I have had at least a dozen applications from the city of New York, from men whom I do not know, urging strongly that such and such a person be appointed register of bankruptcy. As a matter of course I can do nothing except to send the letters to the gentleman who has the power to appoint. He is compelled to read them; they go to him under my frank. So with all of us. He is compelled to read an application from some one in New York through me to be appointed register in bankruptcy. It seems to me that this is a duty which we ought to relieve him from and relieve him promptly.

Mr. BUCKALEW. I think this is a very clear question. By the Constitution Congress is authorized to vest the appointment of certain subordinate officers in the President alone, in the courts of law, or in the heads of Departments. Under the bankrupt bill, as passed by the Senate and agreed to by the House of Representatives, the appointment of registers in bankruptcy instead of being vested in the courts of law, were vested in the head of the Supreme Court, the Chief Justice. I understand that he feels burdened by the duty charged upon him by the existing law. The present bill is to remove from him that burden and to vest these appointments in the district courts, of which these registers are really officers. I think there can be no question that we should assent to the view which he holds, and which the Constitution obviously requires, that the appointments shall be made by the courts of law and not by a particular judge. I am, therefore, in favor of the bill. I consider the provision in the bankrupt bill as passed confining the appointment of these officers to the Chief Justice of the Supreme Court a violation of the Constitution, while the present bill conforms to it.

Mr. JOHNSON. The Senator from Ver-

mont I think is mistaken when he says that the Chief Justice would be guilty of what he imagines to be a dereliction of duty if he should, as I supposed he might, consult the judges of the Supreme Court on the constitutionality of this clause. I do not see it in that light. If he doubts whether the law is valid as far as it concerns him, why should he not consult those in whom he has entire confidence? He does not consult them as a court. He consults them just as I would consult the honorable member from Vermont if I doubted upon a legal question; and it is very often done. It has been done more than once, I know, by that tribunal in former times; but it never was supposed to be obnoxious to the slightest censure for a judge of the Supreme Court to consult his brethren upon a question of law which was to be before him, either individually or as a court.

Mr. EDMUNDS. That is a different question.

Mr. JOHNSON. No; if we have put this power upon him at all it is as the Chief Justice of the Supreme Court.

Mr. EDMUNDS. But to perform an executive duty.

Mr. JOHNSON. Well, suppose he thinks it an executive duty and you have no right to impose an executive duty on him, and he is not satisfied and he wants to be satisfied; he wants to discharge it if he is satisfied that Congress had a right to impose it upon him. He does not wish to conflict with the opinion of Congress unless he is very clear, and in order to be clear he proposes, if he does propose it—I do not know that he does—to take the opinion of his brethren whether in their judgment that duty can be properly imposed upon him.

The honorable member from Vermont also said that if the registers are appointed by the district court in fact, the validity of that appointment cannot be inquired into collaterally in a suit instituted by the register as register. Now, in the first place, I think that is not altogether sound; but supposing it to be sound, that does not get rid of the difficulty which I suggested. Suppose the judges of the district courts think that they have no power to appoint without the nomination of the Chief Justice, and he does not nominate them, will not appoint—

Mr. EDMUNDS. Then they nullify the law.

Mr. JOHNSON. No; they do not nullify the law at all. We nullify the law by not putting it in their power constitutionally to execute the law. Does the honorable member suppose the district courts would assume a power not granted? The presumption is that they would not; and if, therefore, they should come to the opinion that they have no authority under the law as it stands to appoint registers without the nomination of the Chief Justice, they will not appoint. Then the law ceases to operate practically.

Mr. EDMUNDS. Their duty in that respect is not a duty to try and determine some question, but it is a duty to do a particular thing that the law imposes upon them. We do not submit any judicial discretion or judicial duty to them at all. It is a particular act which the law requires them to do. My proposition is, that that being the nature of the thing, because the person upon whom this duty is imposed happens to be the judge of a court, he has no more right to decide in advance "this law is not constitutional, and therefore I will not do anything about it" than any other citizen has. And if a district judge takes the responsibility of refusing to do an act imposed upon him to do, he takes the same responsibility with any other citizen, and must take the consequences.

Mr. JOHNSON. The honorable member is mistaken. We impose it on them as a court.

Mr. EDMUNDS. But we do not leave any discretion.

Mr. JOHNSON. As a court they are to act.

Mr. EDMUNDS. It is not a judicial duty.

Mr. JOHNSON. It is quasi judicial. You give them jurisdiction over the question of

bankruptcy, and everything connected with the discharge of that duty is quasi judicial; but if they come to the opinion that they have no authority to execute the law so far as the appointment of registers is concerned, unless the Chief Justice nominates them, they will not appoint.

Mr. EDMUNDS. My friend says it is quasi judicial. It is no more judicial—quasi or otherwise—than any other executive duty or other actual duty that is imposed upon a court to do something. The deciding of a cause is a judicial duty. The proceeding to hear it is a duty not judicial. If the judge refuses to proceed to hear a cause, a higher court by *mandamus* compels him to go on; and yet my friend will agree that a judge could not be compelled by *mandamus* to decide one way or the other.

Mr. JOHNSON. Unquestionably not.

Mr. EDMUNDS. For the reason that it is his duty to go forward and hear the cause; not in the sense of being called upon to decide one thing or another, but to do, to proceed, to act; and therefore the proceeding to act is not a judicial duty or quasi judicial in the sense in which I am now considering the term.

Mr. JOHNSON. Now, if the honorable member supposes there is any distinction between such a case as he mentions and the case I supposed to exist I think he is mistaken. We deal with them as a court in the bill. The honorable member gets clear of the objection that they have no right to decide as a court in relation to the obligation to do what we impose upon them as a court, by saying that we only ask them to do as a court what we would have the authority to ask any individual to do as a citizen. That is a great mistake. You have no power to direct the courts of the United States to do any act not in accordance with their official duties as a court. Otherwise you might burden them to the extent of destroying them altogether and compel them to resign. Their duties are under the Constitution of the United States strictly judicial.

Mr. EDMUNDS. The Constitution gives us express authority to impose on them this executive duty, of the appointment of any officer we choose.

Mr. JOHNSON. It gives you authority to impose it upon them as a court. That is what I mean to say. Then you have imposed on them the duty as a court; and if, as a court, they have no power to execute this law, because the Chief Justice is connected with them in the exercise of the power of appointment and he refuses to act, they will say they will not act, and thus they will not execute the law.

Mr. EDMUNDS. That may be, but they are like anybody else then.

Mr. FESSENDEN. I should be very glad indeed to relieve the Chief Justice of this burden that has been imposed upon him, and would vote to do so if I did not believe that the effort would result in nothing. I have no trouble about the constitutional question. The appointment made in terms by the district court, and the fact that it is made upon the nomination of the Chief Justice, does not render that appointment invalid in my judgment. You might just as well say that requiring the appointment to be made by the court from among a distinct class of people, as lawyers, would make it invalid. You can limit them if you choose to do so. The district court is not obliged to appoint the men named by the Chief Justice, but it may reject them, so that the appointment after all comes from the district court, though limited in the statute in a particular way.

Mr. JOHNSON. Let me ask the Senator in regard to an officer required to be appointed by the President, by and with the advice and consent of the Senate, can the President appoint without the consent of the Senate?

Mr. FESSENDEN. No, sir; but the language in the two cases is not the same. The

constitutional provision is, that the President shall appoint by and with the advice and consent of the Senate. The Senate, therefore, cannot appoint without the action of the President; but in this case, although the district courts cannot appoint without the action of the Chief Justice they do appoint.

Mr. JOHNSON. The President cannot appoint without the consent of the Senate.

Mr. FESSENDEN. Exactly, and it is only changing the direction. But that is a matter which it is not worth while to argue, for lawyers will have different opinions about it. I see no difficulty in the way of the provision we have enacted; and if these registers should be appointed in this way and go through with their labors, and a decree in bankruptcy should be entered, I do not think even my friend from Maryland would contend that anybody could go behind that decree to inquire as to the manner of the appointment of the register after the decree had been made. That point has been settled too often in cases somewhat similar to leave any question about it.

Notwithstanding that, the proper mode would have been undoubtedly to vest the appointment in the district courts originally, and I was in favor of it. The district courts are the courts of bankruptcy, and they should have the appointment. But that could not be done. We all understand exactly how the matter was. The House of Representatives insisted upon vesting the appointment in the circuit courts, because they did not like some of the district judges. The Senate were disposed to vest it in the district courts, or a portion of the Senate were, because they did like some of the circuit judges; and so it stood, and a compromise was made and fairly agreed upon here in the Senate that we should strike out the "circuit courts" and insert the "district courts," and leave in the bill the clause requiring the nomination of the Chief Justice. That was understood at the time, and was the only way in which the matter could be settled. Now, if we attempt to change it and send this bill to the House of Representatives, the result will be that we shall be just where we were before.

Mr. TRUMBULL. My friend from Maine, I think, is mistaken about the history of the bill. I think it came from the House just as it now stands.

Mr. FESSENDEN. No, sir; as it came from the House it provided that the appointment should be by the circuit judges.

Mr. TRUMBULL. That is not my recollection.

Mr. FESSENDEN. It is so certainly. The House bill provided for appointing the registers by the judges of the circuit courts on the nomination of the Chief Justice. The amendment made by the Judiciary Committee was to strike out "circuit" and insert "district," and also to strike out the clause requiring the nomination of the Chief Justice; but a compromise was made as I have stated; and that compromise having been made and agreed to and the bill passed, and many members having gone home, I do not think it wise at this period of the session to change it. I have no doubt that although the duty is onerous it will be discharged by the Chief Justice if Congress, having imposed it upon him, see fit to keep it on him. I would gladly and willingly relieve him if I could, if I saw that the thing was practicable, that it could be done; but convinced as I am that any effort in that direction must fail, or that if it did not fail it will bring it back to where it stood originally, putting the power in the hands of the circuit judges, to which I am utterly opposed without any limitation, I shall vote against this bill.

Mr. ANTHONY. I wish my friend from New York would withdraw the motion to commit to allow me to offer an amendment, so that if the bill be referred the amendment will go with it, and then the motion can be renewed.

Mr. CONKLING. Very well; I withdraw the motion for that purpose.

Mr. ANTHONY. I wish to offer an amend-

ment. There has been a great deal of misapprehension, and there is still a great difference of opinion, as to the time when the bankrupt law takes effect, although I believe opinions are settled down that it takes effect in some of its provisions immediately. It was certainly the understanding when the bill passed that it took effect on the 1st of June, and that was the general impression. It is certainly somewhat unfair that a measure making so great a change in commercial affairs and in credits should go into effect without any notice whatever. I offer an amendment with a view to remedy that, that the bill shall go into effect on the 1st of June.

Mr. DRAKE. I call the attention of the Senator from Rhode Island to the last section of the act, which covers the case.

Mr. ANTHONY. It does not cover the case, I am sorry to say. I want the amendment acted upon, and then if the bill is referred to the committee the amendment goes with it.

The PRESIDENT *pro tempore*. The amendment will be read.

The Secretary read it, as follows:

*And be it further enacted*, That the fiftieth section of an act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, is amended so as to read as follows:

This act shall take effect on the 1st day of June next: *Provided*, The appointment of officers created thereby, and the establishment of rules and general orders under said act, may be made at any time after the passage of this act: *And provided further*, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act.

Mr. CONNESS. Is that amendment now pending?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. CONNESS. Will not a motion to refer the bill and amendment to the committee be now in order?

The PRESIDENT *pro tempore*. It will be.

Mr. CONNESS. I make that motion.

Mr. ANTHONY. I ask the Senator to allow a vote to be taken on the amendment.

Mr. CONNESS. Why not submit it to the consideration of the committee? We have spent the entire day on this bill already.

Mr. ANTHONY. I will tell the Senator precisely why I want it done. If this amendment meets the approbation of the Senate, and the bill is referred, I shall then offer it as a separate bill. If the bill is referred, I am afraid it will not be reported again.

Mr. CONNESS. The reference of this amendment will not preclude the Senator from offering it to-morrow as a separate bill. He may offer it to-morrow and ask the Senate to consider it.

Mr. TRUMBULL. I merely wish to say that I presume it is understood in the Senate that if the bill is referred there will be very little probability of any action upon it at the present session. There can be no object in referring it. It is understood in the Senate. If it is referred, it will hardly be practicable for us to report it back and consider it at the present session of Congress, which is about drawing to a close. If it is intended to pass the bill, we had better pass it without a reference.

The motion to refer was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the joint resolution (H. R. No. 6) placing certain troops of Missouri on the same footing with others as to bounties.

The message also announced that the House had passed the joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, with an amendment, in which the concurrence of the Senate was requested.

The message also announced that the House had passed the joint resolution (S. R. No. 25) to make valid the laws of New Mexico, passed at the session of the Legislature held at Santa Fé, from the 3d day of December, 1866, to the 31st of January, 1867.

#### ENROLLED RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 6) placing certain troops of Missouri on an equal footing with others as to bounty; and it was signed by the President *pro tempore*.

#### EDUCATION IN THE DISTRICT.

Mr. DIXON submitted the following resolution; which was referred to the Committee on the District of Columbia:

*Resolved*, That the Commissioner of Education be directed to inquire into the educational interests of the District of Columbia, ascertain the condition and number of children over the age of six and under eighteen years of age, and the general efficiency of the school system now in existence therein, and report at the next session of Congress, with such suggestions of reform as he may deem necessary to provide a thorough system for the education of all the youth of the District.

#### CONDITION OF WOUNDED SOLDIERS.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Foreign Relations be directed to inquire and report as to the propriety of the United States becoming a party to the treaty concluded at Geneva on the 22d day of August, 1864, "for the amelioration of the condition of wounded soldiers of armies in the field," which treaty has already received the assent of the Governments of Italy, Baden, Belgium, Denmark, Holland, Spain, Portugal, France, Prussia, Saxony, Wurtemberg, and the Federal Council of Switzerland.

#### BILL INTRODUCED.

Mr. ANTHONY. I ask the unanimous consent of the Senate to introduce a bill, which I wish to have printed and laid upon the table. It is substantially the amendment I have just offered to the bill of the Senator from Illinois.

There being no objection, leave was granted to introduce a bill (S. No. 106) to amend the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read twice by its title, ordered to lie upon the table, and be printed.

#### MAIL CONTRACT WITH A SENATOR.

The Senate proceeded to consider the amendment of the House to the joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department, which was to add the following proviso:

*Provided*, That the Postmaster General, in accordance with the usage of the Department, shall have the power to reject any bid which he may deem exorbitant.

The amendment was concurred in.

#### ARMS TO TENNESSEE.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee, which was to strike out "twenty-five hundred" in line five and to insert "ten thousand."

The amendment was concurred in.

#### WRAPPING-PAPER.

The Senate proceeded to consider the amendment of the House to the amendments of the Senate to the bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, which was to add after the first Senate amendment the following:

SEC. 3. *And be it further enacted*, That wrapping-paper made from any other material than that cited in the first section shall be also exempt from internal tax.

SEC. 4. *And be it further enacted*, That from and after the passage of this act ladders made wholly of wood shall be exempt from internal tax.

The amendment was concurred in.

#### INDIANA AND OHIO WAR CLAIMS.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred this afternoon the joint resolution introduced by the Senator from Indiana, [Mr. MORRISON,] to report another bill as a substitute for that. It takes the West Virginia and Missouri bills as a model, and adapts them to the State of Indiana and the State of Ohio. I hope there will be no objection to passing the bill now. The Senator from Indiana is very anxious to pass it, because he thinks he can get it through.

By unanimous consent, the bill (S. No. 105) to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning military forces to aid in suppressing the rebellion, was read twice, and considered as in the Committee of the Whole. It provides for the appointment by the President, by and with the advice and consent of the Senate, of three commissioners; who are not residents of the State of Indiana, to ascertain the amount of money expended by that State in enrolling, supplying, equipping, subsisting, transporting, and paying such State forces as have been called into service in that State to act in concert with the United States forces in the suppression of the rebellion against the United States. No allowance is to be made for any troops which did not perform actual military service in full concert and co-operation with the authorities of the United States and subject to their orders; and no greater allowance is to be made for any service or expenses than would be made for similar services or expenses in the Army of the United States. The previous provisions are to apply in every respect to the State of Ohio in regard to the amount due to that State.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. HOWE. I move that the Senate adjourn.

The motion of Mr. Howe was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, March 22, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### LEAVE OF ABSENCE.

Mr. CULLOM. I desire to ask leave of absence for my colleague, Mr. BROWELL, for the remainder of this session, on account of serious illness in his father's family. And I also desire to state that my colleague has been absent from his seat in this House for the last two or three days on account of indisposition.

No objection was made, and leave of absence was accordingly granted.

#### ADDITIONAL EXAMINERS IN PATENT OFFICE.

Mr. MYERS. I ask unanimous consent of the House to have considered at this time House bill No. 28, to increase the force in the Patent Office. The passage of the bill is demanded by the condition of the business in the Patent Office at this time. The bill was framed under the supervision of the Commissioner of Patents.

Mr. SPALDING. I object; and call for the regular order of business.

#### RELIEF OF DESTITUTE IN THE SOUTH.

The SPEAKER. The first business in order is the consideration of Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States, which was reported with amendments from the Committee of the Whole on yesterday. The previous ques-

tion has been seconded and the main question ordered on the joint resolution and pending amendments.

The first amendment reported from the Committee of the Whole was to strike out of the joint resolution the following:

And that the sum of \$1,000,000 be hereby appropriated from funds in the Treasury of the United States not otherwise appropriated, the same to be expended under the direction of the Commissioner of the said bureau for the purchase and issue of the said supplies of food.

And insert in lieu thereof:

And to that end the Secretary of War is hereby authorized and directed, through the Commissioner of the Freedmen's Bureau, to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations.

The amendment was agreed to.

The next amendment was to insert in line five of the joint resolution after the word "classes" the words "of destitute or helpless persons."

The amendment was agreed to.

The last amendment was to add to the joint resolution the following:

*Provided*, That the expenditures shall not extend beyond the present appropriations already made for the Freedmen's Bureau.

The amendment was agreed to.

The joint resolution, as amended, was then read the third time.

The question was on the passage of the joint resolution.

Mr. BINGHAM. I call for the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. STEVENS, of Pennsylvania. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 81, not voting 35; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Archer, Baker, Banks, Barnes, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Boyer, Brooks, Broomall, Buckland, Burr, Chanler, Churchill, Reader W. Clarke, Coburn, Cornell, Donnelly, Eggleston, Eldridge, Ferriss, Ferry, Fox, Garfield, Getz, Glossbrenner, Haight, Halsey, Hamilton, Hayes, Holman, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Judd, Julian, Kelley, Kerr, Ketcham, Kitchen, Koontz, Lincoln, Mallory, Marvin, McCarthy, Mercer, Miller, Morrell, Morrissey, Munger, Myers, Newcomb, Niblack, Nicholson, Noell, Orth, Perham, Peters, Pile, Plants, Poland, Polseley, Pruyn, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stewart, Taber, Taylor, Trowbridge, Twitchell, Upson, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Henry D. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—98.

NAYS—Messrs. Benjamin, Butler, Calkins, Sidney Clarke, Cook, Covode, Cullom, Dodge, Driggs, Eckley, Farnsworth, Fields, Finney, Gravely, Hopkins, Hunter, William Lawrence, Loan, Logan, Moore, O'Neill, Paine, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Thaddeus Stevens, Cadwalader C. Washburn, Welker, and William Williams—81.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Baldwin, Bromwell, Cobb, Dawes, Denison, Ella, Eliot, Griswold, Harding, Hill, Hooper, Kelsey, Laffin, George V. Lawrence, Loughridge, Lynch, Marshall, McClurg, McCullough, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Raum, Selye, Stone, Taffe, Thomas, William B. Washburn, Stephen F. Wilson, and Wood—35.

So the joint resolution was passed.

Mr. BINGHAM moved to reconsider the vote just taken; and also moved that the motion reconsider be laid on the table.

The latter motion was agreed to.

#### EXPENDITURES FOR ORDNANCE.

Mr. VAN WYCK asked unanimous consent to introduce a joint resolution relating to expenditures for ordnance.

The joint resolution, which was read for information, provides that no more large guns or cannon of any kind shall be ordered, purchased, transported, or mounted at the cost of the United States, until it has been determined by practical experiment that guns of the largest sizes, such as are now placed on ships or forts, are capable of enduring heavy

charges and of being fired rapidly; that no more projectiles, carriages, implements, or stores intended for such guns shall be paid for until the qualities of the guns shall thus be determined; that no more of the Springfield or other muskets shall be altered to breech-loaders of those which require the barrel to be lined for the purpose of reducing the caliber.

Mr. CHANLER. I object.

Mr. VAN WYCK. I desire to appeal to the gentleman to allow the resolution to be introduced, and referred to the Committee on Retrenchment.

Mr. CHANLER. Why should it not be referred to the Committee on Ordnance when appointed? I understand the House has adopted a resolution providing for the appointment of a committee to take charge of this very subject. Why should the gentleman seek to anticipate in this way the action of that committee?

The SPEAKER. The gentleman from New York objects to the introduction of the resolution, and it is not before the House.

Mr. VAN WYCK. I move to suspend the rules that the resolution may be introduced, and referred to the Committee on Retrenchment.

Mr. CHANLER. If the resolution is to be referred I withdraw my objection to its introduction.

There being no objection, the joint resolution was introduced, read a first and second time, and referred to the joint select Committee on Retrenchment.

#### RIVER IMPROVEMENT.

Mr. BAKER. I have sent to the Clerk's desk, under the rule, and had referred to the Committee on Commerce a memorial and resolution of the river improvement convention held at St. Louis in February, 1867. As these papers emanate from a very important body and have reference to a great material interest, I ask that they be printed.

The SPEAKER. If there be no objection, the documents will be ordered to be printed.

There was no objection.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had indefinitely postponed a joint resolution (H. R. No. 29) to extend to the employés in the quartermaster's and subsistence departments at Washington the provisions of the joint resolution giving additional compensation to certain employés in the civil service of the Government at Washington.

The message also announced that the Senate had passed a joint resolution and a bill of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 40) to provide for the payment of the claim of Richard Chenery; and

An act (S. No. 96) to establish a port of delivery at Chester, Pennsylvania.

#### HENRY A. SMYTHE.

Mr. HUBBARD, of West Virginia. I call for the regular order.

The SPEAKER announced as the first business in order during the morning hour the consideration of the resolution reported yesterday from the Committee on Public Expenditures.

Mr. HULBURD. I ask whether the House is willing an amendment should be made to the resolution which I reported yesterday. I ask the Clerk to read the resolution.

The Clerk read as follows:

*Resolved*, That it is the sense of this House that Henry A. Smythe should be immediately removed from the office of collector of the port of New York; and that the Clerk of the House cause a certified copy of this resolution to be laid before the President of the United States.

Mr. HULBURD. I move to amend so it shall read, "the President and Senate of the United States." It will then provide that certified copies shall be laid before the Senate as well as the President.

Mr. CHANLER. Has this testimony been

printed so that the members of the House have had any opportunity to revise it and see upon what this resolution has been based?

Mr. HULBURD. I do not wish to take up the time of the House, but I answer as far as this: it has not been printed except about two hundred and fifty pages, which I was able to get this morning.

I wish to say, in this action of the House, it must be borne in mind that one committee has already investigated this matter and reported in this direction. I wish also to say the present committee of this House in their committee-room had this subject under consideration, and had before them a portion of this testimony, and that, with two dissenting votes, they instructed me to report this resolution. With that explanation I ask the House to sustain the demand for the previous question.

Mr. CHANLER. This is a question of reputation, and I trust that my colleague will not press the previous question.

Mr. HULBURD. I insist on the demand.

Mr. CHANLER. It is unfair in every form.

The SPEAKER. Debate is not in order.

Mr. STEVENS, of Pennsylvania. If the gentleman will yield to me, I will test the sense of the House by saying Mr. Smythe shall be forthwith "impeached" instead of "removed."

Mr. HULBURD. I insist on the demand for the previous question.

The previous question was not seconded.

Mr. CHANLER obtained the floor.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to move an amendment before he proceeds?

Mr. CHANLER. Certainly, sir; I yield for that purpose only.

Mr. STEVENS, of Pennsylvania. I want to strike out the words "immediately removed" and to insert "be impeached; and that a committee be appointed forthwith to prepare articles of impeachment."

Mr. BLAINE. The committee has already been instructed to inquire into the subject of impeachment.

The SPEAKER. That was struck out of the resolution.

Mr. STEVENS, of Pennsylvania. I move the following as a substitute for the pending resolution:

*Resolved*, That it is the sense of this House that Henry A. Smythe, collector of the port of New York, ought to be impeached; and that the Committee on Public Expenditures proceed forthwith to prepare articles of impeachment.

Mr. CHANLER. Mr. Speaker, my object in taking the floor is not to enter into an argument to meet testimony which has never been published, nor to defend the character of a man who has been assailed in a committee-room in a corner of this building without knowing what the form of the assault may be. I am not going to undertake an impossible and unreasonable thing; but I have risen here to-day to arrest precipitate, unjust, and unfair legislation in the absence of an official of this Government under most serious charges. That is my sole object.

This gentleman's character is as dear to him as is that of any man's upon this floor is to him, and the more terrible the assault the more necessary it is that he should have counsel to appear for him at the bar of this House. We should not deny him all opportunity of self-defense.

I now yield for a moment to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I cannot vote for the resolution introduced by the gentleman from New York, because I look upon the appointment and removal of officers of the kind named as beyond the jurisdiction of Congress. It seems to me if we have a right to say this man ought to be removed, then certainly we have the right to name his successor and insist upon his appointment. I suggest to the gentleman from New York, [Mr. HULBURD,] before calling the previous question, that he modify his resolution so as to name the successor of Mr. Smythe. I suggest also that he name Horace



Greeley for the place. He will then be able to accomplish by one resolution his entire purpose, remove the incumbent and appoint such person as he may desire to hold the office. I think there can be no doubt that we have the jurisdiction to do the one as clearly as the other.

Mr. RANDALL. I think Mr. Greeley is too honest. [Laughter.]

Mr. CHANLER. Infer from the excellent and admirable suggestion of my friend from Wisconsin [Mr. ELDRIDGE] that he has probably found out the reason of the report of the majority of this committee; for in that suggestion he has given a hint to the country of those patriotic motives which actuate that very honorable and honest committee of this House.

Sir, to assail the reputation of a man on the general charge of infamy, to drag into that charge many persons connected with the Government, directly or indirectly, male and female, and then to concentrate the spirit of the investigation in the removal of an individual, thereby carrying before the country the impression that in his guilt all connected with him are involved, is wholesale destruction of character, consistent only with such republicanism as was known in Venice, as was exercised during revolutions in Europe, or as was exhibited at the early stage of the revolution through which we have just passed in this country.

Sir, I reiterate that the malignancy of this attack, not merely upon this individual but upon certain persons whom it has deemed necessary to assail by implication, as embodied in this resolution, without being based upon one written statement seen and examined by a single member of this body, except it be the honorable member who has a portion of the printed testimony in his own hands, is altogether wrong. So far as this House is concerned, so far as the body authorized by the Constitution to inaugurate impeachment is concerned, not one word of testimony has been laid before the House in a form available for investigation or worthy of the character of an impeachment or of the dignity of the question. Even in his preliminary speech the other day the chairman of the committee, having the testimony in his hands, withheld it from the Clerk when asked to have it read.

Now, sir, I recognize in the amendment offered by the gentleman from Pennsylvania [Mr. STEVENS] the proper remedy in this case. As I said at the opening of my remarks, I do not appear here either to prevent or to urge an investigation. I do not appear here to defend this man's character, but to demand in the investigation of his conduct that publicity which will be satisfactory to every member of this House and to the people we represent. I am desirous, as I before stated, of securing in the civil service of this Government a complete reform, and I believe that the custom-house organization in New York city is the very best spot in which to inaugurate that reform.

The whole question of crime, of dereliction from duty, of incapacity on the part of this public officer demands, if the gentleman can substantiate his charges, that the matter should be more than a mere personality, demands that we should establish a system which by its checks and balances will secure to the Government of the United States honest and efficient management of the revenues at our ports. I believe the amount of revenue received from foreign ports at the harbor of New York is some one hundred and thirty-eight million dollars per annum. As that system is now organized it is nothing but a political machine, to secure the proper working of which the proper man is put in the right place, with latitude of action and with responsibility enough to authorize him to work to the end of political success upon the plans laid before him by such responsible parties as are represented in national committees. By outside pressure from large political organizations, such as the Loyal League and others of that character, there is brought to bear upon the collector of the port of New

York and the collector of every port in this Union, upon the head of the Internal Revenue Bureau, and of every possible machinery by which this Government is carried on, the same political pressure, whether one party or the other is in the supremacy.

Now, sir, I protest against any action against an individual without full proof and until you show a disposition to reform the whole system. I believe the present incumbent is no worse than many who preceded him. He may be no better. The amount of money that passes through his hands is to a very large extent left to himself to account for in such manner as he may please. When the hour comes for settlement he has to adjust his balances between the merchants whom he is put there to guard and to account to the Secretary of the Treasury, whom he was put there to please, or by whom he was put there to please somebody of a similar faith.

There is nothing more unfair than to put a man in a place of great temptation, and then, without giving him an opportunity of being heard, arrest him and seize his papers, or leaving him in full possession of the proof of his guilt discharge him from his office and allow him to run riot in the land with all his knowledge of means of corruption and with all the profits of his wrong-doing in his possession.

Now, if it were possible to assail the chairman of this committee [Mr. HULBURD] with the charge of being influenced by improper motives, his enemies might say there was something of collusion in this matter. And I ask this House and that gentleman and the members of the committee who acted with him to bear in mind that *suppressio veri* is as great a crime as *suggestio falsi* in the eyes of justice and equity. If you believe this man to be guilty, then produce the proof of his guilt and have him punished. If he is not guilty, then in the name of justice let him go. When a man is branded by this House there is no city of refuge to which he can flee and by a term of years wash off the stain.

By this resolution it is proposed that this House shall sink to the level of a public prosecutor, without retaining to ourselves the dignity of a judge. You are asked to seize the whip and scourge a public officer from his place, without having that warrant of justice which is the only guarantee of proper action.

Now, myself and others here find ourselves, probably for the first time upon this floor, prepared to support a proposition of the gentleman from Pennsylvania [Mr. STEVENS], because he is now acting for the purpose of securing the ends of justice, to constitutionally protect the rights of a citizen, and fortunately for us and for the country that, too, irrespective of color or race, and I believe we stand ready to support the proposition for an impeachment when testimony sufficient to warrant such action shall be brought before this House, making the case such as we can stand upon before the world, uncompromised by our action either as colluding with this officer and shielding him from justice, or as being partisan and maliciously prosecuting a man without giving him a fair trial.

Mr. SHELLABARGER. Will the gentleman from New York [Mr. CHANLER] yield to me for a few minutes?

Mr. CHANLER. Yes, sir.

Mr. SHELLABARGER. I hope the proposition of the gentleman from Pennsylvania, [Mr. STEVENS,] looking to an impeachment, will take a different form. What has occurred in the history of this case, as I understand it, is substantially this: that one of the committees of this House was directed to investigate generally the affairs connected with the subject-matter of retrenchment, and perhaps the management of the affairs of the Government generally.

Mr. HULBURD. If the gentleman will allow me, I will state that the Committee on Public Expenditures of the last House were directed to investigate the affairs of the New York custom-house. The other subject to

which the gentleman refers was referred to another committee.

Mr. SHELLABARGER. Then I am corrected in that respect. But that does not affect the suggestion I was about to make. A committee was directed to examine into the affairs of the New York custom-house. The result of that examination was a report damaging to the proper management of that office.

Subsequently another resolution was adopted by this House directing further investigation into the conduct of the collector of the port of New York. And now that committee have brought forward a resolution asking the House to vote that that officer ought to be removed. And now my friend from Pennsylvania [Mr. STEVENS] makes a motion to substitute for that a resolution that this officer should be impeached.

It seems to me it will strike the mind of my friend, and of every other gentleman here, that it is not right that we should come to the conclusion that any officer of this Government should be impeached without an investigation by a committee directed by the House to look directly to the propriety of impeachment. And I undertake to say—I say it from general recollection, and not from any accurate investigation I have given to the subject—that no precedent will be found in the history of this Government where such a resolution as that suggested by the gentleman from Pennsylvania [Mr. STEVENS] has been adopted without its being preceded by an investigation by a committee charged with the business of ascertaining whether there is sufficient ground for finding articles of impeachment. I submit that such has been the invariable practice, and that it is manifestly just.

Now, look at what has occurred in this case. No investigation has been set on foot looking to the propriety of presenting articles of impeachment, and no committee has hinted that impeachment ought to take place, unless the hint can be found in the resolution reported by my friend from New York, [Mr. HULBURD,] declaring that Mr. Smythe ought to be removed. But every gentleman will see instantly that no impeachment is involved in the resolution of the committee. All that the resolution declares is that Mr. Smythe ought to be removed. It does not say that he ought to be removed for high crimes and misdemeanors. We have no committee that has recommended or suggested that an impeachment ought to occur. Copying from the precedents, I have drawn up a resolution, which I hope will be accepted by my friend from Pennsylvania as a substitute for his proposition—a resolution corresponding in form to that which has in our legislative history invariably preceded the presentation of articles of impeachment. By this customary form of resolution the committee having charge of the subject—usually the Judiciary Committee, (once, in the case of Judge Chase, a select committee headed by Mr. Randolph, of Virginia)—is charged with the business of inquiring whether the constitutional powers of the House with reference to impeachment should be interposed in the case.

Mr. WOOD. I would like to ask the gentleman from Ohio a question, if he will permit me?

Mr. SHELLABARGER. Certainly.

Mr. WOOD. I would like the gentleman to state whether in the history of the Government there is any precedent for an attempt to impeach an officer whom the President has the power to remove? Judge Chase, to whose case the gentleman has referred, was a judge of the Supreme Court, and could not be removed by the President.

Mr. GARFIELD. The gentleman from Ohio will permit me to suggest to the gentleman from New York that the President, under the tenure-of-office act, has not the power to remove Mr. Smythe.

Mr. SHELLABARGER. Fortunately for the reputation and good character of our Government, the examples of impeachment in our history are extremely few. I know of

no case in which an impeachment was instituted against an officer whom the President had the power to remove; but I say that in this case, under the present state of the law, since the passage of the tenure-of-office act, there is no power of removal by the President without the assent of the Senate.

Mr. BUTLER. With the leave of the gentleman from Ohio, I will call the attention of the gentleman from New York to the words of the Constitution—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."

Mr. WOOD. Mr. Speaker, there can be no question of the power of Congress to impeach any official; but I deny that it was designed that this mode of removal should be resorted to in cases where the Executive has the power to act, as he has in this case. And, Mr. Speaker, as evidence of the fact—

Mr. GARFIELD. The gentleman will allow me to say that the Executive has not the power of removal in this case, except with the concurrence of the Senate.

Mr. WOOD. There is some doubt about that. There is some doubt about the constitutionality of the law by which the gentleman claims the President is deprived of the power of removal.

Mr. GARFIELD. The law is operative until decided to be unconstitutional:

Mr. WOOD. Mr. Speaker, after nearly a century's experience under the Constitution of 1787, this is the first proposition to impeach an officer whom the Executive has the power to remove without a resort to this mode of getting rid of him.

Mr. SHELLABARGER. Mr. Speaker, there can be no serious doubt of the constitutional right of this House to present articles of impeachment against any civil officer of the Government of the United States. I believe that, upon second thought, my friend from New York himself would not doubt it. It has never been questioned, and I think there can be no serious doubt about it.

Mr. CHANLER. The gentleman's argument is taking a very wide range. If the gentleman has an amendment to offer, and it will be accepted, I have no objection; but the question now before the House is of a character which does not call for this debate on the Constitution.

Mr. SHELLABARGER. I have only one word more to say. I only wish to suggest that all the precedents in regard to setting on foot proceedings for impeachment are like the one to which I refer, and which I take from the case of Judge Chase. I will read the resolution in that case:

"Resolved, That a committee be appointed to inquire into the official conduct of Samuel Chase, one of the associate justices of the Supreme Court of the United States, and of Richard Peters, district judge of the district of Pennsylvania, and to report their opinion, whether the said Samuel Chase and Richard Peters, or either of them, have so acted in their judicial capacity as to require the interposition of the constitutional power of this House."

On that resolution articles of impeachment were set on foot. On the 6th of March, Mr. Randolph made a report in favor of an impeachment, and thereupon the articles were preferred.

I will conclude by saying there is a manifest impropriety in the House jumping to the conclusion indicated by the resolution of the gentleman from Pennsylvania, [Mr. STEVENS.]

The amendment I have prepared is as follows:

Resolved, That the Committee on Public Expenditures of this House be directed to inquire into the official conduct of Henry A. Smythe, collector of the port of New York, and to report their opinion, whether the said Smythe has so acted in his said official capacity as to require the interposition of the constitutional power of this House.

Mr. CHANLER. I yield now to my colleague [Mr. PRUYN] for a few moments.

Mr. PRUYN. Mr. Speaker, I believe there are now two amendments pending before the House to the original resolution, one the amend-

ment proposed which contemplates impeachment, and the other a reference of the matter to the committee for further investigation. Any further amendment at this time would be out of order. I had intended to offer an amendment while listening to the remarks of the gentleman from Ohio [Mr. SHELLABARGER] referring this testimony to the President of the United States for such action, such immediate action, if you please, action without delay, as in his judgment should be necessary to protect the public business. It matters but little, perhaps, whether the testimony now before the House, or rather the testimony in possession of the committee—for it has not yet been given to the members of the House—should come to members for action at this time, or whether the investigation should be further prosecuted with a view to elicit the facts which surround this matter.

Now, sir, in regard to Mr. Smythe I have no communication from him. I have no explanation from any of his friends in regard to the charges made against him by my colleague who addressed the House a few days ago. I do not purpose to go into any defense of Mr. Smythe's conduct in the particulars to which the committee has referred, even if such defense can be made, and I believe in time proper explanations will be made.

I do not propose to go into explanation further than to refer to what the chairman of the committee said when he addressed the House in regard to the matter. I cordially agree with my colleague from New York [Mr. WOOD] in the statement he made a few days ago in regard to the character and position of Mr. Smythe at the time this important appointment was conferred upon him. My personal acquaintance with Mr. Smythe is very slight. I doubt whether I have seen him for ten minutes together for the last five years. But I know that in years past, whenever the merchants and business men of New York have been called upon to name representative men from their number, Mr. Smythe has been uniformly selected for that purpose, perhaps has been selected oftener than any other in that city. So great was the confidence in his business character and integrity that the bank over which he presided, of which he was president when appointed collector of the port, that it received in a short time, I think within twelve months, an amount of deposits in its vaults unprecedented except in the case of the old United States Bank.

These deposits, I believe, were over twenty million dollars in one bank, the capital of which was only \$3,000,000. These facts go to show the great confidence which was reposed in Mr. Smythe.

Now, sir, it is proposed here, without having had an opportunity to read this testimony, without that full investigation which this case really demands, to declare to the world, as the deliberate judgment of this House, that Mr. Smythe is a man totally unfit to hold the position which he occupies, and that he ought to be removed. Now, sir, I agree with the gentleman from Ohio [Mr. SHELLABARGER] in saying that until we know what the facts are, until our judgments are convinced, from a perusal of the testimony, that this man ought to be impeached or removed, it is an unwise and ill-judged proceeding, not to say a harsh proceeding, on the part of this House to pronounce a judgment. It would, under the circumstances, be a judgment in advance.

I heartily agree with my colleague [Mr. CHANLER] in his comments on the general character, management, and influence of the New York custom-house. Many excellent men, many men of high character, whom I know well, have been at the head of that custom-house at different times, but on the whole its management for years past has been a curse to any political party that controlled it.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to modify my amendment?

Mr. CHANLER. I will give the gentleman an opportunity when my colleague gets through.

Mr. STEVENS, of Pennsylvania. I did not know but he would like to hear it before proceeding further.

Mr. CHANLER. Undoubtedly, but probably he had better not. [Laughter.] Another gentleman will follow him immediately. I wish to gratify my friend from Missouri, [Mr. NOELL.]

Mr. PRUYN. Now, sir, that custom-house ought to be reformed, thoroughly reformed. The clerkships should be given out after competitive examination; they should not be given to politicians as such. The fees should be reduced to the minimum which will enable the Government to carry out its system of public stores and pay the incidental expenses of the management of the custom-house. The New York merchants should not be compelled to pay tribute to any public officers or to any political party. It is time the whole thing ended, for it is a disgrace to the country and carries its baleful influence throughout the whole length and breadth of the land.

There are some things in regard to this matter which I would like to lay before the House, but it seems my time is rapidly drawing to a close and I must shortly yield. I wish, however, to be distinctly understood in regard to this matter, that I want the conduct of Mr. Smythe to be most thoroughly investigated, and if he has been guilty of the acts attributed to him he ought to be removed at once. I for one will join with any number of gentlemen on this floor in passing any resolution which is requisite for the purpose of bringing this case before the proper authority and for removing this man if proved guilty of the offenses charged. But let us first know what the facts are, and give him the opportunity which we give to the meanest criminal of defending himself.

Mr. CHANLER. I now yield to the gentleman from Pennsylvania.

Mr. STEVENS, of Pennsylvania. I modify my amendment as follows:

That the testimony taken by the Committee on Public Expenditures relating to the conduct of Henry A. Smythe, collector of the port of New York, be referred to the said committee, with a view to ascertain whether or not said Smythe has been guilty of high crimes and misdemeanors sufficient to justify his impeachment; and if said committee find from that and other evidence that he has been thus guilty, then to proceed and prepare articles of impeachment and report the same to this House, and that they have leave to send for persons and papers.

Mr. SHELLABARGER. This modification being made, I withdraw my proposed amendment.

Mr. CHANLER. I now yield to the gentleman from Missouri five minutes.

Mr. HULBURD. Will the gentleman allow me just one minute?

Mr. NOELL. Yes, sir.

Mr. HULBURD. I rise simply to say that so far as I am individually concerned I am willing to accept the amendment of the gentleman from Pennsylvania as a substitute for the original proposition reported by the committee. I have no right to accept it on behalf of the committee, but individually believing that the temper of the House is for something more severe than the proposition which the committee reported I assent to the substitute, and shall vote for it.

Mr. CHANLER. I hope, sir, it will be found more politic and more fair.

Mr. NOELL. The resolution which has just been read, taken in connection with the character of the proceedings had before this time, presents a very anomalous spectacle to this House. Testimony was taken before a committee of the Thirty-Ninth Congress, and that committee was discharged. That testimony was by a resolution of this House referred to a committee of this Congress. It has not been read by a majority of the members of the Committee on Public Expenditures; and if it has been read by any of the members of this House outside of that committee, it has been read by but very few of them. Yet it is upon this testimony that we are now called upon to pass a resolution asking for the dismissal of a high

officer of the Government. This body is to assume all powers, waiving its own special rights, ignoring the rights of the Executive, and having no regard for the course which, out of due regard for ourselves, we are bound under the Constitution to pursue. We are to undertake a new process. The majority of this House are asked to institute a new proceeding by which we are to constitute ourselves the executive authority of the United States.

Mr. WOODBRIDGE. Will the gentleman yield to me for a moment?

Mr. NOELL. Certainly.

Mr. WOODBRIDGE. I move to amend the resolution of the gentleman from Pennsylvania [Mr. STEVENS] by adding to it the words "and to sit during the recess of Congress."

Mr. NOELL. I was very glad to hear the gentleman from Massachusetts, [Mr. BUTLER]—who is rapidly assuming the leadership of the great party now controlling the destiny of this country—I was very glad to hear him put himself in such a fair position, to hear him avow such honesty of purpose in the proceeding which he desired to have instituted in this House. I was very glad to hear him quote those maxims of justice, and not only maxims of justice but also Latin phrases, such as might be indelibly impressed upon the memory of those who heard him.

What he said was followed by the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS,] that we should at least restrict our action to such course as was in our power; that we should have recourse to the only method by which we had power to act, the finding of articles of impeachment. And thus we have at last come to where we should have started out. If this officer has been guilty of half the crimes charged against him, then as a friend of the Administration which appointed him I for one demand that his conduct shall be fully and fairly investigated, and that the full meed of punishment shall be allotted to him.

But we see resolutions presented to this House asking members who have never read a particle of the evidence in this case to take upon themselves to demand the dismissal of this officer, and perhaps to thus take a step toward another impeachment, this being in itself but an insignificant affair. We are called upon, upon the simple recommendation of a committee, to ask the President to remove this officer. If he fails to do it, then I suppose this garbled testimony is to be taken and used as a means to that other impeachment to which members are looking. Sir, it is getting to be dangerous times when the characters and reputation of men as high as the character of the gentleman whose conduct we are now investigating was said to be before his appointment; when the characters of such men are to be swept away by a simple resolution, without investigation of any kind; when the House of Representatives is to set itself to work to destroy men's reputation, and to indicate to other departments of the Government what shall be their course.

We have heard the gentleman from Massachusetts [Mr. BANKS] declare that this body was the highest judicial tribunal in this country, and that the decisions of the courts were no longer to stand against the voice of a popular faction. We have had it boldly announced here that however much that faction may be disposed to trample upon the rights of others, this Congress is absolute and sovereign. And now we have a new doctrine announced equally as specious as that; and that is that the House of Representatives shall henceforth be constituted the executive department of the Government.

[Here the hammer fell.]

Mr. CHANLER. I would inquire of the Chair how much of my hour is left?

The SPEAKER. The gentleman has seven minutes of his hour remaining. The morning hour will expire in four minutes.

Mr. CHANLER. I yield to the gentleman from Missouri [Mr. NOELL] for the remainder of the morning hour. Then this matter will go over until to-morrow, and in the mean time

I hope members will examine this subject and be prepared to do justice.

Mr. NOELL. Mr. Speaker, it has been paraded before this House that the majority of the committee, constituting all the members except two, have reported this resolution; and it is urged that the House should have full faith in their committee, and should give full credit to their proceedings. Let me say, sir, that we have taken but very little testimony; and I for one have been unable to examine any considerable portion of that testimony. I believe that in this respect other members of the committee are in the same condition as myself, with the exception of perhaps two.

Now, there seems on this occasion to be a division of sentiment upon the part of those who have always acted harmoniously heretofore; and the two great leaders of the Radical party have led off in favor of a more severe as well as more just method of procedure than that proposed by the committee. It is a happy state of affairs, sir, when men have reached the extreme verge so that they can go no further, and when a sense of justice creates within their bosoms feelings of a reactionary character. It is to be hoped that this strong sense of justice will influence to a greater extent gentlemen who are controlling the Legislature of the country, and that we shall have in the future more appeals to the rights of individuals, the powers of the Constitution, and those maxims of justice which have hitherto controlled every civilized community.

The SPEAKER. The morning hour has expired.

#### ORDER OF BUSINESS.

Mr. HUBBARD, of West Virginia. I move that the House proceed to the consideration of business on the Speaker's table.

Mr. BROOMALL. I move that the rules be suspended for the purpose of further considering the resolution of the Committee on Public Expenditures in reference to Collector Smythe. It will take but a few minutes to dispose of the question.

On the motion of Mr. BROOMALL, there were—ayes 61, noes 47.

Mr. BROOMALL. I call for tellers.

Tellers were ordered; and Mr. BROOMALL and Mr. HUBBARD, of West Virginia, were appointed.

The House divided; and the tellers reported—ayes 67, noes 40.

So two thirds not having voted in favor thereof the motion to suspend the rules was not agreed to.

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled an act (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes, when the Speaker signed the same.

#### STEAMSHIP PAONSHUN.

The SPEAKER, by unanimous consent, laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES,  
March 22, 1867.

*Resolved*, That the House of Representatives be requested to return to the Senate Senate bill No. 60, entitled "An act to change the name of the steamship Paonshun."

The SPEAKER. If there be no objection, this bill will be returned to the Senate as requested.

There was no objection.

#### ORDER OF BUSINESS—AGAIN.

The question recurring on the motion of Mr. HUBBARD, of West Virginia, that the House proceed to the consideration of business on the Speaker's table, the motion was agreed to.

#### BOUNTIES OF MISSOURI TROOPS.

The first business on the Speaker's table was the amendment of the Senate to the joint resolution (H. R. No. 6) placing certain troops of

Missouri on an equal footing with others as to bounties.

The amendment was read, as follows:

In line five strike out the words "borne on the rolls as slaves."

Mr. McCLURG. I move the House concur in the amendment of the Senate.

The amendment was concurred in.

Mr. McCLURG moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX ON WRAPPING-PAPER.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax.

The amendment was read, as follows:

At the end of the bill add the following as a new section:

Sec. 2. *And be it further enacted*, That every national banking association, State bank, banker, or association shall pay a tax of ten per cent. on the amount of the notes of any town, city, or municipal corporation paid out by them after the 1st day of May, 1867, to be collected in the mode and manner in which the tax on the notes of State banks is collected.

Mr. BLAINE. I move that the House concur in the amendment; and I desire to explain its effect. The present law taxes the notes of State banks ten per cent. The cities throughout the South—New Orleans, Memphis, Savannah, and other cities—have issued in very large quantities a sort of municipal scrip or "shinplaster" currency, and the notes of this character are paid out by the banks as circulation. The amendment of the Senate is designed to check this species of circulation. I call for the previous question on concurring in the amendment.

Mr. PRUYN. I should like to ask the gentleman a question. These are issued under State authority, and what right have we to interfere with them?

Mr. BLAINE. We have the right to tax them. We put them upon the same basis of taxation as that already provided for the notes of State banks. This is merely a tax upon the scrip of these States when used as circulating medium the same as upon the notes of State banks.

Mr. BROOKS. What has this to do with straw paper?

Mr. JUDD. I hope my friend from Maine will allow me to suggest a small amendment.

Mr. BLAINE. Is it about ladders?

Mr. JUDD. Yes, sir.

Mr. BLAINE. I cannot consent to have this proposition burdened with this amendment, which the Senate have already rejected. The Senate have put upon it an amendment which is not germane, but for which they are answerable.

Mr. CHANLER. The gentleman from Maine has no right to decide whether the amendment of the Senate is germane or not.

The SPEAKER. The Chair has often been called upon to rule on these amendments. If this amendment had been offered in the House it would not have been germane. The Senate have exercised the right to offer amendments which it has under the Constitution.

Mr. BLAINE. Being upon the bill by order of the Senate, which we cannot question, and being highly proper in itself as an independent measure deserving the support of the House, I hope there will be no hesitation in agreeing to put it upon this bill. I demand the previous question.

Mr. JUDD. I ask the Chair for information. If the demand for the previous question be seconded will I not then be cut off from moving my amendment?

The SPEAKER. It will not be in order to move an amendment if the previous question be seconded.

Mr. JUDD. I hope, then, the demand for the previous question will not be seconded.

Mr. BLAINE. If we put in "ladders" again it will kill the whole thing.

The SPEAKER. The Chair will state if the previous question be not seconded and the amendment for "ladders" is offered he will consider it in order, as the Senate have amended the title so as to make it read "and for other purposes." The Chair will regard "ladders" as coming in under "other purposes."

Mr. EGGLESTON. I ask the gentleman to yield to me. I ask leave to amend by providing that "stoves" shall also be embraced in the free list.

Mr. BLAINE. I cannot consent to yield for any such amendment.

Mr. FARNSWORTH. I hope the "ladder" amendment will be introduced.

The House divided; and there were—ayes 49, noes 48.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. BLAINE and Mr. JUDD were appointed.

The House again divided; and the tellers reported—ayes thirty-one, noes not counted.

Mr. BLAINE. I give it up.

So the previous question was not seconded.

Mr. JUDD. I move to insert after the word "paper" the word "ladders."

The SPEAKER. The Clerk will read the gentleman's amendment.

The Clerk read as follows:

That from and after the passage of this act, ladders made of wood shall be exempted from internal tax.

Mr. JUDD. I yield now to the gentleman from Ohio.

Mr. EGGLESTON. I move to insert "stoves."

Mr. BLAINE. Stoves made of wood? [Laughter.]

Mr. GARFIELD. I hope the gentleman from Illinois will not understand my opposition to his introducing his amendment as personal to himself. If one article may be put upon the free list others may also without any investigation by the Committee of Ways and Means, thus cutting we do not know how far into the revenues of the Government. If ladders may be put in in this way I do not see any reason why others may not also be put in the free list. I do not see any reasons why "ladders" should be put upon the free list except that an intelligent, estimable gentleman would like to have it done for his constituents. If I were going to vote for any gentleman I would vote for the gentleman from Illinois as soon as for any other; but as it is not the purpose, or not the policy of the House, as it seems to me, to vote on the request of any gentleman for any measure, I think we should not act on these questions until we have had the regular committees appointed and their reports for our information.

The other day the gentleman said we had put brush-blocks, wooden handles, machinery made of wood, and a number of other articles on the free list, and I called his attention to the fact that they were put on mainly because they were parts of machines or implements, and brush-blocks should not be taxed because the brushes when finished were taxed. They were taken out simply not to duplicate the tax. The handles of machinery made of wood were not taxed, because the whole machines, handles and all, were taxed when completed and offered for sale. Now, to exempt ladders, a finished article, of which there are several manufacturers in the gentleman's district, is simply to relieve some three or four manufacturing establishments from paying any tax on what they produce. I ask this House whether it is willing now to single out articles in this way for the sake of exempting a few manufacturing firms. It is an absurd mode of legislating.

And if I may refer to the Senate, it seems to me that they very properly rejected the proposition after full debate and after the unanimous report of one of their standing committees against it. I hope, therefore, that this House will not add this amendment.

Mr. JUDD. I desire to say in reply to the gentleman from Ohio, as he seems to think I am pressing the matter unduly in this House, that when this question was called to my atten-

tion by one of my constituents I notified him by letter that there would be no such general legislation, in my opinion, as would call for action upon this question. I found, however, a few days afterward, that members of long experience in legislation were introducing specific exemptions of precisely the same character, and I thought then that it was my duty to move this proposition. I saw gentlemen presenting questions similar to this, and I thought if I remained in my seat and did not press this proposition I would be derelict to my duty. I did not at first intend to call the attention of the House to this case until the Committee of Ways and Means had been appointed, but when I found subjects of this kind being acted upon I thought that mine was right and just, and that there was no reason why it should be rejected while others were successfully pressing like claims. That is the reason for my action. Now, if the gentleman will give me one single reason—

Mr. BLAINE. That is just what I want to do if he will allow me the floor as I allowed him when I had the floor.

Mr. JUDD. I will do it.

Mr. BLAINE. When I introduced my measure I submitted a letter from the late chairman of the Committee of Ways and Means stating that the omission was a mistake in the committee of conference; that they had included in the free list the only article which came in direct competition with that omitted, and that it would be very unfair to leave one article exempted and the other subject to tax. I moreover stated to the House that the only ground on which I could or would demand its consideration was to remedy a mistake which was vouched for by the late chairman of the Committee of Ways and Means, whose accuracy would not be disputed by any gentleman of the House who knew him. It was upon that statement that the House voted to include the article, simply to remedy a defect in the legislation of the last session. My proposition was not as this is, to introduce new and original matter.

When the resolution reached the Senate there were various efforts made to attach other articles, just as was done by the gentleman from Illinois here, but the Senate committee rejected the whole of them and confined its legislation to that which this House had instituted in correction of a mistake. I wish to say further, that if the House agrees to the amendment offered by the gentleman from Illinois the effect of it will be simply to kill the measure. As an independent proposition the House voted for the gentleman's measure. It did precisely the same for him that it did for me. I did not ask to embarrass his measure with any proposition of mine, and I ask him now not to embarrass or kill this by his amendment.

Mr. JUDD. The appeal of my friend is very strong, but I do not see the logic of it. He tells me that his was a case of mistake in the internal revenue law passed at the last session. I could understand it if he had said that it was a case of forgetfulness and not an omission. They did not think of the article when they left it out. It is precisely analogous to the case I now present to the House.

Mr. BLAINE. The gentleman stated in his seat—

Mr. JUDD. I assure the gentleman from Maine [Mr. BLAINE] that I do not believe he will lose his bill. I do not believe that they in the other end of the Capitol will refuse to do that which is just in itself. We are at least bound to presume as members of this body that the other branch of the national Legislature will act in accordance with the principles of right and justice. If this House will put in my ladders, that will be evidence that it is right and just they should be put in; and we are bound to presume that the Senate will concur in that action.

Mr. BLAINE. But the Senate has already rejected the bill of the gentleman.

Mr. MYERS. The gentleman from Maine [Mr. BLAINE] has said that he will not object

to any amendments to cure defects in the legislation of the last Congress.

Mr. BLAINE. The gentleman will pardon me; I did not say I would favor amendments to this bill for such purposes. I said I would vote for other bills for those purposes.

Mr. MYERS. Well, I will go on and say what I have to say. In the last Congress this House voted to exempt from taxation fabrics the product of hand-looms. Some one moved to add the words "not made in penitentiaries;" and in that form the bill passed the House. The bill went to the Senate, where some one moved a technical amendment, not affecting the general proposition; but both Houses agreed to the exemption, which ought to have been incorporated into the law. Yet the committee of conference which was appointed on the disagreeing votes of the two Houses, exercising a judgment which perhaps technical parliamentary rules gave them the right to do, undertook to set aside the action of the two Houses because of these variations in the wording of the clause, and thus these fabrics came out from the action of that committee of conference taxable, as they were before. Now, I believe if ever there was a mistake or an error on the part of a committee of conference, it was that departure from the concurrent action of the two Houses.

Mr. KELLEY. Will my colleague yield to me for a moment that I may state to the House the language which was actually used by the two Houses of the last Congress?

Mr. MYERS. In a moment. I now move to amend by adding the words "and fabrics the product of hand-looms," I am sure my generous friend from Maine [Mr. BLAINE] will accept that amendment.

The SPEAKER. No further amendment is now in order, there being pending an amendment and an amendment to the amendment.

Mr. MYERS. Then I will hereafter ask leave to offer it. I now yield to my colleague, [Mr. KELLEY.]

Mr. KELLEY. I desire to state to the House what was the exact language used in the House, and how it was modified in the Senate. The clause adopted by the House was, "Fabrics the product of hand looms, when not used in penitentiaries;" referring to the implements. The Senate amended the clause by striking out the word "used" and inserting the word "produced;" so that it read, "Fabrics the product of hand-looms, when not produced in penitentiaries." The one House had reference to the implement, the other to the production. But both Houses assented to the proposition that those fabrics should be released from taxation.

Mr. MYERS. I understand that the gentleman from Illinois [Mr. JUDD] is willing to accept my amendment.

Mr. BANKS. I desire to move an amendment.

The SPEAKER. There are already pending an amendment and an amendment to the amendment.

Mr. BANKS. Then I desire to make a remark or two. I would not press the exemption of any one of these articles if the tax upon them is necessary for the public interest. But if exemption is made in one case, it should upon the same ground be made in the other. At the last session of Congress wrapping-paper made from straw was exempted from taxation. It is now proposed that wrapping-paper made from wood and from corn-stalks shall also be exempt from taxation, leaving that most important branch of manufacture, paper made from Manila, subject to the tax. Now, when I can get the opportunity I shall move to insert the words "or Manila" after the word "corn-stalks."

There is no reason whatever why the manufacturer of wrapping paper from Manila should not be exempted from tax as well as the manufacturer of wrapping-paper from wood or cornstalks. I therefore desire to amend by inserting after "corn-stalks" the words "or Manila."



Mr. BLAINE. I have no objection to that amendment. I think it is very proper.

The SPEAKER. The amendment can be adopted by unanimous consent.

There was no objection; and the amendment was adopted.

Mr. JUDD. That does not help ladders at all. [Laughter.]

Mr. SCHENCK. I ask the gentleman from Illinois [Mr. JUDD] to yield to me for a few moments.

Mr. JUDD. I will do so.

Mr. SCHENCK. I desire to suggest that most of the paper of the kind intended to be included in this bill is manufactured, not from corn-stalks, but from stalks of sorghum. If there is any propriety in inserting Manila, we ought also to insert "stalks of sorghum."

Mr. BLAINE. The gentleman will allow me to suggest that in my view the provision of the internal revenue act should have exempted wrapping-paper of all kinds; and it seems to me it would be desirable to so amend it, if that result can in the present posture of the question be accomplished in any parliamentary form.

The SPEAKER. The amendment which the gentleman from Maine [Mr. BLAINE] suggests could not be made, because the portion of the bill to which it relates has been agreed to by both Houses.

Mr. BLAINE. I did not offer an amendment. I only made the suggestion.

The SPEAKER. If there be no objection, the Chair will understand that unanimous consent is given to an amendment exempting wrapping-paper made from stalks of sorghum.

There was no objection.

Mr. SCHENCK. Then the bill has another stalk to stand upon; and it may thereby be made a little stronger. [Laughter.]

But, sir, I wish to make another suggestion. The proposition of the gentleman from Illinois, [Mr. JUDD], and the other propositions which gentlemen seek to introduce here, are founded upon the neglect or mistake of Congress in failing to extend its legislation to certain objects which should have been provided for in our revenue laws. I think Congress has made a great many mistakes on this subject; and permit me to say that one very important mistake was in failing to adopt, when the tariff bill was under consideration, certain amendments offered by me, which, if that bill had become (as it ought to have become) a law, would have given much needed protection to those industrial interests involved in the manufacture of fibers of hemp and flax. I have within twenty-four hours received positive information that a large factory, in which one gentleman has invested his whole means, amounting to \$30,000, is with various others in the western country, including some located in my district, compelled to stop because of the want of proper protective legislation.

If we are to revise the mistakes and omissions of our tax laws and tariff, I hope we shall not merely make a patch here and a patch there, but that the door will be thrown wide open, so as to afford an opportunity to remedy the various deficiencies of our legislation in this respect. I have no objection to ladders, not even the ladder of fame by means of which the gentleman from Chicago [Mr. JUDD] is to climb into the good graces of his constituents by his admirable manner of managing this question. But, sir, while we are taking care of this interest of ladders and other special interests which are singled out and brought to our attention, I contend that there is a propriety in opening this whole question of our internal revenue and tariff laws, so that their deficiencies and irregularities may be removed. Unless there is to be a fair and open fight, so that all the different interests requiring legislation may receive proper attention, I think we had better close the door against these isolated propositions. Then the gentlemen interested in ladders and other matters now urged upon our consideration will help us hereafter in getting a general correction of the various mis-

takes and deficiencies of our legislation. But I am afraid that if gentlemen get their own axes ground separately we shall not have a general turning of the grindstone hereafter for the benefit of all our tools that may need sharpening. [Laughter.]

Mr. JUDD. I do not believe in the closing remark of the gentleman from Ohio.

Mr. SCHENCK. I beg the gentleman's pardon. I did not mean it in any offensive sense. I did not mean that he had any ax to grind.

Mr. JUDD. I am aware of that. If the honorable gentleman from Ohio offered any proposition which commended itself to my judgment as fair and right, then I would vote for it, even though it might not be an "omnibus bill," even though it might not open the whole legislation upon the tariff bill. If, on the whole evidence, his proposition were right, I would vote for it, even though all the other like questions could not be brought before the House at the same time.

If I understand the question, the honorable gentleman from Maine has accepted the amendment to insert "Manila."

Mr. BLAINE. I desire to have it so amended that the provision shall be general, that all wrapping-paper shall be exempted from internal taxation.

Mr. JUDD. The honorable gentleman will allow me one word further. He fears the bill will be lost altogether if it must go back to the Senate; but that objection is obviated by the amendments already made. There can be no reason, therefore, based upon that why "ladders" should not come in.

Mr. BLAINE. The gentleman has already had a trial of the ladder question in the Senate and has been defeated. The Senate have fully considered this paper question and have agreed to it. He now wants to put these "ladders" upon the paper platform to see whether he cannot have it carried through in that way.

Mr. JUDD. We are all allowed to have a sober second thought, and I hope the honorable gentleman from Maine will not exclude the other branch of Congress from having that sober second thought. My conviction is, when they come again to consider the provision for ladders, they will adopt it. I believe they will give it a safe deliverance.

Mr. ALLISON. I rise to a question of order. I should like to know the condition of this question.

The SPEAKER. The question is on the amendment to the amendment.

Mr. ALLISON. I ask the gentleman to yield to me for a moment.

Mr. JUDD. Certainly.

Mr. ALLISON. I do not know what amount of revenue is derived from "ladders," but as the gentleman states there are only two or three manufactories of this article, I presume the amount of revenue is small. But when it is proposed to exempt "stoves" it seems to me that there are many other articles which we will have to exempt from taxation for a like reason. If I remember correctly, the report of the Commissioner of Internal Revenue states that last year we raised a revenue of \$300,000 from "stoves;" and from a conversation I had with the Commissioner I learned that this does not include all; that the revenue derived from castings and hollow-ware would make it amount to \$1,000,000.

I am aware that a portion of these articles are exempted; but I am not prepared, Mr. Speaker, without further action, to exempt stoves from taxation unless we shall go into a general revision of the internal tax bill. If we do anything at all we should consider the whole list. I say it is not fair in this way to be bringing forward article after article to be put upon the free list without the ordinary investigation which all such matters ought to have, I hope "stoves" will not be included, and that "ladders" even will not be included.

Mr. MYERS. I rise to a question of order. Is it not in order for the gentleman from Ohio to accept my amendment?

The SPEAKER. The gentleman can offer his amendment before the vote is taken.

Mr. EGGLESTON. I accept the amendment.

Mr. Speaker, I do not wish to make any extended remarks on this subject. I am surprised that one of the members of the Committee of Ways and Means should make an argument against my amendment, as if it were a new question. He says that we collect a revenue of \$300,000 from stoves and hollow-ware. Hollow-ware was exempted by the Thirty-Ninth Congress from all taxation. How much revenue is collected on what is left?

Now, sir, the article of stoves is almost universally used throughout the western country. There is not a cabin in Illinois, Iowa, or Ohio in which you will not find a stove; and I do not see why it should not be exempted as well as articles manufactured in any other section of the country which enter into general use. The tax comes off the consumer. Hollow-ware has been exempted, and yet it paid more tax than stoves.

In addition to that this House exempted stoves by an almost unanimous vote. They were put on the free list by the House; but when the bill went to the Senate they were stricken out through mistake, as one of the members of that body informed me. Therefore I say we should put these back on the free list.

Mr. JUDD. I now call the previous question.

Mr. COVODE. Will the gentleman yield?

Mr. JUDD. I decline to yield further.

Mr. COVODE. I wanted to save the ladders.

The previous question was seconded—ayes 64, noes 20; and the main question ordered.

The question first recurred on the amendment to the amendment, to add after the word "tax" the word "stoves, and fabrics, the product of hand-looms;" and being put, there were—ayes 42, noes 60.

Mr. EGGLESTON demanded tellers.

Tellers were not ordered.

So the amendment to the amendment was disagreed to.

The question recurred on the amendment to add the word "ladders;" and being put, there were—ayes 50, noes 47.

Mr. UPSON demanded tellers.

Tellers were not ordered.

So the amendment was agreed to.

The question recurred on agreeing to the amendment of the Senate as amended.

Mr. JUDD. If the House refuse to concur in the amendment of the Senate as amended, then the Senate amendment is defeated.

Mr. BLAINE. And the amendment of the gentleman from Illinois also.

Mr. SPALDING. What becomes of the ladders, then? [Laughter.]

Mr. GARFIELD. I call for tellers on the amendment of the Senate.

Tellers were ordered; and the Chair appointed Messrs. GARFIELD and JUDD.

The House divided; and the tellers reported—ayes 46, noes 49.

Mr. JUDD. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. I rise to a question of order. If the amendment of the Senate is voted down does it not leave the bill simply with paper included in it?

The SPEAKER. The House simply disagrees to the Senate amendment.

Mr. FARNSWORTH. If it is voted down it will leave the circulation which the gentleman from Maine wants taxed untaxed, will it not? [Laughter.]

The SPEAKER. It would.

The question was taken; and it was decided in the affirmative—yeas 68, nays 56, not voting 40; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baker, Banks, Benjamin, Benton, Broomall, Buckland, Churchill, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Donnelly, Eckley, Eggleston, Eli, Farnsworth, Ferriss, Ferry, Gravelly, Halsey, Hamilton, Hayes, Hooper, Hopkins, Chester D. Hubbard,

Hunter, Judd, Julian, Kelley, Kitchen, Koontz, William Lawrence, Loan, Logan, Loughridge, Marshall, McCarthy, McClurg, Mercur, Moore, Morrell, Mungen, Myers, O'Neill, Plants, Polstey, Ross, Sawyer, Scofield, Shanks, Sitgreaves, Thaddeus Stevens, Stewart, Taffe, Taylor, Thomas, Twitchell, Van Aernam, Van Wyck, Henry D. Washburn, Welker, John T. Wilson, and Windom—68.

**YAYS**—Messrs. Allison, Anderson, Archer, Baldwin, Beaman, Blair, Boutwell, Brooks, Cake, Chandler, Reader W. Clarke, Sidney Clarke, Eldridge, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Haight, Holman, Hulburd, Humphrey, Kerr, Ketcham, Mallory, Marvin, Miller, Morrissey, Newcomb, Niblack, Nicholson, Noell, Orth, Paine, Perham, Peters, Poland, Pruyn, Randall, Robertson, Schenck, Smith, Spaulding, Taber, Trowbridge, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, William Williams, Stephen F. Wilson, Wood, and Woodbridge—56.

**NOT VOTING**—Messrs. Barnes, Bingham, Blaine, Boyer, Brownell, Burr, Butler, Dawes, Denison, Dodge, Driggs, Eliot, Griswold, Harding, Hill, Asahel W. Hubbard, Ingersoll, Kelsey, Ladin, George V. Lawrence, Lincoln, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Pile, Pomeroy, Price, Raum, Robinson, Selye, Shellabarger, Aaron F. Stevens, Stone, Upson, William B. Washburn, Thomas Williams, and James F. Wilson—40.

So the amendment of the Senate, as amended, was agreed to.

Mr. JUDD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. SCHENCK, the papers in the case of Mrs. Mary Ripley were withdrawn from the files of the House.

#### COMMITTEE ON PRINTING.

The SPEAKER. As the House will be in session probably but a few days, and it is necessary to have some resolutions submitted to the Committee on Printing in regard to the printing of some extra copies of books and documents, the Chair will now appoint the following gentlemen as members of the joint Committee on Printing: ADDISON H. LAFLIN of New York, JACOB H. ELA of New Hampshire, and HENRY L. CAKE of Pennsylvania.

#### MAIL CONTRACT IN OREGON.

The next business on the Speaker's table was Senate joint resolution No. 29, to terminate a contract of a member of Congress with the Post Office Department of the United States of America; which was read a first and second time.

The joint resolution was read at length. The preamble recites that by an act of Congress, approved April 21, 1808, it is provided that no member of Congress shall, directly or indirectly, himself or by any other person in trust for him, or for his use or benefit, or on his account, execute, hold, or enjoy, in whole or in part, any contract or agreement thereafter to be made or entered into with any officer of the United States, or to any benefit and rights therefrom, &c.; and that the present contractor for route No. 14782, from Lincoln, California, to Portland, Oregon, has recently been elected a United States Senator.

The joint resolution provides that the Postmaster General shall be authorized to cancel the contract between the United States and the present contractor for the transportation of the mail on route No. 14782, between Lincoln, California, and Portland, Oregon, annulling the same in the usual way, to take effect on the 30th day of September, 1867; it also makes it the duty of the Postmaster General, after the passage of this joint resolution, to advertise for bids for the performance of the service for the residue of the contract term, for at least sixty days in at least one newspaper published at the seat of government of the State of California, and one newspaper published in Portland, Oregon, and to contract with the lowest responsible bidder.

Mr. FERRY. I move to amend the joint resolution by adding the following:

*Provided, That the Postmaster General, in accordance with the usage of the Department, shall have power to reject any bid which he may deem exorbitant.*

I desire briefly to call the attention of the

House to the effect of this joint resolution of the Senate. It provides for the cancellation of a contract made with a person who, since the execution of the contract, has been elected to the Senate of the United States. As will be observed by the House, this joint resolution is mandatory in its character; the usual discretion accorded to the Postmaster General has been omitted, and he is compelled to accept the offer of the lower bidder.

This matter of service upon this mail route came incidentally before the Committee on the Post Office and Post Roads of the Thirty-Ninth Congress, upon an application for ocean mail service between San Francisco, California, and Portland, Oregon. By a joint resolution passed in February last, a contract was let to parties to the amount of \$25,000. Now, I am advised by the Post Office Department that this contract can be let now at a less sum than is now embodied in the contract with the Senator-elect. There are no objections on the part of the Department to the cancellation of that contract. But if this resolution is adopted in its present form, there is nothing to prevent parties forming a ring, making such bids as they may agree upon between themselves, and the Department will be compelled to award the contract to the lowest bidder, no matter how much the Government may be defrauded thereby. Now, instead of limiting the Postmaster General to a specified sum, which would be practically fixing the amount of the new contract, I have offered this amendment, granting the usual discretion to the Postmaster General. I trust the House will adopt the amendment. I call the previous question on the joint resolution and pending amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The joint resolution, as amended, was then read the third time, and passed.

Mr. FERRY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GRADING CAPITOL GROUNDS.

The next business upon the Speaker's table was Senate bill No. 64, to provide in part for grading the public grounds, and for other purposes; which was read a first and second time.

Mr. STEVENS, of Pennsylvania. I move that the bill be referred to the Committee on Appropriations when the same shall have been appointed.

The motion was agreed to.

Mr. CHANLER moved to reconsider the vote by which the bill was ordered to be referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SCOFIELD, (at two o'clock and fifty-five minutes p. m.) I move that the House adjourn.

The motion was not agreed to.

#### LAWS OF NEW MEXICO.

The next business on the Speaker's table was the joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature held at Santa Fé from the 3d day of December, 1866, to the 31st day of January, 1867; which was read a first and second time.

Mr. ASHLEY, of Ohio. I hope that this resolution will be put on its passage now.

The joint resolution, which was read at length, provides that the laws passed by the Legislative Assembly of the Territory of New Mexico at its last session, which began on the 3d day of December, 1866, and ended on the 31st day of January, 1867, and signed by W. F. M. Army, secretary and acting Governor of said Territory of New Mexico, shall have the same force and effect as though the same had been approved and signed by the Governor duly appointed, subject to the future revision and approval of Congress.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARMS, ETC., FOR TENNESSEE.

The next business on the Speaker's table was the joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee; which was read a first and second time.

Mr. PAINE. Mr. Speaker, during the last session of Congress I frequently had interviews on the subject embraced in this resolution with the gentlemen representing in the Thirty-Ninth Congress the State of Tennessee, and at the request of one of the Senators from that State, who is a member of the Fortieth Congress, I have concluded to urge upon the House the passage of this joint resolution at the present time.

The necessities of the State of Tennessee demand the passage of this joint resolution at our hands. The provisions of the new reconstruction act do not extend to that State; but the loyal people of the State are obliged to defend themselves as best they can against the rebels who now reside among them. They are compelled to do this at a great disadvantage, because, as is well known, the Union soldiers who left the Federal Army were not permitted to take with them their arms unless they purchased them, while the rebel soldiers from that State, when they left the rebel army and returned to Tennessee, carried back with them their arms. And the black troops, when they have purchased their arms from the Government, have been for the most part robbed of them by the rebels of Tennessee. Now, sir, unless some measure of this kind be passed the loyal men of that State will have no means in their hands of making good the provisions of their recent legislation.

The adoption of this measure can involve no loss to our Government, because, as will be seen by a reference to the report of the Secretary of War, the Government has on hand at this time a million and a half of improved arms, to say nothing of the large number of arms which are not of the improved pattern. I venture to say that we have on hand to-day two million five hundred thousand small-arms, which, if we ever engage in another war, we shall spurn as we spurned the old thirty-nine caliber smooth-bore when the last war commenced. We shall resort to breech-loaders as the other great nations of the world are doing, and these arms will be useless to the Government. Unless they be used in this or some other similar way now, they will never be used at all. The Government can lose nothing by bestowing these arms upon the State of Tennessee.

But, sir, the number of arms called for in the resolution is entirely inadequate. The gentlemen who have represented that State have called for, and justly called for, ten thousand. The Senator from that State desires that this number should be granted. It is proper that this number should be embraced in the resolution.

It should have been embraced in the joint resolution, and I desire to amend by striking out "twenty-five hundred" and inserting "ten thousand" in lieu of it. I now demand the previous question.

The joint resolution, which was read, directs the Secretary of War to furnish arms and equipments to the State of Tennessee sufficient for twenty-five hundred militia, to be accounted for by the said State to the Government of the United States.

Mr. SCHENCK. I ask the gentleman to yield to me for a moment.

Mr. PAINE. I withdraw the previous question for that purpose.

Mr. SCHENCK. I desire simply to say, in

the absence of any Military Committee, I have been requested, as chairman of the committee in a former Congress, to turn my attention to this matter. I find these arms can be furnished, if needed, in a greater number without any detriment or loss, but probably in the nature of a saving to the Government in having the arms taken care of. I think ten thousand is quite as small a number as ought to be furnished to that State. Tennessee is in an anomalous condition. It was one of the rebel States; it is now one of the loyal States, but has not had the advantage of the distribution of arms as the other loyal States have. I hope for the reasons stated by the gentleman from Wisconsin that the joint resolution will be amended by increasing the number to ten thousand instead of twenty-five hundred as proposed by the Senate.

Mr. ROSS. I hope I will be permitted to make an amendment, that instead of accounting for them the State shall be compelled to pay for them.

Mr. SCHENCK. Illinois does not pay for her arms.

Mr. PAINE. I demand the previous question.

The House divided; and there were—ayes 80, noes 15.

So the previous question was seconded.

The main question was then ordered to be now put.

Mr. ROSS demanded the yeas and nays on Mr. PAINE's amendment.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 102, nays 28, not voting 34; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cake, Sidney Clarke, Cobb, Coburn, Cornell, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Halsey, Hamilton, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Judd, Julian, Kelley, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Mallory, Marvin, McCarthy, McClurg, Mercur, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsey, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Taffe, Taylor, Trowbridge, Twitcheil, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Wood—102.

NAYS—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Kerr, Marshall, Morrissey, Mungen, Niblack, Nicholson, Noell, Pruyn, Randall, Ross, Sitgreaves, Taber, Van Auker, Van Trump, and Wood—28.

NOT VOTING—Messrs. Bingham, Bromwell, Churchill, Reader W. Clarke, Cook, Covode, Dawes, Denison, Eliot, Farnsworth, Griswold, Harding, Kelsey, George V. Lawrence, Loughridge, Lynch, McCullough, Miller, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Raum, Robinson, Selye, Shellabarger, Thaddeus Stevens, Stewart, Stone, Thomas, Van Wyck, and William B. Washburn—34.

So the amendment was agreed to.

Mr. ROSS moved that the joint resolution be laid upon the table.

The motion was disagreed to.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MISSOURI CONTESTED-ELECTION CASES.

Mr. McCLURG, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the time for taking testimony in the contested-election cases of Birch vs. Van Horn in the sixth congressional district of Missouri, and Switzer vs. Anderson in the ninth congressional district of Missouri, is hereby extended for sixty days from the expiration of the time prescribed by law in such cases respectively.

#### PRINTING OF BILLS.

Mr. LAFLIN, by unanimous consent, submitted the following resolutions; which were

severally referred to the Committee on Printing:

*Resolved*, That ten thousand copies of the bankrupt law be printed for the use of the House.

*Resolved*, That two thousand copies of the bill to provide for a ship-canal around the falls of Niagara be printed for the use of the House.

#### THE SPEAKER PRO TEMPORE.

The SPEAKER. The Chair will state that he is compelled to be absent from the city tomorrow, and as the House has not adjourned over, he asks leave of absence, the first day that he has asked, and also the privilege of designating some gentleman to act as Speaker *pro tempore*.

There was no objection, and it was ordered accordingly.

The SPEAKER then designated Mr. SCHENCK as Speaker *pro tempore*.

#### GOVERNMENT SUITS IN ENGLAND.

Mr. BANKS. I ask unanimous consent to offer the following resolution:

*Resolved*, That the President of the United States be requested to communicate to the House of Representatives, if in his judgment not incompatible with the public interest, copies of the correspondence, legal proceedings and other documents relating to the suit of the United States vs. Prioleau and others, pending in the court of chancery of England.

The resolution being a call for executive information, was considered by unanimous consent, and agreed to.

Mr. BANKS. As this correspondence may not be copied in time to be returned at this session, I ask consent that the Secretary of State be authorized to make the communication in print.

No objection being made, it was so ordered.

#### APPOINTMENT OF WATCHMEN.

Mr. VANAERNAM, by unanimous consent, introduced a bill to authorize the appointment of certain watchmen, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. ROSS moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 6) placing certain troops of Missouri on an equal footing with others as to bounties; when the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. PRUYN asked and obtained leave of absence for the residue of the session.

#### ORIGINALITY OF AN INVENTION.

Mr. MYERS. I ask unanimous consent that a bill, with an accompanying report, be laid on the table and printed. It was before a committee in the Thirty-Ninth Congress, and they were unable to report it for lack of time.

The SPEAKER. The Chair does not know how a gentleman can make a report for the Thirty-Ninth Congress and have it printed.

Mr. MYERS. I ask unanimous consent to have it done.

Mr. HUBBARD, of West Virginia. I object. Mr. MYERS. I believe the gentleman will withdraw his objection when I state what it is. The report and bill refer to the celebrated invention of the "induction coil," for which the Emperor of France and a French commission have awarded the originality to Rumkorf, a foreigner.

Mr. SPALDING. Then I object. [Laughter.]

Mr. MYERS. We declare Dr. Charles G. Page, of Washington, an American, entitled to that merit and honor.

The SPEAKER. Debate is not in order.

#### HENRY A. SMYTHE.

Mr. STEVENS, of Pennsylvania. I move to suspend the rules for the purpose of resuming the consideration of the resolution reported by the Committee on Public Expenditures.

Mr. SPALDING (at three o'clock and twenty minutes) moved that the House adjourn.

The motion was disagreed to—ayes 50, noes 64.

On the motion of Mr. STEVENS, of Pennsylvania, to suspend the rules there were—ayes 65, noes 41.

Mr. BROOMALL demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. HULBURT and CHANLER.

The House divided; and the tellers reported—ayes 75, noes 33.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 95, nays 38, not voting 36; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Benjamin, Benton, Blaine, Boutwell, Broomall, Buckland, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Ela, Ferriss, Fields, Garfield, Gravely, Halsey, Hamilton, Hayes, Hooper, Asahel W. Hubbard, Hulburt, Hunter, Judd, Julian, Kelley, Ketcham, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Polsey, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taffe, Taylor, Thomas, Trowbridge, Twitcheil, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—95.

NAYS—Messrs. Archer, Barnes, Beaman, Blair, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Hill, Holman, Chester D. Hubbard, Humphrey, Kerr, Kitchen, Marshall, Morrissey, Mungen, Niblack, Nicholson, Noell, Pruyn, Ross, Sitgreaves, Spalding, Taber, Van Auker, Van Trump, and Wood—33.

NOT VOTING—Messrs. Ames, Bingham, Bromwell, Reader W. Clarke, Dawes, Denison, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Finney, Griswold, Harding, Hopkins, Ingersoll, Kelsey, George V. Lawrence, Loughridge, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Price, Randall, Raum, Robinson, Selye, Stone, and William B. Washburn—38.

So (two thirds voting in favor thereof) the rules were suspended.

The House accordingly resumed the consideration of the resolution reported from the Committee on Public Expenditures, in relation to Henry A. Smythe, collector of the port of New York.

The SPEAKER. The gentleman from New York [Mr. CHANLER] is entitled to the floor for three minutes.

Mr. WOOD. Will my colleague yield to me for a motion to adjourn?

Mr. CHANLER. Certainly.

Mr. WOOD. I move that the House now adjourn.

Mr. CHANLER. Before that motion is put, I move that when House adjourn to-day it be to meet on Monday next.

The motion of Mr. CHANLER was not agreed to.

The question recurred upon the motion of Mr. WOOD, that the House adjourn.

The motion was not agreed to.

Mr. CHANLER. Is it in order to move to postpone the further consideration of this subject for the present?

The SPEAKER. That motion would be in order.

Mr. CHANLER. I move that the further consideration of this subject be postponed until the second Wednesday in December next; and upon that motion I call for the previous question.

The previous question was seconded and the main question ordered.

The question was taken; and upon a division, there were—ayes thirteen, noes not counted.

So the motion to postpone was not agreed to. Mr. STEVENS, of Pennsylvania. I now call the previous question on the resolution and pending amendments.

The previous question was seconded and the main question ordered.

The resolution reported from the Committee on Public Expenditures was as follows:

*Resolved*, That it is the sense of this House that Henry A. Smythe should be immediately removed

from the office of collector of the port of New York, and that the Clerk of the House cause a certified copy of this resolution to be laid before the President of the United States.

The first question was upon the amendment of Mr. HULBURD, to insert the words "the Senate and" before the words "the President of the United States."

The question was taken; and upon a division, there were—ayes 36, noes 32; no quorum voting.

Tellers were ordered; and Mr. WILLIAMS, of Indiana, and Mr. NOELL were appointed.

The House again divided; and the tellers reported that there were—ayes seventy, noes not counted.

So the amendment was agreed to.

The substitute proposed by Mr. STEVENS, of Pennsylvania, was to strike out all after the word "resolved" and insert in lieu thereof the following:

That the testimony taken by the Committee on Public Expenditures, relating to the conduct of Henry A. Smythe, collector of the port of New York, be referred to the said committee with the view of ascertaining whether or not said Smythe has been guilty of high crimes and misdemeanors sufficient to justify his impeachment; and if said committee find from that and other evidence that he has been thus guilty, then to proceed to prepare articles of impeachment and to report the same to this House, and that they have leave to send for persons and papers.

The question was upon the motion of Mr. WOODBRIDGE, to amend the substitute by adding the words "and to sit during the recess of Congress."

Mr. ROSS. I move to amend the amendment by adding the words "at their own expense." [Laughter.]

The SPEAKER. That amendment is not now in order, as the House is acting under the operation of the previous question.

Mr. COVODE. I ask unanimous consent to offer an amendment, that the committee be directed to report immediately.

Mr. CHANLER. I object.

Mr. SCOFIELD. I suppose the committee are now authorized to report at any time, and to sit during the recess of Congress, under a former resolution adopted by this House.

Mr. PETERS. I think the resolution which the House adopted the other day on motion of the gentleman from Ohio [Mr. SCHENCK] is the same in effect as the substitute now proposed by the gentleman from Pennsylvania, [Mr. STEVENS.] I ask that the resolution be now read.

The SPEAKER. It will require unanimous consent to have that resolution read at this time.

Mr. STEVENS, of Pennsylvania. I object; let us act upon this matter at once.

The question was then taken upon the amendment of Mr. WOODBRIDGE, and upon a division, there were—ayes 50, noes 36.

So the amendment was agreed to.

The question was then taken upon the substitute of Mr. STEVENS, of Pennsylvania, as amended; and upon a division there were—ayes 70, noes 28.

So the substitute was agreed to.

The resolution, as amended, was then agreed to.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WARD. I move that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ASHLEY, of Nevada: The petition of J. F. Bennett, A. H. Hackney, J. de J. Baea, and other citizens of the county of Doña Ana, Territory of New Mexico, asking for the establishment of an assay office at the town of La Mesilla.

By Mr. JULIAN: The petition of the mechanics and laborers in the Washington navy-yard, praying

an increase of compensation and an amendment of the law regulating the same.

By Mr. KOONTZ: The memorial of 500 inhabitants of the town of Chambersburg, in Franklin county, Pennsylvania, praying for an appropriation to reimburse them for damages done by the rebel General McCausland, in burning five hundred and nine buildings in said town of Chambersburg on the 30th day of July, 1864.

By Mr. VAN HORN, of Missouri: The petition of Josephine K. Bugher, of Jackson county, Missouri, praying for a pension.

By Mr. WINDOM: Joint resolutions of the Legislature of the State of Minnesota, relative to the Northern Pacific railroad, and requesting a grant of land to construct a branch from the falls of St. Anthony to a point of junction on the Red River of the North.

Also, a memorial for a grant of land to aid in the construction of the Owatonna and State Line railway, through Geneva and Albert Lea to the southern boundary of Minnesota.

Also, a memorial for the establishment of a mail route between New Auburn, in Sibley county, via Transit and Eagle City and La Fayette, in Nicollet county, to New Ulm, in Brown county.

#### IN SENATE.

SATURDAY, March 23, 1867.

Prayer by Rev. ISAAC WESCOTT, D. D., of New York.

The Journal of yesterday was read.

Mr. CONNESS. I ask that the Journal be corrected where it states that it was upon the motion of Mr. CORBETT that the Senate concurred in the amendment of the House to the joint resolution to terminate a contract of a member of Congress with the Post Office Department. It was not on the motion of the Senator from Oregon, but on the motion of a Senator on that side of the Chamber. I move that that correction be made.

The PRESIDENT *pro tempore*. The Journal will be so corrected.

#### PETITIONS AND MEMORIALS.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of connecting the Mississippi river and Lake Michigan by navigable channels through the Wisconsin, Fox, and Rock rivers; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. HARLAN presented the memorial of the president of the First National Bank and the president of the City National Bank of the city of New Orleans, praying for an amendment of the national banking law, so as to provide that private bankers, as well as banking associations established under national authority, may be subjected to the payment of the tax of ten per cent. upon the amount of notes used in circulation; which was referred to the Committee on Finance.

Mr. COLE presented the memorial of Charles Louis Fleischmann, on the subject of the culture of forest trees on the plains; which was referred to the Committee on Agriculture.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That Laura Houghton have leave to withdraw her petition and papers.

On motion of Mr. HOWE, it was

Ordered, That the petition of loyal citizens of Loudoun county, Virginia, on the files of the Senate, praying for compensation for property destroyed by fire, and for live stock taken for the use of the United States Army, or sold for the benefit of the United States by order of General Sheridan, be referred to the Committee on Claims.

On motion by Mr. HOWE, it was

Ordered, That the papers on the files of the Senate relating to the claim of Joshua Hall for compensation for eleven bales of cotton taken by military authority for the use of sick and wounded soldiers in General Steele's expedition at Camden, Arkansas, be referred to the Committee on Claims.

#### REPORT OF A COMMITTEE.

Mr. CORBETT, from the Committee on Commerce, to whom the subject was referred, reported a joint resolution (S. R. No. 46) in relation to an harbor at or near Point Sal, on the coast of California; which was read, and passed to a second reading.

#### PERSONAL EXPLANATION.

Mr. DIXON. Mr. President, during the period of ten years that I have occupied a seat

upon this floor I believe I have never had occasion to correct a report of anything which I have said here; at any rate, if I have had I have not done so; but I find in the report of the debate yesterday, as published in the Chronicle and Intelligencer, and I suppose in the papers throughout the country, by the Associated Press, that I am made to do very great injustice to the Chief Justice of the United States. I am reported thus:

"Mr. Dixon said the appointing power vested in the Chief Justice was a great evil. It was already being used for political purposes. Applicants were criticized not only to their fitness, but to their politics."

Now, sir, I said no such thing. What I said is correctly reported in the Globe, as follows:

"But, sir, my principal objection is of another character. I think the Chief Justice is not the proper man to make these selections; not that I have not perfect confidence in him; no man on this floor has greater confidence in the Chief Justice of the United States than I have; I consider him as pure and spotless as he is able; but I say this is not the proper business of any Chief Justice. I do not wish to vest in the Chief Justice of the United States political power of this kind."

Now, sir, I merely wish to say that I do think the reporters in the gallery ought to be careful in giving the substance of what is said. I have no doubt they intend to be. They sometimes inadvertently do injustice. They have in this instance, in my judgment, done me more harm than they have done the Chief Justice. Such a charge as that, that this appointing power was already being used for political purposes, would be a charge upon the Chief Justice which, in my opinion, would injure him who made it far more than the Chief Justice himself. I hope the reporters will correct their report, and give what I did actually say, as stated in the Globe.

#### EDUCATION IN THE DISTRICT.

Mr. HARLAN. The Committee on the District of Columbia, to whom was referred a resolution in relation to education in the District, have instructed me to report a joint resolution on the subject, and to ask for its immediate consideration.

By unanimous consent, the joint resolution (S. R. No. 43) in relation to the educational interests of the District of Columbia was read twice by its title, and considered as in Committee of the Whole. It directs the Commissioner of Education to ascertain the number of children resident in the District of Columbia over the age of six years and under the age of eighteen years, the number of said children that are blind, and the number that are deaf and dumb; the number and character of public school-houses, number of teachers and number of pupils in attendance, number and character of school libraries, character of text-books used, average period per annum each pupil is taught and cost of tuition, with incidental expenses of the schools, and to report to Congress at its next regular session, together with his opinion of the relative efficiency of the system now in force in the District, and whether any additional legislation is necessary in order to secure the advantages of the system to the children.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### SALE OF SHIPS TO BELLIGERENTS.

Mr. CHANDLER. I now desire to call up the bill (S. No. 94) declaratory of the law with regard to the sale of ships to friendly belligerents.

Mr. CONNESS. I hope we shall go on with the morning business.

Mr. CHANDLER. Let me take this up, and then I will give way for the morning business.

Mr. JOHNSON. Is it proposed to take that bill up for consideration now?

The PRESIDENT *pro tempore*. The Senator from Michigan moves to postpone all prior orders and proceed to its consideration.



Mr. JOHNSON. I will only state, that the Senate may know what will be the effect of taking it up for action now, that it will lead to quite an elaborate debate in all probability. It is a very important measure. The same measure was before the Committee on Foreign Relations, and is now before them. Whether it will be acted upon or not at this session I suppose is doubtful; perhaps it is certain it will not be; but at the close of the session to pass a law of this description, which may have a very injurious effect upon our relations with other nations, and especially may complicate the negotiations going on with England in relation to her liability for damages sustained by the commerce of the United States in consequence of the fitting out of privateers in her ports, and may injure, I think, from the little reflection I have been able to give the subject, our chances of being indemnified, it seems to me would be very injudicious. I can imagine that ship-builders in the United States would be anxious to fit out vessels such as they would be authorized to do under this bill; but to do so, while it might give them some three or four or five millions the present year, might lose to other citizens of the United States some ten or fifteen or twenty millions, and might also involve us in trouble with foreign nations. I only mention these facts that the Senate may know what the character of the bill is, and that it is certain to lead to debate which will consume the day, I suppose, and more than the day.

Mr. CHANDLER. I do not think it will consume the day, or any considerable portion of the day. It is a simple commercial bill. The Committee on Commerce referred it on the 9th of February to the honorable Senator from Maine, [Mr. MORRILL,] who has given it a thorough investigation. He has informed me that in his judgment it will not complicate our relations with foreign Powers, or interfere with the Alabama or any other claims. The petition upon which it is based is signed, not by ship-holders, but by the heaviest commercial houses in the United States.

Mr. CONNESS. Is it just reported this morning?

Mr. CHANDLER. No; the day before yesterday.

Mr. CONNESS. Then I object to the discussion of this matter now. Let us go on with the morning business.

Mr. CHANDLER. I want to take it up.

Mr. CONNESS. I object.

Mr. CHANDLER. Your objection cannot prevent it. It is in the hands of the Senate to take it up or not. The Senate can, if they see fit, take it up or they can vote it down. I think the bill ought to pass. It simply declares that in the future the United States, or any citizen of the United States, may sell any vessel to any friendly belligerent; but this proviso is put in:

*Provided, That the transaction is simply commercial, with no intent on the part of the seller or charterer to participate in any belligerent act, and that the vessel or steamer while in transitu is in no respect exempted from the law of contraband.*

It is a simple commercial measure which, in my judgment, will not complicate our relations with any other Power, and which ought to be passed. Of course it is in the hands of the Senate. I hope the Senate will take it up and proceed with its consideration.

Mr. CONNESS. It is very evident that this bill opens up questions of the greatest magnitude; and if it is to be taken up at all it ought not certainly to be taken up in the morning hour. I hope that the Senate will not take it up at this time.

Mr. SUMNER. On the question of taking up this bill I deem it my duty to repeat a statement which I made the other day when the bill was reported. This whole subject was referred by the Senate to the Committee on Foreign Relations. That committee proceeded at once with its consideration, and came to the conclusion that under the circumstances it was not expedient to legislate thereupon at this session. The bill referred to them was

left on their table. I was not authorized to report it back to the Senate, for there was no conclusion reached as to what it might be expedient for us to do when we should come together again. I make this statement now with reference to the course of the Committee on Foreign Relations without any intention to prejudge the merits of the bill; but the Senator from California is right when he says it opens a great question. It opens one of the greatest questions that we have had occasion to discuss latterly. Clearly we ought not to proceed with it in the morning hour. If it is to come up, it should come up on notice before hand, that we may be prepared to consider it.

Mr. CHANDLER. I gave that notice yesterday.

Mr. MORRILL, of Maine. This measure comes from the Committee on Commerce, where some little consideration was given to the subject; and in the view in which that committee would be expected to deal with such a question they were unable to see any objection to the measure. As a commercial transaction it is difficult to conceive that it would not be perfectly allowable for one of our own citizens to sell a vessel of American construction to a citizen of a foreign country. That is the proposition. Now, I say, in a commercial point of view, or even in the interests of the merchant marine of the country, or the ship-building interests of the country, it is very plain, it seems to me, that there is no objection to the terms of this bill.

I am sure, Mr. President, that such a bill would not violate any of the ordinary rights of a public character or ordinary principles of public law. I think nothing is more common in the intercourse of nations than the transactions contemplated by this bill. Nevertheless I can understand that the Committee on Foreign Relations may have different views on this subject, and that having charge of relations entirely foreign they may feel that there are interests which might be embarrassed, not perhaps by the terms of this bill, not perhaps by any legitimate deductions that might be deduced from this bill, but from a misapprehension of its character; and if I understand anything from the remarks of the honorable Senator from Massachusetts, the chairman of the Committee on Foreign Relations, it is an apprehension that something might grow out of a misconception or misapprehension of this bill which would endanger our foreign relations in the present posture of affairs; and by that language I suppose he means to refer to the delicacy of our foreign relations.

Now, sir, the Committee on Commerce know nothing about that, except in a general way. The Committee on Commerce, looking at this bill as a measure suitable in itself, could not be expected, perhaps, to be as sensitive upon the class of questions to which the honorable Senator refers, as the Committee on Foreign Relations, who are charged particularly with questions of that sort, and who, he will allow me to say, are I think a little sensitive about questions of that kind. We could have no apprehension that a measure so plain, and so manifestly just as this appears to be in a commercial point of view, could endanger American interests anywhere, or that a proposition so plain as this would be liable to be so misconstrued and misunderstood as to affect the foreign relations of the country. I do not understand the chairman of the Committee on Foreign Relations to raise any other objection to this bill. In fact, I do not understand him to hint that the bill is not in itself proper and suitable enough under ordinary circumstances; but, owing to the peculiar condition of our foreign relations, he suggests that it might as well be postponed.

Mr. SUMNER. I stated that such was the conclusion of the committee. The committee came to the conclusion on consideration that the bill ought not to be proceeded with now.

Mr. MORRILL, of Maine. And that on account of the delicacy of our foreign relations.

Mr. SUMNER. They did not undertake to

pass definitively on the bill; but they came to the conclusion that it should not be proceeded with now.

Mr. MORRILL, of Maine. And very properly I think, the committee did not undertake to adjudicate on the character of the bill; for it is difficult for me to understand on the general principle of that bill what the Committee on Foreign Relations could have to do with it. It is entirely of a commercial character; but I can understand in the great solicitude—

• Mr. FESSENDEN. I should like to ask my colleague whether it is not a question that may affect our neutrality laws?

Mr. MORRILL, of Maine. That is precisely the ground which I was suggesting.

Mr. FESSENDEN. Very well; being so, I think it is very manifestly proper for the consideration of the Committee on Foreign Relations.

Mr. MORRILL, of Maine. There may be force in the suggestion of my colleague; and I was not arguing that in the view in which I understood the Committee on Foreign Relations to consider it, it did not properly belong to it.

Mr. SUMNER. I beg the Senator's pardon. The committee felt that the bill naturally belonged to them. Primarily, and in its most important aspect, it unquestionably is, as the Senator from Maine suggests, a question concerning our foreign relations. It undertakes to lay down a new rule of neutrality, or rather to lay down a rule of neutrality which it associates with our past history and with the decisions of our courts. It is manifestly a question for the Committee on Foreign Relations. If it concerns commerce, it is only in its secondary aspect.

Mr. MORRILL, of Maine. May I ask the honorable Senator whether he understands that it violates any treaty regulations or any rule of neutrality between this country and foreign countries?

Mr. SUMNER. The Senator asks me a question that if I answer would carry me into a discussion of the bill, which at this moment I wish to avoid. If the bill should be taken up for discussion I may be disposed to enter into it.

Mr. MORRILL, of Maine. So it all comes precisely to what I said: that the opposition from the Committee on Foreign Relations is based on the idea that in the peculiar state of the country we ought not to enter upon the consideration of the question at all. Well, I am not urging it; I am only saying the Committee on Commerce took cognizance of it without any such apprehension. If there is any well-grounded apprehension, then I agree with the Senator that we ought not to proceed with it. I am only saying so much in the way of justifying the Committee on Commerce for their action on this bill from their stand-point.

Mr. JOHNSON. The object of this bill must be—certainly that is the effect of it—to repeal the neutrality laws, particularly the last one passed in 1818, which, as I think, has contributed very much to the prosperity of the country. If by that law or any of the antecedent laws what is proposed to be done by this bill is not prohibited, it can be done without legislation. If it is prohibited by the existing legislation, then the question for the Senate is whether, in the present condition of the country in reference to its claims upon other nations and the tendency of such measures as this bill proposes to allow, would complicate us and involve us in foreign difficulties, it is advisable to alter our neutrality laws.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. CHANDLER. On that question I will ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. I wish to ask the chairman of the Committee on Foreign Relations whether, if the bill is taken up, he shall feel it his duty to oppose it. What I want to know is, whether it is going to lead to discussion?

Mr. SUMNER. The bill must lead to dis-

cussion. I know of Senators who are disposed to discuss it at length. I have already stated that the committee with which I am connected, on carefully considering it, concluded that it was better not to take it up during this session. I did not go into any statement further of my own views on the subject.

Mr. CHANDLER. I find that some gentlemen who are in favor of taking up this bill are opposed to taking it up during the morning hour. I do not wish of course to interrupt the morning business, and I will withdraw the call for the yeas and nays. But I give notice that I shall at the expiration of the morning hour again move to take it up. I think it a very important measure, and a measure which ought to be passed at the very earliest moment. It is a measure which interests the entire commercial interests of the United States. I withdraw the call for the yeas and nays, and give notice that I shall call it up after the morning hour.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. CHANDLER. I withdraw the call for the yeas and nays.

Mr. WILLIAMS. I simply wish to make an inquiry. I find that the bill is entitled "A bill declaratory of the law with regard to the sale of ships to friendly belligerents." If two foreign nations are at war and the United States authorizes its citizens to sell ships prepared for war to one of the belligerent Powers, would not that be regarded as an act of hostility on the part of the United States? I know when the British Government allowed the rebels to prepare vessels in England to assist in their cause we regarded that as an act of hostility.

Mr. CHANDLER. That was simply because it was in violation of her own neutrality laws, and it is claimed that it is now a violation of our neutrality laws, the laws that we ourselves have passed. If you permit both belligerents to purchase, of course it is not an act of hostility. This is simply a declaratory act. Our just claim against Great Britain was that she violated her own law. Their claim against us is that we violated our own law. Under this declaratory law our citizens violate no law, neither do they commit an act of hostility by selling ships to either or both the friendly belligerents.

Mr. JOHNSON. I have no doubt the honorable member has studied the question very thoroughly and has read the correspondence between our minister and the State Department and British Government on this subject; but according to my recollection—I may be wrong—the ground upon which Earl Russell placed the irresponsibility of the Government of England for the damages done by the Alabama and the other privateers is one which we shall hardly be prepared to controvert if we authorize the doing of what it is proposed to authorize by this measure. I know that the bill upon its face, at least I suppose that that is its object, is intended only to give to the citizens of the United States the right to sell vessels to a belligerent; but I suppose no one is simple enough to imagine that any ship-builder in the United States will undertake to build a ship that pretended to be a ship-of-war without having some understanding with a foreign belligerent; that she will thereafter leave the port of the United States the property of that belligerent, and if she does it will be precisely and exactly the case of what we said England permitted her ship-builders to do, and of which we complained.

But however that may be, Mr. President, I state to the Senate that the question, in my judgment—and in that I believe I have the concurrence of the judgment of the entire Committee on Foreign Relations—is a very important one, and one which we now have no time to examine. We are about to adjourn, as I trust, in a day or two. To pass a bill of this description, so recently before the session is to close, and to have it passed by the House, a bill which may involve the nation possibly in war, and at least certainly complicate the negotiations that are now going on between the United States

and England in reference to the depredations made upon the commerce of the United States by vessels fitted out under circumstances which will, under this bill, authorize the fitting out of vessels of the United States to be used for the same purpose, seems to me to be inexpedient.

The PRESIDENT *pro tempore*. The question is now on taking up the bill.

The motion was not agreed to.

#### MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. President, the House of Representatives has passed a resolution in these words, which I am directed to bring to the Senate for its information:

*Resolved*, That the House having been informed by one of its committees that testimony has been brought to the knowledge of said committee, which testimony apparently affects one or more members of the Senate, the House thereupon directs that copies of all such testimony be transmitted to the Senate for its information.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 107) to render applicable to drafted men, to seamen in the United States Navy, and to mariners the provisions relating to bounties in the act making appropriations for the civil expenses for the year ending June 30, 1867, approved July 28, 1866; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 111) to regulate the elective franchise in the United States; which was read twice by its title, ordered to lie on the table, and be printed.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 108) for the relief of Henry Great-house and Samuel Kelley; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 109) for the relief of Jeremiah McChesney; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 110) to promote forest-tree culture on the plains; which was read twice by its title, referred to the Committee on Agriculture, and ordered to be printed.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 45) for the relief of Benjamin F. Small, postmaster at Carson City, State of Nevada; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 47) in relation to the removal of Indian tribes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 44) directing an examination and estimate to be made of the cost of reconstructing the levees of the Mississippi river; which was read twice by its title.

Mr. RAMSEY. If there is no objection, I should like to have the resolution considered at the present time. I presume there will be no objection to it.

Mr. TRUMBULL. I should like to hear it read at length.

The Secretary read the resolution. It directs the Secretary of War to detail a competent officer or officers of the engineer department to make an examination of the condition of the levees of the Mississippi river and report a plan for their reconstruction and improvement from the mouth of the Ohio river to the Gulf of Mexico, with an estimate of the cost of the same.

Mr. TRUMBULL. I object to its consideration.

Mr. SHERMAN. There is no necessity for the passage of that resolution.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

Mr. RAMSEY. As objection is made, it had better be referred to the appropriate committee. I move that it be referred to the Committee on Commerce and ordered to be printed.

The motion was agreed to.

#### MINT LAWS.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of the Treasury be requested to communicate to the Senate any information he may have relative to a proposed change in the mint laws of the United States upon the subject of the refining of gold and silver, and public policies incident thereto.

There being no objection, the Senate proceeded to consider the resolution.

Mr. NYE. I should like to have the mover of that resolution state in a word what is its object.

Mr. CONNESS. The object is to get information from the Department. It is a resolution calling for information.

Mr. NYE. About a change of the mint system?

Mr. CONNESS. Let the resolution be reported again.

The Secretary read the resolution.

The resolution was adopted.

#### DISTRICT ELECTION EXPENSES.

Mr. WILLEY. As there seems to be no business before the Senate, I move that the Senate proceed to the consideration of Senate resolution No. 24.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of election for the cities of Washington and Georgetown, District of Columbia.

By the first section the corporations of the cities of Washington and Georgetown, in the District of Columbia, are required to pay, or cause to be paid, all necessary expenses, including printing, clerk hire, room rent, stationery, and a per diem compensation to each of the judges of election in the respective cities appointed under the act of Congress entitled "An act to punish illegal voting in the District of Columbia, and for other purposes," approved February 5, 1867, of five dollars per day for every day they shall be actually employed in the discharge of their duties, and the certificate of the judges of election of either city, or a majority thereof, of the correctness of any account arising out of the action of the judges shall be deemed sufficient to constitute the same a legal debt against the city to which the judges so certifying shall belong. It is to be lawful for any of the judges of election to administer oaths in all cases relating to the duties assigned them by law, and any person willfully making a false statement under oath before any of them is to be deemed guilty of perjury, and on conviction thereof to be subject to imprisonment for the term of not less than two nor more than five years.

The second section directs the judges of the supreme court of the District of Columbia to appoint three commissioners of election in each voting precinct in the cities of Washington and Georgetown, who shall hold their offices for two years and until their successors are appointed and qualified, whose duty it shall be to take charge of the ballot-boxes at the polls at each election, to receive and deposit in the boxes the ballots of legalized voters in their respective precincts, to count the votes after the polls are closed, and declare the result, and make returns thereof as now provided by law. The commissioners of election are to receive the votes of all persons whose names are on the list of voters in the precinct, prepared by the judges of election, and none others; they are to have power to administer oaths, and to examine persons offering to vote,

and other witnesses as to the identity of voters, and any person swearing falsely relative to the same is to be deemed guilty of perjury, and on conviction thereof to be subject to imprisonment for the term of not less than two nor more than five years; and to receive from their respective cities the same compensation for their services as is now paid to the commissioners of election in those cities.

The Committee on the District of Columbia propose to amend the resolution by striking out in line twenty-three of section one the word "two" and inserting "one," so as to read, "imprisonment for the term of not less than one nor more than five years."

The amendment was agreed to.

The next amendment was to strike out the second section of the joint resolution.

Mr. WILLEY. On reflection, and after conference with some members of the Committee on the District of Columbia, it is thought best not to strike out this section, but to modify it and amend it before the question is taken on striking it out. I move to amend the section by striking out in lines twenty, twenty-one, and twenty-two the words "and shall receive from their respective cities the same compensation as is now paid to the commissioners of election in said cities."

The amendment was agreed to.

Mr. WILLEY. I further move to amend the section by striking out the word "two," in line nineteen, and inserting "one."

The amendment was agreed to.

Mr. WILLEY. Now, I hope the motion to strike out the section will not be agreed to.

The motion to strike out did not prevail.

The joint resolution was reported to the Senate, as amended, and the amendments were concurred in.

Mr. NYE. I have just picked up this resolution, and I desire to know whether any provision is made in it for the appointment of judges or commissioners of election?

Mr. WILLEY. A law passed at the last session provides for the appointment of the judges of election.

Mr. NYE. By whom?

Mr. WILLEY. By the chief justice of the supreme court of the District of Columbia, according to my recollection; but the Senator from Maine is more familiar with that subject.

Mr. MORRILL, of Maine. The Senator is correct. They are appointed by the chief justice of the supreme court of the District of Columbia.

Mr. NYE. I see here a provision for the appointment of registers, and not of judges of elections. It seems to me both should be provided for.

Mr. WILLEY. There is no provision in this joint resolution for the appointment of registers. That is provided for by another law.

Mr. NYE. Very well.

Mr. WILLEY. I think there ought to be an amendment in the sixteenth line of the second section, by inserting after the word "voters" the words "and shall receive from their respective cities the same compensation for their services as is now paid to the commissioners of election in said cities."

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SENATE CONTINGENT EXPENSES.

Mr. MORRILL, of Maine. I move to take up for consideration Senate bill No. 83. It is a small matter of appropriation which it is necessary to take up at the present time.

The motion was agreed to; and the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, was considered as in Committee of the Whole. It proposes to appropriate for clerks to committees, pages, horses, and carryalls, \$15,000; for miscellaneous items, \$30,000, and for salary

of the clerk to the Committee on Appropriations, from the date of his appointment to the 30th of June, 1868, \$2,898.

Mr. EDMUNDS. I move to amend the bill by adding as a new section:

Sec. 2. And be it further enacted, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed at the second session of the Thirty-Ninth Congress, shall not be construed to allow a greater compensation for the publication of the laws passed by Congress and executive proclamations and treaties in the papers in the District of Columbia than is provided by law for such publication in other papers.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. CRAGIN, from the Committee on Contingent Expenses, offered the following amendment, to come in after line twelve of the first section:

To pay the expenses incurred under the resolution of the Senate directing the hydration of the atmosphere in the Senate Chamber, the sum of \$7,500 is hereby appropriated, and added to the contingent fund of the Senate.

Mr. MORRILL, of Maine. Do I understand the Senator from New Hampshire to move that amendment from a committee?

Mr. CRAGIN. I move the amendment by direction of the Committee to Audit and Control the Contingent Expenses of the Senate. The Senator from Pennsylvania, [Mr. BUGGALAW,] who is on that committee, has had special charge of this matter, and introduced the resolution, which was passed by the Senate, directing the Sergeant-at-Arms to have the air of the Senate Chamber hydrated. The Sergeant-at-Arms has proceeded with the work, and it is nearly completed, and this amount is necessary to pay the expenses.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended by adding the words "and for other purposes."

#### MONEYS DUE COLORED SOLDIERS, ETC.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, marines, or their heirs.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution.

The Committee on Military Affairs and the Militia, after the previous recommitment of the joint resolution, reported it with amendments. The first amendment was to strike out all after the word "shall" in line twelve of the first section, and in lieu of the words stricken out to insert:

Hold the balance subject to the order of the claimants on satisfactory identification; but no money shall be paid to any person except the claimant, or his or her legal representatives, if deceased; nor shall any power of attorney, transfer, or assignment of the amount of said claims, or any part thereof, be recognized or allowed by the Commissioner, or by any officer or agent acting under him; and it shall be the duty of the said Commissioner, the officers, and agents of the Freedmen's Bureau to facilitate as far as possible the discovery, identification, and payment of the claimants.

Mr. WILSON. Since this matter was under consideration the other day the Committee on Military Affairs have reported an amendment, striking out all that part of the resolution that relates to the Freedmen's Bank, and inserting a provision referring the whole matter to the Commissioner of the Freedmen's Bureau, who is himself responsible and may deposit the money where he pleases.

The amendment was agreed to.

The next amendment was to strike out all of the second section after the resolving clause and in lieu of it to insert:

That the Commissioner of the Freedmen's Bureau shall be held responsible for the safe custody and faithful disbursement of the funds hereby entrusted to him. In settling with the attorney or agent of the claimant strict compliance with the scale of fees prescribed by the second section of a joint resolution approved June 28, 1866, entitled "Joint resolution amendatory of a joint resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances

to their heirs," approved June 15, 1866, will in every case be required and enforced; and if any attorney or agent shall, in addition to the notarial fees and expenses of collecting such claim, demand repayment for money loaned or advanced to any claimant, he shall be required to make oath to the date and amount of such loan or advance, or payment of the fees and expenses shall be withheld; and when the claimant shall have been properly identified, and his account is ready for settlement, the balance due shall be paid in current funds, and not in checks or drafts.

Mr. JOHNSON. I inquire of the chairman whether the Commissioner of the bureau is required to give bond for the faithful application of this money? If not, it is a departure from all our legislation.

Mr. WILSON. No other Army officer gives bond, I believe. The simple question is whether the money shall be paid into the hands of claim agents, to be by them transferred all over the country, or whether it shall go into the hands of the Commissioner of the Freedmen's Bureau for transmission to the proper parties. I have no objection to his giving bond, but this is imposing upon him a duty for which he gets nothing, and it is a great responsibility.

Mr. JOHNSON. No one has more confidence in the present Commissioner than I have, but it is departing altogether from the practice of the Government to place a large amount of money in the hands of any individual, official or otherwise, without requiring a bond.

Mr. WILSON. I have no objection to such a provision; but I think it is enough to ask him to do this work. We propose to have him do it for the purpose of securing the safe transmission of the money to those for whom the Government intends it. Since this matter was under consideration the other day, a case has come to my knowledge where \$300 was due to a colored soldier and the claim was pressed by a claim agent, and he secured the payment of the money.

The man for whom it was intended, however, getting no money, began to inquire about it. The case was investigated, and the agent had to pay it to him; but he charged him a bill of sixty dollars. Mr. French states to me that there are many cases in which the greatest impositions are practiced upon these people. This proposition simply is that when a claim agent has carried a case through and has got the case decided, and the check is made out, that check shall go into the hands of the Commissioner of the Freedmen's Bureau, who is to see to it that it reaches the proper person; and further than that, the claim agent is to have his proper and legal fees paid to him. He will have nothing to do with the money, but will get paid for what he has done, and then the Commissioner of the Freedmen's Bureau, through his agents, will attend to the proper distribution of the money and see that it is forwarded to the proper persons entitled to it. This is a great responsibility to put upon any man; but I have no doubt it will save hundreds of thousands of dollars to innocent and honest people.

Mr. JOHNSON. Is the effect of the amendment to take the money out of the Treasury and hand it over to the Commissioner of the Freedmen's Bureau?

Mr. WILSON. I will state the effect of it. A claim agent prosecutes a claim against the Government, and when it is adjudicated a check is given to him to be paid over to his client wherever he may be, and he forwards it to his client, or should do so, and I suppose in most cases does it. I have no doubt that generally the agents are honest, but there are cases coming to light every day of the contrary. Suppose a citizen of North Carolina enlisted into the service and is entitled to receive a bounty. Some agent prosecutes this claim, and the claim is admitted and the party is entitled to \$300. A check for that amount is made out and handed to the agent, and the agent forwards it to the soldier in North Carolina. If he gets it, very well, provided the agent does not charge him more than the law allows. Instead of that course being pursued, under this joint resolution the practice will be that the check, instead of being paid to the claim agent, will be given into the hands of General Howard, and for-

warded by him to the party entitled to it, so as to make it sure that he gets it; and the claim agent will receive from General Howard out of this money what the law allows him for his services, so that the claim agent will get all that the law allows him to receive, and the money will go through the hands of General Howard, who is responsible for it, and who is bound by the law to forward it to the party entitled to it, he having the record of where the man is and who he is, and being responsible that the money gets into his hands. This is an immense labor which is to be devolved upon him, and he is to get nothing for it, while he and his agents are to be responsible that the money gets into the proper hands.

Mr. French and Mr. Brodhead both recommend that this be done. I went up two days ago to the Department and had a long conversation with Mr. French in regard to it. He summoned up one of the officers of his Department who had the care of this matter, and he informed me of great abuses which ought to be corrected. The other day the opposition to the resolution seemed to come entirely from objection to depositing the money in the Freedmen's Savings Bank as then proposed, or in any bank. Instead of that we now provide that the checks shall be given to General Howard, who is to forward them to the proper parties, he being responsible for the money.

Mr. JOHNSON. I have failed to make myself understood by my friend from Massachusetts. If the money is to remain in the Treasury to give General Howard an opportunity of ascertaining to whom it belongs, I have no objection. The objection I make is not for the purpose of saving the interests of any claim agents. I have nothing to do with them. I am looking to the safety of the fund for the parties to whom we owe it. If the effect of the amendment is to transfer into the hands of General Howard the whole amount now in the Treasury to the credit of the fund, then I object to it, because no matter how honest General Howard is, and no man is more honest, it subjects the parties to whom the money is due to the hazard of its being lost. What is General Howard to do with it, provided he gets the whole fund? Where is he to deposit it?

Mr. WILSON. Some cases come up every day, and he would every day, if this resolution be passed, be receiving checks and sending them out. The probability is he could not accumulate anything of any amount, because the money as fast as it was paid into his hands would be paid out to the proper parties. At any rate, it will go no faster from the Treasury into the hands of the Commissioner of the Freedmen's Bureau than it goes into the hands of claim agents. It will be just the same in that respect. It goes out of the Treasury in either case, but it is believed to be safer in the hands of this officer than in the hands of various persons scattered up and down the country.

Mr. JOHNSON. That I have no doubt of; but I still fail so to explain myself as to make myself understood, or at least I think I fail in that respect. I do not know the aggregate amount now in the Treasury to the credit of these freedmen, but I believe it is near one hundred thousand dollars, if not more. What I want to know is whether upon the passage of this bill the whole of that money is to be handed over to General Howard and be kept by him, and then paid over to the claimants as they may individually present their claims. If it is to be paid over to General Howard in the aggregate, what is he to do with it? Is he to deposit it in a bank? Suppose the bank fails? These things are happening. Is it to be paid into what is called the Freedmen's Bank? That we objected to the other day. Or is he to keep it in his own chest? Then suppose he is robbed, are the freedmen to suffer? I suppose in that case we would provide for the payment to the freedmen of the amounts which they might respectively be entitled to claim out of the fund.

I repeat that in what I have said I have had in no way the interests of claim agents in my view, but have had the interests of these parties themselves. If the Senate think that the whole fund should be taken out of the Treasury, where it is certainly safe, and paid over to General Howard, where it may not be safe, no matter how honest and careful he may be, then they will say so. It seems to me to be rather dangerous if that is the effect of the bill.

Mr. MORRILL, of Maine. I greatly misapprehend the scope of this bill, or otherwise the remarks of the Senator from Maryland do not apply at all. There is no money to go into the hands of General Howard as I understand it.

Mr. WILSON. Yes, the money will go into the hands of General Howard.

Mr. MORRILL, of Maine. But only on checks.

Mr. WILSON. Certainly.

Mr. MORRILL, of Maine. I will read the first section:

That all checks and Treasury certificates to be issued in the settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, now residing, or who may have resided, in any State in which slavery existed in the year 1860, the claim for which has been or may be prosecuted by an agent or attorney, shall be made payable to the Commissioner of the Freedmen's Bureau, &c.

Mr. JOHNSON. He draws the money.

Mr. MORRILL, of Maine. Certainly he draws the money on the check; but the soldiers' fund does not go into his hands at all. Instead of paying it to whatever attorney settles the claim the check is to be made payable to the Commissioner of the Freedmen's Bureau, and the only duty or responsibility on him is to see that that check, or the proceeds of it, pass into the hands of the proper person. If that is so, then it turns out that the Commissioner of the Freedmen's Bureau is not to have the fund in his hands. He is only the trustee of the check, and is bound to turn over the check or its proceeds to the proper person. That is all there is of it.

Mr. CORBETT. Are not the checks made payable to the order of the parties entitled to the money?

Mr. MORRILL, of Maine. The expression is, "Shall be made payable to the order of the Commissioner of the Freedmen's Bureau." The only object I can perceive which the honorable chairman of the Military Committee has in view, is to make sure that this money shall go from the Government through such channels as shall insure its safe deposit in the hands of the persons to whom it is due. Heretofore the checks have been made payable to agents or attorneys, and from that great frauds have come. Now, it is said we will make these checks all payable to the Commissioner of the Freedmen's Bureau. He will draw the money on these checks, or pay the checks over to the persons to whom they are due. If that is so, then it is clear that there never is, in the estimation of this law, to be a fund accumulated in the hands of the Commissioner; and to accumulate a fund in his hands would neither be an honest execution of it nor in any sense a faithful compliance with his trust.

The amendment was agreed to.

Mr. SHERMAN. I have examined this resolution as carefully as the brief consideration allowed us would permit, and I do not see anything objectionable in it; but I think it would be better to require this money to be paid out by the officers of the bureau under the same laws, rules, and regulations that apply to other disbursing officers. The legal effect of this joint resolution is simply to make the Commissioner of the Freedmen's Bureau and his agents disbursing officers of all money due under existing laws to freedmen in the southern States. Instead of its being paid directly on draft to the freedman himself, or his agent or attorney, it is to be collected in the first instance by the Commissioner of the Freedmen's Bureau or his agents through the southern States, and then paid over to the beneficiaries.

Now, if you require him to hold this money and disburse it in the same manner that a paymaster in the Army would, you have ample security, and these agents would become disbursing officers to the extent of the money due to the freedmen. As the bill is now framed the Commissioner of the Freedmen's Bureau or his agents would draw the money, and they might if they chose deposit it with a bank, the national banks or a savings bank. We found it necessary only a year ago to prohibit disbursing officers from depositing money with the national banks, because a habit got up of the national banks paying disbursing officers a slight premium in the way of interest, and by that means we lost in this city alone \$500,000. If these men are disbursing officers precisely like any other disbursing officers, required to hold this money in their hands under the penalty of the penitentiary in case they pay it out to any but the beneficiaries entitled to it, I see no objection to the bill, and probably it would facilitate and aid the freedmen in getting the money which the Government owes to them. I propose, therefore, to amend it by adding an additional section, which I have not yet put in form, that the moneys held or disbursed for these purposes shall be held and disbursed under the laws and regulations applicable to disbursing officers of the Army.

Mr. WILSON. I have no objection to that.

Mr. SHERMAN. The effect of that would be that they could not deposit the money anywhere else than in a Government depository, or have it on hand to pay the parties entitled to it.

Mr. WILSON. I have no objection to such an amendment.

Mr. SHERMAN. Then I offer this amendment as an additional section:

*And be it further resolved,* That all moneys held or disbursed under the provisions of this resolution shall be held and disbursed under the laws and rules and regulations covering other disbursing officers of the Army.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 25) providing for the importation of certain works of art duty free, with amendments, in which the concurrence of the Senate was requested.

The message also announced that the House had passed a bill (H. R. No. 28) to increase the force in the Patent Office, and for other purposes, in which the concurrence of the Senate was requested.

#### AMERICAN ATLANTIC CABLE TELEGRAPH.

Mr. RAMSEY. I move to take up Senate bill No. 28. It was under consideration about a week ago, and was laid aside to enable an amendment to be made at the suggestion of the Senator from Maine, [Mr. FESSENDEN.] I hope it will now be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 28) to grant to the American Atlantic Cable Telegraph Company, of New York, the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe, via the Bermudas and Azores Islands.

Mr. RAMSEY. In order to answer the suggestion made by the Senator from Maine when this bill was up before, I move to amend it by inserting after the word "coast," in the seventh line of the first section, the words "except the coast of Florida;" and to make the same amendment by inserting the same words after the word "coast" in the second section.



Mr. POMEROY. I do not understand why the coast of Florida should be excepted.

Mr. RAMSEY. Because by the legislation of last year we gave the exclusive privilege to another company to lay a telegraph cable from the Florida coast to Cuba.

Mr. POMEROY. I do not understand that that was an exclusive privilege.

Mr. SHERMAN. It was exclusive, but the act reserved to Congress the right to alter, amend, or repeal it. There was a great controversy over that bill here, because, as first proposed, it was an exclusive privilege; but as the bill was passed, the right to alter, amend, or repeal it was reserved to Congress.

Mr. RAMSEY. I have no desire for this amendment, except in answer to the suggestion of the Senator from Maine.

Mr. POMEROY. If this has the effect to repeal that, I am for it.

Mr. CONNESS. It ought to be done.

Mr. FESSENDEN. I do not recollect that such a clause was inserted in the other bill. My recollection is that we were not able to insert a clause reserving the right to alter, amend, or repeal it. I should like, at any rate, to see how that bill reads.

Mr. CONNESS. I have before me the act referred to, being an act to encourage telegraphic communication between the United States and the island of Cuba, approved May 5, 1866; and the third section of that act is in these words:

"SEC. 3. And be it further enacted, That Congress shall have power at any time to alter or repeal the foregoing act."

Mr. FESSENDEN. Is there the same provision in this bill?

Mr. CONNESS. We can insert it if there is not. There is, however, nothing exclusive in this bill.

Mr. RAMSEY. We can give the same privilege that this bill confers to anybody else.

Mr. SHERMAN. I did all I could to prevent the passage of the act of last year, until finally some one proposed an amendment reserving the right to alter or repeal it, and then I felt no further interest in the matter.

Mr. FESSENDEN. But if we have given to that company this exclusive privilege for fourteen years, would it be good faith before they begin operations to repeal that privilege or to alter it in any way?

Mr. SHERMAN. I would allow any company to lay a cable.

Mr. FESSENDEN. I contended against that exclusive privilege as long as I could, and thought we ought not to give the exclusive privilege, but the Senate did it.

Mr. CONNESS. With a condition.

Mr. FESSENDEN. We retained the privilege to repeal it; but having voted to grant the privilege, I think good faith requires that we should not alter or repeal that act, or modify it substantially by giving rights to other persons in the same place, unless we see something in the conduct of those to whom the privilege has already been granted which justifies us in doing it, or something in the public necessities which we do not yet see. I contended against that exclusive privilege being granted, and I was very sorry that I did not succeed, because I thought it was bad policy. But as Congress adopted it and agreed to it, I do not think it would be fair to let another company interfere with them before they have had an opportunity to test their experiment.

Mr. CONNESS. The company who desire the passage of the bill now pending are entirely willing that it shall be amended in the manner proposed by the Senator who has it in charge. Consequently, it is not well to enter into a discussion of the question at this time, though I entirely sympathize, and did when the former bill was pending, with those Senators who objected to granting exclusive privileges, and believed that the reservation made would enable us to do just what is now proposed at any time. But yet I think it is wise at this time, in connection with this bill, to accept it in the form that the Senator from

Minnesota asks it, namely, without infringing upon this exclusive privilege.

The amendment was agreed to.

Mr. MORRILL, of Maine. I move to amend the bill by adding as a new section:

And be it further enacted, That Congress shall have power to alter, amend, or repeal this act.

Mr. RAMSEY. I have no objection to that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had yesterday approved and signed the following bill and joint resolutions:

A bill (S. No. 22) in relation to a certain tract of land in Burlington, Iowa;

A joint resolution (S. R. No. 26) providing for the necessary surveys for a ship-canal between Lake Erie and Lake Ontario for military, naval, and commercial purposes; and

A joint resolution (S. R. No. 30) amending the ninth section of an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the Senate of March 12, a copy of the records of the retiring and revisory boards and of the proceedings in the matter of the dismissal of Captain Edward McDonald Reynolds from the Marine corps; which was ordered to be printed and lie on the table.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 28) to increase the force in the Patent Office, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

#### WORKS OF ART.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the Senate amendment to joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free. The House amendments were to strike out the word "experimentation" and to insert "experimental purposes;" and at the end of the Senate amendment to add "provided, that this section shall apply only to steam plows."

Mr. MORGAN. I hope the Senate will concur.

The amendments were concurred in.

#### ALLEGATIONS AGAINST SENATORS.

The PRESIDENT *pro tempore* laid before the Senate the following resolution of the House of Representatives:

Resolved, That the House having been informed by one of its committees that testimony has been brought to the knowledge of said committee, which testimony apparently affects one or more members of the Senate, the House thereupon directs that copies of all such testimony be transmitted to the Senate for its information.

The PRESIDENT *pro tempore*. What disposition will the Senate make of this communication?

Mr. TRUMBULL. I have looked at the written testimony which accompanies this resolution of the House of Representatives; and there is also a printed volume of several hundred pages, perhaps four or five hundred pages accompanying it, a public document which I have had no opportunity to examine. I believe it has only been laid upon the tables within a day or so. I sent to the House of Representatives and got a copy of it, but I have had no opportunity to look into it. I have read the written testimony. I do not know what disposition the Senate would feel disposed to make

of it, nor what disposition the Senators who are supposed to be affected by this testimony might desire to have made of it.

Of course a communication of this character from the House of Representatives is entitled to serious consideration. It makes the matter a serious matter by being communicated here. The written testimony is very short; it consists of the testimony of a single witness. It can be read in five minutes, I think, or ten at any rate.

Mr. SUMNER. Perhaps it had better be read.

Mr. TRUMBULL. Unless the Senators referred to themselves have some objection to its being read I should think it would be well to have it read, and then if the Senate choose they can refer the subject to a special committee or to some of the standing committees.

Mr. PATTERSON, of Tennessee. Do you refer to the testimony of Hull?

Mr. TRUMBULL. I refer to the testimony of Hull. The other is in print.

Mr. PATTERSON, of Tennessee. I have no objection to its being read.

Mr. TRUMBULL. If the Senators themselves have no objection, I think it would be well to read it.

Mr. DOOLITTLE. So far as I am concerned I protest altogether against this pretended secrecy and covering up of testimony alleged to have been given, and this new disease of courtesy which seems to have attacked a certain committee of the House of late, although they have already published a volume to the world containing testimony and insinuations and innuendoes themselves bearing on the same subject. Mr. President, all this pretense of new-born courtesy in the concealment of testimony is a miserable pretext, which I denounce from the beginning. I demand that the testimony shall be read, and on the very face of it it will show that it is perjured.

Mr. PATTERSON, of Tennessee. I ask that the deposition of Hull may be read; and after it is read—

Mr. FESSENDEN. Let it be read, if the Senators wish.

The PRESIDENT *pro tempore*. It is moved that the written testimony received from the House of Representatives be read. If no objection be made the Chair will consider that the sense of the Senate. The testimony will be read.

The Secretary read as follows:

"COMMITTEE ON PUBLIC EXPENDITURES,

"WASHINGTON, March 19, 1866.

"Testimony of David A. Hull.

"WASHINGTON, D. C., Tuesday, March 19, 1867.

"D. A. Hull, having duly affirmed, was examined as follows:

"By the CHAIRMAN:

"Question. Where do you reside?

"Answer. My place of residence now is 393 First street, Washington city. I have resided in this city for thirteen or fourteen months. My place of residence before that was Poughkeepsie, Dutchess county, New York. My age is fifty years. For the last ten or twelve years I have been an insurance agent for a New York company. I am now employed in the folding-room of the House of Representatives.

"Question. Did you the week before last hear persons conversing in reference to the New York custom-house, the report of the Committee on Public Expenditures, &c.?

"Answer. On Wednesday or Thursday of the week before last, about one o'clock in the day, I was coming over to the Capitol, on my way back from lunch. As I came near the corner of A street, where there is a public house, two gentlemen crossed over toward the Capitol just before me; I followed close behind them, not thinking of anything particular, when I heard them mention the words 'New York.' I could not distinctly connect their conversation; but the moment New York was mentioned I tried to listen—that being my native State. I then heard the words 'custom-house' and 'committee'—the latter two or three times. I kept behind them the length of the walk going south, turned at right angles toward the Senate wing of the Capitol, passed up and kept on the pavement of the wing. I was close behind them, and I thought I knew one of them as Senator PATTERSON, of Tennessee, although I had never exchanged a word with him. As they came in the folding doors I was close behind them, so close that I passed in before the doors closed. As they got into the lobby the one whom I considered as Senator PATTERSON said to the other one, 'I have got my \$5,000, and I do not care (I think he made use of the word damn) for the committee and all the rest of them.' I passed right in at that moment—it is pretty

dark inside—and that is the last I saw or heard of them; I went about my business and I think they went up to the Senate Chamber. That is all I heard that I recollect.

By Mr. BROOMALL:

Question. Have you seen Senator PATTERSON?

Answer. Yes.

Question. What is your impression now as to whether he was really the man you heard using this expression?

Answer. I have taken a good deal of pains in the matter, for I felt interested in it. I have seen Senator PATTERSON twice since outside of the Senate Chamber, and he resembles the man so strongly that I have been almost ready to conclude that it was he. I cannot say certainly that it was.

Question. Do you know the other person who was with him?

Answer. I do not. I thought at the time he was a man whom I had seen in the Senate Chamber, and whose name is Senator DOOLITTLE; but I am not positive about it. I was satisfied at the time that the other was Senator PATTERSON; I have seen him twice since, but I never exchanged a word with him, and I should not know his voice if I heard it.

Question. Can you describe him?

Answer. I should think he was five feet ten or eleven inches, and stout.

Question. Was there anything peculiar about him?

Answer. Nothing at all that I discovered; I only knew PATTERSON by sight; had no interest in him, and had never exchanged a word with him, but I thought I knew him. Since then I have looked at the man, and I can almost say that I think it is the same man. But I am not positive. I tried to bring my mind to it, but I cannot.

Question. (By the CHAIRMAN.) Do you recollect what kind of a hat he wore?

Answer. I think it was a slouched hat, a sort of drab, sage color. I have seen him since with that hat on, and I may have thus got things connected together; I know Senator PATTERSON now, and have seen him with two different hats—a slouched hat, and a silk high-crowned hat with a medium brim, and not very sleek at that.

By Mr. NOELL:

Question. Have you seen Senator DOOLITTLE since?

Answer. No, sir; not to know him. I never knew him by sight. I thought I knew PATTERSON as well as I know the chairman of the committee, but without ever speaking to him.

Question. You are not sure that it was DOOLITTLE?

Answer. No, sir.

By Mr. BROOMALL:

Question. Which was the taller man of the two?

Answer. DOOLITTLE I think, or at least the one who was with Mr. PATTERSON.

Question. How was he dressed?

Answer. In black.

Question. What kind of a hat did he wear?

Answer. I think it was a silk hat.

Question. (By Mr. BROOMALL.) If you did not know Senator DOOLITTLE what made you think it was he?

Answer. That is a question which has come to my mind two or three times. I do not know except that he resembled him, and that he was associated with Mr. PATTERSON.

By the CHAIRMAN:

Question. Did you see the face of the other person distinctly?

Answer. I did not see his face. I only saw partially the side of his face.

Question. Do you recollect whether, when the remark was made by the person whom you suppose to have been Senator PATTERSON, "I have got my \$5,000," there was any response or any motion by his companion, whoever he was?

Answer. I do not think there was; they were in the act of passing through the folding-doors. I was not more than three feet from them; the door had not closed; I put my hand up and kept the door open.

Question. Did either of them see you at the time?

Answer. I thought, and still think, that the man who I suppose was PATTERSON saw me; I stood sideways to him just as he entered, and he saw me standing right there when he made the declaration. He saw me. I have turned the thing over in my mind, and given it more care and attention than to any subject that ever came before me. When I commenced walking behind those gentlemen I supposed, and still do suppose, that I recognized one of them as Senator PATTERSON. I had no idea of this conversation taking place. When I heard the words "custom-house" and "committee" several times, I was satisfied, although I could not connect the conversation that they were talking about the New York custom-house. I then tried to hear what I could, but they talked low, and their faces were from me. When they got through the first pair of folding-doors, PATTERSON (if it were PATTERSON) turned and said, "Well, I have got my \$5,000, and I don't care a damn for the committee or all the rest of them."

By Mr. PETERS:

Question. You heard no other remark?

Answer. No, sir.

By Mr. NOELL:

Question. Who was the first person to whom you disclosed this conversation?

Answer. An ex-Congressman named Tracy from Pennsylvania, who boards in the same place with me. He was a member of the Thirty-Eighth Congress, I believe.

Question. Have you ever been an applicant for any position in the New York custom-house?

Answer. Yes, sir, but not since Mr. Smythe's appointment as collector. I was an applicant under Mr. Simeon Traper and would have been appointed if he had not been removed. I was also an applicant under Mr. King, who promised to appoint me the day that he was first missing.

Question. And you never applied since then?

Answer. No, sir.

Question. Have you been an applicant for any other office under the Administration?

Answer. For none whatever.

Question. How came you to communicate what you heard to Mr. Tracy?

Answer. He boards in the same house with me. One evening, in conversation, the subject of the New York custom-house and of the report of the committee came up. I had read the report as published in the New York Times and I mentioned it to Mr. Tracy, and asked him if he had read it. He said he had not, and so I lent him the Times. I think it was either Wednesday or Thursday evening of last week that, sitting there together, I told him the conversation I had heard. That is the way I came to mention it. I mentioned it without thinking any harm or desiring to give it any publicity.

Question. Who was the next person to whom you mentioned it?

Answer. Mr. DRIGGS, the member of Congress from Michigan. He came in, sat down, and said: "Mr. Hull, Mr. Tracy tells me that you heard so and so." I asked him who had told him so. He said Mr. Tracy. I then gave him a statement, but not very particularly. I merely answered his questions; and the very next day, I think, he sent me up to the House, and I saw the chairman of the committee.

By Mr. BROOMALL:

Question. And that is the way the committee came acquainted with the matter?

Answer. I presume so.

By Mr. NOELL:

Question. Have you ever been advised not to communicate to the committee what you heard; or have you been threatened with any consequences if you testified?

Answer. Oh, no, sir. I have not talked with any one on the subject; and no one has advised me to do this, that, or the other.

Mr. JOHNSON. Mr. President, I rise for the purpose of asking if that is all the testimony that is called secret?

The PRESIDENT *pro tempore*. That is all except the printed matter.

Mr. JOHNSON. And that is all the testimony the House have thought proper to send to us that we may take action as against two of our own body. I forbear, Mr. President, to say what I think of such a proceeding as that.

Mr. TRUMBULL. There is a volume accompanying it, a public document.

Mr. JOHNSON. That I understand, but that was testimony taken some time ago.

Mr. PATTERSON, of Tennessee. On a former occasion, Mr. President, I stated to the Senate and to the country that I had never received a dollar from Mr. Smythe. I now repeat that declaration, and I will state further that there never was any pending agreement between Mr. Smythe and myself that I should receive a dollar out of what is called the general-order business, as has been falsely alleged. I am an unsophisticated man, and I never understood until a few days ago what the general-order business was; I had an interview with Mr. Brooks, a member of the other House, and he informed me what it was. I never understood it before.

Now, this so-called testimony of a man named Hull is introduced. I do not know who he is. I simply say it is a sheer fabrication; it is a perjury from beginning to end. I never had any conversation with Senator DOOLITTLE or any other gentleman about this matter; and so far as this man Hull pretends to detail a conversation between Senator DOOLITTLE and myself or any one else he commits a downright and willful perjury. That is all I have to say. I am willing that this matter shall be referred to any committee. I do not care what committee you refer it to.

Mr. HOWE. Mr. President, one of the Senators mentioned in the deposition which has been read to the Senate is my colleague on this floor. The political relations existing between my colleague and myself are well known not to be of the most intimate character. I am not sure entirely that our recent political relations have not somewhat affected our personal relations; but I am pretty sure that they have not affected our personal relations to any considerable extent; and I know they have not affected the personal relations formerly existing between us to that extent which would allow me to sit here and hear a charge preferred against my colleague or any imputation cast upon him which I believed most confidently to be utterly unfounded; and

now, without attempting to detain the Senate to discuss the testimony which has been published to the country or the testimony which has just been read to the Senate, I want to say two or three things, not more in justice to my colleague than in justice to the State which he represents here.

My colleague has been a citizen of the State of Wisconsin since sometime about 1850 or 1851. He was for many years a leading lawyer in that State, very widely known to the profession, enjoying a very large practice. He was for four or five years a judge of the circuit court in that State before he came to the Senate. I knew him for almost the whole time very well personally and by reputation, and I have great personal satisfaction in saying here, and I think it is due to the State that I should say it, that in all that time I never heard the slightest imputation cast upon him either for the conduct of business in the courts over which he presided or for the relations existing between him and his clients—never a whisper which could excite in the mind of any one a suspicion of his venality or corruption; and notwithstanding I know that the political course which my colleague has pursued during the last year or year and a half is not as I think, and as I am glad to believe, satisfactory to the people of the State of Wisconsin, yet I think I know that the imputation which has recently been thrown out toward him rather than upon him will create as much astonishment in the State of Wisconsin as I am sure it has created here in the Senate among those who have known him as I know it has created in my own mind.

Mr. President, I have not taken the trouble to criticise the evidence, or that which has been called and published as evidence. It had been laid before the country several days through the newspapers before I took the trouble to read it; and notwithstanding my eye happened to fall upon a newspaper which was sent to me with the testimony marked I did not take the trouble to read it until I found some reference to it in some of the newspapers of my own State; and I did then run my eye over that portion of the testimony which was supposed to bear upon my colleague. It did not create, I am bound to say, the slightest doubt upon my mind as to the personal integrity of my colleague.

I have one thing more to say, Mr. President; it is not in reference to what action should be taken by the Senate upon this communication; the Senate will judge of that; and I defer to those who have sat here longer and are more competent to give direction to it than myself. But I speak in behalf of myself as well as my colleague, I speak in behalf of every member of this Senate, I speak in behalf of every man who now or hereafter may be engaged in the public service, I speak in behalf of common humanity, when I protest against dragging any man engaged in the service of the country as we are to the bar of public opinion to answer for high crimes and misdemeanors unless there be ground laid for it in testimony, that which impresses the judgment of men as testimony, not mere declarations; there is a difference between the two. I insist that we have responsibilities enough to meet, and from this one we ought to be exempt; and I say this without undertaking to know that there is no foundation for these things; but when I say it I think I abundantly satisfy the Senate that whatever the actual fact may be, I am impressed by the most thorough belief that there is no ground whatever in truth or in fact for arraigning these Senators.

Mr. DOOLITTLE. The kindness of my colleague in rising at this time, as he does, superior to all supposed party considerations to speak of me and my character quite overcomes me. The Senate will indulge me in a single word in relation to this testimony which has now been read in the open Senate. I state to the Senate that I have never in my life to my knowledge walked with Senator PATTERSON from the place indicated by the witness into the Capitol. I state most positively that Senator PATTERSON

never made any such statement in my presence. I state also, and perhaps upon this subject I have a right to say that, after what transpired in the Senate the other day, on one occasion in conversation with Senator PATTERSON, he did state to me that the whole charge, the whole intimation that he ever received or ever expected to receive one single dollar, was without any foundation whatever, and I believe his statement.

I stated before this testimony was read, when I demanded and insisted that it should be read in the open Senate, that upon its face it would convict the man who gave it of perjury. He states that this occurred but the last week or the week before last, since Senator PATTERSON, in open Senate, made that personal explanation in which he denounced the whole charge as absolutely and unqualifiedly false. And, sir, is there a human being who will suppose that Senator PATTERSON, in the presence of a stranger, within three feet of him, looking him in the face, then stated boldly and openly that he had been guilty of this great crime? Sir, upon the face of that paper it is black all over with perjury. I denounce it as such. It is an outrage upon that Senator; and that any committee of the House of Representatives, sitting in secret, should take testimony of that kind, without giving notice to Senator PATTERSON is equally as great an outrage.

The PRESIDENT *pro tempore*. I doubt whether it is in order to refer to the House in that way.

Mr. DOOLITTLE. Mr. President, when a committee of the House of Representatives refers to me I have a right to refer to that committee and its acts.

Mr. FESSENDEN and Mr. JOHNSON. Unquestionably.

Mr. DOOLITTLE. My mouth is not to be closed, sir; and I will speak plainly. I intend to do so, and I shall strip their covering from their proceedings, and hold them up to the indignation of the Senate and the country.

The PRESIDENT *pro tempore*. I call the Senator to order. He cannot impute motives to the House of Representatives or any of its committees.

Mr. DOOLITTLE. I have not yet spoken of motives. I have spoken of their conduct, and of their conduct toward me; and if the Chair decides it out of order, I will appeal to the Senate.

The PRESIDENT *pro tempore*. I do decide that you cannot impute wrong motives to the House of Representatives.

Mr. DOOLITTLE. I appeal to the Senate.

Mr. JOHNSON. Mr. President, if there be any doubt about the question of order, I move that the Senator be permitted to proceed.

The PRESIDENT *pro tempore*. Senators, the Chair having believed it was out of order to impute motives to the other House, or to speak disrespectfully of them in the Senate, and as the Senator from Wisconsin avows it to be his purpose to do so, I refer the whole question to the Senate, whether he shall be allowed to indulge in that line of remark. It is a question on which I wish the sense of the Senate.

Mr. DRAKE. Is it in order to offer any remark whatever about the matter in its present position before the Senate? If it is I have one remark to make on the subject.

Mr. EDMUNDS. The Senator from Wisconsin is entitled to the floor.

The PRESIDENT *pro tempore*. Will the Senator from Maryland repeat his motion?

Mr. JOHNSON. The motion I made was that the Senator from Wisconsin be permitted to proceed in self-defense to comment upon the charges against him now before the Senate.

Mr. SHERMAN. Allow me to say that there can be no doubt that the Chair followed the literal language of the rule, which denies to a Senator the right to speak disrespectfully of the House of Representatives or any committee; but the Senate may waive its rule, and I submit to every man of feeling whether the Senate ought not properly to relieve the Pre-

siding Officer from enforcing the rule in this case. I think it is a very proper motion to move that the Senate dispense with this rule so far as this case is concerned, and allow the Senator from Wisconsin to proceed.

The PRESIDENT *pro tempore*. The question is, Shall the Senator from Wisconsin have leave to proceed with his remarks in his own way?

Mr. TRUMBULL. I desire to say simply a word. I did not understand the Senator from Wisconsin as proposing to impugn the motives of the House of Representatives, or of a committee of the House; but he speaks of their action, leaving the inference to be drawn, if you please, as to what motive influenced them. I should be unwilling myself to open to discussion, or allow any Senator to proceed to impugn, the motives of the House of Representatives or the motives of a committee. I do not think that ought to be allowed. I should be very glad to extend to the Senator from Wisconsin full latitude to speak in his own language of acts that have been done, and I presume that is all he desires.

Mr. DRAKE. Mr. President, I think the Senator from Wisconsin should be allowed to proceed with his remarks in his own way. The resolution of the House, it will be remembered, is to transmit certain testimony to the Senate, which the House says "apparently affects one or more members of the Senate." Here is a direct allegation on the part of the House that testimony has been taken before one of its committees which apparently affects a member of the Senate. The House stands here taking a position of *quasi* impeachment of a member of this body; and I humbly submit to the Senate that that member shall have the privilege of proceeding in reference to this matter, at this stage of the case, just exactly as he pleases; and then as soon as he shall have done so, I shall offer a resolution that the testimony which has been transmitted to us under these circumstances be respectfully returned to the House of Representatives.

Mr. FESSENDEN. I wish simply to say that there was nothing that I heard in the remarks of the Senator from Wisconsin impeaching at all the motives of the House or of the committee. He was simply commenting upon the mode in which that committee had proceeded to take testimony, and the whole course of proceeding in regard to it. Whether that would be in order or not—and I am inclined to think it would be—the Senate should remember that this is a very peculiar case, one in which the personal honor and integrity of the Senator is involved. He ought to be allowed the largest liberty that can be possibly allowed to him to comment upon the whole of the papers transmitted, and all the circumstances connected with them. I should feel that a gross outrage was committed on him by the Senate if they refused him that liberty. Under the circumstances, therefore, I shall vote without hesitation for the motion of the honorable Senator from Maryland, that the Senator from Wisconsin be allowed to proceed in his own way to make such remarks as he thinks proper, because I am confident that he will break no parliamentary rule and outrage no parliamentary rule. His well-known caution and habit of using correct and proper language would forbid that. He ought to be allowed to proceed in his own discretion to comment upon the communication which has been laid on the table.

Mr. CAMERON. Mr. President, I will go a little further than other honorable Senators seem disposed to go in this case. I have been a member of the Senate, off and on, for near twenty-three years, and in all that time I never witnessed so great an outrage as this act of the House of Representatives in my opinion is in regard to these two gentlemen. I am willing that the Senator from Wisconsin shall use his own language and take his own time in his own defense. I sat beside him in this body for two or three years, in the next seat to him, and during that time I knew almost every sen-

timent of his mind, and I believe no more honorable man has ever sat in the Senate Chamber. He differs with me now in politics, and I disapprove of his course for the last year or so; but I knew him to be an honest, high-minded, and honorable gentleman. I think the manner in which this attack has been made upon him is most unjustifiable. It is cruel. It seems to me to be malicious. I never heard before of an attempt made to destroy the reputation of any man, no matter how low he might be, by such flimsy testimony as that which has been read to the Senate. Every man who is at all in public life is constantly subjected to attacks by bad men, and the more successful he is the more frequently he is attacked, abused, and villified. I have experienced that myself, and I feel deeply in this case. I trust the Senator will not be interfered with at all, but suffered to use his own language and take his own mode of defense.

The PRESIDENT *pro tempore*. It is moved that the Senator from Wisconsin be permitted to proceed in his own way, and use such language as occurs to him to be proper.

The question being put, the motion was unanimously agreed to.

The PRESIDENT *pro tempore*. The Senator will proceed in his own way.

Mr. DOOLITTLE. Mr. President, I thank the Senate sincerely for the expression of their consent that I should be permitted to speak in my own way in response to these charges. I shall endeavor, however, in what I have to say, to confine myself as nearly as I possibly can within the parliamentary rules of discussion.

On the 15th day of March last Mr. HULBURD, in the House, made an assault upon me which from his position I cannot suffer to pass without notice. He caused to be read in the House certain sentences from my speech in the Senate of the 6th of March, as follows:

"Mr. President, on Monday evening a newspaper was placed in my hand, in which I find a report of a committee of the last House of Representatives, submitted by Mr. HULBURD, of New York, which demands notice at my hands. It fills me with surprise and indignation. Without any notice to me, without calling upon me for any explanation, this report, by inference, and not by direct charge, by innuendo, not by positive averment, endeavors to create the impression that I received or agreed to receive \$5,000 or some other pecuniary or other benefit from Mr. Smythe, the collector of the port of New York."

"This charge, whether made directly or by implication, whether sought to be sustained by proof or innuendo, is absolutely and unqualifiedly false, and from whatever source it comes I pronounce it a base falsehood, a vile and cowardly slander."

Mr. HULBURD goes on to say, in his speech of the 15th, that in this statement I do not deny "that there was an arrangement of the kind indicated." He says the report of the committee never charged that I "received a single dollar from Mr. Smythe or through him in any way." What arrangement is that which he by inference would affirm by saying that I have not denied it? He disclaims saying I received a dollar. There can be but one answer, namely: he intends to convey the impression that, while I did not receive a dollar, I made an arrangement with Mr. Smythe by which I was to receive some pecuniary consideration. He does not say so in direct terms, it is true, but insinuates it and leaves it to inference. Sir, you know, and every Senator knows, that I did deny in most positive and unequivocal terms any such arrangement. The very next sentence, which he seems purposely to have omitted, covers the whole ground. I repeat it now:

"I go further, sir, and say, that in the hundreds, and perhaps thousands of cases in which, during the ten years I have been in this body, my recommendation has been sought and obtained, there is not a single instance in which any kind of pecuniary consideration of the value of one cent was ever expected or received directly or indirectly by me; and I have yet to see that man upon this earth who would dare to look me in the face and make such an offer. Upon this and all other matters I am ready to meet the most searching scrutiny."

I have nothing to add to or subtract from that statement.

But this gentleman says that I called upon him a day or two after the report of the committee was made public. That is true. I did call upon him.

My attention was first called to this by a friend who placed in my hands the New York Times, on Monday evening, the 4th of March. It was the first notice of any intended assault upon my character from any source. I know Mr. HULBURD personally. I met him several times during the last session, and he never intimated to me that there was the slightest evidence implicating or tending to implicate me in the least degree in any wrongful transaction whatever. How was it possible that with one spark of honorable manhood left in his bosom he did not give me notice of what was going on to injure my character for integrity, which to me is of more value than all the wealth of the world? Sir, let him give the reason. Perhaps it is a sufficient reason. I use his own language. On the 15th of March, instant, in the House of Representatives, he said:

"For four years I have acted as scavenger among the filth and garbage of the investigations to which I have been assigned."

Here is a reason, perhaps it is a good philosophical reason, and a sufficient reason to be found in his calling and his avocation.

Yes, sir, this "scavenger among filth and garbage" has, I fear, been so long engaged in his dirty work that not only his senses of sight and smell, but his conscience and instincts have been so affected or benumbed that he sees nothing wrong in this attack upon the character of a member of the Senate.

I confess I felt indignant. It was an outrage beyond language to express that a committee of the House, sitting in secret, gathering up hearsay, mere rumor, loose conversation, which would not be heard in a justice's court, and which no jury would be allowed to hear in a case involving the slightest money consideration, should thus without notice or opportunity to meet and cross-examine witnesses, or to give proof or to make any explanation, submit and publish to the world a report involving the public and private character of members of the United States Senate. I go further, and would say the same if it involved even the humblest citizen of the United States.

Sir, to honorable men character is dear as life itself; and a committee which violates common justice, common fair dealing between man and man, common courtesy, and common decency even, would become fit instruments of a revolutionary faction to try in secret men doomed to the guillotine, whose first notice of their accusation would be conveyed in the order for their execution.

He says I felt "very much aggrieved." Aggrieved, sir? That does not express it. I felt outraged. I felt that the decent respect due to every member of this body was most grossly outraged and trampled upon. I felt more, that the reputation and character of every citizen was in danger of being destroyed at the hands of those scavengers in filth and garbage claiming to act in the name of a Government whose first duty it is to protect the rights, liberties, lives, and characters of its citizens.

I demanded of him to know upon what evidence he made such a report and published such charges. He said the evidence was at the Public Printer's. I spoke in strong terms, I acknowledge, of the course pursued, especially because a committee sitting in the same Capitol with members of the Senate had published such a report without giving them any notice or any opportunity to be heard. When he says that I seemed to have a "great desire to append a denial to the report" he is utterly mistaken. Why should I desire to append a denial after the committee had submitted and published their report to the world?

No, sir; I was in no mood to ask favors, and did ask none. I went there to find the evidence upon which the report was made and to denounce the outrage. There is hardly a human being upon the earth whose standard of conscience or whose intellect is so low or has become so benumbed by his occupation as to be unable to feel that this was a great wrong. He seemed to feel it. I have no doubt he did feel it, for he began to plead that he did not

intend to do me wrong. He did not deny, however, that it was a wrong. He says, reading from the same speech:

"Afterward, upon reflection, I wrote a note to Mr. DOOLITTLE, which I sent over to him by one of the pages of this House, in which I stated that I did not wish to do him injustice, and that if I had done so I regretted it; that I would give him an opportunity to make any explanation or denial he thought proper; that as the report was closed I would simply ask that it should be dated, *pro forma*, on the 2d of March."

Yes, Mr. President, Mr. HULBURD did, on the 5th day of March, send me a note, which he dated back to the 2d of March, in which he says:

"I write you this note for the purpose of saying if you wish to make an explanation or denial in a word, I will append it to the testimony of the committee, to be published with the report."

And with that note he also sent me the following note, marked "private," which it is necessary to read to understand the whole facts:

"DEAR SIR: I would not intentionally do you wrong. If you will reply in a sentence or two to the accompanying and return it to me immediately I will append it to the testimony. Permit me to suggest that a reply should not go into any statement or argument, and should be limited to a sentence or two. Please, for obvious reasons, date your reply on the same day it purports to have been written."

"Respectfully yours, C. T. HULBURD."

Mr. JOHNSON. Is that in his note?

Mr. DOOLITTLE. Yes, sir.

Mr. EDMUNDS. What is the date of that note?

Mr. DOOLITTLE. The note was dated back to the 2d of March.

Mr. JOHNSON. When was it sent to you?

Mr. DOOLITTLE. On the 5th of March. He states himself in his speech that I called upon him two or three days after his report was made public. The report was submitted on the 2d day of March. I called upon him on the evening of the 4th. On the 5th he sent me the note. On the morning of the 6th of March, when I referred to this matter in my personal explanation in the Senate, I had these notes in my hand; but I forbore to use them against one who had so deeply wronged me. Much as I was inclined to do otherwise, I stood upon the defensive only, and made a simple unequivocal and positive denial. I stand there no longer.

It will be seen that in his speech in the House he says that in his note he said he "would give me an opportunity to make any explanation or denial I thought proper."

This allegation is substantially and essentially a falsehood. I prove it by the record. In one note he says, not that I may make any denial or explanation I thought proper, but it must be "in a word;" and in the other that my "reply should not go into any statement or argument, and should be limited to a sentence or two." Is there a human being so blind as to believe that it was for the purpose of allowing me to vindicate my character when assailed that he said I must answer "in a word;" "that I must be limited to a sentence or two;" that I must be allowed to go into no statement or argument in answer to testimony I had never seen or heard, and could not see because it was in the hands of the Public Printer, and which I have never seen until this very hour? No, sir; no, this pretense is too shallow, this covering is too thin. It is adding insult to outrage to say it. The real purpose was to make it appear to the world that on the 2d of March, the day on which he submitted the report, he had given me an opportunity to explain, and if I had followed his suggestion, and in a letter of the same date had acknowledged I had that opportunity, he could then screen himself from that just measure of condemnation which every honest man must feel for the cowardly and assassin-like attempt to injure my reputation in a vital point.

Did he suppose that any man of ordinary sense could not penetrate motives so transparent, as easily to be seen through and through as one can look through a ladder?

It was to hide himself from the consciousness of this wrong, to save himself from condemnation for an act so outrageously unjust, that I do

not hesitate to say if any Senator had published to the world a report against Mr. HULBURD or any other member of the House, based upon evidence taken in secret which he had never seen, without giving him notice and a fair opportunity to explain or to disprove, common justice would scourge him with a whip of scorpions. It was to save himself, not me, that "after reflection" he wrote that note.

Let us go a little further. Let us look at this note for a moment. It was written on the 5th of March, after the expiration of the Congress. Mr. HULBURD had ceased to be chairman of any committee. He antedates his letter to carry it back into the last session. He signs it as chairman of a committee already expired. It is nothing more nor less than a deliberate attempt at forgery of evidence or of a public document; a deliberate fraud upon the House of Representatives. True, it was not for the purpose of obtaining money, and therefore perhaps not felonious; but it was none the less an attempt at fraud and forgery, for the purpose I have already indicated. And, sir, what does he suggest to me in his private note but that I should join him in the same fraud and forgery?

Sir, I scorned his suggestion. Instead of antedating letters and forging evidence to screen him or to screen myself I made the full, complete, and unqualified denial of the 6th of March which I now reaffirm, sentence by sentence, and word for word.

Mr. President, as my son, Colonel Anson O. Doolittle, has also been assailed, although I have not yet been able to read the testimony of this committee, I may be allowed to say a few words by the indulgence of the Senate. He was at the Law University of Michigan, eighteen years of age, when the first call for volunteers was made in 1861. He came home at once to Wisconsin, enlisted as a private soldier, and aided in raising the first company at Racine, all young men. He was chosen lieutenant, served as such in the second Wisconsin regiment in the first battle of Bull Run, and remained in service four years. He was appointed a second lieutenant in the fourth cavalry by Mr. CAMERON, then Secretary of War, and for a long time commanded a battalion of regular cavalry in the Army of the West. He was under General Thomas in the terrible battle of Chickamauga, and after the retreat of our Army into Chattanooga, when Wheeler with the rebel cavalry crossed the Tennessee to cut off the supplies of our defeated Army, his command was a part of our cavalry forces which for twenty days and nights in succession pursued, fought, and skirmished with Wheeler's rebel forces until they captured all his artillery and drove him into the Tennessee, in whose swollen floods hundreds of the fleeing rebels were drowned.

He was afterward appointed lieutenant colonel of the thirty-seventh Wisconsin volunteers, which he commanded under General Wilcox, of Michigan, in the assault and capture of the railroad cut under a terrible fire in front of Petersburg, for which, upon the recommendation of that general, he was brevetted for distinguished gallantry in that battle as colonel of volunteers.

I would not have said thus much had not this young man been most unjustly assailed, not for any wrong that he has done or contemplated, but because, being my son and having broken up his professional studies to give four years of his young manhood to the service of his country, he has accepted the position of a weigher in the New York custom-house. This is the whole of his offending in fact. To this position he was appointed to fill a vacancy occasioned by death, and not by removal.

As to the allegation or intimation that he had contemplated or made some other arrangement, never carried out, with Mr. Thompson or any other person, which in some way was improper, illegitimate, or dishonorable to him or to me, I have to say that upon all the information that has ever come to my knowledge, and upon all that I can learn, I deny in most emphatic terms



that he ever entered into or contemplated or entertained for one moment any proposition which was not in itself perfectly legal, perfectly honest, and perfectly honorable to him as a citizen and as a soldier.

I have only to say, in conclusion, that the intimation or suspicion that Mr. Smythe made any agreement with me to give my son any sum of money or any interest in the "general-order business," in order to obtain my influence in procuring his nomination or confirmation, is not only a falsehood, but a most silly falsehood. Mr. Smythe was recommended for that place by an amount and weight of character in the city of New York among the business men hardly ever equaled before. Boards of Trade, Chamber of Commerce, leading bankers and merchants all seem to concur in his favor. It is true politicians in New York were very much divided on the subject, and the President could not appoint the candidate of one set without offending others, and upon the whole concluded to appoint Mr. Smythe, not as a politician, but as a collector of customs at the port of New York. As a friend of the President I agreed with him in that opinion. He was nominated, and was I think confirmed unanimously by the Senate, and sustained by nearly all the press of the city of New York. I repeat, it is not only a falsehood, but a most silly falsehood, that "he (Mr. Smythe) had to agree to give a portion of the general-order business to Senator DOOLITTLE's son before he would be confirmed." Mr. Smythe swears that this allegation is absolutely false. I know it to be false. In fact I do not remember to have heard of any such thing as the "general-order business," nor did I ever know there was any such thing in the business operations of New York until after his appointment and confirmation; and it had nothing to do, directly or indirectly, with my action in relation to either.

Sir, I know not how it may strike others; but it does seem to me, and I suggest it to the Judiciary Committee, that there ought to be some law to regulate the conduct of these secret investigating committees in taking and publishing the testimony of witnesses involving or affecting the character of citizens, and to prevent them from being abused and used as star-chamber inquisitions.

Mr. President, I shall concur entirely in any disposition that the Senate may think proper to make of this subject; whether to refer it to the Committee on the Judiciary, or any other course that may be pursued.

Mr. MORGAN. I do not propose to reply to the Senator from Wisconsin; but I cannot fail to express my astonishment at the extraordinary scene that has been presented to the Senate to-day. Here, for nearly three quarters of an hour, the Senate, departing from all their rules, have permitted the Senator from Wisconsin to make a most extraordinary attack upon a member of the House of Representatives from the State which I have the honor in part to represent here, which fills me both with astonishment and alarm. Mr. HOLBURN is well known in the State of New York. He has been a member of the Legislature several times. He has been a candidate for the Speakership of that body. He has been for several years chairman of the committee of ways and means in the Assembly of New York; and he has been for three or four terms—my colleague will correct me if I am in error—a member of the national House of Representatives; and in every place that he has occupied he has had the respect, the esteem, and the confidence of the people of the State of New York. And I now declare that he has not written one word, nor has he made a statement, that he does not believe to be true. Saying this, and also saying that he is as pure a man as any member of this body, I leave the question to the consideration of the Senate.

Mr. DRAKE. I now offer the resolution which is lying on the Secretary's desk.

Mr. FOWLER. If the Senator from Mis-

souri will allow me to make a few remarks I shall be very much obliged to him.

Mr. DRAKE. In a moment. The Senator's remarks will be in order upon this resolution. I ask for the reading of the resolution. The Secretary read it, as follows:

*Resolved*, That the testimony transmitted by the House of Representatives to the Senate, with the statement that it "apparently affected one or more members of the Senate," be respectfully returned to the House.

Mr. DRAKE. It is manifest to all the Senators present that the matter which has been brought to the attention of the Senate this morning has two aspects: first, that which has led to the Senate conceding to the Senator from Wisconsin the privilege of proceeding with such remarks as he pleased to offer to repel the imputation made against him; and secondly, that which relates to the action of this body upon the testimony presented under the resolution of the House of Representatives. The honorable Senator from Wisconsin and the honorable Senator from Tennessee have both made their statements with regard to this matter to the Senate; the former under the express leave of the Senate to shape his remarks as he pleased.

Now, sir, the question comes up here, what shall the Senate do with this testimony which the House of Representatives has sent to it? Shall it refer it to a committee to institute an investigation with reference to the Senators who are "apparently affected," as the House says, by this testimony, or shall it lay the whole matter on the table; or what shall it do with it? I have embodied in that resolution the view which I think the Senate should take of this matter: that there is nothing in the testimony which has been sent here by the House of Representatives which even so "apparently affects" any member of this body as to require even a reference to a committee, or that it should continue to lie on the table of the Senate. My opinion is that it should be sent back to the House of Representatives just in the terms expressed in the resolution which I have offered. I say there is not a lawyer in the Senate who would ever counsel the institution of any proceeding against any man under any circumstances upon such testimony as that which has been sent here. Much less, therefore, should we, as Senators, entertain the idea that a cloud has been sufficiently cast over the name of any Senator to justify any action of the Senate whatever on such testimony. I hope, sir, that for the protection of this body and of every individual member of it, not only at this time, but in all future times, such an answer will be given to the House of Representatives as will cause more circumspection hereafter in their decisions, that testimony of this description taken *ex parte* "apparently affects" the character, public or private, of Senators of the United States; and I think the only way to convey that intimation is by returning the testimony to the House of Representatives without any comment or note from the Senate.

Mr. SHERMAN. Mr. President, anything that affects the personal character of a member of the Senate or a member of the House will always create feeling. It was perfectly natural that the Senator from Wisconsin should feel keenly the imputations cast upon him by a committee of the House. We, therefore, naturally excuse any harshness of language, or perhaps language that would not be allowed under the rules. Whenever a man is assailed he must speak in the language of indignation, and therefore it is proper, and I think right, that the Senator should express himself in just such language as he saw proper, not only against the accusation, but against the accusers, and all who were instrumental in it.

But, sir, since he has performed that right and that duty, the Senate of the United States must perform its duty. This testimony has been sent to us by the House of Representatives. It was sent without reading. The testimony that has been read is rather of a frivo-

lous character, there is no doubt about that—in the nature of hearsay—and on the question of identity is scarcely deserving the weight of testimony; but still it has been sent to us with a large mass of printed matter we have not read. It seems to me that the Senate ought to pursue the ordinary course with this subject: send it to the Judiciary Committee in the ordinary way without further debate. But the idea of sending this testimony back to the House, throwing it into their teeth, it seems to me would be disrespectful to the House and undignified in the Senate—reversing the ordinary course of proceeding.

I do not think the House of Representatives intended any disrespect to the Senate. This testimony was not read in the House. We are bound to view their action in the most favorable terms? They find that by one of their committees testimony has been taken that affects, as they say, or that appears to affect one or more members of the Senate, and they send it over for our action. They modified the language of the resolution of the committee. The resolution of the committee, as reported, used the word "implicated," and they struck it out—

Mr. DRAKE. "Inculpated."

Mr. SHERMAN. The words are the same; and the House used a word of milder meaning, simply that it "affects" a member of the Senate. Under these circumstances, it seems to me, the proper course is for us to refer this matter to the Committee on the Judiciary, and I make that motion.

Mr. HOWARD. However painful may be the testimony with regard to the members of this body at this time, however accusatory it may be in its nature, I think the Senate are bound to indulge toward the House of Representatives and its committee the usual presumption, that persons charged with public duties act in good faith and not for the purpose of doing private injuries to any one. We are bound to presume that the committee who took this testimony acted fairly, honestly, and in good faith even toward the persons who have been affected by it; and surely we are bound to presume that the coordinate legislative branch of the Government who have sent this testimony to us for consideration have acted in equal good faith. They have seen fit to treat this testimony as of sufficient weight and importance to attract the attention of the Senate to it, and have sent it to us for that purpose. Surely it is to be presumed that the House of Representatives do not regard this testimony as entirely false or frivolous; and out of respect to the House, and out of respect even to the gentlemen themselves who are affected by the testimony in this body, it does seem to me that we ought to refer the testimony to some standing committee of the Senate with an instruction that they should pursue the investigation fully, fairly, and honestly, giving the persons affected by it an opportunity to appear before them with counter testimony, if they shall so see fit, in order that the Senate and the country, and especially the gentlemen of this body who are affected by the testimony, may have a perfectly full and clear showing and explanation of this whole matter. I trust, therefore, that the motion made by the Senator from Missouri will not be adopted, and that we shall refer the matter to a committee of this body.

Mr. FOWLER. I was not in the Senate when this subject came up before or I would have taken the liberty of stating then what I wish to state now.

I will say that without attempting to disprove the manner in which the subject has been spoken of to-day by the two Senators accused, I should have been pleased, and I wish they had contented themselves with a simple denial of the charge. Entertaining as I do for them the kindest feelings, and believing them perfectly guiltless of any participation whatever in the guilt imputed to them, I wish they had contented themselves with imputing no dishonor, no unfairness, or anything of that kind to either the members of the committee or the House, or to the witnesses that

testified on the subject. I know, indeed, that it is very natural for us—

Mr. PATTERSON, of Tennessee. If my colleague will allow me, I will say—

Mr. FOWLER. If my colleague will wait I shall do him full justice on the subject, and I do not think I shall speak with passion or prejudice in the case. I shall treat the subject precisely as if it were an imputation upon myself. I know, indeed, that it is perfectly consistent with our disposition to treat with indignation any such imputations as these; but at the same time I do not forget, and I will not forget, that this is the Senate of the United States, and that the persons who make this charge are the Representatives of the American people, and must be treated with respect as becomes them. I had hoped that this subject would have been referred, as has been proposed by the Senator from Ohio, that it may receive a careful investigation, and if the charge be found untrue, as I am satisfied it will, it would have been the best vindication of the Senators that could have been made.

I did not rise, however, so much to make any remarks on this subject as on a subject that is a little foreign to the question before the Senate; and although I know it is somewhat out of order, I hope the President and Senators will indulge me for one single moment; and that is in reference to a report that was made some time ago in which the names of two ladies of my State were involved. I wish, if I can speak on this subject as it merits, to say a few words. I know the character of Mrs. Stover and Mrs. Patterson, two excellent and amiable ladies from the State of Tennessee, whose names were dragged before us, I think, with all due respect to the House and to the Senate and to the American people, without evidence which would justify any gentleman in bringing the name of any American lady before the public in such a manner as that. I will state this for them, that two more amiable, worthy, modest, conscientious, upright women are not to be found in this country. I know of no persons who will respond more quickly to all the demands of humanity than those two ladies. I know also that they came to the city of Washington with great reluctance, knowing well that their position would necessarily bring them before the public in a manner which was not pleasant to them. I know, too, that they have labored under great disadvantages and under circumstances sufficient to crush the feelings of any lady to discharge their duties, and to render the executive department acceptable to the American people. I had thought that the circumstances under which they were placed would have called for them the sympathies, the aid, and the respect of every true American to support them in their arduous duties. They have discharged those duties, I think, most acceptably to those who have been observant of their position.

I beg leave to make this remark in vindication of the character of those ladies; and I regret very much that the gentleman in New York, against whose integrity and whose character as a gentleman I shall not impute a single word—I mean Mr. Smythe—has been so imprudent as to mention their names at all. I think it was wholly improper and entirely wrong. I should not have made these remarks had any gentleman in the House of Representatives at the time the subject came up stated anything in their behalf, and I regret now that I am forced to do it.

I hope the Senate will make the disposition of this entire subject, with due respect to my colleague and the Senator from Wisconsin, that has already been proposed, such as will show the whole country that the Senate entertain a proper regard for the character of their members here, as well as for the character of this body, and also of the House of Representatives of the American people.

Mr. CONKLING. Mr. President, too much allowance can hardly be made for the indignation a man may feel when his character is in-

juriously drawn into question. I am able, I trust, to make due allowance for the warmth, the intensity, the exaggeration of utterance into which one might naturally be betrayed, even in remarks prepared beforehand, did he stand in the position of the Senator from Wisconsin; but I cannot listen in silence to an attack so extraordinary in all respects as that which the Senator from Wisconsin has made upon Mr. HULBURD, one of my colleagues in the House of Representatives.

Mr. HULBURD, as a citizen of New York and as one of her Representatives, deserves vindication here, and deserves it from me. His representative and personal character has been somewhat within my observation. I served with him during the whole of the last Congress in the House of Representatives. I have known him for years, during which he has occupied, and occupied with credit, the various positions to which my colleague here has referred; and I deem it fortunate for CALVIN T. HULBURD that there is a community, great and intelligent, who know past anything that I can say, past anything that can be uttered by any member of this body, whether he deserves to be gibbeted at the cross-road of public opinion upon such allegations as have been brought against him. Sir, I concur with my colleague entirely when he says that Mr. HULBURD has "set down naught in malice;" that he has asserted nothing which he did not believe it his duty to assert, charged as he was with the responsibilities which rested upon him.

Sir, nobody need be more delighted than I am with the *esprit du corps* which has been so manifest and demonstrative in this Chamber on the present occasion. It is refreshing to witness the disposition which makes every man spring to his feet when the honor of a member of this body is impugned. But, sir, let us look a little at the facts; the facts as they relate to Mr. HULBURD; because I am not going to say anything now in regard to charges affecting the Senator from Wisconsin or the Senator from Tennessee. I only know of this evidence so much as has been read here. What there is in the printed volume I do not know, having been unable to read it, or even as other Senators seem to have read some *resumé* of it in the newspapers.

Mr. DRAKE. Will the honorable Senator allow me to make a suggestion at this point?

Mr. CONKLING. Certainly.

Mr. DRAKE. The resolution of the House does not make any reference whatever to any printed matter sent to the Senate by the House. It simply refers to testimony; and that testimony is here, a copy of it in manuscript, which was read at the Secretary's table.

Mr. JOHNSON. The honorable member from Missouri is under a misapprehension about that.

Mr. CONKLING. If the Senator from Maryland will allow me, it is my misfortune to differ with the Senator from Missouri in this regard. The resolution which came here does, in clear language, transmit to the Senate all the evidence taken by the committee, be it more or less, which, however remotely, reflects upon any member of this body; and therefore the whole printed evidence, manually sent here, as it need not have been, because it was upon our tables in theory of law, is a part of the evidence of which I am speaking. I have not read it, and have nothing to say now of what it proves.

I was proceeding to say that Mr. HULBURD, being chairman of one of the standing committees of the House, not chairman of a special committee moved or instigated by himself, but chairman of a standing committee, was, with his associates, charged to make a certain investigation. What was it? Did it aim at the Senator from Tennessee or the Senator from Wisconsin, or any other member of this body? Not at all. It aimed at suspected abuses in the administration of the public business at the port of New York. He entered upon that investigation, as it was his duty to do; and I regretted that the Senator

from Wisconsin saw fit to reflect upon him for acting as a "scavenger," tripping upon some expression which Mr. HULBURD seems to have employed in the haste of debate. Whether termed in one way or another, it was his duty to investigate the matter which was given him in charge. He did so. In the course of that investigation, incidentally and unavoidably, so far as regards any prevention the committee was bound to adopt, the testimony came out here and there, and again, which did in some degree "apparently affect," in the language of this resolution, a member, or more than one member of the Senate. That testimony was reported to the House. All the testimony taken was reported. Was any impropriety committed in reporting it? It was obligatory upon the committee to report it, and the committee did report it, accompanied, I presume, with a recitation of the conclusions it tended to establish. I do not understand the report itself to be assailed for what it contained not found in the evidence, nor for what it omitted which could have been found in the evidence.

That being the state of the matter, the Senator from Wisconsin, in his place here, put in denials touching himself, as did the Senator from Tennessee. Both of them—I remember more particularly the expression of the Senator from Tennessee, because it required, in his own estimation, an apology to the Senate for the strength of the language—both of those denials, if they did not directly bring into question the integrity of the chairman of the committee who had submitted the evidence and made the report, at least impugned his action so far as to involve his integrity or that of the committee.

Mr. PATTERSON, of Tennessee. Will the Senator from New York yield to me for a moment?

Mr. CONKLING. With great pleasure.

Mr. PATTERSON, of Tennessee. In the strong language that I used on a former occasion I did not mean to reflect upon the committee at all. I reflected upon the testimony, not upon the committee, because I did not suppose any member of the committee intended to do me injustice. I am satisfied they did not.

Mr. CONKLING. Mr. President, I am speaking with nothing before me, with no opportunity to look, as I had had no occasion to look, at anybody's language, and must therefore rely upon my recollection of the statement as I heard it. But I ask the Senate, and I ask the Senator from Tennessee, whether the essence of his statement was not that the assertion or allegation made by this committee—perhaps his expression was "a charge made by the committee"—was false, adding a very strong measure of falsehood?

Mr. PATTERSON, of Tennessee. Yes, I said so; but I referred exclusively to the testimony, not to the conclusion at which the committee had arrived. I did not reflect upon the committee.

Mr. CONKLING. Well, Mr. President, it may be so. The use of terms is critical, and the understanding of terms is critical. Mr. HULBURD understood evidently that he and his committee were assailed, and accordingly, in his place in the House, he replied, endeavoring to show that he had done the duty with which he had been charged, and nothing more.

The next we hear of these proceedings, the House having revived its committee and instructed it to continue its custom-house investigations, without any connivance or action of any sort by the committee, as appears from cross-examination of the witness Hull, which has been read, there is brought to the knowledge of the committee, by a member of the House, the existence of a witness who has something important to relate. His testimony was taken; taken after the Senator [Mr. DOOLITTLE] had complained in this Chamber that the committee had delivered to the House, to be made public, testimony which reflected upon him without giving him notice; and, having taken the testimony, in place of pursuing the

second time the course for which it had once been taken to task, namely, publishing such evidence, the committee went into the House and informed the House that evidence had been taken which "apparently affects"—a very mild meaning, as the Senator from Ohio says—"apparently affects one member or more than one member of the Senate." They reported to the House, and asked it to be transmitted to the Senate.

I shall not discuss the question whether this was the best mode of proceeding or the reverse; whether it was wise or not. I am simply vindicating the chairman of that committee from what I deem the excessive assault which has been made upon him. What was he to do with this evidence? Should he report it again to the House, and thus to the country, that the Senator might complain once more that evidence had been taken which affected him, and yet no opportunity had been afforded him to say whatever he might choose to say in regard to it? It might have been disposed of in several ways. I am not discussing, I repeat, the question which would have been best; but I am submitting to the Senate that the chairman of that committee did nothing malicious, and had no motive to do anything unfair or unfriendly, much less any act deserving to be characterized and stigmatized as he and his acts have been by the Senator from Wisconsin.

Now, sir, that evidence comes here. What it proves we know in part, because we have heard it read in part. As to the rest we know nothing. The question is before the Senate: what direction shall it take? I am not going to make any suggestion with regard to that. I have no knowledge of the merits of this matter as regards the charges against the two Senators understood to be referred to. But, sir, I submit that there is nothing here which warrants the Senate, as to the House of Representatives, or any committee or member of it, in assuming an impropriety, a wrong, or anything else which goes one inch toward justifying the remarks which have been listened to to-day.

This note, which was addressed by the chairman of the committee to the Senator from Wisconsin, we have heard stigmatized as forgery, safe from felonious prosecution because no money waited as an inducement upon its commission. I think when the Senator from Wisconsin reflects coolly upon that part of his remarks he will agree with me that in what the law calls *furor brevis* he has gone far beyond reasonable bounds.

That note, as I heard it stated by the Senator, seems to have been nothing but the suggestion of a mode by the chairman of the committee in which the Senator could have the opportunity to correct any mistake or injustice which had grown out of the lack of opportunity before. As he says, the session had expired by law; the chairman had ceased to be chairman of the committee. He says, therefore, to the Senator, although the clock has struck the hour which divides the old session from the new, although we have crossed that isthmus not wider than a hair between now and then, put in your statement; let it be done in the language of the note *nunc pro tunc*. Who was that to harm? What is there in it which should induce a Senator to rise here and denounce and stigmatize it in the unmeasured manner in which the Senator has seen fit to indulge?

Now, sir, I have said about this much more than I intended; but before I sit down I wish to say again that the day is far hence when I will sit in this presence or in any presence and listen in silence to aspersions so gross, heaped upon the head of a man so pure, so respectable as he whom the Senator from Wisconsin has seen fit to assail. I believe that he has done his duty; that if he has committed an error in doing it, it is an error of the head and not of the heart; I believe also that any committee which shall have charge of this subject will find nothing to attribute to him in derogation of the

high character which here and everywhere I am glad to assign him.

Mr. TRUMBULL. Mr. President, when this matter first came to the consideration of the Senate I stated, I think substantially, that it was a communication from the House of Representatives which the Senate was bound to treat with due consideration. However inconclusive or trifling the testimony which has been read may have seemed to some members of the Senate who listened to it, I think we should do nothing in passion, or from impulse, or in haste in regard to it. I have sometimes been censured for my course in this body for objecting to inconsiderate action, because I have opposed the passage of measures upon the impulse of the moment. I have done so in the discharge of what I believed to be a public duty, and I feel that it is improper that we should act in that spirit now. If the House of Representatives has made a mistake (which I shall not assume) it will be no excuse for us to make another. It is one of the branches of the legislative department of the Government. They have sent to us a communication, which we must treat with proper respect and decorum; and I am utterly opposed to any such proposition as that offered by the Senator from Missouri.

Now, sir, I shall be glad if this subject can be disposed of by a reference to a committee. I believe a motion was made by the Senator from Ohio to dispose of it in that way; but if this discussion is to be continued, I think we had better lay this matter aside and proceed to the consideration of the bill which the President has returned to the House of Representatives with his objections, and which has been re-passed there; and I move that the subject under consideration—

Mr. FESSENDEN. I think we can dispose of this now.

Mr. JOHNSON. We can take the vote in a moment.

Mr. TRUMBULL. If there is to be no other speaking, I shall not interpose the motion I intended to make; but if there is to be any further debate, I move that this subject be laid aside and that we proceed to the consideration of the bill from the House of Representatives with the objections of the President.

Mr. CONNESS. I hope this will be committed first.

Mr. MORTON. I believe when this affidavit was read here there was a just feeling of indignation among Senators. It was frivolous, flimsy, and improbable; and the only importance is derived from the fact that it was sent here by the House of Representatives. I think, however, that this subject ought to be referred to the committee, not out of any respect to the evidence that has been read here to-day, but out of respect to the House of Representatives. I think it better for the Senators themselves before the country that it should be so referred. That that committee will do them full justice and will vindicate them properly I have no doubt. I hope it will be referred to the committee.

Mr. DRAKE. When I offered the resolution which I did I supposed that the only evidence before the Senate was that which was read here this morning. I understand the honorable Senator from New York, who addressed the Senate just now, to state that there is other evidence there in that printed volume, and if I mistake not the honorable Senator from Maryland seemed to concur with him in that statement. If that is so, then as nothing from the printed volume has been read here, and we know not its contents, I would have no objection to have the reference made to the committee; but if the case stood before us now simply upon that written statement which was read this morning to the Senate, then I say the self-respect of the Senate would forbid its entertaining the proposition for one moment. I would inquire of the honorable Senator from Maryland whether I was right in supposing that he concurred in the statement made by the

honorable Senator from New York as to what is really before the Senate now from the House of Representatives?

Mr. JOHNSON. I did.

Mr. DRAKE. Then, Mr. President, out of deference to the opinion of those two honorable Senators, that the printed matter is before the Senate and that the Senate knows not what is in that printed matter at all, I will, with the permission of the Senate, withdraw the resolution which I offered.

The PRESIDENT *pro tempore*. The resolution is withdrawn.

Mr. JOHNSON. I do not ask for the reading of the resolution of the House of Representatives; but I know that I am right when I say that it brings before us what came as printed matter as well as what came as secret evidence. I rose principally for the purpose of saying that I see no ground to call in question the conduct of the House of Representatives, whatever may be thought of the conduct of the committee or any one of its members; because, as I understand, this additional testimony was not read to the House; it was laid before them as secret testimony, and they acted upon the opinion which the committee gave them, that there was in that, taken in connection with the other evidence in the case, matter affecting a Senator; and upon that statement of the committee they sent it here. They could have designed no disrespect to the Senate, I am sure; and it would be therefore wrong, as I think, to dispose of the matter in any other way than that which is perfectly consistent with the respect which we ought to owe, and which we do owe, to a coordinate branch of the Government. I hope, therefore, a reference will be ordered to some committee; the Judiciary Committee, I suppose, is the proper committee.

Mr. HOWARD. I desire to ask a question of the honorable Senator from Wisconsin and the honorable Senator from Tennessee, upon whom this evidence seems to reflect; and that is, whether they do or do not desire that the Committee on the Judiciary should be vested with power to send for persons and papers with a view to carry on this investigation?

Mr. DOOLITTLE. Certainly I desire that it should go to the Committee on the Judiciary, and that they should have full power to investigate.

Mr. HOWARD. I move, then, that the committee be authorized to send for persons and papers with a view to prosecute the investigation.

Mr. JOHNSON. My friend from Michigan will permit me to suggest what I think is the course in such matters. The committee, after the case is submitted to them, decide for themselves whether they desire to have the authority to subpoena persons and get papers. That was done in the case of the credentials I presented the other day of my colleague, and I think it has always been the rule. If when the committee have examined into this question they come to the conclusion that they require the presence of witnesses and the production of papers, they will no doubt, through their chairman, request authority for that purpose.

Mr. HOWARD. I understand from the Senator from Wisconsin that he is anxious that the committee should be vested with that power.

Mr. DOOLITTLE. I have no objection.

Mr. HOWARD. Not only in reference to the general inquiry, but especially in reference to his own case.

Mr. JOHNSON. But that ought to depend on the opinion of the committee. They may come to the conclusion that it is not necessary.

Mr. HOWARD. I make the motion that the committee be authorized to send for persons and papers.

Mr. PATTERSON, of Tennessee. I fully concur in the proposition of the Senator from Michigan. I have no objection to the committee being authorized to send for persons and papers. Indeed I really desire it.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that this subject be referred to the Committee on the Judiciary, with authority to send for persons and papers. The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. President, the House of Representatives has agreed to the amendments of the Senate to the joint resolution of the House No. 8, directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny.

It has also passed the following Senate bills: A bill (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia; and

A bill (S. No. 77) supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying militia forces to aid in suppressing the rebellion," approved June 21, 1866.

The President of the United States having returned to the House of Representatives, in which it originated, the bill (H. R. No. 33) entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," with his objections thereto, the House of Representatives has proceeded, in conformity with the Constitution, to reconsider the said bill and has—

*Resolved*, That it do pass, two thirds of the House of Representatives agreeing to pass the same, the objections of the President to the contrary notwithstanding.

And I am directed to communicate to the Senate the said bill with the objections of the President thereto, and the proceedings of the House of Representatives thereon.

#### SUPPLEMENTARY RECONSTRUCTION BILL VETO.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill returned by the President with his objections.

The motion was agreed to.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, is now before the Senate on reconsideration. The message of the President, returning the bill with his objections to the House of Representatives, will be read.

The Secretary read the veto message, as follows:

#### To the House of Representatives:

I have considered the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," and now return it to the House of Representatives, with my objections.

This bill provides for elections in the ten States brought under the operation of the original act to which it is supplementary. Its details are principally directed to the elections for the formation of the State constitutions, but by the sixth section of the bill "all elections" in these States occurring while the original act remains in force are brought within its purview. Referring to the details, it will be found that, first of all, there is to be a registration of the voters. No one whose name has not been admitted on the list is to be allowed to vote at any of these elections. To ascertain who is entitled to registration, reference is made necessary, by the express language of the supplement, to the original act and to the pending bill. The fifth section of the original act provides, as to voters, that they shall be "male citizens of the State; twenty-one years old and upward, of whatever race, color, or

previous condition, who have been resident of said State for one year." This is the general qualification, followed, however, by many exceptions. No one can be registered, according to the original act, "who may be disfranchised for participation in the rebellion," a provision which left undetermined the question as to what amounted to disfranchisement, and whether, without a judicial sentence, the act itself produced that effect. This supplemental bill superadds an oath, to be taken by every person before his name can be admitted upon the registration, that he has "not been disfranchised for participation in any rebellion or civil war against the United States." It thus imposes upon every person the necessity and responsibility of deciding for himself, under the peril of punishment by a military commission, if he makes a mistake, what works disfranchisement by participation in rebellion, and what amounts to such participation. Almost every man—the negro as well as the white—above twenty-one years of age, who was resident in these ten States during the rebellion, voluntarily or involuntarily, at some time and in some way did participate in resistance to the lawful authority of the General Government. The question with the citizen to whom this oath is to be proposed must be a fearful one; for while the bill does not declare that perjury may be assigned for such false swearing, nor fix any penalty for the offense, we must not forget that martial law prevails; that every person is answerable to a military commission, without previous presentment by a grand jury for any charge that may be made against him; and that the supreme authority of the military commander determines the question as to what is an offense, and what is to be the measure of punishment.

The fourth section of the bill provides "that the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons." The only qualification stated for these officers is that they must be "loyal." They may be persons in the military service or civilians, residents of the State or strangers. Yet these persons are to exercise most important duties, and are vested with unlimited discretion. They are to decide what names shall be placed upon the register; and from their decision there is to be no appeal. They are to superintend the elections, and to decide all questions which may arise. They are to have the custody of the ballots, and to make returns of the persons elected. Whatever frauds or errors they may commit must pass without redress. All that is left for the commanding general is to receive the returns of the elections, open the same, and ascertain who are chosen "according to the returns of the officers who conducted said elections." By such means, and with this sort of agency, are the conventions of delegates to be constituted.

As the delegates are to speak for the people, common justice would seem to require that they should have authority from the people themselves. No convention so constituted will in any sense represent the wishes of the inhabitants of these States; for, under the all-embracing exceptions of these laws, by a construction which the uncertainty of the clause as to disfranchisement leaves open to the board of officers, the great body of the people may be excluded from the polls, and from all opportunity of expressing their own wishes, or voting for delegates who will faithfully reflect their sentiments.

I do not deem it necessary further to investigate the details of this bill. No consideration could induce me to give my approval to such an election law for any purpose, and especially for the great purpose of framing the constitution of a State. If ever the American citizen should be left to the free exercise of his own judgment it is when he is engaged in the work of forming the fundamental law under which he is to live. That is his work, and it cannot properly be taken out of his hands. All this legislation proceeds upon the contrary assumption,

that the people of each of these States shall have no constitution except such as may be arbitrarily dictated by Congress and formed under the restraint of military rule. A plain statement of facts makes this evident.

In all these States there are existing constitutions formed in the accustomed way by the people. Congress, however, declares that these constitutions are not "loyal and republican," and requires the people to form them anew. What, then, in the opinion of Congress, is necessary to make the constitution of a State "loyal and republican?" The original act answers the question. It is universal negro suffrage, a question which the Federal Constitution leaves to the States themselves. All this legislative machinery of martial law, military coercion, and political disfranchisement is avowedly for that purpose and none other. The existing constitutions of the ten States conform to the acknowledged standards of loyalty and republicanism. Indeed, if there are degrees in republican forms of government, their constitutions are more republican now than when these States—four of which were members of the original thirteen—first became members of the Union.

Congress does not now demand that a single provision of their constitutions be changed, except such as confine suffrage to the white population. It is apparent, therefore, that these provisions do not conform to the standard of republicanism which Congress seeks to establish. That there may be no mistake, it is only necessary that reference should be made to the original act, which declares—

"Such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates."

What class of persons is here meant clearly appears in the same section. That is to say:

"The male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election."

Without these provisions no constitution which can be framed in any one of the ten States will be of any avail with Congress. This, then, is the test of what the constitution of a State of this Union must contain to make it republican. Measured by such a standard, how few of the States now composing the Union have republican constitutions! If, in the exercise of the constitutional guarantee that Congress shall secure to every State a republican form of government, universal suffrage for blacks as well as whites is a *sine qua non*, the work of reconstruction may as well begin in Ohio as in Virginia, in Pennsylvania as in North Carolina.

When I contemplate the millions of our fellow-citizens of the South, with no alternative left but to impose upon themselves this fearful and untried experiment of complete negro enfranchisement and white disfranchisement, it may be almost as complete, or submit indefinitely to the rigor of martial law, without a single attribute of freedmen, deprived of all the sacred guarantees of our Federal Constitution, and threatened with even worse wrongs, if any worse are possible, it seems to me their condition is the most deplorable to which any people can be reduced. It is true that they have been engaged in rebellion, and that, their object being a separation of the States and a dissolution of the Union, there was an obligation resting upon every loyal citizen to treat them as enemies, and to wage war against their cause.

Inflexibly opposed to any movement impairing the integrity of the Government, I did not hesitate to urge the adoption of all measures necessary for the suppression of the insurrection. After a long and terrible struggle the efforts of the Government were triumphantly successful, and the people of the South, submitting to the stern arbitrament, yielded forever the issues of the contest. Hostilities terminated soon after it became my duty to assume the responsibilities of the Chief Executive officer of the Republic, and I at once endeavored



to repress and control the passions which our civil strife had engendered, and no longer regarding these erring millions as enemies again acknowledged them as our friends and our countrymen. The war had accomplished its objects. The nation was saved, and that seminal principal of mischief which, from the birth of the Government, had gradually but inevitably brought on the rebellion, was totally eradicated. Then, it seemed to me, was the auspicious time to commence the work of reconciliation; then, when the people sought once more our friendship and protection, I considered it our duty generously to meet them in the spirit of charity and forgiveness and to conquer them even more effectually by the magnanimity of the nation than by the force of its arms. I yet believe that if the policy of reconciliation then inaugurated, and which contemplated an early restoration of these people to all their political rights, had received the support of Congress, every one of these ten States and all their people would at this moment be fast anchored in the Union, and the great work which gave the war all its sanction and made it just and holy would have been accomplished. Then over all the vast and fruitful regions of the South peace and its blessings would have prevailed, while now millions are deprived of rights guaranteed by the Constitution to every citizen, and after nearly two years of legislation find themselves placed under an absolute military despotism. "A military Republic, a Government formed on mock elections, and supported daily by the sword," was nearly a quarter of a century since pronounced by Daniel Webster, when speaking of the South American States, as a "movement indeed, but a retrograde and disastrous movement, from the regular and old-fashioned monarchical systems;" and he added:

"If men would enjoy the blessings of republican government they must govern themselves by reason, by mutual counsel and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority, properly expressed; and, above all, the military must be kept, according to the language of our bill of rights, in strict subordination to the civil authority. Where ever this lesson is not both learned and practiced there can be no political freedom. Absurd, preposterous is it, a scoff and a satire on free forms of constitutional liberty for forms of government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword."

I confidently believe that a time will come when these States will again occupy their true positions in the Union. The barriers which now seem so obstinate must yield to the force of an enlightened and just public opinion, and sooner or later unconstitutional and oppressive legislation will be effaced from our statute-books. When this shall have been consummated I pray God that the errors of the past may be forgotten, and that once more we shall be a happy, united, and prosperous people, and that at last, after the bitter and eventful experience through which the nation has passed, we shall all come to know that our only safety is in the preservation of our Federal Constitution, and in according to every American citizen and to every State the rights which that Constitution secures.

ANDREW JOHNSON.

WASHINGTON, March 23, 1867.

The PRESIDING OFFICER. The question is, Shall this bill pass, the objections of the President to the contrary notwithstanding? The vote will be taken by yeas and nays in order to ascertain whether the bill receives a constitutional majority.

The question being taken by yeas and nays, resulted—yeas 40, nays 7; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Harlan, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ross, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—40.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, Norton, Patterson of Tennessee, and Saulsbury—7.

ABSENT—Messrs. Ferry, Grimes, Guthrie, Henderson, Hendricks, and Riddle—6.

The PRESIDENT *pro tempore*. Two thirds

of the Senate having voted for the bill, it is passed, and two thirds of the House of Representatives having previously repassed the bill, it is now a law, the objections of the President to the contrary notwithstanding.

#### ADJOURNMENT OF CONGRESS.

Mr. SPRAGUE. I desire to call up Senate bill No. 106, with a view of getting a vote and making a remark or two upon the subject.

Mr. TRUMBULL. Before the Senator from Rhode Island proceeds I wish to offer a resolution.

Mr. SPRAGUE. I give way for that purpose.

Mr. TRUMBULL. I offer the following resolution:

*Resolved by the Senate, (the House of Representatives concurring.) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses on Tuesday next, March 26, at twelve o'clock meridian, until the first Monday of December, 1867, at twelve o'clock meridian.*

Mr. DRAKE. I move to amend the resolution by striking out "the first Monday of December," and inserting "Tuesday, the 15th day of October."

The PRESIDENT *pro tempore*. The first question is, whether the Senate will consider the resolution at this time. Does the Senator from Illinois ask for its present consideration?

Mr. TRUMBULL. I do.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the resolution is before the Senate. The question is on the amendment of the Senator from Missouri.

Mr. DRAKE called for the yeas and nays, and they were ordered; and being taken resulted—yeas 19, nays 28; as follows:

YEAS—Messrs. Cole, Drake, Edmunds, Fowler, Harlan, Howe, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—19.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Conkling, Connors, Corbett, Cragin, Davis, Dixon, Doolittle, Fessenden, Frelinghuysen, Howard, Johnson, Morgan, Norton, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—28.

ABSENT—Messrs. Ferry, Grimes, Guthrie, Henderson, Hendricks, and Riddle—6.

So the amendment was rejected.

Mr. MORRILL, of Vermont. I move to amend the resolution by inserting in lieu of "the first Monday of December" the "first Monday of November."

Mr. JOHNSON. That is the time when nearly all the State elections are held, and it will be very difficult to get a quorum here. Every member, I suppose, would like to be in his own State when the election is taking place. I think they pretty much all take place in November.

Mr. CONNESS. Let us have the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. CONKLING. I should like to ask the Senator from Vermont what recommendation, in his estimation, this proposition has? I ask him whether it does not involve all the inconveniences of the proposition we have just voted down, without any corresponding benefits? It would bring us here one month, or about one month, earlier than usual. In the State of New York the most important election in many respects we have had for years is to occur on a day later than that which the Senator proposes, an election at which we are to vote upon the ratification of a new constitution; at which we are to elect a new Senate and a new Legislature throughout, and nearly all the State officers. In addition to that, it is the harvest of almost every seed time—I speak of commercial business and all sorts of business. No matter what a man may do, according to the usages of our community, just about the time the Senator proposes is the important time for him in casting up the accounts of the whole year. The courts are in session then, and every sort of business is in that situation that no more inconvenient time to leave home could be found in the calendar than the first Monday of November.

Mr. President, as I am up I want to say one other word about this matter. The first Monday of December occurs about the same time of year now that it did fifty or sixty years ago; and the men who fixed that day at that time for the meeting of Congress considered carefully, and I think experience has shown wisely, the time which they fixed. If there is anything extraordinary in this year which we are called upon to accept and to admit that we are called upon to do extraordinary things, so be it; but for one I do not believe it. I believe that there is power, that there is good result in adjourning, as we generally adjourn, to the ordinary time; to the end that the country, the commercial, the business, and the political community may have some repose. An extraordinary session at any time brings up before all classes of men that kind of legislation which they may dread. If a man is afraid of a tariff he surmises that that is the occasion for the session. If he is afraid that the national banks or the currency may be disturbed he imagines that that is the occasion. Now, I should like to have an arrangement which will leave, as far as we can leave, repose to the country, and not have a condition of things putting men into a fever, and making every other man afraid to buy anything in the spring for fear he cannot sell it for as much in the fall, owing to something that may take place in the way of legislation in the mean time. I hope we shall adjourn until the ordinary time, unless some provision is wanted by which, in case of an extraordinary emergency, we can come together for that and for nothing else. For one, I anticipate no extraordinary emergency; I do not see how any can arise; and I am entirely ready to vote for the ordinary adjournment.

Mr. MORRILL, of Vermont. That is an extraordinarily long question to answer. [Laughter.] I perceive that the Senator from New York has not asked the question so much to receive information as to give information to the Senate on the negative side of the question. I am very glad, Mr. President, to think and believe that Senators will see that the amendment proposed by me needs no argument and no illustration. I supposed it was perfectly obvious upon the face of it. The reason for it is that we shall thereby have one month of labor in November instead of in June or July. I think it would be well that we should make a permanent law on the subject, and have our sessions always commence on the first Monday of November.

Mr. CONKLING. Is there any reason for it this year more than any other?

Mr. MORRILL, of Vermont. I do not make the proposition in view of any special reason for it this year, but for general reasons. I hope it will be adopted.

The question being taken by yeas and nays, resulted—yeas 18, nays 27; as follows:

YEAS—Messrs. Cole, Cragin, Drake, Edmunds, Harlan, Howe, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—18.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Conkling, Connors, Corbett, Davis, Dixon, Fessenden, Frelinghuysen, Howard, Johnson, Morgan, Norton, Nye, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—27.

ABSENT—Messrs. Doolittle, Ferry, Fowler, Grimes, Guthrie, Henderson, Hendricks, and Riddle—8.

So the amendment was rejected.

Mr. SUMNER. I move to amend the resolution by striking out all after the word "that" immediately following the resolving clause and inserting:

*The President of the Senate and the Speaker of the House of Representatives, on Thursday the 28th day of March, at twelve o'clock meridian, adjourn their respective Houses until the first Monday of June, and that on that day unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1867.*

Mr. CONNESS. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 31; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Drake,

Fowler, Harlan, Howe, Morton, Pomeroy, Ross, Sumner, Thayer, Wilson, and Yates—14.  
 NAYS—Messrs. Buckalew, Cattell, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Edmunds, Fessenden, Frothingham, Henderson, Howard, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Tipton, Trumbull, Van Winkle, Wiley, and Williams—31.

ABSENT—Messrs. Anthony, Conkling, Ferry, Grimes, Guthrie, Hendricks, Riddle, and Wade—8.

So the amendment was rejected.

Mr. CHANDLER. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN and others. Oh, no! let us dispose of this resolution.

Mr. CHANDLER. I hope this question will not be disposed of now. I do not think we are in a situation at this time to decide when we shall adjourn. To adjourn now until the first Monday of December, is to declare to the country that we have full faith in the Executive and in the present management of affairs. I do not believe the country has that faith even if the Congress of the United States has. Certainly one half of the offices in my State are unfilled, internal revenue offices, post offices, and custom-houses; and so it is in other States. We are paid to remain here by the year to attend to the public business, and I do not believe the country expects us to leave our posts when there is danger to the finances or to any other department of the Government. I insist on my motion that the Senate now proceed to the consideration of executive business.

Mr. MORTON. I am in favor of now proceeding to the consideration of executive business simply for the purpose of allowing us an opportunity for the further consideration of this question. It was asked a few minutes ago by the Senator from New York what reason there was for meeting earlier this year than the ordinary period. Let me ask what reason there was for providing for this session of Congress at all? The last session thought there was reason for it; the country thought there was reason for it. I was opposed to the proposition made by the House of Representatives a few days ago to adjourn until the first Monday in May; but I am equally opposed to adjourning over until the first Monday in December. The times are extraordinary. We have never had such a condition of things before, and I hope we shall never have again. We are trying a new system on ten States; we have provided for their military government; we have adopted a system of reconstruction which we hope and believe will work well; but if there ever was a time when Congress should come together at an early period for the purpose of supervising the condition of the country that time is now.

My experience here is very brief; but I have always heard it said that there was scarcely anything done between the first Monday of December and the meeting after the Christmas holidays; the time being short, but little is expected to be done during that period, and but little is done. I should very much prefer meeting about the middle of October and getting through earlier the next spring. There may be a condition of things in the southern States that would imperiously require the presence of Congress before the first Monday of December, and I agree entirely with the Senator from Michigan that the people do not expect this Congress to adjourn over until December. The times are critical; the condition of the country is entirely anomalous; it is not an ordinary season, in which we can afford to take our repose at home, as suggested by the Senator from New York. I am therefore opposed to adjourning over until the first Monday in December; and for the purpose of getting time for the further consideration of this question I hope we shall go into executive session.

Mr. FESSENDEN. I hope we shall dispose of this matter now. What time is wanted for further consideration? We have been considering it ever since the session commenced. In one way and another it has been under con-

sideration all the time, and it has been generally understood I believe that when the bill which has been passed over the President's veto to-day should be finally disposed of, we could then fix the day of adjournment, for there would be nothing left on which it was particularly necessary for us to act. As to the remark of the Senator from Michigan, that the executive business is not disposed of, let me say that that is of no manner of consequence with regard to this resolution, because if the executive business is not disposed of by the time indicated for the adjournment the President can call the Senate together, and will be very likely to do so by proclamation as soon as the time of adjournment is fixed, and the Senate will then meet in order to dispose of that business; but it is unnecessary to keep the House of Representatives here for that purpose. That argument, therefore, does not seem to apply.

Now, Mr. President, I see no necessity for our fixing a day for the meeting of Congress other than the ordinary day on which we meet in the winter. If I believed the majority would have sustained my opinion, I would have agreed to the proposition of the Senator from Vermont, to meet on the first Monday in November, not for any reason applicable to the condition of the country, but simply for the purpose of gaining time at the beginning of the session, rather than protracting our session late into the next year; but I was satisfied that that proposition would not carry in either branch, and therefore I did not vote for it.

I must say, sir, that I do not believe the people have any expectation about this question. I know it is the fashion for gentlemen to talk about what the people expect. I should like to know what authority they have to speak for the people upon this subject. I do not undertake to speak for the people of Maine; I believe that they are willing to leave a question of this kind to the discretion of myself and my colleague here, and of the Representatives of Maine in the other House. They are apt to think that we are the better judges of such a subject, having the matter all before us, and are not disposed generally to complain of the action which we think it wise to adopt. I have heard this argument about what the people expect of us a great many times, and it has just exactly this effect upon my mind: if I am satisfied that that feeling exists, and that it is a just and proper one, and ought to be followed, I am disposed of course to follow it; but I see no evidence of any opinion expressed on the part of the masses of the community on this subject.

We have been in session for a very considerable period since the regular adjournment. We have transacted our business. What particular matter is there to call us together in the intermediate time between this and the winter? The Senator from Michigan himself voted in favor of meeting in October. If any mischief can be done, that mischief can be done just as well between this time and October as it can between this time and December. We have accomplished all that gentlemen wished to have accomplished. The President's hands are tied with reference to appointments; we have passed a bill which provides for that; and in reference to the condition of affairs in the South, we have provided for the protection of our fellow-citizens there, and for the institution of republican governments there, upon which the people of those States cannot act conclusively before we shall meet in December, the usual time. I see nothing in the world that apparently calls upon us to fix an earlier day. If anything should occur in the political world or in connection with other peoples that would require that we should be called together, I have no doubt the President would call us together; but nothing except something totally unlooked for that we cannot now anticipate seems in my judgment to call upon us to fix a different day from the usual one. I think it would be more dignified, more consistent with the perfect idea of the

satisfaction of Congress that it has done its duty and provided for the protection of the people from now until the usual time when we meet again, to meet at the usual time or somewhere near it, even taking it for granted that any injury can be done to us or the people of the country between now and that period. I hope, therefore, as this question is up, and I have no doubt every Senator has made up his mind upon it, we shall proceed to settle it one way or the other, and not have it hanging here by the eyelids to be talked about any longer.

Mr. STEWART. I rise simply to suggest to the Senator from Indiana that in my opinion, so far as reconstruction is concerned, the best thing we can do is to go away until December. While we are here resolutions and propositions will be constantly presented on that subject, keeping everything in uncertainty, and the southern people, expecting that we will do something else, will be waiting for that. What we have done satisfies me, and I believe satisfies the country; and I think it would be better for all parties for us now to wait and see if it satisfies the southern people. Let them discuss it among themselves without regard to any change that may be made by Congress. I think, so far as reconstruction is concerned, the sooner we leave here the better, and it is proper we should stay away the usual length of time. So far as that matter is concerned I think it highly important, if what we have done is satisfactory, as I believe it is, that the southern people should have time to reflect upon it. They can do no harm. If when we return we find that anything has been done wrong, if anybody shall have failed to do his duty, the matter can be dealt with by Congress. Sitting here continuously, or coming here at an unusual time and agitating this question, will, I fear, place us in a false position and make our work less effective than it otherwise would be. I believe the proper thing to be done now is to adjourn until the usual time for the meeting of Congress, and I hope that motion will prevail. If we meet in November or at an earlier day it will inconvenience several States, especially those on the Pacific. California has a very important election in October.

Mr. COLE. In September.

Mr. STEWART. I should have said September; and her members might possibly be here by November, but it would be hurrying them too much. There are many State elections in November, and if that is the time for the meeting of Congress it disarranges the arrangements of many gentlemen. I think if we meet in November nothing will be gained, because nothing will be done anyhow before the holidays, and it will only interfere with the arrangements of gentlemen.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, that the Senate proceed to the consideration of executive business.

The motion was not agreed to; there being on a division—ayes 14, noes 31.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. CHANDLER. I should like to record my vote against the resolution. I do not believe the country expects us to desert our posts at this time. I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. DRAKE. Without wishing to protract the debate on this subject I would say a word. I would like to know from these gentlemen who were members of the Thirty-Ninth Congress that passed the law requiring this session to be held, what the object of it was? If we are to come here and sit two or three weeks and then leave our posts until next December, I do not understand why that thing should have been done.

Mr. RAMSEY. It was done to get an organization.

Mr. DRAKE. I understood, and the people in the region of country from which I come understood, that the exigencies of the country

demand that Congress should keep itself in a position to put its hand on the affairs of the country at any moment; that it was not regarded that the affairs of the country were safe in the hands of the Administration, and that this session of Congress was called so that Congress might be in a position to take part in the affairs of the country at any critical moment which might arise. And now the proposition is to adjourn over till next December. I presume that it may be a matter of indifference to some Senators on this floor what their people think about this matter. It is not a matter of indifference to me what the people whom I represent in part here think about it. I say, sir, that in the great region in which I reside, in the valley of the Mississippi, the universal belief was that this session of Congress was provided for the purpose I have named; and that we should now turn round and abandon that purpose, leaving everything in the hands of an Administration in whom the great mass of the people have not confidence seems to me to be disappointing the just expectations of the people.

Mr. YATES. I concur in what the Senator from Missouri has said on this subject. The object of the present session of Congress, if I understood it, was to enable Congress to control the affairs of the country. Now, sir, can we adjourn with the assurance that all things will go forward smoothly to the best interests of the country? In whose hands are we leaving the interests of the country? In the hands of an executive officer who, upon this very day when we propose to adjourn, hurls in our faces his defiance, and vetoes the action of the two Houses of Congress. Sir, the legislation which we have adopted depends for its enforcement upon the action of the President of the United States. Have we any guarantee that he will enforce that legislation properly? Does his past conduct justify us in the belief that he will enforce the legislation of Congress faithfully? Is there any evidence that he desires to carry out the legislation of Congress? The last Congress and this Congress have passed measures which, if properly carried out, would endear them to the people of the country. Correct principles have triumphed. The policy of universal suffrage has triumphed; it now only remains to carry out that policy. It is only one year ago since it was proposed in the first instance, and now it has triumphed. But, sir, how is the policy of universal suffrage to be carried out in the South when it depends for its enforcement and execution upon those who are opposed to it? Is the President friendly to this policy? Has he not the appointment of the officers who are to execute this policy, and who are to carry it out? And shall the representatives of the American people rely upon the enemies of the policy which they have adopted for its faithful execution?

I do not agree with the Senator from Maine. I do not believe that the President of the United States will, under any circumstances whatever, call this Congress together. I do not like to oppose my opinion to his; but, sir, I feel a consciousness that never, under any circumstances, will the President of the United States call this Congress together again. Why call it together when he vetoes every measure that it passes? Why call it together when he does not agree with this Congress in any particular whatever?

The Senator from Maine may say that he cares not what the people expect on this subject. Sir—

Mr. FESSENDEN. I have said no such thing.

Mr. YATES. The Senator from Maine has stated that he does not suppose the people are as anxious on this subject as gentlemen pretend.

Mr. FESSENDEN. If the Senator will allow me, I was speaking of what was stated here. I stated that I had no evidence upon that subject at all, and that when Senators chose to say it I was not convinced that that was the fact. That was the idea.

Mr. YATES. I do not wish to misrepresent

the honorable Senator; but I do wish to say that due deference to a public opinion which we ourselves have created is to be expected. This opinion we have manufactured, or we have participated in its manufacture. We have charged the President of the United States with being guilty of the usurpation of powers which belong to the Congress of the United States. We know that he is opposed to every measure of any important character which has been inaugurated and adopted by the present Congress of the United States. And now, sir, after this session has been created for the purpose of carrying out the measures of Congress, and when the execution of those measures depends upon the action of the President himself, we propose to go home and leave the execution of those laws in his hands. He is the Commander-in-Chief of the Army of the United States. He appoints the military officers to execute our laws. He may, if he chooses, appoint Sheridan and Schofield and other loyal men now and remove them to-morrow. He is not in favor of the doctrines for which we have contended. He contends that these States are in the Union now, that they are entitled to representation now, and by his numerous vetoes, by his persistent policy, he has all the time maintained that position. And now when we yield, when we surrender all into his hands, when we retire from our posts of duty and leave to him the execution of these laws, are we to suppose that he will do it faithfully and honestly?

Sir, I know that the people expect that we will stand by our posts, especially at this particular crisis. I believe it is the duty of this Congress never to surrender the position which they have assumed while there is an enemy in the country who stands in the way of the Government and of the faithful carrying out of the measures which have been inaugurated. Whoever that man be, whether he be the President of the United States or any other person, who stands in the path of this country for union, to honor, and to glory, should be taken out of the way. I am not saying how. Of course I mean by constitutional and proper means. I am not saying that the President shall be impeached; but I am saying that while it is in our power to carry out the policy which we have inaugurated, to secure suffrage to all the people of the South, to organize the Government and the States lately in rebellion upon the principles of republicanism, by simply adjourning over to a shorter period than usual; if we do not do it, and if our policy of reconstruction shall thereby fail, then, sir, the responsibility will be on us. It will be a fearful responsibility. We shall be responsible for all the blood that has been shed in this war and for all the money that has been expended.

Sir, I should like to go home; I should like to leave this scene of discord as much as the honorable Senator from Maine or any other Senator upon this floor; but my duty demands that I shall stay here or make provision that I can come here, if needed, until I know that the legislation which has been adopted by this Congress has been carried out; that what we have done has not been done in vain; that we are not holding out to the country some delusive hope that we have settled the difficulties by which the country is embarrassed, and retire to our homes. In my opinion it would be an act of moral and political cowardice to desert the ship of state when the storms have not yet disappeared.

I am therefore opposed to this adjournment. I will not say, as some have said, for I will not put arguments into the mouths of our political opponents, that to adjourn under present circumstances would be an acquiescence in the assertion that the charges we have made against the President have no foundation in fact. I will not say so, because I know it is not the intention of honorable Senators to make that admission by this adjournment: but, sir, from one end of this country to the other every Democratic paper will cry out, "Your charges were false: they were groundless: you have admitted it by your adjournment: you have

intrusted the execution of your laws into the hands of him whom you have declared to be an enemy of your policy and who himself has signified his opposition by vetoing almost every important measure which you yourselves have adopted."

Mr. SAULSBURY. I wish to ask my honorable friend from Illinois, before he takes his seat, against the action of what department of the Government it is that he wishes to preserve the interests and the honor of his country; and I know that I cannot propound that question to a gentleman of more enlarged heart and noble patriotism than the honorable Senator from Illinois. Who is this enemy that, like the serpent amid the trees of Eden, is winding himself through our Paradise? Who is it, I ask the Senator, that has unpatriotic motives, unpatriotic intentions against the liberty, the freedom, or the happiness of his country? Why is this invocation made to the legislative department of the country to keep in perpetual session that no detriment shall come to the public? My honorable friend has indicated. It seems that at the other end of the avenue there is an occupant of a house whose patriotic intentions he questions. I ask him to state authoritatively to the American people whether he means to charge upon the Executive of the United States either a desire or a design, through the recess of Congress, to do aught that would not conduce to the glory, the honor, and the greatness of his and our common country?

I do not wish to enter into a discussion of this question at this late hour, but if forced to the rencontre, having served in this body with that distinguished gentleman before he was President, never having received any favor from him nor for any friend of mine since he has been President to the best of my knowledge, I shall not be wanting in a vindication of his character, which, whatever I may think of his political principles or political action, I have always admired as noble and patriotic.

Mr. HOWE. The Senator from Michigan and the Senator from Illinois invoke us not to desert our posts. For my part I have no intention of deserting. The invocation led me to inquire of myself what our post is. I supposed it to be the post of legislation, nothing more nor less. If there were legislation yet required for the honor or the peace or the welfare of the country, the appeal to us not to desert or not to go home would be timely; but no Senator suggests anything of the kind.

I have voted for each of the amendments which have been moved here; but each of those amendments had reference, not to the time when we shall adjourn, but to the time to which we shall adjourn. All are agreed that we have nothing more to do now in the way of legislation. All agree that we can safely leave here next week. That is admitted. But some Senators imagine that we ought to come back in November; some that we ought to come back in October; some that there may be a possibility of our being wanted here in June. There may be that possibility, there is that possibility, that we may be needed here in June; and I voted for the amendment which would provide for our coming back here in June if that contingency should arise. I voted for the amendment which proposed to bring us back here in October, and for the other which proposed to bring us back in November.

But I concur with all the rest of the Senate in the belief that there is nothing for us to do now as a Legislature. The legislation of the session is done. Why not leave here? It is not seriously proposed, is it, that, having done up the work of legislation for the country, the Congress of the United States is now to undertake to run the executive department of the Government, is to resolve itself into a sort of picket guard upon the President, act as aide-camps for the Commander-in-Chief? You have declared what laws you want enforced.

The Senator from Illinois says that if we leave it to the President to execute those laws we concede that all our charges have been groundless. Why, sir, in the name of the Constitu-

tion, to whom should we leave it? To whom is it left to execute these laws if not to the President? How can we aid him, how can we hinder him, how can we guide him in that which the Constitution leaves expressly to him? All we know about it is that the individual to execute these laws is fixed and determined for the present. He will execute them, or he will not; one of the two. He will discharge his duty, or he will fail to discharge it. I do not know, it is not given to me to foreknow which he will do; but if he discharges his duty he will satisfy me as a citizen, as a lover of my country. If he fails to discharge his duty, he will do my political friends more service than they will do themselves by staying here. So I think, with all the rest of the Senate, that we had better adjourn on Tuesday next, because our legislation is completed. I would be glad to come back earlier than the time suggested; but I think the country will survive until December if we do not come back.

Mr. NYE. I wish to submit to the Senate one or two considerations why I think Congress should not adjourn at this particular period. I know the inconvenience to which it will put a number of individuals, and I deeply sympathize and share with them in their desire to go home.

The news of the passage of the law calling Congress together on the 4th day of March I received while on the Pacific coast. I know that there, by the lovers of their country, the passage of that law was hailed with great joy. The understanding of the object of the passage of that law was that Congress was to remain at least in a position where they would be able to do all that they could do in saving the country at this critical moment. I have been told since I came here that the only object of calling this session of Congress at that unusual time was to organize the two Houses of Congress. I know that was not the object the people thought it was called for, simply to organize the two Houses of Congress. They thought, and think still, that the exigencies of the country required that Congress should be in a position to assemble at least speedily in view of any emergency that may occur.

One more suggestion, sir. We all know that there are now strong efforts being made—and I doubt not they will succeed—to test the constitutionality of the reconstruction bill. The President declares in his message to-day that the measure is unconstitutional. He declares that the oath contained in that bill, submitted by my friend from Michigan, [Mr. HOWARD,] is unconstitutional. Suppose that upon the assembling of the Supreme Court of the United States next month that court should hold upon some issue made up that that portion or any portion or all of that bill was unconstitutional, what then, sir? The bill of course fails; reconstruction stops, for there is no law under which these States can be reconstructed. Congress has asserted the fact, in which I fully believe, that it is its duty to prescribe the rules and the law of reconstruction. Suppose that next month the court declare that this law is unconstitutional, does any Senator in this body say that the people would not require Congress to assemble at once and pass another reconstruction act that was constitutional? But, sir, it would retard, it would stop the whole machinery of reconstruction, which every one in this body seems so anxious should roll along.

In view of these considerations I submit, with due deference to the assertion of the distinguished Senator from Wisconsin, that the legislation of this body is not done till this great reconstruction measure is perfected and carried out. I have not the confidence the distinguished Senator from Maine has, that the President would call us together if any emergency should arise. On the other hand, I think if he had the power he would prorogue us. He would do what the distinguished Senator from Illinois did on one occasion with the Legislature of that State: he would send us home, and he would never call one of us back. For that I do not blame him. He will not convene Congress. It is to my mind clear that

an emergency is quite likely to arise in which Congress should convene. I hope Senators, with all their anxiety to go home, will have an eye to their higher and greater duty of carrying out the great work of reconstruction which they have so nobly begun.

Mr. CONNESS. We have been asked several times in connection with this question of adjournment, why this Congress was called together. It appears to me that there has been a sufficient answer in the work done since the convening of the new Congress. If any other answer need be given it might be found in the desire that some of us had who had been here a long time, and to whom legislation is not new, but rather tiresome, to give the junior members of the body, our respected and valued associates, a chance to get into harness. We have given them that, I think; and they have no right to complain. I know they have not availed themselves of the opportunity that we have generously given them to any great extent. That, however, cannot affect my honorable friend from Nevada. That cannot be the difficulty in his case, because he has been here a good while. It is true the condition of my friend's health for a considerable period at the beginning of the late session, and indeed until nearly its close, prevented his attendance; and it may be that on that account he feels so refreshed as to give him an equal desire with our new and respected associates to enter upon the great business of running this institution, which my friend from Illinois describes as the ship of state. It appears to me, Mr. President, that the ship of state had better be let alone for awhile; that as wise merchants, if we feel an ownership in the ship and an interest in her, we had better take care, after having made profitable voyages, how we enter upon others, particularly how we enter upon a period when there are no markets for our commodities; when the people with whom we have to deal are rather afraid that we will enter their harbors and disturb their transactions.

I am inclined to think that the Senate is right in the great vote it has given in favor of adjourning this Congress after we have done our work well and truly, and I may say completely, and, so far as I can judge, to the country's satisfaction. We had better confirm that decision and prepare to go hence. We shall have abundant time hereafter.

As to these allusions made to the President, and the inference deduced from the declarations found in the message that has been read to us to-day, as to his disposition or indisposition to execute the laws, I have no fear on that point. I have no fear that the President will not execute the laws we have passed, and certainly I would not tell the country now that I had such a fear. We have been—I was going to make an observation that I shall not make—we have been told by some, that the President should be impeached and turned out of office. If there be any persons in the land who desire that that should be done, or who think it ought to be done, it appears to me that they particularly would be glad to give the President an opportunity to fail to execute the laws. Laws of a very distinctive character have been passed not meeting his approbation, but condemned by him. Let the Executive run the ship of state for awhile, his part of it. Let us not undertake to be in the fore-castle and in the cabin at the same time. The whole craft does not belong to us. It is true that we have a big interest in her, so big that we have felt it our duty, and shall always I trust feel it our duty, to prevent anybody from wrecking her; but that interest, great as it is, does not authorize us to seize her and make her the sport of our will entirely and completely.

Mr. President, there are two sides to all these questions, and having done our duty in our sphere, and as I believe done it well, let us cease for awhile that others may enter upon the performance of theirs. The honorable Senator from Maine when he was up did not intimate, I think, that the President would

convene us as a Congress for legislative business; but in reply to the suggestion that there was executive business to be done which had not been attended to, he said the President would reconvene the Senate, as he will undoubtedly by proclamation when we shall have only executive business to do; but I think it is time Congress in its legislative capacity should cease and determine.

Mr. WILLIAMS. Mr. President—

Mr. FOWLER. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Oregon is entitled to the floor.

Mr. WILLIAMS. I wish to make a single remark as to the argument derived from the fact that a law was passed providing for this session. I did not particularly favor that law; but I acquiesced in its adoption, for the reason that at that time there was no plan of reconstruction even proposed, and it was not then known whether at the last session of Congress any plan would be suggested or consummated. It so happened that subsequent to that time a plan was brought forward which has been adopted, a complete and perfect plan of reconstruction. The doors of the Union are open to the southern people, and they can walk in whenever they please to comply with our terms. This session, as I understand it, was provided for so that in case no legislation should be had at the last session such as the exigency demanded there would be a session in which we might prosecute the necessary legislation. But, sir, I do not understand that the Fortieth Congress was convened on the 4th of March for the purpose of watching the Executive or of transacting executive business, and I have not yet been able to see in what respect our presence here will control the President of the United States. He will be as much at liberty to execute the law or fail to execute the law if we remain in session as if we adjourn; and we know from experience that the President will do as he sees proper whether Congress is or is not in session. I remember last summer when it was proposed to adjourn that many members of Congress expressed great apprehension that there was grave danger in our adjournment, and many argued that it was necessary that we should protract the session throughout the summer, because if we left here we should be leaving everything in the hands of the President. But, sir, the wisest thing the Thirty-Ninth Congress ever did was to adjourn when it did, and let the President take his own course. The consequence was that he "swung round the circle," and in that way, in my humble opinion, he saved this country, or to a very great extent helped to save the country to the Union party. If we had remained here in session the President would necessarily have remained. The fact that no evil followed our adjournment then, notwithstanding the predictions which were made that it would be dangerous, satisfies me now that after we have completed this plan of reconstruction, after the President has appointed the commanders to carry it out, who are entirely satisfactory to the Union men of the country, there is no particular danger in our adjourning at this time, and no particular benefit will follow if we remain; and so far as I understand the wishes of the people, I think they desire some little repose. There has been a constant agitation ever since Congress assembled, political, commercial, financial agitation. Now let us adjourn, and let things settle down. Let us ascertain how this experiment which we are about to try will operate. If satisfactorily, all will be well; if not, we have a remedy when we meet again.

Mr. DRAKE. I wish to inquire of the Senator from Oregon whether he has any information that if we adjourn now the President will "swing round the circle" again? [Laughter.]

Mr. WILLIAMS. I have no other guide by which to judge but experience.

Mr. FOWLER. I submitted a motion to adjourn because I did not wish to hear this protracted debate. I have been ready to vote



for a long time; but I proposed an adjournment so that if the Senate deem it necessary to discuss this question we may have a full opportunity to do so on Monday. I shall not, however, persist in the motion.

Mr. CHANDLER. The Senator from Maine not only stated that the President would call a session of the Senate to attend to executive business; but he stated that if there was a necessity for action on legislative business the President would call a session of Congress for that purpose, as I understood him.

Mr. FESSENDEN. I will state what I said, or at any rate what I meant to say, and what I think I did say. I spoke of the executive business of the Senate, and I said that the President would undoubtedly, in case of necessity, immediately convoke the Senate to attend to that business. Then I said that there was nothing in the present condition of the country to satisfy me that there would be any necessity for a legislative session before the regular time for the meeting of Congress; that it could only be necessary in the case of some unforeseen emergency which would render it necessary; and that I had no doubt in case such an emergency should arise the President would convene Congress. I repeat it, I have no doubt of it.

Mr. CHANDLER. Precisely. That was as I understood the Senator.

Mr. FESSENDEN. And I illustrated that particularly by speaking in regard to our foreign relations, in which a contingency might arise which is now unforeseen.

Mr. CHANDLER. If the President in good faith carries out these laws that he has himself over and over and over again declared to be unconstitutional, no man here or out of this body supposes that there will be a necessity for an extra session. If that necessity arises, it will be because the President fails to execute the laws which in every veto message he has sent to us he has declared to be unconstitutional.

A few weeks ago I offered a resolution in this body instructing the Committee on the Judiciary to inquire whether the President had any right, under the Constitution or under the laws, to appoint provisional governors of the rebel States. The Senate did not desire that investigation to be made at that time; but since then both Houses of Congress have declared by a majority of more than three to one that he had no power, no right under the Constitution or under the laws, to appoint a provisional governor. If the President of the United States had intended or had desired to call Congress together on any emergency, would he not have called them together when he desired to appoint provisional governors? Would he not then have invited Congress to come in and aid him in the great work of reconstruction?

Mr. President, it is an insult to this body to even intimate that the President would call an extra session of Congress to right a wrong that he himself has committed. It is because he does not execute laws which he has declared unconstitutional that that emergency will have arisen. By leaving our posts at this time we declare to the country that we have confidence in Andrew Johnson, the acting President of the United States. The people of the nation have declared by an overwhelming majority that they have not confidence in Andrew Johnson, acting President of the United States. Now, either this Congress is in the wrong or Andrew Johnson is in the wrong; either this Congress is criminal or Andrew Johnson is criminal; for we stand antipodal in our positions before the nation. The country to-day believes that Congress is in the right and that the President is in the wrong. Let us leave our posts, place the entire Government in the hands of Andrew Johnson for eight or nine months, and what inference will be drawn by the people of the land? That we have confidence in the man whom they have declared that they have no confidence whatever in.

Sir, I do not wish to prolong this discussion, but there are other reasons why we should

remain. I believe that the Treasury of the United States was never in so much danger as it is to-day. A set of men have been placed in the management of even the minor offices under the Treasury Department who not only have not the confidence of the communities in which they live, but who have violated every principle of right and justice. The Treasury, in my judgment, has suffered more than fifty million dollars within the last twelve months from the incompetency and criminality of the men who have been placed in office by the present Secretary of the Treasury. Sir, he has placed men all along our northern frontier to protect our customs who have permitted smuggling to go on to an extent that was never seen before. He has placed men to assess and collect our internal revenue who could not be trusted at home or anywhere else. Sir, I thank God that we are not responsible for the present management of the Treasury; but the country will not hold us guiltless if knowing these facts we leave our posts and leave this vast machine of the Treasury in the hands of incompetent or improper men.

As I said before, I do not wish to prolong this discussion; but I wish to record my vote against the proposition to adjourn the present Congress at this time.

Mr. SUMNER. I am against the resolution. In my opinion Congress ought not to adjourn and go home without at least some provision for a return to our post. As often as I think of this question, I am met by two controlling "facts." I speak now of facts which stare us in the face.

You must not forget that our President is a bad man. This is the first "fact." He is a bad man, who is the author of incalculable woe to his country, and especially to that part which has been most tried by war and most needed kindly care. Search history and I am sure that you will find no ruler, who during the same short space of time has done so much mischief to his country. He stands alone in bad eminence. Nobody in ancient or modern times can be his parallel. Alone in the evil he has done, he is also alone in the maudlin and frantic manner which he has adopted. Look at his acts and read his speeches. This is enough.

Such is the fact. And now I ask can Congress quietly vote to go home and leave this bad man without hinderance of any kind? These scenes are historic. His conduct is historic. Permit me to remind you that your course with regard to him will be historic. It can never be forgotten if you keep your seats and meet the usurper face to face; it can never be forgotten if, leaving your seats, you let him remain master to do as he pleases. Most of all, he covets your absence. Do not indulge him.

Then comes the other "fact," which is this: there is at this moment a numerous population—counted by millions; call it, if you please, eight millions—which looks to Congress for protection. Of this large population, all the loyal people stretch out their hands to Congress. They ask you to stay. They know by instinct that so long as you remain in your seats they are not without protection. They have suffered already through the President, who when they needed bread has given them a stone, and when they needed tranquil peace has given them strife. They have seen him offer encouragement to rebels, and even set the rebellion on its legs. Their souls have been wrung as they saw fellow-citizens brutally sacrificed, where their only crime was that they loved the Union; sometimes the sacrifice was on a small scale, and sometimes by wholesale. Witness Memphis; witness New Orleans. Ay, sir, witness the whole broad country from the Potomac to the Rio Grande.

In presence of these two "facts;" with a usurping President menacing the Republic, and with a large population, counted by millions, looking to Congress for protection, I dare not vote to go home. It is my duty to stay here. I am sure that our presence here will be an encouragement and a comfort to

loyal people throughout these troubled States. They will feel that they are not left alone with their deadly enemy. Home is always tempting. It is pleasant to escape from care. But duty is more than home or any escape from care. As often as I think of these temptations, I feel their insignificance by the side of solemn obligations. There is the President; he must be watched and opposed. There is an oppressed people; it must be protected. But this cannot be done without effort on the part of Congress. "Eternal vigilance is the price of liberty." Never was there more occasion for this vigilance than now.

An admirable and most suggestive engraving has been placed on our tables to-day, in Harper's Weekly, where President Johnson is represented as a Roman emperor presiding in the amphitheater with imperial pomp, and surrounded by his trusty counselors, among whom it is easy to distinguish the Secretary of State and Secretary of the Navy, all of whom look with complacency at the butchery below. The victims are black, and their sacrifice, as gladiators, makes a "Roman holiday." Beneath this picture is written "*Amphitheatrum Johnsonianum*, Massacre of the Innocents at New Orleans, July, 1866." This inscription tells the terrible story. The bloody scene is before you. The massacre proceeds under the patronage of the President. His presidential rod is the law. At his will blood spirts and men bite the dust. But this is only a single scene in one place. Wherever in the rebel States there is a truly loyal citizen, who loves the Union, there is a victim who may be called to suffer at any moment from that hard-hearted malignant spirit which now rules. I speak according to the evidence. This whole country is an *Amphitheatrum Johnsonianum*, where the victims are counted by thousands. To my mind there is no duty more urgent than to guard against this bad man and be ready to throw the shield of Congress over the loyal citizens whom he delivers to sacrifice.

Mr. JOHNSON. I do not know, Mr. President, upon what authority the honorable member from Massachusetts asserts so positively that by adjourning we are to leave unprotected eight million people, and leave them subject to a man who has been over them a despot. I know not by what authority he states that that man, and to adopt the phraseology he has thought proper to adopt, is a bad man and is determined not to discharge his duty. As far as the first charge is concerned I deny it to be a fact that he has failed to protect eight million or any greater or lesser number of people to the whole extent of his power of protection. We have, however, by legislation made it his duty to see to the execution of the laws which we have now passed by which we have extended over them an unmixed military power. As Commander-in-Chief he is under an obligation to see that these laws are executed. The officers in whose hands he has placed the execution of them are men who have tested their loyalty to the Union on many and many a battle-field, and would rather die a thousand times than abandon a duty which involved that loyalty now. The General-in-Chief of the Army of the United States, holding in one respect a command subordinate to that of the President of the United States, stands firmly sealed in the hearts and confidence of the people; and it is not for a moment to be supposed that he would fail to perform to the utmost the whole of the duty which Congress has cast upon him.

I do not know by what authority the honorable member from Michigan has ventured to assert that the President of the United States will not execute these laws on the ground that he has failed to approve of them in consequence of his believing that they are unconstitutional. I suppose I am at liberty to refer to conversations which it has been my privilege to hold with that distinguished functionary, and to state that when I, in a spirit of friendship, and, as I hope, of patriotism, suggested to him that he should state in the message, which I understood he proposed to send in assigning his

reasons why he was unable to approve the laws in question, that they would be equally valid if they were afterward passed by the required constitutional majority as if they should receive his approval, his answer was, "I have done that in every instance; the Constitution provides that a law shall be as valid without as with presidential approval, provided the Congress of the United States afterward pass it by the required majority; and he was unwilling to make that particular instance an exception to what had been his rule before, because, as he said, he almost considered it an insult to suppose that he would not execute a law passed by Congress constitutionally; and as an evidence that he means to carry out what he said he would accomplish, let me refer to the fact that in the shortest moment possible after your law was passed extending military rule over these States, and in exact accordance with the provisions of that law, he appointed to the command of the military districts which were created five officers entirely acceptable, as I have no doubt, to the American people, and they are now severally in the discharge of their respective duties.

Now, as to the suggestion made by the honorable member from Nevada, that before we can assemble again the Supreme Court of the United States, in the month of April or in the month of May, may be called upon to decide, and may decide, that the laws in question are unconstitutional, the honorable member should recollect that that tribunal has no original jurisdiction in a case of that description; and the only way in which the question can be brought before them is by a suit instituted in some of the courts below, either State or national, and brought by a writ of error to the Supreme Court of the United States. As the law stands, such writs of error can only be brought to the term of the Supreme Court succeeding the term of the State or national court at which the decision is had; and there is therefore no possible case in which the question can be brought before that tribunal before we shall assemble here in December.

Then the only other ground why we should not adjourn until the regular time of adjournment is the one which has been stated by several Senators on the floor, that we are to watch the President. Watch him how? We have, if it can be called watching, taken from him by legislation powers which, from the beginning of the Government up to the period of that legislation, had been exercised by every other President without any protest, much less legislation, on the part of Congress; and he has now no power left except the mere power of seeing that the laws are faithfully executed; and the question with him in reference to any of those laws is, is it a law in the sense of the Constitution; and that he will decide, as every man in his situation would be compelled to decide, by ascertaining whether the law was constitutionally passed; and coming to that decision, as an officer and as a citizen, he would be bound to comply with it until it should be annulled by some judicial decision. I believe, therefore, as much as I believe in any fact in the future, that the President of the United States will as faithfully discharge the duty imposed upon him by those laws as I believe that the honorable member from Massachusetts will discharge any duty which he supposes to be devolved upon him.

Now, sir, as to the President of the United States having lost the entire confidence of the country, and as to the country desiring that we should come back at an early day, there may be differences of opinion. It may be that in the judgment of a majority of the people, however they may disapprove of the conduct of the Executive in the past or in the future prospectively, looking to the State of things now existing, they are exceedingly anxious that Congress shall adjourn. I am of that opinion. From the information given to me by gentlemen belonging to the Republican party, and by a large portion of the press which entertain the opinions of that party, they

desire Congress to adjourn, I will not say because they are dissatisfied with what Congress has done, but because they believe that Congress has done all that is necessary to protect the country, and they fear that if it remains here longer it may do something that will have a contrary result. Trade is now in a state of stagnation in all the larger cities, and it is said principally to be owing to the apprehension entertained as to what Congress will do. I hope, then, that we may adjourn to the day named.

Mr. YATES. I disagree with gentlemen as to the reason why this session of Congress was called, and I think it does no harm to let the country understand the truth about that matter. While I do not accuse my peers of stating what was untrue in regard to that point, I think there may be a difference of opinion as to the reasons why the present Congress was called together. There can be no dispute in my mind as to what the controlling reason was; and no Senator will deny that it was a want of confidence in the President of the United States in his honest determination to faithfully execute the laws of Congress. It was because of a want of confidence among ourselves and among the people of the United States in the President, because he had abandoned the Union party, because he had gone over to the enemies of this country, because he was conniving with rebels to thwart the desires and designs of the Union people of the United States. Sir, there stands out in broad and bold relief before this country that great reason why Congress is here to-day. It cannot be denied; it is a fact; it is history, and it will be history forever.

In view of that reason why should Congress abandon its purpose; why should it give up its session; why should Senators and Representatives retire from their seats here when the reason for which they were called together still exists in full force? Has the country any more confidence in the President now than it had when this session was called together? What has he done to inspire new confidence? Is it veto after veto of your measures? Is it conformity to the wishes and designs and devices of the rebels of this country? Are we any more satisfied to-day than we were when this session was called together that the President will faithfully coöperate with Congress in the execution of the laws which it has passed? Are we satisfied that he is any more the friend of the country to-day than he was when this session was called together? Sir, the same reason exists to-day that existed a month ago or six months ago, and in greater force. Why? I will tell you why.

If this Congress shall maintain its position before the country, I do not say keep in continuous session, but if it shall preserve its position to protect the country, the laws you have passed will be executed, faithfully executed. If not, if we abandon our posts, if we leave this Government in the hands of an Executive who sympathizes with the policy and views of our enemies, who believes that rebels and traitors, with the blood of our own Union soldiers upon their hands, are now entitled to seats upon this floor without any qualifications or conditions or oaths of allegiance to the country, I for one do not know what the result may be. I confess I cannot see any reason now for our adjournment which did not exist when this session was called together.

I maintain that what I have stated was the reason why this session was called; and now shall we go before the country and say that that was not a sufficient reason, or that it has ceased to exist when in point of fact it still exists in greater force than at any other time, when upon this very day that you propose to adjourn the President hurls his bolts of defiance in your faces, and tells you that your action, your law, is unconstitutional, and of course, therefore, ought not be enforced? If he enforces it at all it will be that feeble enforcement which will not do good, which will not accomplish the designs and the objects of the

Union men of this country. We appoint him and his agents to secure the boon of universal suffrage to a long-oppressed race. Will he do it? While we, in the exercise of that vigilance of which the honorable Senator from Massachusetts has spoken, have stood at our posts, we have curbed the abuses of executive power. Yes, sir, we have seen the effect of our being here; we have seen that Congress has been potent, to some extent, to restrain the usurpations of the President and the injuries which he might otherwise inflict upon the country. I maintain now, and shall ever believe, that it will be a fatal step if, under all the circumstances of the case, after Congress has promulgated these very opinions which the people now entertain as to the President and his policy, we leave our posts. It will be an act of moral and political cowardice, I repeat, which the people will and ought to hold us responsible for. I say again, I do not propose a continuous session, but I do propose that some plan be adopted, some resolution passed, by which we shall maintain ourselves in position to protect the country from executive encroachments and to see that the laws are executed and the policy which we have so wisely inaugurated fairly and properly carried out.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution under consideration, upon which the yeas and nays have been ordered.

Mr. NYE. Before the vote is taken I desire to state that I am paired off with the Senator from Indiana [Mr. HENDRICKS] on this question. I presume if he were here he would vote in the affirmative and I would vote in the negative.

The question being taken by yeas and nays, resulted—yeas 29, nays 16; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Conkling, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Frelinghuysen, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, Williams, and Wilson—29.

NAYS—Messrs. Chandler, Cole, Cragin, Drake, Fowler, Harlan, Howard, Morrill of Vermont, Morton, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, and Yates—16.

ABSENT—Messrs. Anthony, Ferry, Grimes, Guthrie, Hendricks, Norton, Nye, and Riddle—8.

So the resolution was agreed to.

On motion of Mr. CONNESS the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, March 23, 1867.

The House met at twelve o'clock m., Hon. ROBERT C. SCHENCK, of Ohio, in the chair as Speaker *pro tempore*. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### INCREASED FORCE FOR PATENT OFFICE.

Mr. MYERS. I ask consent of the House to take up and put upon its passage at this time a bill already introduced by myself, House bill No. 28, to increase the force of the Patent Office. It is a bill which, as I stated yesterday, has been prepared at the request of the Commissioner of Patents, and the passage of which is required by the pressing business of the Patent Office.

Mr. HOLMAN. Mr. Speaker, is it in order to move to go to business on the Speaker's table?

The SPEAKER *pro tempore*. Not until after the morning hour.

Mr. MYERS. As the bill has already been read once, I will state its provisions—

Mr. HOLMAN. I ask that the bill be read for information, reserving the right to object.

The bill, which was read for information, provides in the first section that the Commissioner of Patents be authorized from time to time to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch. The whole number of such additional examiners is not to exceed

four of each class, and the total annual expense of the Patent Office is not to exceed its annual receipts.

The second section proposes to authorize the Commissioner of Patents to appoint, by and with the approval of the Secretary of the Interior, a solicitor of the Patent Office, who is to be considered its law officer, whose salary is to be \$3,000 per annum, to be paid from the patent fund, and whose duty will be to render all reasonable aid in the transaction of the business of said office that may be required of him by the Commissioner.

It is provided in the third section that the salary of the first assistant examiners and disbursing clerk shall be \$2,000, and the salary of the librarian shall be \$2,500, which is to be in full for his services as translator and librarian.

Mr. ROSS. I object to the consideration of this bill at the present time, and call for the regular order.

Mr. MYERS. I move that the rules be suspended, for the purpose of proceeding to the consideration of the bill I had supposed that no member would object to.

On the motion to suspend the rules, there were—ayes twenty-five, noes not counted.

Mr. MYERS. I call for tellers.

Tellers were ordered; and Messrs. MYERS and Ross were appointed.

The House divided; and the tellers reported—ayes fifty-seven, noes not counted.

So the rules were suspended; and the House proceeded to the consideration of the bill (H. R. No. 28) to increase the force of the Patent Office.

The question was on ordering the bill to be engrossed and read a third time.

Mr. MYERS. Mr. Speaker, I can I think, in a very few words, satisfy the House of the propriety and indeed the necessity of passing this bill.

There has been no increase of the force of the Patent Office since 1859. Since that time the business of the office has increased one hundred per cent.; since 1865 alone over fifty per cent. During the year 1865 there were ten thousand six hundred and sixty-four applications for patents, and sixty-six hundred and sixteen were granted. In 1866 there were fifteen thousand two hundred and sixty-nine applications, of which ninety-four hundred and fifty were granted. The number of caveats filed in 1865 was ten hundred and sixty-three; in 1866 there were twenty-seven hundred and twenty-three.

This bill proposes to authorize the employment of only four additional examiners of each class—twelve in all. I scarcely need to remind the House of the fact, known to most of the members, that the Patent Office is self-supporting, and hence this increase of force will take no money from the public Treasury; the additional expense will be paid from the patent fund. The Commissioner of Patents states that on account of the pressure of business in the office parties are frequently delayed for months in having their applications attended to. I believe this House will not disregard a statement from the chief officer of this or any other bureau or Department of the Government declaring the force under his direction insufficient for the transaction of the public business. The passage of this bill will not only relieve the overtasked employes now in the office, but give great satisfaction to the mechanics and scientific men of the country, who have an interest in the matter and a right to demand that the business of the Department shall be expedited.

It is specially provided that the additional expense shall be taken from the Patent Office fund; and also that in no event shall the number of additional examiners under this bill exceed twelve. Most of the work to be done is not merely clerical, but brain work—work frequently requiring the highest knowledge in the various branches of science and business. At least twelve more examiners or assistant examiners are needed to bring up the present work on hand.

Mr. UPSON. I was not aware this bill was going to be introduced to-day, but in verification and support of what my friend from Pennsylvania has said I will state that I had occasion myself to transact business with the Patent Office. An application for a patent was filed there last December, and the other day on calling to ascertain why it was not acted on I was told with the present force it was impossible to keep up the business as it came in, and that my case would not be reached in regular order for several weeks.

Mr. MYERS. Every member will find that to be the case if he will inquire at the Patent Office, and I am glad my friend from Michigan [Mr. Upson] has stated his experience on the subject.

Mr. Speaker, I wish to make another remark. The last section of the bill adds \$200 to the salary of the first assistant examiners, the disbursing clerk, and librarian, to be paid from the Patent Office fund. The librarian now gets \$1,800, and so much per hundred words for translation, in all amounting to about twenty-three hundred dollars. Instead of requiring this computation we give him \$2,500, saving trouble, and ranking him with the primary examiners.

If gentlemen have no questions to ask I will now call for the previous question.

Mr. ROSS. I ask the gentleman to yield to me.

Mr. MYERS. Only for a question.

Mr. ROSS. I desire to say that I did not oppose the introduction of the measure because I knew of any objection to it; but I do think when two gentlemen have spoken in favor of a measure just presented, at least some one who opposed it should be heard; at least some one should be allowed to state why he deemed it inexpedient to pass it at this time.

Mr. MYERS. I am now yielding for that purpose.

Mr. ROSS. You said only for a question. I desire to say that I do not think it is expedient at this time to press upon the consideration of the House a bill of this character. It is alleged to be important that there should be additional men in this bureau. Then why, I want to know, did not the Committee on Patents, during three months of last session, find that out? If it was not so important as to be brought forward then, I think it can wait a little longer. I think it would be wiser and more prudent to defer pressing it now, when sixteen States are unrepresented and there are no committees to examine into these matters.

If it were as important as is alleged, then the committee were derelict in not having brought it to the attention of the House at the last session. I think a measure of this character ought first to be referred for investigation to one of the standing committees. It is right that it should be inquired into and a report made. I look with suspicion upon all measures pressed in this way upon the consideration of the House. If we should go on in this way I believe we will find that we have committed many errors by this hasty legislation.

Mr. MYERS. I will now yield to the gentleman from New York, [Mr. Chanler,] who was my colleague on the Committee on Patents, and who knows that for nearly two months of last session we had no chance to report.

Mr. WARD. I wish to ask a question. Was not this force increased at the last session of Congress?

Mr. MYERS. No, sir; it has not been increased since 1859, as I have already stated.

Mr. CHANLER. My object in rising is to say that neither my colleague nor the committee were derelict in this matter. It is well known to the Speaker, who is now absent, that my colleague on the committee has for weeks past been endeavoring to bring this bill before the House for consideration. He has been superseded by reason of his amiability and the great pressure of business.

Mr. ROSS. Let me ask a question. Did

not the committee get time to revamp some old patents and urge them upon the attention of the House, leaving this behind?

Mr. CHANLER. Not at all. I do not understand upon what proof my friend from Illinois makes such sweeping, and I must say such unjust charges against the Committee on Patents. The committee has been able to do less than was desired in the very few cases we reported because of the prejudice against the extension of patents, and it seems to me all business coming from the Committee on Patents. The gentleman has found it to be his duty, for what reason I cannot understand, to try and break down this bill.

Now, sir, the Committee on Patents are not answerable for the omission of other business in the pressure upon them to bring before the House measures for the benefit of persons who have no channel of communication except through the Committee on Patents. In presenting this measure at this time my friend has acted in the discharge of his duty and with the consent and approbation of the other members of the Committee on Patents of the Thirty-Ninth Congress.

Mr. MYERS. I now demand the previous question.

Mr. BALDWIN. Will the gentleman yield?

Mr. MYERS. I want to answer all questions on this subject; therefore I yield to my friend from Massachusetts.

Mr. BALDWIN. This seems to me altogether too important a matter to be put through here in this way under the previous question. It may be that the bill ought to pass, but I do not know that yet. I have not seen any reason why it should pass; and I do not suppose I am likely to see any. I think we ought not to go on rushing business through the House in this way which does not come to us from a committee of the House.

Mr. MYERS. I decline to yield for a speech; I am willing to answer a question.

Mr. WASHBURN, of Indiana. I desire to ask what is the amount of the increase of salary under this bill?

Mr. MYERS. I have tried to make myself understood, and I believe if gentlemen had listened to me there would be no necessity for such an inquiry. The force is to be increased by a number of assistants not exceeding twelve. The business has increased in one year nearly one hundred per cent. The Commissioner of Patents states a fact, which many of us know, that the business is in arrears, and has been for months, because there is not sufficient force to act upon it.

Mr. WASHBURN, of Indiana. I do not object to having sufficient force, but to the increase of salaries.

Mr. MYERS. The salaries of one class, consisting of sixteen men, are increased \$200. They comprise the intermediate class between the \$2,500 and the \$1,600 class, and are called first assistant examiners. The librarian, as I stated before, now gets a salary of \$1,800, and in addition thereto so much per folio for transcribing. This bill gives him a salary of \$2,500 in lieu of both. It is a very slight increase; he now realizes about twenty-three hundred. It saves the trouble of counting the words. The whole increase is \$3,400, all of which comes out of the Patent Office fund.

I desire to make one statement that I have omitted. The Patent Office fund is now \$264,000, having increased in 1866 from the previous year \$134,000, from which this little increase is to be taken, while the added force will no doubt far more than repay it.

Mr. WASHBURN, of Indiana. Allow me to ask one more question.

Mr. MYERS. I yield for a single question.

Mr. WASHBURN, of Indiana. Would it not be better to reduce the fees of the Patent Office than to increase the salaries?

Mr. MYERS. I think the increase is proper. The public have not asked a reduction of the fees. They need sufficient employes to attend to their wants, and competent men deserve a proper remuneration.

Mr. MILLER. Does this make any additional appropriation?

Mr. MYERS. Not one cent from the Treasury.

On seconding the previous question, there were—ayes 50, noes 7; no quorum voting.

The Chair ordered tellers; and appointed Messrs. MYERS and BALDWIN.

The House divided; and the tellers reported—ayes seventy-eight, noes not counted.

So the previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had agreed to the amendment of the House to the joint resolution of the Senate No. 19, directing the Secretary of War to furnish certain Army equipments to the State of Tennessee.

Also that the Senate had agreed to the amendment of the House to the joint resolution of the Senate No. 29, to terminate a contract of a member of Congress with the Post Office Department.

Also that the Senate had agreed to the amendment of the House to the amendments of the Senate to House bill No. 72, to exempt wrapping-paper made of wood and corn-stalks from internal revenue tax.

Also that the Senate had passed joint resolution of the House No. 8, directing the Secretary of the Interior to suspend the execution of the law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny, with an amendment, in which the concurrence of the House was requested.

#### ORDER OF BUSINESS.

Mr. PERHAM. I ask consent of the House to have taken from the Speaker's table a pension bill for action at the present time, and if no objection be made I will explain in a few words the object of the bill, and then I think no one can object to it.

Mr. HOLMAN. I think the gentleman from Maine [Mr. PERHAM] will accomplish his purpose quite as well by submitting a motion to go to business upon the Speaker's table.

Mr. BROOMALL. I call for the regular order of business.

The SPEAKER *pro tempore*. The regular order having been called for, the morning hour will now commence. The first business in order during the morning hour is the call of committees for reports.

Mr. HOLMAN. I move that the rules be suspended, and that the House now proceed to the consideration of business on the Speaker's table.

The SPEAKER *pro tempore*. The Chair will remind the gentleman from Indiana [Mr. HOLMAN] that until the call of committees has been concluded his motion to be adopted will require a two-thirds vote.

Mr. SCOTFIELD. Is it in order to move to suspend the rules during the morning hour?

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. SCOTFIELD] doubtless forgets that some days since a resolution was adopted by the House which permits such a motion as the one made by the gentleman from Indiana, [Mr. HOLMAN.] But, the morning hour having commenced, upon the call for the regular order of business, it will require a two-thirds vote to proceed to business on the Speaker's table until committees have been called for reports. After that call a majority vote will be sufficient.

The question was taken; and upon a division there were—ayes thirty-five.

Before the noes were counted,

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. BROOMALL and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 70, noes 17.

So (two-thirds voting in the affirmative) the rules were suspended.

The House accordingly proceeded to the consideration of business on the Speaker's table.

#### IMPORTATION OF WORKS OF ART.

The first business on the Speaker's table was the consideration of amendments of the Senate to House joint resolution No. 25, providing for the importation into the United States of certain works of art duty free.

The Clerk read the amendment, which was to strike out all after the enacting clause of the resolution and to insert the following:

That from and after the passage of this joint resolution any object of art imported by any individual or association of individuals for presentation, as a gift to the United States Government, or to any State, county, or municipal government, shall be admitted free of duty, under such rules and regulations as the Secretary of the Treasury may prescribe.

And be it further resolved, That the Secretary of the Treasury be, and he is hereby, authorized to refund the duties paid on any steam agricultural machinery imported into the United States during the current fiscal year as models or for experimentation, and to remit the duties on any steam machinery of like description which may be imported for such purposes prior to the 30th of June, 1863.

And be it further resolved, That the Secretary of the Treasury is hereby authorized and required to discontinue the employment of any officer or person employed under the acts for the collection of direct taxes in the insurrectionary districts within the United States whenever, in his judgment, their services no longer needed; and he is hereby authorized to devolve upon any officer or officers of internal revenue in said districts any portion of the duties imposed in said acts, who shall perform said duties without additional compensation.

Mr. ALLISON. This joint resolution of the House, which passed this body a day or two ago, related only to the importation of works of art. The Senate have added an amendment in relation to the importation of agricultural steam machinery. The object of that amendment is simply to allow the introduction of steam machinery, which is now manufactured only in Great Britain, free of duty for purposes of experimentation only. That provision I believe has been contained in almost every tariff act for the last four or five years. It was also embraced in the bill before the House during the last session, but which failed to become a law. It is really important that it should pass now, and I hope there will be no objection to it.

In relation to the last section of the Senate amendment, authorizing the Secretary of the Treasury to discontinue certain officers in the southern States, there can be I think no objection. It will save much expense to the Government, and I hope it will be agreed to.

Mr. STEVENS, of Pennsylvania. I should like to have an amendment adopted striking out the section in relation to the importation of steam machinery.

Mr. ALLISON. That section relates merely to steam agricultural machinery, and particularly to steam-plows for use upon our western prairie. They are not manufactured in this country, and only three or four of them have yet been imported. This section is intended to encourage the introduction of this kind of machinery into use in this country.

Mr. STEVENS, of Pennsylvania. I suggest to the gentleman that the language of the section is broad enough to authorize the introduction of various kinds of machinery. It should be in some way amended so as to confine it to such machinery as the gentleman states is designed to be included.

Mr. SCOTFIELD. Let it be read again.

Mr. ALLISON. I ask the Clerk to read the second section.

The Clerk read as follows:

And be it further resolved, That the Secretary of the Treasury be, and he is hereby, authorized to refund the duties paid on any steam agricultural machinery imported into the United States during the current fiscal year as models or for experimentation, and to remit the duties on any steam machinery of like description which may be imported for such purposes prior to the 30th of June, 1863.

Mr. STEVENS, of Pennsylvania. My friend

will see that that is much broader than he states.

Mr. SCOTFIELD. I rise to a point of order, that this bill, in the provision for refunding duties already made, contains an appropriation and must go under the rule to the Committee of the Whole.

Mr. ALLISON. I rise to a point of order, which is that it is too late to make that point now.

The SPEAKER *pro tempore*. The Chair overrules the point of order upon two grounds: first, that it is too late to raise the point even if it were well taken; and in the next place, that, in the opinion of the Chair, the bill contains no such appropriation as would require it to go to the Committee of the Whole.

Mr. PRUYN. I would like to inquire of the gentleman from Iowa whether the first section of the act is as broad as it should be. It applies only to State and city authorities. It ought, it strikes me, to apply to art associations and bodies corporate generally. I think broader language ought to be used.

Mr. ALLISON. I think, Mr. Speaker, that the present language of the bill is quite broad enough. It applies only to States and to county and municipal corporations. I think this is as far as it should go.

Mr. PRUYN. Suppose a gift should be made to an art association, which in point of fact represents a town or municipality?

Mr. ALLISON. I think that perhaps the present language is sufficiently broad. It is difficult enough to get it through even in its present form. I yield to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. I desire to offer an amendment as an additional section.

Mr. ALLISON. I will hear the amendment read without yielding to permit it to be offered.

Mr. BUTLER. What I desire to add as an amendment is the following:

That all material called lastings, used in the manufacture of shoes, shall be admitted at a specific duty of fifty per cent. *ad valorem*.

Mr. Speaker, at the last session the House and the Senate attempted to accomplish that which this amendment proposes to effect. They repealed the law of 1864, thereby reviving the law of 1862, which, however, is precisely similar in this respect to the law of 1864. Hence the object contemplated by the act of last session has not been accomplished. Under the law as it stands at present lastings come in under a duty of from eighty-five to ninety per cent. There are none manufactured in this country. The burden of this duty falls upon the consumer. It protects no industrial interest of the country. My proposition is designed simply to carry into effect the law of last session.

Mr. FARNSWORTH. I suggest to the gentleman from Massachusetts that he insert also the provision for beet-sugar apparatus, of which we have heard a great deal.

The SPEAKER *pro tempore*. The Chair is compelled to rule that unless the gentleman from Iowa yields to allow the amendment of the gentleman from Massachusetts to be offered, discussion upon that amendment is not in order. Does the gentleman from Iowa yield to permit the amendment to be offered?

Mr. ALLISON. I should be very glad to yield to the gentleman, but at the instance of the gentleman's immediate predecessor this subject of lastings was arranged just at the close of the last session.

Mr. BUTLER. That gentleman was mistaken in the effect of the law as now construed by the revenue officers.

Mr. ALLISON. I think, under the circumstances, I cannot permit the amendment to be offered. I yield a moment to the gentleman from Pennsylvania, [Mr. SCOTFIELD.]

Mr. SCOTFIELD. I ask the gentleman who has the bill in charge what amount of money this bill will take out of the Treasury?

Mr. ALLISON. It will take about two thousand dollars to pay the duties upon one large steam-plow which was imported into



this country just after one law expired and before another commenced. This plow is now in the city of Philadelphia, in the State in part represented by the gentleman from Pennsylvania, and as soon as this bill becomes a law will be taken West and used for experimental purposes upon the prairies of Illinois or Iowa.

Mr. STEVENS, of Pennsylvania. I ask whether it would not answer the gentleman's purpose to say that this section shall only apply to steam-plows?

Mr. ALLISON. I think that the section is now sufficiently guarded.

Mr. SCOTFIELD. If that is all the gentleman wants I do not see why he will not yield to my colleague's suggestion.

Mr. ALLISON. That is all I want, and I do not object to the amendment.

Mr. STEVENS, of Pennsylvania. Then I move to add the following proviso:

*Provided, That this section shall only apply to steam-plows.*

Mr. FARNSWORTH. It seems to me the amendment is unnecessary. The section only applies to steam agricultural implements. If there be any other steam agricultural implement why not let it come in also? It is narrow enough now. If you amend the bill it will have to go back to the Senate, and in the brief time we are to remain here I think we should avoid that.

Mr. STEVENS, of Pennsylvania. It is too broad as it is.

Mr. FARNSWORTH. I do not think there is any danger of the importation of any foreign iron or steel under this section.

Mr. ALLISON. This section is only intended to apply to steam-plows, and therefore I have no objection to the gentleman's amendment.

The amendment was agreed to.

Mr. BROOKS. As the bill is to go back to the Senate I want it to go back in good English. There is no such word as "experimentation."

Mr. WILSON, of Iowa. Cannot we make it by law? [Laughter.]

Mr. ALLISON. What does the gentleman suggest in its place?

Mr. BROOKS. "Experimental purposes."

The amendment was agreed to.

The amendment of the Senate, as amended, was concurred in.

Second amendment of the Senate:

Amend the title by adding, "and for other purposes."

The amendment was concurred in.

Mr. ALLISON moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HEIRS OF JOHN E. BOULIGNY.

The next business on the Speaker's table were the amendments of the Senate to House joint resolution No. 8, directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny.

First amendment of the Senate:

Strike out the following:

Whereas during the last hours of the Thirty-Ninth Congress an act was passed, without discussion, for the relief of the heirs of John E. Bouligny, granting to said heirs land warrants for seventy-five thousand eight hundred and forty acres of land; and whereas by the solemn judgment and decision of the Supreme Court of the United States, after full hearing, it was in the year 1855 adjudged that the private land claim on which said act is based was invalid, null, and void; and whereas Mr. Justice Nelson, who delivered the opinion of the court, declared that there was no record evidence of any such land grant as was set up, "that none had been produced, though a thorough examination of the archives of that date, both at New Orleans and Paris, had been made, and no records could be found;" and whereas it was also declared by said Judge Nelson that there was not the "slightest ground for the claim set up" to a tract of land running back from the Mississippi river to the Atchafalaya; and that, at the most, the petitioners could not claim, under any grant or survey, over two thousand five hundred or three thousand acres, instead of about half a million; the report of which decision is

found in 15 Howard's Reports, page 14; and whereas said private land claim, after full review by Hon. M. Burchard, Solicitor of the General Land Office, in 1838, was declared as invalid and void; and whereas said pretended private land claim had its origin in 1717, and was a part of the celebrated Mississippi scheme, with which John Law, known for his connection with the South Sea bubble, was a party; and whereas to revive and legalize this claim will revive and legalize claims to the amount of many millions of acres; and whereas there is grave reason for believing that said act was passed under a misapprehension of the facts: Therefore.

Mr. WOODBRIDGE. At the last session a bill was passed by both Houses, and was approved by the President, giving certain relief to the heirs of John E. Bouligny. At the commencement of this session of the Fortieth Congress the gentleman from Wisconsin [Mr. WASHBURN] introduced a long resolution charging that there was no foundation for the claim, that it was reported against the evidence, that it was illegal, and asking that the law should be virtually repealed. When it is proposed upon the statement made by the gentleman from Wisconsin against the reports of the committees and the votes of the two Houses virtually to repeal existing law, it strikes me as eminently proper it should be sent to the Law Committee of the House to ascertain whether the charges made are correct or not. It is an improper and dangerous way of repealing a law by the passage of a joint resolution of this character without reference to any committee for examination. I believe it is unheard of that a law upon the statute-book shall be stricken out merely because a gentleman states it is an improper law, without investigation by the appropriate committee.

As this involves questions of law merely I think the Judiciary Committee is the one that should investigate the whole matter. I have some feeling on this subject from the fact that the course of the gentleman from Wisconsin is an imputation upon the committees of the Thirty-Ninth Congress which reported and the two Houses which passed this bill.

If there was anything wrong in the passage of this bill, if upon further examination it is found that either the committee or the House were deceived in the matter, I for one will be ready to repeal the act. But I do say it is just to the claimants, to the committees, and to the Thirty-Ninth Congress that this resolution should be referred to the Committee on the Judiciary for investigation of its merits, to ascertain whether these charges that have been preferred to the bill, to say nothing more, are true or not. I hope at least that the House will sufficiently consider this matter, in which there are involved so large private interests, and allow the committee to give it a fair investigation. I am sure the gentleman from Wisconsin [Mr. WASHBURN] cannot be influenced in this matter by private feelings. I would not charge him with such motives; I do not believe he can entertain them; and if he does not, he certainly can have no objection to having the whole matter investigated in its legal aspects by the Committee on the Judiciary. I hope he will make no objection. I certainly can see no impropriety in it.

Mr. WASHBURN, of Wisconsin. I certainly must object to this reference. The gentleman well knows that if this Congress does not act promptly the law will be executed. Before a committee has time to examine and report upon it these parties may have their land warrants in their pockets and may go into the market and dispose of them. I have no personal feeling in this matter further than a desire to do my duty. I became acquainted with this case long before I knew there was any such person in existence as John E. Bouligny, and I made up my mind as to the character of the claim then.

In regard to the facts which I stated in the preamble of the resolution, I have only to say this: that when I shall have time accorded to me for that purpose, I shall be able to demonstrate every fact stated by me. I do not feel justified in occupying the attention of the House now for that purpose. I will simply state this fact: that the Senate of the United States, having been put upon the inquiry by this

resolution, referred it to the Committee on Private Land Claims of that branch, the same committee that reported the former bill, whereupon that committee reversed its action. And if you will look at the discussion which is reported in the Globe of to-day you will find that the Senator from Oregon declared that it was the most astonishing case of mistake that ever came before Congress. He states the circumstances under which it was passed. The Senate had taken for granted the statement made by the chairman of the Committee on Private Land Claims, who stood high in the confidence of that body. But upon a review of the case, the present chairman of the same committee stated that under no circumstances of the case can there be a valid grant to exceed eight or nine thousand acres, instead of four hundred and fifty thousand. I ask gentlemen to look at the discussion which took place in the Senate yesterday and day before. I do not wish to take up the time of the House now, but if this shall go back to be revised I hope the gentleman from Vermont may have an opportunity of examining it, and I promise that I will demonstrate, if it should ever again come before the House, that everything I stated in the preamble of the resolution is true.

Mr. WOODBRIDGE. With the permission of the gentleman I propose to have this referred to the Committee on the Judiciary, because there is no committee now appointed in the Fortieth Congress on Private Land Claims, and that committee may not be appointed for a month to come, and I think it nothing but right that these parties should have a chance to have the question investigated by a committee.

Mr. WASHBURN, of Wisconsin. It is well known that Congress will adjourn in a few days. If it does, there will be no opportunity to examine and report upon this resolution; so that the effect of the reference will be that this law will be executed before Congress meets again. For that reason I am opposed to the reference. Were it otherwise I might not object. I would inquire of the Chair if the motion to concur does not take precedence of the motion to refer?

The SPEAKER *pro tempore*. The motion to concur is pending, and the gentleman from Vermont moves, pending that motion, to refer the resolution to the Committee on the Judiciary. If the previous question is seconded the House will first vote on the motion to refer, and if that is not carried then the question will recur upon the motion to concur in the amendments of the Senate.

Mr. WASHBURN, of Wisconsin. I yield to the gentleman from Illinois.

Mr. BAKER. Mr. Speaker, in addition to what I said when this was up the other day, I merely wish now to add that in my opinion, under the whole situation of the case as it now stands, the House should non-concur in the amendment of the Senate, and then let the resolution be referred to the appropriate committee for thorough examination. If the claim is meritorious it will be so found; if not, then the finding will be accordingly.

Mr. WASHBURN, of Wisconsin. I have no objection to the amendment of the Senate striking out the preamble. All I want is that this matter shall be hung up until Congress shall again investigate it, so that every one may have the opportunity to examine the case for himself. Now, inasmuch as it has been alleged that there is error in that preamble, as I have already stated, whenever I shall have an opportunity to do so I can demonstrate its correctness.

There is, perhaps, some misunderstanding growing out of the question as to whether the Supreme Court of the United States, having decided that they had no jurisdiction, had any authority to go on and declare, as they did declare, that the claim was invalid. I will not dispute that point, for it is the same that was involved in the Dred Scott decision. But having decided that they had no jurisdiction, Judge Nelson proceeded to state, in which

statement a majority of the court agreed, that even if the court had jurisdiction the claim was not a valid one. A minority of the court declared that, as the court had no jurisdiction, they would not go into the examination of the merits of the case. Now, if there is any misstatement of fact in the preamble, it arises from that fact. I stated that the Supreme Court decided that the claim was illegal; though at the same time they decided that there was no jurisdiction. In regard to the other facts recited in the preamble, I think there can be no dispute.

Mr. POLAND. I desire to say a few words in reference to this case, because I was a member of the Committee on Private Land Claims in the Senate which reported the bill that this joint resolution proposes to suspend. This joint resolution as it passed the House, especially the preamble with which it was prefaced, was not very complimentary to the committee of this House or the committee of the Senate that reported the original bill. Now, I agree that if the facts which are stated in that preamble are true, then it was a very gross blunder on the committees who reported that bill, and quite as gross a blunder on the part of each House which passed it. I think, therefore, it is due to the committees and to both Houses that before we substantially repeal the present law the subject should be referred to a committee for further consideration. We should not, upon an *ex parte* statement in a preamble introduced by a member of this House, substantially repeal a law which both Houses have united in passing after it had been reported upon favorably by committees of both Houses. Therefore it seems to me that the motion of my colleague, [Mr. WOODBRIDGE.] that this joint resolution should be sent to a committee to be further examined, should be agreed to, as due not only to those who are interested in this claim, but to the committees who before examined the subject.

Now, the gentleman from Wisconsin [Mr. WASHBURN] objects to this course on the ground that unless we pass this joint resolution, unless we have instantaneous action upon this subject by Congress, the Secretary of the Interior will act under the law and will issue warrants for the land. Now, I apprehend that there is no danger that any Department of the Government will so act while there is pending before Congress a proposition substantially to repeal that law.

Mr. SPALDING. I desire to ask the gentleman from Vermont [Mr. POLAND] one single question, because I have very great respect for his opinion. If we shall pursue this course which he advises us to pursue, then what guarantee will we have that these land warrants will not be issued? This subject cannot be acted upon by any committee before the next session of Congress, and by that time the land will be sold, and it will pass into the hands of innocent purchasers, and the Government will have no redress at all. On the other hand, if we act upon this matter as proposed by this joint resolution, no injury will result to the Government or to any one.

Mr. POLAND. Mr. Speaker, I think one very good answer is this: I do not believe that any officer at the head of any Department of this Government would undertake to execute a law, in a case involving the payment of money or the issue of warrants for land, while a bill or resolution for the repeal of that law was pending. But, Mr. Speaker, if the gentleman from Ohio, [Mr. SPALDING,] or the gentleman who is the author of this resolution, has not confidence enough in the Secretary of the Interior to believe that he will not execute the law while this proposition for its repeal is pending, I for one am perfectly willing that this resolution shall be so amended as to forbid the Secretary of the Interior to execute the law of last session while this matter is being examined by a committee of this House.

Mr. WASHBURN, of Wisconsin. That is what we ask and propose to accomplish by this resolution: that the act of last session shall be

suspended until the case shall be revised by the proper committee.

Mr. POLAND. The objection to the resolution in the form in which it stands is that it operates substantially as a repeal of the law, and if it be passed the parties interested will be obliged to come before Congress and again go through with this matter; while I think the burden should be thrown upon those who say that this is an unjust claim. The case having been investigated by committees of both Houses, and the act having been passed by both Houses, it should stand until it be shown by those who oppose this claim that it is unjust. It should not be substantially repealed upon the mere statement of a member or a suggestion that the question has been acted upon by a committee of the other House, or a recital of what has been said in debate by a member of the Senate. These, it seems to me, constitute very unsatisfactory grounds upon which to act in a matter of this kind.

I hope, Mr. Speaker, that the House will adopt the motion of my colleague, to refer this resolution to a committee and have the question investigated.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I will say to the gentleman from Vermont that in offering this preamble and resolution I intended no reflection upon the committee that considered the subject in the last Congress or upon the action of either House. The gentleman says that the passage of this resolution will place the committee in a bad position before the country. Sir, I cannot help that. If on their recommendation an unjust and unwise act has been passed, it is very proper that it should be corrected; and there is no reason why they should not shoulder the responsibility which may attach to their action. I desire also to say that if this resolution should now be referred, and this case should not be finally disposed of, the Secretary of the Interior will have no right to refuse to execute the law of last session. He will be bound to execute it when called on by the parties interested.

If gentlemen will but take the pains to examine the discussion which has taken place in the Senate within the last few days, they will be convinced that there is really no justice in this claim. This resolution does not repeal the law already passed; but, sir, I have no hesitation in saying that such will be the effect of it; for gentlemen may rely upon it that neither this nor any other Congress will ever sanction this claim hereafter.

I yield for a few moments to the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MARSHALL. Mr. Speaker, I propose to say only a word or two in regard to this matter. It strikes me very forcibly that the course which the gentleman from Wisconsin asks the House to take in regard to this measure is not only extraordinary, but unprecedented, and it seems to me that it cannot be justified on any sound principles of legislation. Here is a measure which has been pending before Congress for a number of years. It has been before the regular committees of both Houses, and has been time and again passed upon favorably. It has passed one and the other House of Congress in a number of Congresses, but has failed to pass both at the same Congress from want of time. Now, everybody knows in reference to private claims of this kind, unless there is some person to follow it up, it is almost impossible to get any action of the two Houses. It is, I believe, unheard of in the legislation of the country when a measure has undergone the ordeal to which I have referred, when a law has passed both Houses of Congress, and been approved by the President, to agree on the mere statement of a single member, I care not how high is his standing, to repeal that law, and that, too, without letting the motion for repeal undergo any investigation by any committee of this House.

If this passes it is a repeal of this law; and I care not how meritorious the measure may be, this widow and her children will not get

anything from the Government. It is extraordinary that we should in this hurried way, without the least inquiry, repeal a law reported by such an able committee as we had in the Thirty-Ninth Congress, at the head of which was the gentleman from Philadelphia, Mr. Thayer; and, sir, I have it from his own mouth that he gave the measure a careful personal investigation. He is, as everybody here who knew him will admit, an able lawyer and a gentleman of unquestioned integrity. Now, sir, a proposition brought before the House with all these guarantees, carefully examined by committees and deliberately agreed to by both Houses, to be repealed without reference to any committee, I say is not only extraordinary, but unprecedented; certainly unwarranted by any principle by which a legislative body should be governed.

Mr. WASHBURN, of Wisconsin. It is stated by the chairman of the Committee on Private Land Claims in the Senate that on reexamination it has been found a great mistake has been made.

The SPEAKER *pro tempore*. The Chair will remind gentlemen that it is in violation of the rules to refer to what has taken place in the other branch of Congress. This House must act irrespective of the other.

Mr. WASHBURN, of Wisconsin. If, then, the gentleman will look in the Globe he will find it stated there by a gentleman who is to be believed, and who occupies a high position, that under no state of the case did the claim of these parties exceed eight or nine thousand acres instead of four hundred and fifty thousand, as provided for in the law proposed to be repealed. If he believes that, would it be right for us to arrest that legislation? If it is unprecedented, would it not be well for us to establish that kind of precedent? I hope cases like this are unprecedented; I know of none other during my service here.

Mr. MARSHALL. If this claim be fraudulent, certainly no member of this Congress ought to wish it to be paid; but what I say is that it is unprecedented, and contrary to all sound principles of legislation, that this House should repeal a law for relief in a private claim which was passed, after careful deliberation, by a joint resolution, which has been referred to no committee for investigation and report.

Mr. BOUTWELL. I desire to ask a question, whether upon knowledge this House now has, both from statements made by its own members upon this floor, and from information received from other trustworthy sources, it is not probable a very great mistake has been committed by which this country is to be deprived of a pretty large quantity of land of considerable value to the Government; and whether that being so, it is not the duty of the Representatives of the people to arrest this proceeding until an investigation can be had?

Mr. MARSHALL. In answer to that I wish to say I see no propriety in the action proposed in this case any more than in any other case where a suggestion has been made by a member that a law has been passed which ought not to have been passed. I do not object to the investigation of this measure in a proper way, and to repeal it if that shall be found necessary.

But it is said that this Congress is about to adjourn. If you pass this proposition it will be a virtual defeat of this measure forever, whether it is just or not. This widow and her orphan children with all these discouragements will in all probability never again prosecute their claim. It has been here for year after year. I understand it passed the House when the gentleman from Wisconsin was a member, and on the report of the committee of which he also was a member. It has been passed time and again. I do not say it should not be investigated again, but after the solemn action of Congress I do say that it should not be repealed and set aside without the subject being referred to any committee for examination on the mere *ex parte* statement of a member of this House.

The gentleman refers to the action of the Senate, and it has been well suggested that that is not a proper subject of discussion here. But as he refers to the Globe, I will also refer to it. It will be seen by the report of the proceedings of the Senate published in the Globe that a gentleman who stands as high in point of legal attainments as any in this country, one of the ablest jurists in the Senate, insists that this claim is just and honest, and ought to be paid. So that it is not, by any means, a clear case that the passage of this law was wrong in fact. On the contrary, the weight of evidence is altogether in its favor. While I do not now insist that the House shall stand by its former action, I insist that it is unjust to repeal this law, for that is what this resolution does—absolutely repeals it; puts it back where it was before there was any action of Congress upon it. It is just as if you should introduce a bill in so many words repealing an act passed by the Thirty-Ninth Congress without any action by any committee of the House upon the bill. I say that it is unjust to these claimants, it is unprecedented, it is an unsafe principle of legislation, and it is an unjust reflection upon a committee of the Thirty-Ninth Congress who laboriously investigated it and reported in its favor. The honorable chairman of the committee is a gentleman of whom all who know him will bear me out in saying that he is a man of the highest legal attainments, and of most unquestionable integrity, and he, after investigation, took the deepest interest in the passage of the measure, as I know.

Mr. WOODBRIDGE. Will the gentleman allow me to answer a question of the gentleman from Massachusetts?

Mr. WASHBURN, of Wisconsin. I think it is quite unnecessary to take up the time of the House any further. The House understands the question now as well as it will upon further discussion. Most of the time has been occupied already by those who are endeavoring to sustain this act. I could occupy one hour in demonstrating the truth of everything I have stated, but I do not want to go into the merits of the question further now. All I desire is that the action of Congress may be reviewed, and I shall interpose no factious opposition if upon review the House shall consider it a just claim. All I want is to have it fairly before the House and understood. I do not propose to take any advantage of anybody if the House upon a full and fair investigation shall consider it just and proper. I do not believe it is, as I have stated. I demand the previous question.

M. WOODBRIDGE. I ask the gentleman to yield.

Mr. WASHBURN, of Wisconsin. I decline.

Mr. WOODBRIDGE. Then I hope the previous question will not be seconded.

The previous question was seconded—ayes 61 noes 32; and the main question ordered.

The question was first on the motion to refer; and being put, there were—ayes twenty-nine.

Mr. WOODBRIDGE called for tellers.

Tellers were ordered; and the Chair appointed Messrs. WOODBRIDGE and WASHBURN, of Wisconsin.

The House divided; and the tellers reported—ayes thirty-two, noes not counted.

So the motion to refer to the Committee on the Judiciary was disagreed to.

The question recurred on agreeing to the amendments of the Senate; and they were agreed to.

Mr. WASHBURN, of Wisconsin, moved to reconsider the votes by which the amendments of the Senate were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had passed a bill and joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 105) to reimburse the States of Indiana and Ohio, for moneys expended

for the United States in enrolling, equipping, and provisioning militia forces, and in suppressing the rebellion; and

A joint resolution (S. No. 43) in relation to the educational interests of the District of Columbia.

#### ACKNOWLEDGMENT OF DEEDS IN DISTRICT.

The next business on the Speaker's table was the consideration of Senate bill No. 38, in relation to the acknowledgment of deeds in the District of Columbia; which was read a first and second time.

The bill provides that hereafter acknowledgments of deeds for the conveyance of real estate in the District of Columbia may be taken by the recorder of deeds for said District, or by a single justice of the peace; and any such acknowledgment heretofore taken by a single justice of the peace is hereby made and declared to be a valid acknowledgment, provided that nothing in this act shall be held to impair the title of *bona fide* purchasers who by conveyances and formal acknowledgment have, prior to the passage of this act, acquired paramount title under existing laws.

Mr. WOODBRIDGE. I desire to state to the House that this bill has been considered by the Committee on the Judiciary of this House, and it meets with their unanimous approval. It merely provides that where an acknowledgment has been taken by a single justice of the peace, the law requiring that it shall be taken by two justices, the deed shall not be thereby rendered invalid. It also provides that there shall be no injury resulting to rights paramount which have accrued.

The bill was then read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WEST VIRGINIA WAR CLAIMS.

The next business on the Speaker's table was Senate bill No. 77, supplemental to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion," approved June 21, 1866; which was read a first and second time.

The bill was read at length. It provides that the money appropriated by the act to which this is supplemental shall be disbursed under the direction of the Secretary of War.

Mr. HUBBARD, of West Virginia. I will state to the House that the passage of this bill is recommended by the Secretary of the Treasury. The law providing for the reimbursement of the war claims of West Virginia requires that those claims shall be audited under the supervision of the Treasury Department, while they properly belong to the War Department; and the object of this bill is to make such transfer. I trust there will be no objection. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then read the third time, and passed.

Mr. HUBBARD, of West Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was delivered to the House by Colonel WILLIAM G. MOORE, his Secretary, announcing that the President had approved and signed a bill and joint resolutions, of the following titles:

A bill (H. R. No. 19) to clothe the maimed and destitute soldiers;

A joint resolution (H. R. No. 2) to authorize the refunding of discriminating duties exacted upon merchandise imported in Hawaiian vessels;

A joint resolution (H. R. No. 10) in relation to certain coin and bullion on special deposit in the Treasury;

A joint resolution (H. R. No. 17) authorizing the Secretary of War to turn over certain property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes; and

A joint resolution (H. R. No. 20) to supply an omission in the enrollment of the act to provide increased revenue from imported wool, and for other purposes.

The message further announced that the President returned to the House, in which the same originated, a bill (H. R. No. 33) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration; with his objections thereto in writing.

#### RECONSTRUCTION—VETO.

Mr. WILSON, of Iowa. I now move that the House proceed to the reconsideration of the bill returned to the House by the President of the United States, with his objections thereto.

The motion was agreed to.

The Clerk read the message, which was as follows:

#### To the House of Representatives:

I have considered the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," and now return it to the House of Representatives with my objections.

This bill provides for elections in the ten States brought under the operation of the original act to which it is supplementary. Its details are principally directed to the elections for the formation of the State constitutions; but by the sixth section of the bill "all elections" in these States, occurring while the original act remains in force, are brought within its purview. Referring to the details, it will be found that, first of all, there is to be a registration of the voters. No one whose name has not been admitted on the list is to be allowed to vote at any of these elections. To ascertain who is entitled to registration reference is made necessary, by the express language of the supplement, to the original act and to the pending bill. The fifth section of the original act provides, as to voters, that they shall be "male citizens of the State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident of said State for one year." This is the general qualification, followed, however, by many exceptions. No one can be registered, according to the original act, "who may be disfranchised for participation in the rebellion," a provision which left undetermined the question as to what amounted to disfranchisement, and whether, without a judicial sentence, the act itself produced that effect.

This supplemental bill superadds an oath to be taken by every person before his name can be admitted upon the registration, that he has "not been disfranchised for participation in any rebellion or civil war against the United States." It thus imposes upon every person the necessity and responsibility of deciding for himself, under the peril of punishment by a military commission if he makes a mistake, what works disfranchisement by participation in rebellion, and what amounts to such participation. Almost every man—the negro as well as the white—above twenty-one years of age, who was resident in these ten States during the rebellion, voluntarily or involuntarily, at some time and in some way, did participate in resistance to the lawful authority of the General Government. The question with the citizen to whom this oath is to be proposed must be a fearful one; for while the bill does not declare that perjury may be assigned for such

false swearing, not fix any penalty for the offense, we must not forget that martial law prevails, that every person is answerable to a military commission, without previous presentment by a grand jury for any charge that may be made against him; and that the supreme authority of the military commander determines the question as to what is an offense and what is to be the measure of punishment. The fourth section of the bill provides—

That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons.

The only qualification stated for these officers is that they must be "loyal." They may be persons in the military service or civilians, residents of the State or strangers. Yet these persons are to exercise most important duties, and are vested with unlimited discretion. They are to decide what names shall be placed upon the register, and from their decision there is to be no appeal. They are to superintend the elections, and to decide all questions which may arise. They are to have the custody of the ballots, and to make return of the persons elected. Whatever frauds or errors they may commit must pass without redress. All that is left for the commanding general is to receive the returns of the elections, open the same, and ascertain who are chosen "according to the returns of the officers who conducted said elections." By such means, and with this sort of agency, are the conventions of delegates to be constituted.

As the delegates are to speak for the people, common justice would seem to require that they should have authority from the people themselves. No convention so constituted will in any sense represent the wishes of the inhabitants of these States; for under the all-embracing exceptions of these laws, by a construction which the uncertainty of the clause as to disfranchisement leaves open to the board of officers, the great body of the people may be excluded from the polls and from all opportunity of expressing their own wishes, or voting for delegates who will faithfully reflect their sentiments.

I do not deem it necessary further to investigate the details of this bill. No consideration could induce me to give my approval to such an election law for any purpose, and especially for the great purpose of framing the constitution of a State. If ever the American citizen should be left to the free exercise of his own judgment it is when he is engaged in the work of forming the fundamental law under which he is to live. That work is his work, and it cannot properly be taken out of his hands. All this legislation proceeds upon the contrary assumption, that the people of each of these States shall have no constitution except such as may be arbitrarily dictated by Congress and formed under the restraint of military rule. A plain statement of facts makes this evident.

In all these States there are existing constitutions, formed in the accustomed way by the people. Congress, however, declares that these constitutions are not "loyal and republican," and requires the people to form them anew. What then, in the opinion of Congress, is necessary to make the constitution of a State "loyal and republican?" The original act answers the question: it is universal negro suffrage—a question which the Federal Constitution leaves to the States themselves. All this legislative machinery of martial law, military coercion, and political disfranchisement is avowedly for that purpose and none other. The existing constitutions of the ten States conform to the acknowledged standards of loyalty and republicanism. Indeed, if there are degrees in republican forms of government their constitutions are more republican now than when these States—four of which were members of the original thirteen—first became members of the Union.

Congress does not now demand that a single provision of their constitutions be changed, except such as confine suffrage to the white

population. It is apparent, therefore, that these provisions do not conform to the standard of republicanism which Congress seeks to establish. That there be no mistake, it is only necessary that reference should be made to the original act, which declares—

"Such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates."

What class of persons is here meant clearly appears in the same section. That is to say:

"The male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election."

Without these provisions no constitution which can be framed in any one of the ten States will be of any avail with Congress. This, then, is the test of what the constitution of a State of this Union must contain to make it republican. Measured by such a standard, how few of the States now composing the Union have republican constitutions? If, in the exercise of the constitutional guarantee that Congress shall secure to every State a republican form of government, universal suffrage for blacks as well as whites is a *sine qua non*, the work of reconstruction may as well begin in Ohio as in Virginia, in Pennsylvania as in North Carolina.

When I contemplate the millions of our fellow-citizens of the South, with no alternative left but to impose upon themselves this fearful and untried experiment of complete negro enfranchisement and white disfranchisement, it may be almost as complete, or submit indefinitely to the rigor of martial law, without a single attribute of freemen, deprived of all the sacred guarantees of our Federal Constitution, and threatened with even worse wrongs, if any worse are possible, it seems to me their condition is the most deplorable to which any people can be reduced. It is true that they have been engaged in rebellion, and that their object being a separation of the States and a dissolution of the Union, there was an obligation resting upon every loyal citizen to treat them as enemies and to wage war against their cause.

Inflexibly opposed to any movement imperiling the integrity of the Government, I did not hesitate to urge the adoption of all measures necessary for the suppression of the insurrection. After a long and terrible struggle the efforts of the Government were triumphantly successful, and the people of the South, submitting to the stern arbitrament, yielded forever the issues of the contest. Hostilities terminated soon after it became my duty to assume the responsibilities of the Chief Executive officer of the Republic, and I at once endeavored to repress and control the passions which our civil strife had engendered, and, no longer regarding these erring millions as enemies, again acknowledged them as our friends and our countrymen. The war had accomplished its objects. The nation was saved, and that seminal principle of mischief which, from the birth of the Government, had gradually but inevitably brought on the rebellion was totally eradicated. Then, it seemed to me, was the auspicious time to commence the work of reconciliation; then, when the people sought once more our friendship and protection I considered it our duty generously to meet them in the spirit of charity and forgiveness, and to conquer them even more effectually by the magnanimity of the nation than by the force of its arms.

I yet believe that if the policy of reconciliation then inaugurated, and which contemplated an early restoration of these people to all their political rights, had received the support of Congress, every one of these ten States, and all their people, would at this moment be fast anchored in the Union, and the great work which gave the war all its sanction, and made it just and holy, would have been accomplished. Then, over all the vast and fruitful regions of the South peace and its blessings would have prevailed, while now millions are deprived of rights guaranteed by the Constitution to every

citizen, and after nearly two years of legislation find themselves placed under an absolute military despotism. "A military Republic—a government formed on mock elections, and supported only by the sword," was nearly a quarter of a century since pronounced by Daniel Webster, when speaking of the South American States, as "a movement, indeed, but a retrograde and disastrous movement, from the regular and old-fashioned monarchical systems," and he added:

"If men would enjoy the blessings of republican government they must govern themselves by reason, by mutual counsel and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority, properly expressed; and, above all, the military must be kept, according to the language of our Bill of Rights, in strict subordination to the civil authority. Where ever this lesson is not both learned and practiced there can be no political freedom. Absurd, preposterous is it, a scoff and a satire on free forms of constitutional liberty, for forms of government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword."

I confidently believe that a time will come when these States will again occupy their true positions in the Union. The barriers which now seem so obstinate must yield to the force of an enlightened and just public opinion, and sooner or later unconstitutional and oppressive legislation will be effaced from our statute-books. When this shall have been consummated, I pray God that the errors of the past may be forgotten, and that once more we shall be a happy, united, and prosperous people, and that at last, after the bitter and eventful experience through which the nation has passed, we shall all come to know that our only safety is in the preservation of our Federal Constitution, and in according to every American citizen, and to every State the rights which that Constitution secures.

ANDREW JOHNSON.

WASHINGTON, March 23, 1867.

The SPEAKER *pro tempore*. The bill is now before the House, and the question is, Will the House, upon reconsideration, pass the bill, the objections of the President to the contrary notwithstanding? On this question the Constitution requires that the yeas and nays shall be taken.

Mr. WILSON, of Iowa. I call the previous question.

The previous question was seconded, and the main question ordered.

The question was then taken; and it was decided in the affirmative—yeas 114, nays 25, not voting 25; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Briggs, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Halsey, Hamilton, Hayes, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulbert, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koons, Laffin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polesie, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taffe, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—114.

NAYS—Messrs. Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Humphrey, Marshall, Morrissey, Mungen, Niblack, Nicholson, Noell, Pruyn, Randall, Robinson, Ross, Taber, Van Auken, and Van Trump—25.

NOT VOTING—Messrs. Archer, Bingham, Bromwell, Dawes, Denison, Eliot, Griswold, Harding, Asahel W. Hubbard, Kerr, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Raum, Sitgreaves, Stone, Taylor, William B. Washburn, and Wood—25.

During the roll-call the following announcements were made:

Mr. BUCKLAND. My colleague, Mr. BINGHAM, is detained at his room by illness. He voted for the passage of this bill originally; and I am authorized to state that he would vote for it now if he were present.



Mr. KERR. I desire to announce that on this vote I am paired with the gentleman from Pennsylvania, [Mr. MOOREHEAD,] and the gentleman from Iowa, [Mr. PRICE.] Those two gentlemen, if they were present, would vote ay; while I should vote no.

Mr. PERHAM. My colleague, Mr. LYNCH, is necessarily absent. If he were present he would vote ay.

Mr. MILLER. I have been requested to announce that my colleague, Mr. MOOREHEAD, and the gentleman from Iowa, Mr. PRICE, are paired with the gentleman from Indiana, Mr. KERR. My colleague and the gentleman from Iowa, if present, would vote ay.

I also desire to state that my colleague, Mr. LAWRENCE, of Pennsylvania, is necessarily absent. If he were here he would vote ay.

Mr. LOGAN. My colleague, Mr. RAUM, is absent by leave of the House, on account of sickness in his family. If he were present he would vote in the affirmative.

The roll-call having been concluded,

The SPEAKER *pro tempore* said: On this question the yeas are 114, the nays 25. Two thirds of this House having, on reconsideration, agreed to the passage of this bill, notwithstanding the objections of the President, the bill with the objections will be sent to the Senate, that the question of its reconsideration may be submitted, under the requirement of the Constitution, to that body.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 28) to grant to the American Atlantic Cable Telegraph Company of New York the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe via the Bermudas and Azores islands.

#### LEAVE OF ABSENCE.

Mr. JULIAN. On account of sickness of relatives at home I ask leave of absence for the remainder of the present session.

Leave was granted.

Mr. COBB. I also ask leave of absence for the remainder of the session.

Leave was granted.

#### RIGHTS OF VOLUNTEERS.

Mr. GARFIELD. I ask unanimous consent to make a statement in regard to an incorrect print of an important law, which, if it goes uncorrected, may occasion serious misunderstanding. It will take me but a few moments to make the statement.

The SPEAKER *pro tempore*. Is there any objection to allowing the gentleman from Ohio to make a statement?

There was no objection.

Mr. GARFIELD. Mr. Speaker, by some rule of the Senate or House, or possibly by a concurrent resolution of both Houses—I do not know which—the laws passed from time to time are printed in the form of House or Senate documents, and are distributed by members for the information of their constituents. There have been laid upon our desks copies of a law approved the 2d day of March current, the last legislative day of the Thirty-Ninth Congress, entitled "An act declaring and fixing the rights of volunteers as a part of the Army." I observe that a very important mistake has occurred in printing this law. Five lines which are included in this printed copy are really no part of the law. The Senate, in amending the bill, which originated in this House, proposed to insert the following words, constituting the clause now erroneously embraced in this copy of the law:

And all officers in the Army of the United States, who have served by commission in the volunteer forces in the war for the suppression of the rebellion, shall have the same rank by brevet in the Army of

the United States as the highest rank they held by commission in the volunteer forces, not including brevet commissions.

The House refused to concur in that amendment, regarding it as unconstitutional, on the ground that Congress cannot confer brevet rank upon any class of persons; that this power can be exercised only by the President with the concurrence of the Senate. The Senate receded from their amendment, in accordance with the recommendation of a committee of conference, whose report was presented on the last night of the session, the acting Speaker [Mr. SCHENCK] being one of the conferees on the part of the House. This clause, therefore, should not be printed as a part of the law; and any members who are sending away these printed copies are misleading their constituents.

Mr. UPSON. The gentleman will permit me to ask whether he has compared this copy with the text of the original act, on file in the office of the Secretary of State.

Mr. GARFIELD. I have not done that; but I have compared it with the engrossed bill and with the report of the conference committee on file in the office of the Enrolling Clerk of the House, who assures me that this print has been made up by the Public Printer under the direction of the Senate, without an examination of the enrolled act in the office of the Secretary of State.

Mr. Speaker, I wish to make an inquiry in reference to this matter. I do not know whether this paper is an authoritative print of the law or not. If it has been printed under joint resolution of the two Houses, I take it that it would be recognized in any court as the law. But I do not know that it has been printed in pursuance of a joint resolution of Congress. At all events, we ought to do something to prevent this irregular and loose way of printing our laws.

I understand that this has not been printed from the rolls at the State Department, but from the Clerk's records in one of the Houses of Congress; and I make this statement so that it may go into the Globe, and thus notify members to correct the error before sending the document to their constituents. My attention was called to the subject by an Army friend who wished to know what the law is in reference to brevets. My own recollection was that these words had been stricken out, and on reference to the chairman of the committee of conference on the part of the House, and to the rolls of the Clerk's office, I became satisfied that this was a misprint. It is a serious blunder, and ought to be corrected.

Mr. BLAINE. The law which did pass actually gave the President the right to confer brevets, at his discretion, upon the regular officers who served in the volunteer service; and it has been published from the Secretary of State's office officially as the action of Congress. The War Department, as I understand, is now acting under that law.

Mr. GARFIELD. I am told by a friend near me that these documents printed by the House and Senate are really made up from the public newspapers as the acts are approved from day to day; which is certainly a loose and irregular way of giving laws to the country. I hope the proper committee will see to it that hereafter whatever is ordered to be printed and published officially as law shall be taken from the authentic records, and not from the daily papers.

#### ADJOURNMENT OF CONGRESS.

Mr. BLAINE. I rise to a privileged question. I offer the following resolution:

*Resolved*, (the Senate concurring,) That when the House adjourns on Tuesday next it be to meet on Monday, November 11, at twelve o'clock m.

Mr. BUTLER. Is that a privileged question?

The SPEAKER *pro tempore*. It is.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will let his resolution lie over until Monday next?

Mr. BLAINE. Let us have a vote on it to-day. I demand the previous question.

Mr. ELDRIDGE. I hope the gentleman will make it one week later.

Mr. BLAINE. It is now one week later than the autumn elections. I made it so purposely.

Mr. GARFIELD. I ask the gentleman to yield to me.

Mr. BLAINE. I withdraw the previous question, and yield to the gentleman from Ohio for five minutes.

Mr. STEVENS, of Pennsylvania. Is this a question of privilege?

The SPEAKER *pro tempore*. It is a privileged question, but not a question of privilege.

Mr. BLAINE. All I desire is to have a vote on the question.

Mr. GARFIELD. Mr. Speaker, I wish to say before the vote is taken that there are now pending before the President of the United States several hundred important appointments of postmasters and other officers that should be acted upon before we adjourn.

Mr. BLAINE. This does not provide for, but expressly excludes, the adjournment of the Senate. It contemplates the sitting of the Senate until those appointments have been disposed of.

Mr. GARFIELD. The President of the United States is said to be very anxious to get the Fortieth Congress away from Washington.

Mr. BROOKS. How do you know that?

Mr. GARFIELD. I take it that a gentleman who is so intimate with him as the gentleman from New York ought to know something about it.

Mr. ELDRIDGE. It seems that the gentleman from Ohio is more intimate with the President, and to have information that we have not.

Mr. GARFIELD. Of course I have my information at second-hand.

Mr. ELDRIDGE. The gentleman is mistaken.

Mr. GARFIELD. I understand the President is very desirous to get the Fortieth Congress out of Washington, and if the House is allowed to adjourn so that there can be no legislation, he will be in less haste to make these appointments. But if the two Houses shall agree to this resolution he may at the very last hour send his appointments to the Senate and that body will be compelled either to reject them, and thus leave many important offices vacant, or to accept men to fill them who are not acceptable to the people. I hope that both Houses will sit here until these important appointments are made; and that, if need be, there will be rejections again and again until the wishes of the people have been complied with. When this is done we should adjourn and give the business of the country a little rest. I am anxious for an early adjournment, but I hope we shall first see that the vacancies now existing in the several Departments are properly filled. It is quite possible that we may be able to adjourn on the day named in the resolution. I hope we may; but I think it unwise for us to say so now, and thus put ourselves in the President's power. We have undertaken to protect the people against his policy; let us complete the work; and if on the morning of Tuesday next we find ourselves able to adjourn that day let us then say so, and go home.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BLAINE. In one moment. I do not understand what Congress has to do with executive appointments. I do understand that it may be extremely necessary for the Senate to remain in session, and this resolution contemplates nothing else than that it may remain, if necessary, until next December in continuous session, or until the appointments are satisfactorily settled. But let me say that sitting here and passing general resolutions will do nothing but delay appointments. They will be made earlier if the House adjourn, in my opinion, than if we sit here.

Mr. BUTLER. Will my friend yield me ten minutes?

Mr. BLAINE. I do not yield ten minutes;

I do not want the debate to run that long. I will yield five minutes.

Mr. BUTLER. Very well. Mr. Speaker, the Thirty-Ninth Congress by ordering this special session said to the people of the United States that Andrew Johnson is a bad man, and that this House and the Senate should sit here to take care of his acts. In obedience to that law we assembled here. He has just this moment sent us a veto of a bill arraigning the details of the act of reconstruction upon grounds of alleged unconstitutionality. And now it is proposed to go away and leave the whole matter of reconstruction in his hands for seven or eight months. You say by so doing that he can be trusted, that he is a good man to be trusted with this great question of reconstructing on empire; that this country is perfectly safe in his hands because you thus leave the whole case to him; for is he not Commander-in-Chief of the Army?

More than that, and beyond all, you have said to the country through your committee of the Thirty-Ninth Congress, and through your action in this Congress, that there is reasonable ground to believe that Andrew Johnson ought to be impeached, and have put your committee on the inquiry. Now, there either is or is not reasonable ground to believe him impeachable. If there is, that question ought to be determined at once and forever. If there is not, that question ought to be determined at once and forever, and not left before the country as a disturbing element for eight months longer. Justice to him, justice to the business interests of the country, require that we should stay here like men and deal with this great question, and bring it to a finality, and not abandon the whole field to his occupation. Why, sir, we are thus acting like a general who, having begun a critical movement against the enemy, then abandons the whole field, going off on a frolic out of reach of the sound of the battle he has commenced. Let me say with all respect to the House, that the country, the loyal men of the country, the business interest of the country, will hold every member responsible who votes for this adjournment for the mischiefs which may happen to the business and government of the country from the maladministration of Andrew Johnson for the next eight months, with Congress made powerless by their votes. First, then, and last and all the time, I present my most earnest protest against this adjournment; and I have only to add that I thank my friend [Mr. BLAINE] for allowing me five minutes in which to do.

[Here the hammer fell.]

Mr. BLAINE. Mr. Speaker, the statement has gone so long unchallenged on the floor of this House that the great loyal party of this country are waiting anxiously for this branch to initiate a measure of impeachment that I think it is time it was contradicted. I would ask the gentleman from Massachusetts [Mr. BUTLER] through what convention of the people, through what organism of public opinion, through what channel of general information anywhere throughout the length and breadth of the land, this demand is made upon Congress? Sir, I maintain that out of the seventeen or eighteen hundred newspapers that represent the loyal Union party of this country—and these are the best indices of public opinion which that party has—the gentleman cannot find twenty-five which regard the impeachment movement as one seriously to be undertaken on the part of Congress at this time; and when he talks about their waiting our action, and says that this question ought to be settled at once, let me tell him that in the public mind of the country this question is settled.

Mr. BUTLER. Which way?

Mr. BLAINE. It is settled upon any showing which has been had, as bad a man as Mr. Johnson may be and whatever he may have done, so far as the gentleman has yet brought his charges against him, that they do not believe it worth while to upturn the foundations of the Government by having the extraordinary

spectacle of entering upon the impeachment at this time. I say there has been no manifestation anywhere of a design or a desire on the part of the loyal people, so far as I have the honor to represent them or know their feelings, to carry out a measure of impeachment at this time.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to say that within the last two weeks one of the largest meetings ever held in the interior of Pennsylvania was held in Schuylkill county, where resolutions were passed imperatively demanding the impeachment of Andrew Johnson?

Mr. BUTLER. And allow me to further state that I had the honor to argue before the Legislature of his own State the question whether Andrew Johnson ought to be impeached or not. In my judgment they would have voted for it at once, but I advised them to wait until action had been taken by Congress.

Mr. BLAINE. The gentleman may be better posted in regard to affairs and public opinion in the State of Maine than I am. I know he addressed a meeting there, and I suppose with his accustomed eloquence, and undoubtedly with great acceptance to the Legislature and the audience assembled there. But I undertake to say from what I know of those people, and they are right in the very heart of my district, that they regarded the course recommended by the gentleman as inexpedient.

Mr. BUTLER. And with the gentleman's permission I will further say that I have had the honor, under the rule, to file with the Clerk of the House petitions from many parts of the country, praying that Andrew Johnson may be impeached. And when the gentleman tells me that the newspapers of the country do not favor impeachment, let me ask him how many of the managers of those newspapers have brothers, sons, uncles, nephews, even aunts and cousins in the Federal offices of this Government?

Mr. BLAINE. If the gentleman wants to arraign the managers and editors of newspapers as a class I will take up the gauntlet. I say that a better or higher-toned class of men does not exist in the United States than those who represent the press. The gentleman, I understand, admits that I am correct in stating that of the seventeen or eighteen hundred Union newspapers in this country, not twenty-five of them have spoken in favor of his proposition for impeachment.

Mr. BUTLER. It is not my proposition, but the proposition of the Thirty-Ninth Congress, of which I was not a member.

Mr. EGGLESTON. I rise to a question of order. I desire to inquire of the Chair what the question of impeachment has to do with the question of adjourning from next Tuesday until November next.

Mr. BLAINE. Only because the gentleman from Massachusetts [Mr. BUTLER] says we should not adjourn until we have disposed of the question of impeachment.

The SPEAKER *pro tempore*. If the gentleman from Maine [Mr. BLAINE] will suspend his remarks, the Chair will reply to the interrogatory of the gentleman from Ohio, [Mr. EGGLESTON.] The Chair has not interrupted this debate, because the proposition being to adjourn the House with the consent of the Senate until November next, the question is open in relation to all subjects requiring the attention of the House at this time.

Mr. EGGLESTON. And it is debatable to that extent?

The SPEAKER *pro tempore*. It is.

Mr. EGGLESTON. Another question: does not this subject come under Rule 44 in relation to motions to adjourn?

The SPEAKER *pro tempore*. This is not a question of ordinary adjournment, and therefore does not come within the rule to which the gentleman refers. This is a resolution to fix the time at which the House shall again meet after the close of the present session.

Mr. LOAN. I ask that the Clerk read from

pages 7 and 8 of Barclay's Digest in relation to adjournment.

The SPEAKER *pro tempore*. Does the gentleman from Missouri [Mr. LOAN] appeal from the decision of the Chair?

Mr. LOAN. I do, for the purpose of having that read.

The Clerk read as follows:

"A motion to adjourn, and a motion to fix the day to which the House shall adjourn, shall be always in order, and these motions shall be decided without debate." (Rule 44.) It has been decided and acted upon that the motion 'to fix the day to which the House shall adjourn' takes precedence of a motion 'to adjourn'; the reason being that, before the House adjourns, it is proper to fix the time to which it shall adjourn."

Mr. LOAN. That is sufficient. I now withdraw my appeal.

The SPEAKER *pro tempore*. The Chair will state that this proceeding is one coming more particularly under a clause of the Constitution, and not under the rules of the House relating to an ordinary adjournment or recess. There is a provision of the Constitution that Congress shall assemble at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day. If this resolution, therefore, related to the meeting of a different session of Congress, according to the requirements of the Constitution it could be effected only by the passage of a law. But this proceeding is under the last paragraph of the fifth section of the first article of the Constitution, which provides that—

"Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting."

This is not an ordinary proposition to adjourn for three days or less, which does not require the concurrence of the Senate. It is a proposition that the House shall ask the Senate to consent to an adjournment of the House until next November, having no reference whatever to an adjournment of the Senate. This proposition, in the opinion of the Chair, opens up the general question as to the propriety of asking the Senate to consent to an adjournment for the length of time proposed.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I have merely to say that I desire this question to be postponed till Monday or Tuesday next, when we can tell better than at present in what condition we stand with regard to the public business. There are three or perhaps four small appropriation bills, two of them I hold in my hand now, one of them has not yet reached me from the Senate, the passage of which is necessary in order that the business of the Government may be carried on after we adjourn. These bills relate to expenses of the House and the Senate and some matters connected with the public grounds; and I suppose all will admit that they ought to be passed before we agree to adjourn. In addition to this there are, I believe, several important bills now on the Speaker's table; and if this proposition for adjournment should be agreed to, there are but a few hours left in which to consider them. While I do not now urge the indefinite postponement of this question, I prefer that its consideration should be postponed until Tuesday next.

Now, as to the question of impeachment, I have but a word to say. I have heretofore said but very little on that subject. I believe, sir, that the people expected us to make a full examination, and if we found cause, to impeach Andrew Johnson. We have examined, and so far have reported that there is sufficient ground for suspicion and further examination. We also yesterday voted for an inquiry with regard to the impeachment of another important officer of the Government. Upon inquiry this morning I learn that the testimony in that case was not printed so as to be at the command of the committee. What they will see proper to do is a question which I cannot determine. If they report articles of impeachment, it does not follow that we stay here to try the accused; but it does follow that those

articles ought of course to be filed with the Senate, so that they may fix the time for the trial.

Now, sir, I do not make any charge as to any gentleman's taking this mode to get rid of the impeachment. I understand that the gentleman from Maine thinks that nobody wants impeachment.

Mr. BLAINE. Nobody outside of Congress is now demanding it—

Mr. STEVENS, of Pennsylvania. I thought that everybody wanted it except a few gentlemen in Congress; and I thought everybody wanted it here until after the election of the Presiding Officer of the Senate. Since that time I know there has been a growing inclination in certain quarters not to have an impeachment, because it seems to be preferred that the present Executive should remain where he is to his being substituted by the present Presiding Officer of the Senate.

Mr. BLAINE. I never heard that before.

Mr. STEVENS, of Pennsylvania. The gentleman may never have heard it before; but I remember hearing him some time ago say here, (and therefore I may speak of it,) "There will be no impeachment by this Congress; we would rather have the President than the shallywags of BEN. WADE." [Laughter.]

Mr. BLAINE. Was not the conversation to which the gentleman alludes long before the election of the present Presiding Officer of the Senate?

Mr. STEVENS, of Pennsylvania. No, sir; it was some days after. It was not a conversation; it was a declaration.

Mr. BLAINE. When the gentleman reports private conversations he must report them upon the veracity and memory of the respective participants; and with all due respect to the gentleman's great age—and I would certainly never be lacking in such respect—I must say that as he reports a private conversation—

Mr. STEVENS, of Pennsylvania. I had no private conversation; I was here in my place.

Mr. BLAINE. Then it was a conversation with somebody else which the gentleman overheard.

Mr. STEVENS, of Pennsylvania. I heard the gentleman make the declaration.

Mr. BLAINE. It must have been either a private conversation with the gentleman or else a private conversation with somebody else which the gentleman overheard. It certainly was not a public utterance in debate.

Mr. STEVENS, of Pennsylvania. It was not a conversation; it was a declaration publicly made.

Mr. BLAINE. On the floor of the House?

Mr. STEVENS, of Pennsylvania. In this House, on the floor of the House.

Mr. BLAINE. The Globe would show it if it was anything said in debate.

Mr. STEVENS, of Pennsylvania. The gentleman was not debating—

Mr. BLAINE. I wish now to pin the gentleman on that. It was either a private conversation with the gentleman himself or with somebody else. On the occasion to which I suppose the gentleman refers, in discussing the question of the presidency of the Senate, Mr. WADE and a very distinguished Senator from my own State having been spoken of in the public newspapers as candidates for the position, I said something of this kind: that, taking into view the different characteristics of the two gentlemen, I thought that Mr. FESSENDEN would be a safer man to intrust with the executive power of the nation in certain contingencies than Mr. WADE. I certainly meant no disrespect whatever to Mr. WADE. I admire him for his boldness.

The gentleman from Pennsylvania forces me to repeat this in public, which I never designed to do. If the gentleman wishes to report here on the floor of the House any other private conversations which I may have had with him, or which he may have overheard me have with

others, I shall take the liberty at all events to set myself right.

Mr. STEVENS, of Pennsylvania. The gentleman must refer to a very different matter if he calls it a "conversation."

Mr. BLAINE. It is not in the Globe, therefore it must have been private.

Mr. STEVENS, of Pennsylvania. I never should have referred to this if the gentleman had not brought it out by his remarks. I was not conversing with him. It was after the election in the Senate; and the gentleman, under considerable excitement, which he is not apt to get into—

Mr. BLAINE. I was perfectly cool.

Mr. STEVENS, of Pennsylvania. The gentleman, under considerable excitement, said, "There will be no impeachment by this Congress;" and then added what I have already stated. The gentleman doubtless does not remember it, because he was at that time ardent in what he was saying. I merely mention this to show that there may be in the minds of some gentlemen other reasons why we should adjourn now than the mere question of the business of the country. I again repeat I do not wish to impugn the motives of any gentleman—

The SPEAKER *pro tempore*. The time of the gentleman from Pennsylvania has expired, unless the gentleman from Maine yields to him longer.

Mr. BLAINE. I do not wish to limit the gentleman at all.

Mr. STEVENS, of Pennsylvania. I am very much obliged to the gentleman; but I do not wish to trespass upon his courtesy.

Mr. BLAINE. Mr. Speaker, I do not wish to be put in the attitude, in which the remarks of the gentleman from Pennsylvania would place me, of ever having said, either publicly or privately, anything in the least degree disrespectful to the gentleman who has now the honor to preside over the Senate of the United States. In the only conversation or conversations which I ever had touching the point to which the gentleman now refers, (and the gentleman does not pretend to say that the conversation was with himself, so he must have overheard me conversing with some other gentleman,) I was speaking of the relative characteristics of the two distinguished Senators who were spoken of for the position of President of the Senate; and I then said—

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to say that in the declaration which he made and to which I referred, the name of Mr. FESSENDEN was not mentioned.

Mr. BLAINE. The gentleman must have heard only a part of my declaration. Persons who overhear a conversation are very apt to get only a part of it, and the gentleman is no exception to the rule. I do not apply the offensive term "eavesdropper" to the gentleman, because that would impute to him what is inconsistent with his character; but at all events he overheard a conversation, and he only heard a part of it.

On the occasion to which I have referred, I was speaking of the relative characteristics of those two gentlemen, and I added that in case of impeachment—I say the same thing everywhere—in case of impeachment, the measure, in my judgment, would have more strength if Mr. FESSENDEN, rather than Mr. WADE, were to be the successor of the present Executive. In saying this, I say no more than if in a national convention of my party, I should say that I preferred Mr. FESSENDEN to Mr. WADE, as a presidential candidate. It implied and conveyed no more disrespect to Mr. WADE than that.

I certainly do not wish to comment any further on the gentleman's report of a private conversation. I propose now to yield to the gentleman from Wisconsin [Mr. ELDRIDGE] whom, I am afraid, I have treated a little discourteously in not yielding to him sooner. I beg his pardon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had concurred in the amendments of the House to the amendments of the Senate to House joint resolution No. 25, to provide for the importation into the United States of certain works of art duty free.

It also informed the House that the Senate had passed a bill and joint resolutions of the following titles:

An act (S. No. 88) making appropriations to supply deficiencies in the appropriations for the contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes;

A joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines; and

A joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of elections for the cities of Washington and Georgetown, District of Columbia.

#### ADJOURNMENT OF CONGRESS—AGAIN.

Mr. STEVENS, of Pennsylvania. I wish to say a single word.

Mr. BLAINE. I yield to the gentleman for that purpose.

Mr. STEVENS, of Pennsylvania. I understand the gentleman to say, or rather to characterize what I stated, as overhearing a private conversation. I thought I had already stated to the House that it was no private conversation. The gentleman spoke out loud, so that everybody could hear him.

Mr. BLAINE. If I were speaking out loud so everybody could hear me it would have been in the Globe, and the gentleman does not pretend that it is in the Globe. If I were speaking at all it was in private conversation.

Mr. STEVENS, of Pennsylvania. The gentleman was speaking generally; he was talking to no one in particular.

Mr. BLAINE. I wish to call the attention of the gentleman himself particularly to one point. Although under ordinary circumstances it might be considered that I had strong provocation, still I will not be betrayed into saying anything disrespectful of the gentleman from Pennsylvania. He must have observed that what he overheard was what occurred in private conversation. It may have been in a loud voice, but it certainly was not in public discussion.

He says that it was to the gentleman himself, or to other gentlemen. I have no recollection of having a conversation with the gentleman on the subject. He must have overheard me talking to others. And I say, Mr. Speaker, that it is not in accordance with the amenities of debate to thrust into any discussion upon this floor what was overheard in a private conversation.

Mr. STEVENS, of Pennsylvania. It must have been heard upon the floor by other gentlemen.

Mr. BLAINE. I doubt whether any gentleman can get up and say that he heard it. The gentleman puts me in an awkward position. It puts me in the attitude of assailing in some way the distinguished Senator who now presides over the Senate of the United States, because he came into competition with the Senator from my own State and my valued personal friend. He comes here and repeats in public debate what he overheard in private conversation. If he is satisfied after I have had an opportunity to explain, I also am satisfied.

Mr. STEVENS, of Pennsylvania. I again deny that there was any such private conversation, or that Mr. FESSENDEN's name was mentioned at all.

Mr. BLAINE. I was not speaking to the gentleman and was not addressing the House at the time of the alleged conversation.

Mr. STEVENS, of Pennsylvania. You were addressing the House.

Mr. BLAINE. The Globe shows nothing of the kind.

Mr. STEVENS, of Pennsylvania. You were ranging from one side to the other.

Mr. BLAINE. I now yield to the gentleman from Wisconsin.

Mr. ELDRIDGE. Mr. Speaker, I have almost lost the desire I had when I appealed to the gentleman from Maine [Mr. BLAINE] to allow me to address an inquiry to him. I do not propose to take any part or lot in the expressions of kindness and generosity and sympathy which gentlemen have used toward each other on the other side of the House; but on this subject of adjournment I do feel some interest. I desire that this Congress should speedily adjourn. I think since we came together in the Fortieth Congress each day has made it more and more uncertain and difficult to know why we were called together or what good purpose was to be subserved thereby.

It is said there are a large number of offices yet to be filled by the President, and that the appointments have to go before the Senate for its action thereon. Whose fault is it that these offices are not filled? I understand that the President has furnished nominations of good, unobjectionable men without number, in some cases six or ten for one office one after the other, and that the Senate have rejected them on purely political grounds. I understand that gentlemen desired this Congress to assemble immediately after the preceding one because the President during the recess of the Thirty-Ninth Congress had made removals, in some cases for political reasons, and they desired to prevent such removals. Gentlemen propose to impeach the President now for making removals on political grounds, and yet propose to keep Congress in perpetual session in order that the Senate may reject the President's nominations on precisely the same grounds—difference in politics.

Mr. GARFIELD rose.

Mr. ELDRIDGE. I do not yield at this moment, because I propose after a moment to propound a question to the gentleman in reference to some things which he asserted before. Now, I will not enter into the discussion of the question of loyalty. The gentleman from Massachusetts [Mr. BUTLER] says all the loyal people of the country demand the impeachment of the President. But the gentleman from Maine [Mr. BLAINE] alleges that all the people of the country pronounce the movement a consummate piece of folly.

Mr. BUTLER. If the gentleman will allow me, I think he mistook my statement. I said the whole of the loyal people of the country demanded that this question of impeachment should be settled one way or the other.

Mr. ELDRIDGE. Perhaps that was the remark of the gentleman, but it struck me at the same time that this word loyalty was becoming a very indefinite and uncertain term. I supposed I understood its meaning, and yet I thought of asking the gentlemen on the other side of the House what they meant by it in their controversy with each other. The Speaker of this House, when he was chosen as such of this Congress, made a distinction between loyalty and law, using the phrase liberty, loyalty, and law, and from that time I myself had some doubt as to what loyalty did mean in the opinions of the gentlemen on the other side. It is impossible for me to determine satisfactorily to myself what gentlemen do mean by it. The gentleman from Maine [Mr. BLAINE] claims to be loyal, and the gentleman from Massachusetts [Mr. BUTLER] claims to be loyal. Perhaps they feel very much like the man who lately was boasting of his loyalty and was asked how he felt. He said he felt loyal. "Well, what kind of a feeling is that," he was asked. "Why," said he, "I feel as though I wanted to kill somebody and steal something." [Laughter.] It seems to me since the President has occupied his present position to the party that elected him, since these gentlemen have out-grown him, they act as though they wanted

to kill him and then steal a man into his place whom they can use for their own purposes.

And now a word to the gentleman from Ohio, [Mr. GARFIELD.] He made a statement a few moments ago that the President was anxious to get rid of this Congress, and he asserted that he had that information second-hand from gentlemen on this side of the House. Now, if the gentleman has that information, he has more on the subject than I have myself or am able to gain from any of the gentlemen around me; and, sir, I now ask him what gentleman on this side of the House has informed him that it was the President's desire to get rid of this Congress by its speedy adjournment?

Mr. GARFIELD. If the gentleman will allow me a moment, I wish to correct a statement he made in reference to my remarks. I do not desire to be misunderstood. The gentleman said I desired Congress to remain in session for two purposes: first, to compel the appointment of certain persons to office; and secondly, for the purpose of impeaching the President. I call his attention to the fact that I made no allusion whatever to the question of impeachment. That subject has been referred to a committee for examination and report. I have nothing to say in that direction until we hear from the committee.

Mr. ELDRIDGE. I do not think my remark was personal to the gentleman in that regard; but the gentleman did say that the President desired to get rid of this Congress, and he had it second-hand from gentlemen on this side of the House who were better informed than he. I demand of him to know, if he will tell us, from what gentleman on this side he gets that information, for I do not believe he has it.

Mr. GARFIELD. I desire to know if the gentleman declares that he does not believe I have heard what I say I have heard?

Mr. ELDRIDGE. No, sir; not in that sense.

Mr. GARFIELD. Very well, that ends his colloquy with me.

Mr. ELDRIDGE. I do not wish to make any charge. I simply say that if the gentleman has information on that subject, I do not think he has it from any authorized source. I make no reflection upon the gentleman.

Mr. GARFIELD. I am glad the gentleman does not.

Mr. ELDRIDGE. I have never, like the gentleman, heaped insulting epithets upon gentlemen on the other side of the House with whom I differ politically.

Mr. GARFIELD. As the gentleman has made an explanation that is satisfactory, I beg to say that I have heaped no epithets on that side of the House. I expressed it as my opinion merely that the President of the United States would be very glad to have the Fortieth Congress adjourn, and some gentleman on the other side asked me how I knew it, and I said simply that I understood it from the friends of the President himself. I understand it as I understand it is daylight when the sun shines, or that it is dark in the night; as every man understands the current opinions of the people on any question. I do not suppose that anybody here denies that it is uncomfortable in many respects for the President of the United States that Congress is here. That is all I meant and all I now mean. There is no cause of misunderstanding.

Now, one word more, and I shall have done. I simply desire to say that it was purely on the ground of legislative and executive business that I raised my objection to agreeing now to adjourn on Tuesday next. I alleged then, as I allege now, that there are many important appointments that have been hanging over and have been delayed for a long time; and if we now agree to adjourn this House at some specific time near at hand, and leave no pressure upon the Senate or the President, I can very easily foresee that all these appointments will be crowded in at the last moment, and we

shall be compelled either to have the offices vacant or accept persons to fill them who are not acceptable to our constituents.

Mr. ELDRIDGE. I wish to inquire again of the gentleman from Ohio [Mr. GARFIELD] whether he now repeats the assertion which he made when upon the floor before, that the President of the United States is anxious to get rid of the presence of this Congress, that the gentleman has that information second-hand, and that he obtained it from gentlemen upon this side of the House? Or does he mean to be now understood that he has that information, to use his own language as nearly as I can repeat it, "as he knows it is day when the sun shines, or that it is night when it is dark," by seeing or not being able to see?

Mr. GARFIELD. I take it that is information enough. I meant simply that.

Now, I desire to say that before this Congress adjourns I think it ought to provide for a class of cases which were neglected at the last session. On the last day of the Thirty-Ninth Congress, when the Senate rejected a large number of nominations for Federal offices, officers of the revenue and the Post Office Department, it became necessary under the law that many of those offices should be closed. But there are now many persons holding office in direct violation of the provisions of that law. Now, it seems to me that unless appointments to those offices are very soon made and confirmed, it is our duty to provide what shall be done in those cases.

For instance, near the close of the last session of Congress a man was nominated for one of the most important post offices in my district, and he was rejected by the Senate; yet for the last nineteen days I am told that he has been holding that office and exercising all its functions, which is in direct and positive violation of the tenure-of-office act. There was no provision in that law under which any deputy or other person should perform the duties of a post office *pro tempore*. We should at once provide for such a contingency. Certain it is that we should not allow this continual violation of the law, and if necessary we should provide a better law for the case.

Mr. BLAINE. I now yield to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I think we ought to determine now whether we will have a continued business session or adjourn. We have not been in session three weeks; but few committees have been appointed, and those only in pursuance of special resolutions directing their appointment. We have all felt that we were very soon going to adjourn, and I suppose most of the members, like myself, have made their arrangements to go home very soon.

But when a proposition is offered to fix the time for adjournment, one gentleman gets up and says that there is a little appropriation bill which ought to be passed. I thought we had almost beggared the Treasury by the appropriations which we made at the last session. Another gentleman has some appointment which he wants to have made and confirmed by the Senate before we adjourn. Now, I thought we had long ago run out this administration of all acceptable appointments which we were likely to get, and some other gentleman has some other little bill he wants passed before we adjourn, and so one excuse after another is made to detain us here without our regular committees, and constantly on the eve of an adjournment.

Now, I am willing to remain here all summer if there is any necessity for our being retained here; but if that is to be done, I want to have it so declared; I want to have our committees appointed, and have what legislation we do go through its regular and legitimate course. I do not want to be detained here by a kind of—I was about to say chicanery; I do not want to be detained here upon what may be termed false pretenses. I know it is not necessary for Congress to remain here for the purpose of passing some little appropriation bills, after we



passed so many large ones at the last session. If any appropriation bills are necessary let your Committee on Appropriations be appointed. Your rules require that that committee shall report the appropriation bills within thirty days after they are appointed, and not to wait until the close of the session or the beginning of another session before they do so.

I know that it is not necessary for us to stay here to see about the appointment of a postmaster or anything of that kind. But if we are going to impeach the President, then it is necessary. If such a proceeding is to take place, then let the gentlemen who are in favor of impeachment bring forward that measure, and let the House determine upon it. Why has it not been done within the last three weeks? The question has been referred to a committee who have been authorized to sit during the summer and report to us next fall; and this course has been taken with the sanction of the very gentlemen who talk now of detaining us here for the sake of prosecuting an impeachment. While I wish to express no opinion upon the question of impeachment until I hear the evidence; while I hope to show as much courage, if courage is needed, upon that question as any of the most radical gentlemen with whom I act, still I am opposed to staying here to be trifled with. I do not wish to be kept here from day to day, under the pretense that there is some little appointment or some little bill that ought to be attended to, while the real purpose is ultimately to bring forward this measure. Let the measure be brought forward if it is to come. Why, sir, when can we have it presented? Not within a month, I suppose; probably not within two months. If we are not to have it, why not adjourn? And if we are going to adjourn at all, we shall be just as nearly ready next Tuesday as we ever shall be. Every day that we remain here some member thinks of another little appropriation bill or another little appointment or another little claim; and propositions are being piled upon the table to be sent to committees when they shall be appointed. Now, sir, let us determine this question one way or another. For my own part I am going to vote for adjournment just because the gentlemen who are opposing it have brought forward nothing for us to act upon.

Mr. BLAINE. I now yield to the gentleman from Massachusetts [Mr. BOUTWELL] five minutes.

Mr. BOUTWELL. Mr. Speaker, my wish is that the gentleman from Maine would withdraw his resolution until perhaps Tuesday or Wednesday of next week. I am clear in my own mind as to the reasons which should control this House as one branch of the Government in acting on this question. The great and substantial reason is that whether this House shall proceed to impeach the President or not, the majority of the people of this country, South and North, black and white, loyal and rebel, have pretty generally lost confidence in him.

Mr. BLAINE. That is true.

Mr. BOUTWELL. Whether this loss of confidence be based upon facts in his character or measures of his public policy, or upon suspicion or prejudice merely, I do not propose now to inquire. The great fact is that the people of the country everywhere have lost confidence in the wisdom, if not in the honesty, of his Administration.

Mr. BLAINE. The gentleman will allow me to inquire whether he thinks that our staying here will restore confidence in the President?

Mr. BOUTWELL. No, sir; but I think that the people of this country look to Congress as the only shield which can possibly avert from them evils which they apprehend, but which they do not plainly discover or understand.

I think the gentleman from Maine ought to

withdraw his resolution until those in this House upon whom the responsibility rests as to the conduct of public affairs, as far as they are within the control of this branch of the Legislature, have had an opportunity to consider the subject. It is certainly of grave import to the country whether this Congress adjourns to November or chooses to take a recess for a shorter period of time. For myself, in view of the danger to the country of adjourning until October or November or December next, without power being vested anywhere except in the President of the United States, I do declare that I cannot hold myself excused if I consent to the resolution before the House. I am content as far as I can see what is before us, if an arrangement can be made for an adjournment of sixty or ninety days; but with my views of the responsibility resting on the House, it seems to me unwise to adjourn for a longer period of time.

I ask the gentleman from Maine to give us an opportunity to consider what shall be done in reference to the measures now pending. An inquiry has been ordered looking to the impeachment of the collector of the port of New York. That officer, in a financial point of view, is the second or third officer of the country, having the custody of immense funds, being the avenue through which we gather in means of paying the interest on the public debt, and thereby of protecting our national credit. He is clothed with great financial power for the benefit or injury of the country. That officer is charged, upon testimony taken by a committee of this House, and, as they say, upon his own confession, of being guilty of corrupt conduct, which, under the Constitution, makes him amenable as an officer of this Government to impeachment and trial for high crimes and misdemeanors. With that statement before the House, and the testimony not yet printed, a proposition is made to leave this Government, with all its political institutions and ten States or one third of the territory of the Republic, subject entirely in the matter of reconstruction to the control of one man in whom we have not confidence. It is proposed also to leave the great financial place of honor and trust in the hands of a person charged before the House and country, and upon his own admissions as it is stated, with being guilty of corruption in office.

One word in regard to the matter of impeachment. The gentleman from Maine intimates that the country has been already advised that there is nothing serious in this proceeding. Sir, I do not stand here to disclose anything I have learned in committee, or to refer to it, but I declare for myself, as one member of the committee, that nothing would be more serious in the performance of a public duty than my assent to a solemn resolution of the Thirty-Ninth Congress, that the President of the United States, on the testimony, was so far connected with transactions of an improper character, that it was the duty of the Fortieth Congress to proceed with the investigation. For myself I speak as well as for the committee, when I state that we are now proceeding earnestly, seriously, and deliberately in the investigation with which we are charged. Whether the people or the newspapers are for impeachment or against it need not now be made matters of inquiry. The investigation is prosecuted for the purpose and for the sole purpose of ascertaining whether the President is guilty of impeachable offenses or not. If he be so found guilty, the committee will report the fact and the evidence to the House; and if he be found not guilty, with equal courage and more satisfaction, the committee will report to the House and the country that he is not guilty, believing that the people and the newspapers will alike sustain the committee.

Mr. BLAINE. I yield now to the gentleman from Iowa, [Mr. WILSON,] the chairman of the Committee on the Judiciary.

Mr. WILSON, of Iowa. It seems to me,

Mr. Speaker, this matter is presented to the House in such a manner that members are to take the choice between an adjournment until next fall and continuing in perpetual session. If I am to choose between those two alternatives I shall vote to adjourn until fall. It is suggested by the gentleman from Pennsylvania that there is no such question presented. I cannot see it in any other form. Here is a resolution proposing to adjourn till November. It is opposed because it is said to be necessary for us to remain and dangerous for us to go away. No plan is proposed by which we may adjourn over to an early day, and from that to some other day, and thus hold the session in our hands. Every person can see that it is simply a question as to whether we are to remain here continuously or take an adjournment till the coming fall.

Now, sir, when the gentleman from Massachusetts speaks of the danger to the country of our going away, I beg leave to say that so far as the business, the commercial interests of the country are concerned, there is greater danger to be apprehended from our remaining here in the condition we now are than in our taking an adjournment till fall. Every person connected with the business and commercial interest of the country is kept in a constant state of uncertainty and inquietude. No man knows at what time some measure may be launched into this House which is going to effect the general business of the country disastrously or otherwise. Everything is unsettled.

Now, sir, in regard to the matter of impeachment to which my colleague on the committee [Mr. BOUTWELL] has spoken, I will say this, as confirmatory of what he said: that the committee has been diligently pursuing that subject, but he knows and I know and every member of the committee knows that we can devote but a small portion of our time to this investigation while this House is in session.

Mr. BUTLER. Why not?

Mr. WILSON, of Iowa. Why not? Because we are sent here by our constituents to look after their interests. Our place is in this House. We are interested in every measure that is introduced, and our constituents are interested in every measure. It is my duty to be here in my seat when the House is in session that I may guard the interests I am sent here to protect. That being the case, there is comparatively a small portion of the time that we can devote to this investigation. If there should be an adjournment the committee will then have ample time to give the subject a thorough investigation, and I do not know of any member of the committee who has any desire to act otherwise than as the House has directed, to investigate, and thoroughly investigate, that subject. But I do not wish to keep everything in this state of uncertainty for the purpose of holding the President in check. The committee must have time to make the investigation.

Mr. BLAINE. I desire to state that I have been appealed to by gentlemen on the other side to let this go over. There is no prejudice one way or the other, because this is a privileged question. I therefore demand the previous question on the resolution.

Mr. BENJAMIN. I suggest an amendment: to strike out November and insert the second Monday in May.

Mr. BLAINE. I shall not yield. I shall take the sense of the House on the resolution as it stands.

Mr. BENJAMIN. I then move to lay the resolution on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.  
Mr. FARNSWORTH. I move that the House adjourn.

On the motion to adjourn, there were—ayes 42, noes 62.

Mr. FARNSWORTH. I demand the yeas and nays.

The yeas and nays were ordered.  
The question was taken: and it was decided

in the negative—yeas 59, nays 73, not voting 32; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Banks, Benjamin, Boutwell, Broomall, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Eckley, Eggleston, Ela, Farnsworth, Fields, Finney, Garfield, Gravelly, Hamilton, Hooper, Hopkins, Hunter, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, McClurg, Miller, Myers, O'Neill, Orth, Pile, Platts, Polsley, Schenck, Shanks, Shellabarger, Thaddeus Stevens, Taffey, Taylor, Upson, Van Aernam, Robert T. Van Horn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Windom, and Woodbridge—59.

NAYS—Messrs. Ames, Baker, Baldwin, Barnes, Beaman, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Reader W. Clarke, Cornell, Dodge, Eldridge, Ferriss, Ferry, Fox, Getz, Haight, Halsey, Hayes, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koonz, Ladin, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, Mercer, Moore, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Noel, Paine, Perham, Peters, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Scofield, Smith, Spalding, Stewart, Taber, Thomas, Trowbridge, Twitchell, Van Auker, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, and John T. Wilson—73.

NOT VOTING—Messrs. Archer, Benton, Bingham, Broomwell, Dawes, Denison, Driggs, Eliot, Glosbrenner, Griswold, Harding, Hulburt, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Morrill, Phelps, Pike, Pomeroy, Price, Raum, Sawyer, Selye, Sitgreaves, Aaron F. Stevens, Stone, Burt Van Horn, William B. Washburn, and Wood—32.

So the House refused to adjourn.

The question recurred upon the motion of Mr. BENJAMIN, to lay the resolution upon the table; upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 77, not voting 34; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Banks, Benjamin, Boutwell, Butler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Driggs, Eckley, Ela, Farnsworth, Fields, Finney, Garfield, Gravelly, Hamilton, Hooper, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, McClurg, Miller, Morrill, Myers, O'Neill, Orth, Pile, Polsley, Schenck, Shanks, Shellabarger, Thaddeus Stevens, Taffey, Taylor, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Windom, and Woodbridge—53.

NAYS—Messrs. Allison, Ames, Baker, Baldwin, Barnes, Beaman, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Churchill, Reader W. Clarke, Cornell, Dodge, Donnelly, Eggleston, Eldridge, Ferriss, Ferry, Fox, Getz, Haight, Halsey, Hayes, Hill, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburt, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koonz, Ladin, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, Mercer, Moore, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Noel, Paine, Perham, Peters, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Scofield, Smith, Spalding, Stewart, Taber, Thomas, Trowbridge, Twitchell, Van Auker, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, and John T. Wilson—77.

NOT VOTING—Messrs. Archer, James M. Ashley, Benton, Bingham, Broomwell, Broomall, Cake, Cullom, Dawes, Denison, Eliot, Glosbrenner, Griswold, Harding, Hunter, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Plants, Pomeroy, Price, Raum, Sawyer, Selye, Sitgreaves, Aaron F. Stevens, Stone, William B. Washburn, and Wood—34.

So the motion to lay the resolution on the table was not agreed to.

The question recurred upon seconding the call for the previous question.

Mr. INGERSOLL (at five minutes past four o'clock p. m.) moved that the House adjourn.

The question was taken; and upon a division there were—yeas 37, nays 55.

Before the result of the vote was announced, Mr. INGERSOLL called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 72, not voting 37; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Banks, Benjamin, Benton, Boutwell, Butler, Sidney Clarke, Coburn, Cook, Covode, Cullom, Donnelly, Driggs, Eckley, Ela, Farnsworth, Fields, Finney, Garfield, Gravelly, Hamilton, Hooper, Hulburt, Hunter, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, McClurg, Mercer, Miller, Morrill, Myers, Orth, Pile, Polsley, Schenck, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Taffey, Taylor, Upson, Van Aernam, Robert T. Van Horn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, and Windom—55.

NAYS—Messrs. Ames, Baker, Baldwin, Barnes, Beaman, Blaine, Blair, Boyer, Brooks, Buckland,

Burr, Chanler, Cornell, Eggleston, Eldridge, Ferriss, Ferry, Fox, Getz, Haight, Halsey, Hayes, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koonz, Ladin, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, Moore, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Noel, Perham, Peters, Poland, Price, Pruyn, Randall, Robertson, Robinson, Ross, Scofield, Smith, Spalding, Stewart, Taber, Thomas, Trowbridge, Twitchell, Van Auker, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, John T. Wilson, and Woodbridge—72.

NOT VOTING—Messrs. Archer, James M. Ashley, Bingham, Broomwell, Broomall, Cake, Churchill, Reader W. Clarke, Cobb, Dawes, Denison, Dodge, Eliot, Glosbrenner, Griswold, Harding, Hopkins, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, O'Neill, Paine, Phelps, Pike, Plants, Pomeroy, Raum, Sawyer, Selye, Sitgreaves, Stone, Van Wyck, William B. Washburn, and Wood—37.

So the motion to adjourn was not agreed to.

The question recurred upon seconding the call for the previous question.

Mr. SHELLABARGER. I ask the gentleman from Maine [Mr. BLAINE] to withdraw his call for the previous question until I can make a suggestion to the House.

Mr. SPALDING. I object to the call for the previous question being withdrawn.

The SPEAKER *pro tempore*. The gentleman from Maine has the right to withdraw the call before it is seconded.

Mr. SHELLABARGER. I will renew the call.

Mr. BLAINE. How soon?

Mr. SHELLABARGER. In five minutes.

Mr. BLAINE. I do not desire to take up more of the time of the House in discussing this matter. I will withdraw the call, however, for the purpose of allowing the gentleman from Ohio [Mr. SHELLABARGER] to make a statement, but for no other purpose.

Mr. ELDRIDGE. I rise to a point of order.

After the gentleman from Maine [Mr. BLAINE] has called the previous question and taken his seat he has no longer any right to the floor.

The SPEAKER *pro tempore*. The gentleman from Maine has a right to withdraw his call for the previous question at any time before it has been seconded.

Mr. ELDRIDGE. The time of the gentleman had expired under the hour rule.

The SPEAKER *pro tempore*. The gentleman from Maine introduced a privileged resolution, and under the rule was entitled to an hour to open the debate upon it. He yielded from time to time to other gentlemen, and when the hour had expired the Chair announced the fact. Had any other gentleman then claimed the floor, as the Chair supposed some one would do, he would have been recognized by the Chair and been entitled to the floor for an hour. But no other gentleman claiming the floor, the gentleman from Maine again obtained the floor and called the previous question. He now proposes to withdraw that call, which he has a right to do, the call not having yet been seconded.

Mr. ELDRIDGE. I make a further point of order. The gentleman from Maine did not withdraw the motion for the previous question unconditionally; he simply proposed to withdraw it to give five minutes to the gentleman from Ohio. It is to that I object. He does not propose to yield unconditionally so that other gentlemen may have the floor.

The SPEAKER *pro tempore*. The Chair sustains the point of order. The gentleman from Maine has the right to withdraw the call for the previous question unconditionally, and yield the floor to the gentleman from Ohio; but he cannot impose a condition, if the condition is objected to. Objection being made, the gentleman cannot yield unless he relinquishes his right to the floor.

Mr. BLAINE. Then I do not yield. I trust I shall not be accused of discourtesy to the gentleman from Ohio. I was willing to yield to him conditionally, but other gentlemen object. I must therefore insist on the demand for the previous question.

Mr. WILSON, of Iowa. I ask the gentleman to yield to me for a moment.

Mr. BLAINE. I can do so only by unanimous consent.

Mr. RANDALL. I object.

Mr. SHELLABARGER. I hope that the demand for the previous question will not be sustained.

On seconding the demand for the previous question, there were—yeas 55, nays 55.

Mr. BOYER. I call for tellers.

Tellers were ordered; and Messrs. BLAINE and SHELLABARGER were appointed.

The House divided; and the tellers reported—yeas 63, nays 54.

So the previous question was seconded.

Mr. FARNSWORTH, (at four o'clock and thirty-five minutes p. m.) I move that the House now adjourn.

Mr. WARD. I rise to a point of order. I submit that a proposition to fix a day to which the House shall adjourn takes precedence of a mere motion to adjourn; and therefore the motion of the gentleman from Illinois [Mr. FARNSWORTH] cannot be acted on till the other question has been decided.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. WARD. The Chair will allow me a single remark. As I understand the pending resolution, it proposes to fix the 11th day of November as the time to which the House shall adjourn.

The SPEAKER *pro tempore*. The rule to which the gentleman refers relates to a simple resolution or motion to adjourn for three days or less, the decision of which is entirely within the control of the House. This, however, being a concurrent resolution proposing that the House, with the assent of the Senate, shall adjourn until next November, it does not come within the rule to which the gentleman refers.

Mr. WILLIAMS, of Pennsylvania. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 62, not voting 38; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Benjamin, Benton, Boutwell, Butler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Driggs, Eckley, Ela, Farnsworth, Fields, Finney, Garfield, Gravelly, Hamilton, Hooper, Asahel W. Hubbard, Hulburt, Hunter, Judd, Kelley, William Lawrence, Loan, Logan, McClurg, Mercer, Miller, Morrill, Myers, Newcomb, Orth, Peters, Pile, Polsley, Schenck, Scofield, Shanks, Shellabarger, Aaron F. Stevens, Taffey, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, and Windom—64.

NAYS—Messrs. Barnes, Beaman, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Churchill, Cornell, Dodge, Eggleston, Eldridge, Ferriss, Ferry, Fox, Getz, Haight, Halsey, Hayes, Hill, Chester D. Hubbard, Humphrey, Julian, Kerr, Ketcham, Kitchen, Koonz, Ladin, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, Moore, Morrissey, Mungen, Niblack, Nicholson, Noel, Paine, Perham, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Smith, Spalding, Stewart, Taber, Thomas, Twitchell, Van Auker, Van Trump, Ward, James F. Wilson, John T. Wilson, and Woodbridge—62.

NOT VOTING—Messrs. Archer, James M. Ashley, Bingham, Broomwell, Broomall, Cake, Reader W. Clarke, Dawes, Denison, Eliot, Glosbrenner, Griswold, Harding, Holman, Hopkins, Ingersoll, Kelsey, George V. Lawrence, Lynch, McCullough, Moorhead, Morgan, O'Neill, Phelps, Pike, Plants, Pomeroy, Price, Raum, Sawyer, Selye, Sitgreaves, Thaddeus Stevens, Stone, Van Wyck, William B. Washburn, Stephen F. Wilson, and Wood—38.

So the motion was agreed to; and thereupon (at four o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. CAKE: A petition of workmen of Schuylkill county, Pennsylvania, who are out of employment because of the prostration of the industrial interests of the nation, praying Congress to take early action upon the tariff question.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. KERR: A bill to authorize and require the administration of oaths in certain cases and to punish perjury, and for other purposes.

## IN SENATE.

MONDAY, March 25, 1867.

Prayer by Rev. E. H. GRAY, D. D.  
The Journal of Saturday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. HOWARD presented resolutions of the Legislature of Michigan, in favor of the speedy construction of the Northern Pacific railroad and telegraph line; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented resolutions of the Legislature of Michigan, in favor of an appropriation to improve the harbor at the mouth of South Black river in that State; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Michigan, in favor of a judicious and protective tariff on importations of copper, iron, lumber, salt, dressed flax, and wool, and articles manufactured therefrom; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from Menomonee to Houghton, in that State; which were ordered to lie on the table, and be printed.

Mr. POMEROY presented the petition of Michael Hennessy, praying for a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented resolutions of the Legislature of Michigan, in favor of an appropriation for fortifying the island of Mackinac, in the Straits of Michilimackinac and the Sant Ste. Marie, at the falls of St. Mary's, and to establish a gunboat station in connection therewith; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of Michigan, in favor of a pension of eight dollars per month to the survivors of soldiers in the war of 1812, and the widows of those who are dead, from April 1, 1865; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of Michigan, in favor of an appropriation for the construction of a harbor at the mouth of the Ontonagon river; which were ordered to lie on the table, and be printed.

Mr. FESSENDEN presented the petition of Nathaniel Bragdon, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Peter V. Poland, late of company F, ninth Tennessee cavalry, praying for compensation for the loss of two houses burnt by United States troops under the command of General Sheridan in March, 1865; which was referred to the Committee on Claims.

Mr. CAMERON. I desire to present the petition of three hundred and fifty citizens of Schuylkill county, Pennsylvania, praying for such an adjustment of the tariff on imports as will give protection to American manufactures and industry. These gentlemen say that they represent over twenty thousand people in that immediate neighborhood, and they think Congress would be better engaged for a part of the summer in adjusting some system of protection to American industry than by adjourning and going home. They desire me to say that they think members of Congress are now paid a liberal salary, and in their opinion had better remain here. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. SHERMAN presented the memorial of Alexander J. Atocha, praying for the payment of his claim against Mexico, agreeably to the provisions of the treaty of Guadalupe Hidalgo of February 2, 1848; which was referred to the Committee on Foreign Relations.

Mr. NYE. I ask leave to present a pream-

ble and resolutions of the Union League of the State of Maryland, which I desire to have read, and then referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. They will be read, if there be no objection.

The Secretary read as follows:

Whereas the constitution of the State of Maryland carefully prescribes the qualification of voters, and makes a uniform registration of voters obligatory; and whereas the law passed in obedience to this mandate of the constitution has been made a nullity by the Governor, and the registers whom he appointed for that purpose, and the ballot-box opened for the reception of the votes of traitors, whereby a Legislature and other officers were elected notorious for their disloyalty; and whereas, carrying out the purposes of the Governor, and of their elections, this Legislature has annulled the loyal provisions of the constitution and restored to citizenship all who had abjured or forfeited their rights as citizens by treason against the State and the United States; and, on the other hand, has enacted a law making it treason for loyal men to unite to uphold the national Government; has not only refused to pass laws for the protection of colored citizens, but has offered a premium for violations of the laws of Congress, known as "The Freedmen's Bureau law, and the civil rights law," and assumed the defense of all who have violated those laws in the past, or will do so in the future, and made their defense a charge upon the State treasury without limit; has pensioned from the State treasury the Legislature which was suspended from the exercise of its functions by the military power of the nation, and compelled the city of Baltimore, in like manner, to pension the disloyal police force which was discharged from service in 1861 as a necessary measure of public safety; has instituted measures for imposing upon the State the burden of paying for the slaves emancipated as a necessary result of the slaveholders' rebellion, and has passed a law, in palpable and confessed violation of the constitution, calling a convention for the purpose of abrogating what remains of loyalty and equal rights in our constitution, and of placing loyal men in hopeless subjection to traitors: Therefore,

*Resolved by the Grand Council of the Union League of Maryland*, That we earnestly pray the Congress of the United States, as far as practicable, to extend to Maryland the principles of the military reconstruction law, and to secure to all loyal citizens in the State the right of suffrage.

*Resolved*, That a copy of the foregoing preamble and resolution be signed by the Grand President and Secretary, and forwarded to Hon. FRANCIS THOMAS and Hon. JAMES W. NYE, with the request that they will lay the same before the House of Representatives and Senate respectively, and urge such action as shall insure protection to the loyal citizens of Maryland.

True copy by order:

A. STOCKBRIDGE, Grand President.

CHARLES H. GATCH, Grand Secretary.

The resolutions were referred to the Committee on the Judiciary.

## PAPERS WITHDRAWN.

Mr. JOHNSON. I ask leave to withdraw the papers in the case of the heirs of John B. Bouligny. They are apprehensive that they may be lost, as some of the papers have been lost heretofore. If there be no objection, I ask to withdraw them from the files.

The motion was agreed to.

Mr. POMEROY. I ask that the petition of Clara Moore, widow of Ely Moore, deceased, praying payment to her of the claim of her husband for amount paid for additional clerks and office accommodations for those clerks in the register's office at Lecompton, Douglas county, Kansas, be withdrawn from the files and referred to the Committee on Public Lands. The committee were unable to report at the last session, and I want the papers re-committed.

The motion was agreed to.

On motion of Mr. RAMSEY, it was

*Ordered*, That Ceran St. Vrain have leave to withdraw from the files of the Senate the petition for himself and the heirs of Ignacio Vigil, praying for the confirmation of a private land claim in New Mexico.

On motion of Mr. MORRILL, of Maine, it was

*Ordered*, That the petition of Sarah L. Spring and Harriet Spring, praying that they may be allowed the pension due William Barker; also that they may be allowed the half pay to which he was entitled under resolution of Congress of October 21, 1780, granting half pay to the surviving officers of the Revolution, be withdrawn from the files and referred to the Committee on Revolutionary Claims.

On motion of Mr. HOWE, it was

*Ordered*, That the petition of Minerva Lewis, administratrix of the estate of Ezekiel Lewis, deceased, praying for compensation for the steamboat Admiral, taken possession of by the United States authorities in the spring of 1862, used by them as an ordnance

boat, and burned at Columbus, Kentucky, be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. HOWE, it was

*Ordered*, That the petition of George H. Wells, praying for compensation for the steamboat South-east Merchant, taken by the rebels in May, 1861, captured by the United States gunboat Diana in December, 1862, taken to New Orleans, and condemned by the United States district court, and sold as a prize November 9, 1863, be withdrawn from the files of the Senate and referred to the Committee on Claims.

## ADJOURNMENT OF CONGRESS.

Mr. WILSON. I desire to enter a privileged motion. I move that a communication be sent to the House of Representatives asking the House to return the resolution fixing the time of adjournment, with a view of moving a reconsideration.

The PRESIDENT *pro tempore*. That order will be entered, no objection being made.

Mr. TRUMBULL subsequently said: I understand that an order has passed here without any consideration to bring back from the House of Representatives the resolution of adjournment.

The PRESIDENT *pro tempore*. That order has just been made.

Mr. TRUMBULL. I object to any such order.

Mr. SUMNER. There was no objection at the time.

Mr. TRUMBULL. Certainly there would have been objection if it had been understood. What is the object of bringing it back here?

Mr. SUMNER. We want to reconsider it.

Mr. TRUMBULL. Perhaps the Senator from Massachusetts does; but I do not. If any such order has been made, I move to reconsider the vote by which it was done.

The PRESIDENT *pro tempore*. I suppose if the Senator did not understand what was going on—

Mr. CONNESS. There were no Senators here who understood the matter at all.

Mr. JOHNSON. I did not hear it. I did not know such a motion was made.

The PRESIDENT *pro tempore*. It was made by the Senator from Massachusetts.

Mr. JOHNSON. So I understand now.

The PRESIDENT *pro tempore*. Very well; it will be considered an open question. The question will be taken again on that motion.

Mr. WILSON. The motion is that the House of Representatives be requested to return the resolution of adjournment.

Mr. CONNESS. Upon that I call the yeas and nays.

Mr. WILSON. It is a motion which I suppose I have a right to make, and I am in favor of doing it. I desire to enter a motion to reconsider. I did not suppose that the resolution would go to the House until we had time to look at it this morning. I desire to have it called back for the purpose of making that motion, and on that I think it will be time enough to raise the question.

Mr. WILLIAMS. I should like to know if the Senator proposes to put off the day of adjournment?

Mr. WILSON. I desire to enter a motion to reconsider for the purpose of changing the time to which we are to adjourn.

Mr. JOHNSON. We can settle the question at once now.

Mr. CHANDLER. I ask leave to present a joint resolution.

The PRESIDENT *pro tempore*. This question must first be disposed of.

Mr. CHANDLER. I understand there is no question before the Senate.

The PRESIDENT *pro tempore*. There is. Mr. CHANDLER. The Senator from Massachusetts simply asked to enter a motion, which he has a right to do.

Mr. CONNESS. I voted in the majority, and I move to reconsider the vote by which the resolution was adopted.

Mr. EDMUNDS. The pending question is on the motion to recall the resolution.

Mr. CONNESS. Has there been a motion to send for the resolution?

The PRESIDENT *pro tempore*. That is the pending question.

Mr. CONNESS. Then upon that question I call for the yeas and nays.

Mr. WILSON. I desire to have this resolution brought back here. It has gone to the House, and I was rather surprised to learn that fact. I desire to bring it back for the purpose of entering a motion to reconsider it, to see if we cannot fix a day on which Congress can come together, if it be necessary to do so, between now and December. I am satisfied that we ought to do that, and that it would be safer for the country if it should be done.

Mr. CHANDLER. As I understand it, there is no question before the Senate. The resolution has gone to the other House. The Senator from Massachusetts desires to enter a motion to have that resolution recalled in order that he may make a motion to reconsider. It is customary to make a motion of that kind where a bill or resolution has gone from the Senate. The question cannot be taken now, as I understand it, because the resolution is not before the Senate.

Mr. TRUMBULL. I object to the motion.

The PRESIDENT *pro tempore*. The motion is to request the House of Representatives to return the resolution in order that a motion to reconsider may be made. That is a motion, like every other, before the Senate.

Mr. FESSENDEN. I wish simply to say that it is not probable that I shall vote for the motion to reconsider, although I cannot say; I may hear good reasons to change my opinion. But it is very well known that there are in the Senate a certain number of days allowed within which a motion may be made to reconsider, and when a Senator rose who voted with the majority and said he wished to move to reconsider, and the bill had gone before the time expired, I have never known a case where a request to recall the matter to enable the motion to be made has been refused to him. I think it has always been as a matter of course acceded to where any Senator desired to move a reconsideration, if the matter had gone out of the possession of the Senate. I shall therefore vote in favor of requesting the return of the resolution if the Senator wishes to reconsider it.

Mr. SUMNER. I will add one remark to what the Senator from Maine has said: that unless we do recall a bill or a resolution like this on the suggestion of a Senator, the rule authorizing a motion to reconsider within two days may be avoided.

Mr. FESSENDEN. Exactly so.

Mr. SUMNER. It may be treated as nothing. Now, I think we ought to stand by our rules; those are established with a view to the public interests and to the conduct of public business.

Mr. TRUMBULL. We spent several hours on Saturday on this resolution, and had several votes upon it. I think the sense of the Senate was pretty clearly manifested. There was some opposition to adjourning. The proposition upon which the Senator from Massachusetts now speaks was submitted to the Senate and voted upon directly, to meet at some intermediate time. I think the Senator from Massachusetts [Mr. SUMNER] presented it. As the Senator has stated what his object is, it seems to me we might get at this more directly on the present motion. If the resolution is sent for, there can be no object in having it here and taking up time with it unless a majority of the Senate think we had better alter the resolution, and I thought we might have tested that question on this motion. However, the Senator from Maine and the Senator from Massachusetts seem to think differently, and that this is a motion to be made as a matter of course. If that is the understanding of the Senate, then any one can make the motion, and there ought to be no objection to it. I supposed it would be just as well to settle the whole question on this motion as it would be to recall the resolution. I am not particular about it, however. I am in favor of the adjournment of Congress. I think nothing

will be made by bringing the resolution back here.

Mr. FESSENDEN. The difference is, that unless it is before the Senate you cannot with any propriety, within the rules of order, debate the question. I merely speak in reference to what has always been the practice.

Mr. CONNESS. The practice has often been violated in that regard.

Mr. FESSENDEN. I never knew it done in my life.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, that the House of Representatives be requested to return the resolution named by him.

Mr. COLE. I hope the motion of the Senator from Massachusetts will prevail, and that the resolution will be brought back to the Senate for further consideration. I am now, as I was before, very much opposed to adjourning over for eight or nine months without leaving it in the power of Congress to meet in the mean time at all. It seems to me we should be repeating the same condition of things that we underwent in 1865, during the eight or nine months that elapsed between the accession of the present Executive to the Presidency and the meeting of Congress in December. I am in favor of adjourning early, and believe that if it is within our power to meet during the summer once or more, no necessity will arise for meeting during the summer; but I very much apprehend that if we adjourn over till December we shall have repeated what occurred two years ago, and it will result in establishing more firmly the policy to which we have been dissenting ever since, and which we do not wish to see established in this country. I earnestly hope that the resolution will be recalled from the other House.

The PRESIDENT *pro tempore*. On this question the yeas and nays have been demanded.

Mr. CONNESS. I withdraw the call for the yeas and nays.

The motion of Mr. WILSON was agreed to.

#### SURVEYS OF RIVERS.

Mr. CHANDLER. I am instructed by the Committee on Commerce, in accordance with the recommendation of the Secretary of War, to report a joint resolution, on which I will ask the present action of the Senate, if there be no objection.

By unanimous consent, the joint resolution (S. R. No. 48) in relation to the execution of surveys of rivers ordered by Congress, was read twice and considered as in the Committee of the Whole. It provides that the chief of Engineers may, with the approval of the Secretary of War, employ such civil engineers, not exceeding five in number, for the purpose of executing surveys and improvements of western and northwestern rivers, ordered by Congress, as may be necessary to the proper and diligent prosecution of the same; and the persons so employed may be allowed a reasonable compensation for their services, not to exceed the sum of \$3,000 per annum.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PROCEEDS OF CAPTURED PROPERTY.

Mr. SHERMAN. I am directed by the Committee on Finance to report back the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, with a recommendation that it be postponed until the first Monday in December next. The committee have directed me to make a verbal statement with regard to this resolution. We have examined it very carefully. The resolution recites that—

There is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury,

and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property without the sanction of Congress.

By an official report, which was only printed this morning, sent to both Houses of Congress on the 2d of March, 1867, I find that the House of Representatives acted on this matter under a misapprehension of the facts. The Secretary of the Treasury, in his statement, says that the whole amount of captured and abandoned property was \$34,052,809 54, of which amount the sum of \$24,742,022 55 remains as net proceeds, the balance being paid for transportation and other expenses of managing this fund. Each of the Secretaries of the Treasury, three of them in the last few years, has, under the existing laws, released certain property that was improperly taken or improperly held by the United States authorities. The amount so released was about a million dollars, or something over that, a full statement of which is given in this document. All of this money has been passed into the Treasury except \$700,000; and as to that I will read this statement, which will probably relieve the members of the House from their anxiety as to the money:

"The claims examined and decided have been numerous and complicated. The papers and evidence in the same are voluminous, and cannot be readily incorporated into a general statement; but the same are of record in the Department, and, in any case which the Senate desire specially to investigate, will be submitted for examination.

"All moneys realized from the sales of property received under the act in question, and other similar acts, are not repaid to claimants as set forth in statements A and B, or disbursed as expenses of collecting and disposing of the same as provided by law, have passed into the hands of the Treasurer of the United States, and have also been regularly covered into the Treasury as receipts from captured and abandoned property, except the sum of \$500,000 now on deposit with the Farmers' Loan and Trust Company of New York to secure the sureties on a bond required to be given by Simeon Draper, late cotton agent at New York, in a suit against him, and now pending in New York, instituted by the firm of Dennistoun & Co., to recover the proceeds of alleged blockade cotton, taken by agents of the Government and shipped to Mr. Draper for sale; and except, also, about seven hundred thousand dollars, which remains uncovered, for the payment of expenses incident to the collection, care, and disposition of such property, as provided by law; to defray the expenses of certain suits for the recovery of such property or its proceeds, now being prosecuted abroad; to satisfy any judgments which may be obtained against any agents of the Department in suits instituted against them for acts done in an official capacity concerning such property; and also to await the final settlement of certain specific claims pending for the proceeds of property alleged to have been wrongfully taken, which the Department may properly adjudicate."

It seems, then, that the "several million dollars" spoken of in the preamble to this joint resolution have already been transferred to the Treasury, or what is called "covered" into the Treasury, excepting the sum of \$500,000 held to await the decision of the Supreme Court, and also the sum of \$700,000, which remains uncovered to defray the expenses of collection of such property and also to satisfy such judgments of the Court of Claims as may be made. I have also a statement from two of the judges of the Court of Claims that there are cases pending before that court involving a portion of this sum, and that they are proceeding to examine them as rapidly as possible. Under this state of the case the apprehensions of the House seem to be unfounded, and the committee were unanimously of the opinion that the subject-matter had better be postponed until the next session. There is no objection to "covering" all the \$700,000 not needed to pay the expenses and to provide for the claims passed upon by the Court of Claims; but as it will be difficult to make the exceptions now carefully, the committee thought there was a propriety in postponing the matter until the first Monday of December next; and I make that motion.

The motion was agreed to.

#### THE PATENT OFFICE.

Mr. SHERMAN. I am also directed by the Committee on Finance, to whom was referred the bill (H. R. No. 28) to increase the force in the Patent Office, and for other purposes, to report it with an amendment to strike out all



after the first section; and as it must be acted upon to-day in order to be effective, I ask that it be considered now. It will take but a moment. It is simply to increase the number of examiners.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The first section of the bill authorizes the Commissioner of Patents from time to time to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch; but the whole number of such additional examiners is not to exceed four of each class, and the total annual expense of the Patent Office is not to exceed its annual receipts.

The Committee on Finance reported an amendment, to strike out the second and third sections of the bill, as follows:

SEC. 2. *And be it further enacted*, That the Commissioner of Patents is authorized to appoint, by and with the approval of the Secretary of the Interior, a solicitor of the Patent Office, who shall be considered its law officer, whose salary shall be \$3,000 per annum, to be paid from the patent fund, and whose duty it shall be to render all reasonable aid in the transaction of the business of said office that may be required of him by the said Commissioner.

SEC. 3. *And be it further enacted*, That the salary of the first assistant examiners and disbursing clerk shall be \$2,000, and the salary of the librarian shall be \$2,500, which shall be in full for his services as translator and librarian.

Mr. TRUMBULL. I should like to inquire what committee that comes from?

Mr. SHERMAN. The Committee on Finance.

Mr. TRUMBULL. It seems to me to be a patent matter entirely.

Mr. SHERMAN. I will say to the Senator that it ought to have been referred, in my judgment, to the Committee on Patents, but it was referred at a late hour of the session on Saturday to the Committee on Finance, and we were bound to consider it. We had before us the Commissioner of Patents, who represented the necessity of an increased force, and satisfied us entirely that an increased force was necessary.

Mr. TRUMBULL. I should like to know whether it has the sanction of the Committee on Patents and been examined by them.

Mr. SHERMAN. It was not referred to that committee, but I conferred with the chairman of the Committee on Patents. It ought to have been referred to that committee.

Mr. WILLEY. When this bill was referred to the Committee on Finance I was not aware that it was so referred, but supposed as a matter of course it had been referred to the Committee on Patents, and had given some attention to the matter before I discovered that fact; and as it was in the possession of a very competent committee I made no difficulty about it. I had given some attention to it, and from my examination of the bill and my conference with the Commissioner of Patents was disposed to be favorable to the bill, predicated my opinion in that respect upon certain facts and information which had been placed in my hands in regard to it. I shall be glad to know from the chairman of the Committee on Finance for what reasons the committee has recommended the striking out of the second and third sections; and on hearing his reasons I may perhaps think it necessary to submit to the Senate some facts which I have before me in relation to the matter.

Mr. SHERMAN. The Committee on Finance had not sufficient evidence before them to show that a new officer, called the solicitor of patents, ought to be created. We had no evidence showing the necessity of such an office. At all events, the mode of appointment was not such as we would sanction if the new office was to be created, that is, to be appointed by the Secretary of the Interior on the nomination of the Commissioner of Patents without the advice and consent of the Senate. On the whole, the only duty of a solicitor of the Patent Office may be done by a good clerk or by an

examiner. As we had increased the number of examiners of each class four in number, that is twelve in all, one could readily be detailed from the class whose salary is \$2,400 to perform the duties of solicitor. And there appears to be no necessity for creating the office of solicitor. If you create the office of solicitor in this bureau, you will have the same demand from all the bureaus of the Government. We thought at this period of the session it was not worth while to embark in the business of making new offices in this way.

The third section proposes to increase the salaries of assistant examiners from \$1,800 to \$2,000. They are all included in the increase of pay provided by the twenty per cent. resolution for this year. We saw, therefore, no pressing necessity for increasing their pay now; and if there be any propriety in increasing their pay at all the question may properly go over to next session. We therefore reported the bill simply providing for an increased force in the Patent Office, increasing the number of examiners and assistant examiners because of the increased amount of business. The cases pending during the last year, I am informed, were sixteen thousand as against nine thousand the year before, showing a very large increase of business. There are general complaints in the country that the business of the Patent Office is getting behind. The Commissioner represents that with this increase of force he would be able by next winter to catch up.

For these reasons, briefly given, because we had not much time to consider it, we reported the bill, with an amendment striking out the second and third sections. I am sorry myself the bill did not go to the Committee on Patents, because it would then have had the advantage of the examination and experience of the Senator from West Virginia. The Committee on Finance gave it only a brief consideration, having so many other matters to attend to.

Mr. WILLEY. I see no difference of opinion between the Committee on Finance and myself, and so far as I know the Committee on Patents, in regard to the propriety, indeed the absolute necessity, of increasing the clerical force of the Patent Office. The only objection made by the Senator from Ohio is to the second and third sections of the bill. The second section provides for the creation of the office of solicitor of patents. My short experience in connection with the business of the Patent Office has satisfied me that there is a variety of complicated questions involving legal points constantly arising before that branch of the Interior Department. There are many applications for the extension of patents, involving very frequently nice questions of law, nice legal distinctions, demanding, in my opinion, the appointment of some gentleman competent to consider such questions, and they are of such variety and extent as to require the constant attention of some competent gentleman to that character of business. Inasmuch as there is a large amount of surplus money in the Patent Office fund, and as the bill itself provides that the solicitor of patents if appointed shall be paid from the Patent Office fund, creating no additional liability on the part of the Treasury of the United States, I was of the opinion, and I am still, that it would be better to create such an office, and fill it by some competent gentleman to discharge its duties.

It must be obvious to Senators, I think, on the least reflection that there is a necessity for such an office, that there is a necessity for the appointment of some gentleman who shall direct his entire attention to questions of this character constantly arising in the administration of the business of the Patent Office. I know from information that has come before the Committee on Patents during the last session that questions frequently do arise involving a good deal of legal learning and the necessity for nice legal discrimination; and in questions relative to the extension of patents and a variety of other questions constantly coming before

the Commissioner of Patents, it would very much contribute to the public welfare and interest and to the proper discharge of the duties of that office if the Commissioner had some competent legal gentleman with whom he might consult in reference to such matters.

As to the third section, increasing the compensation of the first assistant examiners, the disbursing clerk, and the librarian, I am inclined to think, upon an examination of the facts and figures before me, that the recommendation of the Commissioner of Patents in that respect commends itself to our consideration. The first assistant examiners now get a compensation of \$1,800 per annum. The librarian gets a salary of \$1,800, with some extra compensation for translations, amounting, as I understand from the Commissioner of Patents, to two or three hundred dollars a year, never making his compensation exceed \$2,100; and yet, from the nature of his duties, a gentleman of very considerable capacity is required, a gentleman of a good deal of learning, a gentleman of such capacity and such learning as a salary of \$1,800 would not be likely to command. The salary of the disbursing clerk, the only other officer whose salary is proposed to be increased in this section, is also \$1,800. I learn from the Commissioner of Patents and other quarters that every other disbursing clerk in a Department receives \$2,000; and from the figures before me as to the increase of business in the Patent Office, and from the character and nature of his duties, their extent and variety, it does seem to me that this disbursing clerk ought to receive an equal compensation with other disbursing clerks in the Departments.

Now, sir, I ask the attention of Senators for a moment to some of the facts which I have in my possession, which will go to show the necessity of an increase of clerical force in the Patent Office. The number of applications for patents during the year 1866 was 15,269. The number of patents issued during that year, including reissues and designs, was 9,450. The caveats filed were 2,723. The applications for extension of patents were 67; and all these extensions involve more or less the decisions of legal questions, sometimes very important legal questions, sometimes questions involving very nice legal distinctions. In one year there arose before that department 67 applications for extension of patents, and 58 patents were extended. The money received during the year 1866 on application for patents, reissues, &c., was \$460,798 20, and for copies and recording assignments, &c., \$34,867 18, making a total amount of \$495,665 38, all of which money has to go under the supervision of the disbursing clerk; and it will be observed that it is made up of small sums involving a great deal of attention and many items. The expenditures for that year demonstrate that fact. The expenditures of the year were, for salaries, including \$29,107 48 additional pay as per act of June 18, 1866, \$149,623 17; for contingent expenses, consisting of a great amount of small items, \$95,006 60; for temporary clerks, \$115,381 76; withdrawals, \$540; refunding money paid by mistake, \$924; fees to judges in appeal cases, \$248 75, making a total amount expended last year of \$361,724 28. Here is a statement of the condition of the patent fund:

Amount to the credit of the fund January 1, 1866.....	\$150,184 78
Amount of receipts during the year.....	495,665 38
Total.....	625,850 16
From which deduct the amount of expenditures.....	361,724 28
Leaving to the credit of the patent fund January 1, 1867.....	264,125 88
Surplus of receipts over expenditures during the year.....	133,941 10

The Senate will perceive, therefore, that there are ample funds to meet all the increased expenditures which this bill will occasion and which seem to be demanded by the necessities of the department. The business of the Patent Office was between five and six times as great in the year 1866 as it was in the year 1861, and

yet this department has but the same force to perform this amount of labor that it had then, and no more clerks, no more assistants, although the duties have increased and the difficulties in the discharge of those duties are constantly increasing. I think there is evident necessity for a solicitor or some advisory officer, some gentleman of legal attainments who will be able to advise the Commissioner of Patents in respect to the nice legal questions arising before him. Notwithstanding the praiseworthy and energetic efforts of the Commissioner of Patents to keep up the business of that office, he is now behind six to eight months in the average in the various classes of business. I have before me a table showing the business of the office for each year from 1837 to 1866. I will not trouble the Senate with it; but it shows a gradual increase, and during the last few years a remarkable increase; and I am assured by the Commissioner of Patents that the indications now are that the increase of business during the present year will be much greater than it has ever been heretofore. Here is a short synopsis of the table:

"The foregoing shows that the number of applications for patents received in 1866 exceeded that of 1865 by nearly fifty per cent., and that of 1864 by more than one hundred per cent., and the number of caveats filed exceeded that of 1865 by nearly two hundred per cent. The number of patents issued exceeded that of 1865 by nearly fifty per cent., while that of 1866 exceeded any previous year more than thirty per cent.

"The receipts into the patent fund exceeded that of 1865 by more than forty-two per cent., while the expenditures were increased less than thirty-three per cent., and 1866 exceeded that of any previous year in receipts by more than thirty-six per cent.

"If the business of the office continues to increase as now, and as it has for several months last past, it is not unreasonable to suppose that the number of applications during the present year will amount to nearly, if not quite, twenty thousand. This very great increase of the business of the office renders it absolutely necessary that the clerical and examining force should be correspondingly augmented."

There is no difference, and it seems to me there can be no difference, of opinion in regard to the propriety and the necessity, to meet the interests and demands of the country, of an increase of the clerical force; and I am assured on conference with the Commissioner of Patents, and a careful one, too, in which he was kind enough to give me all the information in reference to the matter that I desired, that the appointment of a solicitor would very greatly expedite the business of that office, and would contribute much to the satisfaction of the discharge of the duties of the office, especially in respect to applications for the extension of patents and the just and proper decision of those nice legal distinctions constantly arising in the discharge of the duties of that office. I am satisfied also, from information received not only from the Commissioner of Patents, but from other gentleman familiar with the business of that office, that the increase of compensation for the officers and clerks provided for in this bill is not unreasonable. The duties upon them are increasing constantly; the responsibilities are constantly increasing; and while I am not so clear and decided in my conviction in regard to the propriety of increasing the salaries of the four officers designated in the third section of the bill, I am satisfied from the best examination I have been able to give to the subject that the appointment of a solicitor of patents would very materially contribute to the best interests of the country and to the proper and judicious and rightful discharge of the duties of that office. While we have been increasing the compensation of clerks in various other Departments, it strikes me that the compensation of these clerks in the Patent Office should be at least augmented so as to be upon an equality with that of clerks in other Departments, who I am certain do not discharge duties of any more importance or any more beneficial to the interests of the country. Inasmuch as the House of Representatives have passed the bill, as I suppose after giving it due consideration, though I have not had a conference with the Committee on Patents, nor do I know whether the gentlemen constituting that committee have given their

attention to it, I, speaking for myself, would prefer to see the bill passed as it came from the House, with all the sections just as they are. I believe that it is right that it should so pass. It will not increase the burden of the Government, and I am assured by the Commissioner of Patents that if this bill is passed it will not only be no burden on the Government, there being an ample surplus fund of the Patent Office to pay all this increase of compensation and the salary of the additional officers, but I am assured by him that it will increase the funds of the Patent Office in a ratio much greater than these salaries will take anything from them. I hope it will be passed without the amendment recommended by the Committee on Finance.

Mr. CONNESS. I have nothing to say as to the compensations which shall be paid to these officers, as proposed in the House bill to which this amendment is offered; but I deem it a proper time to allude to a circumstance of, as I think, material consequence and importance connected with the Patent Office and the administration of law there. I undertake to say, from some knowledge within my possession, that the erection of the office of solicitor there, no matter what compensation is paid him, and the increase of compensation to the clerks, will not secure a just administration of law until there are some other changes made there. A case came to my knowledge recently which this furnishes an opportunity to call the attention of the Senate and of the country to. I refer to the proceedings under an act approved July 26, 1866, "to extend the time of letters-patent issued to Thaddeus Hyatt." The Senate will remember that an act was passed just prior to the adjournment of the long session of the last Congress, and it is provided in the act which I have before me that—

"The Commissioner of Patents is hereby directed, upon the presentation of said patent," \* \* \* "to extend said patent by making a certificate thereon, upon a certified copy thereof, of such extension, in the name of said Thaddeus Hyatt, if in his judgment, upon full hearing, that the same should be granted."

The "hearing" is provided for by law. Now, sir, that extension was granted of about even date with the passage of the act, and the "full hearing" consisted in copies of Mr. Hyatt's letters being laid before the Commissioner. There never was any hearing granted; there was never any time taken to grant a hearing; but the reissue was made in a manner so unjustifiable and so utterly in violation of the statute that I felt it my duty at this time to call public attention to the fact, and to say, based upon my knowledge of this case, that the erection of the office of solicitor in the Patent Office will not secure a just administration of that office. I intend, in pursuance of this matter, to offer a resolution calling for copies of the papers from the Interior Department, connected with the reissue of the patent in this case, to show the manner in which business is done there. I feel it my duty at this time to call public attention to this important fact.

Mr. FESSENDEN. I am quite averse to bills that come in here at the very close of the session, when there is very little opportunity for an examination and consideration of them, increasing the force in particular Departments. There has been ample time during this session and during the previous session to have that matter thoroughly understood and investigated if that time had been improved; but it comes here just at the last moment, though we cannot suppose that this matter has only within a very recent period received the consideration of the Commissioner. But, sir, from what I know of the business of the office I am very well satisfied that an increase of the force of assistant examiners is necessary. Therefore, upon my own knowledge and belief, acquired from some previous acquaintance with it, I shall support that part of the bill which has been recommended by the Committee on Finance. I am at a loss, however, to conceive what necessity there is for a solicitor. I am

not convinced by the statement made by the honorable Senator from West Virginia on that subject, because I think that there is sufficient legal ability in the department already, which the Commissioner can at any time avail himself of to acquire any legal information he may desire. The Senate is aware that there are three persons holding office as examiners-in-chief. Their business is strictly legal, to give legal opinions upon what has passed through the assistant examiners. Two of these gentlemen at least, one from New York and one from Vermont, are gentlemen of high legal attainments. One of them has been himself at the head of the Patent Office heretofore; and the other, Judge Foot, of New York, is a very able lawyer, very thoroughly versed in patent law. I do not think the Commissioner of Patents could get better advice anywhere upon legal questions arising in his department than he could get from those two gentlemen before whom all such questions naturally come, and who certainly would be ready to give advice at any time he should require it.

Under these circumstances, with a force in the office like that, which is legal in its character and legal in its intention in every way, I cannot understand what necessity there is to set the example in this bureau of an additional officer who shall be considered a solicitor and be called a solicitor for the purpose of giving legal advice to the head of the office. That is my strong impression, and until that impression is removed in some way I certainly cannot vote for the second section of the bill.

As to the other section in regard to an increase of salary, I have nothing to say; but the persons proposed to be increased are, like other fourth-class clerks, receiving a salary of \$1,800 a year, and their salaries have been just as much increased as the salaries of all other classes by the addition of the twenty per cent. which they get for this year. I think under the circumstances we had better agree to the proposition of the Committee on Finance; and certainly these parts of the bill can wait until we meet again and have a chance more fully to investigate the subject.

Mr. EDMUNDS. I wish to call the attention of the Senate to the act of 1861—only six years ago—which established the board of examiners-in-chief, clothed them with the powers and imposed upon them the duties of doing all that this solicitor is supposed to be required to do by this bill, and some things more. The apparent object of the act of 1861 was to provide not merely one person but a board, who should be the law and scientific board of the Patent Office; and the section which creates that board illustrates more perfectly than anything I can say will precisely the idea and scope that the law makers had, and the state of the law force of the Patent Office at that time. It is the second section of the act of March 2, 1861. It declares:

"For the purpose of securing greater uniformity of action in the grant and refusal of letters-patent, there shall be appointed by the President, by and with the advice and consent of the Senate, three examiners-in-chief, at an annual salary of \$3,000 each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters-patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases, and, when required by the Commissioner, in applications for the extension of patents; and to perform such other duties as may be assigned to them by the Commissioner. From their decisions appeals may be taken to the Commissioner of Patents in person, upon payment of the fee hereinafter prescribed. The said examiners-in-chief shall be governed in their action by the rules to be prescribed by the Commissioner of Patents."

Then there is another act well known to the Senate, an older law, which provides for a still further appeal to the judges of the supreme court for the District of Columbia in a case where the litigants choose to contest it further. The Senate will perceive, therefore, that only six years ago a full law and scientific force advisory to the Commissioner was provided, subject to perform any duty or give any advice

he chose to require of them, with jurisdiction over extensions of patents, over applications for patents, over interference cases, beside the general jurisdiction subject to his discretion which the section provides. As has been said by my friend from Maine, two of these gentlemen are persons mature in years, ripe in legal and other scholarship, as much so as any gentleman connected with the department; as much so I can say with all respect as the very judges of the supreme court of this District themselves, competent for any law question; and the third member of the board is a gentleman who, although not a lawyer, is a man distinguished for his practical and scientific knowledge, eminent in it. What more can the law require? To be sure it is said by my friend from West Virginia that the funds we pay for these offices are patent funds; but there is no reason in the world why patent funds should be wasted. I know my friend does not intend that they shall be wasted, but in my judgment this will be a waste. There is no reason why these funds should be paid out unnecessarily, because if they accumulate to an absolutely overgrowing size they can be applied to some other public purposes. There is need enough of money.

It seems to me clear, then, that the law has already provided in the fullest manner for this very case, and there has been appointed to carry out the law a perfectly competent and unexceptionable board against whom no reproach whatever exists; so that I hope the amendment recommended by the committee will be agreed to.

Mr. WILLEY. Of course I was perfectly aware of the section of the law to which the Senator from Vermont has referred. I was not so well aware of the legal and eminent character of the gentlemen composing that board. I doubt not they are such as he has described them to be. There is no objection to the board; there is no objection to the character of the board; but eminent as they are in legal ability and scientific ability, the fact nevertheless remains that they are behind about seven months in appeals to the board, and it was to show the necessity of an additional officer that I read such long details of the extraordinary amount of increase in the business of the Patent Office demanding that that board should have assistance in the discharge of its duties, that the interests of the country required it, that it was not right that claims should be delayed for the want of the necessary provision on the part of Congress six or eight months to await a decision from the board, which, however eminent and competent to decide, had not the physical ability to do all the business promptly that it was required that they should do. The main object of this bill is to provide an officer whose attention shall be directed exclusively to legal questions arising out of the transactions of the Patent Office, who may be an assistant of this board, who may devote his attention to the preparation of cases that they may be presented to the board for their decision without the additional labor of looking into the cases and preparing them for decision.

I only mentioned the fact that there was a surplus of Patent Office funds to show that this bill did not make any demand upon the Treasury of the United States otherwise than upon the funds belonging to the Patent Office; and I mentioned in connection with that fact that I had reason to believe, from the examination I had given to this case, that the result of the appointment of these officers, and of the dispatch of the business of the country, would be an increase of the Patent Office funds to an amount greater than the additional salaries would reach.

Now, sir, it is necessary because the business of the country is behind; it is because the board to which allusion has been made, eminent as it is in scientific skill and in legal knowledge, has not been able to keep up with the business of the country. I am informed by the Commissioner of Patents, and I have no reason to doubt his word, that in matters

of appeal now before the board business is six or seven months behind. That is too long for the country to wait when that department itself has ample means to provide men who shall be able to keep up with the business of the country, and it is upon that ground that the application for this solicitor is made. It is to enable that board, eminent as it is, to keep the business of the country up with the demands of the department. The business of this department is now in its various branches from six to eight months behind, and in matters of appeal to the board about as far behind as in other branches. The gentlemen constituting the board cannot devote their attention exclusively to legal points arising before them, and to the matters of appeal before them. They have to divide their attention between legal questions and their scientific examinations. It seems to me the facts themselves are the only arguments it is necessary to mention in this case, that the business is behind, the business of this very board, eminent as it is, and competent as it is to discharge the duties properly belonging to it. Hence the Commissioner has, I think very properly, asked for an additional officer who, by devoting his attention exclusively to matters of a legal character, will enable this board to discharge the business of the country with proper dispatch. Of course we must all know when this is done it will necessarily increase the funds of the Patent Office.

This matter has not received that thorough examination from me that it would have received if it had been referred to the Committee on Patents. My attention, however, has been directed to it for several months past. Many of the facts I have mentioned have been long within my knowledge, and I have been of the opinion for a long time, or at least during the greater part of the past session, that it was absolutely necessary to give to this department greater clerical force, and to provide such other instrumentalities and agencies as would enable the examining board to keep up with the business. If, however, the Senate think otherwise, it matters not to me.

Mr. POMEROY. I have frequently been called, in the discharge of business for my constituents, to go into the Patent Office, and I have uniformly found them willing to render me every facility they could with the clerical force they had. I am confident the interest of that department suffers because it is not able, either for the want of a law or for some other reason, to employ the amount of clerical force needed. I do not know that it will always require as much clerical force as is now proposed; perhaps the demand may be temporary.

Mr. SHERMAN. We give in the bill as we amend it all that they ask, all that the Commissioner wants. The question now is whether we shall add a solicitor.

Mr. POMEROY. I am entirely in favor of the bill which the Senator has reported; and in regard to the question of a solicitor I see no reason why there should not be one, especially if the Commissioner asks for such an officer. This is not an appropriation of so much money out of the Treasury of the United States to pay the solicitor. The Patent Office is not only self-supporting, but it accumulates its support, and its fund is now larger than ever.

Mr. WILLEY. I will say to my friend that I am assured from satisfactory statements made to me by the Commissioner that the Patent Office fund will be increased more by the appointment of this officer and this additional force than the amount it will take to pay the additional compensation occasioned by the measure.

Mr. POMEROY. I have no doubt of the statement made by the Senator from West Virginia, and therefore I am in favor of the bill without the amendment; but if we cannot get the bill without the amendment, I am then in favor of it with the amendment. I am in

favor of giving the Patent Office every facility we can.

I wish now to say a word in reply to what the Senator from California has stated in regard to the case that went through here last year. I wish to say that that case was very fully considered by the Senate. It was a long time before our committee. Every opportunity for an adverse influence and representation was given. I believe there are only three manufacturers in the country who manufacture the article patented, except on the Pacific coast, and all those establishments were in favor of the extension. The object of giving notice to parties to come in and contest the extension of a patent is to enable persons who are adverse to the grant to appear and make their opposition before the Commissioner of Patents. This case, however, was contested in the Senate; and all the opposition was made here that could be made against it, and that was not from a source that would make any opposition before the Commissioner of Patents. The extension was granted after a full hearing here, and a very extended hearing, as the Senator from Massachusetts well knows. I for one justify the Commissioner of Patents entirely in his action in that case; for I know that he took the best legal counsel he could get before granting the extension, and I think he was entirely justified in granting it.

Mr. SUMNER. I desire to say that on the main question I shall follow cheerfully the chairman of the Committee on Patents, whose attention I am sure has been given to this bill. I follow him willingly; and I would add also, that from my experience at the Patent Office I have reason to believe that there is need for this addition of force. But I should not have said anything on this occasion but for the criticism that has been made on an act of the last Congress. There was a patent extended, after considerable discussion in this Chamber, and certainly consideration in the other Chamber; and now the action of the Commissioner of Patents under that act of extension has been unexpectedly opened to criticism. I desire here to express my belief that Congress was right in the act of extension that it passed; and my further belief that the Commissioner of Patents, in what he did under the act of Congress, acted sincerely, justly, and as became a public officer. I am unwilling to hear his conduct called in question on that occasion without bearing my testimony to what he did. I believe that in all respects in that action he was above criticism.

Having made these remarks, which I offer simply as my testimony founded on my personal knowledge of that case, I take my seat.

Mr. EDMUNDS. I wish to say in reply to my friend from West Virginia and my friend from Kansas as to the solicitor part of the argument, that in the first place I do not understand that we are not paying out public money when we pay this officer. The fees that are paid into the Patent Office belong to the United States. It is true that by law we provide for their being kept as a fund, but we have a perfect right by law to change the application of that money when the fund gets so large that we can properly take a part of it and make use of it for other purposes; so that in effect it is just as much taking part of the public money as it would be if it was money raised by taxation. It accumulates from the fees inventors pay for filing their applications, getting patents and extensions, and so on. So much for that.

Now, then, as to the duties of this officer and the necessity for his appointment. It is well known that before the law of last session inventors were allowed to appeal to the examiners-in-chief without paying any fees, and therefore everybody appealed. If an assistant examiner or a principal examiner decided against an application the applicant appealed because it did not cost him anything, and he had another chance. But by a law passed last year we provided that on these appeals a fee

should be paid of ten dollars, I think, or a certain sum, which has diminished immensely the number of appeals; so that there will be no difficulty in the board of examiners working off their cases in hand.

Now, what can this solicitor do if this amendment is not agreed to? What can he do on the subject of relieving the examiners-in-chief from any of their duties? The law points out the duties of the examiners-in-chief; it makes them a court, a tribunal who are to hear and determine all the classes of cases that I have referred to when they come before them in the regular way. Now what does this bill provide that this solicitor of patents shall do? He "shall render all reasonable aid in the transaction of the business of said office that may be required of him by said Commissioner." That is his duty, and he would have no more right to sit on an appeal to the board of examiners-in-chief, or to interfere or to act in it, than I would or the Senator from Kansas under that law, because I wish to remind my friend again that this board of examiners is a legally constituted tribunal, whose jurisdiction is fixed and whose duties are fixed, and if therefore you intend to relieve the board from any part of their *quasi* judicial duties by the appointment of this solicitor you must say so in the law. I think, then, it is apparent, and it will be apparent to my friend from West Virginia, to whom this bill was not referred, and who therefore has not of course examined its details, and I presume and to my friend from Kansas, that the scope of this House bill was not, if you take it as it reads, and that is the only evidence we have on the subject, to constitute additional force to hear appeals from examiners or to try interference or extension causes; but it was to provide an ornamental officer who should render the Commissioner of Patents all reasonable aid in the performance of his duties, and who is to be paid out of the public money which is received from the sources I have named for the performance of this "reasonable aid." I do not believe in that sort of thing at all. They have got law force enough there. If they have not, increase the board so that whoever is appointed can perform the duties that are now imposed by law on them.

Mr. CONNESS. An issue has been made by a Senator upon the statement that I saw fit to make this morning, connected with the re-issue of a patent to Thaddeus Hyatt. I did not, as stated by the Senator, bring in controversy or in question the propriety of the passage of the act of July 26, 1866; so that that part of the issue is gratuitously made. In regard to the other part, the conduct of the Commissioner of Patents in the reissue in that case, I will call for the official papers in the case and let the statement of the Senator be tried in the light of the facts that those papers present.

Mr. WILLEY. I hope, sir, that the Hyatt case will not be brought into the consideration of this bill. It does not seem to have any connection with it whatever. I know nothing about that case myself, whether the Commissioner did right or did wrong in the premises. The question before the Senate is, ought this bill to pass, increasing the force of that department so as to enable it promptly and properly to discharge its duties, or not? and whether it ought to pass or not depends upon the facts and the reasons upon which it is asked.

I must demur to a repetition of the argument of the Senator from Vermont, that I am urging the passage of this bill, or the second section of it, because it will not take any funds out of the Treasury of the United States, but simply out of the fund of the Patent Office; and that therefore it will relieve the United States of a burden. I made no such argument. My argument was predicated upon my belief that it was necessary to give the Commissioner of Patents this additional officer to enable him to discharge the duties devolving upon his office. I only referred to the fact that it would be no

increase of burden upon the Treasury of the United States, because his compensation would be taken out of the Patent Office. It is true that fund belongs to the United States; but the argument I meant to make was that the office itself was necessary; not that we were to create an office simply because the amount necessary to pay him his salary would be taken out of the Patent Office fund. I had no such idea as that; and the Senator neglected to reply to the main point of my argument in that direction, as it seems to me that we had good cause to believe that the creation of this office, in connection with the other additional force provided for by this bill, would so increase the receipts of the Patent Office that, in point of fact, the payment of this compensation would not be taken out of the existing fund at all. That is to say, it would so expedite the transaction of business and thus have such an influence on the increase of business in that office that the increased business thereby brought to that office would more than compensate for the payment of this salary out of the Patent Office fund.

The Senator is somewhat mistaken in saying that I have not examined this bill in its details. I remarked awhile ago that I had not examined it, perhaps, as it would have been examined if it had been referred to the Patent Office Committee and considered there. It is, however, a matter that has been occupying my attention for some months past. I think the creation of this office of solicitor, as well as the other provisions of the bill, would contribute to the expeditions and useful discharge of the duties of the Patent Office without any additional burden to the country; and therefore I was in favor of the passage of the bill without the amendment proposed by the Committee on Finance.

Mr. HARLAN. What is the amendment? The PRESIDENT *pro tempore*. The amendment is to strike out the second and third sections of the bill, which will be read.

The Secretary read the second and third sections.

Mr. SHERMAN. I will repeat to the Senator from Iowa, who was not present when I reported this bill, the explanation I then made to the Senate. This bill as referred to the Committee on Finance contained three sections. The first provided for an increase of the clerical force in addition to the present force of the Patent Office. The second section provided for a solicitor of patents, a new office, the similitude of which I believe is not in any of the Executive Departments. There is no solicitor to a bureau that I know of. There are solicitors for some of the Departments; but a solicitor for a bureau is a novel office. This is the first proposition to make one. The third section increased the compensation of the assistant examiners from \$1,800 to \$2,000. Their pay has already been increased, as I have stated, by the twenty per cent. joint resolution. The Committee on Finance are willing to give the increased force required, more examiners, more assistant examiners, and more second assistant examiners, but thought it was not proper now, at this stage of the session, to create the office of solicitor of the Patent Office and to increase the salaries of the assistant examiners. That is the question involved, and I trust the amendment will be agreed to. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. POMEROY. I hope we shall take the question on each section separately. I ask for a division of the question.

The PRESIDENT *pro tempore*. Then the question will first be on striking out the second section.

Mr. FESSENDEN. I suggest that if that section is to be adopted at all the officer ought to be appointed by the President by and with the advice and consent of the Senate.

The PRESIDENT *pro tempore*. Does the Senator move an amendment?

Mr. FESSENDEN. No, sir; I am opposed to the whole section.

Mr. FOWLER. I move to amend the section by making it read "the President, by and with the advice and consent of the Senate, is authorized to appoint," &c.

Mr. EDMUNDS. Let us vote first on striking out.

Mr. FESSENDEN. If the Senate refuse to strike out the section it can be amended afterward.

Mr. FOWLER. Very well; I withdraw my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Finance, to strike out the second section.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Buckalew, Cameron, Conkling, Conness, Davis, Dixon, Doolittle, Edmunds, Fessenden, Frelinghuysen, Harlan, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sherman, Stewart, Sumner, Tipton, Trumbull, Williams, Wilson, and Yates—26.

NAYS—Messrs. Cole, Corbett, Cragin, Drake, Fowler, Howard, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Sprague, Thayer, Van Winkle, Wade, and Willey—16.

ABSENT—Messrs. Anthony, Cattell, Chandler, Ferry, Grimes, Guthrie, Hendricks, Ramsey, Riddle, Ross, and Saulsbury—11.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The next amendment is to strike out the third section.

Mr. HARLAN. I doubt very much whether that ought to be stricken out. I think the point suggested by the Senator from Ohio can be obviated by a slight amendment, so as to make this increase of pay commence on the 1st day of next July, and then I am quite sure it is right. As I understand, the twenty per cent. allowed by a law of the last Congress applies to officers during the current fiscal year, which will terminate on the 30th of June. I therefore move to amend the third section by inserting in the proper place "from and after the 30th of June next."

Mr. SHERMAN. I trust that section will not be agreed to for another reason which I did not state before. This whole question of the salaries of public officers is a very difficult one. Now, the salaries have all been graded according to their rank. The assistant examiners in the Patent Office have been put on the grade of fourth-class clerks. If you change now the relative pay of any of these various employes, you make more dissatisfaction far than you give relief. I know that the examiners, who also claim an increase of pay, say that this would be a great injustice to them. They are men of experience, learned in the law; men who have practical experience in their department and are chiefs of their divisions. They get \$2,400, while the assistant examiners get \$1,800. These grades have all been fixed; and if you increase the pay of one you create dissatisfaction and discontent among the others. Several of the examiners have spoken to me about it already. They are all demanding a general increase. I trust the Senate will allow that question to go over until the next session, when Congress may settle the matter by a bill carefully prepared. To make a change now by detachments deranges the whole system. I think myself the disbursing officer of the Patent Office ought to get \$2,000 salary, because the disbursing clerks in the other departments and bureaus get that much; and if that stood by itself I should have no objection to that proposition, but I think it better to leave the whole matter to be provided for at the next session.

Mr. HARLAN. I withdraw my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Finance, to strike out the third section.

The amendment was agreed to.

Mr. HARLAN. I will suggest another amendment, which is verbal and yet I think somewhat important. As the bill now stands it provides "that the Commissioner of Patents is authorized from time to time to appoint," &c.



I think it would be much better to authorize the Secretary of the Interior to make these appointments.

Mr. WILLEY. I will say to the Senator that that is in point of fact the case now. The Commissioner of Patents is by this bill authorized "to appoint in the manner already provided for by law," that is, through the Secretary of the Interior.

Mr. HARLAN. This is now entirely anomalous. There is no other head of a bureau, I think, in any Department that is authorized to make appointments, and I think it is of doubtful constitutionality. Congress is authorized to confer the right to appoint inferior officers on the heads of Departments, but I think not on the heads of bureaus. My amendment will make uniformity and harmonize the bureau and the head of the Department, and place this bureau on the same basis with other bureaus in relation to the appointments of its subordinates. I therefore move the amendment to insert the words "the Secretary of the Interior on the nomination of" before the words "Commissioner of Patents."

Mr. FESSENDEN. Why want the Commissioner's nomination? Why not say simply the Secretary of the Interior shall appoint, as in other cases?

Mr. HARLAN. Then I modify the amendment by moving to strike out the words "Commissioner of Patents" and inserting "Secretary of the Interior."

Mr. SHERMAN. I can only say that the bill as it stands follows the language of former laws. All the other examiners have been appointed in that way, and I see no reason for a change unless some special cause can be assigned.

Mr. HARLAN. I am quite sure that if the Senator were at the head of a Department he would much prefer to have the bureaus under his supervision uniform in this respect.

Mr. WILLEY. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WILLEY. As I understand it, this amendment makes an innovation upon the constant usage of appointments in that Department, and it strikes me that the amendment would be most mischievous in its operations. It is to be presumed that the Commissioner of Patents is better qualified to judge of the qualifications of these officers than any other person, better qualified to judge of the character and of the qualifications of persons applying for appointments to these places. He understands what they have to do; he knows what qualifications are necessary to enable them to perform the duties which they will have to discharge. Why provide that these particular additional officers, these clerks and this additional force shall be appointed in a different manner from the clerks who have already been appointed in the Patent Office is what I cannot understand. Why should a few clerks in the Patent Office be appointed in one way while the majority of the clerks in that office are appointed in another way?

Mr. FESSENDEN. I should like to ask my friend from West Virginia a question. I am entirely indifferent how these officers are appointed, and I might agree with him that perhaps the head of the bureau could judge better as to the qualifications of the men; but as they are officers, is there not a constitutional difficulty in the way? Congress may by law vest the appointment of such inferior officers as it chooses in the head of a Department, but can the power of appointment be vested in the head of a bureau? That is the difficulty in my mind. If there is no constitutional difficulty in the way, and if the appointment has been heretofore made by the head of the bureau, it ought to be continued in the same way; but if there is a constitutional difficulty the whole thing ought to be altered.

Mr. WILLEY. What I contend for is that if there is a constitutional difficulty in the way it ought to apply to all the clerks in that department alike. Why a portion of them should

be appointed in one way and another portion of the officers of the same bureau should be appointed in another way, I cannot understand. The truth is that they are in effect appointed by the Secretary of the Interior as the law now stands. This officer, the Commissioner of Patents, it is presumed understands much better than the Secretary of the Interior can understand what kind of officers are best qualified to discharge the duties in his bureau. He designates the clerk that he wishes to assign to certain duties, and that clerk is appointed by and with the approval of the Secretary of the Interior, as I understand; so that any improper appointment cannot be made by the Commissioner of Patents. Every appointment must have the approval and the consent of the Secretary of the Interior before it is complete. It seems to me it is but a poor privilege to the head of a bureau, especially of the character of the Patent Office, that he should be permitted to designate the officer who is to discharge duties under him, while the Secretary of the Interior has the control of the appointment of the officers, as he has had of all officers in that bureau. It must be done with the approval of the Secretary of the Interior. The duties of these officers are peculiar. They are not like the duties of many other bureaus in that Department. It requires peculiar qualifications and skill, and knowledge of a certain character of business.

Mr. FESSENDEN. I would suggest to the Senator, then, to restore the words suggested originally by the Senator from Iowa, "appointed by the Secretary of the Interior on the nomination of the Commissioner of Patents." That would obviate the difficulty and give the Commissioner the selection, and I suppose that is all that is necessary. But really I think there is a constitutional difficulty in the way of putting it in the form the bill stands.

Mr. WILLEY. The great objection I have to it is that it comes to about the same result at last; and you have the manner of appointment of officers in the same bureau put into confusion by appointing one portion of them in one way and another portion of them in another way. It seems to me that, if there be force in the suggestion of the honorable Senator from Maine, the whole law ought to be modified, and the manner of appointment ought to be uniform; and not designate certain officers under a certain juncture of circumstances who shall be appointed in one way, while other officers to fill vacancies in the appointments already made shall be appointed in another way. It strikes me that there is a peculiar fitness in the head of this bureau having the privilege of designating in the first place the officers who are to perform duties under him. It is not like any other branch or bureau in that Department. It is not like a bureau that requires nothing but clerical qualifications. It is a matter that requires skill sometimes in the appointees. It strikes me there is an impropriety and an injustice and a detriment to the service of that bureau by changing the manner of appointment of officers in it.

Mr. HARLAN. I do not consider this matter of sufficient importance to consume very much time; but I feel quite sure that the amendment suggested by me ought to be adopted. I differ in opinion with the Senator from West Virginia on the point which he has just made, that there is anything peculiar in this bureau distinguishing it materially in this respect from any other bureau. It is true that the head of the bureau may know sometimes more about the personal qualifications of an applicant for appointment than the Secretary of the Interior; but how can he know much more than the Secretary of the Interior of the qualifications of an applicant? It is very probable that in many cases the Secretary would know better than he would. After an individual may have been appointed and may have served for some months or years, it is possible that the head of the bureau may

know more of his relative qualifications than the Secretary; but that would be true of the Commissioner of the General Land Office or of the Pension Office or of any other bureau; and the head of the division would know more of the relative qualifications of a clerk than either of them, because his work would come immediately under the review of the head of the division. And so in the Patent Office, the board of examiners-in-chief would know more than the Commissioner of the qualification of those assistant examiners after they had served for some time. But I doubt very much whether Congress has the power to confer on the head of a bureau merely the right to make appointments. It is surely anomalous; and as it seems to me ought to be conferred on the Secretary of the Interior, the head of the Department. I know that no member of this body would serve as the head of any Department for any considerable length of time without desiring uniformity in this respect.

The Senator from West Virginia suggests that there would be incongruity between those hereafter to be appointed and those that are now in. I can see no evil that would grow out of this. Those that are now in the office are of course commissioned, and will serve until they die, resign, or are removed; and if a vacancy should occur in either way, then that vacancy would be filled under the existing law, and if the authority should be conferred on the Secretary of the Interior rather than the Commissioner of Patents, then it would apply equally to all appointments hereafter to be made; and this seems to have been the intention of the party who drafted this bill. It seems to be prospective in its operation, and provides "that the Commissioner of Patents is authorized from time to time to appoint in the manner already provided for by law," with the proviso at the close—

That the whole number of such additional examiners shall not exceed four of each class.

Mr. WILLEY. The Senator will perceive that this will be confined simply to the additional appointees here, the additional examiners. The provision is:

Such an additional number of principal examiners, first assistant examiners, and second assistant examiners, as may be required to transact the current business of the office with dispatch.

And then it provides that they shall not exceed four in each branch, so that it especially confines it to this excepted class; and a vacancy occurring, as I understand it, in a clerkship already existing, would be filled in the manner provided by law at this time, and not come under the operation of this act, if it should pass as proposed to be amended by the honorable Senator.

Mr. HARLAN. If there were any doubt as to the meaning of the phraseology of the bill, it could be easily corrected by striking out the word "additional" and make it uniform. I will not, however, consume more of the time of the Senate on the subject.

The question being taken by yeas and nays, resulted—yeas 18, nays 18; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Davis, Dixon, Doolittle, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Howe, Ramsey, Ross, Sprague, Sumner, Williams, and Yates—18.  
NAYS—Messrs. Cole, Conkling, Corbett, Howard, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Thayer, Tipton, Van Winkle, Wade, Willey, and Wilson—18.

ABSENT—Messrs. Anthony, Cattell, Conness, Cragin, Ferry, Fowler, Grimes, Guthrie, Henderson, Hendricks, Morgan, Morrill of Maine, Pomeroy, Riddle, Saulsbury, Stewart, and Trumbull—17.

So the amendment was rejected.

Mr. HARLAN. I offer the following amendment as an additional section:

And be it further enacted, That all officers and clerks hereafter appointed in the Patent Office shall be appointed by the Secretary of the Interior.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. It was read the third time, and passed.

On motion of Mr. SHERMAN, the title of the bill was amended by striking out the words "and for other purposes."

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had this day approved and signed the bill (S. No. 61) to provide for a district and a circuit court of the United States for the district of Nebraska, and for other purposes.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, returned, in accordance with the request of the Senate, the resolution of the Senate fixing the day for the adjournment of Congress.

The message also announced that the House had passed a concurrent resolution on the same subject, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 100) to amend an act changing the location of the capital of Montana Territory; and

A bill (H. R. No. 101) for the relief of John Perry.

#### SALE OF SHIPS TO BELLIGERENTS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 94.

Mr. WILSON. Reports from committees are in order, and I desire to make a report.

Mr. CHANDLER. Let this bill be taken up, and then I will give way.

Mr. CONNESS. I object to that.

Mr. WILSON. This will take but a moment.

The PRESIDENT *pro tempore*. The business is all under the control of the Senate.

Mr. CHANDLER. If the Senator will allow this bill to come up, I will then give way to allow him to make his report.

Mr. CONNESS. Several Senators have more or less morning business to present, and I hope the Senator will not move to take up anything until we get that disposed of, and then we can join with him to take up this bill.

Mr. CHANDLER. The morning hour has passed long since. It is half past two o'clock.

The PRESIDENT *pro tempore*. The business is all under the control of the Senate. The question is on the motion of the Senator from Michigan.

Mr. SUMNER. What is the bill that it is proposed to take up?

The SECRETARY. A bill (S. No. 94) declaratory of the law with regard to the sale of ships to friendly belligerents.

Mr. SUMNER. On the question of taking up that bill I desire to remind the Senate that it was only on Saturday, after some consideration, that the Senate refused to take it up. It was on that occasion that I made a statement which I do not desire now to repeat, but which, as the Senator is pressing his bill, I must repeat, that this bill, on a reference to the Committee on Foreign Relations was carefully considered, and that committee came to the conclusion that it was not best to proceed with its consideration at this time. Whatever may be the merits of the bill by itself at another moment, the committee was satisfied that it was not expedient to proceed with it now. I do not go into the reasons for that conclusion, and I could not without opening a very wide debate. Suffice it to say that the measure is intimately connected with the foreign policy of this Government, with pending negotiations, and I may also say with former legislation and decisions of the Supreme Court, to say nothing else of opinions of the Attorneys General of the United States. I think, therefore, that under the circumstances, unless the Senate is prepared now to enter into a very broad field of discussion, a part of which will be of a delicate character, they had better not take up the bill.

Mr. CHANDLER. Mr. President, as I stated the other day, the memorial upon which this bill is based was referred to the Committee on Commerce on the 9th of February. The memorial is signed by twenty-three of the heaviest shippers and merchants of the United States, headed by A. A. Low & Brothers, C. H. Marshall & Co., Grinnell, Minturn & Co., E. H. Morgan & Son, and Moses H. Grinnell. Perhaps there is more wealth and more business connected with the signers of that memorial than with any other equal number of names in the United States.

In accordance with the prayer of these memorialists, the Committee on Commerce, after careful consideration, reported a bill, a strictly mercantile bill. How this subject came before the Committee on Foreign Relations is to me a mystery. It does not belong there at all. It is intimately connected with the commercial relations of the nation, and not with its foreign relations. But, sir, I have met—not for the first time, but every time any subject has been started for the last four years connected with the real mercantile relations of the country—the ghost of the Alabama claims; and I have met that ghost so often that I am anxious it should be laid. I do not desire to see its form again.

Mr. President, I had something to do at an early day with these Alabama claims. As early as 1862 I advocated the pressure of those claims to final settlement. On the 14th of December, 1864, while Sherman was on his march to the sea, and before he had reached the sea, the Committee on the Conduct of the War, of which I was a member, was ordered to make an investigation concerning the army of the Potomac. While making that investigation I had an interview with General Grant, who had just heard from General Sherman. One of his aids had visited General Sherman, although he had not yet reached the sea. I asked General Grant whether there was any doubt about capturing Savannah. He said, "Not the slightest." Said I, "How long will it take after the capture of Savannah to capture Charleston and Wilmington, provided there is an immediate necessity for their capture?" General Grant replied, "It is a mere question of expediency when we shall capture those towns; at present we have a Navy with nothing else to do but guard them; if we guard those towns with our Navy we compel the enemy to keep garrisons in them; if we capture them we ourselves must furnish garrisons; but in case of emergency I could capture those towns in thirty days." "Well," said I, "we have now seven hundred ships-of-war in commission, with fifty-four thousand sailors; in case those three cities on the Atlantic coast were captured, what further need have you for vessels-of-war?" He replied, "Very little; we should require a few vessels-of-war in the Gulf to watch the Texas coast, and a few along the Atlantic coast; but very few indeed." Said I, "Is it not true, then, that we should have five or six hundred ships-of-war in commission, armed, provisioned, and ready for immediate use, that could be assembled in ten days at any point designated?" Said he, "Certainly we could, and those five or six hundred ships-of-war could be spared."

Sir, it was with that knowledge, a knowledge which I could not then state, that on the 14th day of December, 1864, I offered two resolutions to the Senate. The first was recommending the enlistment of an Army corps to watch the Canadian frontiers. Expeditions were being fitted out all along the Canadian frontier, not to prey upon our commerce, but to rob towns. That resolution was in these words—this was on the 14th of December, 1864, before Sherman had reached the sea:

"Whereas raids have been organized in the Canadas and Nova Scotia, and men enlisted in said British Provinces by men purporting to hold commissions from the rebels of the United States for the purpose of robbing and murdering peaceable citizens of the United States, of burning cities and villages, of piratically capturing merchant vessels and murdering

their crews, being a general system of murder, arson, robberies, and plunders of the peaceable and unarmed citizens of the United States; and whereas the people of the British Provinces seem disposed to protect these thieves, robbers, incendiaries, pirates, and murderers, not only in their individual capacity, but by the quibbles of the law: Therefore,

"Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of immediately enlisting an Army corps to watch and defend our territory bordering on the lakes and Canadian line from all hostile demonstrations."

Mr. President, I offered that resolution in good faith. I believed it to be our duty then to organize an Army corps for that purpose. When I made that proposition the objection to its consideration came from the same source that the objection to this present mercantile bill comes, to wit, from the Senator from Maryland, [Mr. JOHNSON.] I did not propose that that Army corps should watch all along our frontier. I intended that they should watch in Montreal and Quebec. Those were the places at which to watch to prevent depredations from Canada upon the peaceable citizens of the United States; and my word for it, if we had sent an Army corps there they would have watched from Quebec and Montreal, and we should have held indemnity, not only for the depredations of the Alabama, but for all the depredations committed by British subjects upon our peaceable citizens and upon our commerce. But, sir, that resolution was objected to, and on the following day it was referred to the Committee on Foreign Relations. I have never heard from the Committee on Foreign Relations on that subject from that day to this. There it has slept from that day to this.

On the same day I offered another resolution, which shared the same fate, in the following words:

"Whereas at the commencement of the present rebellion the United States were at peace with the Governments of the world, and upon terms of comity and good will with Great Britain; and whereas that nation, before the arrival on her soil of our minister accredited by the Administration of President Lincoln, precipitately acknowledged the rebels as belligerents, thus recognizing their flag upon the ocean, without which recognition it would have been regarded and treated as piratical by all other Powers; and whereas she then proclaimed perfect neutrality between a Republic with which she had entertained friendly relations for upward of half a century and its treasonable subjects; and whereas numbers of her subjects, with the knowledge of her Government, commenced fitting out British fast-sailing ships, loaded with munitions of war, for the purpose of running into our blockaded ports to the rebels, thus furnishing them the means of organizing and continuing the rebellion, and without which it could not have sustained itself six months; and whereas, in addition to the above, and with the knowledge of the Government, British subjects and members of Parliament engaged in the manufacture of piratical English ships, owned by British subjects, manned by British seamen, and sailing under British colors, for the purpose of burning, destroying, and utterly driving from the ocean all peaceful merchant vessels sailing under the United States flag; and whereas many private and unarmed American ships have been burned and destroyed by these pirates from British ports, thus causing great loss and damage to the citizens of the United States: Therefore,

"Resolved, That the Secretary of State be instructed immediately to make out a list of each ship and cargo thus destroyed, with a fair and separate valuation thereof, and interest thereon at the rate of six per cent. per annum from the date of capture or destruction to the date of presentation, and that he be directed to demand from the British Government payment in full for all ships and cargoes destroyed as aforesaid."

That resolution was likewise objected to by the Senator from Maryland, and on the following day was referred to the Committee on Foreign Relations; and there it has slept the sleep of death, knowing no waking.

But, sir, in process of time, and in his own time, the present Secretary of State did make a demand upon Great Britain, in an humble way, for compensation for the depredations of these British pirates; and I will read you the response that he received. He came not with five hundred ships-of-war and fifteen-inch columbiads aimed at the heart of the British empire, but he came, with his hat in his hand, and said, "If you please, will you pardon me for asking you to pay these little bills?" Well, sir, Great Britain did not please; but here is the response:

"FOREIGN OFFICE, December 2, 1865.

"Sir: I have to acknowledge the receipt of your letter of the 18th ultimo having reference to the

letter which my predecessor addressed to you on the 3d ultimo.

"There are many statements in your letter which I should be prepared to controvert if it were not that Her Majesty's Government consider that no advantage can result from prolonging the controversy," &c.

No good result can follow from prolonging this controversy in the opinion of Her Majesty's Government! Sir, did we hear from the Committee on Foreign Relations when that insult was offered to our Government after our flag had been insulted and almost driven from the ocean? No, sir, not a word was heard from the Committee on Foreign Relations; not even a protest.

In the mean time, sir, we went on and disbanded this fleet which was larger and stronger than all the fleets upon the earth besides our own. We had ships enough in commission at that moment that we could concentrate in ten days at any given point to have swept all the navies of the earth from the ocean. No nation was ever as well prepared to defy the universe on the ocean as was the United States at that day. But, sir, we went on and dismantled these ships-of-war; and then, after we had rendered ourselves vulnerable, the Secretary of State, with hat in hand, begged to be pardoned for asking the payment of these bills.

On the 15th of January, 1866, after we had disbanded our armies, dismantled our fleets, put our iron-clads out of commission, and were no longer in a position to demand payment at the cannon's mouth, I offered to the Senate the following resolution:

"Whereas by the recent publication of the diplomatic correspondence between this Government and the Government of Great Britain, we are fully advised that the last-named Government has refused to repair the damages inflicted upon our commerce by the agency of her subjects during the late rebellion; has declined to arbitrate the same, and, finally, further to treat upon the subject, thus exhausting all diplomatic resources, leaving to this nation but one alternative consistent with its honor: Therefore,

*Be it resolved by the Senate and House of Representatives in Congress assembled,* That the President of the United States is hereby requested to withdraw our minister from the Court of St. James, and make proclamation of national non-intercourse; which is hereby declared to take effect after such proclamation shall have been issued."

There, sir, was the only peaceful remedy left. "You have insulted us; you have injured us; you have done us all the injury in your power; now we simply declare non-intercourse until you, Great Britain, are prepared to do us justice." That was a peaceful remedy; and had that remedy been adopted our claims against Great Britain would have been paid within ninety days from the proclamation of non-intercourse. Had the demand been made on the 14th of December, 1864, they would have been paid, because it would have been understood that it meant "pay or fight." But, sir, that resolution went to the Committee on Foreign Relations, and there it has slept the sleep that knows no waking. Nothing was done.

Since that time France has taken the hint that this continent is not large enough for an empire, and has quietly withdrawn her troops. Sir, this North American continent has not land enough for an empire or even a viceroyalty. The United States of America needs all the land on the continent of North America, and the time will come, and at no distant day, when she will own it all. But, sir, these British Provinces have gone on year after year consolidating and preparing for a viceroyalty. I ask the chairman of the Committee on Foreign Relations if any protest against a viceroyalty, or the establishment of a kingdom on our northern frontier, has ever gone out from the Committee on Foreign Relations? If it has, I have never heard of any such protest. No, sir, not a word has been heard from the Committee on Foreign Relations on the subject.

And now, when I introduce a purely commercial bill from the Committee on Commerce, forsooth, it will complicate our foreign relations! How complicate them? Mr. President, I have heard enough of these Alabama claims. If Great Britain is satisfied with the manner in which those claims are left, so am I. The memorialists upon whose memorial this bill has been based are more interested in

the Alabama claims, and more interested in the commerce of this great nation, than any other equal number of men. I repeat, if Great Britain is contented with the position occupied by herself with regard to those Alabama claims, so am I. Those claims I was anxious to press in 1864. We were then borrowing money at the rate of \$1,000,000,000 a year, and \$30,000,000 was a matter of some little consequence. But, sir, since that time we have paid off between two hundred and three hundred millions of the national debt, and are now paying it off at the rate of \$150,000,000 a year, and we can afford to trust Great Britain for this little bill of \$30,000,000. Besides, the time is not far distant when we shall want to take a mortgage on certain land lying alongside of us, and this will be a very good claim to base the mortgage upon. If Great Britain is satisfied with her position, so am I. I do not want her to pay those Alabama claims at this time, and I do not want the ghost of those claims to come up to interfere with the legislation of this body now or at any future time.

Mr. President, we owe Great Britain no very large amount of good-will, in my judgment. In my youth I was educated to hate Great Britain. During the Revolutionary war she sent her Indian allies all along the Merrimac river, where I was born, to scalp men, women, and children, and she paid twenty dollars a scalp for babies. Then, again, she hired Hessians to come here and fight our ancestors. One of my ancestors was killed by those hired Hessians. During my early years I never was taught to entertain a very great love or affection for Great Britain. But in the process of time I was led to look upon her as our maternal parent, and you know the Bible says you must love your father and your mother. But, sir, that command is not imperative. There are circumstances where a child is not even bound to love, honor, or respect its mother. When her conduct has been such as to render her infamous before the world, neither the holy Scriptures, nor the laws of society, nor any other law, human or divine, demand of us that we should love, honor, or respect her.

Great Britain has ceased to command the respect of any nation on earth. She has ceased to be one of the first Powers of the earth. In the settlement of the German question was Great Britain invited in? Was her opinion asked? But now, forsooth, because I introduce a purely mercantile bill, (for if there ever was one introduced into this body this is one,) for fear it will offend Great Britain it must not be touched; for fear it will lead to some "delicate discussion" it must not be taken up.

Now, sir, what is this bill that I have introduced? It simply says to the citizens of the United States, "You may sell to belligerents with whom the United States Government is at peace ships, even ships-of-war, if you please," not to one, but to both belligerents. There is nothing unfriendly about it. The only reason for introducing this bill is that our citizens, as it has been construed, violate our own neutrality laws now by the sale of ships to belligerents. We have been in the habit of building ships-of-war for foreign Governments for the last twenty years. We have built several for Italy, several for Russia. During the Crimean war we held a Russian ship for months, and for aught I know for years, because England was at war with Russia. Under this bill our citizens may sell to Russia and to England; they may sell to Chili and to Spain; they may sell to any nation with whom the United States is on terms of friendly relations ships-of-war or any other ships.

Sir, I would go further than this, and that might perhaps go beyond the purely mercantile character of this bill. I would permit our citizens to manufacture arms for all the nations of the earth. It is well known that we manufacture a better breech-loader than any other nation on earth. Sharpe's rifle is a much better gun than the needle-gun. The Spencer rifle is a much better gun than the needle-gun.

Our cannon are better than those of any other nation. The heaviest broadside British gun is only a sixty-eight pounder, while we throw a fifteen-inch shot of five hundred and sixty pounds. I should be willing to furnish the world with these arms. Our position is such that we need not fear even the rebound of our own weapons.

Mr. SUMNER. Under the existing law we can furnish munitions of war.

Mr. CHANDLER. Well, sir, I want to furnish ships-of-war, too.

Now, Mr. President, in this bill introduced from the Committee on Commerce is this proviso:

*Provided, That the transaction is simply commercial, with no intent on the part of the seller or charterer to participate in any belligerent act, and that the vessel or steamer while in transitu is in no respect exempted from the law of contraband.*

We provide that the transaction shall be purely commercial, with no intention to take part in the war in which either of the belligerents is engaged.

Now, Mr. President, I hope the Senate will pass this bill, and pass it promptly. If the Senate will pass it this morning I think I may state that it will pass the House before its adjournment. It is a very important bill. Pass this bill, sir, and I will guaranty you that Great Britain will be begging for permission to pay the Alabama claims before three months. I do not want her to pay them. We can wait, as I said before. We can trust her as long as she can pay six per cent. interest. We are able to give her credit; but, sir, the bill must be paid. There is no discount on it. I want no further negotiations on the part of the present Secretary of State. Let him attend to the McCracken smelling correspondence. [Laughter.] It is all that he ought to undertake. It is up to his entire capacity. Let him not interfere with the Alabama claims. That is a subject beyond his comprehension. I want him to attend to his legitimate duties, but I do not want him to interfere with these claims. If he were to open a correspondence to-morrow with regard to the Alabama claims he would give them all away at the demand of the British Premier and thank him for having permitted him to do it. England has once refused even arbitration. Sir, when we make the next demand for the payment of the Alabama claims I want to make it at the cannon's mouth and with a fifteen-inch shell in the mouth of the cannon.

Mr. MORTON. As a member of the Committee on Foreign Relations I will say that this bill was before us, and I believe unanimously laid upon the table. I cannot agree with the Senator from Michigan that this is simply a question of commerce. It was not a question of commerce when we considered the depredations of the Alabama. It is a question involving the neutrality of nations, and one of the most important and delicate that could be presented. This bill proposes to legislate into a law the very wrong of which we complained in the Alabama case. Our Government took the ground in reference to the Alabama claims that it was a violation of the law of nations for a neutral to build or to furnish a ship-of-war to a belligerent. Mr. Adams, in his communication to Lord John Russell, planted himself fairly and squarely on that proposition. The English Government did not deny the proposition, but evaded the force of it by assuming that they were ignorant of the character of the Alabama. It is not worth our while to go into a discussion here to-day as to whether Mr. Adams assumed a correct position or not. It is enough for us to know that we have gone before the tribunal of the public opinion of the world upon the ground that it is a violation of the neutrality of nations to build or to furnish a ship-of-war to a belligerent; and if we were now to pass this bill we should stultify ourselves before the public opinion of the world.

Independent of the Alabama claims, we cannot afford to ingraft this principle upon the

law of nations. No nation that has a great commercial marine can afford to do it. It puts it in the power of any small nation, any inconsiderable nation with whom we might be at war, a South American republic that has no commercial marine at all, by going to England or to Europe and buying five or six ships-of-war, to destroy our commerce when they have none to destroy on their part. It would be a very comfortable doctrine for nations that have no commerce on the seas; but no nation that has a commerce on the seas can afford to submit to it. Four rebel cruisers destroyed nearly half of our commerce during the late war. If we should get into a war with Mexico, or any of the small South American republics, and they could get money enough to go to England and buy half a dozen iron-clads or fast sailing vessels, they could do us more injury in the way of destroying our commerce than the assessed value of the small South American Governments would be worth.

Sir, we cannot submit to this doctrine, independent of the proposition that we have placed ourselves upon the reverse position before the whole world. We have claimed that Great Britain violated the law of nations by permitting the Alabama and other ships to be fitted out in her ports as ships-of-war for the so-called confederate States. We have called upon her for compensation. She attempts to relieve herself from responsibility, not because it was not a violation of the law of nations, but because, as she alleges, she was ignorant of the character of the vessels that were fitted out. There were two ships-of-war building in French ports. We appealed to the French Government, and they were seized and prevented from sailing. Now, it is proposed that we shall enact this wrong, of which we have complained on the part of France and England, into a law, a principle of law, that would be fatal to our commerce in case of a war even with the smallest of nations.

Mr. WILSON. I hope that this motion will now be withdrawn. At any rate I desire the privilege of making a report on a little resolution which it is rather important to pass.

Mr. CHANDLER. I will ask for a vote on the motion to take up the bill.

Mr. WILSON. I think it will lead to debate. I ask unanimous consent to make a report.

Mr. CHANDLER. I have no objection to that.

The PRESIDENT *pro tempore*. If there be no objection the Chair will receive the report.

#### TRADERS AT MILITARY POSTS.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 35) to authorize the Commanding General of the Army to permit traders to remain at certain military posts, to report it back without amendment. It is a brief resolution for the accommodation of persons emigrating across the continent, and I should like to have it put upon its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Commanding General of the Army to permit a trading establishment to be maintained after the 1st of July, 1867, at any military post on the frontier not in the vicinity of any city or town, and situated at any point between the one hundredth meridian of longitude west from Greenwich and the eastern boundary of the State of California, when, in his judgment, such establishment is needed for the accommodation of emigrants, freighters, and other citizens; but after the commissary department is prepared to supply stores to soldiers as required by law, no trader permitted to remain at such post is to sell any goods kept by the commissary department to any enlisted man; and such traders are to be under protection and military control as camp followers.

Mr. WILSON. I desire simply to say that at the last session of Congress we passed a law abolishing sutlerships in the Army, which takes effect on the 1st day of July; but it appears there are military posts across the country where traders supply emigrants who go to California, Oregon, and the Territories. It is recommended by General Hancock that these persons, under the direction of the Commanding General of the Army, be permitted to continue their trade at such points as are thought necessary; and this resolution has been introduced for that purpose. It is simply an accommodation to the emigrants crossing the country.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior recommending an appropriation for fulfilling treaty stipulations with certain tribes; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 100) to amend an act changing the location of the capital of Montana Territory was read twice by its title, and referred to the Committee on Territories, and the bill (H. R. No. 101) for the relief of John Perry was read twice by its title, and referred to the Committee on Pensions.

#### BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 112) to incorporate the Lincoln Monument Association; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 113) chartering the Washington Homestead Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 49) to refer the claim of the trustees of A. G. Sloo to the Court of Claims; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### EXTENSION OF T. HYATT'S PATENT.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to report to the Senate copies of all papers connected with the extension of patent to Thaddeus Hyatt by authority of an act to extend the time of letters-patent issued to Thaddeus Hyatt, approved July 26, 1866.

#### UNION PACIFIC RAILWAY.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to report to the Senate the cause or causes for the suspension of work by the Union Pacific Railway Company, when the said suspension took place, and what legislation is necessary, if any, to secure the early completion of the Pacific railroad from Omaha westward.

#### INDIAN TERRITORY.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Indian Affairs be instructed to inquire into the expediency of removing such of the Indian tribes located in the several States and Territories as may give their assent thereto, and establishing the same in the Indian Territory so-called, and upon other suitable territory, any particularly to ascertain and report the situation, conditions, natural advantages, and adaptation of such Territory to the wants of said tribes as their future and permanent residence. Said committee may sit during the recess of the Senate, and shall have authority to summon witnesses and take testimony.

#### DISTRIBUTION OF SEEDS TO THE SOUTH.

Mr. CAMERON, from the Committee on

Agriculture, reported a joint resolution (S. R. No. 60) for the distribution of seeds to the people of the States lately in rebellion; which was read twice.

Mr. CAMERON. I ask for the present consideration of this joint resolution.

Mr. FESSENDEN. I object.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution will lie over under the rule.

Mr. FESSENDEN afterward said: I objected to the resolution reported by the Senator from Pennsylvania. I did not, perhaps, understand it exactly. I should like to have it read again. I do not want to interfere with its progress.

The Secretary read the joint resolution. It proposes to authorize the Commissioner of Agriculture to employ and use the sum of \$50,000, or so much thereof as he may deem necessary, out of the appropriations already made for his bureau, for the purchase and distribution to the people lately in rebellion of such seeds and plants as in his judgment may be useful or important to them.

Mr. FESSENDEN. That would authorize the Commissioner to expend for seeds for the rebellious States alone more than we have appropriated for seeds for the whole country.

Mr. CAMERON. The chief of the Agricultural Bureau tells me that he has the money in his hands which he can use for this purpose.

Mr. FESSENDEN. That must be a mistake. How can he have got it?

Mr. CAMERON. I have come back here so recently that I cannot tell how that is.

Mr. FESSENDEN. I think \$50,000 is considerably more than we have appropriated for the purchase of seeds for the whole Union. This resolution gives him leave to take that sum and apply it to these particular States. I move that the joint resolution be recommitted to the Committee on Agriculture, that they may look into it and see how the case stands.

The motion was agreed to.

#### COLORADO TERRITORIAL LEGISLATURE.

Mr. NYE, from the Committee on Territories, reported a bill (S. No. 114) amendatory of the organic act of Colorado Territory; which was read twice by its title.

Mr. NYE. I ask for the present consideration of the bill.

Mr. BUCKALEW. Let it be read for information.

The bill was read. It provides that hereafter the sessions of the Legislative Assembly of Colorado Territory shall be biennial, members of the Council to be elected for four years and of the House for two years, and they are to receive six dollars a day instead of three dollars, heretofore allowed. Each House of the Legislative Assembly, in addition to the officers now allowed by law, is to elect an enrolling clerk, who is to receive five dollars per day; and the chief clerk is to receive six dollars per day, and the other officers elected by the Legislature five dollars per day.

Mr. FESSENDEN. Where does that bill come from?

Mr. NYE. It comes from the Committee on Territories. It brings Colorado into harmonious action with the other Territories.

Mr. FESSENDEN. Do the members of the Legislative Assembly in all the Territories receive six dollars a day?

Mr. NYE. Yes; and they meet biennially. It costs the Government the same.

Mr. FESSENDEN. I thought it was fixed at three dollars.

Mr. NYE. It was fixed at three dollars when the sessions were annual.

Mr. BUCKALEW. I object to the present consideration of the bill.

The PRESIDENT *pro tempore*. It will lie over under the rule.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 83) making appropriations to supply deficiencies



in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes, with amendments, in which the concurrence of the Senate was requested.

The message also announced that the House had passed a joint resolution (H. R. No. 36) for the relief of George W. Ashburn, and a joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river; in which the concurrence of the Senate was requested.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 77) supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion," approved June 21, 1866;

A bill (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia;

A bill (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, and for other purposes;

A joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny;

A joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free, and for other purposes;

A joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States;

A joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee;

A joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature held at Santa Fé from the 3d day of December, 1866, to the 31st day of January, 1867; and

A joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department of the United States of America.

#### ADJOURNMENT OF CONGRESS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives:

*Resolved by the House of Representatives of the United States, (the Senate concurring.)* That the Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn the present session from the hour of twelve o'clock meridian of Thursday next, the 28th day of March instant, to assemble again on the first Wednesday in May, the first Wednesday in June, the first Wednesday in September, and the first Wednesday in November of this year, unless the President of the Senate *pro tempore* and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before the times herein fixed for assembling, declare that there is no occasion for the meeting of Congress at such time.

Mr. FESSENDEN. The resolution evidently needs a good deal of amendment. It seems we are to meet on the first Wednesday of May, and keep on in continuous session, adjourn again or do something, and meet on the first Wednesday of June, and so on. But, sir, there is a very serious question in my mind whether an arrangement such as that appears to be would be within our constitutional power, and I move it be referred to the Committee on the Judiciary to look into it.

Mr. TRUMBULL. Why not dispose of it now? I hope we are not going to agree to such a resolution as that.

Mr. FESSENDEN. I think it had better be referred at any rate.

The motion to refer was agreed to.

Mr. TRUMBULL. I believe the Senator from Massachusetts had the adjournment resolution which this body passed on Saturday last recalled from the House with a view to make a motion to reconsider.

The PRESIDENT *pro tempore*. There is on the table a communication from the House returning that resolution.

Mr. TRUMBULL. I hope the motion to reconsider will be called up and disposed of.

Mr. WILSON. I moved to reconsider the vote adopting that resolution, but as the House resolution has been referred to the Senator's own committee, perhaps they can arrange the matter satisfactorily and let it lie upon the table for the present. I simply want the motion to reconsider entered.

Mr. TRUMBULL. I hope we shall act on it now. If we do not reconsider, the question is settled so far as we are concerned.

The PRESIDENT *pro tempore*. The Senator from Massachusetts has made a motion to reconsider the vote adopting the resolution passed by the Senate on Saturday.

Mr. FESSENDEN. I suggest to my friend from Illinois whether it would be wise to act on that matter now, inasmuch as the House resolution has been referred to the Committee on the Judiciary. Would it be advisable to act on our resolution before that is considered by the committee? I think it had better lie on the table until we hear the report of the committee.

Mr. TRUMBULL. I think we had better act on the question of reconsideration, and that disposes of the whole subject if we decide against that motion. There is nothing to send to the committee about the question of adjournment. There is no question to investigate in the resolution which was passed by this body. Gentlemen seem to assume that the Senate is going to change its position. I do not know that it is. The Senator from Massachusetts proposes to change his, but it does not follow that the Senate will change its position. The Committee on the Judiciary want to know what the disposition of the Senate is. If the resolution we passed on Saturday is not to be reconsidered, but to stand as we passed it, it is perfect folly to spend time in seeing whether we can remodel the House resolution, or whether we can agree to it in committee as it is. The Senate has the whole question before it now, and I think we may as well have the yeas and nays on this motion to reconsider and settle the matter. If the Senate adheres to its action on Saturday, there is an end of the matter so far as we are at present concerned. If it refuses to adhere, that will be an indication that some other mode of adjourning is desired by the Senate.

Mr. FESSENDEN. The other House, by sending us a resolution different from ours, evidently seems to entertain a different idea, and I do not think it advisable by insisting upon our passing this resolution and sending it to them to force them to act upon it, and perhaps disagree to it, which might place us in such a predicament as that the President could take the matter into his own hands, and say that Congress should be adjourned to a certain time—proroguing us. That was the reason why I made the suggestion that I did. If the other House had not taken action I would agree with the Senator, that we had better settle the question of reconsideration and pass our original resolution at once; but inasmuch as the House of Representatives has sent to us a different proposition, I thought it wise to consider that before we proceeded to act definitely, and perhaps place ourselves in a situation of embarrassment.

Mr. TRUMBULL. The House of Representatives has not voted upon our resolution at all. It was recalled at the instance of the Senator from Massachusetts.

Mr. FESSENDEN. I did not say they had; I wish my friend to understand me; but they have sent us a different proposition.

Mr. TRUMBULL. The reason of that, I apprehend—if we were allowed to go into the reason of it—would be found to be because we withdrew our resolution and they acted under the misapprehension, as I think, that the Senate was not satisfied with its previous action.

Mr. FESSENDEN. That may be or may

not; but suppose we should send our resolution back to the House and they should disagree to it, we should then be at odds.

Mr. TRUMBULL. That would not be such a disagreement as the Senator referred to. If they modify our resolution, the Senate could concur in their action, and that would bring up the whole question.

Mr. CONNESS. I ask for the yeas and nays on the motion to reconsider, and let the Senate determine whether to adhere to its action or not.

Mr. SUMNER. It seems to me we are not now in a condition to proceed with the motion to reconsider. On the motion of the Senator from Maine, the House resolution has been referred to the Committee on the Judiciary. How can we proceed with this subject-matter unless we have that House resolution before us? It seems to me that we are not fair to the House, nor, I submit, fair to ourselves, if we proceed with this subject unless we have the whole matter before us. We ought to have our own proposition and the House proposition and between the two we may make a choice. The Senate has already voted to refer the House proposition to the Committee on the Judiciary, partly with a view to ascertain, I believe, the constitutional question which is supposed to be involved in that resolution. I am ready to await the report of that committee. When that comes in I shall be ready to consider the House proposition or to resume the consideration of the Senate resolution of Saturday; but until the report of that committee is received it seems to me that we are not in a condition to proceed with the question. I move that the Senate now proceed to the consideration of executive business. We all want to go into executive session.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, March 25, 1867.

The House met at twelve o'clock m. Prayer by Rev. B. F. MORRIS.

The Journal of Saturday was read and approved.

#### BILLS AND JOINT RESOLUTIONS.

The SPEAKER stated the first business in order to be the call of States for bills and joint resolutions for reference, and not to be brought back on a motion to reconsider.

#### JURISDICTION OF UNITED STATES COURTS.

Mr. POLAND introduced a bill providing for the jurisdiction of the courts of the United States in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### TIME FOR MEETING OF CONGRESS.

Mr. HOOPER, of Massachusetts, introduced a bill in regard to the meeting of Congress; which was read a first and second time, and referred to the Committee of the Whole on the state of the Union.

#### ORPHAN ASYLUM, CHARLESTON.

Mr. BUTLER introduced a bill to provide for the relief of the Orphan Asylum and orphans sustained thereby in Charleston, South Carolina; which was read a first and second time, and referred to the Committee on the Judiciary.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. BUTLER. I ask to present two petitions for the impeachment of the President.

The SPEAKER. That can be done under the rule.

W. H. WEAVER.

Mr. MILLER introduced a bill for the relief of W. H. Weaver, late captain company D, twelfth regiment Pennsylvania Reserve corps; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs when appointed.

## MRS. ELIZABETH DAVIS.

Mr. GETZ introduced a joint resolution relating to Mrs. Elizabeth Davis, widow of John Davis, deceased, late a master's mate; which was read a first and second time, and, with the accompanying papers, ordered to be referred to the Committee on Naval Affairs when appointed.

## REORGANIZATION OF THE JUDICIARY.

Mr. LAWRENCE, of Ohio, introduced a bill to reorganize the Judiciary of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## LINCOLN TERRITORY.

Mr. LAWRENCE, of Ohio, also introduced a bill to provide a temporary government for the Territory of Lincoln; which was read a first and second time, ordered to be printed, and referred to the Committee on the Territories when appointed.

## REPEAL OF PART OF AN ACT.

Mr. LAWRENCE, of Ohio, also introduced a bill to repeal part of an act therein named; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

## SOLDIER'S PAY, ETC.

Mr. LAWRENCE, of Ohio, also introduced a bill giving construction to the act of June 20, 1864, increasing the pay of soldiers of the Army, and the act of March 3, 1865, amending the several acts calling out the national forces and to limit the pay of officers' servants; which was read a first and second time, ordered to be printed, and referred to the Committee on Military Affairs when appointed.

## REDUCTION OF THE CURRENCY.

Mr. LAWRENCE, of Ohio, also introduced a bill relative to the reduction of the currency; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

## OHIO RIVER SHIP-CANAL.

Mr. EGGLESTON introduced a joint resolution providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes; which was read a first and second time, ordered to be printed, and referred to the Committee on Commerce when appointed.

## PUNISHMENT OF PERJURY.

Mr. KERR introduced a bill to require the administration of oaths in certain cases and to punish perjury in connection therewith; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## JAMES M. LATTA.

Mr. WILLIAMS, of Indiana, introduced a joint resolution for the relief of James M. Latta; which was read a first and second time, ordered to be printed, and referred to the Committee of Claims when appointed.

## PROPERTY OF MARRIED WOMEN IN DISTRICT.

Mr. NIBLACK introduced a bill concerning the property of married women in the District of Columbia; which was read a first and second time, ordered to be referred to the Committee for the District of Columbia when appointed, and also ordered to be printed in the Globe.

It is as follows:

An act concerning the property of married women in the District of Columbia.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the real estate of any married woman within the District of Columbia shall not be liable for the debts of her husband, but such real estate and the profits therefrom shall be her separate property as fully as if she were unmarried, and the separate deed of the husband shall convey no interest in the same: *Provided,* That such wife shall have no power to encumber or convey such real estate except by deed in which her husband shall join.

Sec. 2. *And be it further enacted,* That the personal property of any married woman within said District held by her at the time of her marriage, or acquired

by her during coverture by purchase, descent, devise, or gift, shall remain her own separate property in the same manner and to the same extent as her real estate so remaining. And on the death of the husband before the wife such personal property shall go to the wife, and on the death of the wife before the husband it shall be apportioned and distributed in the same manner as her real estate descends and is apportioned under similar circumstances within said District: *Provided,* That the assent of her husband shall not be necessary to enable such wife to encumber or sell such personal property.

Sec. 3. *And be it further enacted,* That all suits within said District relative to such separate property of the wife, whether real or personal, shall be prosecuted by or against the husband and wife jointly, or if they be separated, then in the name of the wife alone. And in case of such separate suit the husband shall not be liable for costs unless he be a defendant therein.

Sec. 4. *And be it further enacted,* That within said District the husband shall be liable for the debts and liabilities of the wife contracted or incurred before marriage to the extent of the personal property he may have received through her, or which he may derive from the sale or rent of her real estate, and no further; and the liability of the husband to the extent aforesaid shall not be extinguished by the death of the wife.

Sec. 5. *And be it further enacted,* That when any judgment within said District is rendered against a husband and wife for the tort of the wife or on account of any liability existing against her before her marriage, execution on such judgment shall be first levied on the separate property of such wife, if she have any.

## GEORGE W. LANE.

Mr. HOLMAN introduced a joint resolution for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

## MISSISSIPPI AND MICHIGAN CANAL.

Mr. INGERSOLL introduced a bill to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes; which was read a first and second time, ordered to be referred to the Committee on Roads and Canals when appointed, and printed.

## PAVING STREETS.

Mr. INGERSOLL also introduced a bill to authorize the pavement of a portion of Pennsylvania avenue and Fifteenth street west with the Nicholson pavement; which was read a first and second time, ordered to be referred to the Committee for the District of Columbia when appointed, and printed.

## POST OFFICE AT PEORIA.

Mr. INGERSOLL also introduced a joint resolution to provide for the erection of a building at Peoria, Illinois, for the accommodation of the post office and internal revenue offices; which was read a first and second time, ordered to be referred to the Committee on the Post Office and Post Roads when appointed, and printed.

## BUREAU OF INSURANCE.

Mr. PILE introduced a bill to establish a national bureau of insurance; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## NORTHERN PACIFIC RAILROAD.

Mr. FERRY introduced a joint resolution of the Legislature of Michigan, requesting the passage of an act securing the speedy construction of the Northern Pacific railroad and telegraph line; which was ordered to be referred to the Committee on the Pacific Railroad when appointed, and printed.

## ISLAND OF MACKINAW.

Mr. FERRY also introduced a joint resolution of the Legislature of Michigan, calling attention to the national importance of fortifying the island of Mackinaw, in the Sault Ste. Marie, and to establish a gunboat station in connection therewith; which was ordered to be referred to the Committee on Military Affairs when appointed, and printed.

## RAILROAD IN MICHIGAN.

Mr. FERRY also introduced a joint resolution of the Legislature of Michigan, asking for

an appropriation of land to aid in the construction of a railroad from Menomonee, in Menomonee county, to Houghton, in Houghton county; which was ordered to be referred to the Committee on the Public Lands when appointed, and printed.

## PENSIONS OF SOLDIERS OF 1812.

Mr. FERRY also introduced a joint resolution of the Legislature of Michigan, asking Congress to provide by law for a pension of eight dollars per month to survivors of the war of 1812 and widows of those who are dead, from April 1, 1865; which was ordered to be referred to the Committee on Invalid Pensions when appointed, and printed.

## PROTECTIVE TARIFF.

Mr. FERRY also introduced a joint resolution of the Legislature of Michigan, requesting the passage of an effective protective tariff on copper, iron, lumber, salt, flax, and wool; which was ordered to be referred to the Committee of Ways and Means when appointed, and printed.

## B. D. ALLEN AND COMPANY.

Mr. FERRY also introduced a bill to provide for the payment of B. D. Allen & Co., for services in carrying the United States mails; which was read a first and second time, and ordered to be referred to the Committee on the Post Office and Post Roads when appointed.

## HARBOR IN MICHIGAN.

Mr. UPSON introduced a joint resolution of the Legislature of Michigan, asking Congress for an appropriation to improve the harbor at the mouth of South Black river, Michigan; which was ordered to be referred to the Committee on Commerce when appointed, and printed.

## REGISTRATION OF VESSELS.

Mr. SCOFIELD introduced a joint resolution to authorize the Secretary of the Treasury to prescribe rules and regulations for the registration of certain vessels built for use on the western and southwestern lakes, upon the payment of internal revenue tax on the materials used in the construction of similar vessels of American build; which was read a first and second time, ordered to be referred to the Committee on Commerce when appointed, and printed.

## SOUTHERN MINNESOTA RAILROAD.

Mr. WASHBURN, of Wisconsin, introduced a bill to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river, and to establish a post route; which was read a first and second time, and ordered to be referred to the Committee on the Post Office and Post Roads when appointed.

## UNITED STATES MILITARY ROAD.

Mr. SAWYER presented the memorial of the Legislature of the State of Wisconsin for a branch extension of the United States military road between Fort Howard, in the State of Wisconsin, and Fort Wilkins, in the State of Michigan, from the village of Shawano to the village of Wausau; which was ordered to be printed, and referred to the Committee on the Public Lands when appointed.

## MISSISSIPPI RIVER AND LAKE MICHIGAN.

Mr. HOPKINS presented a memorial of the Legislature of the State of Wisconsin to Congress, in relation to the project of connecting by navigable channels through the Wisconsin, Fox, and Rock rivers, the waters of the Mississippi river and the waters of Lake Michigan; which was ordered to be printed, and to be referred to the Committee of Commerce when appointed.

## WASHINGTON TEMPERANCE SOCIETY.

Mr. PERHAM introduced a bill authorizing the Washington Temperance Society to issue certificates of stock without revenue stamps; which was read a first and second time, and ordered to be referred to the Committee of Ways and Means when appointed.

## RAILROADS IN DAKOTA

Mr. BURLEIGH introduced a bill granting land to aid in the construction of certain railroads in Dakota Territory; which was read a first and second time, and ordered to be referred to the Committee on Public Lands when appointed.

## ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories for bills and joint resolutions to be referred to their appropriate committees having been concluded, the next business in order is the call of States and Territories for resolutions. Under this call bills and joint resolutions can be offered. The call will commence with the State of Ohio, where the call rested on Monday last at the expiration of the morning hour.

## GEORGE W. ASHBURN.

Mr. ECKLEY introduced a preamble and joint resolution for the relief of George W. Ashburn; which was read a first and second time.

The preamble and joint resolution recite that George W. Ashburn seized certain property belonging to W. F. Stewart, in the State of Tennessee, which property was being used by the southern confederacy; that said property was afterward confiscated by the district court of the State of Tennessee under the provisions of the act of August 6, 1861, and was by the order of said court sold, and the proceeds of said sale placed in the Treasury of the United States, including the portion that belonged to Mr. Ashburn under the provisions of said act, which amount still remains in the Treasury.

The joint resolution directs the Secretary of the Treasury to pay to the said George W. Ashburn the sum of \$3,838 37, the amount belonging to him under said act, according to the decree of the said district court.

Mr. ECKLEY. I call the previous question.

Mr. SCOFIELD. As this bill contains an appropriation, it should go to the Committee of the Whole.

Mr. ECKLEY. I beg the gentleman from Pennsylvania [Mr. SCOFIELD] to withdraw his objection. This joint resolution was fully considered during the last Congress.

The SPEAKER. If this joint resolution gives rise to debate it must go over, unless the gentleman from Pennsylvania [Mr. SCOFIELD] insists upon his point of order, in which case it will be referred to the Committee of the Whole.

Mr. SCOFIELD. I would be very willing to withdraw my point of order if this joint resolution can be debated, so that we may know what it is. But I cannot vote for an appropriation bill without some explanation of what it is.

The SPEAKER. The joint resolution cannot be debated except by unanimous consent; and that unanimous consent cannot be asked during the morning hour on Monday. But if the point of order is insisted upon, then the joint resolution must go to the Committee of the Whole.

Mr. ECKLEY. Then I ask leave to withdraw the joint resolution.

No objection being made, the joint resolution was accordingly withdrawn.

Mr. ECKLEY subsequently introduced a joint resolution embracing the same provisions as that above stated; which was read a first and second time.

The question being on ordering the joint resolution to be engrossed and read a third time,

Mr. ECKLEY called for the previous question.

Mr. HOLMAN. I suppose this subject has never been before any committee of this House.

Mr. ECKLEY. Oh, yes; there has been a unanimous report from the Committee of Claims of the last Congress.

The previous question was seconded and the main question ordered, and under the operation

thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ECKLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## HOUSE RESTAURANT.

Mr. LAWRENCE, of Ohio. I submit the following:

*Resolved*, That in consideration of the change made in the privileges of the keeper of the House restaurant since proposals were made for the same, the Clerk be authorized to cancel the contract of William Smelt, and receive new bids for the privilege of keeping said restaurant.

I offer this resolution at the suggestion of my colleague, [Mr. SPALDING], who has been called from his seat. At the time the contract was let the keeper of the restaurant—

Mr. BENJAMIN. Is this resolution debatable?

The SPEAKER. If it gives rise to debate it will go over under the rule.

Mr. LAWRENCE, of Ohio. I do not wish to debate it. I call the previous question.

Mr. STEVENS, of Pennsylvania. The keeper of the restaurant himself desires this.

The question was upon seconding the call for the previous question; and being taken, upon a division there were—ayes 25, noes 29; no quorum voting.

Tellers were ordered; and Mr. LAWRENCE, of Ohio, and Mr. HAIGHT were appointed.

The House again divided; and the tellers reported that there were—ayes 55, noes 45.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the resolution was agreed to.

## ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles, when the Speaker signed the same:

An act (H. R. No. 72) to exempt wrapping-paper made from wood or corn-stalks from internal tax, and for other purposes;

A joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny;

An act (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia;

An act (S. No. 77) supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion," approved June 21, 1866;

A joint resolution (S. R. No. 16) for the relief of the destitute in the southern and southwestern States;

A joint resolution (S. R. No. 19) directing the Secretary of War to furnish certain arms and equipments to the State of Tennessee;

A joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature held at Santa Fé, from 3d day of December, 1866, to 31st day of January, 1867; and

A joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department of the United States of America.

## CLAIMS FROM INSURRECTIONARY STATES.

Mr. LAWRENCE, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

*Whereas* it is alleged that a claims commission of the War Department is now in session in Washington which has allowed to citizens of States lately in rebellion claims growing out of the destruction or appropriation of, or damages to, property by the Army of the United States, while engaged in suppressing the rebellion, some of which claims have been paid, all of which proceedings, according to the

uniform understanding previously in this Congress, are without authority of law: Therefore,

*Resolved*, That the Committee of Claims when appointed be and are instructed to ascertain whether such claims commission exists; the authority therefor; whether said commission has allowed any claim or claims without authority of law; whether, if so, they have been paid, and by what authority; whether any appropriation has been made therefor; and what law, if any, may be necessary or proper; and that said committee report by bill or otherwise.

## LIEUTENANT JOHN H. OSLER.

Mr. BINGHAM introduced a bill for the relief of Lieutenant John H. Osler, of Guernsey county, Ohio; which was read a first and second time, and ordered to be referred to the Committee on Military Affairs when appointed.

## MONTANA.

Mr. ASHLEY, of Ohio, introduced a joint resolution relative to certain acts of the Legislature of the Territory of Montana; which was read a first and second time.

Mr. ASHLEY, of Ohio. I ask that this resolution be put on its passage.

The joint resolution, which was read, provides that an act entitled "An act to change the location of the capital of the Territory of Montana, also the license, revenue, and Sunday laws of said Territory," passed at the last session of the Legislature of Montana, be excepted from the provisions of an act, passed at the last session of the Thirty-Ninth Congress, entitled "An act amendatory of an act to provide a temporary government for the Territory of Montana," approved May 26, 1864.

Mr. ASHLEY, of Ohio. I want to say that in the general bill providing—

Mr. HOLMAN. I object to debate.

Mr. ASHLEY, of Ohio. I will not occupy more than two or three minutes.

Mr. HOLMAN. I object.

Mr. ASHLEY, of Ohio. Then I call the previous question.

On seconding the call for the previous question there were—ayes 16, noes 25; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. ASHLEY, of Ohio, and Mr. BROOKS.

The House divided; and the tellers reported—ayes forty-six, noes not counted.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the joint resolution was ordered to be engrossed for a third reading; and was accordingly read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## WITHDRAWAL OF PAPERS.

Mr. WOODBRIDGE asked and obtained leave to withdraw from the files of the House the papers in the case of Hiram Slocum.

## PAY OF COMMITTEE CLERKS.

Mr. GARFIELD submitted the following resolution; on which he demanded the previous question:

*Resolved*, That the persons acting as clerks to the several committees of the House at the close of the Thirty-Ninth Congress shall receive pay at the same rate as heretofore during the present session.

On seconding the call for the previous question there were—ayes 40, noes 40; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. GARFIELD and LOAN.

The House divided; and the tellers reported—ayes 48, noes 49.

So the previous question was not seconded.

Mr. WARD. I rise to debate the resolution.

The SPEAKER. Debate arising, the resolution goes over under the rules.

## JOHN PERRY.

Mr. SPALDING. In order to accommodate my friend from Illinois [Mr. BAKER] I introduce a bill for the relief of John Perry. The bill was read a first and second time.

The bill, which was read at length, provides that the provisions of the act supplementary to the several acts relating to pensions, approved June 6, 1866, shall apply to John Perry, of Illinois, a pensioner by virtue of a special act approved March 3, 1859.

The bill was ordered to engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MEETING OF CONGRESS.

Mr. SCHENCK submitted the following resolution, on which he demanded the previous question:

*Resolved (by the House of Representatives of the United States, (the Senate concurring.) That the Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn the present session from the hour of twelve o'clock m. on Thursday next, the 28th day of March instant, to assemble again on the first Wednesday of May, the first Wednesday of June, the first Wednesday of September, and the first Wednesday of November of this year, unless the President pro tempore of the Senate and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before either of the times herein fixed for assembling, declare that there is no occasion for the meeting of Congress at such time.*

The House divided, and there were—ayes 66, noes 27.

The main question was then ordered to be now put.

Mr. ELDRIDGE demanded the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 30, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Buckland, Calkins, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Cullom, Donnelly, Briggs, Eckley, Eggleston, Eila, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Griswold, Hamilton, Hayes, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Ludd, Kelley, Kitchen, Koontz, William Lawrence, Loan, Logan, Lougbridge, Marvin, McCarthy, McClurg, Moreau, Miller, Moore, Morrill, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsey, Robertson, Sawyer, Schenck, Scofield, Spalding, Aaron F. Stevens, Thomas, Trowbridge, Twichell, Van Aorman, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—89.

NAYS—Messrs. Delos R. Ashley, Barnes, Brooks, Burr, Chanler, Coburn, Eldridge, Getz, Glossbrenner, Haight, Holman, Humphrey, Hunter, Kerr, Mallory, Marshall, Morrissey, Munger, Niblack, Nicholson, Noell, Pruyn, Randall, Robinson, Ross, Shanks, Stewart, Taffe, Van Aiken, and Van Trump—30.

NOT VOTING—Messrs. Archer, Baldwin, Boyer, Brownell, Broomall, Butler, Churchill, Cobb, Dawes, Denison, Dodge, Eliot, Fox, Halsey, Harding, Hill, Hulburd, Julian, Kelsey, Ketchum, Laffin, George V. Lawrence, Lincoln, Lynch, McCullough, Moorhead, Morgan, Phelps, Pike, Poland, Pomeroy, Price, Raun, Solye, Shellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stone, Taber, Taylor, Upson, William B. Washburn, Wood, and Woodbridge—45.

So the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 25) providing for the importation into the United States of certain works of art duty free, and for other purposes; when the Speaker signed the same.

#### WOOD AND KING.

Mr. TAFTE asked and obtained unanimous consent for the withdrawal from the files of the House of the papers in the case of Wood & King.

#### HENRY A. SMYTHE.

The SPEAKER stated that he had been requested to lay the following letter before the House.

The Clerk read as follows:

WASHINGTON, March 25, 1867.

SIR: In the important matter now pending in that honorable body over which you preside, involving as it does my private and my official character, I respectfully request that by some proper order or resolution of the House I may be permitted to appear with counsel to produce and examine witnesses before the Committee on Public Expenditures charged with the continuation of the investigations in the New York custom-house, and of alleged misdemeanors in the administration of the office I now hold as "collector of customs at the port of New York."

And to that end I respectfully request that this memorial may be laid before the House.

Yours, with respect,

HENRY A. SMYTHE.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Mr. BINGHAM. I move that it be referred to the Committee on the Judiciary.

Mr. RANDALL. I move that the request be granted.

Mr. BINGHAM. I withdraw my motion.

Mr. FARNSWORTH. I make the point of order that as a memorial this must be referred under the rules in the usual way.

The SPEAKER. The Chair sustains the point of order.

Mr. RANDALL. Then I put it in the shape of a resolution.

#### ADJOURNMENT OF CONGRESS.

The SPEAKER stated that the business in order was the resolution submitted on Saturday in reference to the adjournment, on which the main question had been ordered.

Mr. BLAINE. In view of the action this morning I move that the resolution be laid on the table.

The motion was agreed to.

#### HENRY A. SMYTHE—AGAIN.

Mr. RANDALL. I now move that the prayer of Mr. Smythe be granted.

Mr. FARNSWORTH. I object.

Mr. RANDALL. I move to suspend the rules. It is only fair and right.

Mr. PRUYN. I ask to make a personal explanation in regard to this matter.

There was no objection.

Mr. PRUYN. Mr. Speaker, I rise to a question of privilege; and as I shall not probably again be in attendance at this session, I also ask leave to make a personal explanation. A few days since, when the discussion took place in this House in regard to the collector of New York and the New York custom-house, I made some remarks as to the collector and his appointment, and added a few words in the brief time allowed me as to the New York custom-house, its management, and influence. I not only avoided all personal charges, but, as the report in the Congressional Globe will show, spoke of the many excellent men, and men of high character, who had at different times held high positions in that office. I was then well aware, and had time allowed me would have alluded as I now gladly do to the fact, that a large number of persons of unimpeachable character and worth held subordinate appointments in the New York custom-house. They are not the persons who manage or direct its affairs. Nor did I in any way speak disparagingly of them. I have, however, received a letter from Hiram Barney, Esq., late collector of New York, a gentleman for whom I have a high regard, from which I infer that he has read a report of my remarks on the occasion alluded to in some newspaper which I have not seen, and in which I have been untruly represented as having made charges against the entire staff of the custom-house.

What I insisted upon was that the subordinates in the custom-house (as also in the Departments at Washington and in the civil service generally) should be appointed, not for political reasons, but after having been found qualified on a competitive examination; and that when reliable men are thus appointed they should not be interfered with in their politics any more than in their religion.

I have thought it proper, in view of the desire which Mr. Barney has expressed, to defend the New York custom-house against what he terms

the "wholesale denunciations (of it) which seem to be received with so much satisfaction in Congress," to place a copy of his letter in the hands of the chairman of the committee, [Mr. HULBURD,] with the hope that the committee will allow Mr. Barney the opportunity he asks for.

Mr. HULBURD. May I say a word?

The SPEAKER. Only by unanimous consent. Is there objection? The Chair hears none.

Mr. HULBURD. I wish merely to say, with reference to the motion of the gentleman from Pennsylvania, [Mr. RANDALL,] that I hope the House will vote down the proposition and let this matter go as it should to the Committee on Public Expenditures; and I venture to say if Mr. Smythe wishes an opportunity to be heard before that committee I have no doubt it will be accorded to him.

Mr. RANDALL. I submit my motion in the form of the following resolution:

*Resolved, That the request of Henry A. Smythe, now collector of the port of New York, asking the privilege and permission to appear by counsel before the Committee on Public Expenditures in defense of his conduct as collector, now being examined into by said committee, be granted.*

Mr. SPALDING. I think the gentleman had better leave it as the chairman of the committee has suggested. The committee will receive that evidence any how.

Mr. RANDALL. The committee did receive evidence and reported a part of it to this House. I want fair play.

The SPEAKER. The gentleman cannot debate it without unanimous consent. Is there objection? The Chair hears none.

Mr. GARFIELD. I would like to ask the gentleman whether Mr. Smythe has ever applied to the committee for a hearing before them.

Mr. RANDALL. No, sir; he has gone to a higher authority and asked the Speaker to allow him to be heard.

Mr. GARFIELD. It would seem from the language of the petition to be almost implied that Mr. Smythe had failed to get a hearing before the committee, and that he now appeals to the House to order a hearing. I would like to know of the chairman of the committee whether any such application has been made and refused by the committee.

Mr. RANDALL. The answer to that is the committee was not instituted as a committee for trial, but to inquire and take evidence; and now this gentleman asks that he may appear for the purpose of presenting his testimony and making his defense.

Mr. GARFIELD. I asked for information.

Mr. RANDALL. I think you have succeeded in receiving that information.

Mr. HULBURD. Allow me to say that neither the committee of the last Congress nor of the present have ever refused to hear Mr. Smythe or any witnesses he wished to produce before them, and I do not think they have any wish to do so now.

Mr. GARFIELD. If the committee had refused to hear Mr. Smythe I would go for the order.

Mr. RANDALL. What Mr. Smythe desires is that if he is tried he may be represented either personally or by counsel.

Mr. SCOFIELD. I wish to ask my colleague if it has ever been the custom of this House to allow parties who may be implicated by an investigation of a committee to appear before that committee with counsel for trial. My impression is, without being at all positive on the subject, that we appoint a committee to investigate a subject, acting somewhat like a grand jury, for the purpose of reporting the result of their investigation to the House, and that parties never appear before the committee with counsel and witnesses as if on trial. I would ask my colleague whether I am right as to the practice of the House.

Mr. RANDALL. I cannot answer that question. The gentleman perfectly well understands that the committee do not allow anybody, if they can help it, to appear in defense



of himself if they have a political object in view.

Mr. SCOTFIELD. My colleague is discussing something else. I am inquiring about the universal practice of all committees in this House.

Mr. BINGHAM. If the gentleman will allow me, I will answer the inquiry. I do not suppose it is the universal practice to prohibit parties appearing by counsel before committees, but I beg leave to say in a matter of inquiry touching the conduct of a former member of this House he did appear before a committee of the House by his counsel, and did cross-examine several witnesses.

Mr. SCOTFIELD. What committee was that?

Mr. BINGHAM. The Committee on the Judiciary.

Mr. RANDALL. I call for the vote on the motion to suspend the rules.

Mr. COVODE. I wish to suggest to the House that it is the province of Mr. Smythe now to bring witnesses before the Committee on Public Expenditures. But as there appears to be an effort making toward his impeachment, I do not think it is his province to appear before them by counsel. I would, therefore, suggest that he be permitted to bring his witnesses before the committee, and let the committee examine them.

Mr. HULBURD. I wish to say that it has been the invariable practice of the committee since I have been a member of it to allow any person interested to come before them and produce witnesses, and that will continue to be their practice unless the House shall otherwise order. But we have never allowed counsel to appear, and in this instance I would not feel at liberty to do it without instructions from the House.

Mr. STEVENS, of Pennsylvania. I should like to ask the chairman of the Committee on Public Expenditures [Mr. HULBURD] whether that committee are doing as they were ordered, proceeding forthwith to investigate with a view to impeachment. I had supposed that before this time they would have acted upon those instructions. If this man is innocent, then let the committee so report. I had supposed that before this time the committee would have reported articles of impeachment, or made an exculpatory report.

Mr. RANDALL. I would ask the gentleman what he, as chairman of the committee, has to fear in connection with the examination of this question, should Mr. Smythe be allowed to appear before that committee by counsel?

Mr. HULBURD. Nothing at all.

Mr. RANDALL. Then why not permit him to do so? Why stand up as a public investigator, and deny the privilege of a clean and thorough examination?

Mr. HULBURD. That privilege has never been yet accorded to any person.

Mr. RANDALL. Then the sooner we begin to do right the better.

Mr. HULBURD. If the House order it we will do so, and not otherwise.

Mr. RANDALL. I trust then the House will be driven to a sense of fairness, and grant the privilege Mr. Smythe asks.

Mr. BOYER. In addition to the case cited by the gentleman from Ohio, [Mr. BINGHAM,] where a party was allowed to appear before an investigating committee by counsel, I desire to say that I was a member of a committee of the Thirty-Ninth Congress, which was appointed to investigate a dispute between Mr. CONKLING and the Provost Marshal General, and they both, Mr. CONKLING and the Provost Marshal General, appeared before that committee with their counsel.

Mr. BANKS. I desire simply to say that this presents a question different from that presented by an ordinary investigation, in which any party who might be implicated would not have the right to appear before the committee by counsel. But here is an order of the House to investigate upon a distinct charge, upon evidence which has been published for a distinct purpose, and it appears to

me that if a party publicly implicated desires to appear before the committee with counsel he should be granted that permission. The committee have control of the matter, and can limit the extent to which that privilege shall be exercised. I hope the request will be granted.

Mr. WILLIAMS, of Pennsylvania. I hope this House will hesitate and ponder upon this question before it establishes a precedent of this sort. The direction which the House has given to the Committee on Public Expenditures is to inquire with reference to the impeachment of the party implicated. Now, are we to hold that there shall be two trials, one in this House, or before one of its committees, and another in the Senate, should articles of impeachment be found? The case referred to by my friend from Ohio [Mr. BINGHAM] bears no relation to this case. That was a case in which a member of Congress was concerned; and so was the one referred to by my colleague, [Mr. BOYER.] They were both of the same character, the jurisdiction being exclusively in this House. Now, if we change the whole practice in cases of this sort in the way asked then we shall have a trial in the first place here, and another trial in the second place in the Senate, should articles of impeachment be found.

Mr. RANDALL. If it is to result in impeachment, then the greater propriety of his having counsel.

Mr. WILLIAMS, of Pennsylvania. Has the gentleman ever heard of a case before a grand jury where the defendant was allowed to produce witnesses? All they look for is a *prima facie* or presumptive case.

Mr. RANDALL. A grand jury hears but one side; that is what I want to avoid here.

Mr. WILLIAMS, of Pennsylvania. I trust the House will hesitate before it establishes a precedent of this sort.

Mr. PRUYN. I understand that the gentleman from Pennsylvania [Mr. WILLIAMS] himself appeared as counsel before one of the committees of this House a few years ago in the case of Judge Irwin.

Mr. WILLIAMS, of Pennsylvania. I appeared on behalf of the prosecution in that case.

Mr. PRUYN. It does not matter on which side; it is a precedent.

Mr. COVODE. I have had considerable experience in investigations of this sort. I never allowed parties to appear by counsel except in one case; that was the case of Judge Black, then a member of Mr. Buchanan's Cabinet. He had counsel in a case in which he was indirectly interested. In no other case did I ever allow a counsel for the party charged to appear before the committee.

This committee, Mr. Speaker, is to some extent different from all others that we have before had in this House. It is to take action looking to the impeachment of Mr. Smythe, if there should appear sufficient ground for such a proceeding. It is the nature of a grand jury; and I deny that parties have a right to appear by counsel before a grand jury. The parties effected by an investigation in a committee may have a right to present their witnesses, but not to appear by counsel.

Mr. WOODBRIDGE. I ask leave to make a statement.

The SPEAKER. Is there any objection? There was no objection.

Mr. WOODBRIDGE. Mr. Speaker, it seems to me that according to all established precedent it is not proper that this resolution should be adopted. A committee of this House has been charged with the duty of making an investigation to see whether there is probable cause for recommending articles of impeachment against Mr. Smythe, collector of the port of New York. If this House should agree upon articles of impeachment they will go to the Senate, where the officer must have his trial. This committee is, I think, necessarily in the nature of a grand jury; and I do not believe that it is proper or precedent that counsel

for the accused should appear until the trial is had before the Senate.

Mr. ELDREDGE. I desire to ask the gentleman from Vermont [Mr. WOODBRIDGE] whether there is not a very clear and a very great difference between a grand jury and this committee? The grand jury that investigates criminal cases primarily is sworn to secrecy, and its proceedings are kept inviolate. This committee is reporting to the House, piecemeal, portions of the testimony, calculated to ruin utterly the character of this gentleman. Now, I am not his defender; but it seems to me that his request should be granted as a simple matter of justice. He is, as I understand it, an unprofessional man, a merchant, and desires to appear before the committee with some one competent to grasp and comprehend his case, some one capable of cross-examining the witnesses and presenting his case in its proper legal aspect before the committee. I wonder that the committee should object to this, unless its members desire—and I do not charge or believe that they do desire—to ruin utterly the character of this gentleman.

Mr. WOODBRIDGE. Now, Mr. Speaker, I have not the least desire to injure the character of Mr. Smythe, with whom I have not the pleasure of an acquaintance. I believe that the testimony before a committee of this kind is ordinarily kept secret; and that it would have been kept secret in this case if the reporter had not been bribed by this accused person, so that the testimony became public through his own act.

Now, sir, I say that the proceedings before this committee are analogous to those before a grand jury. The committee is not a court of any final jurisdiction. It is not a court that can try this person. Its duty is simply to examine the case and report to the House whether there is cause for further action. All that the committee can do is that which a grand jury does under the power conferred by general law. I think that if we should adopt this resolution the precedent would be a bad one. If this man is allowed to appear by counsel before this committee, then on all subsequent proceedings before committees, involving questions of this character, counsel may be allowed to appear.

Mr. COVODE. In the impeachment of the President, for instance.

Mr. WOODBRIDGE. Yes, sir; as the gentleman from Pennsylvania [Mr. COVODE] suggests, the President might ask to send counsel before the Judiciary Committee, who have under investigation the question of his impeachment. I am sure no gentleman on this floor will say it would be proper to grant that privilege to the President of the United States. The granting of the privilege proposed in this resolution is not in accordance with the general course of analogous proceedings. It would work mischief; while I cannot see that any injury would arise to this gentleman if he should be allowed only such privileges as are ordinarily extended on like circumstances.

Mr. BINGHAM. Mr. Speaker, I ask leave of the House to make a statement.

The SPEAKER. Is there any objection?

There was no objection.

Mr. BINGHAM. I beg leave to say that in this matter of impeachment there is no inquest known to the Constitution of the United States except the House of Representatives. No committee of the House of Representatives was ever an inquest either for impeachment or anything else. A committee in a case of this kind, in which a civil officer is charged with impeachable offenses, is simply a commission to take testimony to be reported to and considered by the House.

This being the case, it rests necessarily in the discretion of the House whether the officer charged shall be allowed to appear in person or by attorney before the committee and examine witnesses. If there be such circumstances in the case as make it improper in the judgment of the House to allow the investigation of this committee to be made public by the

admission to its chamber of the party accused in his own person or to appear by counsel, it is competent for the House to say so, and to act accordingly. But, sir, where the party is a subordinate officer of the Government, incapable in the nature of things of influencing the House or any of the members of its committees—if it be possible either could be influenced under any circumstances—I stand here to say it is simply an act of injustice and would be a reproach on the House to deny the humble petition of the party charged before our bar, and deny him the privilege of appearing by his counsel before your committee and examine witnesses. I was willing to refer the petition to the Committee on Public Expenditures, believing the committee would grant it or refer the question back to the House.

Mr. Speaker, I beg leave to say that the practice of the Congress of the United States on this subject is by no means uniform. It may be within the recollection of the honorable gentleman from Maryland [Mr. THOMAS] who sits to my right, if he were a member of Congress at the time, as I believe he was, when the investigation was made concerning the privileges of this House alleged to have been infringed by General Houston, of Texas, that the defendant was permitted to be present by counsel and to cross-examine in open House. Is not that so?

Mr. THOMAS. Yes, sir.

Mr. BINGHAM. And I beg leave to make a further remark. In the matter of the investigation of charges against a member of this House in the Thirty-Seventh Congress the party appeared, not only in person, as I recollect, but also by one of the most learned members of the Baltimore bar throughout the investigation. I beg leave to make the further remark. If gentleman will turn back to the published official reports of the Thirty-Fifth Congress they will discover in the matter of the investigation for the impeachment of Judge Watrous, a district judge of the United States for the district of Texas, that he appeared in the sessions of the committee throughout its examination, and cross-examined under the direction of his counsel, who was for some time the Attorney General of the United States.

Mr. WILLIAMS, of Pennsylvania. I wish to know whether, in the case of Watrous, to which the gentleman refers, any witnesses were produced on the part of the defense. When the gentleman from New York [Mr. PRYNN] referred to the case of Judge Irwin, where I was counsel, the facts had escaped my recollection. He was allowed to appear before the committee by counsel, but produced no witnesses, and no effort on his part was made to do so.

Mr. BINGHAM. I will answer the gentleman. I am not by any means satisfied from my recollection now, although I was in the Congress of the United States, but in the Thirty-Fifth Congress I was not a member of the Committee on the Judiciary. I remember the report of the committee and considered it carefully. I made some remarks on the subject in the House, and as it rests in my memory to-day, although I am by no means certain on the point, he did call independent testimony, and did examine witnesses in the committee. This matter can easily be ascertained. But that does not alter the question, because by making this instruction you leave the committee in full possession of their own judgment, and if they have any doubt about the propriety, as the organ of this House, of allowing adverse witnesses to be called on the motion of the accused, they themselves, according to the custom, will refer the question to the House, together with such suggestions as in their discretion they may see fit.

In making these remarks, Mr. Speaker, I beg leave to say I do not wish to be understood as intimating for a single moment I doubt the capacity of the committee to do full justice to the matter, or its willingness to do full justice, for I indicated my confidence in the committee by making a reference of the

memorial to it. But I did it under the impression that the committee would either of their own motion grant the petition or refer the question back to the House, with such reasons for or against the application of the petitioner as they might deem best. But, sir, as this question has been made here, not by the House, but upon that memorial, and in view of all that has transpired in the case, considering that the accused is a subordinate officer of the Government, I believe that it is due to ourselves and to justice and fair dealing to allow him to appear before the committee, to be heard either personally or by counsel, and I shall vote for the resolution.

Mr. COVODE. I ask leave to make a statement.

Mr. PILE. I object.

The question was put on the motion to suspend the rules, and there were—ayes 56, noes 25; no quorum voting.

The CHAIR ordered tellers; and appointed Messrs. WARD and RANDALL.

The House divided; and the tellers reported—ayes 61, noes 38; two thirds not voting in the affirmative.

Mr. RANDALL. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. HULBURD. I have no objection to the rules being suspended and the resolution being passed. I wanted simply the sense of the House on the subject. I have no personal objection.

The SPEAKER. Is there objection to the withdrawal of the motion?

Mr. WARD. I desire the question to be taken.

Mr. RANDALL. Is there any way in which I can accept the proposition of the chairman of the committee?

The SPEAKER. There is not; the House has been counted by tellers, and they have reported that two thirds have not voted in the affirmative.

Mr. RANDALL. Can I not withdraw the motion and make it over again?

The CHAIRMAN. There are many members who want the floor, and the Chair would very likely recognize another gentleman.

Mr. RANDALL. Then I will have to adhere to my motion.

The question was taken; and there were—yeas 80, nays 35, not voting 49; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Barnes, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Butler, Chandler, Churchill, Reader W. Clarke, Cornell, Denison, Donnelly, Eggleston, Eldridge, Ferriss, Ferry, Fields, Getz, Glossbrenner, Gravelly, Griswold, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Chester D. Hubbard, Humphrey, Hunter, Kerr, Ketcham, Koontz, Ladin, William Lawrence, Mallory, Marshall, Marvin, McCarthy, McCullough, Morrill, Morrissey, Munger, Myers, Newcomb, Niblack, Nicholson, O'Neill, Perham, Peters, Phelps, Pile, Prunn, Randall, Robertson, Robinson, Ross, Spalding, Stewart, Taber, Thomas, Twitchell, Van Auker, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, and Windom—80.

NAYS—Messrs. James M. Ashley, Beaman, Benjamin, Benton, Boutwell, Sidney Clarke, Cook, Covode, Eckley, Finney, Judd, Kelley, Kelsey, Lincoln, Logan, Loughbridge, McClurg, Mercier, Miller, Moore, Paine, Polsley, Sawyer, Scofield, Shanks, Smith, Thaddeus Stevens, Taft, Trowbridge, Upson, Robert T. Van Horn, Ward, Welker, Thomas Williams, and Woodbridge—35.

NOT VOTING—Messrs. Ames, Archer, Bromwell, Broomall, Cake, Cobb, Coburn, Cullum, Dawes, Dodge, Driggs, Ela, Eliot, Farnsworth, Fox, Garfield, Harding, Hooper, Hopkins, Asahel W. Hubbard, Halburd, Ingersoll, Julian, Kitchen, George V. Lawrence, Loan, Lynch, Moorhead, Morgan, Neill, Orth, Pike, Plants, Poland, Pomeroy, Price, Raum, Schenck, Selye, Shelbarger, Sitgreaves, Aaron F. Stevens, Stone, Taylor, Van Aernam, Van Wyck, William B. Washburn, Stephen F. Wilson, and Wood—49.

So (two thirds having voted in favor thereof) the rules were suspended.

The resolution was then adopted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. WOODBRIDGE, the pa-

pers in the case of the heirs of John E. Bouigny were withdrawn from the files of the House.

On motion of Mr. KERR, the papers in the case of Leonard Smith were withdrawn from the files.

On motion of Mr. BANKS, the papers of William Dorset, in the case of the French spoiliations, were withdrawn from the files.

LEAVE OF ABSENCE.

Mr. BEAMAN asked and obtained leave of absence for the residue of the session.

GOVERNMENT OF THE REBEL STATES.

Mr. WILSON, of Iowa, submitted the following privileged resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House of Representatives be directed to present to the Secretary of State the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," together with the certificates of the Clerk of the House of Representatives and Secretary of the Senate, showing that the said act was passed by the vote of two thirds of both Houses of Congress, after the objections of the President thereto had been received, and after the reconsideration of said act by both Houses in accordance with the Constitution.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DREDGING MOUTH OF MISSISSIPPI.

Mr. PILE. I ask unanimous consent to introduce for consideration at this time a joint resolution to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river.

Mr. COVODE. I object.

Mr. PILE. I will ask to have the joint resolution read for information, and then I will ask leave to make a short explanation.

The joint resolution was read at length. It authorizes the Secretary of War, on the recommendation of the engineer department, to build and operate two dredge-boats for the purpose of deepening and keeping open the channel of one or more of the passes at the mouth of the Mississippi, and to expend for that purpose so much as may be necessary of the present appropriations for the improvement of the mouth of the Mississippi river.

Mr. PILE. It will be seen that no appropriation is made by this joint resolution. It has been found by experience that the mouths of the Mississippi river cannot be opened and kept open by contract, as the law now requires the work to be done; for so soon as the work is done, and the contractor paid off, the mouths of the river are again filled up within a few weeks by the light sand brought down by the waters of the Mississippi. The engineer department says the only practical way of keeping the channels open is by the constant use of dredge-boats there. I hope the joint resolution will pass.

Mr. CHANLER. I must object, unless the resolution is so amended as to include the mouths of all the rivers on our coast.

Mr. PILE. I move that the rules be suspended to allow the introduction and consideration of the joint resolution at this time.

The motion to suspend the rules was agreed to; two thirds voting in the affirmative.

The joint resolution was introduced, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PILE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNEXPENDED MONEYS IN NAVY DEPARTMENT.

Mr. LOGAN. I ask unanimous consent to introduce for consideration at this time a joint resolution to cover into the Treasury of the United States unexpended moneys now in the control of the Navy Department.

Mr. BROOKS. Let it be read.

The joint resolution was read at length. It provides that the amounts of money not estimated for, and asked by the Navy Department, to be appropriated by Congress to the use of said Department for the fiscal year ending June 30, 1868, now under the control of the said Department, be, and the same are hereby, ordered to be covered into the Treasury of the United States, and thereby taken from the control of the said Navy Department.

Mr. BROOKS. I would like to know what this resolution really means.

Mr. LOGAN. The object of the resolution is to place in the Treasury of the United States moneys now in the control of the Navy Department, not asked for by the Department and not required by it.

Mr. BROOKS. Is not there now a general law to meet the case?

Mr. LOGAN. There is not. By referring to the report of the Secretary of the Navy, published at the last session of Congress, it will be seen that he reports as the total available resources of the Department for the fiscal year ending June 30, 1867, the sum of \$117,944,060 48. After estimating for certain purposes, the Secretary goes on to say:

"The large unexpended balance in the Treasury at the close of the last fiscal year is embraced in appropriations under more than one hundred different heads. Many of these are continuous, have been made for years, their expenditure will be protracted through years to come, and, though assisting to make up a large balance, cannot be dispensed with. There are large amounts, however, under the heads of 'construction,' 'steam engineering,' 'ordnance,' 'provisions and clothing,' and 'fuel,' which can with propriety revert to the Treasury. No appropriations under these heads were made for the current year, and for the ensuing year none are asked. In the course of time the appropriations would be exhausted, but it is not believed to be in accordance with sound public policy in time of peace to continue such large amounts at the disposal of the Department."

"Liberal appropriations for the naval service were made during the existence of the war, but the funds of the Department were always carefully and economically expended. This fact is attested by the numerous claims of contractors for relief now before Congress; and the result is that the Department is able to complete all the vessels and engines contracted for before the close of the war, and designate appropriations to the amount of about fifty million dollars that can be relinquished to the Treasury, or may be otherwise disposed of by Congress."

"It has heretofore been deemed essential to correct administration that there should be annual estimates for proposed expenditures and specific appropriations therefor after examination by Congress, and this Department has no desire to evade this annual scrutiny."

The Secretary of the Navy himself declares in his report that it would be proper to cover this money into the Treasury, so as to take it from under his control. It strikes me that the proper way of doing the business of the country would be to have this money placed in the Treasury, and then require the Department to make estimates for and ask Congress to appropriate such amounts as may be required to carry on the operations of the Department. No estimates are made and no money asked for by the Navy Department for the reason that the Secretary now has millions in his hands unexpended. It strikes me it is rather a novel way of doing business, at least not a very business-like way, to allow the sum of \$117,000,000 to be in the hands of the Navy Department, without any estimate for it or order by Congress in relation to the use to be made of it. I know that in ordinary transactions men of business would not act in that way, and it seems to me we should not allow any Department of this Government to carry on business in that way when we have the whole matter within our own control.

Mr. BROOKS. The statements and the theories of the gentleman from Illinois [Mr. LOGAN] are doubtless all very correct. But I am not satisfied that there does not now exist a general law—if not there ought to be one—throwing all these unexpended sums back into the Treasury. My own recollection is that there is such a general law now; and I would suggest, if there be doubts on the subject, that the law be made general, not particular.

Mr. LOGAN. Well, sir, I should be glad if there were a law of that kind; but if there is,

I have been unable to find it. The Secretary of the Navy does not understand that there is such a law. If there is a law of the kind it would obviate any necessity for the action which I now propose. I find the Secretary of the Navy saying in his report:

"It has heretofore been deemed essential to correct administration that there should be annual estimates for proposed expenditures and specific appropriations therefor after examination by Congress, and this Department has no desire to evade this annual scrutiny."

This would certainly leave the impression on the mind of any one reading it that there is no law requiring him to pay this money into the Treasury. He certainly does not understand that there is such a law.

Mr. BROOKS. I believe the law is that balances remaining unexpended for two years go back into the Treasury.

Mr. STEVENS, of Pennsylvania. I think there is a very old law requiring that all balances not expended within a certain time shall go back to the Treasury. I do not think that law has ever been repealed.

Mr. LOGAN. If there is such a law applying in this case, the Secretary of the Navy must be very ignorant in reference to the law; for he says:

"As several of the bureaus will have unexpended appropriations, which will be ample for some time to come, they have made no estimates for the fiscal year ending June 30, 1868."

Mr. WILSON, of Iowa. I think that the law to which the gentleman from Pennsylvania refers relates only to appropriations. Balances of appropriations remaining unexpended for two years are covered again into the Treasury. The \$98,000,000 to which the gentleman from Illinois refers has been received, as I understand, from the sale of property. It is not money appropriated by Congress; and hence I presume it would not come within the law to which the gentleman from Pennsylvania refers.

Mr. LOGAN. I will state in reference to that matter that the greater part of this amount of \$117,000,000 now in the hands of the Secretary of the Navy has never been appropriated by Congress, but has accrued in his hands by reason of the sale of property belonging to the Navy Department, which was ordered to be disposed of by resolution of Congress.

Mr. ALLISON. Do I understand the gentleman from Illinois to state that this sum of \$98,000,000 is now in the hands of the Secretary of the Navy, or that it is in the Treasury and is counted as a part of the balance in the Treasury?

Mr. LOGAN. I do not state that it is in the Treasury. I have no evidence of any such fact. The evidence I have from this report is that the money is in the hands of the Secretary of the Navy unappropriated and unexpended.

Mr. ALLISON. As I understand the fact, money arising from the sale of property in this way is uniformly paid into the Treasury of the United States, and is counted as a balance in the Treasury; and no Department of the Government, as I understand, can draw any money from the Treasury without a specific appropriation by Congress. If there is this \$98,000,000 or \$117,000,000 to the credit of the Navy Department, then not one dollar of that fund can be drawn except by requisition of the Secretary of the Navy and on specific appropriation by Congress.

Mr. VAN WYCK. Does not the Secretary of the Navy in his report state that the money which is referred to, or most of it, is derived from appropriations heretofore made under a hundred different heads, and not from the sale of property?

Mr. LOGAN. I will quote the language of the Secretary, which is as follows:

"The large unexpended balance in the Treasury at the close of the last fiscal year is embraced in appropriations under more than one hundred different heads. Many of these are continuous, have been made for years, their expenditure will be protracted through years to come, and, though assisting to make up a large balance, cannot be dispensed with. There are large amounts, however, under the heads of 'construction,' 'steam engineering,' 'ordnance,' 'provisions and clothing,' and 'fuel,' which can with propriety revert to the Treasury. No appropriations

under these heads were made for the current year, and for the ensuing year none are asked. In the course of time the appropriations would be exhausted, but it is not believed to be in accordance with sound public policy in time of peace to continue such large amounts at the disposal of the Department."

That is the language of the Secretary of the Navy. He says they can with propriety revert to the Treasury, but they never have reverted to the Treasury. They are not in the Treasury, but under the control of the Secretary of the Navy, and for that reason no appropriation under these heads has been asked for.

But my idea is this: they have no right to expend money except that appropriated by Congress, and when money accumulates in their hands it should be placed in the Treasury of the United States. When any of these Departments require money they should submit the proper estimates and await the regular appropriation by Congress.

Mr. VAN WYCK. I ask the gentleman from Illinois to accept an amendment, that not only the Navy Department, but all the other Departments having unexpended balances accruing before June, 1866, shall be required to cover them back into the Treasury of the United States. The ordnance department has a balance of \$18,000,000. They had \$16,000,000 more than that during the last year, which were expended without any estimates being submitted to the Congress of the United States, and this \$18,000,000 will be expended in precisely the same way on heavy guns, which have never been tested as to their capacity and endurance.

Mr. LOGAN. In reply to the gentleman from New York, I will say that my resolution already embraces the ordnance department of the Navy. It is specially referred to as having a portion of this unexpended balance in its hands, and my resolution comprises at least that part of the Navy Department.

Mr. STEVENS, of Pennsylvania. I do not know that I understand the report of the Secretary of the Navy. He sent for the current year an estimate for \$13,252,906 besides that for the Marine corps; and it was reported in the bill making appropriations for that arm of the service, and passed both branches of Congress. I do not see why, under the law, these unexpended balances have not gone into the surplus fund long ago.

Mr. LOGAN. Perhaps I have not been able to make myself understood in reference to this matter. I understand that the Secretary of the Navy declares first, that he has over ninety-eight million dollars of unexpended balances on hand; and then he further declares that he has so much more money which has accumulated in his hands from the sales of certain articles. He asks for an appropriation of \$18,000,000. He has over one hundred and seventeen million dollars in his hands. He will then have, after the appropriation of \$18,000,000, almost \$100,000,000 over and above the estimate submitted to Congress, and for which appropriation was asked for the Navy Department.

Mr. ALLISON. Do I understand the gentleman to claim that the Secretary of the Navy can use this money without the action of Congress?

Mr. LOGAN. He himself positively says that he can under the law. He says this money is in his hands unexpended, having thus accumulated under his control, and that it has not been taken from his control by any action of Congress. Not only so; he declares further in his report that the heads of different bureaus having these large amounts on hand, accumulated from the sale of property, they have for that reason made no application to Congress for appropriations for the fiscal year ending June 30, 1868. That is the reason he gives why they have asked for no appropriation. He says they have made no requisitions because they have large amounts on hand which he believes will last for several years. At least he understands that they can expend this money without any appropriation by Congress. My object

is that they shall be permitted to do no such thing; that they shall be permitted to expend no money except that which has been granted to them by direct appropriation by Congress.

By this resolution we cover the money into the Treasury Department, and if they require money for ordnance or for any of the bureaus of the Navy Department they must make their estimates and signify to Congress what they want it for, and then Congress can give it to them.

The SPEAKER. Is there objection to the consideration of the joint resolution? The Chair hears none.

The joint resolution was read a first, second, and third time.

Mr. BOYER. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. BOYER. Inasmuch as there may be some confusion introduced into the accounts if this resolution is passed, I move that it be referred to the Committee on Appropriations when appointed, in order that it may be brought up at some future time, when we may have a better opportunity to investigate the subject, as it seems to me it ought to be investigated.

Mr. LOGAN. Very well; I have presented the resolution in order to take the sense of the House upon it. If the House is willing that the Navy Department shall have \$117,000,000 it has a right to say so. But I say to gentlemen that the Secretary of the Navy in his report himself asks Congress to do just what I have asked it to do.

Mr. BOYER. I do not see that that is any reason why this should not be referred to the appropriate committee, and therefore I insist on the motion.

Mr. LAWRENCE, of Ohio. I suggest that it would be better to refer it to the Committee on Naval Affairs.

Mr. BOYER. I accept the suggestion.

Mr. LOGAN. There is no such committee.

Mr. LAWRENCE, of Ohio. When appointed there will be.

Mr. LOGAN. There may be no money left when that committee is appointed.

Mr. VAN WYCK. I ask consent to offer a substitute.

Mr. LOGAN. I will hear it read for information.

The substitute was read, as follows:

*Resolved by the Senate and House of Representatives, &c.* That all the appropriations to meet the disbursements of the War or Navy Departments, or any of the bureaus thereof, for or in aid of the suppression of the rebellion, made prior to June 30, 1866, unexpended, but liable to draft by any of the disbursing officers of either of those Departments at this date, shall be covered in the Treasury.

Mr. LOGAN. I cannot accept that. I call the previous question.

The previous question was seconded and the main question ordered.

The first question was on the motion of Mr. Boyer, to refer the resolution to the Committee on Naval Affairs when appointed; and being taken, it was disagreed to—ayes 24, noes 72.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AFFAIRS IN MARYLAND.

Mr. THOMAS. I ask unanimous consent to present two memorials for the purpose of having them printed. First, from members of the General Assembly of Maryland, asking the immediate consideration by Congress of the condition of public affairs in that State; and second, resolutions adopted by the Grand Union League of Maryland.

No objection being made, the memorials were ordered to be printed.

#### CONTINGENT APPROPRIATION OF THE SENATE.

Mr. STEVENS, of Pennsylvania. I move to take up from the Speaker's table Senate bill No. 83, making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes.

No objection being made, the bill was taken up, and read a first and second time.

The bill was read a third time.

Mr. STEVENS, of Pennsylvania. I move to amend by striking out all after the enacting clause of the second section, as follows:

That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed at the second session of the Thirty-Ninth Congress, shall not be construed to allow a greater compensation for the publication of the laws passed by Congress and executive proclamations and treaties in the papers of the District of Columbia than is provided by law for such publications in other papers.

And by inserting in lieu thereof the following:

"That so much of section seven of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as relates to the publication of the treaties and laws, be, and the same is hereby, extended to the States not therein designated, and to the Territories; and that it shall be the duty of the Secretary of State, upon receiving notice of the designation of newspapers under the act aforesaid and this section, promptly to furnish to said newspapers authentic copies of the treaties and laws of the United States to be published as aforesaid: *Provided*, It shall be lawful to print the laws and treaties of the United States as aforesaid in three newspapers in Louisiana.

And that the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated for the objects hereinafter expressed for the fiscal year ending the 30th of June, 1867, namely:

For stationery for the House of Representatives, \$9,000.

For newspapers, \$10,000.

For miscellaneous items, \$10,000.

And that there be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated for salaries of Commissioner of Education and his clerks, \$9,400; for furnishing offices and for stationery, \$6,000.

Mr. LAFLIN. I would ask the gentleman from Pennsylvania [Mr. STEVENS] if his amendment provides for the publication of the laws in the loyal States under the same rules and regulations which were provided at the last session for their publication in the disloyal States?

Mr. STEVENS, of Pennsylvania. It is the same provision which was passed by the House at this session and sent to the Senate, with this addition, that it directs the Secretary of State to furnish copies of the laws to be published.

Mr. LOGAN. Will the gentleman from Pennsylvania [Mr. STEVENS] permit me to offer an amendment to his amendment?

Mr. STEVENS, of Pennsylvania. I will hear it read.

Mr. LOGAN. I desire to insert after the proviso in the paragraph relating to the publication of the laws the following:

*And provided further*, That the Daily Morning Chronicle and Daily Evening Leader of the city of Washington are hereby designated as the two papers in which the advertisements mentioned in the tenth section of the above-recited act shall be published until otherwise ordered by Congress, any law to the contrary notwithstanding.

Mr. STEVENS, of Pennsylvania. That is a little too bald, I think. We have never named any papers in our laws.

Mr. LOGAN. By a resolution passed on the last night of the last session of the last Congress it was provided that the papers heretofore named by the Clerk should do certain printing.

Mr. STEVENS, of Pennsylvania. We passed a law by which the two papers in the District having the largest circulation should have the printing. If that gives the Star and the Chronicle the printing I do not propose myself to disturb the arrangement by naming a new paper in place of one of them, although I may prefer its politics. I prefer to leave the matter as it now stands.

Mr. BROOKS. In the noise and confusion here I am not quite certain that I understand

the object of the provision in relation to the printing of the laws. Is it to take from the Secretary of State and give to the Clerk of this House the selection of papers throughout the United States for the publication of the laws?

Mr. STEVENS, of Pennsylvania. Laws and treaties.

Mr. BROOKS. The publication of both laws and treaties?

Mr. STEVENS, of Pennsylvania. Yes, sir.

Mr. BROOKS. I do not know that I shall object to that, for I think it will bring the Clerk of the House of Representatives in collision with about two thirds of the Radical newspapers of the country.

Mr. STEVENS, of Pennsylvania. We will want a little hot blood during this summer. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. STEVENS, of Pennsylvania, was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GRADING CAPITOL GROUNDS.

Mr. STEVENS, of Pennsylvania. The other day I had ordered to be referred to the Committee on Appropriations a bill from the Senate, not thinking at the time that there was no such committee yet appointed. The Senate deem the passage of the bill important at this time. It is Senate bill No. 64, to provide in part for grading the public grounds, and for other purposes. It is an appropriation of \$20,000, and affects our comfort here. I ask that the motion to refer be reconsidered, and that it be again put upon the Speaker's table.

Mr. HOLMAN. If the bill contains an appropriation will it not have to be considered in Committee of the Whole?

Mr. STEVENS, of Pennsylvania. I do not ask that the bill be put upon its passage at this time; merely that it be placed upon the Speaker's table the same as if no order had been made in regard to its reference.

No objection was made, and the bill was accordingly again placed upon the Speaker's table.

#### PUBLIC SCHOOLS.

Mr. DONNELLY, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas "religion, morality, and knowledge are," in the language of Jefferson in the Ordinance of 1787, "necessary to the good government and the happiness of mankind," therefore schools and the means of education should be everywhere established; and whereas from various causes the interests of popular education have been so greatly neglected in the States lately in rebellion that nearly one half of the voting population therein are at the present time unable to read and write; and whereas such a state of things cannot long continue with safety to the nation or to the best interests, prosperity, and happiness of the people of those States: Therefore,

*Resolved*, That this House expresses its earnest hope that the people of the States lately in insurrection will, in reorganizing the same in accordance with existing laws for that purpose, insert in their respective State constitutions a provision requiring the Legislature to establish and maintain a system of free schools which shall afford adequate opportunity for public education to all the children of the State.

#### TESTIMONY AFFECTING A SENATOR.

Mr. ELDRIDGE. I ask unanimous consent to submit the following resolution, at the request of a Senator:

*Resolved*, That the Committee on Public Expenditures be, and is hereby, instructed to furnish to Senator PATTERSON a certified copy of the testimony given by David A. Hull, an officer of this House, before said committee in its investigations of the New York custom-house frauds.

Mr. HULBURD. I object.

Mr. BALDWIN, (at two o'clock and fifty-five minutes p. m.) I move that the House adjourn.

The motion was not agreed to.

#### CONTESTED ELECTION FROM UTAH TERRITORY.

The SPEAKER laid before the House a letter from William McGrorty to the Clerk of



the House of Representatives, announcing his intention to contest the right of Hon. WILLIAM H. HOOPER to a seat as a Delegate from Utah Territory; which was referred to the Committee of Elections, and ordered to be printed.

#### ADJOURNMENT OF CONGRESS.

The SPEAKER also laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES,  
March 25, 1867.

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate its resolution passed on the 23d instant fixing a day for the adjournment of Congress, and sent to the House for concurrence.

Attest: J. W. FORNEY, *Secretary*.

The SPEAKER. If there is no objection, the request of the Senate will be granted.

There was no objection, and it was

*Ordered*, That the Clerk return to the Senate, in accordance with its request, the resolution fixing the day for the adjournment of Congress.

#### LEAVE OF ABSENCE.

The SPEAKER asked indefinite leave of absence for Mr. WILSON, of Iowa.

Leave was granted.

Mr. LAWRENCE, of Ohio, asked indefinite leave of absence for Mr. SHELLABARGER.

Leave was granted.

#### WITHDRAWAL OF PAPERS.

Mr. SCHENCK asked and obtained leave to withdraw from the files of the House the memorial of Vice Admiral Porter in behalf of the widow and children of D. P. Heap, late a paymaster in the United States Army.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### BRIDGES.

The first business on the Speaker's table was a bill (S. No. 18) entitled "An act declaring a bridge to be constructed over the Missouri river at or near the town of St. Charles, and a bridge to be constructed over the Mississippi river at or near the city of Louisiana, in the State of Missouri, and a bridge to be constructed over the Missouri river, at or near Leavenworth, Kansas, to be legal structures and post roads;" which was read a first and second time.

Mr. BENJAMIN. I hope that this bill will be put upon its passage now.

Mr. HOLMAN. I move the reference of the bill to the Committee on the Post Office and Post Roads when appointed.

Mr. BENJAMIN. I hope the gentleman will withdraw that motion. It is very important that this bill should be passed at the present session.

Mr. LOAN. I desire to offer an amendment.

Mr. HOLMAN. I have no objection to withdrawing the motion to refer until the gentleman from Missouri shall have offered his amendment.

Mr. LOAN. I move to amend by adding at the end of section five the following:

*Provided*, That the company or parties building said bridge shall first obtain authority for the construction thereof from the States of Missouri and Kansas.

Mr. HOLMAN. I now move that the bill and amendment be referred to the Committee on Commerce when appointed. This seems to be a more appropriate committee than the Committee on the Post Office and Post Roads.

Mr. GRISWOLD. I hope the gentleman will withdraw that motion to allow me to offer an amendment, which is to add these words:

*Provided*, That such bridges shall not be a serious impediment to the navigation of the river.

Mr. ANDERSON. I think that is already in the bill.

The SPEAKER. Those words are in the bill.

Mr. HOLMAN. I call the previous question on the motion to refer.

The previous question was seconded and the main question ordered.

On the motion to refer there were—ayes 41, noes 40; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. BENJAMIN and HOLMAN.

The House divided; and the tellers reported—ayes 53, noes 35.

So the motion was agreed to; and the bill and pending amendment were ordered to be referred to the Committee on Commerce when appointed.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. LOAN. I ask unanimous consent that the following proposed amendment may be referred to the Committee on Commerce along with the bill just referred to that committee:

Add the following as a new section:

Sec. 6. *And be it further enacted*, That the St. Joseph and Denver City Railroad Company, a corporation organized under and by authority of the laws of the State of Kansas, its successors or assigns, is authorized and empowered to construct a bridge across the Missouri river at or within two miles of the corporate limits of the city of St. Joseph, Missouri, upon the same terms and conditions provided for in this act in relation to the bridges at St. Charles and Louisiana: *Provided*, That the consent of the State of Missouri shall be obtained before the work on said bridge is commenced.

There was no objection, and the amendment was ordered to be referred to the Committee on Commerce when appointed.

#### DIPLOMATIC COSTUME.

The next business on the Speaker's table was Senate joint resolution No. 39, concerning the uniform of persons in the diplomatic service of the United States; which was read a first and second time.

The joint resolution provides that all persons in the diplomatic service of the United States are prohibited from wearing any uniform or special costume not previously authorized by Congress.

Mr. BANKS. I move that the joint resolution be put upon its passage, and demand the previous question.

Mr. SCHENCK. I should like to hear from the chairman of the Committee on Foreign Affairs some reason for passing a resolution of that kind.

Mr. BANKS. Mr. Speaker, I think it is a question well understood, I am sure, by every member of this House. It prohibits the wearing of uniforms at the Courts of Europe or elsewhere by persons in the diplomatic service of the United States except that authorized by Congress. It is so clear a question that, in my judgment, argument in its support is not at all needed.

Mr. SPALDING. I think a citizen's dress which answers for a citizen in society in our own country ought to be good enough for any person in our diplomatic service at any foreign Court. I am opposed to any uniform or court dress being worn by any of our diplomatic representatives abroad. The resolution is a good one, and I hope it will pass.

Mr. BANKS. It is to require that the diplomatic representatives of this country at foreign Courts shall wear citizen's dress. Officers of the Army and Navy will of course be privileged to wear the uniform of their rank. I yield to the gentleman from Ohio.

Mr. SCHENCK. This resolution sounds very democratic. The provision, I believe, is simple and short, that no representative of our Government abroad shall wear a costume of any kind unless prescribed by Congress. As Congress has never prescribed any it means, if it means anything, that they shall wear none at all. [Laughter.] They shall wear, says my colleague, a citizen's dress. Will any gentleman tell me what is the citizen's dress of any citizen of the United States? The gentleman says it is a dress coat and a white cravat. I suppose he will also include white gloves.

I know an instance of a consul of the United

States, an excellent gentleman from Virginia, who came out under Mr. Marcy's administration, when I had the honor myself to be abroad. He represented to me that he was full of the idea of complying with the Democratic order which Mr. Marcy had just made, that our officers abroad should only appear in citizen's costume. He desired to appear at the Court of his Imperial Majesty of Brazil, and I told him that he would find it rather awkward to go in that way. However, I give an intimation to the minister of foreign affairs and it was arranged, although contrary to the etiquette of the Court, that he should go as he desired. He determined to wear a *chapeau claque* so as not to show what is never seen at Court, a big round hat. He put on what he supposed to be the dress intended by his Government, a black swallow-tail coat, white cravat, and white kid gloves. We were received in the ante-room. He was the only blackbird among the representatives of all the different nations who were there with their secretaries and with officers of the army and navy of the respective countries who sought to be presented. This American consul alone in this garb was seen finally by one of the chamberlains.

Mr. SPALDING. What did the gentleman wear himself?

Mr. SCHENCK. If my colleague is curious I will tell him presently.

I saw the chamberlain whispering to the French minister and pointing to this gentleman. The French minister came over after awhile and said to me, "Is he not the new American consul?" I told him that he was. He then said that the chamberlain had mistaken him for one of the servants who had intruded himself into the ante-room, [laughter,] it being understood that servants everywhere abroad dressed precisely in that style, with white cravat, black coat, and white gloves. I interposed with the chamberlain, going to him and giving the proper explanation, that it was according to the order of the minister of foreign affairs in case this consul should insist on being presented in that way. The consul went in. When we came out from the audience room, backing out in the usual way, I wanted him to pause in another ante-room and look around at the two hundred dignitaries of the church and Court, because he had probably never seen such an array, and it was a matter of interest to me as well as to him. "No," said he, "for God's sake let us get out of it. I feel like a fool. I know they are laughing at me, for I heard the Empress say something to her maids of honor, and I saw the grin on their faces. I am sure it was all about me. If God will forgive me, no matter what Mr. Marcy's order may be, I never will come to Court again, if I come at all, and make such a booby of myself by trying to look different from everybody else."

Mr. SPALDING. I would like to know what the gentleman wore?

Mr. SCHENCK. The gentleman wants to know what I wore.

Mr. SPALDING. I do.

Mr. SCHENCK. Well, I wore the ordinary court costume, which is a blue coat with an embroidered wreath around and upon the lapels and cuffs. I did it because I was unwilling to appear singular, and for the same reason that I would not go in my shirt-sleeves to a party here in the United States. I did it because I was unwilling to appear differently from the usage prevailing in the country where I was.

Now, the exception to this is, and they are always glad to see such exceptions, that persons who have filled military positions in the Army and Navy who go abroad are considered as completely *en règle*, for they wear the uniform to which they have been entitled as officers of the Army or Navy. This resolution I suppose is for the purpose of stripping anybody who may be sent abroad who is entitled to wear the Army and Navy costume. It certainly does that.

A MEMBER. Oh no, that is prescribed by Congress.

Mr. SCHENCK. That may be the uniform prescribed by Congress; it is not the uniform prescribed by Congress for persons abroad at Court. In our own country, in the Army and Navy, it might be considered as prescribed by Congress, but we have none whatever abroad.

Now, all I have to say is, it seems to me the Congress of the United States is dabbling in a very small matter when it insists that while it does not prescribe anything that shall be worn by our representatives abroad, those representatives shall be put under bonds not to wear anything which will prevent them from appearing singular when they go abroad. That is the whole of it. If Congress will prescribe a Court dress, no matter how much it may resemble, for instance, the suit of my friend who sits before me, [Mr. VAN HORN, of Missouri,] let it be complied with. But this resolution does not propose any such thing. It does not propose an American eagle on the collar, or a black coat or a blue coat or a plain coat or an embroidered coat; but it simply says they shall not wear any uniform whatever until Congress shall prescribe one. But it does not seem at all probable that Congress will prescribe one. Certainly this resolution does not propose to do it.

The truth is, in attempting to avoid making ourselves ridiculous we shall only succeed in making ourselves ridiculous. I know what the argument is. I know that it is said that the dignity of an American citizen should be his passport everywhere, and we are told to look at Benjamin Franklin, who went to the Court of France in the days of the greatest formality and ceremony in the public service, and wore a plain citizen's dress. But what was that dress? My friend from Massachusetts would present a most singular figure, I apprehend, with a plum-colored coat lined with white or colored satin, knee-breeches, and a three-cornered hat.

Mr. BANKS. If the gentleman will allow me, it was the citizen's dress of the State of Pennsylvania, honorable in that State to all men who were entitled to wear it, as Benjamin Franklin was; and any other costume than that which he wore would not have been a badge calculated to do credit to the one who wore it.

Mr. SCHENCK. Very well; if the chairman of the Committee on Foreign Affairs will amend his resolution so as to prescribe what shall be an American costume there will be something practical in it. But the trouble is it does not prescribe anything. You only say to the people abroad in their several Courts: "We defy you: we are democrats: this is a matter of usage and taste and not of law; but while we conform to usage in our own country, we expect when we go abroad to conform to our own usage there and not to yours. We are independent of all the world; we lay down the rule at home, and we lay down the rule with you; and we do not mean to depart from that which we regard as the true rule upon this subject, as democratic American citizens, wherever we may be."

Now, I hold that true politeness consists in complying, to a reasonable degree at least, so as not to appear singular, with the usages of the country, its courts and assemblies of every kind, where you may happen to be. If you do not do that, then you will have no rule at all. The bob-tail business coat, whether drab, or blue or green, any and every one, will be equally in order under the law you now propose to pass.

Mr. GARFIELD. They are hanging men and women in Ireland for

"Wearing of the green."

Mr. SCHENCK. It may be said that I am taking a very anti-democratic view of this subject. But I am taking the common-sense view, the one to avoid ridicule. And I say to the chairman of the Committee on Foreign Affairs and to this House that for a man to

go to a public assembly abroad, where a certain usage in regard to costume generally prevails, and to insist upon the singularity of wearing whatever he may have been accustomed to wear on his farm, in his shop, or his office, or at an evening party at home, and to refuse to conform to the rules and the usages of the country where he may happen to be, is to put himself in opposition to and to fight against laws, which, after all, are stronger than any law upon your statute-book, the laws of society. And I tell you he will feel, just as my friend from Virginia, the consul, felt, that he has made himself ridiculous by his affected singularity, and that the Secretary of State at home made a mistake; and with all his democracy, of which he so boasted, he will take care the next time he goes to Court to conform, at least to a reasonable extent, with the usages that prevail there, so as not to be laughed at; or he will stay away altogether.

And I say even more than that; I say, not to comply to a certain extent with the usages of a country to which a man may go as the representative of this country, little as it may seem proper that it should be so, is, to a certain extent, to impair his usefulness. I have known an American minister to be able to obtain concessions from a foreign Government, and to obtain an advantage of the ministers of two or three of the principal Powers of the world without any sacrifice of his own self-respect, but merely by yielding a little to the prejudices and usages of the country in relation to mere matters of social life.

The gentleman from Illinois, [Mr. JUDD,] who was at Berlin, I have no doubt can tell us something upon this subject. Perhaps the gentleman from Berlin has never worn a Court costume of any kind; I do not know how that may be. But he is a gentleman, I know, to be able to climb the ladder [laughter] of fame either in one dress or another. And I shall be happy to hear from him upon this subject. But before I yield the floor for that purpose I wish to say a word further.

Usages abroad are very different in this respect. As I understand some Courts are much more liberal than others. Some I know are very great sticklers for these apparently immaterial formalities and ceremonies. But whether all those formalities are to a very great degree dispensed with, as in our court at the other end of the avenue, or whether they stickle for them to a very great extent as they do in most of the Spanish and Portuguese Courts, in either case there may be something gained by conforming to some extent to those customs. Certainly there is a risk that something may be lost if we say to those countries, "We not only expect to control our own social matters at home, but when we go abroad we mean to let you people of old countries understand that we will defy all your customs and habits in this regard."

I now yield to the gentleman from Berlin, [Mr. JUDD,] with the permission of the gentleman from Massachusetts, [Mr. BANKS.]

Mr. JUDD. I do not quite like to be considered the Representative of Berlin upon this floor, because that might impose upon me the necessity of speaking in German. Now, my knowledge of German is not sufficient to enable me to make what might be called a great speech in it. [Laughter.]

There is some force in the argument of the gentleman from Ohio, [Mr. SCHENCK.] There is perhaps some little annoyance at times and under certain circumstances in being presented in society in a costume different from that worn by persons about us. But that very difficulty is incurred by every man from a foreign nation possessing a peculiar kind of costume. The Turk appears at a foreign Court in the costume he wears before his sovereign at home. The representative of the Greeks, even the ladies of some nations, appear in the peculiar costumes and head-dresses at foreign Courts that they wear at home. Each nation indicates to its diplomatic corps what costume

it desires them to wear when they officially represent their nation.

The difficulty in the practice of this Government has been that we have had no rule upon the subject; and each of our representatives abroad has been at liberty to put on any kind of togery (if I may use that expression) that he saw fit, whether his taste was good or bad. Mr. Marcy undertook to regulate this matter, under the pressure, as my friend from Ohio would say, of the public sentiment of the country; but he failed. He gave advice to our representatives abroad, but he issued no orders. Hence, it was left to each gentleman representing the country at a foreign Court to do as he pleased in this respect.

General Jackson, as I am told, undertook to prescribe a uniform by saying—and I do not know but instructions were issued—that a republican representative should appear in a black suit of clothes, with a sword in a scabbard at his side, a star on his breast, and a chapeau, indicating his republican position, and getting rid of all the tinsel that is sometimes put upon the shoulders of our representatives, with no meaning in it except as a show.

I believe, Mr. Speaker, it would be well if a uniform, simple in itself, but indicative of the character and citizenship of the representative, should be prescribed by Congress or by the State Department; but until this is done I am in favor of restricting our representatives abroad to a suit of clothes similar to that which they wear when presented to the head of their own Government. I cannot perceive the embarrassment which the gentleman from Ohio seems to think would grow out of this requirement. I know perfectly well that the servants in those royal palaces are, when dressed in black, among the best-dressed gentlemen in the country; and I know that not only at royal entertainments, but at entertainments in private families, where the uniform is not demanded, but where royalty attends, it is customary for Americans to appear in what would be called in this country an evening dress. And, Mr. Speaker, at the place where I had the honor to serve as a representative, if any gentleman had accompanied me clad in citizen's dress, although it might have attracted attention, yet I do not think it would have been the subject-matter of comment. All objection to such a dress would, I think, be removed were it understood at foreign Courts that the dress is worn by direction of the Government, not by the mere choice of the representative. Our representatives would then stand in a position precisely corresponding to that which the representatives of other Governments occupy upon this question.

Mr. Speaker, I am in favor of this resolution. I would not support it if, as apprehended by the gentleman from Ohio, it prevented gentlemen holding military positions from wearing their uniforms. It seems to me highly proper that they should do so. But I understand there is at present an act of Congress authorizing military officers to wear their uniforms upon such occasions, official or otherwise, as they deem proper. This resolution, as I understand, will not interfere with that privilege. I believe such of our diplomats as may have military honors will still have the privilege wherever they may be. The honorable chairman of the Committee on Foreign Affairs will correct me if I am mistaken.

I do hope, Mr. Speaker, that we shall pass this resolution. I do not think it beneath our dignity that by act of Congress or by the action of some official of the Government we should prescribe some insignia for our representatives abroad. The gentleman from Ohio indicated what it seemed to me would be a very proper insignia. It should be something indicative of our nationality, so that we may get rid of this surplus tinsel which has no meaning—these gewgaws which might be fit for a child to wear, but which do not speak well for our country or for the individual who wears them.

Mr. BANKS. I yield to the gentleman from Pennsylvania.

Mr. COVODE. I wish to offer an amendment.

Mr. BANKS. I will yield to hear the amendment read.

The Clerk read as follows:

*Resolved*, That all diplomatic agents shall not be permitted to wear any Court dress except such as shall be prescribed, and the pattern drawn and fashioned by the chief tailor of this nation, who is now presiding over its destinies.

[Great laughter.]

Mr. BANKS. I will accept the gentleman's amendment when he is willing to give that officer the supreme direction in all other affairs.

Mr. COVODE. I cannot agree to that.

Mr. NOELL. I ask leave to offer an amendment to the resolution.

The Clerk read as follows:

The uniform prescribed by this act shall be as follows: cocked hat looped up with the American eagle; swallow-tailed coat with the stars and stripes upon the tail, and the words marked in worsted, "Protective Tariff;" butternut pantaloons, closely fitting; yellow stockings with garters à la Franklin; round-toed shoes of the latest Lowell fashions; buckskin vest, one side black and the other white, indicative of no distinction on account of color; pinchbeck breastpin with inscription, "Economy is wealth."

The reading of the amendment was greeted with repeated peals of laughter.

Mr. BANKS. I cannot consent to that amendment being offered.

Mr. GRISWOLD. Is it in order to move to refer the resolution?

The SPEAKER. Not without the consent of the gentleman from Massachusetts while he is entitled to the floor.

Mr. BANKS. I yield now to the gentleman from New York.

Mr. PRUYN. I should like to have permission to submit the substitute which I send up to the Clerk's desk, and to say a few words on it:

*Resolved*, That the Secretary of State be, and he is hereby, authorized to prescribe such uniform for the use of the diplomatic representatives of the United States as he may deem proper.

Mr. SCHENCK. I hope the gentleman from Massachusetts will permit that to be offered.

Mr. BANKS. I cannot yield for that purpose.

Mr. BROOKS. I rise simply for the purpose of making an inquiry in order to guide my vote. If I understand the exception it allows every person who is or has been a military officer in this country to appear in Court costume or military dress when in a European court. Am I right?

Mr. BANKS. The resolution, as I understand, will allow the diplomatic representative of this country who has been in the Army or Navy of the United States to wear the uniform of his rank.

Mr. BROOKS. Does it mean actually serving in the Army at the time, a regular officer of the Army or Navy?

Mr. BANKS. If he has been a volunteer during the late rebellion he is entitled by the laws of his country wherever he goes to wear the uniform of the highest rank which he held. If he should be a diplomatic representative he will be entitled to wear that uniform abroad. If he is not, and has not been in the Army or Navy, he will of course not be entitled to wear the uniform of either.

Mr. BROOKS. If he has been a major general, a colonel, or lieutenant of militia called out during the last rebellion and in actual service he will, I understand, be entitled to wear his uniform.

Mr. BANKS. It only refers to those who are entitled to wear uniform under the act of Congress of 1866.

Mr. BROOKS. According the explanation of the gentleman from Massachusetts this becomes a matter of interest to gentlemen on both sides of the House who have not been military officers. As it now stands the disqualification will be large. There are all over the House some seven or eight major generals in the Army of the United States, and several colonels, but the large majority have been

neither colonels nor major generals; and in case of service abroad they would not be entitled to wear the uniform, the court dress of the Army. These gentlemen would be compelled to appear in plain citizen's dress. I submit, if the gentleman intends to press his resolution, that he should cut off all exceptions whatever, so that every citizen who goes as a minister to a foreign Court shall be required to appear in the dress of his country, whatever may be the fashion. It ought to have that bearing to carry out his purpose. I am opposed to any exclusive resolution in favor of military gentlemen who may happen to be on this floor or elsewhere.

Mr. PRUYN. Does the gentleman yield to me?

Mr. BANKS. I do.

Mr. PRUYN. I entered this Hall when the gentleman from Ohio, [Mr. SCHENCK,] late minister I believe to Brazil, was speaking on this subject. I myself very cordially concurred in those of his remarks which I heard, and following out the suggestion of the gentleman from Illinois, [Mr. Judd,] who admitted the propriety of some costume or some insignia for our foreign ministers, I drafted a brief amendment to the resolution, which I sent to the Chair for the purpose of presenting the views of the gentleman in a practical manner.

Now, sir, I am authorized in saying, from repeated visits to the other side of the Atlantic, that as a general thing our ministers abroad have behaved with very great good sense and commendable propriety in this matter, and that as a general thing they have attended the Courts of the sovereigns of the country to which they were accredited in plain costume such as gentlemen would wear here, that is with an evening dress such as the gentleman from Ohio [Mr. SCHENCK] has spoken of. But I agree with him, and with the gentleman from Illinois, [Mr. Judd,] that there are occasions when in this respect it is best for the interest of the country that our representatives should not be hampered by a rule of this kind.

What is this resolution? On its face it admits the propriety of a uniform. It only says it shall not be used or worn until Congress prescribes one. That is, the two Houses of Congress are to fix and settle the details of a dress to be worn by gentlemen three or five thousand miles from home. Now, I submit that that is not our province or duty, and we had better send it, as the gentleman from Illinois proposes, to the Executive or to the proper Department of the Government. If this resolution should say that until Congress acts the Secretary of State or the President may prescribe a uniform it would be very much improved. But it proceeds on the assumption that a uniform ought to be worn and that it is proper to have one, and still it does not prescribe one. It seems to me if we are going to meddle with the matter at all we had better see that some rule is adopted by which a uniform can be agreed upon and settled. It is with that view that I suggest that this should be referred to the Department of State, where it properly belongs; otherwise I hope it will be laid on the table.

Mr. BANKS. I yield to the gentleman from Ohio.

Mr. SCHENCK. It was my intention to move to refer this to the Committee on Foreign Affairs, and for that purpose I have reduced the motion to writing in these words:

That the resolution be referred to the Committee on Foreign Affairs with instructions to report a uniform to be worn by the representatives of the Government of the United States at foreign Courts.

My object was, inasmuch as this resolution proposes and does nothing, or worse than nothing, to try and get something done. But the gentleman from New York has anticipated substantially what I was going to propose by a reference. It can be done by an amendment directing the Secretary of State to recommend something instead of having the Committee on Foreign Affairs consider and report upon it. As I may not be able to get a vote on referring it to that committee, I shall therefore vote for

the motion of the gentleman from New York, [Mr. PRUYN.]

Mr. BANKS. I yield to the gentleman from Delaware.

Mr. NICHOLSON. I would suggest to the gentleman from Massachusetts to make an exception in favor of our diplomatic representatives to the Barbary States. This matter of ornament and display may be to us but a very trivial thing; but it is well known that with the Oriental nations it is regarded as of very essential importance. In order that our representatives should have a proper reception at the Court of the Bey it is necessary for them to wear a uniform of some description, and the more gorgeous its character the greater the impression it makes. And even in their ordinary intercourse with the people it is necessary; and they are in the habit of wearing some badge, such as a diplomatic cap, with a gold band and an eagle in front, to indicate the character in which they appear, in order to enable them to command proper respect, and even to secure them from violence.

Mr. BANKS. Mr. Speaker, this is not my resolution. I would not have proposed any change in this matter to the House of my own option. But it comes to us from the Senate. It has passed that body, and it has to be considered here. Of course we are to give it such consideration as the subject is entitled to, and there are many things to be said in its favor. I did not expect any objection would be made to a regulation so manifestly proper. I supposed it would be received here, as it has been received elsewhere, with instantaneous and general assent. The various propositions which have been suggested by way of amendment I accept as the best the opponents of the measure can offer.

With regard to what the gentleman from New York [Mr. Brooks] styles the discrimination in favor of the uniform of the Army and Navy of the United States I think this ought to be said: it may be a discrimination not acceptable to gentlemen on the other side of the House, but to a man entitled to wear it the privilege is of great value. It is a badge of honor. It shows he has served his country and periled his life in defense of its liberties, and that by order of his Government he is entitled to appear in it wherever he may be. If it is a discrimination in his favor, it is one which he has richly earned. If he is an officer of the Army or Navy, I conceive nothing can be more clear than that he should be entitled to wear the dress prescribed for him by the Government whenever he is assigned to other duties than those which lie in the exact line of his profession. Thus much in regard to the discrimination in favor of discharged volunteers or of officers of the Army and Navy to which the gentleman refers. It is in favor of the men only who defended the liberties of their country by their blood or at the peril of their lives.

The gentleman from Ohio [Mr. SCHENCK] has suggested that it is the duty of our diplomatic representatives to conform to some considerable extent to the customs of the country to which they may be accredited. That he styles the rule of politeness. Unquestionably when a man is in a country not his own, or when a citizen visits a circle where he is not of right privileged, he should conform to the customs of the country or the habits of the persons he visits. That is the rule of politeness. But it is not the law of business men; and diplomatic representatives go from this country to represent this Government at foreign Courts upon matters of business. He does not assume the character of the nation he visits; he represents his own. That is his business. No exception can be taken to it. In receiving a minister from this country every foreign Government recognizes and tolerates, where it does not interfere with its safety or its rights, the customs of the country represented. Any course of conduct on the part of our representatives that imposes a departure from our customs, and an adoption of those

of other countries, would be in the way of servility rather than civility, and ought not to be approved.

The gentleman from New York [Mr. PRUYN] has suggested that the Secretary of State should prescribe a uniform. Sir, that is the very idea that those who support this resolution are combating. We do not want these Court costumes; they do not belong to our Government; they are not required by any consideration of necessity, expediency, or propriety; they do not belong to our people; they are not accustomed to them, and therefore they should not be obliged to adopt them.

Mr. SCHENCK. When our ministers abroad are engaged in the transaction of business they dress as the gentleman from Massachusetts [Mr. BANKS] is now dressed. It is only upon occasions of ceremony that a different dress is required.

Mr. BANKS. The representation of this country upon occasions of ceremony is essentially and exclusively a matter of business. It is upon such occasions that we ought to be represented as we are, and not as we are not. The representatives of other Governments on such occasions wear the costumes of the countries by which they are accredited, and to which the higher class of people are accustomed. They are thus truly representatives of their respective nations. That is exactly what we should demand of our representatives. They should represent Americans according to the customs of their country. He will thus do for his own country what other diplomatic agents do for theirs. Diplomacy is not merely an affair of compliment or courtesy, but of substantial and serious business; and in the discharge of his duties he should appear as an American, and an American only, and in that costume to which an American is accustomed, which his countrymen would appreciate, in which he would appear if summoned before the representatives of the people, the Supreme Court or the Chief Executive Magistrate of the nation.

It has been suggested that the adoption of the customary Court costumes is necessary, because to set them aside would make men appear singular. Let me suppose a case: suppose the late President of the United States before he was elected to the high office in which he surrendered his life had been sent as a representative of this Government to the Court of St. James or any other foreign Court. As he came to us from the great West he was essentially and truly an American citizen, an American representative. Where is the man who for a single moment would have recommended that, in order to avoid the singular appearance which he would have presented in the customary costume of his whole life, and which was as natural to him as his movements or his person, he should have been put into Court costume not his own, and exhibited himself, for the first time in his life, in a bag wig, cocked hat, knee-breeches, silk stockings, and a sword at his side, with whatever else the custom of the larger or lesser Courts of Europe might require? In which garb would the world have best seen the natural man? In which would he to us have seemed most singular? Who of those he represented would have preferred to see him in this plight, in trumpery which he had never worn, which did not belong to him, which was never recognized by his Government, and which would make him appear to be anything else than what he was, or in that simple manly American dress which he has made his own as it was that of his country, and in which his form is to be transmitted to after ages? In which would he have been most at home? In which would he have been least singular? There cannot be a doubt that in the eyes of his countrymen, in the eyes of those who rightly appreciate the country he represented, it would be in that alone in which we knew him and loved him.

There have been many men at these receptions at foreign courts who in this respect have been "singular." Napoleon wore always the uniform of the consular guard, Abd-el-Kader

wore the dress of his country. Suppose that any man at any of those courts had mistaken Abd-el-Kader or Napoleon for a common man, of what account would that have been to them or the Governments they represented? And suppose that an American representing this country at the court of England or France or Austria should wear the dress in which he appears before the President or in Congress or the Supreme Court and should be mistaken by some chamberlain or subordinate officer for a man of no account. We may say that by and by, when accustomed to their costumes and acquainted with their history, and comprehending their future, they will know and understand American citizens better. They will not long nor often mistake them for servants, either of courts or of Governments not their own.

An American representative in the dress of an American citizen, at any of the Courts of Europe, represents this Government in matters of business. He stands in the costume of his country as of his time, as Franklin did of his country and of his time; and any man who mistakes him for a servant of anybody deludes himself and does us no damage. Turgot said, in France, in 1749, when inaugurated in an ecclesiastical office in France, at the age of twenty-two, that the day was near when the American States would achieve their independence of England and play before the world the great rôle which Carthage played in ancient history. If any man at any of the European Courts should ask, who is it that amid the throng of gilded courtiers appears in a simple suit of black, even with the white cravat, which so much alarms us? the answer is: that it is an American, representing a country which at a day not distant, with nobler purposes and a happier destiny, will play before the world the game which Carthage played in earlier ages.

I do not doubt that a dress distinctively American will cause some comments in the Courts of Europe. I do not doubt, sir, what has been so clearly stated by the gentleman from Ohio, that there are officers of other Governments who will smile at an American representative clad simply as an American citizen; and there may be men who will wilt under such rigorous treatment, and perhaps seek to withdraw not only from the circle of ceremony, but even from the service of the Government. But such men are not fit to be representatives of this country anywhere, either abroad or at home, now or at any time, in any costume either of courtiers or civilians. Mr. Speaker, it has been the custom in Europe for many years to deride America and things American. The rulers of Europe sneered at Washington; they sneered at the Provincial Congress; they sneered at the Declaration of Independence; they sneered at our form of Government; they predicted its failure; they rejoiced at the rebellion against its authority as the expected indication of its overthrow. They sneered again at the armies which we called into the service of the country and at that glorious man who represented the head of the Government during the great struggle. This was the constant manifestation of Europe; but we have outlived their derision. Every day we have grown stronger and stronger; and the day will soon come when we shall establish not only an American policy in the matter of dress at foreign Courts, but in all that appertains to the government of the great nations of the earth, giving Europe or Asia as much cause to complain of our ideas of continental administration and international law as it is now thought they may have in regard to the change of diplomatic dress proposed by the Senate.

The time will come when they will not sneer at us, and when any chamberlain or any other officer of any foreign Government or of any crowned head of Europe, seeing any representative of this country at his receptions dressed as an American gentleman should be dressed, bearing himself as an American gentleman should bear himself, will point out that man,

not as one discredited by the simplicity of his costume, but as one distinguished and honorable among the first representatives of the greatest nations; one who will speak hereafter for fifty or a hundred million people controlling the Atlantic ocean and the route to Europe on the one hand and the Pacific and the route to Asia on the other, occupying the continents between these two great seas, giving law to one hemisphere, but guiding the interests of both; a people to whom God gave liberty and the sense to preserve it. That will be the character borne by the man who truly represents the nation when it shall have fulfilled its destiny, and though bearing no insignia of rank, no title of nobility, wearing only that dress which every American wears in church, before the judicial tribunals, or in the presence of the ruler of his country.

I now demand the previous question.

Mr. SCHENCK. Does it not prohibit the wearing of any uniform? Does it not repeal the act of July, 1866, this being of a later date?

Mr. BANKS. I do not understand that it repeals that act. If there be a doubt on the question I am willing to agree to an amendment. I am aware there is an interpretation which would preclude the wearing of uniforms by officers of the Army and Navy under the act of 1866, but I do not so construe it. If I thought such would be the interpretation I would myself move an amendment.

Mr. LOGAN. My own impression is, without mentioning names, that this resolution has been introduced to prevent gentlemen wearing military uniforms who are not entitled to do so. I understand persons at foreign Courts have been in the habit of procuring military commissions from the Governors of States and then putting on military uniforms and wearing them as a Court dress. I think the Senate resolution is a proper one, and that it will hereafter cut off anything of the kind.

Mr. BANKS. No one will be allowed to wear a uniform unless he is entitled to wear it under act of Congress.

Mr. NICHOLSON. I hope the gentleman will let me offer the following proviso:

*Provided, That this prohibition shall not apply to our consuls in the Barbary States.*

Mr. BANKS. I cannot yield for that purpose. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading; and it was accordingly read the third time.

Mr. BANKS demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LONG ISLAND, BOSTON HARBOR.

The next business on the Speaker's table was Senate bill No. 63, to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes; which was read a first and second time.

The bill authorizes the Secretary of War to take possession of that portion of Long Island, in Boston harbor, Massachusetts, belonging to James T. Austin, for the purpose of erecting a fort and such other structures as may be needed for military purposes, and to pay for the same \$5,000, as agreed upon; provided that this sum shall not be paid until the Attorney General of the United States is satisfied that the title has been fully transferred to the United States free from all incumbrances, and that the person receiving the money is competent to act in the premises.

Mr. ROSS. I make the point of order that this bill makes an appropriation, and must, therefore, under the rules, have its first con-



sideration in the Committee of the Whole on the state of the Union.

Mr. HOOPER, of Massachusetts. Let me make a statement. This is land which has been purchased, but the party who owns it is not able to give a deed. I have here the indorsements of the head of the Engineer Bureau and of the Secretary of War. They both ask for the passage of this bill. If the Clerk will read the indorsement of General Humphreys I think it will be a sufficient explanation.

The SPEAKER. It is certainly an appropriation bill.

Mr. HOOPER, of Massachusetts. It is to be paid out of appropriations already made.

The SPEAKER. It does not so read. It says "pay for the same out of any moneys in the Treasury not otherwise appropriated."

Mr. HOOPER, of Massachusetts. Then I will move to strike that out.

The SPEAKER. That cannot be done yet.

Mr. HOOPER, of Massachusetts. I move to suspend the rules, and in the mean time I ask unanimous consent to have the letter of General Humphreys read.

No objection being made the letter was read, as follows:

ENGINEER DEPARTMENT,  
WASHINGTON, March 7, 1867.

SIR: The United States district attorney for Massachusetts, to whom was referred the question of title to the land which it is desired to purchase on Long Island Head, Boston harbor, for fortification purposes, represents through his assistant, Henry D. Hyde, Esq., that it is impracticable to obtain a title by purchase to that portion of the Head owned by James T. Austin, in consequence of the condition, physical and mental, of the owner, who is very aged and believed to be so unsound of mind as to be incapable of making a valid conveyance. He therefore recommends that application be made to Congress for the passage of an act authorizing the Secretary of War to take possession of the property under the right of eminent domain, paying for the same the sum which has been agreed upon between the United States and his son, Ivers J. Austin, who is his agent; thus securing the valid title which it is otherwise impracticable to obtain during the life time of James T. Austin, the present actual owner of the property.

Should you concur in this proposition, I would suggest that the matter be brought to the attention of the chairmen of the Military Committees of the Senate and House with a view to the enactment of the necessary law. A draft of an act, which it is supposed will effect the object, is herewith.

It should be observed that the action suggested in this matter is an entirely amicable one between the parties. Mr. Ivers J. Austin, as the representative of his father, is willing to sell to the United States for what, under the circumstances, is believed to be a fair price, and the Government is willing to pay that price on securing a valid title. Such title cannot, however, be had in the usual way; and hence this proposition, which is fully concurred in by Mr. Austin's representative, and which seems to me to be without objection on the part of the Government.

Mr. Hyde will, it is understood, make such explanations to Hon. Mr. WILSON, chairman of the Military Committee of the Senate, as will put him in possession of all the information necessary to a full understanding of the case.

Very respectfully, your obedient servant,  
A. A. HUMPHREYS,  
Brigadier General and Chief of Engineers, Major General of Volunteers.

Hon. E. M. STANTON, Secretary of War.

On the motion to suspend the rules, there were—ayes 58, noes 16; no quorum voting.

Mr. SCOFIELD. If the House adjourns now will this be the first business in the morning?

The SPEAKER. It will.

Mr. SCOFIELD. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: The petition of F. A. Herwig and 644 others, citizens of Ashland, Schuylkill county, Pennsylvania, praying Congress for a protective tariff, and urging immediate attention to the question of protection.

By Mr. MILLER: A petition from citizens of Botsford county, Virginia, asking for the passage of a law imposing the payment of the war debt, &c., upon active secessionists.

By Mr. SCHENCK: A petition of citizens of Portage county, Ohio, praying for the impeachment of the President of the United States.

#### IN SENATE.

TUESDAY, March 26, 1867.

Prayer by Rev. E. H. GRAY, D. D.  
The Secretary proceeded to read the Journal of yesterday.

Mr. BUCKALEW. I move to dispense with the further reading of the Journal.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. FESSENDEN. I believe I shall object. There is no quorum here. It had better be read.

The Secretary resumed and concluded the reading of the Journal.

#### PERSONAL EXPLANATION.

Mr. CONNESS. I rise to a matter of privilege. I notice in the Boston Journal printed a few days since a statement from the correspondent of that paper personal to myself, in which it is stated that after the present Congress I intend to retire from public life. If the correspondent had stopped there I would not of course have noticed what he has said; but he goes on to say that I propose entering upon the interesting and profitable business of engaging in making wine and brandy from grapes. How he got the information that I was going so to violate the principles of my friend from Massachusetts [Mr. WILSON] and those he so ably advocates I do not know. I only rise to correct that part of it, because I have recently and at all times since I have been here taken a great interest in relieving that class of industry from as I thought unnecessary and improper burdens, and to say that I never had, and never intend to have, any interest in it. I need not say to the Senate that I never have had any interest in any question that comes before a body that I am a member of.

#### MINT LAWS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 23d instant, information relative to a proposed change in the mint laws of the United States on the subject of refining gold and silver and public policies incident thereto.

Mr. CONNESS. I move that that communication be printed and referred to the Finance Committee; and also that five hundred additional copies be printed for the use of the Treasury Department.

The motion was agreed to.

#### UNION PACIFIC RAILROAD.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Department of the Interior:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., March 25, 1867.

SIR: In reply to a resolution adopted by the Senate this day directing the Secretary of the Interior "to report to the Senate the cause or causes for the suspension of work by the Union Pacific Railroad Company, when the said suspension took place, and what legislation is necessary, if any, to secure the early completion of the Pacific railroad from Omaha westward," I have the honor to state that this Department has not been advised of a suspension of work by the Union Pacific Railroad Company, and is not prepared to recommend legislation with a view to secure the object mentioned in the resolution.

I am, sir, very respectfully, your obedient servant,  
O. H. BROWNING, Secretary.  
Hon. B. F. WADE, President of the Senate of the United States.

Mr. CONNESS. I move to refer that communication to the Committee on the Pacific Railroad; and I desire to say that my information is, and I have no doubt of its correctness, that there has not been any work done upon that part of the Pacific railroad since the winter began. It is a matter of no little consequence to this country, which has appropriated so liberally for the construction of that great improvement, that any company engaged in its construction should cease operations at any season of the year. It cannot be alleged nor pleaded that because it is the season of winter therefore they cannot carry on operations. The Central Pacific railroad

of California, who are now engaged in making a part of this great thoroughfare, have had during the entire winter not less than twelve thousand men engaged at a point seven thousand feet above the sea, near the summit of the Sierra Nevada mountains, where the snows fall to great depth; and they have not ceased their labor during the winter season. They have indeed conducted their operations at great increased cost to themselves; but as they have been furnished by the Government with nearly enough to enable them to build the road they feel that they would be lacking in their duty to the public and to the Government if they should show a want of energy in carrying on the work with which they are charged.

I have recently had a communication from an agent of this Government, a very responsible and intelligent gentleman, who came to Omaha on the three hundred miles of road constructed, and at the end of the road, I cannot name the station, but the western terminus, he had to remain six days before he could travel eastward to Omaha upon the three hundred miles constructed of that road because of the want of a common order of energy in removing the snow from the track, they having no sufficient apparatus for performing that comparatively easy task. For six days he was detained there; and he tells me that there has not been a particle of work done upon the road through this entire winter; that they intend to resume operations when the sun grows warm in the late spring.

Now, we are told by the Interior Department, which is charged with the superintendence and direction of this work, that there is no knowledge in that Department of these facts, if they be facts. I call the attention of the honorable chairman of the Committee on the Pacific Railroad of this body to this state of facts: first, as alleged, that there is a total cessation of labor and has been for a length of time—

Mr. HOWARD. How long?

Mr. CONNESS. Since the winter began, and that there is not at this time, as the Secretary of the Interior reports, any knowledge in the Department as to whether they have ceased or not; and I beg his attention and the attention of his committee to this important subject.

Mr. POMEROY. I suppose there is nothing before the Senate particularly for discussion.

Mr. CONNESS. There is a motion to refer the communication to the Committee on the Pacific Railroad.

Mr. POMEROY. On that question I simply desire to say that I do not wish to draw any comparison between one company and another. The company on the Pacific have undoubtedly done exceedingly well. I never heard anything against them. As to this company, all I know about them is what I have heard and seen in the papers. I understand that they have built more miles of road during the year last past than were ever built by any company anywhere in any country within the same time. They did that without having any eastern connections by which they could get their iron on to the track. They had to take it up the circuitous windings of the Missouri river in a bad state of water. Working on the surface where a road is going a valley is a very different state of facts from what it would be if they were in the mountains making deep cuts. That work can be prosecuted in the winter; but where it is mere surface work, grading through the valley of the Platte, where the entire surface is frozen, with no deep cuts to excavate, it is almost impossible to pursue it through the winter.

I only make these remarks for the sake of saying that unless there is some state of facts that I do not know of any attack upon this company would seem to me to be entirely gratuitous.

Mr. CONNESS. I have made a simple statement of facts. The Senator from Kansas calls it an attack. I do not know why he uses that language. I believe the facts I have stated

are correct. If they shall not be found to be correct, I shall be most glad. But I call the attention of the Senator to the fact that the law allows that company to work for three hundred miles ahead of a continuous, completed line, and it is scarcely possible that they could not find some way to exercise their energy on that road during the winter months. In addition to that, they have had from 1864, when the second Pacific railroad bill was passed, until the present winter set in, during which to deposit their iron. I desire to call the attention of the Senator to those facts.

Mr. MORRILL, of Maine. I only take a general interest of course in this road; but the impression made on my mind, from the remarks of the Senator, is that the company are not doing their duty.

Mr. CONNESS. I think not.

Mr. MORRILL, of Maine. I understand that the direction of that road is not in the Government; that it is in the company, and the company has its rights by its charter. Now, whether they go fast or slow according to the judgment of my honorable friend from California is not the question; and although I should have very great confidence in what might be his judgment on a state of facts of which he had accurate knowledge, I will suggest to him it is rather a serious matter on a great work like this, in which the country feels so deep a solicitude, to arraign them before the Senate, for it is hardly less than an arraignment. To say that a company that has charge of so great a work as that are neglectful of their duty is at least to advertise the country that they are not sufficiently vigilant in the prosecution of a great work in which the whole country are interested.

I do not understand that the Government of the United States have anything to do with the execution or prosecution of that work so long as the company keeps itself within the provisions of its charter. There may be a pretty broad field for criticism outside perhaps of the actual duties which devolve upon these parties in the execution of this great work, outside of the exact provisions of their charter; but I will suggest to the honorable Senator that all that was purposely left to this company by the Government of the United States. That is a province of discretion which belongs to them and does not belong to the Government, and necessarily, because in the prosecution of such a work as this the Government could not foresee exactly the circumstances under which this company might be able to press it with vigor now and to suspend its operations at some other time. The criticism of my honorable friend may in one sense be true, that they do not go as fast as he could desire and as the public expects possibly, and it may be a very severe censure on them, and yet it may be as unjust a thing as my honorable friend could say in regard to those who have the charge of that work and the great enterprise itself. I am not saying it is so, but I am simply saying that when the Senator rises here and employs language with reference to this company which is to go to the country at large, and makes a statement in which he contrasts the lethargy or inaction of this company with the commendable energy of the company on the other end, he will see that he is in danger, if they are not very much in fault, of doing that company a very great injury.

Mr. CONNESS. Will the Senator permit me to say a word at this point?

Mr. MORRILL, of Maine. Certainly.

Mr. CONNESS. I made the contrast to show one point, and that is that such an elevation as placed the operations of one of these companies in deep snows was not a sufficient reason for a cessation of labor. That was what I confined myself to.

Mr. HOWARD. I will inquire what is immediately before the Senate?

The PRESIDENT *pro tempore*. The communication from the Secretary of the Interior will be read again, if it is desired.

Mr. HOWARD. What is the motion before the Senate?

The PRESIDENT *pro tempore*. The motion is to refer this communication to the Committee on the Pacific Railroad.

Mr. HOWARD. Of course I shall vote for that reference. I have but one word to say on this subject. The honorable Senator from California wishes me, as chairman of the Committee on the Pacific Railroad, to take notice of the fact, which he alleges, that there has been some dereliction on the part of the Union Pacific Railroad Company in the prosecution of their work during the past winter, and he alleges that there has been nothing done or very little done upon their route during or since the commencement of winter. I do not know how this may be. I have not been informed by any report or by any official communication upon the subject whether they have or have not been guilty of a stoppage of their work during the winter. I know this, however, from all sources of information which are to be relied upon, that that company have prosecuted their work with most commendable diligence and energy during the last year. I think when the facts shall be known to the country as they actually exist, there will be found no ground whatever of censure toward that company in reference to the prosecution of their work. From what I learn they have been remarkably energetic in that prosecution. In saying this I do not intend to disparage the California company, which has shown certainly an equal alacrity and an equal energy in the prosecution of their portion of the work. If the Union Pacific Railroad Company have seen fit to intermit their operations during the winter season, I think it is fair and reasonable to presume that there have been obstacles in the way which justified that intermission; and I would not be understood as casting any censure upon the company in this regard. On the other hand, I believe that the company are entitled to praise for their activity and the force and energy with which they have carried on the work.

But, sir, what can Congress do about it? The company are bound by their charter to complete the whole of this work within a given period of time, and their charter allows them to do it in their own way, subject to the restrictions contained in their charter; and I am not able to see, I confess, the propriety of attempting to launch any legislation here on the subject. If they are guilty of a breach of their charter there is a remedy well known to the law which can be enforced against them. They know it, and the world knows it; and if they commit a violation of their charter it is at their peril; so that every motive of private interest urges them to perform their work promptly, honestly, and well; and I believe from my own information that they are so doing at the present time.

Mr. HARLAN. I think it is due to the company constructing this road that I should say, in addition to what has been said by the chairman of the committee, that this company has not intermitted its work only so far forth as the character of the weather compelled it to do so. When the frosts set in in the early part of the winter, and the ground became so frozen that it became impossible for them to grade the shallow grading that was necessary to be done on the part of the work on which they were engaged, they stopped grading and putting down ties and rails; but they continued their work in the construction of machinery and in purchasing and shipping iron; and I have been informed by one of the officers of the company that they now have in possession and on the way to the line of this road enough iron to lay the track to the Laramie Plains, beyond the first bold ridge of the Rocky mountains, and are prepared to commence the work as soon as the frost is out of the ground, and put down the track at the rate of two miles a day, which will be something more than the work progressed during the last year, which has been properly said to be more rapidly than ever a railroad was constructed before. The company has built during the past year more

miles of road than the law required them to build during that period. They have therefore more than fulfilled their contract.

The Senator from California, however, has truthfully said that they might have been prosecuting the work probably on the deep cuts in the Rocky mountains; but they found, in looking at the legislation recently had by Congress on this subject, that they were cut off from the subsidy that they were entitled to under the original law. Under the original law they were able to go on ahead at any distance on the line of the road and prosecute the work and draw one half of the cost of the work from the Government; but during the last Congress, whether wisely or unwisely I am not prepared to say, that charter was so modified as to render it impossible for them to do this more than three hundred miles in advance of the completed terminus of the road. I believe it is about six hundred miles from Omaha to the foot of the Rocky mountains. They have completed over three hundred miles. The additional three hundred miles will enable them perhaps to touch the base of the Rocky mountains; but if they have entered the mountains and commenced work they would have been unable to draw the subsidy which they would have been entitled to under the old bill.

I think it probable, however, that the Senator from California wishes to bring out the fact that obstructions have been thrown in the way of this company, and that there has not been intentional neglect on their part. The law requires the President of the United States to fix the point on the line of this road where the eastern base of the Rocky mountains commences, beyond which for a certain period they are allowed to draw a subsidy to the extent of \$48,000 per mile, instead of \$16,000, on that part of the line lying east of the eastern base of the Rocky mountains. This company applied to the Secretary of the Interior, as I have understood, in December last to have that point fixed on the line of the road by the Government, which would have enabled them to make contracts for the construction of that part of the work which they might have prosecuted during the winter months. I have been told that up to this time that point has not been fixed for some reason. Probably they have been unable to send out engineers to collect the facts necessary to enable the President to make a judicious decision. But whatever the facts may have been justifying this delay on the part of the Government, the company are not in default. They applied three months since to have that point fixed, which would have enabled them to do upon this side of the mountainous section of this road what the California company is doing on the western side of these ranges. I think when the facts shall have all been brought to the attention of the public it will be ascertained that this company has more than fulfilled its contract; it has constructed more road than it was required to construct under the law under which it was acting, and is not in default in any respect, and will not be in the future.

Mr. THAYER. I would not trouble the Senate with any remarks on this question except for the fact that this road runs through the entire State which I have the honor in part to represent on this floor, and in justice to the company who have had the building of this road I feel it my duty to give utterance to a few words. I was surprised yesterday when the resolution was introduced by the honorable Senator from California—not that he intended any injustice to the Union Pacific Railroad Company.

Mr. CONNESS. Certainly not.

Mr. THAYER. I am satisfied of that. He intends no injustice whatever; but from my knowledge of the facts I am compelled to say that even instituting an inquiry on the subject, implying that there is a neglect, does them great injustice; for I stand here to say that no improvement in ancient or modern times was ever prosecuted with such untiring energy, with such resistless force, and with means such as

that company has used. Three hundred and five miles of continuous road were built last year, and they were only stopped by the power of the elements, stopped because it was beyond human energy to prosecute it during this winter. As to what has been done on the Pacific slope I have no knowledge except the information given by the Senator from California; but I have seen statements that the snow in that region is five, ten, fifteen, and twenty feet deep. If a railroad can be built there under such circumstances I yield to them the palm. It is most extraordinary. No records will present a like fact.

Now, sir, this has been the most remarkable winter in the West that that distinguished personage, "the oldest inhabitant," has had any knowledge of. There have been snows such as have never fallen before. They have stopped the progress of all works. But while this company have been stopped they have not been idle. They have been concentrating at the end of this three hundred miles of road an immense amount of material which they are now about to use. They have been getting iron out there in immense quantities, and engines, and all the paraphernalia of a railroad, just as fast as the means of communication have enabled them to do. When the navigation closed on the Missouri river they were stopped for a while from getting any further material out there. The Northwestern railroad across the State of Iowa was not completed until the latter part of January, I believe. Since that has been completed they have exhausted all the means at their command in forwarding materials to be used when the spring opens.

If I heard the Senator correctly, he stated that a traveler reaching Omaha was detained a week before he could go on East. Was that correct?

Mr. CONNESS. That was at the western terminus before he could travel to Omaha—at the western end of the three hundred miles.

Mr. THAYER. How long was he detained?

Mr. CONNESS. One week.

Mr. THAYER. I do not doubt that, for such an immense body of snow has fallen on the line of that road that there was not means enough at the command of the company to open it. So it has been in Iowa. I recollect when the New York Central and railroads in New England were blocked up three days this winter at different times. Trains were snowed up within a few miles of Albany, kept over night, I believe six hours, and nobody thought the New York Central Railroad Company had lacked in energy or shown bad management. It was simply because the elements have been against human energy, and human energy could not overcome them at once. I can tell the honorable Senator from California that this company are using all the means at their command and pushing forward with extraordinary energy to construct their road. I hope he will withdraw his motion.

Mr. CONNESS. Mr. President, what is proposed by me, namely, to refer the communication of the Secretary of the Interior to the Committee on the Pacific Railroad, means nothing but that that committee may get the facts, and if those facts go to the credit of that company no one will be more glad than I. The only interest I have in this matter is the interest of the entire country that all the energy which can be applied shall be applied to the construction of this great work. It is due to myself as well as due to the company to say that I have no feelings toward them but a pride in their organization and in what they have done; but I believe, from the facts which have come to my mind, that they might have done still more, and the country requires it.

Mr. TIPTON. I wish simply to say, in conjunction with the remarks that have been made by the Senator from Iowa and by my colleague, that it is not becoming that I should be silent on this occasion when I have been impressed, as other men have been, with the wonderful energy and the indefatigable perseverance of

those having control of the Union Pacific railroad; and when I know that whatever they have done, and whatever they will do, will be amply vindicated at all times by the facts of the case. And yet I am not quite satisfied that there should be a reference of this matter. I am not quite willing to imply that it is at all possible that any dereliction should be ascertained in regard to that company of such great fidelity and wonderful perseverance. I would therefore move, whether I be in order or out of order, that the document and the subject lie upon the table.

Mr. CONNESS. I have no objection to that.

The PRESIDENT *pro tempore*. It is moved that this communication lie on the table.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 36) for the relief of George W. Ashburn was read twice by its title, and referred to the Committee on Claims.

The joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river was read twice by its title, and referred to the Committee on Commerce.

#### PETITIONS AND MEMORIALS.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for improving the harbor at the mouth of the Menomonee river, between the States of Michigan and Wisconsin; which was referred to the Committee on Commerce.

Mr. CONKLING presented the petition of Mrs. Ann Dycher, praying for a pension; which was referred to the Committee on Pensions.

#### CLAIMS OF NORTHERN CREDITORS.

Mr. HOWE. The Committee on Claims, to whom was referred the joint resolution (H. R. No. 1) relative to claims of certain northern creditors, report it back with amendments, and recommend its passage; and as it has passed the House of Representatives, and must go back with the amendments, and it is important that there should be action at the present session, I ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. The preamble recites that the congress of the confederate States ordered the sequestration and confiscation of all the debts due from inhabitants of the southern States to their creditors residing in the loyal States; and that there was paid to the Citizens' Bank of New Orleans, prior to the 1st day of May, 1862, a sum exceeding half a million dollars, the proceeds of such confiscation of northern credits, of which there remained to the credit of the confederate State receivers in such bank the sum of \$219,090 94 only on the 1st day of May, at the time of the occupation of the city of New Orleans by the forces of the United States, which sum, by the order of the general then commanding the department of the Gulf, was seized for the benefit of the northern creditors whose debts had been thus confiscated, and was by him sent to the Secretary of the Treasury of the United States, to be by him held in trust for the benefit of those northern creditors; and owing to a doubt entertained by the Secretary of the Treasury as to his legal authority to distribute said sum of \$219,090 94 among the creditors to whom it belongs, and to determine the rights of each to his portion thereof, the money has lain thus undisturbed in the Treasury since July, 1862, to the great injury and detriment of the just and lawful owners thereof, although they have made many applications to have the same. The resolution, therefore, proposes to authorize the Secretary of the Treasury to appoint a commission of three persons, one of whom shall be learned in the law, to hear and determine the various claims of the parties who are entitled to said sum of \$219,090 94, ratably among the persons who shall present their claims and be entitled

thereto, to an amount not exceeding the claim of each when confiscated, with interest thereon; but any claim which shall not be presented within three months after public notice of a meeting of commissioners to receive such claim shall not be allowed or paid by order of the commissioners; and the cost of the commission is to be paid out of the money.

The Committee on Claims proposed to amend the resolution by striking out all after the word "law" in line five and inserting:

To take and report to Congress evidence in support of the claims of the several parties whose debts were sequestrated and contributed to produce said sum of \$178,897 50, together with the date at which such debts were contracted, and the interest accrued thereon to the date of such report: *Provided*, That said commission shall give public notice of the time and place at which such claims shall be presented by advertising the same in some newspaper published in each of the cities of Boston, New York, Philadelphia, and New Orleans, for three months; and no claim shall be considered unless it shall be presented at or before the time so advertised: *And provided further*, That the cost of said commission shall be paid out of said money.

The amendment was agreed to.

The next amendment was to strike out in the preamble "\$219,090 94" in two places and insert "\$178,897 50."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the joint resolution read a third time. The joint resolution was read the third time, and passed.

#### BILL INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 115) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government, by securing the elective franchise to colored citizens; which was read twice by its title.

Mr. SUMNER. I move that the bill be printed, and lie on the table. I should like to call up this bill for consideration. It is a very important bill, intended to cut the Gordian knot of the suffrage question throughout the whole country.

The motion was agreed to.

#### LINCOLN MONUMENT ASSOCIATION.

Mr. HARLAN. The Committee on the District of Columbia have directed me to report back the bill (S. No. 112) to incorporate the Lincoln Monument Association, and recommend its passage; and I should like to have it acted on now. It will occupy but a moment. I suppose no Senator will object to its passage.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to constitute Alexander W. Randall, James Harlan, Alexander Ramsey, Nathaniel P. Banks, Sidney Perham, John Conness, John T. Wilson, Godlove S. Orth, Delos R. Ashley, Halbert E. Paine, Charles O'Neill, Burt Van Horn, John F. Driggs, Frederick E. Woodbridge, Jacob Benton, John Hill, Shelby M. Cullom, Thomas A. Jenckes, Orin S. Ferry, N. B. Smithers, Francis Thomas, Samuel McKee, Horace Maynard, John F. Benjamin, Rufus Mallory, Sidney Clarke, Daniel Polsley, Walter A. Burleigh, John Taffe, and their successors, a body-corporate in the District of Columbia, by the name of the Lincoln Monument Association, for the purpose of erecting a monument in the city of Washington, commemorative of the great charter of emancipation and universal liberty in America.

Mr. WILLEY. I suggest whether there ought not to be some provision made for the security of the funds which may come into the hands of this corporation. To test the sense of the Senate on the subject I move to amend the bill by adding at the close of the fifth section these words:

The treasurer shall execute a bond, in such penalty as may be required, conditioned for the safe-keeping of the funds of the corporation which may come into his hands, and for the faithful discharge of the duties required of him.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### COLORADO TERRITORIAL LEGISLATURE.

Mr. NYE. I desire to call up Senate bill No. 114, amendatory of the act establishing the Territory of Colorado.

The PRESIDENT *pro tempore*. It becomes the duty of the Chair at this time to call up the unfinished business of yesterday, which is the resolution in regard to adjournment.

Mr. NYE. I move to lay that aside informally for the purpose of taking up the bill to which I have referred. It is important that the bill should pass.

Mr. POMEROY. The unfinished business cannot be laid aside informally by a motion. It can be laid aside by unanimous consent. If laid aside by a motion, it is laid aside for the day.

Mr. NYE. Well, let it be laid aside by unanimous consent.

The PRESIDENT *pro tempore*. It requires unanimous consent. Is there any objection? The Chair hears none; and the question is on the motion of the Senator from Nevada.

The motion was agreed to; and the bill (S. No. 114) amendatory of the organic act of Colorado Territory was considered as in Committee of the Whole.

Mr. POMEROY. It seems to me that it will produce difficulty if we give the members of the Legislature in this Territory more per day than we give in other Territories. I think that in the Territories which we have organized we have uniformly allowed the members of the Legislature the same amount of compensation. Now, we propose to give the members of the Legislature of Colorado Territory six dollars a day. We shall have to do it in all the other organized Territories if we do it in this case. There are other mountain Territories beside Colorado, where the expenses are very great, and in these Territories I presume six dollars a day is not too much; but I suggest that the bill as it stands is a discrimination against the other organized Territories. If they need more, the territorial Legislature can give them any additional amount they can raise.

Mr. NYE. The Senator from Kansas is laboring under quite a mistake. Before the last Congress the uniform rate of pay to members of territorial Legislatures was three dollars a day, and their sessions were annual. A year ago or more a law was passed in regard to the Territory of Washington, and at the last session a similar one in regard to the Territory of Montana, making the sessions biennial, and giving the members six dollars a day, so that this bill conforms precisely to, and is in fact a copy of, the bills in regard to Montana and Washington Territories. One trouble is that my friend has not quite kept pace with the march of the Territories. Any person who has lived in these mountain Territories knows very well that three dollars a day is a mere nothing. The expenses of the government in fact are precisely the same as they were before; the bill makes no difference in that regard. It is only to make this Territory harmonious and uniform with the others. I trust the Senator from Kansas will be satisfied with this explanation and let this bill pass, so that Colorado shall be put on the same footing with the other Territories.

Mr. POMEROY. I did not know that we had commenced on the line of giving six dollars a day.

Mr. NYE. Yes, sir; and we have made their sessions biennial.

Mr. POMEROY. If we have already entered on this line of increasing the pay in two or three Territories heretofore organized I will say no more about it. I ought to have made the objection when the first Territory was being arranged under this rule.

The bill was reported to the Senate.

Mr. BUCKALEW. I believe there is a lim-

itation in the existing law in regard to this Territory upon the duration of the sessions of the legislative body. Their sessions are confined to a period of forty days. If they are to meet biennially instead of annually it strikes me that limitation ought to be removed, and the Senate ought to adopt an amendment providing that the session should not last, say more than sixty days, or some period somewhat longer than the present limitation.

Mr. NYE. If the Senator from Pennsylvania had resided in any of these Territories he would have ascertained before this that a forty days' session, if the Legislature did not meet oftener than once in four years, would be enough. If anything is wrong about it, it is that the time is too long. The length of the session of the territorial Legislature remains unaltered in the bills to which I have referred in regard to the other Territories. I think forty days is a sufficient time to do all the legislation necessary. I hope, therefore, that suggestion will not be heeded.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### AGRICULTURAL COLLEGE SCRIP.

Mr. POMEROY. I move to take up House joint resolution No. 21. It is a joint resolution which has already been passed by the other House and which it is important that we should pass before we adjourn. The agricultural college bill that we passed provided for the issue of a certain quantity of land scrip to the various States. The States in rebellion have not until recently applied for any scrip with the exception of the State of Tennessee, which has already been provided for by Congress. The other States which were lately in rebellion have now applied, and one or two States without having been reorganized according to the provisions of our law are pressing upon the Commissioner of the General Land Office the issuing of this scrip to them. We think they are not yet in a sufficiently organized state to receive agricultural college scrip, and this joint resolution is simply to restrain the issue of scrip to those States until they shall be represented in Congress and organized under the system of organization provided by Congress. That is all there is in the joint resolution. It is very important that the officers should be restrained from issuing agricultural college scrip to these States before they are organized under the act of Congress. I hope the resolution will be adopted.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to States lately in rebellion.

It is recited in the preamble that on the 3d day of April, 1866, by the authority and direction of the President of the United States, agricultural college scrip, covering nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina under the act of Congress of July 5, 1862, providing for agricultural colleges; and that by the same authority the General Land Office is now preparing to issue scrip in like manner to the States of Virginia, Georgia, and Mississippi; and that this action of the President takes for granted that those States are restored to their proper constitutional relation to the Union, and are to be recognized in all respects as entitled to the rights of the other States of the Union, which questions Congress alone can rightfully determine. It therefore proposes to prohibit the further issue or delivery of such scrip to any of the States lately in rebellion against the United States, except the State of Tennessee, or the acceptance of such scrip or of any heretofore issued by the registers or receivers of any of the land offices of the States named, until they shall be fully restored to their rights as States by Congress.

Mr. MORTON. I desire to take this occasion to make a statement in regard to the issue of agricultural college scrip to the various

States. I think that measure on the part of Congress was extremely unwise. I was charged by the State of Indiana, in connection with a board of trustees created for that purpose, with the sale of the scrip delivered to that State for the purpose of erecting an agricultural college. The law provided that in a State where there was no public land subject to entry at \$1 25 per acre, scrip should be issued in lieu of land. Then the law further provided that the States themselves could not locate this scrip, but that they must sell it. Ohio, for example, got scrip calling for nearly six hundred thousand acres of land, and Indiana got scrip calling for three hundred and ninety thousand acres of land, and so all the other States according to the number of their representatives in Congress. What has been the practical effect of it? The States could not locate it themselves, but they were required to sell it. The scrip was thrown upon the market; each State became a competitor with the other States, and all of them were competing with the General Government. The result was that the scrip fell in the market from eighty-seven to fifty cents an acre, and when I offered the Indiana scrip for sale no more than fifty cents an acre could be obtained for it. Acting for the State of Indiana, I refused to sell it and very much preferred to return the scrip to the United States. The whole scheme of creating agricultural colleges by the issue of this scrip is a failure. The States have sold their scrip at from fifty to sixty cents an acre, not realizing enough from it in any case to carry out the grand purpose contemplated by Congress. The Government can sell no land at \$1 25 an acre, because speculators buy up the scrip, and of course can sell it to those who wish to buy land at less than the Government price of the land. The States are realizing but a small fund from it, insufficient to build these colleges, and the purpose for which the grant was made is a failure.

I trust no more scrip will ever be issued; and I believe in regard to those States who have not already sold their scrip that some arrangement ought to be made between them and the General Government in regard to it. It would have been far wiser to donate to the States so much money for that purpose and let the Government keep the land and sell it at \$1 25 per acre, rather than to have thirty States in the market competing with each other; and all with the General Government, and selling their scrip for what they can get for it. If you will look to the reports of your land sales you will find that not one acre out of a thousand is bought from the Government direct at \$1 25 per acre and paid for into the Treasury, when men can enter it with this land scrip, which they can buy at fifty or sixty or seventy cents an acre. The States have to sell it in large quantities to speculators. They cannot retail it. Then the men who buy it enter it in large quantities or sell it for what they can get. The whole scheme therefore has failed; and I think so far from any more of this scrip being issued the law ought to be repealed as to all the States to which the scrip has not yet been issued, and some provision should be made as a substitute for it.

Mr. HOWARD. Allow me to inquire of the honorable Senator from Kansas whether this resolution relates to all the States or only to the rebel States?

Mr. POMEROY. This resolution is only to restrain the issuing of scrip to the States lately in rebellion until they shall have been restored to their relations to the Union and recognized by Congress. Then they are to have the scrip the same as the other States have had it already.

Mr. HOWARD. I should be well satisfied with that. I think the necessity for such a measure is very strong.

Mr. RAMSEY. Offer this amendment, to come in as a proviso at the end of the joint resolution:

*Provided*, That not more than five sections of agricultural college scrip heretofore or hereafter issued shall be located in one township.



In support of this amendment I desire to say that while this agricultural college scrip has been of no particular advantage to the non-land-holding States, it has been a great curse to the land States of the West. As the honorable Senator from Indiana has said, this scrip prevents the Government's selling land, because the scrip can be bought in the market at fifty, sixty, or seventy cents an acre, while the Government price of land is \$1 25. The result is that large quantities of it are bought up by speculators, and fifty or sixty or one hundred thousand acres of beautiful lands in the West are entered in a body by those persons who can afford to lay out of their money ten or fifteen years, and the result is to keep the country without settlers and destroy the settlement and progress of the States of the West. The whole of this agricultural college scrip business is nothing but a curse; it has done no good; it has done and will inevitably do a great deal of harm hereafter. I hope the Senate will at least adopt this amendment, so that if we cannot now absorb or take back this scrip, we may at least regulate its entry in such a manner as to produce less mischief, by confining the location to five or six sections in one township, thus distributing it over the whole country, instead of closing up a county, or two or three counties, against settlement. I hope that out of consideration to the people on the frontier the Senate will adopt this amendment.

Mr. POMEROY. I hope the Senator will not move that amendment on this bill. In the first place, it is not germane to the bill. The bill is to restrain the issuing of scrip to States that have lately been in rebellion until their State organizations shall have been recognized by Congress.

Mr. YATES. I know something about the operations in this scrip.

Mr. POMEROY. But that question is not in this bill.

Mr. YATES. But I wish to refer to the fact that it is below par in the market, and to suggest that in my judgment the reason for that is because it cannot be entered in small subdivisions. An individual desiring to enter forty or eighty acres of land cannot do it with this scrip.

Mr. SHERMAN. It can be used to enter a quarter section.

Mr. YATES. I think the great reason why it is below par is because it cannot be used in entering the smaller subdivisions. There can be no other reason why it should be lower in the market than land warrants. If the Senator from Kansas would offer an amendment to allow the scrip to be used in entering smaller subdivisions than a quarter section, it seems to me the result would be to appreciate the price of this scrip in the market to the value of land warrants.

Mr. POMEROY. There could be no objection to the amendment suggested by the Senator from Illinois, except that it cannot properly be offered to this bill. This is to restrain the officers of the land department from issuing this scrip to States that have been in rebellion, and whose governments are not recognized by Congress. Whenever the bill shall be before Congress to modify the agricultural college law, it may be well so to modify it as to provide that the scrip shall be issued in quarter sections and half quarters. I should have no objection to that, but think it would be an improvement. But this bill having already passed the House of Representatives, and scrip being now ready for issue to the States of Virginia, Georgia, and Mississippi, it was deemed by those familiar with the subject wisest to restrain that issue until their State governments are restored. This measure, if it be passed at all, must I suppose be passed to-day; and it is better not to send it back to the other House with an amendment. I hope no amendment will be adopted which will make it necessary to send the bill back to the House of Representatives; because in that way we may fail in securing what we want. However good any

amendments may be in themselves, I hope they will not be placed on this bill, because they are not applicable.

Mr. RAMSEY. If the evil were not so great and crying a one I should not press my amendment at this time; but I hope the Senate will gratify me and gratify the people I represent, as well as other far western States, by adopting this amendment at this time.

In answer to the suggestion of the Senator from Illinois, I will say that the country might have been relieved in a large measure from the unfavorable operation of this scrip if the Committee on Public Lands had agreed to a bill which I introduced at the opening of the session and had referred to them, making this scrip useful to preëmtors by allowing them to pay for their preëmtions with it. The committee thought otherwise, and refused to report in favor of the bill. Of course one incident of such legislation as that would have been to increase the price of scrip. That was not my motive in introducing the bill, though of course it would have followed as a necessary incident. My desire was to give a healthful flow to the scrip, to let the preëmtors pay for their preëmtions with it, instead of paying, as they now do, either in land warrants or in money. It seems to me there could have been no reasonable objection to allowing them to buy this scrip and pay for their preëmtions with it; and the result of that policy would have been to secure to the country a settler for each piece of scrip. That committee, however, have not viewed that proposition in the light in which I do. If they had reported that bill favorably, and the Senate had passed it, we should have been relieved in a great measure from the oppressive effects of the legislation of Congress under which this scrip was issued. As it is, I hope the Senate will extend the slight relief which this amendment which I have offered will afford.

Mr. MORTON. My objection to this bill is that it authorizes the issue of scrip when those States shall have been reconstructed.

Mr. POMEROY. That is the law now.

Mr. MORTON. I insist that not another acre of scrip shall be issued. Let me state one fact in connection with the sale of this scrip, to show the operation of the law. One house in Detroit purchased scrip to the amount of nine hundred thousand acres, and bought it at fifty, fifty-two, and fifty-five cents an acre. It is the best arrangement that has ever been made for land speculators. The law prohibits the States from locating the scrip, because that would create a monopoly; but it permits persons to purchase scrip for fifty cents an acre or whatever they can buy it for, and locate it and hold the lands. One man has purchased scrip and located it now to the amount of ninety thousand acres, which cost him about fifty cents per acre. The Government could have sold that land at \$1 25 per acre; but of course the Government can sell no lands while persons can buy scrip at fifty cents an acre. It would have been much better for the Government to have given to each State a dollar instead of each acre of land, and then to have sold the land at \$1 25 per acre. The States would have realized double the amount of money, and the Government would have done better in the end. In its practical operation there never was, in my opinion, a more unwise measure, and as this bill permits the reconstructed States to obtain scrip, I think it ought to be amended in that respect.

Mr. HOWE. I have only a single word to remark, and that is to express my gratification at what has just been said by the Senator from Indiana, in which he is substantially corroborated by the Senator from Minnesota. I happened to be here at the time the bill passed making this provision for agricultural colleges, and I felt myself called upon to protest against it. I thought it was one of the heaviest blows which had been struck at the settlement of the new States. I had had occasion to know something of the effects of land monopolies upon those States. I remember to have said in

the course of that debate that I was entirely willing to set aside to the use of each of the States the proceeds of a quantity of land equal to that mentioned in the bill; but I did think that we ought to insist upon still retaining in the Government the disposition of the lands; but that policy was not observed. I wish the Senator from Indiana had been here at that time to have added the weight of his counsel to my own. I think the West would have been saved from a very great injury, which has already been inflicted upon it through the operations of that bill. What can be done hereafter to relieve against these injuries I do not know. I am not sure that we ought to do anything now to embarrass the passage of the bill before us. I agree with the Committee on Public Lands that this bill ought to pass, and ought to pass at once; and anxious as I am to see such a provision adopted as that proposed by the Senator from Minnesota, confident as I am that it will do something to relieve the western States from the injurious operations of the former law, yet I think we had better postpone action than to put it upon the bill now before the Senate. Every one knows, or at least every one hopes, or at least I hope, that we are near the hour of adjournment. To put this amendment or any other on the bill and necessitate the sending of it back to the House of Representatives may endanger its final passage; and I think it very important that this bill should become a law before we adjourn.

Mr. POMEROY. I hope the policy of the original bill will not enter into the discussion of the question of the passage of this bill. This is not a question whether the law was a good one or a bad one. It is a law, and the States have availed themselves of it. The States in rebellion will, I hope, be in a condition to avail themselves of it at some time. I think they are not in that condition now, and this is merely a proposition to restrain the issue of scrip to them until they are restored. The House of Representatives acted promptly on information being furnished them from the Land Office, and I think it important that the Senate should also act promptly. I hope any amendment not germane to the measure, like the one proposed by the Senator from Minnesota, will not be adopted. Its only tendency will be to defeat a measure which it is very important should be passed at this session.

Mr. RAMSEY. The amendment is entirely germane. It is in reference to agricultural college scrip. The joint resolution is to restrain the issue of scrip to certain States. My amendment is to restrain the location of it. Certainly the House of Representatives could act on the amendment, and doubtless would act favorably in fifteen minutes if it were sent to them.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Minnesota.

The amendment was rejected.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BANKRUPT LAW.

On motion of Mr. SPRAGUE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 106) fixing the time at which the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, shall go into effect.

Mr. SPRAGUE. As I understand it, those who favor the bankrupt law, as well as those who are in opposition to it, are in favor of the bill which is now under consideration. I desire, however, to amend the bill by striking out the words "June next" and inserting "January, 1868;" and on this amendment I desire to say a few words.

The bankrupt law which this bill is intended to perfect releases those who have heretofore become bankrupt and are disabled from prosecuting the business of life. It refers also to those who are now occupied in the business of life. The former class desire it to go into

operation immediately; the other class desire, if it must go into effect, that there shall be a future time fixed for it, so that they can regulate their business arrangements in conformity to the law. When the law was passed it was thought by those who advocated it that there was a future time specified when it was to take effect; but on a close inspection of the law since its passage it has been found that it goes into effect immediately upon its passage, but that no proceedings can be instituted under it until the 1st of June. The business men of the country have been anxiously waiting to know when it went into operation. Their notes become due, and the settlement of their business and the prosecution of their business is of every-day occurrence. That cannot stop; something must be done; and they must know when they are to conform to the regulations established by Congress.

I do not mean by what I now say to indicate any opposition to a bankrupt law. I am inclined in some respects to favor such a measure. I believe that it is proper that a man engaged in business in Iowa should have security in some general regulations and laws so that his operations shall be protected to the same extent of a man in business in Rhode Island; that a man engaged in one State shall not receive favor at the hands of the local Legislature detrimental to those engaged in business in another State.

We have had in this country heretofore two experiments of a bankrupt law, and both failed; both were imperfect. They failed because those engaged in business and who were to be affected by the operations of the law were not sufficiently educated in its workings and its machinery. They believed that everything that was of disadvantage to them was to be attributed to the operations of the law. To some extent they were right; but in a great degree they were wrong. I believe that it is important for the interests of the trade of this country that there shall be some general regulation upon which all business engagements shall be conducted and regulated. I am disinclined, and shall ever be disinclined, to favor the repeal of this law, if there is any chance for its remaining a permanent institution; but it must be plain to every Senator that if the business world believes that all the ill effects that may occur from its passage may be attributed to this law they will unite with those who would be relieved of their debts and those who will be hereafter petitioning for a bankrupt law to be released from their creditors; and those two uniting will in the end as certainly defeat the measure as that you have already passed it.

If you can give time whereby the business interests of this country can conform their operations to this law and thoroughly understand it, my word for it, it will go into effect satisfactorily to all the interests that are affected by it; but if it is forced upon them at a period when all the inequalities and irregularities growing out of the business connections of the past five years are producing their effect, if all these difficulties are to be thrust into this one year for a settlement, and all the disadvantages which the speculations and the losses and the failures in business operations are concentrated in this one year, the bankrupt law will be charged with all those disadvantages, and they will attribute them all to the law; and the troubles growing out of difficulties of the past will be saddled upon it. My judgment is that if a future day be fixed for its operation, so that the business men of the country can concentrate their minds upon it, when all the anxieties and cares which are now upon them in the settlement of the past have been done away with, they will look to the law as a blessing rather than as they now do, as a curse.

It is known to every man who is engaged in the business of life, mercantile or commercial, that it is necessary at times for those who have made bad trades, who have been unfortunate in business, who have accumulated stocks that are unsalable, to have some accommodation;

and instead of surrendering to the weight which is upon them they go to those who they believe are able to sustain them, they approach those who they think will be able to sustain them, and they obtain loans on honor temporarily. Under the operations of this law, however, no one will be asked for such a favor, and none can grant it. If business had been conducted in accordance with the law, if it had been on your statute-book in such a way as to give notice of its operations, nobody would complain; but as it now stands it is to apply to past transactions; and, the settlement of difficulties incident to your war, the accumulation of five or six years of the ups and downs of trade, is to be concentrated in this year. All that the business community ask is that the custom which has been established from time immemorial in the arrangement and settlement of their business affairs, in rendering them able to sustain themselves, shall be now permitted to them. It seems to me to be a reasonable request. I therefore advocate it as one in sympathy, growing every day, with the law. I believe it will tend to make it more permanent, to make it more of a fixture, if you permit them to educate themselves to it, and make it apply in the future rather than in the present.

I have proposed to fix the 1st day of January as the day for the taking effect of the law. I have named that day because it is well known to all that on that day partnerships are closed, new concerns are established, and old ones are dissolved, and accounts for the year are then settled. It seems to me that a law having such a great influence upon the business interests of the country should, instead of being thrust upon them in the midst of trials and anxieties heretofore unknown to the business men of the country, be held before them in the distance, so that they should be able to conform their future transactions to it. I do not believe its immediate operation is insisted on by those who are specially to be favored by it, those who are now under disabilities, whose debts render them unable to assume the business of life. I do not believe that they would go so far as to require its operation to prejudice those who are now doing the business of the country, who are in good credit and good standing, by insisting upon themselves being allowed now to take the benefit of the law at once, instead of granting a short season to those already in business to shape their affairs in conformity to the law.

I believe there is no class of people in this world who have grown from youth to manhood, and from manhood to old age, so quickly as the business men of the country. I believe the wrinkles representing age and care have come upon no set of men in so short a period as upon those who have been engaged in the business operations of the country during the past five years. They believe that they may be relieved of an additional care and of an additional anxiety by fixing a distant period when this law shall go into effect, and danger to a very great extent in that way may be avoided.

With these remarks I leave the matter with the Senate, and I trust they will unite with me in giving to those who are now weighed down with cares and anxieties a chance to conform their operations to the new system provided by this law by making it take effect on the 1st of January next.

Mr. DRAKE. Mr. President, I confess to a great objection to any action by this Congress in reference to the bankrupt act, and most especially do I object to a bill being brought in here and pressed through the Senate without a reference to any committee to investigate what its character is and what its effect is to be upon the bankrupt law. The bankrupt act recently passed has probably gone through a severer scrutiny than any statute that has ever been put upon the statute-books of this nation. It has been the result of the accumulated labors of many minds for many years; it has gone through committees through both Houses, and I say that it is utterly impos-

sible, at least I think it is so, that any Senator shall be able to tell the full scope and effect of the bill which is now before the Senate. I am afraid of it; I am afraid that it has a reach and an operation which we do not understand, and for this reason I move that the bill be referred to the Committee on the Judiciary.

Mr. WILLIAMS. I was opposed, Mr. President, to the passage of the bankrupt law, and voted against it; and when the subject of postponing its operation was incidentally mentioned to me, I was inclined to favor it; but on further consideration, my judgment is that if the bankrupt bill is to have the effect of law it should go into operation without much delay. Suppose that the amendment which is proposed should be adopted by Congress, what then will be the effect? Persons who are in debt at this time, and who are disposed to be dishonest, knowing that on the 1st day of next January they can avail themselves of the benefits of the bankrupt law, will prepare themselves, by disposing of their property, by converting their real estate into money, and making other arrangements to be enabled to say at the time they proceed under the bankrupt law, that they have no assets for their creditors; and they will not, as a general rule, have any available assets for their creditors at that time. Here is a notice given to every dishonest debtor in the United States to prepare to take the benefit of the bankrupt law on the 1st day of January next, and every man knows that if a person who is in debt is so disposed he can cover up his property, or convert it from one kind to another, so as to entirely defeat his creditors; whereas if the law was to take effect at this time he would have no such opportunity.

That is one objection which I have to the amendment proposed by the Senator from Rhode Island. Another is that, in my judgment, it will operate with great hardship upon debtors. Suppose a man is now in debt, and it is understood that he can take the benefit of the bankrupt law on the 1st day of next January, and not before, the consequence will be that every creditor will in the mean time proceed with all possible dispatch to collect his debt; every creditor will commence a suit, and if there be any reason whatever, attachments will be issued, and there will be a race among the creditors to convert the property of the debtor into means for the payment of his debts. It amounts to an invitation to the creditors of the country to persecute the debtors between this time and the 1st day of January; and every man who has a claim, apprehensive that on the 1st day of January the debtor, who may be in failing circumstances, will avail himself of the benefit of the law, will proceed to collect that claim, will bring a suit, recover judgment, accumulate costs; and so the debtors of the country will be, as it seems to me, very greatly embarrassed, and this law, which its friends say is intended as a benefit to the debtors of the country, will, in fact, prove a very great burden and a very great injury to them, and the debtors of the country will, before the 1st day of next January, be completely crushed, stripped of all their property by proceedings that may be commenced for the recovery of their debts.

For these two reasons, and others which might be suggested, it seems to me that it is very unwise to postpone the operation of the law until that time. I should be satisfied to vote for the repeal of the law. I believe it is an unjust law, and in some respects unconstitutional; but if there is to be a bankrupt law, and so Congress has decided, it seems to me the sooner it can take effect the better for the entire country.

Mr. ANTHONY. This bill as it is proposed, merely carries into effect precisely what all the Senate, I suppose, thought was the bankrupt bill when it was passed. I suppose everybody thought the act went into effect on the 1st of June. I did certainly. This bill merely proposes that it shall go into effect on the 1st of June.

Mr. WILLIAMS. The 1st of January, I understand.

Mr. ANTHONY. That is an amendment which my colleague has moved. I am speaking of the bill as it was originally introduced, and I hope my colleague will withdraw that amendment, because I do not think it meets the assent of the Senate. I think, myself, it would be an improvement to postpone the operation of the law for six or eight months, so as to give the country a chance to adapt itself to it; but still I do not think that is the temper of the Senate, and I do not see any use in undertaking to persuade the Senate to pass what they are not disposed to pass. The original bill, as we all understood, provided that the act should go into effect on the 1st of June. I think that was the universal understanding when the bill was passed. I may be permitted to state that the very eminent lawyer who had charge of it in this body, and who is not now a member of the Senate, fully concurs in this bill as not only eminently just and proper in itself, but as carrying out what was the intention of the law. I think the fiftieth section of the law, as drawn, was an inadvertence. I would not presume at this period of the session to introduce a bill to alter the effect of a law passed with so much care and examination as the bankrupt law; but this bill is really to carry into effect what was the intention of the Senate in passing the law originally. I think if my colleague will withdraw his amendment the Senate will be likely to assent to the passage of the bill as originally proposed.

Mr. JOHNSON. What was done by Congress in passing the bankrupt act as far as respects the objection now taken to its operation has, I think, been done by every State in the Union in passing laws of a similar character, and by the Congresses who passed the antecedent bankrupt acts, and by the English Parliament. This act was pending in the Legislature for many weeks and months before it became a law. The public, therefore, were advised that in all probability a law of this description would be passed, and upon the hypothesis or upon the theory that there might be in the intermediate time between the introduction of the bill and its receiving the sanction of Congress, conveyances made to defeat the object of the bankrupt act, the law provides that all such conveyances after an act of bankruptcy or insolvency was in fact committed, executed, four months before the party should seek to be declared a bankrupt, should be considered as void. That is done by the thirty-fifth section of the act.

Now, my friend from Rhode Island [Mr. ANTHONY] tells us—I have no doubt that was his impression—that if he recollects correctly what was stated by the member of the committee who had the bill in charge, it was supposed by him that the law was to have no operation at all until the 1st of June; in other words, that the bill was not to be a law for any purpose until the 1st of June, and then to be a law for all purposes. If that had been the case, or if we say now that that is to be the case by so providing, how will that get clear of the supposed injustice of which the honorable member complains? The thirty-fifth section will still remain; and if a party applies to become a bankrupt, or is involuntarily driven into bankruptcy under the authority of the act, all transfers made after he became in fact insolvent, though before the law was passed, if they were committed within a period of four months antecedent to the 1st of June, would fall within the prohibition of that section and be void.

I do not know what has been done in Rhode Island, nor do I know what has been done in any of the States, but I can very well imagine that the moment it was suggested that a law of this kind would pass creditors commenced a race to secure themselves, and in anticipation of that event preferences were made. Some are secured by those conveyances, and some will be without security; there will be no equal distribution of the assets. The law goes upon the theory, right I think morally as well

as otherwise, that in the case of an insolvency in fact there should be in justice an equal distribution of all the assets. Now, the operation of what I understand from the honorable members from Rhode Island of the manner of doing business in that State is to do great injustice to some creditors. A manufacturing company there gets into difficulty, or a merchant who has been largely engaged in trade gets into a difficulty. He owes \$1,000,000 say. The public know nothing of his trouble. My friend from Rhode Island, [Mr. SPRAGUE,] or some one else who is able to relieve him, comes forward and advances him say \$300,000 to enable him to go through the crisis in which he is placed. He does not go through; but the mere fact that he is permitted to go on and is enabled to go on because of the aid furnished him by some friend gives him a credit in the community to which, if his actual condition were known, he would not be entitled. But finally he fails, and what then is the result? It will be found, taking the hypothesis which I have just stated, that my friend from Rhode Island is secured his \$300,000, and when the assets of the bankrupt come to be disposed of there is nothing left for the other creditors; the men who have trusted him elsewhere, who have supposed that his real condition was that of prosperity, judging only from the outside, seeing that he was getting on, knowing nothing of his operations, when the result becomes known are left without a dollar. Now, if it be right, as I think it is, that in the event of an actual bankruptcy the assets should be distributed equally, the bankrupt ought not to be allowed to refuse to do it by providing for some preferred creditors, leaving all the rest to lose everything which he may owe them. Then it is right in the Legislature to whom jurisdiction over the subject is given to guard against it by saying that he may be forced into bankruptcy; or if he applies for a discharge under the bankrupt act it is to be granted to him in either case only upon the condition that he has acted in accordance with the equitable rule which demands an equal distribution of his assets; and in order to make that rule effective in the particular case it is necessary to provide that all conveyances in conflict with that rule shall be considered void, and the whole of the estate is to go into the hands of the assignees of the bankrupt for the benefit of his creditors.

I know that where it is understood at the time these advances were made to him to enable him to go on it appears to be right that the party who makes the advance, if the contingency of declared insolvency actually occurs, should be secured; but if you allow that to be done, the result is that while one man is saved from loss the other creditors are ruined. The man thus assisted goes on and contracts debts; he pays the debts that are pressing upon him at the time, because he is able to pay them out of the \$300,000 which I suppose him to have received from a friend; he thereby gets credit and contracts other debts, and those debts contracted by him with others when the time comes that he is called on to pay them are all lost.

Mr. ANTHONY. You are supposing him to be dishonest.

Mr. JOHNSON. No; I am not supposing him to be dishonest. He thinks he can go on; the man who advances the money thinks he can go on; but in nine times out of ten it is much better for him to stop the first time that he is advised that he is in a situation where he cannot go on without help. There may be cases, of course, of some sudden crisis, which may be at an end in a month or two; but the general result is that he who is largely involved in business, and who seeks aid, is sure in the end, as a general rule, to be insolvent, and then all his intervening creditors lose their money, while the preferred creditor is no loser. He may have acted in good faith; but he has enabled the debtor to get a continuing credit by means of his advances, and therefore others have been induced to become his debtors. There would be no objection to that, provided when the advance was made the party to whom it was

made executed a mortgage and put it on the record; but that is not done in these cases. I hope my friend from Rhode Island [Mr. ANTHONY] will permit me to illustrate it by referring to himself. Suppose he received \$400,000 from a friend to go on in the business in which he might be engaged. I could not tell that it was not all his money. I could not tell that he owed it to anybody. If at the time he borrowed it he executed a mortgage, and the mortgage was recorded, then I and everybody else would have the means of ascertaining whether he was worth \$400,000 or whether it belonged to somebody else. That is not done, however; and it is not done for the very reason that if it was done it would defeat, in a great measure, the object of obtaining the advance. He could not get the credit.

I rose to say thus much, and then to add that I very much doubt whether if the proposed amendatory bill be passed it will accomplish the object aimed at. It provides that the act is to go into effect on some subsequent day, instead of the day of the passage of the act; but the proviso at the close is—

That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act.

I should be apprehensive, and I tell the friends of the bill, that I think the courts would hold that an assignment or conveyance made by a man who was known to be in a state of bankruptcy was not made in good faith, and would not be protected by the proviso. But that is merely a criticism on the bill. To postpone the time of the operation of the act until the 1st of January would, in my judgment, be virtually a defeat of the law altogether. The effect of that might be to raise a clamor in the country without knowing what the object of the bill was; whether it was a wholesome or a deleterious one; a clamor might be raised which might induce Congress to repeal the law altogether before it had by experiment been proved to be either a good or a bad law. If the friends of the proposed amendment will substitute the 1st of June for the 1st of January, the obligation will in a great measure be removed.

Mr. SPRAGUE. I agree in a great measure to what the Senator from Maryland has said in relation to preferences, and the justice of dividing a man's property *pro rata* among his creditors; and I agree with him also that there are times during a crisis and a panic that something more than the ordinary rule must be enforced. Business men must sometimes go outside of their ordinary practices in order to sustain men who would otherwise be in good credit and in strength, and be able to go through. If it is not known to the honorable Senator, it is known to all business men that there are but few men now engaged in business who have not at some time or other been carried over a difficult point. It is so every day in ordinary times; but in times like these, in the depreciation of property, and in the settlement of business growing out of the convulsions of the past five years, there is constant occasion for such interposition to avoid a crisis and a panic.

I desire simply to sustain the commercial and mercantile fabric, and I think that by providing for this measure going into effect at a later day we can bridge over a difficult point. Business men say that if they must stand, and are obliged to stand strictly by the provisions of this law, many men who would otherwise come through and would be able to pay all their debts must go into bankruptcy and pay but fifty or seventy-five per cent. of those debts. The country is in no condition to witness a panic. The business men of the country ought not to be called upon to consider the introduction of any new elements of disturbance in the management of their business relations and affairs. I agree with the Senator from Maryland that, in ordinary times he is right; but now, after having, as they have, gone through all the disturbing elements inci-

dent to the times, I think the business men of the nation should be permitted to use those agencies and those customary practices which have been familiar to them, and by the use of which they have been able to sustain the general public credit, and have carried through heretofore men who to-day are in good standing, and who pay their debts and from whom every creditor receives everything that is due to him. The question is simply whether you will make more bankrupts who are to be benefited by the provisions of the law, or whether you will make less. I disclaim any hostility to it as a bankrupt law. I acknowledge I had that purpose in the beginning; but the more I look at its provisions the more I am inclined to favor it. For that reason I desire that the business men of the country shall not have an excuse to unite with those who are disaffected toward it for its repeal; and I have assured myself, whether I am able to assure the Senate or not, that to fix a future day for its operation will contribute far more to its permanency than to make it go into effect now, receiving, as it will receive, all the hostility incident to an attempt to uproot the commercial fabric.

Mr. DRAKE. I feel constrained earnestly to insist upon the disposition of this bill which I have proposed, and the more the matter is discussed here the more I am satisfied that there are effects and results to flow from the adoption of this bill at this time which the Senate is not in any condition to foresee or to comprehend. Here is a proposition to put off until the 1st of January next the taking effect of the bankrupt act. I say without any hesitation at all that is to destroy the act entirely. If the taking effect of it is put off until the 1st day of January next then I venture the prediction that it never will take effect at all.

But, sir, I venture to say further that no Senator in this body can see fully the effect of the second proviso of this bill, "that nothing in this act contained shall be considered or held to invalidate any lien or conveyance acquired or made prior to the taking effect of this act," that is prior to the 1st day of January, 1868. From this time till the 1st day of January, 1868, men are to have an opportunity to fix up and arrange their affairs, as the honorable Senator from Oregon said, so that there shall be no assets for their creditors.

I do not wish to go into a discussion now of the merits of this bill in all its bearings upon the original act; but I do earnestly insist upon obtaining the attention of the Senate sufficiently to induce them to send the bill to the Committee on the Judiciary in order to see what its bearings are, and to let the Senate know what is to be the result of voting for the passage of this bill.

Mr. ANTHONY. I should prefer the reference of this bill, if there was time, for the committee to consider it, but of course a reference now will kill the bill.

Mr. DRAKE. Not necessarily.

Mr. ANTHONY. There is nothing in this proviso but a negative. It does not make anything valid. It simply prevents transactions from being invalidated by this law. There is no positive effect in this proviso, and certainly the Senator from Missouri cannot misapprehend the meaning of it. It is perfectly plain.

Mr. DRAKE. It is a most pregnant negative.

Mr. ANTHONY. It is to allow a man to do up to the 1st of June what he would have been allowed to do if this act had not passed.

Mr. DRAKE. Up to the 1st of January.

Mr. ANTHONY. The 1st of June the bill reads.

Mr. DRAKE. I understand that the bill has been changed so as to read "the 1st of January, 1868."

Mr. ANTHONY. No, sir; that amendment is pending, but has not been adopted, and I trust my colleague will withdraw the amendment. If it will secure the assent of the Senator from Missouri to the bill, I am sure he will. This will only make the bankrupt law precisely what we thought it was when we passed it.

Mr. CORBETT. I should like to offer an amendment to the amendment.

The PRESIDENT *pro tempore*. The pending motion is to refer the bill to the Committee on the Judiciary.

Mr. FESSENDEN. I hope that course will be taken.

Mr. CORBETT. Is it not in order to offer an amendment previous to the commitment of the bill?

The PRESIDENT *pro tempore*. A motion to commit takes precedence of a motion to amend.

Mr. CORBETT. I hope that motion will be withdrawn to enable me to offer an amendment.

Mr. DRAKE. The amendment can be offered afterward, to go with the bill to the Committee.

The PRESIDENT *pro tempore*. The amendment will be in order if the Senate should refuse to commit the bill.

Mr. ANTHONY. I should like to hear what the amendment is.

Mr. CORBETT. I have not examined the bankrupt law thoroughly, but I am told that it contains no limitation as to the number of times a party may take the benefit of the law. I think, for the benefit of creditors and to prevent wild speculation, there ought to be a provision in the law to prevent men taking the benefit of it perhaps more than twice. Therefore I wish to submit an amendment that parties seeking to take the benefit of this bankrupt law shall not have the privilege of taking the benefit of it more than twice.

Mr. ANTHONY. If my friend will allow me to interrupt him, I think that is provided for in the original law. I so understand it.

Mr. CORBETT. I made the inquiry. I have not examined it thoroughly.

Mr. ANTHONY. I so understand it; but this is not intended to amend the law in any respect, but only to fix the time at which it shall go into effect.

Mr. CORBETT. I have no objection to that. I only desired to offer an amendment covering that point if it was not provided for. If it is already provided for I am satisfied.

Mr. ANTHONY. I think it is so. Mr. President, I quote not by authority, but literally from the chairman of the Committee on the Judiciary when I say that the Judiciary Committee is the tomb of the Senate. If this bill goes there that is the end of it. Otherwise, I should be glad to have it go there, for I am sure that if this bill could be examined by every Senator it would meet with the unanimous vote of the Senate. I hope we shall now have a vote on the bill without referring it.

The PRESIDENT *pro tempore*. The question is on committing this bill to the Committee on the Judiciary.

Mr. RAMSEY. Now, would it be in order to move to proceed to the consideration of executive business?

Mr. ANTHONY. It would be in order, but it would be very injudicious. [Laughter.]

Mr. RAMSEY. I make that motion. It is very important to clear off the executive Calendar, so that the rejections may be filled by other nominations.

Mr. ANTHONY. I hope the Senate will give us a vote on the bill.

Mr. FESSENDEN. I hope if this bill is to be acted upon that it will be referred. It ought to be unquestionably, in order that the committee may look into it and see what the effect of it will be. I do not understand it. I was not sufficiently acquainted with the bankrupt bill in the first place, and the idea of extending the time for its going into effect by this bill and with these provisos, without knowing anything about the effect of them, or referring them to the Committee on the Judiciary, I will say is a simple piece of rashness that I hope will not be undertaken by the Senate. The committee can report it back tomorrow morning.

Mr. ANTHONY. Then if the Senator will allow me to make an amendment to his motion—

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota, to proceed to the consideration of executive business.

Mr. ANTHONY. He withdraws that.

Mr. RAMSEY. No, sir.

Mr. ANTHONY. Well, he is going to.

Mr. RAMSEY. I was not aware that I was.

Mr. ANTHONY. I am very anxious that he should, and I know that he will; and therefore I shall go on the same as though he did.

The PRESIDING OFFICER. Does the Senator from Minnesota withdraw his motion?

Mr. RAMSEY. I suppose I shall have to do so after that appeal.

Mr. ANTHONY. If the bill can be referred to the committee with instructions to report to-morrow morning I shall not object.

Mr. FESSENDEN. They will report as soon as they can.

Mr. ANTHONY. They will not report it at all.

Mr. DRAKE. I object to the instructions.

The PRESIDING OFFICER. The question is on the motion to refer this bill to the Committee on the Judiciary.

Mr. ANTHONY. With instructions to report to-morrow.

The PRESIDING OFFICER. Does the Senator move that amendment?

Mr. FESSENDEN. If the chairman is willing to take the instructions, I have no objection.

Mr. TRUMBULL. It is impossible for the Committee on the Judiciary to consider all these questions and report upon them. We were in session three hours this morning. It will be utterly impossible for us to investigate and report upon this measure by to-morrow. If we had no other questions pressing upon us we might do so. We have a meeting to-morrow on another matter that we are now investigating. I will say to my friend from Rhode Island that so far as I am concerned, as one member of the committee, I would be prepared to act upon it as soon as we can with reasonable dispatch.

Mr. JOHNSON. I think we can determine upon the propriety of the amendment by to-morrow.

Mr. TRUMBULL. I should object to the instructions. However, we will try to carry out any instructions that the Senate gives us; but there are other matters before that committee which require its attention.

Mr. ANTHONY. Very well; I will take the assurance of the Senator that he will give it immediate consideration.

The PRESIDENT *pro tempore*. The question is on the motion to refer.

Mr. SPRAGUE. Before that motion is put I desire to say, for the information of the Senate, that, as I understand it, this bill in its present form was drawn by the honorable Senator who lately occupied a seat in this body, who had the care of the bankrupt bill during its passage through the Senate. It has been carefully drawn by him to meet the difficulties that he has foreseen. Since the act has gone into effect he concurs in the importance of the measure now before the Senate. He thought when this bill was upon its passage that it contained the provision which is now ingrafted in this bill, that it did take effect at a day in the future. It seems to me, therefore, that it is entirely unnecessary to refer it to the Judiciary Committee, when he, the best friend of the bankrupt law, its strongest advocate, and its leader in this body, has drawn the measure which removes the difficulties which are in the way of its operation. I trust, therefore, that the Senate will act upon it at once. I should prefer that they would act upon it and agree to the amendment that I have offered; but if they are not inclined to take that view, I hope they will pass it as he, the friend of the measure, has prepared it; and I think those who were originally opposed to it will also agree to it. I trust that it will not be sent to the committee.

Mr. FESSENDEN called for the yeas and



nays on the motion, and they were ordered; and being taken, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Cragin, Doolittle, Drake, Fessenden, Frelinghuysen, Howard, Howe, Morgan, Morrill of Maine, Patterson of Tennessee, Stewart, Sumner, Van Winkle, Williams, and Wilson—18.

NAYS—Messrs. Anthony, Cameron, Conness, Corbett, Dixon, Edmunds, Harlan, Henderson, Morrill of Vermont, Morton, Norton, Nye, Pomeroy, Ross, Sherman, Sprague, Thayer, Tipton, Trumbull, and Willey—20.

ABSENT—Messrs. Cattell, Conkling, Davis, Ferry, Fowler, Grimes, Guthrie, Hendricks, Johnson, Patterson of New Hampshire, Ramsey, Riddle, Saulsbury, Wade, and Yates—15.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, in line seven to strike out the words "June next" and to insert "January, 1868."

Mr. CONKLING. I should like to have the bill read as it stands.

The Secretary read it, as follows:

*Be it enacted, &c.*, That the fiftieth section of an act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, is amended so as to read as follows: "This act shall take effect on the 1st day of June next: *Provided*, That the appointment of officers created thereby, and the establishment of rules and general orders under such act, may be made at any time after the passage of this act: *And provided further*, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act."

Mr. STEWART. I hope that this amendment of the law will not be made. I hardly think the Senator from Rhode Island himself would want it in that shape. It will be liable to great abuse if it is put in that form. Of course the effect will be that any man who owes debts, and may be compelled to go into bankruptcy, will fix up some arrangement with his creditors immediately.

Mr. CONNESS. I will say to the Senator that the question before the Senate is on the amendment of the Senator from Rhode Island, [Mr. SPRAGUE] to strike out "June next" and to insert "January, 1868."

Mr. STEWART. I thought it was on the other proposition.

The amendment was rejected.

Mr. CONNESS. Now, I move to amend the bill by striking out the last proviso, in these words:

*And provided further*, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act.

Mr. STEWART. That is the provision on which I was remarking. I think that a very dangerous provision, and without careful consideration it ought not to go into the bill, because it will open the door to smuggling of property. If the bankrupt law is to take effect, and if there be a fair distribution of the assets under it, there ought not to be such a preference of the first creditors as that proviso would allow.

Mr. TRUMBULL. I move that the further consideration of this subject be postponed until to-morrow, with a view of proceeding to the consideration of the adjournment question.

Mr. CONNESS. Let us vote on this bill. We can take the vote immediately.

Mr. TRUMBULL. There is no probability of getting a vote. It has occupied all the day.

Mr. ANTHONY. I hope we shall be allowed to have a vote.

Mr. TRUMBULL. I withdraw the motion if Senators are ready to vote.

Mr. FESSENDEN. If the Senator from Rhode Island will consent to strike out the last proviso there will be no objection to the bill.

Mr. ANTHONY. The last proviso is all there is in the bill.

Mr. FESSENDEN. The argument has been all along that the original intention was to fix the 1st day of June as the time when this act went into effect, but that owing to the peculiar phraseology of the last section of the law, that

is not carried out. This bill is brought in to do that, but here is an additional proviso by which every man is advertised, "If you are in failing circumstances and know that you have got to fail before the 1st of June, we give you to the 1st of June to prefer certain creditors and put your property in the hands of a few individuals and cheat everybody else." If Senators wish to make the law as odious as it possibly can be made they will put on this proviso. That is the only effect of it, simply to tell everybody in trade who owes debts, "Avail yourself of this time; be in a hurry; prefer all your creditors, and make assignments as fast as possible."

Mr. HOWARD. I beg to inquire of the gentleman from Maine, who seems to be well acquainted with the subject, at what time the bankrupt act does take effect by its terms? Does it not take effect immediately on its approval by the President?

Mr. FESSENDEN. Yes, sir.

Mr. HOWARD. So that it is really in force now.

Mr. ANTHONY. I beg the Senator's pardon; the fiftieth section of the bill reads as follows:

"That this act shall commence and take effect as to the appointment of the officers created hereby, and the promulgation of rules and general orders, from and after the date of its approval: *Provided*, That no petition or other proceeding under this act shall be filed, received, or commenced before the 1st day of June, A. D. 1867."

Mr. HOWARD. I think that quite sufficient as it is.

Mr. FESSENDEN. The point is just here: it was intended to make it take effect on the 1st day of June, but the provision simply goes as to the commencement of proceedings. Then the general law comes in, that is to say, that every act takes effect from the time of its passage; so that as to what is done by different creditors and different debtors between now and then is covered by the act, because it is in existence; whereas, if we put it off till June, and say, "You can do anything you please between now and June," the result will be precisely what I stated.

Mr. HOWARD. The result will be that thousands of assignments will be made to favorite creditors and trustees in real fraud of the act itself.

Mr. FESSENDEN. I understand, and I should like to be informed by members of the Judiciary Committee, who are more familiar with it, whether there is not a provision in the law that any assignment made within four months previous to the act of bankruptcy, any conveyance to particular individuals, is invalid, or something of that sort.

Mr. DRAKE. I have it here, and can read it for the information of the honorable Senator if he wishes it.

Mr. FESSENDEN. No matter; I understand it has that general provision.

Mr. DRAKE. Certainly.

Mr. FESSENDEN. It is understood that the act going into effect now covers the four months before, so as to effect certain things which have taken place, certain failures in the State of Rhode Island, and this amendment is made for a particular case or particular cases, as I understand it.

Mr. ANTHONY. It is not for any particular case or cases so far as I am concerned. It is intended to protect all transactions that would be legal if this law had not been passed. It does not make anything legal that was not so before. It merely says that this law, which goes into effect on the 1st of June, shall not make invalid that which was legal before the act was passed.

Mr. FESSENDEN. I do not know how far that may take place. I have not examined the bill sufficiently, and I supposed some member of the Judiciary Committee would explain, and let us see what the effect is if it goes into effect now, and what the effect will be if it does not go into effect until the 1st of June. For instance, if we put off the taking effect of the act until the 1st day of June, is every convey-

ance whatever between now and then legal and not affected by the act? If so, I am opposed to postponing it, and prefer that it should stand as it is.

Mr. CONNESS. The Senator from Rhode Island tells us if this provision is stricken out the bill is gone. That simplifies the matter, and shows us that in his opinion the bankrupt law is really in force now.

Mr. FESSENDEN. I perceive that; but I want to know from the Committee on the Judiciary precisely what the effect would be in relation to the matter.

Mr. ANTHONY. The thirty-fifth section of the act invalidates transactions that took place before the act was approved.

Mr. FESSENDEN. How long?

Mr. ANTHONY. A month. The Senator from Michigan, who has the act in his hand, will read it.

Mr. DRAKE. That is not the effect of the act on a careful examination.

Mr. HOWARD. If the Senator will allow me, I will read the thirty-fifth section of the act:

"SEC. 35. *And be it further enacted*, That if any person being insolvent, or in contemplation of insolvency, within four months before the filing of the petition by or against him, with a view to give a preference to any creditor or person having a claim against him, or who is under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, assignment, transfer, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance, or to be benefited thereby, or by such attachment, having reasonable cause to believe such person is insolvent, and that such attachment, payment, pledge, assignment, or conveyance is made in fraud of the provisions of this act, the same shall be void, and the assignee may recover the property, or the value of it, from the person so receiving it, or so to be benefited," &c.

Forbidding really any preference of one creditor to another within the period of four months before this act shall take effect, or, in other words, before he files his petition or before a petition is filed against him. The provision contained in this bill, it seems to me, very clearly is in perfect antagonism with the thirty-fifth section of the act itself.

Mr. ANTHONY. There seems to be so much misapprehension about this subject that I would rather the bill should go to the Committee on the Judiciary.

Mr. FESSENDEN. That will be a great deal better, and they can tell us to-morrow what the effect will be.

Mr. ANTHONY. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes;

A joint resolution (H. R. No. 39) in reference to the payment of the salaries of members of Congress;

A joint resolution (H. R. No. 38) to cover certain moneys in the control of the Navy Department into the Treasury;

A joint resolution (H. R. No. 41) providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes;

A joint resolution (H. R. No. 42) authorizing the employment of Brevet Brigadier General Seth Eastman on special service;

A joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana; and

A joint resolution (H. R. No. 45) in regard to the Rancho Panoche Grande claim in California.

The message further announced that the House had passed the joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service.

## JOINT COMMITTEE ON ORDINANCE.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the resolution of the House of Representatives providing for the appointment of a joint committee of the two Houses on ordinance, to report it back with an amendment, and as it will take but a moment, I should like to have it considered now.

The PRESIDENT *pro tempore*. It can only be considered by unanimous consent.

Mr. TRUMBULL. I hope it will not be taken up now.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

## ADJOURNMENT OF CONGRESS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a resolution from the House of Representatives on the subject of an adjournment of Congress, have instructed me to report it back with an amendment, which I send to the desk and ask to have read.

The Secretary read the amendment, which was to strike out all after the word "that" in the second line of the resolution and to insert:

The President of the Senate and the Speaker of the House of Representatives be authorized and directed to close the present session by adjourning their respective Houses on the 28th instant at twelve o'clock m.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the resolution?

Mr. TRUMBULL. Yes, sir.

The PRESIDENT *pro tempore*. It can be considered by the unanimous consent of the Senate. Is there any objection? The Chair hears none. The resolution is before the Senate; and the question is on the amendment of the Committee on the Judiciary.

Mr. ANTHONY. What is the amendment?

Mr. TRUMBULL. The amendment adjourns Congress on Thursday next.

Mr. SUMNER. I ask to have the original proposition from the House read, and then the substitute.

Mr. ANTHONY. I should like to move an amendment to the amendment? I think it very desirable that we should get through with the executive business at the same time as the legislative business, and I will move to insert "Friday" instead of "Thursday."

The PRESIDING OFFICER. (Mr. POMEROY.) The Senator from Massachusetts calls for the reading of the original resolution from the House. If there be no objection it will be read.

The Secretary read it, as follows:

*Resolved by the House of Representatives of the United States, (the Senate concurring.) That the Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn the present session from the hour of twelve o'clock meridian on Thursday next, the 28th day of March instant, to reassemble again on the first Wednesday of May, the first Wednesday in June, the first Wednesday of September, and the first Wednesday of November of this year, unless the President of the Senate pro tempore and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before either of the times herein fixed for assembling, declare that there is no occasion for the meeting of Congress at such time.*

Mr. HOWARD. I understood the object of the reference to the Judiciary Committee of the resolution of adjournment that came from the House to have been to obtain their professional opinion upon the constitutionality of the resolution of the House. Some Senators as well as some Representatives made an objection to that resolution, that it was not warranted by the Constitution; and when I voted to refer the question to the Judiciary Committee it was in the hope that they would favor the Senate with their opinion on that very important question. It seems, however, that the committee have not thought it worth their while to express any opinion upon that most important point. For one, I am free to say that I have no doubt about the power of the two Houses to adjourn themselves in the way proposed by the House of Representatives. I think there is no constitutional embarrassment in the way;

and from what I know now of public affairs, and from what I foresee in the future, I am fully persuaded that the resolution of the House is a wise one, and that we ought to adopt it. I hope, therefore, that the substitute coming from the Committee on the Judiciary will not be adopted by the Senate.

Mr. COLE. I concur fully with the Senator from Michigan as to the object of the reference of this resolution. I understood distinctly at the time that the object of referring it was to have a report as to the constitutionality of an adjournment in the mode proposed by the House resolution. I had no expectation that they would fail to pass any opinion upon that point, and substitute for that resolution one entirely different.

Mr. TRUMBULL. In the opinion of the Committee on the Judiciary it was advisable for Congress to adjourn without any provision for assembling in May and June, September and November, as is attempted to be provided by the House of Representatives. That being the opinion of the committee, of course it was unnecessary to inquire into the constitutionality of a different mode of adjournment. There are doubts as to the constitutional power of Congress to authorize the Presiding Officers of the two Houses by proclamations in advance to convene Congress; but that was a question which it was unnecessary to discuss, and unnecessary for the committee to express any opinion upon, inasmuch as the committee was of opinion that it was proper and best for Congress, when it adjourned, to adjourn without day, the present session closing, and the Constitution providing that Congress should assemble on the first Monday of December.

Mr. WILLEY. For myself I am perfectly satisfied with the conclusion to which the committee has come. Irrespective of the constitutional question, I doubt very much the propriety of passing such a resolution as came to us from the House. What is the position which Congress now occupies before the country? We have been engaged for nearly a month past in supplementing our past legislation. That, perhaps, was all very proper and right; but how do we stand, as I said, before the country at this time? The fact is, that the other House is not complete by the delegations from five of the loyal States. The other House is not to-day organized for business. We have been legislating here for a month without a complete representation in the other House; with five loyal States unrepresented in the other House; with but two or three committees in the other House; with one branch of the Legislature unorganized for the transaction of the business of the country. We pass bills here, and send them to the other House, where there is no committee to which they can be referred for revision and examination. They have to be taken peremptorily, and I may say, summarily, from the table, and passed in the other House without the necessary careful revision and examination of a committee.

Then, sir, there is another thing which I beg leave to bring to the notice of the Senate. I differ entirely with those Senators who suppose that the country desires Congress to remain here any longer. I think in that Senators are entirely mistaken. So far as my knowledge extends, there is an eager desire upon the part of the country that Congress should adjourn. The finances of the country, the commercial interests of the country, the mercantile interests of the country, the manufacturing interests of the country, are becoming sensitive. The business of the country is in a kind of state of abeyance, timid, under an apprehension of additional legislation on the part of Congress affecting the questions of the political economy of the country. Capital is fearful of investing itself in any project, in any improvement, in any business, in any enterprise, lest, by the interposition of legislation, the anticipations of men may be disappointed in the business in which they may engage. I know that it is the eager desire of the

business interests of the country, at least so far as I have had any information from them, that Congress shall adjourn at as early a day as possible, so that the country may have eight months at least of repose, as was well said by the Senator from New York the other day, in which they may have a free track and a free course for the operations of their enterprises, without any apprehensions upon their part that Congress, by unexpected legislation, may interfere with their arrangements.

I have but one further word to add, and that is in reference to the character of the resolution which came to us from the House. It seems to me it would be the worst possible policy that Congress could possibly adopt to pass such a resolution as that. It would keep the country under constant apprehensions of congressional interference. Capital would not invest itself; enterprises would not be undertaken; the whole commercial business of the country would be deranged and retarded by the constant apprehension that in the interim between this time and the time to which Congress ordinarily adjourns, there might be a special session called, and that Congress might engage in some kind of legislation that would materially interfere with the business arrangements of the country. Therefore it does seem to me that, taking these things into consideration, it is very material to the best interests and welfare of the country that Congress should adjourn speedily, and adjourn to the latest period possible, until the ordinary time for the assembling of Congress at the commencement of the next session.

Mr. NYE. I confess myself quite surprised at the report of the Judiciary Committee. I submit to them and to the Senate whether the report they have made on the proposition referred to them from the House is treating a coördinate branch of this Congress with proper respect when they come in and say they have not investigated that question at all, but have concluded that this Congress had better adjourn.

If such a proposition as this had come from the Judiciary Committee of the Senate and had gone to the other House, and had been reported on there in this way, so unusual as it seems to me, I apprehend the Senator from Illinois would have felt aggrieved at the conduct of the other House.

Now, Mr. President, upon the report that is made by the Committee on the Judiciary that it is best for Congress to adjourn I desire to say a few words. We are told by the Senator from West Virginia who has just taken his seat, that Congress ought to adjourn for the purpose of giving repose to the country, and giving stability to the great commercial and manufacturing interests of the country. I confess myself not a little surprised to hear from that careful Senator such a view of the effect of the session of Congress upon the people of this country. Sir, I yield to the suggestion and acknowledge the fact that this country needs repose. Where is the country to look for that repose? We have been rocked upon the billows of uncertainty and doubt by no action of Congress. Congress has stood here in the attitude of him who poured oil upon the troubled waters, for the purpose of giving that repose to the country which the distinguished Senator from West Virginia so much desires. I disagree with him *in toto* that the cause of this commercial and manufacturing discontent is attributable to the presence of Congress here. No, sir; so far from that being the case, the fact is that the eyes of this country with all its great interests are turned to Congress to-day as the only haven of repose wherein they can ride out this troubled condition of things.

Does the honorable Senator mean to say that the presence of Congress here creates discontent in the country? Why did it not occur then to the honorable Senator and the majority of this body when they passed the bill fixing an unusual time for the meeting of Congress, that that legislation would cause uneasiness and discontent to those great interests of the

country? Sir, the Senator thought differently then, or I trust he would have voted differently. This Senate thought differently then and acted differently, and in accordance with the settled judgment and wishes of the majority of the people of this country. Where else have these great interests got to look now for repose? Do they look to the executive branch of this Government? For what reason? Has there been that course of action in that arm and force of the Government that is calculated to give repose to the country? On the contrary, I assert that the measures and the conduct of the Executive have rocked the interests of this country to their very base until the whole superstructure has toppled upon the base.

The country with one accord shouted for joy when this great measure was passed convening Congress on the 4th day of March. What for? That this Congress could stand here upon the tower as watchmen to give the alarm when danger approaches. And now we are told that the twenty-four days we have sat here have caused great discontent and uneasiness in the great interests of this country. I have looked for some evidence of that fact. I find none. I received this morning from a distant constituency the expression of the hope that Congress would continue in session. I know that the great mass of the people require that Congress should be in that position that in any emergency demanding it they can convene. It seems to me to have been trifling with the public confidence to have called this session for twenty-four days and then say that there exists no further necessity for its sitting, but on the contrary the great public interests demand that it should dissolve itself to-day. The contradiction in the reason that actuated the passage of this law and the action of Senators upon it now, is to me entirely inexplicable.

I do not know that the plan proposed by the House of Representatives and submitted to the Committee on the Judiciary, at whose hands it has received no consideration, is the best plan; but this body ought to look to that committee, if that was not the best, to give us some improvement on it, for I submit it as a principle that no body of men, even though they be a committee, have a right to condemn one theory unless they can substitute in its place a better.

What has Congress done to create this uneasiness? The distinguished Senator from Oregon [Mr. WILLIAMS] will say that by this continuous session he has saved four or five hundred thousand acres of land to the country. Other great measures of saving and improvement have been adopted; and if Congress was not in session when would the bankrupt law, this great measure of relief, go into effect? It will be found that Congress, without disturbing any of the great interests of the country, can find business enough, so long as it sits, in providing measures of security for this country.

But, sir, that was not the object of this session of Congress. People may disguise it as they please; Senators may say now about it what they choose; but the real object that called this Congress together was to see to it that no measures were taken by the Executive of this nation to destroy its stability. I have seen nothing from that source that is calculated to increase my confidence in him at all. Two days ago he flirited in the face of this Senate one of the strangest messages that was ever written, one that was born in malice, and hurled back defiantly at the power that is now guiding this Government. If Senators see in that evidence of safety in intrusting the great interests of the country to his care at this peculiar moment, I confess they see what to me is not to be seen. Is he friendly to the great measure of reconstruction we have enacted? Let his own paper that lies upon your desk answer. He charges that the measures that Congress has put forth are unconstitutional from the beginning to the end, and he asserts now that those measures are at variance with the Constitution of the United States. Sir, I

do not know what others may expect; but standing in his position, there is not a Senator on this floor but what could so conduct himself and shield himself under the protection of the Constitution as to make the reconstruction measure utterly inoperative. We are told that he has appointed good commanders for the several positions. Sir, a breath from him makes a commander, and another breath unmakes him. Your Schofields and your Popes and other generals may be supplanted to-morrow by men whose feelings are in accordance with his own, and your law will receive under their guidance such protection and such furtherance as vultures give to doves.

But, sir, there seems to be a sort of homesickness seizing upon the Senate. I am told that in armies occasionally it really amounts to a disease, so that it is not a crime to desert, and prudent commanders on such occasions always examine and diagnose carefully to see whether the soldier means to desert or whether he is afflicted with a disease that he cannot help. If that is the case here, the Senators who are so much in favor of an adjournment will probably go home if they have that disease, and I do not expect what I say will change the result. My friend from Illinois seems to be afflicted with it bad; and so far from considering measures that are sent here, his only cry is "adjourn immediately." That is the report of the Judiciary Committee—adjourn. I have high respect for their opinion; but, sir, I desire that when the evil hour shall come, as in my judgment it will between this and December, the people shall not look at me and say "You did it."

If the proposition of the House proposes to convene Congress too often, I submit to the chairman of the Committee on the Judiciary whether he had not better propose to have but two meetings during the summer. What objection can there be to that? None, but the objection raised that it will give repose to the country if Congress is not to come together. I have said upon that subject all I desire to say. If the people of this nation look to any other haven of rest and repose but in the Congress of the United States now, they are sure to ride out in an uncertain roadway and a terrible storm. Sir, in this haven and harbor of the Congress of the United States, in this power that has taken the government of the rebellious States and of this country into its own hands, in this power that uses the Executive now but simply as a clerk to make a mark upon bills to show that they have been there in the ordinary routine of business, the country looks for that repose which the Senator from West Virginia so much desires that the people should enjoy.

I hope, sir, if the Senate entertain objections to the measure proposed by the House, that they will at least provide some way by which Congress can control itself, and in case of any emergency will be able to come together by virtue of the rule or the law that they themselves fix, and have it depending upon their will whether they shall assemble or not.

Mr. FESSENDEN. I do not care a great deal how this question is decided; but there are some things in the remarks of the honorable Senator from Nevada that I cannot help noticing. It is very difficult to reply to him at any time. He indulges so much in tropes and figures, his imagination is so fervid, and he has such beautiful illustrations at his tongue's end, that it is very difficult in replying to keep to the facts and overlook his figures of speech; but after all, this is to be decided by the matter of fact instead of figures of speech.

My friend has made a very severe imputation or insinuation with regard to the members of this Senate who are for adjournment, and that is, that they must be afflicted with homesickness. In other words, it is suggested that the large majority of this Senate who vote to adjourn to December, instead of being influenced by public considerations and their views of duty, are merely following out their own personal convenience and comfort; they are in a hurry

to get home, and therefore they are ready to sacrifice what the best interests of the country demand. I can put no other construction upon his language. My friend will permit me to say to him in all kindness that I have not been absent, except detained by sickness in my lodgings, for many years from daily attendance upon my duties here. I have neither been to New York nor to Philadelphia nor anywhere else. I have stayed in Washington, ready, to the best of my ability to discharge my duties. Homesickness has not affected me; but I will say to my friend that if I had spent all my time at home pretty much during the last session and got here only a few days before it adjourned, it would have been hard then if I had been homesick. [Laughter.] I should have had no excuse for being homesick under such circumstances. Those Senators who had been at work here all the time might have had an excuse, but under such circumstances I should have had none.

Well, sir, I do not claim any such exemption. I claim to be influenced by no considerations in the vote that I give on this subject, except simply my views of what is advisable. It may be that in my view the opinions of the people that I represent differ somewhat from the opinions of the people of Nevada on the subject, who are so near and so thoroughly acquainted with public affairs, and so every day in communication with them, that they can tell better than anybody else what is going on here, and what it is advisable for us to do! I have seen no testimony that the people of the country expect at our hands what the honorable Senator seems to suppose. He says that he knows that the people of this country demand that we should continue in session. How does he know it? Where does he get his information? He gives as an illustration one letter from his own constituents. I have heard of nothing else. Where are the newspapers that have called upon us to continue in session? To be sure I do not know as much about them as others, but I have seen no such overwhelming testimony of public opinion coming from that source; and I certainly have seen no such overwhelming testimony on the subject coming from any other source. I regret that I am not better informed on the subject; but when Senators rise here and tell us that they know what public opinion is, I should like to be informed how they know it. Is it anything more than their impression and their belief? And if so, may not others have an impression and a belief of a different kind from other sources of information? I do not yield, therefore, to that argument on the subject. It is not conclusive to my mind.

I have heard but one argument and that is, the inquiry, "What was this particular session for at this time? Was it not designed that we should meet in March and keep ourselves almost in continuous session, or, at any rate, in a condition to meet often?" Why, sir, I did not understand that to be the reason. The reason of this session being called on the 4th of March I always understood to be in order to organize this Fortieth Congress, especially the House of Representatives. We have now a President who was elected Vice President. If he should die, the next officer is the President of the Senate. We had then but two lives in being, to use a legal term. It was thought important that the Congress should be organized so that we might have a Speaker of the House, who might be next in succession; and the last being the short session, it was supposed also that there might be some necessary legislation to be accomplished. Senators are perfectly aware that it was supposed that we should have too short a time in order to pass those bills which we thought necessary in order to tie the hands of the President; that we could not get them through; that some of them might slip and that it might be important for us to have another session in order to pass that necessary legislation. I never heard any other reasons given than those. If there were others they were not submitted to me.

It was on the strength of those considerations that I was willing to allow this session to be held, so far as my vote was concerned, on the 4th of March. I did not go any further than that. It seemed to me that that was a sufficient reason, and under the circumstances of the case I was not disposed to put myself in the way of it at all.

Well, sir, we have met. Will the honorable Senator tell me what legislation is left unfinished calling for our attention? Is there any? Is there any bill that the Senator desires to pass? Is there anything further that he wants to do in order to diminish the power which the President has hitherto exercised? No Senator will pretend that there is one single thing left, that everything has not been done that was desired to be done with reference to that matter. We have settled the question of the appointment of officers by the President in our own way, to our own satisfaction. We have even limited his military power, so far as it was thought advisable to limit and where we had the power to limit it under the Constitution of the United States, gone as far in that direction as we desired. What more is there to be done? What do Senators desire to accomplish? Nobody has suggested a single measure of that description or any other that it is desirable for us to act upon in the way of legislation.

But Senators say, "We must be in session, or be in a condition to meet, for we do not know whether the President will carry out these laws." Sir, can we make him carry them out by remaining in session? Suppose he chooses to do or not to do just precisely what Senators desire either to accomplish or avoid; is there anything further we can do? What pressure can we bring to bear upon the President to compel him to carry out these laws in any other way than he feels disposed to do? Sir, he must have time. With the best enjoyment of all the opportunities that may be presented, making the most of the time between now and next fall, there is not more than enough to afford a fair chance for the experiment that we have instituted. "Up to September the time must be taken up entirely in making out the registration of voters. Is there anything that Senators could do before that, or that the President could do before that? Suppose the President while we are in session chooses to change these officers he has appointed and appoint others; can we legislate so as to prevent it? Have we any power over the subject in any possible way whatever? Can we accomplish anything in that line by remaining in session? Senators will not pretend that we can in any way.

What, then, have we to watch? If I could see anything to be accomplished even in the direction that Senators argue, I should be perfectly willing to stay here; and I am not unwilling now. I am not contending against any change of the resolution. My own judgment is one way; but I am perfectly willing to accede to the views of the majority of the Senate on the subject, whatever they may be. I yield when I find the majority is against me, and I do not complain of others and accuse them of being influenced by bad motives, because they happen to differ from me in judgment, if the majority differs with me, because I am apt to think the majority is more likely to be right than the minority as a general rule, and I yield.

Senators talk about the conduct of the President in relation to certain matters. That I do not choose to discuss; but we are too old and too sensible to yield to arguments that do not apply to the question at all. I make no issue about that and do not discuss it; but granting all that Senators choose to say, has it any application to this question of adjournment that the conduct of the President has not been satisfactory to us and has been such as we totally disapprove, unless you can point out some way, some mode in which or by which the President is still to accomplish evil? If we have done all that we can do as legislators, and there is nothing left for us, what ob-

ject is there in these adjournments from day to day? Unless you can show me an object, something that is to be done, some power that we shall have to prevent evil, I ask why these adjournments from month to month in the way proposed? Are they dignified, or will they do good or do evil?

My judgment is, and has been from the beginning, that having accomplished all by way of legislation that we can accomplish, it being perfectly out of our power to act further on the question of reconstruction, the matter having gone out of our hands, the time between now and the ordinary period of our assembling being no more than is necessary in order to try this experiment fairly and see what is to be done, only evil comes from keeping the country in a state of expectation of something that is to occur by the meeting of Congress. The business matters of this country are of considerable consequence. I believe I feel that they have been kept even by this session of Congress in a state of continued and continuous agitation and alarm. Why? Because both Houses of Congress have been filled at previous sessions with all sorts of financial schemes constantly laid upon the table, started by A, B, C, D, E, and F, without much consideration, I think; in many cases, and getting votes sometimes for fun and sometimes for mischief, that only increase the agitation and keep the business interests of the country in a constant state of alarm. If I am rightly informed, there have been several new financial schemes laid on the table of the other House this morning. So long as we are in session, and so long as we do not look forward to anything permanent or consider anything as settled, the result of fixing times ahead for the meeting of Congress in case somebody should think it advisable, and for Congress not to come together if somebody should think it not advisable, is to do harm, to agitate the country without any possible good. If gentlemen will point out to me any way in which any injury can be done by the Executive that can be avoided by our being in session and by any legislation we can adopt I shall yield to the force of their logic; but unless they do so I really must remain of my original opinion.

Mr. NYE. I did not intend to impugn anybody's motives in regard to this matter, and I do not think it is fairly inferable from any language I used. Twice since this discussion commenced the fact has been mentioned that I was absent from the Senate during the greater part of last session. I presume that fact caused no regret on the part of either of the Senators who mentioned it. It will be a relief to them when they reflect that the Government has saved so much by my not being here all the time.

I know how dangerous it is to fall under the knife of my friend from Maine. He accuses me of indulging in fancy in regard to this question. I have two or three inquiries to put in all candor to that Senator and to the Senate. Do I indulge in any fancy when I say that the times are very extraordinary? If so, I impeach the judgment of these two great deliberative bodies, for whose judgment I have the highest respect. If the times had not been unusual this Congress would not have been convened at this unusual period, and it will hardly satisfy the country to declare, even with the indorsement of the distinguished Senator from Maine, that the only object was to organize the two Houses of Congress. The more rational and more satisfactory reply is that this Congress was convened at this unusual time because themselves were unusual and demanded a close watching by the law-making power of this country.

The Senator from Maine seems to have great misgivings for fear some new financial measure will be introduced and discussed. In my judgment Congress cannot better occupy itself for two months than in investigating and putting forth new measures of finance for this country. What I suggest now will be history ere this Congress convenes again. Sir, have the people of this country got so afraid of Congress that they shudder when there is any

measure brought forth here for consideration in this body? If so, it would have been better for the Senator from Maine, as well as myself, to have been absent, not only up to the close of the late session, but for the whole session. If it is true that the people have got so that they distrust Congress to that extent that the mere introduction of a measure for its consideration is alarming to the business interests of the country, we had better go home and stay there, and we had better not have come.

Do the Senator from Maine and those in favor of an immediate adjournment now mean to say that the sum-total of human wisdom upon all these questions has been exhausted? I take it not. If so, they will find those coming after us foolish or wise enough to introduce new measures and discuss them. Sir, in behalf of Congress I assert that it is doing great injustice to itself to make a public acknowledgment that its session tends to disturb the business interests of the country. In my judgment it is not true, come from what source it may.

The Senator from Maine inquired whether Congress if it is in session, and if the Executive does not do his duty, can do anything. I answer that it can. I understand it to be a constitutional duty of the President of the United States to see that every law which Congress passes is faithfully and energetically executed. I understand that if he fails to do that he is guilty of a high crime and misdemeanor. If Congress is in session or in such a position that it can come together, if the fact is palpable that he fails to execute these important laws that are to build up our waste places and heal the breaches, it can inquire the reason why, and it is the only tribunal that can inquire. If it be true that he persists in willful disobedience to the mandates of Congress and the mandates of the Constitution, here sits the tribunal to put him out of the way. But we are told that the very idea of that disturbs manufactures and commerce. Sir, above the momentary success of commerce and manufactures, towering clear above them and their interests as momentarily affected, stands the great question of rebuilding and completing the rebuilding of this structure that has been so willfully torn down; and the commercial and manufacturing interests of this country had far better suffer from agitation momentarily than that this great work should be stopped. When it shall be completed they will have a permanent prosperity founded upon a united and a happy country, and until that time arrives let me tell the Senator from Maine there never will be substantial commercial and manufacturing prosperity in this country. To enhance the chances of doing that immediately I submit to the good sense of the Senate to say whether Congress should not be in a position where it can come to the rescue if it is needed.

Mr. YATES. I do not know that I have anything special to add to what I said on this subject the other day; but some of the remarks made by the honorable Senator from Maine induce me to say a few words on this occasion.

I regard the question as a very important one, indeed. It is certainly regarded as an important question by the country. I presume there is no question which could be submitted to our constituents in which they feel a more deep and vital interest than this question of adjournment at the present time. I agree with the honorable Senator from Nevada that the Judiciary Committee have not, as I understand it, discharged their duty in relation to the question submitted to them by the Senate. The resolution passed by the House was regularly referred by the Senate to that committee, and they have made their report; but, as I understand the chairman, the committee have not considered at all the proposition that was referred to them by the Senate; in other words, as the committee had determined that Congress ought to adjourn on Thursday next, they thought it was not necessary to consider the House resolution which the Senate referred to them. It is not for me to say what was the duty of that committee; but the question



referred to them was the resolution which came from the House of Representatives, and that was a proposition to adjourn on Thursday to stated periods, so that Congress might continue in position to assemble at any time when the Presiding Officers of the two Houses might call them together. I would not refer to the action of the committee but that I consider the proposition of the other House decidedly preferable, in every respect, to the proposition reported by the committee.

In the first place no possible harm can result to the country or to Congress from the measure proposed by the House. It does not bring us here unless it is necessary and important that we should come. We can be at home and stand adjourned just as much as we should be if we passed the proposition of the chairman of the committee, unless some emergency should arise calling upon Congress to be here. On the other hand, if an emergency arises which shall justify legislative interposition or legislative action, we can all trust, I am sure, to the Presiding Officers of the two bodies to call us together.

Mr. President, we are in the midst of extraordinary times. The country is apparently at peace, but the great object for which we have had a gigantic war is not yet accomplished. We have done much, I may say, indeed, we have done almost everything; the flag of the enemy trails in the dust at the feet of our victorious hosts, and we have established a policy of reconstruction which I believe will stand, which I believe it can be successfully carried out without interposition from any source, will meet the approbation of the country and result in the reestablishment of this Union upon a basis of prosperity such as it was before the war began. But our mission has not yet been accomplished; this country is not yet restored; the Union is not yet unbroken; all the stars are not yet upon our flag; reconstruction is not yet complete, nor will it be complete until the rebel States themselves have taken action, until they have responded by their votes and by their conduct to the action of Congress. Then the question arises, how are the measures of Congress to be carried out, and by whom except by Congress itself? Have we the approbation or the favor of the Supreme Court? Is the President ready to aid in the accomplishment of these measures?

The Senator from Maine asked the question what good will it do for us to remain in session, can we compel the President to do differently from what he would do were we adjourned? I say yes. If the President refuses to execute the laws that have been adopted by Congress, if he fails to carry out the measures which have been enacted, this Congress will stand ready to impeach the President for refusing to carry them out. But if we adjourn over, without keeping ourselves in position, the President may pursue just what course he pleases; he may execute these laws or not execute them; he may retain in power the present generals of the Army whom he has appointed to execute these laws, or he may at his pleasure have others in their places, and what position will Congress occupy? The ridiculous, disgraceful, cowardly position of having abandoned their posts and left the execution of these laws to the President himself. Sir, this is like planting the corn, and hoeing it, and plowing it, and cultivating it to the full ear and then leaving that ear to rot and to decay upon the ground. Shall we stop before we have carried out this work of reconstruction? Has this war been in vain? Have all these millions of money been expended in vain? Have our plans of reconstruction for a year or more occupied the attention of Congress for naught? And shall we now forsooth, men who should be sentinels upon the watch-tower of liberty to protect the rights of the people, leave the execution of these measures, the carrying out of this policy, in the hands of a man who has opposed us from the start, who has connived with our enemies, who has proved false to his promises and to his pledges?

Mr. FESSENDEN. Will my friend allow me to ask him a question? Does not the Constitution settle who shall execute the laws? What can Congress do to execute them? We are to legislate.

Mr. YATES. The Constitution unfortunately does fix upon the President, upon the Commander-in-Chief of the Navy and the Army, the duty of executing these laws. The argument which I made was that if he shall fail to do it, if he shall fail to execute the laws, then we ought to be in a position where we can be called together by the Presiding Officers of the two bodies to bring in articles of impeachment, and to punish the President for the commission of high crimes and misdemeanors. But the honorable Senator from Maine says, "No, we will go to our homes; we will deprive ourselves of this power; we will cut ourselves off from this right; and if the President does not choose to execute these laws, we cannot reassemble until the regular time." Which is the wisest policy, that proposed by the House of Representatives or by the committee of the Senate?

Mr. President, a good deal has been said about public opinion on this subject. I am not one of those who bend to public opinion unless I think that public opinion is right; but in this country the popular will is the breath, the life, the soul of the Government; and prestige is a great deal in the settlement of every question. When we have the people on our side, Congress may move forward; but if the people are not on our side, Congress cannot move forward.

Suppose we adjourn over now, and the President, as he believes these laws are unconstitutional, as he is not at heart for them, fails to execute them, or so feebly executes them that he does not carry out the plans and designs of Congress, he has until late in the fall, some eight or nine months to wait for a change in public sentiment, to await the returns of elections; and to take advantage of anything that may occur in the mean time. I believe that the people of this country expect of Congress to maintain its position, to carry out its policy, and for that reason I am opposed to the report of the committee; and I can vote very cheerfully, for I think there is no constitutional difficulty in the way, for the resolution which has been submitted by the House of Representatives.

Mr. HOWE. Mr. President, is it in order to move to amend the amendment reported by the committee?

The PRESIDENT *pro tempore*. It is.

Mr. HOWE. If so, I move to amend the amendment by striking out all the words which the committee propose to insert, and to insert after the word "that:"

The President of the Senate and the Speaker of the House of Representatives, on Friday, the 23d day of March, at twelve o'clock meridian, adjourn their respective Houses until the first Monday of June; and that on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1867.

I should like to see this amendment agreed to, and I cannot conceive for my life what valid objection can be urged against it. It proposes to adjourn the two Houses just one day later than that named by the amendment of the committee. I think that additional day we need here for executive business if for no other. It proposes to reserve the right to the Representatives to reconvene here on the first Monday of June next if they choose to do so. That is all. No man is compelled to come. It reserves the right to the Representatives to reassemble here if they choose to reassemble here at that time, or if there is a public exigency which calls upon them to reassemble.

What possible objection can any Senator or any Representative have to retaining such a privilege as this, or such a right as this, or such a power as this, call it whichever you may? Who knows, who can now foresee but what this disease, which the Senator from Nevada has characterized, I hope inaccurately, as homesickness, may take a new form by June

next? Who knows but that by that time we may get sick of home and want to come back to these Halls again? What objection to having a legal right to do so? Every Senator and every Representative comes as a volunteer. The resolution is imperative, if this amendment be adopted, upon the Presiding Officers of the two Houses to adjourn the two Houses on that day again until December, unless the two Houses otherwise order and direct them, and they cannot otherwise direct them unless a quorum shall be assembled here voluntarily. Is a quorum likely to assemble voluntarily unless it should happen that some exigency should arise, some contingency should present itself which seemed to impress upon the mind of the individual Senators and Representatives the duty of returning here?

I cannot conceive of any contingency in which the provision can do any harm; but you ask me what possible good it can do. Sir, I wish that question would not be pressed upon me, for that is the difficult one to answer. [Laughter.] I cannot just now say what practical good will result from having this right reserved to us to reassemble in June. Yes, Mr. President, I correct myself. I think I can mention just one good that will arise from it. It is suggested to me by the argument of the Senator from West Virginia; it is enforced by the argument recently made by the Senator from Maine. Those Senators have appealed to the body against reserving this right to reassemble here on any future day between this and December, because such a possibility, such a contingency held up before the American people, they seem to think keeps the American people in a state of perpetual consternation, business is unsettled, commerce is pursued staggeringly, every branch of human effort is carried on under difficulties. If that is so—and it does not become me to controvert any assertion made by the Senator from West Virginia or the Senator from Maine—if that is so, it is necessary to be corrected, because Congress and its meetings occasionally are a constitutional necessity; and if people are so alarmed at the prospect of an assembling of the Congress of the United States they must be taught to rise above that fear.

Professor Rarcy, I remember, had one way of overcoming this weakness in those that he undertook to deal with. When he had a horse that was unnecessarily nervous and apprehensive of objects that he encountered, his way was to enforce upon his observation, to press upon the observation and notice of the horse the object which he was apt to shun; gradually approach it until he could get him to smell of it, and so teach him to disregard the object. I do not think, in view of what is said here of the extreme nervousness and apprehensiveness of the American people in view of a Congress, that it would actually do at once to let the people smell of a Congress, but I think we can put one out toward them, hold up the possibility of it, and in time they will learn to contemplate such a thing as the meeting of an American Congress and not fall flat before it. I hope to live to see that time come. And this, I think, is one way in which we can educate the people to contemplate this great horror, to familiarize themselves with it gradually, and finally consent to it.

Mr. President, if it be so, as it is said to be, that the business of this country cannot go on while the national Legislature is in session; if it be so, as it is said to be, that the laying of a bill upon the table of the House of Representatives occasions an ague on State street, in Boston, and a panic in Wall street, the sooner that business is educated above that state of apprehensiveness and nervousness the better; and in this point of view I would very much like to see the amendment adopted. But it is not the only one, for these are extraordinary times. That cannot be denied. You do not know what may happen in the next sixty days. There may be a state of things arising within that time which would impress it upon the minds of individual Senators as a duty that

they should come back here. Why? What for? Certainly in no possible event to act as watch-dogs of the Presidential Mansion. I do not contemplate any such thing as that. We have our peculiar, our particular, our especial vocation, and I have no idea of seeing it changed. If we come here at all, we come to do the constitutional work of a constitutional Legislature, and for nothing else. But there may be, I say, an occasion for such work as that in the next sixty days. We cannot foreknow that there will not be, and since there is no possible inconvenience to arise from reserving this power in the resolution, I really wish the Senate would do it; and besides, it seems to me we thus show a disposition to reconcile our views with a view which seems to be prevalent in the other House, and so we seem to be approaching a mutual agreement, approaching some plan upon which the two Houses can adjourn at some time.

Mr. SAULSBURY. The rumor has floated upon the air during the whole existence of the last session of the Thirty-Ninth Congress, and during the brief period of the Fortieth Congress, that the President of the United States is to be impeached. I have yet to learn from the utterance of a statesman in whom the public have confidence, or of a press to whose teachings the public give implicit credence, that this is a remedy for existing evils. I am so unfortunately situated in this body as not to belong to a presidential republican party, or to a congressional republican party. As far as the indications of each in action have been manifested I differ widely, very widely from both. But, sir, I will now take occasion to say that which I have not said publicly before, but which I have felt all the time in my heart of hearts, that if the President of the United States would allow himself to be impeached, and before conviction of high crimes and misdemeanors upon which he may be arraigned allow himself to be deposed from his high authority, as has been suggested, he ought to be impeached.

Sir, it may be said that this is throwing defiance in the teeth of the omnipotence of the American Congress. It may be that it is disloyal to utter such a sentiment as that. It is not uttered in the spirit of defiance, and as for "disloyalty," I have heard enough of it for the last six years to subject the word only to my personal contempt. The Constitution of the country, if there be any Constitution left, and if there be any country left over which that Constitution is the supreme law of the land, points out the mode and the manner in which a high official shall be arraigned. For the first time in the history of our Government, which has stood for eighty or ninety years, we find it threatened every day that our independent and coordinate branch of the Government shall be arraigned before the other and tried. That may be proper; but it is further intimated that before trial and before conviction that coordinate branch of the Government has a right to lay its omnipotent hand upon the other and dispossess it of its constitutional rights, and subject it, and not only it but every power of the Government, to the absolute will and control of this usurping authority. Sir, if that be the theory of the American Constitution; if that be the teaching of our fathers; if that be the doctrine taught by the establishment upon a written charter of a Government of coordinate and equal powers, I have been unable to appreciate that form of government; and if it has come to this, then I say, as one of the humblest members of this body, come despotism in your worst form; come ye usurpers of government and of administration, and subject the rights and the liberties of the people to your absolute control. Whatever personal consequence may attach to me, I utter my voice of protest against it, and say that never did a man fill the executive chair of the nation who ought to submit to such a tyrannical exercise of power; and I say now, without any offense to the gentlemen with whom I associate, "If this be treason, make the most of it."

Mr. DRAKE. I cannot regard the question now before the Senate otherwise than as one of the most important that has been before it since it assembled as a part of the Fortieth Congress, and as one of the most important that is likely to come before it while it is in session. I propose, in addition to some remarks which I made the other day, to state my views on some points presented by the honorable Senator from Maine, and before doing so I must express my great regret at finding myself obliged to differ from one so justly distinguished in this body and before the country as that gentleman.

Mr. President, turn it which way we may, look at it how we may, a vote of adjournment now over to next December is one of two things: either a declaration to the country that Congress has confidence in the Administration, or that Congress is powerless to check or control that Administration by appropriate legislation. I do not propose by my vote to make either declaration to the country. I do not intend, so far as my individual action is concerned, to say to the people whom I represent here that "all is quiet on the Potomac;" for it is not quiet here, and we know it is not. Nor do I intend to say to them that if the President chooses to take this, that, or the other course in the execution or non-execution of the laws which we have passed Congress has no power to lay its hand upon him. One or the other of these two things, in my opinion, a present adjournment over to next December, is the declaration of Congress, and cannot be construed to be otherwise.

The honorable Senator from Maine asks, apparently with the conviction that it is unanswerable, what legislation is undone that the exigencies of the country require? Sir, I admit that to all appearances what we know at this moment of the exigencies of the country has been met by the legislation that has been consummated; but can the Senator from Maine tell what other legislation may not be needed before sixty or even thirty days shall have passed over our heads. We know, we need not be told, that we are dealing with a people who are wide-awake to everything that can furnish an opportunity to them to shake off what they call the shackles of an odious tyranny; and we know, too, that at the other end of the avenue is an executive officer who is in sympathy with them, and not in sympathy with Congress and its legislation.

And can we tell that there may not arise within thirty days after we leave here an exigency as great as any which this Congress or its predecessor has been called upon to meet. If we were in ordinary circumstances there would be no objection to our going hence until December. If we were in ordinary circumstances there would have been no occasion for the Fortieth Congress to meet on the 4th of March, and the very fact that it did meet is an indication to the world that there was an exigency which had to be met. Why did no previous Congress ever meet to organize, as the Senator from Maine says? During the term for which General Harrison was elected the Vice President went from your chair to the White House for three years and eleven months, and Congress never thought of meeting on the 4th of March to elect a Speaker to put him in the line of succession to the presidency. Under the Administration of Mr. Pierce the Vice President died, and your chair became vacant; but Congress was never called together for the purpose of electing a Speaker to put him in the line of the presidency; nor in General Taylor's term either. Why not? Because the exigencies of the country did not demand it. Why did the Thirty-Ninth Congress pass an act convening this Congress but that the exigencies of the country did demand it in an imperative degree? Now, we are called upon to leave here, to disperse, to go home, to tell the country all is safe in the hands of Andrew Johnson; all is safe in the hands of a President who declares your laws unconstitutional; all is safe in the hands of a President who is in sympathy with

the very men and the very States over whom those laws are intended to be operative for the restoration of the Union.

Sir, I cannot do this thing. A sense of duty to the loyal people I represent forbids that under any circumstances I should give my assent to this Congress dispersing for more than eight months to come. I hope that something like the amendment offered by the Senator from Wisconsin will be adopted by this body. I hope for the peace and the quiet of the loyal men of the country that they will not be made to believe by the action of this Congress that they can have no hope whatever, let the President do what he may, between now and December. I would prefer an amendment similar to that of the Senator from Wisconsin in a little different shape; that is, providing more than one day between now and December when Congress may meet; and if his amendment shall fail, I have one prepared which I will offer to cover that state of the case.

But, Mr. President, one word more. I make no imputations upon the motives which lead gentlemen to vote in favor of an adjournment over until December; it does not become me or any other Senator to make imputations upon the motives of Senators; but I can state my own motive for the course I pursue, and that is that this nation shall, if Congress can do it, be guarded at every point against the machinations of men who would yet destroy it if they could. With me it would be motive enough to sit here in my seat every day until December to know that it is possible that the designs and devices which are still cherished for the destruction of this nation had a possibility of being carried out.

Mr. WILLIAMS. I do not altogether agree with the honorable Senator from Missouri in construing an adjournment as a declaration to the country that Congress has confidence in the Executive or into a declaration that Congress is disposed to abandon the performance of its duty. I say that the construction to be put upon the act of Congress in adjourning at this time is in the first place that it has been usual from the beginning of the Government for the adjournment to take place about this time, and in adjourning, as is proposed by the Committee on the Judiciary, we only follow those precedents that have been established since the formation of the Government; and it further amounts to a declaration on the part of Congress that we believe the legislation which has been enacted is sufficient for the protection of the country, and that we have put such guards around and such checks upon the Executive by our legislation as to protect the country and promote the restoration of the Union.

I construe the other proposition to adjourn from time to time, as proposed by the House of Representatives, as a declaration to the country on the part of Congress that in their judgment there is some great impending danger; and that declaration on the part of Congress will disturb the public mind, and the people will ask each other, "What does this extraordinary proceeding mean, and where is that great and hidden danger that is coming upon the country? Congress must understand it; they must have some means of knowledge not within our reach?" The people will justly construe this act as an apprehension on their part that some great calamity, some unseen calamity is about to befall the country, and that it is necessary that Congress should assemble from time to time during the summer to prevent the effects of that calamity.

Now, sir, what does this mean? We find that those distinguished gentlemen who seemed most reluctant to provide a speedy way for the restoration of the Union are now most anxious to continue this session of Congress, in order, according to the declaration of some of them, to facilitate the return of the rebel States to the Union. Now, sir, does this mean impeachment or not? That is the question. Suppose Andrew Johnson should make the laws we have passed for reconstruction inoperative;

what follows? Are not those States left in their present condition? Is anybody to be harmed if the rebel States are not restored in the next six months? Suppose the restoration shall be put off for one year; who is harmed? Cannot Congress endure that continuance of the present state of things? Cannot the country endure it? Who is it that is so very anxious that Congress should stay together to compel the Executive to go forward and make an immediate restoration of those States to the Union? Sir, we have passed a law by which we have opened the doors of the Union to those States. We have invited them to come in upon our terms. Upon the President devolves the responsibility of executing that law. If he fails in the performance of his duty he will be answerable to the grand tribunal of this nation for his failure to perform his duty. But even if those laws should fail until the 1st of December to produce their intended effect, the nation, in my judgment, will not suffer; for so far as I am individually concerned I think no matter what obstacles Andrew Johnson may put in the way, those States will have their representatives in Congress just as soon as the interests of this country will warrant. All he can do, and all that these gentlemen pretend that he can do, is simply to put off the restoration of those States, by a failure to execute our law, for a certain length of time; and I cannot possibly perceive what grave danger will result even if he should pursue that course. But this is altogether a matter of suspicion. Although I have no very exalted opinion of the President, I do not regard him as a very bold man; and I doubt very much, with Congress constituted as it is to-day, whether he will take the responsibility of trampling under his feet the legislation of the last Congress; and so far as present indications point he is disposed to execute the law according to the expectations of those who made it.

Now, sir, I am afraid that the people of this country will understand that this proposal for Congress to assemble during the summer is simply intended to facilitate proceedings for the impeachment of the President. I express no opinion upon that subject; but I say, if we intend to do it, let us do it boldly and fearlessly and above board, and not under some other pretense make an arrangement by which Congress may be called together for that purpose, if possibly there should be some reason discovered for such a proceeding.

This proposition clearly contemplates that this meeting of Congress is to be a kind of contingency, and when Congress assembles, the Presiding Officers of the two Houses are to adjourn them unless otherwise ordered. The representatives of the people are scattered from one end to the other of this vast country, and every man is compelled to decide as to whether an exigency has arisen or not requiring the Representatives and Senators to assemble. Some may decide one way and some may decide another. Some may stay away supposing there is no exigency requiring their attendance; others may be here. There may be a part of a Senate and part of a House; and when they assemble, and in the absence of the Representatives and Senators of many of the States, they may proceed to the transaction of business. I say this sort of proceeding opens the door for great mischief. I would much prefer, if we are to have a session in the summer time, to have it understood that there is to be a regular session of Congress for the transaction of business, and then let all the Senators and Representatives assemble; but so long as there is to be a session and it is understood that there is to be no business transacted, unless certain persons shall determine that it is necessary to transact business, it puts the whole interests of the country in the hands of a few persons who may see proper to assemble at that time.

There are Senators and Representatives here from the Pacific coast. They have a right, I suppose, to return to their constituents during

an adjournment. If this proceeding takes place, if a certain number of Senators and Representatives should assemble on the first Monday of June and conclude to proceed with any business, even with an impeachment, they of course will have no voice in the matter, because it will be impossible for them to be here to participate after receiving notice that it has been decided, after these gentlemen have assembled, that they will proceed with the transaction of business. I should like to know in reference to this resolution, whether it is necessary for the Senators and Representatives from that coast and remote parts of the country to remain here with a view of transacting business during the summer, or whether they can safely return to their constituents? Certainly no very important business ought to be transacted unless all the States that are now represented in Congress are represented at that time.

In view of all these considerations, in view of the fact that nobody knows of any reason, and it is only suspected that some reason may possibly arise for what is proposed, it seems to me that our true course is to adjourn Congress, to show to the people of this country that we are convinced that at the present time there is no danger, that the country is safe. The people understand the President as well as we do. They know what he has done and what he will do. I have failed to hear any gentleman answer the question as to how we can control the Executive if we do remain in session. Can we execute the laws? Can he not go forward and appoint such men as he sees proper to command in these military districts in the South without our consent?

Mr. DRAKE. Will the gentleman allow me to make a suggestion at that point?

Mr. WILLIAMS. Certainly.

Mr. DRAKE. We cannot as a Congress undertake the execution of the laws; but we can pass new laws which may be made necessary by his failure to execute those already existing.

Mr. WILLIAMS. No doubt we can pass new laws; but we can pass no law to execute those that we have already enacted. We cannot compel the President to execute a law we have made if he refuses to execute that law; and there is no remedy that I can see unless it be the remedy provided for in the Constitution, that when the Executive or any other officer fails to execute a law, he shall be arraigned and tried for his delinquency. That is a remedy, I acknowledge; and if it be necessary for Congress to assemble for that purpose, let us understand it. I think it desirable to know exactly what the thing means, and not to have it left in mystery and in doubt. I infer that it means something more than gentlemen are willing to say, because no one who advocates it undertakes to specify any particular reason, or points out any particular danger that is impending; but there is something, some dim and shadowy danger that looms up at some remote distance that we are expected to wait for, to be prepared to meet; and here we remain, dawdling along from day to day, having nothing to do, afraid to do anything; but, like Micawber, waiting for something to turn up, and so we are to pass through the summer. It seems to me, as was suggested by the Senator from Maine, it is not in accordance with the dignity and power and history of the legislative branch of this nation that we should pursue any such course.

Mr. STEWART. If I ever had entertained any doubt in regard to the true course to be pursued on this subject the discussion to-day has certainly removed that doubt. There has been no reason assigned, no contingency suggested, in my opinion, that should bring this Congress together. The principal difficulty that has been suggested is that the laws we have passed on the subject of reconstruction may not be carried into effect. Congress has stated generous, fair, liberal terms of restoration. The charge that Congress was preventing the return of the southern States is now

fully answered. It does not lay at the door of Congress or of the Union party. We are for the Union. We have stated generous terms upon which the Union may be restored. The people of the South, the people that desire the South to return to the Union, are as much interested in this as the Union party; the rebels themselves are as much interested in the execution of this law as we are. I think they and the Executive have seen enough not to be desirous of throwing further obstructions in the way of the execution of the will of the loyal people of this country. The door is open, and I do not believe they dare take the responsibility of shutting that door. If they dare, let them take the responsibility. Let him who will obstruct the just restoration which Congress has provided for, and then there will be a cause for action on the part of Congress. But if we stay here without any definite aim or object and waste our strength and bring ourselves into disrepute we may not have the moral support of the country to do those things that will appear to every one to be necessary.

It will take all the time of this vacation to give the people of the South a chance to let these laws go into operation. The registration will take until September, and the conventions will occupy the balance of the time. They can no more than fairly try the experiment by the time we shall return. We shall then have an opportunity to see all they propose to do; and if they do not come up to the spirit of our law the loyal people of this country will demand that further measures shall be taken. We shall then have come fresh from the people. We shall have seen the spirit of the South, who are to act voluntarily to a great extent in this matter. It is not in the hands of the President. He has already appointed these generals. Let him appoint others if he pleases. The duty of these officers is pointed out. They are to make the registration; they are to count votes. If peace is not kept there so that there can be a fair registration; if the rebels in the South propose to disturb the peace and do it, they incur a fearful responsibility, and we shall be here in time to cure it. I believe that if Congress leave here now and return in December, if there has been anything wrong done, we shall have the moral support of the country to rectify that wrong. We are in too good a position to try experiments. Our position is too strong, too just for us to take any chances of doing wrong and getting in a worse position.

Mr. HENDERSON. I desire to make a motion, with the unanimous consent of the Senate, that we take a recess until half past seven o'clock.

Several SENATORS. No, no; let us have a vote.

Mr. SHERMAN. I hope the vote will be taken on this question, and then we can have a recess.

Mr. HENDERSON. Very well; I am willing to withdraw the motion if we can get a vote.

Mr. TRUMBULL. I have no sort of feeling in regard to this question of adjournment, and should be willing to fix days when Congress should reassemble between now and December if I could see any public necessity for so doing, or if I thought it was best for the public interests of the country. I have no such fears as some entertain of the President. So far as his acts are concerned I have never withheld the expression of my opinion in condemnation of them when I believed them to be wrong. Of his acts I have always spoken freely, and expect to do so, in condemnation or approval as, in my judgment, they seem to be right or wrong. Personally, of the Executive I do not indulge in remarks. I believe I have never been guilty of making any personal attacks upon the Executive.

I expect the Executive to exercise the functions that belong to his office, and I will no more encroach upon what I believe are his constitutional prerogatives than I will allow him to encroach upon ours. It is his province to con-

vene Congress on extraordinary occasions. That power is vested in him by the Constitution. Congress has no authority to vest it in anybody else, because if it has it takes it from that power where the Constitution has left it, in my judgment.

Now, sir, a resolution came to this body from the House of Representatives proposing that Congress should convene on the first Wednesday of each month, or nearly each month, between now and December, unless the Presiding Officers of the two Houses thought proper to postpone its meeting. I question the authority to pass such a resolution. The committee has been rebuked by the Senator from Nevada and some others for not discharging its duty, because it has not made a report on that question. Why, sir, what was the duty of the committee to which the question of adjournment was referred? To report its views on that subject; and what were they? In favor of a resolution to adjourn, not to the first Wednesday in each month between now and December, but to adjourn the two Houses of Congress, to bring the session to a close in the ordinary mode on Thursday next. It is the first time that I ever heard a committee have not a right to report a substitute for a bill or resolution that was referred to them; and yet my good friend from Nevada is much aggrieved, and he thinks the House of Representatives has a right to feel aggrieved, because the committee have thought proper to report a substitute.

Mr. NYE. If the Senator will pardon me for interrupting him, I should not have said that if he had not said in advance that they did not consider it. He said, in reply to a question asked by my friend from Michigan, [Mr. HOWARD,] that they did not consider the question whether it was constitutional or not.

Mr. TRUMBULL. The Senator misunderstands the word "consider." I do not know whether I used the word; but if I did, I meant that we did not go into an examination of the constitutional power to pass the resolution; but we considered the resolution very deliberately and came to the opinion that, constitutional or not, it ought not to be adopted. We preferred a different resolution, believed that the public interest and every other consideration required it.

Mr. NYE. I simply referred to the declaration of the honorable chairman himself.

Mr. TRUMBULL. Well, sir, I say now that it was unnecessary, and not the duty of the committee, in the views it entertained of the proper resolution to report to this body, to enter into any examination of the constitutional power. But, sir, there are difficulties connected with these adjournments. The Senator from Wisconsin has moved a substitute, which is that Congress shall assemble on the first Monday of June, I think—I am not certain about the day—and that then the Presiding Officers of the respective Houses shall then adjourn them unless otherwise ordered. That would be a session of Congress. It will convene at that time. Now, how are we to know whether it will be otherwise ordered or not? He and I live a thousand miles away.

Mr. HOWE. I will tell the Senator how I think we shall know. We shall know by the Journal that will be kept by the Clerk there at that desk. If a quorum of the two Houses meet here and direct otherwise than is proposed in the amendment, it will be entered on that Journal, and there we shall have it.

Mr. TRUMBULL. The Senator did not quite understand what I meant. Perhaps, technically, he may have understood correctly what I said. What I mean to say is, how would we know in advance whether there was to be an actual session of Congress or not? The record will show when Congress assembles what is done; but how are we to know a thousand miles away whether it will be our duty to be here or not?

Mr. HOWE. I explained, if the Senator will indulge me, or tried to explain, when I was on the floor before, that each individual Senator and Representative would act on his

own judgment, at the time, of the public necessities, and come if he thought the public necessities required it, and stay away if the public necessities did not; and if it happened that a majority of the two Houses convened here believed that the public necessities should require the session there would be a majority here, and they would take measures either to procure the attendance of other members or go on with the session or not as they saw fit.

Mr. TRUMBULL. A majority of one House might assemble and not of the other. A majority of the House of Representatives, having in charge this matter of impeachment which is here alluded to, might come here with a view of presenting articles of impeachment, and a majority of this body might not be here. The result of that would be that an adjournment would take place.

Mr. HOWE. No, Mr. President, if the Senator will allow me once more. The amendment that I propose makes it imperative upon the Presiding Officers of the two Houses then to adjourn them unless there be a majority of both Houses, not of one, but both Houses, to otherwise direct and repeal this amendment.

Mr. TRUMBULL. So I understand. That was the precise case I intended to state. Suppose a majority of the House of Representatives come here for the very purpose of preferring articles of impeachment. The Senate is not coming here to impeach. We know nothing about that. We are not going to anticipate that articles will be proposed. We do not investigate that question. We try it when it is presented. What could the House do? If all the members of the House assemble here, according to the Senator's proposition, on the first Monday of June, and there is not a majority of the Senate present, the Presiding Officers would adjourn the House as well as the Senate. They cannot do anything. Does the Senator want to provide that, and leave us all in uncertainty, and not know whether there is to be a session or not? One Senator may think it advisable to come; and the same differences of opinion that we have here will prevail all over the country. The Senator from Missouri [Mr. DRAKE] will be sure to be here, because he sees a cloud in the distance that he is apprehensive may overshadow the land. The Senator from Oregon [Mr. WILLIAMS] probably will go home, and not be present; and I should come or not, I suppose, as it seemed to me the public necessity required that I should be here. That leaves it all in a state of uncertainty. Are there no other inconveniences? Let me say to my friend from Wisconsin that we have passed a law which declares that—

"The President shall have power to fill all vacancies which may happen during the recess of the Senate by reason of death or resignation by granting commissions which shall expire at the end of their next session thereafter."

That is the Constitution; but our law provides further:

"If no appointment by and with the advice and consent of the Senate shall be made to such offices so vacant or temporarily filled as aforesaid during the next session."

Now, this will be a session of Congress, and it will have to be adjourned, and if no appointment is made then, what then? The office is in abeyance, and any man who undertakes to execute its duties is guilty of a high offense. What will be the result? There is no Senate here to act upon the vacancies that have occurred during the recess of the Senate; the time of the assembling of Congress is arrived by your law; and in contemplation of law Congress is here and adjourned by the Presiding Officers of the two Houses unless it is otherwise ordered by those Houses; and what becomes of all the officers in the land? Where are the commissions of these men filled up during the recess?

Mr. HOWE. If the Senator will allow me, I ought to apologize: that is a difficulty that did not occur to me. The resolution amended as I proposed would require the two Houses to assemble at twelve o'clock on the first

Monday in June, and to be adjourned at twelve o'clock on the first Monday in June, unless there were a majority of both Houses otherwise to direct. If there is a majority, then there is somebody to act upon these nominations. If there is not a majority here, then it is true that just so many offices as were vacated by death, happening at precisely twelve o'clock on the first Monday in June, could not be filled up.

Mr. TRUMBULL. But how would it be as to those that happened after our adjournment on Thursday next until twelve o'clock on the first Monday in June? That is the question. What will be the condition of every office which has been vacated by resignation or death or in any other way from the time we adjourn until you meet on the first Monday in June? They can be filled until that time. But does the Senator from Wisconsin construe his proposition to mean that at precisely twelve o'clock on the first Monday in June Congress shall assemble, and at precisely twelve o'clock it shall be adjourned until the first Monday of December by the Presiding Officers, unless otherwise ordered? Then it is an impossibility otherwise to order, for it has to be done by both Houses; and if the moment it meets it must adjourn, then you must put it an adjournment at once till December; for it would be an impossibility to otherwise order if that is the construction. I suppose the Senator from Wisconsin meant that unless it was otherwise ordered during that day; that is, during the twenty-four hours.

Mr. COLE. I should like to ask the Senator from Illinois whether there is any Congress if there is not a majority or a quorum present?

Mr. TRUMBULL. There is in contemplation of law a Congress. You cannot ascertain that question. It cannot be otherwise ordered unless it is otherwise ordered by a quorum. No action can transpire; and the Presiding Officers are required to adjourn, what? The Congress. That is what they adjourn according to the terms of the proposition offered by the Senator from Wisconsin. The two Houses make the Congress. You will find, sir, that we shall be beset by various difficulties.

Mr. HOWE. If the Senator will allow me, I wish to ask, if I understand him correctly to affirm, or as meaning to affirm, that if less than a quorum of the two Houses meet on the first Monday in June under this amendment there will be a session of the Congress; that that will be a session of the Senate or a session of the House?

Mr. TRUMBULL. In the contemplation of the Constitution as to the expiration of the terms of commissions my opinion is they would expire with that adjournment. When that adjournment was declared by the Presiding Officers that the Congress was adjourned from June until December, I should think that the commissions granted until the end of the next session of the Senate would have ceased to exist, and all the offices would be vacant.

But, Mr. President, I did not intend to occupy time in regard to this matter. I rose chiefly to reply to the suggestion that the committee had transcended its duty in reporting a substitute for the resolution which was committed to it by the Senate. If the Senate think proper to adopt the suggestions that are made by other members of the Senate, very well; but it has seemed to me that the better course would be to adjourn as we ordinarily do. It will take until December to put into operation the laws which we have passed, acting in good faith, and we must afford a reasonable opportunity to do that. I will not assume in advance that the law is not to be executed.

As to the change of commanders suggested by some Senators, that is the constitutional right of the President, and it is no cause for impeachment or anything else that he changes his commanders. He vetoes our bills, some one says. It is a constitutional prerogative belonging to him, and it is no cause for impeachment because he vetoes a bill. That is his right.



Mr. YATES. It may prevent reconstruction.

Mr. TRUMBULL. It may prevent reconstruction by the veto of a bill; but it is a perfect right belonging to the Executive to veto a bill if he thinks proper. It may be injudicious; in our opinion it is.

Mr. YATES. And we can pass them over the veto.

Mr. TRUMBULL. Yes, and we have done so, and having done so it becomes his duty to execute the law, which I trust he will do. Whether he will or not, we must, at any rate, afford a reasonable opportunity to the President to see whether he executes it or not. He may change commanders. That we cannot help. It would be no cause of complaint whether we were in session or not.

Now, sir, in my judgment it is better that Congress should adjourn. We shall assemble again—I care not whether it is the 1st of December or the 1st of October—as soon as a fair opportunity shall have been afforded to put these laws into execution. I apprehend that the President, knowing the character of the Congress with which he has to deal, will hardly expect that Congress will be satisfied with a non-execution of these laws, or with his throwing any impediment in the way of their operation.

Mr. HOWE. I would not say another word but for the difficulty which the Senator from Illinois has started in reference to the practical operation of the amendment I have suggested. If I took the view of the law which he seems to take I should certainly vote against my own amendment; but I take a different view. When the Constitution provides that a commission issued by the President in the recess of the Senate shall endure until the expiration of the next session of the Senate, I understand it to mean that it shall endure until a Senate shall have convened and adjourned, and not to mean that it shall endure simply until a Senate shall have had an opportunity to convene, although it may not have done so. I think that must be the meaning of the—

Mr. WILLIAMS. I wish to ask the Senator a question. I find that the Constitution provides that—

"A majority of each [House] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members."

Now, I should like to know, suppose less than a quorum of the Senators should assemble here the first Monday of June, could they not adjourn from day to day? Could not they proceed and compel absent members to attend so as to obtain a quorum; and so in the House?

Mr. HOWE. No, I conceive not very clearly, because here is a law on the statute-book which requires the Presiding Officers of the two Houses to do a particular thing; that is, to adjourn the two Houses at that day; and less than a quorum of the two Houses could no more control that than they could repeal any other statute on the book.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. HOWE and Mr. DRAKE called for the yeas and nays; and they were ordered.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment.

The question being taken by yeas and nays, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Cole, Cragin, Drake, Fowler, Harlan, Howe, Morton, Nye, Pomeroy, Sumner, Thayer, Wade, Wilson, and Yates—17.

NAYS—Messrs. Cattell, Conkling, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of Tennessee, Ross, Saulsbury, Sherman, Sprague, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—25.

ABSENT—Messrs. Buckalew, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Norton, Patterson of New Hampshire, Ramsey, and Riddle—11.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The ques-

tion is on the amendment of the Committee on the Judiciary.

Mr. MORRILL, of Vermont. I move to amend the amendment by inserting at the end thereof "to meet again on the first Wednesday of November." I am in favor of an earlier meeting than the committee propose, but not in favor of this "hop, skip, and jump," "now you see it, and now you don't" kind of an adjournment. I believe the business of the country requires us on all occasions to adjourn to meet at an earlier period than the first Monday of December. In the short sessions we have but about two and a half months for the discharge of all our legislative duties. If we meet a month earlier we shall have more time at the short session and at the long session. I believe it would be much preferable to have the month of November for business in preference to the months of June, July, or August.

When the time for the meeting of Congress was fixed on the first Monday of December, it was when we had but thirteen States; we now have thirty-six. It was when we had but five or six million people; we now have between thirty and forty millions. It therefore is no more than reasonable to suppose that we require a longer period than we have hitherto had in order to accomplish all of our legitimate duties. I hope that an earlier day of reassembling than December will be fixed upon by the Senate, not only for the next session, but hereafter and forever.

Mr. CHANDLER called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 16, nays 25; as follows:

YEAS—Messrs. Cameron, Cole, Cragin, Drake, Edmunds, Harlan, Howe, Morrill of Vermont, Morton, Pomeroy, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—16.

NAYS—Messrs. Anthony, Cattell, Chandler, Conkling, Conness, Corbett, Davis, Dixon, Doolittle, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Nye, Patterson of Tennessee, Ross, Saulsbury, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—25.

ABSENT—Messrs. Buckalew, Ferry, Fowler, Grimes, Guthrie, Henderson, Hendricks, Howard, Norton, Patterson of New Hampshire, Ramsey, and Riddle—12.

So the amendment to the amendment was rejected.

Mr. SUMNER. I move to amend the amendment of the committee by adding to it:

*Provided*, That the President of the Senate *pro tempore* and the Speaker of the House of Representatives may by joint proclamation, at any time before the first Monday of December, convene the two Houses of Congress for the transaction of business if in their opinion the public interests require.

It will be observed that that is a different proposition from the one which comes to us from the House of Representatives. It proceeds on the idea that the two Houses of Congress may in advance commit to their respective Presiding Officers the power of convening Congress. On the subject of convening Congress the Constitution expresses itself as follows:

"The President may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper."

Now, under these words it is very evident that the President has power to convene Congress in his discretion, and we know historically that he has exercised that power. The question now occurs whether that is the only way in which Congress may be convened. I submit that Congress, in a certain sense, is under the Constitution a self-regulating machine, and that it may in advance determine how it will come together, where, and when.

According to the proposition I have offered Congress may be brought together at any time between now and next December on a joint proclamation of the two Presiding Officers. It seems to me that this proposition is very simple; it is easy to be carried out; it is not as complicated in its form as that which has come from the other House; it has in it nothing of the skip and jump character which my friend from

Vermont did not like in the House proposition. It is direct. It assumes that there may be a recess of the two Houses until next December, unless the two Presiding Officers, in whom we have such confidence, shall by joint proclamation call us together.

Now, I am unwilling to doubt that Congress may authorize their officers to do that. I cannot doubt it. Assuming that we have the power, is not this an occasion to exercise it? I do not wish to be carried into the general debate. I had intended to say something about it; but it is late. I had intended to say something in reply to the Senator from Maine, for there was hardly a sentence in what he said from beginning to end that did not seem to me to justify comment. I differ from him entirely, radically let me say, in his views on the question of adjournment. But I will not take any time now to go over the ground which has already been traversed by other Senators. My colleague [Mr. WILSON] suggests plowed and harrowed. I may add also, gleaned. I will not, therefore, go into the general question except to make one remark: I do think Congress ought to do something; we ought not to adjourn as on ordinary occasions, for this is not an ordinary occasion, and there is the precise beginning of the difference between myself and the Senator from Maine, and also between myself and the Senator from Illinois.

The Senator from Illinois said why not, as on ordinary occasions, now go home? Ay, sir, that is the very question: is this an ordinary occasion? To my mind it clearly is not. It is an extraordinary occasion, big with the fate of this Republic. The Senator from Maine reminds me that I am going to glean a second time. I have said very little, not quarter as much as my friend from Maine. I know I have not said it as well as he has said what he had to say. However, I wish to drive home, if I may say so, the single point that at this moment we are bound to do something; we cannot adjourn as if this were an ordinary occasion. I might develop that; I might present to you my views of the extraordinary circumstances of this time, and our duties growing out of the character of the Chief Magistrate. I did that in a very general way the other evening, when the subject was under discussion before. I am not going into it now. I hope, however, that the Senate will be disposed to adopt the proposition which I have offered. I submit that it is a proposition of reconciliation, if I may so express myself, between conflicting opinions; a compromise, if you please. It does not require Congress to come together; but it leaves in the hands of trusty agents of Congress the power of bringing us together if the public interest require.

Mr. MORTON. The proposition submitted by the Senator from Massachusetts proposes to invest the President of this body and the Speaker of the House of Representatives with the power to call an extra session of Congress. That power is clearly vested by the Constitution in the President of the United States, nor can we, in my opinion, make the question of the length of an adjournment or the length of a recess to depend upon the action of the President of the Senate, the Speaker of the House of Representatives, or any other person. An adjournment is a legislative act, as much so as the passage of a bankrupt bill, and we can no more put the solution of that question into the hands of the President of the Senate and the Speaker of the House of Representatives than we could appoint a committee to draft a bankrupt bill, and provide that their act should be a law. An adjournment must depend upon the action of the two Houses themselves. I am equally clear, however, that an adjournment over to the first Monday in December is too long. I am quite clear in the conviction that Congress ought to meet sooner than the first Monday in December. I think we ought to adjourn to meet at an earlier period in the fall.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Sen-

ator from Massachusetts to the amendment of the committee.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 26; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Drake, Harlan, Howe, Nye, Pomeroy, Sherman, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—15.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conkling, Connors, Corbett, Cragin, Davis, Dixon, Edmunds, Fessenden, Fowler, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Morrill of Tennessee, Ross, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—26.

ABSENT—Messrs. Doolittle, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Norton, Patterson of New Hampshire, Ramsey, Riddle, and Saulsbury—12.

So the amendment to the amendment was rejected.

Mr. HOWE. I want to try one amendment at the other end of the resolution. I move to amend it by striking out "Thursday, the 28th," and inserting "Friday, the 29th." I believe that is within the constitutional power of Congress, and I feel bound, in view of what has been said, to explain that this proposed amendment has not the slightest reference to the question of impeachment. [Laughter.]

Mr. NYE. I hope that the amendment will not be adopted. It will keep the business community of the country agitated for twenty-four hours more. [Laughter.]

Mr. DRAKE. I ask the Senator from Wisconsin if he will not accommodate me so much for a moment as to withdraw his amendment to let me offer another which I have prepared?

Mr. HOWE. Is mine inconsistent with yours?

Mr. DRAKE. I wish to offer an amendment by way of substitute for the whole proposition.

Mr. HOWE. That can be moved afterward just as well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. DRAKE. I move to amend the amendment reported by the committee by striking out all after the word "that" in the first line and inserting:

On Thursday, the 28th day of March, instant, at the hour of twelve o'clock noon, the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses over until Wednesday, the 5th day of June next, when, unless a quorum of both Houses be present, those officers shall further adjourn the said Houses, respectively, over until Wednesday, the 4th day of September next, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses over, respectively, until the first Monday of December next.

I call for the yeas and nays on this amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 27; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Cragin, Drake, Fowler, Harlan, Howe, Nye, Pomeroy, Sumner, Thayer, Wade, and Yates—14.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conkling, Connors, Corbett, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of Tennessee, Ross, Sherman, Sprague, Stewart, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Doolittle, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Norton, Patterson of New Hampshire, Ramsey, Riddle, and Saulsbury—12.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Committee on the Judiciary.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the adoption of the resolution as amended.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. ROSS. I desire to say that on this question I am paired with the Senator from

Minnesota, [Mr. NORTON.] If he were present he would vote in the affirmative and I in the negative.

The question being taken by yeas and nays, resulted—yeas 21, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Conkling, Connors, Corbett, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Patterson of Tennessee, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—21.

NAYS—Messrs. Cameron, Chandler, Cole, Cragin, Drake, Fowler, Harlan, Morrill of Vermont, Morton, Nye, Pomeroy, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—17.

ABSENT—Messrs. Cattell, Doolittle, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Howe, Norton, Patterson of New Hampshire, Ramsey, Riddle, Ross, and Saulsbury—15.

So the resolution, as amended, was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution of the Senate:

A bill (S. No. 63) to authorize the entry and occupation of a portion of Long Island, in Boston harbor; and

A joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service.

#### ENROLLED RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service of the United States; and it was signed by the President *pro tempore*.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes; and the joint resolution (H. R. No. 38) to cover certain moneys in the control of the Navy Department into the Treasury, were read twice by their titles, and referred to the Committee on Appropriations.

The joint resolution (H. R. No. 41) providing for the necessary surveys for a ship-canal around the falls of the Ohio river, for military, naval, and commercial purposes, and the joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana, were read twice by their titles, and referred to the Committee on Commerce.

The joint resolution (H. R. No. 42) authorizing the employment of Brevet Brigadier General Seth Eastman on special service was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 45) in regard to the Rancho Panoche Grande claim in California, was read twice by its title, and referred to the Committee on Private Land Claims.

The joint resolution (H. R. No. 39) in reference to the payment of the salaries of members of Congress, was read twice by its title, and ordered to lie on the table.

The amendments of the House of Representatives to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes, were referred to the Committee on Appropriations.

#### EXECUTIVE BUSINESS.

Mr. FESSENDEN. We have now, so far as we are concerned, voted to adjourn on the day after to-morrow. There is a good deal of executive business on the table that ought to be attended to, and I move that the Senate now take a recess until half past seven o'clock for the purpose of then considering executive business; it is now half past five.

Mr. CHANDLER. I am afraid the country will be agitated if we meet again this evening. I move that the Senate do now adjourn.

The motion was not agreed to; there being on a division—ayes 11, noes 20.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from

Maine that the Senate take a recess till half past seven o'clock.

Mr. TRUMBULL. Had we not better go into executive session now, have the messages read and referred, and adjourn until to-morrow, and then take the day for executive business. What shall we gain by coming here to-night?

Mr. FESSENDEN. We can settle some cases.

Mr. TRUMBULL. There is not much on the executive Calendar. We can refer the messages and receive whatever reports are ready to be made, and then to-morrow come here and take the day.

Mr. SUMNER. Yes; go into executive session at one o'clock.

Mr. FESSENDEN. It is a matter of entire indifference to me. I want to get ahead with business; but if the Senate prefer to go into executive session now very well. I withdraw my motion.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 26, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### HARPER'S FERRY.

Mr. THOMAS, by unanimous consent, submitted the following preamble and resolution; which was read, considered, and agreed to:

Whereas it is desirable that the public property at Harper's Ferry, West Virginia, used previous to the rebellion for an armory, be turned to useful account;

*Resolved*, That the Attorney General of the United States be directed to examine the title papers concerning that property, and report his opinion as to the title of the United States to the same, whether it is in fee-simple or merely held in trust by the President for a specific use and no other.

#### HARBOR IN WISCONSIN AND MICHIGAN.

Mr. SAWYER, by unanimous consent, submitted a joint resolution of the Legislature of Wisconsin, asking Congress for an appropriation for improving the harbor at the mouth of Menomonee river, between the States of Wisconsin and Michigan; which was ordered to be referred to the Committee on Appropriations when appointed, and printed.

#### SURROGATE IN THE DISTRICT.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill to create the office of surrogate of the District of Columbia, to provide for the appointment and define the powers and duties of guardians, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

#### DOORKEEPER'S MESSENGERS.

Mr. WOODBRIDGE. I also ask unanimous consent to submit the following resolution:

*Resolved*, That the Doorkeeper be authorized and directed to retain during the recess of Congress the number of messengers now employed.

Mr. VAN WYCK. I object; this has not been usual heretofore.

Mr. WOODBRIDGE. Allow me to explain a moment.

Mr. VAN WYCK. I object.

#### TAXING UNITED STATES SECURITIES.

Mr. HOLMAN. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That in the judgment of this House the bonds and other securities issued by the United States, which are by law exempt from State and municipal taxation, ought to be taxed by the authority of Congress for national purposes in such manner and to such extent as may be necessary to substantially equalize taxation, taking into consideration the average tax imposed upon other property for local purposes in the several States, such bonds and other securities not being exempt by any provision of law from such taxation; and that the

Committee of Ways and Means, when appointed, be instructed to report a bill providing for such equalization of taxation.

Mr. BROOMALL. I object to the resolution unless it is for reference.

Mr. HOLMAN. It is not designed for reference. I will not move to suspend the rules, for I have promised the gentleman from Massachusetts, [Mr. HOOPER,] who is interested in a subject pending at the adjournment yesterday, that I would not now take up the time of the House by moving to suspend the rules for the purpose of having this resolution now considered.

#### CHARLES GRAFTON PAGE.

Mr. MYERS, by unanimous consent, introduced a bill to authorize Charles Grafton Page to apply for and receive a patent for his electrical apparatus and circuit breakers, known as the "Induction Coil," which was read a first and second time, and ordered to be referred to the Committee on Patents when appointed.

Mr. MYERS. I move that this bill be printed; and I also ask leave to have printed with this bill a report directed to be made by the Committee on Patents to the Thirty-Ninth Congress, but which, the committee not having been called after the report was prepared, was not presented to that Congress.

The motion was agreed to.

#### TESTIMONY AFFECTING A SENATOR.

Mr. ELDRIDGE. I ask leave to submit a resolution, which in substance is the same I offered on yesterday. I have shown it to the gentleman from New York, [Mr. HULBURD,] and he consents to its being adopted by the House. The resolution is as follows:

*Resolved*, That the Clerk of this House be, and is hereby, instructed to make and certify a copy of the testimony of David A. Hull taken before the Committee on Public Expenditures in its investigation of the New York custom-house fraud, and deliver the same certified to Senator PATTERSON, of Tennessee; and said committee is hereby authorized to allow the Clerk the opportunity to make said copy of said testimony.

No objection was made; and the resolution was agreed to.

#### CORRESPONDENCE OF WILLIAM F. SWITZLER.

Mr. BENJAMIN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish this House with copies of any and all correspondence in his possession between Captain William F. Switzler, late provost marshal of the ninth district of Missouri, and the Provost Marshal's Bureau, in relation to the loyalty and disloyalty of the people of said ninth district or any portion thereof.

Mr. BENJAMIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL REVENUE LAW.

Mr. POLAND, by unanimous consent, introduced a bill to repeal a part of section ten of an act entitled "An act to amend the existing laws relating to internal revenue, and for other purposes," which was read a first and second time, and referred to the Committee on the Judiciary.

#### COMPENSATION OF MEMBERS OF CONGRESS.

Mr. DONNELLY. I ask unanimous consent to introduce for consideration at this time a joint resolution to amend an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856.

Mr. HOLMAN. Let it be read.

The joint resolution was read at length. It provides that the compensation allowed to members of Congress by an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, and the several acts and joint resolutions amendatory thereof, shall be paid in the manner following, namely, on the first day of the first session of each Congress, or as soon thereafter as he may be in attendance and apply, each Senator, Representative, and Delegate, shall receive his mileage as now provided by law, and all his compensation from the beginning of his

term to be computed at the rate of \$5,000 per year; and thereafter during the said session, and during the ensuing adjournment, compensation at the same rate shall be paid monthly upon the order of the Senator, Member, or Delegate entitled thereto; and on the first day of the second or any subsequent session he shall receive his mileage as now provided by law, and during the said session and the subsequent adjournment compensation at the same rate; provided that nothing herein contained shall be construed to repeal the existing provision of law, that no mileage shall be paid for attendance at the first session of any Congress to members of the immediately preceding Congress.

Mr. HOLMAN. This seems to be quite a complicated measure, and I think we should understand it better than now before acting upon it.

Mr. DONNELLY. It changes the present law in only one particular; enabling members to draw their compensation after the first organization of Congress monthly, and at their homes, in the same way that they do here while in attendance upon an actual session. As the law now stands, should Congress adjourn to-day until December next, we cannot draw during the recess any part of our compensation, but it will accumulate and be paid to us in December next upon our return here. That law, as it now stands, arises from the fact that heretofore the first organization of Congress has taken place in the December following the beginning of the term. But the organization of Congress now takes place on the first day of the actual term.

There is no reason why members should be subjected to the inconvenience of waiting until the end of the recess to receive their compensation actually earned and due to them. I have conferred on this subject with the Sergeant-at-Arms and with a number of members. I trust that with this explanation there will be no objection to acting upon the joint resolution at this time.

Mr. UPSON. I do not object to the introduction of the resolution for reference; but I must object to its consideration at the present time.

Mr. DONNELLY. I move then that the resolution be referred to the Committee on the Judiciary.

Mr. BROOKS. If I understand the resolution, it provides that there shall be a mileage for each additional session.

Mr. DONNELLY. Not at all; the resolution does not propose to change the compensation in any respect either as to annual salary or mileage.

Mr. BROOKS. I suppose that under the resolution passed yesterday we are to have a session beginning in May, another in June, another in September, another in November; making altogether six or seven sessions or more for the Congress, for which I understand there will be six or seven mileages.

Mr. DONNELLY. Not at all; I do not so understand it.

Mr. BROOKS. I understand it so.

Mr. DONNELLY. The resolution would have no such effect.

The SPEAKER. The Speaker, who is required to certify to the mileage accounts, will state that he does not propose to certify more than two mileages for each member during the entire Congress, unless the law should be changed.

Mr. BROOKS. The resolution of yesterday proposes to change the law.

Mr. DONNELLY. This resolution does not propose any change with regard to compensation.

The joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

#### LIEUTENANT COLONEL DAVID THOMPSON.

Mr. MUNGEN asked unanimous consent to introduce a joint resolution for the relief of Lieutenant Colonel David Thompson.

The joint resolution, which was read for

information, proposes to direct the Secretary of the Interior to cause the date of the pension certificate of Lieutenant Colonel David Thompson, late of the eighty-second regiment Ohio veteran volunteer infantry, to be changed from the 15th day of January, 1867, to the 15th day of May, 1865, the day upon which Colonel Thompson was wounded, and that he be paid accordingly.

Mr. TROWBRIDGE. I object to the introduction of this resolution unless it be referred to the appropriate committee.

Mr. MUNGEN. I consent to that. I ask that the resolution be referred to the Committee on Invalid Pensions when appointed.

There being no objection, the joint resolution was introduced, read a first and second time, and ordered to be referred to the Committee on Invalid Pensions when appointed.

#### RETIRING OF TREASURY NOTES.

Mr. GRISWOLD. I ask unanimous consent to introduce a joint resolution relative to the retiring of Treasury notes.

The joint resolution, which was read for information, provides that the Treasury notes authorized to be issued under the act of Congress of June 20, 1864, including the \$50,000,000 authorized to be issued for a temporary loan, not more than \$4,000,000 shall be retired in any one month.

Mr. BROOMALL. I object.

Mr. GRISWOLD. If I were permitted to make a brief explanation—

Mr. BROOMALL. If the resolution is to be introduced for reference I have no objection. I object to legislation on this subject at the present time.

#### SHIP-CANAL AROUND FALLS OF THE OHIO.

Mr. EGGLESTON. I ask unanimous consent to introduce for consideration at the present time a joint resolution providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes. This resolution contains no appropriation whatever. It merely supplies an omission made by the committee in reporting the river and harbor improvement bill.

The joint resolution, which was read for information, proposes to authorize and direct the Secretary of War to cause surveys, with plans and estimates of cost, to be made by an officer of engineers for a ship-canal around the falls of the Ohio river, on the Indiana side thereof, of suitable location and dimensions for military, naval, and commercial purposes; and also to cause such officer to estimate the expense of completing the Louisville and Portland canal, on the Kentucky side of said falls, according to the plan on which the said canal company is now progressing with said work; and that the expense of both be defrayed from the sums appropriated in the acts of June 23, 1866, and March 2, 1867, for examination and surveys relating the improvement of harbors and rivers on the northwestern lakes.

Mr. SCOFIELD. I do not rise to make objection, but I suppose it will be considered in the Committee of the Whole on the state of the Union, as it makes an appropriation.

The SPEAKER. If unanimous consent be granted it will be considered in the House.

Mr. ROSS. Does the bill make an appropriation?

The SPEAKER. It does. It is to be taken out of money already appropriated in the river and harbor bill.

The bill was introduced, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EGGLESTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BREVET BRIGADIER GENERAL SETH EASTMAN.

Mr. SCHENCK. I ask unanimous consent to offer a joint resolution, agreed to unani-

mously by the Committee on Military Affairs of the last Congress, but which was objected to when we endeavored to get it in by the gentleman from Pennsylvania, [Mr. BOYER,] who since then has become satisfied it ought to pass. If there be no objection, I will make a brief explanation.

There was no objection.

The Clerk then read a joint resolution authorizing the employment of Brevet Brigadier General Seth Eastman in the decoration of the Capitol.

It provides if the President shall deem it proper to assign Brevet Brigadier General Seth Eastman, of the United States Army, now on the retired list, to duty, so as to entitle him to the full pay, emoluments, and allowances of his lineal rank, that it shall be competent to have such duty consist in the employment of the said officer in the execution, under the supervision of the architect of the Capitol, of paintings from his own designs for the decoration of the rooms of the Committees on Indian Affairs and on Military Affairs of the Senate and House of Representatives and other parts of the Capitol; and no additional compensation for such service is to be paid to said Eastman beyond his pay, allowances, and emoluments as an officer as aforesaid.

Mr. CULLOM. I believe I was one of the persons who objected to that resolution when it was up before. I have since learned it is important it should pass, and I withdraw any objection on my part.

Mr. SCHENCK. We have been paying for decorations, some displaying good taste and others of tawdry character, a great deal of money to Italian artists and others, while we have American talent much more competent for the work. Among others possessing native talent is General Eastman, who is now lieutenant colonel in the regular Army and a brevet brigadier general. He is more of an artist in all that relates to the Indians, except possibly Catlin and Stanley, than any we have had in this country. He is disabled from doing full duty now and is on the retired list, suffering from rheumatism occasioned by exposure in the field on active duty. The General of the Army is perfectly willing to have Congress, if they think proper, provide for detailing General Eastman for this duty of executing for the Capitol some of his magnificent paintings. It is not military duty, and it is thought better the General should be authorized to assign him to this duty.

If assigned to this duty General Eastman will draw his full pay as lieutenant colonel, instead of as on the retired list, making a difference of about \$1,200 or \$1,500 a year. For at the most \$1,500 a year we will secure service for which we have been paying tens of thousands of dollars to foreign artists, and we will get better work done. I think under the circumstances a gallant American officer who has taste and artistic ability should be permitted to be assigned to this duty. I invite members to look at a book I have here of engravings from his paintings, which display everything that is elegant and tasteful in art.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOLDIERS OF WAR OF 1812.

The SPEAKER. If there be no objection, the Chair will make a statement to the House. Yesterday the House referred a joint resolution of the Legislature of Michigan, in reference to pensions to the soldiers of the war of 1812, to the Committee on Invalid Pensions when appointed. The Chair had a conference with the chairman of that committee in the Thirty-Ninth Congress, and who will probably be the chairman of the committee in the Fortieth Congress,

and he stated that committee was overworked, and suggested that the subject should be referred to the Committee on Revolutionary Pensions, which has very little to do. If there be no objection that reference will be made.

There was no objection, and it was ordered accordingly.

#### PAYMENT OF BOUNTIES.

Mr. COOK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas it is alleged that several years will be required to pay soldiers the bounties already provided by law at the present rate of payment, and also that the present number of paymasters assigned for that purpose could make payments much faster than they now are made, but are delayed because information cannot be furnished from the office of the Second Auditor as fast as required, owing to a want of sufficient clerical force in said office: Therefore,

Be it resolved, That the Committee on Public Expenditures be instructed to inquire whether any legislation is necessary to secure the prompt payment of bounties due to soldiers under the law.

#### SURVEY OF ILLINOIS RIVER.

Mr. JUDD. I ask unanimous consent to submit the following resolution for present consideration:

Resolved, That the Secretary of War be directed to send the report of Brevet Major General J. H. Wilson, upon the survey and examination of the Illinois river, if not presented to the House prior to its adjournment, to the Congressional Printer, and that the same be printed.

The SPEAKER. The Chair thinks a similar resolution has already passed.

Mr. JUDD. I desire to explain it for one moment. The House has adopted a resolution directing the Secretary of War to furnish that report. I am advised at the Department that it cannot probably be furnished to the House before the close of this session, and this resolution is simply a direction to have it printed if it is not furnished before the present session is ended.

The SPEAKER. The gentleman wishes to have it printed during the recess?

Mr. JUDD. Yes, sir.

The resolution was agreed to.

Mr. JUDD. I ask leave to offer the following additional resolution:

Resolved, That there be printed of the report of Brevet Major General J. H. Wilson, of the survey and examination of the Illinois river, when presented, two thousand extra copies for the use of the House, and five hundred for the use of the Bureau of Engineers.

The SPEAKER. That resolution goes to the Committee on Printing under the law.

#### MAIL CONTRACTORS ON THE PACIFIC.

Mr. MALLORY. I ask leave to submit for present action a joint resolution authorizing the Postmaster General to secure to mail contractors in the Pacific States and Territories the payment of their contract pay at San Francisco, California.

The SPEAKER. The resolution will be reported, after which the Chair will ask for objections, if any.

The joint resolution was read. It provides that the Postmaster General shall designate a special agent for the Pacific States and Territories to audit and adjust the accounts of mail contractors in said States and Territories, under such regulations as may be prescribed by the Postmaster General, so as to secure payment in San Francisco.

Mr. HOLMAN and Mr. ALLISON objected.

Mr. MALLORY. I desire to make a word of explanation. The present mail contractors have to obtain their money upon certificates of the postmasters by whose offices their routes pass. It frequently occurs that their certificates are erroneous and have to be sent back, so that the contractors have to lie out of their money sometimes for fifteen months. This simply authorizes the payment of the claims under the direction of the Postmaster General.

Mr. ALLISON. I call attention to the fact that these accounts have to be audited by the Treasury Department. I have no objection to referring this to the Committee on the Post Office and Post Roads.

Mr. MALLORY. I will consent to that.

The joint resolution was accordingly ordered to be referred to the Committee on the Post Office and Post Roads when appointed.

#### LONG ISLAND, BOSTON HARBOR.

Mr. HOOPER, of Massachusetts. I now call for the regular order.

The House accordingly resumed the consideration of the regular order, which was the unfinished business at the adjournment last evening, being Senate bill No. 63, to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes.

The bill was reported. It authorizes the Secretary of War to take possession of that portion of Long Island, in Boston harbor, Massachusetts, belonging to James T. Austin, for the purpose of erecting a fort and such other structures as may be needed for military purposes, and to pay for the same \$5,000 as agreed upon; provided that this sum shall not be paid until the Attorney General of the United States is satisfied that the title has been fully transferred to the United States free from all incumbrances, and that the person receiving the money is competent to act in the premises.

Mr. HOOPER, of Massachusetts. The sole object of this bill is to facilitate the transfer of this property to the United States, where a fortification is now being built. It is to meet the difficulty of the fact that the fee is in a gentleman who is not competent to give a deed to the satisfaction of the district attorney. This is to carry out an amicable arrangement made upon the recommendation of the district attorney for the purchase of this land.

Mr. ROSS. I would inquire how it happens that we commence to build a fort upon a piece of land that we do not own, and then ask the Government to purchase it? My objection is not specific as to this particular measure, and it is general against making this kind of investments. I have no doubt this tract of land would be a good investment. But my constituents are investing what spare means they have further West, and do not care particularly about purchasing land in Boston. There has been no attack made upon Boston for a great number of years, and I do not think there is any danger of an attack for many years in the future. I do not think we should buy any more Boston land or construct any more forts there.

Mr. ALLISON. Is this debatable?

The SPEAKER. The motion to suspend the rules is not debatable.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended.

The bill was accordingly considered in the House, read a first, second, and third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. BUTLER. I ask leave to make a personal explanation, which will occupy the attention of the House but a few moments.

Mr. ROSS. I would ask how much time the gentleman wants?

Mr. BUTLER. Fifteen minutes will do.

No objection was made, and leave was accordingly granted.

Mr. BUTLER. Mr. Speaker, I have caused to be laid upon the table of each member a copy, as reported in the official journal of the House, of the speech of the gentleman from Ohio [Mr. BINGHAM] the other day in reply to me. I desire to call the attention of the House to the fact that that speech as published contains double the amount of matter which the official reporters furnished; and also that almost one half of the words contained in the original official report are erased. Now, I understand the rule to be, that in any debate personal to a member, no such change can be



made properly without the consent of the member to be affected thereby. But what I particularly desire to call the attention of the House to is this: that a change is made in the report which takes the shape of a direct attack upon me to which I could make no reply. The new matter is as follows:

"The gentleman denounces me as having executed an innocent person without evidence. I have executed no person, but acted as the advocate of the United States on the trial of persons who were charged with and convicted of the assassination of Abraham Lincoln. The gentleman pronounces, with the assurance of Sir Oracle, that an innocent woman was on that trial convicted without sufficient evidence. By what right does the gentleman thus assail me, or the tribunals of true and brave and honorable men, who found the facts upon their oaths, and pronounced the judgment? What does the gentleman know of the evidence in the case, and what does he care for the evidence when he thus assails the official conduct of those men who constituted the court?"

Now, with the leave of the House, I do not desire to make any characterization by use of epithets of such a change. That even in the heat and ardor of debate we may throw off expressions which upon reflection we would a little rather had not been said, it is most true, may be, and should be changed in the official report. I may do so myself. But he who in the cool hour of the silent night sits down and deliberately pens an accusation against his peer to which he cannot reply is not to be envied.

Therefore I ask leave now to state the evidence upon which I made the assertion I did the other day, that Mrs. Surratt was improperly convicted; because the gentleman says that I neither knew nor cared for the evidence. I hold in my hand the evidence as reported under the gentleman's official sanction. I examined it with great care long ago. The statement I made the other day was not sporadic thought with me; it was the result of a careful examination of this case for another and a different purpose, in the endeavor to ascertain who was concerned in fact in the great conspiracy to assassinate President Lincoln.

The gentleman says he was "the advocate of the United States only." Sir, he makes a wide mistake as to his official position. He was the special judge advocate whose duty it was to protect the rights of the prisoner as well as the rights of the United States, and to sum up the evidence and state the law as would a judge on the bench. Certainly it was his duty to present to the commission all the evidence bearing upon the case.

Now, there was a piece of evidence within the knowledge of the special judge advocate and in his possession which he did not produce on this most momentous trial. When Booth was captured by the force under Lieutenant Colonel Conger there was taken from his pocket a diary like the one I now hold in my hand. In this diary Booth had set down day by day his plans, his thoughts, his motives, and the execution of his plans. That diary came into the possession of the Government, but it was not brought before the military commission. Although even Booth's tobacco-pipe, spur, and compass, found in the same pocket with the diary, were put in evidence, the diary was not produced. That diary has been before your Committee on the Judiciary. Let me say here, to exclude conclusions, that I do not obtain my evidence from them. That diary, as now produced, has eighteen pages cut out, the pages prior to the time when Abraham Lincoln was massacred, although the edges as yet show they had all been written over. Now, what I want to know is this: was that diary whole when it came into the hands of the Government? And second, if it was good judgment on the part of the gentleman prosecuting the assassins of the President to put in evidence the tobacco-pipe which was found in Booth's pocket, why was not the diary, in his own handwriting, put in evidence, and wherein he himself had detailed the particulars of that crime?

And therefore I did not charge the able and gallant soldiers who sat on that court with having done any wrong. They did not see the

diary. They did not know of the diary. If they had they might have given a different finding upon the matter of this great conspiracy.

Who spoliated that book? Who suppressed that evidence? Who caused an innocent woman to be hung when he had in his pocket the diary which had stated at least what was the idea and the purpose of the main conspirator in the case? There is still remaining in that diary a most remarkable sentence, written apparently but a few hours before Booth died. I give it from memory:

"I have endeavored to cross the Potomac five times, but failed. I propose to return to Washington and give myself up, and clear myself from this great crime."

How clear himself? By disclosing his accomplices? Who were they? Who spoliated that book after it got into the possession of the Government, if it was not spoliated before? And what evidence is there that it was spoliated before?

Why was not Lieutenant Colonel Conger allowed to state fully in regard to this matter? Let me read from the reported evidence on the trial. It will be seen that the questions were carefully put, so that Conger when on the witness-stand should not tell about that book. He says:

"I then took what things were in his pockets and tied them up in a piece of paper. He was not then quite dead. He would—once perhaps in five minutes—gasp; his heart would almost die out, and then it would commence again, and by a few rapid beats would make a slight motion. I left the body and the prisoner Herold in charge of Lieutenant Baker. I told him to wait an hour if Booth was not dead; if he recovered to wait there, and send over to Belle Plain for a surgeon from one of the gun-ships, and if he died in the space of an hour to get the best conveyance he could and bring him on."

"I stayed there some ten minutes after that was said when the doctor there said he was dead."

"[A knife, pair of pistols, belt, holster, file, pocket compass, spur, pipe, carbine, cartridges, and bills of exchange were shown to the witness.]

"That is the knife, belt, and holster taken from Booth; the pistols I did not examine with any care; but they looked like these; that is the pocket-compass, with the candle-grease on it, just as we found it; the spur I turned over to Mr. Stanton; and I judge this to be the one taken from Booth. That is the carbine we took; it is a Spencer rifle, and has a mark on the breech by which I know it; both the pistols and carbine were loaded. I unloaded the carbine myself in Mr. Secretary Stanton's office, and these are the cartridges that I took out; there was one in the barrel and the chamber was full; these are the bills of exchange; I put my initials on them."

"I had seen John Wilkes Booth in Washington, and recognized the man who was killed as the same; I had before remarked his resemblance to his brother, Edwin Booth, whom I had often seen play."

It will be seen that there was no point where the witness was asked, "Were those things all that you took from Booth's pockets?" Certain articles were spread out before the witness, even to a tobacco-pipe, and he was asked, "Did you take this?" "Did you take that?" He answered, "Yes." But if the proper question had been asked he would have answered, "Yes; and I took the diary of Booth from his person; it was not necessary that I should know anything about him from his resemblance to his brother, Edwin Booth, in order to recognize him, because I took this diary in his own handwriting from his own breast as he lay there gasping in the agonies of death." That would have been an identification beyond all question and all peradventure.

Now, sir, I do not know what would have been the judgment of that military commission if that evidence found upon the person of the prisoner had been produced; and that evidence ought, in my judgment, to have been produced. I will state here (because I wish to deal fairly and justly with this case; I have no feeling, no heat in regard to it) that I understand the theory to be that that evidence was not produced lest Booth's glorification of himself, as found in his diary, should go before the country. I think that a lame excuse. If an assassin can glorify himself, let him do so. No harm could result from it in the minds of a patriotic and intelligent people. Therefore, I again ask, Why was a most remarkable piece of evidence, which was found on the body of

the great conspirator, concealed? No, I will take that back; I will not say "concealed;" but why was it not brought forward on that trial? Why was it not brought to the knowledge of the public mind? I believe that piece of evidence would have shown what the whole case, in my judgment, now shows: that up to a certain hour Booth contemplated capture and abduction, and that he afterward changed his purpose to assassination on consultation with the conspirators about him.

Mrs. Surratt may or may not have known of that change of purpose from abduction to assassination. Now, what I find fault with in the judge advocate, who did not sum up for the prisoner, is that in his very able and very bitter argument against the prisoners no notice is taken by the special judge advocate of this change of purpose and brought to the attention of the men who composed that military tribunal. And if Mrs. Surratt did not know of this change of purpose there is no evidence that she knew in any way of the assassination, and ought not, in my judgment, to have been convicted of taking part in it.

Mr. Speaker, these are briefly some of the reasons why in my former remarks I said "I am glad the blood of that woman, be she guilty or innocent, is not upon my head." But in no manner, in no way, by no intendment or word of mine, did I mean to say that those able and discreet officers, military men who relied for the law of the case upon the special judge advocate, and who thought they had all the facts which could throw light upon the case, but before whom all the facts were not put, did any wrong whatever—I do not mean to say they judged wrongly under the lights they had. But the point I make, and the point which shall stand made before this country, is that all the testimony possible to throw light on that case was not before that tribunal; for if we had only the advantage of all the testimony, Mr. Speaker, we might then have been able, with the testimony of witnesses fresh in mind, to find who, indeed, were all the accomplices of Booth; to find who it was that changed Booth's purpose from capture to assassination; who it was that could profit by assassination who could not profit by capture and abduction of the President; who it was expected by Booth would succeed to Lincoln if the knife made a vacancy, which we cannot do now but might have done if we could ascertain what was in that book. Although in some aspects of the case it might not have been legal evidence, yet in all aspects it is moral evidence, carrying conviction to the moral sense. It is the dying declaration of a man, assassin though he be, who was speaking the truth, probably to himself, as between himself and his God.

If we had all the pages we should have had some explanation of this great fact: how was Booth to clear himself by going back to Washington from the great crime he had committed? That Booth thought he could do so appears from what still remains; the other eighteen pages are gone. Were they gone when the book came into the possession of the learned judge advocate? If they were, why did he not inquire when and where they went? When Lieutenant Colonel Conger gave it to some one, why did he not inquire "Was it whole then?" When it went into the hands of the next man was it whole then? Whose was the knife that cut out the leaves in a way that is plain to be seen of all men?

I am not now speaking of anything which is mere hearsay, but of that which I know. I am speaking of that in which, if I speak wrongly, any gentleman of the Judiciary Committee who has had this book before him can correct me. Again, I take leave to say I am not speaking of any knowledge got from them, because they properly keep it to themselves.

Now, sir, I should not have further pursued this matter except that the gentleman charged me with having made my statement without evidence, without examination of the evidence. He has chosen to bring this matter here by that charge, and I desire now in some form this

matter shall be fully and thoroughly investigated, so that all the facts may be brought before the House and the country.

The SPEAKER. The gentleman's time has expired.

Mr. ROSS. I move that his time be extended.

Objection was made.

Mr. BINGHAM. I ask unanimous consent to make a reply to the gentleman.

The SPEAKER. How much time does the gentleman ask for?

Mr. BINGHAM. The length of time taken by my opponent and accuser.

There was no objection, and leave was accordingly granted.

Mr. BINGHAM. I desire, if the gentleman has the book to which he refers, he will have goodness enough to send it to me?

Mr. BUTLER. Is this the book you desire?

Mr. BINGHAM. No, sir; I mean the diary of Booth—not a report of the trial.

Mr. BUTLER. The diary? Oh no, sir. They do not let me see it.

Mr. BINGHAM. Oh yes, sir; that is another exhibition of fairness and manliness.

Mr. BUTLER. I have not it, sir.

Mr. BINGHAM. If the gentleman has not got it, he ought not to have said anything about it. Why talk of written evidence and not be able to produce it?

Mr. BUTLER. But then I know who has.

Mr. BINGHAM. Well, I do not; that is the difference.

Mr. Speaker, I desire to say that the report which was made of the hurried and excited debate which took place between myself and the gentleman, and which was provoked on his part by an unjust imputation unwarranted by all parliamentary proceedings, none the less unjust and disreputable because he selected the softest words in the language, was very imperfect except the first paragraph.

The SPEAKER. The word "disreputable" is not proper.

Mr. BINGHAM. What is not proper?

The SPEAKER. The word "disreputable."

Mr. BINGHAM. I beg pardon. I suppose that to speak of an unjust accusation as disreputable is parliamentary.

The SPEAKER. To characterize the language of a member as disreputable is not parliamentary.

Mr. BINGHAM. I am only sorry the Speaker did not discover that like words in my accuser's harangue were not also unparliamentary. I take back the word under the direction of the Speaker, and stand corrected.

The SPEAKER. The gentleman will speak in order.

Mr. BINGHAM. I beg to say that in my former reply to the gentleman, made under the excitement arising from a sense of wrong done me, and the limitation of my time, it so happened that the report sent to me was the most imperfect, as before stated, that has ever been submitted to me of my remarks made in this House. I therefore revised the report, as was my right, and of this the gentleman complains, and in his sore distress reprints the imperfect report, with errors in it patent to every man who heard me, and lays it on the tables of members. That is beyond question a heroic and magnanimous achievement! Sir, I say that any gentleman may examine the report in the Globe as revised by me with what care he pleases, and he will fail to find in my corrected remarks as therein published a single accusation against the gentleman that is not, by express words or by necessary implication, in the notes of the reporters. The remarks as revised and published are substantially and almost literally what I said on this floor.

I charged that the gentleman constituted himself an unjust accuser. I charged him with having assailed my official conduct upon this floor and elsewhere. I charged him also with having assailed the official conduct of men who were his peers in the field, who stood amid the blackness and tempest of the

great conflict, where the earthquake and the fire led the charge. Those words I used that day, and I repeat them now, although they did not appear in precisely that form in the official report sent to me. And yet the gentleman is driven to such straits as I have named, after making this assault on me, simply because I do not choose to follow him and levy charities by confiscation upon a conquered people. He chooses to try to get out of the difficulty into which he has put himself by getting up this mutilated report of my remarks and printing it. The gentleman is welcome to all that he can make by any such course of procedure, and there I leave him, with the additional remark that even in the meager reports of the daily papers on the following morning is found substantially every statement that is recorded in the corrected report in the Globe, even down to the last words I uttered, which they did me the kindness to preserve, and which are, "I defy the gentleman's calumny."

What, then, is the gentleman complaining of? Why, that I said he had condemned without knowing or caring for the evidence. I say it yet. And, sir, if he is the lawyer he is reputed to be—and I am not the man to underrate my adversary here or anywhere—he is to be pitied, coming here and arraigning his peers again for not consenting to admit as testimony for the defense the declarations of any man accused made after the fact. The gentleman puts his book into his pocket. I tell him that I defy him, by any investigation that he dare institute, here or anywhere, to show that any communication came to my hands that appeared or purported to be the production of J. Wilkes Booth that was not made after the fact, long after the fact. Is any lawyer in America or in England to be told that the words and declarations of an accused felon, made after the fact, are evidence that the advocate for the Government is bound to admit on behalf of the accused in any court? Why, sir, if one of several conspirators can thus make his declarations, made after the fact evidence, either for himself or for his coconspirators, how impotent is justice itself!

Sir, I treat with contempt and scorn any intimation from any quarter that I or my associate counsel were under obligations to admit any such evidence. The law does not require it; the common law, the growth of centuries, the gathered wisdom of a thousand years excludes it. But perhaps that great monument of wisdom and learning is not equal to the incomparable genius of the incomparable hero of Fort Fisher. [Laughter on the Democratic side.]

Mr. BUTLER. Will the gentleman give way a moment?

Mr. BINGHAM. No, sir; the gentleman has no right to ask favors at my hands. One word more; I beg leave to say I never saw any memorandum of any kind of John Wilkes Booth or any writing indicating, if I understood at all the gentleman's remarks, any plan by which he was to carry out his projected conspiracy. I never saw any such thing. That is my answer to that. If anybody else saw it, then let whoever else saw it answer for it. I never saw any such thing. And I am not surprised that the gentleman would not let me see the book that he put into his pocket.

Mr. BUTLER. Mr. Speaker, I think—

Mr. BINGHAM. No, sir.

The SPEAKER. The gentleman from Ohio declines to yield, and must be allowed to proceed without interruption.

Mr. BINGHAM. I do not care, if having refused to let me inspect the book, he imitates the example given in the vision in the Apocalypse, and "eats it." [Laughter.]

One word more. The gentleman talks about the spoliated book. "Who spoliated the book?" That is about as interesting a cry as that to which I referred the other day, "Who Killed Cock Robin?" Who knows that it was spoliated or mutilated, if that is the gentleman's meaning? If John Wilkes Booth tore pages out of it, was that spoliation or mutila-

tion? The gentleman's words are as impotent as they are unwarranted.

"Let the galled jade wince; our withers are unwrung."

I challenge the gentleman, I dare him here or anywhere in this tribunal, or in any tribunal, to assert that I spoliated or mutilated any book. Why, sir, such a charge, without one tittle of evidence, is only fit to come from a man who lives in a bottle and is fed with a spoon. [Laughter and applause, checked by the Speaker.]

One word to show the heartless maliciousness of this assault, if that be parliamentary. I have great respect for the Speaker of this House personally, as well as for his entire fairness; and if anything said by me in the heat and excitement of this moment even colorably reflects upon the Speaker, I ask that the reporter shall record in the debates and proceedings of this House that I recall and disclaim any such purpose or any such intention.

The SPEAKER. The gentleman did reflect in some of his remarks upon the Speaker.

Mr. BINGHAM. I beg the pardon of the Chair; I had no such intention. I believe a more impartial Presiding Officer never sat since the Commons first met.

Now, what is the other statement made here, showing the utter maliciousness of this accusation, the utter disregard and contempt for all decency and all law? What is it? Why, that I controlled the rulings in the court. The gentleman says he has the record. He is not unlearned in the law—for, as I said before, I do not underrate my adversary—and he knows I was not the official recorder of that court nor its presiding judge advocate. He knows its recorder was the Judge Advocate General of the United States; he knows that he presided during every minute and every hour of its session; he knows that he was its legal adviser. What then? Why, I am to be held at fault; and why? Because I did not overrule the official recorder of the court. Having said this, allow me to say further that the Judge Advocate General did his duty faithfully and is above reproach.

Now, if the gentleman seeks to condemn me for anything said in the argument on that trial, which I admit I made, and every word of which is my own and that of no other man; if the gentleman seeks to condemn me for anything uttered by me in that argument, let him read from the passage and show to this House and to the world wherein I did injustice to any man or to any person connected either directly or indirectly with that trial. Sir, the gentleman has undertaken a task entirely beyond his powers. And he only proves in that which he has undertaken to-day that the execution of the war on his part in this instance, as in others, is by no means up to the high and sounding manifesto.

I repeat, when he again accuses me, and before he asks that I shall be condemned for any part which I performed upon that trial, let him point to any utterance or act of mine which justifies such condemnation.

What is this matter to which the gentleman refers in reference to a change of plan? Why, it was exhibited in evidence on that trial that the original plan, as falsely alleged by the conspirators, was to kidnap, not to assassinate. And the gentleman says, "Poor Mrs. Surratt did not know it." Sir, I remember the maxim which even the pagan observed, to speak nothing of the dead but that which is good; and therefore I am not to be driven by anything which the gentleman may have said, or anything he can say, to utter one single word now in the way of argument as to the guilt of Mrs. Surratt. There is the evidence; and when the gentleman chooses again to assail me let him read my argument upon that subject, and let him answer it. Let him show wherein it is false; let him show wherein it is corrupt; let him show, above all things, wherein it is malicious or unjust. For, sir, I recognize that at last justice is the rule of conduct, both official and unofficial.

inasmuch as it is the attribute of the great God of Nature, which dwelt with Him before worlds were, which will abide with Him when worlds perish, and by which the gentleman and myself shall both be judged for this day's proceedings.

Mr. Speaker, nothing gives me more pain than to be compelled to utter an unkind word toward my fellow-man; and I repeat what I said in the opening of this controversy with the gentleman, that I defy mortal man to find upon the recorded debates of this House during all my ten years' service any word of mine offensive to any human being except words provoked by an unjust assault. Am I to be condemned if having the sense to feel an insult I also have the spirit to resent it? That is my answer, sir. A man's conduct is worth more than a man's pretensions, inasmuch as conduct at last is character.

I may have spoken now with a heat unbecoming me in this place; but, sir, if I have, I shall ask the poor privilege of softening my rude words if any I have uttered in the official report. Having said this much, sir, I desire to say one word more, and I shall have done: "Grateful as I am to the good Being whose bounty has imparted to me this reasoning intellect, I hold myself proportionably indebted to him from whose enlightened understanding another ray of knowledge communicates to mine." I deeply regret that the gentleman has not thus made me his debtor.

Mr. WARD obtained the floor.

Mr. BUTLER. Mr. Speaker, I ask a moment to correct one mistake.

Mr. PILE. I object to any further continuation of this controversy. We have had enough of it.

Mr. GETZ. I also object. The gentleman from Massachusetts has had words enough about this matter.

#### ASSASSINATION TRIAL.

Mr. WARD. I ask unanimous consent to offer the following resolution, which in view of what has taken place is evidently proper at this time:

Whereas an ex-member of the Cabinet has declared in a public speech delivered at Boston that the testimony given on behalf of the Government on the trial of the assassins of the late President Lincoln was suborned, and that one of the accomplices of these said assassins, Mrs. Surratt, was convicted and executed without there having been any evidence of her guilt; and whereas a member of this House, the honorable gentleman from Massachusetts [Mr. BUTLER] did on the 21st day of March, 1867, in debate in this House, use the following language: "But the only victim of the gentleman's prowess that I know of was an innocent woman, hung upon the scaffold, one Mrs. Surratt. And I can sustain the memory of Fort Fisher if he [Mr. BINGHAM] and his associates can sustain him in shedding the blood of a woman tried by a military commission and convicted without sufficient evidence, in my judgment;" and whereas the trial of said assassins was essentially national in its character, and the public honor requires that this grave and deliberate impeachment of the integrity of its proceedings shall be investigated and the truth declared: Therefore,

*Be it resolved*, That a select committee of three be appointed by the Speaker to examine thoroughly into said charges, and to report thereon, and that they have authority to send for all persons and papers which may be required in conducting said investigation.

Mr. STEVENS, of Pennsylvania. I object. This question never ought to have come here, and never ought to go any further.

Mr. WARD. I move that the rules be suspended.

The House divided; and there were—ayes 26, noes 90.

Mr. WARD called for the yeas and nays.

The yeas and nays were not ordered.

So the House refused to suspend the rules.

#### MARINE HOSPITAL, EVANSVILLE, INDIANA.

Mr. NIBLACK. I ask unanimous consent to introduce a joint resolution relating to the sale of the Marine Hospital at Evansville, Indiana.

There was no objection; and the joint resolution was received, and read a first and second time.

The joint resolution authorizes the Secretary of the Treasury to sell the Marine Hospital at Evansville, Indiana, to Bernard Nurse, for the

sum of \$10,000, that being the highest sum offered at the time the same was exposed to sale under advertisement dated February 18, 1867, on condition that the building shall be used only for hospital purposes.

Mr. STEVENS, of Pennsylvania. The resolution should be modified so as to provide that it shall be sold to the highest bidder.

Mr. NIBLACK. If the House will allow me to make a brief explanation I think I can satisfy them.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to move an amendment that it shall only be sold to the highest bidder on advertisement duly made?

Mr. NIBLACK. It has been put up for sale, and there were two bids of the same amount. My resolution proposes to give the preference to the party who wants to keep it as a hospital over the other party who wishes to use it for his own private purposes.

Mr. STEVENS, of Pennsylvania. It ought to be differently worded. I do not like it to go in this way.

Mr. NIBLACK. I am acting under the advice of the officer having charge of it.

Mr. STEVENS, of Pennsylvania. I will move as an amendment that it shall be sold to the highest bidder who proposes to keep it for hospital purposes.

Mr. LAWRENCE, of Ohio. I move to amend the amendment by providing that it shall not be sold at less than \$10,001.

Mr. NIBLACK. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS, of Pennsylvania. I accept the amendment of the gentleman from Ohio, and my amendment will then read as follows:

*Provided*, That it shall be sold to the highest bidder who shall keep the same for hospital purposes; and for life sum of not less than \$10,001.

Mr. SCOTFIELD. I move to strike out the words "who will keep the same for hospital purposes."

The SPEAKER. The amendment is not in order, as the main question has been ordered to be now put.

The amendment of Mr. STEVENS, of Pennsylvania, was agreed to.

Mr. SCOTFIELD. I want to know of the gentleman from Indiana why the provision should be kept in that it shall only be sold to the highest bidder, who will keep it for hospital purposes?

Mr. SCHENCK. This man wants to use it for hospital purposes, while others want to use it for manufacturing purposes. We desire that the former shall have the preference at the same price.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NIBLACK moved to reconsider the vote by which the joint resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### CALL OF COMMITTEES FOR REPORTS.

The SPEAKER stated the morning hour had now commenced, and that committees would be called for reports.

#### PROPERTY LOST IN THE MILITARY SERVICE.

Mr. ELDRIDGE, from the Committee on the Judiciary, reported back House joint resolution No. 22, declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service, with the recommendation that it do pass.

The joint resolution provides that section two of the act of Congress entitled "An act to provide for the payment of the expenses incurred by the Territories of Washington and Oregon in the suppression of Indian hostilities therein in the years 1855 and 1856," approved March 2, 1861, shall be so construed that whenever any claimant for such property shall

comply with all the terms and conditions of the act of March 3, 1849, on the subject of property lost in the military service, he, she, or they shall be paid the amount of the judgment in his, her, or their favor entered by the Third Auditor, and certified by him, as required by the last named act, out of any money in the Treasury not otherwise appropriated.

Mr. ELDRIDGE. I ask for the reading of the report of the Senate committee, which will fully explain this matter.

The report was read, as follows:

"Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service, made the following report:

"The only question appears to be whether under the fourth section of the act of March 3, 1849, the Treasury Department is authorized to pay the amounts awarded for horses and other property lost; or in other words, whether that section operates as an appropriation of the money. The language of the section is that 'when such judgments shall be in favor of such claim, the claimant or his legal representative shall be entitled to the amount thereof upon the production of a copy thereof certified by said Auditor at the Treasury of the United States.' The committee think the intention of Congress was to appropriate in this general way any sum of money necessary to satisfy those judgments or awards of the Third Auditor; still the language is not, as they think, so precise and exact as should be employed in an appropriation from the Treasury, and they are by no means surprised that it has received a different construction. They therefore report back the joint resolution with amendments, and recommend its passage."

Mr. ELDRIDGE. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ELDRIDGE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WILLIAM M'GARRIHAN.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, to whom was referred the memorial of William McGarrihan, relative to a claim to a certain land-grant known as Rancho Penoshe Grande, in California, reported back House bill No. 65, for his relief, accompanied by a report, to which was appended certain documents, and moved that the bill, report, and accompanying documents be recommitted to the Committee on the Judiciary and printed.

The motion was agreed to.

Mr. LAWRENCE, of Ohio, also reported from the same committee a joint resolution relative to the Rancho Penoshe Grande; which was read a first and second time.

The resolution directs the Secretary of the Interior to withhold the issuing of any patent, and to permit no proceeding in his Department affecting the title to the tract of land known as Rancho Penoshe Grande, in the counties of Monterey and Fresno, in California, until the claim thereto now pending in Congress shall have been disposed of; and that no title or claim to said land or any part thereof shall be made or perfected, or any proceeding for that purpose be taken under any existing law, until the said claim now pending in Congress shall have been disposed of.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FRANCIS FERNANDEZ.

Mr. LAWRENCE, of Ohio, from the same committee, reported adversely on the petition of Francis Fernandez, praying for a special act of naturalization; and the same was laid on the table.

## CAPITOL WATCHMEN.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported back House bill No. 79, to authorize the appointment of certain watchmen, and for other purposes, with a recommendation that it do pass.

The bill provides that the watchmen on the dome of the Capitol, at the congressional stables, the gate-keeper and the watchmen of the Capitol grounds be hereafter appointed by the Sergeants-at-Arms of the Senate and House, and that the officers aforesaid be also authorized to appoint three additional watchmen, one for each of the eastern porticoes and carriage-ways under the same, each watchman so appointed to receive \$1,000, payable on the order of one of the Sergeants-at-Arms. The bill appropriates the amount of money necessary to pay said watchmen until the end of the present fiscal year, and also to pay an additional lieutenant and private of the Capitol police, authorized to be appointed by the Presiding Officers of the two Houses of Congress. It further authorizes the Sergeants-at-Arms to select a pattern for a uniform for the Capitol police and watchmen, and to furnish two suits of the same per year to each member of the force at a cost not exceeding fifty dollars per suit; also the necessary belt, arms, &c., at a cost not exceeding twenty dollars per man, the amount being payable upon the certificate of the officers above named, one half out of the contingent fund of the Senate and one half out of that of the House of Representatives.

Section two authorizes the said Sergeants-at-Arms to make such rules and regulations as they may deem necessary to preserve the peace and secure the Capitol from defacement and for the protection of the public property therein, and confers power to arrest and detain any person violating said rules until such person can be brought before the proper authorities for trial without further order of Congress.

Section three repeals all laws inconsistent herewith.

Mr. HOLMAN. As this bill has not yet been printed I raise the point of order that as it contains an appropriation it must first be considered in Committee of the Whole.

Mr. WOODBRIDGE. I move that the rules be suspended, in order that the bill may be considered in the House at this time.

The question was taken on suspending the rules; and upon a division there were—ayes 30, noes 26; no quorum voting.

Tellers were ordered; and Mr. WOODBRIDGE and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 57, noes 26.

Before the result of the vote was announced, Mr. ROSS called for the yeas and nays on the motion to suspend the rules.

The question was taken upon ordering the yeas and nays; and there were—ayes seven.

So (the affirmative not being one fifth of the last vote) the yeas and nays were not ordered.

The result of the vote was declared as above.

So (two thirds voting in the affirmative) the rules were suspended.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WOODBRIDGE. I will state for the benefit of gentlemen who oppose this bill on the ground that it appropriates a large sum of money, that it makes no appropriation except for the pay of three additional watchmen, and for providing a uniform for the watchmen not to exceed \$100 per man, for each year. The whole appropriation, beyond that now provided by law, will not exceed five or six thousand dollars. Three additional watchmen, which it seems to be necessary to have, are provided for by this bill, namely, one at the eastern portico of the Senate, one at the eastern portico of the House, and one at the carriage-drives at the eastern front of the Capitol. And these watchmen are to be appointed by the Sergeants-at-Arms of the Senate and House, as the policemen now are under a law passed at the last session of Congress.

The bill also provides that these officers shall

appoint the additional lieutenant of police, and the additional policeman authorized by the resolution of the last Congress, instead of having them appointed by the President *pro tempore* of the Senate and the Speaker of the House, as provided for by that resolution.

The bill also provides that these policemen shall be uniformed at an expense of not more than \$100 each per year. Now, it seems to me that this is a very proper, and indeed a very important measure. Our policemen are now scarcely distinguishable from any ordinary citizen who may be passing through the Capitol or about its grounds. In my judgment, they should have some distinguishing mark or suitable uniform, because in the first place it gives them more influence and authority, as they are more easily recognized; and in the second place it gives them an *esprit de corps*, which is useful in an organization of this kind.

This bill also provides that the amount necessary to pay these additional expenses shall be taken one half from the contingent fund of the Senate, and one half from the contingent fund of the House. And it also provides that when a disturbance or violation of rules occurs in the Capitol or about the grounds, the Capitol police may arrest the offender and detain him in custody until he can be turned over to the proper authorities for trial. This a very important power to be exercised by our police, if they are to be effective as police, in preserving the Capitol from defacement and the grounds from injury.

It seems to me there is nothing in this bill but what is necessary. If I am not mistaken, and I am quite sure I am not, the bill meets the unanimous approval of the Committee on the Judiciary, who have examined it. It involves the additional appropriation of only a few thousand dollars. Indeed the only additional amount absolutely necessary under this bill is for the uniforming of the police, which will amount to from two thousand five hundred to five thousand dollars; not over \$5,000 and probably not a great deal over \$2,500. I hope this bill will meet with the approval of this House.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill; and being taken, upon a division there were—ayes 55, noes 30.

Before the result of the vote was announced, Mr. HOLMAN called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were—ayes eight; not one fifth of the last vote.

Mr. HOLMAN called for tellers upon ordering the yeas and nays.

The question was taken upon ordering tellers; and there were—ayes eight; not one fifth of a quorum.

So tellers were refused; and the yeas and nays were refused.

The bill was accordingly passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ELECTION CONTEST—HOGAN VS. PILE.

The SPEAKER laid before the House additional evidence in the contested-election case of Hogan vs. Pile; which was referred to the Committee of Elections.

## SUPPLEMENTARY RECONSTRUCTION ACT.

The SPEAKER laid before the House a letter from the Clerk of the House, inclosing the following communication from the Secretary of State:

DEPARTMENT OF STATE,  
WASHINGTON, March 25, 1867.

SIR: I have to acknowledge the receipt of your letter of this date, transmitting an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," which supplementary act is certified to have been passed on the 23d of March, 1867, by two thirds of both Houses of Congress, after it

had been returned to the House of Representatives, in which it originated, by the President, with his objections. The act shall be duly promulgated as one of the laws of the United States.

I am your obedient servant,

WILLIAM H. SEWARD.

EDWARD McPHERSON, Esq.,  
Clerk of the House of Representatives.

The SPEAKER. The letter will be printed; and the fact recorded upon the Journal officially for future reference.

## COMPENSATION OF MEMBERS OF CONGRESS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back, with an amendment in the form of a substitute, a joint resolution (H. R. No. 39) to amend an act entitled "An act to regulate the compensation of members of Congress, approved August 16, 1856."

The joint resolution, which was read at length, provides that the compensation allowed to members of Congress by the act of August 16, 1856, and the several acts and joint resolutions amendatory thereof, shall be paid in the manner following:

On the first day of the first session of each Congress, or as soon thereafter as he may be in attendance and apply, each Senator, Representative, and Delegate is to receive his mileage as now provided by law, and all his compensation from the beginning of his term, to be computed at the rate of \$5,000 per year; and thereafter during the session and during the ensuing adjournment, compensation at the same rate to be paid monthly upon the order of the Senator, Member, or Delegate entitled thereto; and on the first day of the second or any subsequent session he is to receive his mileage as now provided by law, and during the said session, and the subsequent compensation at the same rate. But nothing contained in the resolution is to be construed as repealing the existing provision of law that no mileage shall be paid for attendance at the first session of any Congress to the members of the immediately preceding Congress.

The amendment reported by the Committee on the Judiciary was read, as follows:

Strike out all after the enacting clause and insert the following:

That each Senator, member of the House of Representatives, and Delegate in Congress, after having taken and subscribed the required oath, shall be entitled to receive his compensation at the end of each month at the rate now established by law.

Mr. LAWRENCE, of Ohio. I was not aware that this bill had been considered by the Judiciary Committee. It was introduced in the House to-day after the session commenced, and I have had no notice of any meeting of the committee or of any consideration of this bill by the committee.

Mr. BOUTWELL. It has been considered by the committee. As the gentleman who offered the resolution thought it necessary that it should be acted on at once, a majority of the members of the committee were consulted. The gentleman from Ohio [Mr. LAWRENCE] was not in his seat at the time.

Mr. LAWRENCE, of Ohio. Very well. I desire, however, to submit an amendment.

Mr. BOUTWELL. I will hear it.

Mr. LAWRENCE, of Ohio. It is to add the following as a new section:

And be it further enacted, That each Senator, Representative, and Delegate in Congress shall be allowed and paid mileage at the rate of ten cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session, but no constructive mileage shall be allowed or paid.

Mr. BOUTWELL. That matter has not been considered by the committee. I cannot yield to allow the amendment to be offered.

Mr. LAWRENCE, of Ohio. Mr. Speaker, have I not the right to offer it?

The SPEAKER. The gentleman from Massachusetts is entitled to the floor. Should he relinquish the floor without calling the previous question, or should the previous question, if called, be not sustained, an amendment will be in order.

Mr. LAWRENCE, of Ohio. I give notice that I shall offer that amendment if I should



have an opportunity. I will ask the House to vote down the previous question so I may offer the amendment.

Mr. ELDRIDGE. I desire to ask whether the gentleman from Ohio is prepared to make a report on the subject which was referred to him at the close of the last session?

Mr. LAWRENCE, of Ohio. Yes, sir; I am. This proposition, however, does not relate to that subject. It relates to mileage only.

Mr. ELDRIDGE. I would like to know also whether the gentleman has paid back into the Treasury the extra compensation which he received? [Laughter.]

Mr. LAWRENCE, of Ohio. No, sir; I have not, and I do not intend to do so. Whatever compensation is fixed by law I expect to receive, in common with other members. I received no extra compensation; I received the increased compensation allowed by the law of the last Congress, as all other members did, and that I suppose is what is meant by the extra compensation. I did not refuse to receive it, because my refusal, or even a refunding of it to the Treasury, would not inure to the sole benefit of the district I have the honor to represent. My district would in that event only receive the benefit of the two hundred and forty-second part of it, a mere infinitesimal portion. All the districts would share alike the benefit, and I do not propose that other districts whose members take full pay shall in addition enjoy the benefit of that which the law declares me as the Representative of my district entitled to have. I wish to apply the same rule of law to all members of the House, for in this way alone can justice be done and a proper remedy be applied. I voted against the increase of salary from a sense of duty, and I am ready now to again demonstrate my faith by my words. I shall do what my judgment dictates to be right on this as I do on all other subjects; and I hope this Congress will have enough of dignity and self-respect to treat this subject as they do all others; that they will treat it with that decorum and dignity which becomes the Representatives of the people.

Mr. BOUTWELL. The committee, of course, have had no session, and I do not feel at liberty to go into a discussion on the subject of mileage. The effect of the pending proposition is to allow members to receive their pay monthly during the recess as well as during the sessions of Congress.

Now, I hope the gentleman from Ohio will be able to overcome his conscientious scruples, if he has any, about receiving the extra pay. [Laughter.]

Mr. LAWRENCE, of Ohio. I wish to say to the House and to the gentleman from Massachusetts, that the amendment I have submitted does not relate to extra compensation at all. I have not professed to have any special conscientious scruples on that subject. On the contrary, I have said whatever is voted by Congress in the way of mileage or compensation that I will take.

But, Mr. Speaker, I wish to say a word on this subject. During the Thirty-Ninth Congress my colleague [Mr. SCHENCK] reported from the Military Committee a bill fixing the mileage of certain military officers at ten cents a mile; and in every law of Congress where the subject of mileage is referred to, or allowed for any purpose, it is fixed at ten cents a mile, or at a less rate, except only for members of Congress. I know no reason why, with the improved facilities for travel which we now have, one rate of mileage should be allowed for members of Congress and another rate for other officers of the Government. The mileage of the members from California and Oregon, at the present rate, will amount to \$6,000 or more for a Congress—for the entire term of two years.

Mr. ELDRIDGE. I wish to inquire if I understood the gentleman from Ohio correctly, that he wishes it to be understood he only takes the extra compensation provided for by law and whatever mileage Congress sees fit to

grant, not because he desires the money, but out of respect and in obedience to the law?

Mr. LAWRENCE, of Ohio. I said no such thing. I will take it, however, because it is fixed by law.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded.

Mr. LAWRENCE, of Ohio, demanded the yeas and nays on ordering the main question to be now put.

The yeas and nays were not ordered.

The main question was ordered to be now put.

The substitute was agreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to amend the title so that it would read "A joint resolution in reference to the payment of salaries of members of Congress."

The amendment was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOLICITOR OF THE COURT OF CLAIMS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back House bill No. 63, making the office of solicitor of the Court of Claims a bureau in the office of the Attorney General, and for other purposes, with the following substitute:

Strike out all after the enacting clause and insert the following:

That from and after the 1st day of April, 1867, there shall be established in the office and under the direction of the Attorney General of the United States, for the time being, a bureau, to be called the bureau of the solicitor of the Court of Claims. The officers of said bureau shall consist of one solicitor and two assistant solicitors, who shall be in lieu of the present solicitors, and shall discharge the duties now imposed upon the solicitors of said court by force of existing law, and shall be severally appointed by the Court of Claims, and shall hold their office for four years, unless sooner removed by said Court. The solicitor shall receive an annual salary of \$4,000; the first assistant \$3,500; the second assistant \$3,000; each payable quarterly. The Attorney General shall have power to appoint two clerks of the fourth class, and one clerk at a salary not exceeding \$2,000, in said bureau.

SEC. 2. And be it further enacted, That it shall also be the duty of the said solicitor and his assistants in all cases brought against the United States in said Court of Claims, founded upon any contract, agreement, or transaction, with any executive department, or any bureau, officer, or agent of such department, or where the matter or thing on which the claim is based shall have been passed upon and decided by any department, bureau, or officer intrusted by law or department regulations with the settlement and adjustment of such claims, demands, or accounts, to transmit to said department, bureau, or officer, as aforesaid, a printed copy of the petition filed by the claimant in such case, with a request that the said department, bureau, or officer to whom the same shall be so transmitted, as aforesaid, will furnish to said solicitor all facts, circumstances, and evidence touching said claim, as is or may be in the possession or knowledge of the said department, bureau, or officer and it shall be the duty of the said department, bureau, or officer to whom such petition may be transmitted, and such request preferred, as aforesaid, without delay, and within a reasonable time, to furnish said solicitor with a full statement of all the facts, information, and proofs which are or may be within the knowledge or in the possession of said department, bureau, or officer relating to the claim aforesaid. Such statement shall also contain a reference to or description of all official documents or papers, if any, as may or do furnish proof of facts referred to in said statement, or that may be necessary and proper for the defense of the United States against the said claim, together with the department, office, or place where the same is kept or may be procured. And if the said claim shall have been passed upon and decided by the said department, bureau, or officer, the statement or answer to be transmitted to said solicitor, as hereinbefore provided, shall succinctly state the reasons and principles upon which such decision shall have been made upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically. And if any previous interpretation or construction shall have been given to such act, section, or clause by the said department or bureau transmitting such statement, the same shall be set forth succinctly in said statement, and a copy of the opinion filed, if any, shall be annexed to such statement and transmitted with the same to the solicitor aforesaid. And where any decision in the case shall have been based upon any

regulation of an executive department, or where such regulation shall or may, in the opinion of the department, bureau, or officer transmitting such statement, have any bearing upon the claim in suit, the same shall be distinctly referred to, and quoted *in extenso* in the statement transmitted to said solicitor: *Provided, however,* That where there shall be pending in the said court more than one case, or a class of cases, the defense to which shall rest upon the same facts, circumstances, and proofs, the said department, bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such class of cases as if made out, certified, and transmitted in each case respectively.

SEC. 3. And be it further enacted, That it shall and may be lawful for the head of any executive department, whenever any claim is made upon said Department involving disputed facts or controverted questions of law where the amount in controversy exceeds \$3,000, or where the decision will affect a class of cases or furnish a precedent for the future action of any executive department in the adjustment of a class of cases without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, to cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant: *Provided, however,* That no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases as to which, by reason of the subject-matter and character, the said Court of Claims might under existing laws take jurisdiction on such voluntary action of the claimant. And the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim of the character, amount, or class described or limited in this section, to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said Court of Claims for trial and adjudication. And all the cases mentioned in this section which shall be transmitted by the head of any executive department, or upon the certificate of any Auditor or Comptroller, shall be proceeded in as other cases pending in said court, and shall, in all respects, be subject to the same rules and regulations, and appeals from the final judgments or decrees of the said court therein to the Supreme Court of the United States shall be allowed in the manner now provided by law. The amount of the final judgments or decrees in such cases so transmitted to said court, where rendered in favor of the claimants, shall in all cases be paid out of any specific appropriation applicable to the same, if any such there be; and where no such appropriation exists, the same shall be paid in the same manner as other judgments of said court.

SEC. 4. And be it further enacted, That all provisions of any act incompatible herewith be, and the same are hereby, repealed.

Mr. BOUTWELL. Unless there is a desire to debate this bill I will call the previous question.

Mr. BROOKS. With the permission of the gentleman from Massachusetts, before making the point of order that I intend to make, I suggest that as the bill is a pretty long one, and much of it is in manuscript, it had better be postponed and printed. I do not think ten gentlemen in the House understand its provisions. Some of them I notice are pretty important. It creates, I believe, four officers. It provides salaries of \$4,000, \$3,500, \$3,000, and \$2,000. I suggest, therefore, that it be postponed for a day or two, so as to have it printed. If that is not allowed, I must make the point of order that it makes an appropriation and should go to the Committee of the Whole.

The SPEAKER. The bill does not contain an appropriation.

Mr. BROOKS. I think there is an appropriation in some of the concluding clauses.

The SPEAKER. The Chair examined the bill while the gentleman was speaking.

Mr. BROOKS. I wish the Clerk would read it.

The SPEAKER. The creation of an office and fixing its salary is not an appropriation.

Mr. BROOKS. I know it is not, but it provides an appropriation.

The SPEAKER. It reads "shall in all cases be paid out of any specific appropriation applicable to the same, if any such there be; and where no such appropriation exists, the same shall be paid in the same manner as other judgments of said court." There is no appropriation; it does not take any money out of the Treasury.

Mr. BROOKS. How are these judgments to be paid?

The SPEAKER. They are paid out of the appropriations made from time to time. The

gentleman is as familiar with the law as the Chair.

Mr. BROOKS. If this should not go to the Committee of the Whole, the gentleman ought at least to give us time to read the bill in print and know what it is. We have already been obliged to repeal three or four acts of Congress at the last session, and we are to have several more repealed or modified. This is a most dangerous mode of legislation.

Mr. BOUTWELL. In reply to the gentleman from New York, I have to say that the bill reported by the committee is almost the same as House bill No. 63, which has been in print several days.

Mr. BROOKS. There are very serious changes.

Mr. BOUTWELL. The alteration is in the first section, which has been reported by the committee in manuscript. As far as the expenditures are concerned, they will be the same under the bill as they now are under the existing law. We have by law three solicitors, each receiving \$3,500 a year, making \$10,500. This bill differs in this: that it makes the salary of the chief solicitor \$4,000; of the first assistant, \$3,500, and of the second assistant, \$3,000, making in all \$10,500—just what is appropriated at the present time. The only real difference in this bill is that it authorizes the appointment of two clerks, where only one is allowed by the existing law.

The advantage to be derived from this bill is a practical one, with reference to the administration of the Executive Departments of the Government and with reference to economy also. At present the Executive Departments of the Government have legally no communication with the solicitors for the Court of Claims. The consequence is when great causes are there pending, involving to the extent of hundreds of thousands and millions of dollars, there is no responsible channel of communication between any of the Executive Departments of the Government and the solicitors in this court, on whose integrity and ability the financial interest of the country, in a very large degree, depend. By this bill the solicitors of the Court of Claims are made a bureau in the office of the Attorney General, and he is charged with the general control of their proceedings. Through the Attorney General a means of communication is established with all the Departments of the Government, they communicating with him, and he being directly responsible for the manner in which those duties are performed.

In reference to the salaries, I may say that if I could have my own way in reference to this matter I would establish the office of solicitor for the Court of Claims with a salary of not less than \$6,000 a year; because hereafter, for the next few years at least, undoubtedly the first talent of the country is to be employed in this court. Great and important interests are there pending, and the country should be represented by the best counsel at its command. But with the present feeling as to salaries, the committee have reported the sum of \$4,000, trusting that the increase of \$500 may enable us at least to gain something in respect to talent—I suppose nothing will be gained in respect to integrity—for the protection of the interests of the Government.

We have made a change in one particular, and I do not conceal it from the House; I state it with great frankness. By the operation of this bill the present solicitors are removed from their offices, and the Court of Claims itself is authorized to appoint three solicitors; which, upon the whole, was thought to be the most judicious way of proceeding in this matter. The judges of the Court of Claims, in a certain sense, represent the Government judicially. They are bound in honor, as well as by their oaths of office, to see to it that everything done in their courts is well and faithfully done. And, upon the whole, we thought it the wisest way, as we could properly do it under the Constitution, to charge that court with the duty of appointing these officers:

I believe I have now stated to the House all the changes involved in the bill reported by the committee.

Mr. BROOKS. My great objection to this mode of legislation is the utter impossibility for members of the House to comprehend a bill presented for action. While I have the greatest respect for the gentleman from Massachusetts [Mr. BOUTWELL] and the committee of which he is a member, yet it is none the less for our own self-respect that we should be enabled to understand that upon which we are called upon to vote, so as to be able to explain the reasons for our own votes to the people who are our constituents. Now, let me suggest what will be the probable consequences of this mode of legislation. We have already passed bills at this session to repeal three or four of the laws passed near the close of the last session of Congress.

Mr. BOUTWELL. The gentleman will pardon me; but the morning hour is about expiring, and if I do not get the previous question seconded and the main question ordered before the end of the morning hour the bill will have to go over until to-morrow. The necessity for the passage of this bill is pressing; the financial interests of the country will be endangered by allowing the present condition of things to continue. I must therefore ask the gentleman to excuse me while I resume the floor and call the previous question upon this bill. After the main question is ordered I will again yield to the gentleman.

The previous question was seconded and the main question ordered.

Mr. BOUTWELL. I now yield again to the gentleman from New York, [Mr. Brooks.]

Mr. BROOKS. What I was about to say, and what I wish to particularly call to the attention of the majority of this House, is the consequence of this dangerous mode of legislation, without thorough consideration by the great body of the members of this House, of important bills like this. For example, the wool-tariff bill, which passed during the closing hours of the last session of the Senate, and which had previously passed the House with little or no consideration, is already found at the Treasury Department to be a bill which it is impossible to execute. And in the course of to-day or to-morrow there will probably be a proposition presented by some member on the other side of the House for essential amendments and alterations of that very important bill. The bill was passed under the operation of the previous question, without explanation or consideration.

Now, let me suggest to gentlemen on the other side of the House who are responsible for the laws that are passed here, and who do not, by these constant changes and alterations of their own laws, occupy that attitude before the public which is desirable, that with these precedents before us it is necessary that we should be exceedingly careful of the mode and manner in which we proceed. Here is a most important bill, a bill changing the organization of the Court of Claims, extending its sphere, enlarging its mode of operation; and yet the nature and character of the bill we are called upon to take altogether upon trust. Now, sir, I am willing to take as much upon trust as any one; but I am not willing to be a mere instrument for the enactment of laws without being able to read and comprehend them. I trust that the bill will be allowed to go over till to-morrow morning; and if before that time we do not sufficiently educate ourselves as to the provisions of the bill, it will be the fault of the individual members, not the fault of the House of Representatives.

Mr. VAN TRUMP. Will the gentleman from Massachusetts [Mr. BOUTWELL] yield to me for a few moments?

Mr. BOUTWELL. Yes, sir.

Mr. VAN TRUMP. Mr. Speaker, in addition to what has been suggested by the gentleman from New York, [Mr. Brooks,] there is another consideration which makes it very essential that further time should be allowed for

the examination of this bill. If I understand the bill, it transfers to the office of the Attorney General the management of the business of the Government in the Court of Claims, establishing a new bureau in that office. Now, we all know that since the termination of the war so many new questions have arisen that the office of the Attorney General is entirely overrun with business, subjecting the office to a greater responsibility than is desirable. The Attorney General is the legal adviser of all the other departments of the Government, and it seems to me unwise to increase the amount of business requiring his attention. The gentleman from New York has very properly objected to hasty legislation upon a question of this kind. For myself I should like to have time to examine the question; and other members I have no doubt would be glad to have the same opportunity.

Mr. BOUTWELL. Mr. Speaker, all the provisions of this bill with reference to the jurisdiction of the court have been in print for a week, and constructively upon the desks of members. The facts suggested by the gentleman from Ohio [Mr. VAN TRUMP] touching the Attorney General's department are the reasons which controlled the committee in favor of placing this bureau in the office of the Attorney General. We propose to provide the additional force by which the business of the bureau is to be performed. It is to be transacted, to be sure, under the direction of the Attorney General; but the chief advantage will be that the Executive Departments of the Government will have responsible means of communicating with the bureau of the solicitors of the Court of Claims. At the present time, under the existing law, the Attorney General takes charge of all causes carried by appeal from the Court of Claims to the Supreme Court of the United States. Therefore his duties will not be increased by the passage of this bill. The bill contains no provision extending the jurisdiction of the Court of Claims. The judgments of the court are to be paid in no different manner from that now provided for.

Deeming it unnecessary to detain the House longer with this subject, I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute proposed by the Committee on the Judiciary was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

On the passage of the bill, there were—ayes 62, noes 21.

So the bill was passed.

Mr. BOUTWELL. I move to amend the title of the bill so as to read, "An act placing the solicitor and assistant solicitors of the Court of Claims in the department of the Attorney General, and for other purposes."

The amendment was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

USE OF THE HALL FOR A LECTURE.

Mr. BUTLER. I move to suspend the rules to offer the following resolution:

*Resolved*, That the use of the Hall of the House of Representatives be granted to the Young Men's Christian Association of Washington, District of Columbia, for the lecture of Theodore Tilton, Esq., on Thursday night, March 28th, instant.

The SPEAKER. The Chair will state that by the rule of the House the Speaker is prohibited from entertaining any proposition granting the use of the Hall except for legislative purposes and for meetings in which members of the House participate. The gentleman might modify the resolution so as to provide for a meeting in which members of the House of Representatives shall take part. If so modified, the rules could be suspended for the introduction of the resolution.

Mr. BUTLER. I modify the resolution in the manner suggested by the Speaker, and move to suspend the rules.

On the motion there were—ayes 44, noes 40.  
So (two thirds not voting in favor thereof) the rules were not suspended.

#### BUSINESS ON THE SPEAKER'S TABLE.

Mr. BROOMALL moved that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### INCREASE OF THE PATENT OFFICE FORCE.

The first business on the Speaker's table were the following amendments of the Senate to House bill No. 28, to increase the force of the Patent Office.

Strike out the following sections:

SEC. 2. *And be it further enacted*, That the Commissioner of Patents is authorized to appoint, by and with the approval of the Secretary of the Interior, a solicitor of the Patent Office, who shall be considered its law officer, whose salary shall be \$3,000 per annum, to be paid from the patent fund, and whose duty it shall be to render all reasonable aid in the transaction of the business of said office that may be required of him by the said Commissioner.

SEC. 3. *And be it further enacted*, That the salary of the first assistant examiners and disbursing clerk shall be \$2,000, and the salary of the librarian shall be \$2,500, which shall be in full for his services as translator and librarian.

Amend the title by striking out "and for other purposes."

Mr. MYERS. I move that the amendments of the Senate be concurred in. I hope those sections will be enacted into law when Congress again meets. I am sorry that they have been struck out by the Senate.

The amendments were concurred in.

Mr. MYERS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLAIMS OF NORTHERN CREDITORS.

The next business on the Speaker's table were amendments of the Senate to House joint resolution No. 1, relative to claims of certain northern creditors.

The preamble and joint resolution were read, as follows:

Whereas the congress of the confederate States ordered the sequestration and confiscation of all the debts due from inhabitants of the southern States to their creditors residing in the loyal States; and whereas there was paid to the Citizens' Bank of New Orleans, prior to the 1st day of May, 1862, a sum exceeding half a million dollars, the proceeds of such confiscation of northern credits, of which there remained to the credit of the confederate States receivers, in such bank, the sum of \$219,090 94 only, on the 1st day of May, at the time of the occupation of the city of New Orleans by the forces of the United States, which said sum, by the order of the general then commanding the department of the Gulf, was seized for the benefit of the northern creditors whose debts had been thus confiscated, and said sum was by him sent to the Secretary of the Treasury of the United States, to be by him held in trust for the benefit of said northern creditors; and whereas owing to a doubt entertained by the Secretary of the Treasury as to his legal authority to distribute said sum of \$219,090 94 among the creditors to whom it belongs, and to determine the rights of each to his portion thereof, the money has lain thus undisturbed in the Treasury since July, 1862, to the great injury and detriment of the just and lawful owners thereof, although they have made many applications to have the same: Now, therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and hereby is, authorized to appoint a commission of three persons, one of whom shall be learned in the law, to hear and determine the various claims of the parties who are entitled to said sum of \$219,090 94, ratably among the persons who shall present their claims and be entitled thereto, to an amount not exceeding the claim of each when confiscated, with interest thereon: *Provided*, That any claim which shall not be presented within three months after public notice of a meeting of commissioners to receive such claim shall not be allowed or paid by order of said commissioners: *And provided further*, That the cost of said commission shall be paid out of said money.

Amendments of the Senate:

Strike out all after "of" in line eleven of the preamble to "only" in line thirteen, and insert in lieu thereof "\$178,897 50."

Strike out all after "of" in line twenty-two of the preamble to "among" in line twenty-three, and insert in lieu thereof "\$178,897 50."

Page 2, strike out all after "to" in line three to the

end of the resolution, and insert in lieu thereof the following:

Take and report to Congress evidence in support of the claims of the several parties whose debts were sequestrated and contributed to produce said sum of \$178,897 50, together with the date at which such debts were contracted and the interest accrued thereon to the date of said report: *Provided*, That the said commission shall give public notice of the time and place at which said claims shall be presented by advertising the same in some newspaper published in each of the cities of Boston, New York, Philadelphia, and New Orleans for three months; and no claim shall be considered unless it shall be presented at or before the time so advertised: *And provided further*, That the cost of said commission shall be paid out of said money.

Mr. BUTLER. All those amendments are only for the proper working of the resolution; and I move that they be concurred in.

Mr. LAWRENCE, of Ohio. I think the House does not perfectly understand what this is. As I understand it has not been referred to any committee of this House, although it deals with large sums of money. It seems to me a bill involving such consequences ought to be considered, and I hope it will not be allowed to pass without careful consideration so that the country may be secured against all loss.

Mr. BUTLER. If the gentleman had listened to the preamble and resolution he would have seen that it was sent to the Senate from this House after consideration here. It concerns certain claimants to money sent from New Orleans by the commanding general of that department to the Treasury arising from the proceeds of confiscated debts. It is a fund in the Treasury that belongs to those loyal creditors, and this bill only provides for a commissioner under the direction of the Secretary of the Treasury to settle that matter. The amendment of the Senate is that the commission shall report to Congress so that it can have the whole matter in charge after the report is made.

Mr. LAWRENCE, of Ohio. I would inquire whether this bill has received the consideration of any committee of this House?

Mr. BUTLER. Not to my knowledge.

Mr. LAWRENCE, of Ohio. I think I understand this plan of getting measures of this sort through. Having first the reports of officers of the Government, the legislation necessary to carry out their recommendations follows. Now, this particular case may be all very proper. I do not undertake to say it is not, but I do say that it seems to me a measure of the importance which this apparently is ought to go to some committee of the House.

Mr. BUTLER. I entirely concur with the gentleman, and I move to refer it to the Committee on the Judiciary, of which he is a member. Five minutes of explanation, I am sure, will induce the gentleman to report in its favor.

Mr. LAWRENCE, of Ohio. That is a sensible remark.

The resolution was accordingly referred to the Committee on the Judiciary.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment joint resolution of the House No. 21, relative to the issue of agricultural college scrip to the States lately in rebellion.

The message further announced that the Senate had passed joint resolution of the House No. 1, relative to the claims of certain northern creditors, with an amendment, in which the concurrence of the House was requested:

It further announced that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (S. No. 114) amendatory of the organic act of Colorado Territory; and

An act (S. No. 112) to incorporate the Lincoln Monument Association.

#### SALE OF GOVERNMENT WAREHOUSES.

The next business on the Speaker's table was the consideration of Senate bill No. 80, to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock,

Brooklyn, New York; which was read a first and second time.

The bill authorizes the Secretary of the Treasury, in his discretion, to sell the property on Atlantic dock, Brooklyn, New York, being warehouses Nos. 54, 56, and 58, now owned by the Government, the sale to be made at public auction to the highest and best bidder therefor in ready money, after giving notice thereof six weeks in succession in two daily papers printed in the city of New York. And upon sale being made as aforesaid the said Secretary of the Treasury is authorized and empowered to make, execute, and deliver to the purchaser thereof a good and sufficient deed for the premises, conveying all the right, title, and interest of the United States.

Mr. VAN WYCK. The three warehouses mentioned in this bill have not for the last ten years, except in one or two instances where condemned cotton was stored during the war, been required nor used by the Government at all. The buildings are going into decay. All that the Treasury Department can do is to rent them; and in order to make them suitable for renting some five or ten thousand dollars will have to be immediately expended. I have letters in my possession, which I will have read if any member desires it, from the supervising architect of the Treasury Department and from the Secretary of the Treasury himself, showing that these buildings will not be required for the use of the Government. Therefore, as a matter of economy, it is advisable that the property be sold, and the money put into the Treasury of the United States.

The bill was read the third time, and passed.

Mr. VAN WYCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORLEF E. DREUTZER.

The next business on the Speaker's table was the consideration of Senate bill No. 89, for the relief of Orlef E. Dreutzer, late consul of the United States to the kingdom of Norway; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service of the United States; when the Speaker signed the same.

#### CHOCTAW AND CHICKASAW INDIANS.

The next business on the Speaker's table was the consideration of Senate joint resolution No. 18, for the sale of certain stocks held in trust for the Choctaw and Chickasaw Indians; which was read a first and second time.

Mr. WINDOW. I desire that resolution to be put upon its passage.

Mr. ALLISON. It is an important bill.

Mr. WINDOW. I ask it to be reported.

The joint resolution was read. The first section authorizes the Secretary of the Interior to pay the claims of certain Choctaw and Chickasaw Indians, and other loyal persons, as are provided for in the forty-ninth and fiftieth articles of the treaty concluded with the Choctaw and Chickasaw Indians on the 28th of April, 1866, and for that purpose authorizes him to sell such of the stocks held by the United States in trust for the benefit of those Indians as he may deem expedient and proper; provided that no sale shall be made of any stocks issued by the State of Indiana, nor shall any stocks be sold for less than the par value thereof, and no further sale of said stocks shall be made than may be necessary to pay said claims; and provided further that no such stocks shall be sold, and no money shall be paid on such claims, unless the Secretary of the Interior shall have first examined and ratified or approved the awards made by commissioners, as stipulated

in the forty-ninth and fiftieth articles of said treaty; and provided further, that nothing contained in this act shall be construed as recommending for his approval any awards already made under said treaty; and provided further, that the amount realized from the sale of said stocks shall be reinvested in United States stocks out of any money that may be found due said tribe on the first settlement with said tribe.

The second section provides that if the Secretary of the Interior shall not approve or confirm the awards already made, the President shall, on being notified thereof, appoint other commissioners, who shall take testimony and report as provided by the terms of the said treaty; and the President may fix the times and places for the meeting of said commissioners for taking testimony on the claims presented; and the Secretary of the Interior is required to pay the amount of award due to each Indian in person, and no part thereof shall be paid to any assignee, agent, or attorney.

Mr. WINDOM obtained the floor.

Mr. SCOTFIELD. I desire to move to refer this bill to its appropriate committee.

Mr. WINDOM. I cannot yield for that purpose at present. I will explain to the House what this bill is, and then if it is the desire of the House to refer the bill they can do so.

Mr. BALDWIN. I desire to ask the gentleman a question.

Mr. WINDOM. Very well.

Mr. BALDWIN. I desire to know whether the gentleman proposes to allow an opportunity for a motion to refer this bill to a committee or for any other action than the immediate passage of the bill?

Mr. WINDOM. I shall call the previous question after I have explained the bill to the House. If they do not wish to pass the bill, after having heard the explanation, then as a matter of course they will not vote to sustain the call for the previous question.

Mr. KOONTZ. I would inquire of the gentleman if this bill does not propose to meet claims which the House at the last session refused to put in the deficiency bill?

Mr. WINDOM. It is an entirely different proposition.

Mr. UPSON. Is it not connected with the same claim?

Mr. BUTLER. Will the gentleman yield to me for a few moments?

Mr. WINDOM. Certainly.

Mr. BUTLER. I understand this bill to provide for the sale of the bonds of the school fund of the Choctaws and Chickasaws, for the purpose of paying loyal Indians and others for the losses of property sustained by them in consequence of the rebellion. It has been the uniform decision of Congress not to reimburse even white loyalists who have lost their property through the rebellion, because the claims would be so enormous that the Treasury could not meet them. Now, I do not see why we should authorize the sale of the bonds of these Indians, in order to reimburse these loyal Indians, many of whom are nearly white. No doubt they can produce the best kind of record of their loyalty; about such a record as we should probably get in any case presented by a white loyal claimant.

I know it will be said by my friends that there is a treaty in regard to this matter, one made last August. The Choctaws and Chickasaws are here by their delegates, saying that this bill ought not to pass, protesting against it. I am informed that a proposition something like this failed in the last Congress; it was a proposition of some kind to get at the money of these Indians.

Now, all I ask is that this bill shall take the course which I yielded to allow my own bill to take a few moments since: be sent to some committee of the House to be fully and thoroughly investigated. If it is sent to the committee of which my friend from Minnesota [Mr. WINDOM] was and probably will be chairman—I do not know a better committee in the

world if the other members are like its chairman—I will be content to take his report. But I want him, on his responsibility as chairman of the committee, to assure me after full investigation that the bill is right.

I am always very doubtful when I hear anybody say anything about getting something from the Indians or for the Indians. But I am especially troubled when I hear that \$350,000 of the bonds of the Indian fund which this bill calls for is to be sold and the money to be divided among the Indians, whether loyal or disloyal.

Mr. WINDOM. I certainly have no feeling in this matter, and do not desire to press this bill, unless the House are willing to pass it. There is an evident misunderstanding in reference to this matter, as indicated by the several questions which have been addressed to me.

The gentleman from Pennsylvania [Mr. KOONTZ] on my right, asks if this is not the same claim which was defeated in the deficiency bill in the last Congress. As I stated a moment ago, it is a very different proposition. That bill, I think, proposed to pay some one million eight hundred thousand dollars to these Chickasaws and Choctaws. This provides that the Chickasaws and Choctaws shall pay the debt which they have bound themselves by treaty stipulations to pay; that the disloyal Indians shall pay the damages which they have inflicted upon the loyal Indians belonging to their tribes. And it is the loyal Indians of this nation who appear here and demand the fulfillment of those treaty stipulations.

I will state very briefly the facts of the case. On the 28th of April, 1866, a treaty was entered into between the Chickasaw and Choctaw nations and the United States, whereby the Government agreed to forgive their past offenses and to pay them the debts which were due them. Among the considerations for this concession on the part of the United States was the stipulation that these Chickasaws and Choctaws should make compensation for the damages which had been done by them to the loyal Indians in their midst. A clause was inserted in the treaty providing for a commission to be sent to the Chickasaw and Choctaw nations, to take the proof of damages inflicted by the disloyal upon the loyal Indians. In making this treaty it was proposed that the Government should stand by its friends who had stood by it during the rebellion; and the expectation was that while we conferred certain benefits upon the Chickasaw and Choctaw nations, we would compel them to stand by their agreements in the treaty and pay for the damages which they had inflicted upon our friends there.

Let me read, Mr. Speaker, the provision of the treaty:

"And it is further agreed that a commission to consist of a person or persons to be appointed by the President of the United States shall be appointed immediately on the ratification of this treaty, who shall take into consideration and determine the claim of such Choctaws and Chickasaws as allege that they have been driven during the late rebellion from their homes in the Choctaw and Chickasaw nations, on account of their adhesion to the United States, for damages, with power to make such award as may be consistent with equity and good conscience, taking into view all the circumstances, whose report when ratified by the Secretary of the Interior shall be final, and authorize the payment of the amount from any moneys of said nations in the hands of the United States as the said commission may award.

Now, there are, I believe, no moneys of these nations in the hands of the United States; but there are bonds amounting, I think, to about one million seven hundred thousand dollars. The Secretary of the Interior does not feel that under existing law he has the right to sell those bonds; and this bill proposes simply to authorize the sale of a portion of the bonds in order that the awards of these commissioners, when confirmed by the Secretary of the Interior, may be carried out, and these loyal Indians paid. This, as I understand, is the whole of the bill, except the additional provision that the money shall be paid only to the Indian claimants themselves, not to agents.

Mr. ALLISON. Will the gentleman yield for an inquiry?

Mr. WINDOM. Certainly.

Mr. ALLISON. I desire to obtain some information in relation to this bill. As I understand the provisions of the treaty these bonds are now held by the United States as a trust fund for the benefit of the Choctaw and Chickasaw nations; and the amount of these bonds, as I understand, is \$1,700,000. Am I correct?

Mr. WINDOM. That is about the amount.

Mr. ALLISON. Now, it seems to me there may be a question whether or not the entire amount of those bonds is not forfeited to the United States from the fact that those Indian tribes engaged in the rebellion against the Government.

Mr. WINDOM. Let me say right here in reference to that question that the bonds were forfeited until this treaty was ratified between the United States and these Indians. By the treaty all forfeitures were revoked, a part of the conditions of the revocation being that these Indians should pay the debts which they owed for damages inflicted upon loyal Indians in their midst.

Mr. ALLISON. The section which the gentleman has read provides that these damages shall be paid out of any moneys in the hands of the United States belonging to these Indians. Now, if the United States should undertake to interfere with this special trust fund and sell a portion of these bonds for the purpose of paying these claims, will not the next proposition on the part of these Indians be that Congress shall reimburse them for the bonds thus sold? If I recollect aright the provision of the bill, it specially provides that there shall be a reimbursement of these bonds or a reinvestment of them.

Mr. WINDOM. I recollect no provision of that kind.

Mr. ALLISON. I think there is a provision of that kind; so that if we sell these bonds we will be compelled to reinvest an equal amount in other bonds.

Mr. WINDOM. I ask the Clerk to read the provision.

The Clerk read as follows:

*And provided further.* That the same amount realized from the sale of said stocks shall be reinvested in United States stocks out of any money which shall be found to be due to said tribe on the final settlement with said tribe.

Mr. WINDOM. That is a different proposition.

Mr. ALLISON. It is a different proposition, and it involves the question whether the United States is or is not indebted to these Choctaws and Chickasaws. I recollect on the last night of the session that we had a long discussion on a proposition to pay these Indians the sum of \$1,800,000. It was then proposed to pay money to these Indians, but as that did not pass, it is now proposed to pay these Indians in the way provided for in the pending measure.

Mr. WINDOM. I am glad the gentleman asks these questions, for it is very evident that he needs information.

Mr. ALLISON. Yes, sir; I do desire information so as to vote on this question correctly; and I do not propose to vote for it until I do understand it.

Mr. WINDOM. The proposition at the close of the Thirty-Ninth Congress, as I stated before, was to pay the Choctaw nation a certain debt claimed to be due to them under this treaty. I then myself objected to that, and alleged, among other grounds why it should not be paid, that they had refused to pay their debts to the loyal Indians. And these are debts to the loyal Indians.

Mr. ALLISON. It is proposed, then, that we shall reinvest the same amount in other bonds of the United States.

Mr. WINDOM. This bill does not in any way commit the House on that question. It says that if anything shall be found due to these Indians, then the amount shall be reinvested in these bonds. Of course if nothing is found to



be due to these Indians there will be nothing to reinvest.

Mr. ALLISON: There is one other thing which I wish to understand. I see there is a provision that if the Secretary of the Interior does not approve of the awards made by the commissioners sent among these tribes, then it shall be the duty of the Secretary of the Interior or of the President of the United States to appoint other commissioners, who shall go there and take testimony, and make new awards. I submit to the gentleman, if the Secretary of the Interior shall see proper to refuse to pay a single award made by that commission, the whole question will then again be opened up for consideration. Then new commissioners will be appointed who may award millions. I think it bears that interpretation. It authorizes the Secretary of the Interior to select new commissioners, who may make whatever awards they please, and authorizes him to sell whatever bonds may be necessary to pay such awards.

Mr. WINDOM. I do not think it bears any such interpretation. It authorizes him to select enough of bonds to pay the claims which may be found to be due. I do not think the Secretary would refuse to confirm an award for \$300,000 as too much and afterward confirm one for \$500,000.

Mr. ALLISON. I do not know about that. Mr. BALDWIN. I shall occupy the time of the House but for a few minutes. Mr. Speaker, I have paid some attention to the subject-matter of this bill, and what I have learned has created a desire to know more. I am fully persuaded, however, that it needs a most searching investigation before we take any action on the bill. As I understand, the awards are not yet made, and therefore why should we sell the bonds until we know what ought to be paid? Why may not we make these claimants wait until the money shall be invested in the bonds? Why sell the bonds or make provision for selling the bonds now? I am sure this matter needs a thorough investigation, and that instead of being passed, the bill should be ordered to be referred to the Committee of Claims for future investigation.

Mr. WASHBURN, of Wisconsin. I wish to ask a question. From the discussion thus far it would seem no one but Indians are interested in this bill. I believe there are some white men interested in it.

Mr. WINDOM. So far as I am aware there are none but Indians.

Mr. WASHBURN, of Wisconsin. As I understand the case there are certain white men interested in this matter, and I presume if you go to the bottom of this thing it will be found it is for the benefit of white men, who are pressing this bill through. I perceive that it reads "to enable the Secretary of the Interior to pay the claims of certain Choctaw and Chickasaw Indians and other loyal persons." It is evident that somebody but Indians are interested.

Mr. WINDOM. There may be some white men among them that are interested.

Mr. WASHBURN, of Wisconsin. I want to know something about it before I vote upon it. I hope it will be referred to the committee.

Mr. BOUTWELL. I think I can give some information in regard to the white men. If the gentleman will look at the fifth article of the treaty he will find that there are two persons named in that article as having claims against the Indians, namely, Joseph P. Heald and Reuben Wright. Perhaps the claims named in the treaty amount to \$90,000.

Mr. WASHBURN, of Wisconsin. They may be honorable and honest men; but this matter should be investigated.

Mr. BOUTWELL. I want to say, especially to the gentleman from Wisconsin, [Mr. WASHBURN,] that Mr. Heald is a person whom I know very well. He lives in my own neighborhood, and is a very upright man. He left the Indian country when the war opened. They took possession of his flouring-mill and goods,

and used them for their own purposes in aid of the rebellion. He stayed away till the close of the war, and then went back there. He interested himself, as a man naturally would who has lost a large estate, in getting this article in the treaty, and I believe he is entitled to the money.

Mr. WASHBURN, of Wisconsin. All I wish to say is: I think this ought to go to the appropriate committee, and my friend, I think, will agree with me in that.

Mr. WINDOM. I will take but very little more of the time of the House on this question. If the House desire to refer it to the committee and let it lie over I have certainly no objection, only that the Indians have suffered very much and they need this money. It is due to them under treaty stipulation. They are our friends and were such during the dark hours of the Government, and it is a very great hardship upon them to be refused the pay that is due them.

The gentleman from Massachusetts [Mr. BALDWIN] asks why sell these bonds now? I tell him because these Indians were driven from their homes and everything was taken from them. They are in a suffering condition; our treaty stipulation gives them a certain amount of money, and they ask that their disloyal persecutors shall be compelled to pay that money to them.

Mr. LOGAN. I ask the gentleman to yield. I desire to vote right on this question. I know one of the gentlemen on this commission, and know him to be a very high-minded, honest gentleman. But I would like to have the chairman of the former Committee on Indian Affairs to give a reason, so that the House may understand it fairly, why these people should not be heard before the committee. I ask the gentleman to allow the remonstrance which I hold in my hand to be read for information.

Mr. WINDOM. I have no objection; I want all the information on the subject I can get.

The Clerk read as follows:

Statement of the Choctaw delegation, showing that the claims provided to be paid by Senate joint resolution No. 177 and House joint resolution No. 298, are not loyal, but rebel, &c.

To the Senators and Representatives of the United States:

We, the undersigned, delegates of the Choctaw nation, do respectfully protest against the passage of either Senate joint resolution No. 177 or House joint resolution No. 298, both of which "provide for the payment of certain losses sustained by loyal Choctaw and Chickasaw Indians;" and for the following reasons:

1. That three fourths of the so-called loyal claims are those of persons who can be proven to have been rebels, the majority of them having served in the rebel army.

2. That although the loyal of our nation, ourselves included, have suffered severe losses by the rebellion, in no case do we know of a single just claim for damages preferred by a thoroughly loyal man.

3. That by a treaty concluded last year between the United States and the Choctaw and Chickasaw nations, the Secretary of the Interior was invested with the power to pay these claims if proven on testimony to be those of loyal persons.

4. That the Secretary of the Interior has refused to authorize the payment of the awards to the claimants.

5. That the claims, even if just, are many of them fictitious, and if not fictitious, are at least three or four times in excess of damages sustained.

6. That if the resolution pass, the moneys paid in award of claims will mostly accrue to speculators, who, at a small valuation, have bought up the greater portion of the claims.

In support of our reasons we would refer you to an argument drawn up in our behalf by J. H. B. Latrobe, esq., and presented by him to the Secretary of the Interior, and if personal proof be required of us we are ready to furnish it whenever required.

We may well ask if it is not strange that joint resolutions the same in effect and purpose should be presented at the same time in the Senate and House. For ourselves and the people we represent, we denounce them as links in a vast chain of schemes concocted by desperate men for the robbery of our nation. Not only believing, but knowing the claims to be a fraud upon the Government, as well as upon the Choctaw and Chickasaw nations, we earnestly ask the defeat of the joint resolutions referred to.

P. PITCHLYNN,  
ISRAEL FOLSOM.

Mr. LOGAN. If the gentleman will allow me, I will say that my only object is this: if these things are true, as alleged by the chiefs of the nation, then these claims should not be paid. And if the gentleman does not know

of their falsity, then that is a good reason why this bill should at least be referred to a committee.

Mr. WINDOM. If the House will bear with me for three or five minutes, I will make a statement, and then if they desire to refer this bill they can do so.

I will say to the gentleman from Illinois [Mr. LOGAN] that the certificate of Governor Pitchlynn in reference to loyalty would go just about as far with me as the certificate of Jeff. Davis for the same purpose. Jeff. Davis was once president of what was known as the southern confederacy. This Pitchlynn was governor of one of those nations during the rebellion, and I believe was himself a rebel like Jeff. Davis. Yet he comes before this House to certify that these are not loyal Indians who make these claims. I think that the report of the committee shows conclusively that the commission could not sit in the heart of this Indian country, for the reason that these disloyal Indians were so determined to prevent proof being taken under this treaty that it was dangerous for any loyal Indian to make his claim before the commission.

Now, a single word further in reference to the manner in which these Indians were treated. I will read from the testimony of one of them, as a sample of the testimony of a great many of them, showing the treatment these loyal persons received at the hands of the disloyal. Yet these disloyal persons are here to-day whispering in the ears of members of Congress that these claims are dishonest and should not be paid. Every gentleman who allows himself to be misled by any such statements, and votes against this bill, will put himself upon the side of these disloyal persecutors of loyal Indians. I will read the evidence of one of the witnesses, and then the House can dispose of the matter as they shall see fit:

"Sha-lo-ye, an Indian woman, tells the tale of their terrible suffering in her testimony, as follows: she 'was one of the loyal Indians driven from the nation in 1861 by rebel Choctaws and Chickasaws; there were a great many started; we were very badly scared because they had run in among us and tied our men because they were friendly to the United States. If we had not joined in with the United States the rebels would not have troubled us. We left everything when they tied our men; we left our homes in a great hurry; many of us had not time to get our ponies and walked, old and young; many of us had no shoes; tied rags around our feet. We heard the northern Army was coming, and started to meet it for protection. The rebel Indians followed us and fought us as soon as we started; they tied and whipped two men because they were friendly with the United States. They fought us four times; the fourth time they scattered us and took a great many of our people back; two were killed, twenty-six were captured by the rebels in the last fight. A great many little children were frozen to death in their mother's arms; one woman froze to death; many grown people were frosted; some of them lost their feet; they could be tracked in the snow by the blood from their feet; many of our people died from starvation; I was five days without anything to eat. We got to Kansas after Christmas; it was very cold, snow very deep. A great many died after we got to Kansas from their sufferings during this trip.'

The sufferings of these Indians, thus driven out from their homes, were almost intolerable. They were matters of public record at the time, and are not exaggerated by the witness in the statement which I have read.

Now, when this treaty was made, condoning the past offenses of these rebels, they agreed to pay for the damages they had inflicted. This bill proposes the same thing. I feel no particular interest in it, further than that I desire to see the stipulations of the treaty carried out.

Mr. HUBBARD, of Iowa. I would ask the gentleman if this matter has not been fully investigated by a committee of the Senate?

Mr. WINDOM. It has been; and it was also investigated in the last session of the Thirty-Ninth Congress by the Committee on Indian Affairs of the House of Representatives. We believed it to be a thoroughly just and proper claim. However if the House desire to refer the bill they can do so; but in doing so they will postpone the payment of these claims for probably six or eight months, and in the mean time these Indians will starve. I now call the previous question.

The question was taken upon seconding the

call for the previous question; and there were—ayes 35, noes 39; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. SCOFIELD and WINDOM.

The House divided; and the tellers reported—ayes thirty-one, noes not counted.

So the previous question was not seconded.

Mr. HUBBARD, of Iowa. I move that the bill be ordered to be referred to the Committee on Indian Affairs when appointed.

The motion was agreed to.

Mr. ROSS moved to reconsider the vote by which the bill was ordered to be referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHESTER, PENNSYLVANIA.

The next business on the Speaker's table was the bill (S. No. 96) to establish a port of delivery at Chester, Pennsylvania; which was read a first and second time.

Mr. CHANLER. I move that the House now adjourn.

The motion was agreed to; and thereupon (at three o'clock and forty minutes p. m.) the House adjourned.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. ORTII: The petition of E. H. Baldwin and others, pilots in United States Navy, praying for relief.

#### IN SENATE.

WEDNESDAY, March 27, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 28) to increase the force in the Patent Office, and for other purposes.

The message also announced that it had passed the bill of the Senate No. 80 to authorize the Secretary of the Treasury to sell Government warehouses on Atlantic dock, Brooklyn, New York.

The message further announced that the House had passed a bill (H. R. No. 63) placing the solicitor and assistant solicitor of the Court of Claims in the Department of the Attorney General, and for other purposes, in which it requested the concurrence of the Senate.

#### UNION PACIFIC RAILROAD.

Mr. THAYER. I ask the unanimous consent of the Senate to permit a telegram to be read at the desk which I received last evening from the general manager of the Union Pacific railroad, giving some information in reference to the subject under discussion yesterday morning. It will take but a moment.

There being no objection, the Secretary read the following telegram:

New York, March, 1867.

Work has not been suspended on the Union Pacific railroad west of Omaha. Extreme cold weather and snow prevents laying track, but we were never doing more in accumulating material and getting it to the end of the track. We have now on hand the iron and ties for one hundred and fifty miles, and I will pledge myself to complete two miles a day for the first one hundred working days after the frost is out of the ground. Any investigation can only result to our credit, for we have built more road in a given time than was ever done before, and propose accomplishing more this year. We are not asking any legislation.

THOMAS C. DURANT,

Vice President Union Pacific Railroad.

General THAYER, United States Senate.

SENATOR FROM MARYLAND.

Mr. HOWARD. I rise to present certain papers which I hold in my hand in relation to the case of Philip F. Thomas, a gentleman whose credentials were presented to the Senate a few days ago, and referred to the Judi-

ciary Committee of this body for examination. When that matter was before the Senate many members of this body objected to the reference, because they said there was nothing specific alleged against Mr. Thomas into which it was proper to ask the Judiciary Committee to inquire. It is very true that at that particular time there was nothing very definite before this body in regard to the gentleman. I now ask leave of the Senate to present, for the purpose of referring it to the committee, the annual statement of the Bank of Commerce in New York, dated March 12, 1862, addressed to their shareholders. In order to show what the character of this communication is, the Senate will allow me to read a passage from it. The statement is made out and signed by the president and cashier of the Bank of Commerce, and in the document they observe:

"Up to the close of December of the eventful year 1860 the interest on the stocks of the United States falling due on the 1st of January succeeding had been, for the first time, left unprovided for by both Howell Cobb, Secretary of the Treasury, and Philip F. Thomas, his temporary successor in that office. No efficient measures to make seasonable provision therefor had been taken by either, and the funds in the Treasury here"—

That is, in New York—

"which might and should have been reserved to be applied to the payment of this interest, were drawn and appropriated for other purposes at the last hour."

"This was evidently a wicked and treasonable plot to dishonor the credit of the United States by default in the payment of interest on its stocks, by neglecting to provide for the arrears due to the Army and Navy and the civil and diplomatic list, including those due to members of Congress then in session."

"The success of this would have caused great confusion in public affairs and disastrous embarrassment to the Government, and it became manifest that instant, united efforts were required to defeat it."

"This institution for itself, and several of its directors, for their own account, promptly assumed a large share of an immediate advance, by such banks and capitalists as had united in the emergency, to the United States Treasury of \$5,000,000 upon an absolute condition"—

Mark the language—

"upon an absolute condition of the payment of the interest, due the next day, upon the United States stocks. Others doubtless would have participated in this loan could they have been consulted; but so carefully had this treacherous scheme been kept from public sight, and so late was it discovered, that it was only by the use of the telegraph that a timely provision could be made at last."

This is an official statement of the two principal officers of that very wealthy institution, in which Mr. Thomas, as Secretary of the Treasury, is very plainly implicated in what they call a treasonable attempt to discredit the paper of the Government by neglecting willfully and guiltily to provide for the payment of the interest; indeed, for having removed from New York the very money which had been previously placed there by the Government for the payment of the semi-annual interest upon the public stocks.

In order that it may be known to this body and to the country when Mr. Thomas became Secretary of the Treasury, I will take further leave to state that on the 10th of December, 1860, Howell Cobb resigned his seat in the Cabinet of Mr. Buchanan as Secretary of the Treasury, and on the same day, the 10th of December, Philip F. Thomas was nominated to the Senate by President Buchanan as Secretary of the Treasury, and I presume confirmed on the same day, and most likely was commissioned under that same date. Thomas held that office until the 11th of January, 1861, when he, by a letter which has already been read in the Senate, and which is noticeable for its contents, resigned his place. In his letter of resignation he alleges as the main reason for so doing that he could not coöperate with the plan which Mr. Buchanan had then adopted of sending reinforcements to Fort Sumter for the purpose of defending it against an anticipated attack of the rebels.

This report is inclosed to me in a letter of the 26th of March, 1867, written by the president of the Bank of Commerce of New York, in which the President remarks:

"This bank in 1860 was neither the fiscal agent nor in correspondence with the officers of the Government at Washington. Consequently there are in its possession no such letters, checks, &c., as you ask

for. The head of the Treasury Department was in direct communication with the Assistant Treasurer in this city?"

I think the Assistant Treasurer at that time was Mr. Cisco—

"and it was in consequence of the representations made to banks and capitalists here by that loyal officer that steps were promptly taken to save the country from threatened discredit and disaster. Mr. Cisco informs me that his correspondence at that eventful period, if not now to be found in the Treasury offices at Washington, has doubtless been preserved at the sub-Treasury office in New York."

I invite the attention of the Committee on the Judiciary especially to the fact that in the sub-Treasury in the city of New York will be found all the necessary correspondence, letters, drafts, and entries which may be necessary, and will be necessary in the course of the investigation which the Senate have intrusted to their hands in reference to Mr. Thomas. That committee are authorized to send for persons and papers; and I hope and trust, and I believe, of course, and am happy in announcing my belief, that that committee will use the most energetic measures to procure the necessary evidence of the real status of Mr. Thomas at the date referred to in this report and in this letter and since that time. They will find it necessary probably to call upon the Secretary of the Treasury of the United States for similar documents; and I have no doubt they will be able to find, if they will exert themselves, documents there which will go far to establish the serious charge made against Mr. Thomas in this report, that he was then guilty of acts of disloyalty to the Government of the United States. If it be true, as these gentlemen allege in this report, that Mr. Thomas had resorted to the scheme of discrediting the stocks of the Government of the United States by the non-payment of interest, thus endeavoring to cripple and destroy our credit at home and abroad, I say, for one, it was quite as culpable an act as if he had taken up arms and joined the rebels and waged war against his country.

I hope that the papers will be referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. That reference will be made.

#### PETITIONS AND MEMORIALS.

Mr. WILSON. I have had placed in my hands a memorial signed by R. Z. Wilson, J. C. K. Milligan, and Henry O'Neill, on behalf of the synod of the Reformed, Presbyterian church, in which they ask for an amendment to the Constitution of the United States which shall acknowledge God as supreme and Christ as the Mediator and Governor of nations, and that the Bible may be taken as the supreme law. I move the reference of this memorial to the Committee on the Judiciary.

It was so referred.

Mr. WILSON. I also present the proceedings of a meeting of colored citizens held at Amelia Court-house, Virginia, covering a series of resolutions, in which they ask Congress to relieve from the disability to hold office Samuel S. Weisiger, in order that they may elect him a delegate to the convention that may be held in that State. They represent that he is a very loyal and earnest man, and a devoted friend of the colored people. I ask its reference to the Committee on the Judiciary.

It was so referred.

Mr. ROSS presented the petition of W. B. Edwards, praying for an increase of pension; which was referred to the Committee on Pensions.

#### DISTRIBUTION OF SEEDS IN THE SOUTH.

Mr. CAMERON. A few days ago I introduced a joint resolution on the subject of the distribution of seeds in the South, which was referred to the Committee on Agriculture for amendment. I now by the direction of the committee report a new resolution, and I ask that it be put upon its passage at once.

By unanimous consent, the joint resolution (S. R. No. 51) authorizing the transfer of certain funds and providing for the purchase of seeds and their distribution in the southern States

was read twice, and considered as in Committee of the Whole. It proposes to transfer the sum of \$50,000 from the funds in charge of the Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands, and placed to the credit of the Department of Agriculture, and provides that that sum shall be used under the direction of the Commissioner of Agriculture for the purchase of seeds of improved varieties of vegetables and cereals and their distribution in the southern States.

Mr. CAMERON. I understand from the Commissioner of the Department of Agriculture that this is entirely acceptable to the Freedmen's Bureau. The money is there. This is undoubtedly the best mode of helping the people of the South, by assisting them in their agricultural pursuits. I hope the resolution will be adopted.

Mr. CATTELL. I hope that the resolution which now comes from the Committee on Agriculture, with the unanimous indorsement of that committee, will be passed by the Senate. It is a simple proposition to expend \$50,000 of the money which has already been appropriated, and is in the hands of the Commissioner of the Freedmen's Bureau, for the purchase and distribution of vegetable and cereal seeds to the people of the southern States. I do not think the money could be expended in any form that would be so advantageous to the people of the South as to supply them with improved varieties of seeds in the present languishing condition of their agriculture. The Commissioner of Agriculture informs me that he is in the receipt of letters amounting to from two hundred and fifty to five hundred per day, a large portion of which come from the South, begging for donations of vegetable and cereal seeds. As the sum named in this resolution will go very far toward supplying that demand, and as it requires no new appropriation whatever, and is only taken from the fund already appropriated for the benefit of the southern people, I sincerely trust that the resolution will meet with the unanimous approval of the Senate.

Mr. MORRILL, of Vermont. Let me ask my friend, the Senator from New Jersey, if it is not too late to supply these seeds for the present year's use? It strikes me it is too late.

Mr. CATTELL. In answer to the inquiry of the gentleman from Vermont, I will say that it is yet time for a very large number of the seeds and for many of the cereals for planting. Of course in some of the southern States for the earlier descriptions of vegetables it is late, and yet the distribution of such seeds as are now in season will be of very great advantage to the South. I do not propose to detain the Senate by any lengthened remarks on this question; but I hold in my hand a letter, an extract or two from which I should like to read, simply as showing the anxiety on the part of the South, and their destitution in regard to this very important subject. It is a letter addressed to the Commissioner of Agriculture by a most excellent and worthy lady residing in North Carolina, who has been the instrument of doing very much good in her locality, a member of the society of Friends. An extract or two from this letter will illustrate my point. She writes:

"I have a record of one hundred and ten families supplied with a liberal assortment of the seeds, and often I was too much burdened to enter the names of others who were furnished. Old men, feeble women, and little children, white and colored, have walked miles to procure a supply. I have taken pains in a prudent manner to impress on the minds of the people that these are sent gratis by our Government for our relief and encouragement."

"Before I wrote to thee on the subject of corn, one poor man came thirty miles to inquire if there was any 'charity corn' deposited at any point on the railroad."

I only give these two extracts of this letter as an illustration of how badly these things are needed in the southern country. I do not think the amount named here could be better expended in any earthly way than in the distribution of seeds in that country. I will only say, and I believe the chairman of the Com-

mittee on Agriculture will concur with me, that this resolution met the unanimous approbation of the committee, is indorsed by the Agricultural Department, and if it shall be passed, the money will at once be put to use.

Mr. FRELINGHUYSEN. I was not aware that this resolution was to be offered; but a few days ago, in conversation with General Howard, he expressed to me the importance of this measure, and what a great relief it would be to the South, and also stated that, although it was late, it was not too late for a contribution of seeds to the South to be of great service to the country.

Mr. POMEROY. I would not throw any obstacle in the way of the passage of this resolution; but \$50,000 seems like a very small amount for supplying seeds to such a destitute portion of the country. I do not know whether they have any funds on hand that could be applied to this purpose; but I know that this is a very small amount for the purpose contemplated. I was once in a situation myself where I had to distribute \$50,000 worth to a mere Territory, which amount was very generously contributed by the State of New York, and although it did good immeasurable, still \$50,000 was a small supply even for that people; and to think of undertaking to do this with \$50,000 for the whole South looks to me like only a drop in the bucket.

Mr. CATTELL. I reply to the Senator from Kansas that doubtless it is a small sum, but even \$50,000 will do a very great deal of good, and the Committee on Agriculture did not feel disposed to ask for a very large sum. I am thankful to my colleague from New Jersey for mentioning General Howard's name and his commendation of the purpose of this resolution. Yesterday General Howard sent a gentleman from the South to the Commissioner of Agriculture with a letter urging him to supply him for himself and his neighbors with the necessary seeds, particularly of the vegetables. The Commissioner informs me, and also was compelled to inform the gentleman, that the stock was already about exhausted, and that he was able to do but very little for him. While I thank the Senator from Kansas for his hearty cooperation in this measure, I would rather not risk the failure of its passage in the other House by asking for a larger sum. I shall therefore be glad to have the resolution passed as it stands.

Mr. RAMSEY. I should like to know whether General Howard approves of this diversion of the fund. If so, I have no objection to the resolution.

Mr. CAMERON. I will reply to the Senator from Minnesota that the Commissioner of Agriculture told me it was entirely agreeable to the Freedmen's Bureau. This is one of those questions which I did not think it was necessary to say a word about. It appeals at once not only to the heart but the judgment of every man of intelligence. To give these people the means of work is extending much better charity than giving money. Fifty thousand dollars expended in the distribution of seeds will be a great deal better than \$1,000,000 sent down there to be distributed in charities. It will stimulate men to work; and make them feel proud of their own exertions. The resolution takes no money from the Treasury; it merely transfers this sum from what has already been appropriated. I think it is hardly necessary to utter a word on the subject.

Mr. FOWLER. This amount, small as it is, will be of great advantage, I know. The recent terrible floods in a portion of my State have deprived the people of the opportunity of getting a crop unless they get some aid in this way. Small as the sum is, it will be of very great advantage, and it will be much better expended in this way than if expended in provisions.

Mr. MORTON. I am a member of the Committee on Agriculture that reported this resolution. I believe that the expenditure of \$50,000 in sending seeds and plants to the southern people will do them more good than

the expenditure of \$1,000,000 in buying and sending them food. It will enable them to raise their own provision.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### REPORTS OF COMMITTEES.

Mr. HARLAN. The Committee on the District of Columbia, to whom was referred the bill (S. No. 97) supplementary to the act to incorporate The Newsboys' Home, and providing for the relief of certain minor children in the District of Columbia, have instructed me to report it back without amendment, and recommend its passage.

Mr. SUMNER. I hope that that bill will be put on its passage now.

Mr. CONNESS. I should like to hear it read first.

The Secretary read the bill.

Mr. CONNESS and Mr. JOHNSON objected to its consideration.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. SUMNER. I ask whether one objection carries it over?

The PRESIDENT *pro tempore*. Certainly, on the day on which it is reported.

Mr. SUMNER. After it has been read.

Mr. EDMUNDS. It was read for information.

Mr. HENDERSON, from the Committee on Finance, to whom was referred a petition of citizens of Louisiana, praying for aid in the rebuilding and repairing of the broken and dilapidated levees of the Mississippi river, submitted a report, accompanied by a bill (S. No. 116) to guaranty the payment of certain bonds to be issued under the authority of the Government of the State of Louisiana for the purpose of building and repairing levees in said State. The bill and report were ordered to be printed, and on motion of Mr. HENDERSON, were recommitted to the Committee on Finance.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 106) fixing the time at which the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, shall go into effect, reported adversely thereon.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the joint resolution (S. R. No. 44) directing an examination and estimate to be made of the cost of reconstructing the levees of the Mississippi river, reported it without amendment.

#### REMOVAL OF INDIAN TRIBES.

Mr. THAYER. I am instructed by the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 47) in relation to the removal of Indian tribes, to report it back without amendment, and I ask for its present consideration. It will take but a few moments.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which provides that it shall not be lawful to remove or to relocate any Indian tribe not specifically authorized by law or treaty stipulation, and no public money or fund held in trust for Indians is to be used for the removal of any Indian tribe from one location to another unless specifically appropriated by law for that purpose.

Mr. SHERMAN. The resolution strikes me from its reading as a very good one; but it is a very strange state of affairs that such a law is necessary. It simply says that unless a law authorizes the Indians to be removed it shall not be done. If there is any necessity for the passage of such a resolution it certainly ought to be passed. I notice that it is stated in the newspapers that a gentleman whom we have rejected as commissioner of Indian Affairs is now in the western country making treaties with a great number of Indian tribes, which are to be sent here and acted

upon. If the Senator will go so far as to say that no Indian treaty shall hereafter be made except in pursuance of law, I should like it much better. I do not wish to embarrass the resolution; but if the Senator wishes to give it strength and at the same time do a great public service, I think he had better attach such a provision to it.

Mr. FESSENDEN. I suggest whether it would not be better to add a provision repealing all laws authorizing the making of Indian treaties?

Mr. SHERMAN. I should be very glad to do that.

Mr. FESSENDEN. I know that a great deal of money has been expended in that way by the working of some law that I know nothing about, said to be on the statute-book.

Mr. SHERMAN. If the Senator from Nebraska will allow me to make that amendment, I do not think it will embarrass the resolution, and it really will do a great public service, that no Indian treaty shall hereafter be made except in pursuance of law.

Mr. POMEROY. No treaty is made now except in pursuance of law.

Mr. SHERMAN. I wish to have a law authorizing the making of the treaty. The old practice, let me say to the Senate, was first to ask Congress for an appropriation to authorize a treaty. That was the old custom. Now they make these treaties without any previous appropriation and without any previous law, and the result is that they are sent here, and the first thing we know they are confirmed, and then we are compelled to appropriate money to carry them into effect. If we provide that the first step shall originate with Congress, that no treaty shall be made unless Congress specifically authorize a particular treaty to be made, we shall have no more of these Indian treaties. They are now making treaties to buy new reservations for the Indians in Kansas, who have been transported there at great expense, and who are now rich, prosperous, and happy in many cases, taking them out further and further into the remote wilderness, and establishing them in new reservations, in order that—what? That the white men in Kansas may enjoy the Indian lands. That is all there is about it.

Mr. POMEROY. That is not all there is about it.

Mr. SHERMAN. That is very much the case. I move to amend the resolution by adding the following proviso:

*Provided, That no Indian treaties shall hereafter be made except in pursuance of express provision of law, and after an appropriation has been made therefor.*

Mr. POMEROY. The Senator from Ohio is pretty familiar with the statutes, and yet he seems to have overlooked the statute of 1863, by which we not only authorized, but required the Secretary of the Interior and the Commissioner of Indian Affairs to make these very treaties that he complains of. Censure is sought to be cast on the Department for making treaties without provision of law, when there is an express provision of law on the statute-book requiring them to make them.

Mr. FESSENDEN. This is a provision to repeal that.

Mr. POMEROY. If it passes.

Mr. FESSENDEN. It ought to.

Mr. POMEROY. It will not repeal it until after it becomes a law.

Mr. WILLIAMS. I should like to inquire what effect this resolution will have upon the condition of the Indians. In the State where I live there are different reservations set apart for the use of the Indians. It is desirable perhaps to remove the Indians from one reservation to another, to consolidate the different tribes or remnants of tribes upon one reservation, and that will enable the white people to occupy and use the reservation abandoned or vacated in that way by the Indians so removed. I do not desire to have any resolution passed here in general terms affecting the relations between the white men and the Indians without know-

ing exactly what its effect or its extent is to be. Now, I know in one case, so far as the Umatilla reservation is concerned, the Indians there occupy a valuable tract of country, and its occupation is very much desired by the white people surrounding the Indians; and it has been proposed that some arrangement be made by which those Indians may be removed to the reservation at the Warm Springs, or some other reservation, where they can be placed and be as comfortable as they are where they are now located, and that the valuable country they now possess may be opened for the use of white people. This resolution is in such general terms that I am not able to appreciate its effect, and I should like to know more exactly what it means.

Mr. SHERMAN. My friend from Nebraska, [Mr. THAYER,] tells me that this amendment of mine will lead to debate, and as the object of his resolution, so far as it goes, is a very good one, and I hope we shall pass it, I will withdraw my amendment and will probably present the question at the next session.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. THAYER. I think I can make the object of this resolution sufficiently clear, so that there will be no objection to it. It has one distinct object. There have been instances where tribes of Indians have been moved about, in the absence of any treaty, from place to place, having no permanent abiding place. It is simply to stop that, and to declare that no tribe shall be moved until a treaty has been previously made and a reservation selected, and that no funds shall be expended in such removal until a treaty has been effected and sanctioned by the Senate. That is the sole object of the resolution. It does not affect any previous law. It is to prevent expense to the Government and to protect the Indians. If they are to be put on reservations, it is to let them remain where they are until those reservations are selected, and they can be moved by giving them a permanent home. That is the only object of the resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MANUFACTURE OF BUTTONS.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 52) to exempt certain articles used in the manufacture of buttons from increased duty; which was read twice by its title.

Mr. POMEROY. At the closing hours of the last session there was a mistake made, which is evident to every one who has had his attention called to the subject, and this resolution is to correct that mistake. The circumstances are thoroughly familiar to the Senator from Vermont, [Mr. MORRILL,] and I have introduced this resolution on his suggestion. I ask for the present consideration of the resolution.

Mr. MORRILL, of Vermont. For many years a provision has existed in the tariff laws allowing lastings to be imported fit for shoes and boots, and for the manufacture of buttons, when imported in the shape, form, and style suited exclusively for those purposes, at a lesser rate than that imposed upon the same goods in the piece; that is, at the rate of ten per cent. It was found that a portion of those engaged in the manufacture of shoes and boots had imported lastings in the piece, taken them to Canada in bond, and there cut them up and brought them back again when they were only subject to ten per cent., while many of the manufacturers of shoes and boots were not able to avail themselves of such an evasion, and it was working a great amount of inequality; and therefore those engaged in the manufacture of shoes and boots desired that the usual rate of duty should be imposed upon all lastings so as not to permit that imported for shoes and boots to come in at any less rate

than that for any other purposes. The suggestion was made by the member from Massachusetts representing the largest amount of shoe and boot interest in the country [Mr. ALLEY] that this should be required, and he showed me a proposition which I did not carefully examine myself, but he said it only applied to shoes and boots. I suggested to him at the time that it ought not to apply to lastings imported in that shape for the manufacture of buttons, and he told me that it did not; but it is found that the department rules that it not only applies to such goods when imported in the form adapted for the purpose of shoes and boots, but also for buttons, and it goes therefore much too far, and is going to work ruin and disaster to that branch of business, the button manufacture of this country.

Mr. CAMERON. I trust we shall not pass this resolution now.

The PRESIDENT *pro tempore*. If objection be made it cannot be passed at this time. The question is on taking it up. Objection being made, it goes over under the rule.

#### SETTLEMENT OF OFFICERS' ACCOUNTS.

Mr. THAYER. I am instructed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases, to report it back without amendment, and recommend its passage; and as several Senators have asked me to urge its passage now, I ask for its present consideration.

Mr. HOWE. Let it be read at length for information.

The Secretary read the joint resolution. It proposes to instruct the Second Auditor to audit and settle the accounts of line officers of the Army to the extent of their pay for their services as such, due them from the United States, in all cases where they shall make affidavit of their inability to make their monthly report or returns by reason of their having been prisoners in the hands of the enemy, or any accident or casualty of war, they have been unable to account for property in their possession.

Mr. HOWE. I will inquire if that has been reported by any committee?

Mr. THAYER. Yes, sir; the Committee on Military Affairs have had it under consideration and unanimously concur in reporting it for passage. It is simply to provide for a case like this: where an officer was captured and retained as a prisoner of war it was utterly impossible for him to make his monthly reports, for instance, of arms for which he was responsible; and the rule of the Department is that the paymaster cannot pay the officer the balance of pay due him at the time of muster-out from the time of the last payment until he has made all these monthly reports. There are many cases where officers have been prisoners, and it was utterly impossible for them to make those reports. They are not cases where any property has been lost at all; but it is simply to authorize the paymaster to pay them the amount due them at the time of muster-out.

Mr. HOWE. Mr. President—

The PRESIDENT *pro tempore*. The question is on taking up the resolution. There ought not to be any general argument upon it until it is taken up. Is there any objection to its present consideration?

Mr. HOWE. I do not make any objection.

The PRESIDENT *pro tempore*. No objection being made, it is before the Senate as in Committee of the Whole.

Mr. HOWE. I was about to inquire of the Senator from Nebraska what practical difficulty there could be in the way of paying those officers arising from that cause? I was about to inquire of him if in the case of the capture and imprisonment of an officer in command of a company, for instance, some other officer does not take his place in command of that company and make the regular monthly reports?

Mr. THAYER. That is true; but the rule



is applied, in this way: that the officer himself must make up all his reports. The application of the rule is very rigid. This resolution proposes to relax it so far as to enable an officer, for instance, who makes affidavit that it is not in his power to cover that period when he was a prisoner or absent from the company in hospital, to receive the balance of his pay. I know that the rule of the Department has worked hardship in a great many worthy cases.

Mr. HOWE. I understand the rule and usage of the Department to be very different. I understand that before the paymaster can refuse payment to an officer by reason of his not making his returns there must be an order of the War Department suspending his pay as a penalty for not making the returns, and that that order is never issued except where the returns are held back and there is no explanation of the reason why they are held back; but a paymaster cannot impose this penalty, nor refuse this payment, unless he does it under an order from the War Department suspending the pay of the officer. That is the way I understand it.

Mr. THAYER. He must present his returns to the Department under the regulations before they will pay him the balance due him. The pay of all officers is stopped when they are mustered out until they have made these returns.

Mr. HOWE. I understand the law and regulations to require, not that Captain A or Captain B shall make a return, but that the officer in command of such and such companies shall make returns, and if any officer makes the return, the regulation of the Department is satisfied. It is the other clause of the resolution which I suspect is the operative one. I should like to have the resolution read again.

The Secretary read it.

Mr. HOWE. It is the last clause of the resolution, I suspect, which is the important one. That requires the accounting officers of the Treasury to accept an affidavit of any officer charged with the custody of any military property; an affidavit to the fact that by accident he has been deprived of the property as a sufficient accounting for the property. That involves a very serious consideration. It is a question that I am not really prepared to advise the Senate about; but I am satisfied that that is the gist of the resolution before the Senate. If the Committee on Military Affairs are decidedly of the opinion that it is safe to accept such an affidavit in all cases, I shall acquiesce in their judgment; but it is a pretty radical movement, I think.

Mr. WILSON. There is very little change made by it any way. I did not see the absolute necessity of its passage; but at the same time, if it will contribute in any degree (and it is the opinion of some gentlemen that it will) to bring about settlements that ought to be made, I think we ought to pass it. We have gone through a great war. A great many officers have been captured and have lost property for which they were responsible under the circumstances, and others who have not been captured have lost it in the field, and there is quite a number of these accounts to be settled, and it is very hard and very oppressive to these men. Integrity of character is of no account in their settlement. The men who have done their whole duty in regard to the matter are just in as hard a condition as the men who have shirked it. It is now two years since the cessation of actual hostilities, and these accounts ought to be closed up; and I think if this resolution will contribute to that end it ought to pass. It may be that it may facilitate the settlement of the accounts of some person who may have acted dishonestly; but I take it there will be very little of that character. There are men perhaps more familiar with it than I am, at any rate who are more familiar with the condition of officers' service and the hazards of it and the losses, who are very anxious that this measure should pass and that these officers should be relieved. I do not personally know any one who is involved in

it; but I think it can do no harm to pass the resolution, and these gentlemen say it will facilitate these settlements, and if it does I think it ought to pass.

Mr. HOWE. I think I can understand very well from the explanation submitted by the Senator from Massachusetts that it will facilitate settlements very much; but it seems to me it will facilitate them too much. I supposed there was some regulation of the Army now by which where property really was lost through the casualties of war a settlement could be effected. I am not prepared to say that there is any such regulation. It would seem very strange to me that there was not; but I am very clearly of the opinion on a moment's reflection that such a resolution as this ought not to find a place on the orders of the Department or the statutes. It provides that if the officer will make an affidavit simply of the loss, that is to be taken as true, and the accounting officer is to take it and settle his accounts. If any such provision is to be made, it seems to me there should be discretion given to the accounting officers of the Treasury to credit or to discredit this affidavit.

Mr. FESSENDEN. That is the law now.

Mr. HOWE. The officer should be required to prove to the satisfaction of the accounting officers the facts of the loss. It is said that that is the law. It seems to me to be all the law there ought to be. If he cannot satisfy, not by his own affidavit, but by proofs, the accounting officers of the Treasury that this property actually has been lost, there is no reason why we should direct the accounting officers to accept the affidavit as a verity and pay on that.

Mr. TRUMBULL. My attention was called to this joint resolution by one of my colleagues in the House of Representatives, who attaches some importance to it. The resolution, it will be observed by the Senator from Wisconsin, only applies to the pay of officers, not to the settlement of their accounts otherwise. Officers who were captured and in prison, or who from any casualty in battle or otherwise were unable to make their monthly returns, have their pay withheld from them. It seems to me that is wrong.

Mr. HOWE. I do not understand the fact to be so.

Mr. TRUMBULL. That is so, as I understand it. That seems to me to be wrong. It is sometimes very difficult to find persons who can prove the fact that they were imprisoned. Now, ought their pay—that is the extent of this resolution—to be stopped and they not have it because they were unable to make their monthly returns? If you will look closely at the resolution it will be seen that it does not authorize the settlement of any other accounts or discharge them from any liability for property; but the resolution is simply to authorize the Second Auditor—

"to audit and settle the accounts of line officers of the Army"—

It only applies to line officers—

"to the extent of their pay for their services as such"—

That is all—

"in all cases where they shall make affidavit of their inability to make their monthly report or returns."

It seems to me that the fact that they did not make a monthly return because they were captured or because of some casualty of war, if it is sworn to by them, ought to discharge them from that act of not making that return, so that they might get their pay, and let the question as to what property they are responsible for be settled afterward. Do not withhold the pittance that the Government pays them, because by reason of being imprisoned or some other conflict of arms they were unable to make a monthly report, when they swear that it was impossible for them to do it. I think that ought to be *prima facie* sufficient evidence. It seems to me no great hardship can result from it.

Mr. YATES. I happen to know a case precisely in point illustrating the position

already stated by my colleague. A lieutenant in the Army was detailed to take care of cattle, and twenty-three of them escaped by a stampede and went into the enemy's country. It was utterly impossible for him to recover them; but there were no witnesses to that transaction. He was detailed as a mere lieutenant over twenty hands who had in charge these cattle, and there are no witnesses now who can testify as to the facts in the case. The amount in that case was nearly one thousand dollars, and his pay is now detained to cover that amount, and it seems to me, as his affidavit is the only evidence that can possibly be produced of the fact in question, it ought to be received. I think that this individual case now pending and undecided shows the importance of this resolution.

Mr. MORTON. This resolution is of practical importance to a great many officers who were in prison in the South. It simply provides the evidence that shall be required and shall be sufficient in a case of this kind. There is a method of settlement in just such cases, but it is circuitous, and it requires evidence that often cannot from the nature of the case be furnished. I think it is important that this resolution should pass.

Mr. WILSON. I wish simply to say that as the law now stands it reads in this way:

"That in settling the accounts of the commanding officer of a company for clothing and other military supplies, the affidavit of any such officer may be received to show the loss of vouchers, or company books, or any matter or circumstance tending to prove that any apparent deficiency was occasioned by unavoidable accident, or lost in actual service, without any fault on his part, or that the whole or any part of such clothing and supplies had been properly and legally used and appropriated; and such affidavit may be considered as evidence to establish the facts set forth, with or without other evidence, as may seem to the Secretary of War just and proper under the circumstances of the case."

That is the existing law, and under that law it is certainly the fact that a great many officers who have lost property by the casualties of war, by capture or otherwise in the field, are unable to make their monthly returns and take the oaths required. It is proposed by this resolution to go a little further than this law in order to hasten these settlements. There cannot be a doubt that as it now stands it operates oppressively upon men who have been in the service during this war and have lost property. It is possible that some men may not have been honest, but a great many honest officers, officers whose courage and devotion on the field made them prisoners of war or exposed them to extra hazards, have lost property and are unable to obtain their pay. This goes to the extent of settling their pay; but it does not settle their accounts in regard to these vouchers which they cannot make. That is the fact.

Mr. HOWE. Now, I think the real character of this proposition can be understood very easily. As the law is, the officer of a company who is charged with the custody and safe-keeping of the company property can submit his affidavit to the accounting officers and can submit with it any other testimony available, and if the accounting officers believe the case thus made out, there is full authority in the law as it stands for them to settle the account. This resolution, therefore, can only operate upon cases where the officer has made his affidavit, has submitted it to the accounting officers, and the accounting officers disbelieve it, either because it is improbable, or because it is not supported, or because it is contradicted by other evidence. In all these cases this resolution is mandatory, or will be if enacted, upon the accounting officers; it compels them to accept the affidavit as true, let the actual facts within the knowledge of the accounting officers be such as they may. Now, Mr. President, I object to that. It does seem to me unreasonable. If the affidavit of the officer is true, it will very likely appear probable to the accounting officer, and he, by the existing law, is authorized to give credit to it if it convinces his judgment. Nobody asserts that the accounting officers administer the law oppressively or illiberally. All you have to do is to convince

their judgment, and they are authorized to consider the bare affidavit of the officer charged. I will read the law once more:

"That in settling the accounts of the commanding officer of a company for clothing and other military supplies, the affidavit of any such officer may be received to show the loss of vouchers or company books, or any matter or circumstance tending to prove that any apparent deficiency was occasioned by unavoidable accident or loss in actual service, without any fault on his part, or that the whole or any part of such clothing and supplies had been properly and legally used and appropriated."

All these things may be shown by the affidavit of the officer in charge:

"And such affidavit may be considered as evidence to establish the facts set forth, with or without other evidence."

Mr. JOHNSON. It does not make it conclusive?

Mr. HOWE. No, sir:

"as may seem to the Secretary of War just and proper under the circumstances of the case."

The difference between the law as it now stands and the law as proposed by this resolution is, that the law now leaves the discretion in the Department to credit the affidavit or not, while the resolution as proposed commands the accounting officer to give full credit to it, no matter what other evidence there may be available to the Department. Now, sir, if it is the purpose of Congress to exempt these officers from all liability, just do so by a clean act, wipe the books right out; do not impose any conditions; do not impose upon them the necessity of going before the accounting officers and swearing to a state of facts which is already discredited, and therefore which there is reason to believe is not true; do not require them to perjure themselves; that is no satisfaction to the Government or to the people; just clear the books off and let them go. That is the manly thing to do if you are going to do anything in that direction. If you are going to do the just thing, you will let them stand on the law as it is.

Mr. CONNESS. I hope this resolution will lie over until to-morrow, and I make that motion. It is clear that we cannot act upon it now.

Mr. TRUMBULL. I hope it will not go over. That is a defeat of the measure.

Mr. CONNESS. It ought to be defeated.

Mr. TRUMBULL. It seems to me not. I think altogether too much importance is attached to it. It applies simply to the pay of these officers.

Mr. HOWE. Will the Senator indulge me while I call his attention to the fact that that is all the security the Government has in the case of these officers. It has no other security if it relinquishes its hold on their pay.

Mr. TRUMBULL. They give bond.

Mr. HOWE. No, sir.

Mr. TRUMBULL. Quartermasters and commissaries, I know, give bond.

Mr. HOWE. But these are line officers.

Mr. CONNESS. I hope the resolution will go over, and I have submitted that motion.

Mr. TRUMBULL. I hope it will not be postponed. I am satisfied from what I have heard about it that something of this kind ought to be done.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this joint resolution be postponed until to-morrow.

Mr. MORRILL, of Maine. I want to amend that motion by adding, "and that the Senate proceed to the consideration of the bill making appropriations to supply deficiencies in the appropriations for the contingent expenses of the Senate."

Mr. CONNESS. That cannot be done.

Mr. MORRILL, of Maine. If I do not get it up now the bill will be lost.

Mr. CONNESS. Appropriation bills never fail.

Mr. MORRILL, of Maine. It has got to go back to the other House.

The PRESIDENT *pro tempore*. I do not think that is in order. I will overrule that motion. The question is on postponing the resolution until to-morrow.

Mr. THAYER. I should like to answer the position of the Senator from Wisconsin by referring to the law from which he read. It will take but a moment. The law is this:

"That in settling the accounts of the commanding officer of a company for clothing and other military supplies, the affidavit of any such officer may be received to show the loss of vouchers or company books, or any matter or circumstance tending to prove that an apparent deficiency was occasioned by unavoidable accident or loss in actual service, without any fault on his part, or that the whole or any part of such clothing and supplies had been properly and legally used and appropriated."

This resolution does not apply to those cases at all. I do not propose to relieve these officers on account of any loss of property; that is, to relieve them from any accountability. The resolution provides simply that when they come forward and swear that they cannot make up their monthly returns by reason of their having been prisoners or any casualty of war their pay shall not be withheld from them. I can tell the Senate that there are hundreds of officers as true and faithful as ever served who have been kept out of their pay ever since the war closed by no fault of their own, but by the casualties of war alone, by exposing themselves in the field. They are deprived of the pay which is honestly due them on account of the rigid construction of the Department. I grant you the Secretary of War has the discretion to relax the rule, but he cannot undertake to flood his Department with these cases when they properly belong to the Second Auditor of the Treasury. This is simply to authorize the Second Auditor to receive the affidavit as conclusive in regard to the fact that they cannot make these returns. I will not trouble the Senate further on the question.

Mr. FRELINGHUYSEN. If the motion to postpone does not prevail, I think the resolution can be amended so as to satisfy all parties, by making it read, that in all cases where such Auditor shall be satisfied by the affidavit of such line officer, or otherwise, then the payment shall be made. That would fix it, so that if he was satisfied with the character of the line officer the affidavit would be sufficient; otherwise he would say that he must have further testimony. If the motion to postpone does not prevail, I shall move to amend the resolution in that way.

Mr. CONNESS. That places it entirely in the discretion of the accounting officers to pay immense sums of money. It appears to me the law is right just as it is. It provides that the affidavit of the officer shall be corroborative testimony. I do not see any more just way to place it than that. I hope the question will be taken on the motion.

Mr. WILSON. I will simply say that this Government will have to legislate to relieve these officers, as it will have to relieve several in the pay department. The Paymaster General has strongly indorsed a measure to relieve certain officers of that department who have paid out money to soldiers and paid it honestly; but we have not done it. Those men are held and will be held until we pass a measure for their relief. These officers now, after the expiration of two years, will have to be relieved by legislation, or they will never be relieved at all.

The PRESIDENT *pro tempore*. The question is on postponing the resolution until to-morrow.

The question being put, there were on a division—ayes 11, noes 11; no quorum voting.

Mr. HOWE. I suppose we shall have to have the yeas and nays.

Mr. CONNESS. If there is any prospect of agreeing on a proper amendment I will withdraw the motion to postpone.

Mr. JOHNSON. I do not think there will be any difficulty in that.

Mr. THAYER. The Senator from New Jersey has prepared an amendment which I will accept.

Mr. CONNESS. I withdraw the motion.

The PRESIDENT *pro tempore*. The motion will be considered as withdrawn, if there be no objection.

Mr. HOWE. But the record shows that there is no quorum.

The PRESIDENT *pro tempore*. If that objection is made, the presence of a quorum must be ascertained.

Mr. SHERMAN. It can be ascertained by a count.

Mr. HOWE. I suppose there is a quorum present.

The PRESIDENT *pro tempore*, (after a count.) A quorum is present.

Mr. FRELINGHUYSEN. I move to amend the resolution by striking out in lines six and seven the words "they shall make affidavit" and inserting "such Auditor shall be satisfied by the affidavit of such line officer, or otherwise;" so that the resolution will read:

That the Second Auditor be, and is hereby, authorized and instructed to audit and settle the accounts of line officers of the Army to the extent of their pay for their services as such, due them from the United States, in all cases where such Auditor shall be satisfied, by the affidavit of such line officer, or otherwise, of their inability to make their monthly report or return, by reason of their having been prisoners in the hands of the enemy, or any accident or casualty of war they have been unable to account for property in their possession.

Mr. JOHNSON. I think the word "line" before "officer" in the amendment had better be left out. You do not want it used twice. It only applies to line officers. "Affidavit of such officer" would be better.

Mr. FRELINGHUYSEN. The object of putting in "line officer" was merely to distinguish him from the other officer named, the Auditor.

Mr. JOHNSON. But the resolution provides only for line officers.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

#### STEAM-BOILERS MADE OF CAST STEEL.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of providing for an experimental test of steam-boilers made of cast steel, with a view to a diminution of danger to life and to an improvement of commercial and industrial agencies; and that said committee have leave to report by bill or otherwise.

Mr. EDMUNDS. I also present a communication on the same subject, which I ask to have referred to the same committee.

The motion was agreed to.

#### SENATE CONTINGENT EXPENSES.

Mr. MORRILL, of Maine. I am instructed by the Committee on Appropriations, to whom were referred the amendments of the House of Representatives to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, to report it with certain amendments; and as the bill must go back to the House, I ask for its present consideration.

There being no objection, the Senate proceeded to consider the amendments of the House.

Mr. MORRILL, of Maine. In the last line of the fourth section of the amendment I move to strike out "nine" and insert "twelve," and to add at the end of the section the words "for the period of three months ending June 30, 1867, and for the year ending June 30, 1868."

I will explain the effect of this. As the amendment comes to us from the House it provides for the salary of the Commissioner of Education and his clerks for one year. There should be a provision made for one year and three months. This makes the additional appropriation for the three months, and also specifies the periods which were not specified in that amendment. The House amendment appropriates the salaries without defining the period for which salaries are paid. That is the effect of the amendment.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I call for the reading of the first House amendment.

The PRESIDENT *pro tempore*. The question will be taken on the amendments separately if it is required.

The SECRETARY. The first amendment of the House is to strike out the second section of the bill, in the following words:

*And be it further enacted*, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed at the second session of the Thirty-Ninth Congress, shall not be construed to allow a greater compensation for the publication of the laws passed by Congress and executive proclamations and treaties in the papers of the District of Columbia than is provided by law for such publications in other papers.

Mr. MORRILL, of Maine. The amendment does not strike out the section. The Clerk will see that he is mistaken. It adds an additional section.

Mr. SHERMAN. I can explain to the Senator that the first message was sent here wrong. The House propose to strike that out.

Mr. MORRILL, of Maine. That is not the record sent here.

Mr. SHERMAN. The record was changed.

Mr. MORRILL, of Maine. The record as it came to the committee is as I have stated. It was to add an additional section, to which the House had no objection. Now, it seems that the House proposition is to strike out our section. I hope that will be disagreed to.

Mr. BUCKALEW. I desire to inquire simply whether the words read are struck out by the House amendment or are inserted by it?

Mr. EDMUNDS. They were put in here and are struck out by the House.

Mr. BUCKALEW. Then if we non-concur in the House amendment the words read will remain in the bill?

Mr. EDMUNDS. Yes.

The amendment was non-concurred in.

The Secretary read the next amendment of the House of Representatives, to add as a new section:

*And be it further enacted*, That so much of section seven of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as relates to the publication of the treaties and laws of the United States be, and the same is hereby, extended to the States not therein designated, and to the Territories; and that it shall be the duty of the Secretary of State, upon receiving notice of the designation of newspapers under the act aforesaid and this section, promptly to furnish to such newspapers authentic copies of the treaties and laws of the United States, to be published as aforesaid: *Provided*, That it shall be lawful to print the laws and treaties of the United States as aforesaid in three newspapers in Louisiana.

Mr. MORRILL, of Maine. I will simply state the effect of that amendment. The act of March 2, 1867, here referred to, provides for the designation by the Clerk of the House of newspapers for the publication of the treaties and laws of the United States in the insurrectionary States. This amendment of the House extends that provision to papers in all the other States and Territories.

Mr. SHERMAN. I am sorry the Committee on Appropriations agreed to this amendment. I have no objection to the Clerk of the House designating the papers to publish the laws. I think, perhaps, it is a duty more properly imposed on the Clerk of the House, or some branch of the legislative power, than on the Secretary of State. There is no special reason why the Secretary of State should designate the papers to publish the laws. It is very proper that Congress itself should select the persons who are to name the papers for the publication. I have no objection to the amendment thus far; but the effect of the proposition as it stands is to double the cost of the publication of the laws. A special provision was made for the southern States, because in the present condition of affairs there it is difficult to get papers to publish the laws at the old rates, one dollar per page, and therefore it was provided at the last session by an amendment to an appropriation bill that the price for publishing the laws in those States

should be doubled, and the Clerk of the House was authorized to designate two papers in each of those States to publish the laws. Now, the effect of this amendment is to double the price paid for the publication of the laws in all the States of the Union. There is no occasion for it. The newspapers in the northern States are willing to publish them at the old rates. They are generally anxious to do it, because they publish the great body of the laws at any rate as matters of news, and they are glad to get the three or four hundred dollars additional per session that is paid to them for it. There is no necessity, there is no demand for the increase of price, and I therefore think the amendment of the House ought to be modified. I have no objection to the mode of designating the papers provided for by the House amendment; but I do not think the rate of pay ought to be increased. I move to amend the amendment by adding:

*Provided*, That the rate fixed by previous laws shall not be hereby increased.

Mr. POMEROY. Does that mean the rate fixed by the act of last session?

Mr. SHERMAN. No; the previous laws. The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the House of Representatives, as amended.

Mr. WILLIAMS. I should like to inquire if this amendment authorizes the Clerk of the House to designate newspapers in all the States to publish the laws.

Mr. MORRILL, of Maine. That is the amendment.

The amendment, as amended, was concurred in.

The next amendment of the House of Representatives was to add as a new section:

*And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed for the fiscal year ending the 30th of June, 1867, namely:

For stationery for the House of Representatives, \$9,000.

For newspapers, \$10,000.

For miscellaneous items, \$10,000.

The amendment was concurred in.

Mr. HENDERSON. I offer the following amendment as an additional section:

*And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to pay the expenses incurred by certain Indian delegations in visiting Washington city for the purpose of negotiating treaties, and in their return home, to wit:

For the Sioux of Lake Traverse, \$10,000.

For the Sioux of the Upper Missouri, \$20,000.

For the tribes residing in the State of Kansas, \$15,000.

For the Chippewas of the Mississippi, \$6,000.

Mr. MORRILL, of Maine. I ask the Senator to explain his amendment and to state by what authority he offers it.

Mr. HENDERSON. I suppose the Senator is quite aware of the authority from which it comes. It comes from the Committee on Indian Affairs. It will be remembered that a few days ago the Senator from Minnesota [Mr. RAMSEY] offered a bill, which was referred to the Committee on Indian Affairs, and has been under the consideration of that committee. It was first sent to the Committee on Appropriations, but the honorable chairman of that committee reported it back and had it referred to the Committee on Indian Affairs. The Committee on Indian Affairs desired to have further information on the subject. There was a letter from the Secretary of the Interior accompanying the request for the passage of the bill with which we were not exactly satisfied, and we sent to him for further information and for the items of expenditure. Those I hold in my hand. They have been laid before the Committee on Indian Affairs this morning. It is true we have not had the time to examine the subject as perhaps we ought to have done, but we are at the close of the session, and it is for the Senate to consider whether these expenses shall be paid or not. The matter was referred by the committee to the Senator from Kansas

[Mr. Ross] and myself, with the authority to place it before the Senate if we saw fit. I have in my hand the Secretary's letter, and also the estimate of expenditure, which the Senate can have read if they desire to hear it. Instead of taking the figures as I found them in the bill offered by the Senator from Minnesota, I took the figures as they are contained in the items before me, and have thus changed the bill and presented it to the Senate in the shape in which this amendment is offered.

Now, Mr. President, one word in reference to this class of appropriations. So far as I am individually concerned, I can very distinctly state to the Senate that in my opinion, as chairman of the Committee on Indian Affairs, I shall at no future time report any such appropriations to the Senate, nor shall I ask the Senate at any future time to add such a provision as this to any appropriation bill. I am as much opposed to it as any Senator; but we find that an act of Congress was passed in 1863, which the honorable chairman of the Committee on Appropriations overlooked perhaps when he asked that the bill of the Senator from Minnesota be referred to the Committee on Indian Affairs, which authorized treaties to be made by the President so far as the Kansas Indians are concerned; or rather there was a provision in the appropriation bill of 1863 which authorized the President to enter into treaty stipulations with all the tribes in Kansas who owned their lands in common; and by virtue of this treaty as they supposed the Department have cited the Indians of Kansas to appear, and the chiefs and head men have come, and they entered into treaty stipulations during the last Congress, and those treaties are now before the Committee on Indian Affairs for their action.

We are not yet prepared to report upon them favorably, for the reason that they involve an entire change in the condition of the Indian tribes in Kansas, and in fact propose a change in the entire Indian policy—a congregation of the Indians in the Indian Territory. For that reason we are not prepared just at this moment to report favorably upon those treaties. There are a great many good things in them. There are some other things of doubtful policy and expediency. However, those treaties will lay ultimately, no doubt, the foundation of a policy that must be adopted in the future.

The Committee on Indian Affairs is not responsible, I apprehend, for this expenditure. Whether it be right or not it is for the Senate to consider. These Indians have been brought here, so far at least as those from Kansas are concerned, by authority of law; and if any mistake has been made about it the Senate is as much responsible as anybody else. The law was passed in 1863. Whether the Commissioner of Indian Affairs has not transcended his authority in treating with the Indians who hold lands in Kansas in severity is another thing; but surely he had a right to summon the Indians who hold in common by virtue of that law of Congress. And as a part of each tribe hold in common and a part of each tribe hold in severity, I suppose, therefore, I may properly and legitimately say here in my place that the Secretary of the Interior had the right to summon those Indians here. Congress, under these circumstances, finds itself compelled, so far as the Kansas Indians are concerned, to make the appropriation so far as it goes to pay the actual expenses incurred.

Then there is a proposition to pay the expenses of the Sioux Indians of Lake Traverse. The honorable Senator from Minnesota understands much more about this matter than I do, and can make the explanation. There is a reason why a treaty ought to be made with these Sioux; but whether it was good policy to summon twenty-five or thirty Sioux to this city from the northern part of Minnesota to enter into a treaty is another thing; but they are here, they have been brought here, and it is for the Senate to say whether they will refuse to appropriate the money to pay the expenses incurred in bringing them here and

now in taking them home or not. Some of it is expense incurred by reason of the sickness of two of the chiefs, who I believe have died since they left home.

Another item is for the Sioux of the Upper Missouri. The papers here explain that. There was no absolute authority of law for bringing them here; but they have been brought here, and a treaty has been perfected with them, which in all probability is a good treaty.

Now, in regard to the Chippewas of the Mississippi, an appropriation of \$10,000 was asked. I desired the agent to itemize the accounts of every Indian who was brought here from the point of starting to Washington city, and what it would cost to take him back, each hotel bill, each item of railroad fare, and so on, so that I could begin to ascertain the correctness of the various items. I have examined the matter carefully. The agent presented the items, and on investigating them I find the amount to be \$6,000 instead of \$10,000, which was asked for, and so we have put the appropriation at \$6,000. The Chippewas of the Mississippi are also in the State of Minnesota; and the Senator who offered the original bill, and who represents that State in part, will be able to explain to the Senate why that appropriation should be made.

The Committee on Indian Affairs are not responsible for these appropriations. They are rendered necessary in consequence of the Indians having been brought to this city to make treaties. It is for the Senate to determine whether it will violently break off this system now by refusing this appropriation, and thereby giving a hard lesson for the future, because it will be a terrible lesson. I do not know how the Indians are to get back, or whether you will make this appropriation, and provide for breaking up the system in the future, which must be broken up, and which the Committee on Indian Affairs is determined to break up so far as possible. We passed a resolution this morning that will go very far toward curtailing expenses of this character by saying that the department shall not remove an Indian tribe anywhere without first consulting with Congress.

Mr. WILLIAMS. I should like to inquire whose money has been expended in transporting these Indians here? Has it been money belonging to private individuals or public money?

Mr. HENDERSON. The expenses in a great many cases have not been paid at all. The larger portion of them remain unpaid. The accounts, as I understand, have been kept, but they are yet to be paid.

Mr. WILLIAMS. Were not vouchers produced for these bills?

Mr. HENDERSON. Not at all.

Mr. RAMSEY. In their settlement under the appropriation of course vouchers will be produced.

Mr. HENDERSON. I presume in the settlement all that will be attended to. I have stated all the facts I know in reference to the matter.

Mr. SHERMAN. I move to amend the amendment by adding to it:

And all laws allowing the President or the Secretary of the Interior or the Commissioner of Indian Affairs to enter into treaties with any Indian tribes are hereby repealed, and no treaty shall hereafter be made with any tribe until an appropriation authorizing such treaty shall be made by law.

Mr. RAMSEY. The Senator from Missouri, the chairman of the Committee on Indian Affairs, has referred the Senate to me for an explanation of one of these items, the appropriation for the Sioux of Lake Traverse, just over the boundary line of Minnesota, in the Territory of Dakota. Before going into that item, however, I must say that I fear, from the apologetic speech of the chairman of the Committee on Indian Affairs, it may be supposed that there was some great wrong in all this. Why, Mr. President, from the earliest times it has been the practice of the Indian department to call the Indian chiefs here, instead of sending commissioners to their own locality, to make

treaties with them. There is nothing wrong in that; there is great economy in it. If you had sent out delegates, escorted by troops, to either of these localities, to Kansas, to Lake Traverse, to the Upper Missouri, or to the Upper Mississippi, it would have cost the Government twice what the expense of making the treaty in this case amounted to. By one of these treaties, that with the Chippewas of the Mississippi, the Government, in the trade, has effected a gain of several million dollars. Delegations have been here representing some five or six or probably eight thousand Indians.

Mr. SHERMAN. Does the Senator say we have got the advantage in making a treaty with the Indians?

Mr. RAMSEY. I really think the advantage is about as great as I have stated.

Mr. SHERMAN. Then it is a cruel outrage on the Indians.

Mr. RAMSEY. They are willing to make the arrangement, and desire to make it, nevertheless; but the Government has that advantage. It is now proposed to appropriate between fifty and sixty thousand dollars, which gentlemen appear to regard as an enormous sum, for bringing together the representatives of eight or ten thousand Indians of various tribes in different parts of the country. It seems to me that it is not very startling. It has been done time and again without any attention being called to it. It is really a great stroke of economy on the part of the Indian department to bring the chiefs here to make treaties. There is no novelty in it, and there is no occasion for any apology in the premises. It was a very proper thing and a very economical thing. Now, so far as regards the particular item of \$15,000 expenditure for bringing here the chiefs and head men of the Lake Traverse tribe of Sioux Indians, I will say that this body of Sioux were friendly to the whites in the great massacre in 1862. There are some fifteen hundred or two thousand of them. They threw themselves between the hostile Indians and the whites, and no doubt saved many lives. It is within the recollection of the Senate that in that massacre, in the period of about ten days, eight hundred men, women, and children were slaughtered by the hostile Sioux.

These men withdrew from the body of the tribe, and, so far as they could, interposed their protection against the further massacre of our people. They withdrew to the plains of Dakota. The annuities of the whole body of the Sioux, the lower and the upper Sioux, the Sissetons, the Wahpaton, the Medawakanton, and Wahpakoata bands of Sioux were confiscated by the Government by an act of February or March, 1863, and the hostile Sioux were removed by the Government down on to the Missouri, somewhere about the mouth of the Niobrara. Notwithstanding this confiscation, the Government found it was necessary to support them to some extent, and they have from that time to this been in the habit of making an annual appropriation of about one hundred thousand dollars for their support. But these friendly Sioux, these men who, because of their protection to the white settlers at that time, have made themselves objects of hostility to the other Sioux, have remained without any annuities, any attention, or any care on the part of the Government through all these years. Now, the authorities of the State of Minnesota, the Governor, the Legislature, and the people generally, thought this was doing these friendly Indians a great wrong, and they asked the Commissioner of Indian Affairs to make a treaty with them in recognition of their kindness and their great service, and to make some provision for them for the future.

Again, there is a great deal of travel and transportation through northern Dakota and Minnesota to Montana, a region that is improving very rapidly. Over that country emigrant parties pass every year. With a view to giving them protection it has been thought advisable to call in the assistance of this body of Indians, to make them still more friendly, and call them

in to the support of the Government. We have selected from among them a most efficient and valuable body of scouts for the protection of travelers. All these motives influenced the Commissioner of Indian Affairs to call these Indians here to make a treaty, and I say that if a commission had been sent out by our Government to the Indian country to make treaty it would have cost two or three times as much as is asked for here. In regard to the Chippewas of the Mississippi I think they have paid very well for all we appropriate in the large body of lands we get; but the item of \$6,000 for them is hardly worth talking about.

Mr. MORRILL, of Maine. This amendment is in substance the bill of the Senator from Minnesota which was referred to the Committee on Appropriations. There was no explanation accompanying the bill which seemed to justify an examination of it by that committee. We were not aware of the act of 1863 referred to, which it is said in some sense justifies what has been done in this case, if justification were necessary. The honorable Senator from Minnesota says that has been the custom time out of mind. I do not know how that is. All I mean to say is that the committee had no data from which they could act on this question. It seemed a proper subject, therefore, in their judgment to go to the Committee on Indian Affairs. They accordingly reported the bill back, asking to be discharged from its further consideration and that it be sent to the Committee on Indian Affairs.

Now, I confess, independent of any custom or usage on this subject, of which I know nothing, that something of this kind would seem to have been contemplated by the provision of the appropriation bill of 1863 which has been alluded to. It seems to have been contemplated by that provision that the President of the United States should open treaty negotiations with the Kansas tribes with a view to their removal to some other country. This expense is incurred, it is said, in pursuance of the provisions of that act. If that is so, then there would seem to be some obligation on the part of the Government to make the appropriation necessary to meet the actual expenses; but again, on that subject the Committee on Appropriations had no sort of data from which they could judge as to what was proper in the premises, and I have no opinion now upon that subject. I understand the honorable Senator from Missouri, the chairman of the Committee on Indian Affairs, to have a large bundle of papers here, estimates, &c. I understand him to say that the appropriation proposed is much less than the exhibit of expenses said to have been incurred. This I believe is the foundation of the application.

Mr. SHERMAN. The only effect of the amendment I have offered is to restore the law to what it was prior to 1861. Prior to that time it was the custom to authorize by law the making of treaties with tribes of Indians where it was deemed necessary. Amendments were offered to the Indian appropriation bills authorizing treaties to be made with the Sioux Indians of the Mississippi or any other tribe, and appropriating a certain sum for the expenses of the negotiation; but of late, under an amendment to the Indian appropriation bill in 1863, it seems that general authority was given to make treaty arrangements with perhaps a great variety of tribes, and there are other provisions of law besides the one which has been referred to on that subject. I think now that the war is over that we ought to fall back on the original practice, and not allow any treaty to be made with the Indian tribes unless the necessity for it be submitted to Congress and an appropriation be made in advance for the purpose of allowing it to be concluded. There will be no practical difficulty in the way of such a course of proceeding. I hope in a year or two to see the whole system of treaties with Indian tribes abolished, but while it stands we ought at least to fall back on the original practice of the Government, which is to allow treaties to be



made with Indian tribes only after the necessity for them has been submitted to Congress and an appropriation made for the purpose.

As the law stands, our officers have almost unlimited authority to contract expense under their general power to make treaties with Indian tribes. As a matter of course we cannot restrain this expenditure; we cannot prevent them from bringing a whole tribe to Washington or any other portion of the country, having given them a general authority to make treaties with the Indians.

Mr. HOWE. When did we give any such general authority?

Mr. SHERMAN. One act in 1863 gives the authority, and there are other laws passed in 1861 and in 1862 giving some authority, as I am informed, to make treaties with many of the tribes.

Mr. HOWE. Does the law give the officers authority to spend a dollar in making a treaty?

Mr. SHERMAN. It gives authority to make a treaty, and if a treaty was ever made with Indians without spending money it would be an anomaly. They generally make the Indians drunk in the first place, and it costs something for the whisky, and then we furnish them with tobacco and feed them for a while.

Mr. HOWE. Does the statute direct the President of the United States to make the Indians drunk?

Mr. SHERMAN. The statute authorizes the President to make treaties with the Indians, and any man living in the West ought to know how they are made. But it seems that in one of these cases the Senator from Minnesota congratulates the country over the fact that we have cheated the Indians to the extent of several millions.

Mr. RAMSEY. No; there was no cheating about it; they made the bargain willingly.

Mr. SHERMAN. I say that when we are treating with Indians who cannot understand our language, who cannot read and write, who are brought here under our influence away from their tribes, particular men selected with whom we treat, it is certainly cheating when we get the advantage of them several million dollars.

Mr. RAMSEY. The Senator will allow me to say to him that the Chippewas of the Mississippi, of whom I spoke, have among their number men as shrewd at a bargain as any man in the Senate.

Mr. SHERMAN. I will tell you how we get rid of such men, and the Senator from Iowa [Mr. HARLAN] knows it. We bribe them; we call them chiefs; we authorize them to wear feathers, we give them two sections of land, and perhaps \$5,000. We provide liberally for the chiefs who make the treaty, we bribe them, and then we get the bulk of the land of the tribe at whatever price we choose to give them. This is somewhat unpleasant to talk about, but I think we ought to go back to the old practice of the Government, which required some showing to be made before an Indian treaty was authorized. That is the object of my amendment.

Mr. RAMSEY. I agree with the Senator from Ohio that we ought to abandon the treaty-making system and provide for occupying the Indian lands under the authority of acts of Congress whenever we desire them, making the best arrangement for the benefit of the Indians we can. But, sir, the Senator is greatly mistaken in regard to his idea that Indians are made drunk in order to agree to a treaty. I have been present as a party to several negotiations with Indian tribes, and I never knew of such a thing. I do not believe that in the whole time these Indians have been negotiating with the Government here they have been drunk. I know that the leading men of many of these tribes do not drink at all. It is entirely wrong to undertake here in the Senate to give an impression of that kind to the country. There may have been such instances perhaps in the past history of the Government; but certainly during the last ten or fifteen years it has not occurred. The In-

dians of many of the tribes are notoriously as temperate as white men, especially their chiefs. When they make these treaties they are as sober as Senators are when they consider them afterward.

Mr. POMEROY. It seems to me to be evident that the Senator from Ohio never made any treaties with Indians if he imagines that they are made drunk in order to effect a treaty. I know an Indian is generally very fond of whisky; but the moment you give him any whisky you cannot make a treaty with him. I have been present when treaties were made, and I have seen efforts made to get them to do business when they had been drinking, and so far as my observation goes when an Indian has been drinking he cannot do anything, but lies perfectly still. You cannot make a treaty with an Indian under those circumstances. He will not treat with you unless he is sober. I have never seen a treaty made when there was any whisky about. I have seen Indians drunk, but I never saw one of them when he was in that state undertake to make a treaty yet. I have been present at the making of a great many treaties, and I never yet saw an Indian who was not sober at the time a treaty was made. I do not believe you could make a treaty with an Indian when he was drunk.

Mr. HOWE. I think the Senator from Ohio has drawn rather largely on his fancy in describing the manner of negotiating Indian treaties. I do not think the practice is as has been stated; though it is not my purpose to defend either the mode of negotiating treaties or the treaties which have been negotiated. I rise simply to say that I do not understand that there is any authority vested in the President or in the Department by the law to which my attention has been called to contract a dollar of expense.

Mr. SHERMAN. The Senator will perceive that they have done it, and the fact that they have contracted expense is the reason why we are called upon for an appropriation.

Mr. HOWE. I once heard of a justice of the peace who said he knew he could try an action of ejectment because he had just done it; and the Senator's argument is about as conclusive as that of the justice's was in that case. Whether they have contracted expense or not I know not, except as papers are presented here which seem to render bills on behalf of Indian tribes visiting Washington. I do not know what the condition of that is, whether these landlords or these railroad companies really have an account against the United States for their charges for the keep and transportation of these Indians. They have not rendered them to the Government. I apprehend these bills have all been paid. I do not know who paid them; I do not know where the money came from; but I take it they did not come here on the credit of the Government. I take it the railroad companies have got their pay for their transportation; I take it the landlords have got their pay for their entertainment on the way; and so I do not really think any indebtedness has been contracted in the name of the Government; but if it has been, it involves the Government in no obligation any more than if I had contracted it. I might, if I could get credit to do so, import half the State of Wisconsin down here and put the Government under the same obligation to pay the bills as we are under to pay these bills which are said to have been incurred in bringing these Indians here.

So much on the score of obligation. Now, it is a mere question of expediency whether we will pay these expenditures or not. I think the only consideration which calls upon us to pay these bills is the fact stated in the letter read here the other day from the Secretary of the Interior or the Commissioner of Indian Affairs, I forget which, which says he was urged to make these treaties, and he was urged to bring these Indians here by various members of Congress. I do not know but that we may have been committed by these outside representations and efforts of members of Congress

to pay these bills. I agree with the Senator from Ohio that no expense ought to be contracted in this way in negotiating these treaties; but I think this amendment goes too far—

Mr. SHERMAN. I am willing to modify it.

Mr. HENDERSON. I feel as the Senator from Wisconsin does, that the amendment of the Senator from Ohio goes too far. If an Indian treaty can be negotiated without expense let them negotiate it and send it here, and we are willing to pass upon it when it comes. The Senator's amendment provides that no treaty shall hereafter be made with any Indian tribe until an appropriation authorizing such treaty shall first be made by law. Perhaps it will not require in some cases a dollar to make a treaty, and if so let them send it. I propose to alter the amendment so as to make it read:

No expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall first be made by law.

Mr. HOWE. That amendment will be satisfactory to me; it meets the precise point I was about to raise.

The PRESIDENT *pro tempore*. The amendment suggested by the Senator from Missouri is not now in order.

Mr. SHERMAN. I am willing to modify my amendment by accepting that amendment. I think it answers the same purpose.

The PRESIDENT *pro tempore*. The amendment of the Senator from Ohio will be so modified.

Mr. WILLIAMS. I believe that this proposition is put upon the ground that it has been the custom to invite Indians to Washington for the purpose of making treaties. I know nothing of that custom; but it seems to me that it is a little premature to make these appropriations before the treaties have been ratified by the Senate. I understand from the chairman of the Committee on Indian Affairs that none of these treaties have yet been ratified, and it is not yet ascertained that any treaty has really been made between the Government and these Indians. It seems to me that before making an appropriation like this it would be proper to wait until it is ascertained that some treaty has been made. Now, simply to negotiate a treaty between these Indians and the Commissioner does not constitute a binding treaty, for it is necessary that it should be ratified by the Senate; and when it is ratified and is binding upon the contracting parties, then the question will arise, as it seems to me, as to whether or not the expenses of making that treaty should be paid.

I differ with the honorable Senator from Minnesota as to the economy of this mode of making treaties. I understood him to say that these Indians are friendly Indians. When a commission of one or two or three persons are sent to make treaties with friendly tribes is it necessary that a military escort should accompany them at an expense of six or eight or ten thousand dollars? All this work, in my judgment, could have been accomplished by sending to these Indian tribes one or two or three persons for the purpose of making these treaties. Then what assurance have we that the tribes will consider themselves bound by these treaties? A, B, and C, certain Indians, have been invited here, or have come here, representing themselves to be chiefs or heads of bands, and the Commissioner enters into some arrangement with them here in Washington; and of that arrangement the tribe may be entirely ignorant. When the men who have been invited to Washington return home to their respective tribes is it altogether certain that those tribes will recognize their authority to make these treaties, and to enter into binding obligations for them with the Government?

I make these suggestions because it appears to me that we had better hesitate about making this appropriation of \$60,000 at this time until we know whether or not we have a treaty with these Indians or any one tribe of them.

Mr. RAMSEY. It is remarkable that the Senator from Oregon, who lives in the midst of an Indian country, should be so ignorant of Indian law as he seems to be. The other day he sat here when we ratified a treaty with the confederated tribes of central Oregon, and he made no such objection as that we should wait until their delegates got home and we saw that the Indians approved of the treaty.

Mr. WILLIAMS. Where were the Indians who negotiated that treaty when the treaty was made?

Mr. RAMSEY. At home; but what knowledge had you that they would approve the treaty after it went back there? It is a matter of everyday occurrence that the Government, in negotiating with Indian tribes, negotiates with their chiefs; and there is no difficulty in knowing who the chiefs are. But as to the comparative economy of the two modes of treating with Indians I have a word to say. If you send commissioners into the Indian country to treat with a tribe of Indians you must feed the whole body of them. They collect on the occasion and are fed while there. These are the customs of the Indians, and you cannot change them. If you go there to treat with them you must carry provisions enough to feed the whole body while you are negotiating. That is the practice, and you cannot break it up. I say that, in preference to that system, it is economical to bring here the chiefs and head men and negotiate with them here. In this case winter was just approaching, when it was impossible to reach the Indians and carry provisions to feed the tribe while the negotiations were being carried on. Under these circumstances it was advisable to bring their chiefs and head men here. I am now speaking of the case of the Lake Traverse Sioux, where the authorities and people of Minnesota asked the Commissioner of Indian Affairs to make a treaty, and I advised that their chiefs be sent for to come here to negotiate. I gave no such advice in regard to the Indians of Kansas nor the Upper Missouri Sioux nor the Chippewas, though I believe it was wise in all the cases.

Mr. CORBETT. We have had these treaties before the Committee on Indian Affairs, and I have had some little knowledge of this matter; and I desire to say that the representatives of these tribes have been brought here to make treaties with the Government under the authority of a law heretofore passed, which law we cannot remedy now. But we may provide against future treaties being made in this way, if we desire to do so. The expenses of these treaties would seem to be large, and it seems to be hardly proper to bring large delegations of Indians here from every tribe with which a treaty is to be made. In some instances I believe as many as twenty-five Indians of one tribe have been brought here for this purpose. I was appointed one of a special committee to call upon the Indian department to ascertain as to the expenses of making these treaties, and to ask them for a detailed statement. We ascertained that there was a much larger number of Indians brought here than we had previously supposed. The committee have not been able at present to decide as to the justice of the treaties; but as Congress was about to adjourn, and it was necessary to provide for this expenditure which had been assumed in bringing these Indians here, we thought it necessary to make this appropriation to meet these expenses; and if we shall hold an executive session hereafter we may confirm the treaties. The Senate will then have an opportunity of examining the treaties more in detail. But as we propose to adjourn, perhaps to-morrow or the day after, it is absolutely necessary to provide for these expenses at once. They seem to have been incurred under the authority of law. The President was authorized by a former law to make treaties, and it is very certain that they could not be made without the expenditure of some money. I am therefore in favor of this appropriation; but I am also in favor of the amendment offered by the Senator from Ohio, that there shall be no

treaties hereafter made without the authority of law and an appropriation for the purpose in advance.

Before I sit down, allow me to say a word in regard to the remark of the Senator from Ohio in reference to cheating the Indians. It has been the custom to make treaties with the Indians for the cession of large tracts of land held by them. Those lands, as they are settled, become more valuable. They become valuable by the settlements of the whites, and I see no impropriety in purchasing them from the Indians for a small amount of money. We merely buy from the Indians their possessory right, and then we provide for their care and protection hereafter. That the Government is really entitled to the land I have no doubt, but, still, justice to the Indians and conformity to the previous practice would require the Government to make provision for their welfare and for their civilization as far as possible.

Mr. BUCKALEW. I suppose the treaties with the Indian tribes are not negotiated by virtue of statutes. There may be such statutes in existence, but of course they are only declaratory of the general power possessed by the President of the United States to negotiate treaties, not only with foreign nations, but with Indian tribes. Here is an apparent attempt to deprive him of that power, and to provide that hereafter no treaty shall be negotiated with an Indian tribe unless by some future law such power shall be conferred upon him. I think that this amendment is open to strong exception upon the ground that it attempts to take away from the Executive a power which no one can question. If the system of negotiating Indian treaties be objectionable, the remedy is that the Senate, under its power of assent, shall refuse to concur with the Executive.

Mr. MORRILL, of Maine. I understand that the statutes are declaratory.

Mr. BUCKALEW. Then why the necessity of repealing them? I see no reason for it.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business. ["Oh, no."] I do not see that we can do any other business at present.

Mr. GRIMES. I hope the motion will not be agreed to.

Mr. MORRILL, of Maine. I hope we shall be enabled to dispose of this bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Ohio to the amendment of the Senator from Missouri.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended to be added to the House amendments.

The amendment was agreed to.

Mr. SHERMAN. I wish to move a further amendment as a separate section:

*And be it further enacted*, That the several sums of money heretofore appropriated, to be expended under the direction of the Commissioner of Public Buildings, be transferred to, and may be expended under the direction of the chief Engineer of the Army, or such officer of the Engineer corps as he may direct.

I will state that at the Treasury Department the law abolishing the office of Commissioner of Public Buildings and transferring its duties to the chief Engineer of the Army is construed not to authorize the transfer of the appropriations of money for purposes which were formerly under the control of the Commissioner, but that the money must still be expended under the direction of the Secretary of the Interior. It is also held that as the chief Engineer of the Army is designated in the law particularly, the money must be expended under his direction instead of a subordinate officer, who now has the matter in charge. This amendment is to correct that construction. I have a

letter of the Engineer-in-Chief of the Army explaining the matter more fully; but I presume it is not necessary to read it.

The amendment was agreed to.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. Oh, no; let us finish this bill.

Mr. SUMNER. On the question of going into executive session I desire to make a remark, as I presume that question is debatable. If the Senate is to adjourn to-morrow or the next day—and so far as the vote of this body may be considered as a determination of that question it seems to have so decided—I submit that there is important business in open session which we ought to proceed with. There is the bill which is now under discussion. There is a bill which is on my table now which is of great and crying importance here in this District, a bill introduced by my colleague and afterward pressed by myself—"a bill providing for a change in the time of electing a mayor and other officers for the city of Washington, District of Columbia." I have seen several gentlemen this very morning very much interested in the District of Columbia, very much interested in Washington, who think that the passage of this bill is of the first importance. The object is to provide for the election of mayor in the coming month of June, so that the freedmen, who now for the first time have the elective franchise, may help to determine who is to be mayor of Washington.

That is one of the measures before you. There is then another measure which I have introduced myself, and my colleague has also introduced a kindred measure; I refer to Senate bill No. 115, entitled "A bill to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government, by securing the elective franchise to colored citizens." Now, there is not a newspaper that does not bring us something from Maryland, from Delaware, even from Ohio showing the importance of Congress interfering to cut this gordian knot of the suffrage question. Unquestionably, under the Constitution, both in its original provisions and its two amendments, Congress has ample power over the whole question. There can be no doubt about it. We have already exercised the power in conferring civil rights. Why should we hesitate to exercise the same power in conferring political rights?

I allude to this simply as a reason why we should proceed with the business on your table in open session rather than go into executive session. That business may be taken up afterward at a called session of the Senate. I presume from what I hear that there must be a called session of the Senate when the legislative session of Congress terminates, if it shall terminate as abruptly as seemed to be contemplated yesterday. Therefore, I would suggest that all the executive business be postponed, and let us proceed with this important legislative business, which I submit is so essential to the best interests of the country. The people in Maryland, if I may trust what I hear from there both by letter and by the communications of gentlemen who were here yesterday—especially our late valued associate on this floor, Mr. Creswell, whom I name, because he is no longer one of our number—the people of Maryland are anxious for some action on our part that shall relieve them from their terrible distress. They are now standing face to face with the spirit of the rebellion, and they need your assistance. Under these circumstances I hope that the Senate will proceed with the business on your table and postpone all nominations of executive business to a later day.

Mr. MORRILL, of Maine. I hope we shall be allowed to pass the bill before the Senate. This debate has taken more time, I am sure, than would have been sufficient to dispose of the bill. It will not occupy more than five or ten minutes—no more.

Mr. WILSON. As the Senate seems now

to be in a condition to proceed with business I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. HARRIS. I am instructed by the Committee on the District of Columbia to offer the following amendment:

For the repair of the Long bridge, District of Columbia, to be expended under the direction of the Secretary of War, \$15,000.

I send to the desk to be read a letter in explanation of the necessity of this appropriation.

The Secretary read as follows:

OFFICE OF PUBLIC BUILDINGS, GROUNDS, AND WORKS, CAPITOL OF THE UNITED STATES, March 25, 1867.

SIR: I have the honor to submit the following report on the condition of the "Long bridge" across the Potomac, and respectfully request that an appropriation be made before the adjournment of the present session of Congress for repairing and placing it in such order that travel may be resumed with the least practicable delay. Upon a personal examination I find that five spans, of sixty-two feet each, have been carried away by the heavy accumulation of ice during the last winter, most of the trestle work having been damaged and the piles cut off. A large quantity of the timber has been saved and securely fastened to the bridge, almost sufficient to repair it. With the exception of these spans the roadway is in good repair. The draws are in good working order, one of them being almost perfectly new. An appropriation of \$15,000 will place it in good traveling condition, and, without some unforeseen accident, will render it sufficiently so until the subject of a new bridge has been considered and decided upon. The necessity for the immediate repairs is imperative. Save by ferry no direct communication can be had between both shores of the Potomac, except by what is known as the Chain bridge, the railroad and Aqueduct bridges not being available for wagon transportation. This makes a long, difficult, and tedious road to travel for the inhabitants of Alexandria county and portions of Fairfax having business relations with the capital. The United States Government, as well as the general public, are greatly inconvenienced. Almost the entire produce of these two counties is entirely cut off from Washington, thereby creating an advance on all kinds of market produce in the city, as well as depriving the citizens of those localities of many needful supplies only to be obtained in this market. Some five hundred vehicles daily pass over the bridge. I most respectfully and urgently call the attention of your honorable committee to the above facts, and request that the necessary appropriation be made.

I am, sir, very respectfully your obedient servant,

N. MICHLER,

Major of Engineers, Brevet Brigadier General, United States Army, in charge.

Hon. JAMES HARRIS, Chairman of the Committee on the District of Columbia, United States Senate.

The amendment was agreed to.

Mr. CORBETT. I am directed by the Committee on the District of Columbia to offer the following amendment, and I send to the desk a letter in explanation of it:

For the support in part of the National Soldiers' and Sailors' Orphans' Home in the District of Columbia, organized under the act of the 25th of July, 1866, amended by the act of the 22d of February, 1867, to be expended under the direction of the officers of said institution, \$5,000.

Mr. MORRILL, of Maine. I raise a question of order under that amendment, under the recent rule of the Senate.

The PRESIDENT *pro tempore*. I believe there is a rule recently adopted, that amendments to appropriation bills must be presented to the Committee on Appropriations beforehand.

Mr. MORRILL, of Maine. I raise that question, that the Committee on Appropriations had no notice of the intention to move this amendment.

Mr. CORBETT. Can it not be done by unanimous consent?

The PRESIDENT *pro tempore*. On looking at the rules the Chair finds that the recent amendment to the rule applies to general appropriation bills. The Chair hardly knows whether to hold that this bill comes within that class. It seems to be an appropriation bill for a special purpose.

Mr. MORRILL, of Maine. It is general in its character; it is a deficiency bill.

Mr. SHERMAN. If the bill was not a general appropriation bill it would not have come from the Committee on Appropriations.

The PRESIDENT *pro tempore*. If it be so

regarded the amendment is out of order, and so are all the rest of them.

Mr. MORRILL, of Maine. No. In all the other instances the Committee on Appropriations had notice. They had been sent to the committee.

The PRESIDENT *pro tempore*. The first impression of the Chair was that this rule only applied to the general appropriation bills to carry on the various Departments of the Government; but on reflection he does not see that a distinction can very well be drawn. This is an appropriation bill.

Mr. MORRILL, of Maine. The general understanding, I think, under the new rule, and I am quite sure that was its spirit and meaning, is that any committee desiring to move an amendment upon an appropriation bill must give one day's notice to the Committee on Appropriations of its intention so to do, in order to apprise that committee of its purpose.

The PRESIDENT *pro tempore*. On reflection, the Chair is inclined to think that it is the safest course, in giving a construction to this new rule, to hold that all appropriation bills coming from the Committee on Appropriations are subject to the provision of the rule requiring notice to be given of amendments intended to be offered. This amendment is therefore ruled out of order. ["Question."] There is no further question unless some amendment be moved. The House amendments have all been acted upon.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 63) placing the solicitor and assistant solicitor of the Court of Claims in the department of the Attorney General, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the House resolution relative to the adjournment of Congress, with an amendment, in which the concurrence of the Senate was requested.

The message also announced that the House had passed the bill (S. No. 96) to establish a port of delivery at Chester, Pennsylvania, and the bill (S. No. 112) to incorporate the Lincoln Monument Association.

The message further announced that the House had passed the following joint resolutions, in which the concurrence of the Senate was requested:

A joint resolution (H. R. No. 45) concerning the payment of claims made by foreign Governments against the United States for property destroyed by the armies of the United States;

A joint resolution (H. R. No. 46) respecting the proposed confederation of Provinces on the northern frontier of the United States; and

A joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes."

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 63) to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes;

A bill (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York;

A bill (H. R. No. 28) to increase the force in the Patent Office;

A joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of 2d of March, 1861, relative to property lost in the military service; and

A joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to the States lately in rebellion.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had this day approved and signed the following bills and joint resolutions:

A bill (S. No. 38) in relation to the acknowledgment of deeds in the District of Columbia;

A bill (S. No. 77) supplementary to an act entitled "An act to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion," approved June 21, 1866;

A joint resolution (S. R. No. 25) to make valid the laws of New Mexico passed at the session of the Legislature held at Santa Fé from the 3d day of December, 1866, to the 31st day of January, 1867;

A joint resolution (S. R. No. 29) to terminate a contract of a member of Congress with the Post Office Department of the United States of America; and

A joint resolution (S. R. No. 39) concerning the uniform of persons in the diplomatic service of the United States.

#### ALLEGATIONS AGAINST SENATORS.

Mr. TRUMBULL. I desire to call the attention of the Senate to what I suppose is a privileged question. I wish to make a report from the Committee on the Judiciary with regard to certain testimony referred to that committee, which testimony it was alleged affected members of this body. The committee have had that matter under consideration, and have instructed me to make a report in writing, which I send to the desk, together with the papers. I ask that the report be read.

The Secretary read the report, as follows:

The Committee on the Judiciary, to whom was referred a resolution of the House of Representatives, transmitting certain testimony, which testimony, as stated in the resolution, "apparently affects one or more members of the Senate," beg leave to report:

That the testimony transmitted was taken in the investigation of a subject wholly disconnected from the Senate or any of its members, and the allusions it contains to Senators are only incidental to the investigation of the main subject, are mostly hearsay, and altogether of an inconclusive character, so far as they relate to Hon. JAMES R. DOOLITTLE and Hon. DAVID T. PATTERSON, the Senators alluded to.

Your committee have, however, resorted to the original sources of information on the subject, and have examined witnesses on oath whose position was such that they must have known of any arrangement or understanding by which the Senators alluded to, or either of them, were to be benefited by the confirmation of Mr. Smythe as the collector of the port of New York, or in any manner to be sharers in the general order, or any other business connected with the New York custom-house, and the testimony fails to show any such understanding or interest.

However the names of Messrs. DOOLITTLE and PATTERSON may have been used by third parties in speaking of the general-order business, or whatever may have been the intention of Mr. Smythe, the collector, in regard to it, there is no evidence to show that either of those Senators gave any sanction to or had any knowledge of such use of their names or such intention.

Your committee are fully satisfied, from an examination of the testimony referred, the statements of the Senators themselves, and the additional testimony they have taken, that there is no ground for believing that either of the Senators named has acted dishonorably or corruptly in regard to any matter to which the testimony referred relates, and that there is nothing in said testimony affecting either of said Senators requiring further investigation. They therefore ask to be discharged from the further consideration of the subject.

Mr. CONKLING. As a member of the Judiciary Committee I did not agree to this report, but reserved the right to state my views in the form of a minority report, which I have prepared hastily here at my desk; and if there be no objection I will read it myself, instead of sending it to the Clerk, as it may not be very legible to him.

The testimony referred to the Committee on the Judiciary discloses repeated instances in which Mr. Smythe, the collector of the port of New York, declared an intention on his part to dispose of the general-order business so as to derive large sums of money from it, and to divide this money among other persons, two of whom, as indicated by him, were the members of the Senate named in the report of a majority of the committee, or one of said members and the son of the other.

These declarations seem to have been made from time to time after Mr. Smythe became collector, and as late as October, 1866. They in some instances

implied an arrangement with other persons, as well as an intention on the part of Mr. Smythe himself.

Mr. Smythe, in testifying before the committee, denied that such an arrangement as to a division of the moneys had been made with others, and stated that it was only an intention of his own. He testified that this intention was never communicated to either of the Senators referred to, and that nothing was ever paid to either of them.

The Senators themselves, in communications to the committee, also denied all privity with the intention of Mr. Smythe to make them sharers in the general-order business.

No testimony was produced to the committee showing that there was knowledge or consent on the part of the two Senators referred to or of either of them.

Upon this state of facts the member of the committee who submits these views thinks the Senators in question should be exonerated from the imputations which have been cast upon them.

In conclusion, the undersigned refers to the testimony taken by the committee and to the communications made to it, in the hope that the same may be printed.

ROSCOE CONKLING.

I understand that the chairman of the committee submits no motion to print this testimony. If no other member of the Senate shall make that motion, I desire to submit such a motion myself. By the testimony I mean the sworn testimony taken by the Committee on the Judiciary, and also the communications not under oath made by these gentlemen. It is not bulky, and I think there is no reason by way of convenience or otherwise why it should not be printed.

Mr. TRUMBULL. I suppose the question is at this time on agreeing to the report of the committee, and the motion which the Senator from New York indicates cannot be made at this stage of the proceeding.

The PRESIDENT *pro tempore*. The motion to print is not now in order, but it will be very soon.

Mr. EDMUNDS. I agreed to the conclusions of the committee and to the form of this report; taking the whole evidence together, I think there is nothing which justifies any accusation against either of these gentlemen; but I thought it due to them and to the country and to the Senate and to the House of Representatives that the testimony taken before us should be printed, as well as that which has been already taken by the House of Representatives, and which has been printed and published; and my only objection to making the report in the form in which it is made was and is now merely that there ought to have been added to this request to be discharged from the further consideration of the subject a motion coming from the committee that this testimony be printed. In justice to these gentlemen, and in justice to the Senate, I think it should be done, and I hope, therefore, that when the proper period comes that motion will be made.

Mr. JOHNSON. I do not understand that there is any report from the minority of the committee in conflict at all with the conclusions to which the majority of the committee have come. If I heard aright that part of the statement made by the honorable member from New York, it was not at all intended to reflect upon the character of these two Senators. I understood him as concurring with the rest of the committee; I believe we were unanimous that there was nothing before us (although we had exhausted all the proper sources of information upon the subject) in any manner affecting injuriously the two gentlemen whose names appeared in the evidence. I trust, therefore, that, although there is apparently a minority report, it will not be understood that there was any difference of opinion among the members of the committee upon the subject which was immediately before us; that is to say, upon the question whether the two Senators had acted improperly or not. That they had not, as far as any evidence before us was concerned, although we had exhausted all the evidence we thought could be obtained for the purpose of enlightening us on the subject, was, I believe, the unanimous opinion of the committee.

The PRESIDENT *pro tempore*. The question is on agreeing to the report discharging the committee.

The report was agreed to.

Mr. CONKLING. Now, I move that the testimony taken by the committee be printed.

Mr. TRUMBULL. I will state to the Senate, if I can get its attention for a moment, what this question is, and why I did not think it proper, as one member of the committee in making the report, which I suppose will be published as a matter of course, coming from a committee, to also move to print the testimony. The testimony submitted to the committee consisted of a printed volume of three hundred and fifty pages. In those three hundred and fifty pages there are thirty-two allusions to the Senators supposed to be affected by the testimony. This is a large volume. It has already been printed by the House of Representatives. This testimony was supposed by the House, in transmitting it, to affect certain members of this body; and it was sent to the Committee on the Judiciary with the additional testimony of one witness in manuscript. The committee, as is stated in their report, brought before them witnesses, and their testimony is necessarily of a negative character. There is nothing in the testimony of any one of the witnesses brought before the committee to show anything whatever improper on the part of these Senators. So far from it, the testimony removes any suspicion that might be drawn from this printed volume.

Now, it is proposed to print what? If you print anything you must reprint the whole of this book, because you have to search through this book by reference to thirty-two different portions of the three hundred and fifty pages for the allusions which have been made, and which it was supposed reflected upon certain Senators. Then you have to compare that with the testimony submitted to the Judiciary Committee, and you have to take the statements of the Senators made themselves in this body. They were before the committee. We had official notice of the declarations made by the Senator from Wisconsin and the Senator from Tennessee on this floor. They referred us to those statements. Now, if you are going to publish a book, if you are not satisfied with the conclusion to which the committee has come that has examined all these statements, then publish this book and send it out to the country; but who will ever read it? There is no disposition to hide anything, to secrete anything. These are public documents.

Mr. WILSON. Was not Smythe before your committee?

Mr. TRUMBULL. Yes; and we had him sworn as to this matter. We went into no investigation about custom-house affairs in New York any further than they related to members of this body. We confined our examination to that point. That was the only question submitted to us. The Senator from Massachusetts, if he is paying attention, will recollect that the testimony which comes out in regard to Senators here is only incidental. The House of Representatives had a committee investigating the doings of the custom-house in the city of New York. That was their primary object, hunting up matters there. In that investigation incidentally allusions were made to members of this body, which they thought proper to send to us. They did not follow up that investigation in regard to members of this body. It was not the matter they were investigating. They sent it to us and we take that up. We necessarily have to refer to this book, in which there are thirty-two different pages which it was supposed might have some bearing on Senators incidentally.

The committee have examined those. They then have brought before them the men who must know if there is any truth in these suspicions. We have had Smythe himself before us. We have had the man who, if there is anything of it, must know it, and have either committed perjury or else there was nothing of it. We have examined him. The testimony is negative. There is no direct charge in this volume, but there are inferences or suspicions perhaps sufficient to justify an inquiry. Now, I thought it would be injudicious to republish

all this book again and all this testimony. If anybody wishes to see it the printed volume is on your table and on the table of every member, and the other testimony is with the Secretary, and anybody can examine it who wishes to do so. It is of a negative character, of course. I submit that it would be unjust to publish a part of it, and I did not think there was any occasion to republish the whole of it. The committee having examined it, and having come to the conclusion which the Senate has adopted, if you have any confidence in the judgment of the committee that the testimony shows nothing against these gentlemen, there is no object in republishing this volume. That is all I have to say. If the Senate think proper to publish it, do so.

Mr. CONKLING. Whenever the Senator from Illinois makes up his mind to do anything we all know that he is able to give reasons plausible at least for the action which he proposes to take; and yet I submit to him that his remarks to the Senate illustrate rather his own ingenuity than any objection there is to this motion. Who proposes to republish the volume which has already been published by the House of Representatives and laid upon our table? Who can propose rationally to do any such thing? It has been printed, printed by the Public Printer; it comes here as a public document; and what member of this body proposes, or what suggestion of anybody else would lead to the idea that we must republish that book? Certainly, I make no such motion, and I promise the Senator from Illinois that I will make no such motion. Who can propose that the speeches delivered by these Senators here on the floor, and published in the Globe, and never even referred to this committee, shall be published with this report? Certainly I have made no such motion, and I shall not make it. My motion is simply that that testimony, brief, which can be cheaply published, and which the public will want to see, which was taken by the Judiciary Committee of the Senate in a very short space of time, shall not be pigeon-holed and put away where any one can suppose that the committee or anybody else wants to conceal it; but that this book, having been laid upon the tables and published to the world, the speeches delivered in the Senate having been published to the world, this testimony also, small as it is in bulk, and cheaply as it will be printed, may not constitute an exception to the rule, may not be kept secret, but that that also may be laid upon the tables of Senators and be open to the eye of the public if they see fit to look at it.

One of these gentlemen presented to the committee a written communication. Mr. Smythe presented a written communication; another person, or more than one, presented a written communication. And then the committee briefly examined on oath Mr. Smythe and one other person. Now, as one member of this committee, whether I look to doing justice to these two Senators, or whether I look to justice being done to any other person connected with this matter, or justice being done to myself as a member of the committee, I want the Senate to see and I want the public to know precisely what we had before us upon which we affirm, as we all do, that these Senators deserve to be exonerated. The Senator from Illinois says that this testimony is negative, that it shows that they are guiltless and stainless. Is it not due to them for that reason that the Senate and the world should see it? Why hide it under a bushel, or let it smolder in a pigeon-hole? Among the ethics of the Romans was a maxim as to morality, that we should not only be, but we should seem; that a thing should be done not only right in fact, but right in appearance. So I think; and therefore I should like to have everybody know in regard to this matter precisely what took place in the committee-room as far as it is matter of record; and I should like it for this reason: it is idle to deny that this matter of the custom-house in the city of New York, whether it extends to many persons or only to a few, is



one upon which the public, the commercial public and the general public, look with great interest and with great concern. They believe that a very unwholesome state of things exists in the administration of that office, and has existed for a long time. It appears in this printed volume that the present collector of that port proposed to sell, to give, to dispose of in some way upon his own favor the general-order business, and to receive for that business a sum variously stated, sometimes as \$40,000, and once or twice as \$50,000. It appears that the only three surviving ex-collectors, Mr. Barney, Mr. Redfield, and Mr. Schell, appeared before that committee and stated that such a proposition, such an act was, as far as they understood, unknown in the experience of the custom-house. It appears that this money to be thus acquired in an unprecedented way, to say the least of it, was to be divided upon the favor of the collector among various friends of his.

Now, sir, that transaction is an unwholesome, an illicit, and improper one, deserving, in my judgment, the brand which enlightened public judgment will be certain to place upon it. There is enough, therefore, in this transaction to teach us that the public will scrutinize it; and the sole motive that I have in asking that this brief testimony may be published is that the public may understand as to the Senate, as to its committee, and as to the humblest member of its committee, that nothing was done which ought not to have been done; but that without going at all into the general question of what had been done at the port of New York, the committee, upon the evidence before it on one single point, namely, that evidence as it affected two members of this body, found that an acquittal, an exoneration was due to them as the result of that evidence. It can do nobody injustice; but I submit that great injustice might be done, and that great harm might come, from any action which would look as if, from any motive whatever, there was a disposition anywhere to withhold from the public what I think the public is entitled to know.

Mr. TRUMBULL. If any illustration were wanted of the impropriety of the Senator's motion, it would be found in his speech. In commenting upon this question in regard to testimony affecting members of this body the Senator has gone into a speech in reference to the conduct of the New York custom-house, and what three former collectors have testified to as to their practice, and as to \$40,000 or \$50,000 having been offered. Now, I do not propose to mix up the Senators in this body with any such transactions in New York [Mr. CONKLING. Nor I] about which they know nothing, and with which they had nothing to do, and with which the testimony shows they had nothing to do, and with which we have reported that they had nothing to do. The Senator makes a speech on that subject, and talks about hiding from the public. Why, sir, are the documents laid on your table in open Senate hid away from the public? Will not every reporter in your galleries make copies of them if he desires to do so? Nobody has any intention of hiding them.

But now what is the Senator's motion? His motion is to publish a part of the testimony before the Committee on the Judiciary. His motion is that, and nothing else.

Mr. CONKLING. Not at all. All that has been referred to the committee and published already, I do not propose to republish; but I do propose to complete the publication of the testimony by publishing that which has not yet been published. That is all.

Mr. TRUMBULL. How will that be published? You get up a publication of twenty pages, giving a part of the case, and the rest of it is in a volume of three hundred and fifty pages. Will that show the case to the public? You must wade through the volume relating to New York frauds. That was all referred to this committee the whole of it was before us; and in that book there are thirty-two ref-

erences upon thirty-two different pages to this matter. Now you propose to publish a part, to have a partial statement go out. If anything is to be published, publish it all. I have no objection to its being published if the Senate think proper to publish it. There is no necessity for publishing it, but if it is to be published, publish the whole of it, and all about it, and all the statements, and I apprehend the public eye, which the Senator from New York talks about, will never peruse it. So far as it is connected with these gentlemen, the committee have examined all this mass of testimony and have taken some evidence themselves, and have arrived at a conclusion which has been approved by the Senate. The report, as a matter of course, will be published, and anybody that wants to see the grounds upon which the report is based may go and examine these voluminous papers and ascertain the basis of the report if he desires to do so.

Now, sir, I wish to take up no time about this matter. If the Senate wish to make the publication I have no objection, but the committee did not think it necessary to make such a recommendation.

Mr. EDMUNDS. I wish to remind my friend from Illinois that the report itself, if I correctly understand the rules of the Senate, cannot be printed without an order. It has been the constant practice whenever a report is made, if it is desired that it should be printed, that there should be a motion and an order made. It requires, therefore, the action of the Senate to print the very report that my friend from Illinois has submitted. Now, then, the simple question is whether, in addition to printing that report, provided we should order its printing, the evidence upon which that report is based, the additional evidence which has not already been printed by order of one House, should be printed, or whether it should be laid away in the files of the Senate for anybody to get at who might take an interest in it. That question arose in committee, as has been well understood from what has been said, and I voted against making the report at all, not upon the ground that there was anything to justify the charges against the gentleman accused, but upon the ground that the majority of the committee decided that they would not recommend that the evidence be printed. I thought, to say nothing of the innate impropriety of such a proceeding as that, that everybody who was disposed to find fault, everybody who was disposed to accuse these gentlemen, everybody, therefore, who was disposed to reflect upon the conduct of the Senate or any of its members, could say with great plausibility, if not with justice, that we were undertaking to suppress and to cover up the evidence upon which we based our conclusions, when, if it were spread before the world, the world would see that we had made a mistake, and that the evidence did not justify the report we had spread upon the records of the Senate.

Now, I beg the Senate to understand that the testimony which was sent to us by the House of Representatives, and which was referred to this committee, has been all published by authority, and it is a useless waste of public money to reprint it, because you would only reprint it in the same types you have used once before and have exactly the same thing; but my friend from Illinois says, how is anybody to know what the truth is from this evidence; he has got to look into two volumes to get it all. That is to say a man has to take one bundle which contains this testimony, and another which contains the report and the additional testimony. My friend is old enough lawyer to know that he cannot settle any law question without looking into more than one volume, and yet he has settled a great many. It will be no hardship to the inquirer after truth, to the people of this country, who are as much concerned as we are in the purity of the conduct of every member of the Senate, and in the duty of the Senate to preserve its dignity and its decorum—it will be no great

hardship to print at the public expense the testimony of two or three witnesses who testified affirmatively to matters within their knowledge and not to hearsay, and the statements taken upon honor from these Senators, according to the practice of the Senate, as to their knowledge of the affair. It does seem to me that the simplest dictates of justice and decency and fair play require that, inasmuch as these innuendoes and insinuations and suspicions and accusations have already been published by the authority of Congress, the full and complete denial and justification of the conduct of these gentlemen should be printed also. Let our report, therefore, be fortified by this testimony rather than exposed to the insinuation and the criticism that we have undertaken to whitewash and cover up something which the testimony did not authorize us to do.

Mr. DIXON. In relation to this question, whether the testimony now submitted or any part of it shall be ordered to be printed by the Senate, I have no wish, nor have I on that point a word to say. That is to me a matter wholly indifferent. For my own part, however, I see nothing which can be called testimony to print. What has the Senator from Illinois, the chairman of the Committee on the Judiciary, to whom this matter was referred, told us? He informs us that there was not a single word of evidence, not an iota, not the slightest approach to a particle of testimony to show that either of the Senators in question had been guilty of the charge brought against them. I go further, and say that before the House committee there not only was no testimony against either of them, but all the testimony was that they were not guilty; that they had received nothing, that they never had heard of a proposition that they should receive anything. I go further still, and say that before the committee of the House of Representatives, according to their own report laid upon our table, all the evidence was actually affirmative of their entire innocence. It positively declared by the united voice of every witness that they had received nothing, that nothing had ever been proposed to be given to them, that they never had, on any occasion, the subject brought to their attention.

Under these circumstances, it seems to me that this whole proceeding is the most extraordinary that has ever been brought before a deliberative body. We, as Senators, suppose when we come into this Chamber, that if we walk honestly, if we keep our Senatorial robes unspotted, we are safe. It seems that this is no longer the case. If a thought happens to flit through the mind of some individual outside of this body that at some time or other he will offer or propose to pay to a Senator a sum of money as a reward for some benefaction which he may suppose himself to have received, then it seems the Senator as to whom he may happen to entertain such an idea is liable to be charged with a heinous offense, to be placed upon his defense, and to be considered guilty until he proves himself innocent.

Sir, this is no light and trifling thing. I do not claim that the feelings of a Senator are more sensitive than those of other men. But what is the position in which a man of honor may be placed, keenly sensitive to any stain upon his honor, held up before the country, as in this instance, for a period of six weeks, charged in the newspapers with having received a bribe, and he sitting here compelled to endure all the tortures that an honorable man would suffer under that imputation? And yet the Senator who sits behind me, who is now absent, [Mr. DOOLITTLE,] because he indignantly before this body denied the imputation and charged home upon the assailant, has himself been subjected, here and elsewhere, to reproach for so doing, and because his spirit did flame up in indignation, as yours, sir, would, and as mine would under the same circumstances, he has been denounced as an assailant and an aggressor.

I know, sir, how improper it would be for me to comment with severity at this time upon a proceeding of the House of Representatives or upon the conduct of a member of a committee of the House of Representatives, and I do not intend to do so; but still I can scarcely forbear from saying what is signally noticeable here, that this committee of the House of Representatives never had before them the slightest testimony to impugn the character of either of these Senators. They must have known that there was no guilt on the part of either of them if they were capable of forming an opinion upon the testimony before them.

Sir, it is a difficult matter to speak of this case within the prescribed rules of order. To say that this committee did not know, with all the evidence before them, that these Senators were wholly innocent is to impugn their competency and intelligence and deny them the possession of common sense. To say, on the other hand, that they knew them to be innocent would be to attack their integrity, and to deny them the possession of common honesty. Such is the dilemma in which they have placed themselves. I think, however, I have a right in the absence of my friend to call the attention of the Senate and the country to the great fact that he has been compelled to stand up here in self-defence, without the slightest scintilla of evidence against him, and without even a formal accusation. He is now absent. The other Senator is present, and in his presence I will not speak of him; but I may say of my absent friend what I think every Senator will agree with me in saying, that if there is a man in this body blameless in his habitual conduct, pure, white, unspotted in his character, it is JAMES R. DOOLITTLE. You, sir, and others differ from him politically, but I think there is no Senator who has served with him in this body who will not bear testimony that I speak but the exact truth when I speak thus of him.

Sir, this is not an ordinary case of an accusation unsustained—a charge unproved. It is the case of an honorable, incorruptible man, subjected not only without a witness against him, but without an accuser, to a vague, shadowy, undefined suspicion. I rejoice that the Judiciary Committee have had an opportunity to exhibit it in its true light, and to show that there not only is no evidence of guilt, but that there is not presented even a charge of misconduct or an accusation of impropriety.

Mr. MORTON. Mr. President, this is not a question of politics, of policy, or even of economy. It is simply a question of justice. The evidence affecting these Senators has been published by the House of Representatives; let the evidence exonerating them taken by the Senate committee be published by the Senate; and then putting the two volumes together the country will have the whole case. It is true, the committee made a report exonerating these Senators; but all the evidence published is evidence on the other side. Let the evidence sustaining this report be published, and it cannot be said that it is a whitewashing affair.

Mr. PATTERSON, of Tennessee. I wish, if this testimony is to be printed, that the testimony of the man Hull, read here the other day, shall be printed with it.

Mr. FRELINGHUYSEN. The testimony which has been taken before the Committee on the Judiciary all relates to the exculpation of the two Senators. It would be great injustice to them, and great injustice to the committee, to have that only published, for the public mind would at once say, "This is very well for one side of it; but where is the other side to which this testimony is in answer and which it rebuts?" Therefore it is a necessity, if the testimony which was taken before the Judiciary Committee is to be published, that the other be published. It is unnecessary to say that that is already printed, for to all intents and purposes it is not printed unless it is printed in connection with the report and with the testimony which we have taken. If the Senate see

proper to print all together that is fair; but to print part of it, and to refer the public to the archives to hunt up the testimony which that rebuts, is injustice.

Mr. BUCKALEW. When this subject was before the Senate on a former occasion I was in favor of the resolution offered by the Senator from Missouri, that the communication which came from the House of Representatives should be respectfully returned to that body; and I was in favor of it for the reason that upon the very face of the matter which they communicated to us it did not appear that there was reasonable cause for prosecuting any inquiry. Now, sir, for the same reason which then operated on my mind in favor of the motion submitted by the Senator from Missouri, I am opposed to the printing of the testimony taken by the House of Representatives or by its committee. Upon the very face of that testimony it appeared that there was no occasion, that there was no sufficient cause, in my judgment, for instituting an inquiry upon this subject. So far as I observe and understand, there was no legal testimony whatever taken by that committee; I mean testimony which would be admitted in a court of justice anywhere in this country under Federal or State authority. It was but a mass of hearsay, of indirect, illegal information in a judicial point of view, which was wholly undeserving of the attention of either House of Congress; and I hold that the committee of the House made a grave error in accepting such testimony from any witness called before them. They ought to have proceeded upon those rules for the investigation of questions of fact which obtain everywhere in judicial tribunals, and which are necessary, which are indispensable for the ascertainment of truth and for the furtherance of the ends of justice.

Now, sir, I think we have dignified this hearsay, this illegal, this improper evidence taken by the House committee too much already by referring the subject to a committee of this body. I am willing that the report which that committee has made shall go to the country. I suppose it will be accepted by the country as satisfactory and as a final disposition of the subject. I for one, however, will not give dignity and importance to a mass of irrelevant and illegal testimony which has been taken in secret and *ex parte* by a committee of the House, by the sanction of a vote of this Senate, and I will not say by a vote of this Senate that it is important, that it is consequential enough to be obtruded upon the reading community, and to be pondered upon and studied by the reading community throughout the country.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York, to print the evidence taken by the Committee on the Judiciary.

Mr. SHERMAN. And the Senator from Tennessee suggested the testimony of Mr. Hull with it.

Mr. PATTERSON, of Tennessee. Yes, sir; I want the testimony of Hull printed.

Mr. CONKLING. I include that in my motion at the suggestion of the Senator from Tennessee.

Mr. TRUMBULL. I move to amend the motion by printing all the testimony before the committee relating in any way to the Senators referred to. Let it all go together.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

Mr. CONKLING. It is a mere useless expense, I submit, to print over again from the same type and in the same way and lay on the table a second time this volume of evidence. My motion is to print simply the brief evidence taken by the Judiciary Committee, including of course the unsworn statements of these gentlemen themselves, and I modified my motion, upon the suggestion of the Senator from Tennessee, so as to include the testimony of Hull, which he wishes to have printed. That is all;

but I object entirely to reprinting all this testimony.

Mr. TRUMBULL. It is so manifestly improper to put out a publication of this partial character that I trust the Senate will not publish it.

Mr. EDMUNDS. The House have done it.

Mr. TRUMBULL. I do not think the example of the House is to be commended in that respect. Both the Senators made statements here. Those statements were made by them in their place. They came before the Judiciary Committee, and their statements made in this body were there referred to as their statements. It is improper to publish this without publishing those statements. We relied upon those statements in making up our report, and said that from the statements of the Senators and the other testimony we came to a certain conclusion.

Mr. EDMUNDS. Those statements were made before us also.

Mr. TRUMBULL. Not at length. The Senator from Tennessee referred to the statement he made in the Senate.

Mr. EDMUNDS. And said it was true.

Mr. TRUMBULL. And said it was true; but he did not repeat the statement there. The Senator from Wisconsin also made a lengthy statement. Now, these statements ought to go out with the rest of the testimony if it goes at all.

Again, it seems strange to me to say that because in a volume of three hundred and fifty pages there is certain testimony relating to these Senators which has been published by the House of Representatives, therefore the public understand it and can find it when you put out a little document here containing simply the sworn testimony of two or three witnesses. You might as well hide it, as the Senator from New York said, in a pigeon-hole. It is more effectually hid in this large document published by the House. You must either select out the thirty-two pages of that document which refer in any way, however remote or indirect—and it was very remotely and indirectly as I think—to the Senators alluded to, and publish these thirty-two pages, or you must publish the whole of it.

Mr. HOWARD. Why not make the selection?

Mr. TRUMBULL. It would take some time, and would be a very tedious task. The Senator from New York proposes simply to publish what was sworn to before the Committee on the Judiciary, including the statements made before the committee by the two Senators. One of them made no statement except to refer to what he said in the Senate.

Mr. EDMUNDS. That is the same thing as if he had repeated it.

Mr. TRUMBULL. Then who will know what his statement is when that is published?

Mr. EDMUNDS. The Secretary who has these things printed will.

Mr. TRUMBULL. If you are going to make a publication at all—and that I do not object to if the Senate think it proper—publish all that has been said with reference to the matter, whether it is in the printed document or whether it is anywhere else.

Mr. HENDERSON. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I do not wish to recapitulate what I have said before; but it does seem to me the Senate had better leave its executive business until after the close of the legislative session. There is important business on the table. There is this very question, which ought not to be brushed aside in this way, but ought to be acted upon definitely. Then there are four or five important bills that the Senate ought to act upon, and I do submit that it would be better for us to proceed with the consideration of the legislative business, and leave the executive business to be disposed of afterward in an executive session.

Mr. HENDERSON. There is evidently no

hope of doing anything in open session, and I desire to go into executive session, where we possibly can do something.

The question being put, the motion was agreed to—ayes twenty, noes not counted.

#### BILL INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 53) relating to the transportation of troops by the Isthmus route to the Pacific States and Territories; which was read twice by its title, and ordered to lie on the table.

Mr. TRUMBULL. I suppose there will be no objection on the part of anybody to printing the report of the Judiciary Committee which was made just now. The Senator from Vermont [Mr. EDMUNDS] tells me that a motion is necessary for that purpose. I make that motion.

Mr. CONKLING. Including the minority report also?

Mr. TRUMBULL. Certainly. I make a motion to print the report, with the views of the minority.

The PRESIDENT *pro tempore*. The motion may be entertained by unanimous consent. The Chair hears no objection.

The motion was agreed to.

The doors were then closed; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 27, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### LINCOLN MONUMENT ASSOCIATION.

Mr. ORTH. I ask that by unanimous consent Senate bill No. 112, to incorporate the Lincoln Monument Association, be taken from the Speaker's table for consideration at the present time.

There being no objection, the bill was taken from the Speaker's table, and read a first and second time.

By the bill, which was read at length, Alexander W. Randall, James Harlan, Alexander Ramsey, Nathaniel P. Banks, Sidney Perham, John Conness, John T. Wilson, Godlove S. Orth, Delos R. Ashley, Halbert E. Paine, Charles O'Neill, Burt Van Horn, John F. Driggs, Frederick E. Woodbridge, Jacob Benton, John Hill, Shelby M. Cullom, Thomas A. Jenckes, Orin S. Ferry, N. B. Smithers, Francis Thomas, Samuel McKee, Horace Maynard, John F. Benjamin, Rufus Mallory, Sidney Clarke, Daniel Polsley, Walter A. Burleigh, John Taffe, and their successors, are constituted a body-corporate in the District of Columbia by the name of the Lincoln Monument Association, for the purpose of erecting a monument in the city of Washington commemorative of the great charter of emancipation and universal liberty in America.

It is provided in the second section that the persons named in the first section of this act shall be the first trustees of the corporation, and shall have power to fill vacancies in their number, and to add to their number, not exceeding one from each State in the Union.

By the third, fourth, and fifth sections the corporation is empowered to own and control such property as may be necessary for the carrying out of the objects of the association; to collect money, and to make such rules and regulations as they may deem necessary or expedient; to appoint a president, a vice president, a secretary, a treasurer, and also a board of managers, consisting of not less than seven, nor more than thirteen, who are to have a general control of the affairs of the association, and who may be selected from persons not included in the list of corporators.

The sixth section provides that the property of the corporation held or occupied by them for the uses and purposes of their corporation

shall be exempt from all taxes to be levied under the authority of the United States or of any municipal corporation within the District of Columbia.

The seventh section reserves to Congress the right at any time hereafter to repeal, alter, or amend this act.

Mr. ORTH called the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INSPECTION TOUR TO PACIFIC COAST.

Mr. McCLURG, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House the report of the tour of inspection made by General M. D. L. Simpson, of the commissary department, to the Pacific coast, during the summer and fall of 1866.

Mr. McCLURG moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FRANCIS DAINESE.

Mr. FARNSWORTH. I ask unanimous consent to submit a resolution proposing the appointment of a select committee; and I will state in advance that I do not wish to be a member of this committee. The resolution is as follows:

*Resolved*, That a select committee of three members of this House be appointed by the Speaker to inquire into the matter and things charged in the memorial of Francis Dainese, which accompanies this resolution, and that said committee have power to send for persons and papers, to examine witnesses under oath, and to report the facts with such action as said committee may recommend to this House.

Mr. SPALDING. I object.

#### SURVEY OF ROCK RIVER.

Mr. HOPKINS, by unanimous consent, submitted the following resolution; which was read, considered and agreed to:

*Resolved*, That the Secretary of War be directed to send the report of Brevet Brigadier General J. H. Wilson, upon the survey and examination of the Rock river, if not sent to the House prior to its adjournment, to the Congressional Printer, and that the same be printed with maps.

Mr. HOPKINS, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That there be printed of the report and maps of General Wilson upon the survey and examination of the Rock river, when presented, three thousand extra copies for the use of the House, and five hundred copies for the use of the Bureau of Engineers.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 63) to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes; and

Joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of the 2d of March, 1861, relative to property lost in the military service.

#### SOUTHERN RAILROADS.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Speaker be requested to reappoint the select Committee on Southern Railroads to whom shall be referred the evidence taken by said committee during the Thirty-Ninth Congress, with power to sit during the recess, and to send for persons and papers, and to report during the next session of Congress, and the Speaker to fill any vacancies that there may be on said committee.

Mr. CHANLER. I object.

Mr. STEVENS, of Pennsylvania. Allow me to say it is the memorial of a large house in New York, and is for the purpose of trying to arrange affairs with the Government. The Government took possession of the railroad with the rolling stock, and this is necessary that the road may be completed.

Mr. CHANLER. Having been on the minority of the committee, and knowing that the business has not been so far developed in the absence of the chairman, Mr. MAYNARD, of Tennessee, as to render it necessary for the reassembling of the committee, I must persist in my objection. I speak with the understanding that in the report of the committee no request is made to report progress, and it was the understanding that there should be no action taken until Congress reassembled. There was no business before the committee calling for action; and nothing whatever, so far as I understand, to jeopardize the rights of any one.

Mr. STEVENS, of Pennsylvania. It is necessary, that the matter be arranged, this committee should be reappointed. I have done this at the request of the owners of the road.

Mr. CHANLER. If this were for the protection of interests I should not object, but I do not so understand.

Mr. SPALDING. It will save money to the Government.

The SPEAKER. The Chair asks unanimous consent to lay before the House certain papers which he received a few days ago. The Clerk will read the accompanying letter.

The Clerk read as follows:

HEADQUARTERS DEPARTMENT OF THE TENNESSEE, QUARTERMASTER'S OFFICE, UNITED STATES MILITARY ROADS, LOUISVILLE, KENTUCKY, March 19, 1867.

SIR: I have the honor to transmit herewith, as directed, my evidence before your committee, with accompanying documents.

Very respectfully, your obedient servant,

S. R. HAMELL.

*Brevet Major, Acting Quartermaster in charge of United States Military Railroads.*

To the honorable Chairman select Committee on Southern Railroads, House of Representatives, Washington, District of Columbia.

The SPEAKER. These papers have been in the possession of the Speaker for several days, as there was no committee in legal existence to which they could be referred.

Mr. CHANLER. As a member of that committee nothing has been developed, I am sure, which can call for the reappointment of this committee at this time. I think there is no necessity for the reappointment of the committee. There are others here who were members of the committee. If I thought it were necessary I would not object.

Mr. STEVENS, of Pennsylvania. Is it not a privileged question?

The SPEAKER. The appointment of a standing committee is of a privileged character, but in reference to the appointment of a special committee the Chair would have to ask the consent of the House.

Mr. STEVENS, of Pennsylvania. I move, then, to suspend the rules so I may introduce the resolution, and that the testimony presented by the Chair may be referred to the committee when appointed.

Mr. CHANLER. We have had the testimony before us.

The House divided; and there were—ayes 69, noes 20.

Mr. CHANLER demanded tellers.

Tellers were ordered; and Mr. CHANLER and Mr. McCLURG were appointed.

The House again divided; and the tellers reported—ayes 66, noes 23.

So (two thirds voting in the affirmative) the rules were suspended.

Mr. STEVENS, of Pennsylvania, demanded the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote just taken; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The evidence presented by the Speaker was also ordered to be referred to the committee when appointed.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. McCARTHY.

#### ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 28) to increase the force in the Patent Office; and

Joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to the States lately in rebellion.

#### NEW YORK CUSTOM-HOUSE.

Mr. BROOMALL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That five hundred copies of the report and accompanying testimony of the Committee on Public Expenditures of the Thirty-Ninth Congress be delivered to the Committee on Public Expenditures of this Congress.

Mr. WOOD. I call for the regular order.

#### CHESTER, PENNSYLVANIA.

The House resumed the consideration of the regular order, being Senate bill No. 96, to establish a port of delivery at Chester, Pennsylvania, pending at the adjournment yesterday.

The bill makes Chester, Pennsylvania, a port of delivery, and provides for the appointment of a surveyor, at a salary of \$500 per annum.

Mr. BROOMALL. This is a matter that interests only my district. The bill comes from the Treasury Department and is approved by all parties interested. It is a very small matter, and I will not take up the time of the House upon it unless some gentleman desires to ask some question relating to it. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. BROOMALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MORNING HOUR.

The SPEAKER. The morning hour has now commenced, and the first business in order is the call of the committees for reports, commencing with the Committee on the Judiciary.

#### CLAIMS OF NORTHERN CREDITORS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back joint resolution of the House No. 1, relative to claims of certain northern creditors, and recommended concurrence in the amendments of the Senate to the same.

The joint resolution recites the fact that there was paid to the Citizens' Bank of New Orleans, prior to the 1st day of May, 1862, a sum exceeding half a million dollars, the proceeds of such confiscation of northern credits, of which there remained to the credit of the confederate States receivers, in such bank, the sum of \$219,090 94 only, on the 1st day of May, at the time of the occupation of the city of New Orleans by the forces of the United States, which said sum, by the order of the general then commanding the department of the Gulf, was seized for the benefit of the northern creditors whose debts had been thus confiscated, and said sum was by him sent to the Secretary of the Treasury of the United States, to be by him held in trust for the benefit of said northern creditors; and that owing to a doubt entertained by the Secretary of the Treasury as to his legal authority to distribute said sum of \$219,090 94

among the creditors to whom it belongs, and to determine the rights of each to his portion thereof, the money has lain thus undisturbed in the Treasury since July, 1862, to the great injury and detriment of the just and lawful owners thereof, although they may have made many applications to have the same; and therefore resolves,

That the Secretary of the Treasury be, and hereby is, authorized to appoint a commission of three persons, one of whom shall be learned in the law, to hear and determine the various claims of the parties who are entitled to said sum of \$219,090 94, ratably among the persons who shall present their claims and be entitled thereto, to an amount not exceeding the claim of each when confiscated, with interest thereon: *Provided*, That any claim which shall not be presented within three months after public notice of a meeting of commissioners to receive such claim shall not be allowed or paid by order of said commissioners: *And provided further*, That the cost of said commission shall be paid out of said money.

The amendments of the Senate were as follows:

Strike out all after "of" in line eleven of the preamble to, "only" in line thirteen, and insert in lieu thereof "\$178,897 50."

Strike out all after "of" in line twenty-two of the preamble to, "among" in line twenty-three, and insert in lieu thereof "\$178,897 50."

Page 2, strike out all after "to" in line three to the end of the resolution, and insert in lieu thereof the following:

Take and report to Congress evidence in support of the claims of these several parties whose debts were sequestered and contributed to produce said sum of \$178,897 50, together with the date at which such debts were contracted and the interest accrued thereon to the date of such report: *Provided*, That the said commission shall give public notice of the time and place at which such claims shall be presented by advertising the same in some newspaper published in each of the cities of Boston, New York, Philadelphia, and New Orleans for three months; and no claim shall be considered unless it shall be presented at or before the time so advertised: *And provided further*, That the cost of said commission shall be paid out of said money.

Mr. SCOFIELD. I move to lay the resolution and amendments on the table.

The SPEAKER. The gentleman from Massachusetts has the floor.

Mr. BOUTWELL. This is following the resolution that passed the House a few days since. It was found that there was an error in the amount of money in the Treasury subject to this appropriation, and accordingly it has been changed from \$219,000 to \$178,879 50, which was ascertained to be the true sum. The other change is in relation to the report of the commissioners, which is first to be made to Congress for final action here. Unless there are inquiries, I demand the previous question.

Mr. SCOFIELD. Will the gentleman yield?

Mr. BOUTWELL. For an inquiry.

Mr. SCOFIELD. This is in effect a bill directing the Secretary of the Treasury to pay debts owing by certain rebels to certain loyal men in the North. That is all there is of it, as I understand. It passed the House the other day without much consideration. It occurred to me it was not fully understood at the time. It went through in haste. Therefore I propose at the proper time to move to lay the resolution and amendments on the table.

If I understand it, the commanding general at New Orleans seized certain moneys belonging to the confederate government and deposited them in the Treasury of the United States. He said in making the deposit, as reported, that the fund was to be applied to pay certain creditors at the North whose claims had been confiscated by the rebel States, these being the proceeds of that confiscation. If that order was made by the commanding general it was a simple nullity. He was simply authorized to seize any property that belonged to the rebels or confederate government, and when seized it belonged to the United States. If the confederate government came in possession of that money under the pretext that they were seizing property that belonged to certain men in the North it was a nullity so far as those northern creditors are concerned. They look to their rebel debtors now. The laws of the States and of the United States are open to them, and they can collect their own debts from those whom they favored and by whom they stood before the war, and whom they, many of them, afterward stood by. Now, this

money which was seized, being then in the hands of the confederate government, was seized for the benefit of the United States, and ought to be left in the Treasury of the United States, and ought not to be paid out by these men. Now, I propose to move to lay this bill and the amendments upon the table. But I will not do so for the present.

Mr. BOUTWELL. I now yield to my colleague, [Mr. BUTLER,] who has knowledge of this subject.

Mr. BUTLER. If the House will permit me, I will make a simple statement of fact. When the Army of the United States came to New Orleans they found in the hands of various agents of the confederate government ships, steamers, and other property belonging to loyal citizens of the North, but which had been seized by that government. Where the property was in specie, its form had not been changed. Acting on the well-known rule of restitution, the commanding general ordered the ships and other property to be restored.

In examining the accounts of the rebel government in the banks it was found that certain moneys belonging to loyal citizens of the North had been seized by confederate States receivers. Of these moneys there was some which consisted of dividends of a bank or the dividends of an insurance company; some consisted of interest due on mortgages to men in the North; some of freights on charter-parties, &c.; all of which the confederate government had ordered to be paid to their receivers; and the money had been so paid to the amount of about half a million dollars. Of that sum there had been drawn out by the confederate government all except about one hundred and seventy-nine thousand dollars, the amount embraced in this resolution.

Under these circumstances, after due consideration, that sum was taken possession of by the commanding general. It would have been restored to the loyal owners, except for the reason that there was not enough to pay them all. To avoid any possible injustice that money was sent as a special fund to the Secretary of the Treasury to be distributed. But it remains, not in the Treasury of the United States; it remains in the hands of the Treasurer as such special deposit. It has never gone into the Treasury of the United States; in my judgment it ought never to go there. It was the duty of the United States, by its armies and navies, and by the prompt execution of its laws, to have prevented the rebellion, and thus have protected its citizens in their rights of property. But, alas! we did not act promptly, we did not protect our citizens; and when the conquering Army of the Republic came there it seemed to be their duty to restore to loyal men what the disloyal men had taken from them before the insurrection had ripened into the great war which it afterward became; a public territorial war, altering entirely the rights of individuals as between themselves and the Government.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the concurrent resolution of the House in relation to the adjournment of the present session of Congress, with an amendment, in which the concurrence of the House was requested.

#### CLAIMS OF NORTHERN CREDITORS—AGAIN.

Mr. SCOFIELD. With the permission of the gentleman from Massachusetts, [Mr. BUTLER,] I will state that some citizens of Pennsylvania were the owners of a freighting steamboat on the Ohio river. While the boat was down the Mississippi river somewhere, about the time the rebellion broke out, it was seized by the confederate forces. It was afterward retaken by our forces. The owners of the boat then applied to Congress to have the boat returned to them, it having been captured by our forces as rebel property. The bill was pressed by the able members from Pennsylvania representing the Pittsburg portion of



the State; but after consideration and discussion the House determined that the boat should not be surrendered; that it having been taken by the rebels, and then recaptured by our armies, it was enemy's property, and belonged to the Government, and that the owners of that boat must look for redress to the same sources that other loyal citizens must look to for their losses.

But the case here presented is a much worse one. It relates to money now in the Treasury of the United States belonging to the United States. And it is proposed to take that money and distribute it among persons who have legal claims against individuals in the South which they can enforce under our laws.

Mr. BUTLER. I am glad the gentleman from Pennsylvania [Mr. SCOFIELD] has called my attention to the case which he has mentioned; because it illustrates the exact distinction between the two cases. In the case to which he has referred a boat was captured by the enemy's armed forces, and when retaken by our forces the title vested in our Government, and it ought not to have been restored to its former owners. Here was property of citizens of the United States which fell into the hands of the insurrectionists at the beginning of the war. It cannot be considered a capture, and that makes the difference as to the question of right. I examined the question with a great deal of care, and in the case of the steamboat Morning Light, belonging to a gentleman of Pittsburg, I believe after full consideration I returned it to him; and the ground on which I did so was that the owner did not send it into the insurrectionary districts after the war commenced; he did not of his own choice expose it to capture; but he being in the lawful pursuit of his occupation the war overtook him, and his property was taken. If he had sent his steamboat down the Mississippi after the war had commenced, and the steamboat had been captured by the rebels, it would have stood in the same position as any other property taken by act of war.

Mr. WILLIAMS, of Pennsylvania. I desire to ask the gentleman a question: when the captured property of a citizen is subsequently recaptured, is not the title of the property re-vested in the lawful owner by the law of postliminy?

Mr. BUTLER. Mr. Speaker, although it is with great diffidence that I differ from so learned a gentleman as my friend from Pennsylvania, and although this question would make on my side, I must say that the *jus postliminii* applies only to real estate and to slaves under the Roman law, which were *quasi* real estate for this purpose; that personal property vests *ipso facto* by the capture in the capturing Government unless recaptured before it is brought to a place of safety.

Mr. WILLIAMS, of Pennsylvania. The gentleman is a good lawyer, and probably more learned on this question than I am; but my impression is that captures of real estate are not recognized under the law of war. By the general rule (I know a different one prevailed among the Romans, but that was an exceptional case) all "captures by land and sea" are referable I think to personal property only.

Mr. BUTLER. Maritime captures stand on a different ground. But, as I understand, when a portion of territory is captured by a conquering army, that territory belongs to the sovereign. If it has been previously captured by his enemies and has previously belonged to his subjects, the subject's right is re-vested under the *jus postliminii*; and this is the extent of the doctrine of *jus postliminii*.

My reason for venturing to differ with my learned friend from Pennsylvania is that I had to discuss this question at great length and with much care with the rebel commissioner of exchange, Judge Ould, in regard to our captured colored soldiers; and I believe I have stated the doctrine with the full limitation. As I understand the question, when the sovereign captures personal property that has been before taken by the enemy from the sub-

ject, it instantly vests in the sovereign if it has been brought to a place of safety. If it has not been, then the rule laid down by my friend from Pennsylvania applies. Therefore, I held that a slave captured by us or coming within our lines, even if he had been property at the South, became our property, and we had the right to emancipate him or do what we pleased with him. Therefore every slave escaping from the enemy into our lines became a freeman, and when enlisted in our ranks was to be protected as a soldier; and that the southern confederacy could not set up any right of property in him in his former owner, when captured by them, if there had ever been any such right.

Now, I distinguish the case of this property covered by this resolution from any that has been captured. It was property in the lawful process of business in the South, taken there before the war had commenced. If it had been captured by act of war after the war had commenced, then there was an end of it. It was in a specific form, so that each man could pick out his own share. I think it ought to be restored as an act of justice. As I have already stated, other property acquired in like manner has been restored; and, sir, this would have been restored, but the commanding general had no time to decide upon the rights of these parties. The Secretary of the Treasury cannot do that now, and therefore Congress has been called upon, not to take the money out of the Treasury of the United States, not to pay rebel debts, but for the purpose of restoring the property of loyal men, lost without their fault, and which fell into the possession of the United States, which the Government of the United States as an act of justice ought to return.

Mr. BOUTWELL. I will say that the substance of this joint resolution has not been before the Judiciary Committee or before any committee of this House. It was passed originally on the motion of my colleague. The action of the committee relates to amendments in the line of perfecting this resolution, and therefore I was instructed by the committee to report concurrence with the Senate. The committee itself has never passed upon the substantive proposition of the resolution. My individual opinions are in favor of the proposition. On that, however, we do not advise the House.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York; when the Speaker signed the same.

#### CLAIMS OF NORTHERN CREDITORS—AGAIN.

Mr. SCOFIELD. Mr. Speaker, I knew very well that the gentleman from Massachusetts last upon the floor, in reporting these amendments, did not give the sanction of the committee with which he is connected to the original resolution, and it was partly because I saw the committee carefully avoided making any comment on it, and because when the resolution passed originally the House did not pay as much attention as it was in the habit of giving such measures, that I proposed to make a test vote on this kind of legislation by moving that it be laid on the table.

Mr. BUTLER. You will never have any occasion to pass on this kind of thing again in the House, because I believe I can state without prejudice that no money ever was sent here under like circumstances.

Mr. SCOFIELD. There are other moneys in the United States Treasury which might be claimed with more merit by northern creditors than this can be claimed by the men to whom we propose to give it. We have large amounts of money, the proceeds of sales of confiscated cotton, locomotives, cars, and other things; and not only railroads, but other property taken from the confederacy: arms, ammuni-

tion, military equipments of various kinds, which have been sold and the money put into the Treasury; and I say that individuals who have suffered from the rebels by the seizure of their property have the same right to come to the Government and ask us to take money out of the Treasury to pay them. When they have claims against southern men you might as well say they ought to have this money which we got for nothing. Why should it not as well be distributed among people who have suffered, who have lost their all during the rebellion? They might as well say "Give us a small portion of the large amount you have realized from the sale of confiscated cotton." They might say "We have no claim against any responsible persons, not even against the Government, but here you have a fund out of which we can be paid." The northern creditor has a claim upon the southern debtor. We have no evidence he is not responsible and the money cannot be collected.

Mr. BUTLER. In the case of captured cotton and other property, Congress has provided that the Court of Claims may restore the property if taken from loyal men.

Mr. SCOFIELD. The gentleman misunderstands me. I am not speaking of the men who have lost cotton. I am speaking of men who have perhaps lost their whole fortune, and making them whole out of the money made from confiscated cotton, as the gentleman from Massachusetts proposes to make certain northern creditors whole out of moneys we captured.

Mr. BUTLER. I understand the gentleman perfectly; but I say in case of all captures of abandoned property we have already provided that the Court of Claims may take jurisdiction and restore that which belongs to loyal men if they file their claims within two years. We cannot send these men to the Court of Claims, because the money has lain in the Treasury for almost five years without any notice being taken of it, and the statute of limitation applies.

This is a case *sui generis*; it stands on its own merits; and I am only sorry that from my knowledge of the facts these northern men, no one of whom I knew, should have so poor an advocate. The facts are before the House. It is but an act of justice, and it seems rather hard because we can not do justice to all that we should take that which belongs to these men. My friend says that the creditors will have their remedy against their southern debtors. Sir, your bankrupt law, passed last session will cut off all remedy. They have no remedy in fact. You take it away from them, and it is gone forever. If that is the judgment of the House, I bow, as I always do, to constitutional authority.

Mr. SCOFIELD. If this resolution is to pass I think there should be an amendment to it, that the United States should become the trustee of this fund.

Mr. BUTLER. If that is put as a question, I must answer my friend by saying that I would not give him the paper that it is written upon for all these claims. We must deal with great things and not with small.

Mr. BOUTWELL. I now demand the previous question.

Mr. SCOFIELD. I move to lay the resolution and amendments on the table.

The motion was agreed to—ayes 67, nays 23.

Mr. BUTLER. I demand the yeas and nays.

The SPEAKER. It is too late.

Mr. BINGHAM. I move to reconsider the vote just taken; and move to lay the motion to reconsider on the table.

Mr. BUTLER. On that I demand the yeas and nays.

The yeas and nays were not ordered.

So the motion to reconsider was laid on the table.

#### ADJOURNMENT OF CONGRESS.

The SPEAKER. The Chair lays before the House as a privileged question the action of the Senate on the resolution of the House in regard to the adjournment of Congress.

The amendment of the Senate was reported, as follows:

Strike out all after the word "concurring," in line two of said resolution, and insert in lieu thereof as follows:

That the President of the Senate and the Speaker of the House of Representatives be authorized and directed to close the present session by adjourning their respective Houses on the 28th instant, at twelve o'clock meridian.

Mr. SPALDING. I move to concur in the Senate amendment.

Mr. SCHENCK. The gentleman has not the floor, I believe.

The SPEAKER. The gentleman who originated the resolution is entitled to the floor by usage.

Mr. SCHENCK. I move to amend the amendment of the Senate by offering the following as a substitute:

*Resolved by the House of Representatives of the United States, (the Senate concurring,) That the Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn the present session from the hour of twelve m., on Thursday, the 28th day of March instant, to assemble again on the first Wednesday of June and the first Wednesday of September, of this year, unless the President of the Senate pro tempore and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before either of the times herein fixed for reassembling, declare that there is no occasion for the meeting of Congress at such time.*

The SPEAKER. This as an amendment to the amendment of the Senate, is too large in its character, for this reason: the two branches of Congress have concurred in a part of the resolution. The Senate struck out all after the word "concurring" and inserted what has been read. The part that has been concurred in by both branches is beyond the power of amendment. The gentleman can move to amend by striking out the part amended by the Senate and inserting what he proposes.

Mr. SCHENCK. Let the Clerk, then, modify my proposition so that it may be an amendment to the amendment of the Senate.

The Clerk read as follows:

Strike out all of the Senate amendment from and after the word "that," and insert in lieu thereof the following:

The Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn its present session from the hour of twelve m. on Thursday, the 28th day of March instant, to assemble again on the first Wednesday of June and the first Wednesday of September of this year, unless the President pro tempore of the Senate and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before either of the times herein fixed for assembling, declare that there is no occasion for the meeting of Congress at such time.

Mr. SCHENCK. I will move the amendment as read by the Clerk. Now, Mr. Speaker, whatever may be the result of this discussion in the Senate and the House, it is pretty certain that to-morrow will be the last day of this present session of Congress.

Mr. ELDRIDGE. Is this question debatable?

The SPEAKER. It is, to a limited extent.

Mr. SCHENCK. As we are, therefore, within the last day of business of our present assembling together, I am admonished not to occupy unnecessarily the time of the House. But I cannot sit here altogether silent when so momentous a question as this is to be settled, as it would be settled if the motion my colleague [Mr. SPALDING] attempted to make should prevail: that the House concur with the Senate in its amendment concerning adjournment to-morrow.

Mr. SPALDING. I desire to inquire for information whether, after the gentleman has concluded his remarks, it will be in order for me to submit the motion to concur in the amendment of the Senate?

The SPEAKER. A motion to concur is always in order, as tending to bring the two Houses together in their action. But a motion to amend an amendment of the Senate has priority of a motion to concur.

Mr. SCHENCK. I understand that any motion is in order which tends to bring the two Houses together; and it has precedence of any motion but the motion to amend an amendment of the Senate.

Now, with full knowledge of that fact, and believing that this question is too momentous to be decided in silence, I will occupy the attention of the House for a few moments by stating my reasons for the amendment I have submitted. Day before yesterday, by a vote of nearly three to one, 89 to 31, this House determined that it was not wise for us to leave our places here without some provision being made for the reassembling of Congress between the interval of any adjournment of the present session and the commencement of another regular session of Congress in December next. We therefore provided that such reassembling should take place in the months of May, June, September, and November, with this condition, however: that any of these meetings might be dispensed with by proclamation, to be made in advance by the Presiding Officers of the Senate and House of Representatives, that in their judgment there is nothing in the condition of public affairs which renders it necessary that Congress should reassemble at that time.

The Senate proposes to have no stopping-place between now and December next; to close the present session of Congress to-morrow, and to have no reassembling of this legislative department of the Government until the commencement of its regular session in December next; leaving us in the condition of an entire suspension of any active exercise of legislative functions on the part of Congress, and with no meeting before December next for the purpose of discharging its duties except at the pleasure of the Executive himself. It is a very broad difference of opinion between the two Houses, and one deserving to be very seriously considered.

Sir, I think there is no hour which brings more sadness to a soldier's heart than that in which a retreat is ordered. Or, if it is stating the case too strongly to say that this resembles an order for a general retreat, I think I may say that the hearts of men in the presence of the enemy are apt to feel very heavy when at any time they are called upon to surrender an advanced position near the enemy and fall back and form their lines anew and upon different ground. That is just about the condition in which we now stand with this issue before us.

Now, it may be thought that in this statement there is an intimation that I regard the President as inimical to Congress. Well, sir, put it in whatever phrase you will, whether he be the enemy of Congress, and through Congress of the country, whether Congress be hostile to the President or not, this much is certain: for more than a year past there has been exhibited before the country and the world a struggle between Congress and the President as to which should rule the country, as to the policy of which should prevail in regard to the grave questions connected with the restoration of the Union. Soon after the close of the war the President adopted what he styles his policy. Congress, differing from the President, has by acts of legislation adopted what they regard as the true and legitimate and the safest policy upon this subject. The President does not consent to that which the law-making power has decided upon, but by veto after veto attempts to strike down the hands of the representatives of the people, to stifle their voices as expressed through the statute-book, and to compel them to succumb to his views. Congress is too strong for him, and by overwhelming vote again and again passes these legislative enactments over his veto. But the President does not stand contented when those acts are thus passed. In the vetoes themselves, and in formal State papers communicated to Congress, he denounces what we have done as tyrannical, as oppressive, as an infringement upon the rights of the people of certain sections of this country, and declares that if those people resist such despotic legislation they will enroll themselves among the Hampdens and Sidneyes of the world, the great martyrs for liberty. Here, then, we have not only a difference between these two coördinate branches, but we have the

President, through the medium of public documents, with all the weight that his utterances can acquire from such a form, gravely telling the people of a portion of the country that they will ennoble themselves if they resist the orders which may be made by the legislative department that they shall conform to certain terms prescribed to them before they can be restored to their former relations to the Government.

Now, sir, in this condition of things, with this defiance ringing in our ears, uttered no longer ago than on the last day of the last week, it is proposed that we shall abandon our position here, leaving the President, through his agencies and the agencies prescribed by law, to carry out those enactments to the execution of which he avows himself thus disinclined—to use the mildest term that can be applied. It may be said that the law must be obeyed. It may be said that the law will be obeyed by the President. Sir, there are different modes of obeying law. A law may be obeyed apparently, and yet with such a spirit of hostility to the law itself that the execution of that law amounts virtually to nothing. How is the President to carry out the determination of the law-making power with reference to the insurrectionary States? Through the agency of the Army? How will the Army be disposed to carry out the duties assigned to them? Just as you may expect them ordinarily to execute orders which come to them from a chief who is disposed to have those orders executed in the manner most favorable and lenient toward those upon whom the execution of the orders is to operate. Sir, I have seen something of this matter before; and I tell you that if the officers of the Army, knowing this spirit and sentiment upon the part of the President, are called upon to execute in good faith the orders of Congress made to them through the law, they will be subject to all the blandishments, to all the controlling influences which may be expected to tempt men to swerve a little from the direct and straightforward path, when they know that their chief is not hearty in his desire to have the law enforced, and when they know that any sympathy they may exhibit toward those against whom particularly the law is to be executed will be shared by that chief. I am very much afraid of the execution of the law in that way.

Mr. BURR. Will the gentleman permit me to ask him a question?

Mr. SCHENCK. Yes, sir.

Mr. BURR. I desire the gentleman to explain how the facts on which he has commented with regard to the control of the Army would be affected by Congress remaining in session? Does the gentleman propose that Congress shall take the command of the Army?

Mr. SCHENCK. No, sir; I propose no such thing. I propose that while we watch the President, to prevent him from usurping power, we shall not ourselves commit any such usurpation. But I maintain that while we have it in our power it is better for us to be at hand to watch the mode in which these things are done, so that, should evil come or be threatened in the manner of the execution of the law, we may hedge about the safety of the Republic by such acts of legislation as shall keep the President and those who act under him in check. Sir, if Congress had not met or been about to meet, and if Congress when it met had not acted by investigation of such acts as the riot, as it was termed, giving it the mildest epithet, at New Orleans, does any man suppose the President, unabridged in the exercise of his power by this watchful care of Congress, would not have given to us in various shapes repetitions of just such scenes as that?

Mr. Speaker, what is a part of this history through which we have just gone? In September and the early part of October last I believe, as I believe in my own existence, it was the fixed purpose of the President of the United States that this Fortieth Congress should not assemble at all constituted as it now is. He meant to have had a Congress here consisting of those representatives of the North who would go with him in a scheme of

that kind and those claiming to be elected from rebel States, and constituting if they might a majority, and to recognize them as the Fortieth Congress. The elections in October and November cured him somewhat of that purpose; not perhaps of the spirit, but they took away from him the prospect of being able to exercise such power. Still the people of the country were uneasy; still the people of the country were apprehensive; and I say that all good, true, loyal men breathed freer when Congress passed a law which required hereafter this first session should take place on the 4th of March, the very day of the commencement of its proper term. We have met on the 4th of March, and we have adopted certain acts of legislation. Those acts of legislation have not yet commenced to operate on the subjects of them. We know not what difficulties there may be, but we do know, I think, if we judge wisely of this matter, that it will be well for us to come together at short periods, at a much shorter interval of time than from now to December, with a view to be witnesses of the manner in which these laws shall operate and be carried out, to apply the remedy and correction if any amendment or change be made necessary, and to meet any failure in the execution of the law, as we now expect. That is what I mean.

Mr. VAN TRUMP. As a basis for the question which I propose to put to the honorable gentleman, I admit that if his amendment prevails, and which provides for the meeting of Congress on the first Wednesday in June next, it will be fixing a time for the reassembling of Congress by law in accordance with the provisions of the Constitution. Now, the question which I propose to submit to my honorable colleague is this: if a meeting of Congress is fixed by law, I want my friend to tell us where in the Constitution he finds the provision which gives to the House the right to delegate to the Speaker the legislative power to repeal or suspend such laws?

Mr. SCHENCK. We are not proposing to delegate the power of assembling Congress to the Speaker of this House. We are proposing that the House and Senate shall concur to meet at a particular time, and we delegate to the Speaker of the House and the President *pro tempore* of the Senate a very different power, the power to pronounce to us whether in their opinion the condition of the country does or does not require a meeting of Congress. It is not a repeal of the law to meet or not to meet. It is an adjournment; it is the extension of a recess; and the gentleman might as well say that we repeal the law by which we meet here this evening or at any other time when we adjourn or take a recess.

Mr. ELDRIDGE. Is it not delegating to the Speaker power to adjourn Congress?

Mr. SCHENCK. Well, suppose it be, we have power to delegate it.

Mr. ELDRIDGE. Where does the gentleman find that power in the Constitution or the laws?

Mr. SCHENCK. I find it in that power inherent in a legislative body like this to quit, at any time it pleases, its business.

Mr. VAN TRUMP. The Constitution provides that Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, fix a different day.

Mr. SCHENCK. The difficulty with the gentleman is he has not read the whole of the constitutional provision on that subject. If he will look at the last clause of the fifth section of the first article he will find a provision precisely corresponding to this resolution, namely, that neither House can adjourn beyond three days without the consent of the other. I propose that each House by the amended resolution shall consent that the other adjourn to certain days indicated. The gentleman has only referred to a clause in the Constitution not applicable to the question we are now discussing.

Mr. VAN TRUMP. The gentleman is right

in regard to that provision of the Constitution, but does that provision contemplate power in the Speaker or power in the House to delegate to the Speaker authority to repeal or suspend an existing law?

Mr. SCHENCK. No, sir; I hold that to be inherent in our power as a legislative body. We may elect a Speaker, for instance, by our votes, or we may appoint my colleague [Mr. VAN TRUMP] to declare who shall be Speaker, and the House may consent to his selection. The mode of action in regard to adjournment is left to the discretion of the House.

Now, the gentlemen on the other side have given us a lesson which I propose to pass over to gentlemen on this side of the House. Do you not observe, [addressing himself to the Republican side,] that every man on the other side wants you to adjourn, and interposes every possible objection and motion in order to prevent you from staying here or reassembling at any time before next December?

Mr. CHANLER. I rise to a point of order. The gentleman must address the Chair and not his colleagues. [Laughter.]

Mr. SCHENCK. Ah! Well, Mr. Speaker, I ask my friends on this side of the House, the Union Republicans of this body, to observe the fact that upon every question connected with adjournment we are met with an undivided solid phalanx on the other side; that every man on the other side will be found voting to get this Congress out of the way, and keep it out of the way as long as it can possibly be kept from its post of duty.

Mr. GETZ. Will the gentleman yield for a question?

Mr. SCHENCK. I decline.

Mr. CHANLER. I enter a general denial of all the gentleman says.

The SPEAKER. The gentleman from New York is out of order.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed and requested the concurrence of the House in joint resolutions of the following titles:

A joint resolution (S. R. No. 47) in relation to removal of Indian tribes; and

A joint resolution (S. R. No. 51) authorizing the transfer of certain funds, and providing for the purchase of seeds and their distribution in the southern States.

#### ADJOURNMENT OF CONGRESS—AGAIN.

Mr. SCHENCK. The gentlemen do not want to consider the question as one open to discussion. They want us to go away, and they want us to stay away. They want no Congress here between now and December next; and upon my soul I believe they would not have us reassemble in December if they could help it. And in this they but reflect the wishes of the President himself; for the intimation has been given out, not to be mistaken, that there is nothing at this moment which he is more desirous of than that the present difference between the House and Senate should be carried to such an extent that he might exercise what he would claim as his prerogative of dismissing us to our homes. I think there is a lesson in this manifestation which it will be well for gentlemen who cooperate with me in support of the views and policy which we advocate to lay to heart.

Now, sir, to go back to the question in regard to the execution of the laws which we have just passed in reference to the reconstruction of the rebel States, how will those laws be executed? Sir, if we adjourn I venture to say it will not be thirty days before some question of construction will arise as to who shall vote or who shall not vote, who shall do this or shall do that; and does any man doubt upon which side of that question of reconstruction the opinion of the President and those who sustain him will be found when there is no legislative department here to correct that omission by new legislative provisions if they shall be found to be necessary?

Why, sir, when the Supreme Court made that extraordinary decision in the Milligan case, in which it was held that no hostile foot had ever been upon the soil of Indiana, announcing what was not true and giving judgment in favor of a lie, does any one fail to remember that immediately afterward, when a case was pending in Virginia where a wanton murder had been committed in the interest of rebel sympathy, the President hastened to apply that decision to that particular case, going beyond the construction or understanding, as it now appears, even of the court itself?

Sir, in every case where there is a difference, where there is a question, where there is a doubt, as in complicated laws of this kind, as there unquestionably will be in regard to the application of the laws, or their true interpretation as applied to the restoration of these States, you may rely upon it there will be extraordinary application of the law, and extraordinary construction of it made in the interest of the rebels, who are to be shielded and protected thereby. And therefore I implore Congress not to leave now; or if they leave, I implore them to make provision for any needful return at an early day, so as to be on the watch, so as to be at hand, so as to be ready to apply such remedies as legislative wisdom and power can devise in case of such events as these.

And there are other reasons. I will not go at length into this question of impeachment. I differ from a great many upon the floor of this House in regard to that subject. There are differing opinions in regard to what are impeachable offenses. There are men in this country, able lawyers it is said, who insist upon it that the provision in the Constitution which declares that the President, the Vice President, and other civil officers may be impeached for treason, bribery, or other high crimes and misdemeanors, relates only to those things which are punishable under statute-law. Now, if that be so, if that is to be taken as the legitimate construction of our power to impeach, then we stand upon very narrow ground indeed, so far as that means of protection can be interposed against usurpation, tyranny, or wrong-doing of any kind upon the part of those who fill the offices of this country. If it be true that that is all the Constitution means, then, should Andrew Johnson appear in this Hall day after day during our entire session, drunk and incapable of the performance of any duty of any kind, we could not impeach him, because that would not be an indictable offense under our statutes; it would not be a high crime and misdemeanor in the opinion of gentlemen who construe our Constitution in that way. If Andrew Johnson, having under the Constitution the right to interpose his veto, present his objections to and refuse his approval of the laws we may pass, should employ himself day after day at the other end of the avenue in vetoing every bill which we might pass, according to the opinions of those gentlemen he could not be impeached for thus obstructing the operations of the legislative department of the Government. I say that neither Judge Story nor any other jurist who has written upon this subject, and whose opinions are worth considering at all, has ever assented to any such absurdity.

Then, what are we doing in the matter? We have been apparently nursing along for the last two or three months a proposition to investigate the conduct of the President with a view to his impeachment. I am one of those who believe that so close an investigation, with a view to discovering particular peccadillos concealed from the public eye, was hardly necessary when the history of the country for the last eighteen months is but a history of usurpation upon his part, of defiance of the law-making power, the truth of which assertion is presented in the very public documents which he himself has given to the country and to the world.

Andrew Johnson defies the legislative department of this Government; Andrew Johnson claims that he himself is the State, the Government; Andrew Johnson insists upon doing himself all those acts necessarily legislative in their

character, which prescribe the forms and the plan upon which these rebellious States shall be restored. And when Congress acts, he turns to these people in the rebellious States, who are the subjects of that legislation, and says to them: "All this that the law-making power is doing is usurpation, is tyranny, is oppression; and if you were to resist it you would rank yourselves among the Hampdens and Sidneys, the great martyrs of liberty and freedom throughout the world," thus preaching rebellion in his very official papers.

Now, I think that grave and great political crimes like these are proper subjects for impeachment; much more so than anything which may be ascertained by any investigation, though it should amount to the stealing of a five-dollar note. But no matter what may be the differences of opinion among us upon the question, we have entered upon this investigation; and I say we shall be recreant if we do not either carry it out vigorously, promptly, speedily, in such way as to come to some conclusion upon it, or else upon the ground of expediency, or any other which may be thought proper, magnanimously abandon the further pursuit of the subject.

And yet we have decided to do neither. We have neither decided to abandon it, to give it up as an inexpedient undertaking, and upon the ground that the game is not worth the pursuit; nor have we shown ourselves disposed to pursue it vigorously and bring it to some effective conclusion. I think we ought not to adjourn until we decide this matter one way or the other.

Then, again, there lies here close to our doors a difficulty. What is the condition of the State of Maryland? The spirit of rebellion is there triumphant at this very hour; and those who are animated by hostility to the national Government, having obtained by fraud the control of the government of that State, are seeking to use fraud for the perpetuation of itself, for the continuance of fraud upon the rights of the people of the State. A convention to frame a new constitution has been called in a manner expressly prohibited by the present constitution of the State. And we have the assurance that when the disloyal people of the State move in this irregular way, there will be a movement made upon the part of the Union people, in order that they, too, in an irregular way (if irregular ways are to be resorted to) may have their convention and adopt their constitution. Under these circumstances I believe upon my soul a collision attended with bloodshed is inevitable in that State before the approaching summer is over, unless there be a moral and a legal influence exerted by the near presence of the legislative department of this Government, in the full exercise of its functions, to prevent the sympathy, if not the active coöperation of those who might interfere against the loyal men of Maryland.

Maryland lies in immediate proximity to this Capitol: you have no access to this spot except through her Territory; and with this dark prospect, with this gloomy cloud looming up here at our very doors, it is proposed that the members of this Congress shall abandon their posts, go home and leave it to the President to do as he pleases. Sir, does any one doubt that if such a collision should take place, all and more than all that was enacted in New Orleans will be enacted again, if not by the direct connivance, at least with no sympathy against its commission, upon the part of those who are in authority at the other end of the avenue.

Mr. KELLEY. In connection with the gentleman's remarks as to the condition of affairs in Maryland, I would like the Clerk to read a letter which I received yesterday morning from one of the most distinguished citizens of Maryland—a man in every way trustworthy.

Mr. SCHENCK. I yield for the purpose of having the letter read.

The Clerk read as follows:

"It would have been better for us (if Congress adjourns now without considering Maryland's situation) had we died with the South as traitors, and come up with them in the resurrection of reconstruc-

tion. The Legislature has tied us, as far as their little sense and their blindness of malice would allow, hand and foot; they have called a convention and given the power of it to the late slaveholding counties arbitrarily; they have perpetuated slavery in the negro-apprentice code, and cut off all remedy in State courts, by shutting up the criminal court of Baltimore to such complaints; they have determined to make us pay for slaves by appointing a commissioner in each county to register the number and the proprietorship; they have provided remuneration for all officers who resist the civil rights bill, and allow no negro testimony; they have refused to pass a bill allowing them to testify; they have put the militia of the State under rebel control, and exclude, not in terms but in fact, the blacks from enrollment; they have increased the old Kane police to five hundred men, and now, if you gentlemen choose to sit in Washington, your armed enemy is not on the other side of the Potomac, but on this. Congress ought not to adjourn till it hear from our Radical convention, which meets on Wednesday, (27th,) nor until it has passed a law directing how this reconstruction shall take place in Maryland, and putting us on the same footing with other slaveholding States.

"I implore you to use your influence to keep it there, no matter how wearied you are, as I know you must be."

Mr. SCHENCK. That is but a confirmation of what I was saying; and if we need other confirmation, we have it in the very able memorial upon this subject signed by the Union members of the Legislature of Maryland. That memorial, which was presented a few days ago by the honorable gentleman from Maryland, [Mr. THOMAS,] and referred to one of the committees, shows that the condition of things in that State requires watchful care. I take the liberty to embody that memorial as a part of my remarks:

*"To the honorable Senate and House of Representatives of the United States:*

"The undersigned, members of the General Assembly of Maryland, respectfully present this memorial to your honorable body on the condition of public affairs in this State, to which they ask the immediate consideration of the national Legislature. The General Assembly of Maryland is about to adjourn, after a session as memorable for evil and as important to the country as that which consigned the Legislature of 1861 to the casemates of Fort Warren. Elected in great part by the deliberate violation of the election law of the State, by the votes of men who were in active accord with the rebellion, and whose hatred to the Government rendered the presence of military force during the war necessary to prevent their active aid to the rebels in arms, and in spite of which they did give large aid in men and money, they have marked their session by a series of acts to which we desire to call your attention. The rebels of Maryland sent South during the war some twenty thousand soldiers to the rebel army. These men have nearly all returned, and a large immigration from the South since the war has largely added to that number. By a doubtful construction of a clause in the existing constitution this General Assembly, thus elected, has enfranchised all white men, no matter what treason they may have committed, and has thus added to the voting population about thirty thousand persons who have only lately ceased an armed resistance to the Government. Not satisfied with this, they have just passed a militia bill which, in direct defiance of the present constitution of the State, has made all white rebels, no matter what their previous treason, part of the militia.

"They have by deliberate vote refused to exclude even from the highest office under the law any person, no matter what his rank in the rebel army, and they are about to put in force this law, the effect of which is against our own constitution and the Army laws of Congress; to put in the rear of the capital an armed force, composed largely of the same men who have just been forced to cease armed attempts to capture the capital. One great reason of this bill is to better carry out the scheme of revolutionizing the government of the State, abolishing the existing constitution, and making another still more firmly fastening on the necks of the loyal people the yoke of rebel control. The present constitution of Maryland, while it does not allow colored suffrage, does not give to the latemasters the right to represent in the Legislature their disfranchised freedmen. It bases representation on white population. These conspirators, not satisfied with controlling the Legislature and the executive department, have passed a bill calling a convention for a constitutional convention on the 10th day of April, the convention to meet on the second Monday of May, 1867. This they have done, although the constitution provides that the Legislature shall pass no laws providing for a change in the existing constitution, except in the mode therein prescribed; and although the constitution regulates the representation in any convention called to make a new constitution by fixing it the same as that of each county in the General Assembly, they have fixed an arbitrary basis of representation which, while it excludes the colored man from the ballot-box, gives to the old worn-out counties, which were as rebellious as South Carolina, an increased representation, by which the oppressor is to represent the oppressed against his will, and by which a minority of the people of the State are to hold in their proposed convention the same power as the majority.

"The State of Maryland has at present a colored population of at least two hundred thousand, and by

immigration since the war perhaps two hundred and fifty thousand, making a voting population of from forty to fifty thousand. In most of the counties whose representation has been thus illegally increased the colored population is equal to or greater than the white. The House of Representatives of the United States has already passed a resolution of inquiry whether the present constitution of this State is now republican, and since the colored man is now a citizen it may well be doubtful whether a State which excludes for no crime one fourth of its population who are citizens is republican. This General Assembly has inaugurated, however, a movement which, from the illegal representation made in the bill itself, actually now accomplishes not only the exclusion of this population from suffrage, but also gives the disloyal population a representation for them. The present judiciary of the State is for the most part loyal, and one object of this movement is to legislate out all the remaining loyal officers whom they have not already removed, and place ex-rebels, perhaps brigadiers and colonels of the rebel army, in their places. Not satisfied with the pardon and the charity which Union men have extended, they have commenced a reaction against the results of the war, and determined on a policy which, if unchecked, destroys a loyal constitution and puts in its place one made by traitors and flagrantly anti-republican, and places an armed militia of disloyal men and a minority government of rebel sympathizers and rebels in the complete possession of this State. While the South is about to commence a career of freedom and progress, these men, untaught by the lessons of the past, have determined by the forms of law, but in violation of both the State and Federal law, to put this State back into a condition of darkness and slavery.

"These acts, we submit, are in violation of State and national law—oppressive, revolutionary, and dangerous to the order and peace of the nation. The Union men of Maryland are groaning under this tyranny. They are now oppressed by verdicts of disloyal juries in many counties. Immigration into the State, except from the South, is stopped, and some loyal men are deliberating on leaving the State. The most, however, are ready, by all proper means, at all personal hazards, to resist this infamous attempt of oppression. The danger of bloodshed is imminent; the time is perilous. We call on Congress not to adjourn before settling this grave matter, which, if not settled, may startle them in their recess by something worse than the massacre at New Orleans, although not so unequal and one-sided. We earnestly ask, on the part of the majority of the people of Maryland, deprived of legal voice, except through us, a minority of the General Assembly, that Congress will guaranty to us a republican form of government on the only basis of right, truth, and peace—impartial suffrage, without respect to race or color—as it has already guarantied it to the southern States.

"Signed by seven Senators and twelve members of the House of Delegates."

Now, sir, I come back to the question as to what the President will probably do if he can get us out of the way and keep us out of the way until next winter? Suppose that by a writ of *habeas corpus* or otherwise the question should be made before Judge Field or Judge Davis or any of those gentlemen concurring in the Milligan decision, and it should be claimed that any one arrested under our recent legislation on the subject of reconstruction must be discharged upon the ground of the unconstitutionality of all that Congress has done on this question, do you suppose that there would not be found a decision to suit the occasion? Do you suppose you would not have an Executive ready at once then to withdraw all the military force from these States and leave them in the condition in which we found them, or worse, at the close of the war? I say we have no assurance what is to be the result of our legislation when applied in practice; but we have every reason to believe that between now and next December such decisions will be made, such course taken, such construction put upon the law, as far as may seem to be on the face of it, at any rate, within the power of the Executive, as to deprive that law of all its vital force.

At this very hour I repose more confidence in the acquiescence of the rebels themselves at the South in that much we have done than any expectation or hope from the Executive in having it done well. Why, sir, at this very moment these rebels all over the South are ready to accept the situation, and accept it in such way as means something, while here is exhibited the strange spectacle of the head of the Government himself, of the President of the United States, inciting them and encouraging them and imploring them as they are patriots and freemen not to submit to the laws which have been enacted, which he has not approved, but which Congress has passed over his head.

Some gentleman asks me if there be not some *arrière pensée*, something behind the Supreme



Court thus adjourning to meet at an early day. I do not wish to cast any imputation on that court, even by supposing they had any such thought as that. But the singular spectacle is proposed to be presented of an Executive who shall be continuous in the exercise of his power, of a judiciary which shall adjourn from day to day, and always on hand to exercise its power, while the legislative department is called upon to give up its ability to act entirely, except that action may be permitted by the will of the man who is arraying himself continually pretty much against all they do. It is madness for any one to expect that the President will in any contingency call us together, and it is only for the two Houses to say, while the other departments of the Government continue their power without interval, without any interregnum, that we shall meet the expectations of the people when we provided this Congress should assemble at the commencement of its term on the 4th of March. If we adjourn now until December we might as well perhaps not have met at all.

The gentleman from Illinois asks me to give him a portion of my time, and I would like to know how much I have left?

The SPEAKER. The gentleman has nine minutes.

Mr. SCHENCK. I give six minutes to the gentleman from Illinois and three minutes to a gentleman on the Committee on the Judiciary who has some explanations to make, which he deems important, in reply to what was said the other day.

Mr. LOGAN. Mr. Speaker, I have not indulged before in the discussion of this question of adjournment, but inasmuch as I have opposed in my votes any adjournment at all, I desire to give my reasons for thus acting. If we will cast about the House we will find the proceedings of this Congress are rather anomalous, and this question of adjournment, presented to the country as it is, requires us in our own minds to answer more than the mere question why shall we adjourn now.

First, why is it that the Congress of the United States passed a law assembling the Fortieth Congress on the 4th day of March? There must be a reason, sir, why that law was passed. What was the reason for the passage of that law? There must have been something which operated upon the members who voted for that law, thus placing it upon the statute-book as one of the laws for them to obey. If there was a reason for the assembling of the Fortieth Congress, what was that reason? It cannot be said it was merely to pass a supplemental bill to the reconstruction bill, for that was not thought of or proposed at the time this law was passed. It must have been for a different reason.

It was because at the time when the angry clouds of war were passing away, and the bright rays of the sun of peace were shining forth, there was still a necessity for the guards on the watch-tower to see that no harm came to the Republic. It was for that reason; and I ask honorable members to tell me if the same reasons for assembling the guards at the posts for the preservation of this country which existed on the 4th of March do not exist now? Has there been any change in the conduct of the affairs of the Administration? Has there been any change in the policy of the men at the head of the Government? Veto after veto is sent to this House, the same policy is persisted in as heretofore; and yet we are told that this Congress, which assembled in accordance with law on the 4th of March, must adjourn without having passed one great measure except the supplemental reconstruction bill.

I ask honorable gentlemen here to-day who voted for this assembling of the Fortieth Congress what they will say when they go home to their constituents? How will they explain their action to them when they are asked, "Why, after you voted for this law convening the Fortieth Congress, did you sit four weeks accomplishing so little?" With but two or three standing committees appointed, we placed

ourselves before the country as if enacting a farce. Did we assemble here to place ourselves in that ridiculous attitude before the country, as a set of men without backbone enough to do that which we called ourselves together to do? I want to know if members will feel justified in sitting here four weeks, taking up bills from the Speaker's table from day to day and passing them without reference to an appropriate committee or referring them to some committee to be appointed at some future time, God only knowing when they will be brought back for action?

But what, I repeat, will you say to your constituents when they ask you these questions, when they ask you why you did not have your committees appointed, so that you might legislate? Will you answer, "We could not do anything because we were not prepared to legislate?" Then they will ask you, "Were you not alarmed lest the Chief Magistrate of the nation would fail in the execution of your laws?"

Mr. SPALDING. Will the gentleman answer a question?

Mr. LOGAN. I cannot be interrupted by questions during the short time I am allowed by courtesy.

Mr. SPALDING. I wanted to vindicate the Chair.

The SPEAKER. The time of the gentleman from Illinois [Mr. LOGAN] has expired.

Mr. SCHENCK. I demand the previous question.

The SPEAKER. The Chair will state that the gentleman from Illinois [Mr. LOGAN] or any other member has a right to criticize the Chair for not appointing committees.

Mr. WOOD. Has not the hour expired?

The SPEAKER. Not quite; there is one minute remaining.

Mr. WOOD. I hope the gentleman from Ohio [Mr. SCHENCK] will allow a word to be said in reply.

Mr. SPALDING. I wish to inquire of the Chair whether, if the previous question is seconded, the first question will be on the amendment, or whether a motion to concur in the Senate amendment will not take priority?

The SPEAKER. The occasion on which a motion to concur has priority is when there is a motion to insist on a disagreement, and then the motion to recede takes precedence of the motion to concur.

Mr. SPALDING. If the amendment is voted down it will then be in order to move to concur.

The SPEAKER. It will.

The previous question was seconded—ayes 64, noes 35; and the main question ordered.

The SPEAKER. The question will be first on the amendment of the gentleman from Ohio, [Mr. SCHENCK], and then on the amendment of the Senate.

Mr. SCOFIELD. Will there be no further opportunity to amend?

The SPEAKER. There will not.

Mr. SPALDING. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 51, not voting 38; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Benjamin, Benton, Blaine, Boutwell, Brookm, Butler, Cake, Churchhill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Farnsworth, Fields, Finney, Gravely, Hamilton, Hayes, Hooper, Hopkins, Hunter, Ingersoll, Judd, Kelley, Koontz, William Lawrence, Loan, Logan, Loughridge, McCarthy, McClurg, Meyer, Miller, Morrill, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Schenck, Scofield, Shanks, Thaddeus Stevens, Taffe, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—75.

NAYS—Messrs. Archer, Baldwin, Barnes, Bingham, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Cornell, Denison, Eldridge, Ferriss, Ferry, Getz, Glossbrenner, Griswold, Haight, Holman, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Kitchen, Laffin, Lincoln, Mallory, Marshall, Marvin, Morrissey, Mungen, Ncomb, Niblack, Nicholson, Noell, Poland, Randall, Robertson, Robinson, Ross, Sitgreaves, Smith, Spalding, Stewart, Taber, Twitchell, Van

Auken, Van Trump, Cadwalader C. Washburn, and Wood—51.

NOT VOTING—Messrs. Ames, Beaman, Bromwell, Cobb, Dawes, Eliot, Fox, Garfield, Halsey, Harding, Hill, Asahel W. Hubbard, Hulburd, Julian, Kelsey, George V. Lawrence, Lynch, McCullough, Moore, Moorhead, Morgan, Phelps, Pike, Pomeroy, Price, Pruyn, Raum, Sawyer, Selye, Shellabarger, Aaron E. Stevens, Stone, Thomas, Van Aernam, Van Wyck, William B. Washburn, James F. Wilson, and Woodbridge—38.

So the amendment to the amendment was agreed to.

During the call of the roll, the following announcements were made:

Mr. SHANKS. My colleague, Mr. JULIAN, is absent by leave of the House, on account of the illness of a member of his family.

Mr. WARD. My colleague, Mr. VAN AERNAM, has gone home in consequence of ill-health. If he were here he would undoubtedly vote "ay" on this question.

Mr. ARCHER. My colleague, Mr. STONE, is detained home by extreme illness.

The result of the vote was announced as above recorded.

The amendment of the Senate, as amended, was then agreed to.

Mr. SCHENCK moved to reconsider the vote by which the amendment, as amended, was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. LOGAN. I rise to make a privileged remark. I did not hear some remarks by the Speaker, which gentlemen about me say he made a few moments since. I am told that at the close of my remarks the Speaker said that I had a right to reflect upon the action of the Speaker if I so desired.

Now, I assure the Speaker that there was no intention or desire on my part to reflect upon the integrity of the Speaker, or to insinuate anything against him. If the Speaker made any such remark, I am sorry for it, for he must have done so under a misapprehension. What I said was this: that we had been sitting here now for four months without the committees of the House being appointed. I meant no reflection by that; I was merely stating a fact known to the country. The fact is so, and it is as much the fault of the House as of the Speaker. There was no intention on my part to reflect upon the Speaker at all.

The SPEAKER. The Chair did not make the remark to the gentleman from Illinois, [Mr. LOGAN,] but to the gentleman from Ohio, [Mr. SPALDING,] who, as the Chair understood, rose to a point of order, and objected to the gentleman from Illinois criticising the action of the Speaker of the House. To that the Chair replied that the gentleman from Illinois, or any other gentleman who might desire to do so, had a perfect right to criticize the action of the Speaker. The Chair had taken the responsibility of not exercising the right given him by the rules of appointing all the standing committees of the House, knowing very well that some members might complain of it. But at the beginning of this session the Chair stated that for obvious reasons, meaning the absence of a number of Representatives of States represented in the last Congress, he would not arrogate to himself the right given him under the rules of appointing now all the standing committees of this House unless he was ordered so to do by the House; in which case, being the servant of the House, and fully acknowledging their right to direct him, he would obey. The House, from time to time, has ordered him to appoint several standing and select committees. But the Chair felt that in the present anomalous condition of things it was his duty not to surprise the House some morning by the announcement of all the standing committees unless so ordered by the House. The gentleman from Illinois [Mr. LOGAN] commented upon the fact that the committees of the House had not yet been appointed by the Chair. The gentleman from Ohio [Mr. SPALDING] objected to the criticism. The Chair stated that the gentleman from Illinois, [Mr. LOGAN,] or any other member, had the right

to criticise the Chair for not appointing the committees, as the House understood exactly what the case was.

Mr. LOGAN. Understood from gentlemen about me that the Chair had made his remarks in reply to remarks made by me, otherwise I should not have said anything now.

Mr. SPALDING. My design was only to give the reason for the action of the Speaker.

#### LEAVE OF ABSENCE.

The SPEAKER. The Chair has been requested to ask leave of absence for Mr. VAN AERNAM, Mr. ORTH, and Mr. HUNTER, for the remainder of the session.

No objection was made, and leave was accordingly granted.

#### ORDER OF BUSINESS.

The SPEAKER. The House will now resume the consideration of reports from committees during the remainder of the morning hour, which has been interrupted by the consideration of the resolution relating to adjournment.

#### CLAIMS BY FOREIGN GOVERNMENTS.

Mr. BANKS, from the Committee on Foreign Affairs, reported a joint resolution concerning the payment of claims made by foreign Governments against the United States for property destroyed by the armies of the United States; which was read a first and second time.

The joint resolution, which was read at length, declares that, in the opinion of Congress, no claim made by other Governments or by citizens or subjects of other Governments for losses of property sustained by such Governments, citizens, or subjects during the recent rebellion should be recognized or allowed by the Executive Departments of this Government until the same shall have been submitted to Congress with all the facts relating thereto.

Mr. BANKS. Mr. Speaker, this resolution is substantially the same as one which was referred to the committee upon the motion of one of my colleagues. The object is to prevent the offset of any claims we may have against the Government of Great Britain by a recognition or allowance of claims on the part of that nation against this Government or its citizens until the facts and evidence shall have been submitted to Congress. I presume there can be no objection to the resolution, and I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRITISH AMERICAN CONFEDERATION.

Mr. BANKS, from the Committee on Foreign Affairs, reported a joint resolution respecting the proposed confederation of Provinces on the northern frontier of the United States; which was read a first and second time.

The joint resolution, which was read at length, declares that the people of the United States cannot regard the proposed confederation of the Provinces on the northern frontier of this country without extreme solicitude; that a confederation of States on this continent, extending from ocean to ocean, established without consulting the people of the Provinces to be united, and founded upon monarchical principles, cannot be considered otherwise than in contravention of the traditions and constantly-declared principles of this Government, endangering its most important interests, and tending to increase and perpetuate embarrassments already existing between the two Governments immediately interested.

Mr. BANKS. I call the previous question.

Mr. BROOKS. There is a single question of fact in reference to which I should like to be informed before we are called upon to vote.

Mr. BANKS. I yield for any inquiry.

Mr. BROOKS. Is it true that the people to be embraced in this new confederation have not, as represented through their Legislatures, consented to the action of the British Government? Are the committee sure as to the fact stated in the resolution? It is desirable that we shall not in our resolutions make averments of fact which cannot be sustained.

Mr. BANKS. Mr. Speaker, I understand that a principal point of the contest in the Provinces, and also with the opponents of this measure in the British Government, is that the proposition to confederate these Provinces on the northern frontier has never been submitted to the people of the colonies, though the Legislatures of most of the colonies have assented to it. One of the Provinces, Nova Scotia, by a remonstrance signed by thirty thousand of its citizens, has protested against the confederation. The citizens joining in this remonstrance constitute a majority of all who would be permitted to vote even under our laws; yet the Legislature of Nova Scotia has approved and consented to the confederation. That I understand to be the fact.

Mr. WOOD. Will the gentleman yield to me for a moment?

Mr. BANKS. Yes, sir.

Mr. WOOD. Mr. Speaker, I regret that the committee has not seen proper to refer to monarchical Governments attempted to be established in other portions of the continent than upon the northeast; and I would ask the chairman whether the committee have considered the resolution referred to them in the early part of the session, relating to the establishment of monarchical Governments anywhere on the American continent. The attention of Congress has been demanded, not only to the contemplated monarchy in Canada, but also to the attempted monarchy in Mexico. The principle implied in this resolution calls, in my judgment, for not only a general expression of opinion with reference to the establishment of monarchical Governments, but a declaration of sympathy for republican Governments elsewhere. And I would like to have had that committee make a report in sympathy with the struggling people of Ireland, who are seeking to establish a republican government there. I now ask the chairman what has become of the resolution referred to them in the early part of the session sympathizing with the people of Ireland, as well as against the establishment of monarchical Governments anywhere on this continent?

Mr. BANKS. The committee has instructed me to report a resolution in answer to the one presented by the gentleman from New York, and it will be submitted after this resolution has been acted on.

In regard to this resolution, Mr. Speaker, it was thought to express the views of the House on the question immediately pending. It is regarded that the question of monarchical or imperial government in Mexico has been settled. We are notified that the French troops have been withdrawn. The last soldier has left, and the Emperor, if he has not already left, will soon leave. It was not regarded as necessary nor involved in the resolution of the gentleman from New York that subject being more immediately and directly connected with the interests of the country, and requiring more positive action than the expression of opinion, has been left for future consideration.

Mr. CHANLER. I want to see whether I understand the resolution. I agree with the principles which underlie it; but it seems to me to be illogical. The gentleman protests against the establishment of a monarchical Government to northeast of this Union. If Great Britain rules her colonies under a monarchical form of government, why not meet it at once, and say we take issue with Great Britain in holding any dominions on this continent, unless she gives them the right of self-government such as we now have? A monarchical form of government does exist in Canada to-day. The Queen of England rules that

Government directly to-day under the laws of England and under the imperial system of England. I do not see that the resolution contains anything positive; that it fulminates anything from this Congress which is going to disturb a hair of the British lion; and unless he intends to carry this matter to some point which will make our power felt, I think it is wiser for us to remain silent. If we propose to make up a political issue with Great Britain as to the form of government in her colonies on this continent, well and good. Let us insist on the independence of Canada, and take up arms with Canada on that issue.

This resolution means nothing. It contains nothing which is true. It assumes the Government of Canada to-day is not monarchical. I merely make the suggestion as the tendency of my views on this question.

Mr. BANKS. It was not the intention of the committee to present any menace or any threat or to make any protest on this question, not even to determine the character, but looking to positive results proposed in her colonies by the Government of Great Britain. But it does express an opinion, so far as this changed condition of the colonies is concerned, extending as they do from the Atlantic to the Pacific ocean, representing principles hostile to the interests, antagonistic to the Government of this country, that it cannot but be regarded with solicitude and as in contravention of the rights and interests of this Government. Beyond that the committee did not think it was proper to go, nor is further action required at this time. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CHANLER demanded the yeas and nays on the passage of the resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SYMPATHY FOR IRELAND.

Mr. BANKS. I am instructed by the Committee on Foreign Affairs to report the following resolution:

*Resolved, That this House extend its sympathy to the people of Ireland and of Candia in all their just efforts to maintain the independence of States, to elevate the people, and to extend and perpetuate the principles of liberty.*

Mr. BANKS. I yield to the gentleman from New York, [Mr. ROBINSON.]

Mr. ROBINSON. Mr. Speaker, how much remains of the morning hour?

The SPEAKER. Twenty minutes.

Mr. ROBINSON. I do not intend at this time to make any lengthy remarks, and yet I desire to make some observations rather than let this resolution pass in silence. I trust before this Congress adjourns I shall have an opportunity of introducing a stronger resolution than this. I presume I may say, without any disrespect to the chairman of the committee, or to the other members of the committee, or without referring to anything that may have occurred in the committee, that I should have preferred a much more decided expression of sympathy than this. But such as it is I trust it will pass as the beginning of good things. Before this Congress expires I hope to have the privilege of introducing a resolution not only of sympathy, but acknowledging the belligerent rights and independence of Ireland.

I throw this out in no spirit of bravado. I believe the independence of Ireland will come. I believe that the train of circumstances now in operation will bring about that result.

"Truth crushed to earth shall rise again."

Long as Ireland has been crushed she will yet rise and maintain a position among the nations of the earth.

Nor can England take any exception to our interfering in this matter. She has no more business with Ireland than we have. She has no right, title, or claim whatever in that country except that which had its origin in fraud and force. She took possession of Ireland by force and fraud, and she has made that country through seven centuries of oppression a howling wilderness. She has inflicted wrongs upon that people which no other nation under the sun has suffered from another. She has perpetrated crimes and outrages such as no other civilized nation has dared to inflict. English rule became a curse to the people of Ireland and "the curse of Cromwell," one of England's instruments in subduing Ireland, became the synonym of everything cruel and oppressive.

But, as I have said, I will not go into the details of the wrongs of Ireland, nor enter into any lengthy argument to show why we have a right and that it is our duty to interfere. In conversation with the Chaplain of the House to-day reference was made to the parable of the good Samaritan. Sir, I maintain that we have the same authority to interfere that the good Samaritan had when he saw a stranger by the wayside who had fallen among thieves and lay beaten and bruised. We can at least extend our sympathy to the fallen and oppressed if we cannot give them more substantial proofs of our friendship. There is hardly a Government in Europe that does not interfere with the affairs of other countries. Napoleon dictates where the lines of empire shall run. Emperors and kings are all the time making new maps of Europe and running new boundaries of kingdoms and empires. There is no monarch, great or small, on the European continent that has not interfered and dictated terms to his neighbors, provided he thought he was strong enough to enforce them. And, sir, has not the great Republic of the West the right also at least to be heard in protesting against the wrongs of other nations? Have we not at least a right to take part in preventing tyrants from acts of oppression?

I may be asked what are Ireland's chances of success? Her chances for success are greater than any other people ever had who have achieved their independence. They are all rebels in Ireland. There is not to-day an honest Irishman upon the face of the earth who is not a rebel against British rule in Ireland. The distinguished plenipotentiary who now represents her Britannic Majesty near this Government is a descendant of one of the most famous of Irish rebels, the Bruce of Bannockburn. There is no nobility of blood in Ireland but that which has sprung from rebellion against English rule over Ireland, and has been sanctified by suffering in the prison or on the scaffold in the cause of the liberty of their country.

The sympathies of all the world are with Ireland, while England has the sympathy of no human being except its office-holders and garrisons. It is something to have the sympathy of mankind with you against your oppressors.

Now, we are told that Ireland cannot govern herself. That statement is not true; Ireland can govern herself. Irish intellect to-day governs the world; Irish intellect is good enough to govern England. Even the poorer sort of Irishmen, like the late Duke of Wellington, proves good enough for that business. Irish intellect to-day is uppermost in all the transactions of England. She rules in her Parliament; she directs her press; she commands her armies; she fights her battles. Why may she not do so for herself? Ireland to-day has more disciplined men than any nation in the world, men who have learned the use of arms, who have smelled gunpowder; they are all over the world, in every clime, in every land. Irish valor of the second generation has bloomed into glory upon every battle-field of this and other countries, leading the armies of Spain by an O'Donnell, the armies of France by a

McMahon and Neil, the armies of Austria by a Nugent. In these United States, upon this very floor, may be found Irishmen of the second generation, whose deeds I need not recount, as they are on everybody's lips, and are a part of the history of this country. Look through the history of the late war, and see how many of the generals, and, above all, of the private soldiers were Irish by birth or blood, who have fought and bled for our glorious flag.

To-day Ireland can raise the strongest army the world ever saw. Her sons have been disciplined in the British army, in the Army of this country, and of every country in the world. She has more men now scattered throughout the world ready to come to her assistance than would under equal advantages conquer twenty Englands if they stood in her way.

I know the great difficulty is in gaining the first success. But other countries have achieved their independence without the strength that is behind this movement, and some time, in God's own good time, Ireland will be able to take that first step in her forward movement, and then there will be no holding her back. The first step gained everything else is easy.

I trust this resolution will pass this House without objection. It is time for these United States to take a firm stand with our foreign relations and maintain a dignified position upon all questions connected with them. I long for the day to come when we shall have no more of these criminations and recriminations among ourselves; when we shall cease these bickerings about our own firesides, and look to the condition of affairs abroad. Above all do I long for the day when in place of abusing each other at home we shall, as a reunited and undivided people, adopt and pursue such a policy toward other nations as will secure our citizens from the insults heaped upon them throughout the British dominions.

I have tried to get that matter before this House. If there were no other reason for our interference in behalf of Ireland, we have it in the fact that to-day no American citizen is safe upon the soil of Great Britain or in Ireland. Instead of the name of an American citizen being, as it should be, a badge of honor, a guarantee of personal security, a terror to the enemies of free institutions everywhere, it is in Great Britain to-day treated with more indignity than that of the citizen or subject of any other country. Two or three days ago I received the information from an American citizen in Liverpool that, without any evidence to justify even a suspicion that he was implicated in any crime against the Government of Great Britain, he was arrested and dragged to jail, where, without even the form of trial, he was stripped of his citizen's clothes, dressed in the garb of a convict, and set to work to scrub the floors of the prison. If this is the treatment received by American citizens from the present governors of Ireland, may we not be pardoned for sympathizing with a movement which promises better treatment to our citizens under better rulers?

Mr. Speaker, I am admonished that there are but two or three minutes more which we can spend for taking the vote on this subject, and should I prolong my remarks I may prevent, for to-day at least, the favorable action of the House upon this resolution, which I very much desire. I therefore close abruptly.

Mr. BANKS. Mr. Speaker, I now yield to the gentleman from Missouri [Mr. PILE] three minutes.

Mr. PILE. Mr. Speaker, I do not of course intend in the meager time allotted me to make a speech upon the general question of the wrongs of Ireland and our relations to that country. I desire simply, in the first place, to suggest to the honorable chairman of the Committee on Foreign Affairs a verbal modification of the resolution. In its present form it expresses sympathy for the people of Ireland in their "efforts to maintain the independence of States." I would suggest that they are engaged in an effort, not to "maintain," but to establish "the independence of States."

They have not for years possessed such independence. I propose that the resolution be modified so as to read "in all their just efforts to acquire and maintain the independence of States."

I desire, in the second place, to remark that I hope this resolution will be passed, although it is not so strong in its language as I had hoped and expected it would be. On some future occasion I shall, if opportunity offer, take occasion in another form, and when asking a more effective kind of legislation, to say what I wish to say upon this subject. I only wish now to remark that, without inquiring into the character of the people concerned, without regard to the question with what political party they affiliate in this country, without reference to the probabilities of their success, it is, in my judgment, the privilege and the duty of this House to express sympathy for and encouragement to every people everywhere who are struggling against wrong and oppression, and seeking to acquire and maintain the rights which God intended every man should enjoy.

I wish to make only this additional remark: that it is a false idea in political philosophy that a nation or people must first be prepared for liberty by education or by mental elevation or by moral instruction before they exercise the right of self-government. Education, science, and religion have everywhere under the rule of despotism been the patrons of and servants to the ruling classes and despotic power. Man's first and greatest right is liberty and self-government; and only in the exercise of this liberty as an educator can he foster those attributes, the exercise of which is essential to his well-being.

[Here the hammer fell.]

Mr. BANKS. Mr. Speaker, it is the principle of monarchical Governments that once being States their continued existence as such must be recognized. That is the universal principle on which such Governments are administered. We claim the same for republican Governments. Ireland had once a Government of her own. That Government has been displaced by the English Government. If they are contending against the English rule they are contending to maintain the principle of the independence of States, and therefore I cannot accept the modification proposed by the gentleman.

Mr. WASHBURN, of Wisconsin. I move the following amendment:

*Resolved further,* That in sympathizing with the people of Ireland we deem it proper to declare our belief that the present Fenian movement must prove entirely abortive in bringing relief to that country, and that any encouragement to that movement by resolution, unaccompanied by force, can only result in involving brave, enthusiastic, and patriotic Irishmen in difficulties from which their brethren are powerless to extricate them.

Mr. BANKS. I hope that amendment will not be adopted. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BANKS. I am entitled to an hour to close the debate. In reference to the amendment I have only to say this: it was considered in committee, and it was not deemed advisable to present it to the House. There is no attempt on the part of the resolution of the committee to indorse that movement, nor did we think it necessary to condemn it on the ground that it may not be successful. I yield now to the gentleman from New York, [Mr. WOOD.]

Mr. WOOD. Mr. Speaker, the amendment is virtually a nullification of the resolution itself. The country well knows as the House knows that the present agitation in Ireland looks to the establishment of free government in that island as the result of this same Fenian movement. We all know it is this Fenian movement that has effected military organization in Ireland, and that every rebel in arms in Ireland and all the preparatory arrangements looking to the establishment of an independent government in Ireland have been pro-

moted, if not originally prompted, by this Fenian movement.

It may be true that it will cost lives, ay, of hundreds and thousands of men in the prosecution of the Fenian movement. All revolutions cost blood before they become successful. In our own revolutionary war oceans of blood were spilled before we were able to establish our independence of the mother country. Therefore, when we say by this resolution we sympathize with the people of Ireland in their present struggle, we say well and properly, but when we succeed it by saying that we are against the Fenian movement we nullify the resolution reported from the Committee on Foreign Affairs. I call for the yeas and nays on the amendment.

Mr. ELDRIDGE. I ask the gentleman to yield to me for a moment?

Mr. BANKS. Certainly, sir.

Mr. ELDRIDGE. I hope the amendment submitted to the resolution reported from the Committee on Foreign Affairs will not be adopted. I look upon it as does the gentleman from New York, as an evasion or nullification of the original resolution. It seems to me that it is idle for us to express sympathy with the cause of Ireland and at the same time deprecate every measure which the people of Ireland take for their alleviation. It is worse than mockery to tell them in their degradation and suffering that we sympathize with them, and yet advise against every effort they make to throw off the oppression which weighs upon them.

It is not for me to determine at the outset, and I desire not to do it, that the effort they are making through the Fenian organization may not result to their good. Ireland's nationality is a cause worthy of Irishmen. What shall be done to achieve it is for them to judge. Submission and inaction will certainly not save them. If they will as a nation be free, they must strike the blow themselves; they must wrench their freedom from their oppressors by their own strong arms. It may seem a desperate struggle, but who can say that the liberties of that brave and generous people are not worth all their efforts. Who of us can determine what may or may not be accomplished. If their cause be just and our sympathies with them, in the name of God, in the name of liberty, let us not disparage any effort or discourage any enterprise which to them may betoken success. Any blow which the oppressed may aim at the oppressor to regain his rights and liberty has my heart's best prayer for its success.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 10, nays 102, not voting 52; as follows:

YEAS—Messrs. Blair, Broomall, Farnsworth, Finney, Morrell, Noel, Peters, Cadwalader C. Washburn, Thomas Williams, and Windom—10.

NAYS—Messrs. Allison, Anderson, Archer, Delos R. Ashley, Baker, Baldwin, Banks, Barnes, Benton, Bingham, Boutwell, Boyer, Brooks, Buckland, Butler, Cake, Chanler, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Cullom, Denison, Donnelly, Driggs, Eckley, Ela, Eldridge, Ferriss, Ferry, Fields, Getz, Glassbrenner, Gravely, Griswold, Haight, Hamilton, Hill, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburt, Humphrey, Hunter, Ingersoll, Judd, Kerr, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Mallory, Marshall, Marvin, McCarthy, McClurg, Mercier, Miller, Moore, Morrissey, Mungen, Myers, Newcomb, Niblack, O'Neill, Orth, Perham, Pile, Plants, Polsey, Robertson, Robinson, Ross, Schenck, Selye, Shanks, Sitgreaves, Smith, Stewart, Taber, Taffe, Taylor, Trowbridge, Twitwell, Upson, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—102.

NOT VOTING—Messrs. Ames, James M. Ashley, Beaman, Benjamin, Blaine, Brownell, Burr, Reader W. Clarke, Cobb, Covode, Dawes, Dodge, Eggleston, Eliot, Fox, Garfield, Halsey, Harding, Hayes, Julian, Kelley, Kelsey, George V. Lawrence, Loughbridge, Lynch, McCullough, Moorhead, Morgan, Nicholson, Paine, Phelps, Pike, Poland, Pomeroy, Price, Pruyn, Randall, Raum, Sawyer, Scofield, Shellabarger, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Thomas, Van Aernam, Van Wyck, William B. Washburn, Welker, William Williams, and James F. Wilson—52.

So the amendment was rejected.

The question recurred on agreeing to the resolution, and it was adopted.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLERK TO A COMMITTEE.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be allowed a clerk for the Fortieth Congress when in session, at the same rate of compensation paid for similar service during the last session.

#### CAPITOL WATCHMEN.

The SPEAKER. The bill which passed the House authorizing the appointment of certain watchmen, and for other purposes, and sent to the Senate has been enrolled without the second section in relation to preserving the Capitol from defacement. If there is no objection it will be returned in order to be properly engrossed.

No objection being made, it was so ordered.

#### HENRY A. SMYTHE.

Mr. HULBURD. I am directed by the majority of the Committee on Public Expenditures to submit the following report and ask for its immediate consideration:

Whereas Congress having determined to adjourn, there is not sufficient time prior thereto for the Committee on Public Expenditures to conclude its investigation of the administration of the New York custom-house by Henry A. Smythe in the manner indicated by the House, although the committee, having given to Mr. Smythe two hearings, he has expressed himself content therewith unless the committee desires to prosecute the investigation further; and whereas in the opinion of the committee there is abundant affirmative testimony in the possession of the House of Henry A. Smythe's unfitness to hold the office of collector: Therefore,

*Resolved*, It is the sense of this House that Henry A. Smythe should be removed from the office of collector of the port of New York, and that a copy of this resolution and the testimony be transmitted to the President of the United States.

Mr. HULBURD. I demand the previous question.

Mr. CHANLER. Will the gentleman yield for an inquiry?

Mr. HULBURD. After the previous question is seconded I will hear the gentleman.

On seconding the previous question, there were—ayes 53, noes 19; no quorum voting.

The Chair ordered tellers; and appointed Messrs. HULBURD and CHANLER.

The House divided; and the tellers reported—ayes 61, noes 24.

So the previous question was seconded and the main question ordered.

Mr. HULBURD. I will now hear the question of my colleague.

Mr. CHANLER. I merely wished first to know what my colleague intended to do; whether he intended to put this resolution through before the testimony has been read. After he has stated his case I will ask him to yield to me such time as may be necessary.

Mr. ELDRIDGE. Will the gentleman allow me to suggest that there is an error of statement in the preamble? It recites that Congress has determined to adjourn. I understand there is no conclusion reached on that resolution by the two Houses.

Mr. HULBURD. I have no objection to amending by inserting the words "about to adjourn."

Mr. ELDRIDGE. It is not the fact; it is only a pretext for offering this resolution at this time. It is a false pretense.

The SPEAKER. As there has been some suggestion in regard to the two Houses disagreeing in regard to the time of adjournment, and the possible exercise of a certain privilege in that event by another branch of the Government, the Chair decides that the two Houses have agreed upon the time of adjournment. Both Houses have agreed to adjourn on Thursday. It is therefore an agreement as to the time when the two Houses will adjourn. The other part of the resolution in regard to the time to which Congress shall adjourn may be agreed upon hereafter.

Mr. FARNSWORTH. Do I understand the

Chair to say that the two Houses have decided to adjourn?

The SPEAKER. The Constitution says that when the two Houses disagree as to the time of adjournment the President may prorogue them. The Chair states, in answer to the gentleman from Wisconsin, that the two Houses have agreed to adjourn, the only difference between them being as to the time to which they will adjourn. Both branches have agreed to adjourn on Thursday at noon.

Mr. FARNSWORTH. I would inquire of the Chair if he would feel authorized, without any further action upon this resolution for adjournment, to adjourn the House to-morrow at noon?

The SPEAKER. He would not, because there are certain things connected with the matter of adjournment upon which the two Houses have not agreed.

Mr. ELDRIDGE. I would inquire if the resolution of adjournment is yet beyond the control of either House? If a committee of conference should be appointed upon the disagreeing votes of the two Houses, may they not even now change the time fixed for adjournment?

The SPEAKER. Committees of conference have very large powers; they may recommend amendments or qualifications in many respects. But the Chair will decide those points when they arise. As the gentleman from Wisconsin [Mr. ELDRIDGE] made such a positive assertion that the two Houses had not agreed to adjourn, the Chair expressed the opinion that they had agreed upon the time to adjourn, and that he should so rule when the question was raised.

Mr. ELDRIDGE. The positiveness of my statement was more from my manner than from what I said. I meant only to express an opinion.

Mr. BOYER. I desire to ask a question of the gentleman from New York, [Mr. HULBURD.]

The SPEAKER. The gentleman from New York having resumed his seat and surrendered the floor, no debate is now in order except by unanimous consent, the call for the previous question having been sustained.

Mr. CHANLER. Before the previous question was called my colleague [Mr. HULBURD] informed me that after the previous question was seconded he would yield to me.

Mr. HULBURD. I did yield to the gentleman for a question.

Mr. CHANLER. I desire to have this resolution explained.

Mr. HUBBARD, of Iowa. I object to debate.

Mr. CHANLER. I do not want to debate the resolution; I only want to ask a question.

The SPEAKER. No debate is in order without unanimous consent.

Mr. SCHENCK. I think the recital in the preamble of the resolution is utterly wrong where it says that Congress has agreed to adjourn.

Mr. HULBURD. The Speaker has overruled that point; I have no objection to varying the statement.

Mr. SCHENCK. I rise for information, as our position in regard to adjournment is alluded to in this preamble. The Senate have proposed to the House to adjourn to-morrow without conditions. The House have refused to do that, but they have agreed to adjourn to-morrow with certain conditions. That matter is now in negotiation between the two Houses, so that really nothing has been determined about the adjournment.

The SPEAKER. Whether the statement in this preamble be correct or not is a matter for the House and not for the Speaker to determine.

Mr. CHANLER. I would inquire whether after the explanation of the Chair, if the House votes in favor of the statement contained in the preamble of this resolution, it does not decide that the time of adjournment is fixed?

The SPEAKER. The Chair has decided nothing in regard to this resolution. But the



gentleman from Wisconsin, [Mr. ELDRIDGE,] by his manner at least, stated so positively the fact that no adjournment had been agreed upon that the Chair, differing from him, thought it proper to make the statement to the House which he did. The Chair has decided nothing in regard to this resolution.

The question was upon the adoption of the preamble and the resolution.

Mr. SCHENCK. I call for a division of the question, and that the vote be taken upon the preamble separately.

The SPEAKER. The question will first be taken upon agreeing to the resolution.

The question was taken; and upon a division there were—ayes 40, noes 35; no quorum voting.

Mr. NOELL. I call for the yeas and nays upon agreeing to the resolution.

The yeas and nays were ordered.

Mr. SCHENCK. Is it in order now to move to lay this resolution and preamble on the table?

The SPEAKER. It is.

Mr. SCHENCK. Then I make that motion. I believe Mr. Smythe ought to be removed, but I do not think this is the right way to do it.

Mr. TABER. Is it in order to move now to reconsider the vote by which the main question was ordered?

The SPEAKER. It is, the House not having yet proceeded to execute that order.

Mr. TABER. Then I make that motion.

The question was taken; and upon a division, there were—ayes 42, noes 36; no quorum voting.

Tellers were ordered; and Mr. BROOMALL and Mr. TABER were appointed.

The House again divided; and the tellers reported that there were—ayes 39, noes 56.

So the vote ordered the main question was not reconsidered.

The question recurred upon the motion of Mr. SCHENCK, to lay the resolution upon the table; and being taken, upon a division there were—ayes 41, noes 49.

Before the result of the vote was announced,

Mr. GLOSSBRENNER called for tellers. Tellers were ordered; and Mr. GLOSSBRENNER and Mr. SCOFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes 35, noes 50.

So the resolution was not laid on the table.

The question recurred on agreeing to the resolution, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 37, not voting 59; as follows:

YEAS—Messrs. Anderson, James M. Ashley, Baker, Baldwin, Benton, Blair, Boutwell, Broomall, Buckland, Calk, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Donnelly, Eckley, Eggleston, Elia, Ferriss, Ferry, Fields, Gravely, Griswold, Hamilton, Hayes, Hooper, Chester D. Hubbard, Hulburd, Hunter, Judd, Kelley, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Logan, Marvin, McCarthy, McClurg, Mercer, Miller, Morrill, Myers, O'Neill, Paine, Perham, Plants, Polsley, Robertson, Scofield, Shanks, Spalding, Taffa, Taylor, Trowbridge, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—63.

NAYS—Messrs. Allison, Archer, Delos R. Ashley, Barnes, Benjamin, Bingham, Boyer, Brooks, Cornell, Denison, Eldridge, Getz, Glossbrenner, Haight, Halsey, Hill, Holman, Kerr, Leann, Mallory, Marshall, Morrissey, Mungen, Niblack, Nicholson, Neill, Orth, Peters, Phelps, Robinson, Sitgreaves, Thaddeus Stevens, Taber, Van Aukon, Van Trump, Thomas Williams, and Wood—37.

NOT VOTING—Messrs. Ames, Banks, Beaman, Blaine, Bromwell, Burr, Butler, Chandler, Beader W. Clarke, Cobb, Dawes, Dodge, Briggs, Eliot, Farnsworth, Finney, Fox, Garfield, Harding, Hopkins, Asahel W. Hubbard, Humphrey, Ingersoll, Julian, Kelsey, George V. Lawrence, Lincoln, Loughridge, Lynch, McCullough, Moore, Moorhead, Morgan, Newcomb, Pike, Pile, Poland, Pomeroy, Price, Pruyn, Randall, Raum, Ross, Sawyer, Schenck, Selye, Shellabarger, Smith, Aaron F. Stevens, Stewart, Stone, Thomas, Twitchell, Upson, Van Aernam, Van Wyck, William B. Washburn, William Williams, and James F. Wilson—59.

So the resolution was adopted.

Mr. HULBURD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on agreeing to the preamble.

Mr. HULBURD. I move that the preamble be laid on the table.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced the return by the Senate of the bill (H. R. No. 79) to authorize the appointment of certain watchmen, for the correction of the engrossment.

The SPEAKER. The correction will be made, and the bill will be returned to the Senate.

#### RETIRING OF TREASURY NOTES.

Mr. GRISWOLD. Mr. Speaker, I yesterday made an unsuccessful attempt to get an expression of the sense of the House upon a joint resolution relative to the retiring of Treasury notes. I desire now to present that resolution again, and say a single word in explanation of it.

Several MEMBERS. Let the resolution be read.

The joint resolution, which was read for information, provides that of the Treasury notes authorized to be issued under the act of Congress of June 20, 1864, including the \$50,000,000 authorized to be issued for temporary loans, not more than \$4,000,000 shall be retired in any one month.

Mr. SPALDING. I object.

Mr. GRISWOLD. I move to suspend the rules to permit the introduction of the resolution.

On the motion there were—ayes 50, noes 33.

So (two thirds not voting in favor thereof) the rules were not suspended.

#### DUTY ON WOOLEN GOODS.

Mr. KELLEY. I ask unanimous consent to introduce a joint resolution to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March 2, 1867.

The joint resolution, which was read for information, provides that the act of March 2, 1867, be amended by striking out in the paragraph commencing with the words "on webbing, beltings, bindings, braids" the words "unmixed with silk."

Mr. CHANLER. I object.

Mr. KELLEY. I move to suspend the rules.

The question was put; and the Speaker stated that two thirds appeared not to have voted in the affirmative.

Mr. KELLEY. I call for tellers.

Tellers were ordered; and Messrs. KELLEY and BARNES were appointed.

The House divided; and the tellers reported—ayes 74, noes 10.

So (two thirds voting in favor thereof) the rules were suspended; and the resolution was introduced and read a first and second time.

Mr. KELLEY. Mr. Speaker, the necessity for the passage of this joint resolution arises from the change in the relative rates of duty upon silk and wool. Hitherto all duties upon silk fabrics have been higher than those upon wool; and fabrics made partly of silk paid the silk duties. In framing the recent bill, known as the "Bingham bill," the clause of the former law prohibiting woollen fabrics mixed with silk from coming in at the same rate as woollen fabrics (that rate being then lower) was overlooked, and hence not changed; so that in this respect the old law still operates, and woollen fabrics mixed with a single thread of silk come in at a lower duty than articles manufactured entirely of wool. Thus the duty on articles like this which I hold in my hand, with a single thread of silk in them, is fifty per cent., which is less than if they were all wool. Articles made partly of old silk dresses are admitted under silk duty and not under wool duty.

I have a variety of specimens sent to me from New Jersey, showing the fraud which is perpetrated under that bill. My proposition is merely to prevent this fraud on the revenue,

and to remedy a defect which occurred through oversight. If no gentleman wishes to ask a question I will call for the previous question.

Mr. BROOKS. With the gentleman's permission I will say that there are other defects in the law passed by Congress and approved March 2, 1867. There is not only the defect to which the gentleman from Pennsylvania refers, but there are other and perhaps more serious defects; and if the gentleman from Pennsylvania is right in his attempt to remedy this defect, I do not see why he should not correct other defects in the same paragraph, even if he should not be disposed to enter into a general correction of the whole law? I ask him to look at others in the bill and to note the dangers of hasty legislation. Here we are undoing in one item that which we did only on the 2d of March last.

If he is right in making this correction, there is another one which ought also to be made in the same paragraph. It is provided that the duty on "cords and tassels" and on—

"Buttons or barrel buttons, or buttons of other forms for tassels or ornaments, wrought by hand or braided by machinery, made of wool, worsted, or mohair, or of which wool, worsted, or mohair is a component material, unmixed with silk, fifty cents per pound."

Fifty cents per pound on these articles when every man knows that the forms of these tassels and buttons are sometimes made of wood and sometimes of bone. Let me suggest to the gentleman when he is putting one thing right that he ought not to forget this defect of the law in reference to cords, buttons, and tassels.

And while the gentleman has begun the work of correcting the law, I ask him to go still further and correct errors which must lead to infinite trouble to the custom-house. The gold cost per yard of overcoatings for the use of the poor is \$1 08, while that for the use of the rich is \$2 40. Now, the duty on overcoatings for the poor is one hundred and twenty while that on the rich is only sixty-five per cent. This was equally an oversight. It is one of a great many others. If any be corrected this ought to be corrected.

The Secretary of the Treasury is requested to collect samples of all the wools in the world before he levies any duty. He has not paid the least attention to the law. He cannot do it. He dodges it. He cannot get samples of llama, merino, alpaca, or any other of the two hundred varieties of wool. He is levying duties on open invoices. The duty is collected, open to any correction hereafter.

Mr. KELLEY. While I desire to amend almost everything to which the gentleman has referred, still I cannot hope to do it at this time. My only object is to close the door to a great fraud on our revenue which is closing some of the workshops of New York and Philadelphia, as well as of other parts of the country.

Mr. STEVENS, of Pennsylvania. What will be the effect of repealing that whole law on this particular item?

Mr. KELLEY. The effect of repealing the whole law would be that then they would pay silk duties instead of woollen duties.

Mr. STEVENS, of Pennsylvania. This system of fragmentary legislation seems to have gone on at this, as well as the last session, to a terrible degree. While one part of the country has one article protected, another has another article protected, and so we go on. If any gentleman will bring in a proposition I am willing to repeal everything we have done here at this session in regard to the tariff. I think if there is anything pernicious it is this fragmentary legislation. First, it was on wool and woollens, and then on one thing and another, until we have had half a dozen items singled out from the rest. I wish some one would move for a repeal of them all.

Mr. KELLEY. I cannot yield for general discussion. I call the previous question.

Mr. ALLISON. Will the gentleman yield for a question?

Mr. KELLEY. A question for information.

Mr. ALLISON. I desire to know some-

thing of the effect of this bill before I am called upon to vote upon it. It is a proposition, I believe, to change the law in a single particular; in regard to a certain class of woollen articles mixed with silk. I desire to know what the price per pound of these articles will be—the average value.

Mr. KELLEY. I would gladly give the information which the gentleman desires, but I cannot. It would take hours to obtain it even if we were in the neighborhood of the establishments.

Mr. ALLISON. I only desire to call attention to the fact that these articles when manufactured with silk pay a duty, as I understand, under the existing law of fifty per cent. *ad valorem*, and this of course does not alter that provision of the law. But as I understand the gentleman from Pennsylvania the present duty upon these articles when made of wool with a single thread of silk is different from that.

Mr. KELLEY. They pay the duty laid on all other woollen goods. I would say to the gentleman that this resolution comes to me from the members of the Finance Committee of the Senate, who have considered the subject, and it would have come to us as a Senate resolution but for the fact that a measure in regard to the tariff cannot originate in that branch. The question has been investigated, however, by that committee, and it is found, as I have stated, that the insertion in one of the articles of a quantity of silk, so minute that it requires a glass to detect it, modifies the rate of duty while it does not change the value of the article. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. KELLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DEPUTY CLERKS OF COURTS.

Mr. HUMPHREY. I ask unanimous consent to introduce for present consideration a joint resolution authorizing the clerks of the district and circuit courts for the State of New York to appoint deputy clerks.

No objection being made, the resolution was read a first and second time, and considered.

It authorizes each clerk of the circuit and district courts of the United States in the several districts in the State of New York to appoint a deputy, who may exercise all the official powers of his principal. Such deputy before he enters on the discharge of his duty to take the official oath now prescribed by law, but not to be entitled to any compensation for such services from the Government; nothing herein contained to be held to excuse or release said clerks from legal responsibility for acts performed in their behalf by their respective deputies.

Mr. POLAND. Will the gentleman yield? I desire to amend by striking out the State of New York and making the provision general, to apply to all the clerks of the courts in the country. I am aware there is a necessity for such a law.

Mr. HUMPHREY. The clerks of two courts in the State of New York have written to me urging this act. I have received no information on the subject from other sources. I have consulted with the members from my own State and they concur with me that this would be entirely proper. If the Representatives of the other States desire to embrace the circuit and district courts of the whole country, I certainly have no objection. I know the business of all these courts will be increased by the operation of the bankrupt law, and that it will be very necessary in the State that I have the honor in part to represent to have such a law as I propose. But if the allowing of the amendment will have the effect to create oppo-

sition and thereby defeat this resolution, I should be very sorry for having admitted it, thereby depriving the State of New York of this necessary act.

Mr. POLAND. During the last session of Congress application was made to me by the clerks of the district and circuit courts in the State of Vermont asking for precisely this action to be taken by Congress in reference to that State. I apprehend there is just the same necessity in all parts of the country for a provision of this sort as there is in the State of New York. I think it a very wise provision, and that there can be no opposition to it from any quarter. I move to amend by striking out the words "State of New York" and inserting "United States," so that it will apply to all the judicial districts in the United States.

Mr. STEVENS, of Pennsylvania. I move that the joint resolution and pending amendment be referred to the Committee on the Judiciary.

The question was taken; and upon a division there were—ayes 48, noes 36.

So the motion to refer was agreed to.

#### DISMISSALS FROM THE ARMY, ETC.

Mr. BOUTWELL. I ask leave to submit a resolution for consideration at this time. I will say that it is recommended by a majority of the Committee on the Judiciary, including the gentlemen, members of that committee, who sit on the other side of the House. It is a resolution calling upon the President for information which is deemed necessary by the committee. I ask that the resolution be read for the information of the House.

The Clerk read as follows:

*Resolved*, That the President of the United States be requested to furnish to this House, or to the Committee on the Judiciary during recess, as soon as may be, a full list of all officers dismissed the service with forfeiture of pay and allowances, or who are liable to other forfeitures or supposed forfeitures according to the regulations of the Army; and of all enlisted men who have forfeited pay, bounty, or allowances for desertion or absence without leave, or by sentence of courts-martial who have been restored to the rolls, or had such forfeitures in any way relieved by order of the President or other officer of the Government; which list shall show who have been so restored or relieved, and upon whose orders, and the amount of such forfeitures and fines which have been restored or may be released to the persons so restored and relieved by said orders, setting forth fully upon what representations and whose recommendations or approval such orders of restoration or relief have been made; so that the full amount taken from the Treasury, which had been forfeited by such orders, may be fully shown.

Mr. NIBLACK. I object.

Mr. BOUTWELL. I hope the gentleman will withdraw his objection. My colleagues upon the Committee on the Judiciary, the gentleman from Illinois [Mr. MARSHALL] and the gentleman from Wisconsin, [Mr. ELDRIDGE,] consent to this resolution. I hope there will be no objection to it.

Mr. NIBLACK. It will take six months.

Mr. BOUTWELL. I do not know how long this will take; but the committee need the information.

Mr. NIBLACK. Very well; I withdraw my objection.

The resolution was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IRON-CLAD CAMANCHE.

Mr. SCHENCK. I rise for the purpose of asking the House to discharge the Committee of Claims from the further consideration of the Senate joint resolution No. 17, in relation to paying the contractors for constructing the iron-clad Camanche. If the House will permit me to make the statement, I will say that I make this request at the suggestion of Senators from the Pacific coast.

Mr. WARD. I rise to a question of order. That joint resolution was ordered to be referred to the Committee of Claims when appointed, and the motion to reconsider the vote by which it was referred was laid on the table.

The SPEAKER. That is true; but at the

same time a motion can be made to discharge the committee from its further consideration. If the gentleman from New York [Mr. WARD] or any other member objects, then it will require a suspension of the rules by a two-thirds vote.

Mr. WARD. I do object; I think it should be examined by a committee.

Mr. SCHENCK. I move to suspend the rules, in order that the committee may be discharged from the further consideration of this joint resolution, and that it may be considered in the House at the present time.

The question was taken; and upon a division, there were—ayes 48, noes 40.

So (two thirds not voting in the affirmative) the rules were not suspended.

#### INDIANA AND OHIO WAR CLAIMS.

Mr. HOLMAN. I move that the rules be suspended in order to take from the Speaker's table for consideration at this time the bill of the Senate No. 105, to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning military forces to aid in suppressing the rebellion; and before the vote is taken upon my motion I ask that the bill may be read for the information of the House.

The bill was read at length. The first section provides that immediately after the passage of this act the President shall appoint three commissioners, by and with the advice and consent of the Senate, who are not residents of the State of Indiana, whose duty it shall be to ascertain the amount of moneys expended by the State of Indiana in enrolling, equipping, subsisting, transporting, and paying such State forces as were called into service in said State since the 1st day of January, 1862, to act in concert with the forces of the United States in the suppression of the rebellion against the United States.

The second section provides that the commissioner so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by the State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, and paying such troops as were called into service by the Government at the request of the United States department commander commanding the district in which Indiana may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed or used in suppressing rebellion in said State. No allowance is to be made for any troops who did not perform actual military service in full concert and coöperation with the authorities of the United States and subject to their orders.

It is provided in the third section that in making up the accounts the commissioners shall, for the convenience of the accounting officers of the Government, state separately the amounts expended respectively for enrolling, equipping, arming, subsisting, transporting, and paying the troops.

The fourth section directs that in the adjustment of accounts under this act the commissioners shall not allow for any expenditures or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

It is provided in the fifth section that so soon as the commissioners shall have made up the account and ascertained the balance they shall make written report, showing the different items of expenditure, to the Secretary of the Treasury, who shall cause the same to be examined by the proper accounting officers of the Treasury, who are to audit the accounts as in ordinary cases; and if it should appear that any sum remains due to the State the Secretary of the Treasury is to draw his warrant for the sum, payable to the Governor of the State, and deliver it to him.

The sixth section provides that the commissioners shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of Indiana, and that they will to the best of their ability make a just, true, and impartial statement thereof. For their services they are to receive such compensation as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner.

The seventh section appropriates a sufficient sum to carry the act into effect.

In the eighth section the provisions of the act are extended in every respect to the State of Ohio. The same proceedings are to be had for determining the amount due that State; and a sufficient sum is appropriated to pay the amount when ascertained, under the limitations and restrictions of this act.

On the motion of Mr. HOLMAN to suspend the rules, there were—ayes 55, noes 33.

Mr. HOLMAN. I call for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. HUBBARD, of Iowa, were appointed.

The House divided; and the tellers reported—ayes 56, noes 37.

So (two-thirds not voting in favor thereof) the rules were not suspended.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had non-concurred in the amendments of the House numbered one, two, three, and five to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the United States for the fiscal year ending June 30, 1867, and for other purposes, and had concurred in the remaining amendments with amendments, in which the concurrence of the House was requested.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House proceed to the consideration of business on the Speaker's table.

Mr. ALLISON. I move that the House adjourn.

The SPEAKER. It is usual in the last hours of an expiring session to state the condition of business. The two Houses have concurred so far as to agree to an adjournment on Thursday at twelve o'clock m., but they have not yet agreed in reference to the time when Congress shall again meet.

Mr. ALLISON. I withdraw my motion to adjourn.

Mr. SCOTFIELD. Suppose there is no action on this resolution, does the Chair say, as it now stands, that the two Houses will adjourn to-morrow at twelve o'clock m.?

The SPEAKER. As yet there has been no conclusive action.

Mr. SCOTFIELD. The Senate has gone into executive session, and not acted on the resolution.

The SPEAKER. Then there has been no conclusive action. As this parliamentary point seems to puzzle gentlemen of legal acumen, like the gentleman from Pennsylvania, the Chair will explain. If there be a bill of thirteen sections, and the two Houses agree to twelve of them and do not agree to the thirteenth, the Speaker would not sign the bill.

Mr. LAWRENCE, of Ohio. If we adjourn now, I suppose we meet to-morrow as usual.

The SPEAKER. Of course, as there has been no conclusive action in reference to the adjournment.

#### DEFICIENCY APPROPRIATION BILL.

Mr. HOLMAN moved to go to the business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table were amendments of the Senate to the amendments of the House to Senate bill No. 83, making appropriations to supply deficiencies in the appropriations for contingent expenses

of the Senate of the United States for the fiscal year ending June 30, 1867.

Mr. BROOKS. I reserve; until I hear the amendments, all points of order.

First amendment of the Senate:

That the Senate agree to the amendment of the House numbered two, with the following amendment: In line fifteen insert the following:

And provided further, That the rates fixed by previous laws shall not be hereby increased.

Mr. BROOKS. How will it then read?

Mr. STEVENS, of Pennsylvania. I move to non-concur. The bill will have to go to a committee of conference.

Mr. SCOTFIELD. I wish to inquire whether my colleague has any objection to concur in the amendment of the Senate?

Mr. STEVENS, of Pennsylvania. My proposition is to non-concur in the amendment of the Senate, and ask a committee of conference.

Mr. SCOTFIELD. It strikes me we ought to concur in this amendment of the Senate.

Mr. STEVENS, of Pennsylvania. One strikes the other out.

Mr. SCOTFIELD. I do not so understand it.

Mr. STEVENS, of Pennsylvania. My proposition is to non-concur and have a committee of conference, unless there is any particular one on which gentlemen desire a separate vote. There are pretty large additions made to the bill by the Senate.

Mr. BROOKS. I want to know what these additions of the Senate are before I trust them to a committee of conference?

The SPEAKER. The Clerk will now report the amendment of the House as it is proposed to be amended by the Senate.

The Clerk read as follows:

SEC. 2. And be it further enacted, That so much of section seven of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as relates to the publication of the treaties and laws of the United States be, and the same is hereby, extended to the States not therein designated, and to the Territories; and that it shall be the duty of the Secretary of State, upon receiving notice of the designation of newspapers under the act aforesaid and this section, promptly to furnish to such newspapers authentic copies of the treaties and laws of the United States to be published as aforesaid: *Provided*, It shall be lawful to print the laws and treaties of the United States as aforesaid in three newspapers in Louisiana: *And provided further*, The rates fixed by previous laws shall not be hereby increased.

Mr. HOLMAN. I move that the House concur in the amendment of the Senate.

The amendment was concurred in.

Second amendment:

That the Senate agree to the amendment numbered four, with the following:

In line five of said amendment strike out "nine" and insert "twelve."

The clause will then read, as follows:

That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for salaries of the Commissioner of Education and his clerks, \$12,000.

Mr. GARFIELD. I move that the House concur.

The amendment was concurred in.

Third amendment:

At the end of line five insert:

For the period of three months ending June 30, 1867, and for the year ending June 30, 1868.

The clause, as amended, reads, as follows: Commissioner of Education and his clerks, for the period of three months ending June 30, 1867, and for the year ending June 30, 1868.

Mr. GARFIELD. I move to concur.

The amendment was concurred in.

Mr. GARFIELD moved to reconsider the two votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Fourth amendment:

After line seven of said amendment insert:

For the repair of Long Bridge, District of Columbia, to be expended under the direction of the Secretary of War, \$15,000.

Mr. STEVENS, of Pennsylvania. I move to non-concur.

The amendment was non-concurred in.

Fifth amendment:

Add the following as a new section:

SEC. —. And be it further enacted, That the following sums be, and the same are hereby, appropriated

out of any money in the Treasury not otherwise appropriated to enable the Secretary of the Interior to pay the expenses incurred by certain Indian delegations in visiting Washington city, for the purpose of negotiating treaties, and in their return home, to wit: For the Sioux of Lake Traverse, \$10,000. For the Sioux of the Upper Mississippi, \$20,000. For the tribes residing in the State of Kansas, \$15,000.

For the Chippewas of the Mississippi, \$6,000. And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs, to enter into treaties with any Indian tribes are hereby repealed, and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law.

Mr. STEVENS, of Pennsylvania. I move non-concurrence.

Mr. BURLEIGH. I hope it will be concurred in, and I will give my reasons.

Mr. STEVENS, of Pennsylvania. I think we had better allow this to go to the committee of conference. I move the previous question.

Mr. BURLEIGH. There is a little information on this subject that I would like to put the House in possession of.

The SPEAKER. It is not debatable unless the previous question is withdrawn.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was non-concurred in.

Sixth amendment:

Add the following as a new section: SEC. —. And be it further enacted, That the several sums of money heretofore appropriated to be expended under the direction of the Commissioner of Public Buildings be transferred to and may be expended under the direction of the chief Engineer of the Army or such officer of the Engineer corps as he may direct.

Mr. GARFIELD. I move to concur.

The amendment was concurred in.

Mr. STEVENS, of Pennsylvania. I move that the House insist on its disagreement to the amendments of the Senate that have been non-concurred in, and ask for the appointment of a committee of conference.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 112) to incorporate the Lincoln Monument Association; and

An act (S. No. 96) to establish a port of delivery at Chester, Pennsylvania.

#### ACCOUNTS OF LINE OFFICERS.

The next business on the Speaker's table was the consideration of the amendments of the Senate to joint resolution of the House No. 26, authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases.

The amendment of the Senate was to strike out the words "they shall make affidavit" in line five of page 1 of the joint resolution, and to insert in lieu thereof the words "said Auditor shall be satisfied by affidavit of such line officers, or otherwise."

Mr. GARFIELD. I move that the House concur in the amendment of the Senate.

Mr. LOGAN. Let the joint resolution be read as it will stand if amended as proposed by the Senate.

The joint resolution as proposed to be amended was read at length. It provides that the Second Auditor shall audit and settle the accounts of line officers, to the extent of their pay for services as such officers, due them from the United States, in all cases where said Auditor shall be satisfied by affidavit of such line officers, or otherwise, of their inability to make their monthly report or returns by reason of their having been prisoners in the hands of the enemy, or where by any accident or casualty of war they have been unable to account for property in their possession.

Mr. GARFIELD. The amendment of the Senate proposes to change the joint resolution

merely to allow the Auditor to be satisfied with the proof rendered, instead of requiring these officers to make affidavit.

The amendment of the Senate was then concurred in.

#### PRINTING BANKRUPT LAW.

Mr. LAFLIN. I rise to make a privileged report. I am instructed by the Committee on Printing to report the following resolution:

*Resolved*, That there be printed ten thousand extra copies of the bankrupt act for the use of the House.

Mr. BROOKS. What is the use of the House ordering the printing of that act? It can be obtained anywhere throughout the country for five or ten cents a copy.

Mr. WARD. There is a great demand for it all over the country.

Mr. LAFLIN. The act is already printed; this resolution calls for the printing of extra copies. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### NIAGARA SHIP-CANAL BILL.

Mr. LAFLIN. I am instructed by the same committee to report the following resolution:

*Resolved*, That there be printed for the use of the House two thousand extra copies of the bill providing for the survey of the Niagara ship-canal.

Mr. STEVENS, of Pennsylvania. I hope not; do not let us print everything.

Mr. LAFLIN. I call the previous question. The previous question was seconded and the main question ordered.

The question was then taken upon agreeing to the resolution; and upon a division there were—ayes fifty-four, noes not counted.

So the resolution was agreed to.

#### LEAVE OF ABSENCE.

Mr. SPALDING asked and obtained leave of absence after to-morrow for the remainder of the session.

#### REPORT OF CONGRESSIONAL PRINTER.

Mr. LAFLIN. I am also instructed by the Committee on Printing to report the following resolution:

*Resolved*, That the report of the Congressional Printer touching the purchase of paper, be taken from the Speaker's table and referred to the Committee on Printing, with instructions to investigate the same, and with power to send for persons and papers.

Mr. HOLMAN. I rise to a point of order. This subject has not been referred to the Committee on Printing, and they have no right to report upon anything which has not been referred to them.

The SPEAKER. The gentleman is correct; the report of the Government Printer has not yet been referred to the committee.

Mr. GARFIELD. Has not the gentleman from New York [Mr. LAFLIN] the right to introduce a resolution from the committee?

The SPEAKER. This resolution is not in the regular order of reports from the Committee on Printing.

Mr. LAFLIN. I move to suspend the rules, in order that I may submit this resolution for consideration at this time.

The SPEAKER. The House must first, by a majority vote, dispense with the further execution of the order to proceed to the consideration of business upon the Speaker's table before a motion to suspend the rules will be in order.

Mr. SCOFIELD. I move that the House now adjourn.

The question was taken upon the motion to adjourn; and upon a division, there were—ayes 51, noes 40.

Before the result of the vote was announced, Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. SCOFIELD and Mr. ROBINSON were appointed.

The House again divided; and the tellers reported that there were—ayes 51, noes 39.

So the motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ALLISON: The petition of D. O. Preston and others, citizens of Howard county, Iowa, asking for an appropriation for the improvement of the Fox and Wisconsin rivers, and for the opening up of continuous water communication from the Mississippi river to the eastern sea-board.

Also, the petition of Selden Candee and others, of Clayton county, Iowa, upon the same subject.

Also, the petition of R. W. Bullock and others, of Allamakee county, Iowa, upon the same subject.

Also, the petition of C. A. Dean and others, of Clayton county, Iowa, upon the same subject.

Also, the petition of James Conery and others, of Chickasaw county, upon the same subject.

Also, the petition of G. W. Nichols and others, of Winnebago county, Iowa, upon the same subject.

Also, the petition of E. K. Morrill and others, of Chickasaw county, praying the establishment of a mail route, with tri-weekly service, from Bradford, in said county, to Busti, in Howard county.

By Mr. DONNELLY: A joint resolution of the Legislature of the State of Minnesota, relative to the return of fees in certain cases of canceled homestead entries.

Also, two remonstrances from citizens of the State of Minnesota, against the removal of the United States land office from Taylor's Falls, in said State.

By Mr. KELLEY: A petition of the officers of the Peace Society of Pennsylvania, praying Congress to establish and maintain a more peaceful relation with the Indians, and by justice and kindness, to harmonize all proper interests, both of the white and red man; and in order to attain this end, they respectfully recommend, not only a policy of peace founded on justice, but an instrumentality of agents who, from love to God and man and freedom from covetousness, shall be qualified to carry out honestly and fairly with the Indians the really paternal spirit of the Government toward them.

By Mr. LAFLIN: The petition of Edward Learned, president of the Union Pacific Railroad Company, eastern division, praying for an investigation into the organization of said company.

By Mr. LAWRENCE, of Ohio: The petition of R. Z. Wilson, J. C. K. Milligan, and Henry O'Neill, a committee of the Reformed Presbyterian church, asking Congress to take measures for the amendment of the Constitution of the United States, so that God may be acknowledged as Supreme, so that Christ the Mediator may be acknowledged as "The Governor among the nations," and so that the Bible may be taken as the supreme law.

By Mr. WINDOM: A memorial of the Legislature of the State of Minnesota, for a grant of lands to aid in the construction of the Lake Pepin and Omaha railway, from the city of Wabasha, Minnesota, through Rochester, High Forest, Austin, and Albert Lea, Minnesota, and Fort Dodge, Iowa, to Omaha, Nebraska.

#### IN SENATE.

THURSDAY, March 28, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The PRESIDENT *pro tempore*. The Journal of yesterday's proceedings will be read.

Mr. CONNESS. I think so near the close of the session as we are will justify the suspension of the reading of the Journal. I make that motion, if there be no objection. We all want the time.

There being no objection, the reading of the Journal was dispensed with.

#### CONDITION OF MARYLAND.

The PRESIDENT *pro tempore*. The Chair has received from a large delegation from the Republican convention of Maryland the resolutions of that convention with a request that they be laid before the Senate, and if there be no objection the resolutions will be read.

The Secretary read them, as follows:

"Whereas the Legislature of Maryland has since the adjournment of this Republican State convention on the 27th of February passed the convention bill in regard to which this convention has already in previous resolutions declared its judgment, and this convention is now reassembled, as provided for by its fifth resolution on the contingency of the passage of said convention bill; Therefore

*Resolved*, That we return our thanks to the Republican members of the General Assembly for their memorial to Congress, presented to that body on the 25th of March, and this convention, in behalf of the majority of the people of Maryland, appeal hereby to the Congress of the United States to grant the request of that memorial.

*Resolved*, That we call upon Congress to protect the loyal majority of the people of Maryland, both white and colored, in defeating the scheme of the revolutionists in the Legislature, and to aid us in forming and to guaranty to us by acts of Congress a republican State government on the basis of impartial manhood suffrage.

*Resolved*, That we will oppose any new constitution set up in subversion of the existing constitution under the convention bill which does not express the will of the majority of the people, without regard to color; and that we will, with the aid of the loyal representatives of the nation, and by all means in our power,

resist and destroy any such constitution as a revolutionary usurpation.

*Resolved*, That we will take no part in the approaching election for delegates to a constitutional convention further than to recommend a general vote of the Republicans of the State against the call for a convention, and to use every lawful means in their power to defeat the call.

*Resolved*, That should the call be sustained by a majority of the voters, that the State central committee, on ascertaining the result, issue a call for district meetings, to be held in every election district in the State, for the choice by ballot, on the basis of universal manhood suffrage, of delegates to a State constitutional convention, each county and the city of Baltimore to elect the number to which they may be entitled under the present constitution of the State.

*Resolved*, That said State constitutional convention, if called, shall assemble in the city of Baltimore on the first Wednesday in June, and proceed to form a constitution based on universal manhood suffrage.

*Resolved*, That courage, wisdom, and action are all that is necessary to success. And we call on the tried Union veterans of the State, who have been hardened by the conflicts of six years of battle and agitation, to fly high the banner of liberty and Union, and know no end but victory.

A true copy: FREDERICK SCHLEY,  
Chairman Committee on Resolutions."

Mr. JOHNSON. I do not know that there is any particular request in these resolutions as to the measures which Congress should adopt to protect any of the citizens of Maryland from wrongs which are alleged to exist or which are stated to be apprehended. I am therefore not certain as to the committee to which they should be referred. I suppose, however, the proper reference is to the Committee on the Judiciary, and I propose to make that motion. Before doing so, however, I take the occasion to say that I agree in the opinion which one of the resolutions contains, that the convention which is provided for by the recent legislation of my State should not be called by her people. In the present condition of the country, and the excitement which it is producing, and the state of feeling in Maryland, I should deem such a convention not only unfortunate, but fraught with more or less of peril to the peace and prosperity of my State, and I shall endeavor, Mr. President, to impress this view upon my constituents and hope to succeed in it. I now make the motion that the resolutions be referred to the Committee on the Judiciary.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

Mr. FOWLER presented resolutions of the Legislature of Tennessee in favor of securing the quota of arms from the General Government to which that State may be entitled under law, and that one of the forts in the vicinity of Nashville may be secured for the depository of said arms; which were referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of Tennessee in favor of exempting that State from the payment of any direct or internal revenue tax for the years 1867 and 1868; which were referred to the Committee on Finance.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of the Lake Pepin and Omaha railway; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. NYE presented a letter of Benjamin F. Small, of Carson City, Nevada, in relation to his claim against the Post Office Department, to accompany Senate joint resolution No. 45; which was referred to the Committee on Post Offices and Post Roads.

#### REPORT OF A COMMITTEE.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the motion to print the memorial of Charles Louis Fleischmann, on the culture of forest trees on the plains, asked to be discharged from its further consideration; which was agreed to.

#### PAYMENT OF SALARIES OF MEMBERS.

Mr. RAMSEY. I move that the Senate postpone all prior orders and proceed to the consideration of House joint resolution No. 39, in reference to the payment of the salaries of members of Congress. It is a resolution



of but four lines, allowing the payment of their salary to be made to Senators and Representatives monthly. Some members of the other House feel a great interest in it.

Mr. MORRILL, of Maine. I hope the Senator will not call that up for a few moments. I think it is necessary to amend it.

Mr. RAMSEY. Very well; I withdraw the motion.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases.

The message further announced that the House insisted on its first amendment, and concurred in some and non-concurred in others of the amendments of the Senate to the amendments of the House to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVEN, of Pennsylvania, Mr. WILLIAM WINDOM, of Minnesota, and Mr. CHARLES A. ELDRIDGE, of Wisconsin, managers at the same on its part.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 112) to incorporate the Lincoln Monument Association, and the enrolled bill (S. No. 96) to establish a port of delivery at Chester, Pennsylvania; and they were thereupon signed by the President *pro tempore* of the Senate.

#### HOUSE RESOLUTIONS REFERRED.

The joint resolution (H. R. No. 453) concerning the payment of claims made by foreign Governments against the United States for property destroyed by the armies of the United States, and the joint resolution (H. R. No. 46) respecting the proposed confederation of Provinces on the northern frontier of the United States, were severally read twice by their titles, and referred to the Committee on Foreign Relations.

#### AMENDMENT OF WOOL TARIFF LAW.

The joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue upon imported wool, and for other purposes," was read twice by its title.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Finance, if there be no objection.

Mr. CATTELL. I trust that the resolution will be put upon its passage without a reference. It is exceedingly simple, and is perfectly well understood. It merely repeals three words in the Bingham act, which were there by an error. It is approved by the Senator from Vermont, [Mr. MORRILL,] who understands this question well, and I should be very glad to have it considered now with the consent of the Senate.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. EDMUNDS. I must object for the present. I will withdraw my objection when my colleague comes in.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. EDMUNDS subsequently said: I objected just now to the present consideration of the resolution which my friend from New Jersey desired to have acted upon, having misunderstood what he said respecting my colleague's views on the subject. Understanding that it is satisfactory to my colleague, I withdraw the objection that I made, and hope that the resolution may be considered.

The PRESIDENT *pro tempore*. No objection being made, the joint resolution will be

considered as before the Senate as in Committee of the Whole.

The Secretary read the joint resolution. It proposes to amend the act of March 2, 1867, by striking out in the paragraph commencing with the words "On webbings, beltings, bindings, braids," the words "unmixed with silk."

Mr. SHERMAN. Has that been referred?

Mr. CATTELL. If the gentleman from Ohio will allow me one moment I will explain. These words, "unmixed with silk," were retained in the bill.

Mr. SHERMAN. I would rather defer action on it until Mr. MORRILL, of Vermont, comes in.

Mr. CATTELL. I will only say that the resolution itself was drawn by Mr. MORRILL, of Vermont, in his own words, submitted to the House, and passed there. It meets his entire approbation, and I should like to have it considered at once on account of the lateness of the session. It simply provides against frauds upon the revenue by bringing in worsted goods mixed with silk, with a single line or two of silk in them, below the actual tariff upon woolen goods alone. It is simply to prevent frauds upon the revenue. It is approved by Mr. MORRILL, passed the House by an almost unanimous vote yesterday, and it is in every respect important that it should pass at once.

Mr. FESSENDEN. I will state to the Senator from Ohio that this is an amendment that we made in the new tariff, which failed to pass, with reference to that very thing.

Mr. SHERMAN. I simply wished to have it understood.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. POMEROY afterward said: I move to reconsider the vote by which House joint resolution No. 47 was passed. I desire to offer an amendment to it. I was not in my seat at the moment it was under consideration, or I should have moved it then.

Mr. SHERMAN. I trust the Senator will not interfere with that resolution. If the Senator moves an amendment it will have to be referred. A single objection will send it to a committee. It was with extreme reluctance that I agreed to let the resolution itself pass, and it was only because the matter had been thoroughly examined in committee at the last session.

Mr. POMEROY. It has been suggested to me by several Senators to move the amendment that I desire to offer, and then it can be sent to the House for concurrence.

Mr. SHERMAN. That would probably make a reference necessary.

Mr. POMEROY. I have no objection to the resolution as it stands.

Mr. SHERMAN. It will defeat the resolution.

Mr. POMEROY. I know there is no objection to my amendment, and I do not think it will endanger the resolution. If Senators desire to have the resolution stand as it is, I would not endanger its passage by any amendment. Does the Senator from Ohio object to it?

Mr. SHERMAN. I will not object, but I think it had better be let alone.

The PRESIDENT *pro tempore*. The question is on the reconsideration of the vote on the passage of the joint resolution.

The motion was agreed to.

Mr. POMEROY. I now move to reconsider the vote ordering the resolution to a third reading.

The motion was agreed to.

Mr. POMEROY. I now offer as an amendment to the resolution the bill that I introduced yesterday morning, as an additional section:

And be it further enacted, That the joint resolution of March 2, 1867, to amend section five of an act entitled "An act to increase the duties on imports, and for other purposes," approved June 30, 1864, shall not be construed to apply to lasting, mohair cloth, silk twist, or other manufactures of cloth woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for buttons exclusively.

Mr. WILLIAMS. I should like to know

whether that subject has been considered by any committee or not.

Mr. POMEROY. It has been fully considered.

Mr. MORRILL, of Vermont. I will say to my friend from Oregon that this will leave the duty upon the material used for the covering of buttons as it has been for the last twenty years. That is all there is of it.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

#### DREDGE-BOATS ON THE MISSISSIPPI.

Mr. MORRILL, of Maine. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river, have instructed me to report it back without amendment and recommend its passage, and I ask for its present consideration.

There being no objection, the Senate, as in the Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment.

Mr. DRAKE. I understand that the gentleman who reported the resolution has an amendment that he proposes to offer to it.

Mr. MORRILL, of Maine. I move to amend the resolution by striking out the word "present" before the word "appropriation" in the eighth line, and inserting at the end of the resolution the following words:

Provided for in the act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes, approved March 2, 1867.

So that the resolution will read:

That the Secretary of War be, and is hereby, authorized, on the recommendation of the engineer department, to build and operate two dredge-boats for the purpose of deepening and keeping open the channel of one or more of the passes at the mouth of the Mississippi, and to expend for that purpose so much as may be necessary of the appropriation for the improvement of the mouth of the Mississippi river provided for in the act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes, approved March 2, 1867.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

#### SHIP-CANAL AROUND THE FALLS OF THE OHIO.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 41) providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes, have directed me to report it back and recommend its passage; and I ask that it be acted upon now. It will lead to no debate, and take but a moment.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution? If there be no objection it will be considered as before the Senate.

Mr. FESSENDEN. I will ask what is the necessity for it, and what particular falls of the Ohio river are meant?

Mr. CHANDLER. This is simply ordering a survey from appropriations already made. It does not appropriate a dollar. It is the falls of the Ohio.

Mr. FESSENDEN. Where?

Mr. CHANDLER. Below Louisville, Kentucky.

Mr. FESSENDEN. There has already been one canal built around there which the Government used to own stock in, but which it finally gave up entirely to the stockholders. This proposes another one.

Mr. CHANDLER. This is around the same falls. It is simply ordering a survey from an appropriation already made.

Mr. FESSENDEN. An appropriation for what?

Mr. CHANDLER. The appropriation for western rivers.

Mr. FESSENDEN. Then what is the necessity for this?

Mr. CHANDLER. The works that are to be surveyed are defined in the bill for river and harbor improvements. This is a different work to be surveyed, but it requires no additional appropriation.

Mr. FESSENDEN. I should like to hear it read.

The Secretary read the joint resolution, as follows:

*Be it resolved, &c.,* That the Secretary of War be, and he is hereby, authorized and directed to cause surveys, with plans and estimates of cost, to be made by an officer of engineers, for a ship-canal around the falls of the Ohio river on the Indiana side thereof, of suitable location and dimensions for military, naval, and commercial purposes; and also to cause said officer to estimate the expense of completing the Louisville and Portland canal, on the Kentucky side of said falls, according to the plan on which said canal company is now progressing with said work, and that the expenses of both be defrayed from the sums appropriated in the acts of June 23, 1866, and March 2, 1867, for examination and surveys relating to the improvement of harbors and rivers on the northwestern lakes.

Mr. HOWE. I should like to know from the chairman of the committee what possible objection there can be in having two canals around the same falls, one on each side?

Mr. CHANDLER. I am not very conversant with this matter. The member from Cincinnati, and likewise the Senator from Indiana, [Mr. Morrill,] told me that the canal already in use was not large enough. At any rate they desire a survey, and the House have passed this resolution; and the Committee on Commerce authorized me, as it appropriated no money, to report it for the gratification of those parties. I do not know anything about it.

Mr. HOWE. Let me make one remark. The Senator says it appropriates no money; but substantially it does, since it diverts a portion of a fund already dedicated by act of Congress to important works. It diverts a part of that fund and dedicates it to this work, for which it seems to me there can be no possible necessity. I hope that the joint resolution will lie upon the table, and I make that motion.

The motion was agreed to.

#### TRANSPORTATION OF TROOPS TO THE PACIFIC.

Mr. CONNESS. I move that the Senate proceed to the consideration of the joint resolution which was pending last evening when we adjourned. The chairman of the Committee on Military Affairs has given it attention, and it will not occupy more than a moment. I move that it be considered now, in order that it may go to the House of Representatives.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 53) relating to the transportation of troops by the Isthmus route to the Pacific States and Territories. It provides that hereafter whenever it shall be necessary to transport troops to the Pacific States or Territories, or to bring troops therefrom, the Secretary of War shall, for one week or more before ordering the same to be done, advertise in at least one newspaper at New York or at San Francisco, as the case may be, for proposals for such transportation, and that he shall contract with such person or persons as shall give sufficient security for the most rapid and safe conveyance of such troops at the lowest cost to the Government; but he shall be at liberty to reject all bids if he shall believe that the public interests will be promoted thereby.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### CONFIRMATION OF DIRECT TAX SALES.

Mr. FRELINGHUYSEN. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 79) to confirm certain sales made by the direct tax commissioners for South Carolina to persons in the Army, Navy, or Marine Corps, and for other

purposes, to report it back without amendment, and I ask for its immediate consideration. I will state to the Senate that the bill was prepared at the Treasury Department. The object of it is this: by a statute passed in 1862 the commissioner of direct taxes was authorized to sell lands and to take one fourth in payment, and the remaining three fourths were to be paid in three years—

The PRESIDENT *pro tempore*. The question had better be put on taking it up for consideration before it is explained. Is there any objection to the present consideration of the bill?

Mr. JOHNSON. I object. I have forgotten all about it. If it can be postponed for a moment I will look into it.

The PRESIDENT *pro tempore*. Objection being made it lies over under the rule.

#### ADJOURNMENT OF CONGRESS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the adjournment resolution, which was returned from the House of Representatives.

Mr. JOHNSON. Will the honorable member permit me to waive an objection which I made just now to a bill reported by the Judiciary Committee? We can pass it in a moment.

Mr. EDMUNDS. Let us get this resolution up first.

Mr. JOHNSON. Very well.

The motion of Mr. TRUMBULL was agreed to.

Mr. TRUMBULL. I have no objection to the interposition of any motion that does not take any time. I believe my friend from Massachusetts [Mr. Wilson] wishes to introduce a bill.

#### BILLS INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce the following bills; which were severally read twice by their titles, and referred to the Committee on Indian Affairs:

A bill (S. No. 117) for the relief of Charles E. Guerie;

A bill (S. No. 118) for the relief of Seth E. Ward; and

A bill (S. No. 119) for the relief of B. B. Mills.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 54) in favor of Joseph Segar, of Virginia; which was read twice by its title, and referred to the Committee on Claims.

#### CONFIRMATION OF DIRECT TAX SALES.

Mr. JOHNSON. There was a bill reported from the Judiciary Committee by the honorable member from New Jersey [Mr. Frelinghuysen] a few moments ago. I was not exactly aware at the time of the nature of the bill, it not having been seen by me in committee; but from his explanation of it I am satisfied that the bill ought to pass, and pass at once. I therefore waive my objection, and hope that the bill may be taken up.

The PRESIDENT *pro tempore*. The Senator from Maryland withdraws his objection; and if there be no further objection, that bill will be considered as before the Senate, and will be read.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 79) to confirm certain sales by the direct tax commissioners for South Carolina to persons in the Army, Navy, or Marine corps, and for other purposes. The preamble recites that by the provisions of the eleventh section of an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862, and in accordance with instructions issued by the President on the 16th of September, 1863, certain lands in the parishes of St. Helena and St. Luke, South Carolina, which had been bid in by the United States at public tax sales, were in part sold by the direct tax commissioners for South Carolina to persons

serving in the Army, Navy, or Marine corps, on the following conditions: that one fourth part of the purchase money should be paid at the time of sale, and the residue in three years thereafter, and that the purchaser, his heirs or assigns, should commit no waste before payment in full of the purchase money, and that upon failure to comply with either of these conditions it should be lawful for the commissioners or their successors in office to enter upon the premises so sold and sell them for the payment of the purchase money due the United States, returning the overplus, if any, to the purchaser, his heirs or assigns. The bill, therefore, proposes to confirm the sales made to persons in the Army, Navy, or Marine corps as provided in the eleventh section of the act of June 7, 1862, and under the instructions of the President to the direct tax commissioners for South Carolina, upon the terms and conditions set forth in those instructions; and the commissioners, or their successors in office, are authorized, on such terms and conditions as they, with the approval of the Secretary of the Treasury may prescribe, to resell at public sale, after giving due notice as upon the sale of other public lands of the United States for sixty days, such of the tracts or parcels of land as may have been sold to persons who have failed to comply with any of the conditions of sale prescribed by those instructions, and they are authorized to make one bid on any tract offered at such resale for and in behalf of the United States.

Mr. WILSON. I should like to have an explanation of the bill. I am a little fearful about its passage. It seems to me that we ought at least to give six months' notice to these persons.

Mr. FRELINGHUYSEN. Sixty days is the time mentioned in the bill.

Mr. WILSON. That is a very short time in a large country like ours. I think six months is little enough. I hope the bill will be modified so as to provide for the sale of the lands after six months' notice, giving them that period to look about themselves. I have been written to in regard to these lands by some of the soldiers. It has been pretty difficult for them to comply with the terms of sale, and they want a little more time in which to do it. I think we ought to give them six months at least.

Mr. FRELINGHUYSEN. This matter has been pressed upon me by the Treasury Department. These lands were sold for taxes, and by the terms of the law under which they were sold one fourth of the purchase money was to be paid in cash and three fourths in three years. The purchasers have failed to comply with the payment of the three fourths, and there is no power resting in the Government to make a resale. The notice has to be, by the law there, sixty days. I have no objection to making it longer; but I think six months is almost too long. I suggest four months.

Mr. WILSON. I am very sure that some of the men who have purchased this land find it very difficult to pay for it, and would like to have the time of payment extended for a longer period than three years. I think if the Senator would consent to modify the bill so as to give them six months after the passage of this act within which to pay the money it would help them very much.

Mr. FRELINGHUYSEN. I accept that amendment.

Mr. WILSON. I move, then, to strike out sixty days and insert six months.

The PRESIDENT *pro tempore*. That modification will be made, if there be no objection.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### SENATE CONTINGENT EXPENSES.

On motion of Mr. MORRILL, of Maine, the Senate proceeded to consider the first amendment of the House to the bill of the Senate (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the Uni-

ted States for the fiscal year ending June 30, 1867, disagreed to by the Senate, and the amendments of the Senate to the other amendments of the House to the bill, disagreed to by the House.

Mr. MORRILL, of Maine. I move that the Senate insist upon its amendments disagreed to by the House, and agree to the conference asked by the House.

The motion was agreed to.

Mr. MORRILL, of Maine. I move that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. EDMUNDS, and Mr. BUCKALEW the conferees on the part of the Senate.

JOHN PERRY.

Mr. VAN WINKLE. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. No. 101) for the relief of John Perry, to report it without amendment and recommend its passage; and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the provisions of the act supplementary to the several acts relating to pensions, approved June 6, 1866, shall apply to John Perry, of Illinois, a pensioner by virtue of a special act approved March 3, 1859.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ADJOURNMENT OF CONGRESS.

Mr. TRUMBULL. I hope we shall now proceed with the question of adjournment.

The PRESIDENT *pro tempore*. The action of the House will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,  
March 27, 1867.

*Resolved*, That the House concur in the amendment of the Senate to the resolution of the House in relation to the adjournment of the two Houses with the following amendment:

Strike out all of the Senate amendment from and after the word "that" and insert in lieu thereof the following:

The Senate and House of Representatives do hereby each give consent to the other that each House of Congress shall adjourn its present session from the hour of twelve m. on Thursday, the 28th day of March, instant, to assemble again on the first Wednesday of June and the first Wednesday of September of this year, unless the President *pro tempore* of the Senate and the Speaker of the House of Representatives shall by joint proclamation, to be issued by them ten days before either of the times herein fixed for assembling, declare that there is no occasion for the meeting of Congress at such time.

Mr. EDMUNDS. I move to amend the amendment so that it will read according to the amendment that I send to the Chair. It is to strike out all after the word "that" in the first line of the amendment and insert:

The President of the Senate and the Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at noon on the 28th day of March, instant, to the first Wednesday of July, 1867; and that, unless otherwise ordered by both Houses, they, at one o'clock in the afternoon of the next day thereafter, further adjourn their respective Houses to the first Wednesday of November, 1867.

Of course it is well known to the Senate that I have voted against having any of these intermediate midsummer sessions, and have been in favor of meeting on the 1st of November or the latter part of October for the regular purposes of business; and it is also well understood that the Senate have heretofore, by a pretty strong majority, disagreed also to this early meeting or repeated meetings of the two Houses; but it is equally obvious now that the other branch of Congress is determined to have at least two intermediate meetings in some form. I think it right, therefore, to compromise this difference on a mere question of expediency and safety by providing for one which in effect is contingent. The only change is as to the method of getting at it, so as to bring it within our constitutional powers; so as to compro-

mise the difference of opinion which exists between the two bodies; and in that view I should hope that the Senate would concur in the amendment.

Mr. SHERMAN. This is only important as a precedent, it seems to me. We have wasted a good deal of time on this question of adjournment. I do not regard it as very important. A large majority of the Senate have expressed their opinion that there is no necessity in the state of the public business to demand extraordinary sessions of Congress; that neither the President nor anybody else has sufficient power to endanger the public safety during the usual recess. That is my deliberate judgment; and I think now that the country would have more confidence in us, and that we should have sufficient confidence in the condition of things to go home, taking the usual adjournment, and meeting here at the usual time. But as there is no very serious objection to any precaution against contingencies that we cannot foresee, I am not disposed to make any active opposition to any reasonable measure to convene Congress in the event of any such exigency. The House of Representatives have, by repeated votes, declared that they think it is necessary to provide for an exigency not now foreseen, either on account of events which may occur, or on account of power that may be exercised by other departments of the Government. If they entertain that fear I do not object to their guarding against it. The only question with me is as to the best mode and method of doing it. The plan which we agree upon will probably be looked upon as a precedent hereafter, if a like condition of things should ever recur.

It seems to me perfectly plain that we can authorize the Presiding Officers of the two Houses to convene Congress together; and if there is no constitutional doubt about it, that, it seems to me, is the best way. We fear now the exercise of power by the Executive. We therefore propose to provide some plan by which Congress may be convened to meet unforeseen exigencies. The President has the power to convene us, but we do not choose to trust him. I have no doubt that under the Constitution Congress has the power to delegate to the Presiding Officers of the two bodies the designation of the time and mode and manner of our meeting. If there is anything conferred by the Constitution upon Congress it is the right to perpetuate its existence during the entire term of the election of Congress. We can prescribe the time and place and mode and manner of meeting. We cannot be prorogued; we cannot be dissolved; and herein Congress differs from all other legislative bodies that I have read of in modern history. The British Parliament may be prorogued; the French Chamber of Deputies may be prorogued; I believe every legislative body now existing in Europe may be dissolved by the executive authority; but under the Constitution of the United States Congress is an independent power, and may keep itself in existence in spite of the Executive. The Executive has no power over it except in the single case of disagreement between the two Houses as to the time of adjournment, when he may fix the time. He has no control over their meetings. The power is given to Congress to assemble at their own time and at their own place. The Constitution provides that they shall assemble once a year, and that they shall assemble on the first Monday of December, unless a different time is fixed. The fourth clause of the fifth section of the first article provides that—

"Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days."

That implies necessarily that with the consent of the House it may adjourn at any time, in any mode, for five days or ten days or fifty days, provided, however, they meet once a year. Now, to say that we cannot delegate this power is a departure from other principles that we have acted upon. For instance, looking over

the designated powers of Congress, it is provided that Congress shall have power "to borrow money on the credit of the United States." Does that mean that Congress shall go into the market to negotiate that money? Not at all. It simply means that Congress shall by law provide the mode and manner in which money shall be borrowed; and we therefore commonly authorize the Secretary of the Treasury to borrow money upon the credit of the United States, prescribing the terms and manner. Money so borrowed is borrowed by Congress. So the same language is used in regard to the power to coin money. Congress may coin money. Do we coin money? We authorize the coining of money at the Mint. And so all the powers that are given to Congress in the long list of powers are practically delegated to some executive officer.

It seems to me, therefore, that there is nothing in the Constitution to prevent us from delegating to the Presiding Officers of the two Houses the right to designate the time when we shall meet. I can draw no nice distinctions of that kind; and I think that the best form. We can trust the Presiding Officers of the two Houses to designate the time. We can adjourn to meet at a time designated by them, provided it is within the year, leaving the regular session to stand. Therefore, when the Senator from Massachusetts [Mr. SUMNER] offered his proposition the other day, it seemed to me a reasonable one, and I voted for it. I did not wish to take part in the discussion, or rather I did not want to occupy time. The Senator from Indiana [Mr. MORTON] seemed strongly impressed with the idea that it was unconstitutional. I shall not now consume time, but barely repeat my opinion that there is nothing in the Constitution to prevent us from adopting that form, and I am in favor of it; and if the proposition is offered by the Senator from Massachusetts I shall now vote for it.

Mr. BUCKALEW. I have but one idea to express in answer to the Senator from Ohio. The President, the head of the executive department, has the power to convene Congress.

Mr. SHERMAN. That is not exclusive at all.

Mr. BUCKALEW. Here it is proposed by a legislative statute to confer that power upon the President of the Senate and the Speaker of the House of Representatives. Why, sir, that power being vested in the Executive, is in its nature exclusive. If it could by statute be vested in any other officer of the Government, or in any other power, the provision of the Constitution vesting it in him would be perfectly nugatory; it could be defeated at any time by a majority of the two Houses of Congress acting in concert or by a statute which they might enact.

This contains the whole argument, and it is useless to go into collateral considerations. If the power be an executive power, declared to be such by the Constitution of the United States, it is impossible by legislation to create it a statute power and to vest it anywhere whatever. If the power exist to do this by statute it may be vested in any other officer as well as the President of the Senate or the Speaker of the House; it may be conferred upon a commission; it may be conferred upon the head of the judicial department, that is, upon the Chief Justice of the United States; it may be conferred upon any person whatever, official or citizen. Such being the results to which the argument of the Senator from Ohio tends, it must be unfounded. This power was regulated by the Constitution, and therefore it cannot be regulated by statute. That is the answer which I think any reasonable man ought to give to the suggestion to which we have listened.

Mr. SHERMAN. The whole argument is based upon the idea that the power given to the President to convene Congress upon extraordinary occasions is an exclusive power. There is no ground for such an argument.

The language of the Constitution conferring this power on the President is—

"He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper."

This proposition does not interfere with his constitutional power. If he deems, from any condition of affairs, that an extraordinary occasion has arisen, he has the power, notwithstanding our action here, to convene us, even at a time when the Presiding Officers would not wish us to assemble. This does not interfere with his power. It is not in the nature of an exclusive power; but, on the contrary, the Constitution itself confers upon Congress absolute power over this question. We may adjourn from day to day, for three days at a time, or for six days at a time, by the consent of both Houses, or we may continue *en permanence*, as we should do on an extraordinary occasion.

The truth is that the Constitution is based upon the idea that there are three distinct powers of the Government, the executive, the legislative, and the judicial, and the executive has no power whatever to limit, curb, restrain, or affect in the slightest degree the legislative power of the Government except so far as the veto is concerned, which is only a part of the legislative power. Congress has absolute power over its time of meeting and its time of adjournment, the mode and manner of meeting, the place of meeting, and all the circumstances connected with it. This additional power is given to the President merely to provide for an exigency that may arise during the recess unforeseen, when he may convene us; but it seems to me it does not prevent Congress, in the exercise of its clear power over the subject, from providing that it will meet on the call of the Presiding Officers of the two Houses. No difficulty could arise from it. If you, sir, and the Speaker of the House, could by proclamation call Congress together, and a quorum of both Houses should meet here on your call, who could dispute the authority of the Congress thus assembled? Would the President dare do it? It would be the Congress of the United States, serving within the time for which it was elected by the people and the States. Nobody could interfere with its authority when convened in pursuance of its own law prescribed by itself. Neither the Executive nor the judiciary could interfere with its power. No one can call in question the right of Congress to fix the mode and manner and time and place of meeting. It seems to me, therefore, the argument based upon this clause of the Constitution is unsound, because it goes upon the supposition that this power of the President is exclusive in its character when it is not exclusive, the same power being also given to Congress.

Mr. EDMUNDS. Mr. President—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. EDMUNDS. I trust there will be common consent to lay that important question aside.

Mr. SUMNER. What was the unfinished business?

The PRESIDENT *pro tempore*. A motion to print certain testimony.

Mr. TRUMBULL. I move that that be postponed until to-morrow, for the purpose of enabling us to proceed with the resolution under consideration.

The motion was agreed to.

Mr. EDMUNDS. I wish to say a word or two in reply to the constitutional argument of my distinguished friend from Ohio, because I am considerably surprised that he should advance the doctrines that he does.

I believe it has been generally decided by the courts of the United States, always decided, that where in respect to a particular subject a power was given to one branch of the Govern-

ment it must be taken as a general rule to be exclusive. Whether that power is granted as an imperative power that must be exercised, or as a discretionary power that may be exercised, makes no difference in respect to its being entirely in the power of the department of the Government to which it may be confided. Therefore the fact that the language of the Constitution is that the President "may" convene Congress on extraordinary occasions furnishes no argument in favor of there being an implied or independent or coexisting power in some other body, any stronger than that argument would be if the Constitution had said the President "shall" convene Congress on extraordinary occasions. The object of using the word "may" rather than "shall" evidently was to repose in him the discretion of deciding when and what should be an extraordinary occasion that should authorize the re-assembling of the legislative department of the Government that had dispersed. If, therefore, in the case supposed, Congress may by law, or without law—because to make a law takes the assent of the President—if Congress may by concurrent resolution provide some other power or tribunal or test for the assembling of Congress on extraordinary occasions, it seems to me that you overturn the grant of most of the powers that are supposed, and always have been supposed, to be exclusive, that the Constitution confers on any of the departments of the Government.

I think, then, that most lawyers would agree with me in saying, and most judges have agreed in saying, that where power over a particular subject is reposed in one department of the Government, whether imperative or discretionary, no matter which, that power is to be exercised by that department to the exclusion of others, because otherwise there would be a conflict of departments at once if they should happen to disagree. And in order to reach that construction it is not necessary that the language should be in terms exclusive, as if the Constitution-makers were drawing up pleas in abatement and were obliged to rebut every possible implication.

But look a little further. What are the powers vested in Congress? My friend says that they are authorized to borrow money; and he inquires with an air of triumph, "Is it to be said that Congress is to form itself into a committee and go about the streets borrowing money? It must employ agents to execute its will." That is a perfectly fair argument; but let me remind my friend that by another provision of the Constitution Congress, in order to borrow money, must do it by law. It is not the two Houses of Congress that borrow money, although the term "Congress" is used. Every one of the legislative powers vested in the two Houses is referred to Congress as a body; but there is another clause of the Constitution which declares that no act of theirs shall become a law or be valid until it is approved by the President of the United States, or passed against his disapproval by two thirds of the body. Therefore, when we go into the market to borrow money or exercise any other one of the functions that the Constitution reposes in us, we execute and perform those functions by force of a law which selects the agents, leaves nothing to discretion except to perform our will.

How do you distinguish, says my friend, between that case and the one under consideration? Why, sir, what are we to do here? Without law the two Houses are to delegate to their Presiding Officers a discretion as to will, as to time, as to emergency. When the President of the Senate and the Speaker of the House of Representatives get together to consult as to the state of public safety, to say whether we ought to assemble or not, are they executing our will, or are they exercising an individual judgment and discretion of their own over the subject of when Congress should assemble, or whether there is occasion for it, which we have undertaken to confide to them? There is no principle better known in consti-

tutional or legislative law than that legislative powers cannot be delegated. That is well understood everywhere. Now, what do we delegate in this case? We do not delegate the performance of an executive act, executing our will at a particular time; we might do that; but we delegate the trust that we ourselves now may decide if we choose to two persons to decide, when and under what circumstances Congress shall reconvene. There is no warrant for that in the Constitution, as it seems to me. When you, sir, and the Speaker of the House act under such an authority, you are not doing anything that we have required you to do, but you are exercising an authority dependent upon your own judgment and discretion, instead of depending upon ours. Your discretion and judgment may be perfectly right, and I have no doubt would be as a matter of fact, but as a matter of law the judgment and discretion which the Constitution imposes in these two bodies is delegated to one member of each; and we should have exactly the same power in making a law to delegate to the Presiding Officers of the two Houses the power to make that law, provided the President would approve it, that we should have to delegate this authority, because it is a function that we must exercise as a body, we must decide. Having decided, we can leave it to the executive officers possibly to carry our decision into effect, and that is the ground upon which my amendment is offered. That is, we decide that we will adjourn to a particular day, and then if a particular contingency does not happen it is left to nobody's discretion, to nobody's judgment, but an existing fact; then you are further directed to do another thing, and you do it. That possibly, probably, we may lawfully do, although that would be open to some slight doubt as standing in opposition to that clause which authorizes less than a quorum of the two bodies to adjourn from day to day—a clear and express grant of power to less than a quorum to adjourn from day to day and to continue to sit. But still my own opinion is that this law will stand the test of constitutional investigation as executing an order of the two Houses when they again meet, acting on their responsibility. Less than that it appears we cannot possibly do.

But my friend from Ohio says, "What if this power is doubtful; who can question it; who can overthrow us; if we meet here even if we have not the authority," as he seems to maintain, "on your call and that of the Speaker of the House, who is to turn us out, who is to question our supreme authority to be an organized and legal body?" I will answer that by putting a similar question: suppose we adjourn without day and go home, and then we get together here all of us on the 4th day of July, and you take your chair, and the Speaker takes his, who is to question our authority? I take it, it would be the duty of the executive department of the Government to question our authority unless he means to have a mob legislature. We should be an assemblage of highly respectable individuals who had gotten together in Washington on the 4th day of July, that is all; and the Executive in my opinion would be perfectly justified in holding no communication with us whatever, because it would be a revolutionary assemblage and nothing else. However perfect and pure the motives of every man who assembled here might be, however high the emergency which should call us together, the body would be nothing but a revolutionary body; and in these disturbed and troublous times it would be a sad precedent indeed to undertake to disorganize the order we have for the purpose of stamping somebody to question it. If there is any ground to suppose that there is any need at all for our coming together in midsummer, we ought to avoid every possible question as to the regularity of the means by which we get together. There is much less question in the manner that proposed than there is in the other, as it appears to me.

Mr. DRAKE. Mr. President, the Senator from Vermont in the remarks which he has



just made has touched upon the very point of question which exists as to the amendment he himself has offered. His amendment authorizes an adjournment of the two Houses in July next unless the two Houses then otherwise order. Now, sir, I desire to call the attention of the Senate to the very clause of the Constitution to which he referred, that which authorizes a smaller number than a quorum to "adjourn from day to day" and to "compel the attendance of absent members in such manner and under such penalties as each House may provide." Suppose that the amendment offered by the Senator from Vermont be adopted, and both Houses concur in the resolution in that form, I suggest to the honorable Senator that possibly when a minority, less than a quorum of the two Houses, assemble here on the day named, they might have under the Constitution the power to adjourn over from day to day, and to send the Sergeant-at-Arms to compel the attendance of absent members, and they might have the power to order that the two Houses should not be adjourned over until December in the manner contemplated by the resolution.

Mr. President, there is one very simple way of avoiding every question about this matter, and I desire to call the attention of Senators to that mode. If we are to have an adjournment of this kind, with power to meet between now and the first Monday in December, I submit that the only way you can put it in which there shall be no possible question is that which I proposed the day before yesterday: that if a quorum of the two Houses be not present on the intermediate day named then the Presiding Officers shall adjourn the two Houses over to another day. That brings the two Houses in conflict with no provision whatever of the Constitution; there can be no question made under any provision of the Constitution upon that mode of proceeding. But in the shape that the Senator from Vermont puts the matter, it is open to question whether a small number of the members of the two Houses coming here on the day fixed will not have the power to adjourn from day to day and to compel the attendance of absent members.

I do hope that the Senate will consider this matter, and if they should finally (as I think it would be very wise in them to do, and as I have urged them to do) vote in favor of intermediate times of meeting between now and the first Monday of December, I think there is no shape in which they can put the matter that is so entirely free from objection as that which I presented the day before yesterday: to authorize the officers of the two Houses, unless there be a quorum present on the designated day, then to adjourn the two Houses over.

Mr. FESSENDEN. If the difficulty stated by the Senator from Missouri is really an existing difficulty, and he is right in his suppositions, the same rule would apply at present. Suppose we now pass a concurrent resolution that on Monday next at twelve o'clock the Presiding Officers of the two Houses adjourn their respective Houses without day, and that resolution is passed by a quorum; when Monday comes there are but a dozen members of each House present; the rest have gone home. According to the argument of the Senator from Missouri that dozen in each House may refuse to adjourn and may compel all the others to come back. I think he would hardly contend that; and unless that consequence would follow the power to adjourn and decide what action shall be taken on a future particular day, unless it be otherwise ordered, amounts to the same thing. If there be a quorum of the two Houses present, then they may order otherwise; if not, less than a quorum have no power to control the proceedings and actions of the two Houses, for it is only an adjournment after all.

Mr. DRAKE. With all respect to the honorable Senator from Maine, I must differ from him on that proposition, for this reason: when the two Houses have passed a joint resolution

with regard to an adjournment, a quorum being present in both Houses and voting upon it, and when they have by such a resolution imposed upon the Presiding Officers of the two Houses a duty under given circumstances, that is just as much a law to those two officers as if it were a statute upon the statute-book of the nation.

Mr. FESSENDEN. That is precisely what I contend. It is a law to them that they must adjourn the two Houses on that day. So, it being a part of the same resolution in this case, that when the time arrives to which we propose to adjourn in July, if that is fixed, then, unless it be otherwise ordered a certain other thing shall be done, it is equally imperative on the Presiding Officers of the two Houses then to do that thing. Nobody can control those Presiding Officers except a quorum of each House. If a quorum of the two bodies be present and agree otherwise, very well; if not, this law or order must be carried into execution.

Mr. DRAKE. The point suggested by the Senator from Maine is the very point about which the controversy may arise, to wit: that when we meet in July none but a quorum of the two Houses can control the action which the Presiding Officers take under the resolution we may adopt now. When the Constitution expressly says that a number less than a quorum shall have a particular power, can we take that particular power from them, when we leave the matter in a position when they may act under that power?

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. DRAKE. Certainly.

Mr. EDMUNDS. Suppose we should pass to-day a resolution to adjourn to-morrow without day at twelve o'clock, and that to-morrow at twelve o'clock there should be only twenty-five Senators here present, and fifty members of the House, does the Senator from Missouri mean to say that the twenty-five men here and the fifty there could adjourn until the next day?

Mr. DRAKE. No, sir.

Mr. EDMUNDS. Then where is the difference between that case and ordering that the two Houses shall adjourn two weeks hence or three months hence?

Mr. DRAKE. Just simply because they will not in July, when they come here, I take it, be as clearly under the operation of this resolution as framed by the honorable Senator from Vermont as they would be to-morrow under a resolution now adopted, such as is suggested. The very object I aim at is to shut down upon the possibility of a minority, a number less than a quorum, availing itself of that provision of the Constitution. Why will not the honorable Senator from Vermont, instead of using the phraseology "unless otherwise ordered," adopt the other phraseology, and say that unless a quorum of both Houses be present the thing shall not be done? Then you do not leave any question. The two Houses have ordered that a minority who may be in attendance shall not do what is feared. If the honorable Senator from Vermont will adopt that phraseology it will cover, in my opinion, the whole case, and get rid of every possible objection. There cannot be, in my opinion, any way in which the ingenuity of man can contrive to get around the effect of the resolution so worded.

Mr. EDMUNDS. I will assure my friend from Missouri that the other day, before this question arose in the Senate, I framed an amendment in just the way that he names, and another gentleman framed another in the form in which this is now presented, and I was convinced in thinking it over for two or three days that this form on the whole was the best. That is the reason why I stick to this, although they both mean exactly the same thing.

Mr. MORTON. I think the careful consideration of the amendment offered by the Senator from Vermont will not allow the order implied in the phrase "unless otherwise ordered"

to be made by less than a quorum of each House; but still there may perhaps be an argument made that a minority less than a quorum might "otherwise order" an adjournment until the next day and send for absent members. The Constitution expressly provides that less than a quorum may adjourn from day to day, and may send for and compel the attendance of absent members. That is the only case in which less than a quorum is permitted to act. Now, suppose that on the first Wednesday in July some twenty members of the Senate and fifty members of the House come here, and they are of opinion that it is very important that Congress should be in session; they believe there is an emergency requiring the assembling of Congress, and they assume that less than a quorum is authorized to "otherwise order" in respect to the question of adjournment, and to meet from day to day, and send for absent members until the presence of a quorum is secured. For the purpose of preventing the possibility of any difficulty of that kind I think the amendment suggested by the Senator from Missouri ought to be adopted, and then there can be no two opinions in regard to the effect of the proposition.

The amendment of the Senator from Vermont obviates the constitutional difficulty to which I referred some days since, because it places the adjournment, not upon the discretion of the President of the Senate and the Speaker of the House, but upon the absolute order of Congress themselves, and intrusts to those two officers simply the performance of a mere ministerial duty. I think it very clear that we have no power to place in the hands of those officers the determination of the question whether Congress shall meet.

The Senator from Ohio likens it to the case of borrowing money, which he says Congress has power to do, and yet Congress does not go out itself and borrow money in Wall street, but acts through agents. Let me say to the Senator that Congress can borrow no money except in pursuance of law, and the agents to do the business are appointed by the law or created under it. Now, let me ask the Senator a question: Congress, under the Constitution, has power to levy taxes; can Congress depute the President of the Senate and the Speaker of House to make a levy of taxes, to determine the amount, to make the assessment, and provide for the collection? All that is purely legislative business, and the assessors and collectors are the agents created by law for the purpose of performing the duty. The question of adjournment is a legislative one. As the Senator has said, Congress may remain in session all the time, or it may adjourn from day to day or from month to month, but that is a matter within the power and the discretion of Congress. It cannot permit the President of the Senate and Speaker of the House to exercise that power as to when Congress shall meet and as to when Congress shall adjourn. That is purely a legislative question, which we have no more power to depute anybody else than we have to depute the power of levying and assessing taxes and providing for the means of collection. I think, however, that to avoid trouble and misconception the suggestion of the Senator from Missouri ought to be adopted, providing that the order referred to in the phrase "unless otherwise ordered" cannot be made except by a quorum of each House. That would avoid all questions in the future.

Mr. EDMUNDS. By the leave of the Senate, I will, at the request of several Senators, modify my amendment so as to make the last adjournment until the first Monday of December.

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont, as modified by the mover, will be read.

The Secretary read it, as follows:

The President of the Senate and the Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at noon on the 26th day of March, instant, to the first Wednesday of July, 1867; and that, unless otherwise ordered by

both Houses, they, at one o'clock on the afternoon of the next day thereafter, further adjourn their respective Houses to the first Monday of December, 1867.

Mr. TRUMBULL. I have not changed the views which I originally entertained as to the propriety of an adjournment of Congress in the usual way to the usual time of meeting; but there seems to be a difference between the two Houses on that subject, and a desire on the part of the House of Representatives, and many members of the Senate also, that Congress should retain within itself in some form the power of assembling at some intermediate time or times. While I do not attach any importance to that provision, while I do not believe that if that simple authority is given there will be any occasion to exercise it, and trust there may be none, still, as we must arrange this matter satisfactorily, and, if we can, come to some sort of an agreement, and I do not regard it as any sacrifice of principle, I am not disposed to be tenacious about the form of adjournment, and shall acquiesce with our friends in providing for an intermediate session.

In regard to the difficulty or supposed difficulty of my friends from Missouri and Indiana, I suggest to them that all possible question would be avoided, and the resolution would be just as well, if the words "unless otherwise ordered" were stricken out. Then it would make it the duty of the Presiding Officers to adjourn their respective Houses from the first Wednesday of July, if that is the day fixed, to the first Monday of December. That will be made their duty; but if a majority come here and rescind the resolution no adjournment will take place. I think we need not say anything about "unless otherwise ordered." The words "unless otherwise ordered" have no legal effect.

Mr. MORRILL, of Vermont. Why not say "unless otherwise ordered by a quorum of each House?"

Mr. TRUMBULL. It could only be by a quorum; less than a quorum could not make the order. If a resolution is now passed by both Houses directing the Presiding Officers of the respective Houses at a particular time to close the session, they must close it at that time; but if before that time arrives the resolution is rescinded they cannot close the session at that time. The words "unless otherwise ordered" in the resolution have no meaning in a legal sense. If a quorum came here at the time designated and desired to transact business, as a matter of course they would rescind the resolution, and then the Presiding Officers could not carry it into effect.

Mr. JOHNSON. The amendment offered by the honorable member from Vermont gets rid of the constitutional objection to which I think the original proposition was obnoxious. I do not propose, therefore, to state why, in my opinion, that was liable to constitutional objection; but so far as the amendment is concerned it is justified as I think by the power which Congress has, if the two Houses can agree, to adjourn from month to month or to any specific time. In other words, the power of adjournment without any limitation whatever as to the time of adjournment is vested exclusively in the two Houses of Congress, if they can agree in its exercise. On the contingency of their not being able to agree the Constitution provides that the Executive shall fix the day. The only doubt, therefore, is the one suggested by the honorable member from Missouri as to the construction of the amendment. I understand him to say that if the amendment passes it will be in the power of less than a quorum of either branch, if they should be present at the first day to which the two Houses are to stand adjourned, to prevent an adjournment over by exercising the power which is in words by the Constitution conferred upon each House of adjourning from day to day at the instance of a number less than a quorum.

Mr. DRAKE. If the honorable Senator will

allow me, I will state that I did not assert that power for less than a quorum, but I said the matter was open for question.

Mr. JOHNSON. So I understood. The only doubt is whether the suggestion is warranted at all. I think, with all respect to the honorable member, that it is not warranted, Congress having the authority to adjourn certainly has the authority to direct the Presiding Officers to adjourn them on any day, they think proper; and that has been often done, and when the hour fixed for the adjournment arrives the Presiding Officers in the two branches announce that Congress stands adjourned. Then the only question is whether they will be bound so to declare on the second day, to which the adjournment is to be made by this amendment, provided there be any members then present claiming the right to adjourn from day to day. I think the power very clear, and that it would then be the duty of the Presiding Officers to adjourn the two Houses unless they were ordered not to adjourn them by both Houses. Now, what is a House, and what is a Senate competent to pass an order? It is a quorum of each branch, and consequently if there is not a quorum on the day at which the adjournment is to be had the Presiding Officers will be as much bound to declare Congress adjourned on the second day as they will be bound to declare Congress adjourned on the first day.

The honorable Senator from Illinois suggests that the difficulty mentioned by the honorable Senator from Missouri might be avoided by striking out of the amendment the words "unless otherwise ordered." With due deference to him, I think that, if adopted, would give more force to the objection than it would have if the amendment were passed in the shape in which it is presented by the honorable member from Vermont; for then it would read that the two Houses are to adjourn on Friday, if that is the day we are to fix, until the first Wednesday of July, and that they are on that day to adjourn to December. Now, suppose we pass it in that form without providing that that authority to adjourn from July to December is to be subject to the order of the two Houses; then, if less than a majority of the Senate are here on that day, and less than a majority of the other House, those present may claim that we have not taken from them the authority to adjourn from day to day, and they may say that they will continue to exercise that power until they can bring in a quorum, and as they have the authority under the Constitution to adjourn from day to day, being less than a quorum, and to send for absent members, they may send for them.

I may be wrong in what I have stated in relation to the suggested alteration of the amendment which came from the honorable Senator from Illinois; but I am satisfied, with due respect to the honorable member from Missouri, that I must be right when I say that unless there is a quorum of the two Houses present on the day to which we propose first to adjourn by the terms of the resolution it will be the duty of the Presiding Officers to adjourn Congress on that day, and it will be their duty, if there is a quorum present, to adjourn on that day unless the two Houses order otherwise.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

Mr. ANTHONY. Is that amendable?

The PRESIDENT *pro tempore*. No. It is in the second degree now.

Mr. ANTHONY. I would suggest Saturday, the 30th, instead of Friday, the 29th, as the day of adjournment.

Mr. DRAKE. I wish to inquire of the honorable Senator from Vermont what his particular reason is for fixing on a day in July instead of June for the two Houses to meet.

Mr. EDMUNDS. The particular reason I had, being opposed myself to meeting in June or July or August, was to accommodate the views of the Senate, if I could, to those of the House, who were determined to have two meet-

ings, one in June and one in September, by dividing the time and putting one meeting in July, so that the spaces between now and July, and July and December, would be nearly equal. The theory of somebody seems to be that there is some apprehended danger of some extraordinary event or something that is likely to happen at some time, nobody knows when, that we ought to keep watch of; and therefore, calculating the probability of chances, it seems most likely that we shall hit this calamity by dividing the time as nearly equally as possible. That is the only reason I can give.

Mr. DRAKE. I would suggest that the honorable Senator from Vermont might know perfectly well, as doubtless he does know, that nothing short of a convulsion of empires would bring a majority of the two Houses here in the month of July.

Mr. EDMUNDS. I hope nothing short of that will.

Mr. DRAKE. I hope the Senator's amendment will not be adopted.

Mr. WILLIAMS. I should like to inquire of the Senator from Vermont, as it is in order now to make inquiries of him, whether he regards this as a continuous session from the first meeting of Congress on the 4th day of March until the first Monday in December, or whether these are two different sessions? Is the meeting of Congress in July, in case it should occur, to begin a new session, or is it to be a part of this session? If we agree to this resolution, and Congress adjourns from July to the first Monday in December, I should like to know whether Congress then meets, in accordance with the provisions of the Constitution, and commences a new session, or whether it is to meet under this resolution in continuation of this session, and whether we come back on the first Monday of December to attend the first session of the Fortieth Congress? If that be so, as I am a member of the Finance Committee, it is necessary that I should intimate to gentlemen that if we come back on the first Monday of December to attend a meeting of this session of Congress, we shall not be entitled to mileage, as I understand. But if we come back on the first Monday of December, pursuant to the provision of the Constitution, we then come to commence a new and distinct session of Congress. I find that at the last session an act was passed providing:

"That in addition to the present regular times of meeting of Congress, there shall be a meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, at twelve o'clock meridian on the 4th day of March, the day on which the term begins for which the Congress is elected, except that when the 4th of March occurs on Sunday, then the meeting shall take place at the same hour on the next succeeding day."

"SEC. 2. And be it further enacted, That no person who was a member of the previous Congress shall receive any compensation as mileage for going to or returning from the additional session provided for by the foregoing section."

This law provides for an additional meeting of the Fortieth Congress on the 4th day of March, and it is a law passed by both Houses and approved by the President, as provided for in the Constitution. Now, I desire to know whether the meeting for which this concurrent resolution provides, on the first Wednesday of July, is or is not a meeting such as this law provides for, or is it the reassembling of this identical session of Congress, and will the meeting, for which this resolution provides, on the first Monday of December, be a reassembling of this first session of the Fortieth Congress?

Mr. ANTHONY. This is the first session of the Fortieth Congress.

Mr. WILLIAMS. I know it is; but this resolution provides for an adjournment to a particular day in July, and then for a meeting on the first Monday of December; and it seems to me that the meeting on the first Monday of December, for which it provides, will be simply another meeting of the first session of the Fortieth Congress; and other questions will arise. Is the time between this and the first Wednesday in July a recess, such as the Con-

stitution contemplates, in which the President can fill vacancies, or is Congress in session? And after that time, until the first Monday of December, is there a recess in which, when vacancies occur, the President can fill them; or is Congress still in session? I should like some explanation on these points, as they occasion trouble in my mind. I presume the honorable Senator from Vermont can make the explanation.

Mr. EDMUNDS. My friend has put me so many knotty questions that I want to ask his leave to wait until the first Monday of December before I answer them all, as we have a great deal to do just now. But it is true, as he says, in substance, that the last clause of this amendment is entirely unnecessary; an adjournment without day would effectuate precisely the same purpose; and as he seems to have a good many metaphysical doubts in his mind upon that subject (and I never knew that he had any upon any other, I am glad to say) I will relieve those doubts by disposing of the subject by a further modification, so that the amendment will simply direct the Speaker of the House and the President of the Senate, on the occasion named in July, to adjourn their respective Houses without day; the effect of which will be to carry us over to December, and I do that in deference to the painful state of anxiety that I see my friend from Oregon is in.

Mr. SHERMAN. There is some question as to whether the time between this and the first Wednesday of July will not be a recess, during which a great many employés would draw their compensation. I presume myself, as the session would be continued, and this would be a mere recess and not an adjournment, the clerks of committees, &c., would draw their pay. I presume it is not the purpose to have anything of that kind done, and therefore I want to add a provision on that subject.

Mr. EDMUNDS. I have no objection, if the provision is such a one that it does not require presidential assent.

Mr. SHERMAN. It is a matter in the power of either House.

Mr. EDMUNDS. I will hear the Senator's proposition.

Mr. SHERMAN. I propose to add this proviso:

*Provided, That clerks of committees of the Senate and the House of Representatives, who do not receive a yearly compensation, shall only be paid for the days that Congress shall be actually in session previous to the first Monday of December next.*

Mr. EDMUNDS. I will modify my amendment by adding that.

Mr. DRAKE. I believe the amendment offered by the Senator from Vermont is open to amendment, is it not?

The PRESIDENT *pro tempore*. It is not.

Mr. DRAKE. Is it not in order to strike out "July" and insert "June"?

The PRESIDENT *pro tempore*. The amendment is not open to amendment unless by the consent of the mover. He may modify it.

Mr. EDMUNDS. I wish further to modify my amendment to meet another objection that has been made or to avoid a conclusion, and that is to insert after "1867" where it occurs after "July" the words "when the President of the Senate and the Speaker of the House of Representatives shall cause the roll of each House respectively to be called," and then after the word "thereafter" to insert the same words. I also propose to name the 30th of March as the day for the adjournment.

Mr. JOHNSON. I ask for the reading of the amendment as modified.

The Secretary read as follows:

That the President of the Senate and the Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at noon on the 30th day of March, instant, to the first Wednesday of July, 1867, when the President of the Senate and the Speaker of the House of Representatives shall cause the roll of each House respectively to be read, and that unless otherwise ordered by both Houses they at one o'clock in the afternoon of the next day thereafter, when they shall cause the roll of each House respectively to be read, shall thereupon further adjourn their respective Houses without day.

Mr. DRAKE. That is in substance, if I understand it now, coming around to the position I asked the gentleman to take. I asked him to use simply the language "unless a quorum of both Houses be present the said officers shall further adjourn," &c. Now, the gentleman gives direction that the roll shall be called, and then the two Houses shall adjourn. That, I take it, is just about coming around to the position I have been struggling here now on two occasions to get the Senate to, when it might be expressed in about six words: "unless a quorum of both Houses be present." I hope the amendment will be put in such a shape that we can understand it.

Mr. BUCKALEW. I should like, at some stage of our proceedings on this resolution, to get a distinct vote upon the question of adjourning at twelve o'clock to-morrow, free from all other questions; and I desire to ascertain from the Chair at what stage I can accomplish that object. I am content to do it by dividing the question on the motion submitted by the Senator from Vermont, or by moving to strike out all that part of his resolution which follows the first provision. In whichever mode I can accomplish it, I desire to make some motion so as to raise distinctly the simple question of an absolute adjournment at twelve o'clock to-morrow. Would it be in order to make a motion to strike out any part of the amendment?

The PRESIDENT *pro tempore*. Such a motion would not now be in order.

Mr. BUCKALEW. Then I ask for a division of the question, so as to have a vote first on the first clause of the amendment.

Mr. TRUMBULL. I would suggest to the Senator from Pennsylvania that he will accomplish the object by voting down all the amendments. The resolution which the Senate passed originally is pending here, and there is a House amendment to it, to which amendment we now propose an amendment. The resolution of the Senate is a clean resolution for an adjournment of the two Houses, closing the session in the ordinary way. If these amendments be voted down, we come back to the original proposition passed by the Senate, which was that the Presiding Officers close the present session by an adjournment of the two Houses at twelve o'clock to-day; but that could be altered so as to read "to-morrow" or "Saturday." If these amendments are all voted down we then come back to our original proposition.

Mr. HOWARD. I believe that as the amendment of the Senator from Vermont now reads, there is to be but one intermediate meeting on the first Wednesday of July. I would inquire of him if I am correct in that?

Mr. EDMUNDS. Yes, sir. It only provides for a meeting on the first Wednesday of July and for a final adjournment on the next day.

Mr. HOWARD. I am opposed to that. I prefer the House resolution to that. If it be necessary to take any precautions at all between this time and the first of December, it seems to me that two meetings are at least few enough in that regard. I hope this amendment will not be made.

Mr. DRAKE. I understand that no amendment can now be offered to this amendment.

The PRESIDENT *pro tempore*. It is not amendable.

Mr. DRAKE. And I understand that after the Senate shall have adopted it there can then be no amendment offered to it; and therefore we have got to take the amendment of the gentleman from Vermont as a whole or reject it as a whole. Am I right in that?

Mr. EDMUNDS. Entirely right.

The PRESIDENT *pro tempore*. This is an amendment in the second degree, and is not open to further amendment. It may be that after it is adopted, amendments can still be made.

Mr. DRAKE. The gentleman from Vermont insists upon it that his amendment has to be taken now as a whole or rejected as a whole, and that if it is adopted by the Senate

it is not subject to amendment after its adoption.

Mr. EDMUNDS. That is true.

Mr. DRAKE. If that is the case I hope the Senate will not adopt it; for I think it defeats the whole object we have in view in an intermediate session of Congress, or paving the way for it, on the first Wednesday of July.

Mr. SHERMAN. I desire to modify the language of the amendment which I suggested. It seems that the clerks of some of the committees of the House, like the Committee on the Judiciary, are actually employed now, and will be during the recess, under the orders of their committees. They ought to be paid. I therefore modify the proviso which I offered so as to read:

*Provided, That clerks of committees of the Senate and House of Representatives who do not receive a yearly compensation, and who are not actually employed during the recess by order of a committee of either House, shall only be paid for the days that Congress shall be actually in session previous to the first Monday of December.*

Mr. EDMUNDS. I accept that modification.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. EDMUNDS. I wish to say to the Senator from Missouri that it is true that by our rules—and there must be rules for everything—the amendment which I have proposed cannot be amended in hostility to its purpose, that is, against my consent; and of course every Senator understands that if he has any better proposition which he thinks the Senate is likely to agree to, all he has to do is to vote against this. If this amendment is rejected, then the question will be, what shall be done next; and my friend from Missouri can submit his proposition.

I stated to the Senate before that I did not like my own amendment, because I did not believe in meeting in July or any other intermediate time, except October or November, and then for the purpose of business, and not for the purpose of any unforeseen emergency, but to go on with the work. I believe I have explained as fully as it was necessary that I only proposed this amendment with a view of accommodating in a degree our views to those of the House of Representatives, who have just as good a right as we have to have their opinions about it, and they think there ought to be a good many intermediate meetings.

Mr. DRAKE. In consequence of the remarks just made by the honorable Senator from Vermont, I wish to give notice that if his amendment fails I shall offer one which will manifestly be more in accordance with the wishes of the House of Representatives, and with the permission of the Senate I will read it now. It is to strike out of the House amendment all after the word "June" and in lieu thereof to insert "when," that is, on the first Monday of June, "unless a quorum of both Houses be present said officers shall further adjourn the said Houses over until the first Wednesday of September next, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses without day."

This will be manifestly more in accordance with the wishes of the other branch of Congress. They have sent us a proposition here for two days of meeting between now and December. The gentleman substitutes one. I hope that his amendment will not be adopted, so that we shall have an opportunity to vote upon this other.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. SUMNER. The Senate seems to have arrived at a point where the difference is one of form rather than of substance. We have been occupied for some minutes, ay more than that, almost an hour, in discussing the phraseology of the resolution. We have reached the great point which was the subject of such earnest discussion two or three days ago, that Congress ought in some way or other to secure

to itself the power of meeting during the long period between now and next December. I understand Senators are all agreed on that point. They adopt it. I am glad of it. It has been only by time and by discussion that we have reached that harmony. The House has given us three opportunities. The old story of the Sybil has been repeated. Once, twice, thrice she came. Twice the king rejected the book of wisdom. Twice the Senate has rejected the offer of the House; and now the third time, so far as I can understand by what has fallen from Senators in this discussion, it is ready to adopt the proposition of the House; substantially I mean, for the proposition of the House, as I understand it, is simply to secure to Congress an opportunity of coming together during the summer and autumn. Now, the practical question is, how shall that best be accomplished? For one, I am ready to accept either of the forms proposed. I am willing to accept the form that the House sent us; I do not see that that is objectionable. I am ready, if I can get nothing better, to accept the form just now proposed by the Senator from Vermont; but I must confess that I do think the form proposed by the Senator from Missouri is briefer, clearer, better. Therefore, I am free to say that if I could have my own way about it I would set aside the proposition of the Senator from Vermont, and fall back upon that of the Senator from Missouri. It seems to me that it better expresses the conclusion which I am glad to see we have at last reached.

I believe it is already settled that we shall not adjourn to-morrow. Am I right in that? I believe the proposition is to adjourn on Saturday.

Mr. EDMUNDS. Yes, sir.

Mr. SUMNER. I am glad of it. That is a gain of a day. We were to adjourn to-day at twelve o'clock, and then again we were to adjourn to-morrow at twelve o'clock, and now it is put off until Saturday. I think the Senate would do much better if it put off the adjournment until next week. There is important business now on your table which ought to be considered. Here is a bill on your table, "a bill providing for a change in the time of electing a mayor and other officers for the city of Washington." It is simply to give the new voting population of Washington an opportunity of electing a mayor. They are during this coming month of June to elect a city government, aldermen, and a common council, but not a mayor. What will be the condition of things if they do not elect a mayor? You will have a mayor elected under the old dispensation when colored people did not vote, and surrounded by a city government elected under the new dispensation when colored people do vote. Now, I think that you ought to bring the different branches of the government of the city of Washington into harmony. That can only be done by a new act of Congress authorizing the election of a mayor this month of June, at the same time that they elect other city officers.

That is a question of great importance. Citizens in Washington are very much perplexed by the idea that Congress may go home without attending to that important question. For instance, I have a letter that I have received this morning from a citizen here, from which I will read a brief sentence:

"We Republicans would feel exceedingly sorry if Congress should adjourn without passing that most important bill. May we not ask that the Committee for the District report said bill and proviso at the earliest moment possible?"

Then here is a resolution adopted by a Republican club on Monday, the 18th of March, as follows:

"We earnestly deprecate any action of the Fortieth Congress which would prevent the ordinary municipal election, and we respectfully ask the immediate passage of the bill, now in the hands of the Committee for the District, authorizing an election for mayor and comptroller in the month of June next."

Are you ready to go home leaving the government of the city of Washington in this anomalous condition, with a mayor who will not sympathize with the majority of the population or with his associates in the city govern-

ment? That is something to do. Senators say we have completed our work. I answer there is something to do.

Then here is another proposition which I have once before characterized as an effort to cut the gordian knot of the suffrage question. Here is a bill introduced by myself the other day to carry out various constitutional provisions, securing political rights in all our States, precisely as we have already secured civil rights. The importance of this bill at this moment cannot be exaggerated. There is not a Senator now on this floor who does not know the anxious condition of things in the neighboring State of Maryland for the want of just such a bill as this. Let Congress interfere under the Constitution and exercise a power that clearly belongs to it, that I submit now can no longer be questioned, and settle this whole suffrage question, so that it shall no longer agitate the politics of the States, so that it shall no longer be the occasion of dissension, possibly of bloodshed in the State of Maryland or in Delaware, or I may say of any difference of opinion in Ohio. Let us settle the question before we go home. That is one reason why I am glad we have postponed our adjournment until Saturday. I wish we could go further and continue in session until we have reached a conclusion on at least these two important bills.

When I rose I had no purpose of calling attention to these matters now. My special object was to express my satisfaction that the Senate at last is disposed to harmonize with the other House on the important question of securing to Congress the power of meeting during the summer and autumn. That is a great point gained, I submit, for the peace and the welfare of the country. Without it you will leave this country a prey to the President; you will leave our Union friends throughout all the South a prey to the same malignant usurper.

Mr. YATES. I rise almost for the identical purpose which actuated the honorable Senator from Massachusetts. I rise to congratulate some of my peers upon the wise conclusion to which they have come. I especially thank the honorable Senator from Ohio for the graceful manner in which he has retired from his former position to the present position which has been adopted by the House. Sir, this is one of the propositions for which I have been in dead earnest. I verily believe, or I should not have spoken—for I have not troubled the Senate with my speeches—that if this Congress had adjourned without the power to reassemble, it would have been the greatest mistake of the century and of the age in which we live.

I am not one of those who desire that the Union Republican party, which has fought this glorious battle so long upon principle, shall stop half way. Sir, the moment that a progressive party in this country or any other stops half way, the moment it shows any faltering in courage, in determination to carry its purposes, that moment that party commences the backward movement. "Progress, onward and onward," is the motto of every truly progressive party. If we had adjourned under the circumstances supposed by the honorable Senator from Ohio we should have lost the prestige which now belongs to the Republican Union party, and our party would have met the fate of all those conservative Union projects which heretofore have killed off so many of our greatest and best men. Our political graves are now full of the dead of buried conservatism.

The honorable Senator from Ohio says there is no danger. Why, sir, when we adjourned last summer we found this President, who is opposed to us, who is opposed to our policy, who is in favor of southern and secession policy, conniving at the revolutionary proceedings in the State of Maryland. We found him giving governmental sanction, as it were, to the proceedings of Governor Swann, and attempting there to frustrate or to thwart a fair registration of the voters of that State. Sir, no danger from the President! Look upon that

bloodiest picture in the book of time, the New Orleans riot—the bloodiest, except the murderous assassination of our noble and great President. No danger, sir, when the President of the United States, with the weakness of Caligula and the despotism that characterized that tyrant and rendered him memorable for his cruelty, could sit in the White House and not only look coolly upon, but cause intervention in favor of, and give his direct sanction and approval to the means by which that bloodiest picture was consummated, to these acts of barbarity which sent a shudder throughout the world!

Tell me not there is no danger from such a President as that! Tell me not there is no danger if Congress leaves the mighty interests of this nation and the measures of reconstruction, which it has been so long inaugurating, in the hands of a man whom we know to be the enemy of the country, from the standpoint from which we view it, a man who has consulted with its enemies, who has abandoned his own party, who has proven untrue to every principle by which he secured our suffrages.

Sir, how soon, how very soon may the tide of political fortune be turned. A change in the result of the elections of New York, Indiana, and Ohio would transfer the power of this Government from the hands of the Republican Union party into the hands of secessionists and sympathizers with secession. While I am as sanguine as any man upon the subject of suffrage, while I believe that if we fight out that battle faithfully and truly we can carry it in the northern States, yet when I see so much conservative feeling as seems to have been manifested in the Legislature of the State of Ohio I am not sure that we can carry universal suffrage in more than four or five of the northern States.

We are very apt to imagine there is no danger. It is a delightful consolation for honorable Senators, in view of the stubborn facts by which they are surrounded, to sit still upon their seats and say there is no danger. One honorable Senator has even gone so far as to suggest that if an exigency should arise the President of the United States would call the two Houses together. Sir, he would not call these bodies together until Gabriel sounded his trumpet. He would rather see the ghost of Banquo than to see the honorable Senator from Wisconsin and such men as him here to attend to his case.

Mr. HOWE. I suggest that the Senator from Illinois does the taste of the President of the United States great injustice in the suggestion he has just made. [Laughter.]

Mr. YATES. *De gustibus non est disputandum.* I am willing and desire to stay here until the measure to which my friend from Massachusetts [Mr. SUMNER] has just alluded and that introduced by his colleague [Mr. WILSON] can be carried out. I think it was in 1865, on the 4th day of July, that I took ground for universal suffrage. I believe I was then the only politician in the country who came out publicly for universal suffrage. Other gentlemen were for "impartial suffrage." Even Frederick Douglass and Wendell Phillips were not then in favor of universal suffrage; they were satisfied with impartial suffrage. One year ago I introduced a bill which declared that universal suffrage should be the law in every State of this Union, not only in the rebel States, but in the State of Illinois, and I based my proposition upon the constitutional amendment abolishing slavery in every State and Territory of this Union, and particularly upon that clause of it which authorizes Congress to enforce freedom by appropriate legislation. I took the ground then, which I maintain to-day, that the black man can never have his freedom in this country until he has political as well as civil rights. I objected then, and I object now, to the strenuous effort made to draw a distinction between civil and political freedom. I maintain that that difference does not exist; but whether it exists or not, I stand here to-day, and those Senators who then voted



with me in a minority of eight stand here to-day, to say that Congress has exercised this power; Congress has legislated upon the subject; and Congress has declared that no State shall come into this Union which does not in its organic law adopt the doctrine of universal, and not merely impartial, suffrage.

I am aware that my honorable friend from Kentucky [Mr. DAVIS] gave us a lengthy dissertation upon the radical, physical imperfections of the negro. He told us that the hollow of his foot made a hole in the ground. Sir, thank God I have lived to see the day when in a recent election the hollow of his hand made a deep and permanent impression upon the platform for which the honorable Senator contends. Another friend of mine, who was then in this body, speaking of colored men voting, said he would not impose upon the colored man such immense and enormous risks; it would only result in getting his head broken at the polls; and yet at the election in Georgetown the other day we had through this very vote, at a mild, quiet, peaceable election, a majority of one thousand and forty and four, reminding me of those described in Scripture, the one hundred and forty thousand and four who came up in their white robes and with palms of victory, ballots in their hands, to declare the sweet Gospel to the nation.

Now, sir, I am not for this Congress adjourning until we have carried out the work of reconstruction and secured suffrage, not only in South Carolina, but in Illinois. We do not want any disturbance upon the question of negro suffrage in Maryland or in Illinois. We have declared that all men born on this soil are citizens. That is in the Constitution of the United States. If it was not there before, the last amendment to the Constitution has put it there. Congress has declared them citizens. Now, shall not Congress also declare that they are entitled to the rights and privileges of citizens? I want a complete and glorious and a triumphant emancipation.

I propose not to impose upon South Carolina or Georgia or Alabama any restrictions which I will not impose upon the State of Illinois. Under the constitutional amendment abolishing slavery in all the States and Territories with the power to enforce its provisions by appropriate legislation, under that clause of the Constitution which says that citizens of each State shall have the right of citizens in every State under the recent constitutional amendment, I believe we have power to declare universal suffrage to be the law of every State in the Union, as is proposed by bills introduced by the honorable Senator from Massachusetts and by his colleague. We have the power to declare universal suffrage in every State of the Union. I am not afraid so far as Illinois is concerned to declare by my vote that every citizen, black and white, in that State shall be entitled to the right of suffrage.

One year ago when this subject was submitted to the Committee on the District of Columbia, as you, sir, will remember, a bill was reported for impartial suffrage, and upon my motion that bill was recommitted to the committee, and after a full discussion we decided to report a bill for universal suffrage, not because we were opposed to education and intelligence, but because we were in favor of education and intelligence, for the ballot is the educator in this country of American citizens. The right to vote, the right to hold office, inspires the desire to have education, and hence the schools and colleges which fill our land. It is the molding influence of our institutions which makes intelligent, worthy, noble, patriotic, and Christian citizens, and inspires the eloquence which fills the Hall of the House of Representatives and the Senate Chamber.

Now, sir, I am for a complete reconstruction; I am for moving onward and forward until this Congress shall have accomplished its high destiny. We have done much. We have put down the war waged against the Union. We have carried out the proclamation of emanci-

pation. We have raised the noblest army in the world. We have equipped the finest navy that ever rode the seas. We have passed constitutional amendments by which we have attempted to secure freedom to four million of our fellow-citizens. Shall we stop now when in a few days we can pass the bills to which I have alluded, and instead of having an element of dissension in the States we can, by a legislative act entirely within our power under the Constitution, proclaim "liberty throughout the land and to all the inhabitants thereof."

I care not in what shape the propositions now before us are finally presented, so that we have it in our power to control the President of the United States in his encroachments, in his usurpations, in his desire to reorganize the Government upon what we conceive to be principles inimical to its existence and perpetuity. I hope we shall not let go our hold; let us hold firmly our grasp as faithful sentinels upon the watch-tower of liberty. We will hold it until this Congress shall add to what it has done the cap-stone upon the proud monument and temple of liberty which it has been erecting.

[During Mr. YATES's remarks, a message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following resolution, in which it asked the concurrence of the Senate:

*Resolved by the House of Representatives, (the Senate concurring.) That on Friday, the 20th instant, at the hour of three o'clock p. m., the President of the Senate pro tempore and the Speaker of the House of Representatives shall adjourn their respective Houses until Wednesday, the 5th day of June next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, those officers shall further adjourn the said Houses respectively until Wednesday, the 4th day of September next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses respectively until the first Monday of December next.]*

Mr. SHERMAN. I am very happy indeed to receive the congratulations of my friend from Illinois; but I am somewhat surprised that he selected me as the object of his congratulations.

Mr. YATES. Only for illustration.

Mr. SHERMAN. I am surprised at it, for I believe I have not said one word about these resolutions of adjournment from the beginning of the controversy to this time; and I have been a good deal disgusted with the length of the debate on so plain a proposition. I did not say one word about it till I attempted this morning to defend the proposition of the Senator from Massachusetts, when I endeavored to show that we had the power to place in the hands of the officers of the two Houses the right to convene us on extraordinary occasions. The few remarks that I made do not seem to have impressed the Senate, for they are proceeding to act on the matter of convening the two Houses next summer. My own deliberate judgment is that there is nothing in the appearance of the times to justify or to call for any extraordinary measures. I have expressed that by my vote. The Senator from Illinois, however, thinks we ought to be kept here *en permanence*, or until certain great objects are accomplished; and now he proposes to compromise his view. He who would require us to stay here day by day to watch the President gives that up for what will be a ridiculous farce, and what every Senator knows will be a ridiculous farce. We know very well that if we adopt the resolution in the shape now presented we provide simply for a ridiculous farce. Each member will be left to judge for himself whether a contingency has arisen calling for his presence.

No one expects that Congress will convene under this proposition. No state of facts can probably arise which will induce a majority of the members of both Houses to come here in July to form a Congress, and unless a majority do of their own motion, without a call, come, nothing can be done except for the Presiding Officers to say that in pursuance of a resolution, passed on such a day, they adjourn the two Houses until the first Monday in December.

If the House of Representatives desire this I am willing to yield it to them in deference to our associates in legislation. It would be much better, in my judgment, to adopt the measure of the Senator from Massachusetts, the one I have voted for, to authorize the Presiding Officers of the two Houses, in whom we have entire confidence, in case of emergency to call us together. I do not fear that power, and do not apprehend that there will be any occasion for its exercise. I am not, therefore, anxious to have any proposition of this kind acted upon.

But now, I would ask the Senator from Illinois and the Senator from Massachusetts why they lug into this debate the suffrage laws of Ohio? What have they to do with the question of our adjournment? The Senators desire to hold us here until we can repeal the constitution of the State of Ohio in regard to negro suffrage, and yet they are willing to compromise by adjourning to-morrow, if we only adopt a provision that we may come together in June or July if we choose. The Senator from Massachusetts said he would be willing to take that if he could not get anything better.

Mr. SUMNER. I have said that I thought Congress ought, before we go home now, to adopt a law that shall settle the suffrage question in every State of this Union, in Maryland and in Ohio. If I alluded to Ohio it was only by way of illustration, because unhappily we have seen in the newspapers recently something that Ohio has failed to do on that subject.

Mr. SHERMAN. I will refer to that. A majority of the Senate are congratulated because we have yielded our opinions so much as to agree to a possible meeting of Congress in July. We must congratulate our friends on the other side for yielding so much, giving up a session *en permanence*, sitting here to watch the President, for this slight shred that is given to them merely to enable them to back out. That is all there is of it. Now, I have no particular objection to having two or three of these "hopskip-and-jump" meetings, as my friend from Vermont [Mr. MORRILL] very properly describes them, if Senators really desire them. If any ten Senators, any five Senators, or if even the Senator from Massachusetts or any other Senator, will say that in his deliberate judgment a state of affairs will arise between this and the next regular session of Congress which demands the extraordinary measure of convening Congress against the will of the President, I should feel disposed to yield to it, because I would sacrifice all my personal convenience to any substantial fear of that kind.

But there is no such fear. No one supposes the President has the power to do anything of the kind if he had the inclination, and we have no evidence that he has any such inclination. He is proceeding to enforce the laws which we have passed over his veto, and enforcing them precisely as we desire him to enforce them. The order of General Sheridan, published this morning, I give as an example. Then there is the appointment of General Pope. Every indication shows that the President contemplates a full execution of those laws. Why, then, should we abuse him now, when he is carrying out in good faith our laws? Why should we say anything against him or arraign him? On the other hand, let him go forward in the discharge of the high duties that are imposed upon him. If I believed there was any fear of his failure to do his duty I might think there was occasion to convene; but there is none. If Senators have any such fear, let us provide for meeting together in the mode I have mentioned.

Now, sir, let me say a word in behalf of the State of Ohio. I have heard imputations often cast upon my State, and I have sat here in silence, because I did not wish to drag before the Congress of the United States the business of the State of Ohio. Ohio can take care of her own domestic affairs. She neither thrusts them here nor seeks to defend them here, and I do not rise now to defend or apologize for the action

of the State of Ohio. The people of Ohio take care of their own affairs, and they do not care what Senators here think and say of them. I tell you further that any attempt of Congress to interfere with matters which are within the legitimate power of the people of Ohio will only check their movements in the direction that you desire them to march. By this course you only excite among them a feeling of State pride, the same feeling which led many of the southern States into rebellion. My own deliberate conviction is that suffrage in Ohio will within a very few years be universal. I have not a doubt of it. I here express my own opinion on that subject. During the session I have written public letters to different members of the Legislature, giving my views. There is no opposition to universal suffrage among the Republicans of Ohio, the newspapers to the contrary notwithstanding; but there are some difficulties in the way. We are all committed there to the principle of universal suffrage; and why? Because we cannot fairly demand of the people of the southern States universal suffrage as a condition of their readmission to representation unless we yield it ourselves. Every man of the party to which I belong in Ohio feels the force of this consideration, and is well aware that it would be totally inconsistent to impose conditions on the southern States that we are not willing to apply to ourselves.

By the constitution of Ohio a convention will meet within three years to revise the whole State constitution, and then there will be no difficulty. In order, however, to amend the constitution in the mean time the amendment must be submitted by two thirds, or a majority of the Legislature, I have forgotten which, and it must be voted for by a majority of all the electors voting at the election; and it will be remembered that on that point in regard to the reconstruction law we had quite a discussion here; and the same difficulty which was explained then occurs in Ohio. Two hundred thousand persons might vote "yea" on a constitutional amendment and only two vote "nay," and yet if those two hundred thousand were not a majority of all the votes cast for any person on the ticket on that election the constitutional amendment would not be adopted. There is a difficulty. Now, the question with the Legislature of Ohio was whether we had better now submit the matter again to the people of the State, it having been once before submitted and rejected, and take their sense upon it at the coming fall election, or whether it would be better to postpone it until the organization of a State convention to revise the constitution, which will undoubtedly provide for universal suffrage.

There is no difference of sentiment among the Republicans of Ohio on the question. I have myself, and I know my colleague has done the same, urged members of the Legislature, in deference to the general public opinion of our party throughout the United States, to present the question to the people this fall, in the hope that by making it a party movement a sufficient number of the votes cast at the election may be obtained in favor of it. I have no doubt that when the election takes place a great majority of those voting on the proposition will vote in favor of it; but there must be a majority of all the votes cast at the time for any one of the officers on the ticket the same year. That is the difficulty in the way. My impression is, the recent information I have from Ohio is, that the Legislature will take this course and submit the question at the coming fall election. But let me say to Senators that nothing in the world would tend so much to check the strong feeling in my State in favor of that course as the threat from Massachusetts or Illinois that they will override the constitution of the State by congressional enactment.

Anything of that kind would only deter members of the Legislature and induce them to say, "Let them try it on," or something of that kind. We are all governed by such feel-

ings. I trust Senators will do no such thing; and especially ought not my friend from Illinois to cast into the teeth of Ohio her laws upon this subject, when the constitution and the laws of Ohio are more liberal than those of any of the western States I believe. We allow a great many negroes to vote, all those nearer white than black, and the judges of election decide that matter, so that substantially the great majority of them are allowed to vote, and always have been under the old constitution, under the construction that has prevailed from 1802 to this time. In Illinois they have had until recently, and perhaps they have yet, laws which forbid negroes from coming into the State, from sitting on juries, from taking any part in the government. Now, it seems to me my friend from Illinois should take the beam out of his own eye before he undertakes to take out the mote in his neighbor's. He ought not to talk much about Ohio unless he talks a great deal about Illinois.

Mr. YATES. The Senator certainly does not represent my position correctly. I want the same law, a uniform law, a national law, for Ohio, Illinois, South Carolina, and Georgia; and I should like to ask the Senator now whether he will vote against a carefully-prepared bill, like that of the Senator from Massachusetts, to extend suffrage to Ohio as well as to Illinois.

Mr. SHERMAN. I will vote against any interference by Congress with what is within the legitimate power of the States.

Mr. YATES. Of course; but would this be an interference under the amendment to the Constitution which declares every American to be a citizen?

Mr. SHERMAN. I do not want to go into that debate now. I could give my present impression, but it is really improper for us to discuss that question here now. The Senator must see that it is improper to discuss it. My own impression—I will be frank with him—is that the question of suffrage is entirely within the power of the States. We have imposed upon the conquered States as a condition universal suffrage, as one of the results of the war, and I have no doubt the people of the northern States will conform their institutions to that doctrine; but I doubt very much whether it is in the power of Congress to say who shall vote in Ohio under the plain provisions of the Constitution and the constitutional amendment fairly construed together. But it is scarcely worth while to drag that into the debate. We are proceeding in Ohio to accomplish the very result the Senator seeks, and he is throwing obstacles in the way. I say before he does that he ought to change the constitution and laws of the State of Illinois.

But, sir, what have all these things to do with this debate? We drag them in here on the mere question of whether we shall adjourn to-day or to-morrow, whether we shall provide for another session or not. Why drag the constitutions of Ohio and Illinois into the controversy? I do not see any reason for it; and I confess I cannot see any reason why I was called upon to say anything in this debate when I have carefully and purposely abstained from it except to advocate the proposition of my friend from Massachusetts. If I get into a scrape again by coming to his defense I will keep quiet when he offers a proposition. [Laughter.]

Mr. DRAKE. I move that the matter now before the Senate be laid on the table for the present, in order to take up the other resolution on the subject of adjournment, which has been sent to us by the House of Representatives this morning.

Mr. EDMUNDS and others. Oh, no; let us dispose of this.

Mr. DRAKE. The House seeing that the time had passed contemplated by its former resolution for the adjournment of the two Houses, has sent us another resolution, and I think it would be only proper that we should consider that this latter resolution is intended by the House to supersede entirely its former

proposition to us on the subject of adjournment. Therefore it is that I desire to bring that latest proposition from the House before the Senate.

Mr. EDMUNDS. How does it differ from the first one?

Mr. DRAKE. It differs very materially from the first one.

Mr. EDMUNDS. How? Describe it.

Mr. DRAKE. The gentleman asks me how it differs—

The PRESIDENT *pro tempore*. The question is on the motion to lay the pending resolution on the table, which is not debatable.

Mr. CONNESS and Mr. DRAKE called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 14, nays 27; as follows:

YEAS—Messrs. Buckalew, Chandler, Drake, Fowler, Howard, Pomeroy, Ramsey, Ross, Sprague, Sumner, Thayer, Wade, Wilson, and Yates—14.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of Tennessee, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—27.

ABSENT—Messrs. Cameron, Doolittle, Ferry, Grimes, Guthrie, Harlan, Hendricks, Norton, Nye, Patterson of New Hampshire, Riddle, and Saulsbury—12.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on agreeing to the amendment under consideration.

Mr. DRAKE. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. What is the amendment?

The PRESIDENT *pro tempore*. The amendment offered by the Senator from Vermont.

Mr. CONKLING. May we hear it read in full as it stands?

The Secretary read the amendment, as follows:

The President of the Senate and Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at noon on the 30th day of March, instant, to the first Wednesday of July, 1867, at noon; when the President of the Senate and the Speaker of the House of Representatives shall cause the roll of each House respectively to be called; and that, unless otherwise ordered by both Houses, the President of the Senate and Speaker of the House, at one o'clock in the afternoon of the next day thereafter, shall again cause the roll of each House respectively to be called, and shall thereupon further adjourn their respective Houses without day: *Provided*, That clerks of committees of the Senate and House of Representatives who do not receive a yearly compensation, and who are not actually employed during the recess by order of a committee of either House, shall only be paid for the days that Congress shall be actually in session previous to the first Monday of December next.

The Secretary proceeded to call the roll.

Mr. POMEROY. I cannot vote on the amendment, because, as I understand it, they cannot proceed to business if they would.

Mr. EDMUNDS. I object to debate.

Mr. JOHNSON. If there is any doubt about the phraseology, I suggest to my friend from Vermont that it had better be corrected by unanimous consent.

Mr. EDMUNDS. There is not a particle of doubt in my mind.

The result was announced—yeas 25, nays 14; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Edmunds, Fessenden, Frelinghuysen, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Ramsey, Ross, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—25.

NAYS—Messrs. Buckalew, Chandler, Davis, Dixon, Drake, Fowler, Howard, Patterson of Tennessee, Sprague, Sumner, Thayer, Wade, Wilson, and Yates—14.

ABSENT—Messrs. Cameron, Doolittle, Ferry, Grimes, Guthrie, Harlan, Hendricks, Norton, Nye, Patterson of New Hampshire, Pomeroy, Riddle, Saulsbury, and Sherman—14.

So the amendment to the amendment was agreed to.

The amendment of the House, as amended, was concurred in.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had to-day approved and

signed the following bills and joint resolution:

A bill (S. No. 63) to authorize the entry and occupation of a portion of Long Island, in Boston harbor, for military purposes;

A bill (S. No. 80) to authorize the Secretary of the Treasury to sell the Government warehouses on Atlantic dock, Brooklyn, New York; and

A joint resolution (S. R. No. 22) declaring the meaning of the second section of the act of 2d of March, 1861, relative to property lost in the military service.

#### PAYMENT OF SALARIES OF MEMBERS.

Mr. MORRILL, of Maine. I ask the Senate to proceed to the consideration of House joint resolution No. 39, in reference to the payment of the salaries of members of Congress. As it is necessary to amend it, it ought to be acted upon at the earliest possible moment. It will not take five minutes to dispose of it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that each Senator, member of the House of Representatives, and Delegate in Congress, after having taken and subscribed the required oath, shall be entitled to receive his compensation at the end of each month at the rate now established by law.

Mr. MORRILL, of Maine. I move to amend the resolution by adding the following:

And an amount sufficient to pay their compensation and mileage to the 1st day of July next is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 51) relative to the iron-clad monitor Camanche; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 101) for the relief of John Perry, and the enrolled joint resolution (H. R. No. 26) to authorize the Second Auditor to settle the accounts of officers of the Army in certain cases; and they were signed by the President *pro tempore*.

#### SHIP-CANAL AT FALLS OF THE OHIO.

Mr. MORTON. I move to take from the table House joint resolution No. 41, which was laid on the table this morning, I think by a misunderstanding. It is a resolution providing for the necessary survey for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

Mr. MORTON. I hope the Senator will withdraw that motion for a moment.

Mr. FESSENDEN. That resolution will give rise to debate necessarily.

Mr. MORTON. I think not.

Mr. FESSENDEN. I shall debate it myself under the circumstances.

Mr. MORTON. This is the only hope I have of getting it through. It is important to the trade of the upper Ohio that these surveys be made without further delay. The canal around the falls of the Ohio is wholly insufficient for the commerce of that river. It is a matter of the first importance to all the cities and all the country above Louisville, and in fact below, that these surveys be made, and that either a new canal shall be made or the old one enlarged. Therefore, we want the surveys made this summer, so that the report may

be laid before Congress at the next session. I trust there will be no objection to the passage of the resolution.

Mr. FESSENDEN. There are a great many other matters that I suppose every gentleman interested in them thinks of importance. The most important matter, I take it, for the Senate generally is that we should get through with the business we must necessarily dispose of, and that is the executive business. There is but very little time left; there is a great deal of executive business on the table; we made no progress yesterday; and I hope the Senate will proceed to the consideration of executive business.

Mr. SUMNER. I will make one remark on that. I hope that we shall not proceed with the consideration of executive business. The Senate can act on executive business by itself. It may be called together when the legislative session is over by the President, and probably will be, for the consideration of nominations. Why not, then, let all the executive business that is now before the Senate pass over for the present and proceed with important, essential legislative business? Let the Senator from Indiana proceed with his bill. There are one or two bills that I wish to proceed with, and which I regard as very important to the welfare of the country. I think the Senate ought to act on them before we go home. I think, therefore, that it would be the best economy of our time now, particularly after the vote to adjourn that we have taken to-day, if we proceed constantly with the legislative business until the hour of adjournment, and let all the executive business pass over to a called session.

Mr. FESSENDEN. My opinion is that the more we legislate at this period of the session upon these bills coming from the House, most of them gotten up without the examination of a committee, the more mischief we shall do. Everybody has some sort of plan of his own. Now, sir, I suppose there are some two or three hundred nominations on the table—I do not know how many, but a very large number—and we all know that unless they are acted upon at this session they all fail, and they have got to be sent in again to the Senate; and we saw yesterday, from the course taken, what progress we made. We ought at least to dispose of those if we expect to get through. I am not so anxious about any particular bill myself, and I think all the bills that gentlemen have will keep without any great difficulty. At any rate, I think that the great majority of the Senate are most interested in getting through with the business that we must do and closing the session, without reference to the particular bills of Senators. After we have done that, I have no objection to taking up something else. I really hope that we shall go into executive session.

Mr. MORTON. We can continue the open business of the Senate for an hour, and then have time to get through with the executive business.

Mr. FESSENDEN. I suggest to my friend that we tried that yesterday, and how far did we get? We disposed of two or three cases.

Mr. MORTON. The Senator knows that every executive session is opened perhaps half a dozen times for the purpose of passing some little resolution or for some business that will take no longer than this. Now, sir, this is a resolution in which time is important. The difficulty occasioned to commerce by the want of a sufficient canal around the falls of the Ohio has long been complained of; and the people of that part of the great valley of the Mississippi and Ohio have a right to complain that their interests have been so long neglected. The interests involved in this improvement are very great. Our people trust to have these surveys made this summer, so that at the next session of Congress the proper appropriations may be made. I have not known of any refusal to make surveys by this Senate. They have been ordered in many cases where they were not of the hundredth

part of the importance that they are in this case. I sincerely trust that there will be no opposition offered to the resolution.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 18; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Conness, Cragin, Dixon, Fessenden, Frelinghuysen, Howe, Morgan, Patterson of Tennessee, Ramsey, Stewart, Tipton, Trumbull, Van Winkle, and Williams—17.

NAYS—Messrs. Anthony, Cole, Conkling, Corbett, Davis, Fowler, Henderson, Howard, Morton, Nye, Pomeroy, Ross, Sherman, Sprague, Sumner, Thayer, Wade, and Wilson—18.

ABSENT—Messrs. Buckalew, Doolittle, Drake, Edmunds, Ferry, Grimes, Guthrie, Harlan, Hendricks, Johnson, Morrill of Maine, Morrill of Vermont, Norton, Patterson of New Hampshire, Riddle, Saulsbury, Willey, and Yates—18.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on taking up the resolution mentioned by the Senator from Indiana.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 41) providing for the necessary surveys for a ship canal around the falls of the Ohio river for military, naval, and commercial purposes.

Mr. MORTON. I only wish to say one word in regard to this resolution. The canal around the falls of the Ohio was built some forty years ago. The locks are not sufficient to permit boats of the first class, or even of the second class, to pass through them. This statement alone will enable the Senate to understand the great difficulty commerce now labors under at that point. It is also the conviction of engineers, as I am informed, that the canal was built originally on the wrong side of the river, and that there will always be difficulty in getting sufficient water in the canal upon that side owing to the turn the river takes at the very point of the falls. At certain seasons of the year the water is so shallow in the canal that boats even of the lightest class cannot be got through it. It is therefore of the first importance to the commerce of that river that the canal shall either be enlarged or a new one commenced without further delay.

Mr. FESSENDEN. I should like to ask a question or two with regard to this resolution. I want to know whether it is contemplated to build two canals around the falls, one on each side of the river. This resolution, as it strikes me, means that two things are to be done: it first implies that a ship-canal is to be built at the expense of the Government on the Indiana side, and then that the one already begun on the Kentucky side is to be completed. It contemplates, if I understand it, that the General Government is to be at the expense—this is the beginning of it—of building two canals around the falls at that place. Is that the idea of the resolution?

Mr. MORTON. No, sir.

Mr. FESSENDEN. Then I ask the Senator to explain what it does mean. Why want one made on this side?

Mr. MORTON. The object is to have estimates of the expense of building a canal around the falls of the Ohio river and an estimate and plan of completing, that is to say, of widening and deepening the canal already in existence on the Kentucky side, so that we may see which is the cheapest and which will be the best in the opinion of the engineer. Then it will be for Congress to determine what action it will take. In other words, the resolution now provides for preliminary surveys and estimates, and commits Congress to the construction of neither canal.

Mr. FESSENDEN. I should like to inquire of the Senator by whom and under what direction the improvements now going on upon the Kentucky side are made?

Mr. MORTON. The existing canal belongs to a company which charges tolls for the passage of boats through it.

Mr. FESSENDEN. So I supposed. If I

recollect aright, that was originally undertaken on the Kentucky side by a company in conjunction with the United States, and after it had been built and used for a certain length of time the United States transferred all its interest to the company, passed it over into the hands of the company. I believe I am right in that. Now, they have been in the enjoyment of it for a long time, and it is proposed to enlarge it. It is perfectly manifest what this means. It is at the expense of the Government to make a survey, and then if the Government does not choose to build a canal on the Indiana side, it is to aid at least in completing that on the Kentucky side. Otherwise, why should a survey be made of that which is a private enterprise?

The Senator from Michigan stated this morning that it would cost nothing. Why, sir, it costs just so much money as it takes out of a fund already appropriated.

The remark that the people of the West would feel themselves neglected if this was not done, it seems to me, is hardly appropriate, when at this very session we have appropriated I do not know how much, but several million dollars for improvements in the West and the East, and I believe that out of those several millions there was not \$500,000 which went anywhere but in the western States.

Mr. HENDERSON. Not beyond Michigan.

Mr. FESSENDEN. Michigan and all the other western States. I do not know how much was appropriated for Ohio, but very considerable in Ohio. I do not know that it went beyond Michigan, but it went into that region. It is all very well; I dare say it is needed; but it hardly lies in the mouths of western gentlemen to say that the western people would feel themselves neglected if we did not undertake this additional work, especially after our legislation of this winter in relation to such matters.

Now, sir, I am unwilling to give any pledge on the subject, and I am unwilling to appropriate money for this purpose which has already been appropriated to be used for other purposes; but if those particularly interested in the subject choose to have it so, I do not know that it makes any great difference; but I should like to have a choice. I wish the Senator would strike out the words "and directed," so as to authorize the Secretary of War to do it if he thinks it expedient; but this resolution compels the Secretary of War to take the money that is appropriated for other purposes in the States of Michigan and Illinois and Indiana, &c., and appropriate it to this particular purpose. I do not think it would be wise to do that. The Senate, of course, will do what it sees fit on the subject.

Mr. VAN WINKLE. I perceive by this resolution that it proposes to take the money necessary for the purposes contemplated by it out of the little appropriation of \$100,000, which is all that has been appropriated for the purpose of improving the Ohio river from Pittsburg to its mouth, a distance of a thousand miles.

Mr. SHERMAN. The Senator is mistaken. It takes it out of another fund. The gentleman who introduced this bill in the House, and also had charge of the river and harbor bill, tells me that in that same law there was a specific appropriation for surveys, and we have provided by a supplementary law that five engineers may be employed for the purpose of making surveys. This resolution simply directs this to be done. So far as striking out the word "directed" and inserting the word "authorized" is concerned, there is no objection to that, except that it would render it necessary to send the resolution back to the House again. It has already passed the House unanimously. It is simply for the purpose of getting the judgment of the proper engineers of the Government upon the best mode of improving the Ohio river at the falls. I could go into a long disquisition to show the importance of it, but there is no time to do so now.

Mr. VAN WINKLE. That is already provided for by law.

Mr. SHERMAN. Not for a survey.

Mr. VAN WINKLE. A survey of all these rivers.

Mr. SHERMAN. No.

Mr. VAN WINKLE. I am very much in favor of improving the Ohio river, and have been anxious for some years to get such a measure through Congress; but now, that at last we have got a little appropriation of \$100,000, I do not want that to be taken and used for the improvement of these falls.

Mr. SHERMAN. There is a specific appropriation made for the northwestern lakes and rivers, but it does not include the Ohio river.

I will state to the Senator from Maine that it is true that the Louisville and Portland canal is owned by a private company, and they are themselves, under an existing law, enlarging that. It has always been a matter of controversy as to whether it would not be cheaper and better to build a new work on a larger scale at Jeffersonville on the Indiana side, rather than on the Kentucky side. On the Kentucky side I am told they have to excavate rocks, while on the other side there would be no such necessity. I think it a proper case for a survey. The Government proposes by this resolution to go no further than simply making a survey. Whether the work shall hereafter be done by the Louisville and Portland Canal Company, or whether it shall be done by the assistance of appropriations by Congress, is a question which does not arise at all on this resolution. I am told that the resolution passed the House unanimously. The citizens of Cincinnati are very anxious about it, and I trust it will be granted. Probably the whole cost will not be \$5,000. The whole of the falls is within three miles. The cost will be trifling.

Mr. CAMERON. I have not heard all the discussion on this subject, and therefore I may be wrong in my remarks; but I have a pretty good knowledge of the history of this canal. While I am in favor of doing anything that may be required for the improvement of the Ohio river, I am decidedly opposed to spending any money upon the canal, for the reason that I think it has been one of the most profitable investments in this country. No canal has made so much money to the stockholders as it has done. I will take it to-morrow, with all its cost, and make more money out of it than I could in any other investment that I know of. Whatever can be done for the improvement of the Ohio river should be done; but as regards these falls, another canal, in addition to the one now there, will be a most profitable investment; and when individuals make money out of the improvements of the country, I hold that it is wrong for this Government to invest its money in such enterprises. I have great respect for all the gentlemen of the West—

Mr. SHERMAN. I will simply inform my friend that this is not a proposition to aid the canal company at all. It simply authorizes the Government to ascertain certain facts, to examine the Indiana side and the Kentucky side, to make a survey.

Mr. CAMERON. I understand it now perfectly well. It is to make the Government of the United States pay for a survey there. I hold that the individuals owning that canal can afford to pay for surveys themselves.

Mr. SHERMAN. They will not make a survey on the Indiana side.

Mr. CAMERON. That is no reason why other individuals should not. I made myself, thirty-five years ago, at my own cost, a survey around the falls of the Ohio. It would not cost much money. It did not cost me more than two or three hundred dollars. I believe now that anybody who will go there and make a survey, and get the authority of the State of Indiana to enable him to make a canal around there, will make more money than in any other way in which the same amount of money could be expended.

Mr. CONKLING. Why do you not do it now?

Mr. CAMERON. If the State of Indiana will give me the authority to make a canal around there, I should be very willing to do it. But, sir, I object to the United States spending their money for the benefit of private individuals, no matter in what State the work may happen to be located. The object here is to get the Government of the United States to spend its money around these falls. I am perfectly willing to make an appropriation for the Ohio river. It is a great highway belonging to the whole nation, and I believe that at some future time a system of dams will be instituted there, as there ought to be in many other rivers in this country, which will make slack navigation from the mouth of the Ohio up to its source. There is plenty of water there. It will be the greatest improvement of the age in which it may be inaugurated. But I am in favor of having it done by individual subscriptions, by individual enterprise, without any appropriation from the Government. I might just as well ask for an appropriation around the falls of the Conewago in the Susquehanna, in the State of Pennsylvania. We have falls there as great nearly as the falls of the Ohio, and we have an immense trade which would go up and down there if we could get those falls overcome.

Mr. MORTON. If it is right to require this survey to be made by individuals, it is a good argument why all the surveys of western rivers and harbors should be made by private individuals. It seems to me to be a new doctrine that has been brought forward for the occasion that private individuals shall make these surveys. I ask, what authority they would have with the Government when they were made? How much importance would be given to them in this Senate or by the Secretary of War? They would be entirely unofficial and valueless for any national purpose. The question of improving the navigation around the falls of the Ohio is a national question. The commerce there is of national, not local importance; and I think that the contrast is very strong between the cases the Senator puts of those little rivers in his State and the case of the navigation around the falls of the Ohio.

Now, sir, one word in regard to this canal. This is not to be done for the benefit of the canal company. We propose to have the opinion of the engineers as to how this improvement should be made, whether by enlarging that canal, or by building a canal on the Indiana side, or by both. Suppose it should be ascertained that the improvement should be made by enlarging that canal. The company refuse to do it. They are making a great deal of money. It is perhaps the best stock now in the western country; but still they object. They are making money enough, and they are not willing to invest another dollar in widening and deepening that canal. But I ask, how that answers the wants of commerce? I ask how the great commercial interests are to be subserved or to be made content by saying, "This company might do it," when the company will not do it? The company has not done it, and will not do it; but the interests of commerce are all the time suffering, and complaint has been made for years on this subject.

Now, sir, we simply want the opinions of the engineers to have surveys made, and have them made officially, as they are in a thousand cases where there is not a hundredth or a thousandth part of the interest involved that is involved in this case. It seems to me that there ought to be no opposition to this. Let the surveys be made; let them be submitted to Congress. Why, sir, suppose that Congress should determine that this canal itself ought to be widened and improved, the improvement made on the Kentucky side of the river, and that the nation should help, it will then be for us to say upon what terms we shall contribute to that improvement, not for the mere profit of that canal company, but for the interest and advantage of the commerce of the country. If



a survey shall show that a canal should be located and dug on the Indiana side, then it will be for Congress to determine how it shall be done, and how much money shall be appropriated for that purpose. Sir, the importance of the work can hardly be overestimated.

Mr. DAVIS. The obstruction which those falls make to the navigation of the Ohio ought to be removed, and with a view to their removal this canal company was incorporated a great many years ago. Its stock was partly private and partly subscribed by the United States Government; I do not recollect the proportions. I was familiar with the concerns of that canal at one time; I am not at present. The dividends to the Government in the canal by act of Congress were set apart to purchase up the private stock and to make the canal free. That process continued, I know, for a considerable time, and until a large portion of the private stock was thus purchased for the Government, with a view ultimately to make the navigation of the canal free. I do not remember the point to which that process of purchasing up the private stock reached, or how much of the private stock remains still unbought; but I agree to the proposition of the Senator from Indiana that the navigation of that river at those falls ought to be free from the obstruction, whether by a canal on the Indiana or the Kentucky side or upon both sides.

I will make this further suggestion: that if it was necessary for the Government to open the navigation of that river, it could seize upon the canal company's stock, upon their property on the Kentucky side of the river, and widen the canal and make the locks of sufficient capacity for the transit of all boats, and could open the canal to the free navigation of the river. It would only be bound to purchase the private stock at what it was worth, and after purchasing the private stock at what it was worth the Government could then proceed to enlarge this canal and to enlarge the locks, and it ought to do so and make the navigation of the canal free. I hope that the survey contemplated by the resolution of the honorable Senator from Indiana will be ordered. It can do no harm. It will result in but a small expenditure of money, and it will give useful information to Congress upon which to base action on the whole subject.

Mr. CAMERON. The Senator from Kentucky may be correct; but my recollection of its history is that somewhere about twenty years ago, when the canal was nearly free from debt and in a few years would have become free and a public highway, certain leading gentlemen got control of legislation, and in a flurry to get clear of everything that belonged to the Government the stock of the Government in the canal was sold for a trifle, and it became invested then entirely in individual purchasers. It is now private property, and I do not think we have any control over it.

My objection to this proposition now is that I look to a much greater improvement of the Ohio river than a mere improvement around the falls. As I said a moment ago, I look upon that river as a great highway from the East to the West, one which affects six or seven States materially. If we go into that improvement we ought to do it on a scale which will improve the whole river from its source to its termination. Therefore I want no money expended now around the falls of the Ohio, but am perfectly willing to vote for an appropriation, not only for a survey, but for the improvement of the Ohio from its mouth to its source in the Alleghany mountains. I do not believe that this money, if expended now, will do any good, except to give employment to a few individuals during the summer. My remembrance is that you cannot now take that stock from those people; but you may make another canal on the Indiana side, which I think the right side, and where it ought to have been made originally. A very small sum, comparatively, would keep the Ohio river free from that point down to its connection with the Mississippi; and I believe,

by a system of dams above, it would have such a navigation as the world does not possess, for a sum of money so small that when once expended and the improvement completed, the whole country and the world would be astonished that it had not been done long years ago. Therefore I do not want anything done now in a small way which may hereafter stand in the way of the great improvement I have suggested.

Mr. MORTON. The Senator from Pennsylvania agrees as to the great importance of this work. He says it ought to have been done years ago; but he seems now to be opposed to authorizing a survey for the purpose of having the work done. Now, sir, I went before the Committee on Commerce just before the expiration of the last Congress and asked a small appropriation for the purpose of improving the only harbor that Indiana has upon Lake Michigan. A private company had been incorporated by the State of Indiana for the purpose of making the improvement; but we were met by the objection that there had been no surveys ordered by the Secretary of War and that there were no official data upon which such an appropriation could be made. If new surveys were made at these falls by private individuals and brought here, they would not be received and acted on. The Senate will only act on surveys made by official authority and which are known to be reliable.

I ask, sir, if this has not been the practice in regard to all these improvements of rivers and harbors? Why this discrimination? I am informed that the very last Congress appropriated nearly half a million dollars for the purpose of surveying and improving navigation around the falls of the Mississippi river or the rapids near Keokuk. Large appropriations, appropriations to the amount of \$1,080,000, were made for the purpose of improving little harbors in the State of Michigan, some nineteen in number, all of them put together not embracing the thousandth part of the commerce that actually passes up and down the Ohio river past Louisville. Here is a work of great national importance, not a small local harbor upon the lake shore in Pennsylvania or Michigan or Indiana, but an improvement of national importance. The Senator from Pennsylvania agrees with me that it ought to have been done years ago, and it would then present the greatest channel of navigation in the world; but he is opposed to having the surveys made by authority and at the national expense, and says it ought to be done by private individuals. I submit that the argument of the Senator from Pennsylvania does not hang together well. The national importance of this work, it seems to me, should at once silence every objection.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### THE MONITOR CAMANCHE.

The joint resolution (H. R. No. 51) relative to the iron-clad monitor Camanche, was read twice by its title.

Mr. CONNESS. I think the Senate will pass that resolution now if the case is stated.

Mr. FESSENDEN. It is better to let it lie on the table till the morning, so that we may look into it.

The joint resolution was ordered to lie on the table.

#### AMENDMENT OF BANKRUPT LAW.

Mr. SPRAGUE. I move that the Senate proceed to the consideration of Senate bill No. 106.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 106) fixing the time at which the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, shall go into effect.

Mr. SPRAGUE. I do not mean to make any remarks on this bill. I desire to have simply a vote, an expression of the opinion of the Senate. This measure has the concurrence of the Senator who had the bankrupt bill in

charge, not now a member of this body, but a member of the other House, who is prepared to advocate its passage in that House when it shall have passed this body. I trust, for the reasons suggested in the few remarks I made the other day, that the Senate will act upon it, and will give me a vote upon it without any further delay.

Mr. FESSENDEN. If I recollect rightly, this matter was referred to the Committee on the Judiciary, and I should like to hear from the members of that committee what the report was.

Several SENATORS. An adverse report.

Mr. JOHNSON. The committee reported adversely.

The bill was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

Mr. SPRAGUE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. It is due to myself to say I was not present when this bill was considered in committee. It was reported by one of the members of the committee adversely. I do not know what were the reasons. The Senator from Vermont [Mr. EDMUNDS] reported it.

Mr. FESSENDEN. It ought not to be acted upon until we hear from the Committee on the Judiciary.

Mr. JOHNSON. I concurred in the report, and I think all the members of the committee who were present also concurred in it. The honorable chairman was not present. I think it had better wait until the members of the committee come in.

Mr. SPRAGUE. Oh, no; give us a vote.

Mr. JOHNSON. You may perhaps have a sufficient number to pass it now.

Mr. FESSENDEN. The Senate is very thin, and it is too important a bill to be passed in this way without understanding something about it.

Mr. ANTHONY. It is a very important bill; but it is a bill that simply carries into effect what the Senator from Maine and every other Senator thought the bankrupt bill was when it passed.

Mr. CONNESS. It does more than that.

Mr. ANTHONY. It does no more than that. It makes the bill take effect on the 1st of June, which is the time it was supposed the bill took effect when it passed; and it is not improper for me to name Judge POLAND, as that gentleman is no longer a member of the Senate, who has had charge of the bill, and to say that on receiving letters inquiring when the bill went into effect as it was not immediately printed, I asked him and he said on the 1st of June, and that it would be utter nonsense to give any other construction whatever to it, and that whatever a man might legally do before the bill passed he could do up to the 1st of June. But upon examining the bill afterward he found that he was mistaken. The reason of the mistake, I suppose, was this: the bankrupt bill passed the House more than a year ago to take effect at a certain time; it did not pass the Senate until that time had expired, and therefore it was necessary to alter the bill as to fixing the time of the law going into effect. I suppose in that way this misapprehension arose. It will be remembered that the previous bankrupt bill, that passed in 1841, did not take effect until six months after its passage, and preferences in assignments were prohibited for four months previous to an act of bankruptcy which could not be committed under that law within two months after its passage.

Mr. CONNESS. When this bill was referred to the committee there was a motion pending, made by myself, to strike out the last proviso. I now, before this vote is taken, as it is open to amendment yet, renew that motion to strike out the proviso. Then the bill will contain nothing but putting the law in operation on the 1st of June, and I shall have no objec-

tion to the passage of the bill in that shape. I said when the Senator from Rhode Island was up that it contains more than that. The Clerk will read it.

Mr. JOHNSON. Let the amendment be read.

Mr. CONNESS. I move to strike out the last proviso.

The Secretary read the words to be stricken out, as follows:

*And provided further, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act.*

Mr. JOHNSON. To strike out that provision would defeat the purpose of the bill.

Mr. ANTHONY. Of course; that is all there is in it.

Mr. JOHNSON. The whole object of the bill is to accomplish what that proviso seeks to accomplish. In the absence of the member of the committee who had it specially in charge, I will state in a word why it was that we thought the bill should not pass with the proviso.

The act itself, which we have passed, was pending in Congress for a great while; it was passed on the 2d of March; it was therefore a law on that day in one sense. As far, however, as related to the authority of parties to apply for the benefit of it, it was postponed until the 1st of June. But the thirty-fifth section of the act did what as I think has been done in all antecedent laws of this description: it sought to avoid all preferences, which the law assumed to be illegal, made at any time within four months after an act of bankruptcy was discovered. If you say that all the conveyances which would be void if you were to let the law stand as it is that have been made four months before the 1st of June are to stand, it may be that so far as relates to persons who were bankrupt when the law passed, or became bankrupt at any time after the law passed, the general creditors would get nothing, but those bankrupts may, after they knew they were in a state of bankruptcy, have preferred special creditors.

Mr. ANTHONY. Could they not do that before the law was passed?

Mr. JOHNSON. Certainly they could do it before the law was passed; but they could not do it upon the theory upon which these laws exist. The law was passed in March; it is in one sense to go in operation in June. Now, you are about, if you pass this bill, to give effect to preferences made in the month of May and April and March, although the law was passed on the 2d of March.

Mr. ANTHONY. As the law stands it invalidates preferences made in February, although the act was not passed until March.

Mr. JOHNSON. It affects those made four months before the 1st of June.

Mr. ANTHONY. Four months before an act of bankruptcy, which may be on the 1st of June.

Mr. JOHNSON. Now, what is done in this case is done under your tariff acts almost always. You frequently provide by your tariff acts that importations made under the existing tariff act, or rather in progress of being made, shall be subject to the additional duty.

Mr. ANTHONY. Does the Senator think that right?

Mr. JOHNSON. In one sense it is right; it depends upon the state of the country altogether. The policy of Congress for the last three or four years has been to pursue that course. That is much more objectionable, if it be objectionable at all, than a law which says that all a bankrupt's assets after he becomes bankrupt in point of fact shall be distributed equally, it being but equitable and just that in such a condition of things there should be that equality of distribution. If you pass this bill you defeat that in reference to all acts of bankruptcy where there have been preferences made at any time within four months prior to the 1st of June.

Mr. DRAKE. The honorable Senator from Rhode Island just now made a statement with

regard to the effect of the thirty-fifth section of the bankrupt act which was made before; and I stated to the Senator who made it before in the previous discussion that it was a mistake. I desire now to state to the honorable Senator from Rhode Island again that upon an examination of that section he will discover his view of it to be a mistake. The proposition of the Senator from Rhode Island is that the section as it stands in the act is retroactive in its effect, so as to invalidate conveyances made in the month of February last, before the act was passed. A brief examination of the section, I think, will convince the honorable Senator that he is under a misapprehension on that point. The language of the section is:

That if any person, being insolvent, or in contemplation of insolvency, within four months before the filing of the petition by or against him, with a view to give a preference to any creditor or person having a claim against him, or who is under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, assignment, transfer, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance, or to be benefited thereby, or by such attachment, having reasonable cause to believe such person is insolvent, and that such attachment, payment, pledge, assignment, or conveyance is made in fraud of the provisions of this act, the same shall be void.

It could not possibly be made "in fraud of the provisions of this act" until after the date of the passage of the act. It is impossible, therefore, that the view expressed by the honorable Senator from Rhode Island, that this section invalidates transactions entered into in the month of February preceding the passage of the act, can be correct. It cannot be construed to invalidate transactions previous to the passage, for the language is that the "attachment, payment, pledge," &c., must have been "in fraud of the provisions of this act."

Mr. ANTHONY. Does it not say that the transaction shall be regarded as in fraud of the act?

Mr. DRAKE. No, sir; but—

"The person receiving such payment, pledge, assignment, transfer, or conveyance, or to be benefited thereby, or by such attachment" is to "have reasonable cause to believe such person is insolvent, and that such attachment, payment, pledge, assignment, or conveyance is made in fraud of the provisions of this act."

According to the view taken by the honorable Senator from Rhode Island, a man was required to take notice of a transaction in February being in fraud of the provisions of the act, before the act took effect! I think the gentleman will perceive in a moment that when the two things must combine and it must be found that the act done was in fraud of the provisions of the law, the time of the operation of that section cannot extend back beyond the date of the passage of the act.

Mr. FESSENDEN. It is now four o'clock. It is very evident that a matter of this importance ought not to be decided in so thin a Senate, especially when the Senator who has it in charge is not here to give the reasons for the report of the Judiciary Committee. I therefore again move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following joint resolutions:

A joint resolution (H. R. No. 37) to authorize the Secretary of the Treasury to build dredge-boats for use at the mouth of the Mississippi river;

A joint resolution (H. R. No. 39) in reference to the payment of the salaries of members of Congress; and

A joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes."

The message further announced that the

House had passed a bill (H. R. No. 103) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States; and a joint resolution (H. R. No. 50) to furnish transportation of provisions to the destitute in the South.

The message also announced that the House disagreed to the amendment of the Senate to the amendment of the House to the resolution relative to an adjournment of the present session, and asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. I. DONNELLY of Minnesota, and Mr. J. A. BINGHAM of Ohio, managers at the conference on its part.

#### EIGHT-HOUR LABOR SYSTEM.

The bill (H. R. No. 103) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or in behalf of the Government of the United States, was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on the Judiciary, if there be no objection.

Mr. WILSON. I should think it ought to go to the Committee on Naval Affairs.

Mr. SPRAGUE. I suggest that it should go to the Committee on Agriculture. That is the proper place for it.

Mr. WILSON. It ought to go to the Committee on Naval Affairs, I think. It applies to Government works, to persons working in navy-yards, arsenals, and places of that character.

The PRESIDENT *pro tempore*. The question will be first put on the reference to the Committee on Naval Affairs.

Mr. HOWE. Allow me to say just one word. If the question was how much money we should pay these people it would go to the Committee on Finance. Now, the question is, how much work they shall do for the money they get? It seems to me it should go to the same committee, and therefore I suggest that it should go to the Committee on Finance.

Mr. CONNESS. I should like to know what necessity there is in sending the bill to any committee? It contains a simple proposition. A Senator shakes his head, who has perhaps more competence than any other Senator within my sphere of observation for exact mental process, and this is a complicated proposition to that Senator as to whether a laboring man shall be required in Government employ to work eight or ten hours a day. Sir, there is not a man in the world who is not able to decide that instantly, much less the Senator who shakes his head at me. I have not named him.

Mr. WILSON. On which side are you?

Mr. CONNESS. I am for the bill. I am very proud to say that many years of my life have been spent in severe toil. My education, such as it is, was acquired pending that toil. I am one of those who believe—and I do not say this for the public ear—that toil is reputable; that it is ennobling; that it lends true courage. I believe that the toilers, after all, are the men upon whom every society that is well ordered has to rely. I know that in the great war through which our country has been saved and the immutable principles upon which it is organized have been preserved for our and the world's uses, we had to rely upon the arms made strong by toil; that whenever by the process of law we demanded that citizens not so connected, not so educated, not so used, should fill their part of soldier to the Republic, they begged themselves off, they bought themselves off, they stole themselves off, from the field of battle and contest.

Mr. President, I said once before in the Senate, and perhaps it will bear repeating, that when I saw the column of Burnside, thirty thousand or forty thousand strong, marching through this city to the sanguinary fields between the Wilderness and Richmond and Coal Harbor inclusive, and stood where I could see

the eye of every man in the column, I saw scarcely any but those who had the marks of toil and stalwart labor, black and white; and if I never before that time revered the men who labor, I should do it beginning at that period of my life; but it was not necessary for me to begin then.

Now, Mr. President, there is a considerable agitation in this country upon this question of whether a day's labor shall be constituted of eight or ten hours; and I have no doubt there are those who think that if this bill be passed, and the example be set by the Government, the eight-hour rule will follow in other industries conducted in the country. Well, sir, I hope it will. A personal experience enables me to say that I could myself perform more labor in eight hours than in ten, taking any given week for the average, and then it gave me more hours of study. Many and many a morning, at two o'clock, when I labored ten and eleven hours a day in my youth, found me yet endeavoring to enable myself to take my rank among my fellows in society; and I desire by my vote and voice, if that can influence any one, to give an equal opportunity to the youths of the land connected with labor and toil. Let no man forget, because his task is made easy in this world, the thousands, the tens of thousands, and the hundreds of thousands who labor and toil for an ill-requited compensation, for a small compensation, scarcely sufficient to furnish bread, much less to enable them to educate their children and bring them up fit to be citizens of this Republic. Make their path as easy as you can by limiting their hours of labor. Give them time to think.

Mr. President, I have some feeling on this subject. I had contemplated introducing such a bill myself; but I was not anxious to put myself forward in it. I have no desire to win any credit from abroad on the subject, God knows that. But I do ask the Senate to pass this bill, and to set the example to the laboring citizens of this Republic, the patriotic men of blood and muscle. Give them the freedom from toil of two hours less than they now are compelled to perform. I ask Senators to do it. It is not necessary to refer the bill. We all understand it. Let us do ourselves credit by passing it at once.

Mr. WILSON. I moved the reference of this measure to the Committee on Naval Affairs, not to defeat its passage, but for the reason that if it was to be referred at all, that the Naval Committee was the appropriate one. Suggestions were made all around me to refer it to committees that should not have the care of it, and I wished it to go to the committee to which is referred matters pertaining to the navy-yards where are employed thousands of mechanics and workmen.

Mr. CONNESS. There is not any reason it should be referred at all.

Mr. WILSON. I agree with the Senator from California that there is no need of reference at all—we all know just what the proposition is—it has been discussed before the country. All may not concur in the wisdom of the measure; but all of us know the purport, scope, and meaning of this measure. I asked the Senator from California how he intended to vote, for I wished him to declare himself.

Mr. CONNESS. The Senator ought to have been Yankee enough to guess how I should vote.

Mr. WILSON. I did guess; but I wanted the Senator to speak out, as he did, for the passage of the bill. I, too, shall vote for it, for I have been for two or three years in favor of making the experiment. With an earnest desire to adopt the policy most conducive to the permanent interests of the workmen of the country, I have, I confess, been unable to solve this eight-hour question satisfactory to my own reason and conscience. Upon these questions that so deeply concern the enduring interests of the toiling masses of our countrymen I would act after careful consideration. I give on this, as on other questions touching

the rights and interests, the elevation and improvement of the toiling men of our country, my doubts in favor of the dependent, the less favored portion of the people. I am ready, at any rate, to try in the public works the experiment, and if it shall fail, we shall speedily discover it; but if it shall answer the high-raised expectations of its friends, incalculable good will be achieved. In voting for this measure, neither the Senator from California nor myself have anything to gain.

Mr. CONNESS. We cannot help that.

Mr. WILSON. No, sir; we cannot help that; but I am ready, as I am sure the honorable Senator is on this as on some other occasions, to incur censure and bear the burden of reproach and hostility. I vote for the measure without reference, and in the hope that it will, if passed, be productive of blessings and benefits.

The PRESIDENT *pro tempore*. The question is on referring the bill to the Committee on Naval Affairs.

Mr. CONNESS. I hope it will not be referred.

The PRESIDENT *pro tempore* put the question, and declared that the yeas appeared to have it.

Mr. CONNESS. I ask for the yeas and nays.

Mr. WILSON. I withdraw the motion for a reference.

Mr. FESSENDEN. I renew it.

Mr. EDMUNDS. I move to refer the bill to the Committee on Finance, where it properly belongs.

The PRESIDENT *pro tempore*. The other question is not decided yet. The Senator from Massachusetts asks to withdraw his motion, which he can do by unanimous consent. The Chair hears no objection, and it is withdrawn.

Mr. EDMUNDS. I move to refer the bill to the Committee on Finance. That is the proper reference, where it should go to be considered. I wish to say a single word on this subject, not to go into the merits of the bill. I entirely agree to what my friend from California has said: first, that manual labor is necessary to courage; second, that it is necessary to intelligence and being trusted in public affairs; and third, as he has demonstrated, that it is not inconsistent with eloquence. Nevertheless, it is quite a problem to know whether you can justly get ten hours' pay for eight hours' work, and that is a question for the Committee on Finance to decide, and I hope it will go there.

The PRESIDENT *pro tempore*. It is moved that this bill be referred to the Committee on Finance.

Mr. CONNESS. On that I call for the yeas and nays. ["No!" "No."] It is near the end of the session, otherwise I would not.

The PRESIDENT *pro tempore*. Is the call withdrawn?

Mr. CONNESS. No, sir.

The yeas and nays were ordered.

Mr. FESSENDEN. I wish to state a fact on this subject. By the law we are obliged to pay our laborers in the different positions where they may be employed precisely the same sums that are paid outside for similar labors. The result of this will be, if we pass it without knowing what it is outside, that we shall pay for eight hours' work as much as anybody else pays for ten; and I think it is pretty well demonstrated that from the laborers in the Government employ you do not get more than two thirds as much work as you do from those in private employ as it stands now.

Mr. CONNESS. It must be considered, I think, that a reference at this time to a committee is a defeat of the measure at this session.

Mr. CAMERON. I know something about workmen, and I prefer having this bill sent to the Committee on Naval Affairs, for the reason that the Navy employs a great many workmen. If I had the power to do as I wish in this matter I would compel the Government to employ everybody by the hour and

pay a fixed sum for each hour that a man worked; so that a man of enterprise and a man of industry could better his condition. I am not in favor of fixing any particular hours during which men shall be compelled to work or by which the idle shall get an excuse for leaving their work. I would encourage labor in every way, so as to induce every man to be industrious. In the main I approve of everything said by the intelligent Senator from California. That labor is necessary to the prosperity of the country we all admit. We ought to encourage the laborer in every way we can. I do not think we shall do so by fixing a small or a large number of hours during which he shall be compelled to work for a particular sum. The more you encourage the enterprise and the courage of men, by so much more do you increase their intelligence and their usefulness. I think by sending this bill to the Committee on Naval Affairs some measure will be brought forward which will be a benefit to the laboring men, and I am for benefiting them in every way I can.

Mr. FESSENDEN. I wish to state one other fact for the consideration of Senators, and that is that it has been found in England, demonstrated I think very satisfactorily, that the effect of trades unions fixing hours of labor and all that, and compelling everybody to come to them, has been confessedly to reduce able men, men of capacity and ambition, to the level of the poorest. That is the effect of that system. It works against the industrious, against the enterprising, against those who want to better their condition by their work. If you put it precisely in this way it is simply reducing them all to the same level.

Mr. CONNESS. I will not extend this debate. I wish to say, in the first place, that there is a very great difference between the laboring people of America and the laboring people of England, a difference that I hope will continue as long as the Republic shall last. The trades unions of England and of this country to the extent that they exist here, and they do exist here, have not the hours of labor under their consideration as much as the wages to be paid for labor. There are no trades unions in America that fix the hours of labor, or have ever undertaken to do so; but they do undertake to fix the wages of labor.

Mr. SPRAGUE. That is a mistake.

Mr. CONNESS. The Senator says it is a mistake.

Mr. SPRAGUE. A very great mistake.

Mr. CONNESS. Then I will modify my statement to the extent the Senator suggests. I have never known of any, and I have been acquainted with their movements to a very considerable extent. I will say here, however, that I never belonged to any. I never had any confidence in that mode of dealing with the question. My mode, on the contrary, and that which I advised, was the education of themselves by themselves, thus lending dignity and intelligence to their labor and making themselves a necessity to employers, thus rendering themselves independent of employers. That was my advice when I was in a position to have any to give. But the reference of this measure now to the Committee on Finance is its defeat undoubtedly; a reference of it to the Committee on Naval Affairs would be worse still, because the chairman of that committee is not here, and that committee does not meet for business.

Mr. FESSENDEN. I suppose it will keep until the next session. I wish simply to say to the Senator that I suppose he will admit there is one point of resemblance between the laborers of England and the laborers of America, and that is, there is a difference between them, some of them are better than others and more capable; and that is enough for my argument.

The question being taken by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Backalew, Cameron, Chandler, Corbett, Cragin, Drake, Edmunds, Fessenden, Frelinghuysen, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Sherman, Sprague, Trumbull, Van Winkle, and Williams—18.

NAYS—Messrs. Cole, Conkling, Conness, Dixon, Fowler, Harlan, Morton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Stewart, Tipton, Wade, Wilson, and Yates—17.

ABSENT—Messrs. Anthony, Cattell, Davis, Doolittle, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Morgan, Norton, Patterson of New Hampshire, Riddle, Saulsbury, Sumner, Thayer, and Willey—18.

So the bill was referred to the Committee on Finance.

#### TRANSPORTATION OF PROVISIONS SOUTH.

The joint resolution (H. R. No. 50) to furnish transportation of provisions to the destitute in the South was read twice by its title.

Mr. SHERMAN. If there be no objection, that resolution ought to be passed now if it is to be passed at all. It passed unanimously in the House. I have a letter here stating that a vessel—

Mr. JOHNSON. What is it about?

Mr. SHERMAN. To authorize a Government vessel to carry provisions exclusively to the South in pursuance of the resolution we have already passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Navy, upon the application of the contributors, or of any person on their behalf, to charter a vessel to convey provisions contributed by the people from Baltimore, Maryland, to Wilmington, North Carolina, for gratuitous distribution among the destitute of the South, under the direction of the contributors and such regulations as may be by the Secretary of the Navy be prescribed.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### REPORT OF A COMMITTEE.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the bill (H. R. No. 79) to authorize the appointment of watchmen, and for other purposes, have directed me to report it without amendment, and recommend its passage.

Several SENATORS. It is time to adjourn.

Mr. SHERMAN. I hope that the communication from the House will be taken from the table and considered.

Mr. DRAKE. I hope the Senator from Vermont will withdraw his motion for a moment to allow the message from the House to be read and acted upon.

Mr. TRUMBULL. What is that?

Mr. DRAKE. Asking for a committee of conference.

Mr. TRUMBULL. We do not want a committee of conference.

Several SENATORS. Yes, we do.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. SHERMAN. I hope not until that matter is disposed of.

Mr. DRAKE. I trust we shall not adjourn—

The PRESIDENT *pro tempore*. No argument upon the subject is in order.

Mr. DRAKE and Mr. SHERMAN called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll, but was interrupted by—

Mr. SHERMAN. By general consent, as I understand Senators are willing to have the question taken, I will withdraw the call for the yeas and nays, with a view to have a committee of conference appointed on the adjournment question.

The PRESIDENT *pro tempore*. It can only be done by common consent.

Mr. TRUMBULL. I object to any such arrangement.

The PRESIDENT *pro tempore*. The call will proceed.

The calling of the roll was concluded, and the result announced—yeas 9, nays 25; as follows:

YEAS—Messrs. Cattell, Chandler, Conkling, Cragin, Fowler, Patterson of Tennessee, Ramsey, Trumbull, and Wilson—9.

NAYS—Messrs. Buckalew, Cameron, Cole, Cor-

bett, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomeroy, Ross, Sherman, Sprague, Stewart, Thayer, Tipton, Van Winkle, Wade, Williams, and Yates—25.

ABSENT—Messrs. Anthony, Conness, Davis, Dixon, Doolittle, Ferry, Grimes, Guthrie, Henderson, Hendricks, Howard, Howe, Johnson, Norton, Patterson of New Hampshire, Riddle, Saulsbury, Sumner, and Willey—19.

So the Senate refused to adjourn.

#### ADJOURNMENT OF CONGRESS.

Mr. EDMUNDS. I move to proceed to the consideration of the resolution of the House on the subject of adjournment.

Mr. TRUMBULL. I would inquire which resolution the Senator refers to?

Mr. EDMUNDS. I mean the one on which there is a disagreement between the two Houses.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from the House of Representatives on that subject.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,  
March 28, 1867.

Resolved, That the House non-concur in the amendment of the Senate to the amendment of the House to the amendment of the Senate to the resolution relative to the adjournment of the two Houses of Congress, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. SCHENCK, Mr. DONNELLY, and Mr. BINGHAM be the managers of the conference on the part of the House.

Mr. TRUMBULL. I hope that resolution will not be taken up for consideration. We have a clean resolution from the House, which they sent here to-day, proposing an adjournment very similar to that which the Senate has passed. I believe it fixes two periods for a conditional meeting of Congress instead of one, which is not very important. I think if we are to have these supposed opportunities to assemble we may as well have two of them as one. Hardly any one anticipates, I judge, that there will be any session of Congress at either of those periods.

Mr. SHERMAN. The only question is upon the appointment of a committee of conference. That is the shortest way to get at it.

Mr. TRUMBULL. I think not. If we agree to the resolution they have sent us to-day there is an end of it.

Mr. CONKLING. I ask to have that resolution read.

Mr. EDMUNDS. That is not the resolution before the Senate.

Mr. SHERMAN. It can be read for information.

The PRESIDENT *pro tempore*. The resolution referred to by the Senator from New York will be read.

The Secretary read the House resolution received to-day, proposing an adjournment from Friday, March 29, at three p. m., to Wednesday, June 5, and from thence to Wednesday, September 4, unless a quorum should be present.

Mr. TRUMBULL. What is the objection to that if we are going to adjourn in that way at all?

Mr. CONKLING. I do not see any.

Mr. EDMUNDS. The substantial difference between the two resolutions is that one fixes only one period of meeting and the other two, and they are both of them in hot weather, unpleasant weather. I think the less of this sort of nonsense, for I cannot characterize it as much else, the better, and therefore I prefer the proposition as it now stands between the two Houses with respect to which the House of Representatives have asked a conference; and I move accordingly that we insist upon our amendment and agree to the conference.

Mr. CONKLING. I hope that motion will not prevail. If the motion was simply to insist upon our amendment I should be glad to vote for it. I do not know why we should commit to six gentlemen the business of adjusting just as they please this whole matter of adjournment. It has been discussed here a great deal; everybody in either branch has had a full opportunity of expressing his views;

and I do not know now, after expending all this time, why it should be committed to six managers to determine a question so simple as this, involving a single point. I can readily understand how a conference between these gentlemen might lead to fixing a session of Congress in the fall, or some other time, which in my estimation would be very inconvenient and very unwise; and I do not want to find myself in the attitude to-morrow, when the time is all gone, of voting against the entire report of a conference committee, or else accepting such details as they see fit to fix it. Now, I ask, whatever may be the mode of getting at it—and I will thank the Chair to inform me on that point—that we have an opportunity of voting separately from the question of agreeing to a conference upon the question of insisting upon our amendment.

Mr. DRAKE. I move to lay this pending proposition from the House on the table with a view of taking up the other resolution.

Mr. CONKLING. I believe I am entitled to the floor; and I wish the Chair would be kind enough to inform me whether under this motion I can have a separate vote upon the proposition to insist upon our amendment?

The PRESIDENT *pro tempore*. I suppose that can be done.

Mr. CONKLING. Then I ask for a division of the question, to the end that we may insist upon our amendment; or I will submit a motion that the Senate insist.

Mr. MORRILL, of Vermont. I hope the Senator from New York will vary his motion so that it shall be that the Senate adhere, and not appoint a committee of conference.

Mr. SHERMAN. Then the President would have it in his power to adjourn us.

Mr. CONKLING. No, I beg pardon of the Senator from Ohio. The President would not have it in his power to adjourn us unless by an act of usurpation; because unless the House adheres following a vote to adhere on our part, which would put it in his power, he would have no such power. I submit that we are just as much exposed to-night as we should be to-morrow after we vote to adhere. Then I move on the suggestion of my friend from Vermont, if that is the proper form, that we adhere to our amendment. I am told—I will mention it if there is no objection to my stating it—that there is very little doubt that upon our adhering the House will recede, and that will produce precisely the effect which this body has voted over and over again its disposition to produce; whereas if we get a conference committee, nobody knows precisely, composed as the committee on the part of the House will be, where it will land us. We have this now in our own keeping, and my impression is that we had better retain it in our hands.

Mr. CONNESS. I only rise to say that I hope that course will be taken.

Mr. DRAKE. I move to lay the pending matter now before the Senate upon the table, with a view to take up the other resolution sent by the House.

Mr. CONKLING. That is not in order now. Why not vote on this now?

Mr. DRAKE. I move to lay it on the table.

Mr. MORTON. I desire to ask this question: the House having resolved not to concur in our amendment, if we then resolve to adhere, does not that form a disagreement on which the President can adjourn us?

Mr. CONKLING. Not at all; absolutely not, by parliamentary rules, which nobody can misunderstand.

Mr. SHERMAN. Allow me to say to Senators that a motion to adhere is never made in parliamentary practice until after two motions to insist, and to do it is considered as hostile to the other House.

Mr. CONKLING. Then take it in the form of insisting.

The PRESIDENT *pro tempore*. The pending motion is to lay the matter on the table. That is not debatable.

The motion was not agreed to—ayes eleven, noes not counted.



Mr. CONKLING. Now, that my action may not be misunderstood, I will say that I adopted the form of a motion to adhere on the suggestion of the Senator from Vermont, [Mr. MORRILL.] If any Senator thinks that implies a hostile animus to the other House (which I did not suppose) I now ask that the vote be taken on the simple motion to insist, without the addition of agreeing to a committee of conference.

Mr. EDMUNDS. That is, you ask a division of the question.

Mr. CHANDLER. I have never known a case where we insisted without at the same time agreeing to the conference proposed, especially if one was asked by the other House. If we pursued such a course in this case I think it must certainly be regarded as a hostile act. It has always been customary during the ten years I have been in the body to include a motion for a conference in the same vote that insists.

Mr. EDMUNDS. There is only a division of the question; both motions are pending.

Mr. MORTON. I should like to understand what is to be gained by insisting? Has not this thing gone backward and forward enough already?

Mr. SHERMAN. Everybody agrees that we ought to insist, and then the question will be at once put on ordering a committee of conference. It is only a division of the question.

The PRESIDENT *pro tempore*. A division being called for, the first question is on insisting.

Mr. CONKLING. Let us understand this for a moment. Undoubtedly a motion for a conference committee would be in order, just as a great many other motions would be in order. I suppose there is as little doubt that if a conference committee was not ordered the House would be informed that the Senate insists and does not agree to the conference, and then the question with the House would be whether they would recede from their disagreement. That is all there is about it. Therefore, do not let Senators suppose that if we vote to insist that therefore implies that we are going to appoint a conference committee.

Mr. SHERMAN. But a motion to insist and appoint a conference committee has been made. That is the motion pending. The Senator asks for a division of the question. As a matter of course he can have the division. I supposed at first that that was not a divisible question; but the Chair rules otherwise. The question is first put on insisting, and then it must be put on the conference.

Mr. CONKLING. All I say is that the vote on the question of insisting does not bind us to appoint a committee of conference.

Mr. CHANDLER. I move that the Senate do now adjourn. ["No, no."]

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion that the Senate insist on its amendment.

The motion was agreed to.

Mr. DRAKE. I now move that a committee of conference be appointed in accordance with the request of the House.

Mr. EDMUNDS. That motion is already pending.

The PRESIDENT *pro tempore*. That is a part of the original motion which was divided. The question now is on agreeing to the request of the House of Representatives for a conference on the disagreeing votes.

Mr. FRELINGHUYSEN. I am led to believe that there is no serious difference between the Senate and the House in reference to this matter of adjournment.

Mr. SHERMAN. The conferees will soon find that out. The quickest way to get at it is to have a committee of conference.

Mr. WILLIAMS. I am anxious to adjourn, but I think the wisest course for the Senate to take is to agree to this committee of conference; and I am satisfied that if we refuse the request of the House, it will be regarded not only as somewhat unprecedented—

Mr. FESSENDEN. We did it last session upon an important bill.

Mr. WILLIAMS. I know we did; and then it was asserted, perhaps with truth, that there was no precedent in the history of our legislation for an act of that kind, as I am advised by good authority. But there is now that one precedent. That precedent ought not to be followed, as it seems to me. If I was a member of the House, and I had respectfully requested a conference with the Senate on this question, and the Senate flirled the proposition back into my face, I think I should stand by my resolution and throw the responsibility upon the Senate. I believe the House will do it in this instance, and the consequence will be that the House will occupy one position and the Senate another. I do not know whether the President would interfere or not; but if he did not the result would be that we should be kept here in session and should not reach any adjournment. Every one knows that I am opposed to all these arrangements about intermediate sessions, from beginning to end.

Mr. CONNESS. You will get one if you agree to a conference.

Mr. WILLIAMS. I expect to get it any way. I see it is probably inevitable.

Mr. CONNESS. That is a bad confession.

Mr. WILLIAMS. I do not know that it is a bad confession. I am willing to confess the truth at any time. When it is apparent to me that certain facts are true I see no use in denying them. I merely rose to suggest that it seems to me advisable that we agree to this committee of conference, and not undertake to stand here stubbornly upon what we have done.

The PRESIDENT *pro tempore*. The question is upon agreeing to the conference requested by the House of Representatives.

The motion was agreed to; and the President *pro tempore*, being authorized to appoint the conferees on the part of the Senate, Messrs. EDMUNDS, FESSENDEN, and HOWARD were appointed.

On motion of Mr. EDMUNDS, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, March 28, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases; when the Speaker signed the same.

### PUBLIC AFFAIRS IN MARYLAND.

The SPEAKER. The Chair lays before the House for reference resolutions of a convention held yesterday in the city of Baltimore.

Mr. THOMAS. I call for the reading of the resolutions.

The Clerk read as follows:

"Whereas the Legislature of Maryland has, since the adjournment of this Republican State convention on the 27th of February, passed the convention bill, in regard to which this convention has already in previous resolutions declared its judgment, and this convention is now reassembled as provided for by its fifth resolution on the contingency of the passage of said convention bill: Therefore,

*Resolved*, That we return our thanks to the Republican members of the General Assembly for their memorial to Congress, presented to that body on the 25th of March, and this convention, in behalf of the majority of the people of Maryland, appeal hereby to the Congress of the United States to grant the request of that memorial.

*Resolved*, That we call upon Congress to protect the loyal majority of the people of Maryland, both white and colored, in defeating the scheme of the revolutionists in the Legislature, and to aid us in forming and to guaranty to us by acts of Congress a republican State government on the basis of impartial manhood suffrage.

*Resolved*, That we will oppose any new constitution set up in subversion of the existing constitution under the convention bill which does not express the will

of the majority of the people without regard to color, and that we will, with the aid of the loyal representatives of the nation, and by all means in our power, resist and destroy any such constitution as a revolutionary usurpation.

*Resolved*, That we will take no part in the approaching election for delegates to a constitutional convention further than to recommend a general vote of the Republicans of the State against the call for a convention, and to use every lawful means in their power to defeat the call.

*Resolved*, That should the call be sustained by a majority of the voters, that the State central committee, on ascertaining that result, issue a call for district meetings, to be held in every election district in the State, for the choice by ballot, on the basis of universal manhood suffrage, of delegates to a State constitutional convention, each county and the city of Baltimore to elect the number to which they may be entitled under the present constitution of the State.

*Resolved*, That said State constitutional convention, if called, shall assemble in the city of Baltimore on the first Wednesday in June, and proceed to form a constitution based on universal manhood suffrage.

*Resolved*, That courage, wisdom, and action are all that is necessary to success. And we call on the tried Union veterans of the State, who have been hardened by the conflicts of six years of battle and agitation, to fly high the banner of liberty and Union, and know no end but victory."

Mr. THOMAS obtained the floor.

Mr. WOOD. Mr. Speaker, are those resolutions before the House?

The SPEAKER. They are before the House for reference. The reading of them was called for by the gentleman from Maryland, [Mr. THOMAS.]

Mr. WOOD. Are the proceedings of partisan political meetings permitted to come before the House in this way?

The SPEAKER. The Chair is in the habit of laying before the House any resolutions which are sent to him for presentation to the House. It is for the House to determine what shall be done with them.

Mr. WOOD. I have here the proceedings of a meeting held in the city of New York, expressing indignation at the action of the Republicans in our Legislature in refusing to allow suffrage to the colored population of our State. Unless those proceedings are to be permitted to come in I shall object to the introduction of these now presented from Maryland.

The SPEAKER. The proceedings to which the gentleman refers have not, so far as the Chair is aware, been sent to the Speaker for presentation to the House.

Mr. ROBINSON. I desire to say that I have here resolutions (which I have been requested to present) calling upon Congress to "reconstruct" New Hampshire, because that State prohibits Catholics from holding office.

The SPEAKER. The Chair is obliged to rule that the remarks of both the gentlemen from New York [Mr. WOOD and Mr. ROBINSON] are not germane to these resolutions, on which the gentleman from Maryland is entitled to the floor.

Mr. THOMAS. Mr. Speaker, there are some circumstances connected with these papers which distinguish them from the class of papers to which the gentlemen from New York have referred. There is prevalent in Maryland an intense excitement, not tending, in my humble judgment, in the direction spoken of yesterday in my absence by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. WOOD. I am reluctant to interrupt the gentleman from Maryland; but the introduction of these resolutions has been objected to.

Mr. THOMAS. The resolutions were presented by the Speaker.

The SPEAKER. The resolutions were presented by the Chair. The gentleman from New York can, if he desires, raise the question of reception. If that question be raised the Chair, under the rules, must submit it to the House.

Mr. WOOD. I was under the impression that my friend from Maryland had presented the resolutions.

The SPEAKER. The Chair presented them, having been requested to do so.

Mr. WOOD. If I understand the ruling of the Chair, political meetings can send their proceedings to the Speaker, and he has the privilege of laying them before the House.

The SPEAKER. The Chair will not anticipate the decision of points which may arise hereafter, but would indicate very decidedly that when resolutions are sent to him by any organization of any importance in the country he will respectfully submit them to the House. When the question of the reception of such papers is raised, that question is to be decided by the House, not by the Chair.

Mr. THOMAS. The presentation of these papers by the Presiding Officer took me as much by surprise as it can have taken any other member on this floor. I was not aware that the paper was in the custody of the Speaker. There is no concert between the Presiding Officer and myself.

As I have said, and I reiterate it, there are circumstances surrounding this paper which distinguish it eminently from ordinary memorials which come before the Congress of the United States. There is prevalent in Maryland intense excitement on this subject, not tending as I hope, and certainly will not tend under any admonition of mine, in the direction spoken of by the gentleman from Ohio [Mr. SCHENCK] yesterday; for I would not have this contrariety of opinions, in a well organized and civilized community like Maryland, lead to bloodshed. I anticipate a pacific solution of our difficulty.

If the House will indulge me, as I do not often intrude in its deliberations, I will refer to the origin of the difficulties in Maryland. They all grow out of circumstances existing before existing parties were organized. The constitution of Maryland was adopted in 1776. At that time nearly the whole of the population of Maryland was located on the borders of the Chesapeake, upon the eastern and western shores of that bay. The representation in our Legislature was apportioned with reference to population. In the constitution they adopted our fathers inserted a provision authorizing the Legislature of Maryland by amendment of that constitution so as to adapt it to the changing circumstances and location and population of the State. That power the Legislature of Maryland have uniformly refused to exercise. They had authority under the old constitution to pass a law and have it submitted to the people at the polls; if the next Legislature thought proper to sanction that act, it would have constituted a part of the constitution, but having the power they forgot that which was right. They held on to that distribution until a vast majority of the population of Maryland was on one side, and nearly the whole power, legislative, executive, and judicial, on the other.

I utterly deny here—I have denied it for thirty years of my life—that there is a republican Government in Maryland. This tyranny and oppression no free people ought to submit to.

Let me speak of these inequalities a little in detail. There are one hundred and fifty thousand, I suppose—I speak in round numbers, for I speak without premeditation or research—there are about one hundred and fifty thousand free white inhabitants located in these fifteen counties of Maryland where settlements were first made, while there are in other parts of the State five hundred thousand. These counties with one hundred and fifty thousand free white inhabitants have fifteen members of the Senate of Maryland out of twenty-four, nearly two thirds of that body. No law can be passed by that body without the consent of this one fifth. No law can be repealed without the consent of this one fifth part of Maryland.

They have exercised their power in another respect. Of the thirty-one Governors of Maryland these fifteen counties, with this one fifth of the population, have had twenty-four, dividing them between counties on the eastern and the counties of the western shores of the Chesapeake. The great country I represent has never had an opportunity to elect a Governor except on two occasions. If to the population and wealth of these counties we add the population and wealth of the great city of Baltimore, with two hundred and fifty thousand inhabitants, we

have a community who have been permitted to elect from their midst, I think, only seven chief magistrates. The same injustice has prevailed with reference to the selection of Senators of the United States. We have a law of Maryland, a law enacted by that dominant interest of which I have spoken, which secures one of the two Senators of the United States to the eastern shore of Maryland, which section forms only one of our five congressional districts; and the other Senator of the United States to which Maryland is entitled has been, except in four or five instances, taken from the other seven counties, which, with the eight counties of the eastern shore, make the fifteen counties of which I have spoken.

The same selfishness and injustice has characterized this minority government in Maryland on subjects of legislation. I will not pause to point out numerous instances; I will name one only. The school funds of the State, contributed to the treasury mainly from western Maryland and the city of Baltimore, is under control of this Legislature, and has been distributed to the people of the several counties without regard to population. Three thousand white inhabitants in one of the dominant counties were for a long time in the receipt of as large a portion of this fund for educational purposes as the forty-five thousand in one of the counties of which I am the Representative, and as large a portion as the population of Baltimore.

Under such a government the majority cannot rule in any of its departments. No matter how fixed, calm, deliberate, and unalterable may be that will of the majority, it can neither prevail in the legislative, executive, nor judicial departments of the government. Is such a government to be deemed republican in this age? Can gentlemen who surround me, and whose thoughts can go back to the character of their own State institutions, and compare them with the institutions as I have thus rapidly sketched, and tell me they are republican in form?

Why, sir, one of the principles of republicanism which I suppose we will all assent to is that the calm, deliberate, unchanging, inflexible purpose of the majority must at some time or other pervade all branches of the Government. We of Maryland do not want that sudden ebullition and uprising of the majority of the community to be carried into effect and make the law of the land as in the old mobocracy of Greece. We desire the distribution of power, and we know our fathers took the precaution to give to the minority reasonable protection, while they intended that the majority should, by gradual, persistent effort, have power to remove every obstacle in their pathway to power. Never was it intended that the minority should have perpetual domination over the majority. I utterly deny it, and my whole heart and soul has been up in arms in rebellion against this State government of Maryland, no matter to what political association I may happen to be attached, whether I am with the party out of power or a member of the great party which fortunately for the country, has its destinies in its hands.

This power, thus unjustly distributed and exercised under the old constitution of Maryland, has been partially taken away. Agitation after agitation has wrought changes in our State. In 1850 there was a partial rectification of this evil. The representation from the lower counties of Maryland in the Legislature was diminished, and that of the counties from whence I came increased, as well as that of the city of Baltimore. The power to elect a Governor by joint ballot of the Legislature was taken away and was given to the people. The same convention, in other respects, ameliorated the condition of things in Maryland.

In 1864 another convention was held, and again a small portion of that power was taken away from the southern counties and was given to Baltimore and the more populous counties of the State.

Now, sir, what happened recently in the

legislation of Maryland? I speak of it with regret. No man wants peace in our own borders more than I, and no man tolerates more differences of political opinion. But that is not reciprocated. The party temporarily in power, this minority of the people in the lower counties, aided by the treachery of the Governor in order to augment their power, have now boldly presented to the people a call for a constitutional convention, for or against which they are called upon to vote; as a basis of which new constitution they propose that twelve more members of the Legislature shall be given to the lower section of Maryland than they have under the constitution of 1864. The people of the State are up in arms against such a monstrous proposition. We have borne it long enough, patiently, peaceably, submissively, beyond what becomes a free people.

Then, sir, what are we to do? That is the question. Unless something is done by Congress the proposed convention in Maryland will be held, in which a constitution will be adopted aggravating our evils.

And here let me, by way of interpolation, say that in my statement of the relative population of the different sections of the State I have ignored altogether the black population. There are two hundred thousand blacks, who are of course excluded from participation in the right of government in any degree. I have only run the parallel between the white people of one section and of another.

But I say we are powerless unless Congress interposes. And has Congress that power? The United States have power to guaranty a republican form of government to all the States of the Union. Congress is clothed with the power of passing such laws as may be necessary to execute this power and all powers granted by the Constitution. That, in my humble judgment, covers this whole question. With this power to guaranty a republican form of government we acquire the power first to enable the people concerned to create such a government.

How is Congress to exercise that power? By an enabling act. The people of Maryland should not be left there to struggle in the manner proposed now in these resolutions; they should not be left there to resort to physical power to enable the one party or the other to hold power in the State. They are a law-abiding population, and they apply to Congress to provide and guaranty them a republican form of government.

I did not intend to go into this subject at length, coming up as it did so unexpectedly. But I will remind gentlemen of another fact in connection with the present condition of affairs in Maryland. We all know what this movement in Maryland is aimed at. All over Maryland, with few exceptions, loyal men are in the judgeships, the clerkships, and registers' offices. Now, the party in power in Maryland have utterly abrogated that article of our Constitution which excludes from the exercise of the right of suffrage that portion of the population of Maryland who went South during the rebellion and took part against the Government of the United States. They thus increase immensely their numerical force in the State.

And now they propose to hold a convention in which they propose to admit twelve more members to those counties in the southern portion of the State than they rightfully are entitled to under the present constitution of that State. And they also give the right to vote to all those in the State of Maryland who went South during the rebellion, but have now returned, with the design of removing from position every loyal officer in Maryland.

Now, will gentlemen for a moment look at the situation of the State of Maryland in relation to the seat of Government of the United States. That State touches the Potomac river both above and below the District of Columbia, and as long as this continues to be the seat of Government this Government cannot be administered without crossing the territory of the State of Maryland. Your mails, your tele-

graphic dispatches from the heads of the Army and Navy must cross the territory of that State. No member of Congress can come here to take his seat without crossing the territory of Maryland; and is it unreasonable to expect that the Congress of the United States, which has expended so much blood and treasure to rescue one section of the Union from the political domination held by those plotting the overthrow of the Government; is it to be expected that Congress will hesitate to exercise the unquestioned power conferred upon it under the Constitution to rescue Maryland from the hands of persons as thoroughly disloyal and hostile to this Government at this moment as are any in the States further South?

Sir, I take a bolder ground than that even. I hold that were the Constitution silent upon the subject, so absolutely necessary and indispensable is the soil of Maryland to the proper administration of this Government, a power inherent in this Government as a Government would exist to seize, occupy, and establish there institutions in accord with the known wishes and purposes of the people, and the safety and security of the Government itself. Having made these few remarks—

Mr. ELDRIDGE. Before the gentleman from Maryland [Mr. Thomas] takes his seat, will he allow me to address an inquiry to him?

Mr. THOMAS. With great pleasure.

Mr. ELDRIDGE. I had not the pleasure of hearing all the remarks which the gentleman from Maryland has addressed to the House upon this subject; but from those I did hear, it seems to me that he claims the existence of a most monstrous power on the part of this Government. But as I may be mistaken in regard to what the gentleman has claimed, I desire to inquire of him if he claims that the Federal Government is armed with original power to reform the constitution of a State, which constitution may have existed at the time when the Federal Government itself was created? I would also ask him whether the constitutions of the States which formed our Federal Constitution were not republican in form, and whether the nation has grown and increased in power so that it may now say to the States that their constitutions are not republican? Is that the power given by the clause of the Constitution to the Federal Government to guaranty to each State a republican form of government?

Mr. THOMAS. If the gentleman had heard my opening remarks he would have seen that I have already anticipated the very question he has propounded. The constitution of Maryland was republican in form, so thoroughly republican that it came up even to the standard of republicanism of this day, for it gave to every free man, black as well as white, the right alike to a qualified vote. But I have tried to possess the House with this fact that that constitution has now grown to be anti-republican in form, and those who now control the government will not follow the example of our fathers, and conform the institutions of the State to the requirements of the age and the location and condition of the people.

They hold a power given to them by men who had respect for republican principles. They hold that power, but they will not exercise it. They not only cling on to the unjust political preponderance which they now enjoy, but they propose to give twelve more Representatives to that favored section of the State in the proposed convention which has so long enjoyed privileges and immunities altogether unjust.

I have already explained this subject, and it seems to me any gentleman who has heard me ought to see at a glance that a government which was once republican has grown to be anti-republican by the usurpation of those in whose hands this instrument has been unfortunately placed.

I move that these resolutions be referred to the Committee on the Judiciary, and be ordered to be printed.

Mr. BROOKS. Mr. Speaker, if anything on earth could have surprised me, though I have almost learned to follow uniformly the Horatian rule, *nil admirari*—to wonder at nothing—it would have been what we have witnessed this morning, the extraordinary presentation of a partisan memorial and the extraordinary speech of the honorable gentleman from Maryland [Mr. Thomas] against his own State and the constitution of his State, and the more extraordinary principles which he has laid down as constitutional law for the adoption and guidance of the younger generation of this country. Sir, if this is a consolidated Government and if all powers are vested here in the Congress of the United States, I propose to ask the honorable gentleman from Maryland to look not only at the constitution of his own State, but the constitutions of other States and the Constitution of the Federal Government itself, and ask whether anywhere, with very few exceptions, a republican government exists in any one State of the Union. I will begin with the easternmost State, the State of Maine, from which I came originally. In that State there is no equality of representation in the Legislature. The larger towns are to a great extent disfranchised. The preponderance of population in the cities is utterly disregarded in the representation, and thus, if mere numbers constitute a Republic, there is no republicanism in Maine.

I will pass over Massachusetts for the present, and look to the State of Connecticut. There is no equality of representation whatever in the State of Connecticut. Towns like New Haven and Hartford, the largest cities and towns of the State, have no equality whatever in representation; no more equality than there is in the State of Maryland. I ask the honorable gentleman from Maryland whether, when he proposes that Congress shall give a republican constitution to Maryland, he proposes that the two States of Maine and Connecticut shall have the go-by—

Mr. BLAINE. The gentleman, I trust, will allow me to interrupt him to correct an error into which he has fallen in regard to the State of his nativity and of my adoption.

Mr. BROOKS. Certainly.

Mr. BLAINE. The inequality of which the gentleman speaks does not exist. The relative representation of the different counties in Maine is apportioned entirely upon the basis of population.

Mr. BROOKS. But has Portland its equality of representation?

Mr. BLAINE. The respective counties are entitled to their just share of representation according to population.

Mr. BROOKS. Do the people of Bangor enjoy an equality of representation?

Mr. BLAINE. With regard to all the rest of the State they do.

Mr. BROOKS. Do they enjoy an equality of representation in the lower branch of the Legislature?

Mr. BLAINE. The gentleman does not understand me. The popular representation is apportioned among the various counties precisely upon the basis of population.

Mr. BROOKS. I will ask the gentleman, to how many representatives is the city of Portland entitled in the Legislature?

Mr. BLAINE. Four.

Mr. BROOKS. And what is the population of Portland?

Mr. BLAINE. Thirty thousand. But Cumberland county, in which Portland is situated, enjoys, in her share of representation, the full advantage of all Portland's population.

Mr. BROOKS. But the city of Portland has only four representatives, while under an equal system of representation it would be entitled to eight or ten.

Mr. BLAINE. It is adopted on the basis of counties, and the gentleman's objection is not well founded.

Mr. BROOKS. It is not republican to disfranchise the cities of Portland and Bangor,

with other cities in that State, and the cities of New Haven and Hartford, and other cities in the State of Connecticut.

I come next in order to the State of Pennsylvania. There is a State with a Republican majority of about seventeen thousand, where the Democratic vote is about two hundred and ninety-one thousand. I ask has this State, under a system of gerrymandering—a word created in Massachusetts—that Governor Geary might exercise this anti-republican power of destroying equality of representation; I ask whether the State of Pennsylvania with six Democratic Representatives in this House and eighteen Republican Representatives, with only a majority of less than seventeen thousand over, we hear, three hundred thousand Democratic votes, by a wrongful and unjust apportionment made for party purposes to create an immense Republican majority of this House; I ask whether that is any fairer system of representation than the one which exists on the Eastern Shore of Maryland? Under the contrast which the gentleman from Maryland has drawn with his own section of the country, there is no equality whatever in the State of Pennsylvania more than in the State of Maryland.

Mr. STEVENS, of Pennsylvania. The gentleman will allow me to say that inequality is not produced by a representation of larger or smaller numbers in a particular district, but because of the aggregation in particular districts of men of particular political character. You could not divide Berks or Lancaster, and yet their great majorities give them what I have already stated. It is not on account of the population; there is no inequality there.

Mr. BROOKS. I comprehend that by a series of ingenious operations, by dovetailing Democratic counties with those having large Republican majorities, what is well described in the well-known process of gerrymandering, the Republican majority of Pennsylvania have so contrived their legislation as to make the representation upon this floor in the ratio of six Democrats to eighteen Republicans, when their whole majority in the State is less than seventeen thousand. That is called republican representation!

I suppose I shall be informed—and I dare say I will get into a hornet's nest—Tennessee and Missouri have republican governments!

But before I come to that, Mr. Speaker, I ask whether the State of Wisconsin has a republican representation upon this floor? Wisconsin has between eight and nine hundred thousand population, and yet her representation has been so managed by her Republican majority that while there are upon this floor five Republicans from that State, the Democracy, with only about fifteen thousand majority against them, is represented by one solitary star. Is that republican representation? Would it be just and right to interfere with Maryland and not also go into the State of Wisconsin to correct the misrepresentation there?

Mr. COVODE. I wish to say to my friend from New York that an effort was made to make another Democratic district in western Pennsylvania, and that happened to be my own district, but notwithstanding all the combined forces they were not able to succeed.

Mr. BROOKS. The gentleman is a lucky man. He knows how to work minorities into majorities. But let that pass.

Now, for the States of Tennessee and Missouri. With the white population in those two States crushed out, having no representation in a large degree upon this floor, the white population of those States represented by a minority here, with only one Democrat from Missouri, I ask gentlemen to tell me whether those are republican forms of government? I know you tell me those who are disfranchised are rebels and have no right to representation upon the floor of this House. But is that a republican form of government? Has not man his rights whatsoever that man may be? If that man has been a rebel, trampled and

beaten, is he less a man in form and feature of the God who created him? Is there any right but the right of arbitrary authority to trample upon these men?

And you who tell us that the negro is a man and a brother; why, when the rebel repents of his errors and swears allegiance to the Government; why, when he is forced to take oaths which cannot admit him upon the floor of this House, is he reduced to the level of the serf of Europe or the slave of Egypt? Why disfranchise, why not allow him representation in this boasted House of Representatives where a republican form exists, at least through republican or loyal men? Why not allow him to speak for himself in this convention of loyal men? Sir, no more republicanism exists in the State of Tennessee—is Tennessee not represented here while we are legislating and making laws for her by the extraordinary action of this Congress—no more republican form of Government exists in the State of Tennessee nor in Missouri than there is under the rule of the Pacha of Egypt or the Sultan of Turkey.

Mr. DONNELLY. Will the gentleman yield for a question?

Mr. BROOKS. Yes, sir.

Mr. DONNELLY. I ask the gentleman whether he would unite with us on this side of the House in giving to the black man of the North representation on the floor of this House.

Mr. BROOKS. Sir, I would leave that question where the Constitution leaves it. I would leave it with the people of the States. If the people of the State of New York choose to give to the black man the right of representation I shall cheerfully acquiesce in the will of the majority. But in my own State, where both Houses of the Legislature are Republican by large majorities, and the Governor is also a Republican, although their Representatives on the floor of this House vote free suffrage to the black man, they deny it in the State. And so in the State of Ohio and others.

Mr. DONNELLY. Will the gentleman yield?

Mr. BROOKS. I do not wish to be diverted by the criticism of gentlemen. The gentleman from Minnesota has greater facilities for getting the floor than I have. It is only by grace and favor that I have an opportunity now and then to speak.

The SPEAKER. The Chair understands that the gentleman declines to yield altogether.

Mr. BROOKS. Not altogether. I am not sufficiently skilled in debate to be subject to criticism from all sides of the House; but whenever I interfere with a particular gentleman's domain I feel it my duty to yield to him. I have not yet come to the State of Minnesota. If I do so at all in the course of my argument the honorable gentleman shall have an opportunity to question me at will.

Mr. ANDERSON. The gentleman has alluded to my State; will he yield to me a moment?

Mr. BROOKS. Yes, sir.

Mr. ANDERSON. I will state that in Missouri we are preparing to have a republican form of government, and when we get it I reckon there will not be any Democrats sent to Congress. [Laughter.]

Mr. BROOKS. Well, sir, I will answer the gentleman by referring to the State of Massachusetts, and I wish the honorable gentlemen from Massachusetts to listen to me. I suppose that old Commonwealth will be surprised when I proclaim here on the floor of this House that no republican government exists in that State. A large majority of the people of Massachusetts, the most enlightened and intelligent portion, the cultivated women of the old Commonwealth, the equals in intelligence and capacity of the men who vote for the members of this House—and I shall not offend the members from Massachusetts by saying quite their equals also in intelligence and capacity—are disfranchised in that old State of Massachusetts; and these

women constitute much the larger majority of the people. Now, if you are about to come to a republican form of government, and your idea of such a government is one in which the black people are enfranchised, I tell the gentleman from Missouri [Mr. ANDERSON] I am for my own wife, daughter, and sister, my own kith and kin, my own flesh and blood of Caucasian origin. I am in favor of free suffrage for them before I ever would consent to grant it to another race and color. And though it is not for me to interfere in any way with the politics of Missouri, I do not see how a Missourian can go before his wife, his daughter, his sister, his mother, all disfranchised, and say to them that the ignorant negro of the State of Missouri has a better right to vote under a republican form of government than are the wives and daughters of the white citizens of the State.

Mr. ANDERSON. I hope the gentleman from New York [Mr. BROOKS] does not understand me as being opposed to woman suffrage. [Laughter.]

Mr. BROOKS. The cause of woman is gaining ground in Missouri, and my friend near me from that State [Mr. NOELL] has an adjunct now in the honorable gentleman yonder, [Mr. ANDERSON.]

Mr. BALDWIN. Will the gentleman allow me a moment?

Mr. BROOKS. Certainly.

Mr. BALDWIN. I only wish to say this: it is true that women do not vote in the State of Massachusetts, but the question is being agitated there. Now, I will ask the gentleman from New York [Mr. BROOKS] if he will appear and speak in behalf of the women of thus being allowed to vote?

Mr. BROOKS. If the honorable gentleman from Massachusetts [Mr. BALDWIN] will follow the example of the gentleman from Maryland [Mr. THOMAS] and say that his own State has not a republican form of government, I will be willing to speak for the women while he is speaking for the freedmen.

Mr. BALDWIN. I will not say that. But will the gentleman come down to my State and advocate earnestly the extension of suffrage to women?

Mr. BROOKS. If it shall be held that a republican form of government consists in universal suffrage to its full extent, then I shall be for women and even for children voting. That is the answer I make to the gentleman.

Sir, tell me not of a republican form of government with the representation that now exists upon the floor of the other branch of Congress. Is it a republican form of government under which the small State of Rhode Island has the same number of Representatives in the other branch of Congress with the great State of New York and its millions of population? And so, too, in regard to Delaware. Has that little State, under a thoroughly republican form of government, the right to fully offset in one branch of Congress the great Keystone State or the State of Ohio? Is the Senate of the United States republican in any form whatsoever, in name, pretense, or even shadow of form, if numbers constitute republicanism, if population is the test? No, sir, as the Senate of the United States now exists there is no such republicanism in it. It is a body without numbers, a body without population, a body existing in utter defiance of any form of Democratic government whatsoever; and I shall expect the honorable gentleman from Maryland [Mr. THOMAS] when he undertakes the reformation of affairs in his own State to introduce upon the floor of this House a proposition to abolish the Senate of the United States in its present form, and ask for a change of the Constitution of the United States in such form that we may have equality of representation there as well as in this body.

Sir, the little State of Nebraska has been shoved into the Union with two Senators in Congress to offset such great States as Ohio, Indiana, Pennsylvania, and New York. Why,

sir, there are more people in the lower wards of the city of New York, plying their avocations and pursuing their various forms of industry, even underground, ay, sir, even underground, five to one, than now exist in the whole State of Nebraska. Yet Nebraska has in the Senate of the United States an equality of representation with the great State of New York.

Now, sir, whenever we in this Congress undertake to create a practically republican form of government, as defined by the gentleman from Maryland, I propose that we shall go to the very bottom, the foundation of things. I do not propose to halt in Maryland, but to look over the whole extent of our country, here, there, and everywhere, and endeavor to republicanize the whole country. When that is undertaken and carried out, the Constitution of the United States will no longer exist. And there will be no more liberty on this side of the Potomac, no more respect paid to the Constitution, than is now paid under the military monarchy, on the other side of that Potomac.

Sir, no more dangerous doctrine can possibly be put forth than that put forth by the venerable gentleman from Maryland, [Mr. THOMAS,] that Congress has the power and it is its duty to adjudicate upon and determine what constitutes representation in a State. Sir, it is an utter subversion and overthrow of the whole structure and form of our Government; a centralization, a consolidation, a despotism of the worst sort, utterly repugnant to the ideas of the fathers who framed the Constitution of the United States.

The House, I trust, will excuse me for the diffuseness of these remarks, which have been made without any preparation, because the remarks of the gentleman from Maryland seemed to call for some reply. But perhaps at this hour, and in view of the peculiar circumstances under which we are now assembled, our time is best consumed in declamation and debate of this sort, for we might be engaged in much more dangerous occupation.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment a bill (H. R. No. 101) for the relief of John Perry.

The message also announced that the Senate had passed joint resolutions of the following titles, with amendments, in which the concurrence of the House was requested:

Joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes;" and

Joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river.

The message further announced that the Senate had insisted upon its amendment, disagreed to by the House, to the amendments of the House of Representatives to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the United States for the fiscal year ending June 30, 1867, and for other purposes; had agreed to the conference asked by the House, and had appointed Mr. MORRILL of Maine, Mr. EDMUNDS, and Mr. BUCKALEW as conferees on the part of the Senate.

#### PUBLIC AFFAIRS IN MARYLAND—AGAIN.

Mr. PAINE. I demand the previous question.

Mr. ROBINSON. I desire to ask a question.

Mr. PAINE. I will yield for that purpose, but for no other.

Mr. ROBINSON. I wish to ask my venerable friend from Maryland, who has again and again insisted that Congress shall guaranty to each State a republican form of government, where he finds that doctrine?

Mr. THOMAS. Mr. Speaker, I dislike to engage in these colloquies on the floor. I seek to enunciate my opinions with distinctness—



Mr. ROBINSON. I ask the question with all proper respect for the gentleman.

Mr. THOMAS. I will say in reply to the gentleman that the Constitution of the United States expressly declares that Congress shall guaranty to the several States of the Union a republican form of government.

Mr. ROBINSON. There is no such provision in the copy of the Constitution which I possess. I rose for the purpose of making this correction: that while Congress has a sufficiency of power and knows how to exercise it, the Constitution does not contain any provision that Congress shall guaranty to each State a republican form of government. The provision is that—

"The United States shall guaranty to every State in this Union a republican form of government."

Congress is not "the United States."

Mr. GARFIELD. Who is?

Mr. ROBINSON. I will say in reply to the gentleman from Ohio [Mr. GARFIELD] that General Grant is a part of "the United States;" Admiral Farragut is a part of "the United States;" the Army and Navy are a part of "the United States;" the President and the Supreme Court are a part of "the United States;" the people, above all, are part of "the United States." Congress never had this power. The makers of the Constitution never gave Congress the power.

Mr. THOMAS. I will briefly respond to the inquiry of the gentleman (which concerns a subject very broad and latitudinous) by advising him to examine the seventh volume of Howard's Reports of the decisions of the Supreme Court of the United States. In the celebrated case there reported of *Luther vs. Borden*, which I remember to have read many years ago, he will, if I am not very much mistaken, find the doctrine laid down that this grant of power to the Government of the United States clothes Congress with the power to look inside of a State and determine whether a government claiming to be republican is so or not, because, said the Supreme Court, it is for Congress to exercise the power given to the United States to guaranty a republican form of government to every State in the Union. This was the decision solemnly rendered in the case of *Luther vs. Borden*, growing out of the political troubles in Rhode Island many years ago.

Mr. PAINE. Before renewing the call for the previous question I shall take the liberty to make a statement respecting my own State, which has been referred to by the gentleman from New York, [Mr. Brooks.]

It was stated to the House by the gentleman from New York [Mr. Brooks] as the result of gerrymandering in the State of Wisconsin that State was represented upon this floor by five Republicans and only one Democrat. It is a sufficient answer to that to say to this House that the Democratic Representative had a majority of only 2,600 in round numbers, while my own majority, the least of all of the Republican members, was 4,880; one of my colleagues having a majority approximating 8,000. The average majority was far greater than that of the Democratic Representative.

Mr. BROOKS. I do not think I applied the word gerrymandering to the State of Wisconsin. I applied it to Pennsylvania, and not to Wisconsin.

Mr. PAINE. I believe the gentleman used the word in connection with the State of Wisconsin; but I will not quarrel about it.

I yield five minutes to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I desire to inquire of the gentlemen from New York, [Mr. Brooks and Mr. Robinson,] who deny the right of Congress to respond effectively to the Maryland memorial, whether they have investigated the question as to the constitutional right of Congress to regulate suffrage in all the States so far as electors for the most numerous branch of the Legislature are concerned? Sir, I assert, and I do it, as the members of the last Congress will I think admit, on abundant histor-

ical evidence, that the framers of the Constitution confided that power to Congress when, by section four of article one, they provided that Congress should regulate the time, place, and manner of holding elections; and that they submitted conditionally, and only meant to submit conditionally, to the States the question of who should vote for the most numerous branch of the Legislature, together with the regulation of the time and place of holding elections. That question was to be submitted to the States in the first place; so that, if it were rightly disposed of by them, Congress need not exercise the power reserved to it. As I only wish for the present to invite the attention of those gentlemen to the question, I will hold myself ready to furnish them or others with conclusive evidence drawn from the debates in the Convention which framed the Constitution and the conventions which adopted it for the several States, and will not inflict a repetition of it again upon gentlemen who were members of the last Congress, or further pursue the subject at this time.

Having been absent from the House during most of the discussion, I content myself with thus inviting the attention of gentlemen to the question and asserting my conviction, and my readiness to demonstrate the fact, that Congress has the right to regulate suffrage so far as relates to electors of the most numerous branch of the Legislature, whereby it may determine who shall vote for members of Congress, and who shall select the members of at least one of the two bodies which elect United States Senators. In this opinion I stand with Madison and the fathers of the Constitution generally, and do but utter their views, their most earnest convictions, when I say that without that power being in Congress, an enduring, united Government is an impossibility; that without it one State may destroy the Union and overthrow the Government. I have said thus much because I did not want this argument to pass without the utterance of at least a feeble protest against any other conclusion than that which I have enunciated, and which their own words prove was the conviction of the framers of the Constitution and the founders of our Government.

Mr. PAINE demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were not ordered.

The paper was then ordered to be printed, and referred to the Committee on the Judiciary.

#### ADJOURNMENT OF CONGRESS.

Mr. PAINE. I rise, Mr. Speaker, to offer a resolution relating to the adjournment and closing of the present session of Congress. After I have had it read at the Clerk's desk I will yield to the gentleman from Iowa [Mr. ALLISON] to offer an amendment, and then to the gentleman from Minnesota [Mr. DONNELLY] to offer an amendment to the amendment. I will not yield for discussion, but will call for the previous question.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives, That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on Friday, the 29th instant, at twelve o'clock m.*

Mr. ALLISON. I offer the following amendment as a substitute:

*Resolved by the House of Representatives, (the Senate concurring,) That on Friday, the 29th day of March, instant, at the hour of three o'clock p. m., the President of the Senate and Speaker of the House of Representatives shall adjourn their respective Houses until Wednesday the 5th day of June next, meridian, when, unless a quorum of both Houses be present, those officers shall further adjourn the said Houses respectively until Wednesday, the 4th day of September next, meridian, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses respectively until the first Monday of December next.*

Mr. DONNELLY. I offer the following as

an amendment to the original resolution, to come in at the end:

Until the first Wednesday in July next, and, unless otherwise ordered, the President of the Senate and Speaker of the House, shall on said day adjourn their respective Houses until the first Monday in December, in the present year.

Mr. GARFIELD. I desire to offer an amendment.

Mr. PAINE. I will yield to hear it read.

Mr. GARFIELD. I move to amend the substitute proposed by the gentleman from Iowa [Mr. ALLISON] by striking out the word "Friday" and inserting "Monday next."

Mr. PAINE. I cannot consent to that.

Mr. GARFIELD. I believe I have a right to move an amendment.

The SPEAKER. The gentleman from Wisconsin has the floor.

Mr. PAINE. I call the previous question.

On seconding the previous question there were—yeas 62, noes 25.

Mr. SCHENCK. I demand tellers.

Tellers were not ordered.

Mr. FARNSWORTH. I understand the Senate is now considering the resolution passed yesterday, and for the purpose of waiting for it I move to lay this resolution and amendments on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. I wish to say—

Mr. SPALDING. I object to debate.

The question was taken; and it was decided in the negative—yeas 54, nays 63, not voting 47; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Benton, Boutwell, Broomall, Butler, Churchill, Coburn, Cook, Covode, Cullom, Driggs, Eckley, Ela, Farnsworth, Finney, Garfield, Gravely, Hulsey, Hamilton, Hayes, Hill, Hooper, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, Loughridge, Lynch, Marshall, McClurg, Myers, O'Neill, Perham, Pile, Polsley, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taylor, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, Windom, and Woodbridge—54.

NAYS—Messrs. Archer, Benjamin, Bingham, Blaine, Blair, Brooks, Buckland, Burr, Cake, Chandler, Reader W. Clarke, Cornell, Denison, Donnelly, Eldridge, Ferriss, Ferry, Fields, Getz, Glossbrenner, Griswold, Holman, Hopkins, Assahel W. Hubbard, Chester D. Hubbard, Hubard, Humphrey, Kerr, Ketchum, Kitchen, Koontz, Mallory, Marvin, McCullough, Mercer, Miller, Morrell, Mungen, Newcomb, Niblack, Nicholson, Paine, Peters, Plants, Poland, Robertson, Robinson, Ross, Sawyer, Scofield, Smith, Stewart, Taber, Thomas, Trowbridge, Twitchell, Upson, Van Aukun, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, and Wood—63.

NOT VOTING—Messrs. Ames, James M. Ashley, Banks, Barnes, Beaman, Boyer, Bromwell, Sidney Clarke, Cobb, Dawes, Dodge, Eggleston, Eliot, Fox, Haight, Harding, Hunter, Julian, Kelsey, Ladin, George V. Lawrence, Lincoln, McCarthy, Moore, Moorhead, Morgan, Morrissey, Noell, Orth, Phelps, Pike, Pomeroy, Price, Pruyn, Randall, Baum, Schenck, Selye, Shellabarger, Sitgreaves, Spalding, Stone, Taffe, Van Aernam, Van Wyck, William B. Washburn, and James F. Wilson—47.

So the resolution was not laid on the table.

The main question was then ordered.

Mr. PAINE. I wish to call the attention of the House to a slight modification of the original resolution which will be rendered necessary in case the amendment of the gentleman from Minnesota [Mr. DONNELLY] shall be adopted. As it now stands it reads "for the close of the present session." I wish to substitute the word "adjourn" if the amendment shall be adopted, so as to make it consistent.

And I wish here to give the reason why I have declined to allow any discussion on this resolution. I supposed that the matter had been fully discussed heretofore upon the resolutions that have been before the House, and that the minds of members were made up on the subject. I will state further that I am not so strongly inclined to either one of these propositions but I shall be content whichever one is adopted. But I want something voted upon by the House at this time.

Mr. ROSS. I desire to ask a question of the Chair. If the amendment of the gentleman from Minnesota [Mr. DONNELLY] should be adopted, will it not prevent the members of

this House from visiting the Paris Exposition this year?

The SPEAKER. The gentleman very well understands that that is not a parliamentary question.

Mr. BROOMALL. All of these amendments propose in certain contingencies an adjournment until the first Monday in December next, upon which day the next regular session will begin. Now, if either amendment is adopted, and the resolution, as amended, should be adopted, will it not require us to at least go through the form of meeting on the first Monday of December next to close formally the present session before commencing the next session?

The SPEAKER. The Chair will decide that question at the time, should he then be occupying the Chair.

Mr. BALDWIN. I desire to ask the Chair a question in regard to the effect of a vote. If the amendment shall be adopted, and there should be a quorum in one House and not in the other, when the time for meeting shall arrive, will not an adjournment be required?

The SPEAKER. No order can be made, except by a quorum of each House, by a concurrent resolution.

Mr. DONNELLY. If the amendment I have offered should prevail, and the resolution so modified should be adopted, and Congress should meet here in July next, would there be anything to prevent another meeting in September, should it then be deemed necessary?

The SPEAKER. A quorum of the two Houses in July next can determine that question for themselves.

The question was upon the amendment of Mr. DONNELLY.

Mr. SCHENCK. Members about me here ask me to vote for this amendment, and then we can afterward vote on the amendment offered by the gentleman from Iowa, [Mr. ALLISON.] Now, I understand this to be a substitute—

Mr. BINGHAM. I object to debate.

The SPEAKER. The Chair understands the gentleman from Ohio [Mr. SCHENCK] desires to propound a question to the Chair.

Mr. SCHENCK. My colleague, I hope, will restrain his excitability. I understand that the amendment of the gentleman from Minnesota [Mr. DONNELLY] is a substitute for the amendment of the gentleman from Iowa.

Mr. BINGHAM. That is debate.

Mr. SCHENCK. No, it is not; I ask the Chair if that is the state of the question.

The SPEAKER. The amendment of the gentleman from Iowa [Mr. ALLISON] is in the nature of a substitute for the original resolution. The amendment of the gentleman from Minnesota [Mr. DONNELLY] is to add to the original resolution; and therefore the question will be taken upon it before it is taken upon the amendment of the gentleman from Iowa.

The question was upon the amendment of Mr. DONNELLY, which was to add to the resolution of Mr. PAINE, the following:

Until the first Wednesday in July next, and unless otherwise ordered, the President of the Senate and Speaker of the House shall on said day adjourn their respective Houses until the first Monday in December in the present year.

Mr. SCHENCK. On that amendment I call for the yeas and nays.

The yeas and nays were not ordered.

The amendment was then agreed to.

The question recurring upon the amendment of Mr. ALLISON, to strike out all after the concurring clause and insert the following:

That on Friday, the 29th day of March, instant, at the hour of three o'clock p. m., the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses until Wednesday, the 5th day of June next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, those officers shall further adjourn the said Houses respectively until Wednesday, the 4th day of September next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses respectively until the first Monday in December next.

Mr. ALLISON. I call for the yeas and nays upon agreeing to this amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 55, not voting 46; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Benjamin, Benton, Boutwell, Broomall, Butler, Calk, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Eckley, Ela, Farnsworth, Fields, Finney, Garfield, Gravelly, Hayes, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Judd, Kelley, William Lawrence, Lean, Logan, Loughridge, Lynch, McClurg, Mercer, Morrell, Myers, Newcomb, O'Neill, Perham, Plants, Polsley, Sawyer, Schenck, Scofield, Smith, Aaron F. Stevens, Thaddeus Stevens, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, Wadsworth, and Woodbridge—63.

NAYS—Messrs. Archer, Bingham, Blaine, Blair, Brooks, Buckland, Burr, Chandler, Reader W. Clarke, Cornell, Denison, Dodge, Donnelly, Eldridge, Ferriss, Ferry, Getz, Glossbrenner, Griswold, Halsey, Hamilton, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Kitchen, Koontz, Ladin, Mallory, Marshall, Marvin, McCullough, Miller, Morrissey, Munger, Niblack, Nicholson, Neill, Poland, Robertson, Robinson, Ross, Spaulding, Stewart, Taber, Twitchell, Van Anken, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, and Wood—55.

NOT VOTING—Messrs. Ames, James M. Ashley, Barnes, Beaman, Boyer, Bromwell, Cobb, Dawes, Driggs, Eggleston, Eliot, Fox, Haight, Harding, Julian, Kelsey, George V. Lawrence, Lincoln, McCarthy, Moore, Moorhead, Morgan, Orth, Paine, Peters, Phelps, Pike, Pile, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shanks, Shellabarger, Sitgreaves, Stone, Taft, Taylor, Thomas, Van Aernam, Van Wyck, William B. Washburn, James F. Wilson, and John T. Wilson—46.

So the amendment was agreed to.

The question recurred on agreeing to the resolution as amended.

Mr. ROSS. I call for the yeas and nays.

The yeas and nays were not ordered.

The resolution, as amended, was agreed to.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 101) for the relief of John Perry.

#### AMENDMENT OF THE CONSTITUTION.

Mr. INGERSOLL, by unanimous consent, introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time.

Mr. INGERSOLL. If there be no objection I should like to have this resolution passed at this time. If there be objection, let it be referred to the Committee on the Judiciary.

Mr. BINGHAM. It ought to be referred. The joint resolution was referred to the Committee on the Judiciary.

#### TRANSPORTATION OF PROVISIONS SOUTH.

Mr. BINGHAM. Mr. Speaker, on the 22d of February last this House passed a joint resolution, which was subsequently passed by the Senate and became a law, authorizing and requiring the Secretary of the Navy to furnish transportation for the purpose of carrying to the ports of Charleston, Savannah, and Mobile such contributions in the form of provisions, &c., as the people might offer for the relief of the destitute in the South. In a communication which I have received from the Secretary of the Navy that officer states that his power under the resolution has been exhausted, so that he finds himself without authority to furnish transportation for a large amount of supplies now in the city of Baltimore ready to be transported, having been contributed by the people of Pennsylvania and the people of Baltimore. I therefore ask unanimous consent to offer a resolution, which is in substance and almost in its precise words similar to the resolution passed by the House on the 22d of last February. It is entitled a joint resolution to

furnish transportation of provisions to the destitute in the South.

The joint resolution, which was read for information, authorizes and directs the Secretary of the Navy, upon the application of the contributors, or of any person on their behalf, to charter a vessel to convey provisions contributed by the people from Baltimore, Maryland, to Wilmington, North Carolina, for gratuitous distribution among the destitute of the South, under the direction of the contributors and such regulations as may be prescribed by the Secretary of the Navy.

Mr. LAWRENCE, of Ohio. I did not hear the reading of the whole of this resolution, and I wish to inquire of my colleague [Mr. BINGHAM] whether it contemplates furnishing transportation at the expense of the Government?

Mr. BINGHAM. It does; and so did the joint resolution of February 22.

Mr. LAWRENCE, of Ohio. I object to the introduction of the resolution.

Mr. BINGHAM. By the resolution already passed transportation was restricted to three ports therein named. This resolution proposes an extension of the provision, so as to authorize transportation to the port of Wilmington, North Carolina. I hope my colleague will not object.

I desire to state that it appears by the communication which has been sent to me that some of the persons contributing have tendered a thousand bushels of corn, which are now awaiting transportation. The parties themselves cannot be expected to pay the expense of transportation; and this transportation costs the Government little or nothing.

Mr. FARNSWORTH. I understand that the law already passed gives the Secretary of the Navy all necessary power; that it is only necessary for him to carry out the law.

Mr. BINGHAM. By the law now on the statute-book transportation is limited to the three ports of Charleston, Savannah, and Mobile. This resolution proposes to authorize transportation to Wilmington, North Carolina.

Mr. FARNSWORTH. I am in favor of the resolution.

Mr. BINGHAM. I am glad to hear the gentleman make that declaration. I desire to state, as an additional reason for the passage of this resolution, that the Secretary of the Navy, in the letter which lies upon my desk, states that he has exhausted the power under the existing law.

Mr. LAWRENCE, of Ohio. Will this resolution authorize additional transportation at the expense of the Government of the United States?

Mr. BINGHAM. It will authorize additional transportation from the port of Baltimore to the port of Wilmington, North Carolina. I hope my colleague will withdraw his objection.

Mr. LAWRENCE, of Ohio. I insist on the objection.

Mr. BINGHAM. I move then to suspend the rules, to permit the introduction of the resolution.

On the motion there were—87 in the affirmative, 1 in the negative.

So (two thirds voting in favor thereof) the rules were suspended.

The joint resolution was accordingly introduced, and read a first and second time. It was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HOUSE MESSENGERS.

Mr. WOODBRIDGE. I ask unanimous consent to introduce the following resolution:

Resolved, That the Doorkeeper of the House be authorized and directed to retain the number of messengers now employed during the recess of Congress.

Mr. ROSS. I object to that.

Mr. INGERSOLL. I ask my colleague not to object to it.

Mr. ROSS. Why do you want them here during the recess when there is nothing for them to do?

Mr. WOODBRIDGE. I move to suspend the rules.

The House divided; and there were—ayes 59, noes 16; no quorum voting.

The SPEAKER under the rule ordered tellers; and appointed Mr. WOODBRIDGE and Mr. ROSS.

The House again divided; and the tellers reported—ayes 61, noes 26.

So (two thirds having voted in the affirmative) the rules were suspended, and the resolution was accordingly received.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. KITCHEN, Mr. ANDERSON, and Mr. NICHOLSON.

#### WITHDRAWAL OF PAPERS.

Mr. TABER asked and obtained leave for the withdrawal from the files of the House of the papers in the case of John Graham, for compensation for carrying the United States mail.

#### HOUSE MESSENGERS—AGAIN.

Mr. WOODBRIDGE. I yield for a moment to the gentleman from Indiana to hear what his resolution is.

Mr. HOLMAN. I ask the gentleman to let me offer the following substitute for his resolution:

*Resolved*, That the Doorkeeper of the House be authorized to retain in the service of the House during the vacation of Congress such of the messengers and other employees as the public service may require, the persons so retained to include such soldiers or seamen disabled in the service of the United States as are now employed by him; and it is declared to be the sense of this House that the officers of the House should in making appointments give the preference to soldiers and seamen disabled in the service of the United States, when competent for the duties thereof.

Mr. WOODBRIDGE. While I have no objection to that, still as it encumbers the proposition I have submitted I very much prefer that the gentlemen would offer it as a separate measure.

Mr. HOLMAN. Let it be submitted to a vote of the House. It retains in the service of the Doorkeeper the soldiers and sailors who are now employed, who will be dismissed unless this proposition is adopted.

Mr. LOGAN. How do you know they will be dismissed?

Mr. ELDRIDGE. It seems to me the resolution of the gentleman from Indiana should be agreed to. I would be willing to make it a joint resolution, so as to apply to the other House as well as to this. We have seen there the bravest soldiers rejected by the Senate.

Mr. WOODBRIDGE. The Doorkeeper being a soldier, and a very gallant soldier, and of course having sympathy for all those who may be under him, will do ample justice to any person having that peculiar claim upon his favor.

Now, sir, I have introduced the resolution at the suggestion of the Doorkeeper himself, who considers it to be a matter of necessity. It is a plain, simple proposition, applying to the Doorkeepers who have been brought here from the several States, each State having its fair share. If the resolution be not agreed to, going home and again returning here, they will not receive enough to pay their expenses.

And let me say, in addition, that the Senate always retains its Doorkeepers during the recess, making them salaried officers. Now, we have passed resolutions that Congress shall come back here in June and at other times, and these men will have to be here. It must be evident to gentlemen that under the circumstances a resolution of this kind is absolutely necessary, and I therefore demand the previous question.

Mr. HOLMAN. If the previous question be voted down, my substitute will then be in order.

The SPEAKER. Any amendment will then be in order.

Mr. WARD. Is this a usual resolution, and has it passed the House heretofore? Has it not been the rule for the Doorkeeper to retain such as he thought necessary, and to discharge the others? Is not that the old rule in this matter?

Mr. WOODBRIDGE. I am not familiar enough with the former rules to give an answer affirmatively or negatively. In my recollection Congress has never before been in the condition in which we now are. We have been in a session for only a few days, and these persons have come from various parts of the country at great expense. Any precedent established in this matter would not apply to the present emergency. I know heretofore there have been some of the doorkeepers retained during the entire Congress. Under the circumstances of the present Congress it is deemed necessary, and it is necessary in my estimation, that this force should be retained.

Mr. DRIGGS. The gentleman yields to me for a moment. I wish to state an instance to the House right in point. The Doorkeeper, Mr. Lippincott, conceded to me the appointment of one assistant Doorkeeper. After getting together our delegates we agreed upon a man, a soldier in our State, and telegraphed him. He left his business and came here. If this resolution does not pass, and the rule prevailing heretofore shall prevail now, that gentleman will be discharged and will not have money enough to pay his passage back.

Mr. WARD. I desire to ask a parliamentary question. If the previous question is voted down, will it then be in order for the gentleman from Indiana to introduce his substitute?

The SPEAKER. It will be in order for any gentleman to offer any amendment that is germane.

On seconding the previous question there were—ayes 51, noes 35.

Mr. HOLMAN. I demand tellers.

Tellers were not ordered.

So the previous question was seconded and the main question ordered.

Mr. HOLMAN. I move to lay the resolution on the table.

The motion was disagreed to—ayes 24, noes 57.

The resolution was then agreed to—ayes 68, noes 17.

Mr. WOODBRIDGE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DUTIES ON IMPORTS.

Mr. BROOMALL, by unanimous consent, introduced a joint resolution for raising the rates of duties on imports; which was read a first and second time, and ordered to be referred to the Committee of Ways and Means when appointed.

#### PROTECTIVE TARIFF.

Mr. MILLER. I ask unanimous consent to present the memorial of two hundred and five working men of Northampton county, Pennsylvania, asking for the passage of a protective tariff, and to have it read.

Mr. HOLMAN objected.

The SPEAKER. The memorial will be presented under the rule, and referred to the Committee of Ways and Means.

#### BANKRUPT ACT.

Mr. MILLER. I ask unanimous consent to introduce a bill to repeal an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, for reference to the Committee on the Judiciary.

Mr. CHANLER. I object.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had

passed a bill and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. R. No. 79) to confirm certain sales made by the direct tax commissioners for South Carolina to persons in the Army, Navy, or Marine corps, and for other purposes; and

A joint resolution (S. R. No. 53) relating to the transportation of troops by the Isthmus routes to the Pacific States and Territories.

#### IRON-CLAD CAMANCHE.

Mr. LOGAN. I ask leave to introduce a joint resolution relative to the iron-clad Camanche, and to make an explanation in reference to it.

No objection being made, the resolution was read for information. It authorizes and directs the Secretary of the Navy to return to the contractors, Donahue, Ryan & Secor, the iron-clad Camanche, delivered at the navy-yard at Mare Island, California, on returning the amount paid said contractors by the Government for the construction of said ship, together with cost of guns, ammunition, and stores on board at the time of delivery, and that Donahue, Ryan & Secor have full authority to dispose of the same.

Mr. LOGAN. I desire this resolution to be put on its passage and I will give the reasons why it should be passed. A resolution for the payment of damages to these contractors amounting to \$179,000 has passed the Senate three times after three several reports from Senate committees. A bill or resolution of the same character, introduced into the Thirty-Eighth Congress was referred to the Naval Committee and was favorably reported by them to the House, but it failed to pass for want of time. A few days ago one of these resolutions passed the Senate by a unanimous vote. Every committee that has investigated this claim has decided that it is just and honest and that the parties ought to be paid. There never has been any objection made to the payment of this claim by any committee, I believe, that has ever investigated it. On account of an "omnibus bill," as it was called, which was introduced in this House, which was distasteful to some members, perhaps this measure may have acquired a like character. But the fact is, this was an entirely separate measure. The committee reported upon it separately, and asked that it should be passed upon its merits as a just and honest claim. Some days ago I asked to have the Senate resolution taken up and passed by the House. Objection was made by the gentleman from New York, [Mr. WARD,] who, I believe, was one of the members of the Committee of Claims of the Thirty-Ninth Congress. I then asked permission to explain to the House the reason why the resolution ought to pass. I was not permitted to do that. The resolution was then referred to the Committee of Claims, a committee not yet in existence.

I will now say to members of this House that Mr. Ryan, one of the applicants for damages in this case, has been here for more than two years with his family from California; a part of his children being left in California and a part of them being here. He has been promised from the time he came here a favorable report by every committee to whom his claim was referred. They have all reported favorably upon it, and it has passed the Senate each time, and would have passed the House but for the objection which has sent it to the Committee of Claims.

Mr. WARD. Mr. Speaker—

Mr. LOGAN. I do not yield.

Mr. WARD. The gentleman has referred to me.

Mr. LOGAN. I have only referred to the action of the House at the time the gentleman objected; I have not referred to any remark or objection to the bill which the gentleman made.

On yesterday the gentleman from Ohio [Mr. SCHENCK] asked that the Committee of Claims be discharged from the further consideration

of this joint resolution, so that it might be considered by the House; but his request was not granted. Now, I have here the reports made by the committees of the Senate and by the Committee on Naval Affairs of this House, and they all show that these claimants are entitled to over one hundred and seventy-nine thousand dollars as damages.

I will state briefly how these damages arose. These claimants entered into a contract to build the iron-clad Camanche, which iron-clad was to be built in the city of New York. They engaged a rolling-mill for the purpose of rolling out the side plating of the vessel. While that was being done the Secretary of the Navy ordered that the plates that had been made should be delivered by the contractors to other parties who were engaged in building other vessels for the Government. By that action on the part of the Government they were delayed in getting out the plates for the Camanche. Then when they had prepared the engines and machinery for the vessel the Government took them and put them into another vessel. Finally, under direction of the Government, these parties took the vessel apart, and put the pieces on the vessel Aquilla, and sent it around to California during the stormy season of the year. That vessel was sunk in a storm, with the parts of the Camanche on board. And these parties were compelled to expend a large sum of money to raise that vessel, obtaining the pieces of the Camanche and putting them together again, and making the vessel what it is now, as good a vessel of its kind perhaps as floats upon the broad sea.

Now, during the time these delays were caused by the Government the materials that were necessary for the construction of this vessel were rising in price and costing the contractors more and more every day. The completion of the contract was delayed by the action of the Government. At the time the vessel containing the parts of the Camanche was sunk, and these parties had to make these heavy expenditures to pay the wreckers and persons who assisted in raising from the deep those parts again, they had to pay in gold, which was then worth 170 in the city of New York. All of these expenses, all of these losses fell upon the contractors, not because of any fault on their part, but because of the acts of those representing the Government of the United States. These men did all that they could do. They have been—at least one of them has been—broken up in fortune by this contract. Law-suits have been instituted against them; judgments have been obtained against them. Yet, although it has been decided three several times that these parties are entitled to this amount, the Government has thus far failed to do them justice. All that they ask is simple justice.

It is strange, sir, that in this House claims can sometimes go through in cases where the parties have done nothing advantageous to the Government; while these men who assisted the Government in forming its Navy during the late war, who built one of the best vessels that floats upon the seas, who have been broken pecuniarily by reason of their fidelity to the interests of the Government, are almost the only men who have been denied the measure of justice to which they are entitled, and which would be awarded to them in any court on earth, if they could bring their case before a judicial tribunal.

Sir, before this case came before this Congress, two vessels were authorized to be returned under similar circumstances. The Thirty-Ninth Congress enacted a law—the bill being passed through this House, as I understand, without having been reported from the Committee of Claims—allowing to a gentleman named Forbes pay for a vessel which he had built which did not comply with the terms and stipulations of the contract. In the cases of Mr. Quintard and others, who were refused relief in money, bills were passed authorizing the return of their vessels that they might sell them, making more out of them perhaps than

the price which the Government would have paid.

Mr. BURR. I desire to ask the gentleman whether these contractors will be satisfied with the return of the vessel?

Mr. LOGAN. They must be satisfied with anything they can get. They have asked remuneration in money, and it has been refused to them. The committee of this House has refused to report the bill to remunerate these contractors for their losses. They have now no other resource than to ask Congress to authorize the return of the vessel to them, they refunding to the Government the amount of money which they have received, so that they may take their chances for the sale of the vessel in some other country, and in this way perhaps remunerate themselves for their losses in the completion of the vessel. I only ask this as the last resort, believing that this man Ryan and the others interested in this case have a just claim upon the consideration of Congress, and one that should not be denied.

I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I desire to offer an amendment, if it be in order.

Mr. LOGAN. I will allow the amendment to be offered, if it will not interfere with putting the resolution on its passage.

Mr. WARD. I desire to inquire whether the resolution is before the House?

THE SPEAKER. It is not.

Mr. WARD. As the gentleman from Illinois [Mr. LOGAN] has been so discourteous as to refuse to permit me to ask a question, I will object to the introduction of the resolution.

THE SPEAKER. After the gentleman from Illinois has concluded the explanation which he is making by unanimous consent, the Chair will put the question whether there is objection to the introduction of the resolution.

Mr. WARD. I simply desired to ask a question: and the gentleman declined to hear me, though he had referred to me in his remarks. He has yielded to the gentleman from Ohio to whom he has not referred in debate. I simply asked the privilege of propounding a question. I have no disposition to object to any gentleman's proposition. If ordinary courtesy is extended to me, I never object to any privilege gentlemen may ask.

Mr. LOGAN. If I have been at fault in not extending ordinary courtesy to the gentleman, I am sorry for it. I know that I have never been guilty of intentional discourtesy toward any gentleman. When, during my remarks, the gentleman from New York rose, I supposed that he wanted to answer me in reference to the action of the committee, supposing that I was addressing myself to him. But I was not alluding to that point; I was only speaking of a fact in regard to the action of the House, and was not referring to him particularly, but only as one of the members of the committee. I said nothing the gentleman could object to.

Mr. WARD. I simply wish to ask the gentleman a question.

Mr. LOGAN. Then ask your question now.

Mr. WARD. Very well. The question I desire to ask is, whether this claim of Ryan was not embraced in that omnibus bill?

Mr. LOGAN. I will answer the question, and I think to the gentleman's satisfaction. This claim of Ryan, Secor & Co., was embraced originally in the omnibus bill, but in the Senate the report of the Naval Committee, as gentlemen will find if they take pains to examine it, put it on a different basis from all the other claims. Hence, in the Senate this was taken out of the omnibus bill, and passed as a separate measure. It came to this House three several times separate from the omnibus bill. It has no connection with the omnibus bill whatever.

Mr. WARD. Let me ask the gentleman another question. Did not this House pass an act for examination of all these claims by the Secretary of the Navy, and for a report of his conclusions to be made to the Fortieth Congress?

Mr. LOGAN. Yes, sir; this House did pass a law to examine into all these claims, but without any law of that kind they were examined into by the Navy Department once before. Now, in reference to claims of a doubtful character it was well enough to do that. It was well enough that such claims should be investigated thoroughly. But, sir, it seems to me it would be a strange proceeding to compel these men to go back to a naval board, to go back to a committee, to do what? To do what four different committees have already done, and that is to report this bill. Every committee has reported in favor of this claim, and I do not see why it should not now be passed.

I will state further in reference to the history of this matter, that it was put on the Private Calendar and afterward taken up and referred to the Committee of Claims. It was there referred to a sub-committee. I will not say what the opinions of these men were in reference to it; I will not give their opinions because they are not now in the House. They were Mr. Delano, Mr. Thornton, and Mr. Sloan. I have not corresponded with any of them, but I know that Mr. Thornton, who thoroughly investigated this claim, yesterday voluntarily telegraphed to Mr. Ryan that he was in favor of it, and that he would have voted for it if it had been before the House by itself. He was one of the committee and of course knew all the facts.

Under all these circumstances, believing the claim to be honest and just, I ask that this resolution be placed before the House and at once be put on its passage.

Mr. WARD. I withdraw my objection. I hope the House will give me an opportunity to be heard on the resolution in some form.

Mr. LOGAN. I have no objection to that.

Mr. SPALDING. I renew the objection.

Mr. LOGAN. I move to suspend the rules. I only ask that we shall do for these men what this House has done for others who have had much more money.

The House divided; and there were—ayes 70, noes 8.

Mr. SPALDING. I do not ask for a further count.

So (two thirds having voted in the affirmative) the rules were suspended.

THE SPEAKER. The Chair has asked several times that members should vote on one side or the other. The House is aware of the fact that it is thinning in numbers, and that it is necessary every member should vote if it be not desired to delay action by having tellers.

Mr. SCHENCK. The gentleman yields to me, and I propose to offer an amendment which shall bring before the House the original joint resolution in order to have action on that. It is certainly germane to the subject of the resolution. I want to bring up the same question which arose yesterday on my motion to discharge the Committee of Claims from the further consideration of Senate joint resolution No. 19, for the relief of these parties in order to substitute that resolution for the one offered by the gentleman from Illinois. Is that in order?

Mr. WARD. It seems to me that it is not in order.

Mr. SCHENCK. I am asking the Chair whether it is in order. I propose to bring Senate joint resolution No. 19, relating to these same parties, before the House, and to move it as a substitute for the pending resolution.

Mr. WARD. This whole subject has been referred to the Committee of Claims, and cannot be brought back except by a special resolution to that effect.

Mr. SCHENCK. That is the resolution I offer.

THE SPEAKER. The Chair will state that this joint resolution cannot be inserted as an amendment, but the gentleman can introduce an amendment varying in some particular from the resolution ordered to be referred to the Committee of Claims. It does not need to be



a substantial variance; a verbal variance will be sufficient; as will be found by referring to the rule.

Mr. SCHENCK. It is in that way I propose to offer the amendment.

The SPEAKER. The gentleman proposed to amend by discharging the Committee of Claims.

Mr. SCHENCK. I propose to offer the joint resolution itself.

The SPEAKER. It cannot be offered in the same words as the resolution referred to the Committee of Claims.

Mr. SCHENCK. My original proposition was to substitute for the resolution offered by the gentleman from Illinois a resolution to discharge the Committee of Claims from the further consideration of the Senate resolution relating to this claim, so as to bring that resolution before the House.

The SPEAKER. The Chair decides that that is not in order, and refers to the rule, to be found on page 12 of the Digest, as follows:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment; and no bill or resolution shall at any time be amended by annexing thereto or incorporating therewith any other bill or resolution pending before the House."

The note by the compiler is as follows:

"The latter clause of this rule, as originally reported to the House, contained at the end of it: 'nor by any proposition containing the substance in whole or in part of any other bill or resolution pending before the House.' These words were stricken out by the House before it would agree to the rule, by which it would seem to have been decided that an amendment containing the substance of another bill or resolution may be entertained."

Mr. SCHENCK. I believe the Senate resolution is on the Clerk's desk, and I ask what is the exact sum that is named in it; if it is not \$179,000 80?

The SPEAKER. It is.

Mr. SCHENCK. I understand the contractors do not care about the eighty cents, and therefore I will offer as an amendment the same resolution changing the sum named to \$179,000.

The SPEAKER. That is in order.

Mr. WARD. I believe that is not in order without a suspension of the rules. It is a distinct proposition.

The SPEAKER. The rules have been suspended to allow the joint resolution in regard to the iron-clad Camanche to be considered in the House; therefore an amendment which is germane is in order.

Mr. SPALDING. Does not the amendment make an appropriation?

The SPEAKER. It does.

Mr. SPALDING. Then I object.

The SPEAKER. The objection comes too late; the rules have been suspended.

Mr. SPALDING. The House by a two-third vote allowed this resolution to be considered, but not an amendment making an appropriation. I believe we have a right to have another vote taken about suspending the rule requiring a bill or resolution making an appropriation to be considered in Committee of the Whole.

The SPEAKER. The rules have been suspended to introduce this resolution, and it has been explained at some length. The amendment is germane and is in order. The suspension of the rules covers that point.

Mr. SPALDING. It enables them to get money from the Government under false pretenses.

The SPEAKER. It does not, because a majority of the House is required to pass the amendment. The only reason why bills containing appropriations are required first to be considered in Committee of the Whole is that members shall not be surprised by the introduction of bills for the relief of claimants by appropriating money directly; hence the rule requiring that they shall be submitted to the Committee of the Whole. Now, the gentleman from Illinois [Mr. LOGAN] has explained this resolution at some length. The amendment is germane to the original resolution, the House is aware of the nature of the proposition for the

relief of certain contractors, and it will require a vote of a majority of the House to pass it.

Mr. WARD. Is the amendment before the House?

The SPEAKER. It is.

Mr. WARD. I inquire if it does not contain an appropriation?

The SPEAKER. The Chair has just decided that question. [Laughter.]

Mr. ROSS. I call attention to the fact that the original resolution is to return the iron-clad vessel to the contractors, and this amendment appropriates \$179,000. It appears to me that it is not germane to the original proposition.

The SPEAKER. The Chair has decided that the amendment is germane. If the gentleman from Illinois [Mr. ROSS] thinks the Chair is incorrect he can appeal from the decision of the Chair, and the House will then decide whether the decision of the Chair should be sustained or not.

Mr. ROSS. I do not propose to appeal from the decision of the Chair; I desired only to call the attention of the Chair to that point.

Mr. SCHENCK. I do not propose, after the very full and very fair explanation made by the gentleman from Illinois, [Mr. LOGAN,] to detain the House by many remarks of my own. My colleague [Mr. SPALDING] intimates that by taking advantage of the suspension of the rules to offer the amendment which I have submitted—which, though differing in form from, is substantially the same as the joint resolution which has been ordered to be referred to the Committee of Claims—he intimates that I was endeavoring to obtain money by false pretenses; and he even intimated in a good-humored way that I might be indicted for it. I will say that I think I could defend myself against a charge of that sort before a fair jury much easier than I could defend myself against the charge of sitting in my place here as a member of Congress and undertaking to obtain by false pretenses from these men their labor for years without paying them for it as they should be paid.

Now, I am opposed to the resolution of my friend from Illinois [Mr. LOGAN] as originally offered, for the reason that these contractors, driven to desperation, are offering to do what a liberal Government ought not to accept from them. They have been here for two years endeavoring to obtain the allowance of a claim admitted by all who have examined it to be a just and righteous claim; and because they have not yet obtained it, as a last resort they express their willingness to take back the property which they have furnished to the Government, to return the money which they have received from the Government, go their ways, and pocket the loss of their time and labor, submitting to it with such grace as they may. Now, we ought not to ask of them anything of the kind. And it was because I thought no such offer ought to be accepted by the Government that I sought yesterday to have the Committee of Claims discharged from the consideration of the joint resolution of the Senate, and have it brought before the House, in order that it might be passed, as in justice it should be.

Now, what is the history of this matter? I can add but little to what has been said by the gentleman from Illinois, [Mr. LOGAN.] As your record will show, three several times have the Senate passed a bill to pay these men. The claim has been carefully considered by the Committee on Naval Affairs of the House during the last Congress, and favorably reported upon by them. It was one of the provisions of what has been called the omnibus bill, providing for the payment of contractors for a number of the iron-clads. The members who constituted that committee, with perhaps a single exception, say that if this claim had been presented by itself, it was so manifestly just, they would have reported in its favor, and it only failed of favorable action because its fortune was embarked in connection with that of other and perhaps less justifiable claims.

This is the history of legislation in regard to this matter.

I made the motion I did on yesterday, not merely from having had some opportunity of knowing how this claim separated itself from the others and stood upon fair, just, and honest grounds, as has been explained to the House this morning by the gentleman from Illinois, [Mr. LOGAN,] but because I was also particularly requested to do so by some two or three Senators from the Pacific, whose letter I now hold, entreating me to do this. The request is based upon the fact that California at this time has no Representative in this body. If California were represented here, as she was in the last Congress long before this time, even during this present short session I am authorized to believe they would have brought this matter in some way if they could to the attention of this House. In their absence, and because there is no one here representing that State, and these contractors are the immediate constituents of one who was a Representative here in the last Congress, I interposed in their behalf.

I shall most heartily support the application of the gentleman from Illinois to have this matter considered at this time. But I propose that instead of considering it in the manner that he proposes, upon the proposition to give back to these men this property, my amendment shall be adopted, by which they will be paid honestly for what they have done and have furnished to the Government.

Mr. LOGAN. I yield to the gentleman from New York [Mr. WARD] for ten minutes.

Mr. WARD. Mr. Speaker, it is disagreeable to me to make any objection to this claim or any other claim which gentlemen feel called upon to press upon the consideration of the House; and whenever I have made objections, whenever I have insisted upon a reference of a claim to a committee in order that the claim might receive the investigation which our rules intend matters of this kind shall receive at the hands of the committees; my action has not been prompted by any desire to embarrass claimants or to thwart the wishes of gentlemen on this floor whom I would be very glad to gratify. I have acted, sir, from a conviction which I firmly entertain that no claim of any considerable amount should be passed upon by this House without an examination at the hands of some suitable committee. From the organization of the First Congress down to the present time, with the exception of the present session, committees have uniformly been appointed to consider claims against the Government. Never, I believe, in the history of the Government until the present time have claims of any magnitude, taking large sums of money from the Treasury, been permitted to pass without examination by a committee.

Now, sir, upon this question I have only to say that the Committee of Claims of the Thirty-Ninth Congress found presented before that committee claims amounting to \$1,200,000 in behalf of contractors who had built these iron-clads. The present claim was among the number. The committee carefully considered these claims, and reported to the House that this and the other claims should be referred to a board, to be appointed by the Secretary of the Navy, to take all necessary proofs, and make report to the Fortieth Congress. After full deliberation and discussion, the merits of this claim and all the other claims being fully weighed and considered, that action of the committee was sustained in this House by a decided majority. We now find gentlemen coming in here with a proposition to separate this particular claim from all the other claims, to make an exception of it, and have it passed by the House without any examination from any committee. When this proposition was first made to the House it was rejected—in my judgment very properly—and the case was ordered to be submitted to the Committee of Claims when appointed. That reference was I think right, and should be sustained. And when the gentleman from Illinois [Mr. LOGAN]

appeals to the sympathies of this House and asks that this claim shall be considered to the exclusion of the others, some of which are perhaps as meritorious as this, my reply is that this claim should take the same course as the others, should be examined by a committee along with the others, and should abide the fate which kindred claims may meet at the hands of this House.

Now, sir, I think that we should be careful in regard to our expenditures of money from the public Treasury. With a debt of \$4,000,000,000 upon us, with the business of the nation paralyzed, with the capital of the country lying idle, with people starving in the South and laborers out of employment in the North, it behooves the American Congress to watch the public Treasury and see that these large drafts upon it, to the amount of tens of thousands and hundreds of thousands, shall not be made except upon the recommendation of some committee that has investigated the subject. I tell gentlemen of this Congress that they must begin to economize somewhere and somehow, because if they do not the embarrassment of our Treasury, the stagnation of business, the disordered condition of our financial affairs will bring on national bankruptcy and ruin. As men whose duty it is to be the guardians of the public Treasury, it behooves us to see to it that claims of this character, if they pass at all, shall pass only after the closest scrutiny.

I hope, sir, that the amendment of the gentleman from Ohio [Mr. SCHENCK] will be voted down, and that I shall be permitted to enter a motion to refer this subject to the Committee of Claims when appointed; or if it is the desire of the House to have action upon the subject at the present time, let it go (as appropriation bills not submitted to any committee should properly go) to the Committee of the Whole House for investigation and discussion.

Mr. LOGAN. I yield to the gentleman from Indiana, one of the Committee of Claims, for five minutes.

Mr. WASHBURN, of Indiana. Mr. Speaker, as a member of the Committee of Claims of the Thirty-Ninth Congress, I will say that one of the most perplexing subjects before that committee was what was called the iron-clad claims. It came to us from the Senate on a proposition to pay certain contractors twelve per cent. on the original contract price. Our committee, after due investigation of each and every one of these cases by itself, arrived at certain conclusions, and reported a bill in which they were embodied. Instead of providing for a certain percentage on the contract price, they decided wherever the Government was at fault, wherever the Government interfered, and by that interference damaged the contractor, the contractor should have pay for that damage. We refused, however, to pay for incidental damages arising by reason of the war. Among the cases that the committee, after full investigation, believed to fall under that rule was the case of the contractors of the *Camanche*. I do not know what the amount of the damage was which was claimed, but the amount came before that committee. I believe now that under the rule adopted by the committee that these contractors should be paid for the damages which they sustained. The majority of the committee, I believe, decided that this was an honest claim, and being an honest claim it should be paid.

Now, for my part, believing this, I am willing, as this Congress has not given it full investigation and as there may be some members who do not know about it, to concede that the safe plan would be to give these parties back the vessel, deducting the amounts they have already received. If that will satisfy them it is perhaps the best plan for this House to pursue. If I am called upon to vote upon the question whether it is right or wrong, and believing it to be right, I shall vote for the amendment of the gentleman from Ohio. So far as the House is concerned we have certainly nothing to lose by giving up the vessel.

Mr. LOGAN. I do not desire to discuss this

question at any great length. I will say, however, in reply to the gentleman from New York, that I agree with him it is very well to have these cases investigated and reported on by committees; and if this had not been investigated and reported on at different times I would not ask any action of the House in the manner which I now do. As I have said before, it has been reported on by the Naval Committee in the Thirty-Ninth Congress. It has been fully discussed, as gentlemen will find by referring to page 1214 of the Congressional Globe. That committee fully reported in favor of this claim. That report was unanimous. I have not time to read it. I have it here; and if any gentleman will take the pains to examine it he will find that this report of the Senate committee was an unanimous report in favor of paying Ryan, Secor & Co. \$179,000. They reported that it was the fault of the Government, and not the fault of the contractors. The question was discussed at length in the Senate. It seems to me all these facts ought to be sufficient to satisfy any disinterested man that these parties are entitled to this money.

I intended when I introduced this resolution to ask that it be passed. Some of these men are poor. It may be difficult for them to get the money to purchase this vessel or to pay back the amount they have received; but it being the last chance, they are willing to take the risk. Of course it would be preferable to them to be paid the money. If I did not believe it to be an honest claim I would never ask the House to appropriate one dollar. I have never been in favor of paying out money except where it was honest and right. I believe this to be honest and right. When I introduced the resolution I did not know the gentleman from Ohio was going to offer an amendment, but now that the amendment has been offered I hope it will be adopted. If not, I hope my resolution will be adopted. Let us give these parties the money to which they are entitled, or let us give them back their vessel.

One remark further. The gentleman from New York says Congress sent these claims back to the Navy Department for examination and report to the Fortieth Congress. Now, the gentleman very well knows that the case of the *Camanche* was a separate claim, and so came from the Senate. It was no part of the "omnibus bill." After the "omnibus bill" was referred to the Committee of Claims this resolution was referred to that committee, and in their report they took all these claims together; but at the same time the committee, so far as they examined this particular claim, told us it was just. At least Mr. Thornton and the member from Indiana [Mr. WASHBURN] and other members of the committee said it was just.

Mr. WARD. There is nothing of that kind in the report.

Mr. LOGAN. I was not speaking of the report. They reported to refer the claim to the naval board, but they say had they acted on this separately they believe they would have reported it as a just and honest claim. I speak not of the committee as a committee, but of individual members of it.

Mr. WARD. There was no separate action taken by the Committee of Claims. The committee came to a general conclusion as to all these claims.

Mr. LOGAN. I believe the gentleman from Pennsylvania [Mr. KELLEY] was a member of the Committee on Naval Affairs in the Thirty-Eighth Congress which reported in favor of paying this claim. And there are other members of this House who were members of the Thirty-Eighth Congress, in whose judgment and integrity I have as much confidence as in any member of this House. But I am willing to be governed by the report that has been made by honorable gentlemen in this House without waiting for the investigation of some other committee. The claim having been investigated, as I have said, four times, three times in the Senate and once in the

House, and being reported favorably upon every time, I consider that it would be nothing but right and just for this House now to act upon it without delay, and give these men the allowance they are entitled to according to the reports of these several committees.

Mr. GRISWOLD. Will the gentleman allow me a word?

Mr. LOGAN. I yield for a moment.

Mr. GRISWOLD. I certainly should not have felt called upon to say anything in advocacy of this claim, but since the action of the Naval Committee of the Thirty-Eighth Congress has been referred to, perhaps it is proper that as a member of that committee I should say that they did, as the gentleman from Illinois has stated, investigate the question fully, and reported with unanimity in favor of the payment of the claim. I trust the claim will receive the favorable action of this House.

Mr. WARD. Will the gentleman allow me to ask if the same committee did not report the Forbes claim?

Mr. GRISWOLD. The Forbes claim was regarded by the committee as an entirely different claim.

Mr. WARD. You reported it.

Mr. GRISWOLD. It was not a unanimous report. The Naval Committee of the Thirty-Eighth Congress regarded this as almost an exceptional case.

Mr. WARD. I ask that merely for the purpose of correcting my friend from Illinois, [Mr. LOGAN,] whose remarks seemed to convey the impression that that was put through without a report of the committee.

Mr. LOGAN. The gentleman misunderstood me; I stated that it was put through the House without having a report from the Committee of Claims.

Mr. WARD. Then I misunderstood the gentleman.

Mr. LOGAN. But if the action of Congress in one case where there was not a unanimous report from the Naval Committee was proper, it would certainly be so in this case, where there was a unanimous report.

Mr. KELLEY. Will the gentleman yield?

Mr. LOGAN. For a moment.

Mr. KELLEY. The gentleman yields to me to state, in connection with the question of the gentleman from New York, my recollection of the matters connected with the claim, which is to this effect: that this and the Tetlow case, which was disposed of in the last days of the Thirty-Ninth Congress, were cases each having their own peculiarity, and were unlike any class of cases or any other case referred to the committee; and that in each case the action of the Naval Committee was unanimous, believing that great wrong had been done to the contractors by the Government.

Mr. LOGAN. I am glad the gentleman has made that statement. I was induced to make the statement I did from examining the reports heretofore made. I find I am confirmed in what I said by the statements of others. I trust the House will adopt the amendment of the gentleman from Ohio, [Mr. SCHENCK.] I now call the previous question.

The previous question was seconded and the main question ordered.

Mr. WARD. I call for the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered.

The amendment of Mr. SCHENCK was to strike out all after the resolving clause and to insert the following:

That there shall be, and hereby is, appropriated, for the purpose of paying Donahue, Ryan & Secor for losses sustained by them in the construction of the monitor *Camanche*, the sum of \$179,000. And the Secretary of the Treasury is hereby directed to pay the same out of any moneys in the Treasury not otherwise appropriated.

The question was taken; and it was decided in the affirmative—yeas 68, nays 41, not voting 60; as follows:

YEAS—Messrs. Allison, Archer, Delos R. Ashley, Baldwin, Banks, Barnes, Benton, Blaine, Blair, Boutwell, Burr, Butler, Chandler, Sidney Clarke, Dodge, Driggs, Eckley, Elia, Ferriss, Getz, Gravelly, Griswold, Hamilton, Hayes, Hooper, Asahel W. Hubbard, Hul-

burd, Ingersoll, Judd, Kelley, Kerr, Laffin, Lincoln Logan, Mallory, Marvin, McClurg, McCullough, Morrill, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Pile, Poland, Polsley, Robertson, Robinson, Schenck, Smith, Aaron F. Stevens, Stewart, Twitchell, Upson, Robert T. Van Horn, Henry D. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, and Woodbridge—63.

**YAYS**—Messrs. Baker, Benjamin, Broomall, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Cullom, Donnelly, Fields, Glossbrenner, Hill, Holman, Hopkins, Chester D. Hubbard, Hunter, Ketcham, Koontz, William Lawrence, Loan, Marshall, Mercer, Miller, Noell, Paine, Perham, Plants, Ross, Sawyer, Scofield, Shanks, Spalding, Taber, Taylor, Trowbridge, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, and Thomas Williams—41.

**NOT VOTING**—Messrs. Ames, Anderson, James M. Ashley, Beaman, Bingham, Boyer, Bromwell, Brooks, Buckland, Cake, Cobb, Covode, Dawes, Denison, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Finney, Fox, Garfield, Haight, Halsey, Harding, Humphrey, Julian, Kelsey, Kitchen, George V. Lawrence, Loughbridge, Lynch, McCarthy, Moore, Moorhead, Morgan, Orth, Peters, Phelps, Pike, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shellabarger, Sigreaves, Thaddeus Stevens, Stone, Taffe, Thomas, Van Aernam, Van Auken, Van Trump, William B. Washburn, Welker, James F. Wilson, Windom, and Wood—60.

So the amendment was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LOGAN. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

The question was taken upon the passage of the joint resolution; and upon a division, there were—ayes 70, noes 32.

Before the result of the vote was announced, Mr. LAWRENCE, of Ohio, called for the yeas and nays on the passage of the joint resolution.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes 18, noes 75.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

The joint resolution was accordingly passed.

Mr. LOGAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SELECT COMMITTEE ON SOUTHERN RAILROADS.

The SPEAKER announced the members of the select Committee on Southern Railroads, ordered by the House on yesterday to be appointed, as follows: JOSEPH W. MCCLURG of Missouri, ULYSSES MERCUR of Pennsylvania, HENRY D. WASHBURN of Indiana, JOHN W. CHANTLER of New York, and PHILETUS SAWYER of Wisconsin.

#### EIGHT-HOUR SYSTEM OF LABOR.

Mr. BANKS. I move that the rules be suspended in order to allow me to introduce for consideration at this time a bill constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States. I ask that the bill be read by the Clerk for the information of the House.

The bill was read at length. It provides that eight hours shall constitute a day's work for all laborers, workmen, or mechanics now employed, or who may be hereafter employed, by or on behalf of the Government of the United States, and that all acts and parts of acts inconsistent herewith shall be repealed.

Mr. BANKS. With the consent of the House I will make this statement: this bill was for many months before the Committee on the Judiciary of the last Congress, and I believe it was unanimously agreed to by them. I hope that no objection will be made to its consideration at this time.

Mr. CHANTLER. I notice that while this bill says that eight hours shall constitute a day's work, it says nothing about the wages that shall be paid for that day's work. Now, it is a perfect farce to say that a day's work for a man in the employ of the Government shall be eight

hours, without saying anything about what shall be paid him for that day's work.

The SPEAKER. The motion to suspend the rules is not debatable.

The question was taken upon suspending the rules; and upon a division there were—ayes 43, noes 40.

Before the result of the vote was announced, Mr. INGERSOLL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 78, nays 23, not voting 63; as follows:

**YEAS**—Messrs. Allison, Archer, Delos R. Ashley, Baker, Baldwin, Banks, Benton, Bingham, Blaine, Boutwell, Boyer, Brooks, Broomall, Buckland, Chandler, Churchill, Sidney Clarke, Coburn, Cook, Cullom, Donnelly, Ella, Farnsworth, Ferry, Fields, Garfield, Getz, Glossbrenner, Halsey, Hayes, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kerr, Ketcham, Kitchen, William Lawrence, Logan, Loughbridge, Marshall, McClurg, Miller, Morrissey, Mungen, Myers, Newcomb, Niblack, Noell, O'Neill, Paine, Porham, Pile, Polsley, Robertson, Robinson, Ross, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Stewart, Trowbridge, Twitchell, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, William Williams, and Wood—78.

**NAYS**—Messrs. Barnes, Blair, Burr, Reader W. Clarke, Driggs, Ferriss, Hamilton, Hulburt, Koontz, Laffin, Lincoln, Loan, Marvin, Mercer, Peters, Poland, Smith, Spalding, Taber, Van Auken, Cadwalader C. Washburn, Thomas Williams, and John T. Wilson—23.

**NOT VOTING**—Messrs. Ames, Anderson, James M. Ashley, Beaman, Benjamin, Bromwell, Butler, Cake, Cobb, Cornell, Covode, Dawes, Denison, Dodge, Eckley, Eggleston, Eldridge, Eliot, Finney, Fox, Gravelly, Griswold, Haight, Harding, Hill, Humphrey, Julian, Kelsey, George V. Lawrence, Lynch, Mallory, McCarthy, McCullough, Moore, Moorhead, Morgan, Morrill, Nicholson, Orth, Phelps, Pike, Plants, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shellabarger, Sigreaves, Thaddeus Stevens, Stone, Taffe, Taylor, Thomas, Van Aernam, Van Trump, Van Wyck, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—63.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was accordingly introduced, and read a first and second time. It was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BANKS. I call for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF COMMITTEE CLERKS.

Mr. BLAINE. I hold in my hand a resolution, which I ask unanimous consent to offer. Before reading it I desire to say that a day or two since a resolution was offered proposing to pay the clerks of committees of the Thirty-Ninth Congress; but that was objectionable to many members on the ground that it paid these clerks for an indefinite period. I now propose to offer a resolution giving to the clerks employed in the Thirty-Ninth Congress one month's pay—

Mr. HOLMAN. I object to debate.

Mr. BLAINE. Well, sir, I ask unanimous consent to offer the following resolution:

*Resolved*, That the several persons who were serving as clerks to the committees of the Thirty-Ninth Congress at the close of the late session be allowed and paid one month's pay at the rate heretofore paid.

Mr. TROWBRIDGE and others objected.

Mr. BLAINE. I move to suspend the rules in order that the resolution may be offered.

On the motion there were—ayes 56, noes 26.

Mr. WARD. I call for tellers.

Tellers were not ordered.

So (two thirds having voted in favor thereof) the rules were suspended, and the resolution was received.

The question being on agreeing to the resolution.

Mr. BLAINE called for the previous question.

The previous question was seconded and the main question ordered.

Mr. WARD. I desire to inquire of the Chair as a question of construction whether this resolution does not propose to pay persons who are not in the employ of the Government.

The SPEAKER. That is not a question of parliamentary law, and the Chair cannot answer it.

On agreeing to the resolution there were—ayes 57, noes 39.

Mr. KERR. I call for the yeas and nays.

The yeas and nays were not ordered.

So the resolution was adopted.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House to the amendment of the Senate to the concurrent resolution of the House relative to adjournment, with an amendment, in which the concurrence of the House was requested.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I move that the rules be suspended, and that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

The first business on the Speaker's table was the following amendment of the Senate to the amendment of the House to the amendment of the Senate to the concurrent resolution of the House relative to the adjournment of Congress:

Strike out all after the word "that," where it first occurs in the House amendment, and insert in lieu thereof the following:

The President of the Senate and Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at noon on the 30th day of March, instant, to the first Wednesday of July, 1867, at noon, when the President of the Senate and the Speaker of the House of Representatives shall cause the roll of each House respectively to be called; and that, unless otherwise ordered by both Houses, the President of the Senate and Speaker of the House, at one o'clock in the afternoon of the next day thereafter, shall again cause the roll of each House respectively to be called, and shall thereupon further adjourn their respective Houses without day: *Provided*, That clerks of committees of the Senate and House of Representatives who do not receive a yearly compensation, and who are not actually employed during the recess by order of a committee of either House, shall only be paid for the days that Congress shall be actually in session previous to the first Monday in December next.

Mr. SCHENCK. Mr. Speaker, that resolution is ingeniously drawn to prevent the possible meeting of this Congress until next December. I beg gentlemen to listen to me for one moment. What is to be done? The two Houses are directed to meet here on a certain day in July. The roll is to be called. The next day the roll is to be called again, and if not otherwise ordered, then they are to adjourn until December. And that order is to be by both Houses.

In the first place those who do not want Congress to meet can prevent, by staying away, a quorum from appearing. If a quorum should be present, it is not sufficient for one House to act, but it requires the united concurrent action of both Houses to make them stay, so that each House can defeat the other. The Senate has the House entirely in its power, and it may be that the House has the Senate entirely in its power. It requires the concurrent action of both Houses to continue the meeting which shall then take place.

Again: suppose the majority of the House, in the first place, want to stay here, and the Senate want to stay with them. They must be able, against all filibustering, in order to keep Congress together, to get the joint order, the joint action through before one o'clock of the second day, or it will not avail anything, for upon failure to get that joint order through an adjournment takes place. For such is the law.

It may be said there is power in the House, it being on Monday. Will it fall on Monday? By the rules you can then move to suspend the

rules. But it does not fall on Monday. Mark that. You meet on Wednesday, when you cannot suspend the rules, and therefore, when it will not be within your power, by a suspension of the rules, to get at it in that way. Members could filibuster so as to prevent any joint action taking place.

It will be said, perhaps, that the previous question might prevent it. It is a poor body that cannot filibuster beyond a certain hour. We are to call the roll and adjourn over to the next day, and at one o'clock the roll is to be called again. Now, if this House by the previous question is able to prevent this filibustering, in the Senate they have no previous question, and it is in the power of Senators at any time, by rising to debate, to do this. They have the right to debate from hour to hour, and thus prevent any concurrent action on the part of the two Houses.

If any gentleman chooses to walk into this trap he may. I do not propose to do it. I say that resolution, whether designed or not, is most ingeniously framed so as to prevent any possibility, or at least any human probability, of the meeting of Congress before next December.

But it will be said gentlemen will be influenced by a sense of public duty to come here if required. I do not believe our Democratic friends will come here at all. I would not if I were of their way of thinking. They do not want Congress to meet at all. A great many on this side may be desirous to stay away. Public opinion would drive us here if we were disposed to stay at home in case any emergency should require our presence here. Then if we come here with a large majority in both branches, with the best intentions, with an honest purpose to stay here and do business, a feeble minority in either branch may prevent it. We are to meet, but how? We are to stay here until the next day, and then go away unless some substantial legislation takes place. In order to stay here after we meet it will require legislation of both Houses, which may be defeated in either by a determined minority, however small that minority may be.

This being the case, though on first impression when I first heard the resolution I thought here was a fair proposition, not agreeing to the four periods of assembling according to my first resolution, not agreeing to the two according to the last resolution sent to the Senate, but agreeing to one in July; yet when I come to look into it it is a mere delusive pretense and really no meeting at all. Therefore, if I vote for that resolution, I shall be voting necessarily, as I understand it, to adjourn until the regular meeting of Congress in December next. I am not prepared to do that. But if I were compelled to vote I would vote honestly, fairly, and above board to adjourn without day, to be called together by law in December next, rather than to walk into a trap of this kind, and give somebody good reason to believe that I was simple enough to think there was something in it when there is not.

Before I yield to any one I move that the House non-concur and ask for a committee of conference.

Mr. BINGHAM. I move that the House concur.

Mr. SCHENCK. I yield to the gentleman from Illinois.

Mr. FARNSWORTH. If it is in order, I propose to amend the Senate amendment. I wish the House to understand the resolution as amended by the Senate. It requires the Presiding Officers of the two Houses to adjourn their respective Houses on Saturday next until the first Wednesday in July, that we reassemble on that day, and that thereupon the Presiding Officers shall cause the rolls of their respective Houses to be called, and unless otherwise ordered the two Houses shall adjourn until the following day; that on the following day they shall call the roll again, and shall then adjourn *sine die*. There is nothing about "otherwise ordered" on the second day. They shall on

the first day, unless otherwise ordered, call the roll and adjourn, but on the second day they shall call the roll and adjourn.

The SPEAKER. The Chair will state the condition of the resolution as regards further amendment. The Senate has agreed to the amendment of the House of Representatives to the amendment of the Senate to the resolution of the House with an amendment. That is as far as the power of amendment can go. It cannot be again amended and sent back.

Mr. FARNSWORTH. Then I will not offer it, but will say what I would have said had I been permitted to offer it. It was my desire to so amend the resolution as to authorize the Presiding Officers of the two Houses on the second day to call the roll, and if there should be found no quorum present, then to adjourn until the regular session of Congress, but if there should be a quorum present then to proceed to business. The officers of the two Houses ought not to be required to adjourn their respective Houses unless otherwise ordered, for it would be in the power, as the gentleman from Ohio [Mr. SCHENCK] says, of any gentleman by talking an hour to cause an adjournment of the House and Senate until the regular session in December. It would not require any twenty-four hours filibustering, only that some Senator or member of the House should get the floor and talk an hour. Although there might be a quorum present in both Houses for the purpose of doing business, yet, under this resolution as it now stands, the Presiding Officer would be required at one o'clock to rise and declare the House adjourned.

It is, it seems to me, as the gentleman from Ohio [Mr. SCHENCK] characterizes it, a very ingenious method of providing that there shall not be a session, no matter what the exigencies of the country may be. I hope, sir, the House will not agree to the amendment. Let us have a committee of conference and endeavor there to provide that we may have a session if the country demands it.

Mr. SCHENCK. I do not propose to extend this discussion, but I simply wish before yielding the floor again to call attention to another singular provision in the amendment of the Senate in reference to the clerks of committees, and messengers which strikes mainly at us. The Senate is a body of about one third the number of members that this House contains, and it has thirteen messengers, some of them brothers, sons, and other relatives of Senators, I am sorry to say, while the House has but seven. These thirteen messengers are to stay and get their pay. For that purpose I presume the seven here may be passed by. But when they come to a chance to strike at the committee clerks, there is a sudden virtuous indignation on their part.

Mr. BLAINE. If the gentleman will allow me, I will say that that provision strikes at the Senate committee clerks more than it does to ours.

Mr. SCHENCK. How?

Mr. BLAINE. Because there are no committee clerks in the House now, while the Senate have all their committees and clerks.

Mr. SCHENCK. They might as well go further and exclude the messengers. As my colleague [Mr. BINGHAM] desires to move to concur in this amendment of the Senate, I will yield the floor to him for five minutes.

Mr. BINGHAM. I wish to submit a motion to concur in the amendment of the Senate. And I would inquire of the Chair whether, under an order already adopted by the House for the remainder of this session, a motion to suspend the rules is not in order at any time until the House shall rescind or modify that order?

The SPEAKER. The Chair would decide that should the House again meet in July next, or at any other time before the beginning of the next regular session in December next, a motion to suspend the rules would certainly be in order, under an order of the House, applicable to the remainder of the first session of the Fortieth Congress.

Mr. BINGHAM. That being the case, then I desire to inquire whether it is not also in order for less than a quorum to order a call of the House, and whether a call of the House having once been ordered and begun, it can be stopped until concluded, except the House so order?

The SPEAKER. The Chair would be compelled to rule in accordance with the resolution adopted by the two Houses. That would be a joint rule binding upon the two Presiding Officers, unless rescinded or changed by some other concurrent action of the two Houses; which concurrent action could only be had when a quorum was present in each House.

Mr. BINGHAM. My colleague [Mr. SCHENCK] wants to adopt some resolution which shall compel a quorum of each House to attend here next July. Sir, he cannot fix it in any way so as to compel a quorum of this House or of the Senate, or even a member of the Senate to attend here then. The remarks of my colleague would apply with equal force to any resolution the two Houses might adopt on this subject. For myself I never saw any necessity for the continuance of this first session of the Fortieth Congress. I do not for a moment recognize the force of the suggestions made by gentlemen in this House or out of it, that the safety of this Republic depends in any sense upon the presence of this Congress or of any Congress for the next six months. That is with the great people who have once saved this Government by arms, and who will again do so if need be. I am perfectly willing to adopt the Senate amendment, to meet here in July next, and abide the action of the two Houses at that time.

Mr. FARNSWORTH. I desire to inquire of the Speaker whether under this amendment of the Senate, even if a quorum should be here at the time of the meeting in July next, he would not be obliged to adjourn this House at the conclusion of the roll-call on the second day, unless ordered to the contrary by the two Houses.

The SPEAKER. Unless there should be a concurrent resolution of the two Houses ordering differently, the Chair would be obliged to adjourn the House at the time named.

Mr. BINGHAM. That matter is left to the judgment and action of the two Houses at that time. They may so order that the session shall continue from that time until the first Monday in December next.

It is perfectly plain how this matter stands. My colleague [Mr. SCHENCK] desires apparently to have some sort of arrangement by which the two Houses of Congress shall be compelled to convene. I tell the gentleman that he cannot make any such arrangement. You may legislate here and pass a bill every hour for the next forty-eight consecutive hours, and you cannot compel a single Senator to be in his place here next July or at any other time. It depends upon the separate action of each House, a quorum of which can compel the attendance of members.

Therefore, I am in favor of concurring in the amendment of the Senate, because I believe it will answer all the purposes that I ever heard urged by anybody who is in favor of a continuance of this session. It is simply a notification to the Executive that the representatives of the people can come to the Capitol again without consulting him, and proceed to legislate if the public exigencies shall require it. I do not myself believe any such exigencies will arise. But it will be for Congress, in July next, to determine whether or not any such exigencies have arisen.

Mr. SCHENCK. The remarks of my colleague [Mr. BINGHAM] render it necessary that I should say a word or two further. I admit that under ordinary circumstances a legislative body may adjourn when it pleases, or may refuse to adjourn, as the majority of its members shall determine. But here we, that legislative body, propose to determine now in advance that when a particular hour arrives,



unless something else shall have been done in the mean time by the concurrence of both the House and the Senate, an adjournment must take place. If, when the hour of one o'clock on the second day arrived, we should be in the midst of the call of the roll to ascertain whether a quorum of members was present, you, sir, would be compelled, as I understand this resolution, to adjourn the House. I ask the Speaker whether that would not be his understanding?

The SPEAKER. It would require a quorum in both branches of Congress to adopt a concurrent resolution which would set aside this order; and unless such a resolution should be adopted before the roll-call at one o'clock on the second day, the Speaker would be compelled on the conclusion of the roll-call to declare the House adjourned.

Mr. SCHENCK. Of course. Unless, therefore, by a concurrent vote the two Houses should do a substantive, distinct act prior to the hour of one o'clock on the second day, the Speaker of the House and the President of the Senate would be compelled to adjourn their respective Houses. The construction given by the Speaker to this amendment of the Senate confirms what I have already said, that a little "filibustering," a little energetic opposition on the part of our neighbors on the other side of the House, whose opposition we may expect either in the shape of non-attendance, or if they do attend in the shape of votes for everything that will prevent the session from going on, can occasion such delay as will compel an adjournment of the two Houses as soon as the clock strikes one on the day after our assembling. Now, sir, as I have already remarked, I do not want to be led into any such trap. I do not agree with my colleague [Mr. BINGHAM] that with the matter in such a position we should be able to control the question of adjournment after our return here.

I propose, Mr. Speaker, to move the previous question, but not until I have permitted two or three other gentlemen to make suggestions. I now yield to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. In my view, Mr. Speaker, this resolution should go to a committee of conference. Whether such was the intention or not, it is very evident that the amendment of the Senate is so framed that it might enable a minority to defeat the will of the majority and compel an adjournment, from the impossibility of consummating in the brief period allowed a resolution embodying the wish of the majority. I desire simply to say, as a suggestion to the committee of conference when appointed as much as for any other purpose, that the difficulty can perhaps be obviated by striking out that portion of the Senate amendment which refers to the action upon the second day of the session. The words which I propose shall be stricken out are these:

At one o'clock, afternoon, of the next day thereafter, shall again cause the roll of each House respectively to be called, and.

With these words stricken out there would be no limitation of time within which action would be required to be taken; so that no "filibustering" opposition could compel a termination of the session. With this change and the substitution of the words "each House" for "both Houses," so that each House could determine for itself whether it would remain in session or not, and so compel the attendance of the other House, the resolution, it seems to me, would be unobjectionable and effective.

Mr. SCHENCK. I yield to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, although I have been in favor of some proposition which would afford Congress at least two opportunities to assemble between this time and December next, yet, after what has transpired in this House and the other, I am prepared to accept any plan which will make it possible for Congress once between now and next December to assemble, and to continue in session if the public necessities shall require it.

If the resolution, as it now comes from the Senate, presented an entirely safe means of accomplishing this, I should be prepared to vote to concur.

It is plain from what has been said that there is a difference of opinion as to the construction to be given to this resolution. For myself I have no doubt. After a careful consideration of the resolution on the Speaker's table I have come to this conclusion: if we meet in July and do not in the space of twenty-three hours, by concurrent resolution of the Senate and House, agree to continue in session, we shall be dispersed by the force of this resolution. It will be utterly out of the power of the majority to continue in session. Any person who has had experience here knows it is entirely within parliamentary rules for a minority to protract this session for twenty-three hours or more. Hence if this resolution be adopted, and there be no occasion for a session, then of course no harm will arise; but it is perfectly plain if we are desirous of staying here in the heat of next summer that desire will be forced upon us by public peril, and if there be public peril and a necessity for Congress to continue in session, there will be a minority found to continue the session for twenty-three hours, so it will be impossible for the two Houses to concur in any resolution whatever.

I accept the resolution coming from the Senate as a resolution made in good faith by the Senate, though I do not think it answers the purpose for which it was designed. Under these circumstances there is no doubt what the House ought to do. It ought to non-concur and ask for a committee of conference. It is possible for a committee of conference in twenty minutes to frame language to accomplish the object desired, and to put it in the power of the two Houses to assemble in July next, and to continue in session if it be found necessary. I therefore move to non-concur and ask for a committee of conference. If gentlemen are acting in good faith we will be allowed to meet in July and continue in session, if required; and if be not required, we can then adjourn until December. I demand the previous question.

The previous question was seconded and the main question ordered.

The question first recurred on concurrence in the Senate amendment.

The House divided; and there were—ayes 36, noes 70.

So the amendment was not concurred in.

The amendment was then non-concurred in, and a committee of conference asked on the disagreeing votes of the two Houses.

The SPEAKER appointed Mr. SCHENCK, Mr. DONNELLY, and Mr. BINGHAM as managers of said conference on the part of the House.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DREDGE-BOATS FOR THE MISSISSIPPI RIVER.

The next business on the Speaker's table were the following amendments of the Senate to House joint resolution No. 37, to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river:

Page 1, line five, strike out the word "present," so that it will then read as follows:

That the Secretary of War be, and he is hereby, authorized, on the recommendation of the engineer department, to build and operate two dredge-boats for the purpose of deepening and keeping open the channel of one or more of the passes at the mouth of the Mississippi, and to expend for that purpose so much as may be necessary of the appropriation for the improvement of the mouth of the Mississippi river.

Add at the end of the resolution the following: Provided for in the act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes, approved March 2, 1867.

Mr. PILE. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. PILE moved to reconsider the vote by which the amendments of the Senate were

concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DUTIES ON WOOL.

The next business on the Speaker's table was the following amendment of the Senate to House joint resolution No. 47, to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes:"

Add the following:

And be it further enacted, That the joint resolution of March 2, 1867, to amend section five of an act entitled "An act to increase duties on imports, and for other purposes," approved June 30, 1864, shall not be construed to apply to lasting, mohair cloth, silk twist, or other manufactures of cloth woven or made in patterns of such size, shape, or form, or cut in such manner as to be fit for buttons exclusively.

Mr. KELLEY moved a concurrence.

The amendment was concurred in.

#### PAYMENT OF MEMBERS' SALARIES.

The next business on the Speaker's table was the following amendment of the Senate to House joint resolution No. 39, in reference to the payment of the salaries of members of Congress.

The amendment of the Senate was to add at the end of line five, as follows:

And an amount sufficient to pay their compensation and mileage to the 1st day of July next is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. DONNELLY. I move that the House concur in the amendment.

Mr. SCOTFIELD. I believe that is a sly way of getting additional mileage.

The SPEAKER. The compensation and mileage appropriated by the appropriation bill was under the presumption that the session was to commence during the fiscal year commencing July 1, 1867, which is not the case. This gives the pay every month.

Mr. BROOKS. Does it not give us mileage for coming here in July?

The SPEAKER. It does not. It does not repeal the law in regard to mileage.

Mr. BROOKS. Because that is a great inducement for some of us.

The amendment was concurred in.

Mr. DONNELLY moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had passed without amendment joint resolution of the House No. 41, providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes.

Also, that the Senate had passed joint resolution of the House No. 39, in reference to the payment of the salaries of members of Congress, with an amendment, in which the concurrence of the House was requested.

#### RICHARD CHENERY.

The next business on the Speaker's table was the consideration of Senate joint resolution No. 40, to provide for the payment of the claim of Richard Chenery; which was read a first and second time.

It appropriates such an amount of money, not exceeding \$8,000, as shall be found to be due to Richard Chenery under the recent act of Congress for his relief.

Mr. HOLMAN. There is hardly time to consider that; it contains an appropriation.

The SPEAKER. Objection being made it must go to the Committee of the Whole.

#### RICHARD BUSTEED, JUNIOR.

The next business on the Speaker's table was the consideration of Senate bill No. 99, for the relief of Richard Busteed, jr., which was read a first and second time.

It directs the Secretary of the Interior to cause to be paid to Richard Busteed, jr., late captain battery C, Chicago light artillery, the sum of \$1,247 66, being the pension of a cap-

tain from the 7th day of November, 1861, the date of his honorable discharge from the service, until the 30th day of January, 1867, the date from which a pension has been granted to him.

Mr. PERHAM. I hope this will be put on its passage. The petitioner is confined to his bed and unable to help himself at all. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HIRAM PAULDING.

The next business on the Speaker's table was Senate bill No. 100, supplementary to an act for the relief of Hiram Paulding, rear admiral United States Navy; which was read a first and second time.

It appropriates a sufficient sum to pay the claim of Rear Admiral Hiram Paulding, as provided for by an act of Congress passed at the last session, the sum not to exceed \$3,653 92.

Mr. BANKS. I ask that this be put upon its passage, and I wish to state that at the last session—

Mr. HOLMAN. I will reserve the point of order until the gentleman from Massachusetts makes his statement.

The SPEAKER. The Chair thinks the point comes too late.

Mr. SCOTFIELD. I wish to inquire if this is a bill to pay for entertaining some friends abroad?

Mr. BANKS. It is a bill to reimburse for expenses incurred by the order of the Government in 1848. It was considered by the Committee on Foreign Affairs very carefully last session, agreed to unanimously, reported to the House, and was passed by both branches, but by accident the appropriation was omitted.

Mr. SCOTFIELD. I examined this bill when it was here at the last session, and was satisfied it was right, and ought to be paid. I made the inquiry I did, not in opposition to the bill, but simply to ascertain if it referred to that frolic.

The bill was then read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LAND FOR BROOKLYN NAVY-YARD.

The next business upon the Speaker's table was Senate joint resolution No. 41, for the purchase of land adjoining the navy-yard at Brooklyn; which was read a first and second time.

The joint resolution was read at length. It authorizes the Secretary of the Navy to complete the purchase of the property adjoining the New York navy-yard, known as the Rugles's property, without the previous assent of the State of New York, provided the title is otherwise approved by the Attorney General.

Mr. KELLEY. I ask that this joint resolution may be put upon its passage.

Mr. HOLMAN. I would ask if this joint resolution has been considered by any committee of this House?

Mr. KELLEY. This joint resolution was reported by the Committee on Naval Affairs of the Senate. In 1866, under the authority of a special act of Congress, the United States Government purchased this property. It has been used in such a manner as greatly to damage the navy-yard in Brooklyn; and it is in some respects essential to that yard, as reported by Admiral Smith and others. The purchase has been made, but other parties desiring the property have influence enough at Albany to prevent the Legislature of New York from giving its assent. This bill is to provide for

the completion of the contract for purchase without that assent.

Mr. HOLMAN. I have no objection to the passage of the joint resolution.

The joint resolution was then read the third time, and passed.

Mr. KELLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### OHIO AND INDIANA WAR CLAIMS.

The SPEAKER. The next business on the Speaker's table is Senate bill No. 105.

Mr. SCOTFIELD. As there is probably very little money now left in the Treasury, I move that the House now adjourn.

The SPEAKER. The Clerk will report the title of this bill, when if the gentleman from Pennsylvania [Mr. SCOTFIELD] insists upon his motion it will be put.

The title of the bill was read as follows:

A bill (S. R. No. 105) to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion.

Mr. SCOTFIELD. I will withdraw the motion to adjourn.

The bill was then read a first and second time.

Mr. WARD. I desire to reserve my right to raise the point of order, if this is an appropriation bill.

Mr. SCHENCK. The United States has already paid a very large sum to the State of Pennsylvania for soldiers called out at the time of Lee's invasion of that State, and we ask so much less than Pennsylvania did that, notwithstanding the fears of the gentleman from Pennsylvania, [Mr. SCOTFIELD] I think the Treasury can bear it. What we ask is for precisely the same kind of costs and expenses incurred in Indiana and Ohio, in defending the lives and property of citizens at the time of Morgan's raid, that were incurred by Pennsylvania at the time of Lee's invasion; and although the operations of Morgan were not so extensive as those of Lee, they were quite as active and fraught with mischief as far as they went.

Mr. MILLER. Does the gentleman say that this is similar to the claim of Pennsylvania?

Mr. SCHENCK. It is.

Mr. STEVENS, of Pennsylvania. It is similar to the claim of Pennsylvania, which has been twice defeated.

Mr. WASHBURN, of Indiana. We voted for it, and it has been paid.

Mr. STEVENS, of Pennsylvania. No, sir; we have never had a dollar of it. I move that the House adjourn.

Mr. SCHENCK. The gentleman cannot make that motion while I have the floor.

Mr. STEVENS, of Pennsylvania. I beg the gentleman's pardon; I thought the gentleman was through long ago.

Mr. SCHENCK. Pennsylvania borrowed from her own people money which she expended for her own defense. Then she came to Congress to have the money paid back to her. So the States of Ohio and Indiana have in good faith expended this money, and incurred obligations to their citizens, their people, and their soldiers. They now ask that only the actual expenditures which they have incurred, the losses which they have sustained, shall be paid by the Government in like manner. And I say again that the principle involved in this case is the same as that which has been applied to Pennsylvania and other States.

Mr. HOLMAN. I would ask the gentleman from Ohio [Mr. SCHENCK] if this bill does not contain the same provisions and for exactly the same purposes as the acts passed during the last session of Congress for Missouri and West Virginia?

Mr. SCHENCK. It does; I was just about to add that. And it is unquestionably fair that

we should treat alike all these States—Pennsylvania, West Virginia, Missouri, Ohio, and Indiana—whose soil has been actually invaded and defended by the States. I now call the previous question.

Mr. WOOD. I rise to a question of order: that the bill has not yet been read to the House.

The SPEAKER. The Chair sustains that point of order. Any member has the right to call for the reading of the bill.

Mr. WARD. I now raise the point of order that this bill is an appropriation bill, and under the rules must first be considered in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order; and if the gentleman from New York insists upon it, the rules must be suspended before the previous question can be sustained.

Mr. SCHENCK. I thought the gentleman had waived the objection. If he insists upon it, I move to suspend the rules.

Mr. WARD. I hope the House will allow me to say a single word. I am entirely willing that this bill shall be considered, and if it be just, shall be passed; but I do object to a bill appropriating hundreds of thousands of dollars being put through the House without the consideration of any committee. I should be glad if the House would now go into the Committee of the Whole upon this bill.

Mr. SCHENCK. I was not aware that the gentleman desired to discuss the bill.

Mr. GRISWOLD. I desire to inquire whether this claim has ever been examined by any committee of the House.

Mr. SCHENCK. The claim of Indiana has been. That of Ohio grows out of the same raid and rests on precisely the same grounds.

Mr. GRISWOLD. By what committee was the claim examined?

Mr. SCHENCK. By the Committee on Military Affairs.

The SPEAKER. If the point of order is insisted upon, that this is an appropriation bill, the Chair will rule—

Mr. HOLMAN. I insist that the point of order comes too late, that it cannot be made after the bill has been debated.

The SPEAKER. The Chair sustains the point that the question of order is raised too late. The point must be made immediately after the bill is read. It is true that in this case the bill has not been read; but as soon as the title was announced any member had the right to demand the reading of the bill. It was probably not called for because the bill was read in full yesterday.

Mr. ALLISON. I desire to ask the gentleman from Ohio [Mr. SCHENCK] how much money is involved in this bill? I see that no specified sum is stated on the face of the bill.

Mr. SCHENCK. My impression is that so far as Ohio is concerned, it will amount to about thirty thousand dollars. The gentleman from Indiana [Mr. HOLMAN] can, I presume, speak for his own State.

Mr. HOLMAN. From the nature of some of the claims, being for equipment of troops, &c., the precise sum cannot be now determined; but the whole amount I suppose will not exceed \$100,000.

Mr. ALLISON. I desire to ask further, whether the bill is intended to cover only the expenditures made by these two States in repelling the Morgan and other raids, or whether it goes beyond that?

Mr. HOLMAN. No, sir; it does not go beyond that.

Mr. SCHENCK. I now demand the previous question.

Mr. CHANLER. I move that the House adjourn.

Mr. BROOMALL. Is it in order to move that the House take a recess till half past seven o'clock this evening?

The SPEAKER. It would be if the gentleman from New York [Mr. CHANLER] should withdraw the motion to adjourn.

Mr. CHANLER. I do not withdraw it.

On the motion, there were—ayes 43, noes 51. So the House refused to adjourn.

The previous question was seconded and the main question ordered.

Mr. KOONTZ. I move that the House now adjourn.

The question was taken; but before the result was announced,

Mr. TROWBRIDGE called for tellers.

Tellers were ordered; and Messrs. KOONTZ and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 55, noes 43.

So the motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. CAKE: Several petitions of citizens of Schuylkill county, Pennsylvania, praying Congress to proceed with the impeachment and removal of the acting President of the United States.

By Mr. MILLER: The memorial of 250 workmen of Northumberland county, Pennsylvania, praying for the passage of a law giving adequate protection to American manufacturers and industry.

By Mr. TROWBRIDGE: The petition of John Calvin Johnson, of Watkinsville, Georgia, praying to be relieved from the disabilities of the constitutional amendment as contemplated by that amendment.

#### IN SENATE.

FRIDAY, March 29, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Secretary proceeded to read the Journal of yesterday; but was interrupted by

Mr. MORRILL, of Maine. I move that the further reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. FESSENDEN. I think I shall object. It had better be read.

The PRESIDENT *pro tempore*. Objection being made, the reading will be continued.

The Secretary resumed and concluded the reading of the Journal.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, a letter of the Commissioner of the General Land Office and a letter of the surveyor general of New Mexico, and a copy of the evidence taken by the surveyor general in relation to the pueblo of Santa Ana of New Mexico; which was ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. TRUMBULL. I move that all other business be suspended, and that the Senate proceed to the consideration of House bill No. 63.

Mr. SHERMAN. I hope we shall have the privilege of presenting petitions and getting papers off our tables. I have several petitions that I wish to present.

Mr. JOHNSON. So have I.

Mr. TRUMBULL. I withdraw the motion for the present.

Mr. SHERMAN. I present the petition of James L. Seward, late a member of Congress from the State of Georgia, praying to be relieved from the disability of the constitutional amendment. I have also other petitions of a similar character, some of which, undoubtedly, if presented to the Senate, would induce them to waive the disability in their cases; but upon examination I believe that Congress has no power to relieve any party from the disability imposed by the constitutional amendment until the constitutional amendment itself is adopted and forms a part of the Constitution. It is the constitutional amendment alone that gives to Congress the power to remove the disability, and until that is adopted and forms a part of the Constitution these memorialists must wait. I move that these petitions be referred to the Committee on the Judiciary. They were so referred.

Mr. HOWARD presented resolutions of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from a point at or near Negaunee, in the iron region on the Marquette and Ontonagon railroad, to the straits of Mackinaw; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONNESS presented the petition of Frederick Richards, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HOWE presented resolutions of the Legislature of Wisconsin, in favor of granting a pension to Calvin Ely, on account of the military services and death of his only son, Lieutenant Colonel John H. Ely of the tenth regiment of Wisconsin volunteers; which were referred to the Committee on Pensions.

Mr. CAMERON presented a petition of workmen of Northumberland county, and a petition of workmen of Schuylkill county, Pennsylvania, praying for such an adjustment of the tariff on imports as to give adequate protection to American manufactures and industry; which were referred to the Committee on Finance.

Mr. FOWLER presented a memorial of citizens of Little Rock, Arkansas, remonstrating against the passage of any law designed to remedy the defects of the sale of property in May, 1865, for the non-payment of the United States direct tax; which was referred to the Committee on the Judiciary.

Mr. NORTON presented resolutions of the Legislature of Minnesota, in favor of the return of the fees paid by settlers on certain homestead entries canceled by the Commissioner of the General Land Office since the 1st of January, 1863; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORTON presented the petition of volunteer soldiers in the armies of the United States during the late rebellion, praying for a bounty of eight and one third dollars per month for each month of service; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented resolutions of the Legislature of the State of Arkansas, declaring the existing government of that State to be republican in form, in conformity with the Constitution and constitutional laws and treaties of the United States, and is the true and proper government of that State, and of right ought to be recognized as a member of the Federal Union, and entitled to representation in the Senate and House of Representatives with all the rights and privileges of other States; which were referred to the Committee on the Judiciary, and ordered to be printed.

#### PHONETIC ALPHABET.

Mr. CONNESS. I present the memorial of a citizen of the State of California, a gentleman distinguished for his learning, in which he memorializes Congress to pass an act to provide for the establishment of a phonetic alphabet. I move its reference to the Committee on the Library.

It was so referred.

Mr. CONNESS. He also incloses the form of an act which he asks me to introduce on the same subject, and as it is connected with that, I should like to present it now, and let it be read and referred to the same committee.

By unanimous consent, leave was granted to introduce a bill (S. No. 120) relative to the phonetic alphabet; which was read twice by its title, referred to the Committee on the Library, and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. YATES. The Committee on Territories, to whom was referred the bill (H. R. No. 100) to amend an act changing the location of the capital of Montana Territory, have instructed me to report it back and recommend its passage, and I desire immediate action upon it. There is no sort of objection to it. It is a mere local matter.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. CAMERON, Mr. JOHNSON, and Mr. SPRAGUE objected.

Mr. YATES. I hope Senators will not object.

Mr. CAMERON. I do object, because I have a resolution which I want to present to the Senate. It will take but a moment.

The PRESIDENT *pro tempore*. Objection being made, the bill lies over under the rule.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred a memorial of the Legislature of Nebraska, in favor of additional bounty to the troops from that Territory who served in the Army during the rebellion; resolutions of the Legislature of Tennessee, in favor of securing the quota of arms from the General Government to which that State may be entitled, and that one of the forts in the vicinity of Nashville may be secured for the depositary of said arms; resolutions of the Legislature of Missouri, in favor of the passage of a law granting the same bounty to the Missouri State militia which has been paid to volunteers of other States in the United States service; and two petitions of volunteer soldiers and a memorial of the Legislature of Minnesota, in favor of an equalization of bounties, asked to be discharged from their further consideration, the subjects having been acted upon; which was agreed to.

#### EXAMINATION OF INDIAN TERRITORY.

Mr. HENDERSON, from the Committee on Indian Affairs, reported the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Indian Affairs shall have authority, under the resolution of March 25, 1867, if by them deemed expedient, to visit and examine in person the Indian territory, contemplated in said resolution for the permanent residence of the Indian tribes, and to employ a clerk during such examination; and the Secretary of War be requested to give such military protection and transportation to the committee as may be deemed necessary.

#### INFORMATION ON INDIAN AFFAIRS.

Mr. HENDERSON. I am directed by the same committee to report the following resolution:

*Resolved*, That the Secretary of the Interior cause to be prepared and reported to the Senate, at the earliest practical moment, a statement, arranged in alphabetical order, showing:

1. The approximate number of persons belonging to each tribe of Indians in the United States.

2. The locality and extent of the reservation, if any, assigned to the tribe, and whether the lands are held in common or in severalty; and if there be no reservation, then a description of the country occupied or claimed by such tribe.

3. A statement of the treaty obligations now subsisting with each tribe, showing the date and article thereof, and referring to the volume and page of the Statutes-at-Large where the same may be found.

4. The amounts of money required to be appropriated annually under such treaty obligations, and the purposes to which it is to be applied; and also the amount annually appropriated since the year 1862, inclusive, for the use of tribes with which no treaty stipulations exist, and how the same has been expended.

5. The progress of each tribe in education and civilization, together with such other facts connected with its history and present relations as may present in short and concise form its true conditions, with such remarks in reference to future policy and treatment as the experience of the Department may suggest.

6. The name of the superintendent and agent having charge of the tribe, the extent of their jurisdiction, the date of their appointment, with such remarks in reference to the efficiency of such officers as their general conduct in the discharge of their duties may suggest.

I ask for the present consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. POMEROY. I think it would require a large number of clerks to answer that resolution.

Mr. RAMSEY. I should like to suggest to the Senator who offered that resolution to include in it an inquiry as to the number of each tribe devoted to agriculture and who maintain themselves in that way. That would be a valuable piece of information, and very suggestive in legislation hereafter. A large num-

ber of some tribes are in that condition, while others entirely discard agriculture.

Mr. HENDERSON. I think the resolution in its terms covers all that the Senator desires.

Mr. RAMSEY. There is one general inquiry under which head possibly it might be embraced, but this kind of information is so important in acting upon Indian subjects that a special head should be devoted to it. Still I shall not urge an amendment; I simply suggest it.

Mr. HENDERSON. I hope the resolution will be passed. The information is very important to the Indian Committee. We cannot get along without it.

The resolution was adopted.

#### VOTING PLACES IN WASHINGTON.

Mr. WILLEY. I desire to report a bill of six or eight lines, stating to the Senate that from information which has come to the Committee on the District of Columbia it appears there are not voting places enough in some of the wards of the city of Washington to enable the increased vote of those wards to be taken on the same day. I am authorized by the Committee on the District of Columbia to report a bill to remedy that defect, and to ask the Senate to indulge me by its present consideration.

The bill (S. No. 121) authorizing and requiring the judges of election in the city of Washington, in the District of Columbia, to designate and establish voting places therein, was read and passed to a second reading.

Mr. DAVIS. I object to any further consideration of the bill until I offer a resolution, which will take no time, and I ask permission to read it to the Senate that they may understand it.

Mr. WILLEY. Is it for the purpose of present consideration?

Mr. DAVIS. After the Senator hears it he can object to its consideration.

Mr. WILLEY. Is the Senator in order till this bill is disposed of?

The PRESIDENT *pro tempore*. I understand the Senator from Kentucky to object to the second reading of the bill at this time.

#### WEST VIRGINIA.

Mr. DAVIS. I will read my resolution:

Whereas West Virginia was formed wholly within the jurisdiction of the State of Virginia, and by an act of Congress approved December 31, 1862, was admitted into the Union as one of the United States, and said act recites that "the Legislature of Virginia, by an act passed on the 13th day of May, 1862, did give its warrant to the formation of a new State within the jurisdiction of the State of Virginia, to be known by the name of West Virginia;" and whereas Congress by an act entitled "An act for the more efficient government of the rebel States," passed the 2d day of March, instant, over the President's veto, did assume, that on the said 13th day of May, 1862, Virginia was not a State of the United States; and whereas Congress by a resolution passed in January, 1865, proposed to the Legislature of the several States an amendment to the Constitution of the United States in these words and figures:

#### "ARTICLE XIII.

"SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the parties shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"SEC 2. Congress shall have power to enforce this article by appropriate legislation."

And whereas on the 6th of April, 1866, Congress did pass over the veto of the President of the United States, under the second section of said amendment of the Constitution, an act entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication;" and whereas at the date of the passage of the act last aforesaid the said proposed amendment of the Constitution had been ratified by the following named States: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, Georgia, Oregon, California, Florida, New Jersey, and Iowa, of which States Virginia, Louisiana, Arkansas, South Carolina, Alabama, North Carolina, Georgia, and Florida are assumed by the said act of Congress, entitled "An act for the more efficient government of the rebel States," not to have been States of the United States, both at the time they severally ratified the aforesaid proposed amendment of the Constitution and at the time that Congress passed the aforesaid act, entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication;" Therefore,

Be it resolved, That the Committee on the Judiciary do investigate, consider, and report to the Sen-

ate whether West Virginia is one of the States of the United States, whether the aforesaid act "to protect all persons in the United States in their civil rights" is a constitutional and valid law, and whether the aforesaid proposed amendment of the Constitution has been proposed and ratified according to the form required by the Constitution and by the requisite number of States, and is or not a part thereof.

I move to refer this resolution to the Committee on the Judiciary.

The motion was agreed to.

#### MASSACRE NEAR FORT PHIL. KEARNEY.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to the Senate the official report of Colonel H. B. Carrington as to the massacre of Lieutenant Fetterman and others, and also such information on the subject as has not been heretofore communicated to the Senate.

#### BALTIMORE AND OHIO RAILROAD.

Mr. CAMERON submitted the following resolution, and asked for its present consideration.

*Resolved*, That the Secretary of War be, and he is hereby, directed to inform the Senate what amount of money has been paid by the United States to the Baltimore and Ohio Railroad Company for transportation during the war, what rates were paid to that railroad for such service, whether the compensation paid was greater than that allowed to other railroads for the performance of like services, and if so, why such higher rates were so paid to the Baltimore and Ohio railroad; also, what amount of money is still claimed by the Baltimore and Ohio Railroad Company as due that company by the United States, and for what services such balance, if any, is so claimed, together with the amount due the United States by the said Baltimore and Ohio Railroad Company for the use of engines, cars, &c., furnished by the Government to that company during the war, and whether any claim has been made by the Baltimore and Ohio Railroad Company for damages to their road by reason of military operations, whether any money have been paid them on account of such damages, and what amount if any, has been so paid by the United States.

Mr. JOHNSON. I have no objection to the consideration of the resolution, but I wish to say—

Mr. YATES. I object. The honorable Senator from Pennsylvania objected to the consideration of a matter in which I am interested, and which I deem very important.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rules.

Mr. CAMERON. Allow me to suggest to the Senator from Illinois that I made no improper objection.

Mr. YATES. I object unless mine is first considered.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

#### PRESIDENT'S PAGE.

Mr. CRAGIN. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the page appointed by the President of the Senate be continued during the vacation, and in such vacation employed by the Sergeant-at-Arms, upon whose certificate his compensation shall be paid out of the contingent fund.

Mr. DIXON. The rule, I believe, requires that all resolutions of this character shall be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CRAGIN. I will say that this resolution comes from that committee.

The PRESIDENT *pro tempore*. It cannot be considered to-day except by unanimous consent. Is there any objection to its present consideration? If objection be made, of course it must go over. ["No objection."] There being unanimous consent, the resolution is before the Senate.

Mr. FESSENDEN. I should like to hear some reason for the resolution. I believe it is unusual, and that there has been nothing of the kind done heretofore.

Mr. CRAGIN. I will say that the page to whom this resolution will apply was appointed by Vice President Hamlin, and continued by Mr. Foster, the recent President of the Senate. There are reasons that have induced me, and I believe the majority of the Committee on Contingent Expenses, to ask the passage of this resolution. It certainly makes no additional

expense. This boy or young man will be employed by the Sergeant-at-Arms in the discharge of duties that others would have to perform if he was not employed. I would say that the mother of this young man is a widow and has a large family to support, and she suffered extremely during the rebellion. At the time of Early's raid upon Washington she was living near the residence of Mr. Blair, and by order of the commanding general of the Federal troops her house, which was in the lines protecting rebel officers, was directed to be destroyed, and was destroyed with all her property, every particle that she had upon the earth. This will be a great blessing to her, and will not be any expense or wrong to the Government.

The resolution was agreed to.

#### BILLS INTRODUCED.

Mr. SPRAGUE. I move that the Senate now proceed to the consideration of the bill (S. No. 106) fixing the time at which the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, shall go into effect. I will say to the Senate that I simply desire to get a vote on this question. I desire to be relieved of the charge of it.

Mr. PATTERSON, of Tennessee. I desire to introduce a joint resolution. I believe that business is still in order.

The PRESIDENT *pro tempore*. This motion is in order also.

Mr. PATTERSON, of Tennessee. The morning hour has not yet expired.

The PRESIDENT *pro tempore*. The Chair will receive the resolution of the Senator from Tennessee.

Mr. PATTERSON, of Tennessee. I ask leave to introduce a joint resolution, and give notice that if time be allowed, in case Congress does not adjourn at once, I shall call it up for consideration.

Leave was granted to introduce the joint resolution (S. R. No. 56) for the relief of the people of East Tennessee, and it was read and passed to a second reading. It proposes to appropriate \$500,000 to enable the Secretary of War to extend to the people of East Tennessee, in consequence of the unprecedented losses of property by the late floods, such relief as is contemplated by the joint resolution for the relief of the destitute in the western and southwestern States.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 55) for the relief of Leonard J. Smith, for carrying the United States mail from Great Salt Lake City, Utah, to Bannock City, Montana Territory; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 122) for the support in part of the National Soldiers' and Sailors' Orphan Home in the District of Columbia; which was read twice by its title.

Mr. CORBETT. I ask for the present consideration of the bill. It is the same proposition to which my friend from Maine [Mr. Morrill] objected when offered the other day as an amendment to an appropriation bill. It is absolutely necessary that it should pass at this session.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. SPRAGUE. I must object if it displaces the motion I have made to take up Senate bill No. 106.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. SPRAGUE. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot now be considered.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced



that the House had passed the following Senate bills and joint resolutions:

A bill (S. No. 99) for the relief of Richard Busted, jr.;

A bill (S. No. 100) supplementary to an act for the relief of Hiram Paulding, of the United States Navy;

A bill (S. No. 105) to reimburse the States of Indiana and Ohio for moneys expended in enrolling, equipping, and provisioning military forces to aid in suppressing the rebellion;

A joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs; and

A joint resolution (S. R. No. 41) for the purchase of land adjoining the navy-yard at Brooklyn, New York.

The message also announced that the House had passed a bill (H. R. No. 105) to regulate the selection of juries for the several courts of the District of Columbia.

#### AMENDMENT OF BANKRUPT LAW.

Mr. SPRAGUE. I renew my motion.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 106) fixing the time at which the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, shall go into effect.

Mr. EDMUNDS. It is quite obvious to me, although I should be very glad to assist my friend from Rhode Island in anything that is proper, that this bill ought not to pass, and I think that was quite obvious to the Judiciary Committee who reported against it. I believe there was no difference of opinion in the committee on that subject. It is a perfectly hopeless case, in my judgment, to attempt to pass it. If it were to be passed it ought to be pretty thoroughly considered, and it would lead to considerable debate, because the Senate ought to understand precisely the effect of it before being called upon to vote in favor of it. That being the state of it, and the session being now as I hope nearly at its end, I think we had better not undertake to go on with it. I move, therefore, to lay the bill on the table.

Mr. SPRAGUE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 4, nays 31; as follows:

YEAS—Messrs. Drake, Edmunds, Fessenden, and Williams—4.

NAYS—Messrs. Anthony, Cameron, Cole, Conkling, Connors, Corbett, Cragin, Davis, Dixon, Fowler, Frelinghuysen, Henderson, Howard, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Thayer, Van Winkle, Wade, Wiley, Wilson, and Yates—31.

ABSENT—Messrs. Buckalew, Cattell, Chandler, Doolittle, Ferry, Grimes, Guthrie, Harlan, Hendricks, Howe, Nye, Patterson of New Hampshire, Riddle, Saulsbury, Stewart, Sumner, Tipton, and Trumbull—18.

So the Senate refused to lay the bill on the table.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from California, [Mr. CONNESS,] to strike out the last proviso.

Mr. CONNESS. I rise to withdraw the amendment. My purpose is to bring the Senate to a direct vote upon the measure without consuming any more time. I intend to vote against it, but I withdraw the amendment which I offered.

Mr. FESSENDEN. I renew the amendment. I have no objection to extending the time if the amendment be made.

The Secretary read the proviso proposed to be stricken out, as follows:

*And provided further, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act.*

Mr. SPRAGUE. My friend, the honorable Senator from Maryland, has suggested that in lieu of the words "good faith" there be inserted "that would have been valid if this act had not passed," and I trust the proviso will be modified in that way, so as simply to express the meaning in better language.

The PRESIDENT *pro tempore*. The Sen-

ator from Rhode Island moves to amend the proviso. The amendment will be read.

The SECRETARY. It is proposed to make the proviso read, "that nothing in this act shall be construed or held to invalidate any lien or conveyance acquired or made in good faith that would have been valid if this act had not passed."

Mr. EDMUNDS. Of course I have no objection to that modification; as a majority of the Senate seem very much in favor of the bill, I infer—"No, no."

Mr. CONNESS. Oh, no; they are not.

Mr. EDMUNDS. The effect of this amendment, according to my impression, would be that any conveyance hereafter, no matter whether the 1st of June or next year, that would have been valid but for this act, will still continue to be valid; and therefore, inasmuch as a debtor may now give preferences, make mortgages of his property to defeat one creditor, provided he does it to help another, as that will continue to be the policy as long as the bankrupt act will have any effect, the result will be to overthrow the whole equity and the whole scheme of the bankrupt act.

Mr. ANTHONY. I think the amendment was not reported correctly. The words "in good faith" are to be stricken out and the words "that would have been valid if this act had not passed" to be inserted. The effect is negative.

Mr. FESSENDEN. But there is no limitation in point of time.

Mr. ANTHONY. Up to the 1st of June.

Mr. FESSENDEN. No, there is no such limitation. It precisely effects this; it says that the bankrupt act after it has passed shall have no effect upon anything that would have been valid if the bankrupt act had not passed.

Mr. SPRAGUE. Up to the time of its going into effect.

Mr. FESSENDEN. It does not say anything about that.

Mr. SPRAGUE. That is the intent.

Mr. FESSENDEN. It does not say that.

Mr. ANTHONY. I will read the proviso as my colleague proposes to amend it, as I understand:

*And provided further, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made prior to the taking effect of this act that would have been valid if this act had not passed.*

Mr. FESSENDEN. Then what is the effect of it? It defeats the whole scheme.

Mr. HOWARD. I wish that the amendment may be reported from the desk as it stands. I do not understand it.

The SECRETARY. It is proposed in line twelve to strike out the words "in good faith," and after the word "act" in line thirteen to insert "that would have been valid if this act had not passed;" so as to make the proviso read:

*And provided further, That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made prior to the taking effect of this act that would have been valid if this act had not passed.*

Mr. FESSENDEN. I think that would be very injurious, injurious in every way upon the operation of the act itself. It just holds out the inducement to everybody who may be in failing circumstances to arrange his business so as to make conveyances and prefer creditors up to the 1st of June. Now, as it is worded, if this act had not passed, a conveyance made for a valuable consideration is a valid transaction; but the intention of the act is to make such conveyances preferring creditors invalid.

Mr. ANTHONY. Before the act goes into effect.

Mr. FESSENDEN. Before the act goes into effect for a certain period, for they were made in contemplation of the act going into effect. Now, you fix a time ahead of the act to go into effect the 1st of June, for certain reasons, but you say, for certain other reasons, that conveyances made in anticipation of bankruptcy shall not be valid before that time for a certain period, and it is a very proper provis-

ion, because the consequence will be that so far as conveyances are made the whole object will be defeated by a very large portion of the people, for many of those who find themselves to be in failing circumstances will prior to the 1st of June make their arrangements to prefer a certain set of creditors, and usually the set of creditors who are best able to lose by them, who have enabled them to go on in business and hold out the appearance of being solvent men. By this provision they will be enabled to arrange their affairs and put their property into the hands of those whom they choose to prefer, leaving, as some one said the other day, the great mass of creditors, who knew nothing about their condition, and who were induced to trust them for the very reason that they kept up the appearance of solvency to that time, to lose all. The effect is not only to operate great injustice upon that class of debtors, but it will have the further effect of making the law more odious than it would otherwise be, for creditors thus defrauded would see that these arrangements were being made, and the people who had kept those very debtors of theirs afloat got all, while they themselves got nothing, and it will make a very great outcry. It is unjust in itself and will be in its operation, and very injurious so far as the act is concerned, and will tend to bring, if that result is to follow, a greater responsibility upon those who passed it. I think this provision is wrong in essence, and ought not to be adopted. I hope the proviso will be struck out.

Mr. HOWARD. I think just so, too. I think this provision ought not to be adopted. Now, let us look for one moment and ascertain, if possible, what effect this bill of the Senator from Rhode Island, if it shall become a law, will have upon the bankrupt act. It provides:

That the fiftieth section of an act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, is amended so as to read as follows: "This act shall take effect on the first day of June next: *Provided*, That the appointment of officers created thereby, and the establishment of rules and general orders under such act, may be made at any time after the passage of this act."

That is the first clause of the bill. Now, in point of law the bankrupt act takes effect from and after its passage, according to its terms; but the thirty-fifth section of that act provides that a certain class of assignments or conveyances made in contemplation of bankruptcy within a given time, four months I think, shall be null and void as against creditors. The object of the thirty-fifth section of the bankrupt law is to set aside and annul and declare as void all mortgages, assignments, &c., that shall be made within a given time in contemplation of bankruptcy; so that the act itself has a certain effect and operation by its terms. The effect is upon this class of spurious securities, and it is to annul and set them aside. Now, this present bill declares that the bankrupt act shall not take effect, that is, shall not affect this class of securities, which otherwise would be void, until the 1st day of June. It is in fact a repeal of that portion of the bankrupt law to which I have referred. Talk of it as the Senator from Rhode Island may, its legal effect will be that. It will be to repeal and set aside a most salutary and, I will say, indispensable provision in the bankrupt act itself; and for that reason I shall be constrained to vote against this bill. It is true, I voted not to lay the bill on the table, and I so voted out of the great respect which I always entertained for my friend from Rhode Island; but on looking into the bill more carefully I am satisfied that it ought not to pass.

The PRESIDING OFFICER [Mr. POMEROY in the chair.] The question is on the amendment proposed by the Senator from Rhode Island to the proviso which it is moved to strike out.

Mr. JOHNSON. I suggested that amendment to the honorable members from Rhode Island because I was not sure that the bill as originally introduced would answer their purpose. At the time I suggested it and handed them the amendment, I told them that in my

opinion the bill should not pass. Therefore, although I vote for the amendment, I shall vote against the bill.

Mr. HENDERSON. I did not vote for the bankrupt bill as originally passed, and one of the objections that presented themselves at the time that act was under consideration consisted in the fact that it professed to go back, and really did go back retrospectively for a period of four months anterior to the time that it took effect, and affected conveyances that would otherwise have been valid and good. It provided that no conveyances preferring creditors, as permitted by the laws of the States, should be made for a period of four months previous to the commencement of the proceedings in bankruptcy. The act was to take effect on the 1st of June. The act itself was passed within about ninety days of that time, thereby cutting off those conveyances which had been made for a period of thirty days previous to the passage of the act. That would have been the operation of the act as it passed.

Mr. DRAKE. Will my colleague allow me to make a suggestion to him on that point?

Mr. HENDERSON. Certainly.

Mr. DRAKE. The language of the act is that those conveyances to which he refers must be "in fraud of the provisions of this act;" and of course no conveyance made prior to the taking effect of the act could be in fraud of the provisions of the act.

Mr. HENDERSON. I think my colleague is laboring under an error. A great many conveyances may be good under the laws of the respective States that would not be good under this act. My colleague will discover that it is not a fraud *per se*, it is not a moral fraud that is to be cut off, but a fraud in contravention of this act, that is, a legal fraud; in other words, to be judged of by the act. There is such things as legal fraud where there is no fraud contemplated by the party executing a conveyance. A conveyance may be utterly void, and is often so declared where there is no intention to defraud any person. Any conveyance made "in fraud of this act," that is, in violation of this act, is declared null and void, although it may be justified by the laws of the State where made. I say, therefore, the act as passed would have cut off a large number of conveyances made within thirty days prior to its passage.

Now, the proposition of this bill is that inasmuch as the act is to take effect on the 1st day of June next, all conveyances that may be made strictly in accordance with the laws of the respective States where made shall be good and valid up to that time. If any good reason can be presented against the justice and propriety of a measure of this sort, I have been unable so far to see it. I have listened to what has been said by the Senator from Maine and other Senators against the propriety of this bill, and I am wholly unable to see any justice in their objections. If the law is to take effect on the 1st of June, why not let it take effect in all its parts and in all its sections upon that occasion, at that time? Why make it date anterior to that period?

Senators say the bill is now a law and individuals may see what its terms and provisions are, and conveyances must not be made in violation of its terms previous to that time. Then the law for some purposes is in force, and for other purposes it is not in force. We declare in one of the sections of the law that it is in force for the mere purpose of the appointment of officers, but in another section we contradict that and say that it is not only in force for the purpose of the appointment of officers, but it is in force also for the purpose of declaring conveyances illegal and void. I say let conveyances be made by parties up to the time the law takes effect. That certainly can do no harm.

It is alleged by the Senator from Maine that if we adopt this amendatory bill the effect will be to encourage parties to make fraudulent conveyances of their property between now and the 1st of June. I cannot so regard it. It

will be observed that between now and that time parties when they make conveyances are to make them under the laws of the respective States wherein they live, and I believe there are in all the States provisions declaring void conveyances made fraudulently and for the purpose of depriving creditors of their just rights. Of course those provisions are not identical with those contained in our bankrupt act, but such conveyances cannot stand under the State laws; they will be set aside; and they cannot operate in favor of the citizens of the respective States and not in favor of the citizens of other States. Whatever those laws against fraudulent conveyances may be in the respective States, they will operate in favor of the citizens of all the States. They cannot be made to apply to the benefit of citizens of a particular State and not to others.

I cannot see what great injustice can result from this measure; and as amended on the suggestion of the Senator from Maryland I cannot see that any injury at all can result. If the law is to take effect on the 1st of June, let all its provisions take effect at that time; and let all proceedings between now and that time be regulated by the State laws, where, in my judgment, they ought to be left anyhow. I voted against the act, and perhaps it may be considered that my views ought not to be received by the friends of the measure. I may, perhaps, be suspected of an attempt to make the law odious, as some Senators have said this is an effort to make the law odious. I have no such desire on my part. If it is to be a law I want it as little odious as possible. I do not feel that it will last a great while; I have thought that it will not; but my impression is that this class of retrospective legislation, going behind the period of time that the law is to take effect, and declaring conveyances fraudulent and void that were legal and proper and valid at the time when they were made, will render it more odious than any other course of policy that could be adopted. I can see no objection to the bill, and shall vote for it.

Mr. DRAKE. I am very averse to protracting debate on this bill, but the position taken by my honorable colleague is so manifestly unsupported by the language of the bankrupt act as it is now in existence, that I cannot suffer the matter to pass without a word of notice. My honorable colleague assumes that the bankrupt act, as it stands now, goes back in its operation beyond the day when it became a law, and invalidates conveyances made prior to that time. I humbly submit to the Senate that that is not a correct construction of the act by any means, because no conveyances made under the circumstances contemplated in the thirty-fifth section of that act can be declared void unless they are, in the language of the statute, in fraud of the provisions of that act, and nothing can be in fraud of the provisions of the act until after the act takes effect, because there was no such act until it was passed and approved by the President.

Mr. HENDERSON. I should like to ask my colleague when the act takes effect? What time does the act provide originally for its taking effect?

Mr. DRAKE. It takes effect, in my opinion, under the operation of the fiftieth section, on the very day of its passage, but no petitions or other proceeding under it can be filed, received, or commenced before the 1st day of June, 1867.

Mr. HENDERSON. The bankrupt act was passed on the 2d day of March. The 1st day of June would be wanting one day of three months thereafter. Now, I ask my colleague if under the act as passed a conveyance made contrary to the provisions of the act within four months previous to the 1st of June would not be declared void?

Mr. DRAKE. I consider that it would be utterly impossible to bring any court in this country to say that a conveyance made prior to the 2d of March, when the act was passed, should be construed as being in fraud of the

provisions of that act, for there was no such act in force at that time.

Mr. HENDERSON. Now, I will ask my colleague if the Supreme Court have not again and again decided that retrospective legislation may be passed by Congress?

Mr. DRAKE. Unquestionably retrospective legislation may be passed by Congress; but nothing can be considered as being in fraud of the provisions of an act of Congress until the act is passed; and therefore no conveyance made prior to the 2d day of March can be considered as being in fraud of the provisions of that act, because there was no act prior to that time for it to be in fraud of. There is the point. If a man made conveyances in February, which were valid according to the laws of the State in which they were made, they were not in fraud of the bankrupt act, for the simple reason that there was no bankrupt act then that they could be in fraud of.

Now, sir, suppose the amendment pending, instead of reading "That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made in good faith prior to the taking effect of this act," should read "That prior to the taking effect of the original act," what would be the difference? Perhaps the act would not then accomplish the purpose which the gentleman from Rhode Island has in bringing the bill into the Senate.

But, sir, I am entirely averse to this measure upon the ground stated so ably and distinctly by the honorable Senator from Maine a little while ago, that it leaves all the time from now until the 1st of June for debtors, knowing themselves to be bankrupt, to put away their property, so that finally when they come to file their petition in bankruptcy nothing shall remain for the general creditors and all shall have gone into the pockets of preferred creditors.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

Mr. SPRAGUE. That is simply to correct the phraseology.

Mr. MORTON. Let it be reported.

The Secretary read the amendment, which was to strike out in line twelve the words "in good faith" and to add at the end of the proviso the words "that would have been valid if this act had not passed;" so that the proviso will read:

*And provided further,* That nothing in this act contained shall be construed or held to invalidate any lien or conveyance acquired or made prior to the taking effect of this act that would have been valid if this act had not passed.

Mr. MORTON. The amendment proposed is a very important one. It proposes to overturn a well-settled principle of law, which exists in every State where bankrupt laws are in existence, which is that conveyances made in anticipation of bankruptcy are considered fraudulent and void. There is a propriety in the declaration that conveyances made in good faith between this and the 1st of June shall not be regarded as fraudulent and void, for the reason that it at once becomes a question whether a conveyance made in anticipation of bankruptcy between this and the time the act goes into operation was made in good faith; but this amendment will have the effect of defeating the well-established principle of law that a conveyance can be invalidated by reason of being made in anticipation of bankruptcy. Now, a bankrupt law has been passed. That is a fact well known to the whole country. It is to take effect on the 1st day of June, if you please. The country is advised that the law goes into operation on that day practically. As was said by the Senator from Missouri, they are all enabled to put away their property in anticipation of the law going into operation. Now, I should like to know what is the difference in the mischief whether the law went into operation to-day and the man was to make a conveyance in anticipation of bankruptcy, or whether he makes it in anticipation of bankruptcy to be committed after the law goes into effect on

the 1st day of June. The mischief is precisely the same. No bankrupt law ought to go into operation in the future unless it is provided that conveyances made in anticipation of bankruptcy between the time of the passage of the law and the time it goes into operation shall be held to be fraudulent and void.

It is said by the Senator from Missouri [Mr. DRAKE] that you cannot commit a fraud against the provisions of a law unless that law is in force. I will not agree to that principle; but if his principle is a sound one, then it should be provided that conveyances made in anticipation or in fraud of the law between the time of its passage and the time of its going in force should be null and void, just as if the law was in force. Sir, the adoption of this amendment will make this law more odious than it would otherwise be. I make the prediction that it will be an odious enactment, and that Congress will be called upon by this country in a very few months, or in a year or two at farthest, to repeal it; but if you wish to make it odious at once, if you wish to make it offensive to the public sense, just provide that conveyances made between this and the 1st day of June shall be valid, just as if the law was not to take effect after that time. As was said by the Senator from Maine, a man has a right to prefer his creditors; the debt itself is a good consideration; that is to say, if he does not make it in anticipation of bankruptcy; but where a bankrupt law is about to take effect, and he is in a condition to take advantage of it and intends to do it, as is actually done by his taking advantage of it, then the existence of the debt is not a good consideration for preferring a creditor. If this amendment is adopted it is a good consideration for preferring a creditor, and he can go on and prefer his creditors; he can pay off half a dozen friends, give all his property to them, and then take the benefit of the bankrupt law and compel all the others to lose their debts. I say if you want to make the law odious in advance adopt this amendment.

Mr. DAVIS. Mr. President, there is no principle in relation to the appropriation of a man's property to the payment of his debts that will work with impartial and even justice in every case; but the rule that approximates to it most nearly that I can conceive is that all a man's property should go equally to the payment of all his debts, and that he should have no right to prefer creditors at all. The system of preferring creditors by mortgage and by deeds of trust obtained for many years in the State of Kentucky, and a vast amount of injustice, fraud, and iniquity was enacted under the privilege to prefer creditors. To my mind the great principle upon which a bankrupt bill is desirable, and upon which it ought to be established, is that it does distribute a man's estate equally among all his creditors without regard to their classes or the dignity of debts, and without giving him the privilege of making preferences among his creditors. I admit that there may be cases in which not to prefer creditors would work hardly and unjustly upon a particular class of them; but as a general rule the privilege to prefer creditors introduces a vast amount more of injustice, fraud, and iniquity than it does justice.

I think that if a bankrupt bill is to go into effect, and one of its most acceptable and just provisions is that it seizes upon a man's whole property and distributes that property equally among all of his creditors *pro rata*, without regard to the class of the creditors, it cannot be made to have operation in that principle too soon; and for that reason I am decidedly opposed to the bill of my honorable friend from Rhode Island and in favor of the motion to strike out the provision.

Mr. HENDERSON. I rise simply to say to my friend from Indiana that if he desires to have a bankrupt bill that is not at all odious, that will not make itself odious to the country, perhaps it would be better for him to amend the law that was passed on the 2d of March, so as to have it operate entirely upon contracts

hereafter made. The proposed amendment postpones for a little while at least the operation of this measure, and leaves the country subject to those State laws under which we have long lived peaceably and quietly, at least since the repeal of the bankrupt law of 1841, leaves the people to arrange their affairs and to provide somewhat for the operation of this law, and I do not see that the country is to suffer very much between now and the 1st of June under the laws that we have lived under happily for so many years. I apprehend that this bankrupt law will be as short-lived as any we have passed before. We have tried it two or three times, and we have gladly got rid of them whenever we have passed them, and I do not anticipate any better future for this. But, sir, I hope it will be otherwise. Instead of making it odious to adopt this provision, my opinion is that it will enable the country to prepare for its operation; and the largest time that we can give the country to prepare their affairs for it the less odious will the measure be.

Mr. MORTON. I agree with the Senator from Missouri that if a bankrupt bill is passed it should provide for contracts to be made after that time, and no bankrupt bill will ever be popular or acceptable unless it contains that provision. We have now given notice to the country and to the world that after the 1st day of June every man who is in debt and bankrupt can take advantage of the law and get clear of his debts. We now propose to say that all preferences given to creditors between this time and that, to enable a man to make arrangements to take the benefit of the bankrupt law, shall be valid, just as if the bankrupt law had not been passed and as if no provision had been made to enable him to get clear of his debts. That is the simple proposition contained in this amendment.

Mr. HENDERSON. It simply makes the act take effect at that time, that is all.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Rhode Island, [Mr. SPRAGUE.]

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Maine, [Mr. FESSENDEN,] to strike out the proviso.

Mr. CONNESS. On that I ask for the yeas and nays.

Mr. ANTHONY. We had better take the yeas and nays on the passage of the bill. The proviso is all there is in the bill.

The yeas and nays were ordered.

Mr. ANTHONY. I trust we shall take the yeas and nays on the passage of the bill, and not on this question. The proviso is all there is in the bill. Those who are in favor of the bill will vote against this amendment, and those who are against the bill will vote for the amendment. We had better take the vote on the bill itself.

Mr. HENDERSON. The proviso is the bill?

Mr. ANTHONY. Yes, sir.

Mr. JOHNSON. I am not in favor of the bill, but I rose to state that if this amendment is agreed to it defeats the bill. It will have no operation whatever.

Mr. CONNESS. It does not matter on which question we take the yeas and nays.

Mr. ANTHONY. Let us reject the amendment and take the yeas and nays on the passage of the bill.

The PRESIDENT *pro tempore*. Is the call for the yeas and nays withdrawn?

Mr. SPRAGUE and Mr. CONKLING. Yes, sir.

The PRESIDENT *pro tempore*. The call will be considered as withdrawn, no objection being made, and the question is on the amendment to strike out the proviso.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on ordering the bill to be engrossed for a third reading.

Mr. EDMUNDS. I ask for the yeas and nays on that question.

Mr. SPRAGUE. Let us take them on the final passage.

Mr. EDMUNDS. I ask for them on this question. We can just as well take them on this as on the final passage.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 19; as follows:

YEAS—Messrs. Anthony, Cameron, Cole, Cragin, Dixon, Fowler, Henderson, Patterson of Tennessee, Ramsey, Sherman, Sprague, Thayer, Tipton, and Willey—14.

NAYS—Messrs. Conness, Corbett, Davis, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Howard, Johnson, Morrill of Vermont, Morton, Norton, Nye, Stewart, Sumner, Trumbull, Van Winkle, and Wilson—19.

ABSENT—Messrs. Buckalew, Cattell, Chandler, Conkling, Doolittle, Ferry, Grimes, Guthrie, Hendricks, Howe, Morgan, Morrill of Maine, Patterson of New Hampshire, Fomeroy, Riddle, Ross, Saulsbury, Wade, Williams, and Yates—20.

So the bill was rejected.

#### LEVEES OF THE MISSISSIPPI.

Mr. SPRAGUE. I desire to call up the joint resolution (S. R. No. 44) directing an examination and estimate to be made of the cost of reconstructing the levees of the Mississippi river. It directs the Secretary of War to designate an engineer for this purpose. The Senator from Missouri [Mr. HENDERSON] has given to the Senate an elaborate report on this subject, and it is thought that this measure will facilitate his operations, and there are other friends who are anxious for the passage of the resolution.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which directs the Secretary of War to detail a competent officer or officers of the engineer department to make an examination of the condition of the levees of the Mississippi river, and report a plan for their reconstruction and improvement from the mouth of the Ohio river to the Gulf of Mexico, with estimate of the cost of the same, to Congress.

Mr. MORRILL, of Maine. It seems to me this resolution inaugurates a policy somewhat extraordinary and quite new. We sometimes examine constructions that it is proper for the Government to reconstruct; but to enter upon the examination of the construction of the levees of the Mississippi river is in no sense a public work. It strikes me to be rather an extraordinary proposition. Nobody can tell what it will cost, and nobody that I know of can understand what the object of such a proposition as that is if we had the information. Is it expected to furnish information upon which to base the action of the Government? I will ask the honorable Senator what the object of the proposition is?

Mr. FOWLER. The object of this resolution is to have a survey of that river and careful observations made with regard to it in order that these levees may be built upon some plan, according to some system. There is no way of constructing these levees so as to make the levee principle successful unless sufficient information is gained in order to make those who are constructing levees acquainted with the currents of the Mississippi river. It will require long and careful series of observations from the mouth of the Ohio to the mouth of the Mississippi river before that can be fully ascertained. It cannot be done by any particular State, as it has only authority to examine within the limits of the State. Such observations made in part of a portion of the river will not enable a successful leveeing of that stream. If it were put under the care of the Government of the United States to make observations and survey the stream, in the course of time the whole would be reduced to some system, and the laws that govern these currents could be ascertained and the levee system made successful. My object in the resolution is for the purpose of gaining information alone.

Now, in the State of Tennessee we have no levee system at all. There are no levees there. In all the other States on the river large

amounts of public lands have been given to the States and squandered for the purpose of constructing levees, but in almost all of them levees have been constructed which are of comparatively little value, because they were conducted by men wholly unacquainted with the system of leveeing. I hope that the resolution will pass. This is to some extent a national work. The valley of the Mississippi river includes more rich territory than any other stream in the United States. To some extent it holds in it the power almost of the United States at the present time. More or less of it will become fertile and become cultivated if a proper system of leveeing is adopted. A few years' observations made at comparatively little cost will enable all these States to levee that stream with entire success. I think that it will be a very small expense to the Government of the United States, which will far more than indemnify them by the success that will be attained in the cultivation of the rich fields on that stream.

Mr. MORRILL, of Maine. Now, as to any particular information on the subject of the breach in these levees, or whatever the phrase is, there is a particular examination made by the authority of the Government in 1865. So far you have accurate information as to breaches already made. But it will be seen upon the examination of this resolution that it contemplates the entire examination by the engineer department of the "condition of the levees of the Mississippi river, and report a plan for their reconstruction and improvement from the mouth of the Ohio river to the Gulf of Mexico, with estimate of the cost of the same, to Congress." If that means anything, it means that this Government shall enter upon a system for the improvement and reconstruction of the levees of the Mississippi river from the mouth of the Ohio to the Gulf of Mexico. Otherwise it is impossible to conceive upon what ground it is that the Government should be called upon to make the surveys and to propose a system. The countless millions which that would involve nobody of course can tell. Having called the attention of the Senate to the consideration of the subject, I have accomplished my purpose.

Mr. FOWLER. I will simply say it is not contemplated that the Government shall enter upon any such thing as the improvement itself. I stated that my object was simply to get this information. It is utterly impossible for any State to ascertain the currents of that stream and to levee exactly against them, and unless some general plan is adopted, and some general survey made so as to give the States proper information on the subject, it never can be leveed successfully. It will take a considerable length of time to do it.

Mr. CONNESS. I hope we shall get a vote on the subject.

Mr. WILSON. I, too, hope that we shall get a vote, and certainly hope this resolution will pass, whether the Government ever does anything afterward or not. A scientific investigation of that river will be of incalculable benefit to those States and to the country. I am very anxious that we shall get a vote on the resolution.

Mr. MORRILL, of Maine. I suppose there are other interests in the country as well as the interests of those States to be considered. It is not an answer at all satisfactory to me that this will be an interesting scientific examination. Now, sir, I should like to know what the Government of the United States have to do with the examination and survey of the Mississippi river with reference to this particular subject. The honorable Senator from Tennessee, who moves it, says there is not the slightest idea of the Government's entering upon the subject of making improvement. Does the honorable Senator from Massachusetts mean to say it is a fit thing to employ the engineer corps of this Government—so oppressed with this service that within three days we have passed a bill here authorizing them to call on the civil engineers of the country—

upon a subject to accomplish which within a reasonable time would require the entire engineering force of this Government? I hope we shall not do any such thing.

The joint resolution was reported to the Senate without amendment.

Mr. SUMNER. Let the resolution be read at length.

The Secretary read it.

Mr. SUMNER. I am not against making this exploration and inquiry; indeed, I welcome anything of the kind; but I am anxious that Congress should not commit itself in advance to the very great expenditure involved. I therefore send to the Chair an amendment which I desire to have come in at the end:

*Provided*, That it is understood in advance that no appropriations for the levees of the Mississippi river shall be made in any State until after the restoration of such State to the Union, with the elective franchise and free schools, without distinction of race or color.

Mr. FOWLER. I accept the amendment.

Mr. SUMNER. The Senator accepts it.

Mr. CONNESS. I shall vote against the whole concern with that amendment. That will be the effect on one vote at least of the acceptance of that amendment. This is an earnest proposition, and, as I think, a sensible one. We survey rivers and harbors in the United States and we appropriate millions for their improvement. It is now proposed that there shall be a survey of the father of rivers for the ascertainment of a system of protection to the great valley bordering on the same.

Mr. MORRILL, of Maine. Allow me to correct the honorable Senator. It is not for a survey of the river, but an examination of the condition of the levees.

Mr. CONNESS. That involves a survey necessarily. That is the very purpose of the work. I will give way to the Senator. I see he is anxious.

Mr. MORRILL, of Maine. No; I am not anxious. I was only astonished that the Senator should put that interpretation upon the proposition.

Mr. CONNESS. If the Senator were right, and my construction were wrong, it would only make the amendment offered still more ridiculous. I hope, sir, that that amendment will not be adopted, or if it is, that the resolution will be voted down.

Mr. TRUMBULL. It has been voted in.

Mr. CONNESS. Then I am against the resolution.

Mr. JOHNSON. I understood the mover of the resolution to accept the amendment proposed by the honorable member from Massachusetts. It is now, therefore, a part of the resolution. I move to strike that out of the resolution.

The PRESIDENT *pro tempore*. The amendment cannot be accepted.

Mr. CONNESS. Then I ask for a vote on the amendment.

Mr. SUMNER. Do I understand that the amendment I have moved cannot be accepted?

Mr. WILLIAMS and others. Not by any one Senator.

The PRESIDENT *pro tempore*. The amendment is in order.

Mr. SUMNER. Very well; I have a word to say upon it. I am unwilling that Congress should seem in any way to commit itself to so very great an expenditure in one of these States, except with the distinct understanding that it shall not be until after the restoration of the State to the Union on those principles without which the State will not be loyal or republican. We are all seeking to found governments in these rebel States, truly loyal and truly republican. Will any such State be truly loyal or truly republican until it has secured in its constitution the elective franchise to all, and until it has opened free schools to all? I submit that the proposition is a truism. A State which does not give the elective franchise to all without distinction of color is not republican in form, and it cannot be sanctioned as such by the Congress of the United States. Now I am anxious, so far as I can, to take a bond in advance, and to hold out every temptation, every

lure, every seduction to these people to tread the right path; in other words, to tread the path of republicanism and of loyalty. Therefore I seize the present occasion to let them know in advance that if they expect this powerful intervention of Congress they must qualify themselves to receive it by giving the evidence that they are truly republican and truly loyal. The argument, sir, is unanswerable.

This is no common survey of a river or of a harbor. The Senator from Maine has already pointed out the difference between the two cases. They are wide apart. It is an immense charity, a benefaction, from which private individuals are to gain to a great extent. Thus far these levees have always been built, as I understand—I am open to correction—by private individuals, by the owners of the lands, and by the States.

Mr. STEWART. And principally by the swamp lands donated by Congress.

Mr. SUMNER. And out of the swamp land-grants. Now, it is proposed for the first time that the national Government shall come forward with its powerful aid. Are you ready to embark in that great undertaking? I do not say that you should not, for I am one who never has hesitated, and I do not mean hereafter to hesitate, in an appropriation for the good of any part of the country if I can see that it is in any respect constitutional; and on the question of constitutionality I do not mean to be nice. I mean always to be generous in my interpretation of the Constitution and in appropriations for any such object; but I do submit that Congress shall not in any respect pledge itself to so great an undertaking, involving such a lavish expenditure of money, except on the fundamental condition that the States where that money is to be invested shall be republican in form and truly loyal; and I insist that not one of those States can be republican or truly loyal except on the conditions stated in my amendment.

Mr. TRUMBULL. I move to postpone the subject under consideration and all other subjects with a view of asking the Senate to proceed to the consideration of House bill No. 63. I have been trying all the morning to get attention to it, and this debate seems to be interminable.

Mr. HENDERSON. What bill is that?

Mr. TRUMBULL. It is a bill which the Departments think of importance.

Mr. HENDERSON. What is the title of it?

Mr. TRUMBULL. "A bill placing the solicitor and assistant solicitors of the Court of Claims in the department of the Attorney General, and for other purposes."

The PRESIDENT *pro tempore*. The Senator from Illinois moves to postpone the present and all prior orders and proceed to the consideration of the bill mentioned by him.

Mr. FOWLER. I hope that will not be done. We can take a vote on this question now. At any rate, I do not wish to prolong the debate upon it.

Mr. TRUMBULL. If we can vote I will withdraw the motion, but there is no probability of it.

Mr. FOWLER. I will state that on no measure I have ever advocated or brought up here have I occupied any more of the time of this body than has the Senator from Illinois on the measures he has brought up. I regard this as of great importance to the southern country, and my faith in its loyalty is not at all guided by this or that man.

Mr. SHERMAN. I shall vote for the motion of the Senator from Illinois on broader grounds than he puts it. This whole subject has been referred to the Committee on Finance and has been partially examined by them. The subject of making the levees of the Mississippi river is a great and important subject. It can only be done in cooperation with all the States along the Mississippi river. It can only be done after those States are reorganized and are readmitted to representation. One proposition made by the States themselves is to issue their bonds, based upon the credit of the States



and also upon a mortgage or pledge of the lands given to them, the swamp lands as they are called, and also other lands. There are various matters and various modes proposed not only to levee the Mississippi river, but to raise the money for that purpose. Under these circumstances, I do not think that any additional survey would throw light on the subject. We have now a volume printed, not by the Government, but by private persons, a large folio volume, containing a mass of information on the subject. I think to embark in new surveys now would give us no new light. We have all the information on the subject that can probably be obtained. General Humphreys made a survey and has given us the result of the most elaborate survey that has been made by the engineer corps of the Army. I do not think these new surveys would promote the examination of the subject. The Committee on Finance at the next session propose to take it up and consider it with the attention its importance demands. But it is idle for us to consider or propose any measure likely to get the assent of Congress until these States are in a condition either to issue bonds or to guaranty bonds, or to do something toward raising the vast sums of money necessary for this purpose. I shall therefore vote to postpone any examination or any further surveys until the Committee on Finance has acted on the subject.

Mr. HENDERSON. I desire to state to the Senate that this matter has been referred to me as a member of the Committee on Finance, and I have given it some examination. It is true, as the Senator from Ohio says, that a report, not exactly on the subject of levees, but containing a vast deal of information in reference to that subject, is now before Senate. I have been trying during this session to have it printed again. It was printed by private enterprise. It was laid before the Senate in August, 1861, when we were entering into the war, and the Mississippi was blockaded from Memphis down to the Gulf, and it was thought unnecessary at that time to publish the information contained in the report of Captain Humphreys, who is now our chief engineer. It is a very able paper, and it ought to have been printed. It is, as the Senator says, a large volume. It has been reprinted in Europe by various Governments there for the use of their engineer departments. It is a valuable document, and it ought to be in the hands of every man who takes an interest in the improvement of the Mississippi, not only in reference to its navigation, but in reference to its levees. I regret very much that it was not printed.

Then there was a report also made by General Humphreys in 1865, which was before us at the time this subject of levees was up in 1866, when a report was made by our late colleague, Mr. Clark, of New Hampshire. There is a great deal of information specially devoted to this subject of levees in that short report.

Now, the Senator from Rhode Island wants a thorough and perfect survey. Of course I should be very glad to have such a survey. The country would realize perhaps very large advantages from such a survey. I am indifferent, however, about its being pressed. I think there is information already before the country sufficient to induce something to be done by the United States in aid of that improvement.

The Senator from Massachusetts thinks that no appropriation ought to be made until the States are restored. I think so, too. I think that is proper. I have reported a bill which provides that some aid may be given, not in the shape of direct appropriations, but by indorsing the bonds of those States, having ample security made by the reorganized governments to the United States for any guarantee that we undertake. I believe that ought to be done.

The Senator says that in this reorganization universal suffrage must first be secured in order to make the government of the State republican. I have no objection to that. I should be very glad to see something of that sort done. He further says that the common school sys-

tem ought to be opened, so that all the children can be educated regardless of color; that we must not aid the southern States until the negro children and the white children are educated in the same school-house. I do not know that that would tend to make a State republican. I am not sure that the education of negro and white children together is necessary in order to make a State republican. If so, then the United States will have to go to work, not only in the State of Maryland, which I see is to be reconstructed before we leave to-morrow, but in other States, because I believe such a thing does not exist in a single State of the Union.

I sympathise with the Senator from Massachusetts in a great many of his notions with reference to suffrage, in fact in all of them, because, that is all that is needed there. We can then get rid of the civil rights bill and the Freedmen's Bureau bill. He sits here along with me from year to year and votes millions from the Treasury to the negroes and white people in the southern States in order to keep them from starvation. We have had it up here again and again; and this morning the Senator from Tennessee [Mr. PATTERSON] brought in a bill for \$500,000 more for East Tennessee. Mr. President, the period must soon come when these vast appropriations must cease. I desire to say, for one, that I cannot and will not consent to them much longer. We must make some other arrangements. Now, we find that the entire Mississippi and Louisiana country is flooded again. I stated some time ago, in arguing the question of the cotton tax, that such a result was inevitable. What is upon us this coming winter? We shall be called upon to appropriate not one million, but two, three, four, five, or six millions in order to keep the people of the southern States from starvation. It is a practical question. It is not a question of republican government. It is not a matter of the education of negroes with whites. It is a question of the salvation of the bodies of the southern people from starvation.

Mr. TRUMBULL. I appeal to my friend from Missouri if he will let this matter go by and let us take up some other business. That was my object in making the motion to postpone and take up another subject. I insist that it is not quite in order. I do not wish to call the Senator to order. I do not mean to be understood that way. I make an appeal to him. I insist that this discussion is not quite in order on the motion to postpone and take up another subject.

Mr. HENDERSON. I so seldom get the floor that I thought I would occupy it for some ten or fifteen minutes; but as my friend from Illinois has a very pleasant and amiable voice, and always says something that gives me infinite pleasure, and as I have not heard him for twenty-five or thirty minutes, I will yield in order that I may hear the sweet tones of his voice again. [Laughter.]

Mr. SPRAGUE. I hope the motion of the honorable Senator from Illinois will not prevail. I desire, having moved to take up this resolution, that it shall now be acted upon, and more especially since the notice given by the honorable Senator from Ohio and the honorable Senator from Missouri, that at the next session matters pertaining to the levees of the Mississippi river are to be entertained and are to be acted upon. It is manifest that at that time the Senate will be called upon to vote ay or no in favor of a proposition to aid in the construction or reconstruction of the levees upon this river; and it is important that all information pertaining to that subject should be laid before the Senate, and that information can come from no Department of this Government so well and thoroughly as it can come from the engineer department of the Senate to the important fact, that if they want to vote understandingly on this subject at the next session of Congress it is proper that this resolution should pass. It is also very well known that heretofore Congress

has appropriated lands and aided both the State governments and individuals in constructing these levees. They have inaugurated the system of assistance which will be asked of them at the coming session of Congress.

Sir, the advantages to grow out of the reconstruction and the building of these levees are not for southern men or for southern people particularly. I conceive, and I believe it will be a fact, that that country will hereafter be occupied by the men of the Northeast, Northwest, and North, and that they will hereafter occupy the lands heretofore occupied by those men who have exhausted their energies and their labors in the past. I believe that the benefit of whatever you are to do in this matter will accrue to those whom we represent here to-day; and therefore as a practical subject, as one in which the southern people themselves can take no action, as they are deprived of the power of action from the desolation and destruction of their property, it is pertinent now that this Senate should take cognizance of the case to the extent that they should not refuse the mere direction of an officer or two of the Government of the United States to examine and report at the next session of Congress the real condition of the banks of that river.

Mr. YATES. I do not approve of the amendment of the honorable Senator from Massachusetts. I think it is not pertinent to the question at issue. I should be in favor of this appropriation, of this survey, if we had had no war, if there had been no inundations, no destruction of the levees there at all. I would have voted for it for Illinois, for the Northwest as well as for Louisiana and the South or the rebellious States. I would have voted for it upon the principle that I favor the improvement of rivers and harbors, upon the same principle that I would vote for an appropriation for a harbor on the coast of Maine.

Now, sir, I have voted for all these measures for the relief of the southern States. I voted for the appropriation for the relief of suffering in the South. I voted for the appropriation, a year ago, for the improvement of these levees. My doctrine is that we will impose every condition that is necessary to secure a perfect allegiance from the southern States to this Government; we will restore the Union; we will require that they shall submit in spirit and in letter to the demands of the Government. But, sir, we should be generous, and we should extend to the southern States relief from the sufferings to which they have been exposed. I think this amendment is not germane, and I hope the Senator from Massachusetts will not insist upon it.

Mr. MORRILL, of Maine. I ask the general consent of the Senate, if that is necessary, to make a report at this time from the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations to supply deficiencies in the appropriations for the contingent expenses of the Senate.

The PRESIDENT *pro tempore*. The report will be received unless objection is made. The Chair hears no objection.

#### SENATE CONTINGENT EXPENSES.

Mr. MORRILL, of Maine, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their first amendment and agree to the second section of the bill, with the following amendment: add to the second section the following: "And the newspapers in the rebellious States named in section seven of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, which have or may be designated in pursuance of the provisions of said section for the publication of the public laws and treaties of the United States, shall publish the public laws and treaties of the Thirty-Ninth Congress, authentic copies of which it shall be the duty of the Secretary of State to furnish as soon as practicable after receiving notice of such

designation; and there is hereby appropriated out of the Treasury, from any moneys not otherwise appropriated, a sum sufficient to pay for said service: *Provided*, That the accounts therefor shall be settled in the usual manner, and the compensation shall not exceed the rate fixed in section seven aforesaid."

That the House agree to the third amendment of the Senate to the fourth amendment of the House.

That the House agree to the fourth amendment of the Senate to the fourth amendment of the House, with an amendment as follows: in line nine of said fourth amendment of the Senate strike out the word "twenty" and insert in lieu thereof the word "fifteen."

L. M. MORRILL,  
G. F. EDMUNDS.

*Managers on the part of the Senate.*

THADDEUS STEVENS,

CHARLES A. ELDRIDGE,  
*Managers on the part of the House.*

Mr. POMEROY. Will the Senator from Maine explain the report? I cannot understand it.

Mr. MORRILL, of Maine. Yes, sir. The House disagreed to the second section of the Senate bill, which was to limit the seventh section of the civil appropriation bill of last session with regard to the price paid for advertising in the newspapers of the country. They recede from that and concur in our amendment with an amendment, which is to the effect that the papers authorized to be selected by the Clerk of the House in the insurrectionary States, twenty-one in number, I believe, shall be authorized to publish the laws of the Thirty-Ninth Congress. That is the effect of that amendment.

The House recede from their disagreement to the appropriation for the payment of the expense of the Indian treaties, with an amendment of \$5,000 to one of the items, and then concur. The House also recede from their disagreement to the appropriation of the Senate of \$15,000 for the Long bridge. These were all the disagreements between the two Houses.

Mr. BUCKALEW. I declined to sign this report as made by the committee, and I wish to state in a word my reasons. There was an amendment added in the committee of conference to provide for the publication of the laws of Congress in newspapers to be selected throughout the southern States, a proposition which, as I understand it, was not presented or considered in either House, and which therefore I think it improper to come from the committee. It is provided that the laws of the Thirty-Ninth Congress, to wit, those passed at both the first and second sessions, shall be published in all the newspapers which may be selected in the southern States pursuant to a recent act of Congress relating to the future publication of the laws in those States, in papers selected by the Clerk of the House of Representatives. There were two hundred and seventy large pages of law matter, laws and resolutions passed at the first session of the last Congress, and I suppose something more than half that amount at the recent session. All these are to be republished in all the newspapers which may be selected throughout the southern States. According to the computation we made, this will involve an expense of some sixteen thousand dollars for the first session of the last Congress, and probably about nine thousand dollars more for the second session.

Now, sir, I suppose that in many of those States, perhaps not in all of them, those same laws have been published in newspapers selected by the Secretary of State under former laws. I consider, therefore, that here is an expenditure of \$25,000 for the newspaper publication of the laws of the last Congress, and that we shall get no valuable result from the expenditure of that money. It looks to me very much like a donation to certain favorite newspapers, to be selected by a particular officer, for the republication of matter which is stale, unimportant to the people of that section of the country, and that the expenditure is a gross outrage, if I may be permitted to use that strong language. By recent law the Clerk of the House selects the newspapers, instead of the Secretary of State, as formerly.

My objection is that this is an unnecessary

outlay for the publication of past matter, and not for the current laws that may be adopted by Congress for the information of the people, and that we are to pay for the publication of the same matter which is already paid for to those newspapers which have been selected under former laws by the Secretary of State.

The question being put on the adoption of the report, there were, on a division—ayes 15, noes 15.

Mr. SHERMAN. There seems to be on the division a tie vote, and therefore I suppose the report is lost. I beg, however, to be allowed to say a word. It seems to me that we ought not to republish in all the southern States the laws of the last Congress. Take, for instance, the laws making the Indian appropriations. What earthly use, what earthly object can there be in publishing those laws in the southern States except to pay the newspapers that may be selected a gratuity? I am not willing for one to do that. I am willing to vote all necessary appropriations for the publication of future laws, and if there are any special laws to be designated by anybody that are of general importance and general interest to the people of the South, I am willing to vote to publish them.

The PRESIDENT *pro tempore*. The result has not been announced.

Mr. EDMUNDS. I ask for the yeas and nays on the question of concurrence, so as to give a chance for debate.

The yeas and nays were ordered.

Mr. MORRILL, of Maine. It is said this subject was not before the committee of conference. The committee did not so understand it. I will read a section which the Senate inserted as an amendment, to see whether it has not some relation to the subject. The Senate adopted this amendment to the bill:

SEC. 2. And be it further enacted, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed at the second session of the Thirty-Ninth Congress, shall not be construed to allow greater compensation for the publication of the laws passed by Congress and the executive proclamations and treaties in the papers of the District of Columbia than is provided by law for such publications in other papers.

It will be seen by this provision, and the law to which it refers, that the subject here referred to was the subject of the publication of the laws in the insurrectionary States. That is the subject-matter which was referred to the committee of conference. The House disagreed to that proposition, but proposed to recede from their disagreement with an amendment that the past laws should be published in those States, not the future laws prospectively, but that all the laws enacted by Congress during the rebellion should be published in papers in those States. It seems to me the precise subject of the publication of the laws was before the committee, and the only question was the extension of the publication of those laws and treaties to the laws heretofore passed as well as to those in the future. We therefore considered the subject-matter as before the committee.

Now, one word as to the propriety of this provision. It was said that during the rebellion we had enacted all the laws, and that such had been the state of the country there that it was impossible that the laws could have been published and circulated, and as a matter of fact they had not been published, and the people of that section of the country are absolutely ignorant to-day of laws which Congress has passed to a greater or less extent. It was said that we should, in justice to these people, publish all the laws which had been enacted by Congress since their States undertook to go out of the Union. What we really agreed to, as will be seen, is that we should publish the laws of the last Congress, the Thirty-Ninth Congress. It is not a great affair any way. The amount involved, I believe, is about sixteen thousand dollars, which is spread over the entire southern country, for the publication of the laws of the Thirty-Ninth Congress. Although the committee on the part of the Senate were somewhat reluctant to agree to it, we

finally, on the whole, consented to it, and it seems to me it is not a matter so important as to cause the Senate to reject the report.

Mr. BUCKALEW. One word in reply. The amount of \$16,000 was the computation for the first session of the Thirty-Ninth Congress. I estimated the amount for the recent session, when many laws were passed, to be at least \$9,000 more, making the amount of money wasted, in my opinion, on these several newspapers \$25,000. I would have no objection to a moderate appropriation for the publication of important public laws in which the southern States were interested, in the form of a pamphlet, compiled by the Department of State; but, we know that three fourths of all the matter upon the statute-book enacted by the Thirty-Ninth Congress is of no interest in that section of country, but relates to matters interesting only in the northern and in the western sections of the Union. If we are to inform the people of the South of what has been going on here in Congress during the rebellion, let us make a compilation of a small pamphlet volume, the publication of which will not be very expensive, and let it be distributed by the Secretary of State or in some other manner. I have no doubt that if the Senate disagree to this report, and the subject is sent to the committee again, we can have a concurrence without any difficulty.

Mr. ANTHONY. I voted against agreeing to the report of the committee of conference; but after the explanation of the chairman of the committee, I think I shall change my vote, for although in my opinion a large portion of this, at least half of it, is an unnecessary expenditure, I think it would be well to publish in these papers the laws of general interest, laws that remain in force, but it is entirely unnecessary to publish the appropriation laws. Still, as a matter of compromise between the House and the Senate, and as in case we do not agree to this proposition, we may be subjected to a still greater expenditure, I shall vote to agree to the report of the committee.

Mr. JOHNSON. I do not know, certainly I never heard, that the southern States anywhere had requested such a publication as this. The laws that operate upon their rights, whatever they may be, they know just as well as we do. They have been in possession of them certainly since the rebellion terminated. The whole effect—I will not say the purpose, it would be improper to say so—the whole effect of the proposed measure will be to give \$25,000, or \$16,000 as my friend from Maine admits to be the amount, to the editors of these newspapers and nothing else. You might as well take the money out of the Treasury and hand it over to these editors for the purpose of supporting their newspapers.

Mr. EDMUNDS. I wish to say a single word on the pending subject, as I was a member of this committee of conference. I did not agree to the entire propriety of publishing again all these laws down there; but at the same time there are some considerations in favor of disseminating among those of our fellow citizens who have not had the opportunity of reading any good law for a long while the laws we passed at the last session. The community ought to know what those laws are; and while it may not be of great importance that they should know all of them, at the same time it is quite reasonable to say that they having been outside of the law and outside of the means of knowing what it is, there should be published in two newspapers in each of these States these later acts of Congress. Some gentlemen have gone so far as to say that we ought to publish all back to 1861, but we do not agree to that.

These considerations, and I have merely stated them very briefly, led me finally to concur in this report, although intrinsically considered it would look, in the first place, as if it was a somewhat unnecessary expense; but on the whole it appeared to me in order to get the other concessions which we get from the House in consequence of it, to be wise to agree to it.

Mr. SHERMAN. I will add one word.

The effect of this is simply to give a gratuity to newspapers. It is scarcely a subject worthy of argument. If the Senate really desire to furnish these people with the laws of the last Congress, pass a resolution directing the Public Printer to print ten thousand copies of the laws, to be distributed all over the southern States in a permanent and enduring form; and it probably could be done for \$5,000. This shows that this proposition to pay twenty or twenty-five thousand dollars is simply a gratuity to newspapers. I do not wish to vote for it, and I see that the Senators who are on the committee are really opposed to it themselves, and probably yielded to it only as the best thing they could do. Neither of them seems to advocate the proposition on its merits.

Mr. EDMUNDS. The statement of my friend from Ohio is not quite a fair one. I do not mean that it is personally unfair, but logically unfair, for the reason that the ten thousand bound copies that are mentioned would, if printed, go into the libraries of a few individuals comparatively, and the great mass of the community would never see them. It is so in the northern States. As many copies as we publish of the bound volume of the laws, it is very troublesome indeed, for a common man, if he wants to find out what a particular act of Congress is, to lay his hand on it. We know that the newspapers circulate among the people. Every newspaper that is published probably gets into the hands of several thousand persons, more or less. If therefore you wish to disseminate among the mass of the community as a mass, high and low, a knowledge of the laws that have been passed under these peculiar circumstances, now that they manifest a disposition to desire law and to desire to come back under its operation and to obey it, let us spread these laws in the newspapers where they can all see them. That is the best that can be said of it.

As I said before, frankly, it is open to doubt if you look at it intrinsically, whether it is worth the expense or not; but we cannot always have everything just as we wish it in this body. We are obliged to concede something to the views of the other House.

Mr. YATES. I am in favor of this report of the committee. I am for it on the principle, if no other, of encouraging and building up loyal newspapers in the South and giving them support and patronage. We have been publishing all the laws, I believe, in our northern papers. I am for extending the provision to the southern States, if for no other reason, to build up loyal papers there.

Mr. FESSENDEN. I should like to inquire whether the laws have not been published once in some of the newspapers in these States under the direction of the Secretary of State.

Mr. BUCKALEW. I made inquiry on that subject, and I was unable to obtain any definite information. It seemed to be the impression that they had been published in a number of the States, for instance, Louisiana, Alabama, and Virginia. I do not know how far that publication has gone, but certainly under the existing law the Secretary of State had power to select newspapers in the respective States, and under his view of the status of those States I presume he has selected them in every State within the last year or two.

Mr. FESSENDEN. It is to be presumed that the laws have all been published in some newspapers selected there. Now, it is very well known that these newspapers, which are our newspapers as we call them, on our side, in these ten States, are newspapers recently established which have very little circulation. The great majority of the people do not like them, and do not want to take them. The question then comes to this, whether for the sake of building up newspapers of our own political faith in the southern States we shall publish these laws there again at double the price hitherto paid, because for this publication in these States we pay double price, two dollars a page under a law passed at the last session; whether we shall select newspapers of very

limited circulation, and have all the laws of the Thirty-Ninth Congress again published in these States.

The Senator from Illinois says that he is in favor of this for the simple reason that it builds up our newspapers. If he had not said that, I do not know but that I should have contented myself with giving a silent vote against the proposition; but to me the idea of putting our hands into the Treasury of the United States and taking out money—sixteen or twenty or twenty-five thousand dollars, as the case may be, more or less—and appropriating it for no other reason than because we mean to build up our political newspapers, is a very strange idea, and one that I cannot help entering my dissent to entirely. If the Senator is so anxious to build up newspapers, let him put his hand into his own pocket and not into the public Treasury. Then he would show his patriotism; but it is not patriotic to rob the Treasury of the United States for a mere political purpose. In my judgment this is nothing else. If the laws have been all published there, it is a bald proposition to pay sixteen, twenty, or twenty-five thousand dollars to some political newspapers in these States; and the money is voted for no other purpose in the world ostensibly than to build up the papers. I am opposed to it altogether, and I will not vote for any report that has in it such a provision based on such a principle.

Mr. YATES. I simply propose to prescribe the same rules and regulations for those southern papers that we have for northern papers. We are in the habit of publishing the laws in all the loyal States. I cannot see the propriety of a discrimination against these southern papers. These loyal papers are proscribed in the South; they are unable to sustain themselves; and while I do not propose to confer upon them any privileges or advantages which we do not confer upon papers in the North, I repudiate any discrimination against them. I shall encourage these papers in a private way probably as liberally as the honorable Senator from Maine; but I will not prescribe an illiberal and proscriptive rule against these southern papers which are now proscribed all over the South.

Mr. DIXON. It seems to me that this is a plain and palpable attempt to build up a press, perhaps a partisan press—though I do not know how that is—by the use of the public funds. I only wish to say that I agree with what has been said by the Senator from Maine [Mr. FESSENDEN] in regard to it, and in my judgment he will more benefit the party to which he belongs by sentiments such as he has expressed than he would by the opposite.

The question being taken by yeas and nays, resulted—yeas 22, nays 11; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Corbett, Drake, Edmunds, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Ross, Stewart, Sumner, Tipton, Wade, Williams, Wilson, and Yates—22.

NAYS—Messrs. Buckalew, Cameron, Davis, Dixon, Fessenden, Johnson, Norton, Patterson of Tennessee, Thayer, Trumbull, and Willey—11.

ABSENT—Messrs. Anthony, Cattell, Conness, Cragin, Doolittle, Ferry, Fowler, Frelinghuysen, Grimes, Guthrie, Henderson, Hendricks, Howe, Morton, Patterson of New Hampshire, Riddle, Saulsbury, Sherman, Sprague, and Van Winkle—20.

So the report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following Senate bills and joint resolutions:

A bill (S. No. 28) to grant to the American Atlantic Cable Telegraph Company, of New York, the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe, via the Bermudas and Azores islands;

A joint resolution (S. R. No. 24) relative to the payment of the expenses incurred by the judges of election for the cities of Washington and Georgetown, District of Columbia;

A joint resolution (S. R. No. 43) in relation to the educational interests of the District of Columbia; and

A joint resolution (S. R. No. 48) in relation to the execution of surveys of rivers ordered by Congress.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were signed by the President *pro tempore*:

A bill (S. No. 99) for the relief of Richard Busted, jr.;

A bill (S. No. 100) supplementary to an act for the relief of Hiram Paulding, rear admiral United States Navy;

A joint resolution (S. R. No. 41) for the purchase of land adjoining the navy-yard at Brooklyn, New York;

A joint resolution (H. R. No. 39) in reference to the payment of the salaries of members of Congress;

A joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river;

A joint resolution (H. R. No. 41) providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes;

A joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes;" and

A joint resolution (H. R. No. 50) to furnish transportation of provisions to the destitute in the South.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 105) to regulate the selection of juries for the several courts of the District of Columbia was read twice by its title, and referred to the Committee on the Judiciary.

#### ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. Before the report which has just been disposed of was made, there was a question pending before the Senate, which was the motion of the Senator from Illinois, [Mr. TRUMBULL,] to postpone all prior orders for the purpose of proceeding to the consideration of the bill mentioned by him. The question is now on that motion.

The motion was agreed to.

Mr. TRUMBULL. I now desire to report from the Committee on the Judiciary House bill No. 63, with an amendment, which I send to the Chair.

Mr. NYE. With the permission of the Senator from Illinois, I desire to call up House resolution No. 51. I am sure it will not lead to debate.

Mr. TRUMBULL. If it is not to be debated I have no objection to allowing the bill which I have reported to be laid aside informally.

The PRESIDENT *pro tempore*. If no objection be made, the joint resolution referred to by the Senator from Nevada will be taken up, and the bill before the Senate laid aside informally.

Mr. CAMERON. I desire to ask the Senate to take up a resolution offered by me this morning. Objection was made to it at the time, which I now understand will be withdrawn. It is a resolution of inquiry only.

The PRESIDENT *pro tempore*. There is another matter before the Senate.

Mr. SPRAGUE. I desire to suggest a question of order. I should like to know what has become of the joint resolution that was under discussion prior to the introduction of the report of the committee of conference?

Several SENATORS. That was postponed.

The PRESIDENT *pro tempore*. It was postponed to take up another bill, which is now before the Senate. The Senator from Nevada has asked that that bill be laid aside informally for the purpose of taking up the joint resolution indicated by him.

Mr. CAMERON. I desire to take up the resolution of inquiry offered by me to which objection was made at the time I offered it.

The PRESIDENT *pro tempore*. That is not now in order.

Mr. SPRAGUE. I desire to know if one objection will carry over the joint resolution referred to by the Senator from Nevada? If so, I wish to make objection.

Mr. NYE. I hope the Senator from Rhode Island will not do that. Let me tell him that the resolution I ask to take up has already been passed by the Senate three times without a dissenting voice. The joint resolution of the House is precisely what we have passed three times except that it is eighty cents less in the amount.

Mr. SPRAGUE. I object to it.

Mr. CONNESS. I appeal to the Senator from Rhode Island to allow it to be considered. It concerns citizens of my State.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island object?

Mr. SPRAGUE. I object.

The PRESIDENT *pro tempore*. Then the joint resolution cannot be taken up, and the bill reported by the Senator from Illinois is before the Senate.

Mr. SPRAGUE. I desire a vote on that subject.

The PRESIDENT *pro tempore*. What subject?

Mr. SPRAGUE. The subject suggested by the Senator from Illinois.

Mr. TRUMBULL. The Senator from Rhode Island probably was not paying attention. A vote was taken some time since, and the measure in which he was interested was postponed with a view of proceeding to the consideration of the bill which I have just reported.

The PRESIDENT *pro tempore*. That bill is before the Senate, and it will be read.

#### ADJOURNMENT OF CONGRESS.

Mr. EDMUNDS. I ask the consent of my friend from Illinois, and the general consent, that this subject may be laid aside informally in order that I may move to take up the House resolution relative to adjournment.

Several SENATORS. That is privileged.

The PRESIDENT *pro tempore*. If no objection be made, the Chair will entertain the motion of the Senator from Vermont. The Chair hears no objection. Will the Senator state his motion?

Mr. EDMUNDS. I move to take up the resolution of the House of Representatives, received yesterday, on the subject of adjournment.

The motion was agreed to; and the Senate proceeded to consider the following resolution, received yesterday from the House of Representatives:

*Resolved by the House of Representatives, (the Senate concurring.)* That on Friday, the 29th instant, at the hour of three o'clock p. m., the President of the Senate *pro tempore* and the Speaker of the House of Representatives shall adjourn their respective Houses until Wednesday, the 5th day of June next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, those officers shall further adjourn the said Houses respectively until Wednesday, the 4th day of September next, at twelve o'clock meridian, when, unless a quorum of both Houses be present, they shall further adjourn the said Houses respectively until the first Monday of December next.

Mr. EDMUNDS. I move to amend the resolution by striking out all after the word "that," and inserting:

The President of the Senate and the Speaker of the House of Representatives are hereby directed to adjourn their respective Houses on Saturday, March 30, 1867, at twelve o'clock meridian, to the first Wednesday of July, 1867, at noon; when the roll of each House shall be immediately called, and immediately thereafter the Presiding Officer of each House shall cause the Presiding Officer of the other House to be informed whether or not a quorum of its body has appeared; and thereupon, if a quorum of the two Houses respectively shall not have appeared upon such call of the rolls, the President of the Senate and the Speaker of the House of Representatives shall immediately adjourn their respective Houses without day.

I will only make one word of explanation, because the subject has been exhausted so far as discussion goes, I suppose. This amendment which I now offer is precisely the same thing as that which we agreed to yesterday, with the addition that it provides against a

contingency which gentlemen of the House feared might happen; and that was, that any one or two members under the other resolution might, by "filibustering," as it is called, by debate, although a majority of both Houses were present, carry the hour of adjournment by before a vote could be taken "otherwise ordering," and thereby compel an adjournment, although a quorum of both Houses were present. Of course the other proposition might possibly have been obnoxious to that objection if any member of either House could be supposed to be dishonorable enough to resort to such a proceeding.

Now, I may state informally that on the matter of conference which has been held on that proposition, we have been entirely unable to agree; not as to the phraseology, but as to the meritorious substance of the views of the two Houses. I have some reason to suppose, strong reason to hope, that this proposition that I now offer, if presented to the House of Representatives simply, will meet the approval of a majority of that body; because there seems good reason to suppose, if I may properly say so, that but for this argument against the other proposition, that it might offer an opportunity to filibuster, it would have been acceded to yesterday. In order, therefore, to obviate that difficulty and to give the House, before we adhere to our other proposition, another opportunity to meet the main proposition directly, I move this amendment.

Mr. CONNESS. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. BUCKALEW. I move to amend the House resolution by inserting in place of the day and hour named "the 30th instant, at three p. m.;" also by striking out all after the word "Houses" in the sixth line and inserting "without day."

Mr. CONKLING. Is the effect of that to provide simply for an adjournment *sine die* on Saturday?

Mr. BUCKALEW. Yes, sir; that is my proposition.

Mr. EDMUNDS. I will inquire whether that amendment is in order. My motion was to strike out and insert. Now, I agree that on a simple motion to strike out you may perfect the proposition before it is stricken out; but on motion to strike out and insert, which cannot be divided, it seems to me a proposition to amend the original resolution will not do, because then there are two motions to amend pending.

Mr. WILSON. I desire to ask the Senator from Vermont why he does not take the House resolution that came to us yesterday and pass that. I understand that the House of Representatives are committed on that. It seems to me we might pass that.

Mr. TRUMBULL and Mr. FESSENDEN. The hour named in it has passed.

Mr. WILSON. We can amend it as to the hour.

Mr. EDMUNDS. If we are to amend it at all let us amend it so as to make it what we think it ought to be.

The PRESIDENT *pro tempore*. The Chair is of opinion that the amendment offered by the Senator from Pennsylvania is in order. It is in order to perfect both branches of the matter before a vote is taken on striking out and inserting. The question now is on the amendment offered by the Senator from Pennsylvania to the House resolution.

Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 7, nays 32; as follows:

YEAS—Messrs. Buckalew, Davis, Dixon, Norton, Patterson of Tennessee, Sprague, and Wiley—7.

NAYS—Messrs. Anthony, Cameron, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Fowler, Frelinghuysen, Harlan, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomeroy, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Wilson, and Yates—32.

ABSENT—Messrs. Chandler, Doolittle, Ferry, Fessenden, Grimes, Guthrie, Henderson, Hendricks, Patterson of New Hampshire, Riddle, Saulsbury, Sherman, Van Winkle, and Williams—14.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Vermont.

Mr. DIXON. I move to amend the amendment by adding the following proviso:

*Provided*, That nothing herein contained shall be so construed as to allow mileage for more than two sessions of the Fortieth Congress.

Mr. DRAKE. I submit to the honorable Senator from Connecticut that under the law as it stands no mileage can be got, for mileage is only payable at regular sessions of Congress.

Mr. DIXON. If that is the understanding—

Mr. EDMUNDS. There is no doubt of it.

The PRESIDENT *pro tempore*. It is suggested to me that this amendment is out of order. The resolution is a concurrent resolution. The amendment is legislation, and would require the assent of the President. It is therefore not in order.

Mr. DIXON. I was about to withdraw it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

Mr. SUMNER. I am against the amendment on two grounds: first, that it proposes to adjourn too soon; and secondly, that it superfluously and unnecessarily makes a new difference with the House of Representatives. I say in the first place it proposes to adjourn too soon. It proposes to adjourn to-morrow at twelve o'clock. The business of the country will suffer if Congress adjourns to-morrow at twelve o'clock. Here we are now in currents of business that remind you of the last days of regular sessions or of the rapids that precede a cataract. Senators are struggling for the floor, and some of them perhaps are not always amiable because they do not obtain it. We ought, it seems to me, to give time for all this important business, so that there should be no such struggle.

I have before me a Senate bill numbered one hundred and fifteen, showing one hundred and fifteen bills now on your table from the Senate alone, of which only a small portion have been considered; and on looking at the House bills I find one of their late bills numbered one hundred and two, showing that very large number, of which you have considered thus far only a very small proportion. Now, I do not ask your attention to these numerous bills in detail, but unquestionably among them there are many of great importance. There are two especially to which I have already referred, and to which I mean to call your attention to the very last moment you sit as a Congress, unless they shall be acted on. I mean, in the first place, the bill providing for a change in the time of electing a mayor and other officers in the city of Washington. I submit that Congress ought not to go home leaving this question unsettled. You have bestowed the suffrage upon the colored people here, and they are about to exercise it in choosing aldermen and a common council; but those aldermen and common councilmen will find themselves presided over by a mayor chosen by a different constituency and hostile to them in sentiment, one possessing sometimes the veto power, at any rate possessing a very considerable influence, which he will naturally exercise against this new city government. Will you leave Washington subject to such discord? Will you consent that the votes of the colored people shall be thus neutralized the very first time that they are called into exercise? I hope Congress will not adjourn until this important bill is acted upon. It is very simple; it need not excite discussion; it is practical. Let it be read at the table, and every Senator will understand it and will be ready to vote upon it without argument. Thus far I have not been able to get it before the Senate, though I have tried day by day. I have not yet been able to have it read.

That is one bill which ought to be considered. There is another bill of wider reach, of immense importance. It is one to which I have already more than once called attention. It is a bill to enforce the several pro-



visions of the Constitution abolishing slavery, declaring the immunities of citizens, and guaranteeing a republican form of government by securing the elective franchise to colored citizens. Here is a bill that proposes to give the elective franchise without distinction of color, in pursuance of solemn provisions of the Constitution of the United States. By the exercise of this power Congress will settle this great question throughout the whole country. Think of it, Senators! See what good you may accomplish by one vote before you return to your homes! Here is the neighboring State of Maryland. I presume there is hardly a Senator who has not letters and papers every day with reference to the condition of things in that State. I have here a letter from a good Republican of Baltimore, very short, which I will read.

Mr. JOHNSON. What is his name?

Mr. SUMNER. I will show the letter to the Senator; but I would rather not give the name.

Mr. JOHNSON. I do not want to see it unless I can use it.

Mr. SUMNER. It is a good letter, I will say to my friend, an excellent letter, and I hope my friend will agree with it:

"The loyal men of our State earnestly protest against an adjournment of Congress until we have been fully protected and a republican form of government guaranteed us which we do not now enjoy. Our people are now almost disheartened. Do not hesitate at this time as to what course you should pursue in this matter."

Then there was laid upon the table of the other House by the Speaker, only yesterday, a series of resolutions of an important convention held in Baltimore, in which, among others, it is resolved as follows:

"That we call upon Congress to protect the loyal majority of the people of Maryland, both white and colored, in defeating the scheme of the revolutionists in the Legislature, and to aid us in forming and to guaranty to us by acts of Congress a republican State government on the basis of impartial manhood suffrage."

You have had also an elaborate memorial presented to Congress, in which the case of Maryland is fully set forth. It comes from the loyal citizens of that State, in which they say:

"The State of Maryland has at present a colored population of at least two hundred thousand, and, by immigration since the war, perhaps two hundred and fifty thousand, making a voting population of from forty to fifty thousand. In most of the counties whose representation has been thus illegally increased the colored population is equal to or greater than the white."

The illegality referred to there was by giving suffrage to returned rebels.

"The House of Representatives of the United States has already passed a resolution inquiring whether the present constitution of this State is now republican, and since the colored man is now a citizen it may well be doubted whether a State which excludes for no crime one fourth of its whole population who are citizens is republican."

"This General Assembly has inaugurated, however, a movement which, from the illegal representation made in the bill itself, actually now accomplishes not only the exclusion of this population from suffrage, but also gives the disloyal population a representation for them."

Thus, as I understand it, the case now is in Maryland: returned rebels are allowed to vote; they are enfranchised; and colored citizens, thirty or forty thousand in number, are disfranchised. This memorial proceeds:

"The danger of bloodshed is imminent; the time is perilous. We call on Congress not to adjourn before settling this grave matter, which, if not settled, may startle them in their recess by something worse than the massacre of New Orleans, although not so unequal and one-sided. We earnestly ask on the part of the majority of the people of Maryland, deprived of legal voice, except through us, a minority of the General Assembly, that Congress will guaranty to us a republican form of government on the only basis of right, truth, and peace, impartial suffrage, without respect to race and color, as it has already guaranteed it to the southern States."

Now, sir, there is one simple remedy for this anomalous condition of things in Maryland: it is to give suffrage to all, without distinction of color or race, by act of Congress. Let Congress, under the different provisions of the Constitution, settle the question. There are three different provisions at least in which you may find ample power; and I challenge any Senator to question the power in debate. There

is the clause of the Constitution abolishing slavery, which gives to Congress power to enforce the abolition by appropriate legislation. You have already under that clause proceeded to confer civil rights. I have again and again argued, and I now argue and insist, that under that same clause you have equal power to confer political rights. If you cannot confer political rights, then you were wrong in conferring civil rights. The only question is whether in enforcing the abolition of slavery you regard political rights as essential. If in your opinion they are essential to the abolition of slavery, then under acknowledged principles of jurisprudence, under decisions of the Supreme Court of the United States pronounced by Chief Justice Marshall, you have the unquestioned power. Having the power, I submit that you ought not to hesitate to exercise it; you ought not to allow a neighboring State to be precipitated to bloodshed if by any possibility you may save it.

You have then, sir, another clause of the Constitution which has lately found a place there by the votes of three fourths of the loyal States, by which it is declared that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;" and by this same amendment Congress is empowered to enforce this provision by appropriate legislation. You have done nothing as yet under that clause. I entreat you not to delay now the exercise of this newly-given power; see to it that there is no law in any State that shall abridge the privileges or immunities of any citizens of the United States.

Mr. CONNESS. Mr. President, I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from California will state his point of order.

Mr. CONNESS. I desire to submit to the Chair that the Senator from Massachusetts is not in order, in that he is making a speech which he has made many times already before to this body, and in that the speech consists of a discussion not relating to the question now pending in this body, which is a question of adjournment. I submit the matter to the Chair and ask for a decision.

Mr. DIXON. The Senator from Massachusetts will allow me to make an inquiry of him in regard to his intention—

Mr. CONNESS. I object to that.

The PRESIDENT *pro tempore*. The question of order must be determined by the Chair.

Mr. CONNESS. The Senator from Connecticut did not hear me. I rise to a question of order.

The PRESIDENT *pro tempore*. I believe no Senator has ever been called to order in the Senate for the irrelevancy of the matter he was arguing to the subject under consideration. He must be left to his own discretion, and must treat it in his own way. On this occasion I do not see that the Senator's remarks are not pertinent. I understand him to be endeavoring to give reasons why we should not adjourn at the time mentioned in the resolution, on account of the press of other business, as he argues. It seems to me to be germane.

Mr. SUMNER. I think there can be no question. If any Senator had done me the honor to listen to what I said, I am sure with ordinary intelligence he could not have raised any question. I am endeavoring to show that we ought not now to adjourn and go home; and in order to press that upon your minds I am trying to develop to you the necessity of important legislation with reference to a neighboring State; and, sir, not merely with reference to Maryland, but with reference to all the States of the Union which have down to this time refused to recognize the equal rights of all persons at the ballot-box. I insist that before we go home that great question ought to be settled by a solemn act of Congress. Am I not in order, sir, when I try to hold that duty before you at this moment and say you should not vacate your seats to hurry away to

distant places and to happy homes, but rather stay here until this great duty is done? Sir, I am not in the habit of traveling out of the point; I always speak directly to the point, and I mean now to speak directly to the point.

In enforcing what I think is now our duty, I called your attention to a bill now on your table, and thinking that there might be some objection to it on grounds of constitutional law, I was very briefly calling attention to those clauses of the Constitution on which this bill stands. I was not arguing them; I do not mean to argue them; I was merely stating them. I had already stated two when I was interrupted; now I proceed to state still a third. By the Constitution of the United States it is our duty to guaranty to the States a republican form of government. Now, I submit that laws or constitutions which deny to any people the elective franchise on account of race or color are not republican, and they are in bare-faced violation of a fundamental principle of the Declaration of Independence. A Government cannot be republican in form which sanctions inequality of rights. The first great definition of a Republic, one which our country has given to mankind, and which will hereafter be a day-star of human rights, is that all men are born equal. That was announced by our fathers at our birth as a nation, and now at last, through a perilous history, we have struggled to its practical adoption. It only remains that Congress should go still further, and by but one further act settle the question forever throughout all the States, not only at the South, but at the North.

I have alluded to the condition of things in Maryland. I might also allude to a similar condition in Delaware; and there are other States where such an act as this would be beneficial. There is Pennsylvania, with twenty-five thousand colored citizens standing ready to receive the ballot from your hands. There is Ohio, if my friend [Mr. SHERMAN] will pardon me for an allusion to his honored State, with, I do not know how many—with a large number of colored citizens ready to receive the ballot by act of Congress. I hope that Congress will be willing to confer it, and to that end that it will not vote to adjourn until this important question is settled. Settle it now and you settle it forever; you take it out of all local elections, local questions, local troubles; you give peace and tranquillity and harmony to this whole Republic, and you place those political friends with whom you are immediately associated on a foundation of adamant. Your elections the coming autumn will be one constant triumph; you will have on your side a new-found support, an ally grateful for the trust that you have given to them. I ask you, sir, do not postpone this great question; welcome it; endow these fellow-citizens with this right which is theirs, and trust to them for a generous and grateful support.

Mr. WILSON. I move to strike out all after the word "that," in the first line of the House resolution down to the word "until," and insert "on Wednesday, the 10th day of April next, at the hour of three o'clock p. m."

Mr. SUMNER. That is right.

Mr. WILSON. I do not wish to take up time, but I wish to say that I think that we have been trifling here for a week past. We have been voting, and I have followed the lead of Senators all around in doing it, to adjourn immediately and leave all our duties undone; but to be sure to get up a meeting in the summer, at which all of us believe there will be no quorum present, throwing the whole business of Congress over to the next session. I am tired of giving that kind of vote, and I do not intend to do it any longer. I am satisfied on that point. I think it of no great account about meeting in the summer. I should like very well to have power to meet, if we choose to do so, and think it would have a salutary effect. But we have now two important bills in the hands of the Executive unsigned. One of them

concerns the preservation of the peace in Tennessee. I want that signed or vetoed before we go away. Then there is a joint resolution, which came to us from the House of Representatives, and was carried through the Senate last week under the lead of the Senator from Illinois, [Mr. TRUMBULL,] in regard to the commissions which are sitting in certain States to value slaves that entered the service. That resolution has not yet been signed or vetoed.

Under these circumstances I propose to notify the House of Representatives, which seems to be so anxious to get away, and yet is not satisfied with anything that is done on the subject, that we want to stay here, that we want to take up and pass a bill in regard to suffrage throughout the country. I want them to understand that they must send for and call back the members who have gone away, and that we intend to stay here for ten days to come to pass such a measure as that; and then, if it is necessary to adjourn for a few days in order to wait for the signature or the veto of the Executive, I am in favor of taking the time. But this running away from duty, this hurrying off home, and then this difficulty about fixing a time of meeting, I have got tired of. It is trifling with the country, and I do not intend to vote any more for such measures; but I want to stay here ten or twelve days longer to give us time to take up the question of suffrage in the country and to put through the measure for that object.

Mr. DIXON. I should like to have one thing distinctly understood, and I believe it is now understood. The question I intended to propound to the honorable Senator from Massachusetts [Mr. SUMNER] he answered of his own free will without any interrogatory from me. I intended to inquire of that Senator whether he expected his law to apply to the northern States, and among others to the State of Connecticut.

Mr. SUMNER. To Connecticut? Certainly. Connecticut needs it.

Mr. DIXON. And I now understand the other Senator from Massachusetts, [Mr. WILSON,] who sometimes is called more practical than the senior Senator, if I may so call him, (although I must say I do not consider him more practical, if you may judge from the results of his measures,) both those Senators, I understand, unite in the assertion that Congress has power, and that they intend that Congress shall exercise the power, to enforce on the State of Connecticut, among other States, universal suffrage. That, I understand, both Senators to avow.

Mr. WILSON. I will say to the Senator that under the new constitutional amendment I have not the shadow of a doubt that we have the right to exercise that power, and I intend to vote for it whenever I can.

Mr. DIXON. I did not rise for the purpose of discussing the question; I do not intend to take up the time of the Senate with a single minute of discussion on this occasion; but I merely wished to call the attention of the country and the Senate, and particularly of my own State, to this proposition. There was a time when such a proposition would have shocked this country, would have shocked the State of Connecticut, and perhaps the State of Massachusetts; but that time has passed. I can tell those Senators that if any such thing is attempted in Connecticut it will be resisted; not by force, but by every legal mode. I wish it could be brought to the attention of the people of the State of Connecticut at this moment. It is a serious matter. This is no impotent threat; it is a determination which will perhaps be followed up. If that State is to have the question of suffrage settled for her by the people of Massachusetts and by the people of other States, I desire that it shall be known, and I intend that it shall be known.

Mr. JOHNSON. I do not rise to debate any of the questions stated by the honorable member from Massachusetts, [Mr. SUMNER.] It would take some time to discuss them if they

were new, and if I did discuss them I should, perhaps, play into what but further seems to be the purpose of the honorable member, to continue the session beyond the time when it is evident that a majority of the Senate desires it to close.

But I have heard him more than once tell the Senate that the government of Maryland now is not republican in the sense of the Constitution. I have said nothing on the subject heretofore, because I was willing to leave it to the judgment of the Senate; but the honorable member's frequent statements will go abroad, and they are apparently supported by the vouchers to which he has referred; and I rise simply to say that if there is a State of the Union that has been republican from the commencement of its existence to the present time it is the State which I have the honor to represent. So far as its present constitution is concerned the honorable member perhaps is not aware that most of those who are now assailing the government of Maryland, upon the ground that it is not republican, took a part before the people in the steps which led to the formation of that constitution, and afterward a part in framing the constitution itself under which the people of that State now live. The whole design, as I am forced to think, of those who are now assailing the State, few in number comparatively, is not for the purpose of having thrown over them the protection of a republican form of government, but to get the offices of which they are now deprived.

I forbear to speak of any of them personally. Some of them, however, I may say—and I say it upon my honor as a gentleman—were in the beginning of our troubles avowed and bitter secessionists, expressed a desire and a determination to prevent the troops of the North from coming to the capital for its defense; and another determination, that if the South succeeded in its effort to establish a separate government, it was the interest and the duty of Maryland to become a part of that other government. But now, because they are out of power, they have, as I think, the madness to assail the government which has protected them as anti-republican, with no other view, in my judgment, than to bring themselves into power; numbering in comparison with those who are now the supporters of the State government not one in ten.

I take this occasion also to say that he, whoever he may be, who assails the people sustaining the government of Maryland, who now constitute so large a majority of her citizens, upon the ground that they would offer violence to any human being within her limits, utters a base slander. There is no State in the Union where private rights, rights of person and rights of property, are more amply protected. There is no judiciary in the land whose duties are more honestly and impartially administered. I say this only to guard against the impression which the learned member may have created in the public mind out of the State, that there is a condition of things existing in Maryland not only anti-republican, but full of danger to the life and property of those who are not a part of the majority of her people.

When the time comes, if the time shall come, when it may be proposed to take her under the absolute charge of the Government, to convert her into a territory, and to extend the military power over her to that end, I hope to be heard, and I will be heard, unless in the mean time the honorable member from Massachusetts shall esteem it his duty to move to have me expelled from this Chamber upon the ground that the State which I am claiming to represent is not a republican State, and shall succeed in that motion.

Mr. DRAKE. This discussion has taken a range that certainly was not anticipated when the proposition was first brought before the Senate. I desire, if it be in order, in reply to the remarks of the honorable Senator from Maryland, to read two or three paragraphs from a speech made yesterday in the House of Rep-

resentatives by a distinguished Representative in that body from the State of Maryland.

Mr. JOHNSON. I do not know that that is in order, but I have no objection if the Senate have none.

Mr. DRAKE. It will take but a moment, and with the permission of the Senate I will read—

Mr. JOHNSON. It may compel me to reply, and I am unwilling to comment on the conduct of any member of the House of Representatives.

The PRESIDENT *pro tempore*. I suppose the Senator from Missouri has a right to read the remarks referred to as a part of his argument.

Mr. ANTHONY. I wish, as this discussion, although exceedingly interesting, has no possible reference to the matter under consideration, that we may be allowed to take the vote on the question, so that the resolution may go back to the House of Representatives, and then I shall have no objection to the discussion going on.

Mr. FESSENDEN. We might meet this evening for the purpose of hearing the speeches. [Laughter.]

Mr. ANTHONY. I should like to enforce a rule that every man who speaks should be compelled to stay here until every one else had got through. [Laughter.]

Mr. DRAKE. I understand the honorable Senator from Massachusetts to say that there is a bill pending here which has reference to the state of things in the State of Maryland.

Mr. SUMNER. A general bill giving suffrage to all without distinction.

Mr. DRAKE. And in the course of the discussion on that subject as a reason for our not adjourning, the honorable Senator from Massachusetts made some remarks with regard to the State of Maryland and the condition of things there in reference to the right of suffrage. The honorable Senator from Maryland replies to the remarks of the honorable Senator from Massachusetts and indignantly repels the charge that there is not a republican form of government in the State of Maryland. Now, sir, I have a word to say on that subject, and as it has been better said by a very distinguished gentleman from Maryland than I could say it, I will for two or three minutes trespass upon the time of the Senate to read what that honored Representative from that State said yesterday in the Hall of the House of Representatives as a part of my argument in this case. He said:

"I utterly deny here—I have denied it for thirty years of my life—that there is a republican government in Maryland. This tyranny and oppression no free people ought to submit to."

"Let me speak of these inequalities a little in detail. There are one hundred and fifty thousand, I suppose—I speak in round numbers, for I speak without premeditation or research—there are about one hundred and fifty thousand free white inhabitants located in these fifteen counties of Maryland where settlements were first made, while there are in other parts of the State five hundred thousand. These counties with one hundred and fifty thousand free white inhabitants have fifteen members of the Senate of Maryland out of twenty four, nearly two-thirds of that body. No law can be passed by that body without the consent of this one fifth. No law can be repealed without the consent of this one fifth part of Maryland."

"Under such a government the majority cannot rule in any of its departments. No matter how fixed, calm, deliberate, and unalterable may be that will of the majority, it can neither prevail in the legislative, executive, nor judicial departments of the government. Is such a government to be deemed republican in this age? Can gentlemen who surround me, and whose thoughts can go back to the character of their own State institutions, and compare them with the institutions as I have thus rapidly sketched, and tell me they are republican in form?"

The honorable Senator from Maryland has repelled with somewhat of indignation the charge that that State has not a republican form of government. With all respect to that distinguished gentleman, I take it that if these facts stated by a Representative on the floor of the other House yesterday be true, there is not a republican form of government in Maryland.

Mr. CONNESS. If the resolution concerning adjournment is still before the Senate I should like very much to have the Senate come

to a vote upon it. I ask the Chair what is the question pending?

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts, [Mr. WILSON.]

Mr. CONNESS. Concerning the resolution of adjournment?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. SUMNER. I ask for the yeas and nays on that amendment.

The yeas and nays were not ordered.

Mr. SUMNER. Let the amendment be read again.

The SECRETARY. It is proposed in the second line of the House resolution to strike out the words "Friday, the 29th instant, at three o'clock, p. m." and insert "Wednesday, the 10th of April next, at the hour of three p. m."

The question being put, a division was called for.

Mr. SUMNER asked for the yeas and nays.

The yeas were ordered; and being taken, resulted—yeas 13, nays 23; as follows:

YEAS—Messrs. Drake, Harlan, Howard, Howe, Morton, Nye, Pomeroy, Ross, Sumner, Thayer, Wade, Wilson and Yates—13.

NAYS—Messrs. Anthony, Buckalew, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Henderson, Johnson, Morgan, Morrill of Vermont, Norton, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—23.

ABSENT—Messrs. Cameron, Chandler, Doolittle, Ferry, Fowler, Grimes, Guthrie, Hendricks, Morrill of Maine, Patterson of New Hampshire, Riddle, and Saulsbury—12.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont, on which the yeas and nays have been ordered.

Mr. SHERMAN. Before the question is taken on that, I desire to move to amend the House resolution by striking out "Friday the 29th," and inserting "Saturday, the 30th."

Mr. SUMNER. I wish to move still another amendment to the proposition of the Senator from Vermont.

The PRESIDENT *pro tempore*. One at a time.

Mr. SHERMAN. I withdraw my amendment for the present; I can offer it afterward in case the amendment of the Senator from Vermont is voted down.

Mr. SUMNER. I now move to amend the amendment by inserting "five o'clock Saturday afternoon" instead of "twelve o'clock noon," so that we shall have five hours more for work. ["Oh, no."] To accommodate Senators, I will say four o'clock Saturday afternoon.

Mr. EDMUNDS. May I ask my friend from Massachusetts if that being done he will vote for the proposition?

Mr. SUMNER. No; I shall not.

Mr. EDMUNDS. Then I hope it will not be done.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Vermont.

The question being taken by yeas and nays, resulted—yeas 28, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Conkling, Conness, Corbett, Cragin, Dixon, Edmunds, Fessenden, Frelinghuysen, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Ramsey, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—28.

NAYS—Messrs. Drake, Harlan, Howard, Nye, Pomeroy, Ross, Sprague, Sumner, Thayer, Wade, Wilson, and Yates—12.

ABSENT—Messrs. Cameron, Cattell, Chandler, Davis, Doolittle, Ferry, Fowler, Grimes, Guthrie, Hendricks, Patterson of New Hampshire, Riddle, and Saulsbury—13.

So the amendment was agreed to.

The resolution, as amended, was adopted.

#### BILL INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia; which was read twice by its title.

Mr. HARLAN. I ask that the joint resolution lie upon the table for the present. I shall call it up hereafter.

#### EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The bill mentioned by the Senator from Illinois [Mr. TRUMBULL] is now before the Senate.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. NYE. I hope not. I ask the Senator from Ohio if he will not allow me to call up House joint resolution No. 51. It will not take a minute.

Mr. SHERMAN. Senators all around me have resolutions that they wish to have considered, and we must go into executive session.

Mr. NYE. This will not take a moment.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to; there being on a division—yeas 22, nays 14.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will clear the galleries and close the doors.

Mr. NYE. While the doors are being closed, I ask the Senate to take up House joint resolution No. 51. I know there will be no vote against it. A similar resolution has already passed the Senate two or three times. It will not take a moment.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. SHERMAN. I do not know what it is.

The SECRETARY. A joint resolution (H. R. No. 51) relative to the iron-clad monitor Comanche.

The PRESIDENT *pro tempore*. Is there any objection to its present consideration?

Mr. FESSENDEN. Let it be read in full for information, so that we may know whether to object or not.

Mr. CONNESS. It is the same resolution that has passed here twice unanimously.

Mr. FESSENDEN. Let it be read at length.

The Secretary read the joint resolution. It appropriates for the purpose of paying Donahue, Ryan & Secor for losses sustained by them in the construction of the monitor Comanche the sum of \$179,000, and directs the Secretary of the Treasury to pay them that sum.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

Mr. WILSON. I should like to know how that came before the Senate?

Mr. SHERMAN. We are now in executive session, and I feel compelled to object.

The PRESIDENT *pro tempore*. The doors are not yet closed.

Mr. CAMERON. I ask the consent of the Senate to allow me to have passed a resolution of inquiry.

The PRESIDENT *pro tempore*. Nothing further can be done. We are now in executive session.

After some time spent in the consideration of executive business, the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867.

The message also announced that the House had passed a resolution for an adjournment of the two Houses at three o'clock on Saturday, March 30, to the first Wednesday of July, each House then to meet for five successive days, and if a quorum of both Houses should not then appear, to adjourn without day.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled

bills and joint resolutions, and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 28) to grant to the American Atlantic Cable Telegraph Company, of New York, the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe via the Bermudas and Azores islands.

A bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867;

A bill (S. No. 105) to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning military forces to aid in suppressing the rebellion;

A joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs; and

A joint resolution (S. R. No. 43) in relation to the educational interests of the District of Columbia.

#### HOOR OF MEETING.

On motion of Mr. SHERMAN, it was

Ordered, That when the Senate adjourn to-day it be to meet at ten o'clock a. m. to-morrow.

#### MONITOR COMANCHE.

On motion of Mr. CONNESS, the joint resolution (H. R. No. 51) relative to the iron-clad monitor Comanche was considered as in Committee of the Whole.

Mr. CONNESS. I will state that this resolution has been already passed several times by the Senate; it has undergone the investigation of the Committee on Naval Affairs and received the approval of the chairman of that committee, [Mr. GRIMES.]

The joint resolution was reported to the Senate and ordered to a third reading.

Mr. SHERMAN. I wish to inquire whether this is the same bill that has been reported from the Committee on Naval Affairs and passed here two or three times?

Mr. CONNESS. Precisely the same, only the sum is eighty cents less. In all other respects it is precisely the same.

Mr. JOHNSON. It is exactly what we passed before unanimously.

The joint resolution was read the third time, and passed.

Mr. SPRAGUE. I move to take up the joint resolution in reference to surveys of the Mississippi river, which was under consideration this morning.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. HENDERSON. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The motion to adjourn takes precedence.

The question being put, the motion was agreed to, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, March 29, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BENTON.

#### ABSENCE OF THE SPEAKER.

The SPEAKER. Previous to the reading of the Journal the Chair will state that he will be compelled to be absent for the most of this day on account of the dangerous illness of a member of his family, and under the rule authorizing him to designate a member to preside temporarily during the day he will appoint Mr. BOWTWELL, of Massachusetts. He will return to the House during the day to sign enrolled bills.

The Journal of yesterday was then read and approved.

#### OHIO AND INDIANA WAR CLAIMS.

The SPEAKER *pro tempore* stated that the first business in order was on ordering the engrossment and third reading of the bill of the

Senate No. 105, to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning military forces to aid in suppressing the rebellion, on which the previous question had been seconded and the main question ordered.

Mr. CHANLER. I demand the yeas and nays on the passage of the bill. But first I ask that it shall be read in full, so we may know what we are voting on.

Mr. WARD. I ask members to pay attention to it.

The bill was read at length. The first section provides that immediately after the passage of this act the President shall appoint three commissioners, by and with the advice and consent of the Senate, who are not residents of the State of Indiana, whose duty it shall be to ascertain the amount of moneys expended by the State of Indiana in enrolling, equipping, subsisting, transporting, and paying such State forces as were called into service in said State since the 1st day of January, 1862, to act in concert with the forces of the United States in the suppression of the rebellion against the United States.

The second section provides that the commissioners so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by the State for the purposes therein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, and paying such troops as were called into service by the Government at the request of the United States department commander commanding the district in which Indiana may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed or used in suppressing rebellion in said State. No allowance is to be made for any troops who did not perform actual military service in full concert and cooperation with the authorities of the United States and subject to their orders.

It is provided in the third section that in making up the accounts the commissioners shall, for the convenience of the accounting officers of the Government, state separately the amounts expended respectively for enrolling, equipping, arming, subsisting, transporting, and paying the troops.

The fourth section directs that in the adjustment of accounts under this act the commissioners shall not allow for any expenditures or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

It is provided in the fifth section that so soon as the commissioners shall have made up the account and ascertained the balance they shall make written report, showing the different items of expenditure, to the Secretary of the Treasury, who shall cause the same to be examined by the proper accounting officers of the Treasury, who are to audit the accounts as in ordinary cases; and if it should appear that any sum remains due to the State, the Secretary of the Treasury is to draw his warrant for the sum, payable to the Governor of the State, and deliver it to him.

The sixth section provides that the commissioners shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of Indiana, and that they will to the best of their ability make a just, true, and impartial statement thereof. For their services they are to receive such compensation as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner.

The seventh section appropriates a sufficient sum to carry the act into effect.

In the eighth section the provisions of the act are extended in every respect to the State

of Ohio. The same proceedings are to be had for determining the amount due that State; and a sufficient sum is appropriated to pay the amount when ascertained, under the limitations and restrictions of this act.

Mr. CHANLER. Is it in order to move to refer this bill with instructions?

Mr. HOLMAN. The main question has been ordered.

The SPEAKER *pro tempore*. The motion is not in order, the main question having been ordered.

Mr. WARD. Have gentlemen any objection to a discussion of the bill for a short time?

Mr. EGGLESTON. I object.

Mr. WARD. I rise to a point of order, and my point of order is this: yesterday when this bill came before the House I made the point of order that under the rules it should go to the Committee of the Whole on the state of the Union as it contained an appropriation; but I was asked to withdraw my objection, and I stated I would do so if we could have an opportunity to debate the bill in the House. The gentleman from Ohio said certainly, and it was my understanding there should be an opportunity for debate after the previous question was seconded and the main question ordered.

The SPEAKER *pro tempore*. The Chair is of the opinion that that is not a point of order.

Mr. WARD. I move then to reconsider the vote by which the main question was ordered.

Mr. HOLMAN. I move that that motion be laid on the table.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 56, nays 32, not voting 76; as follows:

YEAS—Messrs. Allison, Archer, Delos R. Ashley, James M. Ashley, Baldwin, Benjamin, Benton, Bingham, Boutwell, Buckland, Burr, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Donnelly, Eckley, Eggleston, Eldridge, Farnsworth, Garfield, Getz, Gravelly, Halsey, Hamilton, Hayes, Holman, Hooper, Asahel W. Hubbard, Ingersoll, Kelley, Kerr, William Lawrence, Loughridge, Marshall, McClurg, Miller, Mungen, Niblack, Nicholson, O'Neill, Plants, Polsley, Schenck, Shanks, Taylor, Twitchell, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, John T. Wilson, Windom, and Wood—56.

NAYS—Messrs. Baker, Blair, Broomall, Chanler, Cornell, Cullom, Fields, Griswold, Hopkins, Chester D. Hubbard, Humphrey, Koonz, Marvin, Mercur, Morrissey, Noell, Perham, Poland, Robinson, Ross, Sawyer, Scofield, Stigraeves, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taber, Van Auker, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, and Woodbridge—32.

NOT VOTING—Messrs. Ames, Anderson, Banks, Barnes, Beaman, Blaine, Boyer, Bromwell, Brooks, Calk, Cobb, Cook, Covode, Dawes, Denison, Dodge, Driggs, Ela, Eliot, Ferriss, Ferry, Finney, Fox, Glossbrenner, Haight, Harding, Hill, Hubburd, Humphrey, Judd, Julian, Kelsey, Ketcham, Kitchen, Ladin, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, McCarthy, McCullough, Moore, Moorhead, Morgan, Morrill, Myers, Newcomb, Orth, Paine, Peters, Phelps, Pike, Pile, Pomeroy, Price, Pruyn, Randall, Raum, Robertson, Selye, Shellabarger, Smith, Spalding, Stone, Taffe, Thomas, Trowbridge, Upson, Van Aernam, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, and Woodbridge—76.

So the motion to reconsider was laid on the table.

During the vote,

Mr. TROWBRIDGE stated he was paired with Mr. HUNTER, and that the latter would vote for while he would vote against the measure.

The vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. CHANLER called for the yeas and nays.

Mr. VAN HORN, of Missouri. I rise to a point of order. This is a bill to reimburse Indiana for expenses incurred in repelling invasion. Under the ruling of the Supreme Court in the Milligan case there was no invasion. [Laughter.]

The SPEAKER *pro tempore*. The Chair cannot entertain that as a point of order.

The yeas and nays were ordered.

The question was taken on the passage of the bill; and it was decided in the affirmative—yeas 57, nays 36, not voting 71; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Banks, Benjamin, Bingham, Boutwell, Buckland, Burr, Butler, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cullom, Dodge, Donnelly, Eckley, Eggleston, Eldridge, Garfield, Gravelly, Halsey, Hamilton, Hayes, Holman, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Judd, Kelley, Kerr, William Lawrence, Loan, Logan, Loughridge, Marshall, McClurg, Miller, Mungen, Myers, Niblack, Nicholson, O'Neill, Peters, Pile, Plants, Polsley, Schenck, Shanks, Twitchell, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, and John T. Wilson—57.

NAYS—Messrs. Baker, Baldwin, Benton, Blair, Broomall, Chanler, Cornell, Ela, Ferriss, Fields, Getz, Glossbrenner, Griswold, Hopkins, Ketcham, Koonz, Marvin, Mercur, Morrissey, Perham, Phelps, Poland, Robertson, Robinson, Ross, Sawyer, Scofield, Stigraeves, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taber, Taylor, Van Auker, Ward, and Thomas Williams—36.

NOT VOTING—Messrs. Ames, Anderson, Areher, Barnes, Beaman, Blaine, Boyer, Bromwell, Brooks, Calk, Churchill, Cobb, Covode, Dawes, Denison, Driggs, Eliot, Farnsworth, Ferry, Finney, Fox, Haight, Harding, Hill, Hooper, Hubburd, Humphrey, Hunter, Julian, Kelsey, Kitchen, Ladin, George V. Lawrence, Lincoln, Lynch, Mallory, McCarthy, McCullough, Moore, Moorhead, Morgan, Morrill, Newcomb, Noell, Orth, Paine, Pike, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shellabarger, Smith, Spalding, Stone, Taffe, Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—71.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JURORS IN THE DISTRICT.

Mr. INGERSOLL. I ask unanimous consent to introduce a bill to regulate the selection of jurors for the civil courts of the District of Columbia.

Mr. HOLMAN. I ask it to be reported, reserving the privilege of objecting.

The bill was reported. It provides that all grand and petit jurors, to serve either in the criminal, circuit, or district courts in and for the District of Columbia, shall be selected and designated by the judges of elections for the cities of Washington and Georgetown in such manner and at such times as the judges of the supreme court of the District of Columbia, or a majority of the judges thereof, may determine; provided that the persons so designated shall be citizens of the United States, resident within said District, and shall be returned as the said judges may direct upon writs of *venire facias*. And when, by reason of challenge or other cause, there shall not be a sufficient grand or petit jury, the marshal or his deputy shall, by order of the court wherein such defect of jurors shall happen, return jurymen *de talibus circumstantibus* sufficient to supply such defect; but in case the marshal and his deputy are interested in the event of the cause, or not indifferent, the jurors aforesaid may be returned by such disinterested person as the court shall appoint, and to which person the court shall first administer an oath or affirmation that he will truly and impartially make such returns.

Mr. HOLMAN. It seems to me we ought not to take up a bill of this character so late in the session and so many members absent. Has this subject ever been before a committee of the House?

Mr. INGERSOLL. This bill was passed by the House during the latter part of the Thirty-Ninth Congress, and failed in the Senate for want of time. It is now presented with the recommendation of the members of the Judiciary Committee. There is a necessity for such a law as this in the District of Columbia, and if the gentleman has any doubt about it I will make a brief explanation of that necessity.

As the law now stands, the juries, both grand and petit, are obtained in this way, namely, the clerk of the city corporation of Georgetown,



the clerk of the levy court of Washington county, and the register of the city of Washington, on the 1st day of February every year, put into a box some five hundred and twenty names, selected by themselves. From this box of names the clerk of the supreme court of the District is first to take out twenty-three names of persons to serve as grand jurors for the March term of the criminal court, and twenty-six other names for the petit jury for that term, also for the next ensuing term of the circuit court for trials *à nisi prius* twenty-six more names. And so, just before the commencement of each term of the criminal or civil term, the same proceeding is had of drawing from this box. It sometimes happens that owing to a great many capital cases, in which twenty peremptory challenges are allowed, this box becomes exhausted, and in the latter terms of the court there can be no juries had. A year ago the criminal court had to adjourn from time to time through the entire month of December till a bill to provide relief could be passed through Congress. The present bill so changes the law as to give to the judges of election, who are presumed to be better acquainted with all the people, the power of selecting the names from which the jurors are to be drawn, and allows the court to prescribe such rules as will have all portions of the District of Columbia represented in the juries, and also to avoid the necessity of resorting to special legislation to get a jury when the box should have become exhausted.

The bill was read a first and second time.

Mr. INGERSOLL. I call the previous question on the engrossment and third reading of the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. INGERSOLL. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, House joint resolution No. 50, to furnish transportation of provisions to the destitute in the South.

The message further announced that the Senate had insisted upon its amendment to the amendment of the House to the amendment of the Senate to the House concurrent resolution in relation to the adjournment of Congress, and had agreed to the committee of conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. EDMUNDS, Mr. FESSENDEN, and Mr. HOWARD the conferees on the part of the Senate.

CALVIN ELY.

Mr. ELDRIDGE presented a memorial of the Legislature of Wisconsin, asking Congress to grant a pension to Calvin Ely, a blind man, of Dodge county, Wisconsin, on account of the military services and death of his only son, Lieutenant Colonel John H. Ely, of the tenth regiment Wisconsin volunteer infantry; which was ordered to be printed, and to be referred to the Committee on Invalid Pensions when appointed.

MICHAEL FISHER.

Mr. PILE, by unanimous consent, introduced a bill for the relief of Michael Fisher, of St. Louis, Missouri; which was read a first and second time, and ordered to be referred to the Committee of Claims when appointed.

MRS. ELIZA FITCH.

Mr. HUBBARD, of West Virginia, asked

and obtained leave for the withdrawal from the files of the House of the papers in the case of Mrs. Eliza Fitch.

#### PUEBLO OF SANTA ANA, NEW MEXICO.

The SPEAKER *pro tempore* laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of July 22, 1854, certain papers relative to the pueblo of Santa Ana, in New Mexico; which was ordered to be printed, and to be referred to the Committee on Public Lands when appointed.

#### BUSINESS ON SPEAKER'S TABLE.

Mr. GARFIELD moved that the rules be suspended, in order that the House may proceed to the consideration of business upon the Speaker's table.

The question was taken; and upon a division there were—ayes 25, noes 26; no quorum voting.

Tellers were ordered; and Mr. COOK and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 68, noes 16.

So (two thirds having voted in the affirmative) the rules were suspended, and the House accordingly proceeded to the consideration of business on the Speaker's table.

#### EDUCATION IN THE DISTRICT.

The first business upon the Speaker's table was Senate joint resolution No. 43, in relation to the educational interests of the District of Columbia; which was read a first and second time.

The joint resolution was read at length. It directs the Commissioner of Education to ascertain the number of children resident in the District of Columbia over the age of six years and under the age of eighteen years, the number of deaf, blind, and dumb, the number and character of public school-houses, number of teachers, number of pupils in attendance, number and character of school libraries, character of text-books used, average period per annum each pupil is taught and cost of tuition, with incidental expenses of select schools, and to report the same to Congress at its next session, with his opinion of the relative efficiency of the system now in force in the District of Columbia, and whether any further legislation is necessary to secure the advantages of said system to all the said children.

Mr. WELKER. I call the previous question on the third reading of this joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was read the third time.

Mr. WELKER. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAYMENTS DUE COLORED SOLDIERS, ETC.

The next business on the Speaker's table was Senate joint resolution No. 21, in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs; which was read a first and second time.

The joint resolution, which was read at length, provides in the first section that all checks and Treasury certificates to be issued in the settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, now residing, or who may have resided, in any State in which slavery existed in the year 1860, the claim for which has been or may be prosecuted by an agent or attorney, shall be made payable to the Commissioner of the Freedmen's Bureau, who shall pay the agent or attorney his lawful fees and expenses, and shall hold the balance subject to the order of the claimants on satisfactory identification. But no money is to be

paid to any person except the claimant or his or her legal representatives, if deceased; nor is any power of attorney, transfer, or assignment of the amount of said claims, or any part thereof, to be recognized or allowed by the Commissioner, or by any officer or agent acting under him; and it is to be the duty of the Commissioner, the officers, and agents of the Freedmen's Bureau to facilitate as far as possible the discovery, identification, and payment of the claimants.

The second section provides that the Commissioner of the Freedmen's Bureau shall be held responsible for the safe custody and faithful disbursement of the funds intrusted to him. In settling with the attorney or agent of the claimant strict compliance with the scale of fees prescribed by the second section of a joint resolution approved June 26, 1866, entitled "Joint resolution amendatory of a joint resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances to their heirs," approved June 15, 1866, is in every case to be required and enforced; and if any attorney or agent shall, in addition to the notarial fees and expenses of collecting such claim, demand repayment for money loaned or advanced to any claimant, he is to be required to make oath to the date and amount of such loan or advance, or payment of the fees and expenses is to be withheld; and when the claimant shall have been properly identified, and his account is ready for settlement, the balance due is to be paid in current funds, and not in checks or drafts.

The third section provides that all moneys held or disbursed under the provisions of this resolution shall be held and disbursed under the laws and rules and regulations covering other disbursing officers of the Army.

Mr. GARFIELD. I ask that this bill be laid over informally, as a number of the members of the committee to which it appropriately belongs are not now present.

Mr. CHANLER. I make the point of order that the bill contains an appropriation and must under the rules go to the Committee of the Whole.

Mr. GARFIELD. I believe there is no appropriation in the bill.

The SPEAKER *pro tempore*. The Chair is of opinion that there is no appropriation in the bill, and overrules the point of order.

Mr. CHANLER. I move that the bill be referred to the Committee on Appropriations.

Mr. GARFIELD. I trust that the bill will be passed over for the present informally.

Mr. HOLMAN. I suggest that the bill be referred to the Committee on Military Affairs.

Mr. GARFIELD. The committee is not yet appointed.

Mr. HOLMAN. I mean when appointed; for there is no reason why the bill should be passed at this time. It contains some provisions which ought certainly to be considered by a committee of this House.

Mr. CHANLER. I accept the suggestion of the gentleman from Indiana, and modifying my original motion move that the bill be referred to the Committee on Military Affairs when appointed.

Mr. HOLMAN. I call the previous question on the motion to refer.

The SPEAKER *pro tempore*. The Chair understands the gentleman from Indiana as objecting to the request of the gentleman from Ohio, [Mr. GARFIELD,] which requires unanimous consent, that the bill be laid aside informally.

Mr. SCOFIELD. I think there can be no objection to this bill.

Mr. HOLMAN. I suppose there are quite a number of objections to it. Its provisions have scarcely been distinctly heard amid the confusion prevailing at the present time, when, in view of our speedy adjournment, members are preparing to leave the capital, rather than attending to the ordinary performance of legislative business. The bill contains some provisions which I think ought to be considered by some appropriate committee.

How far Congress is justifiable in imposing restrictions upon the class of people referred to in the resolution may be a question of considerable moment. The resolution proposes to take all the pay and bounty due to this class of soldiers and place it under the control of the Freedmen's Bureau. The manner in which the power conferred is to be exercised is not clearly defined. The resolution provides virtually for the annulment of all contracts which these freedmen have made with reference to the collection of their pay and bounty. The exact manner in which these contracts are to be carried out may become a matter of some moment. I trust that a measure of so much importance, and in reference to which there exists no imperative necessity for action at this time, will be referred, so that it may be acted upon intelligently.

Mr. GARFIELD. This resolution, as I understand it, proposes simply to authorize the Commissioner of the Freedmen's Bureau to take charge of the collection and payment of the pay and bounties due colored soldiers and sailors. Instead of allowing them to be swindled by claim agents, or to take their chances among the lawyers of the country, the bill directs the Commissioner of the Freedmen's Bureau to take in charge the payment of the bounty due to colored soldiers and sailors. It directs the business shall be done under the Commissioner of the Freedmen's Bureau. It seems to me important and free from all objection; and if of any value at all, it needs to be in operation during the coming year, when these bounties are to be paid. To postpone it to the next session of Congress is to deny to these people the privilege of having the protection of the Freedmen's Bureau thrown around their claims.

Mr. HOLMAN. Mr. Speaker, in view of the position in which the colored soldiers and seamen have been placed by the action of Congress, declaring them competent to discharge the highest duty of citizens, this proposition to place them under guardianship, to put their money where they can have no control over it, seems to me to be very remarkable. There are a large number of these persons who were at different times enrolled in the Army and Navy. In what manner are they to receive this money from the Freedmen's Bureau? Under what rules and regulations is it to be paid? Under this bill when do you propose to give these men the control of the amount due to them from the Government?

If I understood the bill on its reading, it contains no provision except one, that the money due this class of persons, instead of being paid to those entitled to receive it, is to be paid into the Freedmen's Bureau. When and how and under what regulations is the colored soldier and sailor to receive his money? That is not provided for in any specific or definite manner. A mere discretion is conferred on the Freedmen's Bureau.

I say to the gentleman from Ohio [Mr. GARFIELD] it is a monstrous assumption that men recognized by law as citizens of the United States, possessing all the rights and privileges of citizenship, are to be denied the privilege of controlling the money to which they are entitled for service to the Government, the fruits of their own labor. It is a startling proposition.

Mr. CHANLER. Mr. Speaker, my objection to the reference by this bill of this money to the Freedmen's Bureau is grounded upon the reasons stated by the gentleman from Indiana, but it goes further than he does. If this plan is carried out a conflict, a collision in the practical working of that bureau is likely to take place, injurious to the bureau. That bureau was created for a specific object. That object is provided by law. It is clearly established with defined powers. The purpose for which it was established was not of a military character. It was established for the protection of labor in the South, with a collateral provision for refugees of the white race who from necessity may apply to that bureau for

relief, owing to the fact that the civil organizations and eleemosynary establishments of the South are unable to reach the necessity of the case.

Now, sir, this bill proposes in face of the specific organization of the Freedmen's Bureau, as an eleemosynary establishment, established for the protection of free labor, to put the soldier and sailor who happens by the misfortune of nature or by the blessing of nature to be colored in a classification distinct from his fellow-soldiers and sailors of the United States service. You remind me continually of the fact that he has been a slave, or his race has been enslaved. You take this man at once out of the peculiar line of duty in which he is engaged in the service of the United States and put him with those who are simply laborers. There is nothing consistent, reasonable, or necessary in this reference to the Freedmen's Bureau.

Now, sir, there is a place where this bill could receive the proper attention and care it deserves. There is a department to which it can be referred; and it strikes me as an effort on the part of the gentlemen of the Military Committee to relieve the officers of the United States having charge of the payment of soldiers of the United States from offensive contact with these colored men. It is wrong. It is an unfair insinuation against officers in command of these troops. It certainly is unfair to the colored soldier and sailor.

The provisions of this bill are not understood; I do not mean to delay it if it is right; but I hope it will be referred to the proper committee for consideration and report.

Mr. SCOFIELD. Mr. Speaker—

Mr. HOLMAN. I yield to the gentleman from Pennsylvania.

Mr. SCOFIELD. I think I have the floor.

Mr. HOLMAN. I think I have it; but I am very glad to give the gentleman an opportunity to speak.

Mr. SCOFIELD. The gentleman from Indiana has satisfied me that this resolution ought to pass. The object of it is to protect the colored soldiers against the fraudulent devices by which their small bounties are taken away from them. We have passed bills for the protection of white soldiers, not exactly like this, but having the same end in view, for the protection of men who from infancy have had the benefit of our common schools, and have acquired all that sharpness and self-reliance that come from the rough and tumble of American life.

Mr. HOLMAN. Allow me to ask a question: whether all the laws and regulations which have been designed to protect the white soldiers from the unjust demands and exactions of agents do not apply to the colored soldier as well?

Mr. SCOFIELD. No doubt they do. I say we have passed laws for the protection of white soldiers, but not going quite as far as this, because, unlike the blacks, they have not been excluded from your schools by legal prohibition, nor have they all their lives been placed in a dependent position. I know the colored people are ignorant, but it is not their own fault, it is ours. We have passed laws that made it a crime for them to be taught, and now, because they have not the learning that the white man has, gentlemen say we must not pass laws to protect them against plunder by the sharks that hang around the bounty offices. Have you not got enough from the colored man when you have robbed him of his wages all his life? After having induced him to enlist in the Army would you steal his bounty? I do not mean of course the gentleman from Indiana, but I mean those for whom he is unintentionally speaking, whose cause he advocates. Has not the black man suffered enough? Shall we not now give to the Freedmen's Bureau an opportunity to see that the balance of this little bounty shall get into the hand of the soldier himself, so that he shall have the money to spend either in the education of himself or his children?

If I am entitled to the floor I wish to call the previous question; if not, I surrender it to the gentleman from Indiana, with the simple remark that I hope his motion to refer will be voted down and the resolution passed.

Mr. HOLMAN. If the gentleman from Pennsylvania believes that such a law as this is necessary to protect this class of soldiers from being the victims of plunder and robbery by claim agents, why then the bill ought to pass. But, sir, if the safeguards that we have already adopted with reference to soldiers in general, to all classes, to prevent injustice being done them by claim agents, with the express injunction upon the War Department to use every reasonable degree of precaution to prevent extortion and injustice, if those safeguards are not sufficient to protect the colored soldier, then the only way is to place them under absolute guardianship. For to assume that men who are competent, as the gentleman assumes, to exercise the highest functions of American citizens, are not fit to be intrusted with money earned as soldiers and bounties received from the Government is certainly inconsistent.

Mr. SCOFIELD. Mr. Speaker, I think the white men in my district are as sharp and shrewd as they are anywhere, and yet I get letters from them almost every week complaining that they have been defrauded of their bounty, and asking me to go to the Department to see if I can some way or other protect them. I have no doubt the gentleman himself gets similar letters from the white soldiers who are cheated in his district. Now if, notwithstanding all the protection we give them, these sharp and shrewd white men, who have grown up in the full enjoyment and exercise of the rights of American citizens, have been and are continually defrauded to so great an extent, how much more will these cunning agents take advantage of the colored man, less educated, less trained to business? It is for this reason that I wish to throw around them this additional protection.

Mr. HOLMAN. Yes, sir; and if the laws are not now sufficient to protect our soldiers from injustice and imposition, then they ought to be made sufficient. And I would very gladly and cordially cooperate with the gentleman in the enactment of any law which might be necessary for that purpose, which should be applicable alike to all who have served the country in the late war.

But it comes to this, and the gentleman is driven to the conclusion, that men whom you have recognized by acts of Congress as not only competent to fill the ranks of the Army and Navy—such has been the policy of the Government—and of course entitled to receive the pay and bounty as soldiers, but over and above all that, and infinitely beyond that, as entitled to the great rights of citizenship—these men are to be placed under an absolute guardianship in reference to even the petty compensation to which they are entitled for their labor. Sir, it presents a strange condition of affairs, when vast numbers of men, soldiers in the Army, men who are to be allowed to exercise the highest rights of American citizens, are to be regarded as not fit even to be intrusted with the humblest rights of men in reference to property, not even with the advantage of the ample regulations which have been deemed sufficient to protect the white men of this country from injustice.

That is the main point which I make against this whole measure. Now, whatever may be the result of our action, we should see to it that it is not flagrantly inconsistent. If it is to be the policy of the Government to recognize these colored men as entitled to exercise the highest rights of American citizens, the right of elective franchise and the right to hold office under the Government, inseparably connected with the right of suffrage, we certainly will be acting very inconsistently to deny them the right of managing the simplest transactions of business, or permission to receive and expend the fruits of their industry.

Mr. PILE. Will the gentleman yield to me for a question?

Mr. HOLMAN. Certainly.

Mr. PILE. I wish to ask the gentleman this question: the gentleman speaks as if this proposed joint resolution was to deny to these colored soldiers a right. Now, I wish to ask him if he speaks as their champion in the protection of their rights; if he is the authorized exponent of their wishes?

Mr. HOLMAN. I would like to answer that question right here. I do not assume to be the exponent of any class or section of the American people, except so far as I represent their views and wishes. But I do assume to be the champion, however humble, of right where ever it may appear. I claim to be, in an humble sense, the champion of that equality of legislation which should be applicable alike to all classes of citizens who are placed upon the same footing by your laws. I would not deliberately enact a law applicable to but one class of citizens and at the same time enact another and a different law in reference to citizens occupying the same political grounds, the same high rights of citizenship. In other words, I would not say to a man whom I would invest with the invaluable right of suffrage, the highest right an American citizen can exercise, that he had not the intelligence and the ability necessary to manage the simplest affairs of business. I would not insult the common sense of the country by saying that these colored men are competent to control the destinies of the nation, to elect the highest officers of Government, to determine who shall enact the laws and occupy the Presidential chair, and then by law declare them incompetent to manage the most trivial affairs of ordinary business.

That is the principal ground of my objection to this joint resolution. If, as you assert, the colored man is competent to control the affairs of the nation, I insist that all public laws and regulations which are made applicable to any class of our citizens who participate in controlling public affairs should be made alike applicable to all who are invested with that high right; and that our laws should be sufficiently effective in their provisions to protect all men in their just rights of property. But it comes to this, that the millions of the African race in the South, just emerged from slavery, are competent to control, by their suffrages, the destinies of a great Republic, but incompetent to manage the smallest business transaction or receive the fruits of their labor. I now yield to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I desire to say one thing more, which it seems to me has been left out of the remarks which have been made in regard to this bill.

I perfectly agree with the gentleman that we ought to have general rules operating uniformly upon all classes of cases that are similar; but I call his attention and the attention of the House to the marked difference between the condition of the soldiers and sailors from the States lately in rebellion—the colored soldiers and sailors—and the position of other soldiers and sailors. Our soldiers and sailors, enlisted from northern States, came from States having regular organizations, States that kept account of their military and naval organizations, States that had their military State agents here at Washington to take care of the interests of their soldiers. These soldiers from the South had no such protection or care. Their State authorities were hostile to them. The colored people who enlisted in our Army and Navy enlisted very frequently hundreds of miles away from their homes. They have never since returned to their homes. Indeed, most of them have no homes to which to return.

One of the greatest difficulties existing at present is in finding the persons to whom the prize-money, the back pay, the bounties, &c., due by the Government properly belong. If the persons are ever to get their pay, somebody must look after them. We have now an organization specially charged with the duty

of looking after the interests of these freedmen. This Bureau of Freedmen's Affairs knows more than any other organization of the country in regard to the whereabouts of the people to whom the Government owes this money. If we are ever to give these men the money justly due them, if we are ever to identify them, so that the Government may not be defrauded by making payment to the wrong persons, and that the parties to whom the money rightfully belongs may not be defrauded by failing to receive it, I know of no means so well adapted to accomplish this end as to intrust this matter to the hands of the Freedmen's Bureau.

This resolution embraces but three sections. By the first it is provided in substance that all claims for prize money, bounty, back pay, and pensions due to colored soldiers and sailors or their heirs shall be paid over to this Bureau of Freedmen, to be held until they can be paid to the rightful owners. The second section provides rules, regulations, and restrictions for the careful keeping of this money and its payment to those who may present properly authenticated claims. The third section imposes upon the Commissioner of Freedmen's Affairs all the restrictions and obligations imposed upon any other disbursing officer of the Government. The whole measure is merely protective of the rights and interests of the parties concerned. I have examined the bill with some care during this discussion, and it seems to me very carefully drawn. I believe it ought to be passed. I call for the previous question.

The previous question was seconded, and the main question ordered; which was first upon the motion that the joint resolution be referred to the Committee on Military Affairs when appointed.

The motion was not agreed to.

The question recurring on ordering the joint resolution to a third reading, it was read the third time.

Mr. GARFIELD. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

On the passage of the joint resolution there were—ayes 52, noes 16; no quorum voting.

The SPEAKER *pro tempore*, under the rules, ordered tellers; and appointed Mr. GARFIELD and Mr. HOLMAN.

The House divided; and the tellers reported—ayes 62, noes 24.

So the joint resolution was passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DISTRICT ELECTION EXPENSES.

The next business on the Speaker's table was a joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of election for the cities of Washington and Georgetown, District of Columbia; which was read a first and second time.

The joint resolution was read at length. By the first section the corporations of the cities of Washington and Georgetown, in the District of Columbia, are required to pay, or cause to be paid, all necessary expenses, including printing, clerk hire, room rent, stationery, and a per diem compensation to each of the judges of election in the respective cities appointed under the act of Congress entitled "An act to punish illegal voting in the District of Columbia, and for other purposes," approved February 5, 1867, of five dollars per day for every day they shall be actually employed in the discharge of their duties, and the certificate of the judges of election of either city, or a majority thereof, of the correctness of any account arising out of the action of the judges shall be deemed sufficient to constitute the same a legal debt against the city to which the judges so certifying shall belong. It is to be lawful for any of the judges of election to administer oaths in all cases relating to the

duties assigned them by law, and any person willfully making a false statement under oath before any of them is to be deemed guilty of perjury, and on conviction thereof to be subject to imprisonment for the term of not less than one nor more than five years.

The second section directs the judges of the supreme court of the District of Columbia to appoint three commissioners of election in each voting precinct in the cities of Washington and Georgetown, who shall hold their offices for two years and until their successors are appointed and qualified, whose duty it shall be to take charge of the ballot-boxes at the polls at each election, to receive and deposit in the boxes the ballots of legalized voters in their respective precincts, to count the votes after the polls are closed, and declare the result, and make returns thereof as now provided by law. The commissioners of election are to receive the votes of all persons whose names are on the list of voters in the precinct, prepared by the judges of election, and none others; they are to have power to administer oaths, and to examine persons offering to vote, and other witnesses as to the identity of voters, and are to receive from their respective cities the same compensation for their services as is now paid to the commissioners of election in said cities. Any person swearing falsely relative to the same is to be deemed guilty of perjury, and on conviction thereof to be subject to imprisonment for the term of not less than one nor more than five years.

Mr. INGERSOLL. I move that the bill be put on its passage, and demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and it was accordingly read the third time.

Mr. INGERSOLL demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMERICAN ATLANTIC CABLE TELEGRAPH.

The next business on the Speaker's table was Senate Bill No. 28, to grant to the American Atlantic Cable Telegraph Company of New York the right of way and privilege to lay, land, and operate a submarine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe, via the Bermudas and Azores islands; which was read a first and second time.

Mr. INGERSOLL. I move that the bill be put on its passage.

Mr. HOLMAN. Let us hear the bill.

The bill was read at length. The first section vests the American Atlantic Cable Telegraph Company, of New York, with the right, power, and privilege, having acquired the necessary land therefor, to lay, land, and operate their cable or cables on the Atlantic coast, except the coast of Florida, within the jurisdiction of the United States, and the right, power, and privilege so to lay, land, and operate their cable or cables shall be vested in the said American Atlantic Cable Telegraph Company for the period of twenty years from the approval of this act; provided the company shall commence active operations within the space of two years from the approval of this act.

The second section provides that the American Atlantic Cable Telegraph Company, having acquired the necessary land therefor, shall have the right, power, and privilege to lay, land, and operate their cable or cables within any of the harbors, water, inlets, towns, and cities on the Atlantic coast, except the coast of Florida, offering the most practical and

convenient landing, and to construct or erect all the necessary fixtures to accomplish the object of this act.

The third section provides that the Government of the United States shall at all times have the preference in its use, upon terms that may be agreed upon between the Postmaster General and the company.

The fourth section provides that Congress shall have power to alter, amend, or repeal this act.

Mr. HOLMAN. There is no limitation of the charges for transmission over the wires for the Government.

Mr. CHANLER. This is only an extension of the power under the law passed in the Thirty-Ninth Congress, as I understand it. If so, that law contains all the limitations necessary in reference to the point made by the gentleman from Indiana. I recollect that the gentleman from Massachusetts [Mr. BALDWIN] debated them at the time.

Mr. STEVENS, of Pennsylvania. This is not the charter itself. The charter is contained in another bill. That contains all the minutiae.

Mr. HOLMAN. Would not the effect of the last section be to repeal the limitations heretofore made?

Mr. STEVENS, of Pennsylvania. Not at all. Mr. HOLMAN. It would, it seems to me, if this is supplementary to the other containing the limitations.

Mr. STEVENS, of Pennsylvania. It is a State charter.

Mr. HOLMAN. Then it does not refer to the same act to which the gentleman from New York alludes.

Mr. STEVENS, of Pennsylvania. I am not sure the one I refer to is the one he refers to. The charter under which they operate is a State charter.

Mr. SCOFIELD. What State?

Mr. STEVENS, of Pennsylvania. New York.

Mr. CHANLER. I was under the apprehension this was to extend the line from Florida.

Mr. STEVENS, of Pennsylvania. That was passed at the last session. This is not the same bill. Some gentlemen may think it is a chimerical scheme. It is a rival scheme to the line now between Europe and the United States. It grants no subsidy, and will probably cost the company four or five million dollars. It does not refer to the bill referred to by the gentleman from New York, I know, for I took some interest in that.

Mr. CHANLER. My idea was that it was a continuation of the same scheme.

Mr. BROOKS. It seems to me there is some careless phraseology in the bill, as I judge from hearing it read. In the first place let me ask the gentleman from Illinois why the coast of Florida has been reserved? And before he answers the question let me say it is reserved because we have already chartered a line to run, I think, from New York via Florida to Cuba. But as I understand the phraseology of this bill, it prohibits the use of the coast of Florida to any other line. Now, as Florida is a peninsula, stretching far out into the Gulf of Mexico, it is rather a broad use of words to except that whole coast without naming a reason why it is excepted.

Mr. INGERSOLL. I will say to the gentleman that I think he gives to the language of the bill a very wide construction, I imagine, when he says it would prohibit any other corporation from using any part of the coast of Florida. It only prohibits this company, as I understand it, from leaving the coast of Florida for the reason named by himself.

Mr. BROOKS. Let me call the attention of the House to the fact that it reserves the harbors and rivers of that coast for a number of years.

Mr. STEVENS, of Pennsylvania. I may be mistaken, but my impression was that it granted the coast of Florida to another company, and that this bill was intended to guard the interest of that company. I call for the reading of that portion of the bill.

The Clerk read the provision by which the telegraph company are authorized to lay their cable on the Atlantic coast, except the coast of Florida, and granting them privileges within any harbors or inlets except on the coast of Florida.

Mr. BALDWIN. I desire to say that I recollect very well the passage of the bill which granted the use of the coast of Florida to another company; and there were objections then raised on the ground that it was a monopoly. But there can be no monopoly in this case; it establishes competition. Therefore what was urged against that bill cannot be urged against this.

Mr. KELLEY. I desire to say a word or two on this subject. Without pretending to any familiarity with the details of the provisions of this bill, I am very glad to see a bill of this kind before the House. I should be glad to know that there were about to be constructed half a dozen ocean telegraph lines, if it were possible, and I will indicate my reasons by quoting a part of the language of Lord Derby at the last Lord Mayor's dinner, on the 9th of November, when he said, among other things:

"Peace has its triumphs as well as war; and in the course of the past year we can point with pride to a triumph more advantageous to the human race, redounding more to the credit of the country than any which could be acquired by any warlike operations, however skillfully carried on. I allude to that great triumph which has been achieved by British science, by British perseverance, by British energy, by which we have maintained our claim to exercise dominion over the sea, and combined in intimate and enduring bonds the great continents of Europe and America, between which we have succeeded in annihilating time and space."

The absurdity of that claim on the part of Great Britain I think all the world will soon recognize. But as the luster of the meteor flag of England has been dimmed by the splendor of our stars, I wish we could have half a dozen cables, so that they should feel that while they have one connecting the British Provinces on the north, we are independent of them in our relations with all other trans-Atlantic countries.

Mr. INGERSOLL. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SURVEYS OF RIVERS.

The next business on the Speaker's table was Senate joint resolution No. 28, in relation to the execution of surveys of rivers ordered by Congress; which was read a first and second time.

It provides that the chief of Engineers may, with the approval of the Secretary of War, employ such civil engineers, not exceeding five in number, for the purpose of executing surveys and improvements of western and north-western rivers, ordered by Congress, as may be necessary to the proper and diligent prosecution of the same; and the persons so employed may be allowed a reasonable compensation for their services, not to exceed the sum of \$3,000 per annum.

Mr. EGGLESTON. I do not suppose it is necessary for me to say anything upon this joint resolution. The object of it is to enable the Secretary of War to employ some extra engineers. There is more business now than the force of engineers can perform. I ask the Clerk to read a letter which I send up to his desk.

The Clerk read as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, March 23, 1867.

SIR: In reply to your communication of the 22d instant, inclosing a resolution referred to the Committee on Commerce, having for its object the employment of civil engineers by the War Department, and asking information on the subject, I have the honor to state that I approve of such provision by

Congress, with the limitation as to number and compensation specified in the resolution.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. Z. CHANDLER, Chairman Committee on Commerce,  
United States Senate.

Mr. COOK. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was read the third time.

The question was upon the passage of the joint resolution.

Mr. INGERSOLL. I hope there will be no objection to this joint resolution.

Mr. COOK. I call the previous question upon the passage of the joint resolution.

The previous question was seconded and the main question ordered.

The question was taken upon the passage of the joint resolution; and upon a division there were—ayes 51, noes 16; no quorum voting.

Tellers were ordered; and Mr. HOLMAN and Mr. Cook were appointed.

The House again divided; and the tellers reported that there were—ayes sixty-seven, noes not counted.

So the joint resolution was passed.

Mr. COOK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles, when the Speaker signed the same:

An act (S. No. 99) for the relief of Richard Busteed, jr.;

An act (S. No. 100) supplementary to an act for the relief of Hiram Paulding, rear admiral of the United States Navy;

Joint resolution (S. R. No. 41) for the purchase of lands adjoining the navy-yard at Brooklyn;

Joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river;

Joint resolution (H. R. No. 39) in reference to the payment of salaries of members of Congress;

Joint resolution (H. R. No. 41) providing for the necessary surveys for a ship-canal around the falls of the Ohio river for military, naval, and commercial purposes;

Joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes;" and

Joint resolution (H. R. No. 50) to furnish transportation of provisions to the destitute in the South.

#### IMPEACHMENT—ADJOURNMENT.

Mr. CLARKE, of Kansas. I rise to a question of privilege, and submit the following preamble and resolution:

Whereas upon charges preferred in the House of Representatives of the Thirty-Ninth Congress against the President of the United States of high crimes and misdemeanors, alleged to have been committed by him in the execution of his official trust, the Committee on the Judiciary of the said House, to which the same was referred, did report that for want of sufficient time they were unable to conclude their investigation, but that upon the facts disclosed it was in their judgment required and demanded that the inquiry should be prosecuted to a conclusion by the present Congress; and whereas in accordance with the said opinion this House did commit the said subject anew to its Committee on the Judiciary, which is now diligently engaged in the examination thereof; and whereas, in view of the report and recommendation of the Judiciary Committee of the last House, I would be dangerous to the public interest and a failure of duty on the part of the present Congress to adjourn and abdicate its practical control over the administration of the Government by surrendering its destinies, in the present critical condition of affairs, into the hands of an officer thus impeached before the nation, and well known not only to be hostile to the policy of its Congress, and to entertain the opinion that all the acts of that Congress looking to a restoration of the Union unconstitutional; Therefore,

Resolved by the House of Representatives, (the Sen-



ate concurring therein.) That the Speakers of the two Houses be directed to adjourn the same on Saturday, the 30th day of March, instant, at three o'clock p. m., to meet on the first Monday of June at twelve o'clock meridian, for the purpose of receiving the report of the Judiciary Committee of the House of Representatives on the charges preferred against the President, as aforesaid, and taking such order thereon, as well as on other matters which may be submitted to them, as the interests and exigencies of the Government may demand.

Mr. CHANLER. Is this a question of privilege?

The SPEAKER *pro tempore*. It is.

Mr. CLARKE, of Kansas. I desire to call the previous question on this preamble and resolution; but before doing so I will yield to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. Mr. Speaker, without expressing any opinion in relation to the resolution introduced by the gentleman from Kansas, or intimating what my vote will be upon it, I prefer that no action should be had until after the report of the conference committee (which is now out) upon the disagreeing votes of the two Houses. I deem it necessary, however, inasmuch as the question of impeachment is referred to in the resolution, to say a few words respecting the action of the Judiciary Committee on that subject.

During the Thirty-Ninth Congress the President of the United States was impeached by the gentleman from Ohio, and the resolution was referred to the Judiciary Committee, embracing five distinct propositions. The first charged the President with being guilty of corruptly using the veto power; the second with corruptly using the appointing power; the third with corruptly using the pardoning power. These several powers are vested in the President by the Constitution of the United States. No one can deny that he has the right to exercise these powers; the question is whether he has corruptly used them. Now, it will be seen that those three questions, having been submitted to the Judiciary Committee, the examination of them involved an extended investigation, requiring the examination of witnesses from various portions of the country, and necessarily demanded the occupation of much time.

In addition to that, the committee have been called upon to inquire into the question whether the President has corruptly disposed of the property of the United States; whether he has corruptly interfered with elections in the United States; and then, in addition, the general question, whether he has so corruptly conducted himself generally as to render himself impeachable under the clause of the Constitution authorizing impeachment for high crimes and misdemeanors.

The propositions which were submitted to the Judiciary Committee were broad in their character; and I apprehend from what was said by the gentleman from Maine [Mr. BLAINE] the other day that an erroneous impression has gone forth to the country in relation to the action of the committee upon the subject; for I understood the gentleman to say that the investigation has now come to be considered by the country as a "farce." I do not believe that the country knows what has transpired before the Judiciary Committee, and certainly I do not propose to give them that information. I can only say, in justification of the committee, that they have assiduously attended to the investigation from the time when the question was referred to them to the present moment; that day by day, and almost every day without intermission, they have devoted themselves to the subject. They desire that the question shall be settled one way or the other, for they, with other members of the House, believe that the country has been sufficiently agitated by this grave question, and that by reason of such agitation there is not that stability in the business of the country which ought to exist, and that until the question is settled instability will continue to prevail. Gentlemen of capital do not know whether or how to make investments, and the country ought to be quieted by having the matter decided one way or the other.

At the close of the Thirty-Ninth Congress the committee reported that they had come to no conclusion, but that, under the circumstances they deemed it proper and necessary that the investigation should be continued by the Fortieth Congress—expressing no opinion, but merely saying to the House and the country that they had not up to that time been able to perform the duties which the House had imposed upon them, but had arrived at such a stage that they deemed it proper that further investigation should be had. The House adopted the report, and since the commencement of the Fortieth Congress the committee have further devoted themselves to the investigation; and I may say (because it is not improper that I should do so) that the committee have now, by an arrangement, agreed that after separating at the close of the present session they will meet again about the 1st of May to continue their labors.

It is to be hoped, sir, by every American citizen that there will appear nothing to render necessary or justify the impeachment of the President; but if a state of facts should appear rendering it proper to impeach that officer, the Committee on the Judiciary will not shrink from their responsibility, but will recommend to the House articles of impeachment and the trial of the officer before the Senate of the United States. It is a duty that we did not seek, a duty from which we should be very glad to be relieved; nevertheless it is our duty; and in my judgment every member of the committee will candidly, fairly, and without prejudice examine this question, and report to the House the convictions of their deliberate judgment.

Sir, I make these remarks because, from the statement made by the gentleman from Maine, [Mr. BLAINE,] not now in his seat, erroneous inferences respecting the committee and their action in the premises might be drawn.

It is not my province, nor have I the right, to divulge anything before the committee; and I do not intend to do so. I merely mean to say that it is the intention of the committee to pursue the investigation fairly and assiduously, and to report to the House and the country the convictions of their judgment on the testimony brought before them.

Mr. WOOD. Mr. Speaker, I shall detain the House but for a few moments. When shall we cease this frivolous and absurd agitation? When will the majority here consent to give the country a little rest? When will the people of the United States be allowed to follow their honest pursuits without continual interference with those pursuits by this persistent and absurd agitation of the impeachment of the President of the United States?

Almost every day from the commencement of this session some member on that side of the House under some pretext, upon some question or the other, has presented this subject. What is the object? What does it mean? If there is to be impeachment, present the articles, take a vote, go on and do it now, sir, when the Senate is in session, and when it can proceed with the trial at once.

Mr. LOAN. I will ask the gentleman a question, and that is whether the members on his side of the House, acting in concert with him, will sustain the radical Union men on this side in forcing a vote before the adjournment of the present session of Congress on this subject?

Mr. WOOD. I can only answer for myself, individually. I have already said on this floor that I would go for the impeachment of the President or any other official on proper charges properly substantiated.

Mr. LOAN. The gentleman will pardon me, but he has not answered my question.

Mr. WOOD. I have; I can only speak for myself. What other gentlemen on this side of the House will do I cannot answer. I can only say what I will do.

But, Mr. Speaker, there is not a shadow of foundation upon which to base the slightest

pretext for this proceeding. The gentleman from Vermont, [Mr. WOODBRIDGE,] a member of the Committee on the Judiciary, virtually admitted that down to this time there is no foundation upon which they can predicate impeachment. There is more than this House or the people of this country knows in this continued agitation.

Mr. WOODBRIDGE. The gentleman must have misapprehended me. I made no such statement; I made no such concession. I did not design to throw out any intimation, one way or the other, as to my own private opinion or the opinion of any on the committee, or of any person respecting the guilt or innocence of the President of the United States.

Mr. WOOD. The gentleman from Vermont, in the remarks he submitted to the House, did say when the committee had proper evidence they would report impeachment resolutions. That was a virtual admission that up to this time, after elaborate investigation, they have been unable to obtain anything whatsoever upon which to base such action. The report of the Committee on the Judiciary of the Thirty-Ninth Congress virtually admitted, and indeed declared in terms, there was no evidence upon which to predicate such a proceeding.

Mr. WOODBRIDGE. The gentleman still misapprehends me. I do not wish it to go out to the country that, as a member of the Committee on the Judiciary, I have prejudged this case, or made any remarks which would authorize the gentleman in drawing the conclusion he has drawn. I said that at the close of the Thirty-Ninth Congress the Judiciary Committee submitted a report to the House, which was accepted. It was to the effect that they had been unable to complete their investigation, but that sufficient had come before them to induce them to recommend to the Fortieth Congress to proceed with the investigation. I believe that report was signed by every member of the committee, save the gentleman from New Jersey, [Mr. ROGERS.] I think the language was that it was not only proper, but there was a demand for further investigation; and that since the organization of the Fortieth Congress the committee had been earnestly engaged in pursuing the investigation, without prejudice or partisanship, and in due time would report the result of their examination to the House.

Mr. WOOD. Mr. Speaker, I think the fact that this committee have been now for nearly a year in a continual investigation of this matter, in which they have subpoenaed witnesses from every part of the United States, and have entered into a very close scrutiny of every particle of evidence that can be distorted into an implication of the President, and have reached the "lame and impotent conclusion" made to the last Congress, are sufficient to convince this country that there is in existence no evidence upon which the President of the United States can be impeached.

Mr. LAWRENCE, of Ohio. Will the gentleman allow me to correct him in one particular? He says the Judiciary Committee have been pursuing this investigation for about a year. They have been pursuing it for less than three months. It was not referred to them till January. I am not surprised that the gentleman does not understand the subject when he ventures such assertions as that they have been investigating the matter for a year.

Mr. WOOD. It is immaterial as to the number of months. I assume that if there is any evidence, that in three months they would be able to produce it, and the fact that they have not been able to do so is the very best reply that none exists.

Now, what is the condition of things presented here to-day? A motion is made that this House shall fix a time for the purpose of receiving articles of impeachment. The gentleman from Ohio [Mr. SCHENCK] made a speech of an hour the other day, in which he argued in favor of a perpetual session of Congress, because first, the President might do something wrong; second, the Supreme Court might

do something wrong; and third, the political condition of Maryland is obnoxious to a majority of Congress. I suppose if we wait a few days and hear from Connecticut the gentleman might find another reason in the anti-republican character of the constitution of that State.

Now, what a spectacle is exhibited. With all the material interests of the country paralyzed, the people groaning under onerous taxation, the business of the country going to destruction for want of proper legislation, the Congress of the United States is frittering away its time in a fruitless effort to find some fault with some State or some individual that may happen to be obnoxious to the majority here. Sir, I repeat it is absurd, and the absurdity of the proposition is only equalled by that of the arguments with which it is sustained.

Now, sir, let us hear no more of this. If the President is to be impeached, produce your articles. If he is not to be impeached, either proceed to legislation, or if you are not prepared to legislate, adjourn your Congress and give the country quiet and rest.

Mr. CLARKE, of Kansas. I yield fifteen minutes to the gentleman from Massachusetts.

Mr. BUTLER. Allow me to say that I had no knowledge of this resolution until it was read to the House. I have examined it, and I desire to say a few words in its behalf. In reply to the gentleman from New York, [Mr. Wood,] who says this is an absurd and unjust agitation of the question of impeachment, having had something to do with that agitation, I suppose I may without offense state some of the grounds upon which I have acted.

In the first place, as to what has been done by the committee. No man has a right to know what they know. It is enough that they have said solemnly that there is sufficient ground to continue the investigation, and that they have not completed it. That being so, no man has a right to say that they have found nothing. They have found something by which they feel themselves called upon to continue their search into the acts of the President.

The absurdity of this agitation, as it is called, may be seen in the fact that the Legislatures of two States have by solemn vote called upon Congress to investigate for the impeachment of the President. The necessity of the proceeding is sustained by the fact that petition after petition has been submitted under the rule and referred to that committee. It is seen in the fact that the country has no longer any confidence in the Executive. In my judgment the Constitution meant to provide that when the country, by an almost universal voice, expresses its loss of confidence in the Executive, the time has then come for Congress to declare that the occupant of the presidential chair, which he no longer fills, but obstructs, should be removed.

The gentleman from New York [Mr. Wood] says that such a precedent will put the Executive at the mercy of Congress. Well, who compose the Congress? Congress are the representatives of the people, fresh from them, speaking their will, echoing their thoughts, and enacting their high behests. It is for them to bring to the Senate, representing the organization of States, the charges against the high officer who has so offended against the peoples' will under the Constitution. And it is for that Senate, on their solemn oaths, to judge upon the state of facts thus presented. I hold and shall—I may say that the country holds—that every officer ought to continue in office upon that tenure alone, except possibly judges, who are the only exceptions, that they are removable by the representatives of the people upon such misbehavior in office as the people shall deem sufficient.

Now, with the full sense of all the responsibilities that are upon me, knowing that I speak in the face of the nation, I can inform the gentleman from New York of one piece of testimony that can be brought on oath before the Committee on the Judiciary. I do not say it

has yet been brought before them; but I say there is a piece of testimony that can be produced showing a gross abuse of the pardoning power by the President. A claim agent in West Virginia last year conceived the idea of having a large number of deserters from the Army of the United States pardoned, in order that he might obtain large gains from pressing their claims for their forfeited bounties and pay before the War Department. He took from the returns of the adjutant general of that State a list of one hundred and ninety-three deserters, forty only of whom he knew anything about; all the rest were unknown to him, except that they stood upon the rolls marked "deserters." He went to the Democratic candidate in one of the congressional districts of West Virginia—

Mr. WOOD. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. WOOD. I desire to ask the gentleman, while he is so ready to produce evidence to show an abuse of the pardoning power, which he deems a sufficient cause for impeachment, why does he not add to that an exposé of the lost leaves of Booth's diary?

Mr. BUTLER. I do not fully hear the question of the gentleman.

Mr. WOOD. I ask the gentleman why he does not submit to the country, and especially to the Committee on the Judiciary, the very important testimony which was lost when the leaves were torn out of Booth's diary? I think from the intimations of the gentleman from Massachusetts [Mr. Butler] in reference to that subject, some one, whether in his party or not I will not say, whether in this House or at the other end of the avenue I will not say, has been guilty of an outrage of much greater magnitude than an abuse of the pardoning power.

Mr. BUTLER. I will endeavor to answer the gentleman if I have time. Let me finish the statement I was making.

This claim agent in West Virginia called upon the Democratic candidate to state that if he could get these one hundred and ninety-three men pardoned they would vote the Democratic ticket in the last election, and as the district was likely to be close their votes would probably elect him. Thereupon the candidate wrote a letter to the President of the United States, which letter was sent to him.

Mr. ELDRIDGE. I rise to a question of order. The point of order which I wish to state is this: the gentleman now occupying the Speaker's chair [Mr. Boutwell] is aware of the fact that the gentleman from Massachusetts [Mr. Butler] has been permitted to come before the Committee on the Judiciary and examine a witness. The Chair is also aware that the injunction of secrecy has been imposed upon that committee. Now, I insist that, having been admitted before them by the courtesy of the committee, the gentleman from Massachusetts [Mr. Butler] has no right to comment upon the facts he is now giving to the House; he has no right to disclose any fact or statement which occurred before that committee.

Mr. BUTLER. I do not.

The SPEAKER *pro tempore*. The Chair cannot sustain the point of order raised by the gentleman from Wisconsin, [Mr. Eldridge,] because the House has taken no action in that respect upon the proceedings before the committee.

Mr. BUTLER. I am careful not to state anything as having taken place before the Committee on the Judiciary. What I am now stating I know outside of the committee. But if the gentleman from Wisconsin [Mr. Eldridge] chooses to tell the House that any such testimony as I am stating has been taken by the Committee on the Judiciary, it is he and not I who is making the revelation of what was done in committee.

Mr. ELDRIDGE. Mr. Speaker, I insist that I have not disclosed anything that occurred before the committee; but I have raised the question of order that the gentleman from

Massachusetts, having been before the committee, and having had the privilege of examining witnesses [Mr. Butler. A witness] has no right to state the facts which appeared before the committee. Does the gentleman allege that these facts which he is stating did not come to his knowledge before the committee?

Mr. BUTLER. I say to the gentleman from Wisconsin that these facts came to my knowledge before I was ever in the room of the Judiciary Committee, or else perhaps he never would have known anything about them till he hears the statement to the House the present time. He is the man who discloses what has been done in the Judiciary Committee when he says that I was before it. I have not said any word of what was done before the committee. The gentleman must keep the secrets of his own committee; I will not disclose them.

Now, I say again that that letter was sent to the President of the United States, saying that the district was close, and that if these men were pardoned they would vote the Democratic ticket and thus carry the district. With it was sent a copy of the list of deserters to the President of the United States, and thereupon every one of these one hundred and ninety-three men was restored to the roll and thus entitled to claim his pay and allowances, which they had forfeited by desertion; and the pay and allowances, in the judgment of those who have investigated the subject, exceed the sum of seventy-five thousand dollars.

Now, sir, I will explain to the House how I came to know anything about this matter; for, sir, I am no volunteer. The House did not seem to desire me to take any part in developing the evidence bearing on this impeachment, and I have let the House and its committee take care of itself in that regard. But, sir, I happen to be a member of the board of managers of the National Asylum for Disabled Soldiers; by the choice of my fellow-managers I am president of that board. The fund which Congress has appropriated to the support of our disabled soldiers in that institution consists of the fines and forfeitures suffered by deserters; and when I was looking after that fund, as was my duty to do, I found that without evidence to sustain him, without examination, the President of the United States, for political reasons, had taken \$75,000 of that fund which the managers of this institution, of which he was one *ex officio*, were to administer for the benefit of the disabled heroes of the war, and had turned it over to the deserters from the Army, on the understanding only that they should vote the Democratic ticket. Learning this fact, sir, I felt bound to pursue this investigation; and the testimony which I have now in substance given to the House has been given upon the oath of a brevet brigadier general of the Army of the United States.

Mr. HUBBARD, of West Virginia. Will the gentleman from Massachusetts be kind enough to tell the House to which district of West Virginia his remarks has reference?

Mr. BUTLER. The district represented by Mr. KITCHEN. Oh, sir, I have no concealment.

Mr. HUBBARD, of West Virginia. I only want to get at the facts for the benefit of history, and more particularly of West Virginia. [Laughter.]

Mr. BUTLER. All right, sir; the gentleman shall have them all. He is welcome to anything that I can do in this regard for the benefit of West Virginia or any other place.

Now, sir, let me state one fact further, because I have nothing to conceal about this matter—I am speaking upon sworn testimony; if it is not true, let it be investigated. I never brought out any of these facts bearing on impeachment except when I have been much enforced—

"Like the flint which shows a hasty spark,  
And straight is cold again."

Mr. WOOD. Will the gentleman permit me to ask him whether, according to this testimony or within his own knowledge, the President had personal cognizance of these facts?

Mr. BUTLER. I will state what the testi-

mony is. That list of one hundred and ninety-three deserters, with no other testimony but this letter, went to the President through the hands of Colonel Thomas B. Florence, who is somewhat known to members of the House; and the answer that came back was a restoration of every one of the men on that list, without dotting an i, or crossing a t, so far as can be seen, and upon no other testimony than the fact that they would vote the Democratic ticket; which I suppose would be a good reason for restoring all the deserters from the Army, thereby entirely absorbing the fund set aside for disabled soldiers.

Mr. WOOD. I submit that the reply of the gentleman from Massachusetts virtually acquits the President from any complicity in this transaction.

Mr. CLARKE, of Kansas. I yield to the gentleman from Massachusetts five minutes more.

Mr. BUTLER. I want to finish this statement to the House. My statement does not acquit the President, because he has no right to restore to deserters hundreds and thousands of dollars out of the Treasury without some evidence of some deserving other than that they will vote for the Democratic ticket; and he had no other evidence in this case. There is where the trouble comes in. He received a letter from the candidate for Congress, accompanied by a list of deserters, and without evidence, without inquiry, without anybody's recommendation, without any deserving on their part, he does that act which restores them, takes from the Treasury \$75,000, takes it from the poor maimed soldier, and gives it to these deserters.

I introduced the name of Colonel Florence because it was introduced in the testimony; and I never do anything behind any gentleman's back. The same testimony also shows when Mr. Florence brought back this list, which was sent to the claim agent in the charge of and directed to the care of Hon. Thomas B. Florence, that he was paid by this claim agent \$1,000 for his service in that behalf. Is there any other question any gentleman would like to ask me? [Laughter.]

Mr. CHANLER. I ask the gentleman if that is the rate at which Democratic voters were procured in his experience when he was a Democrat?

Mr. BUTLER. "Out of the abundance of the heart the mouth speaketh." I was never a Democrat in the gentleman's State. I never knew of any such transaction in my own.

Mr. CHANLER. I ask the gentleman to answer, because he seemed to make the assertion as if this were a Democratic question. I do not myself wish to be understood as in any way believing this has anything to do with the Democratic party. It is a transaction in a single district that has nothing at all to do with the Democratic party.

Mr. BUTLER. I do not charge the Democratic party with it. I never take notice of very small things, and I think the Democratic party is too small at present. [laughter.] I always like to take a man of my size, when I am going to strike. [Renewed laughter.]

Mr. CHANLER. I ask the gentleman if he thinks when he left the Democratic party he reduced it to its present size?

Mr. BUTLER. The country will judge what reduced it.

Mr. CHANLER. I am glad to hear that.

Mr. BUTLER. I cannot continue the colloquy with the gentleman, as it is not pertinent to the issue.

Mr. MARSHALL. I ask the gentleman from Kansas to yield to me a few moments.

Mr. CLARKE, of Kansas. I yield to the gentleman for a short time.

Mr. MARSHALL. I do not know whether I understood the gentleman from Massachusetts correctly. He speaks of facts which have been proven. To what evidence does he refer?

Mr. BUTLER. An investigation, sir, which I instituted for the purpose of seeing where the

money of the asylum over which I presided was going, and which I took care should be put in the proper channels.

Mr. MARSHALL. I wish to say merely a word in regard to this, as I have but a moment accorded to me. The investigation before the proper committee of this House it is not proper to speak of; but, sir, I think if all the facts were here it could be shown that the statements of the gentlemen from Massachusetts are unauthorized and are brought before the House this morning in an improper manner, and one which I venture to predict may turn out in the future not to be creditable to the gentleman who has thus dragged them at this time before the House.

This whole very grave and important question has been referred by the House to the appropriate committee. If the House will permit gentlemen of any party to come here from day to day and bring before the House and spread before the country their own *ex parte* statements of what they may claim to be evidence, the country may be kept in a ferment continually, great injury done to its material business interests, and gross injustice to the high officers whose conduct is subjected to rigid scrutiny. I insist that this mode of making *ex parte* statements and endeavoring to force the country to prejudge a matter undergoing the serious investigation of a committee of this House by its direction, is unwarranted and unjust, and ought not to be tolerated by the House. It ought, in my judgment, to receive its severest condemnation.

Mr. BUTLER. Will the gentleman allow me a single word?

Mr. MARSHALL. Yes, sir.

Mr. BUTLER. My justification is that the gentleman from New York [Mr. Wood] said this whole agitation was absurd and was not based on the slightest evidence. I was driven in self-defense to say what I did. I had not said a word either about Booth's diary or about this matter until somebody wanted to know. Then I always answer.

Mr. MARSHALL. I am not aware that the matter of Booth's diary has been up this morning.

Mr. BUTLER. Oh, yes; it was referred to by the gentleman from New York, [Mr. Wood.]

Mr. MARSHALL. The gentleman from Massachusetts, if I am not greatly mistaken, voluntarily brought before the House, in the first place, a matter of fact which he said could be proven, and upon that statement of pretended facts he makes a bitter attack upon the Chief Magistrate of our country. Now, without controverting the statement of the gentleman, or undertaking to say that I know anything about it, for I cannot allude to testimony taken before the committee of which I am a member, I repeat that when all the evidence is taken and published I trust that it will appear that there is no good ground for the attack made at this time upon the President by the gentleman from Massachusetts. This dragging before the House from day to day isolated statements of facts and evidence, whether fictitious or real, in regard to the conduct of the Chief Magistrate and other high public officers of the Government, is not only unjust and improper, but it should receive the severest condemnation of the House and of the country, and I believe all just-minded men will take this view of it throughout the length and breadth of this land.

But I will not trespass further upon the House, as I have the floor but for a moment merely by the courtesy of the gentleman from Kansas. I protest against this unjust and irregular method of proceeding against the highest officer of the Government, especially at this time when the whole subject is undergoing a grave judicial investigation before a committee of gentlemen, who I am satisfied will attempt to do justice, and do it in the proper manner and at the proper time.

Mr. CLARKE, of Kansas. Mr. Speaker, I have offered this resolution not so much for the purpose of expressing my own views upon the

question, as for the purpose of bringing the subject directly before the House and securing action upon it. On the 7th of January, 1867, the gentleman from Ohio [Mr. Ashley] presented a resolution to this House, with a preamble, as follows:

"I do impeach Andrew Johnson, Vice President and acting President of the United States, of high crimes and misdemeanors."

"I charge him with a usurpation of power and violation of law; in that he has corruptly used the appointing power; in that he has corruptly used the pardoning power; in that he has corruptly used the veto power; in that he has corruptly disposed of the public property of the United States; in that he has corruptly interfered in elections, and committed acts, and conspired with others to commit acts, which, in contemplation of the Constitution, are high crimes and misdemeanors."

On the 7th of January last the foregoing grave and solemn charges went forth to the country. The time proposed in this resolution for the adjournment of Congress is on the first Monday in June, which will make an interval of five months during which the Judiciary Committee of the Thirty-Ninth and of the Fortieth Congress will have had to prosecute their investigation. Now, sir, I ask the gentleman from New York, [Mr. Wood,] if charges of this character were preferred against him as a member of the House of Representatives, how long he would be content to sit in this body and delay a report of the committee charged with the investigation. I do not believe he would be willing to sit here two months or one month or even a single week.

I agree most fully with the gentleman from New York that if this means impeachment, why not act upon it at once. It is due to ourselves, it is due to the nation, it is due to the loyal people who, during the four years of war, sustained the flag of the Republic that we should go forward and act upon a question so seriously affecting the honor and welfare of this great nation. I agree with him that the question having been referred to the Committee on the Judiciary on the 7th of January for investigation, and that investigation having been prosecuted in the Thirty-Ninth Congress, and having been again by the action of the Fortieth Congress referred to the Judiciary Committee, it is due to ourselves, and most certainly due to the Chief Magistrate of this nation, that there should be action by that committee before the regular meeting in December.

It is for this purpose I have offered this resolution. The preamble contains no declaration that has not been made again and again both during the Thirty-Ninth Congress and the present session of the Fortieth Congress. There is no declaration, then, that has not been repeatedly affirmed by a majority of this House in reference to the acts of the President of the United States.

Now, one other remark. It was stated the other day by the gentleman from Maine [Mr. Blaine] that throughout the length and breadth of this land there could not be found more than twenty-five newspapers all told that were outspoken in favor of the impeachment of the President. Sir, in the district which I represent on this floor there are forty-one newspapers published in the English and the German languages. And of those forty-one papers I do not know of half a dozen which have not directly and frankly expressed the opinion that the President ought to be impeached and removed from office if found guilty. And during a late visit to my own State, while the Legislature of the State was in session, I became satisfied that had the question been brought fairly before them there would not have been, I believe, a dozen out of a hundred members who would have expressed an opinion in favor of the President.

I say again, it is due to the Chief Magistrate of this nation, it is due to the nation itself, if the President is guilty of the grave charges preferred against him by the gentleman from Ohio [Mr. Ashley] as long ago as the 7th of January last, that the prosecution should be carried to some final result. If he is innocent, then most certainly gentlemen upon the other side of this House, gentlemen upon all sides

of the House, will agree with me that the investigation ought to be so carried out as to show that fact.

I have therefore offered this resolution for the purpose of bringing the question before the House, believing that gentlemen upon all sides of the House ought to concur at least in the propriety of prosecuting this most important matter, relating so materially and directly to the welfare and honor of the nation, to a conclusion, whether it shall result in the conviction or acquittal of the President. I now call the previous question.

Mr. ROBINSON. Will the gentleman yield to me for two or three minutes? I see he has some of his hour yet left.

Mr. CLARKE, of Kansas. I cannot yield further.

Mr. EGGLESTON. I desire to move to lay this preamble and resolution upon the table. And I will state as my reason for that motion that I understand the committee of conference upon the disagreeing votes of the two Houses upon the adjournment resolution are now ready to report.

The SPEAKER *pro tempore*. No debate is in order.

The question was taken upon laying the preamble and resolution upon the table, and upon a division there were—ayes 45, noes 43.

Before the result of the vote was announced, Mr. CLARKE, of Kansas, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 52, nays 56, not voting 56; as follows:

YEAS—Messrs. Archer, Baldwin, Benjamin, Bingham, Blair, Brooks, Buckland, Burr, Chanler, Cornell, Denison, Eggleston, Eldridge, Ferriss, Getz, Glossbrenner, Griswold, Halsey, Hamilton, Hayes, Hill, Holman, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Laffin, Loughridge, Mallory, Marshall, Marvin, Mercier, Morrissey, Mungen, Niblack, Nicholson, Peters, Phelps, Pile, Poland, Robertson, Robinson, Ross, Sitzgreaves, Stewart, Taber, Thomas, Twitchell, Van Auker, Van Trump, Wood, and Woodbridge—52.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baker, Benton, Bontwell, Broomall, Butler, Cake, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Donnelly, Driggs, Eckley, Ela, Farnsworth, Fields, Garfield, Gravelly, Hooper, Hopkins, Hulburd, Ingersoll, Judd, Koontz, William Lawrence, Loan, Logan, McClurg, Miller, Morrell, Myers, O'Neill, Perham, Plants, Polsley, Sawyer, Schenck, Seofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—56.

NOT VOTING—Messrs. Ames, Anderson, Banks, Barnes, Beaman, Blaine, Boyer, Bromwell, Churchill, Cobb, Cullom, Dawes, Dodge, Eliot, Ferry, Finney, Fox, Haight, Harding, Asahel W. Hubbard, Hunter, Julian, Kelley, Kelsey, Kitchen, George V. Lawrence, Lincoln, Lynch, McCarthy, McCullough, Moore, Moorhead, Morgan, Newcomb, Neill, Orth, Paine, Pike, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shellabarger, Smith, Spaulding, Stone, Taffe, Taylor, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, and James F. Wilson—56.

So the preamble and resolution were not laid on the table.

During the call of the roll,

Mr. SHANKS said: I desire to state that my colleague, Mr. JULIAN, is absent by leave of the House on account of sickness in his family.

The question recurring upon seconding the call for the previous question; and being taken, upon a division there were—ayes 24, noes 70.

So the call for the previous question was not seconded.

Mr. BROOMALL. I move to amend by striking out all after the word "that" where it first occurs and inserting in lieu thereof the following:

The President of the Senate and Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at 3 o'clock p. m. on the 30th day of March, instant, to the first Wednesday of July, 1867, at noon, when the President of the Senate and the Speaker of the House of Representatives shall cause the roll of each House respectively to be called; and if there be no quorum present the said Houses shall adjourn from day to day for four successive days, and on each day the roll of the respective Houses shall be called; and if at every such calling there shall be found to be no quorum present in either the Senate or House of Representa-

tives, the said President and Speaker shall thereupon adjourn their respective Houses without day.

Mr. Speaker, I call the previous question.

Mr. BINGHAM. I ask the gentleman from Pennsylvania [Mr. BROOMALL] to permit me to move to amend his resolution so as to conform to the resolution which we passed yesterday, by striking out "either the Senate or House of Representatives" and inserting "both Houses."

Mr. BROOMALL. I cannot yield for such an amendment. It would spoil the sense, or have an effect different from that which I desire.

Mr. STEVENS, of Pennsylvania. I call for the reading of the original resolution.

The resolution was read.

Mr. BROOMALL. I withdraw the call for the previous question, for the purpose of saying that I am in favor of the original resolution, and have voted for the proposition which it contains in every shape in which it has been presented up to the present time. The fact, however, that the previous question has not been sustained indicates that at this time we are not going to pass that resolution. It is important that some resolution upon the subject of adjournment should be agreed upon. Should the substitute which I offer be adopted, the gentleman from Kansas can at any time renew his resolution, and we can have as much discussion upon it as we choose.

I was in favor of having a session on the first Monday of every month during the recess; and on each occasion when the question has been presented I have voted for the greatest number of sessions. But from the action of the Senate on various occasions, and from the disagreement of the committee of conference, about to be reported, I am satisfied that nothing more than this proposition can obtain the concurrence of the Senate. It avoids the difficulty urged by the gentleman from Ohio, because it does not put it in the power of a minority of either House to thwart the will of a majority of one House and the whole of the other; but it does leave it in the power of either House to prevent there being a session of Congress. I see no way to prevent that; and I am satisfied that a proposition of this sort is the most to which we can get the assent of the Senate.

Mr. BINGHAM. I ask the gentleman from Pennsylvania to yield to me for a few minutes.

Mr. BROOMALL. Mr. Speaker, I want to have some agreement about adjournment to-day, and I desire a speedy vote on this proposition. I yield, however, to the gentleman five minutes.

Mr. BINGHAM. Mr. Speaker, yesterday this House by a very large vote passed a resolution (which was sent to the Senate, but upon which, so far as we are advised, that body has not yet acted) providing for an adjournment of this Congress at three o'clock to-day until a designated day in June, on which day, if upon a call of the roll there should not be a quorum of both Houses in attendance, an adjournment should take place until a certain day in September, when again the roll should be called, and if there should not be a quorum present in both Houses, Congress should stand adjourned until the first Monday of December.

Now, sir, in this resolution the gentleman has omitted the word "both" and inserted the word "either"; the effect of which will be that if upon the roll-calls on the four consecutive days there should be found a bare quorum in one House, while in the other there should be no quorum, we could do no business and we could get no adjournment. Why, sir, this House cannot compel the Senate to enforce the attendance of a quorum any more than the Senate can compel this House to enforce the attendance of a quorum; and without a quorum in both Houses there could be no adjournment. I do not propose to sit here as a one-horse machine from next June until next December. I think the world has had lesson enough on the subject of a single representa-

tive assembly. I think France gave us a lesson during the four years of her single assembly from 1791 to 1794, a lesson she will never forget herself, and I undertake to say will never again repeat. I propose to stand by the principle of the resolution of yesterday, and allow the two Houses, if a quorum appear in each, to continue their session, whether we adjourn to June or July, until they finish what to them seems fit and good and right. I ask the gentleman to allow me to move to strike out "either" and insert for it the word "both." If he will do that I will go for his resolution. If he will not allow me to do that I will vote against it. I do not propose to initiate a proceeding of this sort, which in my judgment can but be disastrous to the great cause we represent, when the spectacle will be presented of a minority in one House and a quorum in the other struggling from day to day, and from week to week, unable to adjourn, until one House or the other certifies the fact to the President and you are prorogued under the Constitution.

Mr. BROOMALL. I will detain the House but a moment. The gentleman from Ohio has entirely mistaken the purport of the resolution. The resolution is this: if on such call there shall be found to be no quorum present in either the Senate or the House of Representatives, then there shall be a final adjournment; that is to say, if there is a quorum in the House and none in the Senate there shall be a final adjournment.

Mr. BINGHAM. No, sir.

Mr. BROOMALL. If there be a quorum in the Senate and none in the House then there shall be an adjournment. That is the language and meaning of the resolution; and the gentleman from Ohio has not read it or he would have come to the same conclusion precisely that I do.

Mr. BINGHAM. I ask the gentleman's attention one moment. Does he not know by reading his resolution if there be a quorum in the House alone they will not be adjourned? I beg him to answer that?

Mr. BROOMALL. I know to the contrary?

Mr. BINGHAM. If you know to the contrary then go on.

Mr. BROOMALL. If there be no quorum in either one or the other there shall be an adjournment. Now, can language be plainer than that? It means what he desires it shall mean, and nothing else.

Mr. STEVENS, of Pennsylvania. I should like to know, sir, how we are to ever get disentangled if we go on passing these resolutions in reference to the adjournment. How many resolutions have we already passed? Certainly we have passed one from which we have as yet no report from the Senate.

Now, I think, Mr. Speaker, instead of voting on any more of these resolutions to adjourn, we had better take a vote on the resolution of the gentleman from Kansas, [Mr. CLARKE.] That resolution means something, and all these other resolutions do not.

For the last three or four months I have been satisfied that the committee are making but a mere pretense of prosecuting the impeachment by way of throwing it out of doors. I do not believe they ever intended it, and I do not believe they intend it now. I should like therefore to have a direct vote on the proposition of the gentleman from Kansas, to know how we stand. Holding these views and believing that what we are now doing is only intended and calculated to delude the people and make them believe just what is desired, although we know the result will be contrary to their expectations, I very much prefer that we should have a direct vote on this question involved in the resolution of the gentleman from Kansas, so the country may know exactly where we stand. I hope my friend will withdraw his amendment and let us have a direct vote on the proposition of the gentleman from Kansas. If that is voted down, the gentleman can again move his proposition as a privileged question. It is hardly germane to the question now before



the House; it does not belong there; it is unfair to make it.

Mr. BROOMALL. I yield now three minutes to the gentleman from Illinois.

Mr. FARNSWORTH. I desire to second what has been said by the gentleman from Pennsylvania, [Mr. STEVENS.] It is time we should stop this feverish excitement which has extended all over the country upon this question; and I hope the gentleman from Pennsylvania [Mr. BROOMALL] will assent to the request of his colleague to allow a direct vote to be taken on the original resolution. If it is the wish of the House that the Judiciary Committee shall go on inquiring into the matter of impeachment until it is thoroughly investigated, let us say so by a direct vote. On the contrary, if the majority of the members of the House are of the opinion that there is no ground for impeachment, let them say so. This beating about the bush; this playing at the game of—I do not know what you call it—"now you see it, and now you don't see it;" this adjourning till June, with no intention of meeting then, but by resolution putting it beyond the power of Congress to meet at that time; this putting it in the power of a minority to prevent any business being done in June, even if we do meet, is all wrong and nonsensical.

I do not propose to express an opinion now as to whether the President is guilty and ought to be impeached or not, while we have the Judiciary Committee investigating that subject. I am willing to withhold my judgment until I can have their report and evidence before me. But since that Committee has already reported that sufficient evidence has been introduced before them to render it imperative that the investigation should be prosecuted still further, and this House by solemn resolution has referred the evidence again to the committee with instruction to pursue the investigation, is it not ridiculous and absurd for us to be playing this game of adjourning till next December, thus indirectly circumventing the Committee and putting it beyond their power to do what we have directed them to do?

It is a very simple question. It is to come square up to the mark and vote ay or no upon allowing the committee to make the investigation and reporting upon it, declaring that we wish them to report or that we will abandon the whole question of impeachment. I ask, in the name of common sense and in the name of the people of this country whose minds are unsettled, that the House of Representatives shall, with that dignity which becomes action upon so grave and solemn a question, decide either to go on with the impeachment or abandon it and let the country rest. I think we subject ourselves to the criticism which is made upon our acts by the gentlemen on the other side of the House. Many of their criticisms are just, and for my part I shall feel ashamed to go home and face my constituents after voting that this committee shall proceed with the investigation, and then voting to adjourn until next December.

Mr. BROOMALL. I yield two minutes to the gentleman from Vermont.

Mr. WOODBRIDGE. Mr. Speaker, I certainly regret that the distinguished gentleman from Pennsylvania [Mr. STEVENS] should so far forget the proprieties of debate and the rules of this House as to cast reflections, if not malignant aspersions, upon one of the committees of the House. Sir, as a member of that committee, I defer to the great ability, the mature experience, and the revered age of the gentleman, but I believe that the committee which he charges with the intention of shrinking from the duty devolved upon them by the House are his peers in purity, integrity, and devotion to the interests of the country.

What duty was imposed upon the committee? Was it to report according to the notions of the gentleman from Pennsylvania or the gentleman from Massachusetts, [Mr. BUTLER] upon common rumor and fame, a bill of im-

peachment? Was it to act upon the suggestions of gentlemen that the usurpation of the President in his public acts is so patent that we need no testimony? Sir, the committee would be untrue to themselves and the country should they make a report without careful and deliberate investigation.

The resolution of impeachment charges the President of the United States with corruption in the use of the veto power, in the use of the pardoning power, and in the use of the appointing power. Where is the evidence of that corruption? Is it in the statements of the gentleman from Pennsylvania, or of any other gentleman in this House? No, sir. It is only to be determined by human testimony sanctioned by the obligations of an oath, and the Committee on the Judiciary have honestly and faithfully, day after day, with care and without prejudice, examined witnesses upon the subject. The charges to which I have referred, together with those in reference to corrupt interference in elections, and of corrupt disposal of the public property, not only justify but demand that the committee should investigate the matter with the deliberation and candor of a court, and in no other way. And when the gentleman, with all his ability, rises upon the floor of this House and imputes improper motives to the committee, charging them with a design to thwart the wishes of the House, and to shirk the duty imposed upon them, it is a gratuitous charge, unjust and undeserved, and one that I am sorry to hear from the distinguished and revered gentleman from Pennsylvania.

That committee may act unwisely in the estimation of the gentleman; they may not be possessed of his transcendent ability; but they will act with honesty and sincerity of purpose, with zeal and industry. And when the proper time comes, they will, with as much fearlessness and manhood as the gentleman from Pennsylvania can desire, report the result of their investigation to the House for their action.

Mr. STEVENS, of Pennsylvania. Allow me to say that I intended to impugn the motives of no one. I spoke of the manner in which this investigation was being conducted, and stated my opinion that it was evidently leading to no result whatever.

Mr. BROOMALL. I desire to say that the amendment I have offered is not intended to interfere at all with the resolution offered by the gentleman from Kansas, [Mr. CLARKE;] but I saw that his resolution was going to take up much time, the previous question on it not being seconded. It can be renewed, if the gentleman desires, immediately after mine is disposed of. If no other gentleman will renew it, I will renew it myself.

I desire to modify my amendment in two particulars. I propose to increase the number of days upon which the roll is to be called from four to five. And I change the phraseology, without at all changing the meaning, so as to accommodate the critical gentleman from Ohio, [Mr. BINGHAM.] I propose that it shall read "if at every such calling either the Senate or House of Representatives shall be found without a quorum, the said President and Speaker shall thereupon adjourn their respective Houses without day."

Mr. BINGHAM. I agree to that.

Mr. BROOMALL. I would rather not put it in the power of the Senate to prevent a session at that time. But I am satisfied we will have to yield that point. I now call the previous question.

Mr. WILLIAMS, of Pennsylvania. I would ask my colleague [Mr. BROOMALL] if this resolution does not impart a license to the majority of both Houses to withhold their attendance here at that time?

Mr. BINGHAM. They have that license now.

Mr. WILLIAMS, of Pennsylvania. And will not the Senate be able to carry out their manifest determination to have no session before December next by not appearing here in July?

Mr. BROOMALL. If the gentleman will

point out any mode by which we can compel the attendance of a quorum of the Senate I will agree to modify my resolution in that way. But that cannot be done. I insist upon the call for the previous question.

The previous question was seconded.

The reading of the amendment, as modified, being called for, it was read, as follows:

Strike out all after the resolving clause, and insert in lieu thereof the following:

That the President of the Senate and the Speaker of the House of Representatives are hereby instructed to adjourn their respective Houses at three o'clock p. m. on the 30th day of March, instant, to the first Wednesday in July, 1867, when the President of the Senate and Speaker of the House of Representatives shall cause the roll of each House respectively to be read; and if there be no quorum present, the said Houses shall adjourn from day to day for five successive days, and on each day the roll of the respective Houses shall be called, and if at every such calling either the Senate or House of Representatives shall be found without a quorum, the said President and Speaker shall thereupon adjourn their respective Houses without day.

The main question was then ordered—ayes 81, noes 27.

Mr. CLARKE, of Kansas. I call for the yeas and nays upon the question of agreeing to the amendment of the gentleman from Pennsylvania, [Mr. BROOMALL.]

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 26, not voting 50; as follows:

YEAS—Messrs. Allison, Archer, Baker, Baldwin, Benjamin, Bingham, Blair, Boutwell, Brooks, Broomall, Buckland, Burr, Calkins, Chandler, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Denison, Dodge, Driggs, Eggleston, Eldridge, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Griswold, Halsey, Hamilton, Hayes, Hill, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Judd, Kerr, Ketchum, Koonz, Laffin, Lincoln, Loughridge, Lynch, Mallory, Marshall, Marvin, Mercer, Morrill, Morrissey, Niblack, Nicholson, Perham, Peters, Phelps, Pike, Plants, Poland, Robertson, Robinson, Ross, Sawyer, Scofield, Shanks, Sitgreaves, Stewart, Taber, Taffie, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Auker, Burt Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, Stephen F. Wilson, Window, Wood, and Woodbridge—88.

NAYS—Messrs. Delos R. Ashley, James M. Ashley, Benton, Butler, Sidney Clarke, Covode, Cullum, Donnelly, Elia, Farnsworth, Gravely, Ingersoll, William Lawrence, Loan, Logan, McClurg, Miller, O'Neill, Polsley, Schenck, Aaron F. Stevens, Thaddeus Stevens, Robert T. Van Horn, Ward, Thomas Williams, and John T. Wilson—26.

NOT VOTING—Messrs. Ames, Anderson, Banks, Barnes, Beaman, Blaine, Boyer, Brownell, Cobb, Dawes, Eckley, Eliot, Finney, Fox, Haight, Harding, Hulburd, Hunter, Julian, Kelley, Kelsey, Kitchen, George V. Lawrence, McCarthy, McCullough, Moore, Moorhead, Morgan, Mungen, Myers, Newcomb, Noel, Orth, Paine, Pike, Pomeroy, Price, Pruyn, Randall, Baum, Selye, Shellabarger, Smith, Spalding, Stone, Van Aernam, Van Wyck, Cadwalader, C. Washburn, William B. Washburn, and James F. Wilson—30.

So the amendment was agreed to.

The question recurring on agreeing to the resolution as amended, it was agreed to.

Mr. BROOMALL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on agreeing to the preamble.

Mr. BROOMALL. My resolution was intended as a substitute for the preamble as well as the resolution.

The SPEAKER. A substitute cannot be offered for both a resolution and a preamble.

Mr. BROOMALL. I hope, then, that the preamble will not be adopted. I move that it be laid on the table.

Mr. CLARKE, of Kansas. On that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion to lay the preamble on the table was agreed to.

#### DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS, of Pennsylvania, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, having met, after full and free conference have agreed to recommend,

and do recommend, as follows to their respective Houses:

That the House recede from their first amendment and agree to the second section of the bill, with the following amendment:

Add to the second section the following:

And the newspapers in the ten rebellious States named in section seven of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, which have been or may be designated in pursuance of the provisions of said section for the publication of the public laws and treaties of the United States, shall publish the public laws and treaties of the Thirty-Ninth Congress, authentic copies of which it shall be the duty of the Secretary of State to furnish as soon as possible after receiving notice of such designation. And there is hereby appropriated out of the Treasury from any moneys not otherwise appropriated a sum sufficient to pay for such service: *Provided*, That the accounts therefor shall be settled in the usual manner; and the compensation shall not exceed the rate fixed in section seven aforesaid.

That the House agree to the third amendment of the Senate to the fourth amendment of the House.

That the House agree to the fourth amendment of the Senate to the fourth amendment of the House, with an amendment as follows:

In line nine of said fourth amendment of the Senate strike out the word "twenty" and insert in lieu thereof the word "fifteen."

THADDEUS STEVENS,  
CHARLES A. ELDRIDGE,  
*Managers on the part of the House.*  
LOT M. MORRILL,  
GEORGE F. EDMUNDS,  
*Managers on the part of the Senate.*

Mr. NIBLACK. I desire to inquire of the gentleman from Pennsylvania [Mr. STEVENS] whether he has given attention to the question of the cost of publishing the laws in the manner proposed by section seven of the appropriation bill to which this amendment refers; whether he has compared the probable cost of publishing the laws in this way with the amounts we have heretofore paid for similar services? I am told by gentlemen who have examined the matter that under this amendment to the seventh section of the civil appropriation bill the Government will be obliged to pay about twelve times the amount which is now paid for publishing the laws and treaties of the United States.

Mr. STEVENS, of Pennsylvania. Will the gentleman be kind enough to inform me by what language in the bill the compensation is increased at all?

Mr. NIBLACK. The increased expense results, I understand, from the different manner in which the pay is estimated. I am informed that under this bill the payment for publication will be computed by the document page, while by the law heretofore existing it is computed in some different manner. I desire to call the gentleman's attention to the point. If he has not investigated it, I think it is worthy of investigation.

Mr. STEVENS, of Pennsylvania. We have taken care in the proviso to limit the rate of payment to what has heretofore been paid for such service. Any increased expense is distinctly guarded against. The gentleman, I presume, has been misinformed, perhaps by some one who had looked at the provision before its form was finally agreed upon. The language was at one time, I believe, capable of a latitude of construction which might have allowed an increase in the rate of payment; but I think the gentleman will find on examination that the provision as now agreed upon will prevent anything of that kind.

As to the rate of payment to newspapers in this District, we have fixed it precisely as it was before. Although there were some suggestions that we ought to increase the rate, we have not done so. I think the gentleman from Indiana will find that he has been misinformed.

Mr. NIBLACK. I am not prepared to make any positive statement in regard to the matter. I am not myself a practical printer, and do not understand the manner in which the payment for this sort of work is computed.

At all events, sir, I understand that it is proposed to go back and publish the laws of the Thirty-Ninth Congress in full. This will involve a heavy expense.

Mr. STEVENS, of Pennsylvania. In the rebel States it goes back to the treaties and

laws of the Thirty-Ninth Congress not already published. Some of these laws which the gentleman speaks of the citizens of that part of the country would feel a particular interest in. It was thought proper that they should have a knowledge of these laws. I now call for the previous question.

Mr. ELDRIDGE. I think a misapprehension exists in regard to a statement made by the gentleman from Pennsylvania. He was understood to state that the bill provides for the publication of the laws of the Thirty-Ninth Congress, with this addition, "not yet published." If the gentleman from Pennsylvania made that statement, and he was so understood, he is mistaken. Those words are not in the bill.

Mr. STEVENS, of Pennsylvania. They are not in the bill; but no one supposes they are to be published a second time.

Mr. ELDRIDGE. A different officer is required by this bill to designate the papers in which they are to be published.

Mr. STEVENS, of Pennsylvania. The Secretary of State is required to furnish authentic copies of such papers.

Mr. ELDRIDGE. I see nothing in the bill that will limit the officer to the publication only of those laws not already published. The bill will give him power to publish all the laws and treaties of the Thirty-Ninth Congress.

Mr. STEVENS, of Pennsylvania. The Secretary of State is specially required to furnish copies under this designation. I now insist on the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HOUR OF MEETING.

Mr. GARFIELD. I move that when the House adjourns to-day it adjourn to meet at ten o'clock to-morrow morning. I think this precaution is necessary.

Mr. SCOFIELD. I understand the last claim any one could think of has gone through. If that is so, there is no necessity of meeting before twelve o'clock.

The SPEAKER. The motion to adjourn is not debatable.

Mr. BINGHAM. Has a resolution been received from the Senate to adjourn over until next July?

The SPEAKER. The Chair thinks not. It would have been reported from the Clerk's desk.

Mr. BINGHAM. They provide if no quorum be found on the first roll-call the adjournment shall be without day. I hope we will wait until that resolution comes here.

Mr. GARFIELD. I ask for a vote on my motion.

The SPEAKER. It will require a two-thirds vote on a suspension of the rules to change the hour of meeting from twelve o'clock m. to ten a. m.

The House refused to suspend the rules.

#### IMPEACHMENT—AGAIN.

Mr. CLARKE, of Kansas. I rise to a question of privilege, and submit the preamble and resolution which I send to the Clerk's desk.

The Clerk read as follows:

Whereas upon charges preferred in the House of Representatives of the Thirty-Ninth Congress against the President of the United States, of high crimes and misdemeanors alleged to have been committed by him in the execution of his official trust, the Committee on the Judiciary of the said House, to which the same was referred, did report that for want of sufficient time they were unable to conclude their investigation, but that upon the facts disclosed it was in their judgment required and demanded that the inquiry should be prosecuted to a conclusion by the present Congress; and whereas, in accordance with the said opinion, this House did commit the said subject anew to its Committee on the Judiciary, which is now diligently engaged in the examination

thereof; and whereas, in view of the report and recommendation of the Judiciary Committee of the last House, it would be dangerous to the public interest, and failure of duty on the part of the present Congress, to adjourn and abdicate its practical control over the administration of the Government by surrendering its destinies in the present critical condition of affairs into the hands of an officer thus impeached before the nation, and well known not only to be hostile to the policy of its Congress, and to entertain the opinion that all the acts of that Congress looking to a restoration of the Union are unconstitutional; Therefore,

*Resolved*, That the Committee on the Judiciary be requested to report on the charges preferred against the President, as aforesaid, on the first day of the meeting of the House after the recess hereafter to be determined.

The SPEAKER. The Committee on the Judiciary have a right to report at any time, and as this commands them to report, the Chair will rule that it will require a two-thirds vote.

Mr. CLARKE, of Kansas. I modify the resolution so as to say "requested" instead of "directed," and demand the previous question.

Mr. ELDRIDGE. I would inquire of the Chair whether that will require the Judiciary Committee to make a final report or only such progress as they have made?

The SPEAKER. The resolution explains itself; it is a request to report on the first day of the adjourned session. The Clerk will report the resolution.

The resolution was again reported.

Mr. SCHENCK. I raise the question of order that this resolution does not require a modification from "instruct" to "request" in order to carry it by a majority.

The SPEAKER. The Chair will arrest the remark for the reason that the gentleman is not the author of the resolution. The gentleman from Kansas has modified his own resolution and demands the previous question.

On seconding the previous question, there were—ayes 45, noes 37; no quorum voting.

The Chair ordered tellers; and appointed Messrs. CLARKE, of Kansas, and HUMPHREY.

The House divided; and the tellers reported—ayes 59, noes 31.

So the previous question was seconded and the main question ordered.

Mr. ROBINSON. I move to lay the resolution on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 63, not voting 63; as follows:

YEA—Messrs. Archer, Bingham, Blair, Brooks, Buckland, Burr, Chanler, Reader W. Clarke, Cornell, Denison, Eldridge, Ferriss, Fields, Getz, Glossbrenner, Griswold, Holman, Chester D. Hubbard, Humphrey, Kerr, Ketchum, Ladin, Marshall, Marvin, Morrissey, Mungen, Niblack, Nicholson, Phelps, Plants, Robinson, Ross, Sitgreaves, Stewart, Taber, Van Auker, Van Trump, and Wood—38.

NAY—Messrs. Allison, James M. Ashley, Baker, Benton, Boutwell, Broome, Butler, Calk, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Donnell, Driggs, Eckley, Eggleston, Eli, Farnsworth, Garfield, Gravelly, Haley, Hamilton, Hayes, Hooper, Hopkins, Hulburd, Ingersoll, Judd, Kelley, Koontz, William Lawrence, Loan, Logan, Loughbridge, Mallory, McClurg, Mercur, Miller, Morrill, Myers, O'Neill, Perham, Pile, Polster, Robertson, Sawyer, Schenck, Scofield, Shanks, Thaddeus Stevens, Taylor, Trowbridge, Upson, Robert T. Van Horn, Ward, Walker, Thomas Williams, William Williams, John T. Wilson, Windom, and Woodbridge—63.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Baldwin, Banks, Barnes, Beaman, Benjamin, Blaine, Boyer, Brownell, Cobb, Dawes, Dodge, Eliot, Ferry, Finney, Fox, Haight, Harding, Hill, Asahel W. Hubbard, Hunter, Julian, Kelsey, Kitchen, George V. Lawrence, Lincoln, Lynch, McCarty, McCullough, Moore, Moorhead, Morgan, Newcomb, Noell, Orth, Paine, Peters, Pike, Poland, Pomeroy, Price, Pruyn, Randall, Raum, Selvie, Shellabarger, Smith, Spaulding, Aaron F. Stevens, Stone, Taffe, Thomas, Twitchell, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, James F. Wilson, and Stephen F. Wilson—63.

So the resolution was not laid on the table.

The resolution was then agreed to.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred on the adoption of the preamble.

Mr. CLARKE, of Kansas. I demand the previous question.

Mr. GARFIELD. I hope the preamble, which is inconsequential, will not be adopted.

On seconding the previous question, there were—ayes 37, noes 46.

Mr. CLARKE, of Kansas, demanded tellers. Tellers were ordered; and the Chair appointed Messrs. CLARKE, of Kansas, and GARFIELD.

The House divided; and the tellers reported—ayes 36, noes 50.

So the previous question was not seconded.

Mr. GARFIELD. I only desire to say that it seems to me, as we have now passed the substantial proposition which the gentleman has offered by a vote which manifestly expresses the sentiment of the House, it is improper for us to adopt a long preamble, reciting facts and in a *quasi* way committing the House to a proposition that ought not to be acted upon until the report of the committee is made.

Mr. CLARKE, of Kansas. Will the gentleman permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. CLARKE, of Kansas. I desire to ask the gentleman if he can name a single statement in this preamble which is not justified by the facts?

Mr. GARFIELD. I wish to state generally upon this subject that when I came here to take my seat at the last session of Congress, I was ready, in case the House desired it, to proceed to a consideration of the question and determine what action should be taken in reference to the President of the United States. But after mature deliberation this House resolved to refer the whole subject to one of its standing committees, in order that there might be a complete and thorough examination of the question. From that moment forward I laid the whole matter by, awaiting the action of that committee. Since that time I have not taken it up even in my own mind for investigation. I have been unwilling since that time to give a vote upon the subject until I heard from the committee.

Whenever that committee shall make its report, I shall be ready to consider it and act upon my personal responsibility in regard to it. But I object to being forced to vote upon any resolution drawn up and offered by any member which shall foreshadow a decision of the question or intimate any particular decision one way or the other to which we should come. I would not to-day vote that Andrew Johnson ought to be impeached, nor would I vote that he ought not to be impeached, for the very reason that we have committed that question to the Committee on the Judiciary, and I think we are bound in a judicial way to wait for their report.

I object that a resolution very brief and very proper shall have so long a tail to it as this preamble. I very strongly suspect that this tail was the object of the gentleman rather than the resolution itself. I was willing to give him his resolution; I voted for it. And I am entirely willing to vote for the first two whereases of this preamble if the gentleman desires to deal in that article, for they merely recite the history of this case up to this time. But when he comes to the last whereas, which declares that the President is impeached by the American people, I am unwilling to vote for it until I hear what our committee, to whom was referred this whole subject, has to say in the premises. I am willing the first two whereases shall stand if the gentleman from Kansas will consent to strike out the last one. I am willing to compromise with him on that. If he will not consent to that I shall move to lay the whole preamble on the table. We are to pass resolutions, not to obtain credit for long speeches in the way of preambles.

I now yield for a few minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker—

Mr. NIBLACK. Will the gentleman yield to me for a moment?

Mr. BUTLER. For a question; certainly.

Mr. NIBLACK. I only desire to say, that after having given this subject a great deal of attention as a listener merely, for I have said but little upon it, I have come to the deliberate conclusion that we are very badly demoralized, not only upon the impeachment question, but upon the question of adjournment. And I feel very anxious as to what will be the result.

Mr. UPSON. The gentleman says "we are very badly demoralized." I suppose "we" means the gentlemen on his side of the House.

Mr. BUTLER. I want to read these objectionable whereas sentence by sentence, especially the last one, and see what there is so very bad in them:

And whereas in view of the report and recommendation of the Judiciary Committee of the last House it would be dangerous to the public interest and a failure of duty on the part of the present Congress to adjourn and abdicate its practical control over the administration of the Government—

Let us stop here for a moment. Does anybody vote against that who is an earnest man on this subject of impeachment? "In view of the report of our committee and the past action of the House, it would be dangerous to adjourn and abdicate our control over the destinies of this country." That is all the preamble amounts to thus far. What else does it say?

Over the administration of the Government, by surrendering its destinies in the present critical condition of affairs into the hands of an officer thus impeached.

"Thus impeached." That is, impeached by the report of our committee, so far as it does so. Not impeached in the judgment of anybody in the House, but "thus impeached" by the report. That is the proposition—

Before the nation, and well known not only to be hostile to the policy of its Congress.

Sir, let me look in the face of any gentleman who desires to vote that Andrew Johnson is not "well known to be hostile to the policy of Congress." Such a man would be a curiosity.

But to entertain the opinion that all the acts of Congress looking to the restoration of the Union are unconstitutional.

Does not Andrew Johnson "entertain the opinion that all the acts of Congress looking to restoration are unconstitutional?" Then we say in the preamble only that by the judgment of the committee and by the action of the House we have so far impeached him that we think it is not safe for us to abdicate and thus trust the interests of this great nation to his control. Now, sir, if there is any one who is at all tender-footed on this question—and I know that my friend from Ohio [Mr. GARFIELD] never is so on any subject—I ask him to think upon it. So far as Andrew Johnson has been impeached by the action of our committee, and so far as the action of Congress in coming together here at this session declares that Andrew Johnson is not to be trusted with control, in so far do we declare that we cannot surrender the control of the destinies of this country into the hands of one who believes that every act of this Congress is unconstitutional.

Why, sir, if Andrew Johnson is the bold man that he is claimed to be, if he is a man of any executive ability, if he has any conscience, what is his duty when this Congress adjourns? He says he believes that all our reconstruction acts are unconstitutional, and therefore void; and it is his duty, if he is in earnest and is bold enough to do it, if he is conscientious in his belief that they are unconstitutional, it is his duty as one of the coordinate branches of the Government, having a right to construe the Constitution for himself just as much as we have the right to construe it for ourselves, to withdraw from the South all the troops put there under our unconstitutional acts and turn over the control of affairs to the State governments which he has inaugurated and which he believes to be constitutional, saying, "I will submit this matter to the Supreme Court. I as the Executive, I as a part of the legislative power of the country, have the right to deal with this matter of the constitutionality of the law until I am overruled by the Judiciary; and believing upon my conscience and before my God that these

acts are unconstitutional, it is my duty to interpose between an unconstitutional military government and the true constitutional civil governments which I have set up."

I do not know whether the President is either bold enough or conscientious enough to take that position; but if he is sincere in the convictions which he has announced, and if he follows the dictates of his conscience, this is what he would do. And we propose to abdicate and give him an opportunity to do it. And my friend from Ohio—for a good reason no doubt, because he never does anything except for what to his mind appears a good reason—declares that we ought thus to abdicate our place and power.

Why, sir, without the preamble the resolution means nothing. The resolution reads:

Resolved, That the committee report on the acts of the President aforesaid.

Strike out the preamble, and to what "acts aforesaid" does the resolution refer? Without the preamble the resolution is unmeaning. My friend from Ohio has used the comparison of a "tail." Let me say that this resolution without the preamble is the tail with the body gone, the head gone, everything gone but the tail, and this tail about as useless as the second tail to a cat. You must have some preamble.

I did not write a word of this resolution; I was not consulted upon its form; but I am always ready to adopt good doctrine wherever I find it; and I trust that if we are in earnest; if we mean what we say; if we are not afraid to act boldly and firmly; if we do not want to fritter away our rights; if we do not desire to make our acts and words agree by puckering a little here and stretching a little there, as a little girl does her patch-work to make it fit, rather than take our stand upon an independent and high position, I hope we shall meet this question as legislators, boldly, clearly, fully, saying that this man is so far impeached as we find him to be. If we do not dare to say that, then we ought to go quietly home, and say that we have not impeached him at all, that we have nothing to say on this subject, but that he stands acquitted.

One thing further, and I will be much obliged to my friend for the time he has given me. He says he came here with his mind made up on this question of impeachment, but since it has gone to the Judiciary Committee he has not any opinion on the subject. I know my friend will not understand me as saying anything personal to himself, because his mind is never operated upon except by good impulses. A good many of us came here with our minds made up on this question of impeachment, but since we came here we have had our minds changed. Some from proper motives, like my friend from Ohio, and some of us because the further we get from our constituents the less we stand up straight and the more we sink down weak in the knees. I want the gentleman to understand in every form; I do not believe it of him, but I do believe it of whomsoever the description fits! If any gentleman takes it up, we will know that it fits him.

Mr. Speaker, let us stand up as we did before our constituents. If I went before my constituents and said I would do a thing, as did some gentlemen, I would do it if it took my right hand. I know my friend would also do what he promised. I hope we will not vote down the preamble and say to the country after all we are afraid when we come to face the real issue.

Mr. GARFIELD. In the first place, Mr. Speaker, the gentleman from Massachusetts reads from this preamble the statement which I propose to strike out, that it is dangerous for this Congress to adjourn; and he wants to know if any one doubts that it is. I answer that this House, less than half an hour ago voted, by 96 to 26, it was not dangerous to adjourn, and they voted they should adjourn to-morrow. Now, if the gentleman's view is that it is dangerous, he only differs with three fourths of the House of Representatives.

That is my answer to his first statement;

and that answer includes another one. It proves the head and tail were not made out of pieces of the same color, for we began with the preamble and resolution to adjourn, and we passed the resolution to adjourn and laid the preamble on the table; and in the next five minutes the same preamble comes up as a tail to a proposition to request the Judiciary Committee to make a report. It shows this preamble can be used as fish, flesh, or fowl. It can be made to suit the palate of the gentleman who desires to eat.

My friend from Massachusetts believes that this preamble is exceedingly proper and pertinent, because it declares it dangerous for Congress to adjourn; it being dangerous for Congress to adjourn, therefore resolved, when it does adjourn and meet again, the Committee on the Judiciary shall be requested to report on a certain subject. This is cogent logic! If gentlemen want to commit themselves to such an absurd *non sequitur*, I leave it to their sense and logic to do so.

As we have laid the preamble on the table once to-day, I think we shall not be considered tender-footed if we lay it on the table once more.

Another thing, the gentleman takes up a statement in the preamble to which I have objected, that the nation has impeached the President, and he goes on to say that in a certain sense he is impeached and the House ought to stay here to attend to it. How is he impeached when a committee has only been appointed to investigate the charges? Can a man be said to be hanged who is only arrested and put on trial for murder? How far is he hanged if he is not hanged at all? [Laughter.]

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled an act (S. No. 83) making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes; when the Speaker signed the same.

#### IMPEACHMENT—AGAIN.

Mr. FARNSWORTH (at five o'clock) moved that the House adjourn.

The motion was disagreed to.

Mr. GRISWOLD. I move to lay the preamble on the table.

Mr. CLARKE, of Kansas. On that I demand the yeas and nays.

The yeas and nays were not ordered.

The question being put on laying the preamble on the table, there were—ayes 52, noes 32.

Mr. CLARKE, of Kansas, demanded tellers. Tellers were ordered; and the Chair appointed Messrs. CLARKE, of Kansas, and ROB-INSON.

The House divided; and the tellers reported—ayes 54, noes 32.

So the preamble was laid on the table.

Mr. ELDRIDGE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

The next business on the Speaker's table was the action of the Senate on the concurrent resolution of the House in reference to the adjournment of Congress, which was reported, as follows:

*Resolved*, That the Senate agree to the foregoing resolution of the House of Representatives relative to the adjournment of the two Houses of Congress, with the following amendment:

Strike out all after "that" where it first occurs in said resolution, and insert as follows:

The President of the Senate and the Speaker of the House of Representatives are hereby directed to adjourn their respective Houses on Saturday, March 30, 1867, at twelve o'clock meridian, to the first Wednesday of July, 1867, at noon, when the roll of each House shall be immediately called, and immediately thereafter the Presiding Officer of each House shall cause the Presiding Officer of the other House to be informed whether or not a quorum of its body has appeared; and thereupon, if a quorum of the two Houses respectively shall not have appeared upon

such call of the rolls, the President of the Senate and the Speaker of the House of Representatives shall immediately adjourn their respective Houses without day.

Mr. BINGHAM. I move to concur, and call the previous question.

Mr. BROOMALL. I ask the gentleman to yield for an amendment.

Mr. BINGHAM. I decline.

Mr. BROOMALL. I hope it will not be seconded.

Mr. SCHENCK. I ask the Speaker if it would not be his duty, if this amendment of the Senate is adopted, to adjourn the House when it meets in July, even though it be full and there are only half of the members of the Senate in session?

The SPEAKER. The Chair will answer that by the amendment of the Senate. If a quorum should not be present in both Houses on the first Wednesday in July, the Presiding Officers would be required to adjourn the two Houses.

Mr. BINGHAM. But if there is a quorum in both Houses then the other part of the resolution has no effect.

The SPEAKER. It would have no effect whatever.

Mr. ASHLEY, of Ohio. If the previous question should not be seconded would it not then be in order for the gentleman from Pennsylvania [Mr. BROOMALL] to offer his amendment?

The SPEAKER. It would then be open to amendment.

The previous question was seconded—ayes 50, noes 45; and the main question was ordered.

Mr. SCHENCK. I demand the yeas and nays on concurring in the Senate amendment.

Mr. BUTLER. I move that the House adjourn.

The motion was disagreed to—ayes 30, noes 63.

The yeas and nays were ordered.

The question was taken on concurring in the amendment of the Senate; and it was decided in the affirmative—yeas 53, noes 45, not voting 63; as follows:

YEAS—Messrs. Archer, Baldwin, Benjamin, Bingham, Blair, Brooks, Buckland, Burr, Cake, Chanler, Eggleston, Eldridge, Ferriss, Ferry, Getz, Gloss-brenner, Griswold, Halsey, Hamilton, Hayes, Holman, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Koontz, Laflin, Mallory, Marvin, Mercer, Morrell, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pile, Robertson, Robinson, Ross, Scofield, Sitgreaves, Stewart, Taber, Taylor, Trowbridge, Twitchell, Van Auker, Van Trump, Henry D. Washburn, Wood, and Woodbridge—53.

NAYS—Messrs. Allison, James M. Ashley, Baker, Benton, Boutwell, Broomall, Butler, Sidney Clarke, Coburn, Cook, Covode, Cullom, Donnelly, Ela, Farnsworth, Garfield, Hooper, Hopkins, Ingersoll, Judd, Kelley, William Lawrence, Loan, Logan, Loughridge, Lynch, McClurg, Miller, Myers, O'Neill, Perham, Polsley, Sawyer, Schenck, Shanks, Aaron F. Stevens, Upson, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—45.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Banks, Barnes, Beaman, Blaine, Boyer, Bromwell, Churchill, Reader W. Clarke, Cobb, Cornell, Dawes, Denison, Dodge, Driggs, Eckley, Eliot, Fields, Finney, Fox, Gravely, Haight, Harding, Hill, Hulburd, Hunter, Julian, Kelsey, Kitchen, George V. Lawrence, Lincoln, Marshall, McCarthy, McCullough, Moore, Moorhead, Morgan, Newcomb, Neill, Orth, Paine, Peters, Pike, Plants, Poland, Pomeroy, Price, Pruyn, Randall, Raum, Selye, Shellabarger, Smith, Spaulding, Thaddeus Stevens, Stone, Taft, Thomas, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, and James F. Wilson—66.

So the amendment of the Senate was concurred in.

Mr. BINGHAM moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The motion was agreed to.

#### ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 28) to grant to the American Atlantic Cable Telegraph Company, of New

York, the right of way and privilege to lay, land, and operate a sub-marine telegraph cable on the Atlantic coast of the United States, and establish telegraphic communication between the United States and Europe via the Bermudas and Azores Islands;

An act (S. No. 105) to reimburse the States of Indiana and Ohio for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion;

Joint resolution (S. R. No. 21) in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs;

Joint resolution (S. R. No. 24) relative to the payment of expenses incurred by the judges of election for the cities of Washington and Georgetown, District of Columbia;

Joint resolution (S. R. No. 48) in relation to the execution of surveys of rivers ordered by Congress; and

Joint resolution (S. R. No. 43) in relation to the educational interests of the District of Columbia.

#### SURVEY OF ILLINOIS RIVER.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed of the report of Brevet Major General J. H. Wilson upon the survey and examination of the Illinois river, when presented, seven hundred and fifty extra copies for the use of the House, and two hundred and fifty for the use of the Bureau of Engineers.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SURVEY OF ROCK RIVER.

Mr. LAFLIN, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed of the report of Brevet Major General J. H. Wilson upon the survey and examination of the Rock river, when presented, seven hundred and fifty extra copies for the use of the House, and two hundred and fifty for the use of the Bureau of Engineers.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF OFFICERS OF THE ARMY.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of March 7, 1867, transmitting a report by the Paymaster General relative to the pay received by officers of the Army; which was laid on the table, and ordered to be printed.

#### RAILROAD IN MICHIGAN.

Mr. FERRY presented a joint resolution of the Legislature of the State of Michigan, asking for a grant of land for a railroad from the mining regions of the upper peninsula to Minnissing, on the straits of Mackinaw; which was ordered to be printed, and to be referred to the Committee on Public Lands when appointed.

#### HOOR OF MEETING.

Mr. BROOMALL. I move that when the House adjourn to-day it be to meet at ten o'clock a. m. to-morrow.

The SPEAKER. That will require a suspension of the rules, the time of daily meeting being fixed by a rule of the House.

The rules were suspended, two thirds voting in the affirmative; and the motion of Mr. BROOMALL was agreed to.

Mr. CHANLER. I move that the House now adjourn.

The motion to adjourn was not agreed to.

#### SEEDS FOR THE SOUTHERN STATES.

Mr. INGERSOLL. I move that the rules be suspended, in order that the joint resolution of the Senate No. 51, authorizing the transfer of certain funds and providing for the pur-



chase of seeds and their distribution in the southern States, may be taken from the Speaker's table and considered by the House at this time.

Mr. HOLMAN. Let the joint resolution be read.

The joint resolution was read at length. It transfers the sum of \$50,000 from the funds in charge of the Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands and places it to the credit of the Department of Agriculture, and directs the Commissioner of Agriculture to employ that sum for the purchase of improved varieties of vegetables and cereals and their distribution in the southern States.

The question was taken upon suspending the rules, and (two-thirds voting in the affirmative) the rules were suspended.

The joint resolution was accordingly taken from the Speaker's table and read a first and second time.

Mr. FARNSWORTH. I move that the House now adjourn.

The question was taken; and upon a division there were—ayes 34, noes 53.

So the motion to adjourn was not agreed to.

The question was upon ordering the joint resolution to be read a third time.

Mr. INGERSOLL. This joint resolution proposes to transfer \$50,000 from the Freedmen's Bureau to the Agricultural Department for the purchase and distribution of seeds in the southern States. I have had some conversation with General Howard upon this subject, and he thinks that the agents of his bureau in the southern States can perform this duty more satisfactorily than it can be performed under any system devised by the Agricultural Bureau. I desire to offer an amendment, to place this duty in charge of the Commissioner of the Freedmen's Bureau.

Mr. WOOD. I would inquire what is the character of seeds contemplated by this joint resolution?

Mr. INGERSOLL. Garden seeds and cereals.

Mr. WOOD. The only kind of seed that can be used to much advantage in the South is cotton seed. It is now too late to supply cotton seed to the southern States for this year. I do not wish to object to this joint resolution. I only want to know for what good purpose this \$50,000 can be expended this year.

Mr. KELLEY. To furnish the hardy mountaineers, who to-day have no food or seed to plant, with seed to grow food for themselves and their families.

Mr. WOOD. The mountainous region of the southern States does not embrace one twentieth of their area.

Mr. KELLEY. I know something of the geography of the South; and I know that \$50,000 will not be enough to supply seed to those who would gladly till the soil and raise food for their families.

Mr. SCOTFIELD. If they have land they can purchase seed; if not, the seed will be of no use to them.

Mr. INGERSOLL. Upon reflection, I fear the amendment I have offered may delay the joint resolution so as to kill it for lack of time in the Senate. And as the main object is to supply seed to those who are destitute, I will withdraw my amendment. I now call the previous question on the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, and read a third time.

Mr. FARNSWORTH (at five o'clock and forty minutes p. m.) I move that the House adjourn.

On the motion there were—ayes 23, noes 60. So the motion was not agreed to.

The question recurring on the passage of the joint resolution,

Mr. EGGLESTON called for the yeas and nays.

The yeas and nays were not ordered. The joint resolution was passed.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed without amendment a joint resolution of the House in relation to the iron-clad monitor Camanche.

#### TESTIMONY IN IMPEACHMENT INVESTIGATION.

Mr. BOUTWELL. I move that the Committee on the Judiciary, whenever they may report the testimony in the matter of the impeachment of the President, have leave to report it in print, if they shall so decide.

There was no objection, and leave was granted.

And then, on motion of Mr. HOLMAN, (at five o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. CAKE: The petition of Henry T. Bner and others, citizens of Schuylkill county, Pennsylvania, setting forth the prostrate condition of the coal trade of Pennsylvania, and praying Congress to take early action upon the tariff question.

By Mr. COBURN: A memorial from J. J. Fiddick and others, members of the Grand Army of the Republic, at Danville, Indiana, asking an increase of bounties.

#### IN SENATE.

SATURDAY, March 30, 1867.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORRILL, of Maine, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the resolution of the House relative to the adjournment of Congress; and that the House had passed the joint resolution (S. R. No. 51) authorizing the transfer of certain funds and providing for the purchase of seeds and their distribution in the southern States.

#### CAPITOL WATCHMEN.

Mr. MORRILL, of Maine. There is on the table a bill which it is necessary to pass to perfect the police regulations of the Capitol, according to the recent law passed by both branches. I move that House bill No. 79 be taken up.

Mr. EDMUNDS. I suggest that we had better go through the morning business, presenting reports, resolutions, &c. I have a resolution or two to offer and a report to make.

Mr. FESSENDEN. This bill had better be passed first. It will have to go back to the House of Representatives.

Mr. EDMUNDS. I will not object to the taking up of this particular bill under the circumstances.

The motion was agreed to; and the bill (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes, was considered as in Committee of the Whole.

It provides that the eight watchmen on the dome of the Capitol, at the congressional stables, the gate-keeper, and watchmen of the grounds surrounding the Capitol, be hereafter appointed by the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House. These are also to appoint three additional watchmen, one for each of the eastern porticos and the carriage-ways under the same. Each watchman so appointed is to receive an annual compensation of \$1,000, payable on the order of the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House, or either of them, and the amount of money necessary to pay these watchmen from the date of their appointment until the end of the

present fiscal year is appropriated; and for their compensation for the fiscal year ending June 30, 1868, \$11,000 is appropriated. For the compensation of an additional lieutenant and private of the Capitol police, authorized to be appointed by the Presiding Officers of the two Houses of Congress, from the date of their appointment until the close of the present fiscal year, at the rate paid others of the same grade, so much money as may be necessary is appropriated; and for the fiscal year ending the 30th June, 1868, \$3,300 is appropriated.

The Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House are further authorized to select a pattern for a uniform for the Capitol police and watchmen, and furnish to each member of the force two suits per year, at a cost not to exceed fifty dollars per suit, and also to furnish the force with the necessary belts, arms, &c., at a cost not to exceed twenty dollars per man; and the amount of money necessary to carry this provision into effect is appropriated, payable upon the certificate of the officers above named. One-half of the moneys hereinbefore appropriated are to be paid into the contingent fund of the Senate, and the other half into the contingent fund of the House of Representatives.

The second section makes it the duty of the Sergeants-at-Arms of the two Houses to take charge of the Capitol building, protect it from defacement, &c., and authorizes them to cause the arrest of persons guilty of improper conduct within the building or on the grounds surrounding it.

Section three repeals all inconsistent laws.

Mr. CONKLING. I offer an amendment, to come in after section two as an additional section:

*And be it further enacted*, That all moneys appropriated for the Washington aqueduct, and for the other public works of the District of Columbia, shall be expended under the direction of the Secretary of War.

I offer this amendment to carry out the intention of the two Houses in reference to the expenditure of this money. It was stated the other day that it would be expended under the direction of the War Department; but it turns out, upon investigation, that although it is to be expended under the direction of the chief Engineer of the Army, the statutes, as they stand, leave the matter within the control entirely of the Interior Department, so that the effect is to transfer the chief Engineer as an officer of the War Department, and make him a subordinate of the Department of the Interior, or, as the head of one of the Departments expressed it to me, to make him a book-keeper of the Interior Department. He is an officer who, for reasons which I might state if it were worth while to consume time in doing so, cannot be spared from his functions, which are constant and important at the War Department, and if this expenditure is to be made under his direction the money should be paid upon the requisition of that Department, and the power to control it should be where the responsibility is. That was the design. That was the understanding of the honorable Senator from Iowa, [Mr. HARLAN], who said the other day that it would be expended under the authority and supervision of the War Department. As it stands now it leads to confusion; an officer of the War Department is made really subject to the control of the Interior Department, and becomes a disbursing officer there. I have a letter, which I need not read, and I have facts in regard to it which I will state if there is any doubt about the proposition.

Mr. MORRILL, of Maine. I do not see any objection to it.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### T. HYATT'S PATENT.

Mr. CONNESS submitted the following res-

olution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to report to the Senate copies of all papers connected with the extension of patent to Thaddeus Hyatt by the Commissioner of Patents November 4, 1859.

#### RETURN OF DUTIES.

Mr. MORRILL, of Vermont. I desire to submit an amendment to the bill (S. No. 76) providing for abatement of duties on merchandise damaged on the voyage of importation, that it may be printed so as to be on the files whenever the bill shall come up for consideration.

The PRESIDENT *pro tempore*. The amendment will be received informally, and ordered to be printed.

#### UNION PACIFIC RAILROAD.

Mr. HOWARD. I offer a resolution, and ask for its present consideration:

*Resolved*, That the Secretary of the Interior be requested to transmit to the Senate a copy of the report of the Government directors of the Union Pacific Railroad Company, made during the last year, and that the same be printed when received.

It is quite a short document, and the Committee on the Pacific Railroad need it very much.

The resolution was considered by unanimous consent, and agreed to.

#### SOLDIERS' AND SAILORS' ORPHAN HOME.

Mr. CORBETT. I move to take up the bill (S. No. 122) for the support in part of the National Soldiers' and Sailors' Orphan Home in the District of Columbia. There is no more important business to do. It will take but a moment.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to appropriate \$5,000 for the support in part of the National Soldiers' and Sailors' Orphan Home, in the District of Columbia, organized under an act of the 25th of July, 1866, amended by the act of the 22d of February, 1867, to be expended under the direction of the officers of the institution.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### EXTENSION OF SESSION.

Mr. SAULSBURY. I offer the following resolution:

*Resolved by the Senate*, (the House of Representatives concurring,) That the time for the adjournment of the two Houses be extended until three o'clock p. m.

Mr. EDMUNDS. I object.

Mr. TRUMBULL. I hope there will be no objection. I understand that the resolution is offered at the instance of the friends of the deceased colleague of the Senator from Delaware.

Mr. EDMUNDS. If it is offered with the understanding that we shall close our legislative labors at the proper time, I have no objection; but I object to extending the session for the purpose of going on with legislation.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the resolution?

Mr. SAULSBURY. I will simply state—

The PRESIDENT *pro tempore*. No objection being made, the question is on agreeing to the resolution.

Mr. SUMNER. I desire to make a statement. I have reason to believe that immediately after the close of our legislative session there will be a called session of the Senate for the consideration of executive business. I do not know what influence that may have on the action of the Senate on continuing its legislative term, but I make the statement.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the resolution?

Mr. SUMNER. I do not.

Mr. FESSENDEN. Before the resolution is taken up, I wish to inquire of Senators what effect they think it will have on the resolution we have passed to adjourn at twelve

o'clock to-day? Will it affect the resolution we have passed, or will it provide for the same adjournment for which that provided, at three o'clock instead of at twelve o'clock?

Mr. DAVIS. Permit me to make a word of explanation. The deceased Senator from Delaware was my messmate, and I am acting in concert with his surviving colleague and at the instance of his family. We desire that the session shall be protracted from twelve to three o'clock, and that precisely at twelve o'clock the ordinary notice of the death of Senator RIDDLE shall be taken in the Senate, and shall be sent for concurrence to the House, and that the Senate then shall adjourn, as it would have adjourned, at twelve o'clock if there had been no such proceedings.

Mr. HENDERSON. I do not think this resolution will alter the original resolution of adjournment except as to the time, but an amendment can easily be added to obviate any difficulty on that point.

Mr. FRELINGHUYSEN. I would suggest that this resolution read, "that the concurrent resolution of the two Houses be amended by substituting three o'clock p. m. for twelve o'clock m., where those words first occur in said resolution."

The PRESIDENT *pro tempore*. That resolution is not now before us, and I hardly see how it can be amended.

Mr. TRUMBULL. I apprehend that there can be no difficulty about this. It is proposed to extend the session to three o'clock instead of twelve o'clock, of course under the same terms and conditions that the resolution relative to adjournment at twelve o'clock provided; but if anybody has any doubt on that point, the words "under the same terms and conditions as the two Houses have agreed upon" can be added. Certainly no one wishes to adjourn abruptly on an occasion like this.

Mr. SAULSBURY. I modify the resolution so as to read:

*Resolved by the Senate*, (the House of Representatives concurring,) That the time of adjournment of the two Houses be extended until three o'clock p. m., subject to the provisions of the resolution fixing the time for the adjournment of Congress, already passed by the two Houses.

Mr. JOHNSON. I move that this resolution be laid aside for a few moments. I think there had better be a little further conference about it.

The motion was agreed to.

#### BALTIMORE AND OHIO RAILROAD.

Mr. CAMERON. I move to take up the resolution which I offered yesterday, making an inquiry of the War Department.

The motion was agreed to; and the Senate proceeded to consider the resolution yesterday submitted by Mr. CAMERON:

*Resolved*, That the Secretary of War be, and he is hereby, directed to inform the Senate what amount of money has been paid by the United States to the Baltimore and Ohio Railroad Company for transportation during the war, what rates were paid to that railroad for such service, whether the compensation paid was greater than that allowed to other railroads for the performance of like services, and if so, why such higher rates were so paid to the Baltimore and Ohio railroad; also, what amount of money is still claimed by the Baltimore and Ohio Railroad Company as due that company by the United States, and for what services such balance, if any, is so claimed, together with the amount due the United States by the said Baltimore and Ohio Railroad Company for the use of engines, cars, &c., furnished by the Government to that company during the war, and whether any claim has been made by the Baltimore and Ohio Railroad Company for damages to their road by reason of military operations, whether any moneys have been paid them on account of such damages, and what amount, if any, has been so paid by the United States.

Mr. JOHNSON. I move to amend the resolution by adding to it:

And the Secretary is also directed to furnish information of like kind in relation to the Northern Central and the Pennsylvania Railroad companies respectively.

Mr. CAMERON. I accept that amendment as a modification of my resolution.

The resolution, as modified, was agreed to.

#### EXECUTIVE NOMINATIONS.

Mr. SHERMAN. By the thirty-seventh rule of the Senate, "nominations neither approved

nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made by the President." As we are to have an executive session immediately following this legislative session, I move to suspend for this session the clause of the thirty-seventh rule which I have read, and that the nominations be proceeded with at the next executive session of the Senate as if no adjournment had taken place.

The motion was agreed to.

#### SUSPENSION OF JOINT RULES.

Mr. EDMUNDS submitted the following resolution; which was considered and agreed to:

*Resolved by the Senate*, (the House of Representatives concurring,) That the sixteenth and seventeenth joint rules of the two Houses be suspended for the residue of the session.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 35) to authorize the Commanding General of the Army to permit traders to remain at certain military posts.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 51) authorizing the transfer of certain funds and providing for the purchase of seeds and their distribution in the southern States; and the enrolled joint resolution (H. R. No. 51) relative to the iron-clad monitor Comanche; and they were signed by the President *pro tempore*.

#### COMMITTEE ON ORDNANCE.

Mr. WILSON. I move to take up the concurrent resolution of the House of Representatives proposing an additional joint rule to provide for the appointment of a joint committee on ordnance.

The motion was agreed to.

Mr. WILSON. The resolution need not be read. The Committee on Military Affairs propose to amend it by striking out all after the word "That" and inserting:

A joint committee of six, consisting of three Senators and three members of the House of Representatives, be appointed to investigate the purchases, contracts, and experiments of the ordnance department, and that the said committee be authorized to employ a clerk and a stenographer, and that the committee have power to send for persons and papers, and that they have leave to report at any time.

I will simply say that the House of Representatives asked for the appointment of a joint standing committee. It was on reflection thought best not to have such a standing committee, as it would bring here everybody proposing to sell different kinds of arms, &c., but to have a special committee to make a thorough investigation; and I will say that I think one member should be appointed from the Committee on Military Affairs, one from the Committee on Naval Affairs, and one from the other members of the Senate, and I will say in no event can I consent to serve on this special committee.

Mr. EDMUNDS. It has probably escaped the attention of my friend from Massachusetts that since the House sent us this proposition they have adopted a resolution of their own sending this same inquiry to the joint select Committee on Retrenchment, and the members of the House who initiated this ordnance inquiry are members of that committee, and that committee in sub-dividing its labor has given this branch of inquiry to those members of the House who were specially interested in it, and I suppose they have commenced their labor. Now, then, it appears to me to be, to say the least of it, useless to have two committees pursuing precisely the same course of inquiry, two joint select committees doing exactly the same thing, one under the order of the House of Representatives and another under the order of the two Houses. I should hope, therefore, that this amendment would not be adopted, and that the resolution would be laid aside. Of course if there is any want of confidence

on the part of the Senate or of the Military Committee or of the House of Representatives in the capacity and faithfulness of those members of the Committee on Retrenchment who have this matter in charge, then it is very proper to pass this resolution, and the members of that committee who are thus reflected upon will of course have it in their power to relieve themselves from any further labor in that direction by resigning their place. As it is, I cannot see the benefit of having a double inquiry with double power to send for persons and papers, double power to appoint clerks, have officers, expend money on precisely the same subject.

Mr. WILSON. I will say that what the Senator refers to had not escaped my attention, but the very men who did that are pressing the appointment of this committee. They pressed it on me yesterday, and are doing it to-day. I have no doubt that this is the proper way to treat the subject. I think the other course adopted by the House was very improper, and I have no doubt that if this committee is ordered the joint Committee on Retrenchment will stop its inquiry on this matter as it should stop. I know no reason, indeed, why that committee should have the care of a matter of this kind.

Mr. EDMUNDS. I ought to have said before, perhaps, so as to be entirely understood, that this branch of inquiry which was committed to the joint Committee on Retrenchment is one with which I have no connection. I am not on that sub-committee, but I think it but just to the subject that the two Houses should not be running parallels of this description.

The amendment was agreed to.

The resolution, as amended, was agreed to—ayes eighteen, noes not counted.

Messrs. HOWARD, CAMERON, and DRAKE were subsequently appointed the committee on the part of the Senate.

#### CONDENSED REPORTS.

Mr. BUCKALEW. I offer a resolution, and ask for its present consideration:

*Resolved*, That the Committee on Printing be authorized to enter into a contract, in the name of the Senate, with Richard Sutton, to furnish condensed or synoptical reports of the proceedings and debates of the Senate, the same to be free to the press of the country, or to any authorized agency thereof; such contract to continue for a period not exceeding one year, and to be submitted to the Senate for approval.

Mr. SHERMAN. I object to the resolution. The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

#### DEATH OF SENATOR RIDDLE.

Mr. SAULSBURY. I ask leave to withdraw the concurrent resolution I offered a few moments ago, and I present in place of it the following:

*Resolved by the Senate of the United States*, (the House of Representatives concurring,) That a joint committee be appointed, consisting of three members of the Senate and five members of the House, to attend the remains of Hon. GEORGE READ RIDDLE, late a member of the Senate, to his home.

The resolution was considered by unanimous consent, and agreed to; and Messrs. DAVIS, RAMSEY, and NYE were appointed the committee on the part of the Senate.

#### ADJOURNMENT OF CONGRESS.

Mr. EDMUNDS. I wish to report from the committee of conference on the subject of adjournment of the two Houses that they could not agree. I present the papers, and move that they lie on the table.

The motion was agreed to.

#### BUSINESS BEFORE COMMITTEES.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees when appointed at the next session.

#### SUFFRAGE TO COLORED CITIZENS.

Mr. SUMNER. I desire to give notice that I shall on the first Wednesday of July ask the Senate to proceed with the consideration of Senate bill No. 115, being a bill to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to colored citizens.

Mr. SHERMAN. The Senator had better add "or some subsequent day." [Laughter.]

Mr. SUMNER. I beg the Senate to take notice that there will be a session on the first Wednesday of July to proceed with business. I have reason to believe that there will be a quorum here on that occasion, for there will be important public business that must be attended to.

#### PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was

*Ordered*, That the Committee on Claims be discharged from the further consideration of the petition of Reddick McKee, and that he have leave to withdraw his petition and papers.

On motion of Mr. MORRILL, of Maine, it was

*Ordered*, That Albert Greenleaf have leave to withdraw his petition and papers.

#### AGRICULTURAL COLLEGE IN NEBRASKA.

On motion of Mr. THAYER, the bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges was considered as in Committee of the Whole. It provides that the grant made by law of the 2d day of July, 1862, to each State of land equal to thirty thousand acres for each of its Senators and Representatives in Congress, for the purpose of establishing agricultural colleges, shall be extended to the State of Nebraska in the same manner as if Nebraska had been a State of the Union at the date of the passage of that law.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### HOUSE CHAPLAIN.

Mr. POMEROY. I move that the Senate proceed to the consideration of House joint resolution No. 22, for the payment of Mr. BOYNTON, the Chaplain of the House of Representatives.

The motion was agreed to; and the joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BOYNTON, as Chaplain of the House of Representatives of the Fortieth Congress, was considered as in Committee of the Whole.

The resolution, as passed by the House of Representatives, provided that Rev. CHARLES B. BOYNTON is authorized to draw the amount appropriated to the payment of the Chaplain of the House for the Fortieth Congress, and that a sum sufficient to pay him the usual salary for the present fiscal year should be appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations proposed to amend so as to read:

That Rev. CHARLES B. BOYNTON is authorized to draw the amount appropriated by an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1868," to the payment of the Chaplain of the House for the Fortieth Congress.

The amendment was agreed to.

The resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the resolution read a third time. The joint resolution was read the third time, and passed.

#### EXECUTIVE SESSION.

On motion of Mr. POMEROY, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the resolution of the Senate to suspend the sixteenth and seventeenth joint rules for the residue of the session.

The message further announced that the House had passed the bill (S. No. 114) amendatory of the organic act of Colorado Territory.

#### ENROLLED RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 35) to authorize the Commanding General of the Army to permit traders to remain at military posts; and it was thereupon signed by the President *pro tempore* of the Senate.

#### LIGHTING OF STREETS OF WASHINGTON.

Mr. HARLAN. I move to take up the joint resolution that I introduced yesterday on the subject of lighting the streets of Washington.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia.

As the mayor of Washington has given notice that the arrangements now in force for lighting the streets of the city are to cease at the end of the present month, and as it is necessary for the comfort and protection of the law-abiding citizens of the city that the street lamps shall continue to be lighted, as they now are, twenty-one nights in each month, from dark until daylight, in accordance with the provisions of an act of Congress entitled "An act making appropriations for sundry civil expenses of the Government," approved July 28, 1866, the resolution authorizes the Secretary of the Interior, in case of the failure of the municipal authorities of Washington city to carry out the present arrangements for lighting the streets of the city, to levy and collect a tax from the property-holders of Washington sufficient to defray the expenses of lighting the streets of the city twenty-one nights in each month, from dark until daylight.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. JOHNSON. That is a resolution which I have seen on our tables, but it appears to me it ought not to pass. It provides that there shall be less light in the streets than there used to be to save gas. It is dark enough as it is. We can hardly get along now.

Mr. HARLAN. This resolution provides that the light shall be continued.

Mr. JOHNSON. I do not object to it, then. The joint resolution was read the third time, and passed.

#### VOTING PLACES IN WASHINGTON.

Mr. WILLEY. I move that the Senate proceed to the consideration of Senate bill No. 121, authorizing and requiring the judges of election in the city of Washington, in the District of Columbia, to designate and establish voting places therein.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It requires the judges of election in the city of Washington to designate and establish in each ward in the city so many voting places as shall enable all the voters therein conveniently to cast their votes on the same day at any election which shall be held therein.

Mr. HOWARD. I would inquire of the honorable Senator from West Virginia how many voting places there are now in the city of Washington? I inquire merely for information.

Mr. WILLEY. I understand that in some of the wards there are sufficient voting places to accommodate the voters; but in one or two wards, the number of which I have forgotten now, there are but two voting places, as I understand, and that is not sufficient—so it is represented from satisfactory sources—to enable all the voters to cast their votes on the same day conveniently.

Mr. HOWARD. Is there more than one voting place in each ward?

Mr. WILLEY. There are one or two wards that have more than one voting place.

Mr. HOWARD. Is there any ward in which there is no voting place?

Mr. WILLEY. No, sir; this bill simply authorizes the judges of election, who are appointed by the supreme court of the District of Columbia, to designate and appoint a sufficient number of voting places to enable all the voters to cast their votes.

Mr. HOWARD. That is right.

Mr. BUCKALEW. I wish to ask a question. Under the present law I should like to understand how the places of election are designated. What has been the authority?

Mr. HARLAN. I can say for the information of the Senator from Pennsylvania that this makes no change in the existing law, except that it authorizes these officers to increase the number of voting places.

Mr. BUCKALEW. The judges of election are to make the change?

Mr. HARLAN. It authorizes the same officers who were previously authorized to control the subject.

Mr. BUCKALEW. I never before heard that judges of election had anything to do with fixing the places of election.

Mr. HARLAN. That is the provision of the charter of the city.

Mr. BUCKALEW. Then I have nothing to say about it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 64) to provide in part for grading the public grounds, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the concurrent resolution of the House providing for the appointment of a joint Committee on Ordnance.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 64) to provide in part for grading the public grounds, and for other purposes;

A bill (S. No. 114) amendatory of the organic act of Colorado Territory; and

A bill (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes.

#### SPECIAL SESSION OF THE SENATE.

The PRESIDENT *pro tempore* laid before the Senate the following proclamation of the President of the United States:

*By the President of the United States of America:*

#### A Proclamation.

Whereas objects of interest to the United States require that the Senate should be convened at twelve o'clock on Monday, the first day of April next, to receive and act upon such communications as may be made to it on the part of the Executive:

Now, therefore, I, Andrew Johnson, President of the United States, have considered it to be my duty to issue this my proclamation, declaring that an extraordinary occasion requires the Senate of the United States to convene for the transaction of business at the Capitol, in the city of Washington, on Monday, the first day of April next, at twelve o'clock, on that day, of which all who shall at that time be entitled to act as members of that body are hereby required to take notice.

Given under my hand and the seal of the United States, at Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States of America the ninety-first,

ANDREW JOHNSON.

*By the President:*  
WILLIAM H. SEWARD, *Secretary of State,*

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced

that the House had passed a bill (H. R. No. 107) to establish certain post roads, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges, and the bill (S. No. 122) for the support in part of the National Soldiers' and Sailors' Orphan Home.

#### ENROLLED RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BOYNTON as Chaplain of the House of Representatives of the Fortieth Congress; and it was thereupon signed by the President *pro tempore* of the Senate.

#### NOTIFICATION TO THE PRESIDENT.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a committee consisting of two members be appointed on the part of the Senate to join such committee as may be appointed on the part of the House of Representatives to wait upon the President of the United States, and to inform him that unless he may have some further communication to make, the two Houses of Congress, having finished the business before them, are ready to adjourn.

The PRESIDENT *pro tempore* appointed Mr. MORGAN and Mr. HENDRICKS as the committee on the part of the Senate.

#### POST ROADS.

The bill (H. R. No. 107) to establish certain post roads was read twice by its title.

Mr. RAMSEY. I ask to have that bill put on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that he had this day approved and signed the following bills and joint resolutions:

A bill (S. No. 64) to provide in part for grading the public grounds, and for other purposes;

A bill (S. No. 99) for the relief of Richard Busted, jr.;

A bill (S. No. 100) supplementary to an act for the relief of Hiram Paulding, rear admiral of the United States Navy;

A bill (S. No. 114) amendatory of the organic act of Colorado Territory;

A joint resolution (S. R. No. 41) for the purchase of land adjoining the navy-yard at Brooklyn, New York;

A joint resolution (S. R. No. 51) authorizing the transfer of certain funds and providing for the purchase of seeds and their distribution in the southern States; and

A joint resolution (S. R. No. 53) relating to the transportation of troops by the Isthmus route to the Pacific States and Territories.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had appointed Mr. R. C. SCHENCK of Ohio, Mr. J. A. LOGAN of Illinois, and Mr. B. F. BUTLER of Massachusetts, the special Committee on Ordnance on the part of the House.

The message further announced that the House concurred in the resolution of the Senate for the appointment of a committee to wait upon the President of the United States and inform him that if he had no further communication to make Congress was ready to adjourn, and had appointed Mr. A. H. LAFLIN and Mr. JAMES BROOKS the committee on the part of the House.

The message further announced that the House had agreed to the resolution of the Senate for the appointment of a committee to accompany the remains of Senator RIDDLE.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges, and the bill (S. No. 122) for the support in part of the National Soldiers' and Sailors' Orphan Home in the District of Columbia; and they were thereupon signed by the President *pro tempore* of the Senate.

#### EXECUTIVE SESSION.

Mr. BUCKALEW. I move that the Senate resolve itself into executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were again opened.

#### ADJOURNMENT.

Mr. MORGAN, from the committee appointed to wait upon the President of the United States, reported that the President had no further communication to make.

The PRESIDENT *pro tempore*, (at twelve o'clock.) The hour fixed by concurrent resolution of the two Houses for that purpose having arrived, the Senate stands adjourned until the first Wednesday of July, at noon.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, March 30, 1867.

The House met at ten o'clock a. m.

The Chaplain, Rev. C. B. BOYNTON, offered prayer in the following language:

Almighty God, Creator and Preserver of all things and Redeemer of men through Jesus Christ Thy Son: once more before Thy throne we come to mingle our thanksgiving and our prayers, offering our morning worship through our High Priest and Mediator, Jesus Christ.

We thank Thee, O God, that on this last day of the first session of this Congress we can look back and see how much Thou hast enabled men to do to promote human liberty, the security of human rights, the establishment of justice as the foundation of our national policy and for the general benefit of our race. We bless Thee, O God, that Thou hast enabled these public men to do so much toward restoring order and peace to this once distracted land, and that, as the battle-cloud has passed away, so the political battle, as we trust, is drawing to a close, to be succeeded by a universal calm. We thank Thee for the wisdom that has guided these deliberations, for the courage with which Thou hast inspired them, for the steadfastness with which they have adhered to the truth and to righteousness. God be praised for it all.

And now, as these public servants are about to separate, follow them, we beseech Thee, individually with Thy blessing. May the peace of God, that passeth all understanding, rest on all their hearts. May they be guarded on their homeward journey from the perils that beset the traveler. May their dear households all be safely kept, and they be permitted to meet them all in peace. During the interval between this time and the period of their reassembling keep Thou them in health and strength. Let not sickness lay any low, nor sudden stroke of death. And when they come once more together, then, O God, we pray that they may be enabled to look forth upon a country reunited in great part through their own labors and the blessing of God. May they behold a country American indeed, one in which the principles of the Gospel of Jesus Christ shall be the animating spirit of public policy. O Lord, when all our earthly labors are over, may we meet to labor in Thy heavenly Kingdom for Jesus' sake. Amen.

The Journal of yesterday was read and approved.

#### ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 51) rela-



tive to the iron-clad monitor Comanche; when the Speaker signed the same.

#### GOVERNMENT OF MARYLAND.

Mr. THOMAS. I ask leave to present a memorial from the mayor and members of the city council of Baltimore, asking Congress to assist the people of Maryland to form a State government republican in form and in unison with the spirit of the age. I desire that this memorial may be referred to the Committee on the Judiciary, and be ordered to be printed.

The SPEAKER. If there is no objection the memorial will be received, and will be referred to the Committee on the Judiciary and be ordered to be printed.

Mr. WOOD. I object.

The SPEAKER. Objection being made, the memorial must be presented under the rule.

Mr. THOMAS. I hope the gentleman will not insist on his objection.

Mr. WOOD. I object to any member occupying the time of the House by the presentation of these private memorials.

Mr. THOMAS. This is from the mayor and city council of Baltimore.

Mr. WOOD. If it is from the mayor and city council I withdraw the objection.

There being no objection, the memorial was received, referred to the Committee on the Judiciary, and ordered to be printed.

#### THANKS TO MAJOR GENERAL SHERIDAN.

Mr. BENTON. I ask unanimous consent to introduce the following resolution:

*Resolved*, That this House tenders its special thanks to Major General P. H. Sheridan for the removal (by order of No. 5, issued on the 27th instant) of Andrew S. Herron, attorney general of the State of Louisiana; John T. Monro, mayor of New Orleans; and Edmund Abel, judge of the first district court of New Orleans, from their respective offices, which they have disgraced, and the appointment in their places of men of character and loyalty, in the persons of B. L. Lynch as attorney general of said State, Edward Heath as mayor, and W. W. Howe as first district judge of said city; and that in this prompt and just action of General Sheridan the country has a guarantee that under his command the innocent will be protected, the guilty punished, and the spirit of rebellion extinguished.

Mr. GLOSSBRENNER. I object.

Mr. BENTON. I move to suspend the rules.

Mr. BROOKS. It will only lead to a call of the House and show no quorum.

The SPEAKER. There is in the opinion of the Chair a quorum present; though it is somewhat doubtful.

Mr. BENTON. I will withdraw for the present the motion to suspend the rules.

#### HOUSE MESSENGERS.

Mr. STEVENS, of Pennsylvania. I ask to introduce the following resolution:

*Resolved*, That the resolution authorizing the Door-keeper to retain the number of messengers now employed during the recess shall be construed to include those employed by the House at three dollars a day, if he chooses to retain them.

Mr. ROSS. Does that increase the number?

Mr. STEVENS, of Pennsylvania. It does not increase the number, but is necessary because there is doubt what the word "messenger" means.

Mr. ROSS. Does it increase the expense?

Mr. GARFIELD. It does not. It merely makes these boys eligible to these appointments.

Mr. ROSS. If it does not increase the expense I do not object.

The resolution was passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TRADERS AT MILITARY POSTS.

Mr. STEVENS, of Pennsylvania, moved to go to business upon the Speaker's table.

The motion was agreed to.

The first business upon the Speaker's table was Senate joint resolution No. 35, to authorize the Commanding General of the Army to

permit traders to remain at certain military posts; which was read a first and second time.

The joint resolution was read at length. It authorizes the Commanding General of the Army to permit a trading establishment to be maintained after the 1st of July, 1867, at any military post on the frontier not in the vicinity of any city or town, and situated at any point between the one hundredth meridian of longitude west from Greenwich and the eastern boundary of the State of California, when, in his judgment, such establishment is needed for the accommodation of emigrants, freighters, and other citizens; but after the commissary department is prepared to supply stores to soldiers, as required by law, no trader permitted to remain at such post is to sell any goods kept by the commissary department to any enlisted man; and such traders are to be under protection and military control as camp-followers.

Mr. ASHLEY, of Ohio. I ask that that joint resolution be put on its passage. It is important to traders and others who cross the plains. I have crossed the plains myself and know the necessity for it. I demand the previous question.

Mr. CLARKE, of Kansas. Let it be referred to the Committee on Military Affairs.

Mr. ASHLEY, of Ohio. I cannot yield for that.

Mr. STEVENS, of Pennsylvania, moved that the resolution be laid on the table.

The House divided; and there were—ayes 24, noes 51; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. ASHLEY, of Ohio, and Mr. CLARKE, of Kansas.

The House again divided; and the tellers reported only eighteen in the affirmative, noes not counted.

So (no further count being asked) the House refused to lay the joint resolution on the table.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLORADO TERRITORY.

The next business on the Speaker's table was Senate bill No. 114, amendatory of the organic act of Colorado Territory; which was read a first and second time. The bill provides that hereafter the sessions of the Legislative Assembly of Colorado Territory shall be biennial. Members of the Council shall be elected for the term of four years, and members of the House for the term of two years, and shall receive the sum of six dollars per day instead of three dollars heretofore allowed, and shall also receive the same mileage now allowed by law. It further provides that each House shall have authority to elect, in addition to the officers now allowed by law, an enrolling clerk, who shall receive five dollars per day. The chief clerk shall receive six dollars per day, and the other officers elected by said Legislature shall receive five dollars per day each. It further provides that the members of the Legislative Assembly elected at the general election of said Territory in the year 1867, shall compose the first Legislature under this act, and said Legislature shall meet at the time now fixed by law for the meeting of the Legislative Assembly of Colorado Territory.

Mr. ASHLEY, of Ohio. The organic acts of the several Territories have all been amended so that their sessions shall hereafter be biennial; and the compensation of the members has been doubled, but the aggregate length of time allowed for the Legislatures to sit remains the same. It was supposed that Colorado was included in the previous act, but on examination it was found that that Territory was ex-

cepted, and this is a repetition of the act which was passed in relation to the other Territories.

Mr. HOLMAN. Do I understand the gentleman to say that in all the other Territories the compensation of members of the Legislature is six dollars per day?

Mr. ASHLEY, of Ohio. It has been doubled.

Mr. HOLMAN. Is it six dollars per day?

Mr. ASHLEY, of Ohio. In some of the Territories, in Montana and Idaho, it is eight dollars, on account of the additional cost of living.

Mr. HOLMAN. The effect of this is to double the expenses of the Legislature.

Mr. ASHLEY, of Ohio. No, sir; the saving of expense of printing, fuel, and light will more than compensate for the increase of pay.

Mr. HOLMAN. I mean as to a single session it doubles the pay.

Mr. ASHLEY, of Ohio. Yes, sir.

The bill was read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (S. R. No. 51) authorizing the transfer of certain funds, and providing for the purchase of seeds and their distribution in the southern States; when the Speaker signed the same.

#### REMOVAL OF INDIAN TRIBES.

The next business on the Speaker's table was Senate joint resolution No. 47, in relation to the removal of the Indian tribes; which was read a first and second time.

It provides that it shall not be lawful to remove or to relocate any Indian tribe not specifically authorized by law or treaty stipulation, and no public money or fund held in trust for Indians is to be used for the removal of any Indian tribe from one location to another unless specifically appropriated by law for that purpose.

Mr. WINDOM. I want to make a single remark with reference to this bill. We are in the habit of complaining, and very justly, that money is squandered in the Indian country by Indian agents and the Indian department, and I have no doubt that a great deal of money is wasted. Now here is a bill to prevent the greatest waste that ever occurs in the Indian service. I am free to say that if there is stealing in the Indian country, there is more of it done by picking up Indians and removing them from one point to another without authority of law and without treaty stipulation than in any other way, and I believe than in all other ways combined.

Mr. STEVENS, of Pennsylvania. Is not that too strong?

Mr. WINDOM. No, sir; it is not too strong. Half a dozen Indian agents, or men in the Indian territory, get together and form a ring for the purpose of making money out of the Indians.

Mr. SCHENCK. What! Indian agents dishonest, whom you defended so strongly a short time ago?

Mr. WINDOM. No, sir; not Indian agents alone, but officers of the Army as well. They forthwith make their representations that the Indians must be removed to some other locality; and they are picked up by the Interior Department, taken off five hundred or one thousand miles, and so much per head charged for transporting and feeding them. And at the same time, in nine cases out ten, the Indians themselves walk the entire distance and cost the Government nothing at all for transportation. Not only is money squandered in this way to a very great extent, but at the same time a very great injury is done to the Indians themselves.

What does this bill propose to do? Simply this and nothing more: that hereafter these Indian tribes shall not be thus picked up at the

will of a single man and removed to some other location, and the Government burdened with a vast charge for it; but before they shall be removed a treaty shall be made, or authority derived from Congress for their removal. It puts a check upon the present practice. I hope that gentlemen who are anxious, as we all are, to prevent wrong practices which have existed in the Indian country, will join with me in putting this bill upon its passage. I believe it will save hundreds of thousands of dollars to the Treasury, and at the same time be a vast benefit to the country and the Indians, too.

Mr. BURLEIGH. Will the gentleman yield to me?

Mr. WINDOM. For how long?

Mr. BURLEIGH. For ten minutes.

Mr. WINDOM. I will yield for five minutes.

Mr. BURLEIGH. I believe this resolution is not what it purports to be upon its face. Its object is not to prevent the expenditure of large sums of money for the removal of Indians, but it was got up in this city in the interest of certain men who desire to obtain or to continue contracts for the supply not of Indians generally, but of Indians guilty of massacres in Minnesota and removed to Dakota Territory, and without authority of law located near our settlements, by which the Territory has been very much injured and individuals there have sustained very great losses. Now, all that I ask is that this matter may be so handled that the truth may be developed here, and that members here may understand exactly what is designed by this resolution, which has been got up in the Senate and sent over here to be carried through this House in some way or other.

Now, I am not going to allude to the different means which have been resorted to to carry this measure through here; but it involves an act of transcendent injustice to the people of Dakota, an act which will have a tendency to injure them immeasurably and to jeopardize their lives and property. If it shall be carried out it will depopulate that Territory. These Indians are those who were driven from Minnesota by the gentleman [Mr. WINDOM] and his associates. These Indians were driven into Dakota Territory, and located one hundred and fifty miles above the capital of the Territory by authority of an act of Congress, at an expense of \$150,000. Then, without authority of law, they were brought down to within twenty-five miles of the capital, red-handed as they were with the blood of the people of Minnesota and the people of Dakota; and now they are sought to be kept there by this joint resolution, which was gotten up under the threats of certain men from Nebraska, and which is now attempted to be forced through here by threats of members of this House.

Now, I protest against the passage of this joint resolution as against the interests of my constituents, and as I have been directed to do by a joint resolution of the Legislature of Dakota, passed unanimously; I protest against it, because the thing is covered up with fraud and falsehood, and members here do not understand it. I had hoped I would have had time to speak at length upon this subject. But it is brought in here at the very close of the session, and there is no chance to discuss it properly. But allow me to say, Mr. Speaker, that this land was opened to settlement by the Government. The people of this country were invited there to establish their homes, and they went there from every State of this Union. After this has been done, after the Government has taken the money which these people have paid for their lands, the Government proposes to settle down in their midst a tribe of hostile Indians whose hands are reeking with the blood of more than a thousand innocent men, women, and children of Minnesota. And this is the measure which the gentleman from Minnesota undertakes to cover up.

I will not occupy the time of the House further than to express the hope that the House will not pass the bill at this time. If the gentleman so desires, let it be brought up at

another time, when there will be more opportunity for its examination and discussion. I will move that it be referred to the Committee on Indian Affairs when appointed.

The SPEAKER. The gentleman cannot make that motion without the consent of the gentleman from Minnesota, [Mr. WINDOM,] who holds the floor.

Mr. WINDOM. I do not yield for that motion.

Mr. Speaker, the gentleman from Dakota [Mr. BURLEIGH] has very kindly informed the House that there is something in this bill which is not understood; that there is a design to "cover up" something. In regard to the Indian service, no man perhaps understands better how to "cover up" than the gentleman from Dakota. So far as I am concerned I have no concealment whatever on this question. This bill is not designed to apply solely to those Indians to whom the gentleman has referred, although it is intended to embrace that tribe among others. The gentleman tells us that this bill is an outrage, a transcendent injustice to Dakota Territory. As the gentleman has talked about "covering up," I will disclose the secret of the opposition which comes from Dakota to this proposition. Four fifths of that Territory is worthless for anything on earth except to starve Indians upon. Certain men in Dakota desire to gather all the Indians they can into that Territory. That is the secret which I did "cover up" before, because I did not care to expose the gentleman. That is the only "covering up" I have done, because I did not want to make this personal allusion. All the Indians who can be brought into Dakota Territory will only add so much to the patronage there. These Indians are not now in Dakota. The gentleman, who I believe is to-day Andrew Johnson's chief fugleman here, has been figuring with him and the Secretary of the Interior to have these terrible Indians, who he claims have committed so many outrages, transferred from the Territory of Nebraska to the Territory of Dakota, simply for the reason I have mentioned. Very fearful, indeed, he must be of these Indians. Now, sir, I ask that this thing may be prevented. I ask that we may keep the control of this question.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. MOORE, his Private Secretary, announced that the President had approved and signed joint resolutions and bills of the following titles:

Joint resolution (H. R. No. 39) in reference to the payment of the salaries of members of Congress;

Joint resolution (H. R. No. 47) to amend an act entitled "An act to provide increased revenue from imported wool, and for other purposes;"

Joint resolution (H. R. No. 37) to authorize the Secretary of War to build dredge-boats for use at the mouth of the Mississippi river;

Joint resolution (H. R. No. 50) to furnish transportation of provisions to the destitute in the South;

Joint resolution (H. R. No. 26) authorizing the Second Auditor to settle the accounts of officers of the Army in certain cases;

Joint resolution (H. R. No. 21) relative to the issue of agricultural college scrip to the States lately in rebellion;

Joint resolution (H. R. No. 11) suspending all proceedings in relation to the payment for slaves drafted or received as volunteers in the military service of the United States;

Joint resolution (H. R. No. 8) directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the relief of the heirs of John E. Bouligny;

Joint resolution (H. R. No. 41) providing for the necessary survey for a ship-canal around the falls of the Ohio river for military, naval and commercial purposes;

An act (H. R. No. 101) for the relief of John Perry; and

An act (H. R. No. 28) to increase the force in the Patent Office.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that that body had passed a bill of the House No. 79, to authorize the appointment of certain watchmen, and for other purposes, without amendment; also, that it had passed a bill of the Senate No. 122, for the support in part of the National Soldiers' and Sailors' Orphan Home in the District; in which he was directed to ask the concurrence of the House.

It further informed the House that the Senate had adopted a concurrent resolution that the sixteenth and seventeenth joint rules of the two Houses be suspended for the residue of the session.

#### SUSPENSION OF JOINT RULES.

The SPEAKER. If there be no objection the Senate resolution for the suspension of the sixteenth and seventeenth joint rules of the two Houses for the residue of the session will be taken up.

There was no objection, and the resolution was taken up and concurred in.

#### UNION PACIFIC RAILROAD.

Mr. BOUTWELL, by unanimous consent, moved that the Committee on the Union Pacific Railroad have leave to sit during the recess to take testimony and to send for persons and papers.

The motion was agreed to.

#### WAIT TALCOTT.

Mr. FARNSWORTH, by unanimous consent, introduced a joint resolution in relation to the claim of Wait Talcott; which was read a first and second time, and referred to the Committee of Claims.

Mr. WARD moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVAL OF INDIAN TRIBES—AGAIN.

Mr. DONNELLY. Mr. Speaker, I hope this bill will pass, for it is one which concerns the people of my State very nearly; otherwise I would not now trespass upon the time of the House. In 1862 the Sioux Indians of Minnesota rose against the people of that State and slaughtered over seven hundred men, women, and children. Those Indians were then removed outside the limits of Minnesota, and I understand the effort is being made to bring them back again near our western borders. Against this we naturally most earnestly protest.

Mr. BURLEIGH rose.

Mr. DONNELLY. I decline to be interrupted, as I have but a few minutes. Now, to bring the Indians who committed these murders back to Minnesota would result disastrously, not only to the people of that State, but would be a serious injury to the Indians themselves. It would arrest emigration which is now tending to our western boundary. I believe it would result in loss of life both to white men and red men.

Now, sir, this bill merely proposes that these Indians shall not be removed from their present location unless under the supervision and direction of Congress. We can certainly trust Congress in this matter; and it is altogether wrong that the interests of the growing communities on our frontier should be left to the adjustment either of individuals in the Indian Office at Washington or of Indian agents on the frontiers. If there should be any necessity for the removal of these Indians from Dakota, then let my friend submit his proposition, let the matter be discussed, and let Congress decide. I think the bill will prevent action, as I have already said, injurious to the people of Minnesota and to the Indians themselves.

Mr. BURLEIGH. I wish to say—and I hope the gentleman from Minnesota will not cut me off—that these Indians have been re-

moved from Minnesota and have been located in close contiguity to the settled portion of Dakota. I am willing that they shall be removed as far as possible from Minnesota, but I am not willing that they shall be located within four or five miles of where I live. They have been placed there now, and in consequence my family have been driven from their home. I will do nothing to endanger the lives of the people of Minnesota, but I do insist that we should not be forced to retain these Indians in our midst when their hands are dyed with the blood of our murdered citizens.

Mr. WINDOM. I demand the previous question.

Mr. COVODE. I wish to say a word.

Mr. WINDOM. I cannot yield. I would like to answer myself.

Mr. COVODE. I move to lay the bill on the table, as there seems to be some mystery about it.

The House divided; and there were—ayes 31, noes 36; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. COVODE and Mr. WINDOM.

The House divided; and the tellers reported—ayes 42, noes 41.

Mr. WINDOM. I call the yeas and nays.

The yeas and nays were refused.

So the joint resolution was laid on the table.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate joint resolution No. 35, to authorize the Commanding General of the Army to permit traders to remain at certain military posts; when the Speaker signed the same.

#### GRADING THE PUBLIC GROUNDS.

The next business on the Speaker's table was Senate bill No. 64, to provide in part for grading the public grounds, and for other purposes, which had been referred to the Committee on Appropriations, and ordered to be reported back by unanimous consent.

Mr. STEVENS, of Pennsylvania. This bill was sent to us from the Senate, where it was examined by the Committee on Finance. It ought to pass.

The bill was read. It appropriates \$20,000, to be expended by the Secretary of the Interior, under the supervision of the architect of the Capitol extension, in grading, filling up, removing buildings, and improving the public grounds and streets around the Capitol, and provides that all the repairs and alterations of the Capitol building shall be made under the direction and supervision of the architect of the Capitol extension.

Mr. HOLMAN. This is an appropriation bill, and I raise the point of order that it should be referred to the Committee of the Whole.

Mr. STEVENS, of Pennsylvania. I move to suspend the rules for the purpose of considering it in the House.

On the motion to suspend the rules, there were—ayes fifty-six.

Mr. WINDOM demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. WINDOM and STEVENS, of Pennsylvania.

The House divided; and the tellers reported—ayes sixty-six, noes not counted.

So the rules were suspended.

Mr. STEVENS, of Pennsylvania. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CAPITOL WATCHMEN.

The next business on the Speaker's table was the consideration of the amendment of the

Senate to House bill No. 79, to authorize the appointment of certain watchmen, and for other purposes.

The amendment of the Senate was to add the following section:

Sec. —. *And be it further enacted*, That all moneys appropriated for the Washington aqueduct and for other public works of the District of Columbia shall be expended under the direction of the Secretary of War.

Mr. WOODBRIDGE. I move that the House concur in the amendment of the Senate.

Mr. WINDOM moved to lay the bill and amendment on the table, but afterward withdrew it.

Mr. HOLMAN renewed the motion, but afterward withdrew it.

The amendment was concurred in.

Mr. WOODBRIDGE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 86) to extend to the State of Nebraska the provisions of an act relating to agricultural colleges, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a concurrent resolution that a joint committee be appointed, consisting of three members of the Senate and five members of the House, to attend the remains of Hon. GEORGE READ RIDDLE, late a member of the Senate, to his home; in which the concurrence of the House was requested.

The message further announced that the Senate had agreed to the concurrent resolution of the House, relative to an addition to the joint rules of the two Houses, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a joint resolution of the House No. 22, authorizing the payment of Rev. C. B. BOYNTON, as Chaplain of the House of Representatives of the Fortieth Congress, with an amendment, in which the concurrence of the House was requested.

#### WEST POINT MILITARY ACADEMY.

Mr. SCHENCK. I ask unanimous consent to introduce a resolution for consideration at this time.

Mr. WINDOM. I object.

Mr. SCHENCK. Let it be read; the gentleman will not object to it then.

Mr. WINDOM. I object to its reading; it is not before the House.

Mr. SCHENCK. I move to suspend the rules in order to submit the resolution.

The SPEAKER. A motion to suspend the rules is not in order pending the consideration of business upon the Speaker's table.

Mr. SCHENCK. I move to suspend for the present the further execution of the order to proceed to the consideration of business upon the Speaker's table.

The motion was agreed to.

Mr. SCHENCK. I now move to suspend the rules, in order that I may submit the following resolution for consideration at this time:

*Resolved*, That the members of the Military Committee of the Thirty-Ninth Congress, who are re-elected to the Fortieth Congress, be instructed to prosecute during the recess the investigation into the management of the West Point Military Academy which was ordered at the late session, and which failed to be performed for lack of time; and that said committee have power to employ a clerk at the same rate as is usually paid to the clerk of the Military Committee.

Mr. FARNSWORTH. It seems to me the committee might as well be appointed at once.

Mr. ROSS. I move that the resolution be referred to the Committee on Military Affairs when appointed.

The SPEAKER. The resolution is not before the House. The question is upon the motion to suspend the rules, in order that the

resolution may be introduced for consideration at this time.

The question was taken; and upon a division, there were—ayes 37, noes 47.

So (two thirds not voting in the affirmative) the rules were not suspended.

The House then resumed the consideration of business upon the Speaker's table.

#### DEATH OF SENATOR RIDDLE.

The next business upon the Speaker's table was the following concurrent resolution of the Senate:

*Resolved by the Senate*, (the House of Representatives concurring), That a joint committee be appointed, consisting of three members of the Senate and five members of the House, to attend the remains of Hon. GEORGE READ RIDDLE, late a member of the Senate, to his home.

Mr. FARNSWORTH. I move that the resolution be concurred in.

The motion was agreed to.

The SPEAKER subsequently announced the following members as the committee on the part of the House: JOHN F. FARNSWORTH of Illinois, JOHN A. NICHOLSON of Delaware, ADAM J. GLOSSBRENNER of Pennsylvania, MICHAEL C. KERR of Indiana, and JACOB BENTON of New Hampshire.

Mr. FARNSWORTH. I would ask the Chair to place first on the committee the gentleman from Delaware, [Mr. NICHOLSON.]

The SPEAKER. The Chair appointed the gentleman from Illinois [Mr. FARNSWORTH] first on the committee because he moved a concurrence in the resolution of the Senate. But at his request the Chair will appoint the gentleman from Delaware first on the committee.

#### PURCHASE OF ORDNANCE, ETC.

The next business on the Speaker's table was an amendment of the Senate to the concurrent resolution of the House proposing an amendment to the joint rules of the two Houses.

The amendment was to strike out all after the concurring clause and insert in lieu thereof the following:

That a joint committee of six, consisting of three Senators and three members of the House of Representatives, be appointed to investigate the purchases, contracts, and experiments of the ordnance department, and that the said committee be authorized to employ a clerk and stenographer; that the committee have power to send for persons and papers, and that they have leave to report at any time.

Mr. SCHENCK. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

The SPEAKER subsequently announced the following as the committee on the part of the House: ROBERT C. SCHENCK of Ohio, JOHN A. LOGAN of Illinois, and BENJAMIN F. BUTLER of Massachusetts.

#### PAY OF REV. C. B. BOYNTON.

The next business on the Speaker's table were the amendments of the Senate to House joint resolution No. 22, to authorize the payment of Rev. C. B. BOYNTON as Chaplain of the House of Representatives of the Fortieth Congress.

The amendments of the Senate were as follows:

After the word "appropriated" in line two insert the words "by an act entitled 'An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1868.'"

Also, strike out all after the word "Congress" in line three to the end of the joint resolution, being as follows:

And that a sum sufficient to pay him the usual salary for the present fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. GARFIELD. Let the joint resolution be read as it will read if amended.

The joint resolution, as amended, was read at length. It authorizes Rev. CHARLES B. BOYNTON to draw the amount appropriated by an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1868," for the Chaplain of the House of Representatives.

Mr. GARFIELD. I move the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DIRECT TAX SALES IN SOUTH CAROLINA.

The next business upon the Speaker's table was Senate bill No. 79, to confirm certain sales made by the direct tax commissioners for South Carolina to persons in the Army, Navy, or Marine corps, and for other purposes; which was read a first and second time.

Mr. ROSS. I move that the bill be referred to the Committee of Claims when appointed.

The motion was agreed to.

#### TRANSPORTATION OF TROOPS BY ISTHMUS.

The next business upon the Speaker's table was Senate joint resolution No. 53, relating to the transportation of troops by the Isthmus routes to the Pacific States and Territories; which was read a first and second time.

Mr. FARNSWORTH. I ask that this joint resolution be put on its passage now.

Mr. BROOKS. I would inquire of the gentleman what is the object of the bill?

Mr. FARNSWORTH. Let the bill be read. The bill was read at length. It provides that hereafter, whenever it shall be necessary to transport troops to the Pacific States or Territories, or to bring troops therefrom, the Secretary of War shall, for one week or more before ordering the same to be done, advertise in at least one newspaper at New York or at San Francisco, as the case may be, for such transportation; and he shall contract with such person or persons as shall give sufficient security for the most rapid and safe conveyance of said troops and at the lowest cost to the Government, the Secretary being at liberty to reject all bids if he shall believe the public interest will be promoted thereby.

Mr. FARNSWORTH. The circumstances that gave rise to this joint resolution I suppose are well known to members. Not long since some troops being sent across the Isthmus by the Nicaraguan route were delayed and the cholera broke out among them, and some thirty or forty soldiers and two officers fell victims to that disease. This joint resolution is to enable the Secretary of War to take measures against any such delay in the future.

Mr. BROOKS. Suppose an emergency should arise when a week cannot be taken to advertise for proposals for transportation, a telegram is received in the morning for troops to leave that day; what would be done in that case?

Mr. FARNSWORTH. Well, Mr. Speaker, I suppose they might provide for that emergency under the war power. I do not, however, apprehend that there will arise very soon any such emergency requiring the immediate transportation of troops from the Atlantic to the Pacific or *vice versa*. I think the bill is a very good one.

Mr. BROOKS. I dare say the bill may be all right; but we do not know anything about it. I think it ought to be referred. I move that it be referred to the Committee on Military Affairs when appointed.

Mr. FARNSWORTH. I will yield for that motion. I am willing that the sense of the House shall be taken upon it. I call the previous question.

The previous question was seconded and the main question ordered; which was first upon the motion of Mr. BROOKS, that the joint resolution be referred to the Committee on Military Affairs when appointed.

On the motion there were—ayes 41, noes 44.

Mr. BROOKS called for tellers.

Tellers were ordered; and Messrs FARNSWORTH and BROOKS were appointed.

The House divided; and the tellers reported—ayes forty-two.

Mr. FARNSWORTH. I do not insist upon a further count.

So the motion was agreed to; and the joint resolution was ordered to be referred to the Committee on Military Affairs when appointed.

#### SOLDIERS' AND SAILORS' ORPHAN HOME.

The next business on the Speaker's table was the bill (S. No. 122) entitled "An act for the support in part of the National Soldiers' and Sailors' Orphan Home in the District of Columbia;" which was read a first and second time.

Mr. CULLOM. I hope that this bill will be put upon its passage.

The bill, which was read, proposes to appropriate \$5,000 for the support of the Soldiers' and Sailors' Orphan Home in the District of Columbia, organized under an act of July 25, 1866, and an amendatory act of February 22, 1867; the money to be expended under the direction of the officers of the institution.

Mr. CULLOM. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. CULLOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes;

An act (S. No. 64) to provide in part for grading the public grounds, and for other purposes; and

An act (S. No. 114) amendatory of the organic act of Colorado Territory.

#### AGRICULTURAL COLLEGES IN NEBRASKA.

The last business on the Speaker's table was a bill (S. No. 86) entitled "An act extending to the State of Nebraska the provisions of an act relating to agricultural colleges;" which was read a first and second time.

The bill, which was read, provides that the grant made by the law of July 2, 1862, to each State of land equal to thirty thousand acres for each of its Senators and Representatives in Congress, for the purpose of establishing agricultural colleges, be extended to the State of Nebraska in the same manner as if Nebraska had been a State of the Union at the date of the passage of the law.

Mr. ASHLEY, of Ohio. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAPER FOR CONGRESSIONAL PRINTING.

Mr. LAFLIN. I ask unanimous consent to offer a resolution, to which I think there can be no objection. If there should be, I will move that the rules be suspended to allow its introduction.

The resolution was read, as follows:

*Resolved*, That the report of the Congressional Printer upon the purchases of paper be taken from the Speaker's table and referred to the Committee on Printing, with power to investigate the same, to send for persons and papers, and to sit during the recess.

Mr. HOLMAN.\* I trust the last clause of that resolution will be stricken out. Otherwise, it is unexceptionable. Authorizing the committee to sit during the vacation is unnecessary.

Mr. LAFLIN. It is necessary in order that the \$100,000 held back from the contractors for paper may be paid. It is agreeable to the late Superintendent of Public Printing. It is his particular wish that this investigation should take place.

Mr. HOLMAN. I believe the same investigation has been set on foot at the other end of the Capitol.

Mr. LAFLIN. It was reported to this House, and has nothing to do with the other end of the Capitol.

Mr. SCOFIELD. Is there any committee that has not authority to sit during the recess? I think there is not, and this committee would be lonesome unless this authority is granted to them.

The SPEAKER. The Committee on Mileage has not authority to sit during the recess.

Mr. STEVENS, of Pennsylvania. We have five minutes left, and I think that is sufficient for the committee. [Laughter.]

Mr. HOLMAN. The rules have not yet been suspended.

The SPEAKER. The Chair is of the opinion that this committee is now authorized to sit during the recess. By the concurrent resolution of the two Houses this session of the Fortieth Congress continues to the first Wednesday in July next, at which time, unless a quorum appears, there is to be an adjournment *sine die*.

Mr. LAFLIN. Under that decision of the Chair I am willing to accept the modification. The resolution, as modified, was adopted.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 22, to authorize the payment of Rev. C. B. BOXTON as Chaplain of the House of Representatives of the Fortieth Congress; when the Speaker signed the same.

#### NEW POST ROUTES.

Mr. LYNCH, by unanimous consent, introduced a bill to establish certain post routes; which was read a first and second time.

The bill establishes post routes from Kennebunk to Cape Neddick, and from Biddeford to Saco Pool, in the State of Maine.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. MOORE, one of his Clerks, notifying the House that he had this day approved and signed the following joint resolutions:

Joint resolution (H. R. No. 51) relative to the iron-clad monitor Comanche; and

Joint resolution (H. R. No. 7) providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States."

The latter joint resolution was accompanied with the following message:

*To the House of Representatives:*

In giving my approval to the joint resolution providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States," I am moved to do so for the following reason: the seventh section of the act supplementary to the act for the more efficient government of the rebel States provides that the expenses incurred under or by virtue of that act shall be paid out of any moneys in the Treasury not otherwise appropriated. This provision is wholly unlimited as to the amount to be expended, whereas the resolution now before me limits the appropriation to \$500,000. I consider this limitation as a very necessary check against unlimited expenditure and liabilities. Yielding to that consideration, I feel bound to approve this resolution without modifying in any manner



any objections heretofore stated against the original and supplemental acts.

ANDREW JOHNSON.

WASHINGTON, D. C., March 30, 1867.

The message was laid on the table and ordered to be printed.

NORMAN WIARD.

Mr. SCHENCK, by unanimous consent, introduced a joint resolution for the relief of Norman Wiard, relating to steel guns, and moved that it be referred to the Committee on Ordnance.

The joint resolution was read a first and second time.

Mr. WARD moved as an amendment that it be referred to the Committee of Claims.

The House divided; and there were—ayes 44, noes 38.

So the amendment was agreed to.

The question was upon the motion to refer, as amended.

Mr. SCHENCK. I hope it will be voted down.

The question was taken; and upon a division there were—ayes 44, noes 38.

Before the result of the vote was announced,

Mr. SCHENCK called for tellers.

Tellers were ordered; and Mr. SCHENCK and Mr. WARD were appointed.

The House again divided; and the tellers reported—ayes 40, noes 44.

So the motion, as amended, was disagreed to.

Mr. SCHENCK. I now move as an original motion to refer it to the joint select Committee on Ordnance.

Mr. WINDOM. I move to refer it to the Committee of the Whole.

The SPEAKER. The latter motion has priority.

On referring the resolution to the Committee of the Whole, there were—ayes 31, noes 47; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. WINDOM and SCHENCK.

The House again divided; and the tellers reported—ayes 35; noes 47.

The SPEAKER. The Chair votes in the negative, making a quorum.

Mr. WINDOM. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SCHENCK. Have I the privilege of withdrawing the resolution? If so I will do it.

The SPEAKER. If there is no objection it will be withdrawn.

No objection was made, and the resolution was accordingly withdrawn.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a resolution that a committee consisting of two members be appointed on the part of the Senate, to join such committee as may be appointed on the part of the House of Representatives, to wait upon the President of the United States and inform him that unless he may have some further communication to make the two Houses, having finished the business before them, were ready to adjourn, and had ordered that Mr. MORGAN and Mr. HENDRICKS be the committee on the part of the Senate.

The House proceeded to consider the resolution of the Senate.

Mr. WINDOM. I move that the House concur in the resolution.

The motion was agreed to; and the Speaker appointed Messrs. WINDOM and BROOKS as the committee on the part of the House.

Mr. WINDOM desired to be excused; and the Speaker appointed in his place Mr. LAFLIN.

#### LIGHTING WASHINGTON WITH GAS.

Mr. INGERSOLL. There is an important joint resolution on the Speaker's table in reference to lighting this city with gas. Unless it receives the concurrence of the House we shall leave the city in darkness, which is much to be dreaded. It will take but a moment to pass it, and I hope there will be no objection.

Mr. WINDOM. I object.

#### TESTING OF ORDNANCE.

Mr. SCHENCK. I ask unanimous consent to offer a resolution in relation to experiments of testing ordnance for the purpose of reference to the joint Committee on Ordnance.

Mr. ROSS. I object. It is too late in the session for experiments.

Mr. SCHENCK. I move to suspend the rules.

Mr. CHANLER. Let the resolution be read.

The Clerk read the resolution partially, as follows:

*Resolved*, That the Ordnance Committee be directed to determine upon a proper series of experiments to be applied to guns offered for service, and upon rules to govern the ordnance department in making purchases of heavy ordnance, the tests to determine the rate of hitting and missing of shots from heavy guns when fired at moving objects, the penetration of shots from such guns in earth, brick, stone—

The reading of the resolution was not concluded.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges; and

An act (S. No. 122) for the support in part of the National Soldiers' and Sailors' Orphan Home, in the District of Columbia.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Colonel WILLIAM G. MOORE, his Secretary, informed the House that he had this day approved and signed a bill and a joint resolution of the House of the following titles:

An act (H. R. No. 79) to authorize the appointment of certain watchmen, and for other purposes; and

A joint resolution (H. R. No. 22) to authorize the payment of Rev. C. B. BOXTON, Chaplain of the House of Representatives of the Fortieth Congress.

#### COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. LAFLIN, from the committee to wait on the President, reported that the committee had discharged that duty, and had been directed by the President to inform the House that he had no further business to communicate to them.

#### ADJOURNMENT.

The SPEAKER. Gentlemen, the hour of twelve o'clock m. having arrived, I do, in accordance with the concurrent resolution adopted by both Houses, and wishing each one of you a safe journey to your respective homes, and a happy reunion with your families and friends, declare the first session of the House of Representatives of the Fortieth Congress adjourned to the first Wednesday, at noon, in July next.

#### IN SENATE.

WEDNESDAY, July 3, 1867.

In pursuance of the provisions of the resolution of adjournment passed by Congress on the 29th of March last, the Senate reassembled in the Senate Chamber, in the city of Washington, this day, at twelve o'clock noon.

Rev. E. H. GRAY, D. D., Chaplain of the Senate for the Thirty-Ninth Congress, offered the following prayer:

Blessing and honor and glory and might and dominion be unto God, our Creator, Sovereign Ruler, everlasting Redeemer, enthroned in the Heavens. Thanks be to Thy great name for Thy presence and the fullness of Thy blessings vouchsafed to our beloved nation. Thanks for the peace now prevailing in our borders and the prosperity within our palaces. Thanks for all the manifestations of Thy goodness and mercy which, from day to day, we enjoy. Thanks for the health prevailing in our land, for the goodness restraining the hand of the

destroying angel from raining down pestilence upon our cities and upon our towns. Thanks for the blessings of health, for blessings individual, collective, national. May we receive them as coming from Thy hand, and acknowledge them with devout gratitude and praise. Oh God, it is with shame and confusion of face that we come to confess our sins individually, socially, nationally. Forgive them; blot out our transgressions, and grant that we may stand up before Thee a regenerated and saved people. Especially do we now invoke Thy blessing to be upon Thy servants convened within these Halls of legislation. We ask that Thou wilt give wisdom to the Senators and to the Representatives, and grace to the officers presiding over both Houses, and let dignity and a spirit of kindness and wisdom and truth and justice characterize all their deliberations, and let Thy blessing be upon all the members of this Congress, and upon all of their enactments. Bless the President of the United States and those associated with him in authority, and give them wisdom and grace to administer the laws of the land in such a manner as to secure harmony, union, self-respect among the different classes of the community in this great commonwealth of States; and thus may the blessing of God, the great superintending intelligence of the universe, be upon us in all of our interests and institutions, making us, as a nation, an honor to ourselves and a glory to the world. Through Jesus Christ our Lord. Amen.

Hon. BENJAMIN F. WADE, President *pro tempore* of the Senate, resumed the chair and said: The time having arrived for the commencement of the adjourned session of the Fortieth Congress of the United States, the Senate will please come to order, and the Clerk will read the resolution under which the Senate has assembled.

The Chief Clerk read the resolution, as follows:

*Resolved*, That the President of the Senate and the Speaker of the House of Representatives are hereby directed to adjourn their respective Houses on Saturday, March 30, 1867, at twelve o'clock, meridian, to the first Wednesday in July, 1867, at noon, when the roll of each House shall be immediately called, and immediately thereafter the Presiding Officer of each House shall cause the Presiding Officer of the other House to be informed whether or not a quorum of its body has appeared; and thereupon, if a quorum of the two Houses respectively shall not have appeared upon such call of the rolls, the President of the Senate and the Speaker of the House of Representatives shall immediately adjourn their respective Houses without day.

Mr. SUMNER. I rise to a question of order on that resolution, which I submit as follows: that the resolution under which Congress is to-day assembled, so far as it undertakes to direct the adjournment of the two Houses of Congress without day, is unconstitutional and inoperative, inasmuch as the Constitution, after declaring that "a majority of each House shall constitute a quorum to do business," proceeds to provide that "a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members;" and therefore such resolution must not be regarded by the Chair so far as it undertakes to provide for an adjournment without day. As, according to the view, there is a quorum already present, the incident contemplated by the resolution will not probably arise; but I felt it my duty, by way of precaution and caveat to introduce now this protest, to the end that that resolution may not hereafter be drawn into a precedent so as to abridge the rights of the two Houses of Congress under the Constitution of the United States.

The PRESIDENT *pro tempore*. The Chair thinks perhaps the motion is premature. At present we do not know judicially whether there is a quorum present or not to do anything, even to act upon the question of order.

Mr. SUMNER. I have already said that I now present this in the way of protest.

The PRESIDENT *pro tempore*. The Senator does not contemplate action upon it?

Mr. SUMNER. Not now.

Mr. HOWARD. I hope the roll may be

called to ascertain whether we have a quorum present.

The PRESIDENT *pro tempore*. The Clerk will proceed to call the roll of the Senate according to the resolution, and the Senators will answer to their names as called.

The Chief Clerk thereupon proceeded to call the roll; and the following Senators answered to their names:

Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Conkling, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sprague, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—35.

The following Senators were absent:

Messrs. Bayard, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Guthrie, Hendricks, Johnson, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Saulsbury, Sherman, Stewart, and Williams—18.

The PRESIDENT *pro tempore*. Thirty-five Senators having answered to their names, a quorum is present. The first business in order will be to inform the House of Representatives that a quorum of the Senate has assembled.

Mr. POMEROY. I move that a committee be appointed for that purpose.

Mr. EDMUNDS. The usual practice is for the Secretary to do that.

Mr. ANTHONY. The resolution of adjournment requires that to be done by the presiding officers. It does not require any motion.

The PRESIDENT *pro tempore*. The Secretary will inform the House of Representatives that a quorum of the Senate is present.

Mr. HOWARD. I will inquire whether a resolution would be in order at this moment?

Mr. SUMNER. Petitions and reports are first in order.

Mr. EDMUNDS. We are not yet organized.

Mr. HOWARD. I ask whether it would be proper to proceed to the transaction of any business or to entertain even a petition or resolution before we have received a message from the House of Representatives announcing that they have a quorum present?

The PRESIDENT *pro tempore*. I suppose not. I suppose that that is the first thing to be done. There will be no Congress unless there is a quorum of the House also.

Mr. TRUMBULL. Lest the protest of the Senator from Massachusetts should by silence be supposed by some to be acquiesced in, I wish to state that I protest against his protest as utterly out of place. I believe it is competent for the two Houses under the Constitution to regulate their own adjournments; and the Senator might as well have introduced a resolution that the Senate at three or four o'clock to-day could not adjourn over until to-morrow because less than a quorum could sit here and compel the residue of the members to come in, as to present the proposition that he has, in my judgment. I do not wish to discuss it, but merely to enter a protest against any such construction of the Constitution as denies to the two Houses of Congress the right to regulate their own adjournments.

Mr. SUMNER. Mr. President, there is an actual text of the Constitution which even the learning and ingenuity of my friend from Illinois cannot displace. Here it is in so many words:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide."

Now, here is a concurrent resolution providing for a future meeting of Congress. To that extent it is unquestionably constitutional; but when the resolution goes forward and imposes shackles upon the two Houses of Congress when they shall come together by virtue of that resolution, then I submit it does what, under the Constitution, it cannot do; its words are powerless. Congress, when once assembled by virtue of that resolution, has all the powers of a Congress of the United States

under the Constitution. That resolution cannot restrain it. Such, at any rate, is my conclusion, after the best reflection that I have been able to give to these words of the Constitution; and I feel it my duty on this occasion to make this protest, to the end that what we now do may not be drawn into an example hereafter. It is well known that those words were introduced in order to tie the hands of the Congress should it come together and there be no quorum present; in short, to despoil the Congress then assembled of the prerogative secured to it by the Constitution of the United States. To that extent I insist that the resolution hereafter shall be regarded as of no value, and not be quoted as a precedent.

Mr. TRUMBULL. It is manifest to my mind that the constitutional clause to which the Senator from Massachusetts refers has no application whatever to a case of this kind. A smaller number than a majority, or a smaller number than a quorum, "may be authorized to compel the attendance of absent members." How must they be "authorized?" By a majority, by an act of Congress, or by a resolution of the body itself. So far from a minority being authorized, a minority are expressly forbidden by this rule to compel the attendance of members. A minority cannot, against the voice of the majority, against the regulation of the majority, compel the attendance of members. That is what the Constitution means. It means that the minority, acting in obedience to the authority conferred by the majority, may do it. Now, the majority have not authorized it. This clause was inserted in the Constitution for the purpose of authorizing a minority, under a regulation to be prescribed by the majority, to compel the attendance of a majority. It can only be done in case it is authorized. Each House may authorize a minority in such manner and under such penalties as it thinks proper to compel the attendance of the others. Now, each House, or rather the Senate in which we are sitting, has not authorized the minority to compel the attendance of absent members at this session, but has forbidden it. Mr. FRELINGHUYSEN. Congress has forbidden it.

Mr. TRUMBULL. Both Houses have forbidden it, and as the greater includes the less each House has forbidden it. This clause was inserted for the purpose of enabling a minority at the time when Congress was first to assemble, under such directions as might be prescribed by the law-making power or by each House, to compel the attendance of a quorum. That is all that it means. I do not know that the Senate has prescribed the mode by which this may be done. If it has done so at any time, the last rule at any rate would obtain, which is a rule prohibiting the compelling of the attendance of members on the present occasion in case a quorum is not present. But there is no importance in this question; a quorum is here in compliance with the resolution; and I only rose to enter my dissent from this formal protest of the Senator from Massachusetts.

#### MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives by Mr. McPHERSON, its Clerk:

Mr. PRESIDENT: I am directed to inform the Senate that the Speaker of the House of Representatives having caused the roll of members to be called, as provided for in the concurrent resolution of the two Houses of the 29th of March, it appears that a quorum of the House of Representatives is present.

#### NOTIFICATION TO THE PRESIDENT.

Mr. WILSON. I ask the unanimous consent of the Senate to introduce a bill with a view to reference.

The PRESIDENT *pro tempore*. Is there any objection to its present introduction?

Mr. ANTHONY. With the assent of the Senator from Massachusetts, I will offer a resolution first.

Resolved, That a committee consisting of two mem-

bers be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The resolution was considered by unanimous consent and agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. ANTHONY. By the Chair.

The PRESIDENT *pro tempore*. That will be taken to be the sense of the Senate if there be no objection, and the Chair will appoint Mr. ANTHONY and Mr. BUCKALEW as the committee on the part of the Senate.

#### HOOR OF MEETING.

Mr. ANTHONY. With the assent of the Senator from Massachusetts, I will offer another resolution:

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock m., until otherwise ordered.

The resolution was considered by unanimous consent and agreed to.

#### PETITIONS.

Mr. SUMNER. Are not petitions first in order?

The PRESIDENT *pro tempore*. I suppose they would be in order. It would be more regular perhaps to have the regular organization before we proceed to business. We have to send a notice to the President, I suppose.

Mr. SUMNER. But I ask the Chair if the organization is not completed? The committees are already appointed, as I understand.

The PRESIDENT *pro tempore*. I suppose petitions are in order.

Mr. SUMNER. I offer the petition of J. A. Maxwell, of Mississippi, in which he asks to be relieved from certain civil disabilities on account of having been compromised in the rebellion. He is represented to me by a person who knows him well as having always been opposed to the rebellion. He held the office of probate judge of Claiborne county, in Mississippi, at the time of the rebellion in the State, and continued to hold it for some time after that, and did nothing more.

I also offer the petition of W. W. Handlin, who asks to be relieved from civil disabilities. He is represented as an attorney-at-law in New Orleans, where he lived at the breaking out of the rebellion, to which he was opposed. He was a member of the local militia and captain of a company, but never in service. He is represented as a gentleman of integrity and learning, and worthy of relief.

I offer these two petitions, and ask their reference to the Committee on the Judiciary. In offering them I desire to say that I express no opinion myself with regard to the policy of Congress undertaking to provide for special cases, even as meritorious as I doubt not these are. It is with me a serious question whether it is not for the interest of the Union people in those States that persons, even such as these, should continue under their present disabilities rather than that Congress should interfere in any way with that important legislation. I merely make this remark—I feel it my duty to do it—because I have been called to present these petitions.

The PRESIDENT *pro tempore*. The petitions will be received and referred to the Committee on the Judiciary, if there be no objection.

Mr. FESSENDEN. Mr. President—

Mr. SUMNER. I have got some more petitions.

Mr. FESSENDEN. I desire to interpose an objection to the reference of these petitions, and I may as well bring the question up here now before the Senator offers any more. I do it for the reason that in my judgment it is not expedient at the present session to act upon general business. As we all know, we come together under very peculiar circumstances, and probably in the minds of most gentlemen with reference to a particular question. I remember that at the called session of the Twenty-Seventh Congress by General Harrison there were several propositions made with ref-

erence to the disposition of business, and I have been looking at the record this morning to see what was done. I had an imperfect recollection with regard to it. I remembered being on a committee (I believe it was an informal committee) of one from each State (I was a member of the House at that time) to advise the House with reference to the business to be done at that session. In consequence of the deliberations of that committee thus raised by the House, a change of the rule, limited to the session, was adopted by the House. I have been looking at it this morning, and it is substantially this: that to the reception of all papers upon all subjects not referred to in the President's message to Congress, with the single exception of a national bankrupt law, an objection should be considered as made, and that they should be laid upon the table without debate. That rule was adopted by the House, and it was adhered to. At that session we did nothing, if I recollect aright, except to discuss and act upon the subjects referred to in the message of the President and the bankrupt bill.

Now, sir, we meet here in the month of July. I presume I cannot be mistaken in saying that it was the general sentiment—there might have been exceptions, and probably were—of the members of the House and of the members of the Senate, when we adopted the resolution under which we adjourned, that unless something occurred to render it necessary, in the judgment of members, there probably would be no quorum present in either House at this session. Something has occurred which has excited a general feeling throughout the country that there ought to be a session, and that is a single matter which calls us together. For myself I am not prepared to say that there is anything else which requires our attention at the present time. Especially do I deem it not advisable to proceed to the consideration of general business, to refer petitions to committees, to introduce bills and have those referred to committees and reported upon at this session; but that all those matters of general legislation should be laid upon the table, if presented, for the present, at least until the two Houses have had a little time to deliberate and settle the question whether or not they will go into the consideration of business of all kinds, and if not, what particular business they will take up.

I therefore object to the reference of those petitions presented by the Senator, and I would move to lay them on the table, but that, I suppose, in the nature of the motion itself, would preclude other gentlemen from expressing their opinions on the subject. Perhaps the opinion of the Senate for the present, for the day, until we may deliberate further on the subject and come to some conclusion among ourselves, may be as well settled upon the question of the reference of those petitions or of any bills that may be offered, such as that offered by my friend on my right, [Mr. WILSON,] as in any other way. I therefore make that objection, having stated the grounds upon which I make it and the views which I entertain with regard to the propriety of proceeding in the ordinary way to the reference of bills and petitions and other matters, until we have come to some more definite conclusion on the subject.

Mr. SUMNER. Mr. President, we are a Congress of the United States assembled under the Constitution, and with all the powers that belong to the body under the Constitution; ay, sir, and with all the responsibilities which belong to Congress under the Constitution. We cannot by an agreement or understanding with ourselves divest ourselves of our responsibilities. What are they? To transact the public business, not simply one matter or two matters, but the public business in its sum total, whatever that may be—all that concerns the welfare of this great Republic. Now, the Senator from Maine limits us to one matter, which he has only alluded to, but has not undertaken to characterize. I suppose that I understand him; but he must know well that even that

matter to which he refers, as I suppose, has many ramifications. But why are we to be restrained to that one matter? I see no reason. There is nothing in the past usage of this body that should control us in that regard; nor is there anything in the present necessities. Looking at the past usage of Congress, I need not remind you that we have habitually sat throughout the summer into the month of August—ay, and on one occasion into the month of September. It is no new thing that Congress should be here in July. It is an exception that Congress is not here in July during what is called the long session. Therefore, in considering public business, even in these heats, we are only doing what our predecessors before us have done; we are following the usage of Congress, and not setting up a new usage of our own. The motion of the Senator, if it be a motion, or rather his suggestion, does set up a new usage. It is virtually to declare that when admonished by the heats of July we will fold our hands, and will not even consider public business except in one particular case; that all the other vast interests of this country will be left, without any reference to a committee, without any inquiry, unattended to, neglected. Now, there are other interests that require attention, and since Congress is together I submit that we ought not to fail in that, too.

The Senator from Maine says that when Congress adjourned it was not supposed that there would be a session at this time. He may not have supposed there would be a session. I never doubted that there would be a session. I saw full well that the public interests would require a session of Congress in the month of July, and I labored to bring it about, feeling that in so doing I was only discharging a public duty. Why, do you forget whom you have as President? A constant disturber, a mischief-maker. So long as his administration continues it is the duty of Congress to be on guard, perpetually on watch against him as a disturber of the public peace and the public security; and that must have been obvious when Congress adjourned, as it is obvious now. Senators may not have foreseen precisely what he would do; but I take it that there were few Senators who did not foresee that he would do something that would make it important for Congress to be present. For myself I did not doubt then that it would be our duty to be here in our places in order to make adequate provision against his misdeeds. He is President and the head of the executive, invested with all the power that belongs to that department of Government. It is hard, I know, for you to provide against him; but nevertheless you must do it. This Republic is too great, too vast, and too precious to be left in the hands of a bad man.

One of the greatest masters in the art of war tells us as the lesson of his great military experience that the good general always regards that as probable which is possible. I know no better rule for the statesman than to regard that as probable which is possible. Now, with a President such as we have, anything in the nature of disturbance or interference with the public security is possible through the exercise of the executive arm. Therefore you are to regard it as probable and make provision against it. So I argued with myself last spring and was satisfied that it would be our duty to be in our seats at the coming July. We are now here, and I now insist that it is our duty to go forward and discharge all our duties, without any exception, under the Constitution of the United States.

Mr. FESSENDEN. Mr. President, the Senator has laid down two propositions as the foundation of his remarks with which I do not feel disposed to differ. One is, that we are in session as a Congress and have the power to do all kinds of business. That I agree to. Another is, that we are acting under the responsibilities of a Congress. That I agree to. The question is simply what each Senator will consider to be his responsibility, or rather what

that sense of responsibility will in his judgment render it necessary that he should act upon. That is for each Senator to determine for himself; and although we all have not the powers of prophecy which my honorable friend from Massachusetts has, to tell exactly what ought to be done always and the way to do it, yet we each, I suppose, have individual opinions and are not only ready but able to act upon those opinions for ourselves.

The Senator says this is according to usage. I beg leave to differ with him. I know the business of Congress has led us at the long session into the month of July. It did last year. At the short session never, because the Congress expires in March, and we never have had a session under these circumstances before. It is a new thing, entirely without precedent, without example; and the Senator can point me to no precedent. There has been no other session of Congress in the summer, in the vacation between the adjournment in March, the expiration of one Congress, and the meeting of the next in December, except when a special session was called by the President himself. So much for the usage.

Now, sir, to show that I am not very much out of the way, and to fortify myself by the opinions of others, I refer to the proceedings of the Twenty-Seventh Congress. I find that in the Senate—

"Mr. CLAY, of Kentucky, submitted the following resolution, which was read:

*Resolved, as the opinion of the Senate, That at the present session of Congress no business ought to be transacted but such, as being of an important or urgent nature, may be supposed to have influenced the extraordinary convention of Congress, or such as that the postponement of it might be materially detrimental to the public interests.*

*Resolved, therefore, as the opinion of the Senate, That the following subjects ought first, if not exclusively, to engage the deliberations of Congress at the present session, namely:*

- "1. The repeal of the sub-Treasury.
- "2. The incorporation of a bank adapted to the wants of the people and of the Government.
- "3. The provision of an adequate revenue for the Government by the imposition of duties, and including an authority to contract a temporary loan to cover the public debt created by the last Administration.
- "4. The prospective distribution of the proceeds of the public lands.
- "5. The passage of necessary appropriation bills; and—

- "6. Some modification of the banking system of the District of Columbia, for the benefit of the people of the District.

*Resolved, That it is expedient to distribute the business proper to be done at this session between the Senate and House of Representatives, so as to avoid both Houses acting on the same subject at the same time.*"—*Senate Journal, Twenty-Seventh Congress, First Session, page 24.*

That resolution was not acted upon; it was displaced by the course adopted by the House of Representatives. The House adopted, under the circumstances to which I have referred, a change of rules. I will now read, so that there may be no mistake about it, the rule then adopted:

"Upon the presentation of petitions and other papers, on subjects not specially referred to the consideration of the House in the message of the President at the opening of the present extra session, objection to the reception shall be considered as made, and the question of reception shall be laid on the table. This rule to be considered only in force during the present session. Petitions and other papers for or against a bankrupt law to be excepted from the operation of this rule. The action of all committees, on all subjects not specially referred to the consideration of the House in the message of the President, shall be suspended during the present session; this suspension not to apply to the business before the Committees of Elections, Ways and Means, of Accounts, and on Mileage, nor, if the House shall so determine, to the subject of a general bankrupt law."—*Journal House of Representatives, Twenty-Seventh Congress, First Session, page 117.*

Now, sir, the proposition that I make is not one that calls for any definite action at the present time. I am not wise enough. I am not enough of a prophet at once to tell what may be necessary. The only proposition that I make is that for a day or two, for a short period, action referring petitions and referring bills may be suspended until the members of the Senate have an opportunity to consider what is best to be done at the present session, and decide definitely upon it. Their conclusion may cover all that the Senator speaks of,

I do not see, however, that his argument with reference to the President has any relation whatever to the proposition that I make, if it may be called a proposition, or rather the suggestion that I make, because if anything of that sort is necessary it will be included unquestionably by the members of the Senate and of the other House in the conclusion they may come to or the resolution that they may entertain and adopt fixing what business shall be done, and excluding that which is not particularly called for by any pressure of the public interest at the present time.

Why sir, take as an illustration: the Senator has presented two petitions, and he says that he has not made up his mind whether any action ought to be had upon them. Is that the kind of pressure of public business that he wants to attend to and regard and respect at the present time? My own impression I gave, that we really come together for a special purpose, and when that special purpose is accomplished all other business may as well go over to a period of a year when we can attend to it without inconvenience and without damage to ourselves. So far as I have conversed with gentlemen, and I have conversed with a great many, I believe it to be the general sentiment and feeling of the country that we should have as short a session as possible, and do only that which is absolutely to be done. What that may include is for the Senate and for the House of Representatives to determine. It may include all that the honorable Senator suggests, or it may not. What I ask is simply that the two bodies have an opportunity, before proceeding to initiate business by the reference of bills, &c., to consider and decide that question, and when the majority has decided it I certainly shall acquiesce in the decision. I do not feel disposed now to go into any general considerations arising from the danger supposed to be apprehended from the President or from any other source in relation to that, but simply to take what seemed to me a very plain and sensible course of proceeding.

Mr. SUMNER. I hope the Senate will pardon me if I add one word to what I have already said. The Senator from Maine introduces as a precedent something which he will pardon me if I say is not a precedent. He calls our attention to a session of Congress convened by virtue of a summons of the President of the United States—a called session of Congress. Why, sir, this is no called session of Congress. This is simply a continuing session of one that was begun on the 4th day of March. It is not a new session. It is a session already begun, prolonged now in the midst of July. Had it been such a session as the Senator from Maine seems to have imagined his precedent would be applicable. We might then have searched the message of the President in order to find the subjects proper for consideration. It is, however, no such session. We are here broadly, under all our powers as a Congress, and our life as a Congress, having begun here on the 4th day of March, at noon. Therefore, allow me say, the precedent is inapplicable. At any rate so it seems to me, and I submit to the Senate if I am not right in that conclusion.

The practical question then is, what shall we do, being a Congress assembled as any other Congress, with all powers and all duties? I submit, proceed with the public business in due order until such time as by the reports of committees or by votes of the bodies we shall be satisfied that it is not advisable to proceed further with the matters so referred. I think, therefore, petitions should be presented and referred, bills introduced and take their proper destinations, and business of all kinds be brought before the Senate. Then afterward it will be well for the Senate to determine what course to take in regard to it. I hope these petitions will be referred to the Judiciary Committee.

Mr. HOWARD. I wish to suggest to the Senator from Massachusetts whether it would not be best, under the circumstances, to allow his petitions to lie upon the table until the two Houses can resolve upon something definite,

whether they will proceed to the business of general legislation or whether they will confine themselves to those matters which all believe to be of first importance.

Mr. SUMNER. But I ask my friend how we are to know that?

Mr. HOWARD. Let your petitions be laid on the table temporarily.

Mr. SUMNER. Is it not the most practicable course to let petitions and all other business take the ordinary direction? I feel that if we make an exception we depart from the rule; the business is not as it ought to be, is not in proper order. In presenting the petitions as I have, I have simply followed the rules of the Senate. I have other petitions of a different character, coming from southern States, which I desire to present, and I also have other matters which I hope to submit to the Senate.

Mr. HOWARD. I merely make the suggestion to the honorable Senator from Massachusetts whether that would not be the better course to take for the present until the two Houses of Congress can consider this whole matter and dispose of it themselves. It is my opinion, speaking for myself, that there will not be found a majority of the two Houses who are willing to protract this session of Congress for any great length of time. I think the general disposition will be found to be that we had better confine ourselves to the matter of reconstruction and to the various subjects necessarily connected with that most important of all the subjects that we have had before us, and not to go beyond that line of demarcation. I am willing for one to refer that question entirely to the good sense of the two Houses, and I do not set up my opinion as being more valuable than that of the two Houses. It seems to me I would let these petitions lie on the table for the present until we know what we shall do.

Mr. SUMNER. Very well, I have no objection. Then let them lie on the table, and I give notice that when the Senate shows a disposition to proceed with business, I will call them up and have them referred.

The PRESIDENT *pro tempore*. They will lie on the table by general consent, no objection being made.

Mr. SUMNER. I now offer the petition of J. H. Heald, of New Orleans, asking for relief from a decree of forfeiture in a cotton case. According to the suggestion of my friend, I ask that that lie on the table.

The PRESIDENT *pro tempore*. That course will be taken.

Mr. SUMNER. I also offer the petition of L. J. Allain, of Louisiana, setting forth an important discovery with regard to the culture of sugar-cane, for which he can obtain no adequate protection by the existing patent laws; and he asks for legislation for his benefit on that account. I should prefer that the petition in the usual course of business should go to the Committee on Patents, but I now ask that it lie on the table.

The PRESIDENT *pro tempore*. That order will be made, there being no objection.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the resolution of the Senate for the appointment of a committee to wait upon the President, and had appointed Mr. JOHN F. FARNSWORTH of Illinois, Mr. RUFUS P. SPALDING of Ohio, and Mr. FERNANDO WOOD of New York, the committee on the part of the House.

#### BILLS INTRODUCED.

Mr. SUMNER. Is the introduction of bills in order?

The PRESIDENT *pro tempore*. It is.

Mr. WILSON. I presented a bill some time since.

The PRESIDENT *pro tempore*. The Senator from Massachusetts [Mr. WILSON] asks leave to introduce a bill.

By unanimous consent leave was given to introduce a bill (S. No. 123) in addition to the act passed March 2, 1867, to provide for the more efficient government of the rebel States, and the act supplementary thereto, passed March 23, 1867; and it was read the first time by its title.

Mr. WILSON. I move that the bill be printed and referred to the Committee on the Judiciary.

Mr. FESSENDEN. I think it had better be laid on the table for the present.

Mr. WILSON. It is a bill in regard to the very subject that has brought us here.

Mr. FESSENDEN. The objection is merely to deciding in advance. We all understand that perfectly well.

Mr. WILSON. I have no objection to its taking that course. I will merely say that it is a simple bill of a few sections in regard to this very subject which has called us together.

Mr. FESSENDEN. It is undoubtedly the subject on which we shall act; but I propose that the bill lie on the table for the present, merely to carry out the idea which has been suggested.

The PRESIDENT *pro tempore*. The question is on laying this bill on the table for the present. Is there any objection to that order? No objection being made, the bill will lie on the table for the present.

Mr. WILSON. And let it be printed.

The PRESIDENT *pro tempore*. That order will be made.

Mr. SUMNER. I now ask leave to introduce a bill without previous notice, it being substantially a bill introduced at the last session, but with certain amendments, which I have introduced at the suggestion of gentlemen of Maryland, and in order to meet the circumstances of that particular State. It is a bill entitled as follows: "A bill to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to colored citizens." I ask leave to introduce this bill, and propose that it be printed and laid on the table.

By unanimous consent leave was granted to introduce the bill (S. No. 124;) which was read the first time, laid on the table, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 125) in explanation of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; which was read the first time by its title, laid on the table, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 126) further to provide for the reconstruction of the rebel States; which was read the first time by its title, ordered to lie on the table, and be printed.

Mr. PATTERSON, of Tennessee. I ask leave to introduce two bills, to correct a clerical error that we fell into at the last session. I shall call them up to-morrow. There is no necessity for their reference. At present I ask that the bills lie upon the table.

There being no objection, leave was granted to introduce a bill (S. No. 127) to repeal an act entitled "An act for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon," approved January 31, 1867, and a bill (S. No. 128) for the relief of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon; which were read the first time by their titles, and ordered to lie on the table.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 129) further supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; which was read the first time by its title, ordered to lie on the table, and be printed.



## ADJOURNMENT TO FRIDAY.

Mr. GRIMES. I move that when the Senate adjourn to-day it adjourn to meet at twelve o'clock on Friday.

The motion was agreed to.

## HOMESTEADS FOR FREEDMEN.

Mr. SUMNER. I offer the following resolution:

*Resolved*, That the reconstruction of the rebel States would be hastened and the best interest of the country promoted if the President of the United States, in the exercise of the pardoning power, would require that every landed proprietor who has been engaged in the rebellion, before receiving his pardon therefor, should convey to the freedmen, his former slaves, a certain portion of the land on which they have worked, so that they may have a homestead in which their own labor has mingled, and that the disloyal master may not continue to appropriate to himself the fruits of their toil.

I move that the resolution be printed and laid on the table.

The motion was agreed to.

## INSTRUCTIONS TO MILITARY COMMANDERS.

Mr. HOWARD. I offer a resolution on which I wish the action of the Senate at present:

*Resolved*, That the President be respectfully requested to communicate to the Senate copies of all orders, instructions, circular letters, or letters of advice issued to the respective military officers assigned to the command of the several military districts under the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 23, 1867; also copies of all opinions given to him by the Attorney General of the United States touching the construction and interpretation of said acts, and of all correspondence relating to the operation, construction, or execution of said acts that may have taken place between himself and any of said commanders, or between him and the General of the Army, or between the latter and any of the said commanders touching the same subjects; also, copies of all orders issued by any of said commanders in carrying out the provisions of said acts, or either of them; also, that he inform the Senate what progress has been made in the matter of registration under said acts, and whether the sum of money heretofore appropriated for carrying them out is probably sufficient.

The resolution was considered by unanimous consent, and agreed to.

## MEXICAN AFFAIRS.

Mr. CHANDLER. I offer the following resolution:

*Resolved*, That the President be requested, if not incompatible with the public interest, to transmit to the Senate all the official correspondence between the Department of State and Hon. Lewis D. Campbell, late minister of the United States to the republic of Mexico, from the time of his appointment; also the correspondence of the Department with his successor.

Mr. FESSENDEN. I think that resolution had better go over. I prefer that it should go over for the present.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. SUMNER. I send to the Chair a resolution which covers in part the ground of the resolution introduced by the Senator from Michigan, to which I think there will be no objection:

*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to furnish to the Senate copies of any correspondence on the files of the Department of State relating to any recent events in Mexico.

Mr. FESSENDEN. I prefer that should go over.

Mr. SUMNER. It is merely to get information.

Mr. FESSENDEN. Undoubtedly, and it may all be very proper; but under the idea on which we have acted so far, I prefer that it should go over.

Mr. TRUMBULL. If one passes, both should pass.

Mr. FESSENDEN. Certainly. I shall withdraw my objection to the resolution offered by the Senator from Michigan if this pass.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. FESSENDEN. I think nothing can be lost by letting it go over until Friday.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

## RECONSTRUCTION.

Mr. SUMNER. I move that the Senate proceed to the consideration of the resolutions on the table introduced by me on the 7th of March.

The PRESIDENT *pro tempore*. The resolutions will be read for information.

The Chief Clerk read as follows:

Resolutions declaring certain further guarantees required in the reconstruction of the rebel States.

1. *Resolved*, That Congress, in declaring by positive legislation that it possesses paramount authority over the rebel States, and in prescribing that no person therein shall be excluded from the elective franchise by reason of race, color, or previous condition, has begun the work of reconstruction, and has set an example to itself.

2. *Resolved*, That there are other things remaining to be done which are as clearly within the power of Congress as the elective franchise, and it is the duty of Congress to see that these things are not left undone.

3. *Resolved*, That among the things remaining to be done are the following:

*First*, The existing governments, which have been declared to be illegal, must be vacated, so that they can have no agency in the work of reconstruction, and will cease to exercise a pernicious influence.

*Secondly*, Provisional governments must be constituted as temporary substitutes for the illegal governments, with special authority to superintend the transition to permanent governments, republican in form.

*Thirdly*, As loyalty, beyond suspicion, must be the basis of permanent government republican in form, every possible precaution must be adopted against rebel agency or influence in the formation of these governments.

*Fourthly*, As the education of the people is essential to the national welfare, and especially to the development of those principles of justice and morality which constitute the foundation of republican government, and as, according to the census, an immense proportion of the people in the rebel States, without distinction of color, cannot read and write, therefore public schools must be established for the equal good of all.

*Fifthly*, Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land.

4. *Resolved*, That all these requirements are in the nature of guarantees to be exacted by Congress, without which the United States will not obtain that security for the future which is essential to a just reconstruction.

Mr. FESSENDEN. Those resolutions involve a great variety of subjects, and I really do not see the propriety of taking them up to-day at our first meeting. If the Senator merely desires to have them printed for the information of the Senate—

Mr. SUMNER. They are printed.

Mr. FESSENDEN. Well, it is a matter requiring a great deal of investigation, and involves the very question we have had up with regard to the business of the session. The Senator, it seems, is not willing to wait even a day or two for any consideration or consultation on the subject, but wishes to take up these resolutions immediately. I have expressed my opinion on the subject. I object to taking them up for consideration; and it may be as well, if the Senator insists upon it, to have the question settled whether we will proceed to the consideration of all these subjects to-day, and I shall therefore call for the yeas and nays upon the question of taking up the resolutions for consideration.

Mr. SUMNER. My friend from Maine is very critical. When I introduce petitions that concern matters outside of reconstruction he objects to their consideration because they do not concern reconstruction; and now, when I ask the Senate to proceed with resolutions which have been months on your table, and which concern reconstruction and nothing else, he objects to their consideration. Now I do not think that we can do better to-day, on this first day of our assembly, than to consider briefly the general principles which should enter into our provisions.

All agree that we are to provide a new measure of reconstruction. The question is, to what extent it shall go; what principles shall it recognize? The resolutions on your table declare the extent to which we should go and the principles which we should recognize. Had the bill already passed embodied those principles possibly there would have been no occasion for our session now, though, as I have already said, considering the character of our

Chief Magistrate, that is very doubtful. But by these resolutions it is declared that the existing governments must be vacated. Now, sir, I ask to have these resolutions considered that I may here, on this first day of the session, declare my conviction that we can make no progress in this question until the existing governments have been vacated. You have by your act of reconstruction declared that they are not legal, and yet, you leave them in a certain sense still existing. You must go forward and absolutely vacate them, so that they may not be in the way of a just reconstruction.

The resolutions then declare that there must be provisional governments as a substitute for those already vacated. That is an obvious proposition. I will not discuss it.

They then proceed to say that "every possible precaution must be adopted against rebel agency or influence in the formation of these governments." Is not that true? Can any one doubt that that must be accomplished?

They then proceed to declare that education must be required as a condition of reconstruction. Can any one doubt the importance of that? I am told sometimes that whether we require it or not, such is the mood of the South now that education will enter into every measure of reconstruction. That, sir, does not supersede the duty on our part. We must go forward and specially require it.

The resolutions then declare further that we must see in some way that every freedman is provided with a homestead. I have already in another resolution, which is on your table, declared that one practical way of bringing that about would be through the pardoning power of the President of the United States. Had the President begun right, and in granting a pardon to the landed proprietors required as a condition that they should all have set apart a piece of land for their freedmen, you would have had a new element of reconstruction and a new security for peace. I regret more than I can say the loss the country has suffered through that failure on the part of the President. Congress, I know, cannot control the pardoning power; but it may express its opinion with regard to its exercise; it may express its desires. Still further, Congress may, through the forfeited estates for non-payment of taxation, or in some other way, make provision to this end. My single object in that regard is to bring about, in some way or other, by some means the possession of a homestead for every head of a family among the freedmen. I believe that we shall not accomplish a just reconstruction until that enters as one of the conditions.

I am willing to be taught by a very great experience on this subject: I refer to that of Russia. Senators perhaps are not aware that the question of emancipation in Russia halted for some time on the single question of whether the emancipated serf should be allowed his freehold. At last, when that question was settled, the whole question was practically settled, and emancipation there became an assured success. Until the freehold was secured to the serf it was felt that he was not secured in his liberty; and I fear that until we secure to our emancipated bondmen a foothold in the soil, they will not be secured in those just rights which they have a right to expect from this Republic. It is from the United States that they have received the great boon of emancipation, and the United States must see to it that emancipation is practically carried to its beneficent consummation by providing a freehold.

I do not here intend to open the great and delicate question of confiscation, though should that come under discussion I should have no hesitation to meet it; but I content myself with a simpler proposition, beneficent in its character, and having in it no element of punishment; not punitive in its character, but essentially conservative, seeking future peace and security for this Republic. I insist that in some way, in laying the foundations of reconstruction, you must provide that the freedman

shall have his piece of land. Do it as you please, but do it you must. If you postpone the question you postpone a true reconstruction.

It is because the resolutions on your table embody that proposition and kindred propositions that I have desired to call the attention of the Senate to them on this first day of our meeting. If Senators are disposed to consider them and to vote upon them to-day, I should be glad of it; but if Senators are disinclined—the Senator from Maine intimates that he is disinclined—I shall make no objection to their going over to another day; but I trust that these propositions will not be forgotten in any measures of reconstruction which we may act upon hereafter.

The PRESIDENT *pro tempore*. The question is on taking up these resolutions for consideration.

Mr. SUMNER. I withdraw the motion.

Mr. CRAGIN. I move that the Senate do now adjourn.

Mr. RAMSEY. I suggest to the Senator from New Hampshire that there is a committee out which has gone to call upon the President, and we ought to wait until they return.

Mr. CRAGIN. Very well; I withdraw my motion.

Mr. RAMSEY. We can take a recess, but I believe it is usual to remain in session until that committee returns.

Mr. FESSENDEN. It is always customary.

Mr. RAMSEY. It is always customary. The chairman of that committee, the honorable Senator from Rhode Island, who is out on that committee, made that suggestion to me, and he is versed in all these rules of etiquette. I suggest that we take a recess.

The PRESIDENT *pro tempore*. Do I understand the Senator from New Hampshire to withdraw his motion to adjourn?

Mr. CRAGIN. I withdraw it.

Mr. RAMSEY. I move that the Senate take a recess for one hour. ["Oh, no; a quarter of an hour."] Very well; I will move that the Senate take a recess for fifteen minutes.

The motion was agreed to.

The President *pro tempore* resumed the chair at the expiration of the allotted time.

On motion of Mr. ANTHONY, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 3, 1867.

The House of Representatives reassembled this day, in pursuance of the concurrent resolution of the two Houses, and at twelve o'clock m. was called to order by the Speaker, who said: The recess having expired, the House of Representatives resumes its session. The Clerk will read the concurrent resolution prescribing the order of business at this adjourned meeting of the first session of the Fortieth Congress of the United States.

The Clerk read as follows:

"Resolved, That the President of the Senate and the Speaker of the House of Representatives are hereby directed to adjourn their respective Houses on Saturday, March 30, 1867, at twelve o'clock meridian, to the first Wednesday of July, 1867, at noon, when the roll of each House shall be immediately called, and immediately thereafter the Presiding Officer of each House shall cause the Presiding Officer of the other to be informed whether or not a quorum of its body has appeared; and thereupon, if a quorum of the two Houses respectively shall not have appeared upon such call of the roll, the President of the Senate and the Speaker of the House of Representatives shall immediately adjourn their respective Houses without day."

The SPEAKER. The Clerk will now call the roll of members to ascertain whether a quorum is in attendance.

### MEMBERS PRESENT.

The roll being called, the following-named members responded. From the State of—

Maine—John Lynch, Sidney Perham, John A. Peters, and Frederick A. Pike.

New Hampshire—Jacob H. Ela, Aaron F. Stevens, and Jacob Benton.

Vermont—Frederick E. Woodbridge, Luke P. Poland, and Worthington C. Smith.

Massachusetts—Thomas D. Eliot, Oakes Ames, Ginery Twichell, Samuel Hooper, Benjamin F. Butler, Nathaniel P. Banks, George S. Boutwell, John D. Baldwin, and William B. Washburn.

New York—John Morrissey, James Brooks, Fernando Wood, William H. Robertson, John H. Ketcham, Thomas Cornell, Orange Ferriss, Calvin T. Hulburd, James M. Marvin, William C. Fields, John C. Churchill, Dennis McCarthy, Theodore M. Pomeroy, William H. Kelsey, William S. Lincoln, Hamilton Ward, Lewis Selye, Burt Van Horn, and Henry Van Aernam.

New Jersey—William Moore, John Hill, and George A. Halsey.

Pennsylvania—Charles O'Neill, Leonard Myers, William D. Kelley, Caleb N. Taylor, John M. Broomall, Thaddeus Stevens, Henry L. Cake, Ulysses Mercur, George F. Miller, William H. Koontz, Daniel J. Morrell, Stephen F. Wilson, Glenni W. Scofield, Darwin A. Finney, John Covode, James K. Moorhead, Thomas Williams, and George V. Lawrence.

Maryland—Francis Thomas.

Ohio—Benjamin Eggleston, Rutherford B. Hayes, Robert C. Schenck, William Lawrence, Reader W. Clarke, Cornelius S. Hamilton, Ralph P. Buckland, James M. Ashley, John T. Wilson, Martin Welker, Tobias A. Plants, John A. Bingham, Ephraim R. Eckley, Rufus P. Spalding, and James A. Garfield.

Indiana—Morton C. Hunter, George W. Julian, John Coburn, Henry D. Washburn, Godlove S. Orth, Schuyler Colfax, William Williams, and John P. C. Shanks.

Illinois—Norman B. Judd, John F. Farnsworth, Abner C. Harding, Ebon C. Ingersoll, Burton C. Cook, Henry P. H. Bromwell, Shelby M. Cullom, Jehu Baker, Green B. Raum, and John A. Logan.

Missouri—William A. Pile, Carman A. Newcomb, Joseph J. Gravely, Joseph W. McClurg, Robert T. Van Horn, Benjamin F. Loan, John F. Benjamin, and George W. Anderson.

Michigan—Fernando C. Beaman, Charles Upson, Thomas W. Ferry, Rowland E. Trowbridge, and John F. Driggs.

Iowa—James F. Wilson, Hiram Price, William B. Allison, and William T. Loughridge.

Wisconsin—Halbert E. Paine, Benjamin F. Hopkins, Amasa Cobb, Charles A. Eldridge, Philatus Sawyer, and Cadwalader C. Washburn.

Minnesota—William Windom and Ignatius Donnelly.

Oregon—Rufus Mallory.

Kansas—Sidney Clarke.

West Virginia—Chester D. Hubbard, Bethuel M. Kitchen, and Daniel Polsley.

Nebraska—John Taffe.

When the name of Mr. SHELLABARGER was called,

Mr. GARFIELD said: My colleague, Mr. SHELLABARGER, is quite unwell. He intended to be here, but his illness has prevented his coming. He will probably not be here during this session.

The SPEAKER. The Chair will state that under the concurrent resolution of the two Houses, no business can interrupt the roll-call. Excuses must therefore be made afterward, if at all.

During the roll-call,

Mr. W. J. McDONALD, Chief Clerk of the Senate, was introduced, and said: I am directed by the President of the Senate to inform the House of Representatives that the roll of the Senate having been called at twelve o'clock this day, as required by the resolution of the two Houses of 29th March last, fixing a day for the temporary adjournment of Congress, it appeared that a quorum of the Senate was present. [Applause.]

The roll-call having been concluded—

The SPEAKER. One hundred and twenty members having answered to their names, a quorum is in attendance; and the Clerk of the House, in accordance with the concurrent resolution, will notify the Senate of that fact.

Before proceeding to business the Chaplain will offer prayer.

Rev. CHARLES B. BOYNTON, Chaplain of the House of Representatives, then delivered the following prayer:

Almighty God, our Creator, Preserver, and Redeemer, before the Throne of Thy Son, the manifested God, we bow for worship and for praise. We thank Thee for that preserving care and love by which all of these, when separated from each other in their distant homes, have been kept through the overwatching of our Heavenly Father.

We bless Thee, O God, that death has not visited any member of this body, so far as we know, during this recess. We thank Thee that no great sorrow has fallen upon the beloved households of these members; that they are here this morning through the ordering of Thy providence to answer once more to the call of their country. Blessed be God that when any sudden danger threatens the land, just as suddenly the great constitutional shield can be interposed. And now we invoke Thy blessing O God Almighty, upon this House of Representatives and the Senate of the United States in Congress assembled.

Do Thou grant unto the Speaker of this House new strength for all his arduous duties. Give him, we pray Thee, all the wisdom he needs rightly to decide any perplexing question which may arise, and to preside as he has hitherto done with dignity and with the approval of those over whom he rules officially, the House of Representatives.

And grant, O God, special wisdom unto all these members, that they may meet as they should, citizens of this great country, guardians of the country's welfare and responsible unto God, the great questions which may be presented; and may all be so settled that God shall approve and all inure to the final settlement and stable prosperity of the country.

Incline the President of the United States so to use his great power that the peace of the country may be promoted thereby; and may all who advise him so help to influence him that, coöperating, with the legislative branch of the Government, he may at last see the country thoroughly restored and placed upon the great foundations of the principles of our Lord and Saviour. Hear us, O God, and forgive all our sins, and accept us through the riches of grace in Christ Jesus, our Redeemer. Amen.

### ABSENCE OF A MEMBER.

Mr. DRIGGS. Mr. Speaker, I wish to announce that Governor Blair has been detained from this Hall for the purpose of delivering an oration upon the occasion of laying the foundation of a Soldiers' Monument in my State.

### SWEARING IN OF MEMBERS-ELECT.

The SPEAKER. The first business in order is the administration of the oath of office to members-elect from States which have elected during the recess.

Hon. THOMAS A. JENCKES and Hon. NATHAN F. DIXON, of the State of Rhode Island, and Hon. JULIUS HORTCHKISS and Hon. HENRY H. STARKWEATHER, of the State of Connecticut, were then sworn in.

### MEMBERS-ELECT FROM KENTUCKY.

The Clerk called the following as the members-elect from Kentucky:

- |                      |                     |
|----------------------|---------------------|
| 1. L. S. TRIMBLE.    | 5. THOMAS L. JONES. |
| 2. JOHN YOUNG BROWN. | 6. JAMES B. BECK.   |
| 3. J. PROCTOR KNOTT. | 7. GEORGE M. ADAMS. |
| 4. A. P. GROVER.     | 8. JOHN D. YOUNG.   |

Mr. SCHENCK. Mr. Speaker, I rise to a question of privilege. Before the oath is administered to the members-elect from Kentucky, among whom I hear the name of John D. Young for one, I desire to state to the House that I am in possession of a protest, signed by Samuel McKee, a former member of this House, against the admission of Young, or his being qualified for a seat upon this floor as a member of the House of Representatives, upon the ground that he has aided and

abetted the traitors engaged in rebellion, and actually commanded bands of rebels who have captured Union men, and thus been engaged in war against the Government. The protest embodies several other reasons why he should not be admitted to take the oath. This is accompanied by other protests from many citizens of the fourth district of the State of Kentucky, presenting the same reasons. The protests are sustained by affidavits proving these facts which are alleged.

I shall send these papers to the Chair and ask that the protest of Mr. McKee and of the citizens, or as much of these papers as the House shall feel disposed to listen to, shall be read now, together with some portion or all the testimony sustaining it. I also make the motion that John D. Young be not now sworn as a member of the House of Representatives, but that his credentials, together with these papers, be referred to the Committee of Elections to report in the case.

Mr. LOGAN. Will the gentleman yield?

Mr. SCHENCK. Yes, sir.

Mr. LOGAN. Mr. Speaker, as an amendment to the motion of the gentleman from Ohio I desire to offer the following resolution, and to state my reasons to the House for so doing:

Whereas there is good reason to believe that in the election recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; Therefore,

*Be it resolved,* That the credentials of all members elected from the State of Kentucky shall be referred to the Committee of Elections, to report at as early a day as practicable, and pending the report of said committee none of said members shall be allowed to take the oath of office and admitted to seats as such.

Mr. SCHENCK. The gentleman from Illinois asks to be permitted to explain his reasons for offering the amendment. I think it will be better that the papers which relate to the original case be read first, and then I will yield further time to the gentleman.

Mr. BROOKS. Will the gentleman from Ohio yield to me?

Mr. SCHENCK. I think the papers had better be read, so as to bring the case before the House.

Mr. BROOKS. I want to reserve only my right to reply.

The Clerk read the protest, as follows:

*To the Honorable Members of the House of Representatives of the Fortieth Congress of the United States:*

The undersigned, who states that he has given notice, as the law requires, of his intention to contest the right of John D. Young to a seat as member of the Fortieth Congress of the United States from the ninth district of the State of Kentucky, hereby enters a protest and remonstrance against said Young being permitted to qualify, and against permitting him to assume or exercise any of the duties of a member of the Congress of the United States, and for the following reasons, to wit:

*First.* That during the late rebellion he (Young) did not remain loyal to the Government of the United States.

*Second.* That he voluntarily gave aid, countenance, counsel, and encouragement to persons engaged in armed hostility thereto. That he was in full sympathy, free accord, and entire harmony with persons who were engaged in armed hostility to the Government of the United States, and who, during the late rebellion, sought the establishment of a separate southern confederacy.

*Third.* That in 1861, while he held the office of judge of the county court of the county of Bath, to which he was elected in the year 1858, and before entering upon the duties of which he had to take an oath to support the Constitution of the United States, he violated his solemn oath by aiding, counseling, countenancing, and encouraging the rebellion against the Government of the United States, and also to persons engaged in armed hostility thereto.

*Fourth.* That in 1861 he advised the recruiting of men to fight on the side of the southern confederacy, and advised and advocated resistance to the authority of the Federal Government by arms, and gave aid, counsel, countenance, and encouragement to those who did resist.

*Fifth.* That he (Young) himself joined the rebel army in 1861, and was a candidate for colonel of a regiment in the same.

*Sixth.* That he aided armed bands of rebel soldiers in capturing Union citizens and soldiers, and gave this aid voluntarily and gladly.

*Seventh.* That in 1861, while he was still acting county judge, he boldly and actively advocated the election of John S. Williams, an avowed secessionist,

to the Congress of the United States, when said Williams declared himself in favor of resisting by arms the march of the Army of the United States into the southern States, and declared he would join the rebel army if force was used to compel obedience to the laws on the part of the southern people; and also the election of Dr. Parish to the Kentucky Legislature, who declared himself in favor of the secession of Kentucky; that said Parish and Williams both soon after their defeat, went into the rebel army, and he (Young) himself did likewise. That in 1862, while he was still judge of the county court of Bath, when summoned by the United States authorities, in obedience to the orders of the commander of the department of Kentucky, to renew his oath of allegiance to the Government of the United States, he fled to Canada.

*Eighth.* That at all times during the late rebellion he was an open advocate of the cause of the southern confederacy and opposed to the success of the Federal armies.

*Ninth.* That said John D. Young holds the oath which all persons are required to take before entering upon the discharge of their duties as executive, judicial or legislative officers of the Government of the United States, to be unconstitutional, and that the whole rebel Democratic party to which he belongs in Kentucky holds the same thing. That he and they deny the right of Congress to require such oath of any officer of the Government, (namely, the oath prescribed by act approved July—, 1862), and holds to the doctrine that it is no crime or no perjury even, if a man has been guilty of aiding the rebellion, to take said oath, and that it is the right of all rebels to take any oath required, and that by so doing they cannot commit perjury.

*Tenth.* That said Young holds that the rebellion was no crime; that those who engaged in it were justifiable, and that those who engaged in its suppression are guilty of a criminal wrong; that he so held during the war, and declared that "Abraham Lincoln, President of the United States, in using force to suppress the southern rebellion, was a traitor, and ought to be hanged as high as Haman."

All the charges set forth in these ten specifications the undersigned believes he can and will prove to the satisfaction of the House and country. He herewith submits affidavits in substantiation of the charges, and has more witnesses to prove the same facts, and witnesses who will prove others not herein established, but has not yet taken their affidavits for want of time, and in some cases because the witnesses have refused to appear and testify for fear of violence to themselves or injury to their property by the friends of John D. Young, who claims the seat. He requests that said Young's credentials be sent to the proper committee for examination, and that he be not permitted to qualify until said committee have reported on his eligibility to a seat in Congress from the proof which will be submitted to them.

Respectfully,

SAMUEL MCKEE.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed a resolution appointing a committee consisting of two members on the part of that body, to join with such committee as may be appointed on the part of the House of Representatives, to wait upon the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make, and that the Senate had ordered that Messrs. ANTHONY and BUCKALEW be the committee on the part of that body.

Mr. FARNSWORTH. I move the usual resolution of concurrence on the part of the House, and the appointment of a committee of three.

The resolution was agreed to; and the Speaker appointed Messrs. FARNSWORTH, SPALDING, and WOOD, as the committee on the part of the House.

#### KENTUCKY—AGAIN.

The SPEAKER. Does the gentleman from Ohio desire to have the affidavits read?

Mr. SCHENCK. The protests of the citizens are substantially the same, embodying the charges made by Mr. McKee. I will ask to have the affidavits read, to show the House that these charges are sustained thus far at least by proof submitted with them.

Mr. BROOKS. Will the gentleman from Ohio state that these affidavits are taken *ex parte* and without any notice to the member-elect?

Mr. SCHENCK. They are certainly *ex parte* affidavits, but sufficient, I apprehend, for this House to proceed upon as information. It is not proposed by any resolution now to declare that this man is not entitled to a seat, but that because of this showing his credentials, together with these papers, be referred to the Committee of Elections. That is my motion.

The Clerk then read the following affidavits:

#### STATE OF KENTUCKY, County of Bath:

This day personally appeared before me W. S. Sharp, who states that he is a citizen of the above county and State; that he held the office of provost marshal of Bath county, Kentucky, in 1862, under an appointment from General J. T. Boyle, who then commanded the military department or district of Kentucky; that he had instructions to arrest and require all disloyal suspected persons to take the oath of allegiance to the Government of the United States; that in obedience to said orders he summoned, among others, John D. Young, the same who is returned elected as a member of the Fortieth Congress of the United States of the ninth Kentucky district. That he had an interview with said Young, in which he took the grounds that the war was not a rebellion, but a revolution. That he put the question to the said Young, Do you think the South had just cause for revolution against the United States? He answered he thought they had. That he paroled the said Young until a certain day fixed upon. That he went to Louisville, Kentucky, and reported his case to General J. B. Boyle, and he (Boyle) told him to send J. D. Young to Camp Chase, Ohio. That he was unavoidably detained at Frankfort, Kentucky, for two days, and that the said Young did, as he was informed, appear at his office on the day he was required to do so, but not finding any one authorized to take charge of him he left for parts unknown to affiant; and further saith not.

W. S. SHARP.

Sworn to before me by W. S. Sharp, June 26, 1867.

E. VAN PELT,

Justice of the Peace, Bath county.

#### STATE OF KENTUCKY, County of Montgomery:

This day personally appeared before me, a notary public in and for the county and State above, Willis Hockaday, who states that in the year 1861 he was at work at Raccoon Furnace, in the county of Greenup, Kentucky. That in the month of September or October, of said year, a band of rebels came to said place from the Upper Sandy country on a raid; that they captured a number of men and carried off a large number of horses and other property. Affiant states that he himself was captured by these rebels and carried off, but after four or five days made his escape. John D. Young, of the county of Bath, and the same man who was on the 4th day of May, 1867, elected to the Fortieth Congress from the ninth Kentucky district, was with said band of rebels, and was in command of the same, representing himself as a colonel, and was by the men under him called by that title. Affiant was captured in the night, taken out of his bed, ordered to get up and go with them, which he did. During the night affiant did not recognize any of the persons, but the next day saw Young among the men, and commanding them. After his escape he made his way toward Camp Dick Robinson, and on his way through Owingsville, Bath county, related the circumstance, and was then told that Young was absent from home and had gone to the rebel camp at Prestonburg. After his capture he was taken through Grayson, Carter county, and up Little Sandy to Dry Fork. At night affiant made his escape; and further saith not.

his  
WILLIS HOCKADAY.

mark.

Attest: E. A. THOMAS, J. P. NELSON.

Sworn to before me by Willis Hockaday, who states in my presence, and the presence of the witnesses whose names appear above, that he has heard the foregoing affidavit read and has fixed his mark to his name to the same, and that its statements are true. Witness my hand and seal this 15th day of June, 1867.

G. E. MILLER.

Notary Public for Montgomery county, Kentucky.

Mr. SCHENCK. Unless some other gentleman asks for the reading, I will not insist upon the reading of the whole of the papers.

Mr. KELSEY. I hope the papers will all be read, so that the case may be before the House to some extent at least.

Mr. SCHENCK. Well, if the gentleman desires it, let the papers be read.

The Clerk was about to resume the reading.

Mr. ELDRIDGE. I rise to a question of order. I do not know what may be the ruling of the Chair at this time, but the Speaker will recollect that at the time Mr. Stokes, of Tennessee, was about to be sworn in, or appeared at the bar for that purpose, I rose to make an objection. The objection I intended to make was one of a like character to this, and the Chair said that proceeding could not be interrupted for any such purpose. I now insist that the same ruling should obtain at this time that was held by the Chair at that time.

The SPEAKER. The Chair rules, in accordance with the uniform usage of the present occupant of the chair and of every occupant of the chair, that it is for the House to determine what action it will take when a gentleman, claiming to have been elected a Representative, presents himself to be sworn. It is not for the Chair to rule that he shall or shall not be sworn. It is for the House to determine,



and the Chair cannot recollect any such decision as the gentleman states. If the gentleman from Wisconsin had risen, as a question of privilege, to offer a resolution that the gentleman claiming to have been elected a Representative from Tennessee should not be sworn in until a committee reported upon his credentials, it would have been in order.

Mr. ELDRIDGE. I rose for the purpose of raising the question, but the Chair insisted that the proceedings could not be interrupted, as the gentleman was at the bar with regular credentials, to be sworn in.

The SPEAKER. The Chair will state that his distinct recollection is that his ruling in that case was in conformity with the ruling which he now makes, that a majority of the House may make any order on the subject it sees fit. The House can, if it sees fit, refer the credentials to the Committee of Elections previous to the members being sworn in.

Mr. ELIOT. I rise to a question of order. I desire to know if it is not competent for the House, by its own action, to dispense with the further reading of the affidavits.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] is entitled to the floor for one hour on his motion, and he presents these papers as a part of his speech. The Chair does not know of any rule by which the reading can be stopped if he desires their reading to be continued.

Mr. ELIOT. Then I ask the gentleman from Ohio to yield to me for the purpose of moving that the further reading be dispensed with.

The SPEAKER. The gentleman from Ohio can suspend the reading by his own act.

Mr. SCHENCK. I stated that I was willing to suspend the further reading of the papers, thinking that enough had probably been read to determine their character; but some gentleman insisted that it was proper to have the whole read as presenting the entire case, and I yielded on that account. I am still of the opinion, however, that it is not necessary to protract the reading.

The SPEAKER. The gentleman can suspend the reading himself.

Mr. SCHENCK. Then I will not ask for the further reading, but I will yield the floor to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I send to the Clerk's desk the protest of Mr. Symes and accompanying affidavits against the swearing in of Mr. Trimble from the first district of the State of Kentucky, charging him with disloyalty. I do not desire to have them read, however.

A MEMBER. They had better be read.

Mr. LOGAN. Well, as gentlemen seem to desire it, I ask that they be read.

The Clerk read as follows:

To the Honorable the House of Representatives of the United States:

Your petitioner, a citizen of the first congressional district of Kentucky, would respectfully state that at the last congressional election in this State he was voted for as the choice of the Union men or loyalists of the said first congressional district to represent them in the Fortieth Congress, and that he claims the seat for the following reasons:

1. The notorious disloyalty of Hon. L. S. Trimble, the Democratic candidate, who claims to be elected by a majority of votes, both during the war and since, shown by his aiding and abetting the rebellion by sending supplies, provisions, medicine, military equipments, and ammunition through the lines into the so-called confederate States during the war, which supplies were sent in violation of law, &c., and further shown by his disloyal acts and speeches made during the war and since; particularly in 1863, when he, said Trimble, was arrested and confined by the military authority for his open and avowed opposition to the war, and discouraging enlistments to the Federal Army; and also in the late canvass for Congress he states that he had always and did yet oppose raising men or money to suppress the rebellion; and by his declaring that he made it a point, and that he would swear to it, that he would always do what he could to keep out of any position any man who has been in the Lincoln army or wore the blue. The truth of these allegations the petitioner is able to establish by abundant evidence.

2. That Union men were in some localities intimidated and overawed from voting by being threatened and proscribed by the friends of said L. S. Trimble, lately in rebellion against the Government, which can be established by evidence.

3. That many unpardoned ex-confederate soldiers and paroled prisoners of war, who have never taken

the oath or been included in any amnesty, were allowed and did vote for said L. S. Trimble in violation of law in such case made and provided, as can be shown by testimony of loyal men.

4. The election was illegally conducted by reason of men being appointed and serving as officers of the election who had been in the rebel army or who had aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or had adhered to those engaged in rebellion or sympathized with them; also by a large majority of the officers of the election being Democrats and favoring the election of said Trimble, and a very few belonging to the Union party favoring the election of the petitioner, which is in open violation of the State law, which provides that the officers must be chosen equally from the political parties, and the further provision that no one who counseled, aided, or adhered to the rebellion as aforesaid shall be considered so belonging to a political party, or competent to act as an officer of an election; which facts can also be shown by abundant testimony.

For the reasons above set forth, which substantially were embodied in a notice of contest served on the said L. S. Trimble within thirty days after the result of the election was declared by the State board of canvassers, the petitioner respectfully, but earnestly protests against said L. S. Trimble, claiming to be the member-elect from the first congressional district of Kentucky aforesaid, being sworn in as the member of Congress from said district, and asks that his credentials be referred to the proper committee of elections for investigation.

G. G. SYMES.

Mr. LOGAN. Accompanying this protest are affidavits, which I have not read, but which, I am told, fully sustain the protest. I do not ask to have them read at present. I will state that I have modified the preamble to my resolution; and it would probably be well that it should be read again, so that the House may understand the modification I have made.

The Clerk read as follows the preamble as modified:

Whereas there is good reason to believe that in the election recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with, or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; and whereas it is alleged that several of the Representatives-elect from that State are disloyal.

Mr. ELDRIDGE. I trust that if the gentleman from Illinois [Mr. LOGAN] intends to found any argument on the affidavits to which he has referred he will have them read, so that the House can be informed of their contents.

Mr. LOGAN. I certainly have no objection to the reading of the affidavits, if the gentleman desires it.

Mr. ELDRIDGE. I understand that Mr. Trimble knows nothing of their contents, nor by whom they are made.

Mr. LOGAN. I certainly shall not object to the reading of the affidavits. The argument, however, which I shall make will not be founded on any affidavits, nor will it be anything personal to Mr. Trimble.

The Clerk read as follows:

STATE OF KENTUCKY, County of Graves:

Affiant, Lucian Anderson, states that he is a resident of the county and State above set forth, and was a resident of said county and State in the year 1863; that he is now and was in the year 1863 acquainted with L. S. Trimble, who now claims to be the member of Congress elect from the first congressional district of the State of Kentucky. That at the May term of the Graves circuit court for the year 1863 the said Trimble, then being a candidate to represent this district in the Thirty-Eighth Congress of the United States, he, the said Trimble, made a speech at the court-house, in the town of Mayfield, to a large crowd of persons there assembled, most of whom were rebel sympathizers, who had sent for the said Trimble to come up from Paducah and address them on the then question of the rebellion existing against the Constitution and laws of the United States.

Affiant states that said Trimble spoke on the occasion referred to for about two hours, that he denounced the President of the United States, Abraham Lincoln, as a violator of the Constitution in the prosecution of the war against the so-called confederate States; that he, the President, had deceived and misled the people by saying that he did not intend to interfere with slavery in the State. His whole speech was in denunciation of the Government and those who sympathized with it against the rebellion. About the time Trimble closed his speech I asked him to tell the large concourse there assembled whether, if elected to Congress, he would vote men and money to prosecute the war against the rebels in arms against the Government of the United States. He for some time endeavored to evade or dodge the question, but affiant states that he pressed

the question on him (said Trimble) time and again, and he finally told the people, if elected, he would not vote a man or a dollar to sustain the armies of the Government then in the field to put down the rebellion. Affiant says that the speech infused new life and hope in the rebels, and was calculated to prevent persons from joining the Federal Army or taking sides with the Government of the United States.

Affiant states further, that in June, 1863, he met said Trimble at Benton, in Marshall county, Kentucky, where he made to the people of that county the same character of speech as is above set forth. These are the only places affiant met said Trimble in debate. In 1863, a short time after the meeting at Benton, affiant learned that said Trimble had been arrested and taken to Henderson, Kentucky, by the military authorities.

LUCIAN ANDERSON.

Sworn to and subscribed before me, by Lucian Anderson, June 20, 1867.

W. H. MILLER, Notary Public.

Affiant, J. T. Bolinger, states that he is a citizen of Graves county, Kentucky; that he met with Hon. L. S. Trimble in the city of Cincinnati in the summer of 1861, and that said Trimble told affiant that he (Trimble) with others had formed a partnership, and was then in Cincinnati for the purpose of buying bacon, flour, coffee, sugar, and a general assortment of groceries, which were to be sent South. Affiant further states that Mr. D. Elethorp, who was with said Trimble, and had the supervision of buying the stock, told affiant at some time that their purchases at that time would be about three hundred thousand dollars. Large quantities of groceries were shipped to Paducah, Kentucky, and said to be placed in the hands of said Trimble's partners, who were rebels, and who shipped the same, part in the direction of Camp Boon, where there was a large encampment of rebel soldiers, and part in the direction of Union City, where were encamped about ten thousand rebel soldiers. Affiant further states that in the year 1863 said Trimble announced himself a candidate for Congress. At that time the rebel soldiers had been driven from this part of Kentucky, and the home rebels were very much disheartened and disorganized, and showed a disposition to take the oath of allegiance to the Government of the United States and submit to the laws. The disloyal speeches of said Trimble in making the canvass, his course in denouncing the acts of the President, Congress, and those who were engaged in trying to suppress the rebellion were such, that it inflamed anew the public mind and aroused and rekindled the old fire of treason and rebellion in the people. His speeches had such a poisonous effect on the people that recruiting for the Federal Army was almost entirely suspended. While enlistments for the Federal Army was going on all the time, times for Union men became terrible; the worst passion against them was aroused in the bosoms of rebels; Union men were driven from their homes and many of them plundered and robbed of their all. After this canvass the country was overrun with bands of guerrillas, whose only object was to rob, plunder, and murder Union men. So disloyal were said Trimble's speeches that he was arrested and imprisoned by the military commander of the district.

Affiant further states that the election held in May last for member of Congress in this county was not held in accordance with the laws of Kentucky. Affiant says he has examined the poll-books used at the different precincts at the last congressional election; that there is ten precincts in said county of Graves, and that the law was violated in many of the voting precincts by persons being appointed and serving as officers of the election who had been in the rebel army, or who had aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or had adhered to those engaged in rebellion against said Government, and that the same number from each political party were not appointed officers of said election.

J. W. BOLINGER.

Sworn and subscribed before me, by J. T. Bolinger, this 25th day of June, 1867.

JOHN MARSHALL, Notary Public.

Mr. LOGAN. I believe I will suspend the further reading of the affidavits.

The SPEAKER. If the gentleman from Illinois [Mr. LOGAN] will yield for a moment, the Chair desires to make a statement.

The gentleman from Wisconsin [Mr. ELDRIDGE] appeared to doubt whether the Chair ruled this morning as he did in the case of the Tennessee members. The Chair has had brought to the desk the Congressional Globe of the first session of the Thirty-Ninth Congress, by which the gentleman from Wisconsin and the House will see that the Chair, on the occasion referred to, ruled in precisely the same way as he has ruled to-day. The Chair will state that the gentleman from Wisconsin, unless the report of the Globe is incorrect, is mistaken as to the time when he interposed objections to the membership here of Mr. Stokes.

Mr. ELDRIDGE. It was not at the time when the letter of Mr. Stokes was read that I raised the question.

The SPEAKER. The record of the Globe (and it concurs with the recollection of the



Chair) does not sustain the gentleman from Wisconsin. Upon the 24th day of July, 1866, the President having signed the bill in regard to the restoration of the right of representation to the State of Tennessee, the gentleman from Pennsylvania [Mr. STEVENS] moved the reference of the credentials to the Committee of Elections, when the following proceedings, which will be read by the Clerk, took place:

The Clerk read as follows:

"Mr. LE BLOND. I rise to a privileged question. I move that the members-elect from the State of Tennessee, now present, have administered to them the oath of office."

"The SPEAKER. It is within the power of the House to refer to the Committee of Elections the credentials of any gentleman claiming a seat even from a State that has not been in rebellion. But the gentleman from Pennsylvania [Mr. STEVENS] is still on the floor, which would prevent the motion of the gentleman from Ohio [Mr. LE BLOND] from being made."

"Mr. STEVENS. I believe that these credentials are in the usual form, and it is to be expected that they will be examined by the Committee of Elections just as the credentials are which are referred to that committee by the House. They will understand whether they are irregular or not. I now call the previous question."

"Mr. LE BLOND. Does not my motion take precedence of that?"

"The SPEAKER. It does not; the usage has been precisely the other way. If a motion is made to swear in a man claiming a seat in the House after it is organized, and a member rises and moves to refer the credentials to the Committee of Elections, that motion is entertained and acted upon."

"Mr. LE BLOND. I have always understood that the credentials alone are considered *prima facie* evidence of a right to a seat when there is no contestant."

"The SPEAKER. That is only for the purpose of organizing the House. The Chair will refer the gentleman to a case in point. In the Thirty-Seventh Congress a gentleman from Tennessee (the Chair does not now recollect the name) claimed to have been elected a Representative from that State, and there was no contestant in his case. The credentials in that case were referred to the Committee of Elections, who examined as to the number of votes cast for him, the condition of the district, &c., and reported upon the case, and the Chair thinks he was admitted to his seat."

The SPEAKER. By a vote of 90 to 28 the credentials were referred to the Committee of Elections. The name of the gentleman from Wisconsin [Mr. ELDRIDGE] does not appear in this debate.

On the same day, as appears on page 4,106 of the same volume of the Globe, the gentleman from Massachusetts, [Mr. DAWES,] rising to a question of privilege, reported from the Committee of Elections that the various members claiming to be elected from the State of Tennessee were entitled to be sworn in, whereupon a colloquy ensued between the gentleman from Massachusetts and Mr. Le Blond, then a Representative from Ohio, which is followed by a paragraph which the Chair will read, and the recollection of the Chair concurs with the official report of the Globe. The gentleman from Wisconsin probably has in his mind the debate three days afterward. The Chair will now read from the Globe all that is stated to have occurred in regard to the swearing in of the members from Tennessee after the report of the Committee of Elections in their favor had been made and agreed to by the House.

Mr. ELDRIDGE. Was that when Mr. Stokes was sworn in?

The SPEAKER. The Chair will read every thing that appears in the Globe reports as having occurred after the report of the Committee of Elections was adopted, and which relates to the swearing in of Mr. Stokes. It is the following very brief paragraph:

"Messrs. Nathaniel G. Taylor, Horace Maynard, and William B. Stokes then came forward amid applause, took the oath of office prescribed by the act of July 2, 1862, and took their seats in the House."

Mr. ELDRIDGE. It was at that moment I rose, and the Speaker stated that the proceedings could not be interrupted.

The SPEAKER. The Chair does not remember it, and it does not so appear by the report in the Globe. The gentleman may have made the point three days afterward.

Mr. ELDRIDGE. I did not make the point three days afterward, but I read the letter upon which the point was made.

Mr. LOGAN. I do not desire to detain the House—

Mr. BENJAMIN. I ask the gentleman to yield to me for one moment.

Mr. LOGAN. I do, sir.

Mr. BENJAMIN. Mr. Speaker, if I understand this question as presented to us now it is that the credentials of all of the members who present themselves here from the State of Kentucky shall be referred to the Committee of Elections. I believe gentlemen who have been members of this House have protested against the swearing in of certain members of that delegation. I heard on that list as read by the Clerk the name of J. Proctor Knott, who claimed to be elected from the fourth congressional district of Kentucky. Mr. Knott was formerly a citizen of Missouri, a resident of the district which I have the honor to represent upon this floor. He resided there I believe until 1862 or 1863, when he left that State and moved to Kentucky.

Mr. Knott in 1860, I believe, was elected attorney general of the State of Missouri, and served as such until by an ordinance of the State Convention he was ousted. In the winter of 1861, February I believe, the Legislature of that State, which was intensely rebel, as every one knows, called a convention for carrying Missouri out of the Union. Mr. Knott was elected as a member of that convention. He served, commencing the 4th of March of that year. He took an active part in the proceedings of that convention. The question of secession was discussed there, and various measures were brought before that convention for the purpose of accomplishing that result. Now, sir, I state here to-day that the records of that convention will show in all its proceedings that Mr. Knott was allied with those who were the most intense in their disloyalty to this Government, voting for and sustaining all the measures designed to accomplish the secession of the State of Missouri.

He was attorney general of the State of Missouri. At a subsequent session of the convention all of the State officers were deposed, as you all know, Claib. Jackson being Governor. Mr. Knott went out with the rest. In the session of 1862 he did not appear in his seat in the convention. It was declared vacant, and another was elected in his stead.

The disloyalty of Mr. Knott in that State is notorious. His status is as well known as that of any other of those who figured in the rebellion. I do not know there is any gentleman here who protests against his being sworn in as a member; but the facts being as I have stated them, I feel it incumbent upon me to rise in my place and object to the qualification of Mr. Knott as the Representative of the fourth congressional district of the State of Kentucky; and notwithstanding there is no contestant, I believe it is the duty of Congress, when the facts are so well known as in this case, that a person who has occupied the position he has, and taken the grounds he has during this war, shall not be permitted to occupy a seat upon this floor.

I am just informed that the defeated candidate in that district is going to contest the right to the seat. It is a fact I did not before know; but it is necessary the House should know these facts in order to judge of the character of the Representatives sent here from that State to represent her in the Congress of the United States.

Mr. LOGAN. Mr. Speaker, in presenting this resolution to the House I do not do so with a view of striking at any particular member of Congress claiming to be elected from the State of Kentucky; but I do it for the purpose of establishing a precedent in this House which shall be placed upon higher motives than that of excluding any individual from a seat here. I ask that all the members-elect from the State of Kentucky shall be excluded from the privilege of taking the oath until an examination shall be had before the Committee of Elections. Why do I do so? Sir, it is upon the ground that this House should not be contaminated, or allow itself at any time to be so, by the introduction of any man into its Halls as

a representative of the people of any district in the United States who has, during the rebellion, participated in any way whatever in it.

We must then examine somewhat into the status of communities as well as the status of individuals, for the purpose of laying the foundation and establishing a precedent for the examination of the members from other States who may present themselves hereafter where they have a disloyal constituency, and that we may examine all together. I present this question now, and think I can give facts sufficient to justify this House in excluding them for the present.

The accusation has been made against some of these members of disloyalty. Evidence has been produced sufficient to satisfy the minds of any disinterested person of the fact. Beyond that it is a historical fact that during the late rebellion a portion of the people of the State of Kentucky sought their representation in other halls than the Halls of legislation at Washington. The disloyal portion of the people of that State—and their name is legion—sought representation at Richmond under the pretended government of Jefferson Davis. They had their senators and their representatives in the rebel capitol until the close of the rebellion. During that time the loyal Legislature of Kentucky disfranchised a portion of its citizens for participation in the rebellion, but the very moment the rebellion was suppressed the portion of the people who had had representation at Richmond asked that the law by which they were disfranchised should be repealed, and it was done. Thereupon they changed their representation from Richmond, contaminated by treason, to these Halls, which ought to be sacred to loyalty.

It is upon this ground, upon the ground that a portion of the constituency of Kentucky whose hands during the late rebellion reeked with the blood of loyal victims, elected representatives who shouted treason in the halls at Richmond and then returned to their homes and aided in sending Representatives to these Halls, that I offer this resolution. Why, sir, it is a historical fact. We are bound to take notice of elections. I presume no man here will pretend that you have got to prove that an election took place at a certain time. It is an event that we must take notice of. An election took place recently in the State of Kentucky, in which a Governor, Lieutenant Governor, and members of Congress were chosen. What is the history of that election? A Governor to-day sworn in who was a traitor during the whole war, a rebel against the Government of the United States. I beg pardon; I am a little too fast. It is true, however, that a candidate has been elected on the same ticket with these men who stands before the country to-day a condemned traitor to this Government in the eyes of the world. And yet these people claim that they must have representation in Congress by presenting their members-elect without any investigation as to their loyalty.

If Kentucky can send members to this House under these circumstances, and in spite of objection or protest they may be sworn in as members under the rules and authority of this House, I ask any man to tell me why South Carolina may not do the same thing under the advice of the head of this Government. I believe it is our duty as members of Congress to inquire into their status. I care not what State does it. If the State of Kentucky, of Maryland, or of Illinois, which I have the honor in part to represent, were to hold an election of members of Congress, and were to send members here who were known to the country as rebels, it would be our duty to inquire into their status. It would be our duty before allowing them to be sworn in to examine and see whether they were true and loyal men to the Government of the United States. I for one am not willing with my vote to allow any man to take the oath in the presence of this national assembly that he is loyal and will be faithful to the Constitution when I know that his constituency are disloyal and would

send no other than a disloyal representative to Congress if they could avoid it.

It may be said that some of these members-elect have served in this Congress before, and that their loyalty has been proved. Why, sir, Jeff. Davis served in this Congress, and so has many a rebel. I do not mean that this gentleman is a rebel. I do not know anything about it. I have no accusation to make against any of the gentlemen claiming seats from Kentucky. I know nothing about their loyalty or disloyalty. I put it on higher ground. It is not upon the ground that these men were guilty of treason that I offer this resolution, but upon the higher ground that it is our duty to inquire into the loyalty of each and every one of these men before they are sworn in, coming as they do from a State or a district where disloyal men have charge and control of the government of the State.

That is the ground I put it on; and, sir, unless you adopt this course of policy, you will have this House filled hereafter with disloyal men; and you had just as well meet the question square in the face now as at any future time, for you have got to do it.

Men may say that action of this kind is too extreme; that it is too hasty, too radical, and all that sort of thing. It makes no difference to me, so far as I am concerned, what may be said. This is my theory of getting at this question. I do not believe that those States which have been in rebellion—and the only reason that Kentucky was not in rebellion was because it was too close to the border and was afraid to be, for in the hearts of a majority of its people treason ranked as it did in the hearts of the people of South Carolina—ought to be allowed to send disloyal men here; and if Mr. Trimble is a loyal man, or this soldier who was elected is a loyal man—and God knows I never heard anything against him in reference to loyalty or disloyalty, and hence I say I have no charge to make against any man, but upon the ground that the State has shown itself since the rebellion disloyal to the country, so far as the majority of its people were concerned—I insist that these men shall go before the Committee of Elections and let their loyalty be tested. If they are loyal men, they will pass through the ordeal and come out unscathed; if they are disloyal men, they must have an immense amount of impudence to present themselves here, and will only get that which is due them.

Now, sir, there is no use in our being so thin-skinned about these questions. Some gentlemen say, "Oh, it would not be right to keep these men out; we have had some of them in before." We should not be afraid to look the question in the face. The question is, What are you going to do hereafter? What are you going to do when some other State sends you up a whole delegation of such men? Are you going to swear each one in when there is no protest against his election? If you do, tell me whether or not Alex. Stephens or any of those men might not enter these Halls and take the oath? They can do so, and the only true course, in my judgment, is when a delegation comes from a State whose loyalty is questionable, whether it has been in the rebellion or not, to examine the whole delegation and admit such men as are loyal, and send such as are disloyal back to their constituents, and tell their constituents to send you a different class of men.

These are my views in brief in reference to this question. I do not desire to detain the House longer. I merely wished to state the reasons why I offered this resolution, and the grounds upon which I based it. Before I take my seat, however, I will modify my resolution by striking out the word "believed" and insert "alleged" in the first part of the preamble.

Mr. BROOKS obtained the floor.

Mr. SCHENCK. I have reduced my motion to writing so that there may be no question about its form, and I ask to have it read in the shape in which I now present it. I would inquire at the same time how the amendment of

the gentleman from Illinois [Mr. LOGAN] is offered. Is it in the form of a substitute or of an addition?

The SPEAKER. It is offered by the gentleman from Illinois as a substitute.

Mr. BINGHAM. I submit as a question of order that the resolution offered by my colleague [Mr. SCHENCK] is a resolution which goes to the qualification of the member named. I submit that the resolution offered by the gentleman from Illinois [Mr. LOGAN] goes in general to the right of the State to representation at all, as illustrated by the speech which he has made. I see no objection on precedent or principle to proceeding *seriatim* against any number of members on a presentation like that made by my colleague [Mr. SCHENCK] or a presentation like that made by the gentleman from Missouri [Mr. BENJAMIN] upon his own responsibility in regard to a member; but I think that this thing of introducing a resolution, which in effect denies representation to an entire State which by our own laws and our own acts has been and is recognized as organized and entitled to representation, is without any good precedent to sustain it.

Mr. LOGAN. The gentleman certainly misunderstood me. My resolution does not deny representation to the State at all, but merely insists that the State must show a loyal representation before its members obtain seats here.

Mr. BINGHAM. I do not misunderstand the gentleman at all. I say that the State is entitled to representation upon the presentation of its certificate under its great seal, and that the members are entitled to be sworn in according to the established precedents of this country unless special charges be made showing them not entitled or disqualified. They have the right to be sworn in unless there be presented specific causes against them, in which case I say the case ought to be referred to the committee, as proposed by my colleague. I believe my colleague has presented the question exactly according to the established precedents.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] raises the point of order that the amendment is not in order. It is hardly necessary to remind the gentleman from Ohio, who is an old member of the House, that a point of order upon a resolution must be made when the resolution is presented and reported at the Clerk's desk. After the proposition has been entertained and debated, any point of order which might have been raised is regarded as waived by the House. The original resolution of the gentleman from Ohio [Mr. SCHENCK] is to suspend the administration of the oath to one member-elect from the State of Kentucky until a report by the Committee of Elections. The gentleman from Illinois [Mr. LOGAN] moves to amend so as to suspend the administration of the oath to all the members-elect from Kentucky until there has been a report from the Committee of Elections. If the point had been made in time, the Chair would have no difficulty in deciding it under the precedent of the House in the Tennessee case; but as the point cannot be entertained at this time it would not be proper for the Chair to decide it.

Mr. BINGHAM. The Speaker will permit me to say that I some time ago inquired whether the resolution of the gentleman from Illinois [Mr. LOGAN] was a substitute, and I understood the Speaker to say then that it was. I went to my colleague, and I understood that it was a proposed amendment from him. Hence I did not raise the point sooner. I do not doubt that the Speaker has ruled correctly; but I desired to make this statement in justification of my own conduct.

The SPEAKER. The Chair feels quite certain in the opinion he has intimated, because it corresponds with the uniform precedents of the House. In the case of Tennessee, although Congress, with the concurrence of the President, had declared it entitled to full representation in both branches of Congress,

the House, by a vote of 90 to 28, the gentleman from Ohio [Mr. BINGHAM] concurring in that vote, referred the credentials of the claimants before they were sworn in to the Committee of Elections. That is a precedent which the Chair is bound to follow. It is a precedent made by the House, not by the Chair.

Mr. SCHENCK. I desire that my resolution, as modified, be read before the gentleman from New York [Mr. Brooks] proceeds.

Mr. BROOKS. I will yield for that purpose. The Clerk read the resolution as modified, as follows:

*Resolved*, That John D. Young, claiming to be one of the members-elect to this House from the State of Kentucky, be not permitted to be sworn in as such member, but that the credentials of said John D. Young, together with the protest of Samuel McKee and other citizens of said State accompanying the affidavits, be referred to the Committee of Elections; and that the said committee be instructed to investigate and report on the charges and facts of the case, and whether said Young is entitled as a loyal citizen to a seat in this House; and that the committee have power to take testimony, and for that purpose to send for persons and papers.

Mr. BENJAMIN. Will the gentleman from New York [Mr. Brooks] yield to me that I may offer an amendment to the original resolution?

Mr. BROOKS. I give way that the amendment may be read.

The Clerk read as follows:

*Add to the resolution the following: Resolved further*, That the credentials of John Proctor Knott, who claims to have been elected to this House from the fourth district of Kentucky, be referred to the Committee of Elections, with instructions to inquire as to the loyalty of Mr. Knott during the late rebellion, with power to send for persons and papers.

Mr. BROOKS. I do not yield for the purpose of allowing that amendment to be offered at the present time.

Mr. Speaker, we are in the midst of a revolution more potent than that through which we have passed during the late civil war, if the doctrines of the honorable gentleman from Illinois [Mr. LOGAN] are to be adopted by the action of this House; for he has here proclaimed principles which are in utter violation, not only of all existing laws, but of the Constitution of the United States; principles which will transfer to this Hall contests which in a civil point of view are of as solemn a character as those which have been transacted in the field.

Sir, I deprecate such speeches, and I deprecate the introduction of such resolutions. Kentucky, by the Constitution of the United States, is entitled to representation upon the floor of this House. Kentucky has never gone out of the Union. Kentucky, in the midst of trials and tribulations, has ever been loyal to this Union. Kentucky has been represented during the whole war upon the floor of this House by members of various parties. It is only now, when her delegation is united, that an effort is made to disfranchise the State of Kentucky and deprive that State of all representation upon the floor of this House.

Sir, this is revolution, civil revolution, and nothing but revolution; and I tell the honorable gentleman from Illinois [Mr. LOGAN] that without any regard to the South there is a feeling among the people of the North which will not submit to such a revolution. No fight will be had in the tented field. There will be no transfer of the contest from the ballot-box to the bayonet, but here upon the floor of this House the Democracy of the North will meet and claim their rights; here soon the Democracy of the North will meet the Democracy of the South and West, and here we will have a majority upon the floor of this House.

Sir, there is a revolution already going on in the North. There is not only a loud and thundering voice from one of the New England States, but more or less from all the States of the North, and the time is rapidly coming when there will be no longer a simple minority of Democrats upon the floor of this House, but a large and powerful representation of Democrats here.

Now, if gentlemen are to use their power here upon the floor of this House to exclude

a State like Kentucky, what will be the consequence of action so violent and so revolutionary? It cannot be done without an utter violation of law, violation of the principles of law and without utter violation of the Constitution of the United States. And I tell the gentleman that we no longer intend to submit to violations of the law or to violations of the Constitution of the United States.

Sir, he says the State of Kentucky is disloyal. There is a record of her loyalty in our armies and upon the floor of this House. There is a record of her representation here throughout the whole war; and if I were to take charges of his loyalty which were uttered against gentlemen from various parts of the Union, I, as an old Whig in 1860, would be ready to charge upon the gentleman from Illinois, then a Democrat, that he was disloyal, utterly disloyal to the principles of the Government of the country. If these imputations of disloyalty upon the floor of this House are to be the true tests of representation upon this floor—

Mr. LOGAN. I ask the gentleman to yield to me.

Mr. BROOKS. Before I go further, permit me to say that I do not make any such charge of disloyalty against the gentleman. I do not know what were the purposes of his heart, and I do not make any such charge.

Mr. LOGAN. I was not listening at the time, and I understand the gentleman made some remark as applicable to myself. I ask him to repeat it.

Mr. BROOKS. Sir, I say, educated as I was, a Whig, one of the members of the Whig party when the honorable gentleman was a member of the Democratic party—

Mr. LOGAN. That does not apply to me.

Mr. BROOKS. Not at all.

Mr. LOGAN. It is not necessary then to repeat it. I understood, though I may be mistaken, that you made some charge personal to myself.

Mr. BROOKS. Not at all. I was only illustrating, arguing that these charges of disloyalty against any members of that side or this side ought not to be accepted in good faith by any member of the House acting on a contested-election case; that charges of disloyalty were no disqualification for membership; that members might differ in reference to what constituted loyalty or not. That was the tendency of my argument.

Sir, Kentucky furnished during the war eighty-eight thousand troops to the Army of the United States, a State that is here attempted to be excluded from the floor of this House, and when one of the members now attempted to be excluded from the floor was a major in the Federal Army during the war. I refer to George M. Adams.

Mr. LOGAN. How many troops did Kentucky furnish?

Mr. BROOKS. Eighty-eight thousand.

Mr. LOGAN. Will the gentleman inform us how many of these were dark-colored gentlemen? Twenty-nine, I think, if you will examine.

Mr. BROOKS. The gentleman is much better informed on that subject than I am.

Mr. LOGAN. Will the gentleman tell me how many Kentucky furnished the rebel army?

Mr. BROOKS. I have not the statistics of the rebel army.

Mr. LOGAN. As I am better informed than the gentleman I will tell him. She furnished forty thousand.

Mr. BROOKS. No inconsiderable part of Illinois went over into the rebel army, and if that were a good reason for the exclusion of Kentucky, it would also be a good reason for the exclusion of a large part of Illinois, Missouri, and Tennessee. The declaration that I made was that the government of Kentucky, the authorities of Kentucky, the majority of the people of Kentucky, were with the Federal Army through the war, and furnished eighty-eight thousand Federal soldiers.

Mr. INGERSOLL. One moment, to correct a statement the gentleman has just made. If

I understood him correctly, he states that quite a large portion of the people of Illinois went into the rebellion.

Mr. BROOKS. Oh no; I say it has been so charged.

Mr. INGERSOLL. Well, if it has been so charged, it is time it should not be again repeated.

Mr. BROOKS. I think so, too.

Mr. INGERSOLL. Then I hope the gentleman will not slander the State of Illinois by repeating such charges.

Mr. BROOKS. I only repeated it to show that reports of this character are no reason for the disqualification of Representatives from a loyal State like Illinois.

Mr. INGERSOLL. One word. The gentleman knows that it is a notorious fact that Kentucky furnished a great many troops for the rebel army, while a very few were raised for the southern cause living in the southern part of Illinois—a few enthusiastic young men, not exceeding a hundred in all, while two hundred and fifty thousand men in that State shouldered their muskets to crush out the rebellion which seeks entrance here to-day.

Mr. BROOKS. What I mean to say is simply this: that because a considerable number of the people of any State of the Union went into the rebellion, it is no reason for the disqualification of members elected from that State or for striking it out of the Union.

Now, what are the facts which are presented in the case? A law of the Congress requires the Clerk of the House to read the credentials of a member presented to the Clerk. Now, if these credentials had been presented at the organization of this House, there is no earthly doubt that the member from Kentucky would have been sworn in by the Clerk and would have voted for Speaker with other members. The question of the right of any of these members-elect from Kentucky to a seat would not have been made until the House was organized, and then it would have been made by a reference to the Committee of Elections. But because it was the misfortune of Kentucky to hold her congressional election subsequent to March, in accordance with the requirement of the law of the State, she lost her representation on this floor. Because it was the will of this Congress to organize and assemble at a period earlier than usual, the question is now made for the Speaker of the House upon the very credentials that would have been presented at its organization, and in the midst of an exciting contest some of these members-elect are pronounced rebels, even without being here in their places on the floor. What could be more unjust, more utterly in violation of precedent? Here is my friend from Kentucky before me, [Mr. Trimble,] a Representative in the last Congress, who has been serving upon your committees in various capacities, trusted by the Speaker of the House, now for the first time denounced by the gentleman from Illinois, as a disloyal member. A member re-elected by over 8,000 is now unable to rise upon the floor of this House, and pronounce utterly untrue the statements in the memorials presented by the gentleman from Illinois. The motion of the gentleman from Illinois is not only to exclude the whole Kentucky delegation, but to exclude a member who for the two years past has been associated with him on a committee and otherwise, now for the first time pronounced disloyal to this Government, and why? I will not say why; the decorum of the House will not permit me.

Mr. SCOFIELD. Will the gentleman allow me to ask a question just here?

Mr. BROOKS. Yes, sir.

Mr. SCOFIELD. Suppose disloyalty is found by the committee and acknowledged by all; suppose the candidate has been in the confederate councils for years or left the service in the confederate army; does the gentleman from New York consider that a disqualification, the fact being abundantly proved?

Mr. BROOKS. The gentleman from Penn-

sylvania will find the question he asked me answered in the course of my argument. Permit me here only to say that there is no one thing upon which men differ so much as upon the question of loyalty or disloyalty. I believe in one species of loyalty and the gentleman from Pennsylvania in another. Loyalty is a word of French derivation, and means devotion to the maintenance of law. In that sense I am loyal; no man is more loyal than I am, or have been, or ever will be. But if disloyalty consists in infidelity to the party with which the gentleman is associated, if it consists in voting for the Democratic and not the Republican party, then, like the gentleman from Kentucky, I am disloyal from the first start, and the gentleman can make the most of it.

I was about to say when I was interrupted that I hold in my hand the certificate of one of the Representatives from the State of Kentucky. It is in the usual form of that old and gallant State of the Union, the State of Harry Clay, a State which educated me in my Whig principles, to which I ever have been faithful, and to which I am faithful now. Here is the paper:

THE COMMONWEALTH OF KENTUCKY.  
OFFICE OF SECRETARY OF STATE.

The undersigned, a board for examining the returns of the election held the 4th day of May, 1867, hereby certify that John D. Young received a majority of the votes given for the office of Representative in the Fortieth Congress of the United States, and was, therefore, duly elected to that office for the term prescribed by the Constitution in accordance with the Constitution and laws of the United States and of the Commonwealth of Kentucky.

THOMAS E. BRAMLETTE,  
Governor of Kentucky.

JOHN A. HARLAN,  
Attorney General.

W. T. SAMUELS,  
Auditor Public Accounts.

These credentials are not signed by Governor Helm or by any of the executive officers whom the gentleman from Illinois chooses to asperse, but are signed by men as loyal as he or any other member upon this floor. It is the usual certificate prescribed by the laws of Kentucky, and which hitherto has been received by the Speaker without dispute. Here then are the usual credentials, and here are the Kentucky members claiming their right to seats in this Hall. If you do exclude them what will be the effect? Just the same as when you drove me from this House because I was "disloyal," elected by a small majority, but rolled back here by over six thousand majority. I tell you that if you exclude these members from Kentucky, these or some other men of the same school of politics will come thundering back here by over a hundred thousand majority. Mr. Young, whose seat is particularly contested by McKee, and who was elected by 1,500 majority, will come back here by five or six thousand majority if you drive him from the floor of this House, and that will be the only effect of your rejection. It will increase the popular majority of these men; it will strengthen them at home; it will strengthen the Democratic party; while you are committing injustice and wrong and outrage, it will but add to the force and vigor of the party with which I am associated.

Sir, what is this House called upon to do? Why, to transform itself into a contested-election committee, a committee on credentials. This House composed of one hundred and forty or one hundred and fifty members is to act as a committee on contested elections, and for this purpose *ex parte* affidavits are brought here to prepare public opinion for the justification of the act.

Here is a long document presented by a late member of the House, Mr. McKee, who made his contest fairly and squarely before the people, and who was defeated there by 1,500 majority. He now comes here relying upon the party majority upon the other side, hoping that you will override all credentials, all constitutions, and all laws, and give him the seat in place of Mr. Young. Why, sir, if a man could be sworn out of his election by *ex parte* affidavits there is not a member upon the other

side of the House or upon this who can hold his seat for an hour, for there are so many disappointed people in every election, and such is the exasperation of the minority, that *ex parte* affidavits to any amount can be brought here to swear out any sitting member. What a beautiful spectacle we shall present here in September if we continue to sit here. Tennessee will be here under the authority of the government of Brownlow, forced by packed majorities, in all probability, to elect a large number of Republican members of this House, representing an infinitesimal portion of the people. What will be the spectacle then if you establish this as the precedent, and *ex parte* affidavits are to exclude the Tennessee members from this floor without reference to the Committee of Elections? I tell you that we can produce affidavits here by the cart-load, by the ton; we shall be able to swear that violence, fraud, audacity, rebellion, the violation of all laws human and divine, have been resorted to in the State of Tennessee in order to elect those Republican members of Congress; and if you commit yourself to this precedent you must abide by it when those petitions come here from Tennessee. I invite them. I invite them here on the floor of this House. I invite the people of Tennessee to send them in if you establish this precedent. I say that cart-loads of affidavits and petitions can be presented to exclude the Republican members from Tennessee as you would now exclude the Democratic members from the State of Kentucky.

One of these affidavits comes from a man of the name of William Sharp, who had a personal quarrel with Mr. Young, who was a county judge in the State. In a case where a citizen was arrested with or without law by this provost marshal Mr. Young issued a writ of *habeas corpus* to bring the question of the imprisonment before him to test its legality; and thus there was excited some feeling between Mr. Young and this provost marshal, Sharp, to which the latter seeks to give vent on the floor of this House by presenting through some member here his remonstrance against the admission of Mr. Young; and the House, with only a partial knowledge of the facts, is called upon to adjudicate upon the whole case, without any reference to the Committee of Elections, and to exclude Mr. Young when he presents the credentials of the Governor of the State.

There is another affidavit from a man by the name of Hockaday, of whom we never heard before, about whom we know nothing—a man who has turned up in Kentucky, as Stephen Geoghegan, who swore me off the floor of this House, turned up in the city of New York. Members of the House will recollect the euphonious name of Geoghegan.

This man Hockaday, with a name almost as euphonious, makes an *ex parte* affidavit; and with all the abundant profusion of statement with which Geoghegan swore in the city of New York, Hockaday swears that Mr. Young was a colonel in the rebel army, &c., when the records of the State will show that at the very time when he is said to have been a colonel in the rebel army he was every day discharging the duties of the office of county judge in the State of Kentucky. The Republican members of this House are expected to be as credulous in the matter of Hockaday as they were in the matter of Geoghegan. If they follow that illustrious precedent, I can only tell them that my honorable friend from Kentucky, instead of coming here with fifteen hundred majority, will be returned by six or eight thousand majority.

Now, sir, a great State like Kentucky is not to be turned out of Congress in this way for any such cause as that suggested by the gentleman from Illinois, [Mr. LOGAN.] Why, sir, the majorities in that State are tremendous—not more tremendous, however, than they are in the gallant and noble metropolis whence I come, for her majorities are equally powerful. Why, sir, our city, that manned your ships

with sailors, that filled your armies with soldiers, that gave her millions to replenish the national Treasury, that contributed so largely in every way to the triumphs of the country's flag, is no less disloyal than the State of Kentucky. One of my colleagues from the city of New York was elected by ten thousand majority, eclipsing even any of the majorities of the State of Kentucky.

Look for one moment at the majorities of these Representatives from the State of Kentucky. Mr. Trimble, from the first district, has over eight thousand majority. Mr. Brown, in the second district, has a majority of more than six thousand. In the third district, Mr. Hise had a majority of about seven thousand. In the fourth district Mr. Knott, against whom the honorable gentleman from Missouri [Mr. BENJAMIN] declaimed so much, without any proof of the identity of the man he describes with the gentleman from Kentucky—without any evidence that the Kentucky Knott and the Missouri Knott may not be altogether different persons—

Mr. BENJAMIN. Mr. Speaker—

Mr. BROOKS. I cannot yield now. Mr. Knott has over five thousand majority. In the fifth district Mr. Grover has a majority of more than five thousand. In the sixth district Mr. Jones has six thousand majority. Mr. Beck in the seventh district has a majority of more than eight thousand. Then the eighth district gives a majority of over three hundred for Major Adams, a man whom the honorable gentleman from Illinois [Mr. LOGAN] would brand as disloyal. Yet Major Adams has faced the bullets of the rebels upon the field of battle, and is as much entitled to credit at the hands of the country as the honorable gentleman himself, who might be expected to feel for him some sympathy as a gallant soldier, who has fought with him under a common flag. But the gentleman from Illinois, as a Republican member on this floor, would turn his back upon him, and exclude him from this floor.

Mr. LOGAN. Will the gentleman yield to me for a moment?

Mr. BROOKS. Yes, sir.

Mr. LOGAN. The gentleman from New York [Mr. BROOKS] has persistently, though I presume not intentionally, misstated my proposition as expressed in my resolution and in my remarks. I stated that I had no charges to make against any of these men; that I placed my resolution upon a higher basis entirely than that of a charge against an individual—the disloyalty of the constituency in the State of Kentucky, and not as the gentleman says, for the purpose of excluding Kentucky from the Union, or for the purpose of excluding her Representatives from this Hall, but for the purpose of having the Committee of Elections report the facts to the House, and then to let the House determine whether these men are loyal or disloyal, and whether they were entitled or not to seats upon this floor.

Mr. BROOKS. I ask the Clerk to read the gentleman's resolution.

The resolution was read.

Mr. BROOKS. The House will judge. The gentleman indorses the charges of alleged disloyalty by bringing in the resolution to exclude these members. The whole tendency of the gentleman's argument, as I understand it, as well as the tendency of his resolution, is to spread abroad charges of disloyalty against these gentlemen, and that, too, when I have shown him Mr. Adams was a major in the Federal Army, the highest proof of his loyalty. He has no objection to have facts reported. But instead of these charges being brought before the one hundred and sixty or one hundred and seventy members of this House they are to go before a Committee of Elections, which stands seven Republicans and two Democrats. The gentleman proposes to leave it to the Committee of Contested Elections to judge whether there is anything in the charges or not, and that before they are sworn in.

But in addition to that it is unjust to these gallant and noble Kentuckians; it is unjust to

that old State to spread upon the record here and throughout the Congressional Globe, and by means of the telegraph, charges against her loyalty, and that she should not be represented upon the floor of this House because she aided and abetted the rebels. The whole thing is unjust from the beginning to the end, and it is because it is that I have risen to refute these charges at the time they are made.

Here are ten specifications signed by Samuel McKee, late a member of this House in the Thirty-Ninth Congress, against the right of John D. Young to a seat upon this floor. Instead of going before the Committee of Contested Elections he presents these charges in print and lays them before the House. I am authorized to say, I say it not for myself, but I am authorized to say that in form, in substance, in idea, in spirit, and interest these whole charges are false from beginning to end. They have scarcely a foundation in fact whatsoever. And I wish the country to take notice that these charges here made have been denied as widely as they are made.

The second specification is:

*Second.* That he voluntarily gave aid, countenance, counsel and encouragement to persons engaged in armed hostility thereto. That he was in full sympathy, free accord and entire harmony with persons who were engaged in armed hostility to the Government of the United States, and who, during the late rebellion, sought the establishment of a separate southern confederacy.

I will not detain the House to enter into a specific denial of these charges, although I might do so. All I have to say is that such allegations, such charges, such denials, are not proper matters for our investigation, but are proper matters to go before the Committee of Elections, where, if these gentlemen from Kentucky get even fair play, they will be more lucky than I was when I was before that committee.

Mr. INGERSOLL rose.

Mr. BROOKS. In one moment. Now, as regards these Kentuckians, there are but two contested seats out of the nine members-elect. The proposition of the gentleman from Illinois is to exclude the whole State. The gentleman from Missouri introduces charges against Mr. Knott, who was a citizen of Missouri, but afterward emigrated to Kentucky. In that case, in utter violation of the law of elections set forth in Brightly's Digest, where thirty days' notice of a contested election is required, in utter violation of that law he proposes here upon the floor of this House, after that time has altogether elapsed, to bring in a contested-election case, notwithstanding the facts were before as visible as they are now. Mr. Knott's record was as well known in Missouri and Kentucky as well then as now. But at this late period of the day the gentleman from Missouri makes a contested election in utter violation of the law which requires thirty days' notice.

Mr. BENJAMIN. I will state to the gentleman from New York that I do not propose to contest the election of Mr. Knott in this House, although I am informed his seat is to be contested. But the point I make is this: that Mr. Knott's disloyalty is so notorious it should prevent his occupying a seat upon this floor.

I take the same position the Senate of the United States has taken in reference to those who presented themselves to that body charged with disloyalty—that he is an unworthy member of the House, and as such we should refuse to receive him.

Mr. BROOKS. The Senate did not refuse to receive Mr. Bright; it expelled him.

Mr. BENJAMIN. I believe they never received the member from Maryland.

Mr. BROOKS. What member?

Mr. BENJAMIN. Mr. Thomas; his credentials are yet pending there.

Mr. BROOKS. Mr. Speaker, although I may have addressed the House in a partisan point of view, as the honorable gentleman from Illinois provoked that mode of address, I nevertheless trust and hope that the large majority on the floor of the House will look into this election question as one of precedent and



of principle and not of party. There is no question of more importance, nothing that so closely reaches the foundation of all our institutions, as that of the right of members to their seats upon the floor of this House when elected to this body. It is not necessary for the party in the majority to exclude these nine Kentucky members in order to hold on to their power; but if they do exclude them they thereby proclaim to all the ten States which they have invited to come back into this Union, that this extraordinary session of Congress is called for the purpose of indicating or devising no means to bring them in. They but proclaim to the people of Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Louisiana, Arkansas, and Texas that no matter what they may do, even though they may elect an officer of the Federal Army to Congress, the most loyal man they can possibly find to represent them, in spite of all their efforts and sacrifices, when their Representative comes to present himself here he may be compelled to face an adverse majority upon an affidavit or charges like these brought before the House in the case of members from the State of Kentucky, and may after all be excluded from a seat in this House by the party in power.

I beg of you, Mr. Speaker, and of the House, I beg especially of you, sir, to exert your influence in this House to establish no such fatal or unfortunate precedent as that, for it will only be a proclamation, a pronouncement to all the other struggling and now disfranchised States, that, no matter what their sacrifices, all their efforts to obtain a representation upon this floor will be utterly vain against an adverse, irresistible, and unreasoning majority.

I now yield the remainder of my time to the gentleman from Illinois.

MR. INGERSOLL. Mr. Speaker, it is alleged specifically that three members who present their credentials here for admission as Representatives from Kentucky are, by reason of their disloyalty, their acts of treason against this Government during the late rebellion, not entitled to seats here. Their seats are contested by those who opposed them in the elections, by those who were supported by the Union party in Kentucky. You have heard read the charges and specifications and the affidavits in support of them. A *prima facie* case has at least been made out against them. I trust this is not assuming too much, for I would not knowingly do an act of injustice to them.

It is further alleged that the entire delegation with one exception—at least, the resolution of my colleague [Mr. LOGAN] is based on that assumption—cannot rightfully take the oath prescribed by law, and therefore ought not to be admitted to seats here. That is assumed in the resolution, as I understand it; and in order to test the question of their legal right to admission as members, and in order that the House may vote understandingly upon it, it is proposed to refer their credentials to the Committee of Elections, and there let the case of each individual member be examined and inquired into, and if any one of the delegation is found worthy under the law to sit here, unquestionably the report of the committee will be in his favor; but if any of them are found to have forfeited their rights as citizens of the United States by reason of participation in rebellion, unquestionably the committee will so report, and without doubt this House will sustain that report by excluding the member or members proven to have been thus disloyal from the privileges of loyal Representatives, and will either allow the seat to remain vacant until the people of Kentucky send a loyal man here or award the seat to the loyal contestant.

Now, sir, for one I am glad we have met this vital question at the threshold. Here is the place to test the sincerity of the Union party. It is undoubtedly true that the loyal, patriotic, heroic Union men of this country saved it on the field of battle. They crushed the rebellion, and in consequence it has become one of the cardinal doctrines of the

Union party, that loyal men shall rule the country maintained and perpetuated by their heroic and unparalleled sacrifices.

I repeat, I am glad that we have met this question at the threshold. Now is the time and here is the place to settle it. The Constitution says "each House shall be the judge of the elections, returns, and qualifications of its own members." This clause gives us full and complete jurisdiction over the question before us. Let us dispose of it, as becomes the Representatives of a great and free people. Let us inquire into the "qualifications" of these gentlemen. Loyalty is a necessary qualification. Do they possess it? We propose to investigate that question, without unnecessary delay, by the proper committee. We do not propose to deal with Kentucky as though she were not entitled to representation on this floor. We say to her, "You are entitled to representation, but you have no right to send men here who aided the rebellion, who fought against the Union." I am not assuming that a disloyal representation has presented itself. I do not presume to declare in advance of the testimony that a single gentleman from Kentucky is disloyal or ever did give aid, countenance or encouragement to the rebellion. But I am insisting that Congress has the right to exclude disloyal men; men who engaged in the rebellion; men who committed treason against this Government. I care not whether the man comes from Kentucky or from any other State; the principle is the same.

If a rebel from Kentucky domiciliates himself in New York and becomes a citizen of that State, and should the people of New York see proper to elect him to Congress, must he be admitted? should he be admitted? I say no, never; Congress has the prerogative to exclude him and ought to exclude him.

There is no safety for the Republic in any other course. This is not an infraction of the right of representation; it goes only to the person of the Representative. The Representative must be a friend of the Union, not its enemy; if he is its enemy he should be denied a seat here, and I hold this to be our right, and for one I propose to exercise it now, if the facts are, as they are alleged in the resolution. Sir, there is such an organization in this country as a Union party, and for one I propose to do all that I can legally and constitutionally to maintain that party. It may be said that I am speaking now as a partisan. Perhaps so; but I am speaking as a partisan, as I understand it, in a good cause, in a patriotic cause, in a loyal cause, no less than the perpetuation of the Republic, and for the perpetuation of just and noble principles as the foundation of that Republic. If we desire to perpetuate the liberty and unity of the Republic, can we do it better than by maintaining the loyal, Union party? I hold that we cannot. Every blow against the Union party is a blow against republican and liberal institutions. You can strike no more direct blow at the Union party or the Republic than by giving aid and encouragement to the enemies of the Union; and if you admit here whomsoever the late rebels may see fit to send, do you not thereby encourage the rebel element in the southern States, until at last, by such encouragement, you will have created a power that will crush you? For one, I do not propose to do any such thing. I propose to act fairly, honestly, and honorably with the people of all sections of the country; but I do propose to maintain loyalty and to award the merit due to it, and when there is a contest in any district in this country between loyalty and disloyalty, I am on the side of loyalty and against disloyalty. If you wish to send forth a voice from this Hall that shall encourage the southern loyal people in their heroic efforts to build up a Union party there, exclude from seats here all rebels that may be sent from any State. If we send a greeting of this kind to the southern loyalists, you will nerve them to invincible perseverance, you will strengthen and encourage them amazingly, you will crystalize them around the principles

of our Union party, and by such encouragement you will create a party able to maintain the principles for which, during four long years, the Union party fought, with a devotion and courage unprecedented. But if you admit, without question, to seats upon this floor men who were guilty of rebellion, do you not strike a blow at the Union party both North and South? Destroy the Union party, and will not the destruction of the Republic speedily follow? If this sounds partisan, I cannot help it. I see in the maintenance and continuance in power of the loyal Union party the true glory and perpetuity of the Republic. I see through the maintenance of that party the firm establishment of the principles of justice and universal liberty, the triumph of right and the downfall of wrong.

Now, sir, I take as an illustration of my position the case immediately before us: Samuel McKee, a known loyalist, devoted to the maintenance and perpetuity of the Union, who risked his life in the suppression of the rebellion, was elected a member of the Thirty-Ninth Congress by a majority of 1,900; he was defeated as a candidate for member of the Fortieth Congress by 1,500 majority. How is this to be explained? In the election of 1865, when he was elected to the Thirty-Ninth Congress, the rebel element of Kentucky was disfranchised by the loyal Union Legislature which had been elected while the rebels of Kentucky were in the rebel army. In 1866 the Legislature of Kentucky repealed their disfranchising law, and flooded the polls of the ninth Kentucky district with the votes of returned rebel soldiers—this is alleged to be the state of the case; I do not speak from my own knowledge—and the consequence was that he was overwhelmed by 1,500 majority. It is said that since the disfranchisement of rebels in Missouri and Tennessee, and the enfranchisement of them in Kentucky, the disfranchised in the first named States find a cordial welcome and a congenial home in Kentucky. This may account for the extra large majorities against the Union party in that State at their late election.

Now, sir, I say for one, and I do not profess to speak for any one but myself, that if Samuel McKee, a loyal man, had received but one loyal vote, and assuming, which I do not say is the fact, that Mr. Young received 15,000 disloyal votes, he himself having been guilty of giving aid and encouragement to the rebellion, I for one should vote against the admission of Mr. Young and for the admission of Mr. McKee with but one loyal vote behind him. That is my position, gentlemen, and you may make the most of it. I do not intend to speak in such a manner that I can be misunderstood upon this question. It is, perhaps, the most vital question that has been brought before Congress for years, at any rate since the suppression of the rebellion. It is a question of the maintenance and ultimate triumph of the principles which were contended for during that terrible, long and bloody struggle.

If we are to admit the rebel element into Congress, what shall we say for loyalty? What apology can we make to the loyal men whom we will meet when we go home? None whatever; we will have falsified our pledges and our principles. We must maintain a loyal standard in Congress if we intend to maintain a loyal standard at home. If we desire that our constituents shall maintain a loyal standard there, let their Representatives maintain a loyal standard here. Thus there will be harmony of feeling, thought, and action upon these great and vital questions. If we sustain the cause of loyalty here to-day, we will find a sympathetic throb answering our manly and just action from the loyal hearts North and South.

The gentleman from New York [Mr. Brooks] informs the House that we are in the midst of a revolution. Sir, I admit it. But the revolution was not inaugurated to-day; it is of long continuance; a revolution commenced by men disloyal to the Constitution and the

Union; men whom, as I understand, the gentleman from New York is willing to see admitted to seats in this House, provided they get more votes at the election than their opponents, without reference to the question of their loyalty.

I admit that we are in the midst of a revolution; but I say to the gentleman from New York it is a revolution in favor of truth, in favor of justice, in favor of the universal rights of mankind. And I say, let the revolution go on until these grand principles shall be firmly established as the fundamental basis of the American Republic.

The gentleman from New York complains that we propose to strike Kentucky out of the Union. Why, sir, but for the timely action of the Union party and the loyal soldiers that marched into Kentucky from the northern States, Kentucky would have struck herself out of the Union years ago. The rebels of Kentucky did what they could to carry that State out of the Union; and when they failed by reason of the invasion and occupation of their State by the Union Army, some thousands of the disloyal citizens of that State took themselves out and joined the rebel army.

The "gallant Kentucky" that the gentleman talks so eloquently about is not the Kentucky of the last six years. The gentleman has certainly been in a sort of Rip Van Winkle sleep during that period of time. Twenty years ago Henry Clay did honor to "gallant Kentucky" by giving an impetus to liberty; by his efforts as a philanthropist and an avowed emancipationist and colonizationist. Those were the days of "gallant" Kentucky.

Sir, the "gallant" days of Kentucky were not during the recent rebellion. It is a historical fact that when Kentucky could not be taken out of the Union bodily as a State, Kentucky rebels took themselves out, and not only went into the rebel army, but went into the rebel Congress. There was in that State a rebel State government, which was recognized by the confederate government at Richmond. It was formed, if my memory serves me, by retreating rebels, who formed the nucleus of what they called a State government at Russellville, which was represented at Richmond until the cannon of Grant demolished the capital reared by treason and slavery. Representatives from the State of Kentucky took part in the Richmond Government with John C. Breckinridge as Secretary of War.

I ask, what kind of a record is this for "gallant Kentucky?" I will give Kentucky all just credit for gallantry. She has had and still has many gallant men devoted to the cause of Union and liberty. They did nobly for the Union; and I will tell you how I am going to make acknowledgment of their patriotic services. It is by the admission of loyal Representatives from that State to seats in Congress, and by excluding her disloyal. That is the way I am going to reward the gallantry of Kentucky.

Now, sir, I desire to ask the gentleman from New York a question, the substance of the question which was asked him by my friend from Pennsylvania, [Mr. SCOFIELD,] and which he did not answer. I suppose he forgot it. It is this: should John C. Breckinridge return to Kentucky, would he not be a citizen of that State? Has he ever lost his citizenship there by reason of his connection with the rebellion? Even if he has, supposing he should return to Kentucky and reside there one year, would he not be, according to the gentleman's idea, constitutionally eligible to a seat in Congress, if a majority of the people of any district there should elect him? I ask the gentleman to answer "yes" or "no." I have not time to yield the floor for a lengthy reply.

Mr. BROOKS. I am a Yankee, and could only answer one question by asking another.

Mr. INGERSOLL. If that is so, then I do not yield. Perhaps I ought to yield, as I am indebted to him for the floor. I thank him for the courtesy he has extended to me, and I will be guilty of no act of discourtesy to him. If

the House will yield me five minutes more, I will then gladly yield to the gentleman.

The SPEAKER. The gentleman has one minute remaining of the hour of the gentleman from New York. Is there objection to extending his time five minutes?

There was no objection, and it was ordered accordingly.

Mr. BROOKS. How did the gentleman vote in Colonel Stokes's case?

Mr. INGERSOLL. I think I voted to admit him; and I will tell you what I would do if John C. Breckinridge had done no more than Colonel Stokes, and then, by way of atonement, as Colonel Stokes did, had served and fought four years in the Union Army. Why, sir, I would admit him to Congress, if he should be duly and legally elected, as against any man who continued in the rebellion, and now only weeps over the "lost cause," because it is "lost," and anticipates that in some future day the "lost" star of the southern confederacy will rise again. Now that I have answered him, will the gentleman be kind enough to answer my question to him?

Mr. BROOKS. I cannot pretend to answer in a half minute, but I shall avail myself of some other opportunity to state what, in my judgment, ought to be our conduct toward the rebels. I will not interfere with the gentleman by answering now.

Mr. INGERSOLL. I did understand that the gentleman from New York would make a direct answer to this question. I have answered him frankly. My question requires a categorical answer.

Mr. BROOKS. I will answer the gentleman at another time.

Mr. INGERSOLL. I will go as far as anybody else where magnanimity goes hand in hand with justice, but not one inch further. I hold it to be a violation of the principles of justice to admit rebels as fellow-members of this grand council of the nation.

Shall we do it? This is substantially the question before the House. I have not argued the case as though the evidence had been here, but I have given my views on an alleged case; and for one I feel it will do the country and the Union party more permanent good in raising and settling this question in Congress now, provided we settle it on just and correct principles, than any other act we shall do during the present session.

I speak in no spirit of vindictiveness. I am as anxious to see the southern States restored to the Union upon the grand principles of justice as any man. I shall welcome here the Representatives that the people of the southern States shall send, provided they come with "consciences void of offense" against this great Republic. But, sir, if they come here covered with fraud or stained with treason, I shall say, notwithstanding your people have the constitutional right to be represented, yet the Representatives of the people, in Congress assembled, have the constitutional right to inquire into your Representatives; and if they find them to be disloyal, if they find among them a Breckinridge or a Beauregard, or any other who has aided and abetted the rebellion, we will say, "Ye cannot enter here."

We will not discredit loyalty by admitting them here, but we will vindicate loyalty by rejecting them. I insist that we must be true to those who have themselves been true to the glorious, shining flag of freedom; thus we shall be enabled to hold aloft that grand, starry banner for ages to come, and it shall float over the Republic redeemed and regenerated, and none but loyal men shall be trusted and honored.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Speaker, I do not propose to protract this discussion by any argument. So far as I am concerned, I wish to draw the whole question toward a conclusion. It seems to me that which I have proposed is plain and practical. Persons claiming to be members-elect from Kentucky have called, that the oath may be administered to them, and that they may

take their seats in this House. I have presented to you and to the House, by a protest in the case of one of them, which protest charges, among many other things, distinctly and positively that a person claiming to be a member-elect thus presenting himself to be sworn in is a public enemy—that he has been a public enemy; thus throwing upon him the burden of proof to show that he occupies a different position now; that he has been aiding and abetting the late rebellion, and actually participating in it as a commander of rebels raiding against the lives and property of Union men in the State of Kentucky. Along with this protest I present affidavits, *ex parte*, to be sure, for these are all, at this stage of the proceeding, which can be presented sustaining these charges, and upon this state of facts I ask that this man, claiming to be a member-elect, shall not be permitted to be sworn in and take his seat with the rest of us, but shall stand aside until these charges thus sustained by these statements and affidavits shall be, with his credentials, referred to the Committee of Elections, that they may investigate and report as to the facts whether he is thus disqualified or not, and to have the power to send for persons and papers, in order to enable them the better to conduct this investigation.

Now, sir, what is the objection? If there be any objection to it at all, stripped of the great mass of verbiage with which the excited gentleman from New York [Mr. BROOKS] entertains the House, it amounts to this: he and any others who think with him claim that a traitor may come here bloody with treason, and that fact may appear probable to the House, and yet the House has no defense or protection, but must admit him upon the presentation of himself with his certificate of election, and must make the inquiry afterward. If the gentleman has claimed anything at all or proved anything at all by his argument and illustration, it would disable us from refusing to administer the oath to Jeff. Davis if he were to come here with a certificate of election. You will not get the gentleman from New York to say whether he would or would not vote for or against permitting Davis to be sworn in under such circumstances; neither will he say it in regard to Breckinridge, nor probably in regard to any traitor.

Now, I can understand that, because I know that the gentleman belongs to a party which does not distinguish between the man who sustained his Government and his flag in the time of trial, when rebellion was rampant over the land, and the man who was seeking to overthrow that Government and trample upon that flag. He belongs to a party which makes no distinction between the State of New York, which did not, as an organized community and one of the States of the Union, go into the rebellion and seek to throw herself out of connection with the other States, and the State of South Carolina, which went red-handed into the rebellion in her own character as a State and a people organized and individually. He belongs to a party which has not discovered even that there has been a war, if you may judge from their public documents and the sort of argument presented by them to the country. It is true, the gentleman says we are now in the midst of a mighty revolution; but when did he discover it? Not when red-handed rebels were trying to destroy you and me and our country, but when the rebellion is all over and we are undertaking to resettle the foundations of the Government, to get back to original principles, to maintain law and order, freedom and peace. Then he discovers that because some of our enemies are sharply dealt with, because the times require sharp remedies, we are in the midst of a revolution. I wish he and those who acted with him had made their discovery a few years ago. Then, perhaps, instead of their sympathizing with these rebels and giving them all the aid they could, except actual physical help, we should have had them united with the rest of the loyal men of the country and

making quicker work of putting the rebellion down.

I do not wonder, therefore, that we have such objections coming from such a quarter. If you reduce all their arguments to a simple element and statement, it amounts merely to this: this House is asked to declare that no matter how apparent may be the treason or participation in rebellion of any one who comes here with a certificate of election, we are bound to admit him and postpone inquiry into the matter until afterward.

Sir, I present the practical question to this House, that here is a *prima facie* case made out. The House is not asked to declare that John D. Young is not entitled to a seat here, but it is asked to declare upon this showing that he shall not be permitted now to take the oath, but shall stand back until some inquiry shall be made into the truthfulness of these allegations, and a report made to the House upon which it can understandingly determine the question ultimately and finally.

That, sir, is the case of John D. Young. A member of the House rises in his place and avers that within his knowledge another of those claiming to be members-elect from Kentucky, Mr. Knott, has been also a participant in this rebellion. Sir, by the courtesy of a deliberative body like this such an allegation made by a member is always taken as a sufficient showing upon which to base action by the House; and if the gentleman from Missouri [Mr. BENJAMIN] is ready with his proposed amendment to add another resolution directing the same inquiry to be made in the case of Mr. Knott, I will accept that resolution to go along with mine as a part of the series of resolutions which will then be offered to the House.

There is a protest accompanied with affidavits made in relation to another of those claiming to be members-elect, [Mr. Trimble.] If a like resolution be prepared with regard to him, or with regard to any one in reference to whom such allegations are made, I am ready to incorporate it with the general proposition I make to the House, so that either with or without division we may vote upon all the propositions.

But, sir, I go a little further in this, a good deal further, some gentlemen may perhaps think. I hold that it is not necessary (and this is what the gentleman from New York [Mr. Brooks] has characterized as "revolution") to have distinct facts presented by affidavits or by authority, if there be within the general knowledge of the House, to its satisfaction, proof that the election in any particular district of country or in any particular State has been so conducted that the voice of the people has in all probability not been heard there, or their will perverted, or their choice been made distinctly, it is in the power of this House to pause at the very threshold and direct that an investigation be made in order to satisfy the House with regard to any Representative claiming to come from such locality, district, or State.

In the case of the Representatives from Tennessee, in reference to which there was read, by the direction of the Speaker, from the Congressional Globe this morning, a precedent relating to this matter upon a question of order, it will be remembered that among the things referred to the Committee of Elections to be inquired into, was the condition and state of affairs in the districts, in order that they might determine whether there had been a fair election or not.

Now, sir, for the case of Kentucky, my creed is very brief. I have believed all along, from the demonstrations made, and the developments in Kentucky during the war and since the war, that if she had gone fairly into the rebellion, and by an act of secession had arrayed herself with what was called the "southern confederacy," and been whipped back into her place, she would have been in a very much better condition than she actually is now. I believe from numerous letters that I have

received, from various sources of information, from the public prints, that there has not been a fair election in all the districts of Kentucky. I think it probable that in addition to these three gentlemen named, there ought to be an inquiry made as to every one of the nine, excepting, perhaps, as to Mr. Adams, in regard to whom I have heard nothing of this sort alleged from any quarter. While, therefore, I do not accept the substitute of the gentleman from Illinois, [Mr. LOGAN,] I am not unwilling to vote that this inquiry shall be made in reference to all except Mr. Adams.

I prefer, however, to hold my resolution at least where it is and to accept along with it these specific amendments, so that if a general inquiry of this kind shall not be ordered by the House, we shall at least have the inquiry made in those cases in which there are distinct allegations. I yield now to the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. I desire to offer the following amendment as an addition to the resolution of the gentleman from Ohio, [Mr. SCHENCK:]

And whereas it is charged by a member of this House that J. Proctor Knott, who claims a seat as member from the fourth district of Kentucky, was disloyal to the Government of the United States during the rebellion: Therefore,

*Be it further resolved*, That the credentials of Mr. Knott be also referred to the Committee of Elections with instructions to inquire into such disloyalty, with power to send for persons and papers.

Mr. SCHENCK. Before accepting that amendment I will say that I am informed by the gentleman from Wisconsin [Mr. PAINE] that he has prepared a resolution which will perhaps meet the object better than mine, and I will yield to him for the purpose of having it read.

Mr. PAINE. Mr. Speaker, in addition to the two cases covered by the resolution of the gentleman from Ohio, [Mr. SCHENCK,] and the proposed amendment of the gentleman from Missouri, [Mr. BENJAMIN,] there are two other cases of remonstrance against the swearing in of members claiming to be from Kentucky. One is the case of Hon. Lawrence S. Trimble, to which the attention of the House has already been called. The remonstrance has been presented to the House and reference has been made to the testimony in the case. That case of Mr. Trimble is one that I propose to embody in the amendment which I offer for the acceptance of the gentleman from Ohio. But there is still another case standing upon the precise ground of the case of Mr. Trimble. It is the case of John Young Brown. His seat is contested by Samuel E. Smith, who has sent forward to the proper officer the testimony taken in the contest, and who also remonstrated against Mr. Brown being sworn in, and who furnished the affidavits which I hold in my hand in addition to the testimony taken in the case, as a reason why John Young Brown should not be sworn in, and why his case should take the same direction as the cases of these other gentlemen, be referred to the Committee of Elections and reported upon by them.

Now, I offer a resolution precisely like that of the gentleman from Ohio, [Mr. SCHENCK,] except that it embodies the two cases of Lawrence S. Trimble and John Young Brown. I also send to the Clerk's desk, with the resolution, the affidavits in the case of John Young Brown, which have not yet been read, and which, I think, should be read to the House. Accompanying these affidavits is a letter of Mr. Brown, dated April 18, 1861, referred to in the affidavits as being a letter which Mr. Brown had, in speeches made by him, acknowledged to be a letter written by him, and by which he still stood.

The Clerk read the resolution offered by Mr. PAINE, as follows:

*Resolved*, That Lawrence S. Trimble and John Young Brown, claiming to be members-elect of this House from the State of Kentucky, be not permitted to be sworn in as such members; but that the credentials of said Lawrence S. Trimble and John Young Brown, together with the protests of G. G. Symes and Samuel E. Smith, and of other citizens of said State,

and the accompanying affidavits, be referred to the Committee of Elections; and that the said committee be instructed to investigate and report on the charges and facts of the case, and whether said Trimble and Brown are entitled as loyal citizens to seats in this House; and that the committee have power to take testimony, and for that purpose to send for persons and papers.

The Clerk also read the following:

[From the Louisville Courier, May 15, 1861.]

ELIZABETHTOWN, April 18, 1861.

Editor Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said in reference to the call of the President for four regiments of volunteers to march against the South:

"I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks."

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States. What I did say was this:

Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death, and if one man shall be found in our Commonwealth to volunteer to join them, he ought, and I believe will be, shot down before he leaves the State.

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

STATE OF KENTUCKY, County of Muhlenberg, ss:

On this 26th day of June, A. D. 1867, before me, a justice of the peace in and for the county and State above named, personally appeared M. J. Roark, who, being by me duly sworn according to law, on his oath doth say that he is a resident of Greenville, county and State above named; and further, that he was present at Morgantown, State of Kentucky, on the 10th day of April, 1867, and heard John Young Brown, in a public speech, declare and avow that he was the author of a letter charged to have been written by him, a copy of which letter is herewith filed, marked B, and made part of this affidavit.

M. J. ROARK.

Sworn to and subscribed before me, by M. J. Roark, this 26th day of June, 1867.

E. G. NEEL,

Justice of the Peace, Muhlenberg county.

STATE OF KENTUCKY, County of Muhlenberg, ss:

On this 26th day of June, A. D. 1867, before me, a justice of the peace in and for the county and State above named, personally appeared E. G. Neel, who, being by me duly sworn according to law, doth on his oath say that he is a resident of Greenville, State of Kentucky; and further, that he was present at Greenville, State aforesaid, on the 8th day of April, 1867, and heard John Young Brown, then a candidate for Congress in this second congressional district, in a public speech, declare and avow that he was the author and responsible for a letter charged to have been written by him in 1861, which letter is filed herewith as part of this affidavit, and marked B. He also stated that in same public speech he had said nothing in said letter that he was not prepared to defend on that day—i. e., 8th day of April, 1867. He further admitted in same speech that for something said or done by him (Brown) he was in the year 1865 arrested by order of Colonel Sam. Johnson, of Seventeenth Kentucky volunteer cavalry, and confined in jail or prison.

E. G. NEEL.

Sworn to and subscribed before me, by E. G. Neel, this 26th day of June, 1867.

JOHN M. WILLIAMS,

Justice of the Peace.

Mr. SCHENCK. I understand that the resolution of the gentleman from Missouri [Mr. BENJAMIN] refers to the case of Knott, and that of the gentleman from Wisconsin [Mr. PAINE] to the cases of Trimble and Brown. I accept both those amendments, to be appended as separate resolutions to the one which I offered.

Mr. LOGAN. I observe that the disposition of the House is to have a great many resolutions in connection with this case, but finally I think our action will embrace all the names. There seems to be an idea that there must be specific charges against each individual. Whether that is more definite than a charge against the whole is something for other gentlemen to determine. I do not know that there are any charges against Mr. Grover or Mr. Jones, except the general charge made in my resolution against the whole delegation. I will state, however, for the benefit of the House, so that some other gentleman may, if he chooses, draw a resolution to include their names, I do not propose to do so myself, that those two gentlemen were imprisoned during the war for disloyalty.



Mr. PILE. Will the gentleman from Ohio [Mr. SCHENCK] yield to me for a moment?

Mr. SCHENCK. Yes, sir.

Mr. PILE. I desire to offer an amendment to the substitute of the gentleman from Illinois. I move to amend the substitute as follows:

Insert after the words "all the members-elect from Kentucky," the following: "Except George M. Adams, member-elect from the seventh district, in regard to whose election no such allegations are made."

Mr. LOGAN. I have no objection to accepting that amendment as a modification of my resolution, inasmuch as I believe there are no charges against that gentleman. I, however, introduced my resolution for a different purpose from that of attacking any individual. My purpose was to test an important question in this House. There seems, however, to be some nervousness on this subject, and I will therefore accept the amendment and modify my resolution so as to include all the persons claiming seats as Representatives from the State of Kentucky, except the gentleman named in the amendment. I believe there have been charges made against all the others, except one, and he was the partner of John C. Breckinridge in the practice of the law. [Laughter.]

Mr. SCHENCK. Having now admitted all the amendments which gentlemen have desired to offer, I was about to call the previous question; but the gentleman from Illinois on the other side [Mr. MARSHALL] has asked for ten minutes, which I feel disposed to accord to him.

Mr. MARSHALL. Mr. Speaker, I shall detain the House but a short time, probably not even the few minutes allotted to me by the courtesy of the gentleman from Ohio. In the remarks I shall make, the time being limited, I shall not attempt to answer any of the party allusions or references to party made by the other side of the House. It seems to me a question of this gravity ought to be approached in a different spirit from that which has been manifested here. If possible, it ought to be calmly and dispassionately considered, and solely with reference to the important rights and grave principles involved. I was sorry to hear one of my colleagues remark that he would do all in his power here and elsewhere to continue and perpetuate the Republican party. I believe gentlemen on questions of this kind ought not to permit themselves to be influenced by considerations of that character.

Mr. INGERSOLL rose.

Mr. MARSHALL. I have but a short time, and my friend must excuse me.

Mr. INGERSOLL. Let me put myself right. I understand my colleague yields to me for an explanation. He does me injustice, not intentional, I hope, nevertheless injustice, and if I suffer it to go without correction I will be taken as acquiescing in it. I did say I would do here and elsewhere all I legally and rightfully can to continue the Union party in power. I did not mean without reference to the rightfulness of the case, without regard to the legality of the action, but simply what I can do rightfully and legally here and elsewhere I will do to maintain the Union party.

Mr. MARSHALL. I know the gentleman qualified it by using the word "legally," but, sir, notwithstanding this qualification, the remarks of my colleague, taken altogether, lead to the inevitable conclusion that he would not be at all scrupulous as to the means resorted to for the purpose of preserving the ascendancy of the Republican party. I have no doubt all honest men think or feel that the preservation of the principles of their party will promote the best interests of their Government; that the safety or welfare of the Union is identified with it; but that is no reason why any patriotic man, any Representative upon this floor should resort to anything not warranted by the Constitution and laws of the country to continue and perpetuate any party on earth. The existence of our country, its salvation, does not depend on any party. All parties become in course of time corrupt, and it becomes necessary for the people for their

own safety to rise in their majesty and throw off their yoke. When a party gets to be in an overwhelming majority it necessarily becomes corrupt. Such has been the experience of the world from its foundation to the present time.

In my judgment the American people are rapidly coming to the conclusion that we have arrived at that time in the history of the Republican party, especially when we hear upon the floor of the Federal Legislature the declaration that everything, the most sacred and holiest rights, are to be sacrificed to secure its perpetuation. The opinion is gaining strength everywhere; the people in the remotest corners of the Republic are awakening to the fact that in this unholy struggle to retain power the Republican party has sacrificed not only its own professed principles and the material interests of the country, but that it is also trampling ruthlessly and wantonly upon the Constitution, and crushing out every safeguard by which public and private liberty are to be protected and preserved. In the treatment of the lately rebellious States every principle taught by the sages of the past, every construction of our Federal Constitution heretofore made, whether strict or latitudinarian, every principle of free government, have been disregarded, and the country kept oscillating between anarchy and despotism in the struggle of this party to continue its existence. And it is now evident that it will never consent to a restoration of the Union until by the introduction and manipulation of the negro vote and the disfranchisement of our own race it can degrade the excluded States into mere dependencies of the radical faction.

Mr. SCOFIELD. Will the gentleman allow me to ask him the same question I asked the gentleman from New York?

Mr. MARSHALL. Let it be brief.

Mr. SCOFIELD. In the case of a man who has been elected to Congress, who has been a member of the confederate congress, who is beyond all doubt a rebel, would he, in the opinion of the gentleman from Illinois, be disqualified from sitting here?

Mr. MARSHALL. In the opinion of the gentleman from Illinois, so long as there is any loyal disqualification it is within the power of the House to prevent such a man taking his seat. I do not doubt the power of the House, when a gentleman appears to take his seat as a member, to suspend the taking of the oath in order to inquire into and determine his right to such seat; but this power should be exercised with the greatest caution and with a due sense of the gravity of the step taken, and the tendency of such precedent and such action to destroy representative government itself.

In the hands of a reckless or unscrupulous majority this power is of the most dangerous character. By its exercise not only districts, but whole States may be deprived of all representation indefinitely. The safer and better general rule unquestionably is, in all cases to permit every one to take his seat immediately, who comes with duly certified evidence of his election, and, it should be a very extreme case, indeed, that would justify a departure from it. I do not think any such case appears against any one of the gentlemen claiming seats from the Commonwealth of Kentucky. These *ex parte* charges and affidavits should be regarded with great suspicion. It would be no difficult matter to get up similar charges against any gentleman on this floor, and parties presenting them should be driven to the regular and ordinary mode of contesting the seat of a member, and the *onus* of proof and expense of the contest should be thrown upon the person testing.

The right of representation is a holy and sacred right, and its destruction is the destruction of the Constitution and the Government itself, and it ought not to be interfered with except upon the gravest consideration.

In regard to this proposition concerning the members from Kentucky I cannot go into detail. My colleague first upon the floor did that State great injustice. I do not charge

that it was intentionally done. He characterizes Kentucky as a rebel State. Why, sir, during the whole war she had her Representatives here and in the Senate. It is not true that large sections or any district in Kentucky claimed only representation at Richmond in the confederate congress during the war. That there were many secessionists in that State is undeniable, and that a portion of these assembled together on the southern border of the State and professed to hold an election for Senators and Representatives. But this was nothing more than an illegal, unauthorized assemblage, and had no connection whatever with the government of the State. That government was at all times loyal, and the entire State was during the whole war represented in both branches of Congress, and her Representatives cooperated with those from all other sections in maintaining the dignity and honor of the country.

Mr. LOGAN. Will the gentleman allow me to correct him in one remark very briefly?

Mr. MARSHALL. I will yield for a correction only?

Mr. LOGAN. The gentleman is certainly mistaken in reference to the history of Kentucky. I can inform him that at Russellville, Kentucky, in November, 1861, a provisional government was organized, a legislature chosen, senators and representatives elected to the rebel congress. George W. Johnson, first Governor, was killed at Shiloh. In September, 1862, at Frankfort, R. Hawes was inaugurated Governor of Kentucky; while Bragg, Kirby Smith, and Humphrey Marshall's rebel forces occupied the whole State except a few posts on the Ohio river. R. Hawes held this position until the war ended, and is now a judge of a State court in the State of Kentucky.

Mr. MARSHALL. There never was an authorized rebel government in Kentucky. There was a squad of rebels got together, as I have before stated, and being very anxious to get members for the confederate congress, they made up something that they pretended to call senators and representatives of Kentucky, and these were received at Richmond; but there never was any election of members thereto under any law of the State, as is well known.

There is imminent danger, Mr. Speaker, in establishing such a precedent as is about to be established here. It is the easiest thing to get up charges against any man. I will not undertake to inquire now whether these charges or any of them are true or not. I do not know any of these gentlemen, except one, the member from Paducah, whom I have known for a long time as a neighbor and as a high-minded and honorable gentleman, and in regard to whom I must say that I am confident that every charge made against him here is utterly and entirely false. But I do not propose to go into the discussion of that question. I only suggest now how easy it is to get up charges of this character against any one. There has been great excitement in my own State during the last few years, great party excitement, and charges were made in the most reckless manner, groundless charges, too, against nearly all the public men of the State. I have no doubt my colleague [Mr. LOGAN] if he should see proper to do so, could get affidavits that I or any gentleman of my political views was disloyal and an enemy of the Government of our country. And on the other hand I could get abundance of affidavits that my colleague was during the first months of the war more bitterly and openly opposed to its prosecution than any other public man of the State of any party. I should certainly, however, prefer no such charges against him for the purpose of affecting his right to his seat, or for any other purpose.

Mr. LOGAN. Will my colleague state on this floor that he can get charges against me of that character which he would believe?

Mr. MARSHALL. I am not going into that. The course of my colleague in entering



the Army and fighting as he did would forbid it.

Mr. LOGAN. If there are any such charges I want them made specific.

Mr. MARSHALL. If the gentleman had erred in his judgment at the commencement of the contest, if his position had been just the reverse of what it is now, his course during the progress of the war would forbid my presenting any charges of that kind against him on this floor. I have great respect for the gallantry and manhood of my colleague, however much I may disapprove what I regard as his grave, political errors, and I would do no injustice to him. But I must say, as he calls on me, that at the commencement of the war it was my belief that he was more hostile to its prosecution than ever I was even charged or thought by any one to be during its entire continuance. That is my belief; but I certainly should not have stated it had I not been called on to do so.

But I find that I have been diverted from the train of remarks I had proposed making when I arose, and as the time allotted me is about exhausted, I will add but a word or two more. The resolution offered should not be adopted for another reason: it is an entire abandonment of our statute law in regard to contests. It proposes not only to vacate these seats indefinitely, but to throw the burden and expense of a contest upon the Government and the committee of the House instead of upon the parties contesting. Our statute in regard to contesting elections should be wiped from our statute-books if this precedent is to be established. Neither notice nor any other formality of contest need hereafter to be observed, and all burdens are removed from the shoulders of contestants. It will be a glorious precedent for defeated politicians.

The SPEAKER. The time allowed the gentleman has expired.

Mr. SCHENCK. I hope the House will not consider me as asking too much when I now demand the previous question on the resolution and pending substitute.

Mr. BOUTWELL. Will the gentleman allow me a few minutes?

Mr. SCHENCK. I will allow the gentleman five minutes of my remaining thirteen, but I cannot yield to anybody else.

Mr. BOUTWELL. Mr. Speaker, I do not propose to answer any of the arguments on this question, but only to state a distinction which I think can very well govern this House and enable it to act safely in the decision of the question. I think we are justified in taking this position: that when a member rises in his place and states as of his own knowledge or upon information worthy of belief that a person presenting himself here for a seat in this House is or has been substantially a traitor to this Government, we have a right to decline to allow that person to take the oath until that matter has been investigated and he has been relieved from the charge.

But I make a distinction between such an allegation against a gentleman presenting himself here and any other which can possibly be made, because it is an allegation which, if proved to the satisfaction of Congress, will be found to be very different from an allegation that in an election men were deterred from the exercise of the right of suffrage, or that some men voted who had no right to do so. These are allegations which may oftentimes be made by any member of Congress; but when it is alleged upon the authority of a member of this House or upon an affidavit presented and read by a member of the House, or by its Clerk, that a person presenting himself here for a seat is a traitor, of course we must refuse to allow him to take the oath until he is purged from that charge. It is upon that rule that I must vote upon the questions as they are presented. Whenever any member upon his own knowledge or upon affidavit will charge by name any one of these men presenting themselves as being identified with the rebellion, I cannot vote to allow him to take the oath; but I cannot vote to exclude men in gross and

say that Kentucky or any other State shall not be represented here because in the election men were overawed, or because persons voted who should not properly have voted.

I therefore trust that those gentlemen who have the management of this matter will make the charges specific against individuals, and, for one, I am prepared to vote to exclude them from the present from the privileges of this House.

Mr. LOGAN. I desire to modify my resolution by striking out the words "all the," and inserting in lieu thereof the following: "Lawrence S. Trimble, John Young Brown, J. Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young," so that the resolution will provide that the credentials of Lawrence S. Trimble, John Young Brown, H. Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young, members-elect from the State of Kentucky, shall be referred to the Committee of Elections, for report at as early a day as practicable, and that, pending the report of the committee, none of said members-elect shall be allowed to take the oath of office or admitted to seats as such.

Mr. SCHENCK. I have concluded to allow myself one minute more. There has been a misapprehension in supposing that this is a movement against Kentucky as a State. That is not my idea of this case. If the same showing should be made in regard to a member from Ohio that he had been participating in the rebellion as a public enemy, upon allegations introduced here and sustained as are the allegations in this case, or upon the statement of any member upon this floor, I would apply the rule in the same way to him. I want that understood. I now call the previous question.

The previous question was seconded and the main question ordered, being first upon the substitute for the resolution offered by Mr. LOGAN.

Mr. WOOD. I move to lay the substitute on the table.

The SPEAKER. That would carry the whole subject to the table.

Mr. WOOD. Cannot I move to lay the substitute separately upon the table?

The SPEAKER. No; as it is connected with the resolution it will carry the whole subject to the table.

Mr. WOOD. Then I withdraw the motion.

Mr. ELDRIDGE. I call for the yeas and nays on the substitute.

Mr. HOLMAN. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The substitute was agreed to — ayes 67, noes 50.

The question recurred on agreeing to the resolution as amended.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were not ordered.

The resolution as amended was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONNECTICUT ELECTION.

Mr. SCHENCK. I rise to a question of privilege. I present the memorial of citizens of the fourth congressional district of Connecticut, charging W. H. Barnum, claiming to be Representative-elect to the Fortieth Congress from that district, with having procured his election by bribery, and protesting against his being permitted to hold his seat, with accompanying affidavits and proofs.

I have made no motion to exclude Mr. Barnum from taking the oath, but I move that the memorial and accompanying proofs be referred to the Committee of Elections, with instructions to investigate and report, and with authority to take testimony and send for persons and papers.

I do this because it is not a case of contest; there is no contestant; it is a memorial from citizens of the district; and for fear that some gentleman this warm weather should rise to make a speech, I will demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. SCHENCK was agreed to.

#### CONTESTED ELECTIONS.

The SPEAKER laid before the House papers in the contested election of Columbus Delano vs. George W. Morgan, from the thirteenth district of Ohio; which were referred to the Committee of Elections.

The SPEAKER also laid before the House papers in the contested election of William F. Switzler vs. George W. Anderson, from the ninth district of Missouri; which were referred to the Committee of Elections.

The SPEAKER also laid before the House papers in the contested election of James H. Birch vs. Robert T. Van Horn, from the sixth district of Missouri; which were referred to the Committee of Elections.

The SPEAKER also laid before the House papers in the contested election of S. E. Smith vs. John Young Brown, from the second district of Kentucky; which were referred to the Committee of Elections.

The SPEAKER also laid before the House a notice of contest in the case of Samuel McKee vs. John D. Young, claiming a seat as a Representative from the ninth district of Kentucky; which was referred to the Committee of Elections.

#### ADJOURNMENT OVER FOURTH OF JULY.

On motion of Mr. STEVENS, of Pennsylvania, it was

Ordered, That when the House adjourns to-day it be to meet on Friday next.

#### COMMITTEE ON RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania. It being desirable that a committee on the subject of reconstruction should be appointed, I have consulted with several gentlemen as to whether we should revive the joint committee of fifteen or appoint a separate committee for this House. After consulting with my colleague on that committee, the gentleman from Ohio, [Mr. BINGHAM,] and several Senators, they have all agreed that the most convenient method is for each House to appoint its separate committee. I therefore ask unanimous consent to offer the following resolution:

Resolved, That a committee of nine be appointed to inquire what further legislation, if any, is required respecting the acts of March 2 and March 23, 1867, or other legislation on reconstruction, and to report by bill or otherwise.

Mr. ELDRIDGE. I object.

Mr. STEVENS, of Pennsylvania. I move to suspend the rules to permit the introduction of the resolution.

The motion was agreed to, (two thirds voting in favor thereof,) and the resolution was introduced.

Mr. ELIOT. I desire to amend the resolution of the gentleman from Pennsylvania, [Mr. STEVENS,] by adding thereto the following:

Resolved further, That a bill perfecting and strengthening the military reconstruction act, so-called, or otherwise providing for the establishment of civil government within the southern States, be reported and acted on as soon as practicable; that no proposition for general legislation be entertained during this session of Congress; and that all matters calling for such legislation be laid on the table without debate.

Mr. STEVENS, of Pennsylvania. I have no objection to the amendment, except the latter part in regard to general legislation, which seems to me somewhat objectionable. I am willing to accept all but that part.

Mr. ELIOT. Rather than accede to that proposition I would prefer to withdraw the amendment and offer it as a separate proposition.

Mr. STEVENS, of Pennsylvania. Very

well; that is the better way. I call the previous question.

The previous question was seconded, there being—ayes seventy-three, noes not counted.

The main question was ordered; and under the operation thereof the resolution of Mr. STEVENS was adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. ELIOT. I ask unanimous consent to offer the following resolution:

*Resolved*, That a bill perfecting and strengthening the military reconstruction act, so-called, or otherwise providing for the establishment of civil governments within the southern States, be reported and acted on as soon as practicable; that no proposition for general legislation be entertained during this session of Congress; and that all matters calling for such legislation be laid on the table without debate.

Mr. FARNSWORTH. I suggest to the gentleman from Massachusetts to use the words "other general legislation." Reconstruction is general legislation.

Mr. ELIOT. I have no objection.

Mr. ELDRIDGE. I object to the resolution.

Mr. ELIOT. I move to suspend the rules.

Mr. LAWRENCE, of Ohio. Does not that resolution propose to change the rules of the House?

Mr. ELIOT. I propose to change the rules of the House by a two-thirds vote.

Mr. LAWRENCE, of Ohio. Can the rules be suspended?

The SPEAKER. They are repeatedly suspended. They have again and again been suspended during this Congress. The whole book can be suspended.

Mr. DRIGGS. If that prevails, will it not keep out the report of the Committee of Elections on general matters of legislation? This is general legislation.

The rules were suspended, there being—ayes 90, noes 36; more than two thirds voting in favor thereof.

Mr. KELSEY. I move that the House adjourn.

Mr. JUDD. I ask the gentleman to yield to me to offer a resolution, which, I think, the House will approve of, to expedite business.

Mr. KELSEY. I withdraw my motion to hear the resolution.

#### EXECUTIVE INFORMATION.

Mr. JUDD. I submit the following resolution:

*Resolved*, That the Secretary of War be, and is hereby, instructed to furnish for the use of the House of Representatives, copies of all instructions, orders, and correspondence relating to or in any way connected with the execution and administration of the act entitled "An act to provide for the more efficient government of the rebel States," and the act supplemental thereto.

The resolution was adopted.

Mr. KELSEY renewed the motion to adjourn.

The motion was disagreed to.

#### MEXICO.

Mr. COVODE. I submit the following resolution:

*Resolved*, That the President be requested, if not incompatible with the public interest, to transmit to this House all the official correspondence between the Department of State and Hon. Lewis D. Campbell, late minister of the United States to the republic of Mexico, from the time of his appointment; also all correspondence of the Department with his successor.

Mr. HOLMAN. I suggest to the gentleman to modify his resolution so as to direct the Secretary of State to furnish this information, and not call on the President to do it.

Mr. COVODE. The President is the proper person to be called on.

Mr. HOLMAN. I move to amend by making it directory upon the Secretary of State to furnish the information.

Mr. COVODE. It is proper to call upon the President. Events are transpiring in Mex-

ico which make this necessary. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN's amendment was disagreed to.

The resolution was adopted.

#### ORDER OF BUSINESS—AGAIN.

Mr. ELIOT. In the other branch a resolution of the same kind has been informally agreed to. I demand the previous question on my resolution.

Mr. JENCKES. I call the gentleman's attention to the latter part of the resolution. It ought to be "referred or laid upon the table."

Mr. ELIOT. I accept the modification.

Mr. WILLIAMS, of Pennsylvania. I desire to propound a question to the Chair, whether it is competent for the House to declare in advance by general rule it will not entertain any proposition submitted by any one of its members upon any legitimate question of legislation?

The SPEAKER. The Chair will answer with pleasure. In the rules adopted by the House they do declare they will only receive certain propositions in certain ways at certain times.

Mr. WILLIAMS, of Pennsylvania. This is a proposition to entertain only one question during the whole session of Congress.

The SPEAKER. It is a rule adopted by the House, but, like any other, may be suspended.

Mr. WILLIAMS, of Pennsylvania. Can a rule be established to override the Constitution of the United States?

Mr. HOLMAN. The same rule was adopted in 1861, at the July session.

Mr. ELIOT. I insist on the previous question.

Mr. STEVENS, of Pennsylvania. I move to adjourn.

The motion was disagreed to.

Mr. BOYER. I ask for a division of the resolution.

The SPEAKER. At what point does the gentleman desire to have it divided?

Mr. BOYER. There are two propositions; one relates to legislation, and the other simply to the transaction of business.

The Clerk read the first part of the resolution, as follows:

*Resolved*, That a bill perfecting and strengthening the military reconstruction act, so-called, or otherwise providing for the establishment of civil government within the southern States, be reported and acted upon as soon as practicable.

Mr. BOYER. On that I demand the yeas and nays.

The yeas and nays were not ordered.

The question being taken on the adoption of the first part of the resolution, it was agreed to.

The Clerk read the concluding part of the resolution, as follows:

That no proposition for other general legislation be entertained during this session of Congress, and that all matters calling for such legislation be laid on the table or referred without debate.

Mr. WILLIAMS, of Pennsylvania. On that I ask the yeas and nays.

On ordering the yeas and nays there were—ayes 19, noes 98.

So the yeas and nays were not ordered, (less than one fifth voting in favor thereof.)

The question being taken on the second part of the resolution, it was agreed to.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### FLOGGING OF A CIVILIAN.

Mr. GETZ, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the House of Representatives such information as may have come into the possession of the Department relative to the flogging of a

civilian, by order of Colonel Dodge, at Fort Sedgwick, for the alleged offense of furnishing a bottle of whisky to soldiers, who, in citizen's dress, applied to him for the same; and that the Secretary of War be also requested to inform the House under what law of the United States, or article of war, if any, the said punishment was ordered to be inflicted.

#### VOLUNTEER SOLDIERS AND SAILORS.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill for the relief of certain volunteer soldiers and sailors therein named; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and printed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote just taken.

The motion was entered on the Journal.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. PERHAM, the papers in the case of P. G. Pearson, asking for a pension, was withdrawn from the files of the House.

#### ABSENT MEMBERS.

The SPEAKER announced that he had been requested by Mr. PRUYN to state that he was compelled by business to be absent at the commencement of the present session, but would be present on Saturday or Monday next.

Mr. ELIOT stated that a telegram had been received from his colleague, Mr. DAVES, saying that he had left home for Washington, but had missed the train.

#### RECONSTRUCTION.

Mr. BAKER, by unanimous consent, introduced a bill explanatory of an act to provide for the more efficient government of the rebel States, &c.; which was read a first and second time, ordered to be printed, and to be referred to the select committee of nine when appointed.

Mr. SCOTFIELD moved that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. CAKE: The petition of enlisted men of the Army detailed as clerks at headquarters, department of Missouri, praying for additional pay.

By Mr. COBB: The memorial resolution of the Wisconsin Editors' and Publishers' Association, for the repeal of duties on printing paper.

By Mr. JULIAN: The petition of William H. Cloud, praying a pension for disability occasioned by his military services in the late war for the Union.

By Mr. MYERS: The petition of Jonas Preston, a sailor of the war of 1812, asking for a pension.

#### IN SENATE.

FRIDAY, July 5, 1867.

Prayer by Rev. E. H. GRAY, Chaplain for the Thirty-Ninth Congress.

The Journal of Wednesday last was read and approved.

Hon. J. W. PATTERSON, of New Hampshire, appeared in his seat.

#### BILL INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 130) construing the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," passed March 23, 1867; which was read the first time by its title.

Mr. EDMUNDS. I move, pursuant to the practice of the day before yesterday, that the bill be printed and laid on the table.

The motion was agreed to.

#### NOTIFICATION TO THE PRESIDENT.

Mr. ANTHONY. The committee appointed to wait upon the President, and to inform him that the two Houses had formed a quorum and were ready to receive any communication he might be pleased to make, have attended to the duty imposed upon them by the Senate, and the President replied that he had no communication to make at present.

## BUSINESS OF THE SESSION.

Mr. ANTHONY. I beg leave to offer the following resolution:

*Resolved*, That the business of this session should be confined to removing the obstructions which have been, or are likely to be, placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed; and that further legislation at this session, on the subject of reconstruction or on any other subjects, is not expedient.

The PRESIDENT *pro tempore*. If there be no objection, the question is on agreeing to the resolution.

Mr. FESSENDEN. I suggest to the Senator to strike out the word "should" at the beginning of the resolution.

Mr. ANTHONY. I accept that amendment.

Mr. SUMNER. Does the Senator press the adoption of that resolution to-day?

Mr. ANTHONY. I ask its present consideration if there be no objection.

Mr. SUMNER. I will not object to its consideration to-day, because I would not needlessly throw any barrier in the way of its consideration.

Mr. GRIMES. Then it is under consideration, if there be no objection to it.

Mr. SUMNER. But at the proper time I shall have something to say about it, of course.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. SUMNER. Before a resolution of such importance, so open to criticism, so doubtful in point of order, so plainly contrary to the spirit of the Constitution, is brought under consideration, I do think that the Senator who brings it forward should enlighten us in regard to its object, and the reasons in justification of so extraordinary a proposition. I really appeal to my friend to be good enough to let us know the reasons for such a proposition.

Mr. ANTHONY. I supposed the reason for this proposition was so evident to every Senator who has conversed with the members of the body that it would require no explanation whatever. We adjourned at the first session of the Fortieth Congress under a resolution which was read at the desk yesterday, which contemplated a session in July, provided the Senators and Representatives, acting upon their individual judgment, should come here in sufficient numbers to form a quorum, and in the event that a quorum was not formed in both Houses then the Presiding Officers were directed immediately to adjourn the two Houses without day. A quorum would not have assembled had it not been thought that some amendment was necessary to the reconstruction law. I do not state this as an opinion; I state it as a fact within my own knowledge. There were thirty-five Senators answered to their names on Wednesday. More than eight Senators have told me that they should not have come here but for that reason. I believe, Mr. President, that we have come here in obedience to the public sentiment of the country. I think that the public sentiment of the country demanded that there should be some legislation in order to make the reconstruction acts precisely what we intended them to be, and not as they have been construed, I do not say improperly, for I am not a lawyer and do not pretend to judge upon that, by the Attorney General. Whether the construction is a perfectly fair one, or whether it is a technical one, it certainly does not give to those acts the intention which Congress had in passing them; and I believe the country demanded that we should come here and make those acts as we intended them and as they received the very general approbation of the entire country. I think that the same sentiment which required us to meet for this purpose requires that we should confine ourselves to that object. I think it would be very disastrous to the business of the country if we should now take up the questions of tariff and of finance and of currency. I believe it would be disastrous to the political interests of the country, which, in my judgment, are identified with the inter-

ests of the dominant party in this Chamber, if we should go into the discussion of general political questions. The resolution which is now before the Senate has been, by a similar one in the House of Representatives, passed by so large a majority that the opponents of it could not call the yeas and nays. I suppose it is not improper to make a reference to that, showing that it is the sentiment alike of the House as I believe it to be of the Senate; and I have offered this resolution supposing that it would command the approbation of a very great majority of the body.

Mr. SUMNER. Listening to my friend carefully, he will pardon me if I say I did not understand that he assigned any real reason why the Senate should not proceed with the consideration of business, positively requiring attention. I did not understand him to assign any reason.

Mr. ANTHONY. It must have been my fault; I did not make myself clearly understood.

Mr. SUMNER. I understood the Senator to say that we should not begin to consider matters of finance and of tariff. I did not understand the Senator to go beyond that.

Mr. ANTHONY. All political legislation.

Mr. SUMNER. Very well; then I understand the limitations of the Senator. May I ask the Senator why he has not introduced those limitations into his resolution?

Mr. ANTHONY. I do not know of any other subjects that could be brought forward except finance, tariff, currency, and general political legislation. I think that includes everything; and the legislation in regard to the amendment of the reconstruction act is especially excepted. I intended that it should exclude everything else. If I have not done so, my friend from Massachusetts, who is so much better able than myself to draw a technical resolution, can suggest an amendment.

Mr. SUMNER. If I can have the attention of my friend, I believe that he will be satisfied that he has made a mistake in presenting any such resolution. Meanwhile I send to the Chair a substitute. I move that all after the word "resolved" be stricken out, and what I now offer be inserted instead:

That the Senate will proceed, under its rules, to the dispatch of the public business requiring attention, and to this end all petitions and bills will be referred for consideration to the appropriate committees without undertaking in advance to limit the action of Congress to any special subject and to deny a hearing on all other subjects.

I object to the proposition that has been introduced by my friend from Rhode Island, and which I cannot but think he has introduced hastily and without sufficient consideration, or at any rate under influences which I think his own better judgment should have rejected. I am against it on several grounds. If I said it was contrary to precedent, I should not err; for the attempt that was made the other day to show that there was any precedent to sanction such a proceeding, it seems to me, signally failed. Our attention was then called to a resolution adopted at a session of Congress convened by the President of the United States for a declared purpose, announced at the time in advance. I think that even the course that Congress took was regarded as questionable; but the two cases are different. The present session is not in its character like that. It is a continuing session of a Congress begun on the 4th day of March last. It is simply a prolongation of that session; and the practical question is, whether you will undertake to limit the business of Congress in a general session called under a statute of the United States. Clearly there is no precedent for any such proceeding. You plunge into darkness without a guide.

But I go further, and I say that, even if there were a precedent, I would reject it, for I prefer much more to follow the Constitution of my country. I will not say that the text of the Constitution positively forbids the proposition of my friend from Rhode Island; but I do insist that the spirit of the Constitution is

against it. How often in other times have we all throbbed with indignation at the resolution passed in the other House, ay, also in this Chamber, to stifle discussion on certain questions. You do not forget the odious rule, which went by the name of the "gag," and it had attached to it the name of its author, which began with the letter "A." I hope there will be no other gag of a larger character introduced on this occasion to be classified with the letter A. That was justly offensive, because it violated the right of petition; but you propose now not only to interfere with the right of petition, but also with all possible measures concerning the public welfare, except as they may relate to one single matter, and that viewed in its narrowest relations.

I object to such a proposition as in its spirit unconstitutional. I appeal to my associates to reject it that it may not pass into our history as a tyrannical precedent of evil example to be employed against freedom. You may see, sir, how obstructive it will be if you will glance at certain matters which have come within my own knowledge, and which I submit it is our duty now to consider, and my duty as a Senator to press upon your attentions. No relations that I may have with any political associates can absolve me from responsibility.

Every Senator doubtless has within his own knowledge business which he thinks deserves attention at this moment; other business which he does not doubt must be acted on. There are Senators on the other side of the Chamber who will plead the cause of the frontiers now menaced by the Indians. I have heard something of that peril from chance travelers there during these few weeks past; and yet by the proposition of my friend from Rhode Island we are to abandon the frontiers, and I know no other reason than that the weather is too hot. Ay, it may be hot in this Chamber, but it is hotter there. The reports from the frontiers show that danger has begun. The sound of the war-whoop has broke even into this Chamber. The corpses of your fellow-countrymen are lying unburied on the roadside, and their memories haunt you. And yet you fold your hands and decline to supply the needed protection. This will not do.

There are matters which come within my own personal knowledge from the business that is before the committee with which I have the honor to be connected. There is a treaty with the Government of Venezuela, in South America, which has been ratified since we left these Chambers a few weeks ago, and after much delay, under which citizens of the United States have important interests. Will you leave those interests without any provision because it is hot? A statute is needed in order to provide the means for carrying that treaty into execution. It creates a mixed commission in order to audit and consider certain claims upon that Government. My attention has been called to it by the late minister of the United States in a letter now in my hand, dated at New York the 3d day of July, and which I have received since I had the honor of addressing the Senate Wednesday last. I refer to Mr. Culver, who calls my attention particularly to this treaty and the importance of immediate action with regard to it by Congress. He says:

"Many of the claimants have been delayed thirty years and more in getting their claims adjusted. Some of the witnesses are old and likely to die. It is all important to these claimants that the commission be organized as soon as may be and enter on its work. It is limited, by the terms of the treaty, to twelve months. If Congress make no appropriation for it the commission will not be appointed till winter; thus delaying the whole matter."

Here are ancient claimants, long delayed and now looking to you for aid; not improperly, for it is their right.

So much for the treaty of Venezuela. And yet the proposition of my friend from Rhode Island, if adopted, will cut off these claimants from the aid which you owe them at this time.

Then comes another treaty, to which I refer also, because the ratifications have been exchanged, and it has been proclaimed by the President of the United States. I mean that

important treaty by which the Emperor of Russia has ceded to the United States all his possessions on the North American continent. The ratifications were exchanged only about a fortnight ago. Yesterday, the 4th of July, I received a call from the minister of Russia, who put in my hand a cable dispatch which came to him yesterday from St. Petersburg, announcing that on the day before the Russian commissioner had left St. Petersburg for Washington to make the formal surrender of that vast region to the United States. To my inquiry when the commissioner would arrive, the minister replied, "In one fortnight." In one fortnight, then, final proceedings will be had for the establishment of your jurisdiction over that immense region, and two questions now arise: first, your duty to complete the contract by which you are bound in consideration of the cession to pay \$7,200,000; and, secondly, your other duty to provide a proper government for this immense region. But the proposition of my friend from Rhode Island would exclude these important topics from our consideration. We are not to look at them; the weather is too hot!

Mr. ANTHONY. I said nothing about the weather.

Mr. SUMNER. A very eminent French writer says that all his most important ideas are to be read between the lines; and so, as I listened to the speech of my friend from Rhode Island, I felt really that his important ideas were left unsaid; he had in his mind all the time the hot weather.

Mr. ANTHONY. If the Senator will allow me, I should really think, from the reply which he has made to my speech, that he has been replying to what he thinks I might have said, but did not say. I said nothing at all about the hot weather. I think it very unworthy of this body to take into consideration the personal convenience of Senators. If the public business demanded that they should remain, I hope no Senator, however inconvenient it might be, would refuse to do so. I would stay here until December if I thought the public business demanded that we should stay here.

Mr. SUMNER. But I ask my friend if he is not in favor of carrying out the treaty which has already been ratified?

Mr. FESSENDEN. It will be time enough to do that at the next session.

Mr. ANTHONY. It is impossible to do that, because the House of Representatives have already decided that they will not take up that business, and we cannot do it alone.

Mr. SUMNER. One of the Senators about me says "it will be time enough to do that at the next session," and the other says "it is impossible to take it up, because the House have already provided otherwise." How does the Senator know it? Let the Senate proceed to do its duty, throwing its responsibility upon the House if it chooses to neglect the business.

Mr. ANTHONY. Would the Senator have the Senate originate an appropriation bill?

Mr. SUMNER. I would have the Senate originate a bill for the government of this territory, and if need be, originate a bill for the payment of the money due. There is no objection in the Constitution to that.

Mr. ANTHONY. It has never been done.

Mr. SUMNER. I beg the Senator's pardon; it has been done again and again.

Mr. ANTHONY. An appropriation bill originated in the Senate?

Mr. SUMNER. Oh, yes.

Mr. ANTHONY. I never knew that to be done but once, and then the House rejected it, refused to consider it.

Mr. SUMNER. The Senator refers to what are called the general appropriation bills. The Senate constantly makes appropriations for individual cases and for carrying out treaties. Does it not appropriate for private claims? for salaries? for other obligations? In principle, the present case does not differ from an appropriation for an estate adjoining the Capitol. It is an estate adjoining the Capitol; but it is to be paid for.

Now, that I may make this still clearer, I beg to call attention to the very words of the treaty with Russia, which I have in my hands. By article four it is provided, as follows:

"His Majesty the Emperor of all the Russias shall appoint with convenient dispatch an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto; but the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery."

So that by terms of the treaty on the exchange of ratifications, you became the possessors of this jurisdiction; and now by the approaching surrender, through an official agent, your jurisdiction will be consummated. With this jurisdiction will be corresponding responsibilities. You must govern the territory; you must provide protection for the property and the other interests there. Already, by the telegraph, we learn that a large ship is about to leave San Francisco, for Sitka, with merchandise of all kinds. There is also the immense fur trade, which has been the exclusive Russian interest there ever since the discovery of the country, all of which will be left open, without any regulation, unless you interfere by appropriate law. There is that most important fur, which was the origin of wealth on that whole northwestern coast, the sea otter, which will be exposed to lawless and destructive depredation unless the Government supplies some regulations. Will you not do something? Will you leave these interests without any care? This will not do.

It is said that they may be considered next winter. Do not forget the distance between Washington and that far away region; you will then see how long you postpone the establishment of your jurisdiction. Months after Congress meets next December must elapse, leaving this region absolutely without any congressional government. There should be no delay; you should proceed at once; you certainly will not show yourselves worthy to possess this country unless you provide at once a proper government. If you leave it a prey to lawless adventure you will only increase the difficulties of dealing with a region so vast and so remote.

But there is another obligation still. You receive the territory: you ought to pay the money at the same time. A Senator before me cries out, "It will not be appropriated at this session."

Mr. EDMUNDS. It is not due yet.

Mr. SUMNER. The Senator says it is not due yet. I ask the Senator's attention to the point. I understand as a matter of history in this negotiation that while it was proceeding it was proposed that the payment should be on the exchange of ratifications, so that when the cession was completed the transaction on our part should be completed also; but as the treaty was about being drawn up it was understood that there would be no meeting of Congress before next December, while the ratifications might be exchanged before that time. To meet this case a special provision was introduced extending the time of payment to a period of ten months from the exchange of ratifications. This explains the article which I will now read:

"In consideration of the cession aforesaid the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of his Majesty the Emperor of all the Russias duly authorized to receive the same, \$7,200,000 in gold."

By the letter of the treaty as it stands you may if you see fit postpone the payment to ten months from the exchange of ratifications; but I submit to the Senator from Vermont whether he is willing to do so; whether, since the transaction has been consummated on the part of Russia, he is not willing—nay, desirous also—that it shall be consummated also on the part of the United States in the spirit of the original negotiation? I submit this as a question of

sound policy—I will not say of integrity, but simply of sound policy on the part of our Government—a Republic representing republican institutions, by whose conduct republican institutions are always to be judged. Surely you will not fail to protect the national honor; nor will you stick at the letter of the treaty. The money should be paid at once.

I have alluded to two important matters arising under treaties which now require the attention of Congress. But there is still another which is more important than any treaty or any appropriation, which dwarf treaties and dwarf appropriations, which is not less important certainly than the protection of your frontier, now menaced by the Indians. I refer to a whole region of our Republic, embracing two extensive States, now menaced by a foe more dangerous to the national peace and welfare than any tribe of Indians. These are the returning rebels in the States of Kentucky and Maryland. Provide against them. They are Indians within your jurisdiction. You have the power; you have the means. Give the ballot to the colored citizens in those States, as you have given it already to colored citizens in the rebel States, and you will have an all-sufficient protection against these intruders. Here is something to be done. Who doubts the power? Out of three fountains in the Constitution it may be derived. It is your duty, then, to exercise it. See to it that these States have a republican government. Fix in your statute-book an authoritative definition of a Republic. Enforce the two amendments of the Constitution—one abolishing slavery, and the other declaring the rights of citizens. Any delay on your part to exercise so clear a power is a failure of duty, and it becomes more reprehensible when we consider the perils that may ensue. Communicate, if you please, with Union citizens of those two States. Listen to what they say. Be taught by their testimony.

I have, for instance, a letter from an eminent citizen of Maryland, written from Baltimore the 1st of July, which concludes as follows:

"I will only add that the interest felt by the loyal people of this State in the passage of this bill cannot be overstated."

Communicate with your late colleague upon this floor, that able and patriotic Senator, Mr. Creswell. Listen to his testimony. There can be no doubt that the Unionists, whether black or white, in Maryland require your protection. Give it to them. Do not leave them a prey to rebels. They are exposed in the same way in Kentucky. Here is a letter which I have from a distinguished citizen of that State, dated July 1, and I read these, out of many others, simply because they are the latest; they have come within a few hours. I read as follows:

"Hope you will be able to do good at the extra session, and extend and protect the rights of the freedmen, as they are sadly in need of it in Kentucky. Reconstruct us. This is the only loyal hope."

Such is the cry. Kentucky needs reconstruction, and it is your duty to provide it. Put it on an equality with the rebel States. Let her colored citizens enjoy the full-blown rights of citizens, and let the white Unionists there have the protection of their votes. You sent muskets once. Send votes now.

Now, you have on your table a bill entitled as follows: "To enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guaranteeing a republican form of government by securing the elective franchise to colored citizens." Pass this bill, and you furnish the needed protection in these semi-rebel States. Pass this bill, and you supersede all strife on this much vexed and disturbing question in other States of the Union. You at once bring to the elective franchise thousands of good citizens, pledged by their lives and inspired by their recently received rights to sustain the good cause which you have so much at heart. Do this. Help in this way the final settlement of the troubles of our country. Pass this bill of peace, for such it will be, giving repose in



all the northern States, and in this way help to establish repose in all the rest of the country. And yet I am told that even this important measure is to be set aside. We are not to enter upon its consideration; we are not to debate it; we are not to receive petitions in its favor. Is this right? Is it not a neglect of duty? Is it not intolerable?

Mr. President, it is on these grounds that I object to this proposition. I might have objected to it in the first place as out of order, and asked the ruling of the Chair, not doubting how the Chair, inspired always by a generous love of human rights, must rule, not doubting that the Chair would say that a proposition of such a character was too closely associated with one of the most odious propositions of our history to deserve welcome at this time. I have raised no such question now, contenting myself, should this proposition unfortunately be adopted, with an opportunity of raising it hereafter on the presentation of individual propositions. I confine myself now to other objections. I object to it as a departure from sound usage; as contrary to the spirit of the Constitution, and as setting up an impediment and obstruction to the transaction of public business of an urgent character, which you cannot neglect without a neglect of duty. I ask you to provide for the execution of recent treaties with Venezuela and Russia; to assure protection to Unionists in Maryland and Kentucky, and to give peace to the country. Above all, do not make a bad precedent, to be quoted hereafter to the injury of the Republic.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

Mr. SUMNER. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. POMEROY. Under some circumstances I should be glad to vote for the amendment proposed by the Senator from Massachusetts. There are some measures of public importance, I think, that ought to have the consideration of Congress at this session. Measures in reference to which there would be no public detriment in having them postponed, I think should be postponed. I do not know precisely how the resolution of the Senator from Rhode Island will be construed, but from a conference with our friends here, and what I have seen of the sentiments of our friends in the country, I am confident that no general legislation should be entered into. Still I apprehend that there are some measures of most pressing importance that we cannot justify ourselves in resolving that we will not take up. I do not know but that under this resolution you might take up an appropriation bill to appropriate money for the expenses of the registration in the South, though I doubt that. The officers there are out of money, and cannot proceed with the measure to its final consummation without it, as I am told. And yet I do not know that under this resolution even an appropriation for that specific purpose could be passed.

But there are other measures of public importance that were omitted in the last Congress by mistake. We ordered certain things to be done, and did not make any appropriation to carry them into effect, and the public officers cannot obey the law of Congress for that reason. I apprehend that some measures of relief in that direction ought to receive the attention of Congress. If we can learn anything from what we have had in sessions past, and if there is no change—and I do not know of any—we may have to wait some ten days after we pass the bill that is provided for in the resolution before it can be made a law. I do not know but that the Senate propose to take a recess during those ten days, and go off on an excursion. I do not know really what business we can devote ourselves to under the resolution. I apprehend Senators will not feel like coming here and sitting still day by day

and waiting for a message from the other end of the avenue. To pass the resolution, restricting business, severely as it is drawn, I think would embarrass the Senate and Congress, and subject us to some censure in the country. While I say this, I would not enter upon any legislation relating to anything not absolutely necessary by the public wants and necessities of the country. But to say that we will not do even that, I think will subject us, as I said, to censure, and may be what we shall ourselves regret. I know that we can suspend this rule if we adopt it; but it will not be likely to be suspended. I know it will take votes to suspend it, and those who passed it will not be likely to vote for its suspension.

Allusion has been made to the condition of things on the frontier. I am somewhat familiar with our disturbances there. I am one of those who believe that a war can be prevented by a little legislation. We never got any credit out of an Indian war yet. We prolonged one in Florida through two Administrations, and they both broke down in it, and it finally cost us, in those days of prudence and economy, \$200,000,000. I never heard anybody bragging about that Florida war as having accomplished anything. You may have a war on the frontier now, and it may last as long and be as expensive as the Florida war, and you will wish after all that you could throw a shade over it and blot it out from the records and history of the country. You may do as you now do, send your soldiers out there, few in number, and they will coop themselves in a fort and be massacred, and one outrage heaped upon another; and yet I believe the civil department of this country, by some legislation which we might have, would prevent that whole war with all its consequences both of disgrace and of money.

Although that is my opinion, I feel embarrassed in voting against the resolution offered by the Senator from Rhode Island, because from conversation with our friends and the action of the other House I find the sentiment is to do absolutely nothing not contained in the reconstruction act of the last session with the amendment, not even improving upon that, which is the most remarkable feature of this resolution, that we shall not even improve, if we could, upon the reconstruction bill itself. If the House of Representatives should send us a bill, which is somewhat of an improvement upon the bills passed at the last session, we agree that if that measure was not in that bill we will not now put it in, shutting our eyes to improvement even, agreeing beforehand that we will not modify our previous action to make it any better. I would not, of course, introduce into a bill now anything vitally changing the policy that we have adopted, because our friends in the South have organized upon that policy; they are registering and reconstructing their States upon it; they are defending it. I would not show a fickleness on the part of Congress now to change it, and make another platform for them. Our friends throughout the northern and western States, too, have incorporated it into their platforms and their creed. I am for adhering to it; but at the same time I can see no reason why some slight improvement may not be made without changing it materially. There is no law passed by Congress, when you come to put it in practical operation, but what those who have the execution of it will point out some defects in it. Some have been pointed out to us in the reconstruction bill. Now, ought we not to take those suggestions and improve upon the old bill? And yet we provide in this resolution that if the thing was not provided for in the old bill it shall not be provided for now.

Mr. EDMUNDS. No, no.

Mr. POMEROY. That is the resolution of the Senator from Rhode Island. While I am willing and anxious to have this session confined to what we come here for, while I would not travel an inch beyond that, excepting so far as the public necessity and exigencies required,

still I desire to enter my protest against confining ourselves entirely to making perfect and complete what was contained simply in the legislation of the last Congress. I believe it is unwise. I do not know that it is unconstitutional. I do not suppose it is. I think we can regulate our own method of proceeding in our own way; but I think it is impracticable and unwise, and will subject us to censure, and that we ourselves shall regret it hereafter.

Mr. YATES. I have but a very few words to say on this subject. I desire that no action of mine and that no vote which shall be given shall commit me against any of the propositions which have been suggested by the honorable Senator from Massachusetts, and I should like to enter my protest against what might seem to be an attempt on his part to place us as against the positions which he has assumed.

I am opposed to any legislation now except upon the matter for which we came together. We have our regular sessions for business. They are fixed in the Constitution. The times for our meeting and for our adjournments are fixed in the Constitution. At those regular sessions we attend to the regular business of the country, the necessary legislation for the whole country. But now, sir, we are assembled in special session for a special purpose. I will do the honorable Senator from Massachusetts the justice to say that he was opposed to any adjournment whatever; but he stood solitary and alone as being in favor of continuing the session for the consideration of general business.

Mr. SUMNER. And to watch the President—provide against the President.

Mr. YATES. You stood solitary and alone for a continuance of the session for general legislation. But, sir, I was for a special session for a special purpose. I believe I occupied the attention of the Senate in several speeches, which I hated to make at the time, because I believed that the President of the United States would not enforce the policy which had been adopted by Congress, because I believed he had in his heart a wicked and malicious purpose to thwart the legislation of Congress and to carry out what he termed his policy; and a few of us—none more ably than the distinguished Senator from Massachusetts—contended that we should keep ourselves in position to meet the President and to see that the policy which had been adopted by Congress was enforced and carried out.

I protest that the honorable Senator is no better friend than I am of the various measures that he has suggested. I even claim precedence of the honorable Senator; I introduced the first bill in the Senate for suffrage in every State, rebel as well as loyal. And now, because I propose simply to consider the object for which we were called together, and for which we hold a special session, am I to be considered, is it to go out before the country, that I am less in favor of that doctrine of suffrage everywhere, in every State, than the honorable Senator from Massachusetts? I am against the consideration of that policy now, because now is not the time. We said in our arguments when those bills were introduced that in two or three years our policy would be adopted by Congress. So it will; and I say we shall have no complete and final reconstruction until we impose upon every loyal State the same limitations that we propose to impose upon the southern States. But, sir, we cannot argue these questions now. We will carry that policy; it will triumph; it will be the congressional policy; we will have uniform suffrage by congressional action in every State, rebel as well as loyal; and it is the only way in which we can have equal and universal suffrage. But we must wait. That is a matter which will require the long days and nights of winter. We cannot undertake to discuss these questions now, oppressed as we are by the heat of midsummer and with a Senate only half full and restless, impatient, and indisposed to lis-

ten. When the time comes for this regular legislation, for this final act of reconstruction, we shall be able to put it through.

But, sir, I rose simply to say that in the action I may take now I am not committing myself against these great propositions, but I am for the measure for which I contended at the end of the last session. I believe that the President has, as we predicted he would do, attempted to frustrate the policy and the measures adopted by Congress. I believe that this called session is necessary; but that ~~am~~ we have to do is to make the laws which we passed, not more effectual—they were sufficiently so—but so to make them that even the astuteness and special pleas of lawyers and attorneys general cannot misconstrue their meaning. I am for this policy. Why? Because the Congress of the United States received the sanction of the American people in favor of its policy. It was a glorious policy. It was simple. The people understood it. They approved it North and South. The country was prospering under it. The whole South was reorganizing under it, and but for the intervention of the President we should have had reconstruction so far advanced by the close of the year that we should then have perhaps all the States in the Union. When all those States are in the Union again, then by the united vote of North and South we will establish that for which we have so long contended, universal suffrage in every State in the American Union.

Mr. WILSON. I desire simply to say in regard to this matter of the protection of the frontiers which has been alluded to here to-day, that I went this morning to see the Secretary of War, and I asked him if he desired any legislation whatever in regard to that or any subject in his Department. He said he desired nothing whatever; they had everything they wished for except one thing, and that he proposed to send in on Monday, the estimates for carrying out our reconstruction measures in the South. They want a further appropriation of money for that purpose; but as regards legislation for the protection of the frontier or any other matters of public defense he asked nothing whatever. Therefore so far as that is concerned he asks nothing of us, and I do not know that anybody proposes anything in that regard.

Mr. SUMNER. I am obliged to my colleague for the statement he has made. I think it is an important contribution in the way of elucidating our duties. It shows the false alarm under which Senators are acting. Senators are afraid that there is to be a great deal of business suddenly thrown upon them unless they stop the way by a new rule of doubtful constitutionality. Now, my excellent colleague says that so far as the War Department is concerned, which he represents so well on this floor, there is nothing to be feared there, there is to be no excess of business there. I dare say other Senators may soothe the sensibilities of Senators in the same way, at the same time that they might confess in the honesty of their natures that there are certain interests that at least need discussion. I have called attention to two in connection with the Department with which I am associated on this floor, and where I think the Senate ought to act. I feel pained to think that there can be any doubt of their acting. When I see that they are declining to act from a fear that if they do it may open the door to some great flux of business which at this time it is not expedient for us to enter upon, I confess my astonishment, astonishment mingled with regret, for I do regret that under such circumstances you propose to establish such a precedent.

And now my friend from Illinois will pardon me if I say one word with regard to what he has said. He knows how I always listen to him, with what sympathy and attention, and how I honor his early devotion to a great cause. He was one of the first on this floor who discerned clearly that under the Constitu-

tion of the United States there could be no exclusion from suffrage on account of color. I remember well the coldness, not to say something more, with which his declarations on that important subject were received in certain quarters; and yet, as he sees now, they are going on to triumph. For myself, I do not doubt that under the Constitution of the United States, which contains no discrimination of color, any exclusion from the ballot-box on account of color is unconstitutional. I cannot doubt how a court properly inspired, not bred in the days of slavery, but having sucked in the vital atmosphere of liberty, would decide that question. To my mind, it is too clear for argument. Nothing can come out of nothing. There is nothing in the Constitution of the United States to sanction any exclusion from rights on account of color. Where then, under that Constitution, do you get the power? Any one who finds it in the Constitution has first to find it in his own heart. It does not exist in the Constitution. It cannot exist legitimately in any law under the Constitution.

But now, since the courts of the United States so miserably fail us, since they do not set aside the interpretations which have been foisted upon that sacred instrument in derogation of its just principles, I insist that the Congress ought, at the earliest possible time, to come to the rescue. But there my excellent friend craves delay.

He says "wait." Ah, sir, we have waited several generations; and now as the time seems at hand, the Senator, who latterly has contributed so much to the glorious consummation says, "Wait a little longer." Ah, sir, pardon me if I say it, that was the least worthy speech that I ever heard from my eminent friend. He has always spoken nobly, grandly, beautifully, for human rights, and has come forward generously into the fore front. I know that he feels now as he always has felt; but I regret that he will not join now in pressing that important question to a decision. The country needs the decision. Our friends in these States need it. They crave your protection, they beseech it; and my excellent friend says "wait." He seems to believe that we may pass that law as some final cap-stone on some future Fourth of July, perhaps, to complete this edifice of reconstruction. No, sir; I regard it as a practical measure which we ought to pass at once. If I could I would pass it before I slept to-night. I would carry that beautiful remedy into Maryland and Kentucky, ay, into Pennsylvania—I hope my friend over there [Mr. BUCKALEW] is not disturbed—and into Connecticut and into Ohio, too. I would carry it into every State; so that where ever we looked in our country we might find every State with a republican government. Who is there now that will say that a State which excludes voters merely on account of color is a republican government? Is there any Senator that will aver that? He may aver that it has been so regarded; but is there any Senator, on his responsibility as a Senator, who will take that side of the proposition? If he takes it now, I know that his children hereafter will regret it.

Why then delay, especially why set up on your records a barrier to discussion? Welcome, at least, the discussion. There can be no harm in that. "Hail, holy light!" There can be nothing but joy and advantage in light, and yet Senators will by their votes absolutely cut off discussion on this important question; some of them, perhaps, desiring to avoid it entirely, others, like my excellent friend from Illinois, postponing it to be some future cap-stone of some great monument. No, sir; the question is too important; it ought to be considered at once. There is no business which should take precedence of it.

And that brings me to the proposition with which the Senator from Illinois began. He said that we had come together now for a special purpose. How can he say that? Who is authorized to say that? I find no authority

for it. The Senator misunderstands the authority under which we are here. We are here by virtue of the Constitution of the United States and an act of Congress. That is our authority. The Constitution says:

"The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

Very well; by law they did appoint a meeting on the 4th day of March, and we are here now under that law, the present session being but a continuation or a prolongation of the session which was then begun. My friend, therefore, is mistaken in his view of the character of this session. We are therefore a Congress assembled by virtue of an act of Congress to consider all the public business.

Mr. YATES. I will ask the Senator whether he believes this session of Congress would have been called together if Congress had been assured that the President would fully carry out the military bills to which he has referred?

Mr. SUMNER. The Senator asks me if I believed we should have had this session of Congress—

Mr. YATES. If Congress had had faith in the President and his good intentions to carry out the measures which were then adopted by Congress, not measures hereafter to be passed.

Mr. SUMNER. I do not believe Congress would have come together if they had had faith in the President. I believe that the meeting on the 4th of March had its origin in the want of confidence in the President. I believe my friend agrees with me in that.

Mr. YATES. Yes.

Mr. SUMNER. It was to counteract and watch the President that we met on the 4th of March. When the session which began on the 4th of March was about to adjourn, provision was made for the renewal of that session, or a continuation or a prolongation of it, if you may so regard it. I take it in the same spirit with the original enactment.

It was to provide against the President, and to do such other incidental business as the public interests might require. For one, I never had any real doubt that there would be a session on the 3d of July. I so stated on the floor at the time the resolution passed. I have so stated constantly since, and I have advised more than one gentleman connected with Congress, who was about to leave the country, not to leave it, because his post of duty was here. I believe that I have answered the question of my friend.

And now one word more, and I have done. I was speaking of the character of this session. We are assembled under an act of Congress and the Constitution. By the Constitution it is provided that each House may determine the rules of its proceedings. That is all it can do. It may not annihilate proceedings; it may not forbid proceedings. It may provide rules for them; but it cannot, in a just sense, prevent proceedings. It is, therefore, that I submit that the resolution under consideration, if not positively unconstitutional, is contrary to the spirit of that instrument.

Mr. ROSS. I rise simply to correct a misapprehension which would naturally be created by the statement of the Senator from Massachusetts who sits nearest the Chair. [Mr. WILSON.] I also visited the Secretary of War this morning in connection with matters upon the frontier which have been introduced here; and was informed by him that it would be impossible to adopt the measures which we ask, and which we consider are essential for the preservation of the peace of that country, without further appropriations.

Mr. President, there is already a state of war in that country. It is not so much for the avoidance of war as for its suppression that we desire legislation. A war has existed there for some months, and the Army has shown itself, so far, utterly incompetent for its suppression. What we now want is authority from Congress for the raising of volunteers, men

who understand the business for which they go out in that country, and not, as has been the case thus far, decimate the Army by constant desertions, and the carrying off of arms, horses, and entire equipments.

There is another matter, also, upon which legislation is very essential for the future preservation of peace in that country. We can never have peace there while the Indians roam over the Plains which are traversed by the two lines of communication now in progress of construction toward the mountains. What we desire is the removal of those Indians to sections of the country north and south of that district—a measure which cannot be done by the War Department, by the Indian Bureau, or by any other Department of the Government without the concurrence of Congress, without the specific action of this body. To do this, we must have, in a resolution like this, some latitude more than is granted. We do not wish to be cut off and our country kept in that harassed condition in which it has been for years without some prospect of relief.

I hope, therefore, that either the proposition of the Senator from Massachusetts, or something similar to it, will carry. I do not wish to tie up my hands to legislate upon only one specific subject, when there are so many which demand our earnest attention. I agree with the general public sentiment, that we should take up no matters of general legislation; that we should confine our action mainly to the matter of reconstruction upon which we are convened. But there are others, this among them, which is nearest to the delegation from my State, that are absolutely essential. The public opinion of that State is such that it is equivalent to an instruction, as imperative upon us as the vote of the Legislature could be, and it constitutes an instruction which we cannot disobey.

Mr. SPRAGUE. I desire to say one word in connection with this subject. I have the honor to hold in this body the position of chairman of the Committee on Manufactures, and I think that I speak advisedly when I say that the people of this country engaged in those industrial pursuits which that committee represent would not be prejudiced by permitting their interests to stand as they are to-day without any further legislation. I believe that the industrial interests of this country, represented by its manufacturers, will be promoted by postponing all legislation in reference thereto until December. For my own part, occupying a position of such labor, as is known to Senators here, as the chairman of that committee, I do not wish to invite, during the warm days of hot July, the attendance of the people of this country who are interested in those subjects; and I hail with great delight the fact that they have postponed the consideration of those subjects until a later day.

The PRESIDENT *pro tempore*. The Chair will receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 53) tendering the thanks of Congress to Major General Philip H. Sheridan, in which the concurrence of the Senate was requested.

#### BUSINESS OF THE SESSION.

The Senate resumed the consideration of the resolution offered by Mr. ANTHONY, the pending question being on the amendment proposed by Mr. SUMNER.

Mr. TIPTON and Mr. THAYER addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Nebraska, on the left, [Mr. TIPTON.]

Mr. THAYER. I only rise to allude to a statement made by the honorable Senator from Massachusetts, the chairman of the Committee on Military Affairs, if I can get his attention.

Mr. TIPTON. I thought the Chair recognized me.

The PRESIDENT *pro tempore*. I recognized the other Senator from Nebraska, [Mr. TIPTON.]

Mr. THAYER. I beg pardon.

Mr. TIPTON. I do not wish to be at all discourteous to my colleague; but as we are on this subject, and as his side of the Senate has had two speeches on it already from the neighboring State of Kansas, as a matter of course I feel a little tenacious that we on this side representing Nebraska should have an opportunity of saying one word. I do not wish the country to understand that Kansas has all the Indians that are West. I wish it had.

While I desire at all times to be able to concur, especially with that part of the Senate with which I am politically identified, in the passage of any resolution that seems to receive such universal favor as this does, yet I must admit that I am somewhat embarrassed in regard to voting for the original resolution; and it is, as the representatives from Kansas have already indicated, on account of the condition of the frontier. I have all faith in the Secretary of War and all faith in the chairman of the Military Committee of the Senate as to their good and kind intentions toward us upon the frontier; and yet I do not believe that our present system of warfare is worth anything; and I mean more than is couched in that word "anything" when I utter it. It has done nothing for us on the frontier. For the last three years our people have been slaughtered every day, and this day, as it is now about the hour of half past one o'clock, undoubtedly has had its victims also. Every day on the frontier our people are massacred.

Under these circumstances we want some kind of relief. You ask me what. I tell you frankly I do not know; but I want any experiment, anything for a change. If I could wield the legislative power of this nation to-day I would so remodel the whole system that I would make it a high crime for any regular Army officer to cross the Missouri river for the next twelve months; I would offer a premium for savage Indian scalps; I would enlist the men of the frontier, whose lives are identified with the frontier, and I would fill a volunteer army by the frontiersmen themselves; I would appoint as commanders of that army the men who understand Indian warfare, if it is to be understood at all. Our present system is inefficient. We never have successfully combated with savages. We may worry them out by the power of this nation; but we want an experiment at relief of some kind.

Under these circumstances, therefore, I say emphatically that I am embarrassed in regard to voting for the original resolution. I do not desire to show myself captious on this subject, and will not sit silent; I will vote on one side of the question or the other. I never was non-committal in anything, and I will not consent to sit silent in my seat and not vote when an opportunity is given to vote. I propose, therefore, to vote; that is my business here; and as I cannot vote for the resolution, I shall vote against the resolution. And now, leaving the balance that I ought not to say—for probably I should not have said what I have in this latitude; it is true, however—I yield to my colleague.

Mr. WILSON. I wish simply to say that I am in favor, and I suppose every Senator is in favor, of protecting the people of this country against Indians or anybody else that wars on them. I think the War Department has power enough to do that. If they desired anything, I should certainly wish to give it; and I certainly think that the Congress of the United States, in spite of this resolution, will be disposed to do anything for the protection of the lives of the people on the frontier if any plan can be devised.

But I am very sorry to hear the Senator come in here and talk about offering a reward for scalps. It seems to me, that is not the language to be used in this Christian and civilized country, and I am sorry to hear it. I will say to the Senator that that kind of talk

which we have had on the frontier, and the declarations made in the public press and in some of the speeches there, tend in the country to carry the conviction that the blame is not all on the side of the Indians, that a portion of our own people are nearly as responsible as the Indians themselves for these outrages, and that the savage deeds of the Indians are but little more barbarous and against civilization than the utterances of some of our Christian countrymen. I think in this matter of dealing with the Indians we should be just to them; we should act as a Christian and civilized people. Every effort should be made to protect our own people against them, and to preserve the public peace; and I have no doubt that the War Department of the Government is laboring honestly to that end. I was exceedingly anxious, when it was suggested by some of our friends here that some legislation might be necessary in regard to the Indians, that we should do what we could for the protection of the frontier; and I went this morning to see the Secretary of War for no other purpose than to ask if he desired any legislation in any respect whatever, and he answered in the most emphatic manner that he did not.

Mr. TIPTON. The Senator undoubtedly understands me in this: that so far as tribes will be bound by treaty stipulations, we will act in the utmost fairness with them. The murderous tribes now plundering and desolating our frontier will be bound by no treaty. They have no faith to keep with us. They cannot be intimidated but by an exhibition of power. You cannot speak to them in regard to any of the inhumanities of life. You cannot utter to them one single word of Christian civilization. All is powerless but an exhibition of power on the part of this Government. Until you can cause them to fear and tremble in your presence, until you can make them feel your power, until they understand that you will deal with them just as they are dealing with you, you cannot save the lives of your women and your children on the frontier; and when it comes to that I would authorize war upon these savages that cannot be approached; I would save the lives of our Christian women. God help the country and the reputation of the country when any Senator is to stand in his place here and dare not be permitted to talk of the massacres, and worse than massacres, of the women of his constituency, and not talk about premiums on savage Indian scalps.

This subject is one of vast moment to the people of the frontier. I trust I understand the amenities of Christian society. I trust I understand something of Christian civilization. Why, certainly the light of Massachusetts has visited us long since upon that subject, and we are trying to practice Puritanism as best we may be able to apply it to practice even in the very far West. But come ye down to it and furnish the sons from your own fireside. I boast not of it; but my son has spent summers on that very frontier, and farther on than where the war wages to-day, and he informed me of the safety of his condition when he boasted that he had two companions with himself, and by burrowing in the earth it was thought probable that they could hold at bay a large number of savages until aid could approach them. Our people are in their cabins to-day; they are in their dirt-covered hovels to-day, and they are looking from their loopholes for some relief; and therefore I stand here proudly to vindicate the doctrine with regard to those Indians who can hold no faith with you—premiums, anything, paid in gold for those savages' scalps.

Mr. POMEROY. As the passage of this resolution—for I think it is to pass—may embarrass us, I move to postpone its further consideration, in order to take up a joint resolution which has just come from the House of Representatives. I want to pass that joint resolution, and it should be passed before this resolution is adopted. I, therefore, move to postpone the further consideration of the resolution before the Senate.

Mr. GRIMES. Oh, no; that ought not to be passed without a reference.

Mr. TRUMBULL. Let us act upon this first.

Mr. SUMNER. The motion of the Senator from Kansas is entirely right; for if you act upon this resolution and adopt it, as the Senator from Illinois is disposed to do, I believe you cannot act on the House resolution. Here is a resolution, as follows:

"That the thanks of Congress be tendered to Major General Philip H. Sheridan for his able and faithful performance of the duties of commander of the military district in Louisiana."

Now, if the proposition of the Senator from Rhode Island is adopted, we cannot act on this joint resolution; it is out of order; you cannot thank General Sheridan.

Mr. ANTHONY. I beg the Senator's pardon. There will not be a single Senator opposed to that resolution. It can be passed unanimously.

Mr. CONKLING. This resolution only applies to legislative business.

Mr. SUMNER. Is not this legislative business?

Mr. ANTHONY. But if it is, I apprehend, by the unanimous consent of the Senate, the order can be suspended or rescinded for the time being.

The PRESIDENT *pro tempore*. The Senator from Kansas has not resigned his right to the floor.

Mr. POMEROY. I do not object to the interruption. I simply say that if this resolution of the Senator from Rhode Island is to pass, we ought to live up to it religiously. The fact that we can pass over it by unanimous consent is another reason why we should now postpone it. I expect to vote for the Senator's resolution; but still it is against my will. I expect to vote for it, and therefore I do not want to embarrass myself, and it is on that account that I want it laid aside informally until we can pass the joint resolution from the House. I do not suppose anybody wants to refer that.

Mr. ANTHONY. I have no objection to its being laid aside informally; I object to its formal postponement.

Mr. POMEROY. No committee, I conclude, want to report on the subject of thanking General Sheridan. It is a general proposition which has passed the House and is before the Senate. I therefore move that the resolution under consideration be laid aside to consider that resolution.

Mr. GRIMES. I trust that after this debate has proceeded until it is nearly exhausted, or ought to be nearly exhausted—two hours—we shall not postpone the consideration of it in order to take up another resolution, and then have this debate all over again to-morrow or at a subsequent hour of this day. We all understand perfectly well what is the spirit of the resolution offered by the Senator from Rhode Island. It is that business shall not be initiated in this House. I undertake to say that if the House of Representatives send us any bill, and a majority of this body are satisfied that it ought to pass, they will not consider themselves restrained by having passed this resolution from going on and passing that bill if they choose to pass it, and any action of the House of Representatives on a House bill as it comes in will be legally and logically a repeal, so far as that action takes place, of this resolution which we now have under consideration.

As to the joint resolution that comes here from the House, I have always believed that a compliment, if you desire to present it, carried a great deal more weight if you presented it after due deliberation than if you did it apparently on the spur of the moment and upon an impulse; and I apprehend that General Sheridan, if that resolution comes from a committee of this body who have taken the trouble to investigate the grounds upon which Congress sees fit to bestow this highest reward that can be bestowed upon an American officer and an

American citizen, will regard it as a greater compliment than if we should take it up and pass it in the manner in which it is proposed to pass it.

Mr. ANTHONY. I ask unanimous consent to correct a clerical error in the resolution which I had the honor to present. The word "legislative" should have been inserted before the word "business" in the first line, so that it would read "no legislative business." That was in the original draft of the resolution, but in the copying it was left out by mistake.

The PRESIDENT *pro tempore*. That amendment will be made, if there be no objection.

Mr. ANTHONY. I think there can be no object whatever in passing the resolution of thanks now. All our rules and all our orders are subject to suspension by the unanimous consent of the Senate, except in those cases where it is provided to the contrary in the rules themselves; and I presume such a resolution would not be objected to by any Senator; and in spite of this order, if there be any business of such pressing necessity that it will pass the Senate unanimously, of course the rule will be unanimously suspended. I think, therefore, we had better go on and pass the resolution before us.

Mr. POMEROY. I apprehend that any individual objecting to the passage of the resolution of thanks would defeat its passage, after the adoption of the resolution of the Senator from Rhode Island.

Mr. ANTHONY. So it would now for to-day.

Mr. POMEROY. Unless we proceed to reconsider the resolution. We might proceed to reconsider the resolution, and in that way a majority of the Senate might dispose of it and prepare the way for the passage of the resolution of thanks to General Sheridan. But not wanting to conduct the business in that way, I thought it was easier for us to suspend action upon the resolution of the Senator from Rhode Island. I do not know how long the debate will continue, and pass the resolution of thanks as it came from the other House. It could not have been reported there from any committee. Under their rule, they have not a committee that can report on this subject. Why send it to a committee in the Senate? The Senator from Iowa says that it will be more valuable and have more character if it comes from the Committee on Military Affairs. It could not have come from any such committee in the House. It has the weight of the House with it here, and if it passes the Senate without a reference, it will have the weight of the Senate and the country. I should like to have the sense of the Senate at least on the motion I make.

Mr. BUCKALEW. I think that a resolution of compliment passed by the two Houses is not an act of legislation. It does not require the signature of the President, and has not the effect of law. It is certainly an abuse of terms to speak of it as an act or measure of legislation.

Mr. POMEROY. The Senator must be aware that all these resolutions go to the President.

Mr. BUCKALEW. No, sir, I think not.

Mr. POMEROY. They have done so. I have seen it.

Mr. BUCKALEW. I think it too clear for debate that the question which has been raised by the Senator from Kansas has no foundation in point of fact.

Mr. SUMNER. On the question of what that resolution is I desire to make one remark. It is not a concurrent resolution. If it were so, then of course it would not be a legislative act, nor would the signature of the President be needed; but it is a joint resolution, which must pass both bodies of Congress and then receive the approval of the President. It is, therefore, just as much a legislative act as the act of reconstruction, and it will take its place hereafter in your statute-book precisely as your

act of reconstruction takes its place there, except as my friend [Mr. HOWE] reminds me, that it will be classed under the head of "resolutions," instead of statutes. That is the distinction with regard to it. It is a legislative act, and I beg Senators, therefore, when they act upon it not to forget that they are about to adopt a legislative act which does not concern reconstruction.

Mr. HOWARD. The motion before the Senate is to postpone the resolution under discussion, offered by the Senator from Rhode Island, for the present, for the purpose, I suppose, of taking up the complimentary resolution to General Sheridan.

The PRESIDENT *pro tempore*. That is the question now.

Mr. HOWARD. I shall be obliged to vote against that motion of postponement. So far as I understand and have been informed respecting the administration of General Sheridan in his department, I am quite persuaded that he has acted in good faith and with most becoming energy, and with an eye single to the carrying out of the reconstruction legislation of Congress; and in those respects I cannot doubt that he deserves the compliment contained in that resolution. But, sir, we are not to forget that General Sheridan is only one of five generals who are charged with the same identical duties in respect to their military districts to which they have been assigned. I have heard no special complaints against any one of the other officers in charge of their respective districts; and I presume, from all I have heard, that all of them have endeavored at least in good faith to do the same thing. They are perhaps as deserving of the compliments of Congress as is General Sheridan. At all events, I think we had better pause a moment and hear from them and their respective administrations before we thus single out General Sheridan as the proper object for an especial compliment. I do not think that General Sheridan himself would desire a compliment to be paid to him at the expense of his brother officers, charged with precisely the same duties. I hope, therefore, that the motion of postponement will not be adopted, but that we shall proceed to act upon the resolution of the honorable Senator from Rhode Island and endeavor to pass it to-day, for I think if we are to pass such a resolution, the sooner it is done the better, and we shall thus know exactly the extent of our probable legislation at this session of Congress.

The PRESIDENT *pro tempore*. The question is on suspending for the present the consideration of the resolution of the Senator from Rhode Island for the purpose of taking up the other.

The motion was not agreed to.

Mr. POMEROY. I see it is understood by our friends that we can pass the resolution of thanks after the one offered by the Senator from Rhode Island has become the order of the Senate. Understanding that to be the sentiment of the Senate, that we can take it up and consider it after the adoption of the resolution of the Senator from Rhode Island, I shall not ask for the yeas and nays upon my motion.

Mr. THAYER. Mr. President, if I can have the attention of the chairman of the Committee on Military Affairs for a moment, I only rise to allude to the statement which that Senator has made to the Senate, that the Secretary of War has informed him that he needs no legislation whatever with regard to Indian affairs.

Mr. WILSON. Military affairs.

Mr. THAYER. Very well; military affairs, in connection with Indian affairs, I suppose. No Senator has stated that he does need any. I do not know that he does, and have not heard that he does. I have the utmost respect for the Secretary of War; but he speaks only for the military department of the Government. I have been informed by the heads of the Bureau of Indian Affairs that some legislation is absolutely necessary at this session of Congress. If



it does not take place there will be a condition of things which the country will not approve, even if Congress can approve it. I have not proposed to ask for any legislation in reference to the Army, to increase it; but I did propose at least to favor a bill which looked to a final disposition of all the Indian tribes between the Missouri river and the Rocky mountains, putting them on two reservations which shall be perpetual, and thus to stop an Indian war, if possible, or avert a protracted continuance of it. It is not military legislation that is needed; it is authority to carry out some plan of that sort. Something of that sort is absolutely necessary, rendered so by the condition of things all along the Indian border. If it is proposed to carry on an Indian war as at present it is conducted, the historian of this country will write the history of an Indian farce more disagreeable to refer to than the Indian campaigns of Florida. General Sherman informed me about ten days ago that he had only troops enough to guard and keep open the two lines of communication. He said that he had no power and no means to go beyond that; and that he cannot do effectually. The legislation which I propose to favor is of a different character, and it is that subject which I wish to bring up and in that light, not having reference to an increase of the Army or the forces in the field.

Mr. CAMERON. I feel somewhat embarrassed in giving my vote on this resolution, for the reason that I came here hoping that we should take up all matters connected with the question of reconstruction; and especially did I hope that the bill introduced some time ago by the Senator from Massachusetts, giving the right of suffrage to all citizens in all the States of the Union, would receive the attention of Congress at this session. I still desire that that should be the case; but I have gone into a consultation on this subject, and it is deemed wise by our friends that we shall not touch any of these collateral questions at this time. Having gone into that consultation, I feel bound to act with the majority. I wish it were otherwise; but feeling bound as I do by the result of that consultation, I shall vote against this amendment, regretting that I am compelled to do so, because I should greatly prefer remaining here. The heat does not incommodate me at all. This is a very pleasant place, much more pleasant than any houses or rooms we can find elsewhere. The atmosphere is fine and delicious. I think we could go on now during the heated term and discuss all the great questions of the country better than we shall be able to do it after awhile, during the cold season, when we shall get benumbed in passing through the wide avenues of this city, and then come here and find these Chambers not properly heated, as is often the case. I think we should get along much better now, and that it would be better for the country. But I know discussing this question will do no good. There is a majority here determined not to bring up any measure except the main question of compelling the President to do his duty in this great crisis of the country. We might debate this matter for a week and we should not change a vote; and therefore why shall we occupy the time uselessly? For the reason I have stated I shall vote against this amendment.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 6, nays 26; as follows:

YEAS—Messrs. Chandler, Ross, Sumner, Thayer, Tipton, and Wade—6.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Conkling, Cragin, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sprague, Trumbull, Van Winkle, Willey, Wilson, and Yates—26.

ABSENT—Messrs. Bayard, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Drake, Fowler, Guthrie, Hendricks, Howe, Johnson, Morrill of Vermont,

Morton, Norton, Nye, Saulsbury, Sherman, Stewart, and Williams—21.

So the amendment was rejected.

Mr. ROSS. I offer an amendment to the resolution, to add after the word "subjects" in the last line the words "except such as may be rendered necessary for the preservation of the peace on the western frontiers," so that the resolution will read:

*Resolved*, That the legislative business of this session be confined to removing the obstructions which have been, or are likely to be, placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed; and that further legislation at this session on the subject of reconstruction or other subjects, except such as may be rendered necessary for the preservation of the peace on the western frontiers, is not expedient.

Mr. ANTHONY. I hope the amendment will not prevail. If any legislation should become necessary for the preservation of peace on the frontiers, the order adopted is in the control of the Senate at any time. If we make this exception, we must make a great many others. The Secretary of War says he requires no legislation. The legislation which my friend from Kansas requires, if I understood his remarks, was a bill to collect all the Indians in one vast reservation, a bill that could not be passed through both Houses of Congress short of three months legislation. I do not know of any other except the one alluded to by the Senator from Nebraska, [Mr. TIPTON,] who proposes that we shall remain here to perfect a bill for offering rewards for the scalps of Indians.

Mr. TIPTON. That can be put as an amendment to his bill. [Laughter.]

Mr. ANTHONY. As an amendment to the bill of the Senator from Kansas. I hope we shall not remain here for either of those purposes.

Mr. ROSS. The reason why I offer this amendment is, that I do not wish to leave this subject to any contingency by which it may be defeated by some Senator objecting to the introduction of such a measure. Very likely such an objection would be made, and it would rise from the unbelief which pervades a large portion of the eastern States that there is any necessity for such legislation. In proof of the opinion that something is necessary, that war exists on the frontier, that our settlers are being driven in, that public improvements are stopped, I send to the desk a proclamation just issued by the Governor of my State, which I ask to have read.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Chief Clerk read as follows:

#### PROCLAMATION.

STATE OF KANSAS, EXECUTIVE OFFICE,  
TOPEKA, July 1, 1867.

Central and western Kansas has been, and is still, overrun and invaded by bands of hostile Indians, who are indiscriminately murdering, scalping, and mutilating our frontiersettlers, travelers on the great western thoroughfares, and the employes on the Union Pacific railway, eastern division. They have almost entirely cut off communication between Kansas and the States and Territories west. The United States forces now on the Plains are unable to protect life and property. And, having received authority from Lieutenant General Sherman to raise a volunteer cavalry force of eight companies, to be mustered into the United States service for four months, unless sooner discharged, I therefore appeal to all good citizens of the State to favor, facilitate, and aid this effort to protect the frontier settler, the traveler, and the workmen engaged in the construction of the great national thoroughfare, the Union Pacific railway, eastern division.

S. J. CRAWFORD, Governor.

Mr. ANTHONY. That shows that the Governor of Kansas is taking care of the State very well, and the Secretary of War says he will require no legislation. If any legislation should be necessary, if it has friends enough to be passed through the body, it will have friends enough to rescind this order.

Mr. POMEROY. The Senator must be aware that there is no appropriation for the pay of volunteers.

Mr. ANTHONY. If it should be the sentiment of the body that such an appropriation

ought to be made, the number necessary to pass the appropriation will be sufficient to rescind this order; and if it should be found necessary there will be no difficulty in doing it. Certainly I shall be in favor of it if it shall be found necessary; but if you make one exception, you will have to make another, and thus you will fritter away the resolution so that nothing will be left. I hope the amendment will not be adopted.

Mr. ROSS. The difficulty is that one objection, as I understand the rule, will preclude the offering of any such proposition.

Mr. ANTHONY. But the order can be rescinded on one day's notice. A motion can be made to rescind this order, and it can be considered the following day, and then a majority can repeal it.

The PRESIDENT *pro tempore* put the question on the amendment and declared that the yeas appeared to have it.

Mr. FESSENDEN. I ask for the yeas and nays. ["No, no; we will vote it down."] I withdraw the call.

Mr. TIPTON. I demand the yeas and nays. The yeas and nays were ordered.

Mr. ANTHONY. I will simply say before the vote is taken that if this amendment prevails we shall be obliged to admit a great many others, which have just as good a claim upon us. We might as well not pass the order at all unless we pass it absolutely, reserving to ourselves, as we cannot deprive ourselves of, the power of rescinding it on one day's notice. The only effect of this order is, that it prevents the consideration of any other subject without one day's notice.

Mr. HARLAN. From the representations made by Senators from several of the States there is an immediate necessity for legislation on the subject they name. I am disposed to conform my action to the judgment of my political friends in the Senate; but I think they ought not to insist on a rule so rigid as to cut off legislation on a subject of this kind. They say there is an immediate necessity for legislation on the subject to preserve the lives of families exposed on the western frontier. In the face of that statement made by several Senators on their authority as such on this floor, I am not willing to adopt a rule to cut off the necessary legislation.

Mr. HOWARD. I shall vote in favor of this amendment of the Senator from Kansas. From the accounts which we get in the newspapers and from various other sources, it can no longer be concealed that there is a very menacing and dangerous state of things existing along the frontier between the settlers and the Indian tribes; and I think the necessity of making some provision for the protection of the pioneers is at this time very pressing upon us. It is a subject which I do not feel at liberty to dismiss from my mind as a member of this body. Only a few days ago a son of my own, on his return from western Kansas with a little party whom he accompanied, came across the dead body of a settler, who had been in that region for some short space of time, but who had been deliberately murdered by a band of Indians in pursuit of plunder. Having murdered the man and scalped him, they robbed him of his stock and some other articles of personal property and made their escape. My son assisted in bearing away the dead body and burying it. From various other sources I gather that this state of things is very prevalent throughout the West all along the frontier; and I do think it is the duty of Congress to do something to protect the settlers who settle upon the Plains and expose themselves to such dangers. I do not think we shall occupy much time about it. It may be necessary to enact some law for raising troops for the protection of the frontier; it may be necessary to make an appropriation of money for this same purpose; and I do not wish to tie my hands upon a subject which is so pressing upon us, and as to which certainly the country, and particularly the frontier set-

tlers, are now looking to us with most anxious eyes. I am willing to sit here a considerable time to relieve them if it be in our power to do so.

Mr. MORRILL, of Maine. I am very slow to believe that any legislation in the line indicated by the Senators from the frontier is at all necessary. In the first place, we have no information from the War Department that they desire it. General Sherman is in command of the frontier, and has been for many months. It is fair to presume that he knows quite as much in regard to the needs of the frontier and what is necessary for its defense as can possibly be known by what are termed the pioneers and the border settlers. I stand exactly on that fact, then; as we have no information on the subject from the constituted authorities; as those who undoubtedly have the best information on this subject, who have every means and whose duty it is to know, make no communication and ask us for no aid, and when they are advised with on the subject say that on their view of the subject none is needed, I think the presumptions are all against it.

But, Mr. President, I go a little further. I do not intend to do more than touch this subject, because it is a pretty large subject, and behind what is proposed here is more perhaps than would be imagined, as you will find if you enter upon it; and I do not intend to characterize anything that has been said or what is demanded in the way of securities or anything of that sort. I am not satisfied, from the opportunity I have had for examination into Indian affairs, that the wrong is all on one side, or that the injuries are all on one side, or the aggressions are all on one side; and when I say so, I do not think I compliment the savages much, either. There is a state of feeling and sentiment on the frontiers which renders it impossible that even decency can be shown toward the savages. This is not a new subject to the Senate. We have had for a little over two years, I believe, an investigation by one of the most important committees of the Senate into this very subject of Indian difficulties. They have been on the spot; they have taken testimony; they have gone at large and examined personally; and they reported to the Senate last year: and what was the result of it? Why, sir, in every instance they have told the Senate and the country that we are the savages; that the aggressions have been in every instance on our side; that the Indian wars on the frontier were the result of our own indiscretions and absolute aggressions on the rights of the Indians. That is the record here in a very elaborate report, covering some four or five hundred pages, with the full testimony as taken of officers on the frontier, Indian agents, and those who had the best means of knowing everything in regard to it. The result of the whole matter is, from a committee of your own selection, that the Government and people of this country are all wrong on this subject; that the Indian war of 1864, which cost the Government \$9,000,000, was the result of our own folly, our own misdeeds; and a good deal more might be said in the same line. That which followed it in 1865 was characterized undoubtedly by Indian atrocities; but who began it? The committee say we began it; it was altogether our fault, altogether the indiscretions and aggressions of our own people; and that cost us \$29,000,000, it is said.

I no more believe in the necessity of this Indian war than I believe in the necessity at this moment of a war with Mexico; not a bit of it. I do not mean to ignore the fact which all these gentlemen from the frontiers testify to, that there is collision. That is so undoubtedly. Are we ignorant of the fact that we are spreading our population now right in contact with these Indians? And are we ignorant of the fact that there is an utter disregard of the rights of these Indians under the treaty stipulations you have made with them? Is there any Indian reservation in Kansas or Nebraska

or anywhere else that is not absolutely invaded to-day, and the rights of the Indians set aside as if there were no treaty stipulations? Everybody that knows anything about Indian affairs knows that is true everywhere. You make treaties with the Indians; you put them in advance of your population; and the moment your settlers advance and come in contact with them, they take possession bodily, and then comes collision, and then the savage shows his character, and then treaties are made to push him further away.

Now, sir, in all this country which is covered by the order of General Sherman, there are treaty stipulations which secure that land to the Indians—if there is any such thing as securing it; and if we go upon the theory that they are independent nations and make treaties with them, those treaties are to be observed. They are entitled to that country by treaty stipulations, and the order of General Sherman supersedes those treaty stipulations in every instance. If they were independent nations in the sense in which our theory assigns it, of course it would cause a war. They have a right to go to war and show cause to the civilized nations of the earth.

I will not vote a dollar to prosecute a war against these Indians on my present information and belief upon this subject. I do not believe it necessary. Whatever is necessary for defense against the madness and extreme savageness of these tribes in their infuriated condition, growing out, as the evidence is before us, of our own aggressions, of course I am willing to vote. If General Sherman and the War Department say that they have not sufficient force for the protection of the frontiers, let them say it, and I shall be very glad to vote the means, both men and money, to enable them to defend the frontiers and the people of the frontiers against the savage bands. But, sir, I am not willing, while the record stands as I say it does, to authorize a war of extermination, a war for the scalps of these people. I do not believe in it. Let us perform our treaty stipulations; let us do our whole duty to these Indians; and then it will be time enough for us to talk about extermination.

I have said all that I rose to say, which was simply to express a doubt whether any legislation on this subject is necessary at the present moment.

Mr. HOWARD. I do not wish to protract this discussion on the amendment offered by the Senator from Kansas; but I must beg the indulgence of the Senate for one moment, while I make a brief reply to some of the observations made by the Senator from Maine.

It is undoubtedly true that in their intercourse with the whites, the Indians are from time to time imposed upon and defrauded. The whole history of the Indian tribes from the discovery of the American continent to the present moment evinces that truth; but it is equally true that the Indian himself in his natural characteristics is wanting in good faith. The history of the tribes and of their affairs in this country has, I will not say uniformly shown, but has generally shown that as tribes and nations, they are regardless of the faith of treaties; and it cannot be truthfully said that the causes of these collisions always arise from among the white men. There are wrongs committed upon the white man and upon the white settler especially, by the Indians, which are totally unprovoked; and this has been true for the same length of time.

Now, sir, how is it at the present time upon the frontier? We have all seen a recent order of General Sherman, whose truth certainly cannot and will not be questioned, announcing to the people of his department that they must arm themselves and defend themselves by means of their own volunteer soldiery, for he is unable with the means placed in his hands by the Government to protect the frontier from Indian incursions. Here is a state not of actual, formal hostility between the whites and

the red man, but a state very nearly bordering upon it, a state of things which is evinced from day to day by incursions made by Indians for the purpose of plunder, the stealing and carrying away of horses and other articles of personal property, secret assassinations by means of the tomahawk and by means of the arrow, the destruction of fathers and mothers in their cabins upon the frontier, and, horrible to relate, the deliberate butchery of helpless infancy in the cradle. All these atrocities of which the white settlers complain cannot be entirely causeless and groundless; undoubtedly there may be acts of imposition and injustice practiced by our own people upon the Indians; but shall we say, because a few white men upon the frontier do acts which in themselves are unjust, thus calling down upon them the vengeance of the tomahawk and the indiscriminate slaughter of families, that we will do nothing; that we will not recognize our obligation to protect our own countrymen, because a white man in one particular instance happens to be in the wrong? I think not.

I have no longer that peculiar sympathy, that romantic sympathy which haunts the minds of the young and the novel readers in this and in other countries, and which teaches to some minds that the Indian is a very heroic and admirable character. I believe nothing in all that romance and in all that farce. It is true, as the Senator from Nebraska [Mr. TIRON] has said, that the proper, and I may say the only means of inspiring the Indians with reverence for the authority of the United States is to show him our actual power. He will respect that when he knows that his own destruction is to be the penalty to be inflicted upon him for infringing upon our laws and murdering our people. But at the same time, sir, I do not preach up an indiscriminate slaughter and annihilation of the Indian tribes. We must, however, use toward them that amount of physical force which is necessary to restrain their vicious inclinations and to compel them, so far as is possible, to observe the rules which prevail among civilized nations that go to war. After all, the great contest between the Indian tribes in this country and the white population is the contest naturally and inevitably growing out of savagery. It is the fight between barbarism in its worst form and civilization; and mourn over its consequences as much as we may, and deplore them as much as we may, we cannot avert them; and it is our duty to stand up and defend the spirit of our own institutions and to defend our own people against the atrocious aggressions of private murder and savage rapine.

Mr. FESSENDEN. If the question before the Senate was anything like that suggested by the Senator from Michigan, I might vote with him; but it is very unwise to change the issue. The issue is not whether we are disposed or not on all proper occasions and whenever it may be necessary to protect our own people on the borders and elsewhere. I am as much in favor of that as anybody. If Indian wars arise, whether rightfully or wrongfully so far as we are concerned, and we are in absolute collision, we must do all that is necessary in order to put an end to the war and protect the people on the border. I agree to that fully. But, sir, that is not the question here; and there is no call for the kind of eloquence which we hear more or less of at every session about Indian barbarity and the frauds and abuses of our white people with reference to them. That is a moot point about which there are differences of opinion. I have mine; but here, on this occasion, it is unnecessary to express what I think. The question simply is, whether we shall make an exception in this case of the necessary or any legislation upon this subject, in the resolution which we propose to pass; whether it is wise to make an exception there. It is a question of expediency with regard to the business of the Senate. That is all there is of it—not a question of Indian warfare gen-

erally, or the protection of our people, or offering a reward for the scalps of Indians as proposed by the Senator from Nebraska on my right.

Now, sir, what is the design of this resolution? Nothing more nor less than to designate the business which, as at present advised, we think it necessary to do at this present session; that is all; and gentlemen have stated the grounds upon which we present that question; that whatever may have been the opinion and the prophecy of the honorable gentleman from Massachusetts, when we adopted the resolution with reference to an adjournment, the general sentiment was that there would be no occasion whatever for a session, and that there would not be a quorum present. Events have occurred to render that necessary in the judgment of gentlemen who have come here; and the question is, whether, as at present advised, we will confine our attention to the matter which called us here specifically; that is all.

Now, what is the object of it? The object is to notify all gentlemen that we do not mean to go into general legislation, and that all petitions and all resolutions and everything of that sort will, as a general rule, be disposed of by laying them upon the table for future action, if gentlemen see fit to offer them. The design is to prevent an embarrassment which will arise from the disposition of every Senator to present his own peculiar matters of interest, and not to exclude what hereafter in the course of the session we may possibly think it necessary to do. If it appears in the course of this session, before we adjourn, by competent testimony, that it is best to legislate on this subject at any period, I am perfectly willing to do it; but if we make an exception in this case, now, how can we refuse to make exceptions in other cases? If this amendment is adopted, some other gentleman will offer another exception, and that will lead to a long debate, and we shall get into it as we do in the case of amendments or bills offered by an opposition, and there will be no end to it, and we shall accomplish nothing, and the resolution, if we pass it, will be good for nothing.

It has been stated, and correctly stated, that if evidence is offered to the Senate that there is a necessity for immediate action at this session on the subject of the Indian hostilities upon the borders, all Senators being convinced of that will be ready to take it up and act upon it. This matter is fully in our control; and why should gentlemen be so urgent to control the views of the Senate on this subject directly in the face of the testimony which has been offered here by competent authority? Does anybody pretend to doubt that Mr. Stanton, the Secretary of War, believes what he says, that there will be no occasion for legislation? There is competent authority on the subject from a man perfectly acquainted with the subject. Certain Senators who live on the borders say they differ with him, that they think there is occasion for legislation; but it is a mere difference of opinion. Let them talk the matter over and convince their friends on this floor that it is so, and nobody will be more ready to vote to rescind this rule in such a case than I will.

Allusion has been made, or I would not allude to it, by the Senator from Pennsylvania and another to a consultation on this subject; and a consultation was proper on the subject. It was perfectly proper that we should understand each other and each other's views; and this matter was all considered, and all debated, and all decided. When I reflect that I was called to order, not exactly that, but lectured on this floor by an eminent Senator for expressing a private opinion to a member of the House that the decision the Senate had come to on a certain measure was not a correct one, although I supported and voted for it and stuck to it in my votes, it is a little singular to me that gentlemen who went into that consultation, argued their views in full and voted, should now come in here and say they are not bound by anything that took place in consult-

ation with their friends. I shall remember it for future occasions as applicable to my own case.

Mr. SUMNER. The Senator does not refer to me as having lectured him before.

Mr. FESSENDEN. No, sir, I do not. I do not accuse the Senator of that. He never undertook it that I know of.

Now, sir, with reference to this matter, all I ask is that the thing shall be done as we have been in the habit of doing it; that gentlemen should be bound by the rule which they apply to others. Let them labor to convince their friends, and nobody is more ready to be convinced than I am, that with reference to this particular thing it should be taken out of the operation of this rule after we have once adopted it, and not oppose its adoption in the first place just as it was agreed upon and understood. I speak of it with freedom; I should not have spoken of it had it not been mentioned by others. But I deemed it eminently proper—it is always proper for the majority, in my judgment, who have to be responsible for the business of the Senate, to have a consultation among themselves upon the mode which shall be adopted of carrying it on, and what shall be taken up, especially at a time like this. It is a matter of public propriety which I am ready to defend everywhere. I only go a little further and say that when it has been done, gentlemen who find themselves in the minority should not bring their warfare into this Senate Chamber.

Mr. HARLAN. The Senator from Maine has stated very clearly, as he always does when he makes the effort, the exact question now pending. It is, as I understand it, whether this resolution shall be so modified as to make an exception in the case presented by the Senators from two or three of the States of the frontier, which they deem of great importance, requiring the immediate attention of Congress. They say that the frontier is greatly exposed; that a general Indian war has been commenced, which is likely to become general; that citizens are being massacred, and that it is possible to avert the danger, to end this bloodshed and thus curtail the expenditure of public treasure; and therefore move to amend the pending resolution so as to leave the way open for the proper legislation to effect this result. The Senator from Maine thinks that when gentlemen of a particular political faith consult together and come to a conclusion in relation to public measures, they ought to be bound by the decision of the majority. I agree with him fully. But there is a fact of some importance in connection with the consultation which has not been mentioned by the Senator from Maine; and that is, that the phraseology of no resolution was agreed on in that conference. The general subject was discussed, and perhaps some formal proposition made on the subject; but a gentleman was requested to draw up a resolution covering the subject-matter, and present it in the Senate.

Mr. FESSENDEN. The Senator will remember that a resolution was formally agreed upon, and that the understanding was that the phraseology should be so amended as to make it proper for a resolution of the Senate. The particular subject-matter was agreed to, and it is in that form now.

Mr. HARLAN. And that resolution has been presented and amended in the Senate with the concurrence of the Senator from Maine and the gentleman who offered it.

Mr. FESSENDEN. Only by restoring words that were stricken out by mistake.

Mr. ANTHONY. As I moved the amendment, I desire to say that the amendment was to correct a clerical error. The resolution was agreed upon in consultation with our friends, and the word "legislative" was left out by mistake in copying the resolution. It was in the original.

Mr. HARLAN. As I understand, there was no original resolution that was agreed to in terms. The general subject was agreed on; and I feel bound by the conclusion of that con-

sultation, except so far as facts coming to my knowledge since, not known at the time, justify a departure. But, Mr. President, since that consultation, important facts have been elicited that were not known to that caucus, at least as fully as they are now known, demanding serious consideration. It is now stated that citizens of the United States on the frontier are being slaughtered by the savages, which Senators tell us could be prevented by judicious legislation. They believe that some remedial legislation would prevent this destruction of human life, and probably the useless expenditure of treasure. The Senators representing States immediately on the border all concur in this statement of facts. It is also patent to us that the Representatives and Senators from the States beyond Kansas and Nebraska are not present, except one Senator who happened to be delayed on this side of the mountains after the adjournment in April last. It is known to every Senator here that no one of those Senators can visit the capital of the nation unless he visits it by sea.

Mr. FESSENDEN. Is there any Indian war on that side of the mountains?

Mr. HARLAN. So far as they are able to present the condition of the country on that side of the mountains we are without information. It is also patent to every Senator here that the Territories lying between the States on the Missouri river and the States on the Pacific are unrepresented. I believe that no one of those Delegates is here to represent the condition of the country. We know from newspaper statements—how reliable I am not able to say—that an Indian war does prevail in each one of those Territories of greater or less magnitude; that the thoroughfares of communication between the more settled parts of the country and New Mexico and Arizona and Colorado, and Utah and Idaho and Montana are obstructed. It is known from the same means of information that the laborers on those thoroughfares, the construction of which is being prosecuted at great public and private cost, have been driven in, and this important work greatly retarded, in consequence of the hostility of the savages.

Now, in the face of these facts, I think it would be wise and prudent to make an exception of that one subject in this general resolution. I am willing to be bound by the judgment of my friends. I agree with them on the general subject, that unless there is a special exigency requiring a departure the attention of Congress at the present session ought to be confined exclusively to the perfection of the laws for the restoration of the States in the Union which have recently been in rebellion. But here is a case which we now know is exceptional, where vast treasure is being expended, as Senators say, uselessly, and numberless lives are being destroyed which they think might be saved by the proper legislation on the part of the two branches of Congress now in session. In the face of these statements made by the Senators whose people are immediately interested, who stand between our constituencies and the frontier, I am not willing to say, at the opening of this session, that I will not, as at present advised, consider the legislation they may present on that subject.

It has been stated here that the Secretary of War needs no additional legislation on the subject. It may prove to be true that in the judgment of the Senate and the House no additional legislation may be necessary. I hope it may be so. If so, when this shall become manifest the Senate can properly dismiss the subject. But for us to say at the opening of the session, in the face of these declarations of Senators, our peers on this floor, and the facts established by current history, and in the absence of the Delegates from the Territories whose people are immediately exposed, and the Senators from the other side of the mountains, including a vast region of country in equal danger of Indian depredations, that we will not at this session consider

that subject, I think would be improper; and I do not think the Senators here who have concurred in the general judgment which has induced the pending resolution ought to insist on it.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. HARLAN. Certainly.

Mr. CONKLING. I wish to know what is the practical value of this pending amendment, in view of the fact that the same mere majority of the Senate by which any measure whatever could be passed may at any time within twenty-four hours rescind this resolution so as to let in the subject which the Senator is discussing?

Mr. HARLAN. The Senator's question answers itself. If there is no practical importance in the amendment, then there is no practical importance in the resolution itself. If it is so purely ephemeral that it may be removed by a bare vote—

Mr. CONKLING. If the Senator will allow me, I submit to him that there is great practical importance, not only in the resolution, but in preserving its integrity as it is, because if we commence now by making an exception with regard to a subject, which, for one, I do not believe is susceptible of legislative remedy at all, how can we refuse to make exceptions with regard to other subjects which everybody knows can, in a general sense, be shown to be more or less exceptional in their character? It seems to me, if an exception is made with regard to this subject now, then we must permit every Senator who can suggest a subject, local or otherwise, with regard to which a real emergency exists, to except that also; whereas, if we adhere to the resolution, and if, despite the statement of the Secretary of War to the contrary, evidence is produced here showing that we ought to act upon this, then at any time within twenty-four hours a naked majority of the Senate may rescind it, and take up this subject, which will then appear to be necessary.

Mr. HARLAN. Why, Mr. President, the difference is very manifest, and I have been sustaining the proposition of the Senator from Kansas on the ground of the difference between this and all other subjects that have been named.

Mr. FESSENDEN. And somebody else will present something different, and so it will go on.

Mr. HARLAN. If some other Senator should present some other subject equally urgent, in my judgment, it ought to be made an exception; and if the Senator believed as the Senators from these States who have spoken believe, he would concur with me in the judgment that it ought to be an exception. If the Senator's own State was exposed to the assaults of a public enemy and his people were being slaughtered day by day before his eyes, I am sure he would present a potential barrier should any Senator propose to close the door to legislative relief. Sir, if the facts stated by Senators here to-day are true, and if legislative remedies are practicable, the relief should be granted promptly and unhesitatingly. We should not be required to change the rules of the Senate before a bill could be introduced or a memorial referred. As there is no existing barrier, none should be erected. The rule should be so modified before its adoption as to relieve this subject from embarrassment.

Of course, if Senators do not believe these facts, if they do not think they exist, if they think the statements in regard to them are imaginary, then they will be justified in including this subject in the general exclusion; but believing as I do, I cannot do so. And as these facts have come to my knowledge in part since the consultation referred to, were not discussed at the time, and could not have been fully considered in making up the general judgment, I think I am justifiable in voting to modify the resolution in this respect; and I shall do so without feeling that I have broken faith with any one. I think enough facts have been

presented, enough knowledge has been elicited to make it my duty to differ with those who may vote for the resolution in the precise form in which it has been introduced. I think this ought to be made an exception. Of course, if a majority differ with me they will so record their votes, and take the responsibility.

Mr. HENDERSON. I rise merely to ask a question, and I do so in consequence of the fact that I have given some little attention to this subject since I came here, and have endeavored to ascertain, if I possibly could, what character of legislation could be adopted in order to stop the atrocities on the border and to stop the expenditure of money that is being now made and must necessarily be made in the future on account of them, and up to this moment I am really unable to make a single suggestion to the Senate on that subject. War exists with these Indian tribes. It is unnecessary for me now to give my opinions as to the causes bringing about the war. It exists: that is sufficient. As the Senator from Maine justly says, it is our duty to defend our citizens, the war existing. That is all we can do. Now, I should like to ask the Senator from Iowa whether he proposes to increase the Army for the purpose of defending our settlers upon the frontiers. Is it designed to increase the Army; or is it designed to agree on the part of the United States Government to pay for troops that may be called out in these respective States; or what is the character of legislation that he or others propose to adopt? And I ask it simply to control my vote on this subject. It is a question of very great importance; and the Senator from Maine will remember that in caucus I suggested that in all probability it might be well to except this matter of the pending Indian war. I even up to that moment had endeavored to ascertain something about it so as to decide what I ought to suggest as a member of the Committee on Indian Affairs; and I have since continued the same endeavor. I have not had a personal interview with the Secretary of War; but I learn that the Secretary is of opinion that nothing can be done by Congress to facilitate operations on his part, that nothing can be done by us to aid the military in the defense of the frontier. Whether that be so or not, it will be for the Senate to inquire. I am not exactly prepared to take the statement of the Secretary of War on a subject of that character.

Mr. HOWE. I wish to ask the Senator from Missouri a question. He says that war exists. I ask him who declared it, or when it was declared?

Mr. HENDERSON. That is impossible for me to say. I only know that war does exist between the United States Government and the Indian tribes now. I apprehend that it exists from the fact that travelers, persons going to the mines, are daily being butchered upon the Plains, and stock is being run off by the Indians, and our people are killing the Indians. I was on the Plains a short time ago, and I found troops moving toward the West, for the purpose of hunting up and attacking the Indian tribes. I take it for granted, from these facts, that a state of war exists. Who commenced it I am not exactly able to say; and if I were able to tell the Senator from Wisconsin, I do not think I should commence a work of that sort just now.

Now, Mr. President, permit me to say that I shall vote for this resolution and against the amendment, inasmuch as our friends have decided to adopt the resolution in the shape in which it is; and inasmuch as it is now clear that if any legislation becomes necessary our friends here can rescind this resolution upon a notice of twenty-four hours; and in fact, if anything becomes important in the premises, I do not suppose any Senator would object to any action which might be suggested which would have the effect of stopping the war, because I apprehend it is going to cost us some two or three hundred million dollars. Senators might as well understand the question now. It is a difficulty that may not be ended for years. It is a matter of much more serious

importance than some Senators seem to believe. It is a war against a few individuals; but it ought to be remembered that they have an immense district of country to roam over. They do not fight us except at a disadvantage. They can go on their Indian ponies where we cannot follow them with regular cavalry. We cannot undertake to prosecute a war against them in the summer season with infantry: our men die of disease, and they attack them at a great disadvantage. Hence thousands and thousands of our soldiers will be killed, and perhaps very few of the savages. It is a question of very great importance, and it ought to be considered with a great deal of care. It ought to be considered because of the fact that our public debt is now large enough, and if anything can be done to prevent its augmentation, of course no Senator ought to object. But I have perfected nothing in my own mind, and I suppose no member of the committee has perfected any legislation. This war I had hoped would be avoided; but things have got worse and worse from day to day since the adjournment of Congress, a few months ago, and now it is a war of vast proportions, calculated in my judgment to cost this nation as much as the war of 1812 with Great Britain; and perhaps we shall, as I have said, kill very few of these Indian savages; and if we kill them all, I doubt whether the Government of the United States will reap much credit from the act. It is a war in which we have all to lose and nothing to gain. If anything is done, it seems to me we ought to appoint a commission to proceed among the Indians if they can possibly get there; and they ought to be required to go there even at the risk of great danger to their scalps, because other individuals are losing them daily; and they ought to endeavor when they reach the Indian tribes to adjust matters and make peace with them—make peace with them because we can gain no laurels in war, and because for every man of them we kill we shall lose a dozen, yea, twenty, and in my judgment a hundred.

Mr. President, I am not prepared to say, however, that anything can be done in that line; but if it can be done, and if I shall rise in my place here, or any other Senator from the frontier shall rise and say to the Senate that he has matured something, I do not for a moment suppose, in view of the vast expenditure of money which is now presented, and in view of the fact that as we are now going on our emigrant trains are daily attacked and the construction of the two branches of the Pacific railway must be impeded if not entirely stopped, that any Senator in his place would dare to object to the consideration of such a measure. No Senator could do it in the face of all these facts.

So feeling, I shall vote against the amendment; in the first place, because our friends have agreed to adopt that course of policy; and in the second place, if we vary it in this instance, we shall have to change it at the suggestion of other gentlemen who have matters of vast importance, in their judgment, for Congress to attend to. I could, perhaps, suggest some things of another nature, that I would like very much to have excepted from the operation of the resolution; but if I do that, other Senators will desire to do so also, and unless we confine the resolution to what was originally adopted, we shall, in my judgment, lose much time. Therefore, Mr. President, and inasmuch as we can rescind it at any time, and inasmuch as the subject involved in this amendment is one in which we all feel deeply interested, and proper legislation upon which no Senator will dare to oppose, I shall vote against the amendment; and I hope the Senate will vote it down and adopt the resolution as presented.

Mr. HOWE. Mr. President, I shall vote for this amendment, but I intended to give a silent vote for it, and in case it was defeated, as I supposed it would be, I intended to give a silent vote against the resolution introduced by the Senator from Rhode Island; and I



should not have said a word in explanation of my vote but for the fact that it has been said here that a judgment has already gone, a judgment which is binding upon the individual members of the Senate, and that we are precluded by some decision reached elsewhere from offering any opposition to, or giving votes against, the resolution proposed by the Senator from Rhode Island. I do not understand that any such judgment has been entered up against me. At the only consultation that I ever heard of on this subject, it will be remembered by those who were present at the time that consultation took place that I stated that I could not be made by any human power to vote for such a proposition as this offered by the Senator from Rhode Island before the Senate; not because the constituency that I represent have any grievance to lay before this body that I know of; as far as I know they are satisfied in the main with the laws already upon the statute-book, except so far as they refer to the subject which is excepted in the resolution; not because I know that any legislation is important to the country in reference to the question contemplated in the amendment now pending, but simply because the adoption of the resolution, if I do not greatly misunderstand it, just destroys *pro tanto* the legislative character of this body. When you have adopted that, you are not a Senator except in reference to one matter. If I understand the resolution, when you have adopted it I cannot without a breach of the laws of this House offer a petition from any portion of the people of the United States; then I cannot without violating the rules of the House introduce a bill here, no matter how necessary I may conceive it, no matter how large the interests involved in it. Now, if it places us in that predicament, and it seems to me to do so, and no less than that, certainly I can no more be made by the decree of a caucus to vote for that proposition than I could be made to vote for one, simply because the caucus had agreed to it, to strike from any one of my fellows here his right or his left arm. It changes the character of the body, and I cannot assent to it.

That is my view of it. I stated it in the only consultation I ever attended on this subject. I did not suppose any gentleman would insist that I was bound by the decision of that body or by the conclusion arrived at in that consultation. Having that information before them, they might have excluded me from the consultation if they saw fit. I do not know what penalties I subject myself to by disagreeing here and now with the conclusions then arrived at. Whatever those penalties are I shall submit to them, I trust, with becoming grace and fortitude. I must take them. I cannot submit to do this thing.

Now, upon the pending question, this amendment, I do not undertake to say that legislation is required in reference to the state of things on the frontier; but I do state this, Mr. President, that you have two lines of railway stretching toward the West from the Missouri river through a country over which no member of this Senate dares to drive a buggy; over which no member of this Senate dares to transport the mails of the United States. It cannot be done with safety: it can only be done by large bodies of men. Now, it is useless for us to stop here in the very morning of this session and inquire who is most to blame. There is the fact; over a portion of your territory your citizens and your mails cannot go. You are providing two great highways, the avenues for what we believe will be very soon an immense commerce. The commerce that now goes over those highways as far as they extend is not particularly obstructed, because it is moved with large forces and with great celerity. I passed over one of those highways the other day; I stood upon one of the cars and was pointed to a ranche which two days before I stood there was stamped by a party of Indians and the stock driven off. I rode along over that very highway, and from the window of the car was pointed to the very

spot where the day before we went along a citizen was shot down by Indians.

Well, now, in view of this state of fact, it would seem as though it was necessary that something should be done. Perhaps the wisdom of Congress need not be involved. Perhaps there are laws on the statute-books already sufficient to enable the executive department of the Government to deal with this question. But the Senator from Missouri has said that war actually exists, and I was curious to know how war happened to exist. I understand how it may happen that the military forces of the United States may be moved to the defense of these citizens of ours on our own territory and standing upon our own highways. That is not war. We can repel an invasion from whatever quarter it comes, or by whomsoever it is made, without committing an act of war. But what has been done or what authority is there which authorizes us to move armed forces into the country of any Indian tribe or of any other nation? That is what I want to know. I do not know that they have gone there. If they have not gone there, and do not propose to go there, then I take it war does not exist. It is said they have gone. I do not know the authority for such a movement; and if they have actually gone there, they undoubtedly saw the necessity of going there, and if there is necessity for going there, it seems to me it is high time we had some legislation authorizing them to go there.

But, Mr. President, I shall not dwell upon this branch of the subject at all, because it is no part of my real reason for voting against the resolution of the Senator from Rhode Island and that I see any particular legislation other than that included in his resolution to be absolutely necessary. As I said in the outset, and as I repeat in the conclusion, I must be allowed to vote against that resolution, simply because I think it deprives the Senate of the United States of one of its essential attributes, of its essential character.

Mr. THAYER. Mr. President, I rise simply to correct two misapprehensions of the Senator from Maine who sits nearest to me, [Mr. MORRILL,] into which he has been led. He asks where is there an Indian reservation which is not invaded to-day by the white people? Well, I respond to him by stating that there are five Indian reservations within the State of Nebraska, between which and the whites there has been the most perfect accord and friendship for the seven years past; not the slightest interference or collision between the Indians upon those reservations and the white settlers. That is my answer to his interrogatory. These troubles do not arise with the friendly Indians, but with the hostile Indians, which are away beyond Nebraska and Kansas, upon the Plains, whose lands have not been invaded by the whites. Those who have committed these outrages and these murders are not the Indians whose lands have been interfered with by the whites. They are those who have come from their own section of the country down to the two Pacific railroads, and there is where they are creating the difficulty. It is simply a question between civilization and barbarism. They are opposed to those two Pacific railroads, and that is, after all, the real cause of the trouble. So much on that point.

The Senator from Maine alluded to a report of a committee which went to the Indian country some two years ago, and has made his remarks here based upon the information which they reported. Now, sir, I desire to characterize that report as it deserves. My honorable friend knows that I have too high a regard for him to use any language which he can construe as disrespectful to him. I cannot do that, but utterly disclaim it. He has presented his views, giving as his authority the information and the report of others. It is that information, that report from others, which I, here in this Senate—and I do it that it may go forth to this nation—characterize as a most reckless misrepresentation of the truth,

a most atrocious slander upon the American people and the American Government; for the language was that the American Government and the American people were the sole aggressors in all these difficulties, that they had brought about all these Indian troubles and Indian wars, and were responsible for all these outrages, murders, and massacres.

I have risen to deny that statement and to characterize it, I repeat, as a most reckless misrepresentation of the truth, referring to those who made it, and not to the honorable Senator, who has been deceived by that report. It matters not who they were, what committee, whether Senators or Representatives, or citizens; the report is not borne out by the truth.

Mr. MORRILL, of Maine. Is the honorable Senator aware that that report which he so characterizes was made by a committee of the Senate?

Mr. THAYER. The Senator referred to a report made by a committee. He did not state who composed the committee. But I suppose he referred to one which went over the Plains some two years ago.

Mr. MORRILL, of Maine. The honorable Senator I suppose must be aware of the report which he characterizes. The report to which I referred and the report which he characterizes as atrociously false, is a report of a committee of this body, or rather I believe a joint committee of the two Houses, and some of its members are now within the sound of my voice.

Mr. THAYER. What I mean to say is, that such a report is unfounded. I do not question either the motives or intentions or integrity of those who made it, or impute to them anything wrong. To be more explicit, I will say, they were most egregiously deceived by the parties whose testimony they took in the matter—by Indian chiefs. I have seen men deceived by Indian chiefs before. They will make those who are not familiar with Indian character believe almost anything they choose.

Mr. MORRILL, of Maine. Will my honorable friend allow me to inquire whether he has read that report? If so, he must know that after very long investigation, and upon very elaborate examination of numerous witnesses in different parts of that country—not Indians, not Indian chiefs, but Government officers in almost every case, superintendents of Indian affairs, officers of the Army commanding at the various posts—the committee reported the conclusion to which I have referred. The committee, as I understand, resorted to the men who were governing and directing Indian affairs in that region of the country, and intelligent men everywhere. Their sources of information appear to have been sought from persons of the highest respectability, and those who, on that subject above all others, might be supposed to be disinterested. Therefore, I can hardly conceive that it is possible that such a committee as I know this to have been, examining the subject as I know they did, could easily have been imposed upon to the extent my honorable friend really suppose they were.

Mr. THAYER. I carefully noted the language of my honorable friend from Maine. It was to this effect, and in almost these words: that the report justified the charge that the Government and people were wholly responsible for, and were the aggressors in all these troubles and outrages. That was his language, I believe. If I misunderstood him he will correct me. If that committee gave currency to such a report, I denounce it as a most outrageous misrepresentation; and yet I impute nothing wrong to those who gave currency to it. They were undoubtedly deceived. I do not impugn their motives or intentions.

Mr. FOWLER. Mr. President, I have a single remark to make in regard to my vote upon this amendment. I supposed, of course, there was some understanding in this matter, and I am perfectly willing to be held to whatever understanding really existed at the time the resolution was agreed upon elsewhere;

but I was not aware, when the resolution was first brought forward there, that it was to be offered here. However, if it is considered as binding, I am willing to be bound by it.

Mr. SUMNER. It cannot be binding.

Mr. FOWLER. But I was opposed to it for this reason: if we can act prudently in caucus, we can act with equal prudence here. I do not see any reason why the Senate as a body cannot conduct itself as wisely and properly as it can in any other attitude or under any other circumstances. I was opposed, therefore, to every resolution of this kind. I am perfectly willing, at the same time, so far as I am concerned, to agree that no other subject shall come before the Senate except that which the majority of this body regard as the important subject, and the only one for which they have convened.

Setting out with the position that I am opposed to the resolution because I regard it as an infringement on the rights of every member of this body, and as very improper in itself—this is my individual opinion—there is one other consideration I wish to present. I shall vote for this amendment, believing that the Senators who live on the borders and who are more conversant with the state of things there than I am represent the true condition of the facts there; and if they think anything can be done to mitigate the asperities of the Indian warfare there, I am willing to aid in doing it. I do not propose here to inquire whether the Indians are right or whether we are right. Perhaps the report which has been referred to is perfectly correct. I am willing to believe that it is so; if you please, I am willing to admit that we have been to blame in this matter; I do not choose to controvert that statement; but if I understand these Senators, this state of facts exists, that the Indians are slaughtering the women and children of the frontier, that they are obstructing the Government of the United States, that they are obstructing our public works. Now, the only question for us to solve is, have our military commanders there adequate force to afford that protection which the citizens require and demand?

Again, sir, if our citizens are trespassing upon the Indians and committing depredations on them, is it not the duty of our commanders to arrest that state of things and to see that our treaty stipulations are carried out? Have they force adequate to do that? I do not believe they have, for if they had I think they would use it, and use it efficiently. The fact that they have not arrested these wars, the fact that they have not stopped the depredations that are being committed on our public works, is proof sufficient to me that they need additional force. I consider it the duty of Congress at the present time to extend to them every aid which is necessary, and I do not think we can shut our eyes to the state of facts which has been represented here by the chairman of the Committee on Indian Affairs, [Mr. HENDERSON.] Under the very statement he has made here to-day, it is our duty to consider this subject and to extend to our commanders on the borders every facility we possibly can, so as to enable them to suppress these depredations. At present I do not know what can be done; but I apprehend something can be done, and that, too, without hazarding a very extensive or a very expensive Indian war.

Under this state of facts I feel bound to vote for this amendment, because I consider it proper and right, and I cannot discharge my duty conscientiously without voting for it. I regard the original resolution as an infringement of the rights of every Senator, and particularly of my own rights.

Mr. WADE, (Mr. FERRY in the chair.) Mr. President, I have opposed this resolution, and I have voted for an amendment entirely incompatible with it. My general course in the Senate, however, is in all cases where nothing but matters of expediency are involved, to conform to the wishes of a majority of the party with whom I usually act. But there are some

questions, in my judgment, about which a Senator has no right to conform his view to that of the majority, and I take this resolution to be one of that class. In that I may be entirely mistaken; but certainly this is, in my judgment, one of the most dangerous precedents that the Senate could possibly set for itself. It has been the policy of this body, so far as I know, at all times, to oppose all attempts to limit even debate upon subjects. We have no previous question. We suffer a great deal undoubtedly from extended debate, unnecessary debate, but this body has never thought it best to limit it at all. But here you not only propose to limit debate, but to limit the very subject of debate, to deprive the representative of a State of the right of bringing forward for the consideration of the Senate those questions that his constituents may instruct him to bring here. I have no right to disregard the will of my constituents and say that I will vote for a measure that will prevent me from bringing their wishes before this body. At least I think so; and if I supposed I had a right to do it, I should believe, as I said before, that it was a most dangerous precedent. How would a minority in this body like such a rule as this in high party times? Gentlemen might come in here and say, "We have determined at this session that you shall bring forward only just such measures as we see fit that you shall act on; we limit you by rules of this body to certain definite and specified subjects for consideration; and others you shall not touch, however important your constituents may consider them." A State may consider that she has the highest interests to be brought forward by her representatives in this body for the consideration of the body, and yet if a resolution of this kind can be adopted, maintained, and enforced here, you strike dumb the mouth of your constituents, no petition upon any subject however important can be brought before the body; nor can a representative here state its importance, although his constituents may regard it to be vital.

Sir, I can go for no such resolution as this, and I think it totally idle and unnecessary. I believe it will extend your session infinitely almost if you adopt it; for it will take longer to ascertain what comes within the limit of such a crude resolution as this than it would be to debate all the subjects presented. You will find it will be a constant subject of debate whether whatever measure is sought to be brought forward here comes within this rule or not. It confines us to measures of reconstruction, a question as wide as the ocean. I do not know what may not be brought here under that head and be said to be upon the subject of reconstruction. Certainly I should judge the measure of the Senator from Massachusetts [Mr. SUMNER] which is to give universal suffrage by act of Congress, to be upon the subject of reconstruction, and I think one of the most efficient measures to that end; and yet gentlemen seem to suppose that that is within the scope of the excluding clause of this resolution. There may be measures standing out so palpably apart from the subject of reconstruction that we can see that we are not allowed to take them under such a resolution. We would not go into matters of finance. We would not go into matters of military concern, perhaps; and yet the military affairs of the Government are so intimately connected with the subject of reconstruction that I hardly know where you could draw the line.

I do not think the resolution will accomplish the object that Senators wish to attain by it; but if there were no other reason than this for not conforming to the conclusion of the majority, as I understand they have consulted on the subject and come to this conclusion, I should forego the opinion I entertain as to its expediency and vote for it; but when I see that it deprives a Senator of the right to bring forward a measure that he deems important, and to urge it upon the consideration of Congress; when I see that it deprives a State of the power to instruct its Representatives what to

do; when I see that it not only cuts off debate, but limits the subjects of debate; when I see that it sets a precedent of the greatest danger in high party times that would shut out the minority entirely from the consideration of any of those subjects that they might deem important, I cannot consent to vote for it. I ask my friends here who were in this body years ago, when we were in a lean minority, how they would have felt if the ingenuity of our enemies had then conjured up such a rule as this, and they had been told "You shall not debate the subject of slavery, you shall not present a petition, you shall offer no bill upon the subject, you shall not agitate it at all in the body." It would have been a mighty convenient thing for them; and it may be so again.

Sir, I do hope that no such precedent will be set; that no such detriment to a minority will ever be successfully urged here. I can view it in no other light. This is almost the first time where when consultations have been had by my friends and a majority of them have arrived at a conclusion, I have differed with them; but I cannot see that I have a right to agree to this proposition, inasmuch as it deprives my constituents of the right of bringing forward through their Senators such measures as they deem important. You may reject their measures, but you cannot, consistently with the rights of a Senator on this floor, turn your backs upon what he sees fit to bring forward.

For these reasons I shall vote against the resolution; and I shall vote for the amendment.

Mr. FESSENDEN. Mr. President, I do not see the danger that the honorable Senator from Ohio does in the course proposed to be adopted. It is undoubtedly the right of the majority of the body, whatever may be the consequences, to decide what shall be the order of business, what business shall be taken up, and what business shall be omitted; and to say that subjects other than those desirable to be considered shall be laid upon the table, and not considered. The power that the majority has over the business of the body in these particulars is unlimited. The danger of the precedent is, as in all other cases, that a majority may abuse its power; it may go too far; it may outrage the rights of the minority; but for all that it is responsible to the people; and if it does abuse its power, if it does outrage the rights of the minority, if it does exclude from consideration subjects that ought to be considered, it is responsible to the people, and the people will change that majority into a minority; and there is the remedy. But to say that the majority has not the right to decide at its own will and pleasure upon what business shall be done, and how it shall be done, and when it shall be done, is disputing a right which has been recognized in all legislative bodies so long as legislative bodies have existed; and in our system the remedy is a simple one and a rapid one, with the changes that the people can make in the representation at any time they see fit to do it.

Why, sir, the other House has already passed a rule substantially the same as this, as I understand; I have not read it. Have they violated the rights of the people? Sir, this is always the argument which you hear; a minority does not like to be a minority. If gentlemen happen to be in a minority and it does not suit them, then there is a cry of a violation of rights, and that there is danger in the precedent; the wisdom of the majority, and the patriotism of the majority, and the good sense of the majority, are such that they cannot be relied upon at all against the wisdom of a minority, though the relative numbers may be twenty-six against six, for example, according to the vote we took a few minutes ago.

Now, sir, I apprehend that the business of the country and the business of the Senate and the interests of the people are as safe in the hands of the large majority of this Senate as they are in the hands of a minority, and that we hear quite enough about the violations of our duties, and quite enough about the dangers arising from the violations of our duties,

because we cannot see with the eyes of others. Certainly, we hear as much of this as is respectful to the majority, if it happens to be addressed to the majority. But, sir, that is not the argument. The Senator from Ohio was not present at the consultation. He speaks of what he has hitherto done. Hitherto, I suppose, he has generally acted with the majority, and it has been mighty satisfactory to him; but now he does not happen to be responsible, for he was not present.

The Senator from Wisconsin denounces this resolution as a crime. Who is to judge? Is it a crime if, when a proposition is brought forward in this body, the body at once votes that it be postponed to the consideration of the next session of Congress? And yet, what is this but saying that all subjects save one shall be postponed to the consideration of the next session of Congress? It includes a larger mass, but the principle is the same. What right have we to say, when a petition is presented, that it shall be laid upon the table and not referred? It is a crime because somebody's constituents have requested that that petition shall be presented. What right have we to say, when a bill is offered, that that bill shall without consideration be postponed to a future session of Congress for action? Simply the right of exercising our own judgments and taking our own responsibilities, nothing more. Because this resolution happens to include more than that the principle is not changed in the slightest possible degree; the responsibility is greater; and if the larger number of individuals choose to take it they have a right to take it, and they are not to be denounced as committing a crime for so doing. They must judge for themselves in reference to that matter. But, sir, what I complain of in this particular is this: when gentlemen go into consultation with their friends and make no protest whatever against having the result of that consultation acted upon, they agree impliedly and expressly, in my judgment, that they will be bound on that subject by the decision which their friends came to, unless they give notice to the contrary; that is to say, in case they continue to act on the subject to the end. It has been always so hitherto; and what I say now is simply, with all respect to gentlemen, that if they did not mean to be bound by the decision of their friends, they should not have gone into the consultation.

Mr. SUMNER. Who knew what was to be the subject of the consultation? I did not.

Mr. FESSENDEN. The Senator certainly knew before we got through, and before he voted and found himself in a minority.

Mr. SUMNER. Very well.

Mr. FESSENDEN. Very well; why did he vote then if he did not mean to be bound by the majority?

Mr. SUMNER. I will answer.

Mr. FESSENDEN. Why did he defer it until he found that he was not in a majority and then say he is not bound? The time of taking the exception is what I allude to.

But, sir, on such matters every gentleman must judge for himself. I impute nothing to anybody. I have stated what my opinion is; I conceive myself under that obligation; and now I say that gentlemen who differ with me on that point, if they act upon the conclusion which they seem to have come to, advertise me that if ever I go into a consultation with them and find myself in a minority, I am at liberty, after I have voted and agreed to submit the subject to a vote, to come out and say, "My conscience impels me to violate my plighted word!" My conscience does not act in that direction, sir. Other gentlemen can do as they please.

Mr. SUMNER. Mr. President, I should not have said another word on this occasion but for some of the topics that have been introduced by the Senator from Maine; but before I allude to those particularly, allow me to answer his argument so far as I am able to appreciate it. He will pardon me for saying that he confounds right and power. Unquestionably the Senate has the power which the

Senator from Maine attributes to it; but it has not the right. A jury, as we know according to a familiar illustration, in giving the general verdict has power to say "guilty" or "not guilty," and disregard the instructions of the court, but I need not say that it is a grave question among lawyers whether it has the right. Now, I submit that assuming that the Senate has the power which the Senator from Maine claims for it, it has not the right. It has not the right to disregard the spirit of the Constitution; and the proposition now before you is of that character. The Senator from Maine does not see it so, I know, for if he did he could not give to it the weight of his character and support. Others do see it so; and if they do see it so, the Senator from Maine must pardon them if they act on the lights that are given to them. The Senator would not vote for a proposition that he regarded as hostile to the spirit of the Constitution. I think too highly of him to attribute to him any such conduct. Can he expect others to do what he surely would not do himself? This is my answer to the argument so far as I understood it. Perhaps I do not do justice to it; yet I try to.

There was still one other point of argument, according to my recollection. The Senate, so the Senator argues, may postpone an individual measure to the next session. Grant it: does it follow that they may postpone, immediately on their arrival and opening the business of a session, the whole business to another session?

Mr. FESSENDEN. They can adjourn on the next day, or on the day they meet, if they please.

Mr. SUMNER. Very well; I agree with the Senator; but so long as they continue in session as a Senate, then I say under the Constitution of the United States they must attend to the public business of the country. They cannot tie their hands in advance by any such resolution as is now proposed. To do so is to violate the spirit of the Constitution. The Senator from Maine cannot have forgotten the Atherton gag, to which I referred before, without naming it, however. How was it regarded at the time? Was it not justly an offense and a stench in the nostrils of every patriot citizen? Has it not left a bad name upon the successive Congresses that recognized it? What was that? It was simply a declaration that they would not receive petitions on one certain subject; and now, under the lead of the Senator from Maine, we are to continue in session an indefinite time and to receive no petition, no bill, nothing on anything except on one specified subject. Now, I submit, if the Atherton gag was unconstitutional, if it was odious, if it was a bad precedent, then you are very rash in going forward now and establishing this much broader precedent. Do not condemn the offensive legislation of the past; do not condemn those slave-masters who were once so offensive in these Chambers; you tear a leaf out of their book and print it in capital letters; you go further than they: you out-Atherton Atherton; you impose a gag not upon petitions merely, but upon everything else, except on one subject.

The Senator from Ohio has, with unanswerable force, depicted the offensive character of this precedent, and he has taught us how, now that we are a majority, we should hesitate to set such an example for the future. How should we feel, he has aptly reminded us, if, as a minority, we had such a cup handed to our lips by a patriot Senator? Surely we should have felt that for the time patriotism had departed.

As I have said, I should not have been betrayed into these remarks now but for other topics that were introduced by the Senator from Maine. When I opened this debate this morning, Senators will bear me witness, I made no allusion to any consideration or discussion elsewhere. I did not think a caucus a proper subject to be introduced into this Chamber; nor did I attribute to it anything of the character which the Senator from Maine

does. He makes it not merely a sacred, but a *sacro-sanct* pact, by which every one who was at the meeting is solemnly bound. Why, sir, what authority can there be for any such conclusion? I allude to it now, in detail, because it has been introduced into the debate; bear me witness, I did not introduce it. Senators went to that caucus, I presume, like myself, without knowing what was to be considered; and let me confess, when the proposition, in its first form, was presented, I was startled by its offensive character. I could not believe that a Senator, knowing the responsibilities and duties of a Senator, and who had taken the oath of a Senator, could introduce such a proposition. Well, sir, discussion went on. The proposition was amended, modified, mitigated, lost something of its offensiveness in form, but it still remained substantially offensive. During the discussion, I am not aware that any Senator suggested that it should be adopted as a rule of the Senate. If any one did, I did not hear it, though I paid close attention to the discussion. I do not think the Senator from Maine made any such suggestion. I certainly never supposed that anybody would propose such a rule to the Senate. So far as it was to have any value, I supposed it was to be the recorded result of the deliberations of political associates, which should be, so far as practicable, a guide for their action, but not to be embodied in a perpetual record to the dishonor of this Republic. I did not suppose it. When at the last moment, after the vote had been declared, to which the Senator from Maine refers, and to which I should have made no allusion if he had not brought it forward, I rose in the caucus and said, "I will not be bound by any such proposition." When it had arrived at the stage to which I refer, the Senator from Maine will not forget it, for he interposed a remark which I will not quote now.

Mr. FESSENDEN. You had better quote it. I said, "Then you should not have voted on the subject if you did not mean to be bound by the decision of the majority."

Mr. SUMNER. To which I replied, "I am a Senator of the United States."

Mr. FESSENDEN. I did not hear the reply.

Mr. SUMNER. It was the reply made with a loud voice.

Mr. FESSENDEN. I did not hear it.

Mr. SUMNER. I replied, "I am a Senator of the United States." What did I mean by it? Precisely what the Senator from Ohio, the Vice President of the United States, has so ably developed to-day; that as a Senator of the United States I had no right to come into this Chamber and barter away the rights of the people of the United States."

Mr. FESSENDEN. Did you say that?

Mr. SUMNER. I say I replied that I was a Senator of the United States; and what did I mean by that? That my obligations as a Senator were above any vote in a caucus; that I had no right to go into any caucus and barter away unquestioned rights on this floor. We are all under obligations here to discharge our duties as Senators. We cannot in advance go forward and tie our hands. I have not said in so many words, "You violate the Constitution in doing it." Perhaps better reflection would lead me to adopt the stronger language and say, you violate the Constitution of the United States. I feel plainly, clearly, beyond doubt, that such is the character of the Constitution of the United States, and such are our obligations under it, that we cannot without a dereliction of duty adopt a proposition like that which we are now asked to agree to. So I see it; I cannot see it otherwise. And now I submit to my associates and colleagues in this body, with whom I am proud to act, whose good judgments I value, whether they would have me, feeling about this proposition as I do, seeing it as I do, act otherwise than as I do. Should I not come forward and frankly, as one of your associates and brothers, anxious for the good name of this Senate to which we all

belong, proud of this Republic whose honor we hope to bear aloft, and anxious that no precedent should be established which may hereafter be brought to our detriment, should I not come forward and enter my protest; and in doing so should I be exposed to some of the rude suggestions that I have encountered? Should I be told that one may not go into a caucus and assist in the debate on such a proposition, and then not appear again in this Chamber except with the bands of the caucus upon his hands; for that is the suggestion of the Senator from Maine.

Mr. FESSENDEN. The Senator will please not misrepresent me.

Mr. SUMNER. Certainly not.

Mr. FESSENDEN. The Senator says, "You may not go into caucus and assist in the debate." That I do not object to; but you may not in my judgment go into a consultation—call it a caucus or what you will—where the implied obligation is that the question under consideration is to be settled by a majority, and not only debate but vote, and then, finding yourself in a minority, say, "I am not bound."

Mr. SUMNER. And then when at the last moment the proposition is brought forward to make it a rule of the Senate, I solemnly protest. When could I have protested?

Mr. FESSENDEN. The Senator does not protest until after he votes and finds himself in a minority. Then he protests.

Mr. SUMNER. No; I think the Senator should—

Mr. FESSENDEN. No, sir; the vote was taken.

Mr. SUMNER. Very well, vote or no vote, it makes no difference.

Mr. FESSENDEN. That is what I complain of.

Mr. SUMNER. Yes, that is what the Senator complains of. I say it makes no difference. No caucus could constrain any person on such a question. It was our duty to stay in that caucus and resist the offensive proposition to the last, and then afterward wash our hands of it. Senators, if they choose, may take it in their hands and bear it into this Chamber, and try to enshrine it in the rules of this body. If it is placed there I know it will do no good; it will stay there to the dishonor of this country and as a bad precedent for the future.

Mr. FRELINGHUYSEN. Mr. President, as I expect to vote on this subject, and as the discussion has taken a very broad range, I desire in a very few words to state the ground of my vote.

As to what the obligations of the caucus are, that is a question which each gentleman I suppose must necessarily always settle for himself, and on that subject I have nothing to say.

If this proposition, that which is offered by the Senator from Rhode Island, were introduced at an ordinary session, while the Senate would certainly have the power to adopt it, I should agree with the Senator from Ohio that it would be a very bad precedent, that it would be an improper exercise of power, that it would be depriving the people of their rights, that it would be taking from the Senate many of its attributes, and would be highly reprehensible. But that does not happen to be the case by any means. By the very framework of our Government, from the 4th of March to the first Monday of December of each alternate year the people of this country have agreed that they will not have the benefit of a session of Congress. This is that alternate year, and this is that period. So we certainly do not violate the framework of our Government if we withhold from the people, during the period that they have agreed that they will forego it, the blessing of our legislation.

This is an extraordinary session, a most extraordinary one. Nobody expected any session of Congress here now. It is by reason of a strange opinion that has been given by the law officer of the Government in reference to the legislation adopted at our last session, when

we thought that we established a military power, when we thought we made the governments of the so-called rebel States subordinate to that military power, but to our surprise find that we established these governments and made the military power of this country a mere police force. That is what has brought us together here; that is the one thing, nothing else. And what do we propose? We propose that the business of this session of Congress shall be confined to the one subject that brought us here, and in that all the people concur. Public sentiment—I think I may invoke it—calls upon us to discharge that duty, and then to retire. I do not see that we rob the Senate of its attributes by this proposition, any more than we rob the Senate of its attributes when we set down a special business for a particular day. Instead of its being for a particular day, it is for the week or ten days that we may be here, having come here to attend to that particular business and that alone.

We have had here this morning a discussion in reference to the Indian question; and what does it all amount to. There is not a Senator here that has a proposition to make as to legislation: that is to say, the whole debate did not draw out a single proposition as to the legislation in reference to the Indians. If there is any need of legislation, and if it shall be stated, the same vote which passes this rule can relieve the rule so as to admit of that legislation.

I trust that the Senate will adhere to its purpose of transacting the business for which we assembled here, the business which the public expect us to attend to and nothing else.

Mr. DRAKE. Mr. President, I should not have undertaken to say anything upon the question now before the Senate but for the wide range which the debate has taken, and for the statements which have been made here in the Senate with regard to the consultation that took place among the Senators composing the majority. As I shall have to vote upon this resolution, I wish to say a few words in explanation of the course which I shall take.

When that consultation began, it is quite true, as stated by Senators already in this discussion, that no one knew what was to be the subject-matter of the consultation. It went on, and the final action of the members present was had embodying a proposition the substance of which is now before the Senate in the resolution pending. It was not until after that proposition was adopted that anything was said whatever, formally or informally, that I remember, about introducing such a proposition into the Senate as that which has been introduced to-day; and I was completely taken by surprise when, after the main proposition had been adopted, a second proposition was made that that should be introduced into the Senate and offered as a resolution here. I voted against it.

And now, sir, I have thought, with a great deal of anxiety this morning, as to the course which it is proper for me to pursue here in reference to this resolution. I have listened to the arguments which have been advanced by Senators, and I have come to the conclusion that the whole of that consultation was a mistake, so far as it could have any binding operation or force on our action as Senators in this body. I did not go into the consultation expecting that the results of it would be presented here in the shape of a formal resolution to be binding upon this body. I do not think any such thing should have been done. I am of the opinion that it is altogether wrong that we should undertake thus to bind ourselves. I was not of that opinion day before yesterday; subsequent reflection and conviction, and what has been said on the floor of the Senate, have convinced me that it is wrong to do that thing. I therefore feel constrained by a sense of duty to give my vote against the proposition that is now before the Senate.

Mr. HOWE. Mr. President, I am not so familiar with the history of this country as I wish I was. I do not know whether it has ever

happened hitherto in the history of the country that a Senator has been arraigned before the Senate for a violation of a duty to a partisan caucus. If there ever has been such a trial before, I hope there never will be such a trial again. It seems to me that whatever a political partisan may do in violation of his duty to his party should be heard and determined by the councils of his party alone, and that one of the constitutional tribunals of the nation, constituted, I suppose, for very different purposes, should not be obstructed with hearing such causes or such complaints. Still, as the cause has been dragged here, I thought it proper to say a few words in defense of myself, being one of the delinquents and compelled to be here. In reply to the few remarks that I made at that time, the Senator from Maine [Mr. FESSENDEN] has offered some suggestions, in reference to which I have but two criticisms to make: first, that so far as he replied to myself, he replied to an argument which I think I never made; and second, that his reply did not seem to me very conclusive. He represented me as having denounced this measure before the Senate as a crime. I do not think I did indulge in any such denunciation. If I did, I wish to take it back. I certainly do not regard it to be a crime at the common law, and I know of no statute which defines it to be a crime. Besides, if it were to be indicted as a crime, I am bound to suppose the prosecution would fail for another reason. I do not suppose the prosecution would be able to establish the fact of a criminal intent. So I did not mean to denounce it as a crime, and I do not think I did denounce it as a crime. That it seems to me to have some of the elements of a crime I will not deny. I did undertake to say, and in a few words to show, that I thought it changed the character of this body: that it deprived it of its essential features and attributes. I cannot help thinking so. I was not ambitious of proving it, and I would not urge a word further in support of that idea if it were not necessary, or did not seem to be necessary, to my own vindication.

This body in which we now sit and reason together is one of the coordinate elements of the Legislature of the country. It is a body in which I, moved by any portion of the people of the United States, may offer a petition, a memorial, a remonstrance to-morrow or any day of our sitting. It is one in which I may offer, upon one day's notice a bill which I or any portion of my constituency or any portion of our common people may think necessary for the redress of a public grievance, or the redress of a private wrong. That is what the body is to-day, and what it will be if you do not pass this resolution. It does not follow, because I offer this petition, that its prayer must be granted. It does not follow, because I offer this bill, that the Senate must agree to it. You never do any such thing. When I offer a petition, in order that you may be advised whether its prayer should be granted or not, you direct its reference—to whom? To one of the committees of your body, supposed to be specially adapted to the work of investigating that question and determining whether it should be granted or not. When I offer a bill you refer it to one of the committees of this body to whom it pertains. Why? To be advised by the investigations of that committee whether it be proper to consider that bill or not. What will be the Senate if you adopt this resolution? Without the advice of any of your committees, I have got—and so has every other member—to procure the assent of a majority of the Senate before a bill can be introduced for its consideration in some way, and the way I do not and cannot possibly understand. I have got to get the Senate to hear a bill which you will not allow to be introduced; and I have got to induce you to hear it and to assent to it before I can get it here into the door of the Senate Chamber. And then you propose to call this the Senate after that is done.

Mr. President, this proposition has been likened to the setting down of a bill to be heard



on a particular day. It bears no possible similitude to that; or if it does I cannot see it. While you are here you must—it is a proper act of legislation, it is a proper act of deliberation—regulate the order in which you will transact the public business. You cannot hear but one bill at a time; and you do not wrong the country, unless you misjudge; when you say, "We will hear this bill to-day, and consider the other bill to-morrow," or *vice versa*. That is a proper act of legislation. It is no improper act of legislation to say by resolution that you will give the preference to this or that measure over any other; and let me say right here that that is the furthest which, as I understand the precedents, any Senate or any House has ever gone before. The very precedent introduced by the Senator from Maine as authority for this is no precedent, if I do not greatly misunderstand it. In that resolution the Senate did not say they would hear one measure or one set of measures to the exclusion of others. They said they would hear them in preference to other measures. This proposes to say on an ordinary session of the Legislature that they will hear one measure to the exclusion of all other measures.

But gentlemen say that this is not an ordinary session of the Legislature, that it is an extraordinary session of Congress. I do not so understand it. The Senator from New Jersey reminds us that those who framed the Government did not contemplate a session of the Legislature at this time, that in fact they agreed not to have it. I think the Senator is mistaken. I think they simply agreed that in alternate years the regular sessions should commence on the first Monday of December unless Congress otherwise directed, and I do understand that Congress provided for the assembling of this Legislature in ordinary session on the 4th of March last. I have the act before me:

"That in addition to the present regular times of meeting of Congress there shall be a meeting of the Fortieth Congress of the United States and of each succeeding Congress thereafter at twelve o'clock, meridian, on the 4th day of March, the day on which the term begins for which the Congress is elected."

How can this be called an extraordinary session when your statutes provide for just such a session, commencing on the very same day at the commencement of every succeeding Congress after this? And you have never agreed, Mr. President, that the business of this session was concluded. Whenever that time comes you have an undoubted right to say so, say so upon the official responsibility of each one of your members. That you have never said; but on a certain day some weeks ago—I do not remember on what day you did agree to adjourn the two Houses until the 3d day of July. That is what you agreed to do. You agreed that there was then no such urgent necessity for legislation but what you might adjourn the two Houses until the 3d day of July. The 3d day of July came. You did not know that there would be a quorum of the two Houses here, and in view of that contingency, you provided in that act that if a quorum did not appear on that day the Presiding Officer of each House might further adjourn the Legislature until, I think, the first Monday in December. So that we never have deliberately decided to close the business of this first session of the Fortieth Congress. I must submit, therefore, that this is an ordinary session of Congress. But, then, I agree with all my friends about me, that there is one question which I deem of paramount importance. It is excepted in the resolution submitted here by the Senator from Rhode Island. Whenever we are called upon to act upon that subject I am willing to act on that to the exclusion of all others; but when there is nothing to be done upon that subject, I ask why in the name of Heaven the Congress of the United States, paid for three hundred and sixty-five days' work in every year, should sit here with its arms folded waiting for some legislation to be prepared upon that subject, doing nothing; and it may be with large bodies of the American people who pay us these salaries clamoring at our doors for us to act.

What answer shall we give them? No answer is suggestive to us except the fact that a caucus has somewhere sometime agreed that we will not do anything except upon one question.

Now, as I said before, I disclaim the idea of this being a crime. The Senator from Maine is mistaken as to my grievance. He assumes that we are not willing to be a minority. Why, sir, I was never more willing to be in a minority in my life than I am on this very question. I was perfectly content to be in a minority, if the Senator would let me be in a minority; I would have been there and would have been perfectly quiet, but I thought he was not disposed to allow me the right to be in the minority, that he denied to me that poor privilege, as he concedes it to be. I should not have said a word but for the fact that it was said here, and as I thought very inopportunistically said, that this matter had been considered and adjudicated, and all true disciples—I claim to be one—were bound to follow the adjudication, and do it silently and unquestioningly. As I happened to be one of those who felt that this was a question on which a caucus had no right to guide my action, and as I said at the time that I could not be guided by it before I voted, and not after I voted, I felt bound to say to the Senate why I could not vote for this resolution. I did stay and vote after I had made that declaration to my fellows, to my compatriots. I say so, for it seems that caucus must be brought before the Senate and canvassed. The Senator from Maine, I understand, thinks I should have withdrawn. No, I think not. Being so ardently attached to the welfare of the Republican party as I am, I thought it was my business to stay there and keep my Republican friends off what I thought a rock, on which they might possibly split; and I know it is not a small shoal that can knock the Republican organization to pieces; but then I thought I would try to keep them off, not merely by the few words I said, but by the vote I gave. I did not understand at the time I gave that vote that I was cutting myself off from the right of private judgment thereafter, and I think it is a new rule. But as I said once before I must say again upon this and all other party questions, I hold myself amenable to the party whose law I am supposed to have violated, and not to the Senate, for as yet I have violated no rule of the Senate.

Mr. YATES. Mr. President, I certainly do not desire to protract this discussion; but having taken the position that I did in the earlier part of it, I desire now to explain the vote that I shall give upon the pending amendment. I would remark, however, by way of prelude that I should have considered the arguments of the honorable Senator from Missouri and the honorable Senator from Ohio and other Senators as very proper in the consultation which we had when we were discussing the question whether we would adopt this resolution or not. It is idle to say that we did not understand what we were going to discuss on the meeting of that consultation. It is idle to say that we did not intend to be governed by the deliberations of that body. Those of us who are familiar with the consultations of party caucuses, if you choose to call them so, understand distinctly that when we go into caucus upon any question to ascertain what the will of the majority of that body is, we meet for the purpose of acting together in favor of the will of that majority. The arguments which gentlemen offer are, I confess, good against caucuses altogether. I have always been opposed to caucuses; I am now; they often subvert the will of the people; but after we have deliberated together as a party, and a majority have decided then to say that we are not bound by that decision in introducing a new rule into the well-known history of American politics.

Sir, there is no speech that is a good speech which is not applicable to the facts of the case we are considering. When the honorable Senator from Ohio with his great *prestige* talks about our having surrendered our rights, the rights of our States, the right of petition, and

every right that is dear to our people; and when the honorable Senator from Massachusetts chooses to characterize the proceedings of such a body as we have by the designation of the Atherton gag, I cannot but think that—

"Resembles ocean into tempest wrought  
To waft a feather or to drown a fly."

I do not allow the honorable Senators from Ohio, or from Wisconsin, or from Massachusetts to magnify the facts of the case. The facts are plain and simple. There is no question of the surrender of the great and inalienable rights of the American citizen or the American Senator. What are the facts? We had our session of Congress, and we were afraid that the President of the United States would thwart the objects of Congress, and we concluded to hold ourselves in position to do what? To pass new laws, to have new legislation, to do something which we were not intending to do at the time? No, sir; but we agreed to hold ourselves in position to maintain and support what the Congress of the United States had done. That was the object of this session of Congress. That was what I contended for, and what the honorable Senator from Ohio contended for. But now instead of coming here these hot days and doing what we intended to do, carrying out the object for which the session was called, it is proposed to make this a regular, long, protracted session of Congress, embracing every subject of legislation.

I say I do not allow the honorable Senator from Ohio or from Massachusetts, or any other Senator to magnify the facts of the case and to hold me responsible for surrendering my rights and my opinions, or the rights and opinions of my State. I confine them to the simple issue, to the simple question in the case. I say that the American people was pleased with the action of Congress. I say that it was working well, that it will work well, and that we shall come near reconstructing the Government under that policy if it is carried out.

Now, sir, as a Senator, I am willing to stand by and support in the main, almost in every particular, the action of the consultations of my party friends. There may be, however, after the action of a caucus, such a thing as further information showing the necessity for something not considered in the deliberations of that caucus. I cannot object, for instance, on this occasion to the exception proposed by the honorable Senator from Kansas, [Mr. Ross,] and the honorable Senators from Nebraska, and those men who live in the immediate vicinity of the Indian disturbances which have recently broken out. I think the exception they propose is one which we may well make, and one which every one in the caucus would recognize, as was stated by the Senator from Rhode Island in his first speech. I do it upon the ground that it is something we have to recognize; it is something that is superior to the decrees of Senates and the decisions of caucuses. I mean a state of war. If Congress is in session during the existence of war, we cannot ignore that question. Therefore, as a Senator, if I choose to make this exception, believing it a good one as I do, and vote for this amendment, in view of that state of war which now exists, I do not mean thereby to take, and I never will take, the ground which has been assumed in this debate, that we are not bound by the deliberations which we as Senators hold when we get together. Why do we get together? Why do we argue at all? Why do we have a caucus at all? What do we go there for unless to ascertain the opinions of the majority, and to act in accordance with those opinions? Now, sir, there is one of two things, and it commences this day: that the decisions of such consultations have to be carried out, or this day begins the death of any consultations by the majority in the Senate.

Mr. SUMNER. Mr. President, it is evident that this debate has opened a broader question than we imagined at first. Doctors disagree.

The learned Senator from Illinois differs from the learned Senator from Maine. One expounds the obligations of the caucus in one way and the other in another. Now, I am clear that this ought not to be brought to a close without some defined code of caucus, and it seems to me that the learned Senators who are so swift to judge others who cannot accept the conclusions of the recent caucus, ought to supply us with this code. It should be reduced to a text. We should know to what extent one is bound, and what not; whether the Senator from Illinois who refuses to be bound by the caucus in one point, which was fully discussed, is a man of honor; whether another Senator who refuses to be bound on other points is a man of honor. That question could be settled, it seems to me, by some explicit code in advance, for we have been admonished in the debate that we cannot differ from the caucus without a departure from propriety, if not from duty; and I do not know that some stronger language has not been employed. If it has I will not quote it. However, it seems to me that this should lead us to a practical conclusion, and it is this: to have nothing to do with a proposition which can only be discussed through such avenues, which requires such refinement of detail, with regard to which the Senator from Illinois makes one exception, and other Senators other exceptions, and to which other Senators entirely object. Now, I am at a loss to understand how a Senator who says—I wrote down his words here—"that no Senator can be superior to the decrees of caucus;" those were words of my excellent friend. I am at a loss to know how he can undertake to graft an amendment upon a proposition born of a caucus brought in the arms of our President into the very presence of the "Conscript Fathers," and here laid before us. I am astonished that he should undertake to vote for any change in that proposition after the avowals he has made.

Mr. YATES. What are the words?

Mr. SUMNER. The words I took down, are that no one should set himself up as superior to the decrees of a caucus. Those were the words of the Senator as I wrote them down. Now I am not going to complain of the Senator. I believe he is doing right; but then I wish him to understand that other Senators on this floor may have the same privilege that he claims for himself, justly and worthily claims; it is his title. I recognize the Senator as a man of honor, though he does refuse to carry out the decrees of the caucus. I believe that every Senator here has his responsibilities as a Senator, which are above any he can have to a caucus. What is a caucus? It is a meeting of friends for consultation and for harmony, where each gives up something with a view to a common result; but no man gives up a principle; no man gives up anything that is vital. No Senator can expect another Senator to give up anything that is vital. No Senator can expect another Senator to sacrifice a principle. I will not imagine that any Senator would sacrifice a principle. If a Senator expects another to accord with him under the sanction of a caucus, I know full well it is because he does not see it in the light of principle; but if another Senator does see it in the light of principle, how can he be expected to act otherwise than according to his light? It is not given to all to see with the same clearness that some of the caucus defenders unquestionably have. Theirs, I know, is the pathway of light; they see the obligation as completed. Others cannot see it so. I am in that list. I cannot see it as a final obligation. For one I have been present in many caucuses, and I believe, looking over the past, I have harmonized reasonably with my associates. Sometimes I have been obliged to differ from them and have expressed that difference, and it has generally been received with kindness. The other day I expressed the same difference, little expecting, however, an arraignment on this floor. But now my excellent friend from Illi-

nois opens the door to all of us most generously to vote against the resolution or any amendment to the resolution, just as on our conscience we please. The Senator from Illinois is too good a Senator not to know the obligations of a Senator, and he would not seek to put any member of this body in a straight-jacket according to the rules of a caucus.

Mr. YATES. They put themselves there.

Mr. SUMNER. The Senator says they put themselves there; but suppose they feel as the Senator from Illinois now feels, that the proposition which was adopted in the caucus was not a good one. That is the conclusion of the Senator. He proposes to sustain an amendment to it; he sets aside the conclusion of the caucus. Can the Senator claim for himself anything that he would not accord to another?

Mr. YATES. If the honorable Senator will allow me, I will just say in reply to that, that it is republican that the majority shall rule, and in yielding to that principle I do not surrender any right that I have. If I agree to be governed by the decision of the majority, I do not consider that I am surrendering my rights. That is the position I assume. If a Senator goes into a consultation whereby it is implied that he shall be governed by the majority, and the question under consideration is decided against him, and he then acts with the majority, I consider that he has had every right according to our republican doctrine that the majority shall rule.

Mr. SUMNER. But if I understand my friend from Illinois, he does not accept the conclusion of the caucus; he is going to ingraft an amendment on that same proposition.

Mr. YATES. The honorable Senator will allow me to say that I stated that there were exceptions, inevitable exceptions, and I regarded this case as constituting an exception that was inevitable, that we could not control, that we had no power to control. I said there was a state of war, and we could not ignore the existence of a state of war.

Mr. HOWE. Who has declared war?

Mr. YATES. The honorable Senator from Wisconsin was within a rod and a half of death's door according to his own statement. War already exists in the Territories. I think it is made plain by the honorable Senators from Kansas and Nebraska that a state of war exists there, and I have no doubt our people are being slaughtered in great numbers. Indeed I know that such is the case, for I have been in the midst of these hostilities myself. Such a state of war existing, I say its exigencies are superior to the decrees of Senates or caucuses.

Mr. GRIMES. I will inquire of the Senator what legislation it is that he proposes Congress shall adopt in regard to that matter?

Mr. YATES. I am not undertaking to say. I support this amendment because these Senators assure me that these difficulties exist, that we are in a state of war, and that we must make appropriations to protect our people.

Mr. GRIMES. We all know that we have been in a state of war for several months, and we all know, too, that the whole machinery for carrying on war that existed during the recent rebellion is still in existence, that the Secretary of War or the President of the United States has the power to call upon any Governor of a State that he pleases and make a request for troops; and I was told by General Vincent last night that General Sherman has a *carte blanche* to call upon such Governors as he chooses. What are we going to do? What more can we do?

Mr. THAYER. On that very point allow me to say that I had a conversation with General Sherman, and he told me he could call on the Governors for troops; but, said he, "I cannot promise them that they will ever get a dollar of pay to meet the expenses." That is the difficulty. He told me he was met at every turn with that difficulty.

Mr. YATES. I had a conversation with General Sherman upon this subject; and if I

understood him, his policy was not to put down this Indian uprising by the regular Army, but by a volunteer force.

Mr. GRIMES. Has he not a right to call for it?

Mr. YATES. As I understand the honorable Senator from Iowa, he says that it can be called out now. I know not how that is. I know myself that is the only way to put down Indian disturbances.

Mr. GRIMES. So far as money is concerned there are several hundred millions of dollars now at the disposal of the Secretary of War, from old appropriations that have not lapsed into the Treasury.

Mr. SUMNER. Mr. President, when I was interrupted by my friend from Illinois—and I am always glad to be interrupted by him or by any other friend—I was considering the value of the caucus decision which has been brought forward into this Chamber, and I was calling attention to the difference among the doctors on the subject. The Senator from Illinois rises and gives us a further exposition. He says that he is in favor of the amendment to the pending proposition in order to meet something that is inevitable. That is his phrase now. The danger is inevitable, and therefore he will make an exception to the caucus vote. That very point was made in the caucus. The whole caucus has been so thoroughly exhibited to the Senate that I have no hesitation in declaring that. This whole subject of the danger from Indians was considered there, and some of the other topics which I have noticed, and in the face of those the caucus came to their conclusion; and now as I understand the Senator, while he upholds the caucus decision, he will yet in this case, which was thoroughly considered in the caucus, accept an amendment. Now, I submit to my excellent friend whether his conclusion does not entirely impair the value of the caucus conclusion except to this extent, where we all agree, that it is an expression of the opinion of our associates in this body calculated naturally to exercise a strong influence on the course of public business, to be received with respect, but not to be imposed upon this Chamber as a rule. I think that the remark of the Senator sustains that conclusion; indeed I cannot see any other inference.

Mr. YATES. Allow me to ask the Senator whether he did not submit himself to the same sort of decision in the reconstruction measures. Those matters were before a caucus and acted upon.

Mr. SUMNER. The Senator asks about the reconstruction measure. In the caucus on reconstruction I myself moved the proposition that in the future constitutions of the rebel States the ballot should be required. A division was had in that caucus. I allude to it now because I am interrogated openly in the Senate. A division was had; there were two stand-up votes, and my motion was carried by a vote of 15 to 13. By 15 to 13 in that caucus it was noted that in the pending bill we would require suffrage for all in the future constitutions of the rebel States.

Mr. EDMUNDS. And what would you have thought if the thirteen had repudiated that action?

Mr. SUMNER. It would have been a very different thing to repudiate a proposition in favor of human liberty and to repudiate a proposition that is against human liberty. That is just the difference.

Mr. FESSENDEN, (in his seat, in a very low tone of voice, apparently addressing a Senator near him.) Then, it is allowable to lie in one case, and not in another.

Mr. SUMNER. Does the Senator apply that language to any Senator on the floor?

Mr. FESSENDEN. I say that is a fair illustration of the remark made by the Senator if there is any obligation whatever. It is a simple statement. I do not mean that the Senator means to state what is untrue. Of course he could not put that construction on it.

Mr. SUMNER. I do not know. I make no allusion ever, except in respect to the Senator.

Mr. FESSENDEN. The Senator knows just what I meant by the remark; I did not make it for the reporters; but I say it is an illustration of his remark. When the question is put to the Senator what he would have thought if the thirteen had repudiated it, he says that is a very different thing, being in favor of liberty.

Mr. SUMNER. Very well; does not the Senator say the same?

Mr. FESSENDEN. I say there is no difference where a man promises to do a thing with a full understanding; he has no right to violate it, whether it is one way or the other.

Mr. SUMNER. The question is whether the man does promise it. There is the point.

Mr. FESSENDEN. Very well, then, my reply is that if there was no promise in the case of the thirteen to support the decision there is no promise here; if there was a promise in the case of the thirteen to be bound by it and support it, as they did, then there was a promise here. The Senator may make the distinction if he can.

Mr. SUMNER. I will make the distinction very clear. I have never said myself there was a promise in the case of the thirteen. I discussed it at the time with several friends, and the question was asked by more than one person whether the Senator from Maine was going to sustain the report of the committee on this floor.

Mr. FESSENDEN. The Senator from Maine did support it.

Mr. SUMNER. Very well. I say the question was asked whether the Senator was going to sustain that report on this floor; and I know that one Senator expressed to me the opinion that the Senator from Maine would not sustain it on this floor. The Senator draws that out from me by his inquiry. Had the Senator on his responsibility felt obliged to come into this Chamber and oppose that report, I should have been pained to find him on the side of human slavery, but I am not ready to say that he would have been constrained even on that proposition by the conclusion of a caucus. I will not say that he would not have been a man of honor had he followed out on this floor his conscience, if it so guided him. I made no such suggestion. No; there is a great exaggeration on this whole question of caucus, and I never have known the exaggeration carried further than it has been to-day.

Here is a proposition brought forward, I may say unexpectedly, almost the accident of an accident. I hesitated myself, a long time, whether to attend the caucus. I was not aware what was to be discussed. Nobody had mentioned to me in advance any subject. I went there; and the discussion went on, crept on, point by point. No human being suggested that we were to be called to make rules for the Senate. The Senator from Maine, as ardent as he was for the proposition, made no such suggestion, at least it did not reach my ears. At the last moment we were told that it was to be a rule of the Senate. I then objected. I am told that I should have objected a minute or two before. Well, that leads me to say that we then need this caucus code, to know precisely when, at what instant of time, the objection is to be made, so that it can be done with honor.

Now, sir, I am tired of this talk on this floor of honor in connection with a matter like this. This is too solemn; we are under too great responsibilities. Every Senator acts with honor. The Senator from Maine acts with honor when he seeks to impose a rule which I think offensive to the spirit of the Constitution. I do not say that he does not act with honor. The Senator from Illinois acts with honor when he says that he will not be bound by the vote of this caucus to a particular extent. Other Senators act with honor when they refuse to be bound by the resolution in any of its terms. Every Senator acts with honor.

He only acts otherwise who makes injurious accusations upon his associates.

Yes, sir, let us have this caucus code; if it is to be administered with such severity, let us know it in advance, its terms and its conditions: what extent of dishonor is to be visited upon those who do not adopt the conclusions of the caucus, and what extent of honor upon those who so steadfastly and violently carry them forward. Let us have the code. I believe, sir, that the true code for the Senate is found in the Constitution of the United States, in the rules of this body, and in the sentiments of right and wrong which animate every honest soul; and I believe that no improper advantage can be taken of any Senator by reminding him that he forbore at a particular moment to register his objection, just as if we were all there on trial, to be saved by speaking promptly. No, sir, it was no such debate; we were there with friends and brothers and associates, each respecting the sensibilities and the convictions of his associates.

Mr. FESSENDEN. I am sorry, Mr. President, that I feel called upon to say a word or two more. With regard to the side remarks which I made the Senator cannot, on reflection, suppose I meant to apply it in any other way than to lay down what I thought the natural result would be of the principle that he enunciated and the distinction he attempted to draw between an agreement to act in one way in a case favorable to liberty and an agreement to act in the same way with reference to a case of the contrary description. I think, with all his ingenuity, he can torture it into nothing more than that which I intended to intimate with regard to it, and therefore I made the explanation at the time.

Now, Mr. President, the Senator says that he thinks there should be a code upon this subject, so that all Senators may know when they go into a consultation of friends how far they are bound, and what they can do or can omit afterward consistently of what is considered personal honor. I suggest to the Senator, as he has dwelt upon that subject at length, that there is but one plain guide. There can be no written code of honor as reference to our system, as I never heard there was with regard to what was ordinarily called the code of honor when dueling was more fashionable than it is now, but simply with regard to what is honorable; what there is of it is written in the mind and heart of every individual. He cannot call upon another to guide him; he cannot call upon another to advise him; he knows what that sense requires of him, and he must judge of what it would require of others. He may misjudge.

Sir, I did not introduce the allusion to the fact that this matter had been consulted upon out of this Chamber. It was alluded to by two Senators before I spoke upon the subject. My friend from Pennsylvania was the first; some one else, I forget who, repeated it. That matter being thus opened, I thought I was at liberty to allude to the same thing, which I did, and I called upon gentlemen to say whether it was strictly in accordance with the usages of friends who meet in consultation of this description, and which I entirely justify and think perfectly proper, and in fact a duty with reference to the business of the Senate. I called upon gentlemen to say whether their proposed action, the speeches they were making, and the objections they were taking were in accordance with that honorable understanding with which every man is supposed to go into a consultation of that kind according to the usages of the Senate and of parties on both sides of the Senate. I made no imputation upon anybody, but I stated my own views, and I left it for them to judge.

Now sir that I defend, and I defend it without any written code. I defend it upon the judgment I form myself with regard to what is binding upon me, leaving other gentlemen to come to their own conclusions for themselves. Sir, I have often refused to go into a

consultation of party friends, when it was proposed to consider a bill which I thought involved important principles and of which I was in favor, or to which I might have been opposed, or a constitutional amendment, or the action of the Senate upon a question of importance with reference to the right of a man to hold a seat in this body. I have refused to go into consultation, saying that upon such a question I could not be bound by the opinions of others; I must judge for myself.

Mr. POMEROY. I do not like to interrupt the Senator; but he cannot have forgotten the consultation upon the admission of Colorado when the majority voted one way in the Senate and he the other.

Mr. FESSENDEN. Did I ever go into a consultation upon that subject?

Mr. POMEROY. I think so.

Mr. FESSENDEN. No, sir; and when it was proposed that it should be carried in, I with others—one Senator particularly who now sits before me—gave notice that it might go in, but we did not go in with it; we would be bound by no such vote.

Mr. POMEROY. We certainly went in.

Mr. FESSENDEN. No, sir.

Mr. POMEROY. We certainly did have a caucus on it.

Mr. FESSENDEN. The Senator may have had one with somebody, but he did not have one with me.

Mr. POMEROY. The Senator from Vermont I remember was in that caucus.

Mr. EDMUNDS. The Senator from Vermont was in, and before the caucus began (if we are to have these family matters brought before the world and spread abroad) the Senator from Vermont distinctly stated that if the caucus expected any one to be bound to anything but an interchange of views he would retire then.

Mr. FESSENDEN. I would have said the same thing if I was there.

Mr. EDMUNDS. And the reply made was that they did not want to carry the bill, but they expected to convince me, and I staid and tried to be convinced.

Mr. POMEROY. I remember distinctly the Senator being there.

Mr. FESSENDEN. I say I never went into any caucus on that subject. I utterly refused to have anything to do with such a subject in caucus. I know what my views were on that subject, and what I intended to do, and what I intended not to do.

Now, sir, upon all this matter of business: the business we will take up, when we will take it up, and the order of proceeding, I think a meeting, a consultation of the majority of the body who have the control of the business, may be properly held, as it often is, and when it is decided upon, being a matter of expediency, the decision should be binding upon those who agree to consult and do consult.

Mr. SUMNER. Will the Senator just let me interrupt him there? I do not wish, of course, to interpose anything in his remarks; but he says, "Being a matter of expediency, the decision is binding." But suppose the associates of the Senator on the floor think it is not a matter of expediency; what then?

Mr. FESSENDEN. If there is a Senator who thinks it is a matter of conscience and principle on which he cannot be bound by the decision, instead of making speeches one way and waiting and voting in the minority, and saying nothing about the principle, he should give notice beforehand and leave it to others to decide what they will do. That is my notion.

Mr. SUMNER. That remark cannot be applicable to me, for I made every kind of objection.

Mr. FESSENDEN. The Senator asked me a general question; I have answered that question.

Mr. SUMNER. Very well; the Senator will pardon me—

Mr. FESSENDEN. It is a question of time.





## ORDER OF BUSINESS.

Mr. WILSON. I move to refer the resolutions of thanks from the House of Representatives to the Committee on Military Affairs.

Mr. FESSENDEN. They cannot be referred under the rule just adopted.

Mr. POMEROY. I object to their being read under the rule we have adopted.

Mr. CRAGIN. I move that when the Senate adjourn to-day it be to meet on Monday next. The appropriate business has been referred to the proper committee; it will take them all day to-morrow to consider it, and we shall have nothing to do to-morrow if we come here.

Mr. POMEROY. I rise to a question of order. The bills from the House of Representatives refer to legislative proceedings, and I ask whether it is in order under the resolution just adopted to refer them to any committee.

Mr. GRIMES. That question is not before the Senate; the question is on the adjournment until Monday.

Mr. HOWARD. I move that the resolutions from the House which are on the table be referred to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Chair understands a question of order to be raised on that.

Mr. POMEROY. There is also a bill there in reference to the police.

The PRESIDENT *pro tempore*. It is always usual to read bills from the other House, and I suppose they ought to be read the first time.

Mr. TRUMBULL. I would suggest, to relieve us of any difficulty about this matter, that the Senator from Rhode Island has a supplemental order to offer that will govern all these cases and save any wrangling in the Senate. If the Senate will allow it to be submitted now, it will, perhaps, be unanimously agreed to and prevent all further trouble.

Mr. ANTHONY. It is an order made necessary by the resolution just passed.

Mr. POMEROY. I have no objection to hearing the order read.

Mr. TRUMBULL and Mr. HOWARD. Let it be read for information.

Mr. ANTHONY. I submit the following order:

*Ordered*, That during the present session, all legislative business, when introduced or taken up, except such as relates to removing the obstructions which have been or are likely to be placed in the way of a fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed, be laid on the table.

Mr. SUMNER. I object to the consideration of that.

Mr. POMEROY. That is only another form of the same thing.

Mr. ANTHONY. It is an order to carry into effect the resolution.

The PRESIDENT *pro tempore*. The consideration of the resolution is objected to, and it goes over under the rule.

## ADJOURNMENT TO MONDAY.

Mr. CRAGIN. I renew my motion that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

Mr. SUMNER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, July 5, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of Wednesday last was read and approved.

## COMMITTEE ON RECONSTRUCTION.

The SPEAKER announced the following Committee on Reconstruction, ordered on Wednesday last:

THADDEUS STEVENS of Pennsylvania, GEORGE S. BOUTWELL of Massachusetts, JOHN A. BING-

HAM of Ohio, JOHN F. FARNSWORTH of Illinois, CALVIN T. HULBURD of New York, FERNANDO C. BEAMAN of Michigan, HALBERT E. PAINE of Wisconsin, FREDERICK A. PIKE of Maine, and JAMES BROOKS of New York.

JAMES B. BECK.

The SPEAKER laid before the House the memorial of George M. Adams against the admission of James B. Beck for the seventh district of Kentucky to a seat in the House of Representatives; which was referred to the Committee of Elections.

## DELEGATE FROM NEW MEXICO.

The SPEAKER. The Chair will also lay before the House a communication from the Governor of New Mexico; and as this document presents a novel case, the Clerk will read it in full.

The Clerk read as follows:

EXECUTIVE OFFICE, TERRITORY OF NEW MEXICO, SANTA FE, N. M., March 13, 1867.

SIR: The Territory of New Mexico having no Delegate in the Congress of the United States in consequence of the change of time for the meeting of Congress, and the Territorial Legislature having failed to change the election laws of the Territory, so as to enable the people to elect a Delegate before the first Monday in September next, leaving us entirely without representation in Congress:

In view of these facts, I, Robert B. Mitchell, Governor of the Territory of New Mexico, do appoint John S. Watts, Delegate or Agent of the Territory of New Mexico during the interregnum, and until a Delegate is elected by the people at their annual election in September next and qualified, and ask for him the pay and emoluments of said position. If, under the rules of the House of Representatives and the laws of the United States, he cannot receive pay for his services, I most respectfully ask that he may be admitted to the floor of the House of Representatives without pay as the agent of the Territory for the purpose of procuring such legislation as may be necessary for the interest and welfare of the Territory.

In testimony whereof I have hereunto set my hand and the great seal of the Territory this 13th day of March, A. D. 1867.

ROBERT B. MITCHELL,  
Governor for New Mexico.

To the Speaker of the House of Representatives, Washington, D. C.

Mr. DAWES. I move to refer that paper to the Committee of Elections.

Mr. SCHENCK. I have great doubt whether that paper ought to be referred to the Committee of Elections. To do so would seem to imply an acquiescence in an utterly unprecedented, unauthorized, and illegal act on the part of the Governor of New Mexico. It certainly ought to go no further than to be laid on the table.

Mr. DAWES. I believe with the gentleman from Ohio that this proceeding is unauthorized and unprecedented, and that is the very reason why I have moved the reference of the paper to the Committee of Elections. I believe that any paper of this kind, touching a man's claim to a seat here, should always be referred to the Committee of Elections. I agree entirely with the gentleman. I think probably the Committee of Elections will put something on record that will be a guide in the future. It is not because I have any idea that papers of this kind would be evidence of a right to a seat that I make my motion, but because I think that any paper that a man brings here claiming a seat ought to be referred to a committee.

Mr. SCHENCK. I entirely appreciate the motives of the chairman of the Committee of Elections. I think there is no disagreement between him and myself in relation to the character of the paper. The difference is only as to how it ought to be treated, how it ought to be received, or how the House should decline to receive a paper of this kind. I do not agree in the broad proposition that whenever any one presents a paper here claiming a seat in this House we should, as a matter of course, refer it to a committee of the House. Suppose the Governor of the State of Indiana should assume to appoint Representatives here and send formal papers of such appointments, would you refer those papers? What do you want to inquire into? Does any man doubt whether the Governor of a State has a right to appoint a Representative in Congress? It is so obvious that this is extra-constitutional,

illegal, outside of the power of a Governor of any Territory that to give it consideration by referring it to a committee appears to me establishing perhaps a dangerous precedent. Suppose some man should come here from Canada with a certificate in due form, or from Walrusia, although that would be a stronger case, as there would be a plea of necessity because there has been no action on the part of Congress. Here there has been action on the part of Congress, and without regard to the charter granted by Congress, the Governor of the Territory assumes to send this man here. Sir, we are about to establish a dangerous precedent.

Mr. SPALDING. I would ask the gentleman if Congress did not admit a Delegate from this very Territory of New Mexico before it was organized?

Mr. SCHENCK. I admit that; but it was not such an application as this, for in that case Congress had not established a territorial government.

But this case is one in which the Territory is organized, in which the forms are prescribed, in which the power of the Governor is limited and laid down by law. Here, then, is an attempt on the part of certain persons, not merely to throw themselves upon the plea of necessity because they want to be represented, no representation being provided for, but to override the very law providing for the representation of Territories by Delegates.

When I was interrupted by my colleague I was about to say this: however the House may decide this question, we shall now establish a precedent; and if the precedent be established that every paper of this kind is to be referred to the Committee of Elections, or any other committee of this House, (and no man has more confidence than I have in the ability of that committee to dispose properly of any question that may come before it,) the next thing will be a claim for mileage; the next thing will be a claim for pay during attendance here in order to prosecute this application; and the next thing, I am afraid, will be that mileage and pay will be allowed. Now, I do not put this question on the low ground of the mere money consideration; I am only speaking of one of the consequences that may follow. The ground I take is that here is on the part of the Governor of a Territory an attempted overriding of the law, a proceeding entirely outside of any legal provision; and this being patent on the face of the matter, we are all prepared, I think, to decide the question without its reference to a committee and a report upon it.

Mr. MILLER. This matter seems to me so plain as to require no argument. I move that the communication of the Governor of New Mexico be laid on the table.

Mr. DAWES. I ask the gentleman to withdraw that motion.

Mr. MILLER. I will withdraw it for a moment.

Mr. DAWES. Mr. Speaker, I proposed the reference of this paper merely for the purpose of giving the Committee of Elections an opportunity to make a report that would finally dispose of the case. This is not the claim of a gentleman to a seat as a member of this House. It is the request of the Governor of a Territory that this man may be permitted to come upon the floor and act as the agent of the Territory. If admitted, he will not serve here in any capacity known to the Constitution of the United States; he will be permitted to act as agent of the Territory, *ex gratia*, and not by virtue of any right of the Territory to representation upon this floor. The Governor of the Territory asks that if this man be not admitted in the capacity of a Delegate under the organic law of the Territory, he may at least be admitted upon this floor to act as an agent of the Territory.

This request of the Governor is respectful in language, and there is no insult to the House in making the request. I admit all that has been said by the gentleman from Ohio [Mr.

SCHENCK] in regard to the want of power of the Governor in this case. The gentleman has anticipated all the argument that could be made on that subject by the committee; but notwithstanding what the gentleman has said, it seems to me that when a certificate, or anything purporting to be a certificate, from the Governor of a State or Territory, under the seal of that State or Territory, is presented here, and is respectful in form and language, there is no impropriety in referring that paper to the appropriate committee and permitting that committee to make a report. A report of the Committee of Elections on this case will, I have no doubt, settle the question, which seems to trouble my friend from Ohio more than all the rest, with regard to an apprehended claim for mileage and compensation. I hope that the House will agree to refer the matter to the Committee of Elections.

Mr. MILLER. The honorable gentleman from Massachusetts [Mr. DAWES] was not here on last Wednesday, or he would be aware that there has already been referred to the Committee of Elections sufficient business to occupy them for some time. That committee will, I think, have enough to do without attending to this matter. Now, sir, what right has the Governor of New Mexico to send here a paper requesting us to admit to this floor a Delegate from that Territory? It is a proceeding entirely unprecedented; and we should avoid establishing so dangerous a precedent as to give any countenance to such a proceeding. I have therefore made the motion that the communication be laid on the table.

Mr. KELSEY. I rise to make a motion, which I believe will take precedence of the motion to lay on the table. I move that the application of the Governor of New Mexico be rejected. I think that this is the proper disposition to make of the application. My motion will bring the House to a direct vote upon the proposition.

Mr. MILLER. I think it more respectful to lay the communication on the table.

The SPEAKER. The motion to lay upon the table has priority. A motion to reject is equivalent to non-reception, which is too late at this point. When the paper is presented is the time to submit the question of reception. The motion to lay upon the table is not debatable.

Mr. MILLER. I yield to the gentleman from Ohio.

Mr. ASHLEY, of Ohio. I wish to call the attention of the gentleman from Massachusetts [Mr. DAWES] to the fact that the Territory of New Mexico is an organized political community, recognized by law, and that by their own act they have postponed the election for Delegate. Under the law, as is well known to the gentleman from Massachusetts and to every member of this House, they are not entitled to an agent upon this floor.

Now, sir, if the Governor of California should have sent here three gentlemen to represent that State as agents upon this floor under his certificate, they would have quite as much right, indeed greater right, to have those agents admitted upon this floor, or their application for admission to be referred to the Committee of Elections, than the Territory of New Mexico. I hope the precedent will not be established, but that the motion of the gentleman from Pennsylvania will prevail.

Mr. MILLER. I now renew my motion to lay upon the table.

The motion was agreed to.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. FARNSWORTH. I desire to make a report from the committee appointed to wait upon the President of the United States. We report we have performed that duty, and that the President has informed us he had no communication to make to Congress at this time.

KENTUCKY CONTESTED-ELECTION CASES.

Mr. PAINE. I desire to present some papers in contested-election cases for reference.

The first is the petition of G. G. Symes, contesting the right of L. S. Trimble to a seat from the first congressional district of Kentucky, asking for an extension of time for taking evidence, and I move that it be referred to the Committee of Elections.

The motion was agreed to.

Mr. PAINE. I present the protest of Samuel McKee, who contests the seat of John Young Brown from the second district of Kentucky, referred to on Wednesday last, and move that it be referred to the Committee of Elections.

The motion was agreed to.

THANKS TO GENERAL SHERIDAN.

Mr. PAINE. I submit the following joint resolution, and move to suspend the rules, in order that it may be acted on now:

*Be it resolved by the Senate and House of Representatives, &c., That the thanks of Congress be tendered to Major General Philip H. Sheridan for his able and faithful performance of his duties as commander of the military district of Texas and Louisiana.*

Mr. ELDRIDGE demanded the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 18, not voting, 39; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Dixon, Donnelly, Driggs, Eggleston, Eliot, Forrist, Ferry, Fields, Finney, Garfield, Gravely, Griswold, Hamilton, Harding, Hayes, Hooper, Hopkins, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Merour, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polesky, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Calwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—110.

NAYS—Messrs. Archer, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Marshall, Morrissey, Mungen, Niblack, Noel, Ross, Stone, Van Trump, and Wood—18.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Barnes, Blaine, Blair, Bromwell, Brooks, Calk, Cullem, Dodge, Eckley, Ela, Farnsworth, Fox, Haight, Halsey, Hill, Asahel W. Hubbard, Humphrey, Kerr, Ketcham, Ladin, Lincoln, McCullough, Morgan, Nicholson, Phelps, Plants, Pomeroy, Pruyn, Randall, Robinson, Selye, Shellabarger, Sitgreaves, Taber, Van Auken, Van Wyck, and William Williams—39.

So (two-thirds having voted in the affirmative) the rules were suspended.

During the vote,

Mr. ORTH announced that Mr. CULLOM, of Illinois, was detained from his seat by illness. If present he would have voted in the affirmative.

Mr. SHANKS made a similar announcement as to his colleague, Mr. WILLIAMS.

Mr. NIBLACK stated that his colleague, Mr. KERR, was detained at home by ill health. The vote was then announced as above recorded.

Mr. PIKE. I appeal to my friend to let me move an amendment to include Major General Sickles.

Mr. PAINE. I have considered that question, and also the question of embracing in this resolution certain other commanders. After full consideration I have concluded it was best for each one to stand by himself. I have decided to offer this resolution independently, and gentlemen can do the same in each case. The gentleman can do the same for General Sickles. I decline respectfully to yield to his amendment, and demand the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS L. JONES.

Mr. GARFIELD presented papers containing statements in reference to the case of Thomas L. Jones, claiming to be a Representative-elect from the fifth congressional district of Kentucky; which were referred to the Committee of Elections.

ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. GARFIELD also submitted the application from Samuel McKee, asking for an extension of time for taking testimony in the contested-election case in the ninth congressional district of Kentucky; which was referred to the Committee of Elections.

PRIVILEGE OF THE FLOOR.

Mr. GARFIELD. I also move that all the persons contesting seats on this floor be permitted the privilege of the floor until otherwise ordered.

Mr. DAWES. I suggest that the gentleman give the names of the contestants.

Mr. GARFIELD. I mean to include only those that have given notice of contest.

The SPEAKER. Those are all that the House has official knowledge of.

BLAKELY VS. HISE, DECEASED.

Mr. KELLEY presented the memorial and accompanying papers of George D. Blakely, asking admission as a member from the third congressional district of Kentucky; which were referred to the Committee of Elections.

ELECTION CONTEST—STEWART VS. PHELPS.

Mr. PHELPS submitted the following papers in relation to the contested-election case in the third congressional district of Maryland; which were read, and referred to the Committee of Elections:

*To the honorable the House of Representatives of the United States, in Congress assembled:*

The undersigned, having appeared as contestant for the seat of Charles E. Phelps, the member of your honorable body from the third district of Maryland, respectfully represents:

That availing himself of the time granted by the resolution of March 8, 1867, he did proceed to take testimony in support of the allegations contained in his notice of contest.

That a large amount of evidence was taken, which, in the opinion of this contestant, proved a general disregard of the provisions of the act for the registration of voters, since repealed, under which the congressional election of November 6, 1866, was held; but that said testimony was insufficient in law to entitle this contestant to the seat of the sitting member.

Under these circumstances this contestant relieved the sitting member from the necessity of taking evidence by admitting the insufficiency of his own and agreeing to conclude the case.

As it would be unjust to file a record of the testimony of but one side, this contestant has directed the justice before whom it was taken not to forward the same to your honorable body as directed by law.

For these considerations this contestant hereby withdraws his claim to represent the third district of Maryland in your honorable body.

Respectfully,  
JOSEPH J. STEWART.

BALTIMORE, April 22, 1867.

BALTIMORE, April 12, 1867.

DEAR SIR: The evidence thus far taken in the contest for a seat in the Fortieth Congress presents no such features of serious controversy as will justify me in the trouble and expense of continuing the case. I therefore renounce all further intention to prosecute the contest, and will indemnify you for any reasonable expense to which I have subjected you therein.

Respectfully yours,  
JOSEPH J. STEWART.

Hon. CHARLES E. PHELPS.

Upon the above terms said contest is hereby concluded.  
CHARLES E. PHELPS.

April 12, 1867.

Referring to my note of this date, I desire to state in explanation thereof that an analysis of the vote of the district at the election of November 6, 1866, as compared with the vote cast at the presidential election of 1864, November 4, shows you were reelected by a clear majority of the vote which you received when first elected to the Thirty-Ninth Congress as the unconditional Union candidate.

The figures are as follows:

November 4, 1864, Phelps (Lincoln).....	9,313
November 6, 1866, Stewart.....	4,568
Deduct.....	4,745
	4,568
	177

Yours, &c.  
April 12, 1867.

J. J. STEWART.

#### MEMBERS-ELECT FROM KENTUCKY.

Mr. MARSHALL. I rise to a question of privilege, and preliminary to the motion which I propose to make I ask to have the paper read which I now send to the Clerk.

The Clerk read as follows:

*To the honorable Speaker and members of the House of Representatives of the Fortieth Congress of the United States:*

The undersigned, members of the House of Representatives of the Fortieth Congress of the United States, elected as such from the fifth, sixth, and seventh congressional districts in the State of Kentucky, respectfully submit this memorial and protest against the action taken by this House on the 3d day of July, 1867, in refusing to admit them to their seats, and in referring their cases to the Committee of Elections. They state that they and each of them have been duly elected by the legally qualified voters of their respective districts, in accordance with the Constitution and laws of the United States and of the State of Kentucky: A. P. Grover receiving a majority of 3,959 votes in the fifth district aforesaid over both his competitors; Thomas L. Jones receiving a majority of 5,901 votes over his competitor in said sixth district, and James B. Beck receiving a majority of 6,664 votes over both his competitors in the seventh district aforesaid, as shown by the official returns thereof signed by Thomas E. Bramlette, Governor of Kentucky, John M. Harlan, attorney general, and William T. Samuel, State auditor, at the office of the secretary of state in Frankfort, Kentucky, on the 27th day of May, 1867, which returns are filed as part hereof; these officers constituting by law the board of examiners in the State of Kentucky to determine and make returns of elections.

They state that in accordance with said election returns, and in pursuance of the statutes of Kentucky in such cases made and provided, said board of examiners forwarded to each of the undersigned and to the clerk of this honorable House certificates of their said elections, which are referred to as part hereof.

They state that they and each of them now and at the time of their elections aforesaid had and possessed each and all of the qualifications required by the Constitution and laws of the United States, and by the constitution and laws of the State of Kentucky, to be had and possessed by a member-elect of the House of Representatives of the Congress of the United States; that they were each and all elected according to law, and that the returns thereof were duly made; that no question has ever been made in Kentucky or elsewhere, either by the candidates opposing any of them for said positions or by any other persons, either in their respective districts or elsewhere, controverting in any form the right of any of them to represent their respective districts in this House, or disputing or calling in question the legal right of any voter who voted for any of them to do so. Yet, notwithstanding all these facts, they state that when the members-elect from the State of Kentucky were called by the Clerk of this House on Wednesday, July 3, 1867, and Thomas L. Jones and James B. Beck, members-elect from the sixth and seventh districts aforesaid, (the undersigned) A. P. Grover, not having then reached Washington, appeared in answer to said call and presented themselves to be qualified as required by law, they were not permitted to do so, but on a resolution introduced by a member of this House, without affidavit, protest, information, or assertion from any quarter that proof either was in the possession of the House, or could be obtained from any source whatever, controverting the validity of either the qualifications, elections, or returns of any of them, they were not allowed to qualify and take their seats in this House, which they contend is their undoubted right under the Constitution and laws of the United States and State of Kentucky; but their cases were referred, along with those of their colleagues whose seats were contested, to the Committee of Elections, when neither this House nor any member of it had, or pretended to have, any knowledge of any fact which could in any way make such reference necessary or proper. They assert that such a course is inconsistent with and in direct violation of all the laws, rules, and precedents heretofore established or observed by this House in such cases; subversive of the rights of the State of Kentucky, as well as the rights of the undersigned and their constituents, and they therefore protest against it, and ask this honorable House in some form to revise and annul its action as to them and permit them to take their seats, to which, for the reasons aforesaid, they claim to be entitled.

The undersigned do not admit the right of this House to exclude from their seats, pending the contest, any of their colleagues whose seats are contested, but in this memorial and protest do not propose to do more than present their claims to their unopposed seats.

JAMES B. BECK.  
A. P. GROVER.  
THOMAS L. JONES.

Mr. MARSHALL. It seems to me manifest that the House did not act with due considera-

tion in adopting the resolution passed here on the 3d. Here, as appears by this memorial, and as is known to the House, are three gentlemen from the Commonwealth of Kentucky, with all the proper evidence of their election as Representatives, and ready to take the oath as members-elect from that State, elected by large and overwhelming majorities, against whom nothing has been alleged or was alleged as an objection to their taking their seats prior to the passing of that resolution, who are arbitrarily deprived of their right to participate in the business of the House. The House has refused to admit, and has referred to the Committee of Elections the cases of gentlemen against whom no charge has been made, and the regularity of whose election is not questioned. I have felt that upon reflection the House would now, without hesitation, correct the grave error they committed on that occasion, and it is this impression which has induced me to seek the floor at this time. This right of representation is a sacred and holy one, and the American people will not look with indifference on the perpetration of such gross injustice against any State or district of this country.

Mr. SPALDING. Is there any motion before the House?

Mr. MARSHALL. I propose to submit a motion. I would not have risen to make the remarks which I have made if I were not strongly impressed with the conviction that in regard to these gentlemen the House did not act advisedly. I cannot believe that any deliberative body having regard for their own reputation would deliberately and advisedly perpetrate such gross injustice and establish a precedent so dangerous to the whole system of representative government. I move, therefore, that in the case of James B. Beck and A. P. Grover, members-elect to this House from the State of Kentucky, the Committee of Elections be discharged from the further consideration of the question submitted to them, and that these gentlemen be permitted to take the oath of office at this time.

Mr. LOGAN. I do not desire to discuss this question further, but I feel called upon to reply to the remarks made by my colleague [Mr. MARSHALL] in reference to the manner in which this question has been passed upon by the House. The statement that he makes, that no charge is made against these men, is simply incorrect. The charge was made in the resolution before the House, and the statement was made that Mr. Jones and Mr. Grover, two of the gentlemen he names, were arrested and imprisoned for treason. I made that statement to the House, and I reassert it. I will go further and say that when the Committee of Elections come to examine the case of Mr. Grover they will find that the records of the State of Kentucky show that he voted to take the State of Kentucky out of the Union, and spoke in favor of it, and that for that he was imprisoned in jail at Louisville, Kentucky.

Mr. Jones was imprisoned in Camp Chase for similar conduct, except the voting; I do not understand that part of the charge as applying to him. As to Mr. Beck, who is one of the gentlemen signing this protest, I am informed by credible persons, and I believe, that during the time the rebels were in Kentucky he, under their protection, made speeches in favor of raising troops to recruit the rebel army.

These are the reasons which prompted me in introducing the resolution in reference to these men as well as the others. My object was to strike, not at the right of representation of Kentucky, but at the right of rebels to have seats in this Hall. The resolution was based upon these facts as detailed here by responsible and reputable persons.

Now, sir, I do not want to discuss this question; but I will say to my colleague [Mr. MARSHALL] that it may be fitting for him now to stand here and defend rebels in this Hall; but I am sorry to see a Representative of the proud prairie State willing to take upon himself the

defense of any man who attempted, by either word or deed, to destroy this Government. I presume my colleague does it without a proper knowledge of the facts. If he does it, however, with a knowledge of the facts, then he is making himself accessory to such acts by his defense of them.

Mr. MARSHALL. I ask the gentleman from Massachusetts [Mr. DAWES] to yield to me for a moment.

Mr. DAWES. I will do so.

Mr. MARSHALL. My colleague's personal allusion to myself I do not deem it necessary to notice in any way. My motives for my actions upon this floor are always sufficient for myself. This mode of traveling outside of the question before the House to impugn the conduct and motives of members may be deemed creditable by some; but I do not propose to follow the example, or attempt any vindication of myself.

My colleague is mistaken in his statements here in regard to these gentlemen. I referred only to what occurred here the other day—to the impropriety of the action of the House at that time and the danger of the precedent that was then set. There were no affidavits presented against these gentlemen. Their election by an overwhelming majority is not disputed. No persons have appeared, or are yet appearing, to contest their seats. I say that the action of the House is wrong in principle, as well as unprecedented in practice, and ought not to be sustained.

I do not intend now to go into the history of these gentlemen claiming seats. I do not regard that as involved in the motion I have made. I do not know a great deal about these gentlemen personally; but I have been informed since my colleague took the floor that he is entirely mistaken in regard to Mr. Grover; that that gentleman was never during the whole rebellion arrested or imprisoned for treason or any other offense. Mr. Jones was arrested at one time, as a great many persons were during the rebellion. No charge was ever preferred against him, and he was finally discharged without any attempt having been made to present a charge against him, either directly or in any other way. These, as I am informed and have no doubt, are the facts in regard to these two gentlemen.

But, sir, suppose all that has been stated by my colleague were true. My colleague does not allege that these gentlemen have been guilty of treason. He simply says that they have been charged with it. Why, sir, a great many persons during the late civil war were charged with treason. It has been, indeed, a common charge against one great party in the country. These charges have been wantonly and inconsiderately made; and I know of my own personal knowledge that a great many persons who were arrested during the war upon charges made by miserable spies and sneaks laid down their lives afterward in defense of the flag of their country, and were at the time of their arrest as pure patriots as my colleague even can or will claim to be.

These are the statements, *pro* and *con.*, on the one side and on the other. I repeat that no contestant appearing here up to this time, no charges being made against these gentlemen by affidavit or in any other way by any gentleman who knows or professes to know anything about the facts, it seems to me to be improper that they should, with their commissions in their hands, be turned out of these Halls and refused all participation in the deliberations of this body. If they have been guilty of any act that disqualifies them or renders them unfit to occupy places upon this floor as Representatives, I have no objection to seeing them turned out in the proper way, after a fair investigation of the facts, made in the usual way, and in pursuance of the laws provided for such cases; and when satisfied of the fact that they are personally disqualified, I would not hesitate to vote to turn them out of their seats. But it is an easy matter to get up a clamor of this kind against any one; and if this course

be adopted, if precedents of this kind be established, it might be almost impossible to organize the House, because I imagine there is not a gentleman on this floor who has not enemies, and in whose district or State some person may not be found to prefer some charge against him; and according to the precedent established by the House in this case, the mere making of such charges is sufficient to prevent a member from taking his seat until the matter is inquired into. The injustice of the act and the danger of the precedent are too manifest to require further comment.

Another great objection, as it seems to me, Mr. Speaker, to this whole proceeding, is this: It is an abandonment, as I have urged heretofore, of the rightful mode of contesting the seats of members upon this floor. It is changing the responsibility thereof. It is throwing the burden and labor of taking testimony, and the expense thereof, on the House and country, which the law in regard to contested elections places upon the contestant himself.

The Committee of Elections is directed to send for persons and papers, to inquire into what? No specific charges have been made; no witnesses' names have been furnished, and these districts remain unrepresented while the Committee of Elections, in an extraordinary and unprecedented manner, sends a thousand miles to the State of Kentucky for witnesses to inquire into facts in regard to which no specific allegation has yet been made. But I will not detain the House. This is all I desire to say now in regard to this matter, and as to the personal allusions to myself I do not propose to dignify them by further notice.

Mr. DAWES. Mr. Speaker, I was not here on Wednesday last when the proceedings of the House were had to which the gentleman from Illinois [Mr. MARSHALL] takes exception, and I know nothing of his character beyond what the public journals show. I do not know that it is proper to comment on their character at this time. It is perhaps better to look at the matter as it stands; and while I agree with the gentleman from Illinois, as at present advised, while I should not consider it in the line of my duty to throw any obstacles in the way of the admission upon this floor of any individual bringing the certificate of his Governor, unless there was present at the time to meet it a specific charge which extended to his disqualification as a member, I also am quite clear, when there is present a well grounded charge to meet the certificate of the Governor of that State, and which extends to his disqualification as a member, it is the duty of the House, before admitting him to his seat, to ascertain the truth of that charge touching his disqualification as a member. That is only when the member is qualified otherwise; but if there is a question, an allegation of fact touching his right to a seat as a member-elect, he takes the seat provisionally and holds it while the House is investigating the facts whether he is duly elected or not. Now, sir, that is a different question to the one whether a man is possessed of the qualifications which entitle him to a seat upon this floor. And when a man is disloyal and has participated in the rebellion, as implied in the oath of office we are required to take, I do not know that the gentleman from Illinois disagrees with me in saying, if a man is guilty of an offence which would prevent him in truth from taking that oath, that he would not be qualified, and that in such case the investigation should precede his taking his seat.

If there are any other cases standing in this category, I should oppose their taking their seats until the truth or falsity of the charge has been made to appear. Whether there are or not I am unable to say.

Mr. WOOD. I ask the chairman of the Committee of Elections to let me state one or two instances in reference to the practice of the House.

Mr. DAWES. In a few moments I will yield the floor. I was about to say all I know about the case is what has been published in

the public journals and what appears here this morning. There were some papers presented this morning, and with the credentials they are now before the Committee of Elections. My own idea is that the papers presented this morning, together with the gentleman's own motion, should be referred to the Committee of Elections. Although I cannot speak of the committee beyond myself, I have no hesitation in saying, if I find nothing to meet the credentials of any man claiming a seat upon this floor, that I do not know by what authority I should withhold those credentials from the House. Whether the committee agree with me or not I do not know. I agree with the gentleman from Illinois, if there is nothing here to meet the credentials of a man claiming a seat upon this floor which questions his qualification as a member, he ought to be sworn, and any allegation falling beyond that ought to be referred to the appropriate committee to investigate its truth, and what is required at our hands on ascertaining its truth. That should be done after the member has taken his seat; but the question touching the loyalty and qualification of a member to a seat upon this floor ought to be made when the credentials are presented. When it is made in good faith and based upon evidence which justifies the making of the allegation I do not see why it should not be investigated. I move that the papers as well as the gentleman's motion be referred to the Committee of Elections.

Mr. WOOD. If I understand the chairman of the committee correctly, in ordinary cases of contested election, where the applicant presents the *prima facie* evidence of a right to a seat in this House, he has been permitted to take his seat and abide the results of the investigation on the part of the Committee of Elections. I further understand him to say that where a question is raised as in this instance against some of the gentlemen from Kentucky as to their loyalty, the case in the first instance should be referred to the Committee of Elections, and the seats should be denied to the gentlemen claiming them until the committee make a report. Do I understand him correctly?

Mr. DAWES. I do not hear the gentleman very distinctly, but what I mean to be understood to say is this: that a well-grounded charge made in good faith against any man bringing a certificate here which extends in its scope to his qualification to sit as a member of this House, should be heard before he is permitted to take the oath of office or occupy a seat.

Mr. WOOD. As I understand this case, there is one of these gentlemen who held a seat here during the whole of the last Congress, against whom there was no accusation at that time of any disloyalty during the war, and who has in no way been obnoxious, as I understand his political record, to this charge of disloyalty, and yet that gentleman [Mr. Trimble] is served in the same way as the others against whom the accusation has been made by the gentleman from Illinois. I do not understand that there are any specific allegations made against Judge Trimble.

Mr. BENJAMIN. There are some charges.

Mr. WOOD. Well, sir, it is nevertheless the fact that he sat here two years, during the whole of the last Congress, and no question was raised when he was sworn in as a member of that Congress; and he having now positively denied to my colleague the truth of a single one of these allegations, I ask the gentleman from Massachusetts how it is that he is in favor of referring all these cases alike and indiscriminately to the Committee of Elections for investigation?

Mr. DAWES. The gentleman does not understand me correctly, if he understands that I am in favor of referring all cases alike and indiscriminately to the Committee of Elections. I distinctly said that where there was a specific charge made against any gentleman bringing a certificate here, which charge extended to his qualification as a member of this

House, and it appeared to be made in good faith, in such a case I would be in favor of a reference and investigation; but where there was no such charge, no charge to that extent, I would be in favor and would think it to be my duty to vote for his being sworn in. I think the gentleman has mistaken my remarks.

I will add further, that whether these remarks apply to the gentleman from Kentucky, to whom the gentleman refers, I am unable to say, for, as I have already stated, I was not here on Wednesday, and the Committee of Elections have had no opportunity to investigate the matters referred to them. I do not know whether there is any such charge against Mr. Trimble, who was a member during the last Congress. If, upon investigation, I should find that there is no such well-grounded charge made against him, so far as I am concerned my line of duty will be very clear, as I have already indicated. I do not speak for any other member of the committee.

Mr. WOOD. I hope, as this whole question has been already referred to the committee of which the gentleman from Massachusetts is chairman, that at the earliest possible occasion during the present session the committee will investigate and report upon it to the House. I think it is wrong to disfranchise a whole State upon mere rumor. There is no member sitting on this floor to-day who is not liable to be ousted from his seat under the precedent established by this House day before yesterday. Any man can raise false charges, and accuse a member of disloyalty, and so, upon a mere rumor—and we have nothing here but rumor in reference to the members from Kentucky—he may be deprived of his seat, as has been done in the case of the Kentucky members, depriving a whole State of representation. I therefore hope—and I appeal with confidence to the fairness and patriotism, as well as loyalty, of the gentleman from Massachusetts—that at as early a day as practicable during this brief session the Committee of Elections will report, so that those districts of Kentucky may be represented in this House.

Mr. DAWES. I agree generally to what the gentleman from New York [Mr. Wood] has said, but I do not understand that any gentleman holding a certificate from the Governor of Kentucky is kept out of his seat because of mere rumors. I do not intend to bind myself to any such course of proceeding; nor do I understand any gentleman in this House to ask the House to take such a position, or to ask that any man shall be kept out of a seat here a single hour unless there exists some well-grounded charges against him, such as have been stated here. If no such charges exist, I hope the Committee of Elections will be prompt in bringing it to the notice of the House, and I have no doubt that every member of the House will be willing to do justice to these gentlemen.

Mr. WILLIAMS, of Pennsylvania. I desire to ask the gentleman from Massachusetts, [Mr. DAWES], the chairman of the Committee of Elections, whether the effect of a general reference, such as has been made in this case, of all the credentials will not be to lock up the whole case and leave the committee no discretion in making a final award in regard to the title of these parties to seats? It did strike me when the resolution on this subject was before the House at our last session that it ought to have been confined to the specific question of the disloyalty of individuals. I voted for the resolution, however, upon the suggestion of gentlemen that it meant that. I should not have voted for it otherwise. I was prepared to say that inquiry should be made where a distinct allegation was made that a man was disloyal.

Mr. DAWES. It seems to me, in accordance with my views, that the proper course of proceeding would have been to refer the cases separately, where specific allegations were made that the member claiming the seat was disqualified, either by disloyalty or by any other disqualification. I think the whole matter is now before the committee and within the power



of the committee. I agree with the gentleman from Pennsylvania, that in the preliminary examination nothing further should be gone into than that which touches the qualification of the individual claimant to his seat.

Mr. BINGHAM. Will the gentleman from Massachusetts yield to me for a moment?

Mr. DAWES. Yes, sir.

Mr. BINGHAM. I beg leave to say that what has fallen from the lips of the chairman of the Committee of Elections [Mr. DAWES] shows the necessity of some action being taken by this House to make the action of the committee conform to what is undoubtedly the law governing this case. I understand the honorable gentleman to say—and I entirely agree with him—that when a charge is made in due form, either upon the responsibility of a member or by petition and *ex parte* affidavit, against a person or persons claiming to be elected as members of this House from an organized State, the case ought to be referred to a committee; and that the presentation of such a case, going to the qualifications of a person presenting himself as a member, ought to suspend the administration of the oath to him.

But, Mr. Speaker, the point which I desire to present, is that if the committee should, after diligent inquiry, find nothing against the personal qualifications of Mr. Grover, who is named in the paper presented this morning, the committee, under the resolution as it stands, could report nothing concerning his case; and this gentleman could not be sworn in until the committee had acted upon the whole question submitted to them—inconsiderately, as I think—by the House on last Wednesday.

I repudiate altogether the doctrine that any member can exclude the entire delegation of my State by asserting in a speech on this floor that it is "reported" the elections were improperly conducted. I repudiate the dogma that any member from my State can be excluded by a gentleman asserting in a speech here that it is "reported" that he is disloyal. But if a member rises in his place, and upon his responsibility as a member, states, and puts it upon the Journal of the House, that a person accredited as a member under the great seal of my State is disqualified under the laws of the Union, I agree that then there is presented a case requiring of this House the exclusion of the person from qualification at its bar until an investigation can be had.

But, sir, in order that the honorable chairman of the Committee of Elections may see the force of my remarks, I ask that the resolution as passed by the House on last Wednesday be read at the Clerk's desk.

The Clerk read as follows:

Whereas it is alleged that in the elections recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; and whereas it is alleged that several of the Representatives-elect from that State are disloyal: Therefore,

*Be it resolved*, That the credentials of L. S. Trimble, John Young Brown, John Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young, members-elect from the State of Kentucky, shall be referred to the Committee of Elections for report at as early a day as practicable. Pending the report of said committee none of said members-elect shall be allowed to take the oath of office and admitted to seats as such.

Mr. BINGHAM. Now, I beg leave to say that the last clause of this resolution declares as plainly as words can declare that none of these members, pending this inquiry by the committee—an inquiry touching the entire election in the State of Kentucky—shall be admitted as members, or allowed to qualify. I do not think, sir, that that is the way in which to dispose of an election by a State. I agree with the chairman of the Committee of Elections, that when a State which has been duly organized, and has been recognized as entitled to representation under the existing

law, by the apportionment of 1862, sends its members here with certificates under its great seal, every member thus presenting himself, unless objection be made to his personal qualification, is entitled to be sworn in.

Now, sir, in the resolution as passed there is not a single allegation touching the personal qualification of Mr. Grover and Mr. Beck. There is not upon your records anything of the kind, whether resting upon the allegation of a member or upon the affidavit of a person not a member. My reason for protesting against this whole proceeding is, that if the principle involved is correct, then the entire delegation from my State may be excluded by the mere will of a majority whenever any member may choose to assert in a speech or a resolution that "it is alleged," or "there is good reason to believe," that the election in the State of Ohio was not legally conducted. I deny and repudiate the whole doctrine; and I shall vote against it to-day, as I did on last Wednesday.

Mr. DAWES. Mr. Speaker, I of course cannot tell what will be the action of other members of the committee. This whole matter is, as I have said, already before the committee; and this morning there are presented papers containing what appears upon its face to be some evidence touching the disloyalty of several of the men claiming seats as members from the State of Kentucky. I submit to the House that the best disposition of this subject is to refer it to the Committee of Elections, who will then have the whole matter under their control, and will make, I doubt not, without any unnecessary delay, such report as the exigencies of the case may seem to demand.

I agree with the gentleman from Ohio, and all that I have said has been in the same line, touching the sacred nature of a man's right to a seat here until something shall be presented concerning his present disqualification. I have no doubt the Committee of Elections in their report upon the record will do something embodying sentiments of a like character, and so dispose of this matter that we need not fear the establishment of any dangerous precedent. I therefore move that the papers and the motion of the gentleman from Illinois be referred to the Committee of Elections. I do not demand the previous question at this time, but yield to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. I do not desire to carry this discussion any further; but, sir, it seems to me I do not understand my own language, or else other gentlemen here do not understand it. Under this resolution, I care not how good lawyers gentlemen may be, or how good lawyers they may esteem themselves, I am satisfied under this resolution, with the proper construction which I am sure it will certainly get, where the charges against these men are of disloyalty, the committee has the right at any time to report to this House in order that the House may act on the question. It does seem to me that there can be no doubt in regard to that point.

The charge made against these men, made by papers filed, is that of their disloyalty, and the resolution tends to that point, and whether you divide it or take it in the aggregate makes no difference. Each one of the members against whom charges are made is mentioned by name in the resolution, and you may divide that resolution, or the committee may divide it, but the charge in the resolution goes to each and every member there named.

There ought not to be any fears that any great outrage will be perpetrated here. This resolution does not disfranchise Kentucky, as my friend seems to think; but as he is so much alarmed in reference to the disfranchisement of the rebels in Kentucky, I will inform him that the resolution does not apply to every member of that State. There is one exception—the name of George M. Adams does not appear in the resolution. Hence it does not exclude the whole representation of the State at all, but excludes those men who claim seats

from the right to be sworn until this question shall be determined, and that is all it does do.

I know perhaps it was unfortunate the resolution was not drawn up by some one else. If some one else had drawn it perhaps they would have put it in a shape to be better understood. I thought when I drew it that I understood it myself, and I thought that the House understood it when it voted on it, and I have no doubt that it was understood then as I now understand it, that under that resolution the Committee of Elections is required to report as soon as practicable, upon what? Upon these facts to the House, so that the House may then act and decide whether these men are entitled to seats; whether they have been loyal or disloyal. That is the whole tenor of the resolution. It was so understood then, and I think it is so understood now.

As a matter of course, Mr. Speaker, it cannot be understood by gentlemen who voted against the resolution. I do not suppose you could draw up any kind of resolution here which would satisfy the gentlemen who voted against it; at least I do not propose to do so. You cannot satisfy a man and convince him a thing is right when he is determined in his own mind it is not right; and you may introduce resolution after resolution against these members in any way excluding them until these charges are proved to the satisfaction of the House to be unjust, and they would vote against them. I do not propose to pander to the humors and caprices of any one in this particular. As I have remarked already, I think I understood the resolution when it was offered. I know I do, and that it means no such thing as has been suggested by some gentlemen on the other side of the House.

Mr. DAWES. Before renewing the demand for the previous question, I desire to call the attention of the gentleman from New York [Mr. Wood] to the Globe, pointed out to me by a friend sitting near, showing that there is evidence reaching the gentleman from Kentucky who was a member of the last House. I now renew the demand for the previous question.

Mr. WILLIAMS, of Pennsylvania. I ask leave to introduce an amendment.

Mr. DAWES. I will hear it.

Mr. WILLIAMS, of Pennsylvania. It is to add as follows:

"With instructions to report as promptly as possible in all the cases upon the one specific charge of disloyalty, and with power so far to purge the claimants on oath."

Mr. DAWES. I would yield and allow the amendment of the gentleman from Pennsylvania to be offered if I did not suppose that the committee have absolute control over this whole matter, and can vote to-morrow upon that specific allegation against these individuals just as well without it as with it. Whether the committee shall be instructed to put them upon oath or not, they are required to take that oath before the House if admitted. I think the House had better trust the committee.

Mr. BINGHAM. I wish to ask the gentleman from Massachusetts if he supposes he can make an inquiry touching the disloyalty of a member when there is no allegation against him?

Mr. DAWES. I will say in answer to the question that the committee will at once report back the credentials of any such gentleman, and he will be sworn in in less time than we have been discussing the question.

The previous question was seconded and the main question ordered; and under the operation thereof the paper with the pending motion was referred to the Committee of Elections.

Mr. DAWES moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. FARNSWORTH. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to—ayes 65; noes 45.

Mr. WOOD. I move to reconsider the vote just taken, and to lay the motion to reconsider on the table. [Laughter.]

The SPEAKER. That is not usually done.

Mr. WOOD. Cannot the vote be reconsidered during the session.

The SPEAKER. It can; the motion is in order.

The motion to lay the motion to reconsider on the table was agreed to.

THANKS TO MAJOR GENERAL SICKLES.

Mr. PIKE. I offer the following joint resolution tendering the thanks of Congress to Major General Daniel E. Sickles, and move to suspend the rules for the purpose of considering the same:

*Be it resolved by the Senate and House of Representatives, That the thanks of Congress be tendered to Major General Daniel E. Sickles for his able and faithful performance of the duties of commander of the second district of North Carolina and South Carolina.*

The motion to suspend the rules was agreed to, and the resolution was read a first, second, and third time.

Mr. PIKE. I demand the previous question on the passage of the resolution.

Mr. NOELL. Will the gentleman yield to me for an amendment?

Mr. PIKE. I decline to yield.

Mr. NOELL. I ask to have my amendment read.

Mr. PIKE. The gentleman may offer any other resolution he pleases separately.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 17, not voting 39; as follows:

YEAS—Messrs. Ames, Anderson, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Dixon, Donnelly, Driggs, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Griswold, Hamilton, Harding, Hayes, Hooper, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kelsey, Kitchen, Koonitz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Meurer, Miller, Moore, Moorhead, Morrill, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polesky, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spaulding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taffe, Taylor, Thomas, Thowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Archer, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Marshall, Morrissey, Munger, Niblack, Noell, Ross, Van Trump, and Wood—17.

NOT VOTING—Messrs. Allison, Delos R. Ashley, James M. Ashley, Barnes, Blaine, Blair, Brooks, Calk, Callom, Dodge, Eckley, Farnsworth, Finney, Fox, Haight, Halsey, Hill, Asahel W. Hubbard, Humphrey, Kerr, Ketcham, Ladin, McCullough, Morgan, Nicholson, Phelps, Plants, Pomeroy, Pruyn, Randall, Robinson, Selye, Shellabarger, Sitgreaves, Stone, Taber, Van Auker, Van Wyck, and William Williams—39.

So the joint resolution was passed.

Mr. PIKE moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THANKS TO MAJOR GENERAL POPE.

Mr. JUDD. I ask the unanimous consent of the House to introduce a joint resolution tendering the thanks of Congress to Major General John Pope.

Mr. ELDRIDGE. I object.

Mr. JUDD. I move a suspension of the rules.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended.

The joint resolution was then read a first and second time, ordered to be engrossed and read a third time; and being engrossed was accordingly read the third time.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. JUDD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

STATIONERY FOR MEMBERS.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the same allowance be made to members of the House for newspapers and stationery during the present adjourned session as they are entitled to receive under the rules for a short session of Congress.*

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THANKS TO MAJOR GENERAL SCHOFIELD.

Mr. SCOFIELD. I desire to offer a resolution tendering the thanks of Congress to Major General John M. Schofield. I only wish to say that although he bears the same name he is no relation of mine; I wish very much that he was.

No objection being made, the joint resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. SCOFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSTITUTIONAL AMENDMENT.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the President be requested to inform the House what States have ratified the amendment to the Constitution of the United States proposed by the concurrent resolution of the two Houses of Congress of June 16, 1866.*

LEAVE OF ABSENCE.

Mr. WARD asked and obtained indefinite leave of absence for Mr. MALLORY.

QUALIFICATION OF VOTERS.

Mr. WASHBURN, of Indiana. I ask the unanimous consent of the House to offer the following resolution:

*Resolved, That the Committee on the Judiciary be instructed to inquire whether under the Constitution Congress has power to prescribe the qualifications of voters in the several States, and if they deem it expedient, report a bill prescribing the same.*

Mr. HOLMAN. I object.

Mr. WASHBURN, of Indiana. I move a suspension of the rules to enable me to offer the resolution.

The question was taken; and (two thirds voting in the affirmative) the rules were suspended, and the resolution was received.

Mr. WASHBURN, of Indiana. I demand the previous question on the resolution.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I ask a division of the resolution.

The SPEAKER. The resolution is not divisible. The rule on the subject is that the question shall be divided "if it comprehend propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the House." That is not the case in this instance.

Mr. HOLMAN. Then I move to lay the resolution on the table.

Mr. WOOD. I would inquire as a question of order, whether under the resolution passed day before yesterday, this would not come under the head of general legislation in case the committee should report a bill?

The SPEAKER. It does come under that rule.

Mr. WOOD. Then I apprehend that no such bill can be reported at this session.

The SPEAKER. But the rules have been suspended—that rule along with the others—to allow the introduction of the resolution. That rule, like all other rules, may be suspended, as it has been in this case.

The question being taken on the motion of Mr. HOLMAN, that the resolution be laid on the table, there were—aye twenty, noes not counted.

So the resolution was not laid on the table.

The question recurred on agreeing to the resolution.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPITOL POLICE.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved by the House of Representatives, (the Senate concurring,) That a joint select committee be appointed, to consist of two on the part of the Senate and three on the part of the House of Representatives, whose duty it shall be to inquire into the manner in which the act approved March 30, 1867, entitled "An act to authorize the appointment of certain watchmen, and for other purposes," has been executed, and report whether any and what further legislation is necessary or proper to secure the efficiency of the Capitol police force.*

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEXICAN AFFAIRS, ETC.

Mr. SHANKS. I ask unanimous consent to offer the following resolutions:

1. *Resolved, That the people of every nation of right have the control of their own Government respectively, and in their sovereign capacity to create, maintain, or exchange its principles and its workings in accordance with their own judgments.*

2. *Resolved, That this right includes that of quelling insurrections and repelling invasions, with the right to punish treason and usurpation at home and usurpation from abroad.*

3. *Resolved, That all people have the right to choose their own officers, and that all orders of nobility and all assumed right to rule, based on birth, are in opposition to republican government and obnoxious to a free people.*

4. *Resolved, That we look with anxious hope for the prosperity of all republican governments, and at this time especially for our sister republic of Mexico; and that we view with pleasure the information of the restoration to power of the government of her people over the self-styled Emperor Maximilian, of the so-called royal house of Hapsburg.*

5. *Resolved, That in the opinion of this House the attempt recently made to establish an empire in Mexico on the ruins of a republic would not have been made had not the United States at that time been engaged in a civil war of great magnitude; and that said attempt was part of a gigantic effort to overthrow and destroy the Republic of the United States, in which the slave power of America and its natural ally, the aristocracy of Europe, labored with preconceived and united interest; and that the fall of Maximilian and the annihilation of that usurped authority, were necessary to the success of republican principles and government in Mexico and elsewhere, and are eminently right and proper.*

6. *Resolved, That the people of the United States cannot look with unconcern upon an attempt to control the destinies of Mexico by a Power or Powers in antagonism with republican government.*

Mr. WOOD. I desire to discuss those resolutions.

The SPEAKER. The resolutions are not yet before the House. The gentleman from Indiana [Mr. SHANKS] asks consent to offer them, or does he move to suspend the rules?

Mr. SHANKS. I move to suspend the rules.

Mr. WOOD. I had the floor.

Mr. SPEAKER. The gentleman from Indiana [Mr. SHANKS] has held the floor from the time when he presented the resolutions.

Mr. WOOD. Well, sir, I regret that any member of this House can be found to indorse the barbarous assassination of Maximilian. I think it is discreditable.

The SPEAKER. The gentleman from New York [Mr. WOOD] is not in order, and must resume his seat. The gentleman from Indiana

is entitled to the floor, and moves to suspend the rules. The resolutions, having been presented by the gentleman from Indiana, were reported, when the gentleman from New York [Mr. Wood] rose, stating that he desired to debate the resolutions. The Chair then asked the gentleman from Indiana, whether he had asked unanimous consent to offer the resolutions, or whether he moved to suspend the rules. The gentleman from Indiana stated that he desired to move to suspend the rules, which he had a right to do; and he was entitled to the floor for that purpose in preference to all other gentlemen.

Mr. WOOD. But I submit that the Speaker awarded me the floor.

The SPEAKER. The Chair recognized the gentleman from New York, supposing that he desired to object to the introduction of the resolutions, but certainly not to debate the resolutions, which are not yet before the House, having been reported solely for information.

Mr. WOOD. I yield to the decision of the Speaker.

The SPEAKER. Such is the uniform ruling on questions of this sort.

Mr. BOYER. Would it be in order to move to refer these resolutions?

The SPEAKER. They are not before the House.

Mr. INGERSOLL. If the rules be suspended would it then be in order to move to refer the resolutions to the Committee on Foreign Affairs?

The SPEAKER. It would if the previous question be not demanded or seconded.

The question was taken, and the House refused to suspend the rules.

#### WOMAN'S RIGHTS.

Mr. NOELL. I move that the rules be suspended in order to submit the following resolution:

*Resolved*, That in the name of the people of the United States, we tender our thanks to Mrs. Lucy Stone for her gallant campaign in Kansas in vindication of the immutable principles of eternal justice. [Laughter.]

The rules were not suspended.

#### GRANTS OF LAND TO SOUTHERN RAILROADS.

Mr. JULIAN. I move that the rules be suspended in order to permit me to introduce the following resolution:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for the forfeiture to the United States of all lands granted to the several States of the South in 1856 to aid in the construction of sundry railroads, which grants have expired by limitation.

The rules were not suspended.

#### RECONSTRUCTION.

Mr. SPALDING, by unanimous consent, introduced a bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and also the act supplementary thereto passed March 23, 1867; which was read a first and second time, ordered to be printed, and referred to the select Committee on Reconstruction.

#### THANKS TO "PETROLEUM V. NASBY," ETC.

Mr. SCHENCK. Mr. Speaker, we have passed several resolutions of thanks, some three or four, to the commanding officers of military districts for the manner in which they have carried out the clear and obvious intention of Congress and the expositions they have made of the purpose of Congress. I think it scarcely fair the other side should not have some opportunity to notice the champions who entertain a different view of the subject. Heartily concurring in the resolutions which have already passed in reference to our military commanders, I submit the following:

*Resolved*, That the thanks of this House are due, and are hereby tendered, to Rev. Petroleum V. Nasby, P. M., "at Confedrit Cross Roads, which is in the State of Kentucky," and Hon. Henry Stanbery, Attorney General, for their long, full, and able expositions, made from time to time, of the views and policy of the President of the United States on the subject of reconstruction.

[Great laughter.]

Mr. HUBBARD, of West Virginia. I object.

Mr. SCHENCK. I move to suspend the rules.

Mr. KOONTZ. I move that the House do now adjourn.

#### CONTESTED ELECTION CASES.

The SPEAKER, by unanimous consent, presented papers in the contested-election cases of Switzler vs. Anderson, Missouri; Birch vs. Van Horn, Missouri, and Hunt vs. Chilcott, Colorado; which were referred to the Committee of Elections.

Mr. KOONTZ's motion was agreed to; and thereupon (at two o'clock and twenty-five minutes p. m.) the House adjourned till Monday next.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Henry C. Sanford, of Centre, Alabama, for the removal of disability.

By Mr. CLARKE, of Kansas: The petition of James C. Fisher and others, clerks and enlisted men at headquarters, department of the Missouri, praying that such legislative measures may be adopted as shall secure a sufficient remuneration for their services performed.

By Mr. ELLIOT: The petitions of John T. Hardie, William Gregg, Robert F. Patten, and Erasmus D. Beach, all of Louisiana, praying for acts of Congress granting restoration of citizenship.

#### IN SENATE.

MONDAY, July 8, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

Hon. GARRETT DAVIS, of Kentucky, and Hon. REVERDY JOHNSON, of Maryland, appeared in their seats.

#### INDIAN HOSTILITIES.

Mr. HENDERSON. Is it in order to propose a resolution of inquiry?

The PRESIDENT *pro tempore*. On what subject?

Mr. HENDERSON. It is calling for information from the Secretary of War and the Secretary of the Interior in reference to our Indian hostilities.

The PRESIDENT *pro tempore*. I am inclined to think not, under the resolution that was passed on Friday.

Mr. GRIMES. A resolution of inquiry is not legislative business.

Mr. HENDERSON. I was thinking it was not legislative business. I do not propose to legislate on the subject, but to ask information from the Departments. I do not propose to present to act upon that information. If there be any doubt about it, inasmuch as it is very important to get the information to determine afterward whether we shall do anything or not, I ask the unanimous consent of the Senate to permit me to offer a couple of resolutions on that subject.

The PRESIDENT *pro tempore*. The Senator from Missouri asks the unanimous consent of the Senate to offer a resolution. Is there any objection?

Mr. DRAKE. Under the rules of the Senate is such a unanimous consent ordinarily necessary to enable a Senator to offer a resolution of inquiry?

The PRESIDENT *pro tempore*. I believe it has always been understood that unanimous consent dispenses with a rule. I believe the Senate has always acted on that idea, that if there is no objection a thing may be done which any objection would prevent.

Mr. DRAKE. But the point I wish to ascertain is whether, if the Senate had not adopted the resolution which was adopted on Friday last, it would be necessary for my colleague to ask the unanimous consent of the Senate to offer a resolution of inquiry.

The PRESIDENT *pro tempore*. Undoubtedly not; he might offer it.

Mr. EDMUNDS. He could not offer it without a day's notice.

The PRESIDENT *pro tempore*. It could not be considered without a day's notice if objection was made.

Mr. DRAKE. I understand it could not be considered without a day's notice if objection was made; but the point I wish to get at is whether, if that resolution had not been adopted the other day, it would be necessary for a Senator to ask the unanimous consent of the Senate to offer a resolution.

The PRESIDENT *pro tempore*. Certainly not. Under our rules resolutions would be in order.

Mr. DRAKE. Then, sir, I object to any unanimous consent being asked or given in this case. The resolution which was offered the other day does not touch this matter, in my judgment, at all. The resolution is itself bad enough without superadding to it anything whatever. In my opinion, this is no legislative business which is barred from the consideration of the Senate by that resolution. If it is, if the Senate has in reality tied its hands, emasculated itself, made itself of no force, no power whatever as a coordinate branch of the Government, the sooner that resolution is repealed the better. I object to the whole thing of my colleague asking the unanimous consent of the Senate to do that which he is not under the necessity of asking the unanimous consent of the Senate to do.

Mr. HENDERSON. My colleague will remember that even though no rule had been adopted at all, a single objection would carry these resolutions of inquiry over until to-morrow, and my colleague could, even with the repeal of the resolution of Friday last, carry over either of these resolutions to another day. I desire this information to-day. It is very important to the frontier that this information be given. An Indian war is upon us, and we want to know the origin of it. We want to know the causes of it. We want to know whether it can be stopped or not. We want to know whether this expenditure of money which is now necessarily before us can be avoided. We want to know whether the lives of our citizens can be spared, and whether Indian hostilities with all their barbarities can be avoided. Now, sir, our State is deeply interested in this thing. We desire that the Pacific railroads, the two branches, shall be constructed, and constructed as rapidly as possible. No State in the Union is more deeply interested than the State represented by my colleague and myself in having these Indian hostilities speedily and permanently settled; and I rise merely for the purpose of asking my colleague, if not as a favor to the country, as a favor to me personally, that he permit these resolutions to pass now, not to-morrow but to-day, not the next day after to-morrow but this morning, so that this information can be furnished promptly. I do not propose any legislation at present, because I do not know that I shall be able to suggest any even after the information comes in; but it is due to the country, it is due to the Senate, it is due to the Secretary of War and the Secretary of the Interior that this information be furnished and that the country know why this war is being waged, what its probable length of duration will be, and what it is likely to cost. Therefore I beg of my colleague that he will suffer this information to come before the Senate.

Mr. DRAKE obtained the floor.

Mr. TRUMBULL. I ask the Senator from Missouri if he will give way for a moment to allow me to make a report with a view of getting a bill printed, so that we may have it early before us.

Mr. DRAKE. Certainly.

#### RECONSTRUCTION.

Mr. TRUMBULL. I ask the unanimous consent of the Senate to allow me to make a report.

The PRESIDENT *pro tempore*. It will be received, no objection being made.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred sundry bills

on reconstruction, numbered 123, 124, 125, 126, 129, and 130, have instructed me to report a bill (S. No. 131) to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

The bill was read a first time by its title.

Mr. WILSON. Let us have it read in full, so that we may know what it is.

The PRESIDENT *pro tempore*. It will be read a second time at length, if there is no objection.

Mr. SUMNER. I rather think it should not be read a second time to-day. It is an immensely important measure; and when one bears in mind what occurred on Friday, and the disposition which was then shown by the majority of this Chamber, I feel that we ought to fall back upon all the rules of the Senate for our protection. The bill may be read at length, but I object to its proceeding beyond one stage to-day.

Mr. WILSON. Let us have the first reading in full.

Mr. TRUMBULL. It has been read once. The PRESIDENT *pro tempore*. The first reading has been gone through with.

Mr. TRUMBULL. Let it be read a second time, and then it can go over and be printed.

The PRESIDENT *pro tempore*. I suppose the bill may be read for information.

Mr. SUMNER. I object to its second reading.

Mr. TRUMBULL. If there is to be that captiousness in the Senate I will report it as an amendment, and then the Senator from Massachusetts will not have it in his power to object to its second reading. I report it as an amendment to Senate bill No. 125, if we are to be annoyed by a captious objection of that kind. My object in reporting that form was because I thought it would be simpler for the Senate to see it as a new bill, as it is made up of several bills, and have it altogether; and I propose to have it read the first and second time and sent immediately to the printer, so that we can have it before us. The Senator from Massachusetts, however, objecting to the second reading, will compel me to offer it as an amendment, in order that it may be before the Senate at the earliest time; and I now offer it as an amendment unless the Senator consents to withdraw his objection and let it be read a second time.

Mr. SUMNER. If I understand the Senator, it is not his purpose to press it to-day.

Mr. TRUMBULL. I cannot press it to-day.

Mr. SUMNER. I do not know since the vote of Friday what the Senate cannot do.

Mr. TRUMBULL. I understand perfectly well that by the rules of the Senate this bill cannot be forced to a vote to-day, and I am very free to say I have no expectation of such a thing. I did not suppose it could be forced to a vote to-day. I knew the rules of the Senate would not permit it. If the Senator from Massachusetts persists in his objection, I have only to vary my report and make this an amendment, and then it would properly come up to-morrow, being the report of a committee to-day; but I should prefer having it published as a clean bill, unembarrassed by the others.

Mr. SUMNER. And I would rather see it so myself, if there can be a distinct understanding that its second reading to-day is not to be an excuse for pressing it on without proper consideration in this body.

Mr. TRUMBULL. Do you withdraw your objection?

Mr. SUMNER. With that understanding.

Mr. TRUMBULL. I can make no understandings with the Senator. I have stated to him that the rules of the Senate do not permit it to be considered if a single person objects, and I do not expect it to be forced to a vote; but I do not propose to enter into any understandings with the Senator after the objection he has made. I have stated my own views in regard to it, and I have no authority to make understandings with the Senator. It cannot

be acted upon to-day; the Senator knows it perfectly well; and I have no disposition, as the organ of the committee, to press it.

Mr. SUMNER. Very well; if the Senator had said that at first I should have made no objection.

Mr. POMEROY. There can be no objection to its being read a second time and going to the printer.

Mr. SUMNER. Of course not.

Mr. TRUMBULL. Then I ask that it have its second reading at length.

Mr. POMEROY. Let it be read a second time, and printed. Of course it cannot be acted on to-day; but it can go through the stage of being printed and then considered to-morrow.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his objection to the second reading of the bill?

Mr. SUMNER. Yes, sir.

The PRESIDENT *pro tempore*. It will be read a second time with a view to its printing.

The bill was read a second time at length, as follows:

A bill to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

*Be it enacted, etc.*, That the true intent and meaning of the "act to provide for the more efficient government of the rebel States," passed March 2, anno Domini 1867, was, is, and shall be construed to be that the military authority of the United States in said rebel States, as provided in said act, was and is paramount to any civil government existing therein, makes all such civil governments subordinate to such military authority, and prohibits them from interfering in any way with the exercise of such military authority.

SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the approval of the General of the armies of the United States, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the approval of the general aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army to perform the same.

SEC. 3. *And be it further enacted*, That the General of the armies of the United States shall be invested with all the powers of suspension, removal, and detail granted in the preceding section to district commanders.

SEC. 4. *And be it further enacted*, That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers and appointing others in their stead are hereby confirmed.

SEC. 5. *And be it further enacted*, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," passed March 23, 1867, shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act; and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine under oath (to be administered by any member of such board) any one touching the qualification of any person claiming registration.

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and who has afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial officer in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of the general laws of a State.

SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the 1st day of October, 1867; and the boards of registration shall have power and it shall be their duty, commencing twenty days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of three days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the

name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall at any time be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

SEC. 8. *And be it further enacted*, That section four of said last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

Mr. TRUMBULL. I suppose the bill will be printed as a matter of course.

The PRESIDENT *pro tempore*. It will be printed under the rule, being the report of a committee.

Mr. TRUMBULL. I ask leave to report back—I believe they were sent to the Chair—the bills which were referred to the committee, and I move that they be indefinitely postponed.

Mr. SUMNER. If the Senator will pardon me, I suggest whether he had better not report back and ask to be discharged from their further consideration, which will leave them on the Calendar.

Mr. TRUMBULL. I have no objection to that. I merely made the motion to dispose of them, as the bill just reported supersedes them.

The PRESIDENT *pro tempore*. Is the motion to indefinitely postpone these bills withdrawn?

Mr. TRUMBULL. I will simply ask that the Committee on the Judiciary be discharged from their further consideration, if the Senator prefers it, and let them go on the Calendar.

The PRESIDENT *pro tempore*. That order will be made, no objection being interposed.

Mr. WILSON subsequently said: I desire to move an amendment to the second section of the bill that was reported by the Committee on the Judiciary this morning, and I ask to have it printed.

The PRESIDENT *pro tempore*. That order will be made.

#### INDIAN HOSTILITIES.

Mr. DRAKE. It is quite evident to me, from the remarks of my colleague, that he misapprehended the tenor and scope of my previous remarks. I do not wish to be understood in any sense whatever as objecting to the consideration of the resolution which he desires to offer at this time. On the contrary, feeling as he does that the matters embraced in the resolution are matters of very great importance to the whole region of country from which I come, and of especial importance to the State which I have the honor in part to represent here, I desire that the resolution shall be offered, and shall be acted upon at once. But the thing that I am after is this: here is the first occasion that has arisen under the resolution of last Friday for construing its terms, and now my colleague rises and gives practically a construction to the terms of that resolution by asking the unanimous consent of the Senate to offer his resolution—not the unanimous consent of the Senate to consider it after it is offered, but the unanimous consent of the Senate to offer it. I appeal to the Chair to know whether that would have been necessary but for the adoption of the resolution of last Friday?

The PRESIDENT *pro tempore*. Certainly not.

Mr. DRAKE. The Chair answers me that it is not necessary. The point of objection with me is, that my colleague shall not ask the unanimous consent of the Senate to do that for which the unanimous consent of the Senate is not necessary, and thereby practically give a construction to that resolution of last Friday which it does not bear upon its face, in my judgment. That resolution cuts off "legislative business." I deny that a resolution of inquiry adopted by this body, calling upon a department for information, is legislative business within the meaning of that resolution; and that is the sole point that I make. If my colleague will get up and offer



his resolution, I will be the last Senator here to object to its present consideration. The thing that I object to is that he should ask the unanimous consent of the Senate to offer it.

Mr. POMEROY. I think there is no need of his asking the unanimous consent of the Senate to offer the resolution. It is only the unanimous consent of the Senate to consider it that is necessary. This is no resolution of legislation, nothing that looks to legislation. He can offer the resolution when resolutions are called for, the same as he can offer a petition when petitions are called for; but if he wants the Senate to consider it he must have the unanimous consent of the body.

The PRESIDENT *pro tempore*. The resolution adopted on Friday last will be read, so that we may understand it.

The Chief Clerk read the following resolution, adopted by the Senate on the 5th instant:

*Resolved*, That the legislative business of this session be confined to removing the obstructions which have been, or are likely to be, placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed; and that further legislation at this session on the subject of reconstruction or on any other subjects is not expedient.

Mr. GRIMES. I have no doubt myself that the construction given to the rule by the Senator from Missouri on my right [Mr. DRAKE] is the correct one, that such a resolution as that offered by the Senator from Missouri on my left [Mr. HENDERSON] is not legislative business, nor requiring the action of the other coördinate branches of the Government; and it seems to me this is as good a time as any to have the question settled by the Senate, for I believe questions of order are settled by the Senate. I trust, therefore, that we shall have the question presented to the Senate, and that we shall decide that mere calls for information upon the Departments or the President are not legislative business, so that the question may not come up again in any other shape.

The PRESIDENT *pro tempore*. I was about to make that proposition. The Chair has a right, I believe, under our rules to have the Senate pass upon this question of order. The question will be, then, whether it is in order for a Senator to offer a resolution of inquiry; and the Chair would propound that question to the Senate.

Mr. POMEROY. There cannot be any question about that; nobody disputes it.

The PRESIDENT *pro tempore*. There can be a question about anything.

Mr. SUMNER. Is that open to debate?

The PRESIDENT *pro tempore*. I suppose it is.

Mr. SUMNER. I would say then, sir, that while it would seem very irrational to cut off resolutions of inquiry, yet it seems to me that under the terms of the resolution adopted on Friday they are cut off. As I understand the business of the Senate, it is threefold: it is legislative, executive, and diplomatic. The two latter classes of business occur in what is called executive session, with closed doors; the first class is in legislative session, with open doors. All that we do with open doors, I submit, is legislative in its character. There may be no statute or resolution under consideration, but the information that is asked for contemplates legislation. It is preliminary to legislation; it is with a view to obtain information on which legislation may be founded. Therefore I submit that it is legislative in its character: in one word, it is legislative business. If, for instance, there could be no legislation on the subject, there would be no occasion for any such inquiry, nor, I presume, would any Senator think of propounding it. It seems to me, therefore, that under the resolution which has been adopted, the inquiry that is now proposed must be considered as legislative in its character, and hence excluded. Of course that brings us to a conclusion as to the irrational character of that resolution, on which before this day is out I hope to have something more to say on a more direct proposition. I forbear now going into it any further; but at this first moment I call

attention to the incongruous and irrational character of the proposition which the Senate has adopted.

The PRESIDENT *pro tempore*. The question is: Is the resolution of inquiry offered by the Senator from Missouri in order without the unanimous consent of the Senate?

The question being put, it was determined in the affirmative, *nem. con.*

The PRESIDENT *pro tempore*. The resolution is in order. Is there any objection to its present consideration? The Chair hears none. The resolution will be read.

The Chief Clerk read the resolutions, as follows:

*Resolved*, That the Secretary of the Interior communicate to the Senate any reports made to his Department by commissioners heretofore appointed, or by superintendents or agents of Indian tribes, together with any other authentic and reliable information in his possession, touching the origin and progress of existing Indian hostilities on the frontier.

He will further communicate to the Senate, as far as he can, the extent of the disaffection among the Indian tribes; whether they are waging war as tribes or as individuals, and if as individuals, what disposition has been or is likely to be made of the friendly Indians formerly belonging to what are known as hostile bands, and that he make such suggestions as in his judgment will lead to the most speedy termination of pending hostilities and prevent Indian wars in the future.

The resolution was adopted.

Mr. HENDERSON. I offer another resolution on the same subject:

*Resolved*, That the Secretary of War communicate to the Senate any authentic facts that have come into his possession since the 4th of March last touching the origin, progress, and extent of Indian hostilities in the western Territories and the frontier States, and that he especially transmit copies of such orders as have been issued by the military officers conducting hostile operations against the Indians and such reports as may have been made by them to his Department or to superior officers and communicated to the Department, showing the causes and extent of disaffection among the Indian tribes, the precise character of warfare adopted or suggested for the suppression of the troubles, and the probable duration thereof. And the Secretary will further inform the Senate what number of friendly Indians has been segregated from the hostile bands, and what disposition has been made of them; whether they are on their reservations sustaining themselves or supported by the Government; also the probable number of Indians engaged in war, and to what tribes they belong; what reasons, if any, are given by them for their acts of hostility, and whether any efforts have been made or directed to be made by the Department to terminate the troubles by negotiation or by any other means than the continued prosecution of war. And the Secretary is requested to communicate such suggestions as in his judgment will best tend to secure a speedy and lasting peace with the Indian tribes.

The resolution was considered by unanimous consent, and agreed to.

#### MEXICAN AFFAIRS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the resolution that I offered the other day in regard to Mexico.

The PRESIDENT *pro tempore*. Is there any objection to taking it up?

Mr. EDMUNDS. Let it be read for information.

The Chief Clerk read the resolution submitted by Mr. CHANDLER on the 3d instant, as follows:

*Resolved*, That the President be requested, if not incompatible with the public interest, to transmit to the Senate all the official correspondence between Department of State and Hon. Lewis D. Campbell, late minister of the United States to the republic of Mexico, from the time of his appointment; also, the correspondence of the Department with his successor.

Mr. SUMNER. There is a resolution that I offered immediately after my friend from Michigan offered his, which is a little broader than his, and I happen to know that it would draw out some correspondence which the resolution of the Senator would not draw out.

Mr. CHANDLER. Let us pass them both.

Mr. SUMNER. My impression is that in making the call we had better make it sufficiently broad to draw out all that it is important for the public interests now to know. I should like to have my resolution read by way of reminder to the Senate.

The Chief Clerk read the resolution submitted by Mr. SUMNER on the 3d instant, as follows:

*Resolved*, That the President of the United States

be requested, if in his opinion not incompatible with the public interest, to furnish the Senate copies of any correspondence on the files of the Department of State relating to any recent events in Mexico.

Mr. SUMNER. It will be observed that the language of that proposition is much broader than that from the Senator from Michigan, and will be applicable to some events that certainly cannot be embraced in his call. It seems to me advisable that while we are making a call we should make it broad enough to cover all the matters with regard to which there is an interest.

Mr. POMEROY. The Senator must be aware that a call for any information concerning recent events in Mexico would not touch the case to which the resolution of the Senator from Michigan refers. That correspondence was with a gentleman in New Orleans, not in Mexico. We can pass them both.

The PRESIDENT *pro tempore*. No objection being made to its consideration, the question is on agreeing to the resolution of the Senator from Michigan.

The resolution was adopted.

Mr. SUMNER. Now I call up my resolution.

The motion was agreed to.

The PRESIDENT *pro tempore*. The resolution has just been read. The question is on its adoption.

Mr. HOWARD. I ask that it be read again. I want to hear it.

The Chief Clerk read the resolution.

Mr. WILSON. I am very glad that this resolution has been offered, and I trust it will bring all the information asked for. For myself I think it of vital importance that this information should be obtained. I have reason to fear that our relations with Mexico in all respects are not what they ought to be, and that the influence and position of this Government are not to-day what they ought to be in that country. I hope that the information now called for will be produced to the Senate and the country, and I hope the public judgment of the country will watch carefully the course of the Government in relation to the Mexican republic—a republic that should have the sympathies of this nation.

Mr. HOWARD. The resolution as presented by the honorable Senator from Massachusetts is very general in its terms. I would inquire of him what correspondence or documents he expects to obtain? What is the character of them? What are the subjects to which they relate? We have had a newspaper report that the adventurer Maximilian was recently executed by the sentence of a court-martial after he had been captured as a prisoner. I wish to know of the Senator from Massachusetts whether the information he expects from the Department of State relates to that very interesting subject?

Mr. SUMNER. It does relate to the execution of Maximilian. I hope that the Secretary of State will lay before us all the proceedings with regard to his arrest and trial and execution. I hope also that he will be able to communicate to us the proceedings with regard to Santa Anna and his arrest, raising, as the Senate is aware, possibly a question of international law. I am not sufficiently conversant with the facts to pronounce definitely upon it; but the Senate is aware that there is a possibility of such a question. The resolution that I have proposed is applicable to all recent questions in Mexico, and I presume that it will draw from the Department of State all that they have on their files relating to recent events there.

Mr. HOWARD. I am happy to learn from the Senator that he expects to obtain information respecting the execution of Prince Maximilian. I hope the Secretary of State will furnish to us all the documents in his possession that are in any sense authentic upon that subject, in order that the world may understand what were the real causes for putting him to death; and I entertain the expectation that if the truth is fully communicated it

will have a very powerful effect in correcting a sort of childish sentimentalism; if I may be allowed that expression, on the subject of the execution; in other words, proper punishment of one who, according to my ideas, was the most arrant felon of the present age.

The resolution was adopted.

#### CAPITOL POLICE FORCE.

Mr. CHANDLER. I desire to offer a resolution of inquiry. I believe it is now in order.

The PRESIDENT *pro tempore*. It is in order; but, if the Senator will permit me, I desire to lay before the Senate certain proceedings of the House. I should think they ought not to be delayed. There is a resolution from the House, which will be read.

The Chief Clerk read the following concurrent resolution from the House of Representatives:

*Resolved by the House of Representatives, (the Senate concurring,) That a joint select committee be appointed, to consist of two on the part of the Senate and three on the part of the House of Representatives, whose duty it shall be to inquire into the manner in which the act approved March 30, 1867, entitled "An act to authorize the appointment of certain watchmen, and for other purposes," has been executed, and report whether any and what further legislation is necessary or proper to secure the efficiency of the Capitol police force.*

The PRESIDENT *pro tempore*. If there is no objection to its present consideration the question will be on agreeing to the resolution.

Mr. POMEROY. I apprehend that that looks to a report from a committee with a view to legislation and the joint action of the two Houses, and that it cannot be considered under the resolution adopted on Friday last. I make the objection.

The PRESIDENT *pro tempore*. I do not know that the resolution of the Senate could bind the House. I am not sure whether a resolution of a joint character is within the scope of that resolution. The resolution adopted by the Senate was not a joint resolution. I am inclined to think that the resolution ought to have such a construction.

Mr. RAMSEY. It seems to me that the resolution of the House does not necessarily contemplate legislation at all. It cannot be inferred from anything on the face of it certainly.

Mr. POMEROY. I should like to have the last clause of the resolution read again, about the report of the committee.

The Chief Clerk read as follows:

And report whether any and what further legislation is necessary or proper to secure the efficiency of the Capitol police force.

Mr. POMEROY. I understand that to be a report for legislation if they find it necessary.

Mr. RAMSEY. When you come to that stage, then you might interpose an objection, but certainly not now.

The PRESIDENT *pro tempore*. The Chair will refer this question to the Senate.

Mr. GRIMES. Such a resolution ought not to pass. This subject ought to go to the Committee on Public Buildings and Grounds, who have the supervision of this building. The question as to what may be the regulation of the police here ought not to be submitted to a distinct committee of this body, a special committee.

Mr. RAMSEY. It cannot be so clearly wrong, because the House of Representatives acted otherwise about it.

Mr. EDMUNDS. That does not bind us.

Mr. RAMSEY. Of course that does not govern us; but it is not so clearly wrong as the Senator from Iowa apprehends. They propose to send the matter to a committee.

Mr. GRIMES. We do not know under what influence it passed the House of Representatives.

The PRESIDENT *pro tempore*. The objection is that this resolution cannot be considered under the rule we have adopted. That is a question of order which the Chair will refer to the Senate again. It will have to be decided by the Senate.

Mr. DRAKE. I do not understand that there is any possible ground of objection to

this resolution that can be found under the resolution adopted last Friday. It is not legislative business. It may lead in the future, at some distant period, to propositions of legislation. If those propositions come up at this session of Congress, then the attempt may be made to apply the rule; but as the matter stands at present, I do not see that there is any possibility of objecting to a resolution of that kind under the resolution of last Friday.

Mr. WILSON. Whether we have the power to do it or not, I think we had better not adopt it. It appears to me that we have committees enough now who have the care of this business, and we had better trust one of our own standing committees instead of getting up a special committee of the Senate on this subject. I think the best thing that we can do with that resolution is either to reject it or lay it on the table.

Mr. FESSENDEN. If it is ruled out of order by the Senate that is the same thing.

The PRESIDENT *pro tempore* put the question as to whether the resolution was in order, and declared that the yeas appeared to have it.

Mr. DRAKE. I call for the yeas and nays. The yeas and nays were ordered.

Mr. EDMUNDS. Before the yeas and nays are taken, I wish to say a word on this question. We have ordered by what now stands as a rule of the Senate that we will not enter upon legislative business, not upon bills merely, but legislative business, excepting the particular character that we have specified. Now, here is a concurrent resolution from the House which provides that we will now organize a committee intrusted with certain powers and duties respecting remodeling the law touching the Capitol police. If that is not legislative business, the very appointment of the committee to do that thing, especially with power to report a bill upon it, I should be glad to be informed what legislative business is. Without any disrespect to my friend from Missouri, I think I can foresee that if he succeeds in making this break upon the will of the majority as to what we are to understand by these things, he will have gone a large way toward opening certain other subjects which, as a patriot, I can conceive he has at heart, which we should not wish to enter upon, and use this as a precedent against us. We ought to adhere in a fair and manly way to the interpretation of the order we have made; and it certainly seems to me that is legislative business which calls upon the House of Representatives or the Senate in their legislative capacity to appoint a legislative committee to inquire into subjects of legislation and report upon them.

Mr. SUMNER. The question is how we shall interpret that resolution. There are two ways of approaching it. One is to regard the resolution as unconstitutional and inoperative, and therefore to be disregarded, so that whatever may be offered shall be treated as in order, that resolution to the contrary notwithstanding; and the other is, to insist upon its application strictly and to the letter. If the first mode is adopted, then the proposition under consideration is clearly in order; that is, it is in order, the resolution of the Senate to the contrary notwithstanding. But if the resolution of the Senate has any validity, this is a case for its application. The proposition before you is unquestionably legislative in its character. It is just as much legislative in its character as the bills that have been reported to-day by the chairman of the Judiciary Committee, nor more nor less. If those bills are legislative in character, then this resolution is legislative in its character. Therefore, according to the letter of the resolution, it is clearly out of order, and the Senator from Vermont is right. He believes in the resolution. I do not believe in it, however.

Mr. FOWLER. I feel disposed to be governed by the resolution of the Senate according to the fair and reasonable interpretation of that resolution, and shall vote on all matters accordingly. I proposed to be governed in that way from the beginning. However, I think

there is a different mode of interpreting that resolution besides those expressed by the Senator from Massachusetts. Without disregarding it altogether, I think it is not necessary to stick in the mere letter of that resolution, but we may adhere to the spirit of the resolution and exclude from our deliberations all business of a strictly legislative character, such as refers directly to the passing of laws. But if I understand the resolution now before us, it simply provides for the appointment of a certain committee to make certain inquiries. They may report a bill. It is not necessary that we should pass that bill at the present time, or consider it. It is possible it might be necessary or very proper to pass it, in which case we should be allowed to act upon it. I think such was the promise made by all the Senators here who were the strongest advocates of putting this muzzle on us. I propose, however, to walk strictly according to the rules that have been laid down, as strictly as I possibly can, although I do not want the muzzle pressed too close. I will wear it during the present session becomingly.

There is one thing in reference to it that I wish to refer to, and that was a remark that fell from the Senator from Vermont, that if this resolution were passed it would open up certain other subjects which, as a patriot, the Senator from Missouri would not wish to open up. I confess I did not understand that; nor do I understand any of those subjects which ought not to be opened up at the present session.

Mr. FRELINGHUYSEN. He said "as a patriot he would wish to open up."

Mr. FOWLER. Then I misunderstood the remark. I understood it, "as a patriot he would not wish to open up;" but I understand now he said "he would wish opened up." I shall vote for the resolution of the House.

Mr. HOWE. I wish simply to say that a fact has just been communicated to me which would lead me to sympathize with the object of the resolution if that object were before us now for consideration; but as I understand the question to be simply one of construction and a question of order, so to speak, and as I conceive this resolution to be excluded by the express terms of the resolution adopted the other day, I must so say upon my vote.

The PRESIDENT *pro tempore*. The question is whether it is in order to consider the resolution of the House under the rule adopted by the Senate.

The question being taken by yeas and nays, resulted—yeas 8, nays 26; as follows:

YEAS—Messrs. Chandler, Drake, Fowler, Ramsey, Ross, Sumner, Thayer, and Wade—8.

NAYS—Messrs. Buckalew, Cameron, Conkling, Cragin, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sprague, Tipton, Trumbull, Van Winkle, Willey, Wilson, and Yates—26.

ABSENT—Messrs. Anthony, Bayard, Cattell, Cole, Conness, Corbett, Dixon, Doolittle, Ferry, Guthrie, Hendricks, Morrill of Vermont, Morton, Norton, Nye, Saulsbury, Sherman, Stewart, and Williams—19.

The PRESIDENT *pro tempore*. The Senate decide that the resolution is not in order, and it goes over under the rule.

#### MAXIMILIAN'S DECREES IN MEXICO.

Mr. CHANDLER. If it is in order, I desire now to offer a resolution.

The PRESIDENT *pro tempore*. Resolutions are in order.

Mr. CHANDLER. I read by the telegraphic dispatches from Europe that England, France, and Austria have suspended diplomatic relations with Mexico, and have gone into mourning over the death of Maximilian, and that some of them have even suspended their consular and commercial relations with Mexico, and others may follow this example. There seems to be an entire misapprehension as to the state of affairs in Mexico—

Mr. SUMNER. What is the question under consideration?

Mr. CHANDLER. I am going to offer a resolution; I am merely giving—

Mr. SUMNER. I would rather the Senator would be good enough to proceed in order; offer the resolution first, so that it may be understood.

Mr. CHANDLER. Very well.

Mr. SUMNER. The Senator is perfectly aware that the first question is, whether the resolution shall be considered to-day.

Mr. CHANDLER. Precisely; I know that.

Mr. SUMNER. I merely wish the rule to be followed.

Mr. CHANDLER. I wish to state a very few reasons for presenting the resolution.

Mr. SUMNER. The reasons cannot be assigned, the Senator is aware, until the resolution is received.

Mr. CHANDLER. Very well; I will adhere to the strict letter of the rule, then.

Mr. SUMNER. The Senator will send his resolution to the Chair.

The PRESIDENT *pro tempore*. I suppose strictly the resolution should first be read for information, that the Senate may judge whether it is in order under the late rule.

Mr. CHANDLER. I will read it:

Whereas it is alleged that Maximilian, the so-called emperor of Mexico, did on the 3d day of October, 1865, issue the following decree:

#### MAXIMILIAN, EMPEROR OF MEXICO.

Having heard our council of ministers and our council of state, we decree:

ARTICLE 1. All persons belonging to armed bands or corps not legally authorized, whether they proclaim or not any political principles, and whatever be the number of those who compose the said bands, their organization, character, and denomination, shall be tried militarily by the courts-martial; and if found guilty, even of the only fact of belonging to the band, they shall be condemned to capital punishment within the twenty-four hours following the sentence.

The "bands" were the regular soldiers of the republic, fighting for the Government of Mexico.

ART. 2. Those who, belonging to the bands mentioned in the previous article, will be captured with arms in their hands, shall be tried by the officer of the force which has captured them, whether it be a general or second lieutenant, or a sergeant; they are to be tried by the officer capturing them—

Mr. SUMNER. I object to the reception of the resolution except in the common form. I must insist on the rules of the Senate.

Mr. CHANDLER. Very well, I will adhere to the rule; and I ask the Clerk to read the remainder of the decree recited in the resolution.

The Chief Clerk read as follows:

ART. 2. Those who, belonging to the bands mentioned in the previous article will be captured with arms in their hands, shall be tried by the officer of the force which has captured them, and he shall within a delay never extending over twenty-four hours after the said capture, make a verbal inquest of the offense, hearing the defense of the prisoner. Of this inquest he will draw an act, closing with the sentence, which must be to capital punishment if the accused is found guilty, even if only of the fact of belonging to the band. The officer shall have the sentence executed within the twenty-four hours aforesaid, seeing that the criminal receive spiritual assistance. The sentence having been executed, the officer shall forward the act of inquest to the minister of war.

ART. 3. From the penalty established in the preceding article shall only be exempted those who, having done nothing more than being with the band, will prove that they were made to join it by force, or did not belong to it, but were found accidentally in it.

ART. 4. If, from the inquest mentioned in article two, facts are elicited which induce the officer holding it to believe that the prisoner was made to join the band by force, without having committed any other crime, or that he was found accidentally in it, without belonging to it, the said officer shall abstain from passing sentence, and he shall send the accused, with the respective act of inquest, to the proper court-martial, in order that the trial be proceeded with by the latter, in conformity with article one.

ART. 5. Shall be tried and sentenced conformably with article one of this law: 1st. All those who will voluntarily assist the "guerrilleros" with money or any other means whatever. 2d. Those who will give them advice, information, or counsel. 3d. Those who voluntarily, and knowing that they are "guerrilleros," will put within their reach or sell them arms, horses, ammunition, subsistence, or any articles of war whatever.

ART. 6. Shall also be tried conformably with the said article 1st: 1. Those who will hold with the "guerrilleros" such relations as infer connivance with them. 2. Those who, voluntarily and knowingly will conceal them in their houses or estates. 3. Those who, by word or writing, will spread false or alarming reports by which public order may be disturbed, or will make against it any kind of demonstration whatever. 4. All owners or adminis-

trators of rural estates who will not give prompt notice to the nearest authority of the passage of some band through the same estates. Those included in paragraphs one and two of this article shall be punished by imprisonment from six months to two years, or by hard labor from one to three years, according to the gravity of the case. Those who, being included in paragraph two were the ascendants, descendants, spouses, or brothers of the party concealed by them, shall not suffer the penalty aforesaid, but they shall remain subject to the vigilance of the authorities during the time the court-martial will fix. Those included in paragraph three of this article shall be punished by a fine of from twenty-five to one thousand dollars, or by imprisonment from one month to one year, according to the gravity of the offense. Those included in paragraph four of this article shall be punished by a fine of from two hundred to two thousand dollars.

ART. 7. The local authorities of the villages who will not give notice to their immediate superiors of the passage through their villages of armed men will be ministerially punished by the said superiors by a fine of from two hundred to two thousand dollars, or by seclusion from three months to two years.

ART. 8. Whatever residents of a village who, having information of the proximity or passage of armed men by the village, will not give notice of it to the authorities shall suffer a fine of from five to five hundred dollars.

ART. 9. All residents of a village threatened by some gang, who are between the ages of eighteen and fifty-five years, and have no physical disability, are obliged to present themselves for the common defense as soon as called, and for failing to do so they shall be punished by a fine of from five to two hundred dollars, or by imprisonment of fifteen days to four months. If the authorities think more proper to punish the village for not having defended itself, they may impose upon it a fine of from two hundred to two thousand dollars, and the said fine shall be paid by all those together, who, being in the category prescribed by this article, did not present themselves for the common defense.

ART. 10. All owners or administrators of rural estates, who, being able to defend themselves, will not prevent the entrance on the said estates of guerrillas or other malefactors; or, after these have entered, will not give immediate information of it to the nearest military authority; or will receive on the estates the tired or wounded horses of the gangs, without notifying the said authority of the fact, shall be punished for it by a fine of from one hundred to two thousand dollars, according to the importance of the case; and if it is of great gravity, they shall be put in prison and sent to the court-martial, to be tried by the latter conformably with the law. The fine shall be paid to the principal administrator of rents to which the estate belongs. The provision of the first part of this article is applicable to the populations.

ART. 11. Whatever authorities, whether political, military, or municipal, shall abstain from proceeding, in conformity with the provisions of this law, against parties suspected or known to have committed the offenses provided for in said law, will be ministerially punished by a fine of from fifty to one thousand dollars; and if it appear that the fault was of such a nature as to import complicity with the criminal, the said authorities will be submitted by order of the Government to the court-martial, to be tried by the latter and punished according to the gravity of the offense.

ART. 12. Thieves shall be tried and sentenced in conformity with article one of this law, whatever may be the nature and circumstances of the theft.

ART. 13. The sentence of death pronounced for offenses provided for by this law shall be executed within the delays prescribed in it, and it is prohibited that any demands for pardon be gone through. If the sentence is not of death and the criminal is a foreigner, even after its execution the Government may use toward him the faculty it has to expel from the territory of the nation all obnoxious strangers.

ART. 14. Amnesty is granted to all those who may have belonged, and may still belong, to armed bands if they present themselves to the authorities before the 15th of November next, provided they have not committed any other offenses subsequently to the date of the present law. The authorities will receive the arms of those who will present themselves to accept the amnesty.

ART. 15. The Government reserves the faculty to declare when the provisions of this law will cease.

Each one of our ministers is charged with the execution of this law in the part which concerns him, and will give the necessary orders for its strict observance.

Given at the Palace of Mexico on the 3d of October, 1865. MAXIMILIAN.

The Minister of Foreign Affairs, charged with the ministry of State, JOSE F. RAMIREZ.

The Minister of War, JUAN DIAS PEZA.

The Minister of Improvement, LUIS ROBLES PEZUELA.

The Minister of the Interior, JOSE MARIA ESTEVA.

The Minister of Justice, PEDRO ESCUDERO Y ECHANOVE.

The Minister of Public Instruction and Religious Worship, MANUEL SILICEO.

The Sub-Secretary of the Treasury, FRANCISCO DE P. CESAR.

A true copy. Washington, October 25, 1865.

IGNO. MARISCAL, Secretary.

Mr. CHANDLER. Then my resolution proceeds:

And whereas it is alleged that, under that inhuman and barbarous decree, issued in violation of the laws of war, the rights of the Mexican people, and of the civilization of the nineteenth century, Major General José M. Ortega, Brigadier General Nicolas Salazar, Colonels Diaz Paracho, Villa Gomez, Perez Milicua, Villands, and more than two thousand other Mexican patriots, officers and men, were inhumanly murdered in cold blood, after having surrendered as prisoners of war, in violation of every law and usage of civilized warfare.

Resolved, That the Committee on Foreign Relations be directed to inquire as to the truth of the above allegations, and report the facts to this body at the earliest practicable moment.

I deem it very important, Mr. President, that the facts in this case should be known.

Mr. SUMNER. I object to the consideration of that resolution to-day. Let it lie over.

Mr. CHANDLER. Very well. I will say what I have to say to-morrow.

The PRESIDENT *pro tempore*. The resolution lies over under the rules, objection being made to its consideration.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a concurrent resolution directing the reëngorgment of House resolution No. 6, of the Fortieth Congress, in order that the same may be again signed by the Presiding Officers of the Senate and House, and again presented to the President for his approval.

#### THANKS TO GENERAL SHERIDAN.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate some resolutions from the House of Representatives that are on the table.

The joint resolution (H. R. No. 53) tendering the thanks of Congress to Major General Philip H. Sheridan was read the first time.

Mr. POMEROY. It appears to me that is a resolution of legislation: it is a joint resolution requiring the signature of the President. I thought so the other day.

The PRESIDENT *pro tempore*. I suppose that is the case.

Mr. POMEROY. I thought we ought to pass it before we passed that rule; but the Senate thought otherwise, and I now object to the reference of this joint resolution to any committee under our rule. If it is referred to a committee and they are to consider it, of course they are to consider it in the light of legislation; and it is precisely in character like the resolution, which the Senate have already said they do not consider to be in order. If this was a concurrent resolution or a simple resolution of the Senate, it might not have the character of legislation; but it is a joint resolution, and if we refer it to a committee and direct them to report, it comes precisely under that class of cases.

Mr. FESSENDEN. There is no question about that at all.

Mr. POMEROY. I think there is no question about it. I object to its being referred to any committee, or being read.

The PRESIDENT *pro tempore*. An objection is raised under the resolution of the Senate to the disposition of these bills. I do not like to give a construction to that resolution which prevents our consideration of them. I will refer it to the Senate to determine whether action on this matter is in order or not.

Mr. CAMERON. I am sorry there should be any objection to the passage of this resolution. I do not see that there is any legislation in it. It is merely a justly deserved compliment to one of the most meritorious officers of our Army, a man who has, perhaps acted with greater bravery, greater decision, and more promptness than any other man in the Army. This is merely a resolution of thanks for his services. There is no legislation connected with it. This is a compliment to him, passed by the other House, and all we have to do is, without sending it to a committee, just to put the question and say whether this House

will agree to it. It will occupy no time. The Senate is a practical body. If it were a question of legislation about which there would be any debate, of course it ought not to be considered, but I cannot see the propriety of a single objection to passing this resolution preventing its consideration.

Mr. POMEROY. I hope the Senate will not think I am objecting to the resolution *per se*. I am for it. I tried to have the Senate pass it the other day before we passed this resolution; but as we have passed a resolution that we would not consider any legislative business except on one subject, I am now for living up to it or repealing it. I did not like the resolution, but having passed it I object to considering anything that is a violation of it.

Mr. TIPTON. I move that the resolution limiting business excepting on the question of reconstruction be suspended—not knowing whether I am in order or not—in order that these complimentary resolutions may be acted upon and passed.

Mr. BUCKALEW. I object to that.

Mr. GRIMES. I confess I am entirely satisfied with the idea that these resolutions shall be cut off by the resolution that was passed by the Senate. I think it would be exceedingly immature and improper for the Congress of the United States, upon the little testimony they have before them on the subject, to adopt these resolutions. Until within the last two or three years a vote of thanks of the Congress of the United States was regarded as the highest benefaction that could be bestowed upon an American citizen. We have already greatly lowered it in the estimation of the public by adopting resolutions conferring it upon civilians for no distinguished merit; and now it has been proposed by the House of Representatives, and we are asked to pass resolutions here, not, as has heretofore been the case, in regard to Army and Navy officers for distinguished services in the field, not where they have periled their lives in defense of their country and in their efforts to uphold its banner, but for, it is supposed, civil administration. Now, sir, I confess that in the first place I do not know enough about the administration of these men to be able to pronounce such a judgment as I ought to be able to pronounce when I cast a vote in favor of such a proposition. So far as General Sheridan is concerned, we have thanked him for his services in the field. What do we know about his administration at New Orleans, except such information as we get through the newspapers?

Then again, I know no reason why if we vote the thanks of Congress to these officers we shall not do it to the Governors of your Territories and the provinces you have purchased from Russia and are about to organize; and where this example is to end no man can tell. I think myself that the resolution that was adopted two or three days ago in regard to the business of this session is beneficial and happy so far as it operates upon the joint resolutions that have been sent to us by the House.

Mr. SUMNER. What is the question, Mr. President?

The PRESIDENT *pro tempore*. The question is, whether it is in order to consider the resolution giving thanks to General Sheridan, &c.

Mr. SUMNER. In considering the question of order I should rather not be led off to any reply to the Senator from Iowa on the merits of the proposition. For the present I forbear to say anything of General Sheridan. He can wait. A just and generous country, I believe, will do him justice, even though this Chamber may be tardy. The question is simply one of order, and we are brought back again to the resolution of last Friday. Under that resolution I cannot doubt, if the resolution is interpreted according to the natural import of its language, this resolution of thanks to General Sheridan is excluded. The resolution of thanks is a legislative act. If adopted by the two Houses of Congress it must be signed by the President, and then pass into the statute-book

of your country. Of course it is a legislative act; and therefore if you treat the proposition of last Friday with any respect, you must set aside this resolution of thanks. I do not think the resolution of last Friday entitled to respect.

The PRESIDENT *pro tempore*. The question is, Is it in order to consider this resolution of this time under the rule?

Mr. SUMNER. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 26; as follows:

YEAS—Messrs. Cameron, Drake, Ramsey, Sumner, and Wade—5.

NAYS—Messrs. Buckalew, Conkling, Cragin, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sprague, Tipton, Trumbull, Van Winkle, Willey, Wilson, and Yates—26.

ABSENT—Messrs. Anthony, Bayard, Cattell, Chandler, Cole, Connors, Corbett, Davis, Dixon, Doolittle, Ferry, Guthrie, Hendricks, Morrill of Vermont, Morton, Norton, Nye, Saulsbury, Sherman, Stewart, Thayer, and Williams—22.

The PRESIDENT *pro tempore*. The resolution goes over under the rule. There are three other resolutions of the same character on the table and they will take the same direction, unless it is objected to.

Mr. EDMUNDS. I move that the Senate adjourn if there is nothing further to do.

Mr. SUMNER. What are those other resolutions? I should like to have them all read.

The PRESIDENT *pro tempore*. They are resolutions of thanks to other officers.

Mr. DRAKE. I beg the Senator from Vermont to withdraw the motion for an adjournment for a moment.

Mr. EDMUNDS. I will withdraw it to accommodate my friend.

The PRESIDENT *pro tempore*. The titles of the other resolutions will be read.

The Chief Clerk read them, as follows:

A joint resolution (H. R. No. 54) tendering the thanks of Congress to Major General Daniel E. Sickles;

A joint resolution (H. R. No. 55) tendering the thanks of Congress to Major General John Pope; and

A joint resolution (H. R. No. 56) tendering the thanks of Congress to Major General John M. Schofield.

#### BUSINESS OF THE SESSION.

Mr. SUMNER. I send to the Chair a resolution which I ask to have adopted.

Mr. EDMUNDS. Let it be read for information.

The Chief Clerk read it, as follows:

*Resolved*, That the resolution of the Senate adopted 5th July last, limiting the business of the Senate, be, and hereby is, rescinded.

Mr. EDMUNDS. I object to its present consideration.

Mr. DRAKE. The honorable Senator from Vermont withdrew his motion for an adjournment for the purpose of accommodating me, and I suppose that I am entitled to bring the matter before the Senate which I had in my mind when I made the request of him to withdraw his motion, in preference to the resolution now offered by the honorable Senator from Massachusetts.

Mr. SUMNER. Very well; let my resolution take its place on the Calendar.

Mr. DRAKE. I ask for the present consideration by the Senate of a concurrent resolution which has just been received from the House of Representatives, and which I ask the reading of, for information, now, before making the motion that I have to make.

The PRESIDENT *pro tempore*. The resolution offered by the Senator from Massachusetts is considered as going over under the rules until to-morrow.

Mr. SUMNER. If it is objected to. I wish as soon as possible to have what I regard as an odious resolution, an odious rule, and next to an unconstitutional rule, rescinded. I begin to-day my effort, and I shall repeat it every day.

The PRESIDENT *pro tempore*. I believe

the Senator from Vermont [Mr. EDMUNDS] objected to its consideration, and so it goes over.

Mr. SUMNER. Very well; he has the right to do so.

#### REËNROLLMENT OF A JOINT RESOLUTION.

The PRESIDENT *pro tempore*. The resolution named by the Senator from Missouri will now be read for information.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,  
July 8, 1867.

*Resolved by the House of Representatives*, (the Senate concurring), That the Clerk of the House of Representatives be instructed and directed, and is hereby instructed and directed, to reëroll House joint resolution No. 6 of this Fortieth Congress, that the same may be again signed by the Presiding Officers of the Senate and House, and be again presented to the President for his approval.

Mr. POMEROY and Mr. JOHNSON. What is that resolution?

Mr. DRAKE. I was just going to state what it is, and to state the facts to the Senate, and to ask this body to consider the matter at this time and concur in the House resolution.

The PRESIDENT *pro tempore*. The question is on considering this resolution.

Mr. DRAKE. In the month of March there was a joint resolution of the two Houses passed, which is designated in the concurrent resolution now just read to the Senate. It was a resolution to allow bounties to certain troops enlisted in Missouri. It passed both Houses, and the bill was signed by the Presiding Officers of the two Houses, and the Senators and Representatives from Missouri, up to the time that Congress adjourned over to the 3d of July, supposed that that resolution had been presented to the President for his signature. After the adjournment it was found that it had not been. A search was made for it very diligently, and at last it was found, and after the adjournment of the two Houses it was presented to the President by the chairman of the Committee on Enrolled Bills of this body. The President doubted whether it was proper for him to act upon the bill at all, it having been presented to him after the adjournment of the two Houses over from March to July. He consulted his Cabinet in reference to it, and finally came to the conclusion that it was not proper for him to act upon the bill under those circumstances, and made a memorandum on the bill to that effect, and sent it to the office of the Secretary of State. Now, the object of this resolution is simply to obviate the difficulty which an accident put in the way of a bill which had passed both Houses becoming a law. It is simply to order the reërollment of that bill and the re-signing of it by the Presiding Officers of the two Houses. As the two Houses have considered the measure and acted upon it after due consideration, and as their will in reference to the matter has been prevented from fulfillment simply by an accident, I, on behalf of the State of Missouri, beg the Senate to consider favorably the resolution now before the Senate, and to allow that to become a law by this process, the effectuation of which has hitherto been prevented by the accident to which I have referred. I hope there will be no objection to action upon this resolution.

Mr. ROSS. I feel a personal interest in the success of this proposition, as I am to the full extent personally responsible for the failure of the measure. The bill was presented to me duly on its passage by the Senate at the last session, and by me forwarded to the chairman of the House committee, whose duty it was, under the custom of Congress, to present it to the President. The House had adjourned for that day, however, and it was returned to me and placed on my desk, and there overlooked until after the adjournment of the two Houses. Immediately upon the adjournment it was presented to the President; but he decided that he could not sign it as the Congress had adjourned. It has been suggested that this action is unnecessary; that the bill may simply be called up and presented to the President by



the committee again. This cannot be the case, for the reason that the President placed an indorsement on it to the effect that it was presented to him out of time, and it is now on file in the office of the Secretary of State. I make this explanation, and simply ask that the Senate will consider the subject and pass upon it in accordance with its former action, as well on account of its intrinsic merits as the relief it will afford me personally from this calamity.

Mr. BUCKALEW. I believe in former cases of this kind, where bills have failed at the end of a session through some accident or other, and have not received the signature of the President, it has been the uniform practice of Congress to repass them at the next session. They have been introduced anew and have received the assent of Congress when they are to become laws, or about that date. I have some difficulty in my mind with reference to the introduction of a new practice of this kind; that is, virtually giving the assent of Congress to a bill and sending it to the President and obtaining his signature without its going through the ordinary practice of our rules. I think it is open to serious objection, and without further reflection I am not inclined to vote in favor of this measure.

Mr. TRUMBULL. The suggestion of the Senator from Pennsylvania strikes me with some force. This is either a law or not a law. A bill passed at the former session of Congress and failed to become a law. How can we make it a law by resolution in this way unless it be a joint resolution that goes to the President, and having all the forms of law? I confess that at first blush it seems to me there may be a difficulty about it.

Mr. GRIMES. Let it lie over until tomorrow.

Mr. TRUMBULL. I think it had better lie over until we can reflect a little upon it.

Mr. DRAKE. I have no objection.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, July 8, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Friday last was read and approved.

### SWEARING OF A MEMBER.

Mr. MORGAN. Mr. Speaker, I rise to a question of privilege. I hold in my hand the credentials of Hon. GEORGE M. ADAMS, member-elect from the eighth congressional district of Kentucky, and move that they be received, and that he may be sworn in as a member of this House.

The SPEAKER. This gentleman's name was not included in the resolution referring the credentials of the other members from Kentucky to the Committee of Elections, and he will be sworn in.

Mr. ADAMS presented himself at the Speaker's table and was duly qualified.

### CALL OF STATES FOR BILLS AND RESOLUTIONS.

The SPEAKER stated the first business in order to be the call of States and Territories for bills and resolutions for reference.

### JURISDICTION OF UNITED STATES COURTS.

Mr. POLAND introduced a bill relating to the jurisdiction of the courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### REPUBLIC OF MEXICO.

Mr. BALDWIN introduced a joint resolution concerning the deliverance of the republic of Mexico from its foreign enemies; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

### D. G. FARRAGUT.

Mr. BUTLER introduced a bill for the relief of flag officer D. G. Farragut and the officers and men who passed Forts St. Philip and Jackson under fire on the morning of the 24th of April, 1862; which was read a first and second time, and referred to the Committee on the Judiciary.

### CIVIL SERVICE.

Mr. JENCKES introduced a bill to regulate the civil service of the United States and promote the efficiency thereof; which was read a first and second time, ordered to be referred to the joint Committee on Retrenchment when appointed, and printed.

### POST OFFICE AT NEW YORK.

Mr. BARNES introduced a joint resolution making an appropriation for the building of a post office in the city of New York; which was read a first and second time, and ordered to be referred to the Committee on the Post Office and Post Roads when appointed.

### EXECUTION OF PRISONERS OF WAR.

Mr. BROOKS introduced the following joint resolution; which was read a first and second time, and referred to the Committee on Foreign Affairs:

*Resolved by the Senate and House of Representatives, &c.* That Governments or people which execute in cold blood prisoners taken in war, to be treated according to the laws of war, have so violated the great principles of national law as well as of Christianity and humanity as to deserve from the United States none of the protection given by our neutrality laws, and that therefore the Committees on Foreign Affairs in the Senate and House of Representatives be requested to report at an early day a bill repealing so much of our neutrality laws as forbids organizations in the United States of emigration or other parties to effect and secure settlements in Mexico.

### BANKRUPT ACT.

Mr. MILLER introduced a bill to repeal an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read a first and second time, and referred to the Committee on the Judiciary.

### REVENUE OFFICERS.

Mr. MILLER also introduced a bill in relation to the appointment of revenue officers; which was read a first and second time, ordered to be referred to the Committee of Ways and Means when appointed, and printed.

### TARIFF.

Mr. MILLER also introduced the following joint resolution in relation to the tariff; which was read a first and second time, and ordered to be referred to the Committee of Ways and Means when appointed:

Whereas the prosperity of this country depends in a great measure upon adequate protection accorded to our manufacturing, agricultural, and mining interests: Therefore,

*Resolved by the Senate and House of Representatives, &c.* That it is the duty of Congress to pass with as little delay as possible a judicious tariff, affording adequate protection to the industrial interests of the country.

### UNITED STATES COURT IN NEW HAMPSHIRE.

Mr. STEVENS, of New Hampshire, introduced a bill to remove the terms of the district court and the term of the circuit court now held at Exeter, in the district of New Hampshire, to Manchester, in said district; which was read a first and second time, and referred to the Committee on the Judiciary.

### ARMY AND NAVY DESERTERS.

Mr. WELKER introduced a bill in relation to deserters from the Army and Navy of the United States; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and printed.

### AMERICAN REGISTERS.

Mr. SPALDING introduced a joint resolution to grant American registers to certain vessels therein named; which was read a first and second time, and ordered to be referred to the Committee on Commerce when appointed.

### AMENDMENT OF THE CONSTITUTION.

Mr. ASHLEY, of Ohio, introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### EMPLOYÉS AT WASHINGTON NAVY-YARD.

Mr. JULIAN introduced a joint resolution providing increased compensation for mechanics and laboring men employed at the navy-yard at Washington, District of Columbia; which was read a first and second time, and referred to the Committee on Expenditures in the Navy Department when appointed.

### MEXICAN AFFAIRS, ETC.

Mr. SHANKS introduced the following joint resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.* That the people of every nation of right have the control of their own Government respectively, and in their sovereign capacity to create, maintain, or exchange its principles and its workings in accordance with their own judgments.

2. *Resolved.* That this right includes that of quelling insurrections and repelling invasions, with the right to punish treason at home and usurpation from abroad.

3. *Resolved.* That all people have the right to choose their own officers, and that all orders of nobility, and all assumed right to rule, based on birth or accident, are in opposition to republican government and obnoxious to a free people.

4. *Resolved.* That we look with anxious hope for the prosperity of all republican Governments, and at this time especially for our sister republic of Mexico; and that we view with pleasure the information of the restoration to power of the Government of her people over the self-styled emperor Maximilian.

5. *Resolved.* That (waiving all expression of opinion as to any particular acts of the Government of Mexico,) it is the opinion of Congress that the attempt recently made to establish an empire in Mexico on the ruins of a republic would not have been made had not the United States at that time been engaged in a civil war of great magnitude; and that said attempt was part of a gigantic effort to overthrow and destroy the Republic of the United States, in which the slave power of America and its natural ally, the aristocracy of Europe, labored with preconcerted and united interest; and that the overthrow of the usurped power of Maximilian was necessary to the success of republican principles and government in Mexico and elsewhere, and was eminently right and proper.

6. *Resolved.* That the people of the United States cannot look with unconcern upon an attempt to control the destinies of Mexico by a Power or Powers in antagonism with republican government.

The joint resolution was read a first and second time, and referred to the Committee on Foreign Affairs when appointed.

### ABDUCTION OF SANTA ANNA.

Mr. WOOD introduced the following joint resolution:

*Resolved.* That the Committee on Foreign Affairs of the House and of Foreign Relations in the Senate be requested to inquire into and report what action should be taken by the Government of the United States in view of the forcible abduction of General Santa Anna from an American vessel by the Mexican forces in Juncoast, and whether existing treaties between the United States and Mexico and the law of nations were not violated in that case in such a manner as (together with other outrages against the rights and property of Americans) to call for immediate and summary action upon the part of this Government.

The joint resolution was read a first and second time, and referred to the Committee on Foreign Affairs when appointed.

### RECONSTRUCTION.

Mr. JUDD introduced a bill to enforce obedience to the act of Congress entitled "An act to provide for the more efficient government of the rebel States;" which was read a first and second time, and referred to the select Committee on Reconstruction.

### MEXICO.

Mr. HARDING. I offer the following joint resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.* That we hear with unalloyed satisfaction the announcement of the triumph of our republican brethren of Mexico over the enemies of freedom, and we congratulate President Jaurez and his noble compatriots upon the overthrow of Maximilian and the annihilation of the French Emperor, and the utter annihilation of a throne imported in insult to our nation and in defiance of the oft-declared policy of our Government.

The joint resolution was read a first and second time, and referred to the Committee on Foreign Affairs when appointed.

#### PROTECTION OF PUBLIC GROUNDS.

Mr. DRIGGS introduced a joint resolution; which was read, as follows:

Whereas, many of the beautiful trees on the public grounds north of the Capitol are being cut down: Therefore,

*Resolved by the Senate and House of Representatives, &c.,* That the Committee on Public Buildings and Grounds are hereby instructed to prevent the further destruction of trees and shrubbery around the Capitol.

The joint resolution was read a first and second time, and ordered to be referred to the Committee on Public Buildings and Grounds when appointed.

#### MEXICAN AFFAIRS.

Mr. MUGEN introduced a joint resolution on the subject of Mexican affairs; which was read, as follows:

Whereas it has been alleged in the public journals, as well as elsewhere, that certain officers, soldiers, and marines under the command and control of Benito Juarez, President of the republic of Mexico, did recently, in violation of the laws of nations and contrary to the rights and dignity of the Government of the United States, with force and arms, and against the remonstrance of the commander of the steamer Virginia, board said vessel while she was on the high seas, and more than a marine league from the coast of the Mexican republic, and nearly five miles distant from the port of Sisal, and did trample the flag of the United States under their feet, and did take and carry away a certain passenger then and there being, who is known as General Santa Anna, the said vessel being, as is alleged, the property of certain citizens of the United States; and whereas the Government of the United States have been at peace with and friendly to the republic of Mexico, and has never given aid, support, or encouragement to the late usurper Maximilian; now, while it is not the desire or intention of this House to inquire into or look after the status, personal or political, of said passenger so alleged to have been abducted, it is deemed important to know whether our flag has been trampled upon, our Government insulted, and a person under the protection of our flag forcibly taken away; Therefore,

*Be it resolved by the Senate and House of Representatives,* That the Secretary of State of the United States be, and he is hereby, requested to communicate to this House, at his earliest convenience, all the facts which have come to the knowledge of the Government touching and concerning the said alleged indignity.

The joint resolution was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### ABOLITION OF NATIONAL BANKS, ETC.

Mr. NOELL introduced a bill for abolishing national banks, redeeming the bank notes with legal tenders, and making legal-tender notes receivable for duties on imports; which was read a first and second time, ordered to be referred to the Committee on Banking and Currency when appointed, and to be printed.

#### GUARANTY OF REPUBLICAN GOVERNMENT.

Mr. KELLEY introduced a bill to guaranty a republican form of government to the different States of the Union; which was read, as follows:

*Be it enacted, &c.,* That whenever the people of any of the States of the Union shall propose to change their organic law by the formation of a new State constitution, and in such constitution any of the people of such State shall be prohibited from exercising the elective franchise on account of race or color or previous condition of servitude, in that case such constitution shall not become the organic law until ratified by the Congress of the United States.

The bill was read a first and second time, and referred to the Committee on the Judiciary.

#### JONAS PRESTON.

Mr. MYERS introduced a bill granting a pension to Jonas Preston, of Philadelphia, a sailor of the war of 1812; which was read a first and second time, and ordered to be referred to the Committee on Invalid Pensions when appointed.

#### BOUNTIES OF MISSOURI TROOPS.

Mr. McCLURG. I rise to a question of privilege. I wish to be instructed by the Speaker as to what course of legislation should be adopted to revive (if I may be permitted to use that word) an enrolled bill of this the Fortieth Congress. The bill to which I refer is

either dead or in a trance; and I wish to know from you, Mr. Speaker, in what way vitality may be restored to it. I will explain in a few words the position of the matter.

A joint resolution placing certain troops of Missouri on an equal footing with other volunteers as to bounties passed this House without opposition on the 18th of March last, and passed the Senate on the 22d of the same month. That bill was enrolled and was signed by the Speaker of this House and the Presiding Officer of the Senate. It was handed in due course to the chairman of the Committee on Enrolled Bills of the Senate, (Senator Ross,) and by some oversight—certainly not intentionally—it was placed in his desk, and there remained for eight or ten days; so that it did not get into the hands of the President until after we had taken our recess or adjournment. The President construes that adjournment to be such as is alluded to in the Constitution, and upon that ground declares that he cannot give his signature to the bill. He indorsed his reasons upon the bill and filed it in the Department of State, where it now sleeps.

I want to know how that bill can be revived, and call upon the Speaker for his opinion; and in order that he may know very fully the position taken by the President I will send up to the Clerk's desk and ask to be read the indorsement upon the bill in the office of the Secretary of State. When that has been read I should like to have the views of the Speaker.

The Clerk read as follows:

Joint resolution placing certain troops of Missouri on an equal footing with others as to bounties.

The first session of the Fortieth Congress adjourned on the 30th day of March, 1867. This bill, which was passed during that session, was not presented for my approval by Hon. EDMUND G. ROSS, of the Senate of the United States, and a member of the Committee on Enrolled Bills, until Monday, the 1st day of April, 1867, two days after the adjournment. It is not believed that the approval of any bill after the adjournment of Congress, whether presented before or after such adjournment, is authorized by the Constitution of the United States, that instrument expressly declaring that no bill shall become a law the return of which may have been prevented by the adjournment of Congress. To concede that, under the Constitution, the President, after the adjournment of Congress, may, without limitation in respect to time, exercise the power of approval, and thus determine at his discretion whether or not bills shall become laws, might subject the executive and legislative departments of the Government to influences most pernicious to correct legislation and sound public morals, and, with a single exception, occurring during the prevalence of civil war, would be contrary to the established practice of the Government from its inauguration to the present time. This bill will, therefore, be filed in the office of the Secretary of State without my approval. ANDREW JOHNSON.

WASHINGTON, D. C., April 20, 1867.

The SPEAKER. The gentleman from Missouri rises to a privileged question, and asks the opinion of the Chair in reference to a case the history of which he has given from his seat. Previous to the recess taken at the first session of the Fortieth Congress, on the 30th day of March last, a bill passed both Houses and was signed by the Presiding Officers of both Houses. It was a bill in reference to the militia of the State of Missouri. By accident it was locked up in the desk of one of the Committee on Enrolled Bills, a member of the Senate, and was not presented to the President for his signature until two days after the two Houses had taken the recess. The President then declined to sign it for the reasons which are indorsed upon the bill and which have just been read for the information of the House.

The Chair supposes this indorsement of the President may be based upon an opinion of the Attorney General, and while he differs with great diffidence, of course, with that high legal officer, still as it presents a point of parliamentary law he may be pardoned for stating that he dissents from the opinion. The opening sentence of that indorsement is this: "The first session of the Fortieth Congress adjourned on the 30th day of March, 1867." If that were true there is no question that the President would not have the power to sign the bill, but the first session of the Fortieth Congress did not adjourn on the 30th day of March, 1867; they took a recess only until the 3d day of July, at which time, if a quorum did not appear in

such House, it was provided that that first session should stand adjourned without day. If Congress had adjourned on the 30th of March last, then it could not now be in session unless it had been called together by proclamation of the President. The Constitution of the United States declares that "Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." By law Congress has enacted that the first session of such Congress hereafter shall begin on the 4th day of March, leaving the provision in regard to the other sessions to remain as it was. If the first session of Congress, therefore, had adjourned on the 30th of March it could not have met, unless at the call of the President, before the first Monday in December next. The question is whether the President has the right according to usage, according to law, and according to the Constitution to sign a bill during this prolonged recess. The Chair is of the opinion that there is no question as to his power to sign a bill during a recess of a session of the two Houses of Congress. This power has been exercised frequently, and as well by the present occupant of the presidential chair as by his predecessors. Congress has been in the usage of taking a recess over the Christmas holidays for ten days or two weeks under that clause of the Constitution which allows the two Houses to take a recess for more than three days by concurrent resolution. During the last holiday recess, from the 20th of December to the 3d of January following, a bill granting land to aid in the construction of a military road from Eugene City to the eastern boundary of the State of Oregon, which had previously passed, was signed by the President on the 26th of December, in the midst of this two weeks' recess, and has been properly published as one of the laws of the United States. If he could sign a bill during a recess of two weeks it seems as if there could be no question that he has the power to sign a bill or to refuse to sign it where a recess may last three, four, or five weeks or months. When Congress adjourns without day it is an entirely different question, and the Chair thinks that the President could not sign a bill presented after that adjournment. But this session has not adjourned; it is the same session which passed the bill, and under the existing state of facts the Chair thinks that the House might direct the reënrollment of the bill, so that it may again be submitted to the President. It is, however, for the House to decide.

Mr. McCLURG. I desire to offer a concurrent resolution for the enrollment of that bill.

Mr. GARFIELD. I wish to make an inquiry of the Speaker. I have no doubt that his view of the parliamentary question raised by the gentleman from Missouri [Mr. McCLURG] is correct; but I desire to ask if what the President has written on the joint resolution is not in fact and in law a veto. His discussion of the legal effects of the recess, whether logical or illogical, are his reasons for disproving of that resolution. He signs this statement, which concludes with the statement that he therefore withholds his signature from the bill. Does not that operate as a veto?

The SPEAKER. The Chair will state that the bill was not returned by the President with his objections.

Mr. ELIOT. I rise to a question of order. I would inquire of the Chair whether the action of the President does not result in this: that the bill has become a law by reason of not being sent back during ten days?

The SPEAKER. The Chair will not decide that question at present. The point now raised by the gentleman from Missouri [Mr. McCLURG] proposes a reënrollment of the bill.

Mr. ELIOT. If the bill has become a law can it be reënrolled by the House?

The SPEAKER. Not if the House decides it has become a law. This is the first time the House has had its attention directed to the bill.

Mr. McCLURG. I ask to have the resolution which I offer put upon its passage. It is a concurrent resolution to enroll House resolution No. 6 of the Fortieth Congress placing certain troops of Missouri on an equal footing as to bounty.

The resolution was read, as follows:

*Resolved*, That the Clerk of the House of Representatives be instructed and directed to enroll House resolution No. 6 of this, the Fortieth Congress, that the same may be again signed by the Presiding Officers of the Senate and House, and be again presented to the President for his approval.

Mr. SPALDING. I hope the gentleman will yield for a moment. This is an important question, and I wish to move its reference to the Judiciary Committee.

Mr. ROSS. I rise to a question of order. Is it not in conflict with our resolution in relation to taking up other business?

The SPEAKER. The rules require a bill or joint resolution to be read three times, to be signed by the Presiding Officers, and sent to the President. This is a concurrent resolution, and does not require the signature of the President.

Mr. SPALDING. I hope the gentleman will allow me to move to refer it to the Committee on the Judiciary, and let them examine it in all its bearings and report it back to the House if it is deemed proper.

Mr. McCLURG. I cannot yield for that motion. This matter was before the Thirty-Ninth Congress, was embodied by the chairman of the Committee on Military Affairs in a bounty bill, was reported to the House, and was passed. I demand the previous question. The previous question was seconded—ayes 67, noes 20.

Mr. SPALDING. Is that a quorum?

The SPEAKER. It is.

Mr. WILLIAMS, of Pennsylvania. I would inquire of the Chair whether this bill has been returned.

The SPEAKER. It has not. It has been copied by the gentleman from Missouri from the files in the State Department.

Mr. WILLIAMS, of Pennsylvania. Then I desire to know how the House can entertain jurisdiction over the question at all.

The SPEAKER. By taking the previous question as it has already done. It is a matter for the House to determine.

The main question was ordered; and under the operation thereof the resolution was agreed to—ayes 71, noes 28.

Mr. McCLURG moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXECUTION OF MAXIMILIAN AND SANTA ANNA.

Mr. BANKS, by unanimous consent, offered the following resolution:

*Resolved*, That the President be requested, if not inconsistent with the public interest, to transmit to this House any official correspondence or other information received by the Government relative to the capture and execution of Maximilian and the arrest and reported execution of Santa Anna, in Mexico; and that the Clerk of the House be authorized and directed, if such correspondence should be received during the recess of Congress, to cause the same to be printed for the information of its members.

Mr. ORTH. With the consent of my colleague on the committee, I desire to offer the following amendment to the resolution:

*Resolved further*, That the President, under like restrictions, communicate to this House all information in possession of the State Department in regard to certain agreements said to have been entered into between the United States, European and West Virginia Land and Mining Company and certain reputed agents of the republic of Mexico in reference to the issuance of certain bonds, the possession of certain mining claims or other matters whatsoever.

Mr. BANKS. I demand the previous question.

Mr. RANDALL. I ask for the reading of that amendment again. It seems to me that it does not come within the kind of business authorized to be done at this session.

The SPEAKER. It was received by unanimous consent.

Mr. RANDALL. I did not hear the consent asked for.

The SPEAKER. The Chair stated it audibly. Mr. RANDALL. Is that amendment in order?

The SPEAKER. If the gentleman makes the point, the Chair will rule upon it. The Chair, from the hasty reading of the amendment, thinks that it is in order.

The previous question was seconded, and the main question ordered.

Mr. ORTH's amendment was agreed to.

Mr. BANKS' resolution, as amended, was then adopted.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman from Massachusetts [Mr. DAWES] is now entitled to the floor. Does he yield further?

Mr. ROSS. I ask that the gentleman from Massachusetts proceed. I object to his yielding further.

Mr. KELLEY. I desire to offer a resolution. I hope the gentleman will hear it read.

Mr. ROSS. I want the gentleman from Massachusetts to go ahead with his business. I do not yield.

#### KENTUCKY ELECTION.

Mr. DAWES. I present the answer of John D. Young to the statement of Hon. Samuel McKee, of the ninth district of Kentucky, and I ask that it be referred to the Committee of Elections.

Mr. BROOKS. Has the gentleman any objection to its being read and printed in the proceedings of the House, as the protest of Mr. McKee was?

Mr. DAWES. I suppose that all the papers will be printed together.

Mr. BROOKS. Mr. McKee's memorial or protest was read in the House when the gentleman from Massachusetts was not here, and what I ask is if the gentleman has any objection that Mr. Young's answer shall be read here also.

Mr. DAWES. I have no objection to its being read in the House.

The SPEAKER. The Clerk will read the answer of Mr. Young.

Mr. DAWES. I did not hear the gentleman from New York; but I am informed by gentlemen sitting near me that the notice to which this is an answer was not read in the House. I am not certain about that myself.

Mr. BROOKS. The memorial of Mr. McKee was read, and if this is an answer to that memorial it ought to be read.

Mr. DAWES. This is not a memorial or notice of contest. It is the answer of Mr. Young to the remonstrance of Mr. McKee to Mr. Young's taking his seat in the first instance. Let it be read and referred to the Committee of Elections, and then it will take the same course as Mr. McKee's remonstrance.

Mr. BROOKS. That is all I ask.

The Clerk read as follows:

#### To the honorable Representatives of the Fortieth Congress:

My attention has been called to a most extraordinary paper signed "Samuel McKee" laid on the desks of members, and referred with my credentials to the Committee of Elections.

As that paper is designed to prejudice me in the judgment of members of the House, and may affect my right to a seat, I deem it my duty to answer it.

I am the Representative-elect to this Congress from the ninth district of Kentucky.

It is a district which has been represented throughout the war; it is in a State which did not secede.

My majority in a peaceful, constitutional election, over Samuel McKee, the signer of the paper referred to, was 1479, and was more than 600 over both my competitors—there being three candidates.

My seat has been contested by Samuel McKee for reasons expressed in his notice of contest, and answered in my reply, both of which documents I presume are before the Committee of Elections. The issues there made will be met at the proper time and in the proper manner. It is sufficient at this time for me to say that I shall abide the result with confidence.

The question raised by the paper signed "Samuel McKee," a paper without a precedent in the legislative history of our country, affects my right to sit in Congress pending the contest.

I understand the settled usage in legislative bodies

in this country and England to be, that the person holding the certificate of election, which gives a *prima facie* right to sit, shall be sworn in and act until otherwise decided upon the proofs submitted in the contest.

Holding the *prima facie* title to the seat, under this rule I ought to be admitted.

The papersigned Samuel McKee is leveled against my right to sit pending the contest.

Because it has been received by the House of Representatives and referred to the Committee of Elections, because it has been printed and laid on the desks of members, and because it may have had some influence upon the minds of members and on the action of the House, I deem it proper to respond to this paper, irregular as it is.

In the first place, I desire to call attention to the fact that said paper nowhere charges that I am not the legally chosen Representative of the ninth district of Kentucky, chosen by a fair and free vote, and by an unquestioned majority.

In the next place, I invite attention to the fact that said paper nowhere pretends that its signer, Samuel McKee, a competing candidate and a contestant for the seat, is entitled to represent said district in Congress.

All the objections urged in said paper against my right to sit in Congress are purely personal. Whether true or false, the questions of fact and of law which may arise upon them are, if proper subjects for examination at all, only rightfully examinable on the trial of the main contest to the seat I claim.

But protesting for the present in behalf of my constituents and of the sovereign State of Kentucky against the right of any power or body to inquire in *limine* beyond the certificates of election I hold, I will, for the information of members of the House, and to afford them all aid in my power in arriving at a just conclusion in the premises, notice and answer in order the several allegations of fact set forth in the paper signed "Samuel McKee."

The first, second, and third charges against me by said McKee, assigned as "reasons" why I should not be admitted to a seat in the House of Representatives, are based upon allegations that I have been disloyal, that I have given aid and comfort, counsel and encouragement to rebels in arms, and that I have violated my oath as a judicial officer of the State of Kentucky by so doing. To each of these charges, in substance the same, I simply state now in reply, as I authorized a member from New York [Mr. Brooks] to state on the floor of the House, that in form and in substance, in spirit and in intent, they are malicious and false from beginning to end.

So, also, the charges set forth in the fourth, fifth, and sixth specifications, or "reasons," that I advised the recruiting of men to fight against or advocated resistance to the Federal Government; that I joined the rebel army, and was a candidate for colonel of a regiment in said army, or for any other office; that I aided bands of rebel soldiers in capturing Union citizens and soldiers, and that I gave them aid, are equally false, unfounded, and malicious.

It is true, as alleged in the seventh "reason," that in 1861 I voted for John S. Williams to represent his district in the Congress of the United States, and for Dr. Parish to represent his county in the Kentucky Legislature, as I had a constitutional right to do. But it is not true, so far as I know or believe, that either Williams or Parish in that canvass discussed or expressed any opinion as to the right of a State to secede from the Union, and I submit that it is not proper to hold me responsible for their subsequent conduct. I have already denied above the allegation which is here again made, that I went into the rebel army, and I now deny, as is further charged, that I ever fled to Canada to avoid obedience to any order of the United States military authorities in Kentucky.

The only notice I think it proper to take of the eighth and tenth charges is to say that they are wholly and entirely false.

As for the ninth "reason" for excluding me from holding a seat in the House, I deem it necessary only to say that I can conscientiously take the oath required by law for the admission of a member, and that I am ready and willing to do so, and whatever might be my own or the opinions of others as to its constitutionality, I would regard it as obligatory and binding upon me until repealed or set aside by competent authority. The slur upon the Democratic party of Kentucky I consider unworthy of notice, and it could only have proceeded from a heart abounding in malice and uncharitableness.

In reply to the closing paragraph in the paper of Samuel McKee, that he can prove the specifications set forth, if he does it will be by perjured witnesses.

I feel the more fully warranted in thus presenting the facts in my case, as by the action of the House in adopting the resolution of Hon. JOHN A. LOGAN, of Illinois, my colleagues and myself are denied our seats pending the "report of the committee," and we are not aware of any standing rule that admits us to the privilege of the floor as members-elect, the rule on that subject being applicable to members of a future Congress, while by the adoption of another resolution contestants from the State of Kentucky are admitted to the floor; thus presenting the singular spectacle of closing the doors to those holding the regular credentials of members and extending privileges denied them to contestants.

Respectfully, JOHN D. YOUNG.

Mr. GARFIELD. I wish to ask a question in reference to the last sentence of the paper which has just been read. It seems to be there assumed that these persons claiming seats as members from Kentucky are excluded from the floor, while the contestants are admitted to its privileges. I made the motion on Friday

last for the admission of contestants to the privileges of the floor; and it was I supposed understood by everybody at that time that those claiming seats, not as contestants, but as sitting members, were included in that motion. I would like to inquire of the Chair what is the fact in reference to this point.

The SPEAKER. The Chair has so construed the resolution, and has instructed the Doorkeeper to admit all the gentlemen claiming seats from Kentucky; both those claiming to be sitting members and those appearing as contestants. They are all claimants for seats.

Mr. GARFIELD. My resolution, I think, would fully include them all.

The SPEAKER. The Chair so understood, and has ruled accordingly.

The communication of Mr. John D. Young was referred to the Committee of Elections.

Mr. BROOKS. With the consent of the gentleman from Massachusetts, [Mr. DAWES,] I desire to present a protest from Hon. James B. Beck, of Kentucky, against his exclusion from his seat in the House.

Mr. DAWES. I understand that Mr. Beck has already presented one protest.

Mr. BROOKS. I am not informed on that subject.

Mr. DAWES. I hold in my hand a protest of Mr. Beck, already presented by the gentleman from Illinois, [Mr. MARSHALL.]

Mr. BROOKS. I desire to present this paper and have it referred to the Committee of Elections. It states that Mr. Beck was elected by about eight thousand majority over his competitor; that the canvass was conducted by public discussion held on nearly every day, and that no charges of disloyalty were made against Mr. Beck. I present this protest and move its reference to the Committee of Elections.

The motion was agreed to.

Mr. BROOKS. I also move that the document be printed.

The SPEAKER. According to the practice heretofore, documents referred to the Committee of Elections have not been ordered by the House to be printed. The committee have authority to order the printing with their report of any documents which they may think should be printed.

Mr. BROOKS. As the gentleman from Massachusetts says that this protest is similar to one already presented, I will not insist upon the motion for printing.

Mr. DAWES. The Committee of Elections, to whom were referred, under the resolution of the 3d instant, the credentials of certain gentlemen claiming to be Representatives in this House from the State of Kentucky, and also the protest of James B. Beck, A. P. Grover, and Thomas L. Jones, and a motion that the committee be discharged from the further consideration of the credentials of Messrs. Grover and Beck, have instructed me to submit a report, which I ask may be read.

The Clerk read as follows:

The Committee of Elections, to whom were referred, under the resolution of the 3d instant, the credentials of certain gentlemen claiming to be Representatives in this House from the State of Kentucky, and also the protest of James B. Beck, A. P. Grover, and Thomas L. Jones, and the motion that the committee be discharged from the further consideration of the credentials of Messrs. Grover and Beck report: That as to the credentials of Mr. Grover no evidence has been referred to the committee; but the statement has been made under oath before the committee by Hon. Samuel McKee that the journals of the Legislature of Kentucky for 1860-61 will show that Mr. Grover, as a Senator in that Legislature, voted that Kentucky resist by force the United States in any attempt to coerce the southern States into obedience.

As to the credentials of Mr. Beck there have been referred to the committee an unsworn statement of S. M. Adams, of Lexington, Kentucky, that the said Beck was a member of the meeting in Scott county at which the invasion of the State by rebel forces was agreed upon; that he attended the inauguration of the rebel Governor Hawes, by Bragg, as Governor of Kentucky, and that he announced in the streets of Lexington, during the occupancy of the State by rebels, that he had accepted a position on the staff of John C. Breckenridge.

As to Thomas L. Jones there has been referred to the committee a statement of Hon. Samuel McKee, charging said Jones in general terms with dis-

loyalty, based upon a letter addressed to him by one William S. Rankin, of Covington, Kentucky, of date June 29, 1867, of similar import.

Against J. Proctor Knott there is nothing before the committee except the following statement, made in the House.

"Mr. BENJAMIN. Mr. Speaker, if I understand this question as presented to us now, it is that the credentials of all of the members who present themselves here from the State of Kentucky shall be referred to the Committee of Elections. I believe gentlemen who have been members of this House have protested against the swearing in of certain members of that delegation. I heard on that list as read by the Clerk the name of J. Proctor Knott, who claimed to be elected from the fourth congressional district of Kentucky. Mr. Knott was formerly a citizen of Missouri, a resident of the district which I have the honor to represent upon this floor. He resided there I believe until 1862 or 1863, when he left that State and moved to Kentucky.

"Mr. Knott, in 1860, I believe, was elected attorney general of the State of Missouri, and served as such until by an ordinance of the State convention he was ousted. In the winter of 1861, February, I believe, the Legislature of that State, which was intensely rebel, as every one knows, called a convention for carrying Missouri out of the Union. Mr. Knott was elected as a member of that convention. He served, commencing the 4th of March of that year. He took an active part in the proceedings of that convention. The question of secession was discussed there, and various measures were brought before that convention for the purpose of accomplishing that result. Now, sir, I state here to-day that the records of that convention will show in all its proceedings that Mr. Knott was allied with those who were the most intense in their disloyalty to this Government, voting for and sustaining all the measures designed to accomplish the secession of the State of Missouri.

"He was attorney general of the State of Missouri. At a subsequent session of the convention all of the State officers were deposed, as you all know, Claib. Jackson being Governor. Mr. Knott went out with the rest. In the session of 1862 he did not appear in his seat in the convention. It was declared vacant, and another was elected in his stead.

"The disloyalty of Mr. Knott in that State is notorious. His status is as well known as that of any other of those who figured in the rebellion. I do not know there is any gentleman here who protests against his being sworn in as a member; but the facts being as I have stated them, I feel it incumbent upon me to rise in my place and object to the qualification of Mr. Knott as the Representative of the fourth congressional district of the State of Kentucky; and notwithstanding there is no contestant, I believe it is the duty of Congress, when the facts are so well known as in this case, that a person who has occupied the position he has, and taken the grounds he has during this war, shall not be permitted to occupy a seat upon this floor.

"I am just informed that the defeated candidate in that district is going to contest the right to the seat. It is a fact I did not before know; but it is necessary the House should know these facts in order to judge of the character of the Representatives sent here from that State to represent her in the Congress of the United States."

In reference to John Young Brown, there is evidence that he published the following letter:

ELIZABETHTOWN, April 18, 1861.

Editor Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said in reference to the call of the President for four regiments of volunteers to march against the South:

"I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks."

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the Confederate States. What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death, and if one man shall be found in our Commonwealth to volunteer to join them, he ought, and I believe will be, shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully,

JOHN YOUNG BROWN.

STATE OF KENTUCKY, County of Muhlenberg, ss:

On this 26th day of June, A. D. 1867, before me, a justice of the peace in and for the county and State above named, personally appeared M. J. Roark, who, being by me duly sworn according to law, on his oath doth say that he is a resident of Greenville, county and State above named; and further, that he was present at Morgantown, State of Kentucky, on the 10th day of April, 1867, and heard John Young Brown, in a public speech, declare and avow that he was the author of a letter charged to have been written by him, a copy of which letter is herewith filed, marked B, and made part of this affidavit.

M. J. ROARK.

Sworn to and subscribed before me, by M. J. Roark, this 26th day of June, 1867.

E. G. NEEL,

Justice of the Peace, Muhlenberg county.

STATE OF KENTUCKY, County of Muhlenberg, ss:

On this 26th day of June, A. D. 1867, before me, a justice of the peace in and for the county and State above named, personally appeared E. G. Neel, who, being by me duly sworn according to law, doth on his oath say that he is a resident of Greenville, State of Kentucky; and further, that he was present at Greenville, State aforesaid, on the 8th day of April, 1867, and heard John Young Brown, then a candidate for Congress in this second congressional district, in a public speech, declare and avow that he was the author and responsible for a letter charged to have been written by him in 1861, which letter is filed herewith as part of this affidavit, and marked B. He also stated that in same public speech he had said nothing in said letter that he was not prepared to defend on that day—i. e., 8th day of April, 1867. He further admitted in same speech that for something said or done by him (Brown) he was in the year 1865 arrested by order of Colonel Sam. Johnson, of Seventeenth Kentucky volunteer cavalry, and confined in jail or prison.

E. G. NEEL.

Sworn to and subscribed before me, by E. G. Neel, this 26th day of June, 1867.

JOHN M. WILLIAMS,

Justice of the Peace.

In reference to L. S. Trimble there is, among other things referred to the committee, the affidavit of one W. F. Ellistoot that the said Trimble was a partner of his during the summer and fall of 1861 in the business of forwarding supplies through the Federal lines to the Confederate troops.

Against John D. Young there is, among other things, an affidavit of one Willis Hockaday, alleging that in the fall of 1861 he was himself captured and carried a prisoner into the rebel lines by a band of rebels under the command of said Young.

Under the resolutions referring these credentials the committee are not instructed or authorized to send for persons and papers or otherwise authorized to take testimony, but simply to report at as early a day as practicable.

The committee, therefore, report the foregoing facts to the House and await further instructions.

The committee are of opinion that no person who has been engaged in armed hostility to the Government of the United States, or who has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House ought to be investigated and reported upon before such person is permitted to take the seat; but all charges touching the disloyalty of a constituency in a State in which loyal civil government was not overthrown during the late rebellion, or the illegality of an election, are matters which pertain to a contest in the ordinary way, and should not prevent a person holding a regular certificate from taking his seat.

Mr. DAWES. In connection with that report, I ask that the resolution referring the subject to the committee may be read.

The Clerk read as follows:

Whereas it is alleged that in the elections recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; and whereas it is alleged that several of the Representatives-elect from that State are disloyal: Therefore,

Be it resolved, That the credentials of L. S. Trimble, John Young Brown, John Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young, members-elect from the State of Kentucky, shall be referred to the Committee of Elections for report at as early a day as practicable. Pending the report of said committee none of said members-elect shall be allowed to take the oath of office and admitted to seats as such.

Mr. DAWES. I move that the report of the committee be laid on the table, and ordered to be printed.

The motion was agreed to.

Mr. LOGAN. Mr. Speaker, in view of the report of the committee, I offer the following resolution to the House for adoption.

The Clerk read as follows:

Resolved, That the Committee of Elections be instructed to inquire and report whether Lawrence S. Trimble, John Young Brown, J. Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young, seven of the persons who claim to have been elected Representatives from the State of Kentucky in the Fortieth Congress of the United States, or either of them, are disqualified from sitting as members of this House on account of their having been guilty of acts of disloyalty to the Government of the United States, or having given aid and comfort to its enemies; and that they have power to send for persons and papers, and to hold sessions of the committee during the recess of Congress, if it shall be necessary, for the purpose of a full investigation of that question, and that they report the facts in relation to each of the above-named claimants to this House as early as practicable.

Mr. LOGAN demanded the previous question.

The previous question was seconded, and the



main question ordered; and under the operation thereof the resolution was adopted.

Mr. KELLEY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXCUSE FROM COMMITTEE OF ELECTIONS.

The SPEAKER. The gentleman from Delaware has requested the Chair to lay the following letter before the House:

The Clerk read as follows:

DOVER, July 4, 1867.

SIR: I respectfully request that you ask the House to excuse me from further service on the Committee of Elections. My intercourse and association with the rest of the committee have been of the most agreeable kind; but I am convinced that the minority can be better served by the appointment of some other member.

Yours, very respectfully,

JOHN A. NICHOLSON.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, Washington, D. C.

Mr. DAWES. I am exceedingly sorry that the gentleman from Delaware has seen proper to send such a communication to this House. His relations with the committee have been of the kindest character. The esteem in which he and the services he has rendered is held by the committee is such that, without there are reasons which ought to control our action, I hope the House will decline to excuse him. What his reasons are I do not know. I only express the opinion of the committee when I regret that he has asked to be excused. I hope he may be induced to withdraw his request; and to that end I move that the subject be postponed until to-morrow.

The motion was agreed to.

#### REVENUE FROM TAX ON DISTILLED SPIRITS.

Mr. KELLEY. I offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to report to this House the amount of revenue that has been received from the tax on distilled spirits from each congressional district in the several States, District of Columbia, each of the Territories, and each of the collection districts of the rebel States during the fiscal year which terminated on the 30th of June, 1867.

Mr. BENJAMIN. I suggest that the gentleman make it each "collection district" instead of "congressional district."

Mr. KELLEY. I agree to that modification. The resolution, as modified, was adopted.

#### PUBLICATION OF CABINET ACTION.

Mr. SCHENCK. I offer the following preamble and resolution:

Whereas there was published on the 21st day of June last in the National Intelligencer, a newspaper printed in the city of Washington, what was styled "an authorized statement of proceedings" of the President of the United States and the Cabinet in relation to an interpretation of the acts of Congress "commonly known as the reconstruction acts," which provide for a reestablishment of civil government in the rebel States, said publication purporting to be "by authority;" Now, therefore,

*Be it resolved*, That the President be requested to inform this House whether said publication was made by his authority or with his knowledge or assent, and whether the full and complete record or minute of all the proceedings, conclusions, and determinations of the President and Cabinet relating to said acts of Congress and their interpretation is embraced or given in said publication; and that he be respectfully requested to furnish to this House a true copy of the full and complete record or minute of such proceedings, conclusions, and determinations in regard to the interpretation of the said reconstruction acts.

Mr. ROSS. I object.

Mr. SCHENCK. I move to suspend the rules.

Mr. ROSS. It is a resolution calling for executive information, which requires unanimous consent.

The SPEAKER. That rule can be suspended at any time during the first session of the Fortieth Congress.

Mr. BOYER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 26, not voting 39; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Buckland, Butler, Churchill,

Reader W. Clarke, Sidney Clarke, Cobb, Cook, Culom, Dawes, Dixon, Donnelly, Driggs, Eekley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Hamilton, Harding, Hayes, Hooper, Hopkins, Hulburt, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Logan, Loughridge, Lynch, Marvin, McClurg, Mercur, Moore, Moorhead, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—103.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Marshall, Morgan, Morrissey, Mungen, Niblack, Noell, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Van Trump, and Wood—26.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Blaine, Blair, Bromwell, Broomall, Cake, Coburn, Cornell, Covode, Dodge, Fox, Haight, Halsey, Hill, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Laffin, Lincoln, Loan, Mallory, McCarthy, McCullough, Miller, Morrill, Newcomb, Nicholson, Phelps, Poland, Pomeroy, Pruyn, Robinson, Van Auker, Van Wyck, Windom, and Woodbridge—39.

So the rules were suspended, two thirds having voted in the affirmative.

Mr. SCHENCK. I demand the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HOMESTEADS FOR FREEDMEN.

Mr. PAINE, by unanimous consent, introduced a bill to facilitate the occupation of public lands by freedmen under the homestead act; which was read a first and second time, ordered to be referred to the Committee on the Public Lands when appointed, and printed.

#### ASSASSINATION CONSPIRACY.

Mr. BUTLER. I ask leave to offer the following preamble and resolutions:

Whereas no investigation of all the facts and circumstances connected with the assassination of the late lamented President of the United States has been had by competent authority, tending to show who were the persons engaged in the conspiracy to do the act, its inducement, its objects, its instruments, and the means of its accomplishment; and whereas such investigation cannot be fully had in a court of justice trying one or more conspirators on a single issue trammeled with questions of admissibility of evidence confined to that issue: Therefore,

*Be it resolved*, That a special committee of five members of the House be appointed to make such investigation, and to record the facts thereby obtained, and report the same to the House at any time, with such recommendations as may seem proper.

*Be it further resolved*, That such committee, for the purposes of this investigation, shall have power to send for persons and papers, to appoint a clerk and stenographer, and to sit during any recess of the House; and that the expenses of the investigation be paid from the contingent fund of the House.

*Be it further resolved*, That as the crime to be investigated is of the most heinous, and in this country unprecedented character, and is believed to have included in its plan and perpetration many persons holding high positions of power and authority, because of the civil war, who were acting through inferior persons as their tools and instruments; and as such persons may be prevented from giving evidence, because of liability to punishment for participation in such conspiracy; therefore in order to open all sources of evidence, the committee be empowered to report an act of grace and amnesty according to parliamentary usage to any person having cognizance of such conspiracy not already put on trial and legally convicted by a court of competent jurisdiction of complicity therein, who shall give material and truthful evidence tending to bring to light the facts of said conspiracy; and that in the judgment of the House, no person in whose favor such report shall be made ought to be brought to trial, or any evidence given by him to the committee used against such person on any trial.

Mr. BOYER. I object.

Mr. BUTLER. I move to suspend the rules.

Mr. ROSS. Would it be in order to refer the resolutions to the Committee on the Judiciary?

The SPEAKER. They are not yet before the House.

Mr. ROSS. We have a great many committees running in vacation, and I should dislike to increase them much.

Mr. GLOSSBRENNER. I demand the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 27, not voting 43; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Boutwell, Bromwell, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eekley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Hamilton, Harding, Hayes, Hooper, Hopkins, Hulburt, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Price, Raum, Sawyer, Schenck, Selye, Shanks, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—98.

NAYS—Messrs. Adams, Archer, Bingham, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Jenckes, Marshall, Morgan, Morrissey, Mungen, Niblack, Noell, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Van Trump, and Wood—27.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Barnes, Blaine, Blair, Broomall, Cake, Sidney Clarke, Cornell, Covode, Eggleston, Ela, Fox, Haight, Halsey, Hill, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kerr, Ketcham, Laffin, Lincoln, Mallory, Marvin, McCullough, Morrill, Nicholson, Phelps, Pike, Poland, Pomeroy, Pruyn, Robertson, Robinson, Scofield, Smith, Taylor, Van Auker, Burt Van Horn, Van Wyck, Windom, and Woodbridge—43.

So the rules were suspended.

Mr. WILSON, of Iowa. I think if this resolution is to be passed by the House it ought to include a direction that the testimony taken by the Judiciary Committee of the Thirty-Ninth Congress, and which has been taken by that committee since, should be laid before this select committee. I will state that the Committee on the Judiciary, by the instruction of the House, investigated partially the subject of the assassination conspiracy, and a large mass of testimony was taken. I have been persuaded, and so have a number of the members of that committee, that that testimony should be at some time made public. The committee reported at the first session of the Thirty-Ninth Congress, but they continued the examination during the second session, when another report was made upon a certain branch of the case. But the investigation never was considered as completed by that committee, and I think that it should be completed by some committee. There are mysteries connected with it that I think should be ferreted out, and I hope that whatever committee will be charged with this investigation will give it a careful and exclusive consideration until the whole investigation shall have been made complete. I therefore suggest to the gentleman from Massachusetts that he add to his resolution that the testimony taken before the Committee on the Judiciary shall be laid before this committee as a part of the testimony upon which they shall act.

Mr. BUTLER. I cheerfully accept the suggestion of my friend from Iowa, and I will offer this additional resolution:

*Be it further resolved*, That all the testimony taken by the Committee on the Judiciary of the Thirty-Ninth and Fortieth Congresses germane to the subject be referred to this committee.

Mr. WILSON, of Iowa. I desire further to state that the testimony taken by the Judiciary Committee during the Fortieth Congress has been taken in connection with another investigation, and I, speaking for myself as a member of the Committee on the Judiciary, feel that the subject of the assassination will be sufficient to occupy the attention of one committee; and I do not believe that the Committee on the Judiciary, with the great amount of other labor imposed upon it, can give that attention to this subject which is demanded in order that the whole case may be known and placed upon record.

Mr. BUTLER. I now ask that the resolutions, as modified, be put upon their passage.

Mr. NIBLACK. I ask that the resolutions be reported.

Mr. RANDALL. I desire to make a suggestion to the gentleman from Massachusetts. For one, I have no objection to the fullest possible investigation and publication of everything connected with the assassination, provided it is done fully, fairly, and justly, and I desire now to suggest to the gentleman that he make this committee of investigation a joint committee of the Senate and the House.

Mr. JUDD. I desire to vote for this preamble and resolutions, if I understand them, and to that end I desire to ask the gentleman from Massachusetts whether the second "whereas," the second recital would not be a declaration by this Congress that the tribunal that has already tried the conspirators was an illegal tribunal?

Mr. BUTLER. Certainly not. The second "whereas" only provides that in case any person has been legally and duly convicted by any tribunal, in such case no grace or amnesty shall be offered by Congress or by the committee, because that would seem to be trenching upon the pardoning power; but, sir, as is well known, up to this time no one of the many conspirators in this great conspiracy, however humble, has made the slightest disclosure, and for the reason apparently that there has been no person anywhere to say to them, "If you will tell the truth and it turns out that you are comparatively an innocent party, moved by other higher parties, you shall be saved," which is the usual way of ascertaining the truth in all such cases; and therefore, in drawing these resolutions, I have put in that power which has been sometimes exercised in the English Parliament in like cases, and which I believe is well known to the parliamentary law, that where a man has not been convicted—if he has been and he is an attainted felon, it is too dangerous to take his testimony—but that where a man has not been convicted we may say to him, "If you will come forward and tell the truth you shall have grace and amnesty, and the testimony you give shall not be used against you so far as the judgment of the House is concerned." That, it seems to me, is a necessary power.

One word further, though I did not intend to go into any discussion of this subject. If the resolution does not commend itself to the consciences and judgments of members, nothing that I can say will add to its force. I say here is the greatest conspiracy ever known to a government, breaking upon this country in a manner not paralleled in history; and of that conspiracy of those who had part in it, of its objects, its instruments, its inducements, no record has yet been made, because there has been no investigation by any competent authority. In the investigation before the military commission—of which I do not wish to say one word, except that that commission was necessarily confined to a single issue—the question as to the grand objects of the conspiracy and the various persons engaged in it could not well be tried. Nor was that tribunal, from its nature, fitted for that investigation. On the trial that is now going on, that investigation cannot take place, because at every step both the Government and the defense are trammelled by the rule of evidence that the testimony must be germane and material to the given issue, outside of which neither party can go. But in an investigation under the charge of a committee, who shall deal with the matter carefully and judiciously, with the eye of the country upon them, acting upon their responsibilities as members of this House, reporting to the House and accountable to it, a record may be made of all the facts and circumstances, as a warning to the future and as a memento of the past, which shall be valuable as a part of the history of the country, even if it should discover no other or different criminals from those who have justly suffered the penalty of their crimes; and it may disclose others who

should be brought before the tribunals of the country. Why, sir, it has come out only the day before yesterday, in the course of the investigation before the court sitting in this city, that a certain member of the cabinet of the late confederate States furnished money for the purpose of carrying on this conspiracy. That fact has just this moment come out, and come out incidentally. Now, it is for the purpose of dealing with all these facts that we desire this committee, and that the country desires it. Let us have it understood, before assassination becomes established as the customary method of disposing of rulers in this country, as it has in some others, that no such thing can be done without full and thorough investigation.

With your leave, sir, I will now move the previous question.

Mr. JUDD. I ask the honorable gentleman to yield to me for a moment.

Mr. BUTLER. I will do so.

Mr. JUDD. Mr. Speaker, I will go with the honorable gentleman from Massachusetts [Mr. BUTLER] as far as he who goes the farthest, to investigate this great crime; and if I should raise a question as to the resolution, pending I have no fear that the public or any portion of the public will doubt my motives when it is known what were my relations with the victim of this assassination. I desire as much as does the gentleman from Massachusetts that there may be a full investigation that shall bring to the knowledge of the public evidence implicating every person really connected with the commission of this great crime. But, Mr. Speaker, I do not desire, by any vote here upon a preamble, to declare formally that the tribunal that was created by the Government and that convicted a portion of these conspirators, was an illegal tribunal. I do not believe that I am called upon to make such a declaration by any vote upon this floor.

Mr. BUTLER. Let the resolution be again read.

Mr. JUDD. I had intended to ask for the reading of it. I want the gentleman to understand that I will go with him or any other earnest man to probe this matter to the bottom; but I will not vote for the adoption of language which even by implication charges that the tribunal that tried a portion of these conspirators was not legally constituted. Let that question be left to the courts.

Mr. BUTLER. The gentleman will find, by the reading of the resolution, that he is wholly mistaken as to its purport.

Mr. JUDD and several others. Let it be read.

The preamble and resolution were again read, together with the proposed amendment.

Mr. ELDRIDGE. I rise to a question of order. It seems to me that the effect of this amendment will be to take from the Committee on the Judiciary the testimony which they have taken. The amendment proposes that the testimony which has been taken before the Judiciary Committee shall be referred to another committee of the House. The effect must be to take that testimony from the Judiciary Committee for the purpose for which it was taken.

The SPEAKER. The Chair thinks that would be the effect. The House can determine, if it sees fit, to transfer from one committee to another.

Mr. ELDRIDGE. I submit to the gentleman from Massachusetts to modify his resolution so that it shall provide that only copies of the testimony taken before the Judiciary Committee, appertaining to this subject, shall be referred.

Mr. BUTLER. I have no objection to that modification.

Mr. ROSS. I desire to inquire, in regard to the construction of the resolution, whether it does not give power to the committee to pardon Jefferson Davis and other leading rebels. I would not like to give any such power to any committee of this House.

Mr. JUDD. I ask the gentleman from Massachusetts whether he believes the efficiency

of his resolution would be destroyed by striking out the preamble?

Mr. BUTLER. I have no belief that the preamble gives any efficiency to it, but as it is customary and a rule of the House to vote on these matters without debate, in the first place I put in the preamble as a sort of "stump speech." It having fulfilled its office, I have no objection to its being stricken out, as it does no good and no harm.

As to the fear expressed by the gentleman, that this committee will be empowered to pardon Jefferson Davis, I doubt whether any committee of this House would pardon or bail Jefferson Davis, judging by the vote of the majority of the committees as constituted by the Speaker.

Mr. DAWES. I want to call the attention of my colleague to the last resolution, and to inquire whether it will admit of the construction that those who may have been engaged in the assassination, on their making a disclosure, shall not be punished? I shall ask that the last resolution shall be read, for it seems to me that any person who under it makes any disclosure, that any person in favor of whom that committee shall make a report will go unpunished, never mind how guilty he may be. If it does admit of such a construction, if it has that fault, I for one am not willing, however much confidence I have in my learned colleague, or in any committee appointed by this House, to pledge the country in advance that any person who shall make disclosures shall not be punished, however guilty he may be.

Mr. BUTLER. If the House will pardon me a moment, I think my colleague will find that it is all right. The first clause gives the committee power to report an amnesty act whenever they think proper, and that leaves the House to deal with that subject and that report as they please.

Now, the second part is, that where a party comes forward and makes disclosures, in that case the disclosures which he may make shall not be used against him. That is all; that they shall never be used against him. I understand it to be the usage at common law where a promise has been given that if a man comes forward and makes disclosures he shall not have those disclosures held as evidence against himself. The courts would rule it out. But this being a somewhat novel proceeding, I desire men should come forward and feel that they could not be harmed by what they say before that committee. That is but just and right, and clearly within the power of the House.

Mr. DAWES. I ask that the last paragraph of the last resolution be read.

Mr. BUTLER. Read the whole of the last resolution.

The Clerk read the last resolution, as follows:

*Be it further resolved,* That as the crime to be investigated is of the most heinous, and in this country unprecedented character, and is believed to have included in its plan and perpetration many persons holding high positions of power and authority, because of the civil war, who were acting through inferior persons as their tools and instruments; and as such persons may be prevented from giving evidence because of liability to punishment for participation in such conspiracy; therefore, in order to open all sources of evidence, the committee be empowered to report an act of grace and amnesty according to parliamentary usage to any person having cognizance of such conspiracy not already put on trial and legally convicted by a court of competent jurisdiction of complicity therein, who shall give material and truthful evidence tending to bring to light the facts of said conspiracy; and that in the judgment of the House no person in whose favor such report shall be made ought to be brought to trial, or any evidence given by him to the committee used against such person on any trial.

Mr. GARFIELD. In the power to send for persons and papers I notice there is not included power to administer oaths. As this is a select committee I think that power ought to be included. I suggest that the gentleman add that.

In the second place he says that the committee is empowered to report an act of amnesty. It should be a bill. It does not become an act until it has passed both Houses.

Mr. BUTLER. I agree to those modifications.

Mr. WILSON, of Iowa. In regard to the resolution which has been read, it provides that persons not tried by a court of competent jurisdiction and legally convicted shall be entitled to amnesty on making disclosures to that committee. I propose to modify it so that it will provide persons who have not been convicted, because I see that on the language of the resolution the question rises to which attention has been called by the gentleman from Illinois, and I do not wish the House to pass a resolution which by implication shall question the authority of the commission which tried the conspirators. I therefore suggest to strike out so much as relates to the jurisdiction of the court, and let it stand, persons who have been convicted.

Mr. BUTLER. I admit the modification, and am content to have the words "legally" and "by a court of competent jurisdiction" stricken out to meet any scruples that any gentlemen may have who suppose the language may cast some doubt upon the legal commission, about which, however, I never had any doubt. I now yield to the gentleman from Indiana before moving the previous question.

Mr. NIBLACK. I shall detain the House but a moment. The point I desire to make is this: that the Congress of the United States, nor either branch of it, has any pardoning power. That power is vested by the Constitution in the Executive, and by implication, therefore, is denied to all other branches of the Government. Any act, therefore, of this House extending or promising amnesty to any person for offenses against the laws of the United States would be nugatory and void, and to pretend that we have the power thus to pledge the faith of the Government might embarrass and might even dishonor the Government, because no action which Congress can take can circumscribe the power vested in the judiciary in this matter of punishing offenses. Therefore, if for no other reason, I should vote against the resolution, because of the entire want of power in this House or in the Congress of the United States to interfere with the question of amnesty and pardon. It does not belong to the legislative branch of the Government at all. The power of the Parliament of Great-Britain has been claimed as a precedent, but I submit that it is no precedent, because the English Parliament is omnipotent, whereas the power of Congress is circumscribed by the Constitution of the United States, as is that of any other department of the Government.

Mr. BUTLER. I now move the previous question.

Mr. RANDALL. I would like to amend by moving a joint committee.

The SPEAKER. The previous question has been moved.

Mr. RANDALL. Do I understand the gentleman from Massachusetts to decline to allow me to make the motion?

Mr. BUTLER. I must stand by the original proposition.

Mr. RANDALL. Then I will call for a division of the resolutions at the proper time.

Mr. INGERSOLL. If the previous question is not seconded will it then be in order to move to make it a joint committee?

The SPEAKER. It will.

Mr. INGERSOLL. Then I hope the previous question will not be seconded. By having a joint committee the public faith of the Government will be more strongly pledged and more relied upon by those who may come forward and make voluntary statements in regard to the conspiracy.

The SPEAKER. This could not be changed into a joint resolution under the rule adopted by the House, but it might be made a concurrent resolution by adding the words "the Senate concurring."

Mr. INGERSOLL. That would have the same effect.

The SPEAKER. It would have the same

effect. If there is no objection the modification accepted by the gentleman from Massachusetts will be incorporated in the resolution.

No objection was made, and the modification was made.

The previous question was seconded—ayes 91, noes 24—and the main question ordered.

Mr. RANDALL. I now call for a separate vote on the last resolution which gives the power to report "a bill granting grace and amnesty," doubting, as I do, whether any such power exists in this House, and also doubting the propriety of such proceedings, even though the House had such power.

The vote was then taken on the other resolutions in gross, and they were adopted.

The question recurring on the last resolution in relation to granting amnesty,

Mr. RANDALL demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 28, not voting 40; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Boutwell, Bromwell, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Elia, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Hamilton, Harding, Hayes, Hooper, Hopkins, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Marvin, McClurg, Meaurio, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Raum, Sawyer, Schenck, Seofield, Selye, Shanks, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffey, Taylor, Thomas, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwaladar C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—100.

NAYS—Messrs. Adams, Archer, Barnes, Bingham, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Marshall, Morgan, Morrissey, Mungen, Niblack, Noel, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Upson, Van Trump, and Wood—28.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Baldwin, Blaine, Blair, Broomall, Cake, Cornell, Covode, Dawes, Fox, Haight, Halsey, Hill, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Jenckes, Kerr, Ketcham, Ladin, Lincoln, Mallory, McCarthy, McCullough, Miller, Morrill, Nicholson, Phelps, Plants, Pomeroy, Price, Pruyn, Robertson, Robinson, Smith, Van Auken, Van Wyck, and Woodbridge—40.

So the resolution was adopted.

During the roll-call,

Mr. PHELPS stated that upon this and preceding votes he was paired with Mr. LAFLIN.

The result of the vote having been announced as above recorded,

Mr. BUTLER moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania, from the special Committee on Reconstruction, reported a bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto passed on the 23d day of March, 1867; which was read a first and second time.

The bill was read in detail, and is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the 23d day of March, in the year 1867, that the Governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were illegal and void; and that thereafter said Governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the authority of Congress.

SEC. 2. *And be it further enacted,* That the said acts to which this is a supplement shall be construed to authorize the officer assigned to the command of any military district under said acts, whenever he shall deem it necessary to the due performance of his duties under said acts, to remove or suspend from office any municipal or State officer or person exercising authority under or by virtue of any so-called

State government existing in his district, and the said officer so assigned to command as aforesaid is hereby empowered to appoint another person in the stead of the officer or person so removed if he shall deem proper so to do, and whenever he may deem it necessary, as aforesaid to prohibit, suspend, or set aside any act or proceeding of any such State or municipal government, or any act or thing done under or by virtue of its authority; and all acts heretofore done by any such officer in accordance herewith shall be deemed valid.

SEC. 3. *And be it further enacted,* That the boards of registration of the several military districts established by the acts to which this is supplementary, shall admit to registration only such persons as they deem entitled to be registered by the acts aforesaid. They shall not regard the taking of the oath prescribed in the act of March 23, 1867, conclusive evidence of the right of the person taking it to be registered, but *prima facie* only, and may receive such evidence under oath relating thereto as they may deem proper, either from the person applying to be registered or others, and either of the members of said boards is hereby authorized to administer oaths or affirmations and examine witnesses touching the right of any person to be registered. Said boards of registration may strike from the list of voters the name of any one already registered who in their judgment improperly took the oath prescribed in the acts to which this is supplementary, or was not entitled by said acts to be registered. Record evidence shall not be required by said boards to prove participation in the rebellion, but parole evidence shall be sufficient to establish the fact of such participation; and said boards of registration shall not be bound or governed in their action by any opinion of any officer of the United States Government.

SEC. 4. *And be it further enacted,* That no civil court of the United States or of any State shall have jurisdiction of any action or proceeding, civil or criminal, against any such district commander, or any officer or person acting by his authority for or on account of the discharge of the duties imposed upon him by this act or the acts to which it is supplementary.

SEC. 5. *And be it further enacted,* That no district commander shall be relieved from the command assigned to him under the aforesaid acts unless the Senate shall have first advised and consented thereto, or unless by sentence of court-martial he shall be cashiered or dismissed from the Army; or unless he shall consent to be so relieved.

SEC. 6. *And be it further enacted,* That the time for the completion of the registration of persons properly qualified to vote may be extended by orders of the said several district commanders to any day prior to the 1st day of October, A. D. 1867.

Mr. ASHLEY, of Ohio. I wish before the gentleman from Pennsylvania makes his remarks that he would allow me to offer some amendments to the bill for the purpose of having them printed.

Mr. STEVENS, of Pennsylvania. I have no objection to giving way for the purpose of allowing the gentleman to have his amendments printed, but not offered at the present time.

Mr. WILSON, of Iowa. I desire also to offer an amendment to be printed at the same time.

Mr. STEVENS, of Pennsylvania. I yield to the gentleman from Iowa to offer his amendment to be printed at the same time.

No objection being made, the amendments were ordered to be printed.

Mr. ASHLEY, of Ohio. I desire to have my amendments reported to the House.

The SPEAKER. Does the gentleman from Pennsylvania yield to have the proposed amendments reported?

Mr. STEVENS, of Pennsylvania. Well, sir, I did not intend to yield for any such purpose, but if it will be any accommodation to the gentleman from Ohio I will yield.

Mr. ASHLEY, of Ohio. I ask, then, to have my amendments reported.

The proposed amendments of Mr. ASHLEY, of Ohio, were reported as follows:

Amend section two by striking out all after the word "district" in line eight down to and including the words "so to do" in line eleven, as follows: "and the said officer so assigned to command as aforesaid is hereby empowered to appoint another person in the stead of the officer or person so removed if he shall deem proper so to do;" and insert in lieu thereof the following: "and he shall, by a public order, invite the electors duly enrolled under this act and the acts to which this is an amendment to elect any officer so removed where the office is elective by the local law in any State, district, county, parish, or city; and until the election and qualification of any person to an office made vacant by removal of the general commanding, said general may detail any person in his command to discharge temporarily the duties of said office."

Add the following as an additional section: SEC. 6. *And be it further enacted,* That the commanding general of each district shall cause all persons now discharging the duties of any office under the temporary provisional State governments in the

several districts named in the acts to which this is an amendment to take and subscribe the oath prescribed by the act of July 2, 1862, entitled "An act to prescribe an oath of office," which oath when subscribed shall be filed in the office of the general commanding, and if any person discharging the duties of any office under any of said provisional State governments, either by virtue of an election or appointment shall neglect or refuse to take and subscribe said oath within fifteen days after being notified by published order of the general commanding, it shall be the duty of said commanding general to declare such office vacant, and fill the same by the appointment of a loyal citizen, who shall first take and subscribe said oath.

Mr. WILSON, of Iowa. I now ask that my amendment be read.

The Clerk read as follows:

Insert as an additional section the following:

*And be it further enacted,* That any person or persons who shall prevent, or attempt to prevent, the execution of this act, or either of the acts to which this act is supplementary, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding \$5,000 or imprisoned one year, or both, at the discretion of the court.

Mr. BURE. I desire to have read an amendment which I wish to offer.

Mr. STEVENS, of Pennsylvania. I will yield to have it read on the same terms.

The Clerk read as follows:

Add at the end of section two the following:

And such military commander shall immediately after any such removal or suspension from office report the same, with the reasons therefor, to the President of the United States.

Mr. BENJAMIN. I desire, with the consent of the gentleman from Pennsylvania, that the following amendment may also be printed:

Add at the end of section three the following:

*Provided,* That the right of any person to be registered as a legal voter shall in no respect be changed or affected by virtue of any pardon granted to such person by the President of the United States for participation in the rebellion.

Mr. RAUM. With the permission of the gentleman from Pennsylvania, I desire that the following amendment may also be printed:

Strike out in section three after the word "registered" in line fourteen, the following:

Said boards of registration may strike from the list of voters the name of any one already registered who, in their judgment, improperly took the oath prescribed in the acts to which this is supplementary, or was not entitled by said acts to be registered.

Also, add at the end of the section the following:

Fifteen days before any election held under the provisions of the act of which this act is a supplement, said board of registration shall meet for the purpose of correcting the list of voters. Each board of registration shall have power to add to the list of voters the name of any legal voter who shall take the required oath and prove to the satisfaction of the proper board of registration that such person offering to register his name is qualified to vote under this act and the acts of which this is a supplement. And said boards of registration shall have power to strike from the list of voters the name of any one already registered, upon satisfactory proof that such person improperly took the oath prescribed in the acts to which this act is a supplement, or was not entitled by said acts to be registered. And said boards of registration shall complete the correction of the lists of voters at least five days before the day of election.

Mr. STEVENS, of Pennsylvania. I do not know whether any person really desires to discuss this bill. It has been printed, and is, I suppose, pretty generally understood. I do not think there is any real desire to criticize or discuss it to any great extent. I am willing to allow the amendment of the gentleman from Iowa [Mr. WILSON] and that of the gentleman from Missouri [Mr. BENJAMIN] to be considered as binding; and I trust it will not be considered harsh for me now to demand the previous question upon the passage of the bill.

Mr. WOOD. I appeal to the gentleman from Pennsylvania not to deprive the minority in this House of all opportunity to discuss this bill. I trust he will give us some chance to enter our protest and to present to the House and to the country our reasons for voting against the measure, as we most assuredly shall do.

Mr. ELDRIDGE. I wish the gentleman from Pennsylvania would allow me to make a suggestion. This is the third bill which has been introduced to this House upon the subject of reconstruction within the last few months. The necessity for the passage of this bill, if such necessity exists, arises unquestionably from the fact that no proper discus-

sion was allowed upon the last bill which was passed on this subject. It is now avowed, not only in this Capitol, but throughout the entire country, that that bill was not understood. The differences of opinion which have arisen upon the construction of that bill have, in my judgment, resulted from the fact that no proper discussion upon it was allowed. Measures abolishing the Constitution, doing away with all civil power within ten States of this Union, are rushed through under the previous question; and session after session of Congress is called in order to correct the errors resulting from this course of procedure. I trust that such is not to be the course with this bill.

Mr. STEVENS, of Pennsylvania. When will the gentleman be done with his suggestion? [Laughter.]

Mr. BOYER. Will the gentleman allow me to move an amendment?

Mr. STEVENS, of Pennsylvania. I will hear it.

Mr. BOYER. I propose to amend the title of the bill.

The SPEAKER. That is not in order, as the title is not now before the House.

Mr. STEVENS, of Pennsylvania. I propose, if the previous question be sustained, to give three quarters of my hour for discussion to the opposition. Then when they have spoken perhaps I will say a word and ask for the vote on the subject. That is about as far as I can go. I will hear from the gentleman from New York.

Mr. WOOD. Permit me here and now in the most friendly spirit to suggest to the distinguished gentleman from Pennsylvania that had there been more time permitted in the discussion of the preceding measures in this House, to correct their careless phraseology and to put them in proper language, so that they should not be susceptible of the construction which has been put upon them, we would not in all probability have been compelled to sit here during the dog-days to do what we ought to have done before, and what some insist we did before.

Now, I do not know what gentlemen on our side desire to discuss this measure, but I wish only for a few minutes myself. I suggest whether it is fair, whether it is liberal, whether it is magnanimous in the gentleman to limit the House to any time in discussing a measure of this magnitude and importance. I do not know whether three quarters of an hour will be enough, but I suggest to him to allow us a fair indulgence, so that we may present to our constituency—for it will have no influence on the vote in the House—and to the country the grounds on which we shall vote against it.

Mr. BROOKS. I desire to submit a minority report if gentlemen will allow me time to prepare it.

Mr. STEVENS, of Pennsylvania. I did not understand the gentleman to ask to make any minority report.

Mr. BROOKS. It is the first opportunity I have had to ask for the poor privilege of making a minority report.

Mr. STEVENS, of Pennsylvania. There was nothing said about it in the committee.

Mr. BROOKS. I did not count even a unit in the committee. I desire at least to have the humble privilege, which all the precedents hitherto recognize, to make a minority report. I hope the gentleman from Pennsylvania will not violate that poor privilege.

Mr. STEVENS, of Pennsylvania. Does the gentleman propose to make it now?

Mr. BROOKS. I would not prefer to make it now, but I could make it.

Mr. SCOTFIELD. I may not object to the minority report when it comes in, but I do object to granting the gentleman power to make a minority report at a future time.

Mr. STEVENS, of Pennsylvania. There is great diversity of opinion on subjects of this kind, and I feel reluctant always to crowd a minority. I shall give notice, therefore, that to-morrow, at half past one o'clock, I shall ask for a vote on this bill. In the mean time gentle-

men may discuss it. I think most of the time will be given to the opposition.

Mr. FARNSWORTH. I do not understand that the gentleman postpones the bill, but only gives notice that he will ask for a vote to-morrow at half past one o'clock p. m.

Mr. STEVENS, of Pennsylvania. Yes, sir. I move to recommit the bill and the pending amendment, so as to keep the matter before the House as it is at the present time.

Mr. WOOD. I ask to offer an amendment.

The SPEAKER. An amendment is not in order pending a motion to recommit.

Mr. ELDRIDGE. Will the bill come up in the morning hour?

The SPEAKER. It will come up in preference to any other business.

Mr. ASHLEY, of Ohio. If there is to be any minority report it should be made this session.

The SPEAKER. Consent to make a minority report has not been granted.

Mr. CHANLER addressed the House. [His remarks will be published in the Appendix.]

Mr. MUGEN. Mr. Speaker, the bill now before the House is supplemental, as its title indicates, to "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867. This bill seems, by its terms and language, to be devised only to more firmly rivet the chains of bondage on the white men of the South; to degrade them and to elevate the negroes of the South to a position of equality and fraternity; and, as far as possible, to prevent the people of the South, who, like the laboring classes of the North and West, are borne down by the burden of oppressive taxation, from having a vote or a voice in the Government, while the bondholders and the wealthy nabobs, who perhaps made their money as shoddy contractors, are, through what is called "New England ideas," ruling the South, the West, and the North with a rod of iron. This bill does not seem to me to be gotten up with any reference to the Constitution. The civil authorities are to be overthrown. Some military gentleman, when he sees proper, can displace a judge of the supreme court, or any other judicial tribunal, and its functions must cease altogether or another be appointed in place of the one who incurs the displeasure of some petty military officer. Others have discussed the provisions of the bill, and I shall confine myself more especially to the general effect which such legislation is calculated to produce, particularly in a Government framed like ours.

Ever since the close of the war, and for some time before it, the course of policy adopted by my friends on the other side of the House has clearly indicated that party success is their paramount object, and that political and social equality of all races, and especially the African race, is the hobby upon which to ride successfully to the goal of their ambition. A dismembered Union has nothing in its condition, presents no picture to their eyes, which in the least serves to check them in their mad career. Cabal and caucus settle questions of the gravest moment and deepest import to the Government. By a secret decree made, not as in former times, in the happy days of the Republic, any measure is brought forward and under the lash of the previous question and the spur of passion and fanaticism is passed and becomes a law—no discussion, no amendment being allowed. A few words of discussion have been allowed on this bill. A State of this Union returns a Democratic delegation to this House, and forthwith willing witnesses, perhaps by perjury, send in *ex parte* statements, and charges of disloyalty are freely applied to honorable gentlemen. They are not allowed to be sworn in and take their seats on this floor; and thus another star is stricken from our flag, or at least eclipsed.

The negro having been a slave from the remotest period of authentic history, it seems that the Radicals are now making him bear the



burden of the Radical party of to-day. On his broad, black shoulders gentlemen are carried into office and power; and in order to make the African contribute so far as he can toward perpetuating the despotic power of the present dominant party, he is patted on the back, called "a man and a brother," and promised equal, social, political, and domestic rights. The tenor of the bill now pending, as well as the bills which it is intended to explain, and indeed nearly all the legislation of the Thirty-Eighth and Thirty-Ninth Congresses, and the first session of the present one, seems first to wipe out all distinction on account of race, except so far as the sweeping disfranchisement of white men is concerned, and thereby secure to radicalism a permanent position and a continuance of power politically.

Would it not be well to pause in this wild career of fanaticism, and inquire whether the laws enacted and being enacted by the party in power are beneficial to the Government and just to the white race, and whether the present bill is just and constitutional? It is on account of the effect which laws tending to establish and place the negro, the Indian, Chinese, Esquimaux, white, and all other possible races of men on an equality before the law, at the ballot-box, in the jury-box, in the legislative halls, in the social and domestic circle, and in the bedchamber, will have upon our free institutions—hitherto free—and upon the white race, that I propose to call the attention of the House to the question now pending.

If the whites, the negroes, Indians, Chinese, and Esquimaux, are all alike, I mean the races or types alike, in all that goes to make up and constitute their humanity, the humanity of each race; alike in their intellectual capacities, their anatomical structures, their physiological developments and their longevity, then our Radical friends may with some degree of propriety and assurance call them "men and brothers." I admit their humanity, that they are all men and not monkeys; but I deny the "brotherhood;" I deny the fraternity.

In support of this proposition I would say:

1. They do not look alike; no two of the types or races look alike; they are unlike in form, in color, in size, and weight.

2. They are unlike in each and every point and particular which distinguish men from beasts, as above stated; in shape, in weight, in height, and also in the duration of life.

When speaking of these differences let me be understood throughout my remarks that I speak of the average height, longevity, and weight of adult healthy men belonging to the different races or types.

To illustrate: the Caucasian (a name erroneously but generally given to different distinct races of fair-skinned men)—the Caucasian, or white man is five feet and between nine and ten inches high; the Esquimaux four feet and seven inches high; the Mongolian type, to which the Chinese belong, five feet and between four and five inches high. The Caucasian type weighs one hundred and fifty-six pounds; the Esquimaux ninety-seven pounds; the Mongol one hundred and thirty-two pounds. The Caucasian lives to be sixty-six years and four months old; the Mongol to be fifty-three years old; and the Esquimaux to be forty-one years old. The life insurance companies of Europe and America all predicate their policies upon the fact that white men and women live to be sixty-six years and four months old on an average. This average is based upon observations on the duration of more than six million lives. The statistics of the British and French armies are full of evidence going to show and to prove that in height and weight no two races of men have yet been found alike. The feet and hands, the arms and legs are unlike in measurement. The hand of the negro is one twelfth longer and one-tenth broader than the hand of the white man; his foot is one eighth longer and one ninth broader than the white man's; his forearm is one tenth shorter; and the same is true of the bones from the knee to the ankle. These last stated

measurements are given upon the authority of Sir Charles Lyell. There has not yet been found, as far as I can learn, one bone in the skeleton of the white man which does not differ both in weight and measurement from its fellow-bone which may belong to any other type of man. The skeleton is unlike in the whole in weight and measurement, and unlike in every bone of it. These average differences ought to be conclusive that they cannot and do not belong to the same type; and these unvarying dissimilarities must be produced by causes which are not accidental.

But perhaps the cranium or skull, being the cap, so to speak, of the vertebral column, and a very important bone in all races, will best serve to illustrate these differences further. The capacity, by measurement, of the skull of the white man is ninety-seven cubic inches; that is the average of one thousand or any greater number of skulls; the negro has sixty-six cubic inches; the North American Indian has sixty-three cubic inches; the native Australian has fifty-six cubic inches. These measurements have been taken with the greatest possible accuracy, and the fact of an average difference in each type positively demonstrated. A line drawn across the diameters of the head has an average difference in length in each type, thus showing that the shape as well as size of the skull is different in each race. Ethnologists are nearly, if not entirely, unanimous in the affirmation of the following propositions, and are always ready to submit them for examination:

1. That cranial differences, both in shape and capacity, constitute an enduring and, therefore, a strictly reliable basis upon which to establish not only a true classification of the types, but also to establish the fact that they are different creations.

2. That the value of this evidence consists more in the permanence thereof than in its magnitude; its changeless constancy entitles it to the character of a specific, positive value.

3. Each cranial type admits of certain limited variations, both in shape and size; but the average of both shape and capacity never changes; it depends upon the type form.

4. These cranial type forms increase in number and variety as you go from the pole toward the equator; in other words, the lower forms are only found in regions of extreme heat or extreme cold; the higher forms occupy the temperate latitudes.

5. That all type forms and typical characteristics have an indissoluble connection with climate.

Dr. Knox, one of the most learned and best posted lecturers on ethnology it has ever been my good fortune to find, in speaking of differences in the organism, &c., says:

"The races of men, when carefully examined, will be found to show remarkable organic differences. In a dark or colored person, whose structure I had an opportunity of observing, the nerves of the limbs were at least a third less than those of the Saxon man of the same height."

Professor Agassiz makes similar statements.

Then in this instance at least the nervous system seems different; and, judging by analogy, we might with propriety conclude that the difference is an average one.

The same author says again:

"I am prepared to assert that race is everything in human history."

D'Israeli has said the same thing, or makes one of his characters say so—

"that the races of men are not the result of accident; that they are not convertible into each other by any contrivance whatever. The eternal laws of nature must prevail over protocols and dynasties."

He might have added Congresses—

"fraud, that is, the law, and bruté force, that is, the bayonet, may effect much, have effected much, but they cannot alter nature."

We were informed by some learned gentleman who published an article in Harper's Monthly a few years since entitled "The Cooking of Men"—I give the name of the article from memory, but it was some such name—that "the difference in the color of men was

caused by the sun's rays and by climate; that when men wandered off into Africa and elsewhere in the torrid zone, the intense heat of the sun 'cooked' them black;" and it was so hot, too, I presume, that it "cooked" their hair into wool. He quit, evidently satisfied that he had forever settled the question of the unity of races in his favor, and proved that Adam was the first great father of all, and Noah was our next great father. But will his theory stand the test of examination? If the heat of the sun "cooks" men black, how does it come that there are so many "cooked" yellow, and some quite a pale yellow, in the torrid zone and in Africa under the equator, which is proved by all travelers through Africa? And again, if heat "cooks" men black and brown and yellow, cold ought to bleach them white. If I mistake not the same author told the public in the same "culinary" article that the Arctic or cold regions produced white men and animals, and spoke of white bears, white owls, white sea fowls, &c., as the effect or product of cold. If he did not, it was some one else, and it has been often so stated. Now, the fact is that the Fins and Laps and Esquimaux are all dark skinned men, the latter nearly black.

Climate furnishes testimony as to where the different races of men originated; and I affirm that man cannot live any great length of time and enjoy good health outside of the zoölogical realm, so to speak, where he was originally created. This, of course, is only a general truth, for there have been individuals belonging to some of the types who have sojourned in widely different latitudes, and in a few instances have enjoyed good health to old age; but these are only exceptions to the general rule.

The Medical Director General of the British army in India, in his report for 1860, says:

"Englishmen cannot be acclimated to India; the longer they live there the more unhealthy they become; that children of English parentage cannot be raised in that climate. That although they may reside in the most healthy part of the country, and be subject to no acute diseases, nor to any of malarial origin, yet they will very soon lose all appearances of good health and become sallow and emaciated as well as sluggish in both body and mind; and that persons of forty-five years of age after a residence of ten years in India will look as old as Englishmen do at home at sixty-five."

It is also stated on good authority that the oldest English regiment in India, "The Bombay Tafts," although marriages with British females have both been encouraged and consummated, has never been able since the time of Charles II to raise drummer boys enough to supply the regiment.

Extensive inquiries have been made by the head of the Bureau of Military Statistics in England of Englishmen not connected with the army, but who reside in different and distant southern latitudes, and everywhere in the torrid zone where white men live at all, and all of them, with hardly a single exception, are in bad health, and their children all die except such as are sent home to England.

Ethnologists hold that man can create nothing; no new species have appeared for some thousands of years. The immortal Cuvier held until the day of his death that there are no hybrid races of beasts—at least, none fertile, none reproducing and self-supporting. Nature puts a stop to monstrosities. Mulattoes and hybrids, of all races and types, are nuisances in nature. When the Spaniards took possession of the islands and the central part of America, of Mexico for instance, they killed as many of the indigenous inhabitants as possible, and they only ceased the slaughter because they wanted laborers to till the soil. "The old Spaniard was unequal to this; he was out of his element; he was an exotic." Then came the mixture of the Celt-Iberian with the Indian blood, the product being a kind of mulatto or half-breed. But the supplies of Spanish blood, so to speak, having been cut off almost entirely when Mexico cut loose from the mother Government, the mulatto must cease too; for as a hybrid he becomes non-productive after a time if he only intermarries with the mulatto or half-breed. He can

no longer go back to the Spanish blood; that stock has ceased; of necessity, then, he is forced upon the Indian breed. Thus the Spanish blood disappears, and with it the half-breed, and the population retrogrades toward the indigenous inhabitants, and is again becoming Indian. The barbarous and cruel Juarez is an Indian, full blooded. As it is with Mexico so it is with Peru. Mr. Canning made his celebrated boast in the English Parliament that he had created the republics of Mexico and Peru, Columbia and Bolivia. He might boast, but there was not much to boast about if he did make them. He might make republics, but he could not make races of men, and no mixed race ever did govern themselves, especially of the dark skinned races.

History shows us that during the period of Rome's conquests we find no amalgamation of races. In the palmy days of Greece it was the same. Ireland, although seven hundred years under the English yoke of bondage and oppression, is still Celtic, not Saxon nor Norman. Wales has remained Celtic since the invasion of Julius Caesar, or from the first account that history gives us of the island; the Caledonian Celt still lingers in his native highlands. No amalgamation has taken place between the Celt and Saxon. It was not the fault of the Saxon, however. You may transplant the Cimbrian Celt of Wales, the Irish Celt, the Caledonia Celt to another climate, to a brighter sky, to a more fertile land, to a larger field of life and operations, and he is still the Celt; still his love for his clan or his kindred; still sings the "Exile of Erin," or "Cushla-Machree," the "Blue Bells of Scotland," or "Pleasant Paths." The inhabitants of Lower Canada are as thoroughly Celtic to-day as they were when the French first settled that country. Climate has but little to do with race further than to show where the races respectively originated, and it has much to do with that. It has no influence, I mean, in permanently altering the varieties or races of men; it sometimes destroys them, but it cannot change them into any other race. The Esquimaux, although living among eternal snows, are nearly as black as negroes; and the Tasmanians, natives of Oceania and Australia, although enjoying a climate milder than that of England, are blacker, if possible, than a negro; and again, the Dutch families who settled in Southern Africa three hundred years ago are as fair now and as pure in Saxon blood as the Hollander at home. On the tombs of Egypt, the most valuable of all existing records, there stands the negro, the Jew, the Copt, the Phœnician, the Sarmatian, just as we find the same races in life to-day. Thousands of years have not in the least changed them. The type once formed never changes. Men are totally different creations; they are men, but not brothers; they are not equals, not endowed alike by the Creator, and it is only folly for man to try to join together what God has separated so widely and so distinctly. Nature, under the command that each shall bring forth fruit after its kind, has resisted the efforts of the Chinese for thousands of years to deform the foot of a Chinese woman. The foot of the infant, male or female, when born is natural and not deformed until deformity is forced upon that of the infant by its celestial parents; some of whom, under the civil rights bill, are now or soon will be voters and free American citizens, although recently the subjects of his celestial highness, "Wisdom's Glory," the Emperor of China.

Hippocrates, a truly scientific Greek, informs us that he found a race of people, which he denominated Macrocephali, inhabiting at that time the shores of the Euxine sea. He describes them as a race with narrow, elongated heads and depressed foreheads, like our North American Indian citizens, like Mr. Blackhawk and Mr. Osceola, and especially resembling the Carib and Chenook. He fancied that, perhaps, the peculiarity in the shape of their heads was caused by external pressure at first, but that in time the pressure became unnecessary, and what he considered a malformation

(and especially was it so when compared with the beautiful Greek heads of that time) had become hereditary. Such is not the case. If thousands of years cannot change the foot of a Chinese woman in the least, we must infer that the head of a man would not change either. "Since the days of Galen corsets have been worn. He complained of them, and ascribed to them all sorts of deformities of the chest and spine; yet all the tight-lacing of all the women has not made these deformities hereditary." Dr. Knox shrewdly remarks that in his opinion "all matrons still produce virgin daughters." The Jews have practiced circumcision as long as we have any account of them; so have many, if not most of the African tribes and eastern nations; yet the deformity, for such it is, has not become hereditary. These things all go to show and prove that the type once made, once created, is unalterable. There is not a single recorded instance where any of these deformities became transmissible by hereditary descent.

Dr. Knox says:

"Varieties in form proceed only to a certain length; they are constantly checked by two laws, these laws maintaining species as they exist—first, the tendency to reproduce the specific form instead of the variety; second, non-viability, non-reproduction: that is, extinction."

This it is which checks deformations of all kinds; and some medical writers seem to think that varieties in form are found to be more common in those who die young than in those reaching adult years, as if the very circumstance of these internal deformities or varieties, however unimportant they may seem, coincided at least, if they were not the efficient cause of early decay of the vital powers and of premature death.

Dr. Knox says so, and I think he is certainly correct in his remarks upon this point; and so far as that variety or monstrosity called mulatto is concerned, their term of life is much shorter than that of either of their parents. Who ever saw a very old mulatto? There may be such a thing, but it is an exception to the general rule. This fact alone proves the white and black races to be totally different and distinct creations.

It has been remarked that man cannot live and enjoy good health for any great length of time outside of the zoological realm in which he was created. I will now add that this matter is not controlled by parallels of latitude or longitude, nor by isothermal lines. Buffon spoke of centers of creation, and seemed, although not very pointedly, to fix continents or large bodies of land as these centers. But the "centers of creation," as ethnologists seem to understand the term, is the locality or zoological realm in which men were created, and to which the different races are respectively indigenous.

Ethnologists hold on this subject as follows:

1. That the earth is naturally divided into zoological realms, and that each realm possesses not only a climate but an animal and vegetable kingdom peculiarly its own.

2. That the animals of each realm originated in that realm, and that there is no consanguinity with the animals of realms, so to speak, other than that one where they were originally created.

3. That each realm has a group of human races, which, though not identical with each other in either physical structure or intellectual organism, are nevertheless closely allied, one with the other, in many general appearances; but they are totally and radically unlike and different from the types belonging to any other zoological realm. Such as, for illustration, the white races of Europe and the Mongols of Asia.

4. The types of man which belong to these realms ante-date by more than one hundred thousand years all human records, and probably all Iconographic and all Monumental representations; but they originated where they now live.

5. These types of men which belong to different and distant realms are separated by specific differences both in structure and intellect, and

these differences are as plainly marked as are the characteristics which distinguish the horse and the ox.

6. When any of these types of men depart from the realm in which they are found they fail first to be healthy, and next the children born out of their natural realms incline to monstrosities and deformities, and their term of life is abbreviated; and when they depart from their realms widely they perish utterly.

The natural law which confines man to the zoological realm where he can live in health is an unalterable and inexorable one.

History is full of examples and proofs sustaining these propositions. It tells us that the Roman empire at one time extended from the Tigris and Euphrates on the east to the Forth and Clyde on the west. All that part of the continent of Africa north of the tropics was said to be Roman. Italy Roman! Where now are the Romans? Where are the descendants of Romulus and Remus and their compeers? What races have they destroyed? They controlled the world for about fifteen hundred years and, as has been well said by another, "they are now of no more note than the ancient Scythians or Mongols or Copts or Tartars. They established themselves nowhere as Romans; they destroyed no other race; they supplanted no other race; and in looking over the map of their empire you cannot find a physical vestige of the race, neither on the Thames, the Danube, the Rhine or the Guadalquivir, the Rhone or the Nile. Italy itself is almost clear of them. Southern Italy was Grecia Magna before they invaded it. Sicily is even now more Greek than Italian: Byzantium and York were Roman cities." But abundant proofs exist of a similar character in regard to other dominant and conquering races. The Phœnicians controlled northern Africa for centuries, yet they never destroyed or supplanted the native races.

The French nation, which is purely Celtic, have recently furnished proof, and are daily adding to the testimony, that although they are now masters of a portion of the southern shore of the Mediterranean, as much as ever the Romans or the Phœnicians were, still they cannot make it a French country.

In a report made on the subject by the head of one of the French bureaus, about five years ago, its author says:

"Had the French Government known at the beginning that Europeans would die in Algeria at the rate of nine per cent. annually, as they really do, they would never have undertaken to cultivate the soil of Africa with European labor: that the knowledge upon that subject, by this experiment, has cost the French Government more than one hundred million pounds sterling and the lives of more than one hundred thousand men."

And then adds, by way of comment:

"European statesmen must learn that European colonies cannot be planted and made prosperous outside of European latitudes—that men cannot live long outside of latitudes in which they were created."

Dr. Knox says:

"The Greeks who, under Alexander, marched victoriously to the Indus supplanted no other race. Rome and Carthage failed; Attila and his Huns also failed; and so did the Mongol. The remnant of the Huns in Hungary now struggle for existence; they are interlopers, seemingly among the Slavonian race, and will probably perish. But neither have the Slavonians succeeded in supplanting the Italian, though masters, under the name of Austrian and German, for nearly ten centuries. For at least two thousand years have the Scandinavian and South Germans made war on the Celtic race in the west of Europe, and made head against the Slavonian and Sarmatian (or Muscovite) races in the east, without advancing a single step. These races hold the same position to each other which they did in the remotest period of authentic history."

"The whole force of the so-called German empire, headed by Austria, could not dislodge the Slavonian from Bohemia; the Norman, though he met in south England a kindred race, could not destroy the Saxon race of North England. To this day the country seems to be divided between them, notwithstanding the centralizing influence of Flemish London. The Celts still hold the western limits of Britain and Ireland just as they did before the period of authentic history."

The Mongolian is found traveling to-day on the steppes of Asia with his hut or tent on his cart, drawn by oxen, precisely as in the days of Herodotus. The race has never altered in any way.

The rule is true and general that men are found now as races or types where they first originated. It may not be improper to add another item of proof on the subject of climate, the principle of which is in daily operation. All the old and well established life insurance companies in this country forfeit their policies when individuals whose lives are insured go south of thirty-six degrees, or north of fifty, or fifty-two degrees of north latitude. The history of all the missionaries to southern or extreme northern latitudes corroborates the testimony of military statistics on this point. Men were made and suited to and for the locality where they were originally created, and their physical constitutions and organisms cannot permanently endure any other climate or locality.

But some of our people who pretend to see in the Indian, the Chinaman, the Esquimaux, and especially the African, "a man and a brother," claim that all the wide and impassable differences which are found between the races or types of men have been produced by accidental causes, by climate, and by amalgamations. I have already, for the present at least, sufficiently answered the climatic part of this proposition, and have only to say that if it be true, as held by my Radical friends, that the negro is "a man and a brother," that he is the offspring of Adam, that there was, in other words, but one race at first, how there could have been "amalgamations?" I cannot imagine. Amalgamation, in the sense in which they use it, implies a plurality of races, just what ethnologists claim; but in fact it upsets the radical theory of the "unity of races," upon which must depend their whole argument in favor of "equality and fraternity." For as soon as they admit that the races are of different origins they can no longer claim that all races are equal any more than they can claim that the horse and the ass are equal. The principle on which the argument rests is identical.

But amalgamation, or miscegenation as it is now, perhaps, more elegantly styled, bears upon this question of origin of races most important testimony. The Ethnological Society of France instituted a series of experiments on the subject of amalgamations and the production of hybrid races between animals; and they gave it a close and thorough investigation. This was about the year 1841 or 1842. They introduced, and kept up for a number of years, in the zoölogical gardens at Paris, a series of experiments on the production of hybrid races of beasts. They had the wolf and the jackal, the dog and the fox, and a great number of other animals, which had been considered only different varieties of the same races, together; and after the third generation they all became sterile. They extended inquiries and made examinations upon the subject of amalgamations between different races of men. The Ethnological Society of Germany, following in a like examination, came to the same general conclusions to which they did, namely, that there are no hybrid races of either men or beasts in the world. This is the same conclusion to which all really true observers have come; among them Alexander Von Humboldt. I admit that Humboldt did become tainted, to some degree, with the "transcendental philosophy" of south Germany—of Open, Spix, Lamarck, and Geoffroy; but it never led him away from the main fact that the races or types of men are different totally and radically, anatomically, physiologically, and intellectually, and different creations.

Let those "earnest loyal men," as they are pleased to style themselves, who think, or pretend to think, that all these inferior races of men for whom they entertain such high opinions, such deep affections, as enable them to legislate for their special benefit—let these "earnest" men who, with the utmost gravity, when speaking of the negro, ask the question, "is he not a man and a brother?"—let these gentlemen examine the writings of Leibig, of Habersham, of Gliddon, Francis Pulszky, Alfred Murray, J. C. Nott, and Professor Agas-

siz, all of whom have bestowed great attention to the history of the human races, and they will find that every one of those learned and distinguished gentlemen, without a single exception, concur in the correctness of the following conclusions:

1. That marriages between individuals who belong to different types, or stocks, do often produce numerous offspring; but that marriages between any of these children of mixed blood produce only few children; and the second generation still fewer; and almost all which are produced by the third generation will die in infancy, while the fourth generation is almost always childless; and of the fifth generation there is not in all the world an individual twenty years old.

2. These individuals of mixed blood inherit all the physical diseases and all the mental infirmities of both parents, producing an average standard of physical endurance and mental power below that of either of the parents; yet it is true there are some individuals of this kind who have great personal beauty and some of great physical strength, and others again of real intellectual power, but they are only rare exceptions to the general rule.

3. These persons of mixed blood are destitute of all distinct type forms, both as relates to anatomical structure and intellectual organism; in them the type is broken.

Those "earnest" gentlemen are also respectfully referred to the following extract from the pen of the celebrated Professor Agassiz:

"I have pointed out over a hundred specific differences between the bony and nervous system of the white man and negro. Indeed, their frames are alike in no particular. There is not a bone in the negro's body that is relatively the same shape, size, articulation, or chemically of the same composition, as that of the white man. The negro's bones contain a far greater percentage of calcareous salts than those of the white man. Even the negro's blood is chemically a very different fluid from that which courses in the veins of the white man. The whole physical organization of the negro differs quite as much from the white man's as it does from that of the chimpanzee—that is, in his bones, muscles, nerves, and fibers. The chimpanzee has not much further to progress to become a negro than the negro has to become a white man. This fact science inexorably demonstrates."

"Climate has no more to do with the difference between the white man and negro than it has with that between the negro and the chimpanzee, or than it has between the horse and the ass, or the eagle and the owl. Each is a distinct and separate creation. The negro and the white man were created as specifically different as the owl and the eagle. They were designed to fill different places in the system of nature. The negro is no more a negro by accident or misfortune than the owl is the kind of bird he is by accident or misfortune. The negro is no more the white man's brother than the owl is the sister of the eagle, or than the ass is the brother of the horse. How stupendous, and yet how simple, is the doctrine that the Almighty Maker of the universe has created different species of men, just as he has different species of the lower animals, to fill different places and offices in the grand system of nature."

The mixing of races—amalgamation, miscegenation—is a fatal proceeding; fatal alike to the races, fatal to the family, and a degeneration to the individual. It violates the laws of organism, it defaces the image, it joins together what God has separated, it creates monstrosities and nuisances in human nature.

Miscegenation is a subject of vast importance to society, to posterity, and especially at the present time to the statesmen of our country. For it is true in history and true in science that nations which allow their national stock to be adulterated, which tolerate amalgamation with other national types, will perish certainly, and perish forever. I have said that this is a question of the utmost importance to the statesmen of America—of that portion of it especially which once bore deservedly the name of "The United States of America;" and I say now, with all the candor possible, that if those statesmen, those gentlemen who are molding and shaping the policy and laws and regulations for our Government, fail to be guided by experience and science and history in shaping a policy to prevent amalgamation, miscegenation, social and political equality of the different races, white, black, red, yellow, and brown, our nation will be suffocated,

as it were, by these foolish and suicidal projects, these Utopian schemes of equality of races.

But my Radical friends will laugh to scorn all such warnings. They sneer at the idea. They talk of the Anglo-Saxon race, and some of them without much knowledge, in fact, of race or type; they say America is ours, ours to possess, ours to enjoy, ours to control, ours to transmit; but if their present line of policy be carried out, they will have the "melancholy pleasure," if such a phrase is allowable, of transmitting this glorious heritage, purchased by the blood and sufferings of our revolutionary sires, and preserved by the patriotism and valor of their descendants, to a hybrid race—a set of mongrels, mulattoes, crosses between Chinese, Esquimaux, whites, mulattoes, Indians, half-breeds, and nondescripts. My Radical friends, who see in these predictions nothing except something to laugh at, and think that the country is safe—that nobody's daughter will marry a negro, at least they know theirs will not, and as they frequently say, they are not afraid of a negro, &c.—are only reenacting in a very plain way what has often happened in history. They virtually say, we are the natives of the soil; we control its destinies; we own all this country; we are rich; we are powerful; we do not fear the negro, the Indian, the Chinese, the Esquimaux, the world, the flesh, the devil, nor the Democratic party. Such, perhaps, were the feelings, if not the exact language of the Roman, "when calmly reposing on the banks of the Ouse, he transmitted letters to his friends at Rome or Antioch, Rhodes or Carthage, Syracuse or Byzantium; such, no doubt, were the thoughts of Cortes when he unfurled the Spanish flag in Mexico; such were the thoughts of Atila, when, penetrating into Europe, he scarcely saw an enemy worthy his arms. Sesostris (if there was ever such a person) had dreams like these; and Tamerlane, Zengis Khan, and Napoleon at Moscow." But all these reckoned without their host; that host is nature! whose laws are not human laws; who consults no man, not even my venerable friend, the leader of the Radicals in this House; but who bids us all look back at what has transpired; who points with unerring finger toward futurity and bids us look forward, chronicle events, and see history repeat itself in this particular, through the laws passed and being passed by those in power in the legislative department of this once happy Government. "Experience keeps a dear school," &c.

There are two other subjects or sciences which bear important testimony relative to the origin of types of the human races: I allude to embryology and craniology. I do not profess to understand either of these subjects or sciences thoroughly, but the professors of embryology assert, and they are unanimous in the assertion, that the law of life which operates to organize man in his earliest moment, that the spermatozoa and the cell formation are entirely different in each type of the human race; and that in this department of her work, as in every other, nature displays infinite variety. I repeat, then, the declaration of these learned gentlemen, that under a powerful microscope the fact that the different types of men are absolutely different creations is no longer an open question. The law which operates to organize and the being organized are different from the first and different totally.

But quite the most curious and perhaps the most important discovery which craniology has made relates to the position which each type holds in the scale of civilization. It is found that the races of men whose brain measures sixty-four cubic inches or less are always barbarous and heathen people; that they have not intellectual power sufficient to frame a government nor to enact laws; in other words, to make for themselves any form of government better than heathenism makes. The races of men whose brain measures from seventy-four to eighty-four cubic inches are the unprogressive people. They are half civilized or half bar-

barous; the governments they found are always despotic; the laws they enact are always peculiar, and are different from the laws enacted by any other type of people.

The people of China, Japan, India—in short the greater portion of the types of man—are embraced and included between sixty-eight and eighty-four cubic inches of brain.

The nationalities whose brain measures ninety-four cubic inches or upward are the only nationalities who are progressive and enlightened, who are capable of cultivating the physical sciences to practical results, and whose governments are made for the benefit of the people.

Cranioscopy declares that the different types have each a different organization; in other words, a different creation; and it further declares that there are as plainly different kinds of men having different kinds of humanities in the world as there are different kinds of beasts; that the horse and the ox are not more certainly different creations than the white man and the Indian, the Indian and the African, the African and the Chinese, the Chinaman and the Esquimaux.

Cranioscopy maps out the types and shows to what countries they belong; what realms produce each type; that they are never produced except in those realms; that race and climate are inseparably connected with type form; and that science and civilization are also inseparable.

Physiology testifies that the types of man are different creations because diseases affect them differently. The negro will live and enjoy good health where the white man will die suddenly of yellow fever, for instance; and he will not only live and enjoy good health but will multiply type or race rapidly where the sun is 141° Fahrenheit, where the air is literally filled with malarial poison, and when and where the white man could not live three days, perhaps not three hours.

People are as easily known, races are as easily distinguished from each other, by the customs and usages to which they conform, by the habits of their societies, by the laws they enact and the forms of government under which they live, as by any anatomical or physiological differences, or by the color of the skin.

The North American Indian never made a law or a government—the white man never lived without law and government. Sixty-three cubic inches of brain are insufficient. The Indian was created for a savage and barbarous life. He is even now, in following the instincts of his barbarity on the plains, hastening the extinction of his race—which race is being rapidly broken up to give place to a higher and a better type of men. The Indian is different from the white man and from every other type of man—different physically, anatomically, intellectually, morally, socially—different in all that constitutes humanity.

There is a natural antagonism between the races called prejudice; but it is not prejudice; it is not a creature of class or caste; it is not confined to the low and ignorant, but it is found among the highly educated, cultivated, and enlightened. It is the middle wall of partition between the races, set and built up there by the Almighty. This feeling or principle, commonly called prejudice, is a part of type; a part of life; an evidence of different humanities and different creations, and different and distinct races.

The principal distinguishing characteristics between man and the beasts have been enumerated or stated by some eminent author, as follows:

"Man has always and everywhere his standard estimate of right and wrong, his self-esteem, his ideas of excellence and degradation, his judgment of propriety and folly, his consciousness of intellectual power, his belief in a future state of existence, and his religious nature."

Beasts have none of these. Such feelings and sentiments are the distinguishing traits of human nature, and all mankind possess them,

no matter how low in the scale of civilization they may be.

But while this is true, it must be borne in mind that these faculties, feelings, and attributes—these distinguishing traits—are always different in each different race or type. The humanity, the anatomy, the physiology, the intellectuality are constantly unlike. The standard of right and wrong, the moral affections, the social affections and feelings, the ideas of government, are all unlike. The intellectual power varies from fifty-six cubic inches to one hundred and fourteen cubic inches. I cannot now think of a better comparison or illustration than to compare the intellectuality and humanity of the different races to the different kinds of grain. Some are wheat, some rye, some barley, some oats, some corn—all grain, but yet different totally and radically; each kind a different creation, a different kind of grain, a different crop; so with the intellectualities and humanities of the different races—all humanities, yet each and all of them of different kinds of humanity, totally and radically different; each clearly, broadly, and plainly human—made equally in the "image." There is no monkey about them.

These differences are as plainly marked as the differences between the horse and the ox; between the ostrich and the duck; between the vulture and the robin, or between the swan and the mocking-bird.

Who would think of feeding the Canary bird with the food of the eagle—the sparrow with the food of the ostrich—the humming-bird with the food of the vulture? Those who think that the negro or Esquimaux or Indian require the same intellectual entertainments, and are entitled to and qualified for the same rights and privileges as the white race, might do so; but none others—no right-minded, intelligent man would. If all birds could live on the same food, then all the races of men can live and enjoy the same privileges and enjoy the same happiness, in the same society and under the same laws. Our Radical friends, to use a figure of speech, are, by the legislation now proposed as well as by their general course of legislation on the negro equality question, attempting to force the food suitable for the eagle down the throat of the blackbird; and to starve the eagle until he agrees to become a wren or something less.

It is but just for me to state that for many of the ideas and thoughts contained in my remarks I am indebted to my esteemed and learned friend, Dr. O. White, of Toledo, Ohio.

I have discussed this question of races because it lies at the foundation of our social and political structure. All history shows that a free government, administered according to law, is impossible, unless the people who create the laws and accept them for their government are endowed with those qualities of mind and character which have never been exhibited by the negro race. The attempt to blend the races by the coercion of statutory enactments and military violence will be instinctively repelled by the white dominant race; and if this coercion should succeed, it would have no other result than a common degradation and a common ruin.

The most fearful thing now impending over us is the unblushing disregard of the Constitution and laws which the advocates of negro equality now manifest. They are intent upon, not only the amalgamation of races, but the utter destruction of our system of government and the erection of a vast consolidated empire to be administered upon the maxims of military despotism. Whenever a community shall fall under the suspicion of the central power, its laws, its traditions, whatever is consecrated by time, by custom, and by constitutions, will be swept away, and the will of a military commander, who is not responsible "to any officer of the United States Government," nor to the people, will become the supreme law.

At present this transcendent usurpation has

for its avowed object the elevation of the negro race into a political power that may perpetuate the rule of the party that now governs and controls the country. But what may be its object to-morrow? What personal, what political right is sacred from its touch in any one of the States of the Republic? At what instant may not the leading men of this House precipitate legislation which will strike down by a single enactment the safeguards of every State and place the entire American people at the mercy of a faction which has seized upon all the powers of the Government?

Gentlemen console themselves no doubt with the reflection that they are increasing the strength of their party, and that that is a justification for every violation of the Constitution of their country. But let them be warned! The American people will never consent that this Government shall be administered in the interest alone of a party. There is a large mass of intelligence that cannot be permanently coerced by party commands. The people will resume the Government of their country; and the Constitution, with all its beneficent functions, will again be regarded as the supreme law of the land.

#### ASSASSINATION OF PRESIDENT LINCOLN.

The SPEAKER announced the following select Committee on the Assassination of President Lincoln: BENJAMIN F. BUTLER of Massachusetts; SAMUEL SHELLABARGER of Ohio, GEORGE W. JULIAN of Indiana, HAMILTON WARD of New York, and SAMUEL J. RANDALL of Pennsylvania.

Mr. BROOKS obtained the floor, but yielded to

Mr. ELDRIDGE, who moved that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Allen Axe, M. W. Nye, and J. Dixon, asking compensation for property lost on the Plains by Indian hostilities.

Also, the petition of 170 colored men, lately United States soldiers, residing in Kentucky, stating that the State laws deny them the right to testify in court; that they cannot therefore obtain redress for murder and outrage; that colored men have been murdered in cold blood, and not having the right to testify, the criminals go unpunished, and asking Congress to grant them the right of suffrage.

By Mr. ELDRIDGE: Resolution of the Publisher's Association of Wisconsin, for the abolition of the duty upon printing paper.

By Mr. HOLBROOK: A memorial of the Legislature of Idaho Territory, asking that the organic act of the Territory be amended increasing the jurisdiction of justices of the peace.

Also, a memorial of the Legislature of Idaho Territory, praying for a division of Idaho and Washington Territories, and for the formation of an additional Territory, to be called Columbia.

By Mr. PHELPS: The memorial of Joseph B. Booth, reporting alleged abuses in the engravers' department of the Norfolk navy-yard.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. MYERS: A bill granting a pension to Isaac Preston, of Philadelphia, a sailor of the war of 1812.

#### IN SENATE.

TUESDAY, July 9, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. JAMES A. BAYARD, of Delaware, and Hon. D. S. NORTON, of Minnesota, appeared in their seats.

#### RECONSTRUCTION.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of Senate bill No. 131.

Mr. SUMNER. I hope we may have a little time for morning business before the Senate proceeds with the consideration of that bill.

Mr. TRUMBULL. The Senate will decide in reference to it. As it is now we are here



chiefly upon this reconstruction business. I submit to my friend from Massachusetts whether we had not better get that out of the way as far as we can, and the other business can be done in the intermediate time.

Mr. SUMNER. I suggest to my friend that we had better follow the precedent that was quoted the other day, though not accurately quoted, of 1841, which I have before me. By that precedent it was established that the morning hour should be reserved. Senators perhaps are not aware, because the facts were not sufficiently brought out the other day—indeed they were not alluded to; I was not aware of them then—that the Democratic party at the time refused to accept Mr. Clay's proposition. They announced that at whatever hazard they would defeat it on this floor; they would not submit to any such restriction upon public business; and Mr. Clay was obliged to descend from the heights which he first occupied, though he by no means assumed such heights as have been assumed in this Chamber during the present session. He abandoned his proposition. I have before me the record and also the debate, which, when properly in order, I wish to present to the Senate. I do not wish to present it in this incidental way; but I wish to call up the proposition to rescind the resolution of last Friday, and on that to call the attention of the Senate to the only precedent which has been invoked for that extraordinary proceeding, and which I wish to show is entirely inapplicable and was not understood by the Senate. Therefore, if the Senator will simply follow what was the conclusion reached on that occasion, to allow the morning hour for general business, and allow me to call up my resolution to rescind the proposition of last Friday, I shall be thankful to him. I assure him I have no disposition to occupy one minute of time. I will abridge what I have to say just as much as possible, and shall say nothing except to speak of the result.

Mr. TRUMBULL. The Senator from Massachusetts is certainly aware that that will have no bearing upon the bill which I desire to call up, because under the rule as it is adopted, this bill is strictly in order. Therefore we can proceed with this bill without any difficulty, and if it should be the opinion of the Senate afterward that it is better to rescind the resolution we can do so when it would have some practical effect. It would have no practical bearing upon the question which I desire to bring before the Senate; and therefore I submit to the Senator from Massachusetts that "sufficient unto the day is the evil thereof," and that we had best go on with this bill which is clearly in order, and which he will not object to considering, because he is in favor of considering everything, and of course he ignores the subject which I desire to call now to the attention of the Senate, and it will only be a waste of so much time, if the Senate should agree with the Senator from Massachusetts, so far as this measure is concerned. So that in any event there is no practical importance in the Senator's suggestion at this time, and as this bill is in order and all agree that we should act upon it, I trust the Senator from Massachusetts will waive any objection he may have and proceed at once to the consideration of this measure.

Mr. SUMNER. I simply appeal to my friend. I am not going to oppose his bill in any form; but I appeal to him as on a question of the order of business, and I ask him if he will not allow me fifteen minutes or twenty minutes, whatever the time may be that it shall require, to call up my resolution and have a vote upon it.

Mr. TRUMBULL. The Senator is aware that that will lead to discussion. Others will reply to him. He might limit his remarks to ten or fifteen minutes, but others would perhaps take an hour or two hours in reply.

Mr. SUMNER. Then let it be disposed of. It is a question on the table.

Mr. TRUMBULL. It is not practically important now.

Mr. SUMNER. I beg the Senator's pardon. It is practically important with a view to the public business, as some of us conceive, to have that question disposed of.

Mr. FESSENDEN. I will ask the Senator how he supposes we can dispose of it, when yesterday he gave notice that he should introduce, if necessary, a similar resolution every day?

Mr. SUMNER. I trust the Senate when they understand the subject will brush it away.

Mr. FESSENDEN. When they have done that, the Senator has given us notice that he will introduce another of similar import.

Mr. SUMNER. Oh no; if they brush it away, then I am silent. I assume the Senate would do right.

Mr. FESSENDEN. Suppose they do wrong?

Mr. SUMNER. Then I should govern myself accordingly.

Mr. FESSENDEN. Precisely; and of course we gain nothing by allowing that resolution to be called up. We shall have it up every day.

The PRESIDENT *pro tempore*. The question is on postponing all other business and proceeding to the consideration of the bill named by the Senator from Illinois.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 131) to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

The bill was read at length.

Mr. TRUMBULL. In the tenth line of the sixth section there is a misprint of the letter "r," making the word read "officer," and it should be "office."

The PRESIDENT *pro tempore*. That correction will be made, no objection being made.

Mr. TRUMBULL. Before proceeding further with the consideration of this bill, I deem it proper to present to the Senate some of the considerations which, in my judgment, and in the judgment of the committee, have rendered this legislation necessary, and also to explain the provisions of the bill which has been reported.

The necessity for this legislation grows entirely out of what is conceived to be a misconception of the reconstruction acts passed at the former session of Congress. Properly interpreted and carried out in the spirit in which they were conceived, it is believed that this additional legislation would have been unnecessary. The occasion which gave rise to those reconstruction acts was this: it was believed on the part of the Congress of the United States that no legal governments existed in the rebellious States, and that those States were still properly subject to military control.

This was the theory upon which Congress acted. The want of legitimate civil governments was the evil which it was designed to remedy; and these bills known as the reconstruction acts were intended to furnish the machinery for inaugurating proper civil governments in those States, and restoring them to their legitimate positions in the Union.

If Congress was wrong in this position, then this whole legislation is wrong, has no foundation in the Constitution, and cannot be sustained for a moment.

What was the condition of these rebel States when these bills were passed? Six years before the legitimate State governments in every one of them had been overthrown by force of arms, and the enemies of the country had taken full and complete possession of them and set up hostile governments in every one of them. They were as completely hostile to the United States as was the Government of Great Britain during the war of 1812. They raised armies and sought to maintain their hostile attitude. Every vestige of State authority friendly to the United States was utterly overthrown. After a protracted war of four years, attended with great expense and great loss of life, the Government of the United States succeeded by force of arms in crushing out these inimical governments, in overthrowing the enemy. What

then was the condition of the people in the spring of 1865 in all these rebel States? Confessedly, without any civil governments whatever. The governments which existed before the war had been for years extinct. The governments of the enemies of the country were ourselves by force of arms had destroyed.

As a necessity resulting from this conflict of arms and growing out of the belligerent character of this contest our military had control over the people of these States. Why? Because there was no other government there. The enemy government of course could not be tolerated, because at the expense of millions and hundreds of millions of money and thousands and hundreds of thousands of lives we had destroyed it. The enemies of the country had destroyed the legitimate governments which existed before the war. Then to prevent anarchy and to preserve the peace our military commanders had authority to control temporarily the people whom they had conquered; for this was a conquest; it was the overthrowing of the governments of the enemy; and the authority of our armies temporarily to govern the country they had conquered was just as complete in Carolina as it was in California when we conquered it from the Mexicans. I think all will admit that for some period of time—some may make it shorter than others, but for some period of time, whether it be a day or a week, a month or a year—the military had authority to preserve the peace and to govern the country until civil governments could be reinaugurated.

How long this military government should be continued is a question left to the discretion of the sovereign power of the United States, exercising its authority in the spirit of our institutions, and in subordination to the Constitution of the country. I agree that this military power should not be continued a day longer than is necessary to the restoration of civil governments which are loyal to the Union and true to the Constitution, but how long that is to be is to be decided by the circumstances of which the sovereign Government, the war-making power, the Congress of the United States, is the judge—not the Executive, not the judicial tribunals. It is a question over which the judicial tribunals can have no jurisdiction. They cannot try political questions, and they will be bound by the decision which the other departments of the Government make.

This military authority, in the absence of legislation by Congress, was continued for a time by the direction of the President of the United States, and rightly so. The President of the United States, then, while this military power was in existence, undertook to inaugurate civil governments in those States; and had the civil governments which he inaugurated been managed by men true to the country and loyal to the Union, they would have been recognized, and this whole question would have been settled long ago; but, unfortunately, the enemies of the country, the men who set up the hostile governments which we had spent so much blood and treasure to overthrow, took possession of the new governments. The Congress of the United States, when it assembled, finding this to be the condition of things, and that the President had withdrawn the military power and left these governments in the hands of the very men who had controlled them during the war, decided that they were not legal governments, but provisional merely; not absolutely null and void, I grant you, but existing by sufferance only; and Congress then proceeded to declare that there being no legal governments in these States, the military power which the President had prematurely and improperly withdrawn, in the absence of any law of Congress forbidding it, should be restored, and that the military power should be exercised over these States until civil governments could be set up therein, not inimical, but friendly to the Government of the United States.

Can there be any question of the power of Congress to enact such a law? I think not.

The military power over these rebel States did not cease the moment the conflict of arms ceased. It continued until the Government recognized some civil authority which had been established in those States; and the same principle, in this respect, applies to those States that would have applied to them had they been conquered from a foreign country. They had been completely under the control of the enemies of the country; and the Supreme Court, in one of the rooms of this Capitol, has decided that any man living within the limits of those States, whatever may have been his individual opinions, was liable to be treated as an enemy of the country, because he was living within the jurisdiction over which the enemies of the country held sway.

Now, sir, these are not new principles. I think every one of the principles which I have attempted to state was sanctioned by the Supreme Court of the United States years ago, in a unanimous opinion delivered by Mr. Justice Wayne, now, I regret to say, no more, who, within a few days, has departed from among us forever, and who, though a southern man, surrounded by southern prejudices and appealed to by southern influences to unite with his State when it went into secession, stood steadfast by the Union, and at the end of a long and useful public life died as he had lived, a true patriot. In this opinion, delivered by him in the case of *Cross vs. Harrison*, in 1853, in commenting upon the condition of California, he lays down principles which I think applicable to the condition of the rebel States. During the war with Mexico our military authorities took possession of what is now the State of California. Colonel Mason was appointed Governor. He was an officer in the Army. He was appointed civil Governor; that is, he performed the duties of civil Governor, being detailed for that purpose; and Lieutenant Halleck, now Major General Halleck, was appointed secretary of state, and they established a government which lasted during the war with Mexico. After the treaty of peace, and California was ceded to the United States, that government still continued, Congress not having yet legislated for the people of California, and the officers detailed by military authority for the collection of duties and for the performance of other official acts in that country continued in the discharge of their duties until Congress did legislate. The question came before the Supreme Court of the United States whether this government thus set up was a legitimate government; first, during the war, we having conquered the country from the enemy. Next, if valid while the war lasted, was it still valid after the war closed, and by the treaty of peace that country had been embraced within the limits of the United States? Both those questions were presented to the Supreme Court in the case to which I refer. The court say:

"The belligerent right of the United States to make a civil government in California when it was done, and to authorize it to collect tonnage and impose duties while the war continued, is admitted."

Nobody controverted that, it seems; but the question arose whether that government could continue after the treaty of peace; and this is what is said on that subject:

"The territory had been ceded as a conquest, and was to be preserved and governed as such until the sovereignty to which it had passed had legislated for it. That sovereignty was the United States, under the Constitution, by which power had been given to Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, with the power also to admit new States into this Union, with only such limitations as are expressed in the section in which this power is given. The government of which Colonel Mason was the executive had its origin in the lawful exercise of a belligerent right over a conquered territory. It had been instituted during the war by the command of the President of the United States. It was the government when the territory was ceded as a conquest, and it did not cease as a matter of course or as a necessary consequence of the restoration of peace. The President might have dissolved it by withdrawing the Army and Navy officers who administered it, but he did not do so. Congress could have put an end to it, but that was not done. The right inference from the inaction of both is, that it was meant to be continued until it had

been legislatively changed. No presumption of a contrary intention can be made. Whatever may have been the causes of delay, it must be presumed that the delay was consistent with the true policy of the Government. And the more so as it was continued until the people of the Territory met in convention to form a State government, which was subsequently recognized by Congress under its power to admit new States into the Union."

Further on, the court say:

"Our conclusion, from what has been said, is that the civil government of California, organized as it was from a right of conquest, did not cease or become defunct in consequence of the signature of the treaty or from its ratification. We think it was continued over a ceded conquest, without any violation of the Constitution or laws of the United States, and that until Congress legislated for it the duties upon foreign goods imported into San Francisco were legally demanded and lawfully received by Mr. Harrison, the collector of the port, who received his appointment, according to instructions from Washington, from Governor Mason."

I know that a distinction may be attempted to be drawn between the condition of that country and that of the rebel States, because we conquered the rebel States from domestic enemies and California from foreign enemies; but does that alter the principle? Why was it necessary to establish a military government or a civil government through the military (for that is exactly what we have got in the South, military officers administering a civil government) in California? To prevent anarchy and preserve the peace of that country, and because without the authority of the military, we having destroyed the previously existing government, there would be no government. Was not that the precise condition of these rebel States? Does not everybody admit that? Did not the President say, when he undertook to institute civil governments there, that the close of the war left that people without any civil government whatever; and do we not all know such to be the fact? Then did not the same necessity exist for continuing this government of the military power until a civil government should be established and recognized by the legislative authority of the country?

I come now to consider for a few minutes the construction which the Attorney General has put upon these acts. He seems to suppose that the intention was not to subject the rebel States to military control. He says of the government which existed in each of these States, and which the President had aided in inaugurating, that—

"It had all the characteristics and powers of a State government, legislative, judicial, and executive."

Is that true? Mr. Stanbery, in this very opinion, admits that the military commander was empowered for the purpose of preserving the peace, to—

"Allow local civil tribunals to take jurisdiction of and try offenders, or when in his judgment it may be necessary for the trial of offenders he shall have power to organize military commissions or tribunals for that purpose."

If it be true that the State government in any of these rebel States had all the characteristics and powers of a State government, legislative, judicial, and executive, was it competent for the Congress of the United States to pass a law declaring that a military tribunal might be erected in one of these States to take charge of the trial of criminals or of persons charged with the commission of criminal offenses? Could the Congress of the United States pass an act of that kind applicable to the State of New York or the State of Illinois? Does anybody pretend that? Surely not.

The Attorney General says further that this State government—

"Was in the full and lawful exercise of all these powers, except only that it was not entitled to representation as a State of the Union."

I have shown that that is not true even according to his own construction. Then he says:

"This existing government is not set aside; it is recognized more than once by the act. It is not in any one of its departments, or as to any one of its functions, repealed or modified by this act, save only in the qualifications of voters, the qualifications of persons eligible to office, the manner of holding elections, and the mode of framing the constitution of

the State. The act does not in any other respect change the provisional government, nor does the act authorize the military authority to change it."

\* \* \* "That constitution was to be changed in only one particular to make it acceptable to Congress, and that was in the matter of the elective franchise. The purpose, the sole object of this act is to effect that change, and to effect it by the agency of the people of the State, or such of them as are made voters, by means of elections provided for in the act, and in the mean time to preserve order and to punish offenders, if found necessary, by military commission."

In another place the Attorney General says:

"In effect it is a police power, and the protection here intended is protection of persons and property against violence, unlawful force, and criminal infraction."

Again, he says:

"If civil order is preserved, and criminals are duly prosecuted by the regular criminal courts, the military power, though present, must remain passive. Its proper function is to preserve the peace, to act promptly when the peace is broken, and restore order. When that is done, and the civil authority may again safely resume its functions, the military power becomes again passive, but on guard and watchful."

Now, sir, was any fact more notorious, not only here, but throughout the country, than that the Congress of the United States intended to put these rebel States under military control? The Attorney General ignores entirely that intention. What was the purpose of the legislation of Congress? Was it simply to establish a police force in the rebel States and to change the Constitution as to the right of persons to vote? Why, sir, these Halls have resounded for the last two years with complaints that these governments set up in the rebel States were disloyal. That was the trouble. They were in the hands of the enemies of the country, and it was to get rid of them entirely that Congress acted. And so the Attorney General, or if not the Attorney General, the President of the United States, (and we are to presume he acted by the advice of the Attorney General,) was of opinion when this reconstruction act was vetoed. Let us turn to the veto message and see what a different thing the reconstruction act then was from what it now is as represented by the Attorney General. The President said:

"The bill places all the people of the ten States therein named under the absolute dominion of military rulers."

Mr. Stanbery says it is a mere police power, and cannot interfere with the civil authority at all except when that authority fails in the prosecution of criminals. The President further adds:

"The military rule which it establishes is plainly to be used, not for any purpose of order or for the prevention of crime, but solely as a means of coercing the people into the adoption of principles and measures to which it is known that they are opposed."

He further says:

"The ten States named in the bill are divided into five districts. For each district an officer of the Army, not below the rank of brigadier general, is to be appointed to rule over the people; and he is to be supported with an efficient military force to enable him to perform his duties and enforce his authority. Those duties and that authority, as defined by the third section of the bill, are 'to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace or criminals.' The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the States is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority to be null and void. He alone is permitted to determine what are rights of person or property, and he may protect them in such way as in his discretion may seem proper."

"The officer 'may allow local civil tribunals to try offenders,' but of course this does not require that he shall do so."

I have read enough to show that this bill was vetoed by the President of the United States for the very reason that it placed the people of the rebel States under military control; but now his Attorney General decides, and the President adopts the decision, that the people of those States are not placed under military control at all! Was ever contradiction more palpable? Let me now call attention to the act itself, for from its terms we can best ascer-

tain what the intention of Congress was. Its preamble declares:

"Whereas no legal State governments or adequate protection for life or property now exists in the rebel States."

Sir, is it true, as the Attorney General says that here were perfect and complete governments, with all the powers of any State government, except only that they had not representation in the Congress of the United States, when the act itself declares that no legal State governments existed? But he says the act itself does afterward recognize governments as existing there? True; but what sort of governments? Provisional governments, subordinate to the military. They were not legal, because they were not organized according to law, not absolutely null and void; governments *de facto*, if you please, provisional, existing by sufferance, subject at all times to the paramount authority of the military established by this act.

The first section of the act then proceeds to declare—

"That said rebel States shall be divided into military districts, and made subject to the military authority of the United States."

Is the government of the State of Ohio subject to the military authority of the United States, or are any of the States which have regularly organized State governments?

The second section declares—

"That it shall be the duty of the President"—

To do what?—

"to assign to the command of each of said districts an officer of the Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district which he is assigned."

What was his authority? His authority was to exercise command over the district. What were his duties?

"It shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals."

Now, sir, there is embraced the whole object of government. Of what else does government consist, or for what other purpose are governments instituted except to protect all persons in their rights of person and property, to preserve the peace, and to punish criminals? This whole power is conferred upon the military commanders. But, says the Attorney General, that is qualified, and how?

"And to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose."

He insists that this clause allowing, by the permission of the commander, the local tribunals to try offenders for crimes, limits the whole power conferred by the previous clauses of the section on the commander. Why, sir, suppose the section had read, as it does, conferring all the powers of government on the commander, and then had said that to this end, to enable him to discharge his duty in reference to criminals, he may make use of the jails and penitentiaries in any of the southern States; would that have limited him simply to making use of the jails and penitentiaries and taken from him all the other granted powers? To allow civil tribunals to take cognizance of criminal offenses is but part of the power conferred upon commanders; and this is the more apparent from the concluding sentence of the section, which says:

"And all interference under color of State authority with the exercise of military authority under this act shall be null and void."

For what was the military authority to be exercised? To protect all persons in their rights of person and property; and these States were declared by the act subject to military authority. It seems to me that the construction put by the Attorney General upon this act is as clearly at war with the terms of the act, as we all know it to be with the intention of its framers. If he had assumed that the act was unconstitutional, as the President did, then he might

have said it was of no effect; but knowing it had passed over the objections of the President, to undertake to construe it away stultifies the President for having vetoed it and himself as the President's legal adviser, does violence to the terms of the act itself, and to the manifest intent of Congress. He forgets, in construing this act, the object which Congress had in view in passing it. He forgets that in the opinion of Congress the civil governments which had been inaugurated were not legal governments. He forgets that in the opinion of Congress these governments were disloyal, and not fit to be recognized as State governments. He forgets the sentence that declares they shall be subject to the military authority, and seeks by a strained construction to avoid the effect of a very plain statute passed for the very purpose of dispensing with these irregular civil governments which had been inaugurated without legal authority.

The first section of the bill which the committee have reported is intended to carry out what we believe to have been the true meaning of the act as originally passed, and it does nothing more than to declare that fact:

That the true intent and meaning of the "act to provide for the more efficient government of the rebel States," passed March 2, A. D. 1867, was, is, and shall be construed to be that the military authority of the United States in said rebel States, as provided in said act, was and is paramount to any civil government existing therein, makes all such civil governments subordinate to such military authority, and prohibits them from interfering in any way with the exercise of such military authority.

This is a section declaratory of what the law is, an unnecessary section in my judgment, because I think that was the meaning of the law before; but we have endeavored to put it in language so plain that the Attorney General cannot misunderstand it. However, lest by construction it should be again misunderstood, the second section is added, which in direct terms declares—

That the commander of any district named in said act shall have power, subject to the approval of the General of the Army of the United States, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the approval of the General aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army to perform the same.

In the opinion of the Committee on the Judiciary it was thought more advisable to confine the power of the military officer when he removed any civil officer in his district to the supplying of his place by the detail of one of his own officers or soldiers. While these States are under military control, so far as the appointment of officers to discharge duties is concerned, there would seem to be a propriety in the appointment being limited to persons already in the service, and who are subject to the Rules and Articles of War. Hence, instead of providing that the commanding officer of the district, when he thinks proper to remove any of the persons exercising civil authority in his district, shall appoint another civilian outside of the Army in his place, the bill, after giving the power to remove, confines the district commander to the detail of some officer or soldier under his command to discharge the duties of the person removed. As this is a very high exercise of power on the part of these district commanders it can only be exercised by the approval of the General of the Army; and section three vests this same power of removal and detail in the General of the Army alone, if he thinks proper to exercise it, but it does not give him power to remove the district commanders. Whether the President of the United States, after having detailed them for the performance of these specific duties, might remove them or not is another

question; but that power is not conferred on the General of the Army.

The fourth section merely confirms what the district commanders have already done in the removal and appointment of civil officers.

Section five relates to the registration of voters. That section is made necessary also in consequence of the construction which was put upon the supplementary act by the Attorney General. He held in a very elaborate opinion, which I have before me, that the oath required by the act was conclusive; that any person who took the prescribed oath must be entered upon the registry and was entitled to vote. This is what the Attorney General says on that subject:

"1. The oath prescribed in the supplemental act defines all the qualifications required, and every person who can take that oath is entitled to have his name entered upon the list of voters."

Now, Mr. President, let us see if that is so. What are the qualifications required? The commanding general in each district is required to make a registration—

"Of the male citizens of the United States twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid."

Who are qualified to vote by the act aforesaid? Those mentioned in the fifth section of the previous act, as follows:

"The male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law."

Then the supplemental act goes on:

"And who shall have taken and subscribed the following oath."

Which is as follows:

"I, ———, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of ———, that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State Legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do. So help me God."

Now, the Attorney General holds that any person who takes that oath is entitled to vote. This is his language:

"But when we look to the qualifications required of the applicant by the original act, and find that he is required by this oath to swear to every one of these qualifications, and that no authority is anywhere given to enter upon any other inquiry as to his qualifications, or to administer any other oath to him, or any oath to any other person touching his qualifications, and that his oath, and his oath alone, is punished with perjury, it is impossible to resist the conclusion that the oath itself is the sole and only test of the qualification of the applicant. When, therefore, a person applies to the board for registration, the power of the board is confined to the administration of the prescribed oath, and if the applicant takes that, his name must go upon the registry."

There never was a greater perversion of a statute than this. I will not take up time but to point out a single one. I know not whether the Attorney General is the advocate of female suffrage. Perhaps he may be. At any rate, here is a greater stride in that direction than has ever been made by you, Mr. President, or any of the members of this body who have advocated female suffrage. The Attorney General has decided that all persons who can take this oath are entitled to have their names put on the registry and to vote, and the registration officers cannot ask any questions. The law confines the right of registration and voting to "male citizens," but the oath does not require the person taking it to swear to the sex.

Females could take it as well as males. Did the Attorney General mean that by so doing females have a right to be registered and to vote?

A female is a person, and the language of the Attorney General is that "any person" who can take this oath is entitled to vote. Now, is it not manifest that the Attorney General is mistaken when he says that all the qualifications required are in the oath? Under his decision the distinction between males and females is lost sight of, while the statute makes that distinction both in the original and supplementary acts. Nothing could be clearer than that the acts of Congress do not authorize the construction which the Attorney General has placed upon them. To avoid future misapprehension, however, the committee have reported a section declaring in express terms that the oath required by the act shall not be conclusive, and conferring on the boards of registration authority to examine witnesses and decide whether a person is entitled to be registered or not.

This relieves that portion of the statute from the difficulty which grew out of this misconception of the Attorney General.

The sixth section which we have reported, also corrects another misapprehension of the Attorney General in regard to the clauses of the oath which disqualify persons who have held executive or judicial offices in a State and afterward engaged in rebellion. The Attorney General says:

"Two elements must concur in order to disqualify a person under these clauses: First, the office and official oath to support the Constitution of the United States; second, engaging afterward in rebellion. Both must exist to work disqualification, and must happen in the order of time mentioned.

A person who has held an office and taken the oath to support the Federal Constitution and has not afterward engaged in rebellion, is not disqualified. So, too, a person who has engaged in rebellion, but has not theretofore held an office and taken that oath, is not disqualified."

Now, sir, that is not a true construction of the act. The act declares that the person applying to be registered shall swear among other things:

"That I have never been a member of any State Legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof."

You will observe that nothing is said in this clause about the officer having taken the oath to support the Constitution of the United States. In another part of the prescribed oath it is declared that he shall swear that he has "never taken an oath," &c.

The clause which requires that the party shall swear that he has not held any executive or judicial office in a State and afterward gone into rebellion, and leaves out the requirement that he must also have taken an oath to support the Constitution of the United States, was inserted for this reason as I recollect: it was suggested by some one that in some of the rebel States for a number of years anterior to the rebellion it had been a custom not to administer the oath of allegiance to the Constitution of the United States to executive and judicial officers. I think it was said that that was the case in Virginia, whether truly or not I do not know; but that suggestion having been made, this clause was inserted in the required oath to meet precisely that class of persons; so that all legislative, executive, and judicial officers of any State who subsequently went into rebellion are disfranchised by the act, whether they took the oath or not. That is not so; I grant you, in regard to some other officers. When you come to another clause of the oath, it is provided that the applicant shall swear: that he has "never taken an oath as a member of Congress," &c.

It will be observed that there is a repetition of one clause of the oath, and it occurred, I suppose, in the way I have suggested. In the first instance the applicant was required to swear that he had not held an executive or judicial office and taken an oath to support the Constitution of the United States; but on a suggestion that there were persons who had

held executive and judicial offices in some of the rebel States who had not taken the oath, the other clause was inserted so as to reach their case.

Mr. HENDERSON. It was stated in regard to Virginia, but it turned out to be untrue afterward.

Mr. TRUMBULL. It may be so; but still that was a part of the oath, and the construction of the Attorney General that an executive or judicial officer of a State must have taken an oath to support the Constitution in order to disfranchise him is therefore erroneous as the law stands. The sixth section corrects this misconception. It declares—

"That the true intent and meaning of the oath prescribed in said supplementary act is (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and who has afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote."

There has been great practical difficulty in determining what officers were included under the designation "executive or judicial officer" in a State. The Attorney General has given a construction to these words, which, substantially, I think is correct; but it is impossible to designate by name the various officers embraced by the words used, because the same officer by name is not vested with the same powers in the different States. To illustrate: in some of the States a mayor of a city is manifestly an executive or judicial officer of the State, because he performs executive and judicial functions under the general laws of the State. That is so in reference to the mayors in some of the cities in Illinois. In other States, I understand, there may be mayors of towns who have no judicial functions, and who perhaps do not come within the definition "executive or judicial officer of a State." The Attorney General construes these words to extend to county officers, but he excludes officers of municipal corporations. In that I think he may in some instances be in error. He also excludes commissioners to lay out roads and of public works, examiners of banks, visitors of State institutions, and the like, all of whom may or may not be executive officers of a State, depending upon the powers with which they are vested. In order to give the best definition we could to that term we have used this language:

"And the words 'executive or judicial officer in any State' in said oath mentioned shall be construed to include all civil offices created by law for the administration of the general laws of a State"—

leaving it to the boards of registration to determine upon the facts before them whether a person claiming to be registered comes within the definition.

The seventh section extends the time for completing the registration, and also gives power to revise the registration lists twenty days before any election. The reasons for this are these: in some of the districts no registration has yet commenced, and we were informed by one of the district commanders that it would be impossible to finish the registration in his district by the 1st of September. We have therefore inserted this clause extending the time of registration in the discretion of the district commander until the 1st of October. We have also inserted a provision for revising the registration lists, and for this reason: a person to be registered must swear that he is twenty-one years of age. The registration may take place some considerable period before even the first election under the act, and it will be borne in mind that the constitution when framed by the convention is to be submitted for approval or disapproval to the registered voters, which may not be for even a year or more after the registration is finished. In the mean time many persons will have arrived at the age of twenty-one years.

Mr. HOWARD. They would have the right to vote.

Mr. TRUMBULL. No; the oath as drawn by my friend from Michigan himself requires

the person taking it to swear "that I am twenty-one years old." He is obliged to take that oath. That being so, it seemed to the committee unjust to deprive of the privilege of voting upon the fundamental law those who become of age between the time of registration and the time of submitting the constitution for ratification. There is also another class of persons to be affected by the final closing of the registration by October. These States are filling up with emigrants. Many persons are moving into them from the northern States. I hope more will go, and that they will be developed and improved rapidly. Now, sir, while this process of reconstruction is going on, which may take six months or a year or two years, is it right that all these persons who shall go into these States, and who may not have been residents when the first registration takes place, and who may have resided there more than twelve months at the time when the constitution is submitted for ratification should be deprived of a voice in passing upon that constitution? The committee thought not, and hence inserted this provision authorizing the registry board to revise their list for three days commencing twenty days preceding any election to be held under these acts.

The eighth section is perhaps unnecessary, but for greater certainty was inserted. It is manifest that these boards of registration are subject to changes by time. Some of the first persons appointed may die; others may resign, move away, or ought to be removed. Hence, although perhaps the power exists now under the original act, it was deemed advisable to confer on the commanding general express authority to remove any one or more members of the board of registration, and also to fill vacancies as they occur.

This is the whole bill as the committee have recommended it to the Senate. I regret that there is a necessity for any such additional legislation. I had hoped that the reconstruction measures would prove a success, and was more than gratified at the spirit in which they seemed to be received in the South. I regret as much as any one to see this military control continued in the country. I want to get back to civil rule, when all the States shall take part in the government of the United States. I had hoped from the evidences we had that during the session of Congress commencing in December next we should have returns from all these rebel States that they had organized governments in accordance with these reconstruction laws, and had sent us loyal men to represent them in these Halls. Such, I believe, would have been the case but for the unfortunate, and, as I think, incorrect opinion of the Attorney General, giving to these acts a construction never contemplated by their authors.

Now, sir, when we shall have removed out of the way the obstructions created by that opinion, I hope that the work of reconstruction may go on; and I can say for one that I earnestly desire these rebel States to be restored to their former relations in the Union. I long to see them in loyal hands and represented here by loyal men. The good of the country requires it; its material interests require it; and as soon as they can organize governments in accordance with these laws, this military control so much complained of will be dispensed with, as I trust, forever. I would hasten the day. But, sir, till loyal civil governments are established the military control is a necessity.

I know complaints are made that there is no warrant for this in the Constitution. I am as much an admirer of the Constitution as any one. I believe in liberty regulated by law. I believe the Constitution confers upon this Government all the powers necessary to be exercised for its preservation, and that it confers no power more clearly than that to make war, put down insurrection and rebellion, and govern rebels who have destroyed all civil authority in a State, through the military power, until sufficient time shall be given to reestablish a civil government loyal to the Union; and I believe it is for the Congress of the United



States to determine when such a government is reestablished. I hope, sir, the time when it may properly so determine for each of the rebel States may not be long.

Mr. WILSON. Mr. President, it is a matter of some surprise and no little regret to me that the Committee on the Judiciary have reported the second section of this bill. I had hoped that when we came together we would do what we ought to have done a long while ago—vacate the offices in these rebel States. I think the great mistake of the President was in allowing the offices in these States to pass into the hands of disloyal men. The effects have been most disastrous to the country. These men have exercised civil powers in those States, and their moral influence, as well as their official influence, has been against the policy of the Government of the United States and against the friends of the Government and the friends of liberty in those rebel States. These men are not only exercising civil powers and wielding the vast patronage and using the influence growing from the exercise of those powers, but their moral and social influences are very great. The result is that men who are opposed to the policy of the country are in possession of the governments, and the men who are advocating the unity of the country, liberty and justice, and the policy of the nation, are under the ban, political and social.

Sir, when the original military bill was under consideration, I moved an amendment to vacate these offices in ninety days, and I have had reason since to see that we made a great mistake in not doing it.

Mr. BUCKALEW. I should like to ask the Senator in that connection a question, with his permission.

Mr. WILSON. Certainly.

Mr. BUCKALEW. It is whether the Senator in his amendment did not also expressly confer authority upon these military commanders to enforce the removal of those civil officers in the southern country?

Mr. WILSON. I did so. I was in favor of their removal then, and I have not seen a loyal man and friend of the country in the rebel States who was not in favor of that policy.

Mr. BUCKALEW. Such being the case, I desire to ask the Senator upon what ground he places that construction of the law which we have heard, that the acts in question have already conferred upon those officers that very power of removal?

Mr. WILSON. I am not discussing that legal question, but I will say that the rejection of my proposition requiring that all these offices should be vacated at the end of ninety days, and that the military commanders should enforce the provision, does not deny the power to remove. I have never seen one of the friends of the reconstruction policy of the Government in those rebel States who was not in favor of vacating those offices, and who did not feel that we failed to do our whole duty in not vacating these offices. They complain that the laws are often administered against them unjustly and unfairly, often not administered at all; that life and liberty are often unsafe in the administration of the courts and of the officers of the State governments, and that the whole power of those State officials is against loyal men, the friends of the country. I believe that the friends of this reconstruction policy in these ten States would be from fifty to a hundred thousand stronger to-day if we had vacated these offices and thus destroyed the official and political influence of the men who filled them.

The Senator from Illinois tells us that these States passed into the hands of disloyal men; that if they had passed into the hands of loyal men in all probability the difficulties would have been settled and these States would have been represented in both Houses of Congress. I have no doubt of that. But the fact is, these States passed into the hands of the men who supported the confederacy, and who were hostile to the Government of the United States;

ninety-nine out of a hundred of all these officials were disloyal men. Many of them are behaving well now. I give them all credit for it. I would be willing to reappoint many of those men and continue them in office; but the masses of these officers are disloyal, especially in some States, the State of Texas for instance, a State that was not injured a great deal by the war, where they have had an immense immigration, where the bushwhackers of other States have thronged during the last two or three years. In that State the influence of these officers is most disastrous to the policy of reconstruction.

We have the power, there can be no doubt about that, according to the principles of this bill, we have the power to vacate these offices. The bill of the House of Representatives proposes to allow the military commanders to vacate any of the offices and it authorizes them to fill the offices. We in this bill sanction what has been done in removing and appointing officers; and if we have the power to do that, we have the right to authorize these commanders to remove them all and to fill the vacancies. Now, I say to the gentlemen of the committee they have made this mistake; they have discriminated in this proposition against the loyal men of the South. They will not trust the district commanders there, four of whom have behaved in a manner that has received the applause of the House of Representatives.

I say to the Senate that we have not Army officers in these States to detail to fill any vacancies. I state it as a fact that in many parts of the South the War Department has been pressed to get the number of officers necessary to do the military duty and the number detailed for the bureau. We have no officers to detail for this purpose; and, sir, if we had, would it be proper to detail officers of the Army for these purposes? Suppose General Sheridan shall feel it to be his duty—and I think it is a duty he does owe to the country if he has the power—to remove the Governor of Texas, why should a military man be appointed to fill that vacancy? Why should not a man like General Davis, or Judge Bell, or ex-Governor Pease, or some one of the very able men of that State be appointed? There is hardly a State, certainly there is no disloyal State, where the friends of the Government have so many eminent men as in the State of Texas, many of whom are able, are statesmen, men who would adorn positions of the Government. Why should not one of those men be selected? Why should an Army officer be selected to fill that place? Why should not the true and tried men, who have been faithful to their country amid the trials of the last six years, who are on the spot, who know the laws, who know the people, be selected to fill any vacancies that may be made?

Mr. CONKLING. Will the Senator indulge me with a question?

Mr. WILSON. Certainly.

Mr. CONKLING. I understood the Senator to say that there was no doubt of the power under such an amendment as he proposes to have civil officers appointed in these States by the military commanders. I should like to ask him, first, whence he derives that power, what its source is; and in the second place, what would be the nature of the offices held by these appointees; whether they would hold State offices, after they were appointed, or Federal offices?

Mr. WILSON. I understand that these States have been in rebellion; that they are States, but have no legal State governments; that is, that the present State governments are merely provisional; that we have the power to fill the offices in any way we choose to fill them; that we put these States under military law, military authority, subject to military commanders; that we may by law vacate all these offices, and not fill them, or we may vacate them and fill them in any way we choose. We may detail officers of the Army, or we may appoint civilians. We may authorize the military commanders to vacate offices and appoint

to offices, or we may provide any other way to remove and appoint. If a person is appointed Governor of South Carolina, for instance, he is Governor of South Carolina, and should take the oath of office, and should administer the government of that State, and exercise its general duties, subject, however, to the control of the military commander of that department. I do not believe there is any doubt whatever that we have the power to declare these offices vacated, and to authorize the military commanders to reappoint such of the officers as they choose, or to appoint new men. If we have the power, in my judgment, it is a duty we owe the true men of that section of the country that they shall no longer be under officers who are disloyal to this Government, but that these offices shall be filled by men who are in sympathy with the country, men who will use their political influence in favor of the policy of reconstruction, men who will use their social, political, and moral influence and the patronage of those governments, whatever it may be, so as to strengthen the friends of the country and weaken the enemies of the country.

I know that this is the sentiment of our friends through the country. I have had an opportunity to consult with many of them and everywhere that I have met these men, they have said to me, "This military bill has worked admirably; it has generally brought peace, order, protection." I was told in South Carolina that for weeks after the passage of the bill there had not been reported the murder of a single freedman, whereas before murders were frequently reported. These military bills have gone in their influences beyond the expectation of any of us here. We builded better than we knew. We carried power there, and that people know what power means; and what was more potent even than the 20,000 men we sent there armed with power, we put the ballot in the hands of 600,000 black men. Everybody there began to tell the black men that they were born with them, played with them in childhood, ate with them, fished with them, hunted with them, did everything with them; that they were their special friends; that they in reality had by the rebellion procured their emancipation; that they were entitled to the credit of emancipating them; that they deserved their confidence; that the Government of the United States did not intend to emancipate them; and the Crittenden resolution has been dinned into the ears of every black man in the South. These men here tried to make the colored people believe that they were their special guardians and friends; but they could not do it—they remembered Abraham Lincoln. I say the operations of these bills have been of incalculable good, but our friends say, and they have a right to say, that we ought to have vacated the offices, retaining such of the officers as were honestly striving to build up the country and restore the Government, and put the friends of the country into these places; that it would strengthen us everywhere, and it would make it certain that all these States would reconstruct, and not only reconstruct, but be reconstructed by men who would take the governments of those States and maintain the policy of our Government faithfully and honestly.

It is not only important that these States shall come back at the earliest period according to the terms and conditions we have proposed, but it is important that they shall continue to maintain the unity of the country and the liberties and equal rights of all men in the country; that these States shall permanently pass into the hands of men who are in favor of the education of the whole people, of developing the moral, intellectual, and physical power of the people of those States. I put it to Senators here, and I ask, how is it that these fifteen thousand rebels in office in these ten States are entitled to our forbearance or to our sympathy? We do not owe them anything. I would turn most of them out of office to-day,

if I had the power, and I would put the friends of the country in their places.

Mr. SUMNER. That is the only true way.

Mr. WILSON. Who deserve our sympathy and confidence, these men who were against us, against the unity of the country, against liberty and justice, or the true and tried men who have stood up for us and fought the battles of the country and have sustained the policy of the freedom of the country? I have been told that the Union men were not fit to fill the offices of the Government or to take control of those States. There is not a word of truth in it, I do not care who utters it.

Mr. HOWARD. Who tells you so?

Mr. WILSON. I believe we have had intimations from the Departments that they had to appoint rebels because they could not find loyal men there fit for the offices.

Mr. SUMNER. That was the official reply to our resolution.

Mr. WILSON. We may not have the old politicians who have governed these States, but we have friends there, tried, true, faithful, sensible, practical men, men who knew enough to be true to their country in times of war and trial, and who know enough to administer the governments of those States. There are a great many repentant men there, men who have been compromised by this rebellion, but who see the folly of the past, and who are ready to unite in the future with us. I am for a liberal policy toward them. But, sir, I do think, while we have the opportunity now, we should so frame this bill that these offices shall be vacated, and we should authorize the military commanders to reappoint such of these men as in their judgment they believe worthy, according to their discretion, or to appoint new men to their offices, and that the men to be appointed should be persons who live in the States, who live in the neighborhood where the duties are to be performed. We should not detail Army officers to be councilmen and aldermen of cities. The military commander has removed some men holding those positions in Mobile. We have not had their places filled yet. We have indorsed that action. Do we mean that General Pope shall detail Army officers to go into the Common Council and the Board of Aldermen of the city of Mobile?

Mr. EDMUNDS. Why not?

Mr. WILSON. I think it is a very improper place for them to go, and I do not see why Mayor Horton, a loyal man, who has been made mayor of that city, a brother of Rev. Mr. Horton, who was murdered in the New Orleans massacre, should not be sustained by the men who are in sympathy with him in that city. I have met some of these men, and I know they are worthy. I say we have not the military officers to be detailed for any of these offices; if you will go to the War Department you will find that they are pressed for the necessary number of officers in these States at the present time. There is a pressing demand for officers with their troops at this time.

Mr. GRIMES. There are plenty of them in this city.

Mr. WILSON. There are some who have been here some time doing nothing.

Mr. GRIMES. Why not send them away?

Mr. WILSON. I refer the Senator to the President for an answer to that question.

Now, sir, I propose to strike out the second section of the bill, and to insert in lieu of it the following:

That all offices held under the pretended authority of any of the rebel State governments of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Texas, and Florida be, and the same are hereby, declared to be vacated at the expiration of thirty days from the passage of this act: and the commanding generals of the several military districts established by the acts to which this is in addition shall be, and they are hereby, authorized and empowered to continue in office any person who, before the expiration of the said thirty days, may have been discharging the duties of such office, or the said commanding generals may respectively, in their discretion, appoint other persons to perform the duties of any of the said offices.

Mr. CONKLING. I rise, not to continue general debate, but to assign my reason for

making the inquiry I did of the Senator from Massachusetts. He says the only true way is to vacate all the offices in the rebel States, and then depute the military commanders to fill them up; and his distinguished colleague behind him, in his seat, ejaculates that this is the only true way. I will not say it is not the only true way; but I will state some reasons which led me to think the way proposed by the committee might be the more prudent.

Nobody doubts, nobody did doubt, I suppose, before the California case went to the court, that a military commander had authority to direct any person in the military service subject to his order, to go to the right or to the left and perform a duty assigned him. Accordingly it followed, and was accepted by the country and the court, that the Commander-in-Chief of the Army might detail a military officer to go to a certain district, and there perform those functions in description of which he was called a military governor. Nobody now doubts the authority of one of these district commanders, without special act authorizing him to do so, to direct any person in the military service and under his control to perform a function which, all the circumstances considered, falls within the purview of the duties with which the commanders are charged.

But it is said, and the difference in the propositions is manifest, that a military commander may not only detail a person subject to his order to do a given thing, but that he may appoint a person in no wise subject to his order, a person holding no relationship direct or constructive with him, to do a certain act. That introduces a new element. But the proposition goes further, and it is that this same military commander having appointed the person supposed, not in the military service at all, may invest him with official authority and character; that by the *ipse dixit* of a military commander a person in no wise subject to his order may be in a moment transformed into a public officer. Those who doubt the soundness of this position may perhaps derive their doubts in this way: they may say this officer, thus to be created by the magic of a word, when brought into existence is to be either a State officer or a Federal officer. He is to be the incumbent of a place held by a tenure proceeding from the Federal Government—

Mr. SUMNER. The national Government.

Mr. CONKLING. The national Government. The Senator corrects me. A tenure derived from the national Government, or else from the government of a State. Now, I am not sure which of these alternatives would be the most productive of difficulty in the logic of the case. If he be a Federal—I beg the Senator's pardon a national—officer when he is appointed—

Mr. JOHNSON. The Constitution speaks of the "Federal" Government.

Mr. CONKLING. Well, sir, I would rather now quarrel with the Constitution than with the Senator from Massachusetts, because the Constitution cannot strike back here, and the Senator can. [Laughter.] If this be a national office as is said on one side, or a Federal office as is insisted on the other, there may be some twinges of legal conscience, some obstructions of judgment, some tender-footed hesitations resulting from this provision of the Constitution speaking of the powers of the President:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law; but"

And here are the officers otherwise provided for—

"But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Mr. JOHNSON. And there stops.

Mr. CONKLING. There it stops. That is

the mete and bound. There may be those who would think that the commander of one of these departments is not aptly described by either of these words; and that, in view of this provision of the Constitution, it would be a laborious process effectually to clothe him with the power delegated exclusively to other ministers of the Government.

Suppose, on the contrary, these places be deemed State places, offices held under State authority; then I might almost say that the whole genius of our Government denies the supposition that they can be derived from the order of a military commander. Suppose, however, they could spring from the order of an officer of the Army; and I turn now to the argument of expediency and utility, presented by the Senator from Massachusetts; suppose they are State officers; suppose their appointment consummate, and their existence unquestioned when they have been created by a military power—then what? Have they any relations which are sure to be useful or valuable to the Government of the United States? On the contrary, when you assume that hypothesis, do you not encounter the doctrine laid down in various cases by the court, that State officers are mere amateurs, mere volunteers, with regard to any functions imposed upon them or required of them by national or by Federal law. That was decided long ago, first in the case of a justice of the peace in reference to the fugitive slave law of 1793.

Mr. JOHNSON. The case of *Prigg vs. Pennsylvania*.

Mr. CONKLING. Yes, sir; the case of *Prigg vs. Pennsylvania*, and has been recognized repeatedly in other cases. Now, how far it may be necessary to employ these State officers, if such they would be, as adjuncts or auxiliaries of the military, and so of the national authority, no man can tell or foretell; and as the Senator before me [Mr. GRIMES] suggests, in continuation of the argument, to whom are they to be responsible? Suppose they neglect or violate the duties which pertain to them as State officers, the obligatory duties, suppose they do not obey the laws mandatory upon them, saying nothing about those laws which they have the option to execute or not as they please: to whom, for this non-feasance or malfeasance, are they to be held answerable?

I am not expressing any opinion of my own about this, one way or the other. It is not necessary to do so. I merely suggest to the Senator from Massachusetts and to his distinguished colleague, whom I understood to indorse his amendment, that his view is not without difficulty. It may be "a consummation devoutly to be wished," but there are impediments in its way; and he rushes to a conclusion, who simply reasons that because such a mode of supplying officers would be desirable, therefore it should be adopted, and who asserts without argument that the power is free from all doubt. I take it in statesmanship, as perhaps in all the business of life, it is a maxim as universally true as any truth can be universal, that it is a mistake always unnecessarily to assume a position requiring from the outset explanation or defense. Can any Senator say that such a proposition as the Senator from Massachusetts offers would not require explanation and defense wherever it was called in question? It must have been the judgment of the Judiciary Committee—I think I may say it was the judgment of the Judiciary Committee—that such a position was questionable.

Mr. EDMUNDS. More than that.

Mr. CONKLING. One member of the committee says "more than that." I do not mean to speak for anybody specially. I have no right to do so; but certainly the committee must have thought it at least questionable to do this; and so, keeping within the old power, which, as I said in the commencement, we all knew had been accepted, we thought it better that details should be made under that power which enables a military man to say to this man "go," and he goeth, and to another, exe-

cute this order, and he executes it. Perhaps the committee trusted to their knowledge, I should have trusted, if I had been reminded of it, to my knowledge, of the presence, not only in this city, but out of this city, of many men in the military service, scattered and collected, from among whom, if not from among those already on the spot, there could be selected to do acts of civil government as many as any exigency is likely to call for during the time to elapse between the passage of this bill and the consummation of that restoration which it seeks.

I do not know what may be the number, no man knows what may be the number, of officers whom the execution of this bill may require to be displaced; but certainly the great majority of them must be officers whose functions are in their nature so simple that they can be discharged by men as intelligent as those who compose the American Army. For those which require a higher standard of intelligence, there are officers. I think it cannot be that there are not enough for all these purposes. But if there be an inconvenience, it is an incident to be borne with. I submit it is no reason for imperiling the construction or existence of a great plan of organization which has been once obstructed, which has been once partially paralyzed by an opinion, whose author perhaps may reconcile it with professional integrity and professional consistency. It should be a weighty argument, indeed, to induce us without positive necessity to encumber this scheme of restoration with anything in the least equivocal, with anything upon which even a hostile Attorney General can hang a doubt.

I said something, Mr. President, suggestive of a doubt whether the opinions of the Attorney General has lately given may be reconciled with professional and official sincerity and morality, and I should perhaps more fully indicate my meaning. Rumor said that the Attorney General wrote that extraordinary veto message which came in here, leveled at the bill of March 2, and afterward the one aimed at the act of March 23. I have no means of knowing whether he did or not; indeed it matters little whether he did or not. Because at that time he sat in cabinet as the law officer of the administration; he sat with an official oath resting upon him, his special duty being to advise his chief upon the law by which he was to be governed. Thus sitting, thus specially charged with responsibility, he voted for these vetoes and approved the messages by which they were explained. I have taken the pains to read them again since this session began. They proceed largely upon the idea that the acts they denounce contain the very ingredients, that they are odious and vicious because they contain the very ingredients, which are now found wanting by the Attorney General.

The vetoes find them replete with remorseless, unmeasured, absolute military power to do everything the will of the commander can suggest; the opinion finds them destitute of many of the most matter-of-course and indispensable elements of effectiveness.

The Attorney General now finds in each act that vacuum which legislation abhors; but when he voted for the vetoes he found overmuch of that lawless, despotic, untamed power by which half a continent was to be reduced to abject submission; by which society was to be disorganized; by which human rights were to be trodden down, and upon the ruins of constitutional liberty was to be set up a despotism not even tempered by assassination. All this the vetoes in substance say. But we are called here now because the vetoes were false, so false that there are not bones enough in these two acts to give them strength for the emergency for which they were adopted.

However, sir, this is foreign from the purpose for which I rose. I designed only to ask the attention of the Senator on my right [Mr. Wilson] to the fact that there are obstacles to be considered before we can reach the point that he proposes.

Mr. WILSON. It seems to me that if the

doubts suggested by the Senator from New York have any foundation we have no right to act on this subject at all. It is very plain that the committee did not consider these doubts valid, for I find that the fourth section of the bill provides—

That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers and appointing others in their stead are hereby confirmed.

Now, sir, the fact is, General Sheridan removed the Governor of Louisiana and appointed a very excellent gentleman, Mr. Flanders, to exercise the functions of Governor of that State. He was a civilian. He was selected by the commander of that military department and put into the office of Governor of Louisiana; and the committee propose that we shall confirm this act of General Sheridan. If we have a right to confirm the removal of Governor Wells and to confirm the appointment of Mr. Flanders, surely we have a right to say that General Sheridan may remove Governor Throckmorton and appoint anybody else in his place; and if we have a right to say that General Sheridan may remove Governor Throckmorton, we have a right to say that Governor Throckmorton shall vacate the office he now holds by law.

Now, sir, it seems to me the case is this: we conquered these ten States; the States exist, according to the theory of these bills, according to the theory on which we have acted, but the offices of those States were vacant, did not exist. The President, I remember, in one of his earliest public documents, stated that they were without organization, without State officers or State organization. But, sir, we found when we passed these bills that by the action of the President the people or a portion of the people in these States had filled the offices. We declared the President had no right to authorize them to do it; that these States were held under the military power of the Government as conquered States, and that he went beyond his powers in giving those people the right to fill up those offices at all. He gave them the right, and they were filled up by men who supported the rebellion generally. Then we said these State governments are merely provisional governments, and we treated them as provisional governments existing by our will. We had a right to pass an act to simply vacate all these offices, and let those States be governed purely by military commanders; but we thought for the purposes of reconstruction, as a practical fact, it would be better to treat them as provisional governments and allow the persons in these offices to be a part of the machinery that would bring about the restoration, and we continued them in office; and we had a right to continue them in office, I take it. We had a right to say these men may continue in office for our purposes; they may administer the duties according to their constitutions and their laws, subject—how? Subject to our action. They are all under the power of the military commander by our laws; and I believe that if any of these officers obstruct the execution of the laws of the country; thwart the policy of the Government by the use of the powers conferred upon him in his office, or in any way stands as an obstacle to the reconstruction policy of the Government, these commanders, without our leave, by the laws now existing, have a right to remove such a man. They have removed some of these officers, and we come forward and say that we confirm it. Then if we can confirm that, why not say, as the House bill says, if you do not wish to go the length of my amendment, that they may remove any of these officers and appoint civilians?

Mr. CONKLING. Will the Senator allow me a moment?

Mr. WILSON. Certainly.

Mr. CONKLING. I ask him if there is not a difference between what has been done in this bill and what he proposes in every way practically? Suppose it to be true, as he seems to suggest, that some one or all of these

commanders have done acts which, although well meant, technically overstepped their authority. Suppose that to be so; I do not say whether it is or not; and in a bill we include a section like this that all their acts are confirmed. Suppose it turns out, as the argument would be, that that section would not perform the office for which it was intended; that it would not indemnify against all possible objections that may be made hereafter. Grant that. That is no reason, it being questionable in the first place, I submit, why such a section as that should not be contained in a bill, because the acts having been done in good faith, there being no dispute about the good intention of the officer, all that legislation can do to cure any possible technical defect that there might be, should be done; but when you come to carry into the whole scope of a bill for the future, provisions of the same kind, the Senator will see that you make the future depend upon the question which arises.

Now, if this section referred to is beyond our constitutional power, it does General Sheridan no good and no harm, and it does the residue of the law no harm; it does the progress of reconstruction no harm; and there may be a question about it. Lawyers will differ. But when you come to make the future operation of the bill hinge upon this which is questionable, then you embark for the future in this boat which is thus frail and doubtful. Now, because the committee saw a question here that did not convince them that they ought not to confirm these acts which had been done in good faith, and, on the contrary, because they put in a section confirming these acts, that does not dissipate all doubt with regard to it, nor lead them to think that it would be quite safe to embark the whole fate of the reconstruction system upon the question which might there arise.

I think the Senator will see—I meant to have answered this when I was up before; I beg his pardon for interrupting him—although there is undoubtedly a theoretical inconsistency in this bill, it is all answered by the fact that the section he refers to is entirely retroactive, and if it fails, it does no harm. The other section which he proposes and the provision which he wants, is entirely prospective, and if it fails the whole scheme attached to it would go down.

Mr. WILSON. I see the distinction made; and still it does seem to me that there cannot be any question in regard to this power. Why do we wish to adopt such a provision? Take the case of Governor Flanders: it is a well known fact that at this very hour a portion of the officers of the State of Louisiana are denying his authority. So in Mobile, Mayor Horton of that city is resisted in the exercise of his duties, thwarted, opposed by a portion of the city officers; and since the Attorney General's opinion some men appointed to office there have declined to accept on account of that opinion. There cannot be any doubt at all that the opinions of the Attorney General have had a very damaging effect on the policy of reconstruction, not only in regard to the sentiments of the people there but in regard to the action of the officers of those States. I understand that in Louisiana a portion of the State officers are undertaking to resist the action of the Governor, and certainly the city officers in New Orleans are resisting the action of the mayor appointed by General Sheridan.

Now we propose to confirm this action of our commanders. If we have the power to confirm it at all, we have the power certainly to adopt the amendment which I propose. I am utterly surprised that anybody in Congress should raise a question as to the power of the Congress of the United States to do what we please in our legislation in the rebel States in regard to the point whether these men shall be in office or not in office. How came they in office? By the action of the President of the United States. We denounced that action as a matter of policy and as a matter of power, and some went so far as to maintain that the

President ought to be impeached for that action; and certainly if he ought to be impeached for anything I think he should be impeached for that, because the trouble he has brought upon this country by his premature action in restoring the governments of the rebel States, and by putting the governments of those States into the hands of rebels, no human being can measure. It brought upon the country in many cases outrages and abuses upon loyal men and upon freedmen. Many a man sleeps in his grave to-day on account of it. The thoughtful, conscientious men of this country have gone to their pillows burdened with anxious thoughts for a year and a half on account of this action of the President. I say that the action of the President in putting these States back again into the hands of rebels has burdened the thoughts of men connected with the Government who were anxious for the final settlement of these questions, so as to have a united country and liberty and justice everywhere, perhaps as much as they were burdened during any year and a half of the war. He has made men wretched and unhappy on account of it. We maintained that he acted without authority, that these men were filling their offices without authority. I have no doubt of it. It would have been in our power a year and a half ago, when the Thirty-Ninth Congress met, to vacate all these offices. I thought we ought to do it then. I have thought so from that hour to this. Who is to question our power to do it? Turn them out of their offices, let us say they shall be vacated, and let us give to our military commanders in whom we vest the whole power in these territories, the authority to fill their places; or if we are not satisfied that they alone shall fill them, let us authorize an election to be called to fill them.

Mr. TRUMBULL. The Senator will allow me to suggest that there is another difficulty besides the one he refers to. The committee did not feel themselves at liberty to depart from the original reconstruction measure. The original bills did not remove from office; and we felt instructed in fact by the resolution adopted by the Senate. Although we might have thought that it would be better to have some different reconstruction measure, we considered ourselves limited in the bill we reported to one removing the obstructions to carrying out the bills as they were originally passed. We thought the resolution of the Senate limited us; and I submit to the Senator if we had best not adhere to the original proposition. If we commence departing from it, and depart from it in one thing, we may then be forced to do so in another.

As I am up let me suggest to the Senator one other consideration. He says that we have declared these governments set up by the President to be illegal, and he thinks we ought to wipe them out of existence. Now, he proposes that we shall recognize them to the extent of recognizing the offices created by them and filling them ourselves. We make use of these officers as a sort of *locum tenens*; we make use of the existing governments there as far as they can conduce to the work of reconstruction; but it does not follow that although we have the right to sweep them out of existence—

Mr. WILSON. I did not speak of sweeping them out, but of vacating the offices.

Mr. TRUMBULL. It does not follow because we may vacate the offices that we can confer on some one the power to fill them. I do not say we may not do it; under one view we doubtless have the power; but there is some question about it; and it was thought safer, as it was believed no great inconvenience would arise from it, to authorize the commanding general to do that which nobody would doubt that he had authority to do.

Mr. FRELINGHUYSEN. Mr. President, the difference between the bill as reported and the amendment suggested is this: we say in the bill that the commanding general may remove any functionary that he sees proper to remove

when he deems it necessary; the amendment says that the commanding general may retain any that he sees proper to retain. That is all the difference between the bill and the amendment so far as continuing the officers is concerned. It is a distinction without a difference; for the commanding general can now remove all that he sees proper to remove, and the amendment says that he may retain all that he sees proper to retain. If the amendment is intended as an expression of the opinion of the Senate that it is wise to have a general evacuation of these offices, a general sweep of fifteen thousand officers, I differ from my learned friend as to the policy of that movement. I think it would be a disturbing, revolutionary movement at this crisis at the South which might do great injury; and after the distinguished Senator from Massachusetts has told us the result of his visit to the South, and how successfully, without this amendment, without the removal of these officers, this plan for reconstruction is progressing, I almost wonder that he should be willing to run the risk of such a movement and to disturb what is now well enough. It certainly would be a very disturbing movement in society.

Further, it is very clear that these officers, after the passage of the bill now under consideration, will be powerless for all evil; for if there are cases where such persons interfere with reconstruction, where their influence is exerted against it, the military commander has the power at once of removing them. Besides that, the period for which these offices are now filled is very brief, for I take it this is all a mere temporary movement; this reconstruction measure will very soon be voted upon, and these States will be reinstated in the Union and their offices filled by a different constituency under the principle of universal suffrage.

I need add nothing to the able argument of the Senator from New York, but it must be manifest to every one that there would be no harmony in a system which authorized a military government to detail laymen to the discharge of those duties to which they have a right to appoint persons to only by reason of military power.

But the true argument against the amendment is that which was just suggested by the chairman of the Committee on the Judiciary, that it is not contained in the original act of reconstruction. The proposition was made by the Senator from Massachusetts that it should be one of the provisions of that act, but it was rejected by the Senate. And now, even if I believed that his measure was wise, I would not give it my vote, for I will not add to what we declared to the South should be a finality. It certainly was not contemplated in those measures that these fifteen thousand officers should all be turned out of office.

Mr. President, I have no doubt that the public will say that by the passage of the bill under consideration we have added to the reconstruction measures of the last Congress; and I have carefully, with that view, examined those measures and endeavored to analyze what is contained in them. The whole question between the Attorney General and Congress is this: whether the State governments there existing are or are not subordinate to the military power. He says they are not subordinate to the military power; Congress says they are. That is the issue which has brought us here. Now, for a single minute, I desire the attention of the Senate to show how clear it is that we placed these State governments directly under the power of the military governments which we created.

The first five sections of the act of March 2, 1867, clearly supersede the actual State governments as independent organizations. The preamble expressly declares that no legal State governments exist, and that no adequate protection for life and property exists, and that the reason assigned for passing the act is that it is necessary that peace and good order should be enforced until loyal and republican State governments can be established. Taken together,

the preamble declares that no legal, no loyal, no republican governments exist, and that there is no adequate protection to life or property, and that it is necessary to make some provision for peace and good order until loyal and republican governments can be established. The preamble is in these words:

"Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal republican State governments can be legally established."

Now, it is a great jump that the Attorney General makes when he comes to the conclusion, in the face of that preamble, that the existing State governments are not only legal governments, but that we established them and made them superior to the very government which we created by the act.

In view of the controversy between the President and Congress, and in the light that the history of the controversy sheds, the act asserts that the governments erected by the President are not legal, and that some other means of protecting life and property, peace and order, are necessary. Then follows in the bill the enactments, all and each of which strengthen and confirm the principal idea of the bill stated in the preamble.

The first section declares that the States shall be divided into five districts and made subject to the military authority of the United States, and the mode and manner is afterward prescribed.

By the second section the President is directed to assign a general officer to the command of each district, with sufficient military force to enable him to perform his duties and enforce his authority, not to enforce the authority of the so-called State governments.

By the third section it is made the duty of the general officer (not the duty of the so-called State governments) "to protect all persons in their rights of person and property." But that duty embraces all domestic governments, and independent of the rights growing out of a State's relations to the Federal Government (and with these States that relation is not yet reestablished.) "Protecting all persons in their rights of person and property" is all of government, and so the act gives the commander entire civil and criminal jurisdiction. The section, further providing for the disordered state of society, directs the commander "to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace." This law only places these States in the condition they were in when recently under military rule before the establishment of the so-called State governments. They are subject to military authority. This same section goes on to show what use might be made of the existing State governments or their tribunals, and provides that "to this end—that is, the protection of the rights of person and property, the preservation of order and the punishment of crime—he (the military commander) may allow local civil tribunals to take jurisdiction of and to try offenders, he may organize military commissions or tribunals for that purpose;" and to make it perfectly clear and plain that the military commander is not to be interfered with and that the State governments are not to exercise any functions except by his permission, it is added, "and all interference under color (that is to say, on the pretence of any) of State authority with the exercise of military authority under this act shall be null and void." The independent (not the allowed and permissive) exercise of any functions of government by the so-called State governments would of course conflict with the execution by the military commander of his duties and the maintenance of his authority; for it is, from the very nature of government, impossible that two jurisdictions should concurrently "protect all persons in their rights of person and property," suppress disorder and punish crime.



One must exclude the other. The power of universal independent regulation over any subject is necessarily exclusive.

The fourth section contains nothing material to the question under consideration. The fifth section provides that when the people of the rebel States shall have, by delegates elected as directed, framed a constitution and shall have adopted the constitutional amendment, and when their action shall be approved by Congress, that then the rebel States shall have representation in Congress, and the act we are considering shall become inoperative. The idea that these rebel State governments are to continue to exercise independently their functions is by the act excluded and repudiated. The whole enactment is on the very opposite idea.

The supplement of March 23 carries out the same purpose. Its object is, under the direction of the military commanders, to provide for the registry of voters, for taking the votes of the people on the question of having a constitutional convention, on the election of delegates, and on the ratification of the Constitution. This supplement proceeds on the idea that no authority existed in the States to prescribe these regulations, and so Congress prescribed them by this supplement.

It seems to me, so far as the first five sections of the act of March 2, 1867, and so far as the act of March 23 are concerned, it is impossible to come to any other conclusion than that the so-called State governments are subordinate to the military governments thus established.

But the sixth section of the act of March 2, 1867, it is claimed, legalizes these State governments as independent of the military government. In other words, the sixth section undoes and takes back all that the five previous sections has done or given. Such a construction directly violates a familiar principle of construction, to wit, that an act must be construed together, so that it will all stand and harmonize. The sixth section does legalize the State governments; but how? As independent governments? Not at all. As provisional governments? How provisional? Just as is declared in the five previous sections, that is, subject to the military commanders, existing by the permission of the military commanders who are intrusted with the duty of "protecting all persons in their rights of person and property," and who are told that they may allow civil tribunals to try offenders, and who are told by the act that any interference with their military authority under color of State authority is null and void.

In that subordinate provisional condition the State governments are legalized by the act. In all cases where military control of a country is assumed, the civil governments, tribunals, and magistrates are suffered to exist, exercising their usual functions in a permissive, provisional manner, so that the usual forms and sanctions of society may be preserved. When these States were first taken possession of by our military forces the civil governments there were permitted so, and only so, to exist. The sixth section declares what the first five sections all necessarily imply, to wit, that the State governments are provisional. The act further in this sixth section declares that these governments thus made provisional shall in all respects be subject to the paramount authority of the United States, which may abolish, modify, control, or supersede the same. Yes, and these rebel States are by virtue of that very provision subject to what Congress has declared in the five preceding sections of this act, as well as subject to any other future legislative Congress may take.

The whole act harmonizes, and taken together means that a military government is for a time, while reconstruction is going on, established at the South; that the civil government there shall be subordinate, as is always the case, to the military government, and that Congress reserves the right entirely to abolish

or to further modify these civil State governments.

This act adds nothing to the original reconstruction act; it only removes doubts which a misunderstanding of it has created. I for one am not in favor of adding to or subtracting from the original reconstruction act one word. If in good faith the South comply with that act in letter and in spirit I will favor their representation here.

I believe that the success of our grand experiment of self-government, securing the results of the recent war, our commercial prosperity, and the reestablishment of that harmony and good feeling which must knit us together as one people, all call for the speedy restoration of the southern States. And as the gentle showers and genial suns of spring do more than the tempests and frosts of winter to restore the verdure of the earth, so that forbearance which is consistent with principle will do more to restore this nation than stern, confiscating, disfranchising justice.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts, [Mr. WILSON.]

Mr. HOWE. I do not rise now to say whether I shall vote for or against this amendment offered by the Senator from Massachusetts. I rise mainly to say, sir, that whether we adopt or reject the amendment, I humbly conceive we ought to be governed by other considerations than the one urged so forcibly and so eloquently by the Senator from New York, [Mr. CONKLING.] If there be good reason why we should not vacate all those local offices existing under those governments which we have declared to be provisional, I am quite sure that the conclusion to which the Senator from Massachusetts arrives, that we have no authority to enact any part of this law, is correct.

Mr. President, this bill does undertake to say that certain military commanders down there may vacate every one of these offices, and may provide for filling them; how? By detailing some subordinate. Where do we get the power to say that? If I understand the Senator from New York aright, he seems to suppose that the power to fill these offices by detail is a power given here in the superior over the subordinate. He has it simply because being the superior officer he can command his subordinate to go to the right or to the left, to do or to refrain from doing what he chooses to order. Now, I think that is a mistake. I think a general has no such authority over his subordinates. I think, to be sure, he can command his subordinate to do whatever lies in the line of military duty, but not to go outside the line of military duty. I am very certain the Senator from New York would not insist that there was authority in a superior officer of the Army of the United States to command a subordinate of his to fill the office of mayor in the city of New York, nor to fill any one of the local offices in the State of New York. And yet the authority of the superior is just as complete in the State of New York as it is in Alabama or in South Carolina, is it not? And if that authority be inherent in an officer of the United States in one portion of the country, it seems to me it must be inherent in him in every portion of the country.

But the Senator supposes that there is another distinction between the authority contained in the bill and the authority invoked in the amendment. He seems to suppose that it is a very different thing for a general to command a colonel to enter on the discharge of the duties pertaining to one of these local and municipal offices and for him to command a citizen in any one of these districts to do the same thing. I concede that there is a difference between the authority of a military officer, generally speaking, over one of his subordinates and his authority over a citizen; but that is not the question here. Is there a difference between the authority of a general to command a citizen to exercise the functions

of an office and his authority to command a citizen not to exercise the functions of an office? There was filling the office that we call Governor of Louisiana a citizen of that State, filling it, not in pursuance of his own pleasure or at his own choice, but filling it at the bidding of the whole people of Louisiana, or so many of them as were consulted in reference to that matter, falling short of the whole I admit. The people of Louisiana had commanded him to fill that office. He was a citizen. He was no subordinate of a general, no inferior. The Senator from New York supposes that the authority is very plain in the commanding officer to tell citizen Wells to step out of that office into which he was ordered to enter by the people of Louisiana; that that is the plain exercise of plain military authority; but to tell citizen Flanders to step into that office is the exercise of military, despotic power; in other words, that it is very plain that according to law it is perfectly proper for a military officer to kick a man out of his house, but it is very arbitrary and very despotic and very tyrannical for him to push a man in.

The force of the distinction does not occur to me. Sir, I do think you have the authority to vacate these offices, or you have not; and I think if you have authority to vacate them you have authority to fill them. But gentlemen say the authority of the military officer to do these things has been recognized by the Supreme Court of the United States; that on a given occasion a military commander did by detail put his subordinates into civil offices and clothe them with the function of discharging civil duties, and the Supreme Court has recognized that, and therefore, inasmuch as subordinate officers were employed on that occasion we had better stand by the precedent.

Mr. President, is it true that the Supreme Court indicated by a single word, by a single letter of the adjudication in that case, that the validity of those acts rested upon the fact that the military commander employed subordinates in the discharge of them? Or was there a word or a letter of that adjudication which indicated that it was the opinion of the Supreme Court that there was any authority of any description inherent in the military commander there, and which transcended the authority of the law-making power of the United States? Why had Colonel Mason the authority to do those things there? Was it because he had authority transcendent, supreme, over the authority of the Congress of the United States; or was it because he was a servant of the United States, and of necessity clothed for the time being with the authority to do specific things because in the interest of the United States, while the law-making power of the United States had refrained from speaking their will on the subject? Necessarily this was their view of it; manifestly this was their view of the subject; because, if I understand their reasoning aright, its whole force rests upon the fact that the United States had not spoken. These commanding officers were there temporarily in the absence of civil functionaries whatever. Order must be maintained; the interests of the United States, the dominant and the conquering power, must be defended. The Legislature had not spoken, and until it did speak the military authority was provisional, and must, upon its official responsibilities, do what it deemed proper, not to suit its own pleasure, but to suit the interest of the Government of the United States. That was the point in the case, and the ground upon which the court stood. Then what did the Legislature do in reference to that very district when they came together and did speak? Did they undertake to perpetuate the authority of Colonel Mason? Did they undertake to continue it a day? Not at all; they proceeded at once to establish civil government. No, I am not right in saying that they proceeded to establish civil government in California. They found

a civil government there, if I remember aright, and they displaced the civil functions of Colonel Mason and replaced them with the functions of the civil government they found; but in reference to other portions of the territory conquered in the same war, and conquered by the same force they proceeded to do what I have contended from the beginning of this terrible struggle was the first duty resting upon the law-making power of the United States, and that was to provide provisional governments, and civil, not military provisional governments.

Mr. President, the amendment offered by the Senator from Massachusetts proposes not merely to authorize these military commanders to vacate all these offices, but proposes to authorize him to fill them also, and to fill them, not by detail of his subordinates, but by the appointment of citizens. The Senator from New York suggests that there are grave constitutional objections derived from another quarter against doing this. The Senator from Massachusetts replied to him, as I thought at the time, and I am bound to think still, conclusively, thus: if you have not the authority, if you cannot clothe the military commanders with the power to command a citizen to fill one of these civil offices, upon what ground can you justify the fourth section, because the historical fact remains that one or more of these district commanders has exercised this very authority, and the fact remains that this bill undertakes to say in the fourth section that what they did in that behalf is valid and is confirmed.

Mr. TRUMBULL. It does not say "is valid."

Mr. HOWE. "Is confirmed" without being valid.

Mr. TRUMBULL. It does not use the word "valid." I merely stated that fact.

Mr. HOWE. I thought they were synonymous, but I find only one of these words is in the section, and the other is not; but I assume for the purpose of this argument that the Judiciary Committee did not mean by an act of Congress to confirm anything which in their judgment was not valid.

Mr. TRUMBULL. That might be done, I suppose. I suppose it is competent to confirm an act which was not valid without the confirmation.

Mr. HOWE. Oh, yes; but not to confirm an act which we could not make valid.

Mr. TRUMBULL. There is a difference between the two, that is all I mean to say.

Mr. HOWE. What is the reply to that on the part of the Senator from New York? Why, he says the instances in which this power has been exercised are few, are exceptional; it will not do any hurt to undertake to confirm those if you have not the authority to confirm; but it would be a sad mistake to undertake to transfer the power there exercised and here confirmed in terms into the body of the bill; why? Because then the whole bill would be a mistake if the power failed; but if the power fails the fourth section is not of any particular consequence. I submit to the honorable Senator from New York that I think he underestimates the consequences which would result from the enactment of this fourth section even if we found we had no such power. There is the fact. General Sheridan has removed from office the Governor of Louisiana, Mr. Wells; he has put into that very office Mr. Flanders; you, speaking for the law-making power, confirm that act and adjourn, and the Attorney General on some later day in this session, or the Supreme Court, or the American people, conclude, as the Senator from New York seems to argue, that we have not the authority to empower General Sheridan to do any such thing; what follows? There is no Governor there of any kind. Wells is not Governor; Sheridan has removed him. Flanders is not Governor; he had no authority to appoint a Governor. He has made a vacancy; it is not filled. Can it be filled? Let some good law-

yer answer me. Can it be filled? There is an office made vacant by the removal of Wells, vacant again by the great and ultimate decision that Flanders was a usurper in it; how shall it be filled? Will General Sheridan detail an officer of his?

Mr. TRUMBULL. Who made the office?

Mr. HOWE. Louisiana made the office of Governor.

Mr. TRUMBULL. Made that office that Wells filled?

Mr. HOWE. No, sir.

Mr. TRUMBULL. You have decided that that government is illegal.

Mr. HOWE. But I understand that Louisiana made the office; that is the question put to me. I understand that Louisiana made the office; it is made vacant by this act. Can General Sheridan then go on and detail a subordinate of his to fill it, overriding the express letter of your law here? Then he does transcend the declared will of Congress. They say Flanders shall stand the Governor of Louisiana; that is what you are asked to say in this fourth section. You cannot expect your military commander to disregard that and hereafter fill that office by a subordinate. And what I say of this office of Governor in Louisiana is true of every one of the offices in all these communities in which this thing has been done.

But then the Senator cites us to the text of the Constitution. He supposes we may have difficulty arising from the very text of the Constitution. What is it? The Constitution says that the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint, such and such officers, and the appointment of those officers who may not be so appointed may by authority of law be given to the President or a member of the Cabinet, or to a court of law; and he rightly concludes, I think, that these military commanders down there are not among the persons upon whom we can vest this authority; and I think the Senator rightly concludes that if these are national offices down there, then we cannot confer this authority to fill them upon a district commander; but if they are not national offices, and I conclude they are not, the Senator concludes that they must be State offices. That I do not see. There is where I differ very broadly, perhaps radically, with the Senator. I think they are not State offices.

Mr. CONKLING. What are they?

Mr. HOWE. Offices existing in a government which we have at last, though years after the time had come at which we should have said so, said are provisional.

Mr. CONKLING. Nevertheless, what are they, State or national?

Mr. HOWE. Neither State nor national, but provisional governments for the control of a portion of the common territory of the United States. They are offices existing under authority of laws enacted by communities, a portion of the people of the United States, and by laws which we never have repealed.

It is said about me that they are agencies as distinguished from offices. I am willing to call them agencies; but what harm is there in calling them offices? There are just such officers as a Governor and judges in the Territory of New Mexico and in the Territory of Utah. They are there for precisely the same reason, though not created in the same way, that such offices may be in South Carolina or in Georgia; they are there because these are a portion of the common territory of the United States, because there is no State government there to displace them or replace them, which our Government, the supreme authority of the nation, will recognize or have recognized. That is why there are these offices in Washington Territory, in New Mexico, and Utah; that is reason enough why they should be in Georgia, in Alabama, and in Mississippi; and I see no more harm in calling them offices in one place than in another. There are functions with which each one of these officers is clothed, essential to the peace and well-being of those

communities, functions which are vested by no national law in no national officer whatever; and, therefore, unless we recognize these several functionaries, or some functionaries as having the right to discharge these duties down there, they must fail and cannot be discharged by anybody.

Mr. President, I rose mainly to remonstrate against the attempt to deny the authority of Congress to do what we are invoked to do by the amendment offered by the Senator from Massachusetts, because when you have established the fact that we cannot do that, I am as firmly convinced as I am of anything that we cannot do anything which we are asked to do in the bill reported here by the Judiciary Committee. The propriety of adopting this amendment has been disputed on the ground of expediency. I do not propose to discuss that portion of the case except in reference to a particular remark submitted by the Senator from New Jersey, which was to this effect: that if he believed this amendment was a judicious exercise of authority he would not agree to it, because he would not agree to add a line or a letter to what we did during the last session of Congress and during the commencement of the present Congress, and which we had agreed to as a finality.

Now, Mr. President, I simply wish to say, as indicating a point of difference between myself and my honorable friend from New Jersey—and there is upon this floor no Senator with whom I differ more reluctantly—that I never understood, and I am not able now to understand, how anything which was enacted in either of the laws to which he has referred can be pleaded as an estoppel against the Congress of the United States. I do not understand by what right any one can assert that we have ever submitted any act of legislation as a finality to the people of those communities or to the people of the United States. Whatever the national legislature has heretofore said upon this as upon other subjects I understand it has said in the exercise of the ordinary powers of legislation. It has adopted the act as a temporary measure, adopted it because it suited the pleasure of Congress, not by way of negotiation or compact with anybody else, but adopted it to stand while it suited the pleasure of Congress. It is a law, as far as possible from being a contract. We never did, either in the act of March 2 or the subsequent act, pass such a law as estops the Congress of the United States from legislating further in the same direction; and I protest especially against holding either of these acts up to us in the light of a contract, since it must be manifest to-day, if it was not then, that there was but one party to that contract, and that was the Government of the United States. Nobody else assented to it then; nobody else has assented to it yet; and it would be strange if we had exhausted the authority of the Congress of the United States to legislate upon this subject by an enactment which never has been accepted by anybody else. How soon it may be I am sure I do not know. I make this protest, not because, as must have been manifested, I am here a champion of further legislation; not because I am here prepared to say that when these communities have organized State governments in accordance with the direction given in these acts, I shall then insist upon more being done. I am not prepared to say whether I shall be content to invite them in here and seat them in the councils of the nation or not. If I am prepared to do that, I will say now that it will be not so much because of the fact of their assenting to these things as it will be because of the time and the manner in which they assent to them. If they accept them as right and reasonable measures, if those old prejudices which have hung about them shall be discarded, if I see the scales drop from their eyes and see them prepared to recognize not merely the power which enacted these laws, but the righteousness, the essential

righteousness of the laws themselves, then I think I shall be glad to hail them here and elsewhere as returned brethren. I am not sure then but that I shall be ready to kill the fatted calf and sit down to a common feast with them. But if they adopt them reluctantly, protestingly, remonstrating against the propriety of the acts, and accepting them as the dictate of power which they cannot resist, then I shall not kill the calf, whatever else I may do.

Mr. DRAKE. Mr. President, the argument which the honorable Senator from Wisconsin has made upon this subject seems to me to exhaust the question. I have nothing further to say in reference to it. I desire, though, before a vote shall be taken on this amendment, to explain why I cannot vote for it. It is because of the exceeding breadth and scope of it. I do not think that the circumstances of the case require that every civil office in the rebel States should be vacated and filled by military authority. The honorable Senator from Massachusetts, in the course of his remarks upon it, referred to the number of those offices in those ten States as being probably fifteen thousand. I cannot concur in the expediency of instantly vacating so large a number of offices in those States, extending from the highest office in each State down to the lowest. The views which I had formed before I came to this session have been expressed and laid before the Senate in the bill which I introduced the other day, and which I hoped would be found to contain provisions which would commend themselves to the Committee on the Judiciary; but it seems such has not been the case. In that bill it was provided that the higher offices of those several States should be vacated upon a given day, and be filled by the commanding general, and that the inferior offices should be subject to be vacated by the commanding general whenever he should see proper; and I think that is the wisest course now, for it is those high officers that are working the mischief which the Senator from Massachusetts spoke of in his remarks. It is not the constables and justices of the peace and members of town councils and officers holding inferior positions of that kind that are doing the mischief; it is the high officers, and they should be the ones whose offices should be vacated. If that course should be adopted, a fatal blow would be struck at the influence exerted by the rebel authorities down there against the work of reconstruction, and very little disorganization or trouble would take place in those States; and simply because the amendment of the Senator from Massachusetts goes to the extent it does, not because it contains a principle of action which I disapprove, I shall be constrained to vote against it; and if it should not be adopted I shall present to the Senate that proposition contained in the first section of the bill which I introduced the other day, and let us see whether that will meet any better fate at the hands of the Senate.

Mr. BUCKALEW. Mr. President, the amendment now offered by the Senator from Massachusetts is similar in character to an amendment offered by him and rejected at the last regular session of Congress, when the reconstruction act was under consideration. On the 20th of February the following proceedings took place; I will read them:

"Mr. WILSON. I desire to offer an amendment, but if it is objected to on this side of the Chamber I shall not press it. It is to add to the sixth section of the House amendment the following words:

"And all offices now held under the assumed authority of the rebel State governments shall be vacated within ninety days after the passage of this act; and it shall be the duty of the commanding officer of each military district to enforce this provision."

"The amendment to the amendment was rejected."  
"Mr. WILSON. I do not desire to press my amendment against the wishes of our friends on this side; but I believe it is our duty to do what it proposes in some other form and in some other bill, if not on this."—*Congressional Globe*, Thirty-Ninth Congress, Second Session, page 1645.

On a previous occasion that member had addressed the Senate strongly in favor of wiping out these existing State organizations in the southern country and supplying their place

in some manner, either by direct congressional legislation or by the action of the military commanders who were to be placed in command of the several districts. It was then throughout the debate upon all sides conceded that those existing State governments were for some purposes valid and effectual institutions. The Senator from Ohio who then sat upon my right, [Mr. SHERMAN,] and whose name was identified with the form which the reconstruction bill assumed in the Senate before it went back to the House of Representatives and was amended there, gave an elaborate statement at my instance of his views in regard to the character and status of those State organizations. He gave at my instance in particular an explanation of the preamble to that bill, which, as it was introduced by himself, he ought certainly to have comprehended. His argument was this: that those State organizations, set up at the instance of the President of the United States by the people, were not legal State governments, as is said in that preamble, for purposes of representation in this government; that they were not State governments within the purview of the Constitution of the United States, and for that reason entitled to demand membership on the floor of the Senate and on the floor of the other House, but that they were governments properly and validly instituted by the people of those several communities for local purposes, and might be regarded in that light, and that it was perfectly competent for those organizations to proceed as they had proceeded before, to take jurisdiction of civil and criminal law, to administer the former systems, both civil and criminal of those States; subject, however, he maintained, to the pleasure of Congress at any time to arrest their action and to subvert them or to limit them in their jurisdiction.

I believe that was the general view entertained or at least expressed by gentlemen of the majority in this Chamber, whose speeches are upon record and can be referred to for the verification of my statement if necessary. In consequence of this general view then announced, then held, as I understood, by most, if not all, of the majority members on this floor, the Senator from Massachusetts, who was not satisfied with the condition of things, who desired to introduce an element of change, as he thought of reform and improvement, presented the amendment which I have read. That amendment looked to the abolition of those governments within a period of ninety days; that the officers who then acted should end the exercise of their functions at the end of three months; and he proposed by his amendment to confer the authority of Congress upon these military commanders to oust them from their offices and to institute a new administration of local affairs.

Now, sir, could there be any fact more decisive against the power of these military commanders under that legislation to remove these officers in authority in the "provisional" governments, as they are described in the law, and to substitute for them appointees of their own? This is only one fact in the history of our proceedings at the last session; it is only one in a series of facts which might be cited in this debate to prove that at that time it was not intended or expected that our five military commanders should assume the imperial power of displacing officers set up by the people of those communities and substituting for them appointees of their own. Besides, by the very law itself it was expressly declared that the Government of the United States reserved to itself complete power and jurisdiction over those State organizations, or "provisional" governments as they were described in the law. It is clear from this that complete power over them was not conferred upon the military commanders.

I say then, sir, that both by the letter of the statute and by the proceedings of the two Houses of Congress, including the declarations of members, it appears that there is no ground

whatever for pretence of that power which has been recently exercised, and which is alluded to in the first section of the bill reported to us by the committee. Before this debate concludes, and when we reach the consideration of the bill itself as reported by the committee, I intend to enter upon an examination of the enactments of Congress passed at the regular and at the short session, and to show by them that the representations which have been made to the people of the country with reference to the powers which were conferred by these statutes upon these military commanders are misconceived, that they are unfounded in point of fact, and that there has been, in all material respects at least, a fair and reasonable construction assigned to these laws by the Attorney General of the United States, and that in the propositions which are now being introduced into the two Houses we have new matter, and not merely a revision or amplification of the old; that these alleged matters of construction of former laws are really measures in addition to them, in expansion of our system of military government in the South; and that they will confer, if enacted, new, independent, and important powers upon our military commanders in that section.

However, sir, I rose at the present time for the purpose of calling attention to the evidence which our own debates at the last session furnish of the view which was then held by the majority in this Chamber with reference to the position and status of the southern State organizations. I do not desire at this time of the afternoon and on an amendment relating to a single point to enter into the general debate upon this bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Cameron, Fowler, Harlan, Howe, Nye, Ross, Sumner, Thayer, Wade, Wilson, and Yates—11.

NAYS—Messrs. Anthony, Bayard, Buckalew, Conkling, Cragin, Davis, Drake, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Howard, Johnson, Morgan, Patterson of New Hampshire, Ramsey, Tipton, Trumbull, Van Winkle, and Willey—21.

ABSENT—Messrs. Cattell, Chandler, Cole, Conness, Corbett, Dixon, Doolittle, Ferry, Guthrie, Hendricks, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Pomeroy, Saulsbury, Sherman, Sprague, Stewart, and Williams—21.

So the amendment was rejected.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed a bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Mr. EDMUNDS. I wish to move a mere verbal amendment to the pending bill. In the second and third sections, where "the General of the armies" is spoken of, the last word should be in the singular, so as to read "General of the Army of the United States."

The PRESIDENT *pro tempore*. That correction will be made, no objection being interposed.

Mr. BUCKALEW. I desire to give notice of an amendment which I shall propose to-morrow; and if there be no objection I should like to have it printed.

The PRESIDENT *pro tempore*. If no objection be made the order to print will be entered. The Chair hears no objection.

Mr. TRUMBULL. Let the amendment be read for information.

The Chief Clerk read the proposed amendment, which was to add to the bill as a new section:

And be it further enacted, That in the election of Representatives in Congress from the said States mentioned in the act of 2d March, 1867, each elector shall be entitled to give as many votes as there are Representatives assigned to his State by the appor-

tionment law, and he may give one vote to each of the requisite number of persons to be chosen, or may cumulate his votes and bestow them at his discretion upon one or more candidates less in number than the whole number of members to be chosen from such State.

The PRESIDENT *pro tempore*. The Chair will take this occasion to lay before the Senate a bill from the House of Representatives, if there be no objection.

The bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, was read twice by its title.

Mr. TRUMBULL. I suggest that that bill go on the Calendar and be printed, so that we may have copies of it.

The PRESIDENT *pro tempore*. Without a reference?

Several SENATORS. Refer it.

Mr. TRUMBULL. What is the object in referring it?

Mr. JOHNSON. We can report on it tomorrow.

Mr. TRUMBULL. That will involve the necessity of a meeting of the committee.

The PRESIDENT *pro tempore*. The order to print the bill will be entered, no objection being made.

Mr. HOWARD. I move that the bill be referred to the Committee on the Judiciary.

Mr. TRUMBULL. I submit to the Senator from Michigan whether it is best to refer it. The subject is now before the Senate. Perhaps it may be thought advisable to amend the House bill in some respects, or substitute ours for it.

Mr. HOWARD. Very well; I withdraw the motion to refer.

Mr. TRUMBULL. I think it will be better to have it printed and let it lie on the table for the present, so as to keep it before the Senate.

The PRESIDENT *pro tempore*. The bill will lie on the table and be printed. Senate bill No. 131 is now before the body.

Mr. WILSON. I move to amend the second section of the pending bill by adding after the word "Army" in the eighteenth line the words "or other person," so as to authorize the commanding general to fill vacancies by the detail of some competent officer of the Army or some other person.

Mr. HENDERSON. It would be better to say "by the appointment of some other person." The military commander cannot detail civilians.

Mr. WILSON. I accept the suggestion and modify my amendment by proposing to insert the words "or by the appointment of some other person."

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. EDMUNDS. Mr. President, I am sorry to occupy the time of the Senate; but I think it so important that this amendment of my friend from Massachusetts should not be adopted that I beg to trespass for a very few moments upon the patience of the Senate.

I may say in the first place that the subject engaged the most careful consideration of the committee to whom the bill was referred. We were as desirous as any member of the Senate can be to give the largest efficiency to this government which we were endeavoring to carry forward in these States. We were as desirous as my friend from Massachusetts even to protect persons, to encourage liberty and progress, and to advance the reorganization of these States in the true and loyal way. But like most men who have practical objects to accomplish, we felt obliged to adapt to these ends that we had in view means which would be efficacious, means that the laws of the country under which we act and by which we were bound will warrant; and therefore it was that we thought it wise, although there may be some inconveniences in it, not greater perhaps than otherwise, to stand by this provision of a detail for the performance of duties and not for the

appointment by a military commander of any civil officer whatever.

Now, mark the distinction, Mr. President. This bill as it now stands proceeds upon the idea that an officer being superseded and set aside on account of his improper conduct in these military districts, we are to provide merely for the performance of the duties that he is incapable of performing, and not for substituting another officer in his place. There is a wide distinction. The man who is to fill an office as the successor of this deposed or removed incumbent must of course fill the office as a legally-appointed person, and an office can only be legally filled by an appointed person according to the methods that the law creating the office recognizes and warrants. I take it that is clear. Now, sir, if we are to give to the commanding officer of one of these districts the power, having set aside an improper person from the performance of those duties, to appoint his successor in office, by what tenure is that successor to hold? If he is a successor in the office, if he is the officer that the nature of the office prescribes and requires, then of course he holds the office according to the tenure that the law has affixed to that office; if he is a judge in South Carolina, for life for aught I know, or for a year, or for whatever period of time the law creating the office fixes, he administers civil government; he is a civil officer, and nothing else.

Now, I do not deny that we have the power—I believe we have it—to establish civil provisional governments there. We have chosen, persistently chosen, I may say, after debate, not to do that, but to tolerate existing governments, good or bad, only to coerce them by military power into the observance of what we consider to be the duties that they owe to their fellow-men and to themselves. Therefore the government which we have deliberately adopted in those regions is a government of the sword; and our Democratic friends on the other side made the most of it in so describing it and rightly describing it in the debates that took place upon the passage of the bills. It is the government of the sword; the just and righteous government of the sword which exists in this state of *quasi* warfare that still continues following the dispersion of the rebel armies—a fit and proper government until peace shall have time to heal the disrupted condition of society. Therefore, as we have fitly chosen to make it, it is a military government; it is the government of military power derived from the principles of public law, and not from any provision in the Constitution of the United States or from any provision in the constitution of any one of these States over which our arms have once more extended the jurisdiction of our own national strength and power.

Now, if that be the case, as every Senator knows it is the case, then governing by force of the military power it is indispensable that we should govern by the agencies of the military power. It is the Army that governs; and when the Army governs, as we all know, upon principles of public law that no man has yet disputed, the Army must govern by its own agencies and by its own officers or soldiers. The General, the Commander-in-Chief, or whoever directs the Army, cannot go beyond the Army for the appointed agencies of executing the military will. If he does, he violates the very law and the very logic of that state of things.

We all know, Mr. President, that every act we do in connection with this will be the subject of criticism, the subject of fierce denunciation and hostility; not in a body like ours where criticism and hostility are of no special consequence to us, but before public bodies in the United States, where the scales of right and wrong are not so evenly and justly poised as they are here, where the majority for the one side or the other of whichever view you may take of it is not so decided as it is here, and where any unwise and unnecessary departure from the ordinary course of procedure will expose us and our cause to the danger of

defeat. Is it wise, then, I appeal to my friend, to invite hostility, to invite criticism, to invite opposition, and to invite overthrow in doubtful sections of the country where these things must be debated before the people, who are the final arbiters, by thrusting into a bill a provision of this doubtful and experimental and in my judgment clearly erroneous character?

It was for these reasons that we felt obliged and thought it wise to adhere to the method of executing our will there that we have provided rather than to undertake to enter upon the exercise of a power which either clearly we had not or which in public debate in the country could be made certainly as manifest to be beyond our authority as within it. It is true that there are obstacles in the way of finding officers enough that you were to turn out all of the persons now performing the duties of office; but these considerations are outweighed by those I have named; and it appears to me that a reasonable and decent regard for that prudence which should characterize public men in entering upon experiments of this kind should lead us to submit to these inconveniences rather than expose ourselves—and when I say "ourselves," I mean the just cause that we maintain—to the hazard of unjust criticism, and attack and possibly overthrow, from venturing upon unnecessary experiments of this character. I am reminded, too, by my friend from New York, [Mr. CONKLING,] and correctly, that this is the same amendment in substance (although a little something else was coupled with the other) as the one which we have voted upon and rejected by so large a majority.

Mr. YATES. Mr. President, I am in favor of this amendment. I am in favor of it because the rejection of it would, I think, subject us to the imputation of disfranchising a large portion of our fellow-citizens in the South who are as much entitled to hold office as anybody else. The question of power has nothing whatever to do with the decision of this question. As has been well remarked by the Senator from Massachusetts, we have no authority to pass this bill if we admit that these offices exist, if we admit that there are in each of these States the offices of Governor and secretary of state, circuit judges, &c. If we admit that these offices exist there, then, in the language of the Attorney General, a government having such offices is a government. The whole bill goes upon the assumption that there is no civil government there. This bill says that whatever government is there shall be subordinate to the military power. If we treat these as legal offices, then the Attorney General may, in the veto of the President to this bill, embody the argument of the honorable Senator from New York as a good objection, and a good reason for vetoing the bill; because if these are legal offices, and if we treat them as valid offices, then the clause of the Constitution quoted by him is clear that the President and not Congress shall have the power of appointing persons to hold these offices. But the bill goes upon a different assumption, that these are usurped governments; that they are governments put up in place of the loyal governments which existed before the rebellion commenced.

If I am right in this case, we have a simple duty to perform. These are provisional governments, not legal governments. Somebody has been appointed to perform the duties of the office of Governor. Why? Because he is Governor? No. Congress cannot appoint a Governor. He is appointed simply to perform temporarily the duties of the office of Governor. He is the mere agent of Congress, or at least of the persons appointed by Congress to discharge those duties. Therefore the clause of the Constitution which is relied upon by the honorable Senator from New York is no objection, and can be no objection whatever to the appointment of civilians to discharge the duties of these offices.

Sir, I am for employing the right men to do the right thing. When we wish to do a military act, when we wish to fight battles, when we wish to carry our banner over the field of



contest in war, or to do any other military duty I want a military man to do it; but when the duties of civil offices are to be discharged, I want any man who is competent, whether he be a civilian or a military man. All over the South there are loyal men, men who have been true to the Government, civilians of great distinction, men who are fully equal to these duties, as has been stated by the honorable Senator from Massachusetts. I want such men appointed to discharge them. If we treat these positions as offices, as I understand the honorable Senator from Wisconsin to treat them, then the objection of the Senator from New York is good and valid; but we do not so treat them. All our legislation is upon the assumption that there are no offices there according to law; that there is no civil government there until Congress by its sovereign power shall establish civil government.

For this reason I shall vote for this amendment which authorizes the military commanders to appoint men, whether they be civilians or military officers or soldiers, to perform the duties which we style as the offices of Governor and the other offices which have been assumed and which are mere assumptions on the part of those who hold them. They have no right to these offices; they never have acquired that right, and they never will acquire it until Congress has passed a bill which will enable them to hold and exercise the duties of these offices.

Mr. WILSON. Mr. President, it seems to me that the position taken by the Senator from Vermont, [Mr. EDMUNDS,] if acted upon by Congress, will plainly say to the country that General Pope in removing the mayor of Mobile and appointing Mr. Horton, and that General Sheridan in removing Governor Wells and appointing Mr. Flanders, and in removing Mayor Monroe and appointing Mr. Heath, acted without authority, exercised a power they did not possess, and a power that we decline to authorize them to exercise hereafter. The Senator says that he shrinks from inviting a contest, that there has been opposition to our military bills, that they have been denounced as arbitrary. I know they have been, and they are stronger than any political organization in this country to-day. There never was so much liberty in those ten States as to-day, never so much protection for life and property. Take all classes of the people there, and they are better protected in life and property under our military bills than they ever were before.

I do not fear any opposition to those bills in any part of our country; but I do desire to encourage men in these ten States who are fighting the battle of unity, liberty, and justice. I want them to feel that we have confidence in them, that if there are places to be filled they are worthy of filling those places. There can be no doubt, there is no doubt, that men who have no sympathy with the acts which we have passed and with the policy of the Government are not only wielding power, but wielding mighty and potent political, moral, and social influence in those States. The truth is that the people of that section of the country have a great respect for power and a great regard for social position; and it has come to pass that rebels are in power basking in the sunshine under the Government of the country, ruling those States, administering law in the courts of justice there, lords of the ascendant, and the Union men, proscribed by the majority, are under their feet, looked down upon with contempt as a second class of men, a class of men that are not fit to administer the governments of those States; and it is a common expression there that the white men who are maintaining and battling for our cause are "mean white men." You hear it said there that the only friends of our policy are the negroes and the mean white men. Now, sir, I say that some of the best men of this country are there, men of principle, of personal character, and of capacity. Most of them are not

men who have had experience in public affairs; but, thank God, by the operation of these bills they are to have experience in public affairs in a few months any way; for I believe firmly to-day as I did when we passed the military bills that three fourths of those States will go into the hands of the truly loyal men of the country who support the policy of the Government; and I want so far as I can do it to encourage them, to help them, to strengthen them in the great work in which they are engaged; and I really did not suppose there could be a shadow of question about our power over the subject being full, ample, complete; and the House of Representatives by a vote of 119 to 81, has just passed a bill that contains that provision.

Mr. EDMUNDS. I am sorry to hear my friend from Massachusetts resort to such an argument as that in the Senate of the United States.

Mr. WILSON. What do you mean; the reference to the action of the House?

Mr. EDMUNDS. That the House of Representatives by a certain vote have decided that this thing ought to go in and that it is lawful and proper to have it in.

Mr. WILSON. I said they had passed a bill that covered this principle.

Mr. EDMUNDS. Very well; they have passed a bill which covers that principle. My friend entirely evaded going into any discussion of the question of public law and constitutional right that I suggested to him, but has treated us to a dissertation as to the loyalty of certain men down there, and their griefs at not being in office, and their just deserts to have office, all of which I entirely agree to. We did not leave the bill, in reporting it, in this form for the purpose of excluding the friends of the Senator from Massachusetts and myself, down there, from office. We want them to have office. My friend ought to understand it perfectly well. The question, therefore, is not the one that he debated until he told us what the House had voted. I repeat, as I said before, that the Judiciary Committee are as anxious as he can be to strengthen the hands of the loyalists and disarm the hands of the rebels there; but the Judiciary Committee differ from him in their desire to take the most lawful and therefore the most effectual means to accomplish the end. It is perfectly useless in this age of the world for a legislative body to attempt to jump at conclusions. You cannot run a steam engine on moral principles; you are obliged to resort to mechanical and natural laws. You cannot legislate for a military government upon any other principle of public law than those principles that have from time immemorial among all civilized and constitutional governments governed the administration of the military establishment of the country. Does my friend from Massachusetts mean to say—and I want him to listen to me—that if General Sheridan should organize a commission of civilians, or one civilian, to take the place of any judge under our military government in Louisiana, and should try a man and put him in prison, that would be a lawful imprisonment? Was it ever heard of, I will ask my friend, the chairman of the Military Committee, whose reading upon this subject is more extensive than mine, I know; was it ever heard of that a military commission that governs a country or some part of it in time of war or in a time succeeding war was ever organized out of civilians? If so, I should be glad to know it. And if you cannot make up a military commission out of civilians to try and dispose of the rights of persons and property, can your military commander appoint one civilian to do it?

Mr. DRAKE. Will the honorable Senator from Vermont allow me to ask him a question there?

Mr. EDMUNDS. Certainly.

Mr. DRAKE. What is to prevent the Congress of the United States from authorizing that thing to be done? Where is the higher

law that is to prevent these bodies that wield the whole civil and military power of this Government from authorizing that thing to be done?

Mr. EDMUNDS. I am very glad to have my friend from Missouri ask the question. I have no doubt that he himself is conscious of the proper answer to it; but lest he should not be, or lest it should not be in the minds of some others, I will answer it with pleasure. I wish to inform my friend from Missouri, then, answering the question in the spirit in which he has asked it, as if he really desired to know, and did not know, that whenever we govern by military power the Army of the United States is a constitutional Army nevertheless; it has its commander-in-chief whether it is encamped upon the plains of Mexico or South Carolina or is in New York harbor. Although municipal or constitutional law is generally said to be territorialized, so far as the Army of the country goes, wherever it goes its Commander-in-Chief goes as its constitutional head; the President of the United States and the Constitution therefore follows the Army wherever the military government of the country carries that Army.

Mr. DRAKE. Will the honorable Senator be so kind as to point to that clause of the Constitution which limits the military power of the Government within circumscribed boundaries as against the enemies of the country?

Mr. EDMUNDS. Yes, I will do that with pleasure. The Constitution of the country, I will again inform my friend, as I was going on to say, governs the Army of the United States, regulates its administration through Congress in providing rules and regulation for it wherever that Army may be, and it restricts most carefully the exercise of the military power beyond certain limits; and when it speaks of the exercise of military power—I am not using its language, but the scope and purpose of it—when it allows the military power, the power to make war, the power to suppress insurrection and rebellion, to be brought into play, it is to be construed, as my friend well knows, by the same principles of public law and the civilized understanding of mankind as if they were incorporated into it. That is what I have to say. Therefore I hold, in answer to my friend, that the Army of the United States under any express power given to it by Congress, or under the Constitution, or without the Constitution under public law, is not an irresponsible body that may do whatever its will or the will of its commander is, or the will of the body that created it may be, to take this man's life or that man's property; but that it is governed by as fixed, as regular, and as absolute a limit to its authority and to its jurisdiction as any other function of government is; and among those limits I undertake to say, without the fear of contradiction by my friend here, [Mr. DRAKE,] or by my friend there, [Mr. WILSON,] that it was never heard of, and I trust it never will be, that where the Army governs, life or liberty is put in peril, either rightfully or wrongfully, by any commission except that which the military organizes from itself. It would be an outrage upon the nineteenth century were it otherwise.

Now, we have an Army. We have the power; we govern there by the Army; and is it to be said that we are driven to the poor expedient of departing from this regular and well-understood military power that we possess, to depute to an officer of the Army the power to pick up from the streets any patriot, good or bad—and no matter how good, because I do not intend to speak with disrespect to these southern patriots; I believe in them as much as anybody—persons to administer for a few months the functions that we are to exercise, in order to reach over the southern aristocracy?

Mr. MORRILL, of Maine. Will the Senator allow me to ask him a question?

Mr. EDMUNDS. Certainly.

Mr. MORRILL, of Maine. I ask the Senator whether the government here provided is not a mixed government now; whether the government proposed by this bill and contem-

plated by it is not mixed, part military and part civil.

Mr. EDMUNDS. In my judgment it is not.

Mr. MORRILL, of Maine. I will ask the Senator, then, whether, while he provides supreme military power, he does not authorize the military power to employ the civil?

Mr. EDMUNDS. In a certain sense I do.

Mr. MORRILL, of Maine. Well, sir, if you authorize the military to employ the civil, and give him power to remove that civil, may he not substitute the civil, may he not replace the civil again?

Mr. EDMUNDS. That does not follow at all, and for this reason: we do not create a civil government there by these bills. If we were to do so I should be for creating quite a different one from what exists there now, based upon quite a different constituency. I mean an active constituency who are to elect rulers. I should exclude a good many more rebels than are excluded now, and I should, of course, include a great many more loyal men than ever had any voice in electing any of the officers who are holding places in the South at this time. But Congress by these reconstruction acts takes the case as it finds it. It finds there set up by the President, in one form or another, a government *de facto*, a body of men who administer certain laws. I am not going into a dissertation to decide what the precise technical name of that is; I am speaking of the fact. Within those geographical limits that we call States there is found a body of men who are administering certain rules and principles that are called laws. Now, we just tolerate that state of things; we allow it to go on. We are not responsible for it; but we say just as far as that existing state of things interferes in the least degree, in the judgment of the military officer in command, with the proper administration of military rule there; that is to say, with an administration which shall secure to every man life, liberty, and the pursuit of happiness, just so far it shall be innocuous, and to that end the offices shall have power to depose this existing government by whatever name you call it.

Now, the power to depose an existing government that has no legal authority in the affirmative sense to uphold it, is quite different from the power of substituting in that government one officer for another. In the one instance you legalize and perpetuate and perfect a government that had no legal authority for it, and in the other you merely set aside an existing state of things which interferes with your paramount military will. It appears to me that the distinction is quite obvious.

Mr. CONKLING. Will my friend allow me one moment? If he will I should like to ask a question of the Senator from Maine who interrogated him. I recollect that some time ago a general of the Army, who was afterward a candidate for the Presidency, deposed, set aside, and arrested the members of the Legislature of Maryland. Half the country applauded that act, perhaps more. I should like to know from the Senator from Maine whether in his judgment the party in the country—that portion of the mind of the country which approved that act of General McClellan, by virtue of their approval—signified fairly, or whether the argument went to the extent of signifying that had General McClellan gone further and created another legislature, appointed by military order a succeeding Legislature of Maryland, that, too, would have been within the scope of his duties and equally meritorious? The argument seems to me to be that if a military man has a right to brush aside an obstruction, then he has a right to appoint, whether for life or term of years as the case may be, an officer in the place of him whom he deposes and removes. I think the case I have stated is sufficiently parallel to justify me in asking the question.

Mr. MORRILL, of Maine. I think they are as wide apart as it is possible to conceive. In the case of Maryland it had a government *de*

*facto* and *de jure*. Nobody doubted that. The military general in command arrested men who were trying to destroy it. Maryland had not rebelled. Up to that hour, whatever might be said of individuals, she was loyal to the Constitution and maintained her integrity. There was a Legislature that undertook to take her out of the Union—to make war. The general in command arrested them. That is that case. Here is a case where the State governments are overthrown.

Mr. CONKLING. But the question is whether McClellan had power to appoint another Legislature?

Mr. MORRILL, of Maine. I am coming to that: I am trying to lay the foundations for that answer. [Laughter.] Here is a case where the State governments are gone, absolutely overthrown, and we put on record here that there is no State government at all. There is no office in all the South, and of course there is no officer; no office and no function. The cases are not parallel at all; and if the cases are not parallel, the question of authority in the two cannot be the same, I submit, by any means. In the last case there is no authority which can be interposed; in the first there was. In the first it was necessary for you to overthrow authority in order to reach the point; but in the case we are dealing with there is no authority whatever; I mean on our theory. On the theory of the Attorney General there is. On the theory that there are offices down there having functions, it is true that the case my honorable friend puts would be parallel; but on our theory that there are no State governments at all there, and no officers and no offices, I submit there is no parallel, and of course the question of authority in this case cannot be any possibility arise.

Mr. YATES. I ask the Senator whether he does not think General McClellan had as much power to appoint a legislature of civilians as of officers and soldiers?

Mr. MORRILL, of Maine. Doubtless if we were to go into that question, I should agree with the Senator on that point. But, sir, I have not felt at all embarrassed by the question of authority in this case from the point of view we have been legislating. If we are to legislate upon the ground that these State governments are absolutely overthrown and there is no civil authority, then it appears to me that the authority we exercise here may be purely military, or it may be as the bill proposes and beyond question is mixed, military and civil. Now, if I understand the theory of this bill, and if I understand the fact, the legal position of the bill, it is that while you declare that the military government which you set up is supreme, you authorize that military government to exercise its functions through the employment of civil agents. That is so. Well, sir, if you can authorize the military to employ civil agents that happen to be in power, can you not authorize the military to remove those civil agents and appoint others? I see no difficulty at all in doing that. It seems to me that is the logic, and that is the necessity of the case on that theory. But I am sorry to say that the bill does not quite maintain that theory. I think the second section of this bill speaks about officers, officers performing functions.

Mr. EDMUNDS. Or persons exercising those duties.

Mr. MORRILL, of Maine. Yes, it speaks of "officers."

Mr. EDMUNDS. Will my friend allow me to explain? I admit *prima facie* the force of that suggestion from those words alone, but I venture to say to my friend confidentially, so that it will not get to the ear of the Attorney General, that we put in all the words in the vocabulary, so that it could not be set up in a special demurrer that we had not described the individuals. I hope, then, my friend will not make points against us on that ground.

Mr. MORRILL, of Maine. I did not question the motives or the wisdom of the bill;

and I was not disposed to quarrel with it, nor am I now. I propose to vote for it as it is, but upon the interpretation, not that there are officers there, but that there are persons there exercising certain duties, and calling them persons, I have no difficulty at all in voting for the bill; and I have no difficulty in voting for the amendments proposed by the honorable Senator from Massachusetts as a question of authority. As a question of expediency whether it is worth while at this late period to sweep all these persons who are performing these functions out of their places and to put others in, that is a question about which I can conceive that gentlemen may well differ.

Mr. HENDERSON. I move that the Senate do now adjourn.

Mr. ANTHONY. I ask the Senator to waive that to allow me to make a motion that when the Senate adjourns it be to meet to-morrow at eleven o'clock. ["Oh, no!"]

Mr. HENDERSON. No; let us adjourn now. You can bring that up to-morrow if you choose. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 9, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. WOOD, the reading of the Journal of yesterday was dispensed with.

### RECONSTRUCTION.

The House then resumed the consideration of bill of the House (No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

The SPEAKER. On this bill the gentleman from New York [Mr. Brooks] is entitled to the floor.

Mr. BROOKS. I have no desire to address the House, and I do not flatter myself that anything which anybody can say will change anybody's vote; but it appears to me that, as the minority member of the committee reporting the bill, I ought to say something at least in the way of protest. But before I proceed further I crave the protection of the Speaker to enforce the rules of debate, so as to save me from those points of interrogation or exclamation that so often crop out or pop out from gentlemen skilled in dialectics, who interject speeches within speeches, and thus destroy all unity of argument or thought. I crave this also because of the very serious subject-matter before us, because of the brief time allowed us, (only an hour and a half,) and I need all of my little portion of that time without rejoinder or surrejoinder, rebuttal or surrebuttal.

The SPEAKER. The gentleman from New York gives notice that he will not be interrupted in his remarks, and he will proceed.

Mr. BROOKS. Twenty-four years ago there assembled in Faneuil Hall, Boston, a little convention of men, one of whom has recently received the thanks of the Duke of Argyle and other noble lords of England for the destructions they have perpetrated upon the Constitution and the institutions of the United States—thanks naturally enough flowing from an oligarchy who see that success with us is death to them, and thanks, therefore, easily to be accounted for from such a high-born, aristocratic quarter. This little Faneuil Hall convention then founded a great party, which, spreading beyond Massachusetts, embraced at last both the middle and the western States; and the platform upon which they established their party was the following:

"Resolved, That the Constitution of the United States is a covenant with death and an agreement with hell, which ought to be immediately annulled."

Our Peter the Hermit, the great fanatical Crusader, having accomplished his object—the forcible emancipation of four million slaves

at a cost of at least four billion dollars to his country, the legacy of a most oppressive and apparently inextinguishable debt, which not only grinds the laborer to the dust, but in every way cripples all working capital—having witnessed the slaughter of half a million of his countrymen, and heard the cries of widows and orphans almost innumerable, naturally enough deemed his mission accomplished, and went over to England to be *fêted*, there to repose among dukes and duchesses, grateful to him for his great work of destruction. The party, however, which he then and there formed in Faneuil Hall, we now see entering upon a new mission, into fresh crusades, not now for the emancipation of four million blacks, but for the enslavement of eight million whites—men of their own kith, kin, and color, and physical organization. And we have here in the bill before us, in substance soon to become a law, a bill of destruction, which will entitle these new crusaders, if they ever go over the sea, to like honor from fresh dukes of Argyle, or other noble lords of England. The work to be accomplished by this bill is the complete annulment of the Federal Constitution, that covenant with death, that agreement with hell, the complete annulment, the end of what Garrison began twenty-four years ago in Boston.

What is first worthy of note in the bill before us is, that in a time of profound peace, when all war has been over, two years and more, save from the yell of the Sioux or Cheyenne, we have introduced a martial bill, full of martial pains and penalties, as if, *flagrante bello*, we were amid the very roar of cannon, or in the clash of squadrons of infantry and cavalry. Peace everywhere, save on the prairies or plains, blesses our great country. But now, long after the Temple of Janus is closed, we have martial law, military commissions, the destruction of courts and of all civil law proposed. The only other war existing is one of those hitherto peaceful wars between the Democratic and some other ever opposing party, when now the anti-Democratic party, in order to keep itself in office, and to keep us out, overrides, obliterates, tramples under foot ten States of our Union and the twelve million people that dwell in them.

That such a bill, which I shall proceed to analyze, has never before been contemplated by the leaders of the majority party in this House, nay, not until this late period, when it sees party power constitutionally departing, is not only evident from its hitherto recorded history in the journals of Congress, but clear also from the decision of their own Chief Justice, who, prior to these military bills, in the Indiana military commission case, though of the Republican party, expressed his judicial condemnation of all such military bills in time of peace. "We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists," said Chief Justice Chase from the minority in the Indiana military tribunal case. "Where peace exists the laws of peace must prevail." "Where peace exists," expressly says the Chief Justice, "the laws of peace must prevail." But here, in the time of a profound peace, there is embodied in this bill, in the most objectionable form, almost every article of the laws of war. Here, too, is a bill which subverts from top to bottom, in its very foundations, the Constitution of the United States, and which, amid its many iniquities, one of the least though, violates that guarantee of the Constitution, (article four, section four,) that secures to every State of this Union a republican form of government, for no republican form of government, nor the shadow of one, can exist under the outrageous provisions of this bill.

This bill itself in its grand outlines is a Pentarchy, a bill creating five monarchs, a bill subverting Magna Charta—a bill ignoring the Declaration of Independence and the Constitution of the United States, and over ten States of this Union installing the pentarchy, or five

monarchies more fearful, more odious, more damnable even than any that reign over Europe or Asia or even Africa. Let us analyze this bill, then, and see whether I exaggerate its character. What is its first section? It subverts the governments in four of the old States of this Union and in six other States not of the original thirteen. It goes further than the two bills which have preceded it, making worse what seemed as bad as possible before, in not only declaring those State governments "illegal," but by going further and declaring them "void." Hitherto we have heard of "dead States"—an idea first started, I think, in the Senate of the United States—States whose corpses only were existing. But here for the first time it is proposed to put into the form of law the solemn declaration that the governments of ten States are void; that those States are dead, their governments not only illegal, but void; and these ten States of our Union, four of them of the original thirteen that formed the Constitution of the United States.

Mr. Speaker, in framing this bill no regard has been paid to the history of the past, not even to a sentiment or a recollection. When the name of Greece or Rome or any classic land or classic institution is tingled in our ears, whenever we read of them in history, there is associated with the Parthenon, or with Marathon, or with the Pantheon, the Capitoline hill, or Tarpeian rock, something that touches the heart and makes the blood run warmly through all our veins. But here is a State across the Potomac whose history is ours, that did more for the creation of this Government than any other State whatever; a State more classic and glorious in its history than the Parthenon of Greece or the Pantheon of Rome; a State struck out of existence by the first section of this infamous bill. Sir, I have been upon the plains of Marathon and by the passes of Thermopylae, and my heart has warmed as I reflected upon the history of the noble Greeks that there saved their native land; but never, never, amid all such classic scenes have I ever felt the enthusiasm which inspired me upon the rising grounds of Mount Vernon, before the tomb of Washington, or upon the plains of Montpelier, or upon the heights of Monticello, or when I have fallen upon my knees before the tomb of Marshall. In no part of the earth wherever an American may go, in no place where history makes a record of life, is there ground so classic and so glorious as that within a fifty miles radius around the city of Richmond, in Virginia. There, within that radius, was born the father of his country; there flashed out the fiery and electric eloquence of Patrick Henry; there was born the President of the First Congress; there the homes of the Randolphs and Harrisons; there the illustrious Jefferson and Madison and Monroe; there was born our Winfield Scott, and there have been nursed into existence some of the most illustrious commanders of our own Federal Army. And yet this State whose record is thus bright all over in history, a deformed Congress, a mutilated Congress, a Congress born from the blood and genius of Virginia, strikes out from the Union that glorious star, the star of Virginia, a lost pleiad in our own history; a pleiad that will return back with some returning orb to shine brighter and more beautifully in the constellation of our country, brighter than Orion or the Pleiades ever shone in the astronomical history of the geographer.

South Carolina, too, is struck out, the land of Rutledge and of Pinckney, and of Marion and of Sumter; Georgia, also, that gave the country the two great States of Mississippi and Alabama. Sir, whatever may have been the errors of those States of the original Thirteen, whatever wrongs in the misjudgment of the Constitution they may have inflicted upon the country, whatever crimes they may have committed, in the warmth of your hearts, if you were but men in your feelings and sympathies, you would feel now as you feel for struggling Greece or for the Cretans in their contest with the Turks, who

are not inflicting upon those people barbarities in principle greater than those you propose to inflict in the act before you.

Now, sir, two of these ten States, Louisiana and Arkansas, obliterated by your bill, are part of the great Louisiana purchase. The faith of treaties in the most solemn of obligations is violated here in the act which you propose to pass into a law by depriving them of all protection for their liberty and property. Arkansas you will remember, or you all know, is a part of the Louisiana purchase. Arkansas and Louisiana were parts of that territory of Louisiana which Mr. Jefferson purchased from France, and which under the treaty of that purchase, (1803,) article three, has the following solemn compact:

"The inhabitants of the ceded territory shall be incorporated into the Union of the United States and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the enjoyment of their liberty, property, and the religion which they profess."

This bill violates that treaty, that solemn treaty; and France, with all her power, will have the right, the legal right, if this bill become a law, to appear before us and to claim that all the civil institutions, all the rights—the rights of liberty and property—which we have shall also be theirs as citizens of the United States. We are solemnly pledged to a foreign Power to govern the people of these States according to the Federal Constitution, not by military commissions nor by martial laws; and hence what we are doing is not only in violation of high moral principles, but in violation of a most solemn treaty we have made with France for the purchase of Louisiana.

The last words of the first section of this bill are as follows:

And that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the authority of Congress.

No broader words can be used in a grant of power. "Subject in all respects to the military commanders." If human genius had exerted its greatest ingenuity to devise to rob the people of their rights and privileges, to degrade and dishonor a people, to trample twelve million people under foot, it would have used these very words: "subject in all respects to the military commanders."

In the second section, Mr. Speaker, these military commanders are given the power—

To remove or suspend from office any municipal or State officer or person exercising authority under or by virtue of any so-called State government existing in his district; and the said officer so assigned to command as aforesaid is hereby empowered to appoint another person in the stead of the officer or person so removed, if he shall deem proper so to do; and whenever he may deem it necessary as aforesaid to prohibit, suspend, or set aside any act or proceeding of any such State or municipal government, or any act or thing done under or by virtue of its authority; and all acts heretofore done by any such officer in accordance herewith shall be deemed valid.

All acts heretofore done shall be valid! Here are embodied the most violent principles of legislation, against which we have attempted to be guarded in the Constitution of the United States. It is a law to be not only "retrospective," which might in some cases be justified, but a law "retroactive," which is unjustifiable, and a law "*ex post facto*," which is in defiance of the Constitution of the United States. It affirms and legalizes all acts done heretofore by any such officers. It is declared that they shall be deemed valid.

Now, have the members of this House given any attention to what we are legalizing, what it is that is to be deemed valid? Before we enter into that species of legislation I would ask the honorable gentlemen on the other side if they know how many military laws or edicts they render valid? I beg them before they proceed to the passage of this act to have before them some military "Little & Brown" codification of the laws which they are to render valid. Sir, I have read the Pandects of Justinian, and I revere those Pandects as a

monument of human wisdom. But here are the edicts of Sickles and Sheridan, and no man knows how many there are, and they are all declared to be valid. Whoever before heard of such blind, such fatal legislation? All that Sickles has done, all that Sheridan has done, is "valid;" and yet I defy any Republican member on this floor to tell me the twentieth part of the things done and now proposed to be enacted into law.

The genius of Sickles has been prolific of edicts. I hold in my hand a batch of them almost as voluminous as the Pandects of Justinian. He institutes edicts for the collection of debts, modifies the existing laws for the enforcement of judgments, utters decrees for the payment of money, sets aside proceedings instituted in the courts, prohibits in certain cases the right to bring suits, enjoins proceedings on execution for the term of twelve months, giving new liens in certain cases, establishes homestead exemptions, declares what shall be a legal tender, abolishes in certain cases the remedy by foreign attachment, abolishing bail as heretofore authorized in cases *ex contractu*, but not in other cases known as actions *ex delicto*, &c., &c. General order No. 25 reads as follows:

"1. The distillation or manufacture of whisky or other spirits from grain is prohibited in this military district. Any person so engaged or employed will be deemed guilty of a misdemeanor. The possession of a still or other apparatus for this purpose will be considered presumptive evidence of a violation of the revenue laws, and the party or parties using the same, or on whose premises, or in whose possession the same may be found, will be arrested and brought to trial before a military tribunal composed of the commanding officer of the post and two officers of the Army next in rank on duty within the territorial limits of the post. If the exigencies of the service do not permit the detail of other officers, that fact will be duly certified, and the post commander will hear and determine the case."

And here all these extraordinary edicts of Sickles relating to property and individual rights are declared by the final lines of the third section to be valid and to be as laws of the United States under the Sickles monarchy of the Carolinas.

Sir, I know not how many military orders have been issued in all, from the five monarchies, but, from the best information I can get, on computation I can make them some one thousand in all. And here, groping in the dark, without knowing what we do, we pronounce all these edicts or orders, retrospective, retroactive, or *ex post facto*; we pronounce them all to be legal or valid law.

The third section of this bill directs the registration I know not by how many boards in the southern States, but I presume the computation is small when I say that they must number some two thousand in all, for they have already cost \$500,000, and a sum as much more is necessary in order to keep them up. These boards of registration are made up of white, black, and mulatto, the black predominating in many cases, or the mulatto balancing the board, so that there shall be an equal number, half white, half black. These boards thus created are forbidden to regard the oath which the citizen takes, and at their pleasure they may strike from the list the name of any one already registered who in their judgment improperly took the oath. And record evidence is not to be required, but parole evidence shall be sufficient. The evidence of any negro or mulatto against any white citizen will deprive him of his right to vote. In all these doings these two thousand boards of registry, white, black and yellow, are "not to be bound or governed in their action by any opinion of any officer of the United States Government;" for such are the words of the act.

What a government and registration you are thus creating in the southern States! Over two thousand boards with different laws, different expositions of the laws, different constructions to be given to them throughout, from the Potomac to the Rio Grande; and however diverse or adverse shall be that construction, no opinion of any officer of the Government is binding upon them, and there is to be no uniformity of construction. Why, one of the

very blessings of Government is uniformity of action and of law; but here you enact that there shall be two thousand different laws of registration, with no Federal officer or any other power to create uniformity. The white man is given up to the negro, where negro registers predominate, or *vice versa*, if you please, and a premium is thus created to start a war of races.

The fourth section of this act not only annihilates all State courts—what you have done before—but it goes yet further, takes one new step, and, for the first time, strikes at the Government of the United States by declaring—

That no civil court of the United States or of any State shall have jurisdiction of any proceeding civil or criminal, against any such district commander, or any officer or person acting by his authority for or on account of the discharge of the duties imposed upon him by this act.

At first you were but bold enough to strike out of existence the State courts; but now you are bold enough to strike out of existence the courts of the United States—to destroy them at one fell blow. Your ban is general against courts and judges in any form. You seem to have a horror of the wig or the gown, and to trust only in epaulettes as fit governments for the people of ten States.

The fifth section declares—

That no district commanders shall be relieved from the command assigned to him under the aforesaid acts, unless the Senate shall have first advised and consented thereto, or unless by sentence of court-martial he shall be cashiered or dismissed from the Army, or unless he shall consent to be so relieved.

Sir, I know not what the President of the United States may do; I know not what he may feel it his duty to do; I know that he is the executive officer of the United States, pronounced at one time to be the Government of the United States, against whom it was disloyal to utter even a word of censure. I know that he was the great power, the Brobdingnag of this Government. But he has suffered himself to be bound by a set of miserable Lilliputians, and there in the cords with which they have bound him, he struggles, but now struggles in vain to free himself. Thus having bound him, you now propose to revolute the Constitution (article two, section two,) and to take from him the command of the Army of the United States. You forbid him to exercise his constitutional authority to post his generals where he thinks the public interest demands. Sir, if I were President of the United States, before I put a veto on this high-handed act, I would send Sheridan to govern the States of Massachusetts and Maine, to make or unmake their Governors, their judges, their police, what their Representatives seem to rejoice in when practiced upon others; while I would send Sickles to Walrusia to educate the Esquimaux, or to be educated by them in the principles of civil and constitutional liberty. But you tell me you would then impeach the President. Sir, there are worse conditions than being impeached by a mutilated Congress of these United States, and one of them is being used to destroy the Constitution and Government of these United States. I tell the President the only chance he now has of being reelected President of the United States is in being impeached by a Rump House, and turned out by a Rump Senate, and the Presiding Officer of that Senate being forced into his place. Sir, if the revolution ends thus, the historical end of all such revolutions as we are passing through, and if we make President that gentleman who with Senators has been "swinging round the circle" in Nebraska, Missouri, and Kansas, there making, as reported, agrarian speeches, *a la* Prudhomme of the French Revolution, then, when we come to his divisions of property, beginning here in this House, say with the Representative from Boston, or the Representative from the Taunton district, and ending with him from Lynn, then, I say, such will be the common revelry that in the intoxication of our joy we may reelect the present President of the United States. By the Constitution, the higher law, the supreme law, the President is made commander of the Army and Navy; and he is faithless

to that Constitution if in the apprehension of impeachment he suffers that power to depart from him, as you propose in the fifth section of this bill.

And now, as if this bill was not bad enough, fierce enough, gentlemen after gentlemen propose to make it fiercer, to add to its ferocities. The honorable gentleman from Ohio [Mr. ASHLEY] amends the bill by ordering all State, county, and municipal officers to take the test oath, in order to concentrate all local representation in the military order. Another honorable gentleman from Iowa, [Mr. WILSON,] from whom I had expected better things, proposes to punish any person who attempts to prevent or obstruct the execution of these acts by a fine of \$5,000, to be levied by the military commander, or imprisonment of one year, or both the \$5,000 fine and jail, as the military commander may will. Another gentleman, from Missouri, [Mr. BENJAMIN,] proposes to be less merciful than his Maker, which is to allow no presidential pardon to avail an unhappy southerner, but to keep him forever excluded from his citizenship—his right to vote. There seems to be a competition among gentlemen on the other side to outbid each other in the arts of cruelty and all the devices of degradation and punishment; and we are indebted to the tender mercies, it seems, of the gentleman from Pennsylvania [Mr. STEVENS] to save us from another Draconian code.

Mr. Speaker, I was about to be so much out of order as to quote the Constitution of the United States, and to show this House that this bill could not be passed by men who have sworn here to support that Constitution; but I forbear. I know there is but little, very little respect for that instrument here, and some on this floor have gone so far as to pronounce it "played out." There is, however, some respect felt in this House—more especially by lawyers here—for what are known as Magna Charta, the petition of rights, the bill of rights, extorted by our British ancestors from their kings. Hence I propose to go back to those great eras of British liberty, in order, if possible, to arouse American lawyers here to the noble defense of human rights, which British lawyers have seldom or never failed to make. In the most disastrous days of British history, when all liberty seemed to be cloven down, the British bar ever sent forth some brilliant men to uphold Magna Charta and the bills of rights, while I regret to say, the American bar, more especially the Republican portion of the American bar, have failed us in the hour of trial. I beg the Republican lawyers, then, in this House to hear me read a chapter from Magna Charta, which was extorted from King John in the year 1215 by our semi-barbarous ancestors. It will be well understood, although it is in monkish Latin, not in the classic style of Horace or Tacitus or Sallust:

"Nullus liber homo capiatur, vel imprisonetur, aut dissolvatur, aut libero tenemento suis, vel libertatibus, vel liberis consuetudinibus suis, vel utlagetur, aut exiliatur, aut aliquo modo destruat, nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum, vel per legem terræ. Nulli vendemus, nulli negabimus, aut differemus rectum vel iustitiam."

Which is thus translated:

"No freeman shall be taken, or imprisoned, or seized of his freehold or his liberties or free customs, or be outlawed or banished, or in any way destroyed; and we will not pass upon him, nor condemn him but by the lawful judgment of his peers, or by the laws of the land. We will sell (referring to justice and its administration) to no man, and we will not deny nor defer either right or justice to any man."

This was as long ago as 1215. The *confirmatio chartarum* in the reign of King Edward was in 1297; and in the reign of King Henry III, there was a like declaration. The right of trial by jury, by a jury of his peers, was guaranteed to every British-born subject in the barbarous ages. But here, in this Congress, in spite of the Declaration of Independence, here, in this mournful year 1867, twelve millions of human beings, white and black, are denied all trial before their peers, all courts or processes of law; and we propose to enact a measure more barbarous in principle, more



indefensible than any of the violent and extraordinary acts of King John, from whom the British barons extorted this charter.

Sir, if there is no respect paid to the barbarous Latin of this declaration extorted from King John by the barons at Runnymede, I trust some respect will be paid to the illustrious spirits of our own history who in the last generation, in all the States of this Union, copied from Magna Charta and embodied in their various State constitutions similar principles of human liberty.

North Carolina is one of the States that you propose to strike out of this Union—North Carolina, where originated the Declaration of Independence—the Mecklenburg declaration, which was adopted some time before Mr. Jefferson had drafted the Declaration put forth by the Continental Congress. The first declaration of the State of North Carolina contains these provisions:

"That all political power is vested in and derived from the people only.

"That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

"That no freeman shall be put to answer any criminal charge, but by indictment, presentment or impeachment.

"That no freeman shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court, as heretofore used.

"That no freeman ought to be taken, imprisoned, or dispossessed of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

"That the people have a right to bear arms for the defense of the State; and as standing armies in time of peace are dangerous to liberty they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power."

But North Carolina is a southern State. I call the attention of gentlemen, then, from Massachusetts to their own principles of liberty, their own declaration of rights:

"ART. I. All men are born free and equal, and have certain natural, essential, and inalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness."

"5. All power residing originally in the people, and being derived from them, those several magistrates and officers of government vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

"10. Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty and property, according to the standing laws."

"No part of the property of any individual can with justice be taken from him or applied to the public use without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent."

"12. No person shall be arrested, imprisoned or despoiled, or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers, or the law of the land.

"And the Legislature shall not make any law that shall subject any person to a capital or infamous punishment (excepting for the government of the Army and Navy) without trial by jury."

The charter of New Hampshire is fuller than this of these great principles of liberty. I have not time to read them. The charter of Vermont is even yet fuller than that of New Hampshire. In those days the New England people were faithful to liberty. They were never before as unfaithful to the liberty of their own white race as now to eight millions of their own skin, color, and organization.

Sir, the Declaration of Independence in numerous sections condemns in spirit and intent the whole principle of this bill, and I do not wonder that on the 4th of July last, the Republican party failed to celebrate it as heretofore, for this Declaration of Independence cannot be read now in a Republican assembly without making every Republican blush.

I know I am to be told that we have the power, as the South is a conquered people, to pass the bill; that the Constitution is abrogated there and that by the rights of conquest we can make this extraordinary law. Sir, the honorable gentleman from Pennsylvania, [Mr. STEVENS,] who introduced this bill, proposed at first only confiscation, but here is an enslave-

ment of twelve millions of human beings in this bill. First it abrogates all their rights of property. The liberty of the citizen is entirely in the hands of the military commanders. The life of every man is at the absolute disposal of one man, and that man the President of the United States. Tell me, oh, tell me not, then, of four million black people having been emancipated from chattel slavery when by this act you impose a cruel legal slavery in its most odious forms, without the right of property, liberty, or life, without any personal right, upon eight million white human beings, a worse than chattel slavery.

I deny, sir, that there is anything which justifies confiscation, or the passage of such an act under the right of conquest. I could read whole chapters from Grotius, or Vattel, or Puffendorf, and from Wheaton and Story and Kent, which condemn this bill. It is in utter defiance of natural, and national, and constitutional law, and I say to you now that may be concerned in it, many of you will live to repent of the tyranny here about to be perpetrated, as bygone tyrants have repented of like tyranny perpetrated upon their people.

I might cite the prize cases if I had time, and show that they condemn the principles of this bill. All history condemns it too. Rome was built up in utter defiance of the principles of this bill. Rome governed every country, not by conquest and subjugation such as you propose, but by assimilating the conquered subjects with Roman citizens, by giving them Roman rights and Roman privileges and Roman citizenship, while here are eight million white human beings whom you deprive of every right of an American citizen. Even the Tartars, when they conquered China, did not destroy the institutions of China, but assimilated their institutions with those of the conquered. And when Cyrus conquered the Assyrians of old, he respected their rights and privileges, and guaranteed to them all the liberties they possessed.

There is no parallel in history for this bill but that of the infamous conduct of the Duke of Alva, in Spain. Answer me not that he destroyed twenty thousand lives, for here you destroy what is more precious than life: the right of a man to his liberty, the sentiment that he is a man, that he is equal before other men. Why, sir, I had rather lose my life a thousand times than live under the government of these five monarchs as established by the infamous principles of this infamous bill. Our English ancestors, even Charles II, after the bloodiest of civil wars, gave peerages to Monk and Fleetwood and a mitre to Baxter, while you only give military tyrants to your people, and declare a total abnegation of their rights. Even Louis XVIII, though a Bourbon, made marshals and statesmen of Bonapartists, while you have exerted in this bill all of your ingenuity to deprive the white people of their right to vote. When Hungary was subjugated and overthrown the Emperor of Austria did not exert such tyrannical power over the Huns, for he gave them a constitution and he gave them a parliament, while you take away from the southern people their constitution and laws, and refuse them representation in the national legislature. The Duke of Wellington and Sir Robert Peel, two great Tories, were more liberal and merciful to the Irish people than you are to the people of the South. Although O'Connell was the instigator of riots in Ireland, the Duke of Wellington and his party did not refuse him a seat as a member of Parliament from the county of Clare, while you shut out the Kentucky delegation from seats here simply for the reason that they differ from you in politics, and for that and that alone.

Sir, I deprecate the passage of this bill in its effect upon the people of the southern country. Far better would it be for that land, from the Potomac to the Rio Grande, to be as it was one hundred and fifty years ago, a howling wilderness, than to be subjected to the amalgamation of races which you are proposing in this bill. Our country is now made up of

many different races, not only Caucasian, Mongolian, Indian, Chinese, and Japanese about to come here in the Pacific steamers by thousands, and at last the Esquimaux: but you have selected the least intelligent, the poorest informed, except the Esquimaux; you have selected the African to share with you copartnership in this Government, while your own wives and children, your minor boys are shut out from the right of suffrage. You have given to the negro equality and copartnership with the white man. Sir, it is impossible for these two races, in my judgment, ever to live together on terms of intimacy, amity, and friendship, as you propose in this bill. You have stored up and are yet storing up for them the elements of awful strife which will produce a perpetual conflict of races.

Sir, the negro Haytien is wiser than you. He allows no white man to own real estate on that island. The black Liberian is wiser than you. He allows no white man to share with him the government of that country. The experiment in Jamaica of a mingled government has broken down, and all free government there is absorbed by the British Parliament, which now through orders in council, disregarding both whites and blacks, exercises supreme power. Nowhere on earth has ever this mixed government succeeded.

One race is superior to another. God so ordained, and no fiat or authority of yours can bring down the Caucasian to the African, or bring up the African to the Caucasian. All efforts, all struggles will be in vain. And this is no new experiment. It has been tried throughout the whole of Spanish America. Juarez, a half Indian, now governor and ruler of Mexico, is just now showing there the barbaric character of this mingled Government of unnaturally associated races, while the numerous other Spanish-negro-Indian hybrid States there, are almost all of them in constant civil war, armies running and overrunning one another, with the blood of the white man and the blood of the negro both deteriorated by thus commingling, and yet here this rash, this fearful, this dreadful experiment! No, not an experiment, for experience has already shown that it never can succeed. You propose to mix and mingle the twelve millions of your countrymen in the southern States of the Union. You take the most ignorant, the most uneducated, the most brutish of the population and give them absolute control in boards of registration or through the ballot-box. It needs not the eye of prophecy, it needs no skill of divination to foretell what must be the effect of such a crime as this, for all history shows you what has been its effect and pronounces what it will be hereafter.

But, sir, I find that I must draw to a close, and allow me to say in doing so that I know just now you are here above public opinion, not only the public opinion of this country, but of the world. But there is an unwritten law, there is a law of God that embodies itself in public opinion, which hereafter will hold you responsible for the destruction of the institutions of your country. You may overthrow the Constitution, you may press the previous question upon us and allow us but half a day for the discussion of the great principles of this bill, but history, posterity, will do us justice. I have long been in public life, but this is none the proudest hour of that life, if I am never able to speak again, to remonstrate here in this House, and to make a record of this remonstrance against the outrageous, the infamous principles of this tyrannical military bill.

Mr. GARFIELD. I desire now to make a correction which I rose to make when the gentleman was speaking, not knowing of his request at the outset not to be interrupted. If I understood him right he stated that the Senator from Ohio [Mr. WADE] had recently, on his western tour, made a speech in which he avowed agrarian sentiments; and among other things advocated an equal division of property. If the gentleman so stated I wish to say that that Senator has utterly denied the expression of any such sentiment. I deem it due to the

Senator from my State that the misrepresentation should be corrected here and placed on record.

Mr. WOOD. Mr. Speaker, there are some propositions that it is almost impossible to discuss; there are some so palpable that an attempt at elucidation appears ridiculous; there are others so absurd that any attempt to prove by argument a negative appears preposterous. The legislation proposed partakes very much of this character. Besides, in the time allowed me by the limit of debate upon this question, I shall not attempt a discussion of the principles involved. I have not risen for any such purpose. I propose to offer to gentlemen on the other side, and especially to those gentlemen who have charge of this measure, some practical suggestions, not designed to be factious nor to excite them into greater hostility to the restoration of the Union, but to prevent if possible the further prolongation of reconstruction, and to produce a finality in regard to it, so that the people of the South may be satisfied that a bottom has been reached.

The bill before the House is by its title a bill supplementary to the acts of March 2 and March 23, 1867. By its provisions it is declaratory of the intention and scope of those acts. It is therefore part and parcel of the scheme of reconstruction, and is directly connected with the whole question. To a proper understanding of the subject, it is necessary to refer to antecedent events. At the close of the war President Johnson, acting doubtless from proper motives, essayed to restore the States, the rebellious States, to their proper relations to the Federal Government. He issued proclamations, appointed provisional governors, and threw the mantle of Federal power and protection over that people. Though there may be a doubt as to the power of the President to furnish officials for the local governments of States, yet what he did in this instance was from patriotic and philanthropic motives. This was the condition of matters on the assembling of the Thirty-Ninth Congress in December, 1865. Nothing had been definitely settled. Everything remained there in an unadjusted and disorganized state, and continued so until the act of March 2, 1867. In the meanwhile those people were without protection, without law, order, or government. They were there between the upper and the nether millstones—between an element to some extent unreconciled to the Government of the United States, and another element more dangerous to their well-being. Yet Congress for two whole years left them in that condition.

Upon the 2d of March, 1867, Congress passed the original act to which it is now proposed to add this amendment. What were the provisions of that act? We are told that this session of Congress would have had no existence except for the fact that the provisions of that act have been wrongfully construed by the law officer of the Government. Sir, that act is very simple; its provisions are very few; and its language, in my judgment, is very explicit. I do not believe that there is any lawyer in this House, nor indeed any man in the United States, who, if he will throw aside his political interests or prejudices, can have any difficulty in its construction. It proposes to admit the southern States into the Union by a certain process. It proposes that the process shall begin with a division of that territory into five military districts. It gives to the President of the United States the power to appoint the commanding general of each of those districts. The original proposition was to give to General Grant this power. That was in the first instance the determination of the majority in both Houses of Congress, to override that part of the Constitution which makes the President the chief executive of the Government of this country. But upon consultation they feared to adopt a provision so palpably in violation of the fundamental law; and instead of passing the military bill originally proposed, they provided that the President of the United States should appoint those generals. In this

regard, at least, they left the bill free from the objection which had been made to it.

The power of these commanding generals was fully and unequivocally declared as confined to the protection of all persons in their person and property, &c. Congress adjourned, and immediately upon the adjournment the present Congress commenced its session. It was soon discovered that there were defects in the law of March 2; defects, not so far as concerned the principles of the act, but in the machinery by which the registers were to be made up and the voting to be accomplished. For the purpose of remedying those defects the act of March 23 was passed.

Congress, sir, shortly afterward adjourned. These generals had been appointed. They had repaired to their several departments. They commenced, honestly and in good faith, I doubt not, to carry out the provisions which Congress had adopted for the reconstruction of those States. They soon differed among themselves as to what the construction of those provisions should be. The commanding general of the Department of Virginia came personally to the capital and appealed to the President and the Cabinet to give him directions with regard to his duties under the law. Others wrote to the President making similar requests. In the mean time they went on administering their duties on principles in antagonism with each other.

What did the President do? What was the duty of the President under these circumstances? I know, sir, that General Jackson would have given a construction to the law; and I know that he would not only have given a construction to it, but he would have demanded that that construction should be practically carried out by these subordinate military executive officers. But, sir, the present President asked for a construction of the law at the hands of the law-officer of the Government, whose duty it is under the law to give advice to the President and the other officials of the Government, including all the heads of the Departments. Was there anything wrong in the President thus asking the law-officer to give his construction of this law? Suppose the President had acted on his own judgment with regard to its construction, and had demanded that these military officers should execute the law according to his understanding of its intent, what would have been said in that case? What food would have been given for declamation and denunciation by his traducers. It would have been called an impudent arrogation of power. But, sir, he did not do it. The law-officer of the Government—a lawyer, no politician, certainly no partisan—takes up those two acts, carefully examines their provisions and renders his opinions. Upon those opinions the President acts so far as transmitting their conclusions to the officers whose duty it is to respect them and to conform to them.

Mr. Speaker, the present session has been called and has its existence as the consequence of these opinions of the Attorney General. We are told ironically that we “are called together by Mr. Stanbery.” Resolutions have been introduced into this House of the most derogatory and insulting character, in their aim to ridicule the Attorney General. There is no attempt to criticise those opinions. No one attempts to show their fallacy, or to prove that they are contrary to the spirit and the letter of the law. No, sir, we have abuse instead. We are told that this is an usurpation of power; that the President, through his Attorney General, is determined to throw obstructions in the way of reconstruction, and hence is furnished the pretext upon which this measure is reported to the House.

Sir, this bill in its first section is absurd. There is no lawyer in this House who will read the section and say it is not absurd and ridiculous:

That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled “An act to provide for the more efficient

government of the rebel States,” and of the act supplementary thereto, passed on the 23d day of March, in the year 1867, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were illegal and void; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the authority of Congress.

It declares that those governments were null and void. If they were null and void then they have been absolutely destroyed. Made void is annihilation. They then have no existence; and although the declaration itself is false—for the act of March 2 does in letter recognize them as existing through provisional existence—these governments are null and void. What then? In the same section it is provided: “and that thereafter said governments, if continued, were to be continued,” &c. In the first clause the thing is dead, and in the second clause it is not dead. They are to be continued under the direction of the military commanders.

Now, sir, that must lead to future litigation unless it is now corrected. It must lead to different constructions. “The dead liveth.” These State governments are declared to have been destroyed, and that it was so intended by the act of March 2; yet it is provided that they are to be continued. How can you continue that which is *defunctus officii*? Death is death, legally and politically as well as physically. “Yet if continued,” then they are to be subject to the military commanders.

Mr. Speaker, does that clause declare the truth? As I have before stated, that bill recognizes the existence of civil State governments. It declares them to be provisional. Still they have been recognized. It was not intended by act of Congress to abolish the regulations for the protection of property. All the municipal regulations for the protection of life and property were recognized. It was a principle of the former bill, and that was the construction put upon the law at the time by the leading men of this House, including the distinguished gentleman from Ohio, [Mr. SHELLABARGER,] also by the distinguished Senator from Ohio, [Mr. SHERMAN,] and also by the distinguished Senator from Massachusetts, [Mr. WILSON.] Therefore it was not only the provision of the bill that these governments were continued, although provisional, but such was the declared intent of the act at the time it was being passed by the two Houses.

Now, sir, with reference to the second section, it declares that these generals have the power—

To remove or suspend from office any municipal or State officer or person exercising authority under or by virtue of any so-called State government existing in his district; and the said officer so assigned to command as aforesaid is hereby empowered to appoint another person in the stead of the officer or person so removed.

Why, sir, have these generals a right under the constitution of the United States to do this? The Constitution explicitly declares who shall appoint subordinate officers. Is there any part of that instrument more plain than that section which refers to the power of the President to appoint all subordinate officers? But these commanding generals are empowered to appoint whom? Local State officers? No; the very moment that a commanding general removes a governor or a judge, or any other State officer and appoints another in his place, appointees become Federal officers. They lose their character as State officers because they derive their appointment from an officer who derives his appointment from the President of the United States. They become subordinate Federal officials. The Constitution declares plainly and palpably that the President shall appoint all subordinate officers of the Government, except in certain cases specified.

Now, Mr. Speaker, who is to pay these appointees of these generals? The State governments will not pay them, for they do not recognize them. Who is to make pecuniary provision for the payment of these officials

which your generals appoint at their pleasure? And here let me say that the expenses already incurred amount to the sum appropriated at the last session, although the registration is scarcely commenced. The \$500,000 is already exhausted, and Major General Sickles declares that he wants \$500,000 in his own department; and not only does he want \$500,000, but he wants the Navy as well. This imperial despot, who assumes the right to sit in judgment over two great States of the Union, who absorbs within his own person civil, military, judicial, and political power, wants \$500,000 for himself and his dependents, and wants in addition to that the Navy of the United States to aid him in doing what? Oppressing the poor, impoverished, ruined, defenseless people of South and North Carolina.

But what further power do you propose to give to the generals by this section? "To prohibit, suspend, or set aside any act or proceeding of any such State or municipal government." Why, sir, they can annul the marriage contract under this provision. They can declare legitimacy illegitimate. "Any act or proceeding of any such State government." There is no restriction, no limitation. Contracts between man and man, relations between husband and wife, between father and son, the social and domestic, the religious and political relations of these people are put under the direction, power, and control of Major General Dan. Sickles and his compatriots established by Congress. Is that designed? I want Congress to say so openly and frankly. I want no covert act intending to impart power without explicitly declaring it. I want no further constructive acts or declaratory statutes as to what they intended. If that power is intended to be given (a power not possessed by the Czar of Russia, a power that no monarch in Europe, Asia, or Africa would dare to exercise, or if he did, could not exercise it for twenty-four hours) then they have power to do anything. If that is the design and object of this act why not say so in the bill? I am only surprised, in view of what has been done and what is being done, that you hesitate in openly and manfully declaring what you do design by conferring such extraordinary powers on military commanders.

The Constitution of the United States declares that our government is one of three coordinate powers—the Legislature to make the laws, the Executive to enforce them, and the Judiciary to construe them. But here it is attempted by act of Congress to place the military power beyond control or responsibility for any act which they may do, for any robbery or murder which they may commit. The military authorities are by this proposed bill placed where no court of the United States and no court of any State can reach them. Sir, is that law? Is that justice? Is that philanthropy? Is it in accordance with the spirit of this age of great moral ideas? Has humanity no claims upon the consideration of the party in power? Is it intended that brigadier generals shall be clothed with power which no law, human or divine, can reach? If so, say so. Do not phrase it in ambiguous language, leaving upon the mind of the ordinary reader a doubt as to what is intended. Let it be so said, plainly and palpably, that those who run may read.

But, Mr. Speaker—

"The evil that men do lives after them;  
The good is often interred with their bones."

Remember that precedents are now being established in a government founded upon popular opinion, liable to the impulses of the people surging backward and forward from one extreme to the other; remember that in a popular government, where the people after all will control, the poisoned chalice may be returned to the lips of those who now present it to these people of the South. God forbid that any party should succeed this one who would follow their outrageous, inhuman, brutal, bloody examples. But, sir, in this country, as in all other popular governments, no man can say what may not be done by the impulse of the

people. Hence I warn gentlemen against the consequences of thus declaring by act of Congress that military officers of the Government shall be subject to no power whatever, human or divine.

Again, it is provided by this bill that no district commander shall be relieved until the Senate consents to it. The civil tenure bill was bad enough; but under that act the President could remove or suspend upon proper charges, referring them to the Senate, to be passed upon afterward. How is it in this case? No one will deny that these are executive officers. You gave the President power to appoint them. The Constitution declares that it is his duty to see that the laws are faithfully executed. He is their official superior. Suppose that any of those officers should commit any of the outrages which you propose to give them power to commit, where is the authority of the President during the recess of the Senate to act upon the matter and remove or suspend them? They can snap their fingers in his face, as they have done already in one or two instances. They can disregard all the powers of the Government. By this bill they are made directly amenable to no power but Congress; and Congress is to adjourn in a few days, not to meet again, I hope, until next December.

Mr. Speaker, I have already transcended the time allowed to me in this discussion. One word in conclusion. Make your bill so plain, if you please, make its provisions so stringent that there can be no doubt as to its intent. Do not forget that the injuries inflicted upon the people of the South by this delay, by this uncertainty, by these continual amendments of the law under which they are to live and act, constitute an outrage and an injury for which they have no remedy. Make your finality. They care not what you may do. They have now considerations deeper to them than that of suffrage. I tell you, sir, that the people of the South are entirely indifferent as to whether you allow them to vote or not. They want bread; they want security for life, liberty, and property; they want you to withdraw the military, which is exercising a despotism and destructive influence over their industry and of their social organization. They want to be allowed to enjoy their domestic and social institutions in peace and security. These are dearer rights than that conventional right of going to the ballot-box and depositing a vote. Give them this security. Give them rest.

You punished them during the war, you punished them at the close of the war, and you have been punishing them every hour since the close of the war. Your military satraps are among them. They have no rights. The negroes can butcher them and do butcher them. White females are left at the mercy of the brutality of their former slaves, while if a white man inflicts the least possible punishment upon a negro it is sent abroad to the country and is used as an argument for party purposes and to keep the southern people out of the Union which their fathers fought to establish and to which they now honestly desire to return.

Now, Mr. Speaker, let these people come back again into the Union. Let us once more be friends. Let us avail ourselves of their industry and their agricultural products, revive the credit of the country and reduce the taxation which is now bearing us all down. They are Americans as well as ourselves. In the meantime let us act fairly and justly and do our work so that hereafter there will be no necessity for further legislation. Let us have a finality and forever settle this question, but upon principles not so repugnant to law, justice, and mercy.

The SPEAKER. General debate has now closed under the notice given by the gentleman from Pennsylvania yesterday.

Mr. STEVENS, of Pennsylvania. I now desire to ask for the previous question, for the purpose of ending this debate. I understand there are two amendments pending.

The SPEAKER. There are two amend-

ments pending, one offered by the gentleman from Missouri, and one offered by the gentleman from Iowa.

Mr. STEVENS, of Pennsylvania. I move to correct an error in the printed bill, in the following section:

SEC. 5. *And be it further enacted*, That no district commander shall be relieved from the command assigned to him under the aforesaid acts unless the Senate shall have first advised and consented thereto, or unless by sentence of court-martial he shall be cashiered or dismissed from the Army, or unless he shall consent to be so relieved.

I move to strike out line six, and to insert:

Or in arrest for an offense punishable by dismissal from the Army and disqualified by sickness from the performance of his duties.

The correction, by unanimous consent, was accordingly made.

Mr. SCHENCK. I ask the gentleman to allow me to have my amendment read.

Mr. STEVENS, of Pennsylvania. Yes, sir.

The Clerk read as follows:

That for the purpose of carrying out this or any other act of Congress all persons shall be considered as in the military or naval service as officers of the United States from the date of their being borne upon their respective Army and Navy registers as cadets, midshipmen, or acting midshipmen.

Mr. SCHENCK. I will state that I offer that because those who left the Naval School or the Military Academy as cadets or midshipmen and went into the rebel service have been construed not to be such persons as are referred to in the law as having been officers in the United States service. I do not believe in that construction, and I wish to avoid its being made hereafter.

Mr. BAKER. I have the gentleman's consent to have the following amendment read:

The Clerk read as follows:

SEC. —. *And be it further enacted*, That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents of this act and of said acts may be fully and perfectly carried out.

Mr. STEVENS, of Pennsylvania. If there is no objection that may be added as a part of the bill.

Mr. RANDALL. I object.

Mr. BUTLER. I ask the Clerk to read an amendment.

The Clerk read as follows:

Amend the second section by striking out and inserting as follows:

SEC. 2. All officers holding under the authority of such pretended governments, and not by virtue of any legal authority whatever, are hereby removed from their respective offices at the expiration of thirty days from the passage of this act, or sooner upon appointment of their successors as hereinafter provided; and it shall be the duty of the officer assigned to the command of any military district, under any of the acts to which this is a supplement, to fill the vacancies in said offices within said thirty days, or as soon as may be thereafter, by appointing only loyal men thereto, without distinction of race or color, who can take the oath of office prescribed by an act approved July 2, 1862, which appointments shall take effect from the date when the vacancies shall happen; and such commanding general may remove such officers at any time. And whenever such commander may deem it necessary for the due performance of his duty under said acts or either of them, or this act, to prohibit, suspend, or set aside any act or proceeding of any such State or municipal government, or any act or thing done under or by virtue of the authority of the same, he is empowered so to do; and all acts heretofore done by such commanding general in so removing such officers, or in prohibiting, suspending, or setting aside any such act, or proceeding, or thing done under such authority, are hereby made valid.

Mr. COBURN. I desire to have an amendment read.

Mr. STEVENS, of Pennsylvania. Well, I shall not object to that.

Mr. COBURN. I move to add to the bill what I now send to the Chair.

The Clerk read the proposed amendment, as follows:

Add the following sections:

SEC. —. If any person shall alter, mutilate, add to, or destroy any registration of electors made pursuant to this law and those to which it is supplementary, he shall be fined and imprisoned at the discretion of a military commission.

SEC. —. If any officer or person employed to make such registry shall falsely and fraudulently make the same, he shall be fined and imprisoned at the discretion of a military commission.

SEC. —. If any officer of an election held pursuant to this act, and the acts to which it is supplementary, shall allow persons not registered to vote, or shall

refuse to allow registered electors to vote at such elections, such person so offending shall be fined and imprisoned at the discretion of a military commission.

SEC. — If any officer of an election held under this law, and those to which it is supplementary, shall give a false and fraudulent certificate of election, he shall be fined and imprisoned at the discretion of a military commission. If any officer of such election shall refuse or neglect to make due and proper returns thereof to the proper authority, he shall be fined and imprisoned at the discretion of a military commission.

SEC. — If any person shall for the purpose of voting furnish an elector who cannot read the English language, at any election held pursuant to this act and those to which it is supplementary, a ticket which such person shall represent to such elector as containing a name or office different from the one printed or written thereon, such person shall be fined and imprisoned, or either, for every such offense, at the discretion of a military commission.

SEC. — If any person shall fraudulently cause or attempt to cause any elector, at any election held under this law and said acts, to vote for a person different from the one he intended to vote for, such person shall be fined and imprisoned, or either, at the discretion of a military commission.

SEC. — If any elector shall vote more than once at any election, or shall knowingly hand in to the election officers two or more tickets together, or having voted in one township, precinct, or county, shall afterward on the same day vote, or attempt to vote in another township, precinct, or county, such person shall be fined and imprisoned, or either, at the discretion of a military commission.

SEC. — If any officer of an election shall attempt to induce by persuasion, threat, or reward or promise of the same, any elector to vote for any person, such person shall be fined and imprisoned at the discretion of a military commission.

SEC. — If any person, not having the legal qualifications of a voter at any election under this law and said acts, shall vote or offer to vote at such election, he shall be fined and imprisoned, or either, at the discretion of a military commission.

SEC. — If any person shall use any threats, menaces, force or any corrupt means, at or previous to any election held under this law and said acts toward any elector, to hinder or deter such elector from voting at such election, or shall directly or indirectly offer any bribe or reward of any kind to induce any elector to vote contrary to his inclinations, or shall on the day of the election give any public or private treat or entertainment, or authorize any other person to do so, to obtain votes for any person, the person so offending shall be fined and imprisoned at the discretion of a military commission.

SEC. — If any person shall in any manner, by fraud or violence, attempt to prevent the operation of this act and those to which it is supplementary, he shall be fined and imprisoned at the discretion of a military commission.

SEC. — The fines that may be assessed against persons offending under this act and said acts shall not be less than \$100 nor more than \$5,000, and the imprisonment shall be not less than six months nor more than one year.

SEC. — It shall be the duty of the officers detailed to carry into effect this and the acts hereinbefore named, upon receiving information of any offense abovementioned, to report the same to the district commander, who shall at once convene a military commission for the purpose of trying the offender.

Mr. SPALDING. I rise to a question of order. Are all these amendments pending?

The SPEAKER. There are only two amendments pending, namely, those offered by the gentleman from Iowa [Mr. WILSON] and the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. COBURN. I ask the gentleman from Pennsylvania to accept my amendment.

Mr. STEVENS, of Pennsylvania. I decline. I made a promise yesterday, which I cannot violate, to the gentleman from Ohio [Mr. GARFIELD] to offer an amendment.

Mr. GARFIELD. I offer a mere verbal correction in the second section. I desire to strike out the words in the ninth and tenth lines, "to appoint another person in the stead of the officer or person so removed," and to insert in lieu thereof the words "to assign any officer or enlisted man under his command to the duties of the person so removed." I do not want the commander to have power to put civilians in command, only military men.

Mr. STEVENS, of Pennsylvania. I now demand the previous question. I decline to allow any further amendments to be offered.

Mr. BUTLER. As I understand this matter, if the previous question be ordered no amendments will be in order excepting those that have already been submitted.

The SPEAKER. They will not be.

Mr. SPALDING. I object to debate.

Mr. BUTLER. I insist upon the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS, of Pennsylvania. I move to reconsider the vote by which the House ordered the main question; and also to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BINGHAM. Mr. Speaker, I had hoped that when the committee appointed by this House to report for its consideration whatever they might deem needful to the execution of the law of reconstruction, had made a report that adhered to the legislation of the Thirty-Ninth and Fortieth Congresses, it would have met with no serious objection from gentlemen on any side of the House. I had hoped that a spirit of patriotism in the consideration of this great question would have risen above the spirit of party, that gentlemen would have forgotten in this supreme moment of the Republic that they were Republicans or Democrats, and would have remembered that they were Americans—only Americans—having but one Constitution, one country, and one destiny.

I stand here to strip off the disguises of mere partisans who object to giving to the people of those ten disorganized States, lately torn and distracted by armed rebellion, the power to speak for themselves, with the consent of a triumphant, compacted, and organized nation. Is the nation's will to be disregarded? Sir, instead of meeting the question in the spirit of patriotism, gentlemen come here and present themselves in the unenviable character of the mere eater-up of syllables, or snapper-up of unconsidered trifles. That is the quality of the speech to which we have listened this morning from the learned and scholarly gentleman from New York, [Mr. BROOKS.]

The honorable gentleman has spoken eloquently of the ancient time; he has dwelt upon the dead past and forgotten the living present; he has spoken in classic phrase of Salamis and Plataea, of Marathon and Thermopylae, the glorious recollections of which he has garnered up and reproduced for our instruction, but he has forgotten, sadly forgotten, the imperishable memories dear to the thinking head and beating heart of the loyal millions of this land, which rise from the fields of Shiloh and Stone river, from Chickamauga and Kenesaw, from Antietam and Gettysburg. Ay, the gentleman can speak of the perished republics of pagan antiquity, of their trials and triumphs, but is forgetful of the grander, nobler, and more enduring triumphs of republican America, the living and we trust enduring hope of the world!

Having offered his glowing tribute to the perished republics of Greece of three thousand years ago, the learned gentleman grows eloquent over the Magna Charta which the barons of England six hundred years ago wrung from the trembling hands of an imbecile king; but he has no remembrance of that nobler Magna Charta which Washington, whom the gentleman professes to revere, wrung from the hands of another king, the American Constitution, the supreme law of the land, the revered charter of the liberties of the great people whom we this day represent.

I submit, sir, with all deference to the gentleman, that he has spoken in a narrow, partisan spirit-unworthy of his great attainments and of the people who accredit him as their Representative.

Why, sir, the gentleman with his acknowledged learning, with the experience which he has derived from travel and from observation among men, strange as it may appear, did not notice the marked difference between the Magna Charta of England, to which he referred, and the Magna Charta of the United States of America, as written in your Constitution in words so plain "that the wayfaring man cannot err therein." The gentleman read from the Magna Charta of England, that "no freeman shall be taken or disseized," &c., "but by the judgment of his peers and the law of the land;" forgetful of the fact that the words "no freeman" were words of limitation, and limited this great charter at the time it was adopted to one half the population of England,

and forgetful also that these words of limitation were swept away by the Constitution of the United States, in which it is declared that "no person shall be deprived of life, liberty, or property without due process of law." By that great law of ours it is not to be inquired whether a man is "free" by the laws of England; it is only to be inquired is he a man, and therefore free by the law of that creative energy which breathed into his nostrils the breath of life, and he became a living soul, endowed with the rights of life and liberty. It is not to be inquired, sir, when any man invokes the majesty of American law in defense of his rights, whether a European, an African, or an Asiatic sun looked down upon him when it pleased God to pour the first beam of light upon his understanding. Before that great law the only question to be asked of the creature claiming its protection is this: Is he a man? Every man is entitled to the protection of American law, because its divine spirit of equality declares that all men are created equal. Under the Magna Charta of six hundred years ago, of which the gentleman speaks, the inquiry was not whether the person was a man, but whether he was a freeman by the laws of England!

The gentleman having proceeded in this manner to dispose of this bill, it is not surprising that his argument, before he got through with it, should prove, as it did, a *felo de se*, not worthy, I would say with all respect to the gentleman, either of himself or of any member of this House. What does the gentleman say? Why, that you are disfranchising white men. Disfranchising them how long? During the temporary period which may be occupied in reconstructing and rebuilding civil institutions in the places which the men so disfranchised have desolated and blasted by their infernal treason. And allow me to inquire what number of those traitors, sir, are disfranchised? Not more than twenty-five thousand, all told, out of a million and a quarter of freemen in the ten insurgent States. By what instrumentality has it happened that even this temporary disfranchisement was made? I answer, sir, by the action of the gentleman himself and the party coöperating with him. The gentleman and his party having insisted that this disfranchisement should be put into the bill, I voted for it, and I stand by it to-day. In saying this I cast no reproach upon any gentleman who originated this provision of disfranchisement as a measure, not of vengeance, but of caution and security.

Having said this much in answer to the gentleman's argument, let me inquire when those States shall be restored as provided by this law, what restriction will then remain on the exercise of the elective franchise? None whatever. The gentleman, sir, discoursed eloquently against denying to this mere handful of men, who have covered themselves with treason and perjury as with a garment, a voice in the preliminary work of reconstructing those States. Yet, strange to say, in the very next breath he denounced as infamous this proposed legislation on the part of the nation to give to the whole people a voice hereafter in the control of their own local affairs. That is what makes this legislation dear to the American people; that hereafter the great body of the people, all being free by the will of the nation, shall have a voice in their local affairs, even those who heretofore have conspired for the overthrow of the Government. They are all by this law permitted to vote after the restoration of those States, by the very terms of the original acts of this Congress and of the preceding Congress, and of the bill now pending, supplementary thereto. This being so, it does not become the gentleman to mouth about democracy and the rights of a free people, and then arrive at the absurd conclusion that the minority in the State of South Carolina must hereafter and indefinitely control and govern the overwhelming majority of its natural-born freemen without giving them vote or voice in the enactment of their own laws.



Sir, I remember how eleven years ago, when I rose in my place within your own hearing, when we were both entering upon the discharge of our duties here as Representatives of the people, and asked whether a government which denied to the majority of its own citizens a voice in its affairs was republican within the meaning of that term as embodied in the Constitution of the country, explaining more fully my meaning by saying, "Is it republican for a minority in a State to take away from an overwhelming majority, of like age, sex, and residence, resident in such State, any vote or voice in the government?" and you doubtless remember the audible response which came back from the Democratic ranks that day from a gallant Representative from Kentucky, who said, "By the living God! no such States that should be permitted to be anywhere on the earth." I stand with that Kentuckian to-day. I think that the majority ought to rule, subject to the equal right of the minority to the same rights with themselves, without regard to color. That constitutes a republican state, and that is the whole question involved in all this legislation. Gentlemen who oppose such a rule of equity and justice can hardly lay claim to the once proud title of Democrat. That is a strange democracy which asserts the exclusive right of the minority to rule.

But, say gentlemen, "you are exercising tyranny over those States." What was just said by the gentleman [Mr. Wood] who also opposes this bill? That the President of the United States appointed civil governors over those States! The gentleman ought to have gone further to make the record perfect, and said that the President had not only appointed governors over those States, but prescribed the terms and conditions upon which the whole people of those States should reconstruct the shattered fabric of their State institutions. I do not stop now to discuss the question of the President's power thus to govern any part of this country. I did say once in my place here that the President had not any more authority to do that than the Czar of Russia when the rebellion was overthrown. But, sir, there was occasion for doing something within the limits of those States for the establishment of law and order. If any gentleman doubts this, I will be obliged to him if he will express the grounds of his doubt.

I repeat it, there was necessity for something being done, and the question is by whom should it be done? The legal governments of those ten States had been totally disorganized and destroyed through the instrumentality of this traitorous conspiracy. There is not a man, sir, within the hearing of my voice who has any respect for the oath under which he is bound here as a representative of the people but will say that from the waters of the Potomac to the waters of the Rio Grande, within the limits of those ten insurgent States, there was not existing at the time when Lee surrendered to Grant a single State organization that had the right to legislate on any subject whatever. And why, sir? Because the Constitution of your country on its face absolutely forbade it. Why? Because the Constitution declares as a condition precedent to any legislation in any State of this Union that every legislative, executive, and judicial officer therein shall be bound by oath to support the Constitution of the United States, and that every State shall have a government republican in form and not inconsistent with the Constitution of the United States and the laws and treaties made in pursuance thereof.

There was not on the day of the surrender in one of those States a single State officer bound by an oath to support the Constitution of the United States; on the contrary every officer therein had taken an oath to overthrow that Constitution. I do not stop to talk about the rights of disorganized States, and disorganized too by reason of their own treason. The simple fact was and is, and no sensible man in America can deny it, the people of those States by their treason had succeeded in over-

turning and annihilating their preëxisting State governments, and were simply disorganized communities within the general jurisdiction of the United States and subject to the laws of the United States. Something had to be done to restore them. In this work of restoration the nation had first to be consulted. Before restoration and preparatory thereto, security, irreparable security, for the future was to be taken by the nation—the freemen of organized constitutional States who had crushed rebellion and maintained through their organized loyal States American nationality. American nationality never existed otherwise, and while your Constitution stands never can exist otherwise than through organized republican constitutional States of the Union.

Every Representative upon every side of this House has thus declared, under the obligation of his oath, that the national will is exclusively declared by the Representatives from organized States in Congress assembled. Who is there here to say that any but loyal organized States within this Union can rightfully elect a Congress and legislate under the Constitution for the people of every State and Territory? There is no other power that can make national laws under the Constitution, either for the organized or the disorganized States, for all legislative power granted by the Constitution is vested in Congress. This Congress of the Constitution submitted to the people of the organized States an amendment of the Constitution as the basis of restoration and future security. The loyal people have acted upon the amendment so submitted, have ratified it, and demanded its acceptance by the several disorganized States as a condition of their restoration to political power.

By this action the people have decided, in fact and in law, that the provisions of the pending bill and of the acts to which it is supplementary, which but provide the means for the acceptance of the constitutional amendment and the reorganization of republican governments in conformity therewith in the late insurgent States, shall be carried into effect. Let it be borne in mind that the people of twenty-one of the twenty-seven States represented here have solemnly ratified the Fourteenth Article of amendment to your Constitution, which declares upon its very fore front that all persons born in this country, irrespective of color—

"Are citizens of the Republic, and that no State of this Union shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws; and the Congress shall have power by appropriate legislation to enforce this provision."

Sir, it is the nation's expressed will that this article of amendment shall be a condition of restoration. Let gentlemen beware how they attempt to stand this day in the way of the execution of the declared will of the nation. Human ingenuity cannot torture the bill upon your table and now under consideration into anything else than an act to carry into effect this declared will of the people. How, say gentlemen? By a military despotism? No, sir; through the instrumentality of the army of the Republic, which under God saved the nation's life. If that patriot army cannot be trusted, in God's name who can be trusted? That is the question I want gentlemen to answer.

The jurisdiction and authority of the nation in a disorganized state, disorganized through its own voluntary treason, is as exclusive as is the national jurisdiction in the District of Columbia; and Congress therefore may pass whatever laws may be necessary, not inconsistent with natural justice and right reason, for the purpose of aiding the people of the insurgent States peaceably and speedily to reorganize local constitutional State governments. I admit that none but the people resident in those States can reëstablish a government, but they must establish it under the law of the nation and in accordance with the will of the nation. That being done they will be restored to their

full place in this Union of States, whose people are one, and restored, too, upon a basis, thank God, which will make a like rebellion in all the hereafter absolutely impossible.

Mr. STEVENS, of Pennsylvania. I had promised to allow the gentleman from Wisconsin [Mr. ELDRIDGE] fifteen minutes of my time, but having been so encroached upon in several ways I shall ask him to be content with ten.

Mr. ELDRIDGE. I hope I may not be limited to ten minutes. I certainly understood that I was to have fifteen or I would not have accepted any.

Mr. STEVENS, of Pennsylvania. At the time I made the arrangement I did not know that I should be so encroached upon.

Mr. ELDRIDGE. Well, Mr. Speaker, by grace we live, move, and have our being. [Laughter.] It is by grace I am allowed ten minutes of time to speak against this abominable bill. I hope that I am not irreverent in returning my thanks to the gentleman from Pennsylvania for this gracious gift. [Laughter.] I am disappointed and embarrassed, certainly, by not having the fifteen minutes agreed for. I cannot, therefore, enter into any thing like a discussion of this measure or say what I had intended.

I cannot now stop to argue (though the question is involved in any proper discussion of this or any like measure) that the States to which this bill is intended to apply are still of right legally and constitutionally States in this Union. That they are is as undeniable as that the Union itself is still in existence. If they are not living States in the Union, saved and preserved to it by the war, then all the blood shed and treasure spent within the last six years was in vain. To me the Union of the Constitution is a living, ever-inspiring idea—a vital fact, an undestroyed and indestructible entity—composed of all the States that ever formed a part of it, and utterly incapable of being or enduring without them. And, if living States in the Union, they are entitled to every privilege, every right, which the Constitution provides for any State.

But it is proposed by this bill to declare all the governments of ten States void, absolutely void, and to leave ten million people without a constitution of government, without laws, without courts, without, in fact, any prescribed government whatsoever! Was there ever so unheard of, so monstrous a proposition? Most crimes have names, as murder and treason, but this is a crime too shocking to be named. And yet the eloquent gentleman from Ohio [Mr. BINGHAM] in advocating this bill declaims of American Magna Charta, of constitutional right, of liberty and law. Sir, this bill is at war with every principle that underlies this Government, and at war with every principle of civil liberty intended to be secured by our Constitution. It surrenders and destroys Magna Charta, whether American or British, and loads down the Anglo-Saxon with a load of chains and oppressions that no Anglo-Saxon can bear without dishonor, without disgrace. It makes a continuous war upon a people who have been overthrown and disarmed, and holds them in the grasp of military power in time of peace, without right, without justice, and in a manner never resorted to, except for purposes of punishment to harass and distress an enemy.

Gentlemen who advocate this bill have much to say about justice. What is meant by justice? Is justice only to be applied on one side? Are we alone to determine what is justice between ourselves and our neighbors? The very fact would be injustice to them? Prostrate and powerless, their necks beneath the feet of their oppressors, the chance of justice is small indeed.

But as the original bills were intended to accomplish all the purposes of this, why denounce this particular measure? Ay, sir, this declares what the others intended, and what this Congress did not dare to express or avow. Audacity has grown with indulgence. Corrupt exercise of power has increased the lust of power, and

emboldened you to claim as legitimate what, less practiced in the vice, your silence admitted was usurpation. With what agonizing struggle between conscience and party has the gentleman from Ohio [Mr. BINGHAM] come to see in this bill "American Magna Charta," justice and liberty regulated by law? What has brought him with the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Massachusetts, [Mr. BUTLER?]

How much more harmonious and expeditious would have been the action of the central caucus directory of fifteen if the gentleman from Ohio had bowed his meek and lowly head at the beginning as he does now—if he could have seen at the first "American Magna Charta" in a bill declaring the governments of ten of the States of this Union absolutely void, and per consequence the States as such destroyed?

This is an extraordinary session of this Congress—an extraordinary occasion, it is claimed, has called for this extraordinary bill. This is the only measure to be acted upon; the resolution of the House excludes all other legislation; and the necessity of this is charged upon the President. Now, I ask what has he done? He vetoed the bill, and it was passed over his veto. But what has he done to impede or obstruct the purposes of the act? Did he assign bad men to the command of the several departments, or even to any one of them? There has been no such complaint by the majority of this House even up to the present moment. What, then, has he done to obstruct or hinder the accomplishment of the purposes of the act or the purposes you had in view in its passage? Has he made any order or promulgated any command calculated to do any such thing? If so, what is it and to whom was it given?

But you say the Attorney General has given a construction to the act which circumscribes or limits the authority of the commanders of the departments. I answer the department generals had asked for advice upon the act. You had passed the bill as usual under the operation of the previous question, thereby prohibiting all debate and all proper consideration of the measure, and these generals had doubts about its meaning; they differed in opinion upon it, some construing it one way and some another. The President, as was his duty, referred these requests to the Attorney General, the law officer of the Government, for his opinion and advice. He considers it carefully and gives his opinion. And, sir, who of this House has denied or even dared to criticize one of his conclusions? No lawyer here has ventured to put himself in opposition to that opinion. And I venture the opinion that, so far as they had considered it, one half of the Republican members of this House agreed with the Attorney General's opinion of the law at the last session. I appeal to the honorable gentleman from the Pittsburgh district of Pennsylvania, and the honorable gentleman from the Cleveland district of Ohio, than whom there are no able lawyers on that side of the House, if they had any opinion at the time that bill was under consideration that we were by it directly or expressly conferring the enormous power upon these military departmental officers of removing at their will and pleasure a governor of a State or a judge of a court? Was it supposed that the little satrap at New Orleans was, under that bill, to make and unmake governors, judges, and mayors? Who of us dreamed that such things could be done except by gross abuse of power, by usurpation?

It might have been expected from the merry-andrew of that department as an act of unauthorized military power, but who believed it was conferred by the act? Under what provision was it thought to be granted? Where do you find it? There is no such language as you employ in this bill to express and confer it. The President has not interfered even as I think he ought. He has not turned the usurper—the insulter of his superior, his supreme commander—out of office, or even turned

him over to a court-martial for trial. All is going on there as though this officer had law and right and justice in his administration, and for all he is doing and would do.

But the great wrong of the President is found in the fact that he ordered the time for the registration in the State of Louisiana to be extended till the 1st day of August. What if he has? Does that delay or impede or obstruct the execution of the act improperly or unwisely? The act provides for extension till the 1st day of September, and this bill to any day prior to the 1st day of October. But what has the harlequin of the Louisiana department done himself in the way of extension of the time for registration? He who claims the opinion of the Attorney General and the extension of time to the 1st day of August by the President opens a "broad macadamized road for perjury and fraud to travel on."

By a telegram dated New Orleans, June 18, General Sheridan informs General Grant at Washington that he has extended the registration in the parish of Orleans until the 30th of June, and that he will extend the time in some of the other parishes until the 10th of July. This seems to have been done on his own motion and without order from the President. It seems to have been done, too, when the subject was known to be under consideration by the President and the Attorney General:

Received 12:45 p. m.

NEW ORLEANS, LOUISIANA, June 18, 1867.

GENERAL U. S. GRANT,

*Commanding Armies of the United States:*

I have the honor to report that I have extended the registration in the parish of Orleans until the 30th of June, at which time registration will be closed in this city. In the State there are now eighty thousand (80,000) voters registered, which indicates that the registration in the State is nearly completed. In 1860 the vote of the State was fifty thousand, (50,000.) I will extend the time until tenth (10th) July in some of the parishes where the population is large, so as to give no just grounds for complaint. I have to say again that the registration throughout the State has been harmonious, the boards having been kindly received everywhere.

P. H. SHERIDAN,  
*Major General Commanding.*

And, sir, before any reply to the above is sent to him he extends again the time to the 15th day of July throughout the State of Louisiana, as will be seen by his own telegram to General Grant, dated the 21st of June, and received on the same day in Washington:

OFFICE UNITED STATES MILITARY TELEGRAPH.

Telegram received at War Department.

WASHINGTON, DISTRICT OF COLUMBIA, June 21, 1867.

From New Orleans, June 21, 1867.

GENERAL: I have extended the registration in the State of Louisiana until the 15th of July. I consider the registration now nearly closed, but deemed it best to give fifteen days grace. I wrote you some time ago about the necessity for additional funds. Some will be necessary, but not as much as I expected. My expenses so far are only thirty-six thousand (\$36,000) dollars. Our system has been very complete, thorough, and economical.

P. H. SHERIDAN,  
*Major General United States Army.*

General U. S. GRANT,

*Commanding Armies United States.*

Now, sir, let it be observed that it is on this same 21st day of June that the order of the President to extend the time till the 1st day of August is telegraphed to General Sheridan. By this order it will be seen that so far as the extension of the registration is concerned the "broad and macadamized road for perjury and fraud" is opened by himself to within fifteen days of the time fixed by the President, and this, too, by his own voluntary act:

WAR DEPARTMENT.

WASHINGTON CITY, June 21, 1867.

Major General SHERIDAN,

*Commanding, &c., New Orleans, Louisiana:*

Your telegram to General Grant, proposing to close the registration in New Orleans on the 30th of this month, and at some other places in Louisiana on the 10th of July, has been submitted to the President, who is of the opinion that the proposed limitation of time for registry will be too short for a full and fair registration, and that electors in your district should be allowed until the 1st of August to register themselves, especially as it is not probable that the registration in other districts will be completed before that time. He therefore directs that the registry be not closed before the 1st of August, unless there be

some good reason to the contrary, which you will report for the President's information and judgment.

By order of the President.  
E. D. TOWNSEND,  
*Assistant Adjutant General.*

Sent 1:30 p. m.

The Adjutant General will transmit by telegraph the foregoing instructions to General Sheridan.

By order of the President.  
EDWIN M. STANTON,  
*Secretary of War.*

June 21, 1867.

On the very next day, the 22d day of June, after General Sheridan had extended the time to the 15th July and the President to the 1st day of August, is published or sent, or at all events dated, the telegram of Sheridan to General Grant, which has been the real cause of this session of Congress, and which to this day has never been, as I am informed, officially communicated to the President, which is as follows:

HEADQUARTERS FIFTH MILITARY DISTRICT,  
NEW ORLEANS, June 22, 1867.

GENERAL: I am in receipt of a telegram from the President, through Brevet Major General Townsend, Adjutant General United States Army, directing me to extend the registration in this city and State until August 1, unless I have some good reasons to the contrary, and ordering me to report success and such reasons for his information, and also stating that in his judgment this extension is necessary to full and fair registration, and that the time should be thus extended because other district commanders will not get through before that time. My reasons for closing registration in this city were because I had given the city two and a half months, and there were no more to register. I have given the State two and a half months and registration will be exhausted by that time. I did not feel warranted in keeping up boards of registration at large expense to suit new issues coming in at the eleventh hour. The registration will be completed in Louisiana at the time specified, unless I am ordered to carry out the law under Mr. Stanbery's interpretation, which practically in registration is opening a broad macadamized road for perjury and fraud to travel on. I do not see why my registration should be dependent on time when other district commanders get through. I have given more time for the registration of Louisiana than they propose to give in their commands, for I commenced six weeks before they did. I regret that I should have to differ with the President, but it must be recollected that I have been ordered to execute a law to which the President has been in bitter antagonism. If after this report the time be extended, please notify, and it will be done. I would do it at once, but the President's telegram was conditional, and there is sufficient time left to issue the necessary orders.

P. H. SHERIDAN,  
*Major General United States Army.*

General U. S. GRANT, Washington.

Can any reasonable man now find any excuse for General Sheridan's hesitation to comply with the order of the President to extend the time to the 1st day of August? It added only fifteen days more to the time which he had voluntarily given. Could there have been any other motive but to set himself up, his huge self, against the President? But it is not until the 29th of June that he concludes to obey, as will be seen by the following telegram:

Received 6:40 p. m.

UNITED STATES MILITARY TELEGRAPH,  
WAR DEPARTMENT.

[Cipher.]

NEW ORLEANS, LOUISIANA,  
June 29, 1867—11 a. m.

GENERAL: The registration in the State of Louisiana will be continued, in obedience to the orders of the President, unless I receive further orders from him to the contrary.

P. H. SHERIDAN, *Major General.*  
General E. D. TOWNSEND,  
*Assistant Adjutant General.*

Mr. Speaker, I have no words with which to characterize that communication to General Grant. It has never up to this time, as I am informed, reached the President, except through the public papers. It exhibits a wanton and deliberate determination to insult his superior officer, the Commander-in-Chief of the armies of this great nation, or a shameful ignorance of the meaning of the language employed. There is, as we have seen, no excuse for it. It must forever disgrace its author in the estimation of every honorable and high-minded officer of the Army and every lover of the military profession. It is in my judgment an act of insubordination which, if not satisfactorily explained and apologized for, should by the judgment and sentence of a court-martial banish him from the military service at once and forever.

Mr. Speaker, "President on the brain" is a very bad disease, and wonderfully prevalent at this time. It attacks heads one would scarcely suppose had brains enough to be inflamed. It is less likely to prove fatal perhaps on that account. It is this disease I presume that makes this bedizened military genius cut such fantastic tricks in his department, play the little corporal, insult his superiors, and endeavor to show his consequence and importance by insubordination. And this, sir, is the officer that this House honors by its vote of thanks. Thanks! what has he done to entitle himself to thanks in the conduct of his office in his department? Who knows what he has done or what he has left undone? Has he made any report of his proceedings? Who has seen it, and what does it contain? Upon what did you base this cheap and empty compliment? What reasons has he given for his removals from office and his appointments to office? What cause existed for his high-handed and illegal operations; his playing shuttle-cock with the judges, mayors, and Governor of a great State? Make him President, and the lessons you are now teaching him will be practiced upon yourselves. His capacity eminently fits him to be a tyrant, and lord it over superior men. Make him President, and his lofty head will swim so that he will play harlequin with all the variations.

But, sir, by what right or authority do you make this military general, great or small, the legislative, executive, and judicial power of a great State? You talk of conquest. The conquest you are claiming is not alone of the territory of the Republic. Your subjugations are not alone of its citizens, or of those who have wronged the Union and incurred your hatred and malice, but you are subjugating the Republic, the Constitution, civil liberty, and all that to the freeman makes life desirable or even tolerable. Your triumphs are not alone over fallen and conquered enemies, but you are triumphing over the fall of your country, over the destruction of the States that compose the Union, over the destruction of the essential, the underlying principles of republicanism, over civil government. History declares the Roman republic ruined itself by its triumphs, the excesses of its conquests and power. Rome, the mistress of the world, when enslaved by tyrants and oppressed by military governments, had reason to deplore the success of its arms, and to look back with regret on those happy times when its power did not reach beyond Italy, or even when its dominion was almost confined within its own walls. Like Rome may we not when too late have occasion to regret our excesses, our conquests, our military governments, our oppressions? May we, in yielding to the demands of party passion, to political malignity, and the animosities engendered by our recent struggle, not find that we have lost our Constitution and the free government it was intended to secure?

Mr. ROBINSON obtained leave to have printed, as part of the debates, some remarks upon the pending bill, which will be published in the Appendix.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] has now remaining twenty-eight minutes of his hour.

Mr. STEVENS, of Pennsylvania. I trust that in that time I shall be able to state the position which I hold to be the correct one with regard to this bill, without attempting to answer the various remarks which have been made by gentlemen on the other side.

I confess, sir, that a small portion of the blame with reference to the acts of the President since we adjourned, may be attributed to Congress, in that it used improper language in the acts heretofore passed. And this, it appears to me, was owing to an indistinct conception of the condition of the territory for which we were legislating. If we had then all agreed, as we have since, that the States that were lately in rebellion were conquered territory and as such subject to the power of this nation, and had treated them accordingly, we should have

had very little trouble in reconstructing government in the South upon the principle of the admission of new States. But, sir, we were not all perfectly agreed in our understanding of the laws of nations as applicable to this question; nor is it wonderful that we should thus have differed, when even some of the judges of the Supreme Court have differed in their opinions upon this subject. I will state what I suppose to have been our real position.

The nation was afflicted with a civil war which for a time was an insurrection. Some twelve million of the inhabitants of the country claimed that they no longer belonged to this nation. They set up an independent government. They established all the machinery of government, both of a national government and of States under that national government. They raised large armies to defend their pretensions. We, at the period when we declared against them a blockade, admitted them to be, not an independent nation, but an independent belligerent, rising above the rank of insurrectionists, and entitled to all the privileges and subject to all the liabilities of an independent belligerent. The nations of Europe so treated them. We so treated them in our dealings with prisoners of war. In short, there could be no doubt of the fact.

We were, then, at war as two independent nations; and it depended upon the will of the conqueror whether the defeated party should be treated merely as a vanquished nation, or whether we should, in addition, punish them as individuals for the violation of the sovereign rights of the nation. We conquered. What did we conquer? We conquered the confederate government. We conquered all the States forming the confederate government. We conquered a government that had been erected and maintained by those who declared that they owed no allegiance to the Government of the United States. For these conquered rebels to pretend that they had any rights under a Constitution which they had thus repudiated and attempted to destroy, and that the States which had been arrayed in hostility to the nation were still States within this Union, as asserted to-day by the gentleman from Wisconsin, [Mr. ELDRIDGE,] seems to me a bold absurdity. Yet that was the doctrine of the President. That is the doctrine which some gentlemen maintain here.

Under military law we treated them as conquered provinces. What is the law with regard to provinces conquered from a foreign independent belligerent? When you conquer territory from a foreign nation or an independent belligerent, the territory thus conquered is governed by military power, by the Commander-in-Chief of the Army, being in this case the President, until the legislative power of the nation shall have spoken and directed what laws shall govern. But the moment the legislative power of the nation interposes the military authority ceases to have sway, and the Commander-in-Chief has no more to say in regard to this matter than a corporal of militia. He is to do just what the legislative power orders him to do, and he can do nothing else.

A great deal is said about the President acting as Commander-in-Chief of the Army. Until he was superseded in his authority by Congress I have no fault to find with his maintaining military rule in the South. But he assumed to exercise legislative powers; he assumed to establish governments; he assumed to appoint civil officers; he assumed that these conquered provinces should come back at once to the enjoyment of all the rights of loyal States under the Constitution, and be entitled to all the privileges which they had possessed prior to their rebellion. Now, sir, as I said before, nothing of this kind came within the power of the Commander-in-Chief. What is the duty of the Commander-in-Chief? If Congress sends an army to quell the Indian war in Nebraska, what is the Commander-in-Chief to do? Congress orders that army to go there. It raises and equips the army. What do the officers do? They pass no act of legislation; they go there and order the troops when to charge and

when to retreat; they drill them; they put them through military exercises. But they can do no act that looks like regulating the object of the war or the object with which the army is sent there. Why, sir, the Constitution of the United States makes express reservation of all such power to Congress. It expressly declares that Congress shall have power "to make rules for the government and regulation of the land and naval forces." The Executive has nothing to do with it; the judiciary have nothing to do with it. Congress is the only and the controlling power. Congress has enacted the rules and articles of war. Could the President of the United States interfere with those? Could he add new articles, new rules, new regulations? Certainly not. The military officers that were sent as commanders in the States were simply appointed as agents of Congress. To be sure, the original bill provided a military supervision simply, and we had intended to follow it up with a law putting reconstruction into the hands of civilians. That is what I should have been disposed to do now, (and I had prepared a bill with that view,) using the military simply as a police and appointing civilians to reconstruct. But if Congress chooses to take officers of the Army and assign them to this duty, they then become the agents of Congress, and neither the President nor any officer under him has any right to interfere or do anything but execute what Congress commands.

Now, sir, it being reduced, I think, to a plain proposition that Congress is the only power that can reconstruct and reclaim these outlying States, the President had no right to call upon the Attorney General or any other officer of the Government to interfere in any manner in such reconstruction. There is but one appeal, and that is either to the agents appointed by Congress or to Congress. It has been well decided in *Dorr's case* that all power on this subject is vested in Congress. But, sir, we need not look to any such decision. It ought to be known before this time by the President of the United States—it is known, I trust, by the scholars in every colored school in this District—that the Constitution of the United States does not apply to any Territory. The States are parties to the Constitution; they are the contracting powers; they are the substantive body. Territory, however, acquired by purchase or conquest or by inheritance is the property only of that substantive power, of that power bound up by the Constitution, and that power alone is governed by the Constitution, but does not extend for any purpose into any Territory or conquered province. Why, then, talk about the Constitution regulating the action of Congress in a province, in a Territory, in a conquered State, whether conquered from a legitimate State or an illegitimate State?

I may be asked how we would treat the confederate States of America? Just as Congress chooses. They are our property; their citizens are our subjects. Their lives, their liberties are subject to the supreme will of this body, always controlled by the laws of nations, the laws of war, and the laws of humanity. There is no other power on earth; there is no branch of the Government; there is no power in the Government, except what I have mentioned, that has any right to interfere or to say one word on the subject. If you wish to punish the malefactors for violated majesty, that is another matter. Possibly you might do so through your courts of justice. At least you might attempt it, but I do not suppose you can do it. But there is one thing clear: that territory not being yet declared by Congress to be in a state of peace or restoration is under the military authority of the Government, and any tribunal constituted by the military authority, any military tribunal, any court-martial can try any one of those who belonged to the belligerent forces. Jefferson Davis, or any man of the army of the confederacy conquered by us, is this day liable to trial by military tribunal and to sentence. Mr. Speaker,

while I would not be bloody-minded, yet if I had my way I would long ago have organized a military tribunal under military power, and I would have put Jefferson Davis and all the members of his cabinet on trial for the murders at Andersonville, the murders at Salisbury, the shooting down our prisoners of war in cold blood. Every man of them is responsible for those crimes. It was a mockery to try that wicked fellow Wirz, and make him responsible for acts which the confederate cabinet was guilty of. Of course they should be condemned. Whether they should be executed afterward I give no opinion. I would carry out such punishment as, in my judgment, the justice of the country required. I would carry it out through the legal tribunals that I have mentioned, and which are as much the legal tribunals of the land as the Supreme Court of the United States. That is my view exactly of what would be logical.

As to the question of confiscation, I think that a man who has murdered a thousand men, who has robbed a thousand widows and orphans, who has burned down a thousand houses, escaped well if, owning \$100,000, he is fined \$50,000 as a punishment and to repair his ravages. I said before that I was not in favor of sanguinary punishments. I trust, in saying that, that I need not be supposed to condemn them when they are necessary. For instance, the clamor that has been raised against the Mexican government for the heroic execution of murderers and pirates, [applause,] that clamor finds no favor with me. I think that while they have gone far enough, (though not half as far as they might be justified in going,) yet there is no law nor policy under heaven, and no sense of justice that will condemn that great, heroic, much-enduring man who for six years has been hunted with a reward upon his head, has been driven from one end of his empire to another until he got to the very borders, who has no parallel in history that I know of, except it be William of Orange, who was driven from island to island, and from sand patch to sand patch by just about as bloody a persecutor as was to be found in Maximilian when he decreed that every man warring against him should be shot down without further trial. I am not going to shrink from saying that I think such punishment proper. I do not say, nor do I ask that anybody should be executed in this country. There has got to be a sickly humanity here which I dare not get along side of for fear I might catch it. [Laughter.] And it is now held by one of the most liberal and enlightened gentlemen in the country—I mean Gerrit Smith—that we should even pay a portion of the damages inflicted on the rebels, and pay a portion of the rebel debt. [Laughter.] I shall come some day to have an argument with Horace Greeley about that, and he will explain it, therefore I need not say anything further. I believe I have said enough to explain my views on the subject, and now I ask for a vote on the question. [Applause.] I withdraw the motion to recommit.

Mr. BURR, Mr. GETZ, and Mr. MARSHALL obtained unanimous consent to publish remarks on the pending subject as part of the debates, which will be published in the Appendix.

The first question recurred on the following amendment of Mr. WILSON, of Iowa; which was agreed to:

Insert as an additional section the following: And be it further enacted, That any person or persons who shall prevent, or attempt to prevent, the execution of this act, or either of the acts to which this act is supplementary, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding \$5,000, or imprisoned one year, or both, at the discretion of the court.

The next question was on the adoption of the following amendment, offered by Mr. BENJAMIN:

Add to section three the following: Provided, That the right of any person to be registered as a legal voter shall in no respect be changed or affected by virtue of any pardon granted to such person by the President of the United States for participation in the rebellion.

The amendment was adopted.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WOOD. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 119, nays 81, not voting 18; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Bodwell, Bromwell, Buckland, Butler, Calkins, Church, Clark, W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravelly, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koonz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Platts, Poland, Polsey, Price, Raun, Robertson, Sawyer, Schenck, Seafield, Solye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James E. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—119.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Holman, Hotchkiss, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Neill, Phelps, Randall, Robinson, Ross, Sitgreaves, Stewart, Stone, Taber, Van Auker, Van Trump, and Wood—81.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Broomall, Cornell, Covode, Dodge, Fox, Haight, Asahel W. Hubbard, Humphrey, Kerr, Laflin, Lincoln, Mallory, Morrell, Pomeroy, Pruyn, and Van Wyck—18.

So the bill was passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THOMAS L. JONES.

The Speaker laid before the House the protest of M. M. Benton and others against the admission of Thomas L. Jones as a member of Congress from the sixth congressional district of Kentucky; which was referred to the Committee of Elections.

JOSIAH L. SIMPSON.

On motion of Mr. HUBBARD, of West Virginia, the papers in relation to the claim of Josiah L. Simpson for relief were withdrawn temporarily from the files of the House.

#### ELECTION CONTEST—KENTUCKY.

Mr. DAWES. I am instructed by the Committee of Elections to report the following resolution, on which I demand the previous question:

*Resolved*, That in each of the cases of contested election from Kentucky the time for taking testimony is hereby extended to the 1st day of December next, in all things else conforming to existing law, except that such testimony may be taken before a notary public.

Mr. RANDALL. I would like to hear some reason for extending the time so long, leaving the State of Kentucky in the mean time unrepresented, especially as I hear it intimated in high places that we may be called together again in October next. If such a session should be called, Kentucky will still be a State substantially out of the Union.

Mr. DAWES. The gentleman from Pennsylvania perhaps does not understand the scope of the resolution. It has no reference to the matters referred to the committee yesterday touching the parliamentary question of the right of these parties holding certificates to seats. It is only touching those cases in which there is a contest that it is proposed to extend the time. The question of the disqualification of these persons holding certificates is a question to be examined by the committee independent of the taking of testimony, as is covered by this resolution.

Mr. RANDALL. I desire to know of the

chairman of the committee whether the practical effect of his resolution will not be to keep out these members from Kentucky until such time as the testimony which he proposes to admit, by an extension of the time, shall come in.

Mr. DAWES. It is with no reference to that question that the resolution is offered.

Mr. RANDALL. But will not that be the effect of the vote on the resolution?

Mr. DAWES. I do not think it can have that effect. The resolution is offered independently, and the decision of the committee as to the qualification or disqualification of these members will not depend upon it. The testimony taken under the resolution will not at all affect the judgment of the committee on the question to which the gentleman refers. No testimony taken in reference to this point will reach that question. Certainly the committee had no desire in directing me to offer this resolution to postpone for one hour or for one minute action on that question, nor had they or I any idea that it would have any bearing upon that question.

Mr. RANDALL. I am satisfied with the explanation made by the gentleman from Massachusetts; but I desire to say that it is not just in my opinion that even this possible action should take place in the committee in reference to this matter.

Mr. DAWES. I will reply to the gentleman by saying that he does not disagree with me or with the committee upon that point.

Mr. RANDALL. I hope their action will be so speedy that the question cannot arise.

Mr. DAWES. I hope so, too; and I now renew the demand for the previous question on my resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. MUNGEN. I wish to ask whether that resolution applies to any other member from Kentucky than those whose seats are contested in regular form?

Mr. DAWES. It does not; it applies only to those whose seats are contested. I move now to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SERVICE ON A COMMITTEE.

Mr. DAWES. I have been asked by the gentleman from Delaware [Mr. NICHOLSON] to withdraw the objection which I made to excusing him from further service on the Committee of Elections. I do so now, but with a renewal of the expression of the regret which I feel at his withdrawal from that committee; but from what he has stated to me I cannot further ask the House to insist on refusing to accept his withdrawal.

The question was then taken on excusing Mr. NICHOLSON from further service on the committee, and he was accordingly excused.

#### FRAUDS ON THE TREASURY.

Mr. HULBURD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to furnish for the information of this House any report or reports on file in the Treasury Department regarding alleged frauds on the internal revenue in the fifth collection district of North Carolina.

#### MESSENGERS OF THE HOUSE.

Mr. LOGAN. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Doorkeeper be authorized and directed to retain the messengers and employees during the recess of Congress who were authorized to be retained during the last recess.

Mr. HOLMAN. I think the resolution adopted at the last session was broad enough. If any difficulty arises on the subject hereafter we can remedy it.

Mr. LOGAN. I do not wish to discuss the question; but it does seem to me this is about as good a time to offer the resolution as any other will be.



Mr. HOLMAN. The objection to the resolution is that it may imply too much.

Mr. LOGAN. It is limited to the same number as was proposed in the preceding resolution.

The resolution was adopted.

Mr. LOGAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RAILROAD COMPANY MAIL MATTER.

Mr. NIBLACK. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Post Offices and Post Roads, when appointed, be instructed to inquire into the expediency of allowing railroad companies to carry their own letters relating to the business of their roads outside of the mail, free of postage, and to report by bill or otherwise.

Mr. HOLMAN. I object.

#### PAYMENT OF BOUNTY.

Mr. VAN AERNAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House what further legislation, if any, is necessary to facilitate the payment of the additional bounty granted by act of July 28, 1865.

And thereupon, on motion of Mr. MUNGEN, (at three o'clock and thirty minutes p. m.,) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: A petition of Pennsylvania soldiers entitled to additional bounty, numerously signed, praying Congress to appoint a committee to investigate the cause of the delay in paying said bounty.

By Mr. HUBBARD, of West Virginia: The petition of Minerva Roberts, asking the payment of pension from the date of her husband's death to the time of filing her application.

By Mr. SCHENCK: A petition of 400 citizens of Wilmington, North Carolina, praying for amendments to the reconstruction laws, and for greater security to loyal people in the southern States.

By Mr. STEVENS, of Pennsylvania: The petition of 4,000 citizens of Maryland, in favor of universal suffrage.

By Mr. UPSON: The petition of Ira McIntyre, of Kalamazoo county, Michigan, a soldier of the war of 1812, praying for a pension. Also, affidavits of various persons accompanying the same.

#### IN SENATE.

WEDNESDAY, July 10, 1867.

Prayer by Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

Hon. JAMES DIXON, of Connecticut, and Hon. THOMAS A. HENDRICKS, of Indiana, appeared in their seats.

#### BUSINESS OF THE SESSION.

Mr. SUMNER. I move that the Senate proceed with the consideration of a resolution offered by me the other day in reference to the rule of the Senate which was adopted last Friday.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate postpone all other business—

Mr. SUMNER. There is no business before the Senate, as I understand, to be postponed.

The PRESIDENT *pro tempore*. I do not know whether there is or not. Petitions, &c., I believe, are first in order. However, that makes no difference. The question is, whether the Senate will proceed to the consideration of the resolution mentioned by the Senator from Massachusetts.

Mr. SUMNER. Is there any objection to proceeding to its consideration?

Mr. EDMUNDS. Yes.

Mr. SUMNER. Then I wish to be heard on the question of proceeding to the consideration of the resolution. What I have to say—

Mr. HOWE. I hope we shall proceed with the regular transaction of business.

Mr. DIXON. Are petitions in order?

The PRESIDENT *pro tempore*. Petitions are not in order, because there is a motion to proceed immediately to the consideration of

the resolution named by the Senator from Massachusetts; and that is the question under the consideration of the Senate.

Mr. JOHNSON. What is the resolution?

Mr. SUMNER. Let the resolution be read. The PRESIDENT *pro tempore*. It will be read.

The Secretary read the resolution submitted by Mr. SUMNER on Monday last, as follows:

*Resolved*, That the resolution of the Senate adopted the 5th of July last limiting the business of the Senate be, and hereby is, rescinded.

Mr. SUMNER. Now the question is on proceeding with the consideration of that resolution, and what I have to say will be directed to that point. I have to submit that the resolution was adopted last Friday under a misapprehension, and it is in order to meet that misapprehension that I shall call attention to a debate that once occurred in this Chamber.

Mr. TRUMBULL. I rise to a question of order, whether on a motion to take up the resolution it is competent to refer to a debate that once occurred in this Chamber, and as to whether the resolution of Friday was adopted under a misapprehension or not.

Mr. SUMNER. The question is now whether we shall proceed with its consideration, and I am going to assign reasons for proceeding with its consideration.

Mr. TRUMBULL. The question is not whether you shall proceed to its consideration, I submit to the Chair. The question is whether you will take up the resolution for the purpose of proceeding with its consideration. It is not before the Senate; and I raise the question of order that the Senator cannot discuss it or the reasons for its adoption until it is before the Senate.

Mr. SUMNER. I have to say—

The PRESIDENT *pro tempore*. That question is to be decided, in the first instance, by the Chair without debate. I suppose it is in order for the Senator to give the reasons why we should proceed to the consideration of the resolution, and I do not know why, as part of his argument, he may not refer to the fact, or to his apprehension of the fact, that the other resolution was not properly considered, or that it was adopted under a misapprehension. It seems to me that it is in order.

Mr. TRUMBULL. I submit that if he goes on to show that the resolution was adopted originally by a misapprehension he is giving reasons for the adoption of this resolution, and is going into the merits of the question whether the resolution should be adopted. I think it has always been the understanding in the Senate that on a motion to take up a Senator could not go into the merits of the question proposed to be taken up. He can give his reasons for asking to take up the measure, but he must confine himself briefly to the reasons for taking it up, and not go into the merits of the question to be taken up, to say that it ought or ought not to be adopted.

The PRESIDENT *pro tempore*. I believe that the Chair has never excluded anything as being out of order for irrelevancy in the Senate of the United States. My recollection of it is, that anything that a Senator thought was relevant was in order. The Chair does not assume to judge of his argument, whether it is relevant or not. I do not think we have ever excluded anything as being out of order because it was considered by the Chair irrelevant. I think I remember very clearly that on a motion to take up the Chair has admonished Senators that they should speak pertinently to that issue and use short arguments. I believe that has been advised from the Chair, but I do not know that the Chair has ever undertaken to direct what the argument shall be.

Mr. TRUMBULL. I will inquire of the Chair, then, if a motion to lay the motion of the Senator from Massachusetts, to take up this resolution, on the table would not be in order?

Mr. SUMNER. Of course not, because I have the floor, and the Senator cannot make the motion while I have the floor.

The PRESIDENT *pro tempore*. That is the only difficulty. I suppose it would be in order if the Senator had the floor for that purpose.

Mr. TRUMBULL. The Chair recognized me as having the floor on the question of order, and that question having been decided by the Chair, I was still upon the floor; and whether the Senator from Massachusetts can hold the floor over the question of order and retain it is another question.

Mr. SUMNER. Of course I can.

Mr. TRUMBULL. I do not know that.

Mr. SUMNER. I am astonished, Mr. President, at this singular effort to cut off discussion on an important proposition. I am at a loss to appreciate it. I cannot enter into the motives of it. I cannot fathom them.

Mr. TRUMBULL. If the Senator will allow me, I will state in a word exactly the reason.

Mr. SUMNER. I shall not be long; I have no desire to occupy time. I merely wish to set myself right, and, as a Senator, to contribute to set the Senate right on an important question.

It was stated the other day that Mr. Clay had brought forward in this Chamber in 1841 a proposition in the form of a resolution determining the subjects on which the Senate would act during what was then known as the called session under the administration of Mr. Tyler. I will not quote that resolution at length; for it was read at the time, and will be found in the Journals of the Senate. The Senator who called attention to it then proceeded to remark, as follows:

"That resolution was not acted upon; it was displaced by the course adopted by the House of Representatives."

I read from the Globe of our first day's proceedings the statement that the resolution of Mr. Clay was displaced by the action of the House of Representatives. Now, by a reference to the Globe it will appear that that is an entire misapprehension. The resolution of Mr. Clay which was invoked as a precedent for our proceeding was not displaced in any such way. It was displaced by another proposition of Mr. Clay, which he himself, after the opposition from the other side of the Chamber, was forced to abandon as being in spirit unconstitutional; but it was a proposition which was in no sense so unconstitutional as that of ours. The proposition that was quoted the other day as introduced by Mr. Clay was brought forward on Monday, June 7, 1841, and left to lie on the table. On the next day Mr. Clay—and the Globe will show that the suggestion of the proposition was made to him by another Senator—brought forward this which I will now read:

"*Resolved*, That when the Senate adjourn during the present session, leaving a subject under discussion and undecided, the consideration of the subject shall be resumed at the next meeting of the Senate, immediately after the journal is read and petitions and reports are received, without waiting for the usual hour of one o'clock."

That was left on the table of the Senate. I understand from history that Senators on the other side had a meeting to determine their course. An eminent gentleman, associated in sentiment with the other side of this Chamber at that time, has called my attention to the fact; and that may be inferred from the statements that were made in the Senate when the resolution was called up by Mr. Clay, as it was on Saturday, June 12. Congress had already then been in session some time: this was the second week. As soon as it was called up, Mr. Benton made a very brief speech, which is thus set forth in the Globe:

"Mr. BENTON objected to the resolution, as going unnecessarily to change the rules of the Senate, and to shut out resolutions and calls of inquiry. It would cut off the only source of information now open to the minority for a right understanding of the management of the Government. It seemed to be an attempt to cut down and shut out inquiry in a way not hitherto known to Congress. He was firmly opposed to any cutting down in this manner any privilege of the Senate. It showed a determination to dictate to the Senate its order of business and the duration of the session. If it was persisted in, he would at least demand the yeas and nays."

"Mr. CLAY replied, insisting upon his equal right to submit resolutions with that of other members of the body."

And went on in that key.

Mr. YOUNG, a Senator, I think, from Illinois—

"Heartily concurred with the Senator from Kentucky in his desire to terminate the session at as early a day as possible, but did not think it necessary to make an alteration in the rules."

That, again, brought Mr. Clay forward, who made another speech not unlike the first, and somewhat in tone like those to which we listened the other day. Mr. Benton then followed. He said:

"That the adoption of this new rule would cut off entirely all calls upon the Departments for information, which was necessary to a discharge of their legislative duties. It was something quite new for Senators on one side of the Senate to prescribe limits in this manner as to what calls they should make for information."

A suggestion was then made by Mr. Bayard, of Delaware; and then Mr. Buchanan made some brief remarks, of which I will only read a sentence:

"Mr. BUCHANAN thought the resolution unnecessary. There was a courtesy among the members of that body which rendered it always easy for gentlemen to accomplish their wishes as to the order of business."

Mr. FESSENDEN. That debate was all on the second resolution.

Mr. SUMNER. I so stated that it was on the second resolution. There was no debate on the first resolution. Then Mr. Calhoun made his protest:

"Mr. CALHOUN observed that the principal means by which a minority could guard its rights was the observance of the rules of order. He submitted to gentlemen whether it was fair thus to cut off their opponents from an opportunity to bring out the expression of their opinions on every important subject—yet that would be the whole effect of the proposed resolution."

I do not read the rest of Mr. Calhoun's remarks. That again brought forth Mr. Clay, who said that—

"He wanted no other or better evidence than the present discussion was affording of the disposition of their opponents to protract debate."

I introduce these words of Mr. Clay now, because it makes more remarkable the abandonment afterward of his position. Then came Mr. Calhoun again in reply to Mr. Clay:

"Mr. CALHOUN said that no man on that floor could be more anxious to be at home and attending to his business than he was, but he did claim, in behalf of the minority, that they should be heard. He denied that the people demanded from them action alone. They demanded that they should act wisely."

"The attempt thus to cut off debate was a thing unprecedented in the Senate. He should resist it. Anxious as he was to be at home, he would remain here a whole year rather than not be heard. He moved to lay the resolution on the table, but consented to withdraw the motion at the request of Mr. Allen."

Mr. Allen made an elaborate speech to which I simply call attention, and will read only a sentence or two. He says as follows in the course of this speech:

"But I hold that the announcement by the Senator from Kentucky of his July adjournment, and his laying down to us the measures which are to receive our action, is a form of legislative despotism which should be resisted at the threshold, in its very first stage."

He then goes on, after making his protest at great length, to say:

"I hope the Senator will let the question on this resolution go by, and that he will not exert his paramount influence in forcing such a restriction upon the Senate. But if he presses his resolution to a vote, I can tell him that he will have to sit here many a long and sultry night. There are eighteen of us on the one side and two others, who on this point will unite with us, and that makes twenty. All of us can talk 'some'—all of us, from the youngest to the oldest, can and will say something."

Then followed a suggestion from one of Mr. Clay's intimate supporters—Mr. Bayard, of Delaware—of a modification of the amendment, which Mr. Clay declined at that time to receive. Mr. Calhoun then renewed his motion to lay on the table, on which the yeas and nays being called, there were 19 yeas, being the Senators in opposition to the resolution, and 27 nays, being Mr. Clay and his supporters. When that had been done, Mr. Clay, apparently recovering his senses, and possibly

thinking somewhat of the Constitution, remarked as follows:

"Mr. CLAY, of Kentucky, replied that he really wished to see the business of the Senate done in the manner most agreeable to gentlemen on all sides of the House. If gentlemen would be content with having one hour assigned them for their calls on the Departments and other resolutions, very well; he for one would assent to such an arrangement."

"Tokens of assent being given—

"Mr. CLAY said: If the Clerk will follow me, I will dictate a modification, though I do not like to be a dictator in any sense."

"Mr. BUCHANAN. You do it so well, you ought to like it."

"Mr. WRIGHT. That's fair."

"And the words 'that's fair' were repeated in various quarters."

"At the suggestion of Mr. KING, of Alabama, Mr. Clay further modified the resolution by adding the words, 'unless otherwise ordered by the Senate.' And the resolution in its finally amended shape was then adopted, as follows:

"Resolved, That during the present session, at the expiration of one hour after the meeting of the Senate each day, the Senate will proceed to the consideration of the subject left unfinished the preceding day, unless otherwise ordered by the Senate."

And this is the precedent of the Senate of the United States applicable to the present occasion. Now, for the first time in our history, you have undertaken to put a limitation upon the business of this body. It is a precedent which may be grateful to some of you who are now in the majority; but I know full well that it would be anything but grateful to you if you were in the minority. I have done my duty now in calling attention to the past; and I do most respectfully submit to my associates in this body the expediency of rescinding a resolution which I cannot but think was adopted under a misapprehension, with an idea that there was some color of precedent for it in our past history, when in point of fact there is none.

Mr. FESSENDEN. I wish to say simply that the proceedings which have been read and the motion which has been commented upon by the Senator from Massachusetts were not referred to at all by me or by anybody else in any previous debate. All that matter has been brought up by the Senator; and the proceedings of the Senate and the final conclusion arrived at read. He said that he would show that what I said the other day with reference to a certain precedent was not correct; but thus far he has not attempted to show it. I simply stated that Mr. Clay made a certain motion with regard to the business of the Senate to be attended to at that session, and that that motion was not afterward pressed to a vote. There was the length and breadth of my statement. If I said anything more—

Mr. SUMNER. I have it here.

Mr. FESSENDEN. Will the Senator oblige me by reading it or giving it to me?

Mr. SUMNER. I will read it when the Senator is through.

Mr. FESSENDEN. I will hear it now, if the Senator pleases.

Mr. SUMNER. If the Senator had done me the honor to listen to me when I opened this matter, he would have observed that I read from the Globe, and of course I could not do the Senator injustice.

Mr. FESSENDEN. I did not hear what the Senator read.

Mr. SUMNER. I said that a Senator—and I held a copy of the Globe in my hand, but I did not even allude except in that general way to the Senator from Maine—I said that a Senator had commended at the beginning of the session some proposition like that which was finally adopted by the Senate, by calling our attention to a supposed precedent of 1841, and that the Senator, after reading a resolution at that time introduced by Mr. Clay for the purpose of limiting the course of business, went on to remark as follows. I now quote from the Globe the language of the Senator from Maine:

"That resolution was not acted upon; it was displaced by the course adopted by the House of Representatives."

The inference of course was, that so far as the Senate was concerned, that resolution of Mr. Clay found no disfavor; it was displaced

by action in another House. Now, I have shown from the record that it was displaced by action in this body; that the very day after Mr. Clay introduced this first resolution he introduced another and different one, which was in the nature of a substitute, and intended as a substitute; and that, after debate in this Chamber, he was obliged, substantially, to abandon even that substitute by consenting to its modification so far that it amounted to very little as a limitation of debate.

Mr. FESSENDEN. If my recollection does not fail me, the Senator, if he looks a little further forward on the Journal, will find that on a subsequent day Mr. Clay called up his original resolution.

Mr. SUMNER. I cannot find it here.

Mr. FESSENDEN. I may be mistaken about it; but that is my recollection.

Mr. SUMNER. It was never called up.

Mr. FESSENDEN. We will see. [After examining the Journal,] I do not find that it was; but the subsequent action was on the resolution referred to by the Senator; so that I am not right in that particular. But, sir, I should like to know how it appears that it was displaced by the other resolution. I stated that it was displaced, as I supposed. Of course it could only be a supposition, nothing appearing upon the record of the Senate of the resolution which was adopted by the House of Representatives, and which was read by me. I might be mistaken about that, of course; and there is no very particular consequence to be attached to that fact one way or the other. The point I endeavored to make was, as against the idea that it was unconstitutional for us, by resolution, to prescribe what business should be done: that Mr. Clay had offered a resolution of a certain character doing that very thing. I was only stating my own impressions about it. I read it without any further comment than that it was displaced by a resolution adopted by the House. That resolution, adopted by the House, limited the business to be done by the House, and in its effect it controlled the legislative action of the Senate, because it was of no use for the Senate to act on what the House would not act upon and had agreed not to act upon at all. The whole matter, therefore, in my judgment, is immaterial.

But I wish to call the attention of the Senator to one point, and that is, that in all he has read from the Globe as a matter of argument against the resolution to which I alluded or any resolutions offered by Mr. Clay nothing was said by any member of the Opposition of that day as to the unconstitutionality of such a rule. That idea is original entirely with the honorable Senator from Massachusetts. In all the opposition which was made by Mr. Benton and Mr. Calhoun and Mr. Buchanan, their constitutional scruples, nice as they were, did not come up to the point that it was unconstitutional for Congress to say what business it would do at a particular session, and what it would not do. Therefore I think that the argument of the Senator on that point must be conceded to be his own, to rest upon nothing but his own reading of the Constitution and his own idea of the spirit of it. What I endeavored to show was, that the matter had been attempted before in one branch of Congress and carried into effect in the other branch of Congress, and without any idea that thereby there was an infringement of the Constitution of the United States. Why, sir, in my judgment, I repeat, it is a mere matter of business, and, as I said on a former occasion, it is a matter with regard to the propriety of which, and as to the responsibility for which, each individual must judge for himself. The opposition that was made to the proposition of Mr. Clay, finally adopted as modified, at that time was that it cut off the minority from acquiring information that they might desire from the Departments. Our resolution, as we have adopted it, does no such thing. It merely specifies what legislative business shall be attended to, leaving open all the ordinary proceedings with reference to obtaining informa-

tion or making inquiries. That this resolution is not objectionable to the minority, so called and so understood, is proved by the fact that I believe every one of the minority voted for it.

Mr. JOHNSON. "The minority" is on your side. [Laughter.]

Mr. FESSENDEN. That there is a minority on our side of the Chamber does not make it out that the rights of the minority are particularly infringed. Otherwise, we can pass no resolution and no vote, make no rule and no law at any time that is disagreeable to some half a dozen members. Why, sir, when should we get through legislating, what should we accomplish at any session of Congress, if that rule were adopted? It prostrates the great majority of the body on both sides of the Chamber at the feet of a few individuals who are grieved in the result of a vote, unless the honorable Senator from Massachusetts deems that he in fact is the majority, and that nothing must be done that is disagreeable to him! When we take a vote and find twenty-seven or twenty-eight on the one side and half a dozen on the other, the result may be considered as a fair expression of the will of the Senate. I think, on the whole, there are no such dangers to the body-politic as are apprehended, especially if the majority voting for the proposition embraces all of one side of the House and nearly all of the other.

Now, sir, I do not believe that the Senate voted under any misapprehension. I think I had a pretty tolerably clear idea of what I was about at the time; I have no doubt my associates had; and I think they are quite as capable of judging for themselves of the effect of a vote, and quite as able to take the responsibility of that vote, as anybody else. I, at any rate, am quite satisfied that I acted under no misapprehension, and am ready to act again in the same way.

Mr. SUMNER. I have no desire to protract this discussion. I have done simply my duty in calling attention to the past precedent which had been introduced into the discussion. When it was introduced I had no means of replying to it. I had not the Journals or the Globe with me; and I had supposed from the statement made by the Senator from Maine that it was a resolution practically adopted in this Chamber. I was not aware of what followed. I was not aware of the extent to which the whole spirit of the proposition was denounced. Nor was I aware that its original mover, Mr. Clay, was obliged to abandon his proposition; that he magnanimously, and justly, and considerately abandoned it. That is the true precedent in this body; and that is the precedent which I now submit it would be better for the Senate to follow; nothing, surely, could be lost by following it. The resolution adopted by the Senate on Friday, while it remains, will only be of evil example. If hereafter quoted as a precedent, it may be at last for some purpose of oppression, when Senators will not all be as just as those whom I now have the honor of addressing. It may be seized then as an engine of tyranny. For one, sir, I would leave no such weapon in this chamber to be seized hereafter by any hand.

Mr. TRUMBULL. Mr. President—

Mr. GRIMES. Let us have a vote on the resolution.

Mr. TRUMBULL. If we can have a vote on the resolution I shall say nothing.

Mr. FESSENDEN, [to Mr. TRUMBULL.] Move to lay it on the table.

Mr. TRUMBULL. It has never been taken up yet. I hope we shall have a vote on taking it up.

The PRESIDENT *pro tempore*. The question is on taking up the resolution indicated by the Senator from Massachusetts for consideration.

The motion was not agreed to.

#### PETITIONS.

The PRESIDENT *pro tempore*. If the Senate will indulge me, I desire to present two peti-

tions that I have received. I do not know but that to do so trenches upon the rule, if any gentleman wishes to raise that question. I will do my duty, however. I have a petition here from a lieutenant in the Navy, who represents that he has done a great deal of service to the country and is entitled to a pension. It will be laid on the table for further consideration.

I have another petition from W. W. Holden, of North Carolina, who sets forth that he has always been a Union man, and prays that the Senate will remove the civil disabilities under which he labors. That will also lie on the table.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed an enrolled bill (H. R. No. 107) to establish certain post roads.

#### RECONSTRUCTION.

Mr. TRUMBULL. I now move that the Senate proceed to the consideration of Senate bill No. 131.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 131) to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, the pending question being on the amendment proposed by Mr. WILSON to the second section.

Mr. HOWARD. Mr. President, I am very glad that the Senate consents to proceed at this early moment to the consideration of this bill and the amendments that are pending thereto. The peculiar views taken by the Attorney General of the United States of the reconstruction acts of Congress, and the apprehension of the members of this body, at least of the majority, that the President of the United States in the execution of those acts may or will be governed by the conclusions to which his legal adviser has arrived, have doubtless been the great causes for the reassembling of Congress on the 3d of July instant. I propose to ask the indulgence of the Senate for a few minutes while I pass in review some of the arguments of the Attorney General respecting the meaning and intent of the two reconstruction acts already in existence. I do not believe that upon any just and fair construction of those acts there was any necessity for additional legislation, whether in the shape of amendatory, supplemental, or declaratory acts. I believe that the acts themselves contained all that was necessary for carrying out the policy of Congress in regard to reconstruction, and that if they had been properly construed, if correct advice had been given to the President of the United States as to their true purport, we should not probably have been under the necessity of assembling here at Washington in the Capitol to spend a portion of the hot days of this intense summer.

To ascertain the nature and extent of the powers given the district commanders we must look carefully at the language of the statute, and must not overlook, as others have done, the reasons and the circumstances impelling Congress, as they plainly announce, to the enactment of so unusual a system of legislation.

The act of March 2 declares in the preamble that in the ten States there exist "no legal State governments, and no adequate protection for life and property." Governments of a certain kind did, it is true, exist there as a matter of fact. They were such governments as had been established, not by Congress, the supreme law-making power of the nation; not by the loyal people of those States, acting freely and by spontaneous impulse for the whole community, as was the case in West Virginia; nor yet by the rebel people acting freely; nor by the rebel and loyal elements acting conjointly; but by the orders and decrees of the Executive, acting without the knowledge and consent of Congress. That functionary, suddenly elevated to his high position by the assassination of the President elected by the people, acting under

the influence of bad principles and bad advice, and seizing upon a most critical state of affairs produced by the surrender of the rebel armies, took upon himself the task of State-maker for the ten rebellious States, now devoid of all State rights and privileges, and, as he himself had often declared, lying so many heaps of shapeless political ruins. He assumed, of his own will and pleasure, without any act of Congress, and in utter derogation of their constitutional powers and duties, to grant to those populations not merely that military protection which by the law of nations and war is an incident to military occupation of an enemy's country, but political rights and powers as States; to clothe them with legislative authority, with administrative and judicial functions, and the additional right of electing Senators and Representatives to Congress. All this he did without law or constitutional warrant, in a manner and spirit unknown to our history and known only to despotic Governments. It was the first earnest and formal attempt to introduce practically into our Government those absolutistic ideas, the absence of which from our system has ever been our boast and our true glory.

It cannot be denied—even he cannot and will not deny—that he exercised unlimited power, political and legislative, over the subdued States. It cannot be denied that his object was to introduce into Congress at once and immediately on its next assembling, in December, 1865, the Representatives of constituencies hostile to this Government, hostile to its preservation, hostile to its policy, its principles, its duties, with no security for their future good behavior but the promise on oath of men who by tens of thousands had once wantonly broken their oaths to support the Constitution of the United States! It cannot be denied that his scheme was to reinstate the rebels in all their former powers and privileges under this Government without exacting from them any substantial security against a recurrence of the rebellion, and without introducing into the Constitution proper safeguards against their malign influence for the future. But by far the most glaring and menacing feature in his policy was the bold assumption of absolute power over a field of legislation exclusively belonging to Congress—to reframe a ruined, dissolved State—to pass it through a political resurrection and reinvest it with full State powers. In the prosecution of this scheme he was, of course, involved in the violation of the laws of the United States. But he persevered, and having, by his arbitrary proceedings—all in the interest of the rebels—secured the election in those States of men who seven months before were in open rebellion against us, he came before us and addressed us these pompous and insulting words: "Gentlemen of the Senate and gentlemen of the House of Representatives, it now remains for you to pass upon the qualifications of the persons thus elected under my policy!"

Congress, not yet prepared to acknowledge a master, and least of all such a master, and not yet prepared to give the right hand of fellowship to the bloody hand of treason, spurned the suggestion, and gave him and his protégés to understand that there were certain preliminaries to be settled before such an intimacy could be reestablished. They expressed their views in the form of what is known as the fourteenth amendment of the Constitution, which they submitted for the consideration of the several States, as prescribed by the Constitution. Had it been adopted by the requisite number of State Legislatures the rebel States would to-day have been represented in Congress; but this nascent absolutism, restless and insolent here as elsewhere, interfered and arrested the good work of reconstruction. By its patronage and intrigues it redoubled the discontents of the South. It absurdly claimed the right to veto the proposition. It resorted to all the arts of low demagoguism to defeat it. It foolishly held out false hopes to the people of the South and amused them with the

delusive promise that the northern people would reject the measure and return to these Halls men who would favor the absolutistic policy of Mr. Johnson and his advisers, and who would impose no conditions upon rebellion, but admit it at once to its former place and power.

The whole power and patronage of the Executive were brought out and used to make good this childish and hollow promise. The Executive himself, on his journey to attend the funeral ceremonies of Douglas at Chicago, plainly told the throngs that listened to him that the offices in his control should be given to those who would advocate his policy. He openly set them up at auction, and agreed to bestow them for partisan influence and votes. The bait was caught. A Johnson party was organized. The appointees of Mr. Lincoln who declined to sell their principles were mercilessly thrust out of office. A general system of espionage and surveillance was organized against them, and they were ousted from their offices because they would not, on hearing the sound of the cornet, flute, harp, sackbut, psaltery, and all kinds of music, fall down and worship the golden image that Nebuchadnezzar the king had set up. Honest and competent men, whose fidelity was never questioned, were unceremoniously exchanged for the venal and the base, and a wide-spread office brokerage inaugurated itself throughout the land, with its numerous bureaus and branches in every State and in almost every county, in the shape of Johnson committees and other almoners of Johnson's patronage. This patronage was boldly and unscrupulously employed as the lever by which the party who had carried the Government safely through the war was to be overthrown; and, to its amazement, that patriotic party, though it had drenched the rebel soil with its best blood and lavished billions of treasure in saving the Government from the clutch of treason, now heard itself denounced by the Executive as a band of traitors, because it would not fall down and worship the image. Their Congress was denounced by the aspiring King Theodore as an unconstitutional body, hanging on the verge of the Government. Threats were made by his advisers to disperse them by military force, and he was manifestly contemplating the rash attempt, not dreaming that half a million bayonets were thirsting to punish him should he actually make it. So confident had his brief possession of power made him that his chief minister had ventured in his presence, in a speech he made to the people of a northern State, to predict that he would make himself king if his policy as a State-maker was not carried out—a subtle flattery worthy only of the minister of an Oriental despot! But this reckless breach of the Constitution, this endeavor to introduce absolutism and rebellion into our politics, soon exhibited its legitimate fruits in the bloody streets of New Orleans, in the unpunished murder of Union men by the tools of Johnson, and in other acts of violence and wrong, for which he and his advisers are responsible before the world and before high heaven.

But the wicked pretension of making States and governing without a Congress was sternly rebuked by the loyal people at the elections of 1866. Their voice pronounced sentence upon the usurpation and warned its authors to return to duty—to return to constitutional ideas and abstain from their wicked efforts to strip Congress of its powers and govern half of our national territory by executive decrees. The warning was not heeded. Blind with rage at the party who, guilty of the fatal mistake of trusting to his professions, had chosen him for Vice President, he persisted with angry and defiant obstinacy, with an assumption of infallibility in his interpretation of the Constitution and an ostentatious profession of conscience and patriotism, in adhering to his policy of executive State-making, refusing to see or believe that his despotism was every day exposing the Unionists, white and black, of the South to ruin and destruction, or if he did

know the real truth winking at, if not encouraging, the wrongs they were receiving at the hands of the rebel authorities to which his cruel policy had subjected them.

He directly interfered to dissuade and prevent his pseudo governments of those States from ratifying the amendment, determined to use them as so many trumps in the partisan game he had inaugurated against the party he had joined and betrayed, to be made available for him in the presidential canvass of 1868. He did not want them to owe their reintroduction into the Union to the party that had successfully fought down the rebellion, and which, for some reason not yet known to the world, he had wantonly betrayed. He preferred to have them remain out of the Union, unrepresented in Congress—scenes of disquietude, agitation, mischief-breeding, to remain as his policy made them, theaters of lawlessness, insecurity, crime, anarchy, where life, liberty, and property are governed by the law of the stronger—scenes for the display of his love of absolute power and his skill in low party tactics, rather than that they should owe their restoration to the legislation of a Republican Congress and honorably accept honorable terms of settlement. What those unfortunate States needed was the protection of law, so that industry could rise in the morning, perform her task, and in the evening retire to rest without molestation, secure of her reward and perfectly confident of the like safety in the future. They wanted order and a cessation of strife and contention. The interests of all required this. Agriculture, commerce, education, morals, religion, all cried out, give us law, rescue us from anarchy, cease contention, give us quiet! But the Executive said no, you shall have disquiet, you shall have contention, anarchy, so long as Congress disents from the superior wisdom of the Executive, so long as they refuse to recognize the principles of absolutism that I have set up. I am your king, you are my provinces, and I shall govern you by royal proclamation. No matter though industry may languish; no matter though the bands of law are loosened and your persons and property are the prey of unavenged murder and plunder; no matter though the hearts of the wise and the good among you tremble at the state of dreadful insecurity that exists among you and the dark prospects of the future, I am he who holds your destinies in his hand; I must be obeyed; I am the infallible judge of the Constitution; I have unrolled it; I understand it; I am conscientious; Congress and the so-called loyal people are not conscientious; I am patriotic; they are not; they are traitors; I am great; they are small; they must be put down; I must be put up; and you must remain in your present condition until I have had my way. And thus the matter stood until the second session of the last Congress, when the two Houses, losing all hope of securing his cooperation in the work of reconstruction, and seeing that the experiment he had launched more than a year before had fallen utterly short of all the objects of a regular government and was daily becoming worse and worse in its operations, interposed and passed the bill to provide for the more efficient government of the rebel States, of March 2, which was vetoed and repassed by the requisite majorities. And finding in their grapple with the absolutism of the executive department that mere inducements and persuasions were unavailing, they finally exercised their powers as State-makers, and in the supplemental act allowed the black man to vote—allowed it not perhaps more out of regard to the principle of equality than as a measure demanded by the necessities of the times and as a means of neutralizing and finally extinguishing the power of the secession leaders in those States. Absolutism again resisted, and vetoes and speeches laden with insult and ridicule were plentifully hurled at us. Such a provision was, forsooth, a perfect overturning of the constitution, which left to the States the right to say who might vote and who might not. The rebel States had not lost this right by the war; the right was im-

perishable and still fresh and vigorous; and although we had overcome and overruled them by our arms and held them in the iron grip of military occupation, still we could not take from them the precious right to exclude the negro from voting, notwithstanding they had no government at all under which even a white man could lawfully vote. Absolutism cried aloud that it had already reconstructed those States, and had—as was in fact the case—excluded the black man from suffrage, thus assuming a political and legislative power not granted to the Executive. It did not the less, however, complain of the violation of State rights, as if it were possible and not utterly preposterous and ridiculous that State rights could be granted, imparted, or restored by the President of the United States alone!

I have briefly sketched the motives of Congress for passing these acts and the circumstances, all of the most public nature, which led to it. It became the duty of the President to see that they were faithfully executed. His obligation in this respect was the same as in other cases. They establish another and different kind of government from those instituted by the Executive in the ten rebel States. They first divide them up into five districts, Virginia being the first, North Carolina and South Carolina the second, Georgia, Alabama, and Florida the third, Mississippi and Arkansas the fourth, and Louisiana and Texas the fifth. It declares that they shall be made subject to the military authority of the United States as afterward prescribed in the act.

The Attorney General has given this statute an elaborate consideration, and has come to the conclusion, and has so advised the President, that this military authority is not paramount to that of the State, but that it is only auxiliary to it; that it is a mere police power, sent there by Congress to aid in preserving the peace and enforcing the local State laws, whatever they may be; and that it cannot override the local law enacted by the State government instituted there by Mr. Johnson; consequently, that the military commander has no authority to remove from office any State functionary appointed or elected under the State laws. This announcement has, beyond doubt, been a principal cause of the appearance of a quorum of the two Houses in their seats on the 3d of July, the day to which Congress adjourned.

The argument submitted by the Attorney General to the President has certainly taken the country by surprise. Such a construction of the act is, I believe, entirely original with him. I am bold to say it was never thought of by Senators or Representatives in Congress, whether they voted for or against the bill. Indeed, had such been supposed to be its effect, there can be no doubt that all the affirmative votes would have been given in the negative and all the negatives in the affirmative. Had such been held to be its true intent and meaning there is no reason whatever to suppose it would have encountered the President's veto. That veto, on the contrary, declares in terms too strong to leave any doubt that Mr. Johnson and his advisers were then of the opposite opinion. The veto message, speaking of the powers given to the district commanders and endeavoring to present it in an odious light, uses this language:

"The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the State is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority to be null and void. He alone is permitted to determine what are the rights of person and property, and he may protect them in such way as in his discretion may seem proper. It places at his free disposal all the lands and goods of his district, and he may distribute them without let or hindrance to whom he pleases. Being bound by no State law, and there being no other law to regulate the subject, he may make a criminal code of his own, and he can make it as bloody as any recorded in history."

It is understood that the present Attorney General, if he did not write this veto message, assisted in its preparation. Being the law officer of the executive branch of the Government,



it is to be presumed the President consulted him, and that he would never have sent in so important a message without his full and free concurrence; for the main questions raised by it were questions of law, and not of administration. He is therefore, in every sense, as responsible for the veto as for his more recent opinion, and I shall not assume that he desires to shirk that responsibility.

It now, however, turns out that that high-sounding veto—full of indignant reproach to Congress for inviting an absolute military tyranny, beneath which all law and all personal and political rights withered away—was all a mistake. One hundred days of study and meditation convinced the Attorney General, and of course the President, that it was just the bill they wanted. Their labors, aided by Plowden and Dwaris on Statutes, revealed to them the cheering fact that the act, instead of denying the legality of the existing mushroom governments, actually recognized and confirmed them; and that the military authority it established, instead of being that dreadful boaconstrictor which was to swallow up all persons, all laws, all rights, was really and in truth the harmless servant of the Government and laws established by the executive and the guarantor of their enforcement! So sudden a change of front discloses at least the merit of versatility of genius and plastic logic that finds no difficulty in proving from Plowden and Dwaris that Congress meant one thing while they said the contrary.

After providing that those States—that is, the people of those States—shall be “made subject to the military authority of the United States as therein afterward prescribed,” the act proceeds to direct that it—

“Shall be the duty of the President to assign to the command of each of said districts an officer of the Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.”

This language is plain. The parties made subject to this military authority are the people, and all the people of those States, not excepting any out of the whole corps of officials, from the highest to the lowest, executive, judicial, ministerial, civil, and military. All, without discrimination, are embraced in the category, and made subject to the same authority, for the purpose announced in the preamble—the enforcement of peace and good order. The nature and extent of this authority are as fully and clearly expressed as the language is capable. The military officer is to command the district—that is, the people of the district. This is a military term, and was of course used by Congress in its technical sense. For a military officer to command a community must in all reason imply his right and power to subject them, in all their affairs, to military or martial law, to which the civil law must, whenever he requires it, give way. It becomes the paramount rule, and the orders of the commander are supreme and irresistible so long as they fall within that code. It is the law of necessity, and the existence of the necessity must from the nature of the case be judged of and determined by the commander. Giving to him the command of these people must, if language has any meaning, be held to subject them to this code for the purposes mentioned; and had Congress intended to exempt any of them from its operation we must presume they would have employed fitting terms indicating that exemption; but instead of this we find them using terms of the most general import, and subjecting all classes to the command. And further, foreseeing what was sure to take place, collisions between this military authority and the authority of the State, they expressly, and from abundant caution, declared that “all interference under color of State authority with the exercise of military authority under this act shall be null and void.” It would seem impossible to assert the supremacy of the military authority in plainer terms. But the Attorney General holds that this supremacy covers only cases of insur-

rection, breaches of the peace, and illegal violence, and not cases of injustice, where the rights of person or property only are concerned. These cases he holds to be exclusively cognizable by the civil courts of the State, and beyond the possible reach of the military authority. His language is:

“[It] [the military authority] is given to meet the contingency, recited in the preamble, of a want of adequate protection for life and property, and the necessity, also recited, that peace and good orders should be enforced. This construction [he adds] is made more apparent when we look at the immediate context and see in what mode and by what agency this protection is to be secured. This duty or power of protection is to be performed by the suppression of insurrection, disorder, and violence and by the punishment, either by the agency of the State courts or by military commissioners when necessary, of all disturbers of the public peace and criminals; and it is declared that all interference under color of State authority with the exercise of this military authority shall be null and void.”

In his struggle to maintain the narrow theory that the military is but a mere police force, confined to the duty of common constables or triers of offenses against the State laws, the Attorney General overlooks not only the general unrestricted power given by the term “command” in the second section, but the particularized power and duty given in the third section, “to protect all persons in their rights of person and property.” The rights of person and property are not created by State laws. They exist by the law of nature, and laws are made, or should be made, to protect them. Congress declared in the preamble of the act that under the illegal governments inaugurated by Mr. Johnson this protection did not exist, at least that it was inadequate; and imposed upon the commanders the specific duty of affording it by all and any of the instrumentalities implied in the expressions “military authority” and “command,” applicable to the whole people. The Attorney General, using his professional pruning-knife, trims off all the boughs and branches of this general power, leaving nothing but a sapless stock, which he calls a police power; a power merely to arrest and punish rogues and criminals. It is true, the act gives the commander this power as well as the power to protect all persons in their rights of person and property. But the leading error of the Attorney General lies in the assumption that this protection of person and property is to be accomplished by arresting and punishing criminals, and that the power can be used in no other way.

The power to protect persons and property is a power pertaining to all Governments. It is the essential, fundamental power, without which they are not entitled to be regarded as Governments. And this power does undoubtedly and necessarily embrace the power to punish offenders. But it is by no means confined to that. It embraces not only retributive and punitive, part of what we call public justice, but also preventive. It not only inflicts punishment for the wrong which has been already done, but shields the citizen from threatened wrongs; and this use of it is found to be as necessary in attaining protection as actual punishment; so that the language of the third section, “to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals,” is but an enumeration and designation for the purpose of calling the attention of the commanders to those subjects, of some, but not all, of the duties embraced in the word “protection,” those subjects being notoriously the ones most demanding their attention.

The Attorney General observes that the act creates a “new jurisdiction never granted before,” and that it must therefore be construed “strictly.” Even if it were a new jurisdiction, the rule invoked would not apply, because the statute being a remedial statute, enacted to prevent evils of a most serious kind, and to extend legal protection where there was imperfect protection before or none at all, a liberal construction favoring the remedy prescribed and suppression of the mischief complained of is

the true one, as would be adjudged by any enlightened court of justice.

But, in fact, the statute does not create a new jurisdiction in the sense in which law writers use that term. We had been engaged in a fierce war with those States. We had conquered them. Our armies occupied their whole territory and we held them by right of military occupation—solely by this right. We could hold them by no other, and to us of course pertained, for the purpose of that occupation, all the rights which successful war confers. They were conquered country from the moment of their surrender, and subject to the will of their conquerors under all the restraints, but no others, prescribed by the law of war. That law, as we all know—as the Attorney General well knows—preserves and protects the rights of person and private property among the conquered people and all their institutions not inconsistent with the laws or the policy of the conqueror. But their political governing power becomes extinct, and the only power of this kind is in the conqueror. It is for the successful government to say what shall be the local law. It has earned this right by the sword; and although its generals in the field may do many things to preserve the conquest, keep the peace, and punish private rapine, it belongs exclusively to that Government as the law-making power to grant and to regulate the political privileges of the conquered people. This in its nature is legislative, not military authority, and, under our limited system, belongs to the Congress of the United States, not to the Executive. The political governments, therefore, which Mr. Johnson assumed to establish were very properly called in the preamble of the act “illegal,” and the act itself was but an assertion of the law of war as the paramount law in those States, creating no “new jurisdiction,” but enforcing and regulating by such details as seemed requisite a “jurisdiction” that supervened on the surrender in 1865, and which Mr. Johnson had in the interest of the rebels themselves struggled to destroy. Here was the beginning of his absolutism. Here was the cause of his rupture with Congress. Congress intended, during this military occupation, the result of hard-fought battles and streams of blood, to secure safeguards against future rebellions. Johnson wanted none. Congress believed that one of the best securities would be to curtail the number of Representatives in the rebel States unless they themselves would allow the emancipated black men to vote. Johnson preferred that the number should be increased, and that the black man should not vote—that he should remain a pariah, without political rights or consideration, except as his presence gave additional political power to his former master.

The great source of the erroneous conclusions of the Attorney General is the notion that those States, though conquered in a war in which they claimed to be belligerents, and were recognized by us as such, still possessed constitutional rights as States of the Union. Hence he speaks of offices existing there which are to be recognized by the United States as State offices, from which the incumbents cannot be removed by the authorities of the United States. But who will pretend that a government absolutely extinguished by conquest can leave behind it any offices or any officers vested with any powers which the conqueror is bound to respect superior to his will? Military occupation and conquest do not leave laws in force or offices in existence. They take the place of both. The governments established by Mr. Johnson are, as to the United States, without validity. We are not bound to respect them. They rest upon no law but the unconstitutional orders and proclamations of their author. They have created, they can create no offices in the constitutional sense of the term, and the incumbents are not entitled to be called or treated as officers, either of the State or of the United States. They are simply private persons performing certain public acts under an invalid

and unconstitutional government, having no part, lot, or right in the Government of the United States. It is impossible to argue that such persons are officers of a State, entitled, as the Attorney General contends, to hold their places as against the military authorities of the United States. The government which is the source of their authority has never been recognized as valid by the United States, who, on the contrary have declared them to be illegal, *i. e.*, existing without law. The Constitution provides that—

"Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof."

I cannot conceive that any court in a loyal State would recognize the binding effect of a judgment record or the record of any public act emanating from one of the rebel States made by Mr. Johnson; and surely, since the passage of the act of March 2, condemning their governments as illegal, such a court would not be at liberty to give it any effect whatever. They could not hold that the persons certifying were officers of the State, as they are required to be by the act of Congress relating to the subject.

No, such persons hold no "office." They are the mere agents of a usurped, illegal government, and have no constitutional, public character. And should the military commander see fit to drive them from their places he has a right, without any statutory provision, to do so and to put others in their stead, or to leave their so-called offices vacant and void.

The Committee on the Judiciary, in the bill now before us, admit this power of removal and provide for its exercise; but from the clause it contains requiring the vacancy to be filled "by the detail of some competent officer or soldier to perform the duties" they seem to doubt the power of Congress to authorize a civilian, not in the Army, to be put in the place should the commander see fit; and we are told that such an incumbent, appointed by the commander to perform these duties created by State laws, becomes an "officer of the United States," which he cannot be unless appointed by the President as required by the Constitution. They therefore decline to authorize the commander to put a mere civilian into the place, for the reason that it being an office of the United States the appointment to it must be by the President or the head of a Department. But let me ask them, and also the Attorney General, is it any the less an office of the United States when in the hands of an officer or a soldier? Is a soldier an officer of the United States and appointed by the President? Not even all officers of the Army are thus appointed.

But it is vain to speak of such places as offices, either State or Federal. They are neither. An office cannot exist save by a valid law, and under a valid, lawful, and operative government. But if during the military occupation the commander discovers that the functions defined by an extinct or an invalid statute are convenient and useful to preserve order and protect persons and property he may undoubtedly authorize any one, whether subject to his military orders or not, to perform them as his agent or employé; and the only difference between the military man and the civilian is that the former is bound to obey him and exercise the functions, or such of them as he orders to be exercised, while the civilian is not, but acts only by his own consent.

I am therefore unhesitatingly of opinion that General Sheridan acted lawfully in removing Mr. Wells, the reconstructed Governor of Louisiana, and in appointing a civilian in his place, as well as in all other cases of the kind; and I will not, however much I respect the Committee on the Judiciary, consent to pass a censure on that gallant soldier or his brother commanders for doing acts so obviously lawful, by voting against the amendment of the Senator from Massachusetts [Mr. Wilson] allow-

ing the employment of civilians in those places in the rebel States. Besides, the oppressions to which the Unionists there have been subjected under Mr. Johnson's sway, their interest in and knowledge of local officers, present the strongest reasons of a moral kind for employing them in such services.

Yes, sir, the Attorney General's opinion utterly ignores and casts out of view the legal consequences of the triumph of our arms; and undertakes to construe a statute passed in full recognition of those consequences as if there had been no rebellion, no fighting, no victories on our side, no surrender on that of the rebels. The bloody history of the past and our own legislation correct him; the almost countless gravestones of our slaughtered countrymen correct him; the weeds of widowed mothers, the tears of orphaned children, the crutch of the crippled soldier rattling on almost every northern as well as southern floor, the heavy weight of taxation upon every branch of human industry, correct him and rebuke his blindness.

Sir, I regard, and have all along regarded, the reconstruction legislation of Congress as entirely sufficient to reach the ends which we had in view, and with an Executive at the head of the Government disposed to cooperate with Congress, and to re-establish peace and tranquillity at the South, and to re-introduce the rebel States into Congress upon the principles of justice, there can be no doubt that this session would have been entirely unnecessary, and this plan of supplemental and amendatory legislation now before us entirely supererogatory; and if I vote for this bill, or any other bill of this character giving a construction or an explanation to our former legislation upon reconstruction, I shall do it under the protest and the explanation which I have now made.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts, [Mr. Wilson.]

Mr. WILSON. Have the yeas and nays been ordered on that?

The PRESIDENT *pro tempore*. They have been ordered.

Mr. POMEROY. I ask that the amendment be read.

The Chief Clerk read the amendment, which was in section two, line eighteen, after the word "Army" to insert "or by the appointment of some other person;" so that the section will read:

SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the approval of the General of the Army of the United States, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the approval of the General aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army or by the appointment of some other person to perform the same.

The question being taken by yeas and nays, resulted—yeas 20, nays 15; as follows:

YEAS—Messrs. Cattell, Chandler, Cragin, Fowler, Harlan, Henderson, Howard, Howe, Morrill of Maine, Norton, Nye, Pomeroy, Ramsey, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—20.

NAYS—Messrs. Buckalew, Conkling, Grimes, Dixon, Edmunds, Fessenden, Frelinghuysen, Graves, Hendricks, Johnson, Morgan, Patterson of Tennessee, Trumbull, Van Winkle, and Willey—15.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cole, Conness, Corbett, Doolittle, Drake, Ferry, Guthrie, Morrill of Vermont, Morton, Patterson of New Hampshire, Saulsbury, Sherman, Sprague, Stewart, and Williams—18.

So the amendment was agreed to.

Mr. DRAKE. I have an amendment which I wish to offer. It is to amend section six, line seven, by inserting after the word "has" the words "while holding any such office or;" so that the section will read:

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said

supplementary act is (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and who has while holding any such office or afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial officer in any State," in said oath mentioned, shall be construed to include all civil offices created by law for the administration of the general laws of a State.

The object of this amendment is to get rid of a construction that may be put upon the section as it stands now, and which I think it inexpedient should be permitted to be put upon it if we can avoid it. As the section reads now, it is open to the construction that it includes only the individual who shall have engaged in rebellion after having held office. I do not see any reason why those who engaged in rebellion while holding an office should not also be included. I hope this amendment will commend itself to the judgment of the honorable chairman of the Committee on the Judiciary.

Mr. TRUMBULL. I do not think that the words proposed by the Senator from Missouri have the least significance. I think that is the construction of the section as it is. The section now declares that the true intent and meaning of the oath prescribed in the act to which this is amendatory is, among other things, that no person who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and who has afterward engaged in insurrection or rebellion, is entitled to be registered. He need not have held the office the full term and afterward engaged in the rebellion; if he has held the office but for a day and afterward engaged in rebellion he is disfranchised by the terms of the section as it stands. It is not necessary that his term of office should have expired. I do not think that there is any necessity for the insertion of these words. I do not think they alter in the least the legal construction of the sentence. It is just multiplying words. It seems to me there can be but one understanding of that sentence. No person who having held an office afterward engages in rebellion can vote. Now, is it necessary that he should have held the office the full term according to that language, and that he should have been out of office before he engages in rebellion? Has not a man held an office when he has qualified and taken possession of it, if it be but for a day or an hour?

Mr. DRAKE. I will state for the information of the honorable chairman of the Committee on the Judiciary that my attention was called to this matter by a very intelligent gentleman from a neighboring State, who stated that the construction which I am now endeavoring to obviate is the very construction which has been put upon that oath in that State, it being there construed to confine its operations and meaning to those who had previously held office, and being out of office at the time the rebellion was inaugurated, engaged in the rebellion. Now, sir, I wish to shut down upon that conclusion. I wish particularly to reach those men who, while holding office, went into the rebellion; and when I state to the honorable gentleman that this construction that I am now endeavoring to obviate has been put upon this oath in a neighboring State, one of the rebel States, I trust that for the mere sake of obviating the introduction into the bill of half a dozen words, he will not feel it necessary to object to making that perfectly clear which, however clear to us in this Hall, it seems is not equally clear elsewhere, and has been used for a purpose very foreign from that which the gentlemen and myself had.

Mr. TRUMBULL. I submit to the Senator from Missouri whether these words may not lead to confusion, and extend the act beyond what was originally contemplated. Does the Senator from Missouri mean by these words to embrace a person holding office under the rebel government? The terms would apply to such

a person, if you are to consider the person discharging the functions of an office at that time an officer. If we adopt the words of the Senator from Missouri he will see that the sentence is open to this construction; that if any person while holding an office, executive, legislative, or judicial, in any State goes into rebellion he is disfranchised. Now, it was not the intention of the original act to disfranchise any but those who held office prior to the rebellion. We have not undertaken in this act to disfranchise everybody who went into the rebellion, but only those who held office and afterward went into rebellion. By that we meant held office under a State government when it was a loyal State government. But introducing the words suggested by the Senator from Missouri would make the section embrace a man who acted as justice of the peace during the rebellion, though he may never have held any office before the rebellion broke out. Does the Senator from Missouri intend to extend the scope of the original act? I presume not; and yet the terms of his amendment might be so construed. It was the intention of Congress to disfranchise from voting only certain classes of persons who went into the rebellion. All rebels are not disfranchised. If that had been the intention, it would have been very easy for Congress to have said that all persons who engaged in the rebellion, who gave it aid and comfort, should be disfranchised; but Congress has not said that. It has said that persons who held executive, judicial, or legislative offices in any State and afterward went into rebellion are disfranchised. That means in any State while it was a State of the Union. They ceased to hold these offices, allow me to say to the Senator from Missouri, when the State rebelled; they were all out of office as State officers when the rebels took possession of those States and set up inimical governments. Therefore the section as it stands is strictly correct. It must embrace every person who held a legislative, executive, or judicial office under any State before that State went into rebellion. We do not intend to embrace any others; and yet I am not sure but that this might be construed, if the words suggested by the Senator from Missouri are adopted, as embracing persons holding office after the State went into rebellion.

Mr. SUMNER. Would there be any objection to that?

Mr. TRUMBULL. That would be extending the original act. We have acted in the Senate thus far upon the assumption that our legislation would be confined to carrying out fairly the acts as we originally passed them, and I presume the Senator from Massachusetts does not purpose, or the Senator from Missouri does not purpose, going any further than that.

Mr. SUMNER. Allow me to suggest to my friend that there is reason to believe that the original act is open to misconception, that it is not intelligent, or that it is not construed in the same way everywhere. Does it not belong to us to clear it up, to remove that ambiguity and to make it clear?

Mr. TRUMBULL. Undoubtedly; but I was trying to show that it was an impossibility that such a question as that suggested by the Senator from Missouri could arise, because all these persons who were legislative, executive, or judicial officers of a State necessarily went out of office as executive, legislative, or judicial officers of the State the moment the State went into rebellion. They then set up a government that was not a State government at all; it was an enemy government. They became officers of a hostile government; and if they gave aid and comfort to the rebellion after having been executive, judicial, or State officers under an existing State government they are embraced by the section as it stands; but if you put in the words that any executive, legislative, or judicial officer in any State while holding any such office goes into rebellion, then it may be insisted that that embraces justices of

the peace under the rebel government who never held an office under a State government that we recognized as such.

Mr. DRAKE. Mr. President, whether such a construction as that to which the Senator from Illinois refers could be put upon the section, if amended, I cannot say. What I am driving at now is this: the statement is made to me, on what I regard as sufficient authority to justify my action here, that in the State of Virginia they do not exclude from registration those who were in office at the time of the rebellion; but construe it to mean that the individuals referred to in the oath were those who had been in office prior to that time, and then engaged in the rebellion when the rebellion broke out. I am not concerned at all, one way or the other, whether the construction which the Senator from Illinois refers to can be given to the section, if amended, or not. I do not care what construction is put by the registering officers in those States upon the statute that will exclude officeholders under the rebellion from any participation whatever in registration and voting in those States. But no man can say whether such a construction would be given to the section if it should be amended. I say a sufficient ground for offering the amendment, and in my deliberate judgment a sufficient ground for the honorable chairman of the Judiciary Committee to accept the amendment, is that in this neighboring State of Virginia, where one of the closest struggles will be made between rebelism and loyalty that will be made in any of the rebel States, the construction is already given which I have stated, to wit, that they say that a man who was in office at the time of the rebellion is not affected by this oath at all, but that he must have ceased to be in office before; and the consequence is that thousands in that State who were in office at the time of the rebellion and have never held office before, but that which they held then, are registered and are to be put down as voters to vote down loyal men.

If the Senate does not consider this of sufficient importance to justify the amendment, of course I bow to their decision with all respect; but in my judgment it is of sufficient importance to cut at that very point of rebellion and take out of the registration every man who held office in those rebel States at that time and afterward engaged in rebellion. I want that thing made so clear that there cannot be any mistake about it; and if the other construction which the honorable Senator from Illinois says the section may, if amended, be liable to is put upon it, so much the better; I will thank God for it.

Mr. SUMNER. It seems to me we ought to make every point clear—not only this, but every one. The question now is on this. The Senator from Missouri has mentioned that his attention has been called to this very question. So has mine. Two different gentlemen, coming from different parts of Virginia, and so far as I know without any concert, have called my attention to this doubt; and one of them, in a letter, makes use of this language:

"I think that at least two thirds of the registers appointed in our State sympathize with the President and his policy, and in some counties not a single straight-out Radical man has been selected. This shows the necessity of having the law so plain that it cannot be misunderstood. There is a constant effort to prove that this or that is not an office within the meaning of the law. Therefore it is of vital importance that an authorized explanation should be had."

That is the statement of one gentleman with regard to the influence that in Virginia presides over the registration. Imagine, if you please, two persons on a registration board hostile to your bill: of course they would give it an interpretation such as would not be agreeable to us. Now look at the terms of the oath on which this difficulty occurs. They are as follows:

"That I have never been a member of any State Legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof."

Now, on that language these great doctors

find a doubt, and they give the doubt to the enemy. They say that the word "afterward" there limits the application of that clause to persons who held office before they engaged in the rebellion. I presume that no Senator intends that it shall have any such limitation. I know that my excellent friend who drew that oath certainly could not intend that it should have any such limitation. Now, as long as the doubt has arisen, let us remove it.

Mr. JOHNSON. The effect of the amendment, although that is not said to be the purpose of the honorable Senator who proposes it, will be to exclude from the right of voting all persons who have acted in any official capacity during the rebellion. The Senate, of course, are aware that but for the existence of offices of various kinds in those States there would have been mere anarchy. The rights of the loyal men depended upon the existence of some judicial tribunals. The rights of person, as well as of property, depended upon the existence of some tribunals vested with some jurisdiction to protect either person or property; and it was therefore the duty (not a crime, in my opinion) of every man within the limits of those rebel States who received an appointment to an office which looked to the security of the peace of the State to accept it. They stand in the situation in which Lord Hale stood when he was appointed judge by Cromwell. He acted in that capacity after the termination of the reign of Cromwell and the short reign of his successor. There was no writer and no politician in England who did not justify the act as patriotic. He did not approve of that revolution; he did not especially approve of the execution of Charles I; but he deemed it his duty, looking to the interest of the whole nation, to accept an office from that revolutionary government, and he discharged the duties of that office with the ability which characterized his whole official career.

Now, I have no doubt that there are men in these rebel States who accepted judicial station, accepted executive station, and who discharged the duties of both with a single eye to the security of the people of those States, the loyal as well as the disloyal. The honorable member from Missouri tells us that it is not his purpose to disfranchise the class to which I advert, but he at the same time says that if it bears that interpretation and receives that construction after it shall be passed he will thank God for it. Now, I suppose no one, in providing for this session, contemplated the happening of any contingency which would render it necessary for us to meet here for any such purpose, to enlarge the number of persons who are to be disfranchised. That was done, in the judgment of the Senate, sufficiently by the acts passed in February and March; and the public everywhere, who thought that Congress had any authority to legislate on the subject at all, were satisfied with the extent of the exclusion to be found in these several acts. Now, we propose very greatly to enlarge that exclusion, or rather, to speak more correctly, looking to what the honorable member from Missouri says is his object, we propose to adopt an amendment which may lead to that exclusion.

I received to-day—and I think a letter of his was addressed to the chairman of the Judiciary Committee of the Senate—a letter from General Sickles, in which he urges upon me, if possible, as the policy of the country, especially looking to South Carolina and North Carolina, the States within his district, that so far from adding to the classes who are to be excluded, we should save from exclusion many of those who are now excluded by the terms of the original act. He says—and I have no doubt he says with perfect truth—that there are hundreds and thousands of men in what were called the rebel States who are perfectly loyal now, just as loyal as we are; who have seen the error of their ways, are satisfied that the Government must exist as our fathers made it, a Government coextensive with all the States of the Union, that it never can be

separated, and they are, therefore, as anxious as we are to use all the ability that they have in order to preserve it as our fathers intended it should exist. Why should they be excluded more than you have excluded them now? You exclude those who have actually entered into the rebellion, who have given aid and comfort to the rebellion, in the sense in which those words have always been construed; but why should you exclude men in Charleston or men in either of the States who have agreed to accept office in order to preserve the community of which they were members from sheer anarchy, in order to protect themselves, as well as those who, like themselves, may perhaps have been hostile to the rebellion itself. I hope, therefore, that if any change is made in the law, it will not be one which is to enlarge the class to be prohibited from exercising the right of franchise.

The PRESIDENT *pro tempore* put the question on the amendment, and declared that the ayes appeared to have it.

Mr. JOHNSON called for the yeas and nays, and they were ordered.

Mr. WILSON. I think we ought to have a fair understanding of the meaning of this amendment. If it only means this: that all persons who were in office when these States went out are excluded, then it is in accordance with my understanding of the meaning of the reconstruction acts.

Mr. JOHNSON. That is my understanding, too.

Mr. WILSON. I am willing to stand upon that understanding. But if it means to comprehend persons who held offices under these States during the rebellion, it is enlarging the list of exclusions; and for myself I do not think it necessary to enlarge the list. I do not wish to depart from the ground we took originally. I think we have excluded enough persons; and I am clearly of the opinion that the friends of the Union, the friends of liberty, our political friends lose as much, or nearly as much, in these ten States by the exclusions already made as anybody else will lose. Some of the warmest and most earnest friends we have in all of these States, the men who are taking leading parts in organizing the friends of these reconstruction bills, are men who are themselves excluded and cannot hold office or vote. They are men who have been compromised by the rebellion, but who have changed their opinions and are now earnest and devoted to the country and to the policy of the Government, and I think they can be trusted. However, I do not propose to change this policy of exclusion now. I do not think we can make this change until these States come into Congress.

I do not think it wise now to add to the list of persons excluded. I cannot vote for any amendment of the kind. I make a suggestion to the chairman of the Committee on the Judiciary on another point: by the oath taken those who have been disfranchised cannot vote. The Alexandria constitution disfranchised nearly the whole voting white population of Virginia; and some persons have undertaken to construe the oath so as to exclude all those persons. I do not believe Congress intended to exclude them—I am sure of it. The authorities there have registered these men. I think it would be well, either by an act or by a general understanding, to have it understood that these persons are not excluded. It would have been a farce to exclude the great mass of the voting white population of that State. What we want to do is, to bring these States into these Chambers in the best possible manner, with the rights and privileges of everybody secure. I have no anxiety about the result. I believe these States will all conform to the requirements; and I believe at least seven of these States are sure to send men here who will vote right and speak right on all questions concerning the union of the country, the maintenance of the authority of the Government, and of the equal rights of all men of all races and conditions. These rebel States are to be radical progressive States,

devoted to unity, liberty, justice, education, development. I venture to put upon the records of the Senate the prediction that two thirds of the Senators and Representatives of those States will be as radical Republicans as are the Republican Senators and Representatives of New England. I welcome these to be regenerated States to their practical relations and to representation.

Mr. DRAKE. I do not wish to protract the debate on this subject. I have simply to state the question just exactly in its naked proportions, and I think it will be found that the amendment is one which should commend itself to the judgment of the Senate. I have said, and my statement has been corroborated from a quarter that I did not know it could be corroborated from, by the Senator from Massachusetts, that the officers of registration in the State of Virginia, or some parts of the State of Virginia, have, through some refinement of construction, settled down upon the conclusion that no man who was in office at the time of the rebellion is disfranchised by the oath that is required to be taken; but they confine the disfranchisement to those who had been in office before, and then, after having been in office, engaged in the rebellion. Now, sir, it is perfectly agreed on all hands, as I understand it, that those men who were in office at the time of the rebellion and afterward engaged in the rebellion should be disfranchised; and yet, simply because there is a possibility that, in the refinement of their constructions down there, they may extend the operation of this to men that took office under the rebellion, this amendment is to be voted down, the necessity and value of which every Senator here who concurred in the original measures of reconstruction is willing to admit. Now, sir, there is just the simple point. The evil that has been represented, and which this amendment is intended to remedy, is to be allowed to go on, simply because some other construction may, by possibility, be put upon the language, which will keep more men off the registration, and deprive them of the right to vote, who, some of the Senators think, ought not to be deprived of that right.

Mr. HOWARD. I am disposed to favor the amendment offered by the Senator from Missouri, because I think it carries out in very plain terms what was the original intention of the oath which we prescribed in the supplemental act. It was certainly my understanding of that oath that it did disfranchise a man who, although holding office, entered into the rebellion during his tenure of office; but I understand a more strict and artificial construction has been given to this oath by some persons, and that a person who continued holding an office, and while in office actually entered into the rebellion, is not held to come within the category of the proscribed or of the disqualified. The amendment of the honorable Senator from Missouri certainly removes any doubt which possibly could be raised upon the statute, and I am therefore in favor of it. It certainly was my understanding that a person thus situated was to be held disqualified, because the reason is just as strong in his case as in the case of a man who had ceased to be an officer and after that cessation went into the rebellion.

Mr. DRAKE. Stronger.

Mr. HOWARD. Yes, stronger if anything, because the duty of allegiance was still stronger upon an actual officer in the discharge of his functions than upon a man who had ceased to be an officer; and after all, this part of the oath is founded upon this idea, that it was especially incumbent upon officers of a State who had been in the exercise of their functions, or were continuing in that exercise, to be faithful to the Government of the United States and to commit no act of hostility to it. It was especially flagrant on the part of such officers to break their oath and break their faith to the Government, they occupying the attitude of conservators of the peace, and their examples being especially those to which the

lower classes looked up and by which they were influenced. This oath was originally brought forward for the purpose of punishing bad faith in high circles; and as this amendment of the Senator from Missouri carries out that idea clearly, so as to admit of no legerdemain construction, no refinement, and no possibility of evasion, I am in favor of incorporating it now in the oath.

Mr. JOHNSON. I concur with my friend from Michigan and the honorable member from Missouri that the construction which the oath is said to have received in Virginia is erroneous. I have no doubt the purpose was to exclude from the privilege of the franchise all persons who were in office at the time of the rebellion. The amendment therefore, if it went no farther than to correct that misconception, would receive my support. I object to it only upon the ground that it will give rise to other doubts at least, or will necessarily involve a construction which will exclude many persons who are not excluded by the acts which this is to explain. I suppose that the object can be accomplished just as well without risking at all the danger of increasing the number to be excluded; and I will suggest, therefore, to my friend from Missouri, that instead of amending the section as he proposes to do, he amend it by saying "whether the party was holding office at the time of the rebellion or before." Then there could be no doubt that the mischief of the erroneous construction would be corrected, and that there could be no construction put upon the words that would lead to another mischief of another kind. I propose, therefore, if I am in order, if the honorable member will not adopt the suggestion, to amend by adding to the clause the words which I send to the desk, and which I ask the Clerk to read.

The PRESIDENT *pro tempore*. The Senator from Maryland offers an amendment to the amendment in the nature of a substitute. It will be read.

The Chief Clerk read the amendment to the amendment, which was in section six after the word "not" in line seven to insert "and whether he was holding such office at the time of the rebellion or had held it before;" so that the section will read:

That the true intent and meaning of the oath prescribed in said supplementary act is (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the time of the rebellion, or had held it before, and who has afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote, &c.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on agreeing to the amendment as amended.

Mr. TRUMBULL. I think it makes a very awkward section of it, and does not alter its legal effect at all, as now proposed by the Senator from Maryland. I do not, therefore, have any serious objection to it, and yet I think it is wholly unnecessary. We, all of us, certainly did intend to disfranchise those persons who held office in a State and afterwards went into the rebellion; and how it is possible that they did not hold office if they were in office at the time the State went into rebellion I cannot conceive. It seems to me when you undertake to incorporate words of this kind you will get into greater difficulties instead of less.

Now, I beg leave to remind my worthy friend from Michigan [Mr. HOWARD] that very probably this session of Congress has grown out of an amendment which he insisted upon to the supplemental reconstruction act, and which now all hands agree we should disregard; and that is, in putting that long oath into the supplemental reconstruction act, an oath repeating over twice several of the clauses; and that being put in, the Attorney General comes along and says that is the only qualification that can



be required of anybody. Now what do we do? We agree that that is not so, but that it is to be left to the board of registration to determine who is qualified to vote, exactly the way the law read before the Senator from Michigan interpolated this oath into it. The bill provided for boards of registration as it was pending in the Senate, but the Senator from Michigan was not satisfied with that, and he succeeded in inducing the Senate to put into it an oath which the Attorney General has construed as being the only requisite for voting upon anybody, even upon females. If they can take it, they can vote. I do not suppose the Senator from Michigan meant that exactly; and now I believe he agrees with the rest of us that that oath shall not be the only requisite, but that it shall be left to the board of registration to determine under the law on such evidence as they can get whether the person applying to be registered is entitled to be registered and to vote or not.

I shall not take up time about this amendment. If the Senate think proper to adopt it I do not know that any harm will grow out of it; but I am quite sure no good will come of it.

Mr. HOWARD. I do not feel very well contented that the honorable Senator from Illinois should hold me, a poor, humble individual of this body, responsible for the false logic of the Attorney General, nor his bad reasoning, nor his unfounded conclusions. I think that is pretty hard. I regard it as unconstitutional, [laughter;] as inflicting a cruel and unusual punishment, not upon the guilty, but the innocent really. [Laughter.]

The honorable Senator from Illinois is also somewhat mistaken when he says that I drew the whole of this oath. He will discover if he looks into the record that a considerable portion of this long oath, as he calls it, originated in the House of Representatives, and was added there as an amendment after the bill had once passed this body. However, I am not disposed at all to shirk any of the responsibility that belongs to me for my connection with the framing of the oath. If the oath had been fairly, and I will say further, properly and legally construed; we should have had no difficulty. It is not owing to the real intent and proper construction of the oath that we are called together here, but because the thing has been misused. It has been employed for purposes never contemplated by Congress in passing the oath.

One word further as to what the honorable Senator says of the power of the board of registration as originally framed in the bill. He remarks that it contained some discretion to the board of registration to reject an applicant although he was willing to take the oath, thus constituting the board a sort of judicial body to pass upon the application of the applicant. I do not remember that that was the case.

Mr. TRUMBULL. The law declared what the qualifications should be, and appointed a board of registration, and of course that board would decide whether the applicant had those qualifications. That is all they would decide.

Mr. HOWARD. That was a mooted question during the discussion of the bill itself as to the extent of their judicial authority, and I think the honorable Senator will find that the act as we passed it contained precisely the same power to the board as the original bill to which he refers. I think there was no alteration made in that.

Mr. TRUMBULL. I think there was; but the Attorney General, however, in consequence of this oath being afterward put in, insisted that that was all that was required. Now, I should like to inquire of my friend from Michigan, while I am up, whether he intended by leaving the word "male" out of the oath, which was in the law, to allow females to vote? [Laughter.] He has left that word out, while he has inserted in the oath all the other requirements embraced in the statutes, and it would seem to have been designedly left out by my friend from Michigan. I wish to know whether he designed that as an insidious way of conferring the right

of suffrage upon all the females of the South, both black and white? [Laughter.]

Mr. HOWARD. I did not suppose it would be necessary, certainly it is not very usual, to require a person on oath to state whether he or she is a male or female. If the Senator from Illinois has been engineering a bill through this body which required a party to take such an oath, and to state on oath whether he or she was a male or a female, it is quite high time that it should be corrected. [Laughter.]

The oath to which he refers was intended to embrace, and it does embrace I believe specifically, all the qualifications required by the law for an applicant for registration or voting. It is not my fault, it is not the fault of Congress, if the Attorney General has given it a perverted construction, or perverted it in its operations. We are not responsible for that. It was his duty to carry out the law according to its true intent and meaning, and to give the oath a practical, common-sense construction. If he has failed in that, and if that failure has necessitated the present assembling of Congress, as seems to be true, it is not our fault, but the fault of somebody else.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment as amended.

Mr. SUMNER. The yeas and nays have been ordered, I think.

The PRESIDENT *pro tempore*. On this question the yeas and nays are demanded.

Mr. SUMNER. I thought they had been ordered.

Mr. TRUMBULL. No, sir.

The yeas and nays were ordered.

Mr. TRUMBULL. I have no objection to the yeas and nays; but there seemed to be a general understanding that the amendment as amended should be adopted; there did not appear to be anybody objecting to it.

Mr. SUMNER. I merely inquired if the yeas and nays had been ordered.

Mr. POMEROY. Let the vote be taken again, and it can be adopted without the yeas and nays.

Mr. TRUMBULL. There has been no vote taken yet.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on this question, unless the call is withdrawn.

Mr. TRUMBULL. Who called for them?

Mr. SUMNER. It was my impression that they were ordered; but I did not call for them.

Mr. TRUMBULL. The Senator from Massachusetts inquired if they had been ordered.

The PRESIDENT *pro tempore*. They were ordered on the amendment offered by the Senator from Missouri; and that amendment has been amended; but I do not suppose that that dispenses with the call. However, if the call is withdrawn that is enough.

Mr. DRAKE. I do not care about it.

The PRESIDENT *pro tempore*. They are not insisted upon. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

Mr. HOWARD. I will send to the Chair an amendment to section six, to come in at the end of the section, to which I believe there will be no serious objection. It is to add the following proviso:

*Provided*, That the mere act of voting for an ordinance of secession, so-called, shall not of itself be deemed under this act engaging in insurrection or rebellion against the United States; nor shall any person be deemed disqualified for registration under this act merely because of his having held or exercised the functions of a justice of the peace, notary public, trustee, officer, or agent of any institution of learning, commissioner of banks, railroads, canals, roads, and bridges or highways, trustee of churches, religious associations or schools, minister, priest, or other person vested with the authority to solemnize marriage, State commissioner or agent for taking acknowledgments of deeds, conveyances, depositions, or affidavits.

I have been told that in the district of Virginia it has been ruled by General Schofield, the officer in command of that district, that where it appears that a person has held an office and taken an oath to support the Constitution of the United States, and has after-

ward done nothing more in promotion of the rebellion than to vote for the ordinance of secession, he is disqualified for registration.

Mr. TRUMBULL. Will the Senator from Michigan allow me to inquire whether he means by that, voting for the ordinance of secession at the polls, or as a member of a constitutional convention or State Legislature? Does the Senator from Michigan mean not to disqualify the man who went into a convention or Legislature and there voted in his representative capacity for secession? Does the Senator want such a man to vote?

Mr. HOWARD. It was a fact generally true that these ordinances of secession were submitted to the people for popular ratification.

Mr. TRUMBULL. Oh, no; in several cases they were not submitted to the people.

Mr. HOWARD. Very well; in some they were, and in some they were not. I refer more particularly to the popular vote. Now, the oath requires, in order to disqualify the applicant, that he should have held an office and taken the oath to support the Constitution and afterward engaged in the rebellion, or rendered it aid and comfort, or rendered aid and comfort to the enemies of the country, that is, the rebels. I do not think, I must confess, that in contemplation of law the mere voting in favor of an ordinance of secession without doing any other act promotive of the treason, the insurrection, the war, was a giving of aid and comfort to the enemies of the country. I think upon trial of an issue before a court of justice, if it should appear that the accused had done no other act except to vote for an ordinance of secession, he could hardly be held guilty of treason for having rendered aid and comfort to the enemy.

We all know very well that there were multitudes of persons in the seceding States who were in some sort coerced and forced by the superior pressure of the leaders of the movement to vote for the ordinance of secession, but who are now repentant, who now regret the course that they have taken, and who never did any other act to promote the rebellion. It does seem to me, I must confess, that to disfranchise a person for that sole cause, although he may now be a good Union man, although he may be entirely sick of the experiment which he undertook, is rather too severe; and I apprehend that General Schofield, if he has made such a ruling, has gone somewhat beyond the intent of the law. It is to clear up this doubt and remove this difficulty that I offer the amendment. There are considerable complaints, in the State of Virginia particularly, growing out of this same cause, and we certainly ought not to shut our eyes to it.

The other portion of the amendment relates to the classes of officers, State officers, who were not to be excluded from registration on account of having held State offices. I know as well as any one the difficulty of drawing an exact line of demarcation, or making out a perfect catalogue of persons who are to be called executive or judicial officers of a State. These offices are so various, their functions are so diverse, some being local, some being general; some being important, others merely trivial; some being of a purely local character, others of a purely religious, moral, or educational character, that it is really very difficult to define what is a judicial or executive State office. In order to make it as clear as practicable, I have, in the latter part of my amendment inserted a clause excluding by name certain classes of officers and functionaries from the operation of the disqualification. I submit it to the Senate, and I shall, for one certainly, be very much disposed to vote in favor of it. I shall be very glad to hear the views of Senators upon the subjects embraced in the amendment.

Mr. BUCKALEW. I desire to ask whether the Senator includes members of the bar in his amendment. I understand from its reading that there is a long enumeration of particular officers. I suppose that the members of the

legal profession would be judicial officers in a certain sense; and I think they ought to be saved from the operation of our stringent laws much more than gentlemen who participated in conventions and who voted their States out of the Union, and in fact instigated all the subsequent proceedings connected with the war. There is one difficulty in assenting to an amendment of this kind. Under a legal rule of construction, it may be held, and properly held, that all subordinate and insignificant officers in the whole southern country that are not enumerated in the exceptions made by the Senator fall under the condemnation of the law; whereas, perhaps, without such an amendment, the law would be construed not to include them. For this reason, it is a very dangerous thing to attempt the enumeration of particular individuals in an enactment of this description. You must have complete information of the whole subject, and have it entirely before you; you must have a complete knowledge of the details and know what all the officers were which may be affected by your legislation; and then you must see to it that your enumeration is complete, that it does not omit any particulars which ought to be included. I have made an inquiry of the Senator which perhaps he did distinctly hear, but which I should like to have answered before I vote upon this amendment. I have also stated the reason why I shall hesitate in voting for the amendment at all unless certain that it includes all the particulars which ought to be included in such an exception.

Mr. HENDRICKS. Let the amendment be reported again.

The Chief Clerk again read it.

Mr. HOWARD. I ask leave of the Senate to amend my amendment, by inserting after the words "so-called" the words "at a popular election."

The PRESIDENT *pro tempore*. That modification will be made.

Mr. JOHNSON. How will it read then?

The PRESIDENT *pro tempore*. It will be read as modified.

The Chief Clerk read as follows:

*Provided*, That the mere act of voting for an ordinance of secession, so-called, at a popular election, shall not of itself be deemed under this act engaging in insurrection or rebellion against the United States, &c.

Mr. POMEROY. I wish to inquire of the Senator from Michigan whether he believes this amendment of his to be a part of the law of the last session; whether it is not enlarging or repealing a portion of the law to which this bill is an amendment?

Mr. HOWARD. In answer to the question propounded by the honorable Senator, I beg to say that I do not think it is changing the legal force of the oath which we have enacted; and if the Senator will allow me I will tell him why. The oath reads in this way:

"That I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof."

Now, I must confess that as a lawyer I cannot hold that a person who went to the polls and simply voted in favor of an ordinance of secession, and who has done no other act at all to promote the rebellion, who has not engaged actively in the rebellion, I do not believe that such a person can be said to be guilty of having rendered aid or comfort to the enemies of the United States in the language of the oath. This is constitutional language. The Constitution declares that treason against the United States shall consist in levying war against them or in adhering to their enemies, giving them (the enemies) aid and comfort. It is a transcript copied from a very ancient English statute defining treason; and I believe the courts in England, as well as in this country, have always held that in order to charge a party with treason, consisting in levying war or in rendering aid and comfort to the

enemy, something more is necessary than the mere expression of an opinion; that it is necessary, in order to fix the crime upon the accused, and hold him responsible for treason, that it should appear in proof that he has done some act, not merely expressed an opinion, tending naturally and reasonably to promote the cause of the rebellion, such as furnishing arms to the rebels, clothing to the rebels, food to the rebels, or doing any other act which in itself, as commonly understood, was intended by the offender to promote the treason. Now, it is very true that the passage of an ordinance of secession declaring the connection of the State with the United States to be dissolved forever is an act in its nature hostile to the Government of the United States and utterly incompatible with the duty of the State to the United States. But the giving of that simple vote I do not understand to be an act of treason.

Mr. EDMUNDS. Why, then, do you confine it to popular elections?

Mr. HOWARD. It is safer, I think, to confine it to popular elections than to allow it to be applied to secession conventions.

Mr. EDMUNDS. It is a mere act of voting, in either case.

Mr. HOWARD. There is more responsibility, there is more guilt attached to the member of a convention in concocting the scheme, than to the common citizen who simply goes to the polls, and deposits his vote, and goes home.

Mr. EDMUNDS. I think he might stay away.

Mr. SUMNER. Allow me to ask my friend, suppose two or more persons join in a conspiracy treasonable in its character, which afterward is followed by some act, would not the joining in that conspiracy be an act of treason?

Mr. HOWARD. The guilt of the conspiracy would be determined by the object which the party charged with the conspiracy had in view. If all he intended was to express an opinion that the State had better sever itself from the Government of the United States, and if he did not intend in his heart or show by his conduct that he gave this vote as a mere stepping-stone to the commission of acts of war, then I hold that he is not guilty of treason.

Mr. SUMNER. I will ask my friend just there, whether a vote is not something more than an expression of opinion; whether it is not an act; in other words, whether it is not an act by which the person who performs it mixes himself with the conspiracy, becomes a confederate?

Mr. HOWARD. Not necessarily. It was perhaps generally true among the secessionists; but such a vote does not necessarily connect itself with the guilt of the conspirators, whose object may have been, and was doubtless, to wage war upon the United States.

Mr. SUMNER. Why may it not be likened to an instance of enlistment against the country, even without being followed by an act of war?

Mr. HOWARD. The difference is this: that where an enlistment takes place, the party enlisting subjects himself to the military rule of the party or the government for whom he enlists, and he is not at liberty after the enlistment to withdraw his services. He is compelled by superior force to proceed in the performance of the military service for which he has enlisted. It is different in regard to a person who has simply voted at the polls for an ordinance of secession. He is not bound at all. There is upon him no legal obligation; there is no power upon him compelling him to engage actually in the rebellion, or to give it aid and comfort, but he may at any time withdraw from the country, or he may stay quietly at home, taking no part whatever, and I think be a man innocent of treason.

Mr. POMEROY. The Senator did not comprehend the point I intended to make against his amendment. When the Senator introduced his amendment he remarked that the present law was construed to prohibit the registration

of the class he has named in his amendment. I ask, then, how that amendment can obtain in this bill under the rule of the Senate, which the Senator voted for and was anxious to have passed, in which we prescribed and limited our action in this bill to removing obstructions and not repealing any measure contained in the old law? My point is, that his amendment is against the resolution of the Senate, that is our rule on this occasion.

Mr. HOWARD. I understand the honorable Senator. Then, I will say in a few words—and perhaps this will better answer his question than any argument—I offer this portion of the amendment as explanatory and declaratory of the intention of the oath, and for the purpose of removing an obstruction which I understand exists in the State of Virginia and some other places to the registration of voters who are not by that oath excluded from registration.

Mr. SUMNER. I must say that I oppose with great hesitation and reluctance any proposition which comes from my excellent friend; I am led to distrust my own judgment, such is my habitual deference to him; but I must say—he will pardon me—that this proposition does sound strange coming from him; and then his distinction with regard to the legal character of the vote for secession seems to me very strange, coming from a lawyer so acute and so true always. I cannot doubt that every one who voted for an act of secession, in so voting committed an act of treason against the Government of the country. It was the beginning of the rebellion. It was the rebellion. Every man who gave such a vote was a rebel from that time forward. I cannot see it otherwise.

But the proposition of my friend goes further, and he gives us a long list of persons who are to be admitted to registration. He provides a perfect Noah's ark for the rebels. They may all come in in pairs. My friend before me [Mr. HOWE] says, male and female. [Laughter.] I do not know whether that is the idea of the Senator from Michigan or not. We distrust him now in that point, however. [Laughter.] Since the argument of my friend from Illinois we must look with a little jealousy to these propositions of the Senator from Michigan. They may carry us further than we are aware.

I am sure, however, sir, that this does carry us too far. It is very plain in its import. It seems to me it requires no elucidation. There it is. We can all read it or listen to it; and I am persuaded that we cannot embody it in our bill without opening a door to the rebels, by the side of which a church door would be nothing. It would be a door as broad as the horizon.

Mr. TIPTON. I have simply to say that I have always looked upon voting, or attempting to carry a State out of the Union by voting, as the crime of crimes. Armed resistance was something; but the terrible audacity of undertaking to carry out, by the ballot-box, a State, I think was the consummation of all crimes, and certainly, therefore, I cannot vote for the amendment of the Senator from Michigan.

Mr. NYE. I had intended to be satisfied during this session with casting my vote on propositions submitted here by wiser and abler men than myself; and especially did I not think that in the course of legislation on this subject I should be called upon to differ with the distinguished Senator from Michigan, [Mr. HOWARD,] who has been to me during the long night of trouble that we have passed a fixed star by which I have guided my course. But, sir, it appears that this warm weather has put the Senator from Michigan in a very "melting mood," and he sees now no particular crime in those men who voted to tear down this temple of freedom. Why, sir, the persons that he here exempts from any effect of that crime were the witnesses attendant upon the birth of this monster treason. Ay, sir, they were more: the rebellion was born by that process. And yet now, in the kindness of his heart, the Senator from Michigan says he cannot see any particular offense in that.

I have noticed that the whole tendency of this session has been to open wide the gates and let in more of what the distinguished Senator from Maryland [Mr. JOHNSON] says are Union men now. From the commencement of this legislation I have apprehended that the danger lay in opening these gates too wide, and placing in the hands of these men the civil power that we wrested from them by the military power of the friends of this Government. The tendency of this legislation seems to derive its inspiration from the idea that men cannot live freely without voting, as though these States could never be reconstructed except it be upon the policy that all men must vote. Sir, I think prudence dictates that we should not open these gates too wide at first, that we should admit as few of the men whose hands are stained with rebellion to set in operation this experiment, even under our law of reconstruction, as is possible in view of the exigencies of the time. This is not final legislation. It is not said that these men shall never hereafter vote. If in the next Congress, when this experiment has been fairly made, we shall see that these men are penitent and desire to uphold the Government that they have so earnestly striven to overthrow, the gates can then be opened wider; and if a class is now excluded that ought not to be excluded the error had better lie in that direction than in opening the gates too wide.

Mr. President, we are hardly at liberty to close our eyes to the passing history of the hour; and I mean by that any history that is passing before us every day, any panoramic operation from the lights and shades of which we gather and drink in the true spirit that controls that portion of our country. Neither should this body be unmindful that the person who is to execute these laws that we pass will execute them (in all charity to say the least) most reluctantly.

Mr. TRUMBULL. Executed by our officers.

Mr. NYE. "Executed by our officers," says the Senator from Illinois; but there is a greater than our officers who has executed them heretofore. I say the executive head of this Government is unfriendly to this whole system of legislation; and as an evidence of that, we see him and the Attorney General of the United States, with an acumen which I cannot comprehend or an obtuseness which unfits him for his place, seeking through long columns to find reasons why the law should not be executed, instead of turning their attention for one moment to find reasons why it should; and we now stand in the eyes of the enlightened world, precisely in this attitude, that the Attorney General of the United States is one majority over all Congress.

No man who knows them can doubt the combined or individual wisdom of the members of the Committee on the Judiciary of this body. That committee embodies the experience of years and the energy of youthful manhood; all its members are ripe in their profession, all earnest and zealous in their efforts to heal up these wounds. In their wake I thought I was in perfect safety, and so I voted for what they reported at the last session, following the experienced Senator from Maryland, [Mr. JOHNSON,] the astute leader from Illinois, [Mr. TRUMBULL,] and the equal of either from New Jersey, [Mr. FRELINGHUYSEN,] and all of the committee who have made their pathway luminous with learning. And yet, sir, months after that action we are called here under the rays of a tropical sun because the Attorney General has with one fell swoop set at defiance the whole legislation upon this subject; and in return for his superior wisdom my distinguished friend from Michigan proposes to grant new terms, to be more generous. Sir, the world understands that the Attorney General who wrote this last constructive lesson that the world has received, if he was not the author, was present at the birth and helped to dress up in all its deformity the veto message of our bill. It then had more horns and tusks

and dangers than he could enumerate; the nerves of this nation were appealed to and shaken with fear in apprehension of the wonderful usurpations of congressional power. Then we beheld nothing but tyrants; and the newspapers of the day of the party opposed to the majority in this body have called the five generals commanding in the southern districts the five tyrants of the age.

That was the music of that hour; it was the music of alarm; it was the cry of danger. The world was not frightened from its propriety by that declaration of the President of the United States. The process of reconstruction was going gloriously along, if we are to believe the history of the hour and the personal experience of the distinguished Senator from Massachusetts, [Mr. WILSON,] the registers reported day after day that the number of colored voters outnumbered the white. Alarm began to be felt in another region, another section; the knees quaked with fear. Now, what next? This concentration of all wisdom, the Attorney General of the United States, must swallow the horns and dragon's teeth of the veto message and declare that these tyrants, who had been published as such the world over, were the merest nothings, policemen without any power except to prevent disturbance and put down any that might occur; that there their authority stopped, and that they were subordinate to a power that was born of the same material as that which the distinguished Senator from Michigan to-day proposes to let register and vote. That is the plain English of it. I think my friend must have forgotten the past when he drew this wonderful amendment. That set of men are holding power now, and the Attorney General has said that they hold it rightfully. I had supposed that by our legislation they were shorn of this power; this nation supposed they were shorn of their power. Ay, sir, the wisdom of the Judiciary Committee of this body and the wisdom of the other House supposed they were shorn of their power; but it seems that we have not succeeded.

What was the act of those persons who voted for the ordinance of secession and who are the very men that control these governments to-day? I do not propose at this late hour of the day to detain this body by discussing the technical question of treason under the Constitution with so astute a lawyer as my friend from Michigan. But, sir, I object to his whole course of reasoning. He has adopted the same course in that respect as the Attorney General has in his opinion overthrowing our legislation, trying to find through some technical loophole a place for a rebel to get in. I stand here, as I have ever stood, to guard against such dangers, and against them I protest. When he tells me that it does not constitute treason for the citizens of a State to vote to overthrow the government under which they are living and to establish a new one, carrying with it of course the power to sustain by arms that government which they create, it is a logic that I do not comprehend. There were sown the seeds from which this harvest of dragon's teeth has been reaped; they planted that from which treason grew, and to the sorrow of this country they reaped a most plentiful crop. Intending to dig the grave of the liberties of this country, they were acting seditiously at that solemn ceremony. My friend sees in that no reason why they should not be allowed to register and to vote. Sir, the man who pulled the trigger of the musket is an infant in crime compared to those who controlled him and made him do it. There never would have been a musket fired if these inborn rebels had not voted to make men fire them.

Now, sir, I insist upon it that we have trifled with this question long enough. Instead of opening the doors wide and bringing more enemies to conquer by legislation, I would make them less. You will bear me witness, Mr. President, that more than eighteen months ago, in my place I declared, and I reiterate it now, that there never will be substantial peace in this country till every rebel is dead or dis-

franchised. You cannot expect the fruits of liberty from a tree whose roots are buried in treason. I am sick of trifling and trucking to these men.

The distinguished Senator from Massachusetts [Mr. WILSON] says his experience is that they want to come in; and yet the published history of the day contradicts him. Are they anxious to come back? Then why drag this thing called an opinion from the Attorney General to show reasons why they should not? Are they anxious to come back? I say their public acts deny it everywhere. From what source does what we hear come from? It comes from those men who kept their fingers upon every pulsation of the confederacy from the day it was born in Montgomery till it terminated in bloody war. If the Senator from Michigan has any process in his mind by which he can bleach out that treason and make their garments white with liberty I should like to see it. It is not to be expected, in view of the past history of the world. If by the fortune of war the rebel government had overthrown the North and taken possession of this Government, I should be lying in wait constantly, night and day, for an opportunity to regain the lost liberties of my country. Would not my friend from Michigan?

Mr. HOWARD. Certainly.

Mr. NYE. As it is with me so it is with them. They only await an opportunity in some way or other to revive the rebellion in which they were defeated. I have submitted all the time to follow in the wake of the Judiciary Committee, trusting and knowing that their judgments were safe. I have followed them faithfully; and yet there is a point when, if they are going to ride and I do not like to ride, I propose to go afoot. If the Representatives of the other States on the Pacific slope were here I should be silent; but from what I know of the spirit of the constituency that I represent and that these absent ones represent, I am aware that the only fear they have is of opening the gates too wide.

Sir, one suggestion more, and I have done. The Senate will not forget, the nation will never forget, the terrible anxiety with which we awaited the result of the voting in the outgoing States upon the question of secession. We felt then that everything depended on the votes which these rebels would cast. Sir, you remember when Virginia went from her orbit, and shot away like some wild star, how the heart of the loyal citizen was tortured. I remember, as State after State went out, the anxieties of this people increased. Why? For the reason that the rebels were voting. The nerves of this nation never shook before the combined thunderings of rebel cannon as they shook before the result of that voting. The vote, the ballot is more potent than the bullet by far; and the Army faced the rebel bullets with twice the courage that the nation faced these rebel ballots. I regard them as laying the corner-stone of this rebellion. I regard them as high in crime, compared with the soldiers who fired the muskets. Let it not be said after all this experience that we are now to open the gates wider and let in a new recruit from this dangerous element of our betrayers. I deny *in toto* the logic that you can gain these people by magnanimous acts. We tendered them the constitutional amendment and they would not take it. We have wooed them with all the tenderness of a fond mother, and yet they would not; and nothing would have the least effect upon them but the bayonet and the military power. Before it they trembled. Before the bayonets of this Government were sheathed, in the opinion of the Attorney General, they were silent before the power and majesty of the law of Congress; but when the point was sheathed, when it was no longer able to pierce through this judicial barricade thus thrown up, their arrogance and their insolence was never equalled in the haughtiest days of the rebellion.

Sir, instead of letting down the stringency of the law, I think we should make it more

stringent; and I should propose to do it if it was not that I feel bound to refrain; but it ought to be done. The judiciary committee will find that, before this work of reconstruction is complete, you have yet to make more stringent enactments. I would that the proposition of the distinguished Senator from Maine [Mr. FESSENDEN] had been adopted, and that we had wiped out with one swoop every officer in these States. I would have put these States under the rule of military control, directed and governed by the supreme power of this nation. They deserve it; and I can stand here or in the day of judgment and defend myself with a myriad of speechless but potent witnesses. I could point the Senator from Michigan to wounds upon that Constitution which he is so careful to construe now in behalf of liberality to rebels. I can point to him scars that will never be healed, wounds that can never be closed. And yet at this time and under these circumstances we are asked to open wide the gates of danger and let an invading enemy within our very political temple.

Mr. President, in my feeble way I have attempted to show why I think that, above all other men, those who voted treason ought to be disfranchised. A justice of the peace can be disposed of by a single popular election; but those who voted for secession were the congregated and aggregated mass on which the leading traitors relied. I know that what I have said will probably have no effect before the superior power of the Senator from Michigan; but I would save the committee from doing what the Senator from Illinois charged me with to-day. I would make no mistake in this reconstruction bill; but whatever we may do I fear it will be considered faulty elsewhere. We have had only two editions of the Attorney General's opinions; but my friend from Illinois will not be seated in his prairie home before there will be another edition. This bill, as I understand it, simply reenacts the existing law, with some explanation; but a man who seeks to overthrow it, and looks for reasons why a law should not be executed, can find them anywhere. I congratulate the country that we have not an Attorney General actuated by the same motives and having the same legal powers as the Senator from Michigan. If he were made Attorney General, with his additional powers, acquirements, and astuteness, I know not what would be the result. Whatever you do now, you will find an opinion to overthrow you. I propose to give them as stringent a thing to overthrow as I can; and above all, I conjure the Senate and this nation never to commit the mistake of trusting the liberties of this country in the hands of men who voted to overthrow it.

Mr. TRUMBULL. I understand that our proceedings are likely to be interrupted in the course of a few moments by a message from the House. I wish to say to the Senate, after having had conversations with many of the body, that it seems to be the general desire to get to an early vote upon this measure; and I trust we may have an understanding that we will to-morrow arrive at a vote upon it. I should be glad to have it understood that we shall vote at some particular hour; but if that cannot be done I trust Senators will come here to-morrow with the understanding that we shall remain until we dispose of the bill.

Mr. HOWARD. Mr. President, the honorable Senator from Nevada [Mr. NYE,] entirely misunderstands me if he supposes that it is the intention or effect of the amendment which I have offered to enlarge the elective privileges granted by the existing statutes. I by no means intend to open the door wider; and he has known me too long and known my principles too well, I apprehend, to entertain any such apprehension in regard to myself. All that I am anxious for is to carry out the proposition which we have made in our laws for the reconstruction of the rebel States in its true intent and spirit. I do not propose to alter it in any essential particular. I see no necessity of so doing. I think the terms of the offer are very

liberal indeed—are more liberal than the people of the rebel States are entitled to expect at our hands. But, sir, we know very well that questions of a very serious character have arisen under these laws—that the Attorney General has given them a construction in many respects tending to defeat the intent of the Congress that enacted them; and all the object of my amendment now offered is to ascertain the sense of the Senate as to what is the meaning and legal effect of the words which I shall read from the fourteenth article of amendments to the Constitution, and which are also incorporated in the oath prescribed in the supplemental act. In the constitutional amendment we proposed the following provision:

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

Now, the question raised here is simply this: whether the mere fact of having voted at a popular election in favor of an ordinance of secession is, in contemplation of the act itself and of this amendment of the Constitution, an act rendering aid and comfort to the enemies of the United States? In other words, is such a vote treason against the United States; and did we intend when we passed that constitutional amendment and the supplemental reconstruction act, which recites and embodies it, to exclude from registration and voting every person who voted at a popular election in favor of an ordinance of secession? That is the question. The language in which it is couched has been differently construed by different boards of registration, as I am told, some boards holding that such a vote in favor of secession precluded the applicant from registration, and consequently from voting, while some other boards hold that that vote does not operate to exclude the applicant from registration. Here is a conflict of opinion among the boards who are to decide upon the rights of the applicant to registration. A doubt, and in many cases a painful doubt, exists as to the true legal effect.

The PRESIDENT *pro tempore*. The Senator from Michigan will suspend his remarks to enable the Chair to receive a message from the House of Representatives.

#### DEATH OF HON. C. DENISON.

Mr. McPHERSON, Clerk of the House of Representatives, appeared below the bar and announced that he was instructed to notify the Senate of the death of Hon. CHARLES DENISON, late a Representative from the State of Pennsylvania, and to communicate the proceedings of the House thereon.

Mr. BUCKALEW. I ask for the reading of the resolutions received from the House.

The PRESIDENT *pro tempore*. They will be read.

The Chief Clerk read the resolutions of the House of Representatives.

Mr. BUCKALEW. Mr. President, the reception of the resolutions before us from the House of Representatives imposes upon me the duty of submitting some remarks concerning the late Representative from the twelfth congressional district of my State. And I must commence with the expression of my regret that I am not prepared to speak fully and clearly upon all the points which are appropriate to the occasion.

I knew Mr. DENISON for twenty-four years; during which time he was a member of the bar, and resident at Wilkesbarre, in Luzerne county. In recent years, in consequence of feeble health and the pressure of public duties, he withdrew himself from the practice of his profession and bestowed his attention somewhat to agricultural pursuits. The family of which he came is one of distinction in the history of the Wyoming valley, a fact which was favor-

able to his success at the bar and in public life.

Mr. DENISON was born January 23, 1818, and was a student at Dickinson College, where he graduated in 1839. He was elected a Representative in Congress in 1862 for the district composed of Luzerne and Susquehanna counties. He was reelected in 1864, and again in 1866, on each of the latter occasions by increased majorities, for he was able to concentrate upon himself a large measure of popular favor, and possessed some marked qualities of mind and character for commanding it. His will was firm; his industry constant; his temper steady, though sometimes pronounced, and his courage was unquestionable. He was of the men who pursue an object in private life with perseverance and zeal, and who, when placed in public stations, do not bend before the pressure of the times. But tenacity of purpose, resolute courage, and fidelity to conviction, important as they are to success in such a career as his, are not alone sufficient to secure it. He possessed in addition a sound judgment, a sense and love of humor, and fidelity to associates and friends. Hence he was able more perfectly to combine the elements of success as a professional and public man; to win and hold and use the confidence and attachment of client and voter.

Mr. DENISON did not claim to be eminent as a profound lawyer, an eloquent speaker, or an accomplished man of the world. He was plain, though easy in his manners, genial and social in private intercourse, and sensible everywhere. He made no false pretensions, and if he could now dictate his picture to us, would desire to be painted as he was, and in no false or flaring colors of art.

Mr. DENISON's political convictions were extremely ardent and uncompromising. What he said in the House of Representatives and his votes there mark this trait of his character distinctly. It was never doubted that his political opinions were sincere, and he always gave them unflinching support.

After the adjournment of Congress at the short session last spring, Mr. DENISON remained a short time in Washington, and I saw him almost daily. His health was then much broken, and he was not hopeful of its restoration; but his mind was not clouded by gloom nor was its energy impaired. It is a cause of gratification to me that I was able to serve him at that time in several matters of business and of friendship in which his feelings were deeply interested, and thus contribute to his composure and satisfaction of mind. When he left I indulged the expectation that the repose and comforts of home would invigorate his frame and enable him to meet with us once more in council; but it has been otherwise ordered. His home has been clothed in mourning and his seat among the Representatives of the people is vacant. He died at Wilkesbarre of pulmonary disease a few days before the commencement of our present session, and it only remains for us to acquiesce in the event, to accept the instruction which it affords, and to adopt appropriate resolutions of respect for the memory of the deceased.

I offer for consideration and adoption by the Senate the following resolutions:

*Resolved*, That the Senate has received with deep sensibility the announcement of the death of Hon. CHARLES DENISON, late a member of the House of Representatives from the State of Pennsylvania.

*Resolved*, That the members of the Senate, as a mark of respect for the memory of the deceased, will go into mourning by wearing crape on the left arm for the residue of the session.

*Resolved*, That as a further mark of respect for the memory of the deceased the Senate do now adjourn.

Mr. CAMERON. Mr. President, I rise to second the motion of my colleague, and I regret that I knew only a short time ago, since the Senate met to-day, that these resolutions were to be presented, for the reason that I am not as well prepared to do justice to the character of the deceased as I should be if I had had notice.

I knew Mr. DENISON very slightly. I knew his family well. He was born in the far-famed



valley of Wyoming, perhaps the most beautiful part of Pennsylvania, if it is not the most beautiful portion of the United States. That valley was settled by some of the most intelligent people who came into Pennsylvania, certainly by the most heroic and gallant and patriotic men that ever lived in any portion of this country. The early settlers were from New England. They came there at an early day; they came when the boundaries of the State were not sufficiently known, and remained there a long time before their titles were properly settled. During the Revolution the settlers were active in support of the cause of the country. After the Revolution they were harassed by such troubles as the people of no other part of Pennsylvania were subjected to. They had great troubles about their titles, and they had to contend with a long series of Indian invasions and massacres of the most cruel kind. On one occasion nearly all the people had taken refuge in a block house, but were by some means surrounded and destroyed. Among those massacred there was the grandfather of Mr. DENISON. In after years George Denison, the uncle of this gentleman, served several years in Congress, and after having been in Congress he served in our State Legislature. He was a man known to everybody in Pennsylvania for his very high order of talents and for his very great integrity. No public man has ever lived in Pennsylvania who has made such a record for these two great qualities as George Denison, and no man, public or private, in his day did more by his services in the Legislature to develop the region which gave him birth.

The people of that valley, from their earliest history, paid more attention to the cultivation of their intellects and their manners than any other portion of our people. The first schools of any importance established in the State were in the valley of Wyoming; and in consequence of this the immediate descendants of the earlier settlers were people of culture, far advanced above other portions of our people. It is, besides, a section of country most highly favored by nature. The valley itself, in its agricultural luxuriance, is equal to any part of the far-famed valley of the Mississippi. Every rood of it is cultivatable soil, and below the surface the earth abounds in as fine mineral coal as can be found in any other part of the world. There is no equal amount of territory so rich in soil and minerals as the valley of Wyoming. It was there that Mr. DENISON was born, and there lived and died his ancestors. It was there that he received his early instruction. It is there that his associations were made. He could therefore hardly fail to have been a man of marked ability and marked culture.

He and I did not agree in political sentiment, but his uncle and myself did. I have always believed him to be not only a man of talent and culture, but a man of entire honesty and of the most pure life and high-toned sentiments. I knew, also, very well the family from which his wife sprang. They, also, were people who took part in the Revolution and all the struggles of this country; but they resided in a different part of the State. I offer to his wife and children my most sincere sympathy for the loss of their husband and father. I can only add that I cordially unite in the resolutions of my colleague.

The resolutions were adopted *nem. con.*; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 10, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed an act

(S. No. 167) to establish certain post roads; in which he was directed to ask the concurrence of the House.

### TREATMENT OF UNION PRISONERS.

Mr. SHANKS. I ask unanimous consent to introduce the following preamble and resolution:

Whereas there has been no thorough and systematic investigation of the treatment by the Confederate authorities and people of Union officers, soldiers, and citizens captured or held by them during the rebellion; and whereas it is important to the nation that such investigation should be had and a record thereof be made: Therefore,

*Resolved*, That a special committee of five members of this House be appointed to make such investigation, and to record the facts thereby obtained, and report the same to the House at any time with such recommendations as may seem proper.

*Be it further resolved*, That such committee, for the purpose of this investigation, shall have power to send for persons and papers, to appoint a clerk and stenographer, and to sit during any recess of the House; and that the expenses of the investigation be paid from the contingent fund of the House.

*Be it further resolved*, That it is believed throughout the country that the Confederate authorities were cognizant of, and participants in, great outrages upon the law of war of civilization, and of our common humanity, which were perpetrated upon Union officers, soldiers, sailors, marines, and citizens while in their power; and that said authorities acted through inferior officials and citizens. And as such persons may be deterred from giving evidence through fear of punishment for their said offenses, therefore the committee are hereby empowered to report an act of grace and amnesty, according to parliamentary usage, to any person or persons having cognizance of the unlawful treatment of persons as aforesaid, who has not already been put on trial and convicted by a court of competent jurisdiction for complicity therein, who shall give material and truthful evidence tending to bring to light the facts connected with such unlawful treatment. And that in the judgment of the House no person in whose favor such report is made ought to be brought to trial, or any evidence given by him to the committee used against such person on any trial.

Mr. WOOD. I object.

Mr. SHANKS. I move to suspend the rules.

Mr. STEVENS, of Pennsylvania. I inquire whether it would not be better to refer this investigation to the committee already raised by the resolution of the gentleman from Massachusetts? [Mr. BUTLER.]

Mr. SHANKS. That committee has as much now as it can do.

Mr. WOOD. We have no power to delegate to a committee of this House to grant a general amnesty; and I rise to a question of order, that this resolution proposes an appropriation, and must under the rules have its first consideration in the Committee of the Whole.

The SPEAKER. The Chair overrules the point of order. The gentleman is aware there is a contingent fund provided by general appropriation bill passed by both Houses, and an appropriation of this kind is not considered to come under the rule.

Mr. WOOD. It is a traveling committee to go over the whole country.

The House divided; and there were—ayes 47, noes 28; no quorum voting.

Mr. SHANKS demanded the yeas and nays. The yeas and nays were ordered.

The previous question was taken; and it was decided in the affirmative—yeas 79, nays 37, not voting 52; as follows:

YEAS—Messrs. Anderson, Baker, Banks, Blair, Boutwell, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cornell, Covode, Dawes, Donnelly, Eckley, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Hamilton, Harding, Hayes, Hill, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Logan, Loughbridge, McClurg, Meaurio, Miller, Moore, Myers, Newcomb, O'Neill, Orth, Perham, Pike, Pile, Plants, Polsley, Raum, Robertson, Sawyer, Seofield, Shanks, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—79.

NAYS—Messrs. Adams, Archer, Barnes, Beaman, Bingham, Boyer, Brooks, Burr, Driggs, Getz, Glossbrenner, Griswold, Haight, Holman, Hotchkiss, Jencks, Kerr, Marshall, Marvin, McCarthy, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Price, Robinson, Ross, Sitgreaves, Spalding, Stone, Taber, Van Auker, Van Trump, and Wood—37.

NOT VOTING—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Benjamin, Ben-

ton, Blaine, Buckland, Cake, Chanler, Coburn, Cook, Cullom, Dixon, Dodge, Ela, Eldridge, Eliot, Fox, Garfield, Halsey, Hooper, Asahel W. Hubbard, Humphrey, Ketcham, Laffin, Lincoln, Loan, Lynch, Malloy, Moorhead, Morrell, Noell, Paine, Peters, Poland, Pomeroy, Pruyn, Randall, Schenck, Selye, Thaddeus Stevens, Stewart, Thomas, Burt Van Horn, Robert T. Van Horn, Van Wyck, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—52.

So (two thirds voting in the affirmative) the rules were suspended.

Mr. SHANKS. I demand the previous question.

Mr. DAWES. I ask the gentleman to withdraw the demand while I call his attention, as I did that of my colleague day before yesterday, to the phraseology of one of these resolutions. I had my doubts about the wisdom of passing such a resolution at the time, but I was led to believe from statements made here that it did not bear the construction which I apprehended it might bear; but on seeing it in print—and I see that the gentleman from Indiana has copied the former resolution—it is very apparent that it is open to the construction to which I called the attention of my colleague when it was up before. It attempts to pledge the faith of the Government not only that no person shall have used against him the evidence which he gives before the committee, but that he shall not be tried at all upon any evidence from any source.

Now, very likely it may be proper to so pledge the faith of the Government, but it does it in this resolution in advance to any person who shall give testimony. It declares that he shall not be tried if the committee make a report in his favor. It does not say "if the House shall coincide with the committee," but the language is "that in the judgment of the House no person in whose favor such report shall be made ought to be brought to trial, or any evidence given by him to the committee used against such person on any trial." Such is the resolution we passed the other day; it pledges in advance the faith of this country to anybody who, in the opinion of that committee, whether the House agree or not, ought to have amnesty granted to him; that he shall not be tried at all.

I regret very much that that phraseology was contained in the resolution passed the other day, and unless it is stricken out of the present resolution I shall be obliged to vote against it. While I said the other day that I would trust my colleague or any committee appointed by this House as soon as I would trust any other five men, I nevertheless did not deem it wise to pledge in advance the faith of this Government to any person, however much he might be involved in that conspiracy, or however valuable the evidence which the country might obtain upon such a pledge. I hope the gentleman will modify that resolution or strike it out altogether.

Mr. SHANKS. I was not well pleased with the phraseology referred to in the resolution offered by the gentleman from Massachusetts. I only inserted it here because it was passed by the House the other day. My opinion was then and it is now that that part of the resolution is objectionable. I shall not, therefore, insist upon retaining it, but am perfectly willing to strike out that part relating to amnesty.

Mr. SPALDING. Will not the mover allow the subject to be referred to the special committee appointed to inquire into the assassination of the President? I am averse to making so many committees. The charges for all these committees will be against the contingent fund, and I do not think that fund will bear it. If the gentleman will allow me I will make the motion to refer it to that committee.

Mr. SHANKS. I have already declined to allow that motion to be made.

The last resolution was accordingly modified by striking out the latter part, as follows:

And that in the judgment of the House no person in whose favor such report shall be made ought to be brought to trial, or any evidence given by him to the committee used as evidence against such person on any trial.

Mr. SHANKS. I now renew the demand for the previous question.

The previous question was seconded—ayes 56, noes 54; and the main question ordered.

Mr. HOLMAN. I ask for a separate vote on the resolutions.

Mr. DRIGGS. I call for the yeas and nays on the passage of the first resolution.

The yeas and nays were ordered.

The question was taken on the first resolution, and it was decided in the affirmative—yeas 100, nays 29, not voting 39; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Donnelly, Driggs, Eckley, Eggleston, Ferriss, Ferry, Fields, Garfield, Gravelly, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Polsley, Raum, Robertson, Sawyer, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—100.

NAYS—Messrs. Adams, Archer, Baldwin, Barnes, Boyer, Brooks, Burr, Getz, Glossbrenner, Haight, Holman, Hotchkiss, Kerr, Marshall, McCullough, Morgan, Morrissey, Mungen, Niblack, Nicholson, Noell, Phelps, Robinson, Sitgreaves, Stone, Taber, Van Aukon, Van Trump, and Wood—29.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Blaine, Calk, Chanler, Dixon, Dodge, Ela, Eldridge, Eliot, Farnsworth, Finney, Fox, Hooper, Asahel W. Hubbard, Humphrey, Jencks, Ketcham, Laflin, Lincoln, Lynch, Mallory, Morrell, Peters, Pile, Poland, Pomeroy, Price, Pruyn, Randall, Ross, Schenck, Scofield, Stewart, Thomas, Upson, Van Wyck, Stephen F. Wilson, and Woodbridge—39.

Mr. SHANKS. I move to reconsider the vote by which the House agreed to the first resolution, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next question was on the second resolution; which was agreed to.

The question recurred on agreeing to the third resolution.

Mr. SPALDING. Was not that resolution withdrawn?

The SPEAKER. No; the gentleman from Indiana modified it, but did not withdraw it.

Mr. SHANKS. Let me explain.

The SPEAKER. The House is acting under the previous question, and debate is not in order.

Mr. SHANKS. I ask unanimous consent to explain the third resolution.

Mr. SPALDING. I object.

Mr. BURE. I demand the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 75, not voting 36; as follows:

YEAS—Messrs. James M. Ashley, Baker, Banks, Benton, Boutwell, Bromwell, Broomall, Butler, Sidney Clarke, Cobb, Coburn, Dawes, Donnelly, Eckley, Ferriss, Fields, Harding, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Loan, Logan, Loughridge, McClurg, Miller, Moorhead, Orth, Paine, Perham, Pike, Polsley, Raum, Sawyer, Selye, Shanks, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William Williams, John T. Wilson, and Windom—57.

NAYS—Messrs. Adams, Ames, Anderson, Archer, Baldwin, Barnes, Beaman, Benjamin, Bingham, Blair, Boyer, Brooks, Buckland, Burr, Churchill, Reader W. Clarke, Cook, Cornell, Covode, Cullom, Dixon, Driggs, Ela, Ferry, Finney, Garfield, Getz, Glossbrenner, Griswold, Haight, Hamilton, Hayes, Holman, Hotchkiss, Ingersoll, Jencks, Kerr, George V. Lawrence, Marshall, Marvin, McCarthy, McCullough, Mercer, Moore, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Noell, O'Neill, Peters, Phelps, Price, Randall, Robertson, Robinson, Ross, Schenck, Shellabarger, Sitgreaves, Smith, Spalding, Stone, Taber, Upson, Van Aukon, Van Trump, William B. Washburn, Welker, Thomas Williams, James F. Wilson, Wood, and Woodbridge—75.

NOT VOTING—Messrs. Allison, Delos R. Ashley, Blaine, Calk, Chanler, Dodge, Eggleston, Eldridge, Eliot, Farnsworth, Fox, Gravelly, Halsey, Hill, Hooper, Asahel W. Hubbard, Humphrey, Ketcham, Laflin, Lincoln, Lynch, Mallory, Morgan, Morrell, Pile, Plants, Poland, Pomeroy, Pruyn, Scofield, Stewart, Taylor, Thomas, Van Wyck, Ward, and Stephen F. Wilson—36.

So the third resolution was disagreed to.

The question recurred upon the preamble.

Mr. SHANKS. I move to amend the preamble so as to read as follows:

Whereas it is expedient that the subject of the treatment of prisoners of war and Union citizens held by the Confederate authorities during the recent rebellion should be thoroughly investigated.

I demand the previous question on the preamble.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment to the preamble was agreed to.

The preamble, as amended, was then adopted.

Mr. SHANKS moved to reconsider the several votes by which the preamble and resolutions were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 107) to establish certain post roads; when the Speaker signed the same.

PERSONAL EXPLANATION.

Mr. STEVENS, of Pennsylvania. I desire to say a word or two in the nature of personal explanation, and I ask the unanimous consent of the House for that purpose.

No objection was made.

Mr. STEVENS, of Pennsylvania. It is in regard to an article in the New York Herald of the 8th instant. I desire to say that if these remarks related only to myself, no matter what they were, I should treat them, as I do all such things, without notice. And, indeed, in regard to any principles which I am supposed to have enunciated I have nothing to say. It is because the article contains unpleasant personal strictures on others that I desire to say a word, and I shall confine myself to that alone.

This publication purports to be the disclosure of a private conversation with me some two or three weeks ago. I have no disposition to criticise the practice of disclosing private conversations if any person will undertake it in the newspapers. This purports to be an account of a private conversation in my sitting-room. I have no fault to find with the gentleman. He seemed to be very much of a gentleman. He seemed to be an intelligent gentleman. I believe he is both. He called at my house and asked to have some conversation with me. I assented. I allowed him as much time as he chose to talk; and he talked to me like a very intelligent, gentlemanly man, as I have no doubt he was. The only fault I have to find with him is that, without submitting the manuscript to me, he has disclosed what he says was my conversation with regard to my associates on this floor. All the rest of the article, including the criticisms upon myself, I care nothing about, and do not object to their accuracy, though I am charged with entertaining certain foolish political aspirations.

But to come to the point. In the first place, so far as my remarks are supposed to have had reference to any members of this House, I do, as I have a right to do, disclaim them all. Not knowing precisely how far anything actually said would justify the inferences drawn by the writer, I disclaim the whole and repudiate the sentiments attributed to me. I do not desire that anything of that kind should stand on record against any of my associates in this House. Therefore, even if I had said such things yesterday in debate, I should rise to-day and apologize and disclaim them all. But, sir, I do not admit the truth of these statements, because that would be opening the question of a private disclosure. I speak only of the personalities.

I will refer to a single instance to show how absurd some of these statements are. The reference to the distinguished gentleman from Ohio [Mr. SCHENCK] and his colleagues seems to me to be its own answer. It is stated

that I accused him of "want of backbone and blood." Now, sir, if there be anything for which that distinguished gentleman has been noted ever since I first knew him, some twenty years ago I think, it is a determined will and "backbone," which would bear him through anything he might undertake. If he has not quite as much "blood" as he had before he went into the field, it is of quite as pure a quality, not deteriorated by his action in favor of the nation. So with reference to what I am stated to have said, although I believe it is more in the shape of inference than otherwise, with regard to the distinguished gentleman from Massachusetts, [Mr. BUTLER.] I am represented as saying that he had acquired his reputation by false pretenses. Now, sir, if there is anything in the world of which that gentleman would everywhere be acquitted, and of which it would be absurd to accuse him, it is acquiring reputation or anything else by false pretenses.

I shall, therefore, sir, distinctly and in a lump repudiate the whole of these personal remarks, holding myself responsible for them in no way. While I cannot help condemning this writer for undertaking to disclose what he admits to have been a private conversation so far as persons are concerned, yet I am not disposed to find fault with him except with regard to the disparaging remarks which I am represented as having made with reference to my associates on this floor, all which remarks I disclaim. I consider the balance of the article as no breach of confidence.

Mr. BUTLER. Will the gentleman from Pennsylvania [Mr. STEVENS] permit me to ask him whether in that conversation he asserted his belief that the New York Herald was the only true Union newspaper during the war? [Laughter.]

Mr. STEVENS, of Pennsylvania. This cross-questioning is very dangerous, for it might bring me into difficulty with my friend Mr. Greeley. [Laughter.]

SUSPENSION OF RULES.

Mr. BROOMALL. I move to suspend the rules to allow me to record my vote upon the passage of the bill passed yesterday, amending the reconstruction acts.

The motion was agreed to.

Mr. COVODE. I move that the rules be suspended so as to allow all members who desire it to record their votes on that bill during to-day.

Mr. BROOKS. Mr. Speaker, I would inquire whether, in order that the record may be regular, it is not proper that these votes should be recorded by general consent.

The SPEAKER. The Chair, under the rules, has no power to ask general consent for such a purpose.

Mr. BROOKS. By the process now proposed, may we not reverse our action upon a bill some days after it has passed?

The SPEAKER. The Chair would not put the question in such a case, without notifying the House what might be the result.

Mr. BROOKS. If general consent were asked, I presume there would be no objection. That, according to my recollection, has been the usual practice.

The SPEAKER. The Chair cannot ask general consent for such a purpose. A suspension of the rules is the only method of reaching the object.

Mr. GETZ. I would inquire whether the recording of these votes would change the result? [Laughter.]

The SPEAKER. It would not. If the vote were close the Chair would advise the House of that fact.

The motion of Mr. COVODE was agreed to. Messrs. BROOMALL, CORNELL, and COVODE recorded their votes in the affirmative; and Messrs. HAIGHT and KERR in the negative.

HOMESTEAD SETTLEMENT IN ALABAMA, ETC.

Mr. JULIAN, by unanimous consent, introduced a bill further to extend and apply the

provisions of the act for the disposal of the public lands for homestead actual settlement; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### BRITISH OUTRAGES UPON AMERICAN CITIZENS.

Mr. ROBINSON, by unanimous consent, submitted the following resolution:

The Clerk read as follows:

*Resolved*, That the Committee on Foreign Affairs be requested to report immediately whether any American citizen has been arrested, tried, or convicted and sentenced in Great Britain or Ireland for words spoken or acts done in the United States.

Mr. ROBINSON. I ask for the reading of a brief statement of facts.

The Clerk read as follows:

#### *The case of Stephen J. Meany.*

"Mr. Meany was arrested in London on the 1st of December last on an Irish warrant granted on information and belief that the informant heard and believed that Mr. Meany had conspired with others in New York to compass the death of the Queen, subvert her Government, &c. He was carried off to Ireland without having been brought before an English magistrate, as provided by the *habeas corpus* act. Mr. Meany was committed to solitary confinement, on the silent system, while an agent of the British Government was sent to New York to hunt up testimony against him. This testimony was produced at his trial on a charge of 'treason-felony' in Dublin, and amounted to the fact that he had made a speech in favor of the Fenian organization in Clinton Hall, Eighth street, New York city, and had been known to offer Fenian bonds for sale in said city.

"The attorney general for Ireland, who conducted the prosecution, admitted that the accused was not charged with any crime committed in the United Kingdom, nor could any such charge be sustained; but he claimed that words spoken and acts done in the United States, in connection with a conspiracy in her Majesty's dominions, were sufficient to bring the prisoner under the jurisdiction of the court. Baron Hughes, the presiding judge, differed with the attorney general. He did not think that the prisoner came within his jurisdiction for acts performed outside the United Kingdom; and while bound to accept the verdict of 'guilty' from the jury, he refused to pass sentence. Mr. Meany was accordingly remanded, and now awaits the decision of the twelve judges. If they decide against him, he—an American citizen, condemned for exercising freedom of speech in America—will probably have to endure the horrors of penal servitude for many years. It is not pretended that Mr. Meany had committed any overt acts in Great Britain or Ireland. He was tried and convicted for words spoken in the city of New York, and upon this charge alone, as the accompanying statement of the attorney general shows. Therefore it appears eminently proper that the good offices of the United States Government should be interposed in this case to protect its citizens from persecution and punishment by a foreign Government for the exercise of that freedom of speech which they enjoy under the constitution and laws of their own country."

#### *Extract from Report of the Trial of Stephen Joseph Meany in Dublin.*

"Stephen J. Meany was brought before Baron Hughes. The attorney general prosecuted. John Devany and Thomas Doyle proved the connection of Meany with the Brotherhood in New York, having heard him speak at Clinton Hall and seen him offer Fenian bonds for sale.

"After hearing all the evidence tendered by the Crown, the judge requested to know what act had been proved that brought the prisoner within the jurisdiction of the court. The attorney general contended that although no act was proved in this country, yet as he had proved the existence of a conspiracy to depose the Queen, acts tending to the same done outside the United Kingdom should convict.

"His lordship was of a different opinion, and refused to pass sentence. He, however, accepted a verdict of guilty, and put back the prisoner till he should further examine into the case."

From the New York Herald of March 11, 1867.

#### *The Case of Stephen J. Meany.*

"The case of this gentleman, who has recently been convicted of treason-felony in Ireland, presents some curious features, which may probably arrest the attention of our Government. Mr. Meany is an American citizen, and if he has been unjustly dealt with, as alleged, his case may become a subject of interference by the State Department. The crimes with which he was charged were committed in New York, namely, making a speech at Clinton Hall and offering Fenian bonds for sale. These are certainly not crimes in this country; and when the attorney general who conducted the prosecution admitted that no overt acts in the United Kingdom were proven or even alleged against Mr. Meany, we are not surprised to find Baron Hughes deciding that acts and words done and spoken in New York were not crimes in Great Britain and Ireland, and declining to sentence the prisoner. If the judge had ruled otherwise what would become of our boasted freedom of speech? Mr. Meany, however, is still in prison, awaiting the decision of the Court in Error, before which these points, as well as the fact that he was arrested in

London and carried over to Dublin for trial, in violation of the *habeas corpus* act, will be argued. If the ruling of Baron Hughes is set aside the prisoner will be condemned to penal servitude—a punishment worse than death—for a long period of years. It was claimed in Mr. Meany's defense that he had no connection with or knowledge of any overt acts of treason in Ireland, nor were any proven. He was tried and convicted for words spoken in this city. If the Court in Error should reverse the judgment of the court below it becomes a question whether the prisoner must not be regarded as a citizen of the United States who has been seriously abused, and become a subject for the interference of our Government."

Mr. ROBINSON. Mr. Speaker, I shall occupy but one minute to state that since the trial of Mr. Meany, notwithstanding the action of the chief judge who tried him, the appeal for a new trial has been denied and he has been sentenced to a fifteen years' imprisonment. He is an American citizen, as that statement informs us, and I believe it to be true. He was arrested, sir, for words spoken and acts done in the city of New York under our own flag. He was not accused in his trial of having done anything in Great Britain against the laws of that kingdom, but for words spoken and acts done in the city of New York an American citizen is now enduring a fifteen years' penal servitude.

A MEMBER. Has he been naturalized here?

Mr. ROBINSON. The papers state that he is an American citizen, and I believe it to be so.

Now, Mr. Speaker, I trust there is spirit enough in this country, I trust, sir, there is weight enough in the metal of our Army and Navy to take that man out of whatever strong prison he may be in if they do not give him up willingly. I trust that the American Government is powerful enough, that our Army and Navy metal is weighty enough to bring him back even if in its march to the prison where he is we have to tread down the nation which has imprisoned him.

Mr. Speaker, I have at a former time called attention to this matter, and requested through this House by resolution information from the State Department, which I regret to say we have not yet received. I hope, sir, that we will turn away from punishing our own people and take time to look after the dignity and safety of American citizens, who may be imprisoned abroad.

One word further. I say "report immediately." I mean with proper deliberation. I understand the committee will have a meeting to-morrow. I mean that the committee shall be directed to report at an early day, that at least during this session we shall have a report from that committee on this subject.

There is another gallant soldier (William J. Nagle) in reference to whom my friend and colleague [Mr. Wood] will introduce a resolution, who went into the terrible fight at Fredericksburg with a large number of brave men under him and came out with only a very few of his command surviving. That gallant Union soldier, who is also imprisoned in Great Britain, is a native-born American citizen.

I might add that I have a report of the trial of Meany on my desk, contained in a Dublin paper. The attorney general says he means to make this a case for any other American who has the hardihood to do anything of the same kind. I now yield to my colleague.

Mr. WOOD. Mr. Speaker, I have but recently returned, myself, from Europe, and from personal observation within the last six weeks in Ireland, where I landed on the 25th of May, I am satisfied that every statement made by my colleague with reference to the insecurity of every American citizen, whether native or adopted, is a palpable self-evident fact in that country. It is impossible for any American to land at Queenstown from any steamer that arrives there whose baggage is not expressly searched, and if he has an ordinary pocket-pistol—I had almost said an ordinary penknife—it is pronounced contraband and is seized by the officers of the British Government.

The case to which I refer is that of Colonel William J. Nagle, a native of the city of New

York, a distinguished officer of the Federal Army during the whole of the late war. He went to Ireland to visit some relatives of his father. Without having uttered, during his stay in that country, one single word of sedition, while on his way to Waterford he was arrested and plunged into jail, where he now remains. I ask the Clerk to read a letter published in the New York Tribune detailing more specifically the facts, and I hope my colleague will accept an amendment to include the name of Colonel Nagle in his resolution.

Mr. ROBINSON. I accept it.

The Clerk read the letter, as follows:

COUNTY CORK JAIL, June 14, 1867.

DEAR FATHER: I was arrested on the 1st of June, in company with Colonel J. Warren, on the bridge crossing the Blackwater, from Waterford into Youghal. We were kept in the Youghal Bridewell until the morning of the 4th, when we were sent to this prison—marched through the streets of both places handcuffed, like felons. We are now held under a warrant from the Lord Lieutenant of Ireland, and will remain prisoners so long as the fears and purposes of the Government may require the suspension of the writ of *habeas corpus*, unless some action is taken by the authorities or Government of our country. We are held under suspicion of being connected with the "Fenian conspiracy," so called in this country. No evidence of any kind is shown, or charge made, other than "suspicion," which is applied, as a general rule, to all Americans. I will place my case before the United States minister at London. The correspondence with Mr. Adams, and his communication, which may become necessary with the State Department, must consume much time. It would be well for you to take immediate steps to bring my case before the notice of the people, and have the subject brought before Congress at its coming session in July. This is not exclusively an individual case, but becomes a question of right involving the liberty of every American citizen that sets foot on this soil. I ask the Government of my country—which I have faithfully served, whose laws I have never violated—to secure to me that liberty which is my birthright, and of which I am now deprived, without any cause or plea of justification, by an authority I do not recognize, a Government to which I owe no allegiance, and whose laws I have in no way infringed upon. My arrest follows so quick upon my arrival in this country that I had no opportunity to find any of my relatives whom I intended to visit. My chances of being in Paris this summer are doubtful. I must be content to suffer the penalty of being an American soldier with Irish blood in my veins, so far offending the majesty of the British law as to be found upon Irish soil.

Yours son,

WILLIAM J. NAGLE.

D. M. NAGLE, New York.

Mr. STEVENS, of Pennsylvania. I have no objection to this inquiry. I am very much at a loss to know whether we can legitimately inquire into trials taking place in another country. I understood the gentleman from New York to speak of one and to say that the party was convicted without evidence. I do not understand how far this resolution goes.

Mr. ROBINSON. The resolution simply calls for information whether any American citizen has been arrested, tried, convicted, and imprisoned.

Mr. STEVENS, of Pennsylvania. That being so, I see no objection to it.

Mr. ROBINSON. One word; I said that an American citizen had been tried and convicted without any evidence against him that he had done any act or said any word in Great Britain; it was exclusively on what he had said and done here.

Mr. STEVENS, of Pennsylvania. I rose to say that I hope we will not adopt the principle of passing upon the judgments of the British courts. Each nation must manage its own trials in its own way. We should be very unwilling to allow any other nation to decide whether the rebels had been guilty, even if some of them were subjects of a foreign Power, until we had tried them; and then I should object to their interference. But as the resolution is merely to be referred to the Committee on Foreign Affairs to report on these facts, I can see no objection. It does not go quite as far as I thought it did.

The resolution was agreed to.

#### TAXING GOVERNMENT BONDS.

Mr. WASHBURN, of Indiana, by unanimous consent, offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the burdens of the Government should be borne equally; that taxation should be in proportion to property held; that exemption of any



material portion of the wealth of this country from its due proportion of taxes is wrongful, unjust, and should be avoided; and to carry out these views the right to tax bonds of the Government should be given in any future system funding said bonds.

Mr. WILSON, of Iowa. I wish to ask the gentleman a question, whether the effect of this resolution will not be this: to prevent the Government of the United States from funding all the different classes of securities that may bear different rates of interest, some running as high as seven-thirty. Would not it interfere with the consolidation of the national debt into a system of bonds bearing a less rate of interest than we are now paying?

Mr. WASHBURN, of Indiana. I care not what the effect will be. I want an expression of opinion as to this question. I do not myself believe that it will affect the rate of interest upon our bonds.

Mr. COVODE. I suggest to the gentleman that the first part of his resolution would clearly look to the taxing of land as well as bonds. I suggest to him that if he does not want to tax land, he should make some distinction.

Mr. WASHBURN, of Indiana. I wish to tax everything.

Mr. SPALDING. Does the gentleman wish to tax bonds which are now exempt from taxation?

Mr. WASHBURN, of Indiana. I certainly do not wish to interfere with contracts already made.

Mr. HOOPER, of Massachusetts. I suggest to the gentleman that he modify his resolution so that it will read: "Any future system of loaning," instead of "funding."

Mr. WASHBURN, of Indiana. I cannot modify my resolution. I demand the previous question upon it.

Mr. PRICE. Will the gentleman allow me to make an inquiry of him?

Mr. WASHBURN, of Indiana. No, sir, I cannot yield for any such purpose.

Mr. PILE. I move that the resolution be referred to the Committee of Ways and Means when appointed.

The motion was agreed to.

#### KENTUCKY ELECTION.

Mr. ADAMS. I wish to present the protest of Hon. J. Proctor Knott, with accompanying papers. I move that they be referred to the Committee of Elections and printed, and also that they be printed in the Globe.

The motion was agreed to.

The documents are as follows:

*To the honorable the Speaker of the House of Representatives of the United States of America in Congress assembled:*

The undersigned would respectfully represent that on the 4th day of May, 1867, he was duly elected as the Representative of the fourth congressional district of Kentucky in the Fortieth Congress of the United States of America, in accordance with the Constitution and laws of the United States and the Commonwealth of Kentucky; a certificate whereof was awarded to him on the 25th day of May, 1867, by His Excellency Thomas E. Bramlette, Governor. Hon. John M. Harlan, Attorney General, and W. T. Samuels, Esq., Auditor of Public Accounts, of said Commonwealth, who constitute the board authorized by law to examine the returns of said election and grant said certificate. Provided with these credentials, the undersigned repaired to the city of Washington with a view of entering upon the discharge of his duties as such Representative during the present adjourned session of Congress, which convened on the 3d of the present month, but was surprised to find on his arrival that a question as to his right to take a seat as such had already been raised and referred to the Committee of Elections in his absence, although neither of his opponents, over whom he received a majority of nearly six thousand votes, and not one of his own constituents had interposed a solitary objection to his qualification, but simply upon the suggestion of a gentleman from another State—a suggestion which the undersigned is contented at present to say he feels assured the House will find, upon a knowledge of the facts, to have resulted from mistake, and that he has been guilty of no act inconsistent with his fealty to the Constitution and laws of his country, or the duty of a law-abiding citizen.

Although not admitting the regularity or right of this proceeding, the undersigned was satisfied to abide in patience the action of the committee and the wisdom of the House, and were he alone interested he might even now feel constrained to remain silent. Having, however, learned that on Monday, the 8th of the present month, the question as to his right to

a seat was again referred to the Committee of Elections, and his district denied a representation until their report shall have been made and acted upon, notwithstanding the undersigned claims to possess all the qualifications presented by the Constitution for a Representative in Congress, and knows of no reason under any law of the United States why he should not be immediately sworn in, and lest his further silence might be construed as a commitment of either himself or his people to an acquiescence therein, he begs leave, with all proper deference to the opinions of those who may differ with him, to enter, in behalf of his constituents and himself, a respectful but firm and solemn protest against the action of the House in the premises, as irregular, unauthorized, and in derogation of the constitutional rights of those whom he claims the right to represent, as well as of the people of the entire Union.

Very respectfully,  
J. PROCTOR KNOTT,  
*Member of Congress elect from the Fourth Congressional District of Kentucky.*

Mr. ADAMS. I also present the protest of Hon. Lawrence S. Trimble, Representative-elect from the first congressional district of Kentucky. I ask that it be read and referred to the Committee of Elections, and ordered to be printed in the Globe.

The motion was agreed to; and the following are the papers presented:

WASHINGTON, D. C., July 9, 1867.

SIR: It is due to the members of the Thirty-Ninth Congress with whom I served during that entire term, to the people whose partiality and confidence accredits me as their Representative in the Fortieth Congress, and to myself, that I should earnestly and respectfully enter my solemn denial to each and every charge affecting in any way my right to a seat in the Fortieth Congress of the United States.

Under the law governing contested elections, I have caused the following answer to the annexed notice to be served on G. G. Symes in this city, by the Sergeant-at-Arms, as follows, to wit:

*The answer of L. S. Trimble, elected to the Fortieth Congress from the first district of Kentucky, to the notice of G. G. Symes, claiming his seat.*

1. There are no specific charges or allegations in said notice of the time and place of the commission of the acts spoken of, nor the violations of the laws charged, to enable this respondent to prove their entire falsity, which he can do if advised of the particular acts relied upon with the time and place.

2. He denies that he ever was disloyal to the Constitution of the United States or the State of Kentucky. He denies aiding or abetting the rebellion, sending supplies, provisions, medicines, military equipments, and ammunition, through the lines into the Confederate States during the war; that the whole of said first paragraph is false and calumnious. He denies making disloyal speeches; that in all of his speeches he advocated the Union, the Constitution, and the enforcement of the laws passed in pursuance thereof as the last and only hope for the liberties of the people; at all times opposing secession and rebellion.

3. He denies that Union men were intimidated and overawed from voting by being threatened and proscribed by those lately in rebellion against the Government. But he charges that Democrats and Conservatives were threatened with reconstruction, confiscation, and military rule if they did not vote against this respondent and for the said Symes. This was openly and publicly done by Symes and his friends Anderson and Bollinger, whose affidavits have been taken *ex parte* and filed by said Symes; while last fall Symes was publicly denouncing Congress as a set of Jacobins and revolutionists when speaking at Johnson meetings, as I am informed.

4. He denies all charges of illegal voting for him or the illegality of the election, but says that said election was regularly held in accordance with the constitution and laws of the State of Kentucky and the Constitution of the United States.

He denies that any person or persons, whether unpardoned ex-Confederate soldiers or paroled prisoners, voted for him who were not legally entitled to do so under the constitution and laws of the State of Kentucky, and asserts that each and all of the electors who cast their votes for him had all the qualifications required for electors for the most numerous branch of the State Legislature, so far as he knows, believes, or has any information. And he denies that under any state of the case the majority received by this respondent could have been either overcome or materially reduced by the rejection even of all the votes claimed in the notice as illegal. This respondent received a majority of the votes polled in each and every county composing the said district, respondent receiving 9,787 votes, Symes 1,780 votes; respondent's majority being 8,007 votes.

Respondent denies each and all of the statements contained in the fourth specification in said notice, and denies that any of the judges, sheriffs, or clerks of said election at any precinct in said district were either illegally appointed or disqualified from any cause to act as such, or that any law was violated in that regard; he denies that the election laws were violated in any way.

Respondent denies that Christian county belongs to that district, or that respondent or Symes received any votes in that county, (Christian.) In conclusion, he denies that any of the matters contained in said notice can be sustained by the testimony of any witnesses who have any regard for truth.

Respectfully,  
L. S. TRIMBLE.  
WASHINGTON, D. C., July 8, 1867.

HOUSE OF REPRESENTATIVES,  
OFFICE SERGEANT-AT-ARMS,  
July 8, 1867.

I have this day given in hand to the within G. G. Symes a copy within notice.

N. G. ORDWAY,

*Sergeant-at-Arms, House of Representatives.*

In the foregoing answer I have denied every charge contained in the notice. I now most respectfully protest against the right of Congress, or the Committee of Elections, to deprive this respondent of his seat, or to put him upon his defense, upon the *ex parte* and illegal evidence now before the Committee of Elections.

While I deny the truth of the charges, the legality of the *ex parte* affidavits, or the right to read them against me, and assert with confidence that they are malicious, false, and calumnious from the beginning to the end, still I am induced to believe upon a careful examination by your Committee of Elections of these affidavits of Anderson, Bollinger, Ellthrop, and others, your committee will so decide. Most of the statements, if admissible in any form, are hearsay, the weakest character of testimony admissible or known to the law. The conclusions of the witnesses surely are not competent anywhere.

Anderson's affidavit discloses the facts that at the time of the making of the speeches by respondent at Mayfield and Benton in May, 1863, respondent was a candidate for Congress against Anderson, "that a short time after the meeting at Benton said learned that said Trimble had been arrested and taken to Henderson, Kentucky, by the military authorities."

The records show Anderson was admitted to the Thirty-Eighth Congress, not receiving, however, one-fifth of the legal votes of that district, most of them voting under the influence of threats against their lives, their liberty, and property. Respondent's name was stricken from the poll-books, his friends driven from the polls at the point of the bayonet. Trimble arrested, taken to Henderson, denied trial on charges being preferred against him, denied communication with any one, black or white, denied the benefit of counsel or privilege of conferring with them, or their admission to confer with him. All this at the instance and request of Anderson and Bollinger.

Foster's affidavit shows that respondent was released after the election without trial or charges of any kind being preferred against him, or even taking the oath so commonly required at that time, General Boyle ordering respondent to be released unconditionally. Had respondent violated any law or Treasury regulation prior to that time, with Anderson and Bollinger in power, he would have been tried and summarily dealt with, probably sharing the fate of many of their innocent victims butchered in cold blood, now sleeping the sleep that knows no waking.

The truth is respondent was arrested for no offense committed at that time or before, unless it be one to defend the Constitution and the Union as our fathers made it, the constitution and laws of the State of Kentucky, and the rights of the citizens thereof, but that Anderson might be foisted upon the people as their Representative against their will, and that Bollinger might more securely follow his avocation of robbing, pillaging, and plundering all who had money and did not descend to his standard of morals and loyalty.

Neither Anderson nor Bollinger pretend in their affidavits to give the substance of the speeches made by your respondent at Mayfield or Benton. But each gives a few lines without their connection or true meaning, showing clearly their fiendish malice toward this respondent, with their calumnious conclusions, which cannot be evidence anywhere.

Respondent refers you to the following letter of Governor Bramlette to President Lincoln, also the following extracts from the report of Generals Speed S. Fry and John Mason Brown, who were appointed by Major General Burbridge to investigate the military affairs in Western Kentucky. The high character and loyalty of these gentlemen will not be questioned.

*Copy of letter from Governor Bramlette to President Lincoln.*

FRANKFORT, September 2, 1864.

SIR: Brigadier General Paine, by military order, has banished a number of the best citizens from Western Kentucky. I send you a copy of a letter handed me by Colonel Taylor, which contains a fair statement of the cases of those embraced therein. I have taken pains to inquire into the facts in relation to those banished persons, and learn from good and reliable men that those persons mentioned in the letter of William McKee Hubbard have ever been loyal to the Government. The order ought to be forthwith annulled and those persons restored to their homes and to the property which General Paine and his confederates, Hon. Lucien Anderson and Bollinger, have iniquitously extorted from them. Having instituted some inquiry into the conduct of General Paine, Lucien Anderson, and Bollinger, who it appears are confederates in the system of oppression and plundering instituted in that part of Kentucky—sharing the spoils iniquitously extorted from citizens—I charge him and them, as the chief executive of Kentucky, with a corrupt and oppressive use of his office to oppress unjustly and extort corruptly money and property from the citizens for their own private gain and to the disgrace of the service and injury of the public interests. The extent and character of the oppressions and plundering carried on by these men, as related to me by persons cognizant of the facts, is absolutely astounding. I ask in behalf of justice, the honor of our country, that a military commission, composed of good, brave, just,



and fearless men, be appointed to inquire into the conduct of these men. I have forbore to complain until I could be assured of the verity of these charges.

Respectfully,

THOMAS E. BRAMLETTE,  
Governor of Kentucky.

His Excellency A. LINCOLN, President of the United States, Washington, District of Columbia.

*Extracts from the Report of General Speed S. Fry, and John M. Brown's Report to Major General Burbridge, pages 27 and 31.*

It is proper here to state that General Paine was chiefly advised by the following persons, to each of whom particular reference will be made hereafter: Hon. Lucien Anderson, member of Congress; John F. Bollinger.

Your committee distinctly and deliberately charge that these men and each of them, except Ridd, are guilty of corruption, bribery, and malfeasance in office. The cases of Bollinger will be first alluded to as belonging to the trade policy of Brigadier General Paine during the time that General Paine's tax on tobacco and cotton was in full force. Bollinger (J. T.) shipped, as his own affidavit shows, about 142 hogsheds of tobacco and 84 bales of cotton. The total sum paid by him as fees and permits was \$10, as will appear from his own affidavit and that of J. E. Woodward. But in addition to this peculiar exemption, it will be seen from the sworn statements of L. T. Bradley, master of the Government steamer Convoxy, that a Government steamer was put at Bollinger's disposal for the purpose of bringing his cotton and tobacco from a point where he had collected it, and that United States soldiers were detailed for the fatigue duty of loading it into the boats. So thoroughly was the community convinced of Anderson, Bollinger, Hall, Ridd, and Bartley, with Brigadier General Paine, that a lucrative trade in vouchers of loyalty and intercession had already sprung up when your committee arrived, and in some instances heavy sums were paid for permits, which, if admissible, should have been freely granted; if improper, should have, of course, been refused.

From page 31 your committee have but briefly alluded to the facts that will appear more fully in the paper which accompanies this report. They beg leave to particularize the parties in their judgment who are most culpable, and name—

1. Hon. Lucien Anderson, member of Congress; a reference to a statement of this person made before your committee, under oath, and numbered 120, which clearly shows his complicity with Major Bartley, provost marshal.

SPEED S. FRY, Brigadier General  
United States Army, President Committee.

JOHN MASON BROWN,  
Colonel Forty-Fifth Kentucky Volunteer Mounted  
Infantry, Commanding second Brigade, first Division  
Military District of Kentucky.

As to the credibility and general character of Anderson and Bollinger, I submit these papers without further comment.

William F. Elletthrop says in his affidavit that on or about the 1st of June, 1861, L. S. Elletthrop & Co., (of which firm he was a member,) D. A. Given, L. M. Flournoy, and L. S. Trimble, formed a partnership for the purpose of in substance carrying on a general smuggling business in sundry bacon, flour, whisky, and other articles through the Federal lines and selling them to the agents of the so-called confederate States, in violation of the laws and regulations of the Treasury Department then existing. It must be known, for it is a historical fact, that Tennessee at that time was still in the Union. Not until long after that time did Governor Harris and his associates pretend to claim that by vote of the people or his (Harris) proclamation Tennessee had severed her connection with the Federal Government. On the 1st of June, 1861, no meeting of the Thirty-Seventh Congress had taken place. Nor did that Congress meet until the 4th of July, 1861. At that time, the 1st of June, 1861, no law had passed Congress in any manner interfering with the commerce between the States, or between Kentucky and Tennessee, or authorizing the President by proclamation so to do. On the 13th day of July, 1861 and August, 16, 1861, Congress authorized the President by proclamation to interfere when in his judgment it was expedient. On the 16th day of August, 1861, the President issued an order suspending the commercial relations between some of the States, of which you must have judicial knowledge. All of which occurred long after the time Elletthrop says he and others were violating these laws and Treasury regulations under them. The truth is, on that day, June 1, 1861, respondent was the Union Democratic candidate for Congress, (the Thirty-Seventh,) against Hon. H. C. Burnett, which canvass he prosecuted almost day and night until the election on the 20th of June, 1861, with the energy and ability he possessed, being one of the most exciting contests in the State, or that ever occurred in that district. Considered a forlorn hope, and after all others had declined the honor, with defeat inevitable, respondent, espousing and advocating the cause of the Union party in Kentucky, with their principles and platforms as announced at Louisville by James Speed and others, opposing secession and rebellion. As to the manner or the perils and danger attending that canvass I will not speak; it is a part of the political history of that district.

While respondent was thus engaged, Elletthrop and many of the persons who are now slandering and persecuting respondent, were engaged in yelling for Jeff. Davis and swearing respondent ought to be hung for opposing Davis and secession. Many who voted for Symes were engaged in the same business.

Elletthrop nowhere states that respondent was present or knew of these transactions, except when

the copartnership was formed, on or about the 1st of June, 1861, which is positively false, although there was no law of the character spoken of to be evaded or violated at that time.

It must be apparent to every impartial mind, from the whole tenor of Elletthrop's affidavit, that he establishes beyond cavil his own corruption and infamy. Your ignorance of his infamous character alone renders this comment necessary. Not content with slandering me, he seeks to render infamous the memory of his dead brothers, D. W. and L. S. Elletthrop. D. W. Elletthrop, as I understand, was at that time in the secret service of the United States, and continued in that service until the close of the war, as the rolls in the War Office will show.

To make any statements made by respondent to any one evidence against him, the witness must show and state all that was said upon the subject at that time. No rule of law can be clearer than this.

For reasons then obvious to my friends, and because I had the right to leave, respondent was absent from that section of the country from the 20th of June, 1861, with the exception of four or five days, and remained absent until some two weeks after the occupation of Paducah by General Grant, on the 6th of September, 1861. Even if it were legal for respondent to disprove the statements made in the *ex parte* affidavits already submitted to the committee by counter-affidavits, or to be finally settled in that way, he has had no time to do so, and therefore contents himself for the present with the foregoing, with entire confidence as to the result ending in his triumphant vindication from these calumnies and his undoubted right to a seat in the Fortieth Congress.

I had hoped before the action of the committee on yesterday to have met the committee and presented my objections to their action with this communication.

I now respectfully ask that the same, with the accompanying papers, be referred to the Committee of Elections.

Respectfully, your obedient servant,

L. S. TRIMBLE.

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Mr. ADAMS. I also present a communication of Mr. John D. Young, in response to Mr. Samuel McKee's notice of intention to contest his right to a seat as a Representative from the ninth district of Kentucky.

The communication was referred to the Committee of Elections, and ordered to be printed in the Globe. It is as follows:

OWINGSVILLE, BATH COUNTY, KENTUCKY,  
June 24, 1867.

SIR: I acknowledge the receipt on the 15th instant of your notice of intention to contest my right to a seat in the Fortieth Congress as member for the ninth district, and your reasons for so doing. After your explicit declaration to me, before a large and intelligent audience at Maysville, that you would not contest my right to a seat in Congress if I should be elected by a majority of the legal voters of the district, and your equally explicit recognition of the right of returned rebels under the Constitution and laws of Kentucky to vote at the election, you will pardon me if I express my surprise at your want of good faith, and your open violation of your pledges to the people, in this attempt to obtain a place in Congress, which the people of the district refused so decidedly to award you. As I intend to maintain by every fair and honorable means the right of this people to be represented in Congress by the man of their choice, and my right by virtue of their suffrages to be that Representative; and as the act of Congress in regard to contested elections imposes upon me the duty of replying to your notice of its specifications, I shall proceed to do so with all the freedom which truth and justice will warrant.

In answer to your first assignment of reasons, I deny there is one word of truth in your charge, that I did not remain loyal to the Government during the rebellion, or that I voluntarily or otherwise gave aid, counsel, or encouragement to persons engaged in armed hostility thereto; or that I was in full sympathy, free accord, or entire harmony with such persons. That I did sympathize with the people of the South in their misfortunes, privations, and sufferings I do not deny. I must have rooted out of my own heart the common sentiments of humanity to have been capable of feeling otherwise. With this exception, I pronounce all and every part of said charge false, scandalous, and unjust. Nor is it true that in 1861, or at any other time, I avowed myself in favor of raising or arming troops in Kentucky to resist the Federal Government, in case that the President sent an army South to coerce and compel obedience upon the part of the southern people and States to the laws of the United States; nor did I countenance, advise, counsel, or encourage, in the county of Bath or elsewhere, the raising or recruiting of men for the purpose of resisting the authority and laws of the United States; or aid, countenance, counsel, or encourage persons who did array themselves in armed hostility to the Government of the United States, or contribute to the same at any time or place. On the contrary, upon all proper occasions I advised persons who manifested a disposition to enter into the rebellion not to do so.

It is true, I voted for John S. Williams for Congress in 1861; but I deny that the vote I then gave can be construed into an act of disloyalty then or now. John S. Williams was not then a disunion or secession candidate, nor did I vote for him as such. He occupied a position then occupied by some of the best Union men of the State. Your charge that I voluntarily gave information by which Union soldiers

were captured by armed bands of rebels is scandalously false, vile, and disgraceful; but I will not, from self-respect, characterize my denial by the use of such indignant terms as its injustice and wantonness would fairly authorize. I shall content myself with saying—for I will not assume that you invented the slander—that whosoever informed you I so acted is a knave and calumniator. It is not true I voted for Charles A. Wickliffe in 1863; nor was I in the convention by which he was nominated. It is not true that Governor Wickliffe was a disloyal man; nor can the party which nominated and supported him be justly considered traitors or treasonable. If I had voted for him it would have been with no disloyal intent; nor would such a vote have afforded any pretext or justification for your untruthful aspersions of my fidelity and loyalty to the Government and its Constitution and laws. I cast no vote from 1861 until 1865, when I voted for Colonel Smith Hurt for Congress and B. D. Lacy, Esq., for the Legislature, the former a Union officer, who had served gallantly four years in the Army, and the latter a well-known and leading Union man of Bath county. Your denunciations, therefore, of Governor Wickliffe and the party by which he was nominated and supported as "treasonable and traitorous" have no application to me, were inconsiderate and irrelevant, and need no further notice. In reference to your charge that when summoned in 1862 by the United States authorities to take the oath of allegiance to the Government of the United States I refused and fled to Canada Province is false in fact and inference. I never refused to take the oath of allegiance when rightfully required to do so, nor did I flee to Canada. I was a precinct officer, had taken the oath, and never in thought or deed have violated it. I went to Vermont when threatened with illegal arrest and imprisonment for the discharge of an official duty in issuing a writ of *habeas corpus* when rightfully applied for.

Your inference that none but disloyal men could be required to take oaths of allegiance or be threatened with arrest is as ridiculous as most of your accusations against me are false. The distinguished examples of Colonel Wolford, General Huston, Colonel Jacob, and many other good Union men might well be quoted to your discomfiture. These men are truly loyal, as you so noisily and boastfully pretend to be, and yet they did not escape ignominious imprisonment nor shameful persecution. Your next charge is that in 1861 I voted and acted with the secession and disunion party, and in addition to voting for John S. Williams I voted for Dr. Thomas C. Parish, who ran as the secession candidate for the Legislature, and that I was loud in my denunciations of the Government of the United States, and declared myself freely for secession and the southern confederacy. To this accusation I interpose an emphatic denial, in whole and in part, except that I did vote for Dr. Parish. The question of disunion was not then at issue, and I understood and believe Dr. Parish was not a secession candidate. I did not hear either of the gentlemen upon the stump. You conclude your first specification of reasons why you are entitled to be admitted to represent a people who refused to choose you by asserting that during the late canvass I declared I left the county in 1862, for the reason I could not and would not take the oath to support the Constitution of the United States, because I was in favor of secession and desired the rebellion to succeed. I hope you do not make this charge upon any knowledge during the canvass, for you know well it would be an unmitigated falsehood if so founded; and if you derived it from others I can assure you your informants have been guilty of audacious falsehood. I made no such statements during the canvass or at any other time; the whole charge is a malicious and wanton untruth.

You conclude by saying that for these reasons I am disqualified by the Constitution and laws of the United States from holding any office of trust or profit thereunder, and in consequence thereof the votes cast for me on the 4th of May were and are void and my election a nullity. You are certainly "a most wise and learned judge," and well read in the Constitution of your country, and can readily point out the provision of that instrument which makes either or all of the acts alleged, even if they were true, a disqualification. You will do me and the country a favor if you will condescend to indicate where such a provision may be found. No lawyer or statesman has discerned it, and if you will only refer me to it I will with unalloyed pleasure proclaim you a sage lawyer and profound statesman. Your second specification of your reasons why you should be admitted to take a seat in Congress, which the people of your district refused to elect you to, is that returned rebels "who have been and still are exempt from amnesty and pardon, to the number justly exceeding that of my reported majority, to wit, more than two thousand," voted for me in the various precincts of the district, and that such votes were illegal and are void. You give unusual prominence to this charge, and repeat it in your third specification. You rely upon it as possibly the most certain and conclusive in your array of reasons for my exclusion from the office and position to which I have been elevated by the free and unbiased suffrages of the people of my congressional district. Like all the rest of your reckless allegations, it happens not to be sustained by the truth. Returned rebels did not vote for me to the number alleged, nor to one third that number. I have taken some pains to inform myself upon that subject, and if the votes of that character received by me in the whole district exceed 650 I am greatly mistaken. Some voted for you; and if they were illegal when cast for me, surely they must not be counted when cast for you. But after your acknowledgment at Maysville that the constitution and laws of Kentucky made them legal voters, with what force can you now declare them illegal and void? The

right of suffrage in Kentucky is regulated by the constitution and laws of Kentucky, and no other authority on earth has the power to enlarge, diminish, or control that right. The Constitution of the United States, to which you sometimes condescend to refer, provides that "the electors for members of Congress in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature;" thus recognizing the right of the State, and no other authority, to determine the qualifications of the voters within the State, both for Federal and State officers. The returned rebels in Kentucky were good voters under the constitution and laws of Kentucky for any officer in Kentucky, "the most numerous branch of the State Legislature," as well as all others; and if they had the right so to vote under the laws and constitution of Kentucky and the Constitution of the United States, they have an undoubted right to cast their votes for me as Congressmen.

Your third specification is but a repetition of the second, and is sufficiently responded to above. Your fourth ground of contest is, that fraud, intimidation, and violence were practiced in various counties and the precincts of counties on the day of the election by my friends, and that by reason thereof many Union men, who otherwise would have voted for you, were prevented from doing so; that armed men, who had been in the rebel army, were present at the polls, and threatened to murder Union men and destroy their property if they voted the Union ticket (i. e., for you); and that by such threats and violence many men who would have voted for you were deterred from doing so, and the election was not, therefore, "free and equal," but illegal and void. I have no personal knowledge of any such fraud, violence, or intimidation, and, until your notice, never heard of anything of the kind having occurred in any county or precinct. Having every reason to know that every material thing contained in your former charges was false and untrue, I do not hesitate to say that this charge is equally false and unfounded. In your fifth specification you charge that at each voting place in the district illegal votes were polled for me, to a number greater than my reported majority; and that votes offered for you, which were legal, were refused. This is unqualifiedly false. I know of no illegal votes cast for me in any part of the district, nor of any legal votes offered for you which were refused. The recklessness of your allegations and the desperation of your cause are well illustrated by the character of this charge. You assert that in each voting place of the district I received illegal votes to a greater number than my majority, when you well know that at no single voting place was that number of votes cast for either one or both candidates of any kind, legal or illegal.

In regard to your sixth charge and specifications, that the laws of the State were not complied with in the appointment of officers who conducted the election in various counties and precincts, and that the men selected were not qualified to act, and that their acts were fraudulent and void, I say the charge is false in all its particulars, and deny that in consequence of the action of said officers any votes were prevented from being cast for you which otherwise you would have received, or that there was any illegality in said election.

To the seventh and eighth charges, without repeating them here, I interpose an unqualified denial, and say they are false and unfounded in each and every particular. As to the ninth of your charges and specifications, that the freedom of the canvass was not permitted to you and your friends, and that in certain counties of the district you and your friends were not permitted to speak in advocacy of your election, and that you were compelled to be accompanied by an armed force to defend your life from the threatened violence of my friends, it is a flagrant falsehood and slander. If you took armed men with you to the several speaking places in the district, it was not because of any threatened violence upon the part of my friends, but because of your own intemperate and insolent conduct, which was well calculated to provoke resentment and violence. Instead of your being prohibited in any part of the district from the utmost freedom of discussion, you were permitted to speak everywhere without molestation, and were listened to with great attention, although your speeches were characterized by the most bitter malignancy toward your political adversaries ever shown by a public speaker. You vilified, slandered, and abused the Democratic party wherever you spoke, and it is only a wonder that a brave and free people showed so much gentlemanly forbearance and moderation under such provocation.

You claim that Colonel Baker was not allowed to speak in your favor at Germantown. Colonel Baker went there to speak for himself, he being a candidate for Lieutenant Governor, and not particularly for you. He was not prevented from speaking. The whole story is a base fabrication, and was exposed by men of your own party at that time. He did not speak at Germantown, simply because there was no audience to hear him, not because my friends or any other party prevented him by threats or otherwise.

Your tenth and last charge assumes that, excluding illegal votes cast for me, you had a majority of the legal voters in the district and are therefore rightfully elected. This is not true; but I affirm that of the legal votes cast in the district I have a much larger majority than that ascertained by the board of examiners. Many illegal votes were cast for you in all the counties, and these were procured by fraud, intimidation, bribery, and corruption.

Against your unfounded charges and in resistance of your arrogant claim to have and hold the position to which the people of the district refused to elect you, I shall maintain that I have been fairly elected by a decided majority of the votes cast at the election held on 4th day of May last for member of the

Fortieth Congress from the ninth district of Kentucky; that the returns of election to said office have been duly made and approved by the officers appointed by law to receive and decide them; that I have all the qualifications required by the Constitution of the United States, being twenty-five years of age, a native citizen of the United States, and an inhabitant of the State of Kentucky at the time of my election, and am entitled to take and occupy my seat under said Constitution. I deny that Congress has any right to enlarge or abridge, add to or take from said qualifications, or that I can be made amenable to any act of Congress requiring other or different qualifications than those prescribed by said Constitution. Even conceding that Congress has such a power, I deny that I have done or committed any act which brings me within the proscriptive provisions of any of its enactments in regard to members of that body. And now, having fully met and answered each and every allegation you have made against me as affecting my right to hold the position to which I have been elected by the people, and asserted my claim as the member rightfully chosen, permit me to notify you that I will prove and rely upon the following facts as reasons why you ought not to be permitted to take a seat in the Fortieth Congress as a member from the ninth district:

First. You were not elected by a majority of the qualified voters of that district, but were defeated by a majority of 1,479 of the legal electors.

Second. Many of the votes which you received at the various election places in the counties of Lewis, Greenup, Morgan, Rowan, Carter, Boyd, Magoffin, Pike, and Johnson, and other voting places in this district were procured for you by bribery, corruption, purchase, and fraud.

Third. Because you and your friends, in violation of the laws of the State of Kentucky, and in fraud of my rights as a candidate, expended large sums of money in the counties named in the preceding paragraph, to debauch and corrupt the electors, and by which means you procured to be cast many votes in said counties for you which otherwise would have been cast for me.

Fourth. You took with you to the places of discussion in the several counties an armed body of reckless and violent men, under the pretense of protecting you from alleged threatened violence, but in fact and in truth to overawe and intimidate the electors of the district from casting their votes in accordance with their own free sentiments, and by which immoral, illegal, and violent practice many men in the same counties were constrained to vote for you who otherwise would have cast their votes for me.

Fifth. You were accompanied at various of your appointments in the several counties of this district by officers of the Federal Government, clothed with power and patronage, and who went with you to aid in controlling public sentiment in this district, and thus brought the power and patronage of the Federal Government into conflict with the freedom of elections.

Sixth. In the various precincts of the several counties in the district illegal votes were cast for you by men not of the proper age, by men not having the proper residence, by men not naturalized, and by men whose votes were bought by money and obtained by threats, intimidations, and violence, to a number in the aggregate greater than the ex-rebel votes cast for me.

Very respectfully,  
HON. SAMUEL MCKEE.

JOHN D. YOUNG.

#### LEAVE OF ABSENCE.

Mr. BINGHAM asked and obtained indefinite leave of absence for Mr. ECKLEY, on account of the death of his son.

Mr. MCCARTHY asked and obtained leave of absence for himself for three days.

Mr. SPALDING asked and obtained leave of absence for himself after this week.

#### BUILDINGS LEASED BY THE GOVERNMENT.

Mr. BARNES, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of War and the Secretary of the Treasury, respectively, be requested to furnish this House with the number of buildings leased by their respective Departments in the cities of New York, Brooklyn, and Jersey City, with the location, size, and cubic feet of measurement, and capacity of each building, the time and duration of each lease, the amount paid for each building, and the amount received from each, if any.

Mr. WILSON, of Iowa. I suggest to the gentleman to modify his resolution by substituting "directed" for "requested."

The SPEAKER. It is customary in resolutions of this character to "direct" the heads of Departments and to "request" the President.

Mr. BARNES. I modify my resolution in the manner suggested.

The resolution, as modified, was adopted.

#### TAX ON DISTILLED SPIRITS.

Mr. BARNES. I ask unanimous consent to introduce for consideration at the present time the following joint resolution:

*Resolved by the Senate and House of Representatives, &c.*, That the tax on distilled spirits be reduced from

two dollars per gallon to seventy-five cents per gallon, under the same regulations, provisions, and measurements as now exist.

*Resolved*, That this act take effect immediately.

Mr. SPALDING, Mr. BROOMALL, and others objected.

#### WITHDRAWAL OF PAPERS.

Mr. NICHOLSON asked and obtained leave to withdraw from the files of the House the papers of Ann Burnett.

#### HONORABLE DISCHARGES OF SOLDIERS, ETC.

Mr. SCHENCK, by unanimous consent, introduced a bill to provide for the granting of honorable discharges to certain soldiers and sailors of the Army and Navy; which was read a first and second time, ordered to be referred to the Committee on Military Affairs when appointed, and printed.

Mr. SCHENCK. I move to reconsider the vote by which the bill just introduced was ordered to be referred to the Committee on Military Affairs when appointed.

The SPEAKER. The motion to reconsider will be entered.

Mr. HOLMAN. Why could not that bill be taken up now?

The SPEAKER. It will require a two-thirds vote to discharge the committee and bring the bill before the House, as it is general legislation.

Mr. ASHLEY, of Ohio. I rise to a privileged question, and call up the motion to reconsider the vote by which the House ordered to be referred to the Committee on Military Affairs the bill introduced by me for the relief of certain volunteer soldiers and sailors therein designated.

Mr. SCHENCK. The bill which I have introduced is for the purpose of relieving certain deserters of the penalties of their desertion. My colleague introduced the other day a bill upon the same subject, which is within the control of the House, if it be the disposition of members, as I trust it will be, to take it up on the motion which he entered and now calls up, to reconsider the reference to the Committee on Military Affairs. In the mean time we have gone over that bill, and it has been so modified by the one introduced by myself and by suggestions made by others that in the opinion of the Committee on Military Affairs it may be considered and passed now.

Mr. HOLMAN. I hope, then, that the bill will be taken up and passed.

Mr. SCHENCK. I hope my friend will sustain the motion to reconsider, so that the bill may be brought before the House and considered now.

The SPEAKER. The Chair will state that a majority can reconsider and bring the bill before the House, but it will take a two-thirds vote to consider the subject, as it is general legislation.

Mr. ASHLEY, of Ohio. I move to suspend the rules and put it upon its passage.

Mr. STEVENS, of Pennsylvania. I rise to a question of order, as to whether the resolution we passed some days ago does not absolutely preclude any general legislation?

The SPEAKER. It does preclude general legislation, and none can be entertained except by a suspension of the rules previous to its consideration. They can be suspended by a two-thirds vote during this session.

Mr. STEVENS, of Pennsylvania. I merely wished to know how far we can proceed in general legislation.

The motion to reconsider was agreed to.

Mr. ASHLEY, of Ohio. I withdraw the motion to recommit, and move to suspend the rules, so as to put the bill on its passage. The Committee on Military Affairs, as well as the delegation from Ohio, are unanimously in favor of the passage of the bill. I believe that almost every member of the House is in favor of it.

The rules were suspended.

Mr. HARDING. I ask that the bill be read.

Mr. ASHLEY, of Ohio. I submit the following substitute:

A bill for the relief of certain volunteer soldiers and sailors therein designated.

Whereas a large number of men who voluntarily enlisted in the service of the United States for a definite period or during the war, and who faithfully served until after the surrender of Lee and Johnston, in April, 1865, under the impression that they had faithfully fulfilled their contract with the Government, did, without authority, leave their respective commands and go home; and whereas all who thus left the service are marked upon the rolls as deserters, and are unjustly classed with those guilty of the great crime of deserting to the enemy or deserting during the war: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no soldier or sailor shall be taken or held to be a deserter from the Army or Navy who voluntarily enlisted to serve and who did faithfully serve the prescribed period of his enlistment, or until after the surrender of Lee, near Richmond, Virginia, on the 19th of April, 1865, and who, without proper authority or leave first obtained, did quit their respective commands after said surrender.

SEC. 2. *And be it further enacted,* That any volunteer soldier or sailor who may at any time have absented himself from the service, and who voluntarily returned to duty and remained with his proper command until it was regularly mustered out, shall not be classed as a deserter.

SEC. 3. *And be it further enacted,* That the Secretary of War and Secretary of the Navy be, and they are hereby, authorized and directed, under such rules and regulations as they may prescribe, to cause all applications of soldiers or sailors, of the class hereinbefore described as deserters, asking for a correction of the rolls, or to be reinstated, which may be hereafter presented to their respective Departments, to be examined, and if it shall be found that the applicant voluntarily entered the service, and faithfully served the term of his enlistment, or until the 19th day of April, 1865, and only left the service after said date, his name shall be replaced upon the rolls, and he shall be entitled to his pay up to the day he so left the service; but he shall not receive any additional or extra pay. He shall also be entitled to a discharge, setting forth the facts as they exist; and the persons thus reinstated, paid, and discharged shall not be subject to any penalty, disability, or forfeiture of citizenship as a deserter.

Mr. RAUM. I ask to submit an amendment, which is necessary to cover the cases of dishonorable discharges. I move to add the following:

*And be it further enacted,* That all dishonorable discharges given to any soldier or sailor included within the provisions of this act are hereby vacated and set aside, and such soldiers and sailors shall be entitled to discharges and pay as other soldiers and sailors under this act.

Mr. ASHLEY, of Ohio. Let that amendment be pending. I move to strike out in the first section the words "surrender of Lee" and to insert "the 19th day of April."

The modification was accordingly made.

Mr. COBB. I move to insert after the words "mustered out" in section two these words: "or who was killed in battle or died before the expiration of his term of service."

Mr. ASHLEY, of Ohio. As this is a bill in which every one is interested, I move that it be postponed till to-morrow after the reading of the Journal, and that, together with the amendments submitted, it shall be printed.

Mr. GARFIELD. I submit the following amendment, to cover another class of cases. During the war occasionally a soldier dropped out of the ranks in consequence of sickness and was unable to join his command, and subsequently was returned on the rolls as a deserter. That soldier may for months have been unable to join his command and may be returned on the rolls as a deserter although he may have had no intention to desert. I move the following:

*And be it further enacted,* That when any soldier or sailor in the late war, whose name is entered upon the rolls of the Army or Navy as a deserter, shall present to the Secretary of War or the Secretary of the Navy satisfactory proof that such desertion was only technical and without any intention to abandon the service, the Secretary is in such case authorized and directed to give such soldier or sailor a certificate of correction of the entry in his case.

Mr. SCOFIELD. That is the law now.

The SPEAKER. If there be no objection, the substitute will be considered as the original bill.

There was no objection.

Mr. HARDING. I desire to offer an amendment, which is intended to cover the case of a regiment from my own State which were de-

clared in default for refusing to serve, dishonorably discharged, and their pay withheld.

Mr. ASHLEY, of Ohio. The gentleman can offer it to-morrow morning.

Mr. HARDING. My amendment is to add a new section, as follows:

*And be it further enacted,* That forfeiture of pay and dishonorable discharge promised or made for refusing to serve after said period are hereby released, and soldiers and officers subjected to said forfeitures and findings shall be paid and their discharges given as they would have been entitled to receive if no refusal to serve had been made.

Mr. MUNGEN. I desire to ask a question of the gentleman from Ohio [Mr. ASHLEY] in regard to the law against desertion. A case in point occurred in regard to some members of my own regiment. A few of the boys went on shore at Vicksburg. The boats were ordered off sooner than they expected and the result was they were captured by rebel cavalry. One of the men was taken to Jackson, Mississippi, and there kept until our forces occupied that place. For some reason he is reported as a deserter, but I have the affidavit of his captain, lieutenant, and of myself showing that he was not even reprimanded while in the service. He joined us at Kenosha mountain and was discharged at Little Rock. I have tried in vain so far to get his bounty and get justice done him. His name is stricken off the roll, although he got an honorable discharge.

Mr. ASHLEY, of Ohio. The second section of this bill provides for that case exactly.

Mr. MUNGEN. If the bill meets that case that is all I want.

Mr. ASHLEY, of Ohio. I now move that the bill and pending amendments be postponed till to-morrow, immediately after the reading of the Journal.

The motion was agreed to.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. WILSON, of Iowa. I rise to a question of privilege. The House at the March session passed a resolution requesting the Committee on the Judiciary to report upon the impeachment case, so-called, at the present session. It is proper that the committee should make some response to that resolution. I am therefore directed by the committee to state that they are not prepared to submit a report at this session, but will be prepared to do so at any session which may be held on or after the 16th day of October next.

I have also been requested to state the position occupied by the committee upon this question. As the case now stands five members of the committee are of opinion that such high crimes and misdemeanors have not been developed as to call for the exercise of the impeachment power on the part of this House. Four members occupy the opposite position, believing that sufficient matter has been developed in the case to call for the exercise of the impeachment power. This is all I am directed to say, and covers all the authority given to me by the committee.

Mr. BOUTWELL. Mr. Speaker, in connection with what the chairman of the committee has stated to the House, and in conformity to the suggestion of the committee, although not strictly by the authority of the committee, but I believe in accordance with the judgment of a majority of it, I submit to the House a resolution with reference to the adjournment of the present session.

Mr. WILSON, of Iowa. The gentleman makes a statement a little outside of the committee when he says it is in conformity to the suggestion of the committee. The committee did not make any suggestion.

Mr. BOUTWELL. Well, then, on my own responsibility I offer the following resolution:

*Resolved,* (the Senate concurring,) That when the two Houses of Congress shall adjourn on the — day of July, instant, the adjournment shall be to Wednesday, the 16th day of October next, at noon, and the two Houses shall then reassemble without further order.

Mr. Speaker, I desire to state to the House the reasons which control me in asking a session of Congress in the month of October

next. There are general reasons which certainly are as well known to other members of the House as they are to me, which lead me to the opinion on which I presume that the House would be willing to act, that in the present condition of public affairs, in reference to what we have learned from the acts of the Chief Magistrate, it is due to the country and to the public peace, especially in the ten States that are not represented here, and in reference to business affairs throughout the whole country, that there should not be an interval of two months between the sessions of Congress until the people have had an opportunity, if there be no other method provided under the Constitution and the laws, to place in the executive chair another man.

But I do not propose now to dwell upon the general considerations, but to suggest to the House and to the country, it may be, a view of this matter which it seems to me ought to control us in deciding that there shall be another session of Congress as early as October next.

I know very well that a session will be inconvenient to members; it may be inconvenient, in some respects, to the country. I know how common it is, how universal I may say it is, for those interested in business to object to additional meetings of Congress. I am as anxious for peace as any man interested in business can possibly be, but there were those during the war who were clamoring for peace when there could be no peace except through the triumph of our arms and the supremacy of the cause for which we were contending. The same difficulty exists to-day. This controversy I suppose will be protracted, in some form or other, until the 4th of March, 1869. It is one of the incidents of the condition of the country, emerging, as it is, from a state of war, and there are no possible means, I do not say consistent with public duty, but I say that there are no possible means, whether we regard or disregard our public duties, by which we can relieve the country from the difficulties which are incident to the state of affairs growing out of the condition of the public business. I therefore suggest to the House and to the country that there is no better way in which we can rid ourselves of the difficulties in which we are involved than to go steadily, firmly, conscientiously, and judiciously forward in the discharge of our public and private duties. I wish to say, in addition to what was said by the chairman of the committee, that while the committee voted as has been stated on the main question of impeachment, a majority of the committee agreed that the President had been, I will not say guilty, but had so conducted himself in his public office as to justify the committee in their report in condemning and censuring him.

Mr. WILSON, of Iowa. Mr. Speaker, I wish that the remarks of the gentleman from Massachusetts shall be understood just as this subject was understood in the committee. He will remember very well that there were no propositions to report a resolution of censure or otherwise, because the committee were of the opinion that that question was not submitted to them. The question before the committee was whether the President should be impeached or not.

Mr. BOUTWELL. I believe, if the gentleman will recall my words, they will sustain exactly the view he now presents. That report was to be so framed as to convey censure upon the conduct of the President.

Mr. WILSON, of Iowa. I would suggest to the gentleman that we had better wait for the report of the committee on this subject. I do not desire myself in advance to discuss any one of the issues involved in this case, nor do I wish now to place any interpretation upon the action or the position occupied by any member of the committee, or to attempt to interpret his views at this time. I will be prepared to do that when I am called upon to report upon this question.

Mr. BOUTWELL. I desire to make no



reference to the views or the opinions of members of the committee. I did not intend to comment upon the views of the majority of the committee, or upon the views of any member of the committee further than to say this, which I think I am justified in saying, that if there had not been grave matters developed by the testimony taken before the committee they would not have adopted the resolution.

Mr. WILSON, of Iowa. Why, Mr. Speaker, there are a great many things in the course of action pursued by the President of which, as every one knows, I do not approve. But, sir, in reference to that and the general question suggested by the remarks of the gentleman I do not wish now to go into any discussion, though I shall be prepared to discuss it at the proper time.

Mr. BOUTWELL. Nor do I, Mr. Speaker, wish to pursue this line of inquiry. But, sir, I will say upon my own responsibility and upon the judgment, I think, of those of the committee who concur with me in regard to the gravity of this question, that the House and the country are in such a position that this subject must be considered by the House. The report of the committee will be made. It must be considered; it must be discussed. Time will be required for that consideration and discussion. And I think in connection with what we know of the probable business of the next session, setting aside all other general considerations, the two Houses ought to meet as early as the middle of October for the purpose of attending to this business and discharging their duties in reference to other matters of public importance. If the commencement of the session be delayed until December, or if it be delayed even until November, and we are to go through with this inquiry upon the floor of the House, even if the proceeding goes no further, it will occupy, certainly, several weeks of time. We know there is to be a presidential election next year. It will be for the public interest as well as for the convenience of members that the business of the session should be closed if possible before the country is deeply involved in that struggle. I have, therefore, named the 16th of October—a time beyond the October elections. I am aware that there are States in which elections are to be held in November; but if we consent to postpone the session until November, it is substantially, so far as regards business, a postponement until the annual meeting in December. I may say further that, considering that the great question which is to come before Congress at its next session is one which specially belongs to the House of Representatives primarily under the Constitution of the United States, we may reasonably expect that the other branch of the legislative department will not, under these circumstances, undertake to exercise an independent judgment upon the question of the reassembling of Congress.

Now, sir, unless there be some desire to discuss this question further, I will call the previous question.

Mr. SPALDING. I ask the gentleman to yield to me.

Mr. BOUTWELL. I will do so.

Mr. SPALDING. Mr. Speaker, I do not think it is the sense of a majority of this House that an adjournment should take place until the 16th of October, with a view then to assemble and commence a long session, to run through the winter and into the next spring and summer. But I do believe that a majority would be prepared to join with the gentleman in a resolution similar in form to that under which we are now assembled, to meet again on the 16th day of October, provided a quorum of each House should then appear; if not, that we then adjourn until the first Monday of December. I move, therefore, that this resolution be referred to the Committee on the Judiciary with instructions to report a resolution similar in form to the one under which we are now convened, adjourning the two Houses to the 16th of October, to meet then, provided a

quorum of each branch shall be present. Perhaps the gentleman will accept that as a modification of his resolution.

Mr. BOUTWELL. I do not accept that amendment. And, Mr. Speaker, I will say that after the recent adjournment of Congress I, with some other persons better skilled in such subjects than myself, examined the Constitution in reference to the terms of the resolution of adjournment under which we have lately met, and I am persuaded, as are many others, that the provisions of that resolution are unconstitutional; that Congress has no right to impose such restrictions upon the two Houses when assembled under the Constitution. Such a resolution, I think, is only an invitation to a minority, if no more should assemble, to undertake to force a quorum. Therefore, so far as I am concerned, I should object to a resolution in that form.

Mr. SPALDING. Then, Mr. Speaker, for the purpose of getting the sense of the House upon this question of an adjournment definitely until the 16th of October, I move that the resolution be laid on the table, and on that motion I call for the yeas and nays.

The SPEAKER. The gentleman from Massachusetts is still entitled to the floor.

Mr. BOUTWELL. I decline to yield at present for that motion.

Mr. SPALDING. Then I will make the motion as soon as the gentleman surrenders the floor.

The SPEAKER. It will then be in order.

Mr. PIKE. I ask the gentleman from Massachusetts to allow me to offer an amendment providing for an adjournment till the second Monday in November. I for one prefer to make square work and adjourn definitely so that all the members may know exactly when we are to meet, that there may be no doubt in the mind of anybody. And although the time I propose is nominally hastening the meeting of Congress according to the Constitution, still I think it will be found when we come together, the Senate and the House, on the 11th of November, that we will have gained probably at least a month more than we should have done if we met on the first Monday in December. We all know when Congress comes together in December, and particularly at a long session, that the members come to the conclusion that nothing will be done before the holidays; and coming to that conclusion before they come here they are quite unwilling to stay except so far as public decency may require. An adjournment is then taken over the holidays as far as possible. If we adjourn to the 11th of November we will go to work and take up this whole subject of impeachment, or any other subject legitimately before the House. For that reason, and to test the sense of the House, I ask the gentleman to let me move an amendment to that effect.

Mr. BOUTWELL. I cannot yield for that purpose.

Mr. PIKE. Then I hope that the call for the previous question will not be seconded, so that we may test the sense of the House on the subject.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I do not see why this adjournment should take place unless we are to have a report from this committee of the evidence taken and have it printed and before us so that we may examine it. If I understood the chairman of that committee there is nothing now before them which will justify an impeachment, and that they have been six months attempting to find ground for an impeachment. Then, sir, the whole question of impeachment lies in a nutshell. If nothing can be found which sufficiently implicates him to put him on his trial before the country, it is due to him, it is due to this House and to the country that that committee should be discharged and this matter should be abandoned.

I do not quite agree, sir, that there is no sympathy with the action of the committee. I think the country almost unanimously believes

that there ought to be articles of impeachment reported and acted on; and the only condition on which I shall agree to vote for an adjournment to the time mentioned by the gentleman from Massachusetts is that this committee shall report now, and that that report shall be printed and ready for our action when we do meet. I do not know, sir, whether it would be in order to submit a resolution of this kind directing the committee to report, and that that report shall be printed.

The SPEAKER. That would have to be done by a separate resolution. It could not be offered to a resolution for adjournment.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I will say that I am not satisfied. I do not believe the country is satisfied with the course taken in regard to the impeachment. I do not mean thereby to censure or blame anybody, but it seems to me there is an error of judgment as to what is required by the law to found an impeachment. I think that ought to be submitted to the tribunal of this House and to the tribunal which is to try it; and if the motion of the gentleman from Massachusetts should prevail, I shall ask leave to test the sense of the House on the question of directing that the committee shall report now. When I say now, I mean at this session; and that the report and the evidence taken shall be printed and ready for our action. As the question now stands I have nothing further to suggest.

Mr. WILLIAMS, of Pennsylvania. I ask the gentleman from Massachusetts to yield to me.

Mr. BOUTWELL. Certainly.

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, as a member of the Judiciary Committee I feel constrained to say a word. I have not agreed to the decision as enunciated by the chairman. I do not agree there is any reason why that committee should not have been prepared to make its report at this session.

Mr. WOODBRIDGE. Will the gentleman yield to me?

Mr. WILLIAMS, of Pennsylvania. Certainly.

Mr. WOODBRIDGE. I desire to ask the gentleman whether the committee is not now expecting witnesses before it?

Mr. WILLIAMS, of Pennsylvania. No, sir; the witnesses to whom the gentleman refers were examined this morning, and he would have heard them if he had been there. [Laughter.]

Mr. WOODBRIDGE. It is true I was not with the committee this morning; but I ask whether there are not other witnesses expected before the committee; some who have not been there, and others who have and have been recalled? I ask whether there is not a vast amount of evidence and other information called for from the Departments which have not been furnished and could not be furnished because of the limited time afforded?

Mr. WILLIAMS, of Pennsylvania. So far as regards myself, I feel I am prepared here to say I want no more witnesses. Bring me no more reports.

Mr. STEVENS, of Pennsylvania. As I know how easy it is to procrastinate by calling witnesses, I would like to know whether they have finished taking the testimony of my friend, Horace Greeley. [Laughter.]

Mr. WILLIAMS, of Pennsylvania. The relations of my colleague with that distinguished individual are perhaps more confidential than my own. [Laughter.] I cannot answer the question. Mr. Greeley was not called at my instance.

But I will proceed to add, that so far as the minority of the committee are involved—and I think I may speak for them; they will correct me if I err—they are satisfied with the testimony which is before them. They think there are abundant reasons for the impeachment of the President of the United States for high crimes and misdemeanors before the highest tribunal of the nation. They want no more. They are ready to report now and make the issue before this House and the country, and



to ask of this House whether they are right or wrong; and I think it will be found that the differences between the seven members of the committee on this side of the House are not quite so material as may have been generally supposed, but are merely technical, resting upon grounds upon which this House—

Mr. WILSON, of Iowa. Mr. Speaker, I would like to know whether the gentleman from Pennsylvania proposes to bring into this discussion now the issues that have been pending in the committee. And let me say one thing further to the gentleman. While I will not disclose either now or at any time what has transpired in that committee as to taking testimony, causing witnesses to be subpoenaed, and calling for documents from the Departments, I will say this much, that there is much more of delay in the demand he has made than in any that I have made from the beginning of the case.

Mr. WILLIAMS, of Pennsylvania. I beg to differ with my learned friend on that question. I think it will be found as I state when the House examines the record that is to be made, and with that I am willing to leave it.

Mr. STEVENS, of Pennsylvania. No matter which of you it was, we want to cure that.

Mr. WILLIAMS, of Pennsylvania. What I am saying here does not involve any breach of confidence, any disclosure of any facts that has occurred before the committee. It is the inference which the public is authorized to draw from the resolutions which they have already given to the country, one of which declares the common opinion of seven members of the committee, that the President of the United States is entitled to the severe censure of this House and the condemnation of the people. I take it, then, as an inference from what has been published from the records, if you will allow me to call it so, that there is but one question between us, and that is, whether this condemnation, this sentence of censure, shall be a judicial or an extra-judicial one; whether it shall be a mere declaration of the committee, a mere nullity, without effect, falling still-born from them, or whether it shall result in the exercise of our constitutional powers in the impeachment of the President. I have a right to hold this language.

But I was about to remark when interrupted that in my judgment the committee was right to pass upon this question. When it adjourned in the beginning of the month of June, I think it adjourned with the view of taking no further testimony, holding itself open, as was of course but proper, to receive any that might be offered. It returned here on the 26th of June for the purpose of making up its report. The House had requested that that report should be made on the first day of the session. The committee was not then prepared. The minority are ready now; the majority are not. They want time. Why they want it is not for me to say. They have not stated it. Is it for the purpose of taking further testimony? I think not. I think the chairman of the committee will not say so. If there is anything further to be disclosed it seems to me it will be only cumulative. I do not think there is any new point of inquiry, as I am satisfied there is no one that we have not touched on, which there is not testimony sufficient for those who favor an impeachment.

Mr. WILSON, of Iowa. Mr. Speaker, this is a very singular performance on the part of the gentleman from Pennsylvania, it seems to me.

Mr. WILLIAMS, of Pennsylvania. It has been brought about by a singular performance.

Mr. WILSON, of Iowa. He has informed this House that there is no necessity for the taking of any testimony since the adjournment in June.

Mr. WILLIAMS, of Pennsylvania. I am speaking of the minority.

Mr. WILSON, of Iowa. The minority certainly, because the gentleman is from the minority and has been making this disclosure to the House. Now, sir, if that be true it is a most

remarkable state of affairs that gentlemen having made up their judgment in June, and declaring now that they have wanted no further testimony whatever, have called, with very few exceptions, for all of the testimony that has been taken since that time.

He speaks of our not being ready and wanting more testimony, when the call for testimony in the committee has come from himself and his associates. He has told us here to-day that he wanted no more testimony, although the committee has not yet received from the hands of the reporter testimony taken at his instance to-day.

Sir, I do not think that this disclosure was entirely proper; and when I made the statement which I did in behalf of the committee I did not wish to engage in the discussion of any of these questions, or to disclose anything that occurred in the committee. But I will say here, in behalf of both the majority and the minority of that committee, that they have faithfully and diligently labored upon this case. I do not believe that there is any member of the committee who has not discharged his duty faithfully in regard to this investigation. At the same time we all felt that it involved a question requiring some time for its consideration, not only to take testimony upon it, but to enable the members of the committee to present, clearly and thoroughly, their views to the House. The gentleman may be prepared with a report, but it has never been submitted to the committee.

Now, sir, I do not know what course the House may take. I have stated to the House what the committee directed me to state: that they are not prepared now to submit their report. If the House shall direct that committee to report at once the evidence that they have taken, of course the committee will obey that order. But, sir, for one I may be allowed to say that while I have been examining the testimony taken carefully and diligently I have not yet completed any report conveying my views of the case. If the House are determined that the case shall come before this body and the country without due preparation of course it can order such a report to be made; but I say again that so far as the majority of the committee is concerned their report is but partially completed.

Sir, I will not at this time say anything in regard to my own views or the views of those who concur with me on the committee in regard to this question. I shall express my opinion and the opinion of those who concur with me at some future time; but I do not believe that upon the present uncompleted testimony, with calls for information yet unanswered, it is either proper or just that the House should take the responsibility of requiring a report to be made upon this question now.

Mr. WILLIAMS, of Pennsylvania. Nothing that I have said—

Mr. BOUTWELL. How much more time does the gentleman want?

Mr. WILLIAMS, of Pennsylvania. Not more than four or five minutes. Nothing that I have said, I think, has disclosed anything that took place before the Committee on the Judiciary; and if any such disclosure has been made, I think it is due to my learned and honorable friend rather than to myself.

Mr. PIKE. I rise to a question of order. I submit that upon the resolution of the gentleman from Massachusetts [Mr. BOUTWELL] in regard to an adjournment, it is not in order to discuss the doings of the Judiciary Committee upon this question of impeachment.

Mr. WILLIAMS, of Pennsylvania. That is precisely the ground I take.

The SPEAKER. The Chair will state that proceedings in committee-room cannot, if any gentleman makes the point, be discussed in the House. The Chair will further state to the gentleman from Massachusetts [Mr. BOUTWELL] that the hour of three o'clock has arrived, at which time the Pennsylvania delegation gave notice that they would announce the death of

their colleague, Mr. DENISON, and unless they yield, this matter must go over until to-morrow.

Several MEMBERS. Let it go over.

The SPEAKER. The further consideration of the resolution will then be postponed until to-morrow, when it will come up as a question of privilege immediately after the reading of the Journal.

#### DEATH OF HON. CHARLES DENISON.

Mr. BOYER. Mr. Speaker, the sad duty has devolved upon me to announce to this House the death of my colleague and friend, our late fellow-member, Hon. CHARLES DENISON, Representative from the twelfth congressional district of the State of Pennsylvania. He died at his home in Wilkesbarre during the late recess of Congress, of a pulmonary disease with which he had been long afflicted, and which, during the latter part of his congressional career, compelled his frequent and sometimes protracted absence from his seat in this Hall.

He was born on the 23d day of January, 1818, in the valley of Wyoming, in the State of Pennsylvania, where he resided during the whole of his life, and was chosen by those who knew him longest and best to represent his native district in the Congress of the United States.

He was a man of liberal education, and a graduate of Dickinson College in 1838. He early adopted the profession of the law, which he continuously and successfully practiced until elected to the Thirty-Eighth Congress. He was afterward elected to the Thirty-Ninth Congress, and again elected to the present Congress, to represent the same constituency for the third time, which in Pennsylvania is always regarded as an especial mark of distinction.

The infirm health of Mr. DENISON prevented him from taking that active and prominent part in the proceedings of this body which would otherwise have been expected from his strength of character and fine intellectual abilities. The same circumstance prevented in a great degree the cultivation on his part of that general acquaintance among his fellow-members which his excellent social qualities would otherwise have prompted; but he commanded the respect and confidence of all who approached him. He was a man of sound judgment, patriotic impulses, and inflexible purpose. Modest and without ostentation, but full of courage and determination to meet the requirements of every occasion. No possible temptations of personal advantage could swerve him from his convictions of public duty; and he would make no compromise, even indirectly, which had the least appearance of a surrender of principle. Correct in business affairs, kind, steadfast, and true in his domestic and social relations, his private, like his public life, was above reproach. Death to him was neither unexpected nor terrible. It may not be inappropriate in me to relate an incident illustrative of his calm contemplation of its near approach. It is well known to this House that during the last session of the Thirty-Ninth Congress he was appointed a member of the select Committee of Investigation on the New Orleans Riot. But just as he was about to start upon his intended journey to New Orleans to join his colleagues there, he was suddenly prostrated by illness, and I was appointed to take his place. The evening before my departure from Washington upon that occasion, in a conversation at his room, he informed me without the least emotion, and as if he was conversing upon a matter of ordinary business, that, in his judgment, the termination of his life was not far distant. To my encouraging remarks he simply and calmly replied that it was appointed unto all men once to die, and that it ought not to make much difference to them as respects the exact time when their earthly mission was to be brought to a close. He spoke like one whose peace had been made with God and whose conscience was void of offense to-

ward man. May it be given to all of us so to live that we, too, may thus meet the death which is appointed for all the living.

Mr. Speaker, I move the adoption of the following resolutions:

*Resolved*, That the House of Representatives has heard with emotions of deep regret the announcement of the death of Hon. CHARLES DENISON, a Representative in this House from the State of Pennsylvania.

*Resolved*, That this House tenders to the wife and family of the deceased its profound sympathy in this our mutual bereavement, and as a testimony of respect for the character and memory of the deceased the members of the House will wear the usual badge of mourning for thirty days.

*Resolved*, That the Clerk be directed to transmit to the Senate a copy of these resolutions.

Mr. RANDALL. Mr. Speaker, I rise to respond in part to the resolutions which have just been offered in respect to the memory of my late colleague, Mr. CHARLES DENISON.

It was my privilege to be his associate in the Thirty-Eighth and Thirty-Ninth Congresses, and he was also present at the first session of the present Congress in March. An acquaintance and association with him soon ripened into a regard and friendship, for I was not long in finding out his noble traits of character.

As a legislator he was able, intelligent, and pure; as a citizen, of patriotic motives and unyielding and unbending purpose and intent; as a friend he was true; as husband and father he was affectionate and was beloved. In a word he was a good man; so lived, and so died.

In the public councils he commanded unbounded respect, and at his home his three elections to this House indicate in what esteem he was held. His example should not be without its lesson. A public man who can yield this life with such a name to live after him as CHARLES DENISON may indeed be imitated.

Mr. MILLER. Mr. Speaker, Hon. CHARLES DENISON, to whose memory we are now paying our tribute of respect, was born in Wyoming valley, Pennsylvania, on the 23d of January, 1818, graduated at Dickinson College in 1838, and adopted the profession of law. He was a kind and amiable gentleman, and was honored by an election to the Thirty-Eighth, Thirty-Ninth, and Fortieth Congresses from the twelfth district of Pennsylvania, composed of the counties of Luzerne and Susquehanna; was a member of the Committee on Indian Affairs, and on Expenditures in the Navy Department. While a member of this House his gentlemanly deportment and urbanity of manners commanded the admiration and respect of his fellow-members. He took an active part in the great issues of the country; though we differed on the political questions of the day, and as to the best mode for the restoration of the late rebellious States, yet all who had the pleasure of his acquaintance will accord to him honesty of purpose and devotion to his country. He was chosen as one of the Representatives of this Republic in an important crisis which called forth the best energies of statesmen. He was not a man of robust constitution, and it was evident during the last session of the Thirty-Ninth Congress that his health was in a decline. He was with us on the 4th of March last, a day that will long be remembered, when the Thirty-Ninth Congress expired and the Fortieth organized, which was an important epoch in the history of our country; he was then in feeble health, so much so that he was unable to leave this city at the adjournment. After some time he started for his home, and on his arrival at Baltimore had a relapse and was detained there some weeks.

I afterward met him in the cars on his way from Baltimore and shook hands with him for the last time. Though weak, he was cheerful, and expressed a lively hope that when he reached his home and had an opportunity of visiting the mountain regions he would in some measure regain his health so as to enable him to resume his seat at the regular session of Congress; but in that he was mistaken, as a

beneficent Providence ordered otherwise. His health continued to decline until about the 28th of last month, when he expired with a serene countenance, surrounded by his family and friends, and his spirit ascended to Him who gave it. In the death of our fellow-member the country has lost an able Representative, we a courteous collaborer, and his family an affectionate husband, an indulgent parent. This bereavement is a solemn warning to us, and especially to our delegation, who within a few months have by the cold hands of death been deprived of two of our members. The voice of our departed friend will no longer be heard in this Representative Hall; his seat will be occupied by another. We may look around upon those who now fill these seats and ask ourselves who of us next the cold hand of death will be laid upon. This mystery we cannot solve, it is only known to our Heavenly Father; but we are warned again and again to be ready, as we know not the day or hour that we shall be called to render our final account, as death is no respecter of persons. In a few years all those that now occupy seats here will be numbered with the dead.

Mr. Speaker, I most cheerfully indorse the resolutions now before the House, and say of our departed friend, farewell.

Mr. GETZ. Mr. Speaker, heathen philosophy teaches us to say nothing but good of the dead; Christian philosophy instructs us to speak no evil of any man, living or dead. I think, sir, that disregard of the Christian precept is a more venial offense than a violation of the heathen maxim, for if we assail the living, he is present to confront his accusers and defend himself; if we asperse the dead, he cannot answer. The tongue, however vocal it may have been, is mute; the lips, however eloquent, are sealed in silence that no human power can break. But the friends of the gentleman whose death has been just announced find a sad pleasure in the knowledge that, even if any one had the malignant will to defame his memory, he could find naught to warrant it. His private life was blameless; his public career was beyond reproach.

CHARLES DENISON was a native of the beautiful Pennsylvania valley which has been made classic ground by the immortal verse of one of England's greatest poets. His thoughts and feelings naturally partook of the placid scenes and sweet influences which surrounded his childhood and youth. His manners were gentle, his imagination vivid, and his mind so equally balanced that its serenity was rarely, if ever, disturbed. That he was a man of worth is proved by his election to a seat in this House for three successive terms by a people rigidly jealous of their interests and ever watchful of the speech and acts of their Representatives. His constituency of all parties respected him; those of the party to which he steadfastly adhered confided in and loved him. Could the most partial eulogist say more in his praise?

My acquaintance with the deceased was of very recent date. True, I had known him by reputation long and well. But it was only in the month of March last that the opportunity was offered me of taking him by the hand in personal friendship. Even then the seeds of an incurable disease had taken root in his system. I shall never forget the few words he spoke to me when, upon seeing him in his seat one morning after several days' absence; I approached him with my congratulations upon his apparently improved health. "Sir," said he, with an impressive seriousness, "I am far from well. I have been several times at death's door, and feel that my hold upon life is very frail." Frail, indeed, as a thread of the finest gossamer did it prove itself. To human estimate his life was not complete. He died at the age when man's mental powers and physical strength are yet in full force and vigor. But he had at least finished his course so far as to make a record of personal probity and public honor that will endure so long as

his name shall be remembered; and he met death not without forewarning and not unprepared.

"After life's fitful fever he sleeps well."

Nothing is more uncertain, nor yet more certain, than death—uncertain as to time; absolutely certain as to the event. A few years more, or a few years less, and all of us shall have followed him to that—

"Undiscovered country, from whose bourn No traveler returns."

What an appalling specter in the pathway of human ambition does not this reflection invoke! Struggle as we may for the wealth, the honors, the fame that this world places within our reach—propose as we will schemes of self-aggrandizement, it is God, and God alone, who disposes. There are neither riches, nor honor, nor power in the grave, whither we are all hastening.

When death comes so near to us we all feel the littleness of even the noblest pursuits of life. And we should feel, too, that time is too precious a boon to be wasted in frivolous controversy; that our powers of mind and thought might be, and should be, devoted to a better purpose than partisan disputes and personal detraction. No man, I care not how callous his heart may have become, how blunted his sensibilities, how seared his conscience, would wish to die with the utterances of envy, hatred, malice, or uncharitableness against even his worst enemy fresh upon his lips. This very hour our souls may be required of us. Let this solemn fact mitigate our partisan asperities, curb our too ready impulses toward political strife and discord, and teach us to cultivate more closely those fraternal relations which are most pleasing in the sight of the Father of us all.

Others who knew Mr. DENISON better than I must pronounce his eulogy. My intention in rising was to pay a mere passing tribute to the memory of a departed colleague. Reverently, then, strewing these few flowers of thought, plucked hastily and at random, upon his new-made grave, I bid him a long and last farewell.

Mr. VAN TRUMP. Mr. Speaker, brief as was my acquaintance with our lately cherished but now deeply lamented friend and fellow-member, I cannot refrain from offering my testimonial of regard to his many virtues, both as a man and as a citizen. I feel that I should not only do violence to my own emotions, but that I should fail in my duty to the honored memory of the dead, did I not, in this formal way at least, mingle my heartfelt regrets with those of his more immediate colleagues, his surviving fellow-members from Pennsylvania. This manifestation of respect is eminently due to departed worth. Either morally or intellectually CHARLES DENISON was no common man. Every line of his speaking face, every deliberate utterance of his thoughtful mind, stamped him as a man of marked individuality of character. No man of kindred sympathies could be in communion with him and fail to be impressed with the conviction that in him truth, honesty, and integrity found a living and congenial home. I scarcely ever knew a man who grew so rapidly and so favorably in the esteem of those who came in contact with him. Not that he was forward in his habits of forming new associations or making new acquaintances; not from any off-hand readiness of familiarity with strangers, or over-frankness of temperament or character; but from a quiet, though genial, an easy, but sincere and earnest social disposition, which made him at once, and without undue formality, both an agreeable companion and a highly interesting and instructive friend.

In relation to all the duties of life, civil, religious, or political, or in regard to the passions, the prejudices, or the weaknesses of human nature, he was a man of high-toned and liberal views, decided and firm in his political convictions upon all the great and cardinal questions of national policy; rigid and unvacil-

lating in the discharge of his public duties, though always characterized by a never-failing personal courtesy to all those who might differ with him in opinion. He was a partisan only because political truth and political virtue were necessary to insure the public welfare in a constitutional government through party organizations. In him good faith to an obligation, whether public or private, was a principle rather than a sentiment. Duty was his highest motive, an approving conscience his noblest earthly reward. He achieved an honorable success in life simply because as to him, in a moral point of view, there could be success nowhere, except as it lay in the plain path of duty. No personal suffering, no private inconvenience could induce him to forget or forego the thorough discharge of the public duties of his station. Although greatly prostrated by the ravages of the disease which was consuming him, he remained here some two or three weeks after the adjournment of the March session of Congress, giving assiduous and unremitting attention to the business of his constituents.

Pain and suffering and all the anxieties or endearments of home could neither force nor wean him from his labors, or compel or induce him to abandon what he conceived to be his duty to his country and his constituents. Whether right or wrong in his convictions, he died with the harness on his back, almost a martyr to his high-minded sense of duty to his friends. Such a termination of mortal existence, such a close of human life touches the sublime of moral beauty, and should reconcile the querulous, the discontented, and the desponding to a manly appreciation of all the trials and tribulations which belong to a revolution in the social organism, or which pertain to a great crisis in the life of a nation. I shall never forget the deep impression made on my mind by the last interview with our departed friend. The last time I saw him was at the President's Mansion on the eve of my departure for home after the adjournment of the last Congress. In parting with him on that occasion, he sadly remarked to me that in all probability it was the last time we should see each other on earth. Alas, sir, his words were but too prophetic. His manly life was going out, the mysterious cord of his existence was being loosened, the golden bowl was being broken at the fountain on the very day I was passing through his beautiful mountain district, made classic by the genius of Campbell and the name of Wyoming, on my way to the national capital to attend a session of Congress in which his seat was vacant, and from which his spirit had departed forever. In dropping the tear of friendship upon his untimely but honored grave, no extravagance of eulogy, no long-drawn catalogue of his virtues would be appropriate to or in harmony with the modesty and unostentatious nature of his character while living. It is enough to say that in his death we have lost a valuable and truly honorable member of this body, Pennsylvania an upright and useful citizen, and his more immediate constituents an able and faithful representative. Sadly, sir, but with a lively and gratified recollection of the friendship of the departed, I second the resolutions of respect and condolence offered by the honorable gentleman from Pennsylvania.

The resolutions were agreed to unanimously.

Mr. BOYER. As a further tribute to the memory of the deceased, I move that the House do now adjourn.

The motion was agreed to; and thereupon the House (at three o'clock and thirty minutes p. m.) adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committee:

By the SPEAKER: Petition of T. M. Kappler, of Schwebheim.

By Mr. STEVENS, of Pennsylvania: The petition of over 4,000 citizens of Maryland, praying that Congress will grant them universal suffrage.

#### IN SENATE.

THURSDAY, July 11, 1867.

Prayer by Rev. E. H. GRAY, D. D.  
The Journal of yesterday was read and approved.

#### ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled bill (H. R. No. 107) to establish certain post roads.

#### CORRECTION OF THE JOURNAL.

Mr. HOWE. I was not in when the Journal was read yesterday, but during the afternoon I saw by the "Globe" that I was recorded as having voted for the amendment proposed by the Senator from Massachusetts [Mr. WILSON] the day before yesterday. I intended to obtain the floor during the afternoon yesterday and ask to have the Journal corrected in that respect, if it could be. I did not vote upon that motion at all. If it is not too late I should like to have the Journal corrected.

The PRESIDENT *pro tempore*. It may be corrected, no objection being made, and will be corrected accordingly.

#### RECONSTRUCTION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of Senate bill No. 131, the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 131) to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; the pending question being on the amendment of Mr. HOWARD, to add to the sixth section the following proviso:

*Provided*, That the mere act of voting for an ordinance of secession, so called, at a popular election, shall not of itself be deemed under this act engaging in insurrection or rebellion against the United States; nor shall any person be deemed disqualified for registration under this act merely because of his having held or exercised the functions of a justice of the peace, notary public, trustee, officer, or agent of any institution of learning, commissioner of banks, railroads, and bridges or highways, trustee of churches, religious associations, or schools, minister, priest, or other person vested with authority to solemnize marriage, State commissioner or agent for taking acknowledgments of deeds, conveyances, depositions, or affidavits.

Mr. HOWARD. Mr. President, as I announced yesterday, the leading object I had in view in presenting to the consideration of the Senate the amendment which is now before us was to elicit the views of the Senate, so far as possible, touching the true construction and effect to be given to that part of the oath contained in the supplemental act which excludes officers who have taken the oath required by the Constitution from registration, and who have rendered aid and comfort to the rebellion; and I am very happy for one that so much has been said by honorable Senators by way of illustrating that point. There is necessity, I apprehend, that there should be some discussion upon that question here for the enlightenment of the boards of registration throughout the rebel States.

The Senator from Massachusetts [Mr. SUMNER] yesterday asked me a question, which was whether the simple act of voting for an ordinance of secession, unattended by any other act promotive of the rebellion tending to give aid and comfort to the rebels, was not an act of treason in itself. As the question was put to me, I felt obliged to answer it in the negative; but there are other considerations necessarily connected with this question. While I admit that the mere voting for an ordinance of secession at a popular election would not in and of itself constitute the crime of treason, still I cannot say that where a war has been organized in a State, and an army is in the field, or a military force is in array in that State, the simple giving of a vote for secession in that State at a popular election would not be a treasonable act. I think the act of thus voting, therefore, must be qualified necessarily by the circumstances of the State, the circumstances

under which the vote was given, and the purpose for which it was given. If, for instance, in the State of Virginia there was at the time of this popular election upon the question of secession in May, 1861, an actual war going on against the authority of the United States; if there were troops marshaled in the field for rebellious and treasonable purposes; and a party should go and vote in favor of secession at such a time and under such circumstances, surely I could not deny that the act of thus voting, tending directly to encourage and give aid to the military movement hostile to the Government, would not be a treasonable act. I am inclined to think it would; and in this connection allow me to read a single passage from the ruling of the Supreme Court of the United States on the trial of Bollman to be found in 4 Cranch: The court says:

"It is not the intention of the court to say that no individual can be guilty of this crime (treason) who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable purpose, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors. But there must be an actual assembling of men for the treasonable purpose to constitute a levying of war."

Under such a state of circumstances as I have suggested, it seems to me that the voting for an ordinance of secession would be a very direct act rendering aid, comfort, and encouragement to the enemy. Again, sir, there are several cases where there was no popular election held upon the question of secession; there are other cases where within the limits of the State at the time the ordinance of secession was voted upon there was no war against the United States; and this diversity of circumstances of course must exist throughout the entire rebel States, throughout the entire community. I do not, therefore, see how the principle suggested in the amendment which I have offered can be safely applied as a general rule throughout the rebel States; and as the bill now before us, reported by the Committee on the Judiciary, contemplates giving the respective boards of registration a pretty large share of judicial authority, authority to decide just such questions as this will be, I am inclined to think that the safer course, after all, will be to leave this and various other questions which must arise to be decided by them as they shall respectively arise from time to time, and before I sit down I shall ask leave to withdraw my amendment.

But, while I am up, I desire to say a word or two in response to my honorable friend from Illinois, [Mr. TRUMBULL], the head of the Judiciary Committee. Yesterday, during the course of the discussion, he remarked in reference to myself, and I thought in rather a tone of complaint, that it was in consequence of the long oath which had found its way into the supplemental bill upon my motion that the Attorney General of the United States had held that the oath itself was conclusive evidence of the qualification of the voters. I was very sorry to hear this imputation from so respectable and so respected a source, and I really could not understand it. I should be very sorry indeed, and I dare say not more so than the honorable Senator from Illinois would be, that I should be held responsible for the opinions of the Attorney General. But in point of fact, on looking at the various bills that were before the Senate there is no foundation, no shadow of foundation, for any such complaint or imputation against me. How stood the facts at that time? The honorable Senator, as chairman of the Committee on the Judiciary, to whom the supplemental bill passed by the House was referred by this body, reported it back to this body with an amendment, which he asked to have printed as a substitute for the whole bill from the House. In this substitute, drawn, I apprehend, by the honorable Senator's own pen, he uses this language:

"That before the first day of September, 1867, the commanding officer in each district"—

defined by the original act passed March 2, 1867—

"shall cause a registration to be made of all male citizens of the United States twenty-one years of age and upward resident in each county or parish in the State or States in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid; and who shall have taken and subscribed the following oath or affirmation."

Then follows the oath suggested by the honorable Senator from Illinois.

Mr. TRUMBULL. A short oath.

Mr. HOWARD. It is a comparatively short oath; but I take it the brevity or the length of the oath can have no sort of influence upon the question of the construction to be given to the body of the act. This oath, like the long oath of which he complains, gives to the board of registration no sort of power whatever. There is not one word in either oath conferring authority upon the board of registration. In a word—

Mr. TRUMBULL. The Senator from Michigan will allow me; the difference is this: the oath as reported originally did not undertake to specify all the qualifications necessary for registration and voting. I do not think the oath as the Senator from Michigan finally amended it undertook to do it, for I have shown that it left out some things; but the Attorney General has undertaken to construe the oath as we finally adopted it as having incorporated into itself everything requisite to authorize a person to be registered and to vote.

Mr. HOWARD. And in that particular respect I think the Attorney General is correct.

Mr. TRUMBULL. It has not embodied everything in it.

Mr. HOWARD. It was the object to embody in the oath all the qualifications necessary for the party offering himself for registration.

Mr. FRELINGHUYSEN. Not to exclude other testimony?

Mr. HOWARD. Certainly not to exclude other testimony; but the oath itself left the powers of the board of registration precisely in the same condition in which the honorable Senator from Illinois in his substitute left them.

Mr. TRUMBULL. So I think.

Mr. HOWARD. Undoubtedly that can be the only conclusion. Then why does my friend from Illinois undertake to charge me with furnishing ground to the Attorney General for holding that this oath is conclusive evidence of the qualification of voters? I really think, indeed I know, that the honorable Senator would not do me wrong in that respect; and I regard his observation rather in the nature of a pleasantry than otherwise, and am willing therefore to let it pass. Such, however, are the facts. The oath gives the board no sort of authority, whether it be the short oath of the gentleman from Illinois or the long oath of the gentleman from Michigan. That is the real truth of the case. But it does not follow from that that the board had no authority to pass upon the qualifications of applicants. I think they had some authority. I cannot doubt it, Mr. President. The body of the act itself, as reported by the honorable Senator from Illinois, and as finally passed by the two Houses, declares that the class offering themselves for registration shall include "only those persons who are qualified to vote for delegates by the act aforesaid;" that is, by the act of the 2d of March, 1867, and "who shall have taken and subscribed the following oath or affirmation."

I believe the board of registration have some authority under this old act to interrogate an applicant and to listen to some proof respecting his qualifications. They certainly have the same power that every court of justice possesses of guarding against a fraud upon the law. For instance, if Jefferson Davis or any of the leading traitors who were notoriously such, whose hands were stained with the blood of our countrymen from the commencement of the war, should offer themselves to register before one of these boards, according to the opinion of the Attorney General it would be the duty of the board, if the

applicant was base and false enough to take the oath, to admit him to registration; and even Jefferson Davis or any other arrant, notorious rebel, according to that ruling, would have the right to registration. This is the conclusion of the Attorney General. He strips the board of all possible judicial authority, and makes it more impotent in respect to frauds upon the law itself than an ordinary court of justice is. In that respect I must say that I think the Attorney General's opinion is very faulty, to use no severer term; and I feel a deep regret that there is a necessity that Congress should get together here to correct a construction, which, according to my judgment, is so manifestly, not to say so flagrantly, erroneous. I now ask leave of the Senate to withdraw my amendment.

Mr. FOWLER. I should like to ask the Senator from Michigan one question before he sits down. Take the case of the State of Tennessee, where men voted for secession after the war had commenced and had been carried on for some time, after there had been some acts of hostility in the State and troops raised on both sides. I should like to know whether he regards voting for an act of secession under those circumstances as an act of treason or not?

Mr. HOWARD. I am inclined to think that I would regard such an act as treason. It is certainly evidence that would be competent to go to the jury on a charge of treason against the particular person voting. It would tend to show the *animus*, the guilty purpose, which the voter had in view to promote the existing rebellion, the existing war; and it could, I think, receive no other construction at the hands of the jury or the court.

The PRESIDENT *pro tempore*. The amendment offered by the Senator from Michigan is withdrawn.

Mr. HOWE. I move the following amendment to the fourth section, to be added to the section as a proviso:

*Provided*, That any person heretofore appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army the same as if such appointment had not been confirmed by this act.

I believe there is no objection to that amendment. I do not know for a certainty that it affects the true interpretation of the section, and yet I think it removes a doubt which might arise. The second and third sections authorize these generals to remove officers claiming under the local authority, and to appoint others in their places. I fear, without the addition of that proviso, it will be held that any officer who has already been appointed, inasmuch as he is not one claiming under the local authority, but claiming under the national authority, cannot be removed, although the generals may be satisfied they have made a mistake; and to remove that doubt I have offered this amendment.

Mr. TRUMBULL. I do not think myself there is any necessity for this amendment of the Senator from Wisconsin. I think the legal effect of the bill as it is the same; but he seems to think that there may be a doubt about the construction of it. I do not know that the amendment will do any harm, as it is merely to carry out what I understand to be the bill as it is; and therefore I have no serious objection to urge to it except that by inserting these amendments in the haste of business in the Senate, without having time properly to consider them, we may incorporate into the bill unintentionally something that we do not wish to have there. I think the bill is sufficient as it is in this respect, and I think it means precisely what the Senator from Wisconsin desires to accomplish. I design it should mean that; but as there is some difference of opinion in regard to it I have no objections to urge against the amendment if the Senate think proper to adopt it.

Mr. EDMUNDS. I should like to inquire of my friend from Wisconsin whether he intends these district commanders to have the power in the future to change and turn out any

civil appointee they may make themselves hereafter?

Mr. HOWE. Yes, sir.

Mr. EDMUNDS. I understand him to say that he does. I am very much of opinion on reading his amendment that the effect of adopting it will be absolutely to prevent that. The construction of the bill as it now stands is clear, in my opinion, to the point that this power of substitution exists; but since the bill was reported my friend will remember that we have voted into it the amendment of my friend from Massachusetts, [Mr. WILSON,] giving the power to appoint civil persons to fill the offices that may hereafter be vacated. Now, the amendment of the Senator from Wisconsin, as I read it at the desk hastily, seems to apply only to this confirmatory section, and to expressly limit it to persons who have been heretofore appointed by the military commanders from civil life, and whose appointment is by this section confirmed. Therefore it appears to me that if we adopt the amendment in the way it now stands we shall cut off the right of the commanders to make any future change of any person whom they may hereafter appoint. I make the suggestion, and I think my friend will see the force of it on looking at his amendment.

Mr. HOWE. I do not think that objection is well taken. The amendment, if I have not forgotten it, does not limit its operation in terms to appointments heretofore made. It is only because it is an amendment to the fourth section, which provides only for the case of appointments heretofore made, that it can have that construction. But now the difficulty that I fear is this: already certain officers have been removed and civilians have been appointed in their place; and in reference to those appointments, and in reference to those appointments alone, as I understand, the fourth section speaks; and what does it say? Simply that those appointments shall be confirmed. What is that? That the men so appointed to be officers shall be the officers; and I fear, Congress having said that with reference to those appointments and those alone, that the commanding officer or the general would say, "Congress having confirmed these individuals in office I have no longer any authority over them." I meant to make the proviso only so broad as the section is, and I certainly think it is not any broader. With reference to other appointments that may be made hereafter under the amendment adopted yesterday there is no express confirmation of them in office.

Mr. EDMUNDS. I ask that the amendment may be again repeated.

The Chief Clerk read it, as follows:

*Provided*, That any person heretofore appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army, the same as if such appointment had not been confirmed by this act.

Mr. EDMUNDS. My friend will see that the proviso is expressly limited to appointments from civil life heretofore made, and hence any astute law officer of the Government who wishes to put that construction upon it can say that here is an unlimited proviso as to the power of removal of a certain class of persons, but they must have been appointed "heretofore;" and inasmuch as another part of the act gives the power of appointment hereafter, but does not contain any such proviso, therefore the construction of the whole act, taken together, must be that this power of removal is only of those persons who have already been appointed. I do not say that that will certainly be the true construction; I say it will be very easy for any law officer who wishes to come to that result to come to it without any particular violation of the statute.

Mr. HOWE. If the Senator from Vermont will suggest what correction there would avoid all possibility here of the interpretation he suggests I would like to have him do so. The fact is, I understand, that some appointments have been made which the generals themselves regret, and they do not want to be foreclosed



against the right to change the selections when they have ascertained the proper persons to put in their place; and it is that point that I make.

Mr. EDMUNDS. I will suggest to my friend to modify his amendment so as to insert after the word "heretofore" the words "or hereafter;" so as to read:

*Provided, That any person heretofore or hereafter appointed by any district commander, &c.*

Mr. HOWE. I will accept that suggestion with a further modification, striking out all words after "Army."

The PRESIDENT *pro tempore*. The amendment as modified by the mover will be read.

The Chief Clerk read as follows:

*Provided, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army.*

The amendment was agreed to.

Mr. DRAKE. I offer an amendment as an additional section:

*And be it further enacted, That no constitution adopted by any of said rebel States shall entitle such State to representation in the Congress of the United States unless it declare that such State shall ever remain a member of the American Union; that every citizen of such State owes paramount allegiance to the United States, and that no law or ordinance of such State in subversion or contravention of the authority of the United States can have any binding force.*

Mr. TRUMBULL. I raise the question of order upon that amendment, that it is not in order for the reason that we are acting under a rule of the Senate which declares that nothing is in order except a bill to carry out the reconstruction acts according to their original scope and intention, and there is nothing of this kind in the original acts. This would open the whole subject to a new reconstruction act. If we go into that field we may change the whole thing. I submit to my friend from Missouri, with that understanding, whether he had best not withdraw this amendment, and not undertake to get up a new reconstruction act, or rather to adopt a feature that is not in harmony with the reconstruction acts which we had agreed upon. They were working very well. We all thought they would accomplish the object if they had been carried out in the spirit with which they were passed. Now this is a new proposition, entirely variant from anything that is in those bills, and I submit it is not in order.

Mr. DRAKE. I regret very much that the honorable Senator from Illinois should endeavor to exclude from the bill which we have now before us and from the reconstruction policy of the Government a provision so manifestly proper and necessary as this, and to exclude it upon a point of order. The Senator from Vermont [Mr. EDMUNDS] suggests that the point of order is to be decided without debate. Is he right in that suggestion, sir?

The PRESIDENT *pro tempore*. Yes, in the first instance. By an appeal you can draw it into debate if you do not like the decision.

Mr. DRAKE. The honorable Senator from Illinois was allowed to debate his side of the point of order.

Mr. TRUMBULL. I stated the point, and then I did make an appeal to my friend from Missouri to see if he would not withdraw the amendment. I am aware that it is not allowable to debate the point of order.

The PRESIDENT *pro tempore*. You may make a statement in regard to it, but not enter into an argument about it.

Mr. EDMUNDS. It was the duty of the Senator from Illinois to state his point clearly, so that it would be understood.

The PRESIDENT *pro tempore*. I prefer not to be called on to decide these questions arising in this way. They are difficult points. What reconstruction is and the scope and extent of it is pretty difficult to determine. It has a great many branches to it, and a great many things might be deemed to come within the range of reconstruction. The resolution

of the Senate is to the effect that no legislation shall be had upon any other subject than that of reconstruction, or that it would be inexpedient to proceed to anything else at this session.

Mr. TRUMBULL. There is another clause to the rule, if the Chair will allow me—

Mr. SUMNER. I should like to have the rule read.

The PRESIDENT *pro tempore*. Let the rule be read.

The Chief Clerk read the resolution of July 5, as follows:

*Resolved, That the legislative business of this session be confined to removing the obstructions which may have been or are likely to be placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed; and that further legislation at this session on the subject of reconstruction or on any other subject is not expedient.*

Mr. TRUMBULL. My precise point, if the Chair will allow me, is that legislation must be confined to removing obstacles in the way of the fair execution of the acts we have already passed, and that a proposition involving a new plan of reconstruction, different from what already exists, is not in order under that rule. This has no relation, as I insist, to carrying out the acts of reconstruction. That is the point.

Mr. DRAKE. The point that I make is that this is in no sense whatever introducing a new plan of reconstruction: it is simply requiring those rebel States, when they do become reconstructed, to lay the foundation of their State governments upon those eternal principles connected with our Government for which we fought the war of the rebellion and put them down.

Mr. TRUMBULL. Was your suggestion in the original bill?

Mr. DRAKE. It was not in the original bill.

Mr. TRUMBULL. Then I insist it is not in order.

Mr. DRAKE. Then I insist that if it is not in order this Senate shall declare it in order by an affirmative vote. Do not let us throw away all we have been fighting for for years and leave the miserable fooleries and hideous monstrosities of State rights down there in the South to be brought up against us continually again.

Mr. BUCKALEW. Mr. President—

The PRESIDENT *pro tempore*. This question is not debatable.

Mr. BUCKALEW. I desire to make a suggestion in connection with this point; I do not intend to speak to the merits of the question.

The PRESIDENT *pro tempore*. The Chair will hear the suggestion.

Mr. BUCKALEW. I understand the resolution is that legislation is in order which is to execute the former law and to remove the obstacles that may have been interposed already or may be interposed hereafter to carrying into complete effect the original scope and intention of the reconstruction acts. Described in general language, that is the rule of order. It is not confined to past obstructions, but extends to future ones. Now, sir, in the reconstruction acts it is provided that these constitutions shall be submitted to Congress, and that the approval of Congress shall be deliberately given to them before reconstruction shall take effect. Under that clause or section of the reconstruction laws I think an amendment announcing to those people the conditions in those constitutions which Congress will require for their approval is giving a necessary and proper notice to the inhabitants in framing their fundamental law, and is in due execution of the general scope and purpose of our whole legislation on this subject. I say this as to the question of order.

The PRESIDENT *pro tempore*. The question of order cannot be debated.

Mr. BUCKALEW. I am against the amendment when we reach it.

The PRESIDENT *pro tempore*. Important as I deem the amendment offered by the Senator from Missouri, and I think for myself hardly any proposition is more important, still

I cannot see that it is fairly within the resolution we have already passed. It introduces a new subject. It may be that these States are required to submit their constitutions when they are altered to the inspection of Congress; and perhaps the revision of Congress; but it seems to me that this provision is foreign to the business of reconstruction as set forth in the several acts on that subject. I do not see that those acts touch this point at all. It strikes me, therefore, that the amendment is out of order as being entirely irrelevant, or rather as introducing a new subject not connected with those acts of reconstruction referred to in the resolution under which we have agreed to act. I must therefore declare it out of order.

Mr. DRAKE. I appeal from the decision of the Chair, and on that point I desire to address the Senate.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. DRAKE. In the reconstruction acts which we have heretofore passed there are several conditions laid down which must be fulfilled before those States can be entitled to representation on the floor of Congress, and among others is this condition:

"And if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

Now, sir, in the formation of these constitutions the ultimate object to be obtained by any of those States is the approval of Congress; and, in my opinion, it is perfectly competent, as suggested by the Senator from Pennsylvania, that we should give notice beforehand to the people of those States as to the fundamental principles upon which their constitutions shall be based. We are not excluded, in my opinion, by the terms of the resolution of the 5th of July from the consideration of this amendment. The resolution declares that "the legislative business of this session be confined to removing the obstructions which have been, or are likely to be, placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress." Now, sir, the fair execution of those acts is not complete until the constitutions are presented here for the approval of Congress, and have received the approval of Congress; and therefore it is that I consider this subject not excluded, for the reason that this very proposition is intended to remove obstructions which are likely to take place in the formation of these constitutions, so that the constitutions when they are formed may not be, in point of fact, unless those obstructions are removed, such as will meet the approval of Congress.

But, sir, the further limitation is put by the resolution of the 5th instant, that the business of the session shall be confined to "giving to said acts the scope intended by Congress when the same were passed." Now, sir, I venture to say that it was the intention of every member of the Senate, when these acts were passed, that the constitutions of the rebel States should be presented here, which do, either in express terms or by necessary implications, affirm the very principles that are laid down in the amendment I have presented. Is it to be supposed for a moment that this Congress would admit back into the Union any of those States if its constitution denied or questioned the principles that are here stated? If it would not, then we are by the pending amendment clearly giving the acts we have passed the scope intended by Congress. If, then, it was the intention of Congress that those constitutions should in themselves directly or by necessary implication affirm these principles, then I say that this amendment is clearly not within the prohibition of the resolution of the 5th of July. It is not affected by it. It is not, therefore, in my judgment, out of order.

And now, sir, I submit to the Senate before

the whole country, whether it is wise, whether it is expedient, whether it is just to the country to reject an amendment of this kind, which, if adopted, will compel those States to shatter in pieces and bury out of sight forever the very gods they went into rebellion to serve.

We are dealing with a people among whom for thirty years State rights heresies were promulgated, and which finally brought forth their legitimate fruit in rebellion and war. Now, sir, where was there ever before a power on this earth that subdued a rebellion that did not require from the conquered rebels a renunciation of the errors and wrongs which had led to the rebellion? We can make no treaty of peace with these people, but we can compel them to reject, and renounce, and put out of sight forever the principles and dogmas which led to the rebellion, and which have cost this country such a terrible sacrifice to overthrow. In my opinion we are unfaithful to ourselves if we lose this opportunity of compelling the ten rebel States to renounce and forever abjure those errors. How can we answer to the country—each one to his constituency—for refusing the opportunity, and upon a mere point of order refusing it, to compel that renunciation by that people?

Sir, they have not renounced their State rights heresies. Only this very morning was published in one of the papers of this city a letter from one of the leading rebels of Georgia, in which he announces his fraternity with every and any man who will stand by the first Kentucky resolution of 1798. Sir, do you suppose that when the rebellion was buried, the resolutions of Virginia and Kentucky of 1798 and 1799 were buried too? Very far from it. If they were not buried, you leave above ground here the signal still flying over those rebel States, gathering around it in all future time all those in those States who, though conquered and whipped, still bow down to their idol of State rights.

Sir, I appeal to the Senate, and if they decide against me, I appeal from the Senate to the country. I demand that this nation shall not lose the opportunity now of destroying and putting out of sight forever those heresies which have cost it hundreds of thousands of lives and countless millions of money to put down. And, sir, least of all can I tolerate the thought—and in saying it I mean no disrespect to any Senator—that such an opportunity as this of destroying fundamental errors in government, of breaking to pieces the images which these people have been accustomed to worship, shall be lost merely because it is out of order; out of order to sweep from off the surface of ten States false principles of government, heresies which go to the very heart of the Government and to the very foundations of our institutions; out of order to insist upon it that a rebellious people before they come back into the enjoyment of equality shall utterly renounce the fundamental principles of their rebellion. Sir, I trust that no such point of order will ever be allowed in the Senate of the United States to deprive this country of such a golden opportunity of achieving so high a result.

Mr. POMEROY. If we were not called upon to vote on this question I should not say anything about it. The Senator from Missouri knows very well that I would be glad to vote for his amendment, and I would have been glad to have that provision in the original bill; but I do not see how any of us can vote for it here under the rule we have adopted. The proper manner of proceeding, in my opinion, would be to suspend the rule and then let him introduce the amendment.

Mr. DRAKE. I will move that if the Senate decide against me on the point of order.

Mr. POMEROY. I should feel embarrassed if it were understood that I was opposed to the Senator's amendment, although I must vote that it is not admissible under the rule. The Senate will remember that my objection to the rule itself was that by it we were prohibited from examining the reconstruction acts except in the prescribed form; we cannot put

in any matter pertaining to reconstruction that was not in the original laws. That was my objection to the resolution; but the resolution is now a rule, and I propose to live up to it and vote according to its true construction; but if the Senate will suspend the rule, I will then vote with pleasure for the Senator's amendment.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. DRAKE. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SUMNER. Is that question debatable?

Mr. JOHNSON. It is debatable on the appeal.

Mr. SUMNER. I should like to say one word upon it. I will not enter into any consideration of the great question which has been presented so distinctly and ably by my friend from Missouri, except to express my surprise that there can be any rule in the Senate of the United States to interfere with the consideration of such a proposition. It is surprising; it is astonishing. Those who come after us hereafter, when they read of it, will be more surprised and more astonished than any of us now. But I wish to confine myself to the question of order; that is, whether under the existing rule the proposition of the Senator from Missouri can be considered. On that I am obliged most respectfully to differ from the Chair. It seems to me clearly it can be considered. I have in my hands a copy of the supplementary act to which the bill under consideration is an amendment or a further supplement. In that it is provided as follows:

"If the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation."

There is a condition, "and the said constitution shall be approved by Congress." By this very act we have reserved to ourselves plenary power over any constitution that shall be brought before us; and I may say that I have heard an eminent Senator say in conversation that he reserved to himself hereafter the full privilege of voting against any constitution that might be brought before us if it did not contain all those matters which he thought such a constitution ought to contain; and the Senator to whom I refer was one who does not usually act with me. He was against requiring any conditions; he wished to keep it all open; so that hereafter he could say to any State that came with its constitution, "You have not this provision or that provision which I think ought to be in the constitution; therefore I vote against you." Well, sir, the Senator would be right under this bill, for you have expressly reserved to him that power; that is, he may sit in judgment on the constitution, and if he finds it in any respect a failure, or if in any of its provisions it is inadequate, he may reject it; not merely if it does not contain the positive requirements of the bill, but if it does not contain any requirements which his judgment at that time shall think proper.

I have heard a Senator, for instance, say that he was disposed on such an occasion to require a provision for education in the constitutions, even though we do not in so many words formally require it in our act. Now, sir, such things have been said, and may be justly said, for no person can question that any Senator, in making such statements, was acting properly; he was perfectly entitled to do so; and if he should refuse to vote for such a constitution hereafter nobody could criticise him—certainly I could not; but in view of such a possibility, it seems to me clear that we ought to go forward and in advance tell these people at the South what we expect of them and what we do not. We ought not to wrap the question up in generalities and say that hereafter the

constitution which they present shall be subject to the approval of Congress, leaving it open for any person at that time to raise any new question then at the eleventh hour when you have now the opportunity of telling them in advance what you require of them. For one, I insist, with the Senator from Missouri, that the new constitutions shall come with ample provisions for the unity of this Republic. That is fundamental; and if a constitution does not contain such a provision for one I am against accepting it. I shall stand then on the text of this law, which gives me this privilege, and say to them, "You have not done your duty in framing your constitution." Still further, if they do not require education in their constitutions, how can I, who believe that education is essential to republican government, recognize one of those constitutions as truly republican in character?

Sir, let us be frank with these people; I should say be generous to them; and now let me tell you, sir, the best generosity is in truth; it is in telling them precisely what you expect of them; and therefore the Senator from Missouri is right when he asks you to announce to these people in advance what we shall expect in their constitutions, the most explicit declarations of adherence to the Union.

Mr. POMEROY. I submit to the Senator from Massachusetts that there seems to be a want of good faith on the part of Congress in making provisions for the return of these States in detail, and then when they have complied with those terms and conditions to require something else. For my part, if there is any one thing I prize above another it is in keeping my faith, my pledge, my word, my covenant. This legislation of Congress is a covenant with the South; and when they shall have complied with all that we have required of them and send men here who can take the oath, and do everything we have prescribed to them, they shall be admitted; and to insinuate that we have a right after they have done that to put in other conditions and make other requirements is a lack of faith.

Mr. SUMNER. My friend forgets that the statute positively declares, "and the said constitution shall be approved by Congress," leaving the whole constitution open hereafter to future criticism.

Mr. POMEROY. I understand that approval to be to say whether it comes up to our legislation, whether they have complied with what we required; not only whether the constitution is republican in form, but whether it allows equal and exact justice, civil and political rights to be meted out to all the inhabitants of the State. But to say that we may reserve something here and require it after they come is bad faith toward these people. If I had anything to require of them as an absolute condition of their admission I would put it into the bill before asking them to act upon it. For one, I do not believe we have the right to prescribe new terms and new conditions after they have complied with everything contained in our law.

Mr. HENDERSON. I have not been looking at the Constitution recently; but just now I picked it up and find there a provision of this sort:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

I should like to ask my colleague if his amendment will be any stronger in terms than the present provision of the Constitution of the United States?

Mr. DRAKE. I will answer my colleague with a great deal of pleasure that that provision was in the Constitution in the days when nullification arose and in the days when the rebellion broke out. The South defied the very Constitution which contained that provision, and went to war to overthrow it. Now, sir, I want

to compel them to renounce the doctrines which led them to make war to abjure that very provision in the Constitution along with all the rest.

Mr. HENDERSON. An act of secession never was legal; it was simply an act of revolution. My colleague and myself took that ground. I supposed that everybody who took a position in favor of the Union at all held that an act of secession was not a legal act, was a mere act of revolution against all law; and if this provision of the Constitution be repealed, I suppose that men who are determined upon the commission of rebellion, treason against the Government, will yet forfeit their words and commit it. It is utterly impossible for us to provide against the commission of crime, and it is utterly impossible for us to prevent people by the passage of amendments to the Constitution, either Federal or State, from the commission of treason against the United States.

Mr. DRAKE. And yet I would suggest to my colleague in that connection that when in every one of their constitutions which the people themselves have adopted this declaration contemplated in my amendment is incorporated there is the renunciation staring them in the face in their own constitutions adopted by their own votes. Whenever any man attempts to teach the doctrine of State rights there in order to excite insurrection or rebellion against the General Government or disaffection to it, or to break the allegiance of that people, there stands their voluntary declaration recorded in their constitution; and why should it not be put there? Why should they not be compelled at this moment of time, in order to regain their position in the Union, utterly and forever to renounce the heresies which led them into rebellion?

Mr. TRUMBULL. I should like to inquire what the question before the Senate is.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair ruling the amendment of the Senator from Missouri out of order stand as the judgment of the Senate?

Mr. TRUMBULL. I wish we may have a vote upon that question.

The Chief Clerk proceeded to call the roll.

Mr. TIPTON, (when his name was called.) I wish to state to the Senate that I vote to sustain the decision of the Chair, and yet I do it under protest. I am very sorry to do it. I believe there is necessity for that ruling as long as the resolution exists. How soon the resolution may be rescinded I do not know.

The result was announced—yeas 24, nays 13; as follows:

YEAS—Messrs. Anthony, Cattell, Conkling, Cragin, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Johnson, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Tipton, Trumbull, Van Winkle, Willey, and Yates—24.

NAYS—Messrs. Buckalew, Cameron, Chandler, Drake, Fowler, Harlan, Howard, Howe, Nye, Ross, Sumner, Thayer, and Wilson—13.

ABSENT—Messrs. Bayard, Cole, Conness, Corbett, Doolittle, Ferry, Guthrie, Morgan, Morrill of Vermont, Morton, Saulsbury, Sherman, Sprague, Stewart, Wade, and Williams—16.

So the decision of the Chair was sustained.

Mr. BUCKALEW. Mr. President—

Mr. DRAKE. I wish to move to suspend the rule of the Senate.

Mr. TRUMBULL. That is not in order.

Mr. SUMNER. We can take up my resolution to rescind the rule; that is on the table.

Mr. EDMUNDS. That cannot be taken up while this bill is pending.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania is entitled to the floor.

Mr. BUCKALEW. Yesterday, when this bill was under consideration, I waived my privilege of offering an amendment, which had been submitted to the Senate previously and which had been printed. I did it with the idea of facilitating business, allowing the bill reported to the Senate from the Committee of the Whole, and having it placed upon its third reading, so that it would be at its final stage of amendment. I did not desire at that time to interpose with my amendment or to

elicit debate upon it; but from what experience I have since had it appears to me that if I am to have any hearing upon that proposition it must be at this stage. I am not disposed to protract the proceedings of the Senate upon this bill, or upon the business of the session generally, if there be indeed any other business besides this bill for our action; but I am extremely anxious to occupy a short period of time in stating to the Senate and to the people of the country certain facts and views regarding a most important subject which is directly connected with this very question of reconstruction, and in my opinion is necessary to the execution of that system which was established by our former laws. I will move my amendment at this time, and I desire to be heard very briefly by the Senate upon it. I shall not protract the proceedings of the Senate either by my own amendment or by cooperating with others in amendments which they may propose. I ask that my amendment be read.

The amendment was read, as follows:

SEC. —. And be it further enacted, That in the election of Representatives in Congress from the said States mentioned in the act of March 2, 1867, each elector shall be entitled to give as many votes as there are Representatives assigned to his State by apportionment of law, and he may give one vote to each of the requisite number of persons to be chosen, or may cumulate his votes and bestow them at his discretion upon one or more candidates less in number than the whole number of Representatives to be chosen from such State.

Mr. POMEROY. Mr. President—

Mr. BUCKALEW. Permit me a moment. The Senate will perceive by the reading of the amendment which has been proposed by me that it does not state a new condition of reconstruction, nor extend any condition formerly established by the Congress of the United States. It leaves entirely untouched all those conditions upon which it was proposed that those States should be readmitted into Congress. It submits nothing for the action, for the adoption, or the consent of the people of the southern country. My amendment proposes a distinct exercise of the power of the Congress of the United States without soliciting or proposing any action whatever by the people of the South or by the States in that section of the Union.

Mr. TRUMBULL. Will the Senator from Pennsylvania allow me to inquire if that is not another subject of legislation? Our legislation is to be confined to this reconstruction matter under our rule, and to carrying out the bills already passed. Now, does the Senator from Pennsylvania mean to be understood as saying that his proposition is in aid of the reconstruction laws already passed, or calculated to remove any obstruction that has been put in their way?

Mr. BUCKALEW. Certainly.

Mr. TRUMBULL. I cannot see how. It seems to me to be clearly out of order.

Mr. BUCKALEW. If the Senator had waited a few moments, I was coming to that branch of my statement in regard to the amendment. I say, then, in the first place, it is not a condition of reconstruction, and it asks no action of the southern States whatever. The next point is that it is an exercise of clear constitutional power by the Congress of the United States, because we have power to regulate the manner in which representatives from the several States shall be chosen. That is a power which we have exercised heretofore, and there is an existing law upon the statute-book by which it is provided that each State shall be divided into congressional districts, and members of the House of Representatives shall be chosen by the respective districts, and not as formerly by general ticket. I say, then, in the next place, that this is an exercise of constitutional power by the Congress of the United States, if we choose to exercise it, because we have complete jurisdiction over the subject-matter.

It remains, then, for me to call attention to the fact that this exercise of power by us is a necessary and proper exercise of power in connection with the reconstruction of the southern

country and the renewed representation of those States; and that without it that reconstruction and that representation cannot be made wisely, cannot be made efficiently, cannot be made so as to execute the paramount and leading design upon which the acts of March last were enacted by Congress. That I propose to show, and it is the main argument, or one of the main arguments, by which I propose to sustain this amendment and convince the members of the Senate, if I do convince any one, that it ought to be adopted by them.

Mr. TRUMBULL. It clearly seems to me that this is not in order, and I rise to that question. I submit to the Chair that, admitting everything the Senator says, that his proposition is a wise one, that it is a constitutional one, that Congress would have the power to adopt such a provision as the one proposed, and that it would be a proper provision to adopt now in regard to reconstruction—suppose all that were admitted, and what was proposed by the Senator from Missouri were admitted, to be a very proper thing to be done; yet unless it comes within our rule it cannot be offered at this time. Our rule confines us to removing out of the way the obstacles which have been or may be placed in the way of the execution of certain acts we have passed called the reconstruction laws. Now, I insist that the Senator's proposition is an entirely new proposition and therefore not in order.

Mr. POMEROY. I rise to a question of order. The Senator from Illinois is undertaking to debate his point of order. I think the point of order is well taken, but it cannot be debated.

Mr. TRUMBULL. I am through.

The PRESIDENT *pro tempore*. The point of order must be decided without debate. It is exceedingly difficult to decide a question under this resolution, it is so wide and extended. It imposes upon the Chair the duty of recollecting all the laws and all the provisions of law in regard to reconstruction which have been passed, and to form a judgment as to what would tend to obstruct them. That is a judgment which I can hardly pretend to have myself. I think such questions ought to be decided by the Senate. In order to decide them myself, I must assume to know all the provisions of these laws, and also what would tend to their obstruction. One man may be very apt to judge that one thing would obstruct and another man another thing. It hardly seemed to be a proper subject to predicate a question of order upon; and still there is a rule of the Senate on this subject, and the Chair must enforce it when a question is made. But the thing is so wide, it is so difficult to comprehend the extent of all the provisions of the reconstruction laws, and especially everything that might tend to their obstruction, that I prefer to refer this question to the Senate for decision. Under the rules the Chair has the right to do that; and I think these questions are proper for the decision of the Senate, who have made the rule and ought to understand it much better than I, who was opposed to it. The question then will be for the Senate to decide, is the amendment offered by the Senator from Pennsylvania in order under the late rule of the Senate?

Mr. POMEROY. Is that question debatable?

The PRESIDENT *pro tempore*. I suppose it is.

Mr. JOHNSON. It is debatable on appeal.

Mr. TRUMBULL. There is no appeal.

The PRESIDENT *pro tempore*. It is not an appeal; but there is an original question under the rules of the Senate that the Chair propounds to the Senate to decide. I suppose it is debatable.

Mr. POMEROY. I understand that questions of order are to be decided without debate.

Mr. BUCKALEW. When decided by the Chair.

Mr. POMEROY. Not simply when decided by the Chair.

Mr. HENDRICKS. Any question that goes to the Senate may be debated.

Mr. POMEROY. I think if the Senate are to decide the question as a question of order it is to be decided without debate.

The PRESIDENT *pro tempore*. The Chair will have the sixth rule read.

The Chief Clerk read the sixth rule, as follows:

"6. If any member, in speaking or otherwise, transgress the rule of the Senate, the Presiding Officer shall, or any member may, call to order; and when a member shall be called to order by the President or a Senator he shall sit down, and shall not proceed without leave of the Senate. And every question of order shall be decided by the President, without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order."

Mr. BUCKALEW. I have two suggestions to make in this connection, if the Senator from Kansas and the Senator from Illinois will permit me to get through the matter which I was about stating to the Senate on this question of order.

Mr. POMEROY. I hope the Senator will understand that there is no Senator more gratified in hearing him than I am. I only want the rules of the Senate enforced.

Mr. BUCKALEW. I have two suggestions to make at this point.

Mr. TIPTON. I object.

The PRESIDENT *pro tempore*. The decision of the Chair is this: that when the question is propounded for decision to the Senate themselves it may be debated by them. That is the understanding I have of the rules. I know in other cases, when the question is submitted to the Chair, it must be decided in the first instance without debate; but when it goes to the Senate on appeal it is debatable, and I suppose when referred by the Chair in the first instance to the decision of the Senate it is debatable.

Mr. POMEROY. The Chair will bear in mind that this does not go to the Senate on appeal.

Mr. BUCKALEW. I have to state, then, Mr. President, in the first place, that it is very likely that time would be economized by permitting me to proceed with the very brief remarks I desire to submit upon this amendment. We are likely to consume as much of time in debating and determining this question of order as would have been consumed if I had been permitted to proceed with the brief and modest argument which I proposed to make.

Mr. SUMNER. Will my friend allow me to make a suggestion to him? As I understand the rules, it would be perfectly in order for him to make his remarks or his speech on the bill. Whether he can move his amendment, since the rule of last Friday, is another question; but of course the Senator cannot be cut off from making his speech on the bill, because that raises of course every question of policy in connection with representation or government.

Mr. BUCKALEW. Mr. President, by the reconstruction act of March 2, last, and by the supplemental enactment, a new, unprecedented, and magnificent scheme under the auspices of the Government of the United States was attempted in ten States which were formerly in this Union, if they are not now. It was to take four million population, heretofore held as serfs and bondmen from the first settlement of this country, and endow them with the right of suffrage; and the leading object of those laws, both of the original act and of the supplement, was to introduce into our political system a new element of enormous magnitude, and to give a new action and a new direction to our political institutions. Now, sir, we are engaged in considering business under a rule of order which says that legislation in furtherance of those former laws, that legislation which shall remove obstructions to their complete operation and to their perfect success, shall be in order, and that the Senate shall confine itself to such measures, and shall neglect all others. Now I propose by enactment of the Congress of the United States,

under a clear power which we possess, to say that votes in the southern country, as between those formerly qualified and this new class which is now qualified by act of Congress shall be taken in such manner that there shall be no collision between the two classes of voters, that the system introduced by these former laws shall be made satisfactory, and that we shall get fair and just representation under them in the House of Representatives at the first and at all future elections which may take place in those States.

It is somewhat inconvenient to be obliged to treat this great subject; this argument which I have stated in this preliminary and irregular manner, upon a question of order. It hampers and confines one in that freedom of debate which the subject demands. All that I think it necessary to add upon the point of order is this: the Senate, in determining the point of order, are not to determine (for that would be absurd) that the particular proposition will be in furtherance of the reconstruction laws of March last, and the Senate are not to determine that by the amendment existing or future obstructions will be removed, because that is to decide the merit of the proposition as a question of order. I insist that all that we are to determine is that reasonably considered the amendment may have such effect, and may therefore come within the rule. It must be a palpable violation of the rule, it must be a palpable want of furtherance of the policy of reconstruction, it must be a palpable absence of capacity to remove obstructions to it, which will induce the Senate, on a preliminary question of this kind, to rule the amendment out of order, because without debate on that question of order you are to determine the merit of the proposition.

Now, what I have to say is that your enfranchised voters in the southern country, in every State where they do not possess an absolute majority, cannot exercise the rights and privileges which were conferred by the reconstruction laws to any useful and complete purpose at all without this amendment; and in other States, or in any particular locality where by chance this new element of electoral population may have a majority, your system will be made odious without an amendment of this kind.

Why, sir, what are these reconstruction laws concerned about? As they eventually took form, the military government established in the southern country is temporary; it is intended to be provisional; it is to come to an end within a brief period; and the leading object of the laws was to bring electoral power into action in that southern country and to direct that electoral power in the reorganization of governments which we were to recognize as loyal and valid under the Constitution of the United States, entitling the people of those States to Senators and Representatives in Congress. Everything else in those laws, except this vital element of suffrage, was secondary and subordinate and inferior and temporary. And yet, sir, because I propose a fundamental provision relating to that vital point of reconstruction, the manner in which suffrage shall be exercised in electing representatives to the Congress of the United States, I am to be met by a short point of order and told that it does not relate to reconstruction, to carrying out the former laws, that it removes no obstruction in the path of reconstruction which has been developed hitherto or may be developed hereafter. Why, sir, it is begging the whole debate upon my proposition, it is anticipating what will be the judgment of the Senate when it comes to be debated, and therefore it must be a false and unsound objection.

This amendment is a very different one from that proposed by the Senator from Missouri. I thought that was in order; that was my individual opinion; but that proposed a formal compact between these States and the Government of the United States with reference to matters and things in the far distant future; that added a new condition of reconstruction

to the enactments of last winter; and from that point of view gentlemen might give such construction to the rule as would exclude it. But here I propose that this very right of suffrage lodged in the black men of the South by your reconstruction laws shall be exercised in such manner that no difficulty and dissatisfaction and failure shall attend it. I am not proposing a new condition for the people of the southern country to assent to. I am not proposing a compact with any southern State. I am simply proposing that by an exercise of the clear power which you possess you shall remove those obstacles and obstructions which attend upon your introduction of colored suffrage in the southern country. I propose that you provide that that suffrage shall be given in a fair, honorable, reasonable, popular manner, so that public opinion shall not be outraged and the proceeding upon which you have entered shall not be interrupted and made odious in the country.

My own object is, or a main object in my mind is of course distinct from this. It is to introduce what I consider to be a fundamental principle of reform in electoral systems in this country. I mean to take this as a preliminary step. I believe it to be right everywhere; but it is clear that it is indispensable, at least it may be described as necessary in the reorganization of the southern political communities.

I put the question, then, upon this ground, for the purpose of the point of order: that if the amendment that I offer may aid in executing the acts of reconstruction, may facilitate their operation, may remove obstacles already known or obstacles that may hereafter arise to the system, it is in order, and it will be hereafter for the Senate to determine upon a discussion of the question of the merits of the proposition itself whether it bears this character in point of fact or not. If it may reasonably bear such construction, it is in order, and I am to be permitted to proceed to debate it. I suppose if I had not been interrupted I should have been pretty well through with my main speech by this time.

Mr. HENDRICKS. I did not think the proposition of the Senator from Missouri properly within the rule which the Senate has adopted; but I think the proposition of the Senator from Pennsylvania is. I can well understand why the Chair should be embarrassed in deciding any questions of order that may be raised under this resolution, for there is no intellect, as I think, that is able exactly to decide a question of order under it. In the first place, nothing is in order except that which proposes to remove obstructions which have been thrown in the way or which may possibly in the future be thrown in the way of the execution of the laws of last winter. What obstructions have been thrown in the way? The President has done nothing; he is entirely innocent on that subject. He has taken the advice of his law officer; but he has done nothing—

Mr. TRUMBULL. The Senator from Indiana is mistaken; the President has issued an order.

Mr. HENDRICKS. An order carrying out the opinion?

Mr. TRUMBULL. He has issued a circular, an order to the district commanders.

Mr. HENDRICKS. I do not understand that the President of the United States has required that civil officers who have been turned out of office by the military power shall be restored.

Mr. TRUMBULL. He has issued an order, with some fifteen or twenty provisions in it, for their government.

Mr. HENDRICKS. I have not seen it.

Mr. TRUMBULL. I have seen it, and been furnished a copy of it.

Mr. HENDRICKS. Then he has done something; I suppose that is adopting the views of the Attorney General, making them the policy of the Administration. The question then is, whether these orders are obstructions. That



will depend altogether upon the question whether the Attorney General has put the right construction upon the laws of last winter. We come back to that discussion, whether the Attorney General, in the opinion which he has given, has properly construed the laws. I have not heard his able opinion answered; I have seen some attempts at it; but taking the law and judging of it by the rules which govern courts and juries in the construction of laws, I fancy any Senator will find some difficulty in answering his views. But I never have heard that it was an obstruction to the law, that the law officer provided by law should give a construction to it.

The President of the United States is to execute these laws. How? According to their meaning. And how is he to arrive at their meaning in a case of doubt? By taking the opinion of the law officer; and when he takes that opinion and acts upon it, it is not an obstruction, but a just and proper execution of the law. What obstruction Congress may anticipate no individual can tell.

Then the next proposition of this rule is that amendments are proper which give to the acts the scope intended by Congress when the same were passed. How am I to know what was intended by Congress when those laws were passed? "By the law itself," as the Senator from Kansas [Mr. POMEROY] wisely suggests. There is no other rule of construction that I know of. Then we are to look to the law of last winter to see what was the scope intended by Congress in its passage.

Then, sir, we propose to give the scope intended by that law. That would seem to open up every question that is provided for in the law itself. If the subject is not provided for in the law, then it is not within the scope and meaning of the law. The proposition of the Senator from Missouri was not within the law; it was outside of it; it was attempting to bring something within it. But the proposition to regulate the questions of suffrage, the giving of votes, was within the law of last winter; and so the bill that is before us construes that law. The law of last winter provided for making a registration of the voters. This bill goes on to regulate that subject. It is within the scope of the last law. This bill provides that the board of registration may exercise a judgment upon that point. What is the proper construction of the last law on that subject I do not stop now to discuss; but the Attorney General has construed that law as denying to the board a judgment; he says that the duty of the board is administrative, not at all judicial; and because Congress now is not satisfied with that it is proposed to amend that law and to give the board the power of judging in each case. So also the last law excluded a certain class of men who had held a State or Federal office, and taken an oath to support the Constitution of the United States, and who afterward gave aid and comfort to the rebellion. That was within the scope of that law. It is proposed here to limit that, still further to restrict the number of persons who may be registered and who may vote, by providing that if they held office at all, and afterward participated in the rebellion, they shall not be allowed to be registered or to become voters.

The proposition of the Senator from Pennsylvania is further to regulate the subject of voting, and to provide how the votes may be cast. It is within the scope of the law of last winter; it is within the subject upon which we legislated; and therefore I think it is within any possible construction of this resolution. It is within the scope intended by Congress if it is within the subject upon which Congress legislated. I cannot give it any other construction. To say that it is not within what Congress intended to do is to commence guessing now at what the mind of each Senator in voting at the last session may have been. That would be simply ridiculous; it would make this rule folly. The only construction that we can put upon it is that the

subject was within the scope of the legislation of last winter. This is upon the subject of casting votes. The Senator proposes by his amendment that when the registered voters come to cast their votes for members of Congress, as provided for in the legislation of last winter, they shall cast a vote for each member that may be elected in that State. Whether it is wise or not is altogether another question; but I think it is within the scope of the legislation of last winter and within this rule.

The PRESIDENT *pro tempore*. The question is: Is the amendment offered by the Senator from Pennsylvania in order?

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. DAVIS. I shall vote that the amendment proposed by the Senator from Pennsylvania is not in order, but for a different reason than any that has yet been assigned. I believe that the subject is germane to the bill under consideration; and certainly if the principle of the Senator could be made practicable and convenient I would be eminently in its favor. Any proposition that the honorable Senator or any other Senator can make, in order, that will secure or tend to secure both to the majority and the minority of the people of a fair representation according to their numbers in the Congress of the United States would in my judgment be one of the most important and beneficial principles that were ever propounded to the acceptance of a Congress or a people. But his proposition is necessarily restricted to a portion of the States and of the people of the United States. I admit that my mind is satisfied that if his proposition embraced the whole of the people of the United States and all the States it would be a legitimate and constitutional proposition. It is because it is restricted to a portion of the States, and does not comprehend all of them, that my mind has come to the conclusion that it is not in order to present the proposition; for I do not believe the proposition can be made and restricted to a portion of the States. To be made properly and constitutionally it must be made applicable to all.

Mr. BUCKALEW. I should like to ask the Senator whether this does not fall under the same head as other matters contained in the bill. This is an exercise of special jurisdiction and power in a certain section of the country which we do not exercise in reference to other portions of the Union. I can see no difficulty in the Senator voting on this amendment, as it is not a final vote; and when the measure comes up in its ultimate aspects as finally amended he can vote against it.

Mr. DAVIS. Well, Mr. President, I regard the whole subject and the whole proceeding as flagrantly unconstitutional; but if, on the contrary, this proposition was moved to a measure that I considered to be constitutional and legitimate, and it restricted this principle of cumulative suffrage to a portion of the States, I should say it was unconstitutional, and therefore not in order.

The question being taken by yeas and nays, resulted—yeas 7, nays 22; as follows:

YEAS—Messrs. Buckalew, Dixon, Fowler, Hendricks, Norton, Ross, and Sumner—7.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Conkling, Craig, Davis, Edmunds, Frelinghuysen, Henderson, How, Johnson, Nye, Patterson of Tennessee, Pomoy, Ramsey, Tipton, Trumbull, Van Winkle, Wade, Wiley, and Yates—22.

ABSENT—Messrs. Bayard, Cole, Conness, Corbett, Doolittle, Drake, Ferry, Fessenden, Grimes, Guthrie, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Saulsbury, Sherman, Sprague, Stewart, Thayer, Williams, and Wilson—24.

So the amendment was held to be out of order.

Mr. BUCKALEW. The Senate has furnished me a very good argument against the passage of this bill. I think no bill of this description should be passed and placed upon our statute-book which does not contain the measure or proposition covered by my amendment; and I propose to enter upon an

exposition of that amendment and a statement of the arguments by which it is supported.

The system of cumulative voting has been thoroughly discussed in Great Britain, and is perhaps better understood in that country than in our own. What is it? Where more than one person is to be elected or chosen by a body of electors, the first idea is, that each elector may have votes equal in number to the number of persons to be chosen. Formerly in this country we elected members of Congress in the several States by what was called general ticket, under which system each voter in the State voted for as many candidates as there were Representatives in Congress to be chosen from his State, giving to each candidate one vote. That was the system which obtained throughout the United States except in a few States where Representatives (I believe) were chosen by the Legislature. In process of time it came to be discovered that this plan of choosing Representatives in Congress by general ticket was a complete and perfect mode of stifling the voice of the minority within a State. A political majority of only five hundred votes in such a State as New York might send twenty-five or thirty members to the lower House of Congress, while the large mass of the minority voters were entirely disfranchised, although nearly as numerous as those who were thus represented in the other branch.

This system of electing by general ticket was therefore abandoned in a number of the States because of its rank and notorious injustice and because of the dissatisfaction which it produced. The habit, however, of so electing Representatives remained in a number of the States until Congress interposed by virtue of its power under the Constitution of the United States to regulate this subject, and there is now a law upon our statute-book providing that Representatives in Congress shall be selected from each State by districts; each State where more than one are to be chosen is to be broken into single districts and a member elected from each. That action by the States and this ultimate legislation by Congress was for the purpose of doing away with the injustice of the former system. It was to enable the minority, or, to speak in other words, to enable the various political interests of society to have a voice in the councils of the nation, to be heard in these Halls, where laws were to be enacted which would be binding universally upon the citizens. The establishing of the system of single districts for the election of members of Congress was a great reform and a great improvement in American politics; it broke the power of the party majority to this extent, that they could not absorb the whole representation of the State in the popular House of Congress. But when you established the system of single districts you retained still the majority rule for elections in the districts. The majority rule which obtained previously in the States was sent down into these divisions into which the States were broken, and now obtains in the election of Representatives from those several districts. But as society with us has increased in magnitude and in the variety of its interests, inconveniences and evils which formerly were unnoticed or unimportant have grown in magnitude also, and have become exceedingly important, and the majority rule which prevails in the selection of Representatives by districts operates hardly and badly and requires amendment. At least that is my opinion; and in vindication of that opinion, before I conclude I will submit such reasons as have occurred to me in its support.

A majority in a congressional district, although it be a majority of one vote, though it have but a preponderance of one vote over the opposing interest, is entitled to select a Representative, and its voice is heard in the Hall of the people's House. In theory the men who do not vote for the Representative are represented by him; but that theory is simply a falsehood; it is opposed to the fact; it is not true. Instead of representing the men who do not vote

for him in his district, the ordinary fact is that the Representative opposes their opinions and contributes all the power which he possesses to render those opinions unpopular and fruitless in the administration of government.

Now, sir, it is a hardship that large masses of the American people should have no voice in the people's House, that they should be shut out from representation in the Hall where popular representation is supposed to prevail with such completeness and perfection. Everybody admits that the fact is so, that there is such disfranchisement; and at some times when the cases are very glaring that disfranchisement arrests public attention and elicits indignant debate.

But we are told that although a minority may be under our present system disfranchised in one district, the opposite party may be disfranchised in another; and so taking the whole State and the whole country together a sort of equilibrium is produced; the party which fails in one district is successful in another, and *vice versa*; so that when you carry this thing throughout the whole country there is some approach toward justice and a correct result. My answer for that, which is really the main plea for the existing system, is this: in the first place I do not see that the perpetration of injustice in one locality is any compensation for the perpetration of injustice in another; that because a certain minority of voters in Pennsylvania are without a voice in this Government, therefore the non-representation of a different class of voters in Kentucky is justified and made equitable and honorable and of good repute under a republican system. In short, sir, my idea is that when you show me a multiplication of cases of injustice, you have simply swollen your evil in statement and made it more odious, more deserving of blows instead of favor, of opposition instead of support; that the variety of the interests which may be disfranchised under your majority rule as applied to congressional districts is the very fact which pronounces the most weighty condemnation of that rule instead of furnishing it a justification or an apology. Then I have another reply to this suggestion; and that is that it is not true in point of fact that the disfranchisements throughout the country taken together, or the disfranchisements of districts in a particular State taken together, do result in an equilibrium. The fact has never been so; it is not likely to occur; the chances are a thousand to one against it. Therefore, even if there were some soundness in this doctrine of set-off, of setting off one wrong against another, the result would not be the production of an equilibrium of political forces or their just distribution. How was it in the last Congress? Sixteen hundred thousand votes in a particular section of country represented in Congress—the North and West—had but 30 votes; while two million voters in the same section were represented in that same House by 128! Therefore, sir, it is manifestly absurd to talk about the equalization of disfranchisement. There is no such result. There is no equalization.

Mr. President, we have all heard a great deal said in our time about the "sacred principle" that the majority shall bear absolute rule. Well, sir, I deny that there is any such principle in our system of Government; and if it could be established, I should deny that it possessed any sacred character. What is our principle, the principle upon which our republican system is founded? It is that the people shall rule; that they shall rule themselves; that we shall have a system of self-government. Does that mean that a part of the people shall rule over another part? Does that mean that they shall be divided numerically, and that twenty shall absolutely control nineteen; or does it mean volition and action of the whole mass in the business of self-government? We have, however, from what we have supposed to be the necessity of the case, a majority rule at elections. It is a simple rule, nothing sacred in it or about it; an arrangement, a thing of

detail, by which we have attempted in a rude manner to apply practically our principle of government by the people; and this majority rule formerly obtaining in the States and applied to a system of voting by general ticket, yet applies in the districts into which the States are divided. It is the same in its nature and to a great extent it is the same in its effects as before, and the very mischief and evil which led to the abolition of the general ticket system yet obtains and prevails in elections in single districts. Though mitigated somewhat, it requires, as I think, the vigorous hand of reform.

I have made these introductory remarks in order to approach the subject in an intelligible manner. What is meant by a system of cumulative voting is this: that an elector in any State, whether he belong to the majority or to the minority, can give his votes for some candidate or candidates who will be elected and who will actually represent him in the Congress of the United States. That is all there is of it. That is the Alpha and the Omega of this whole plan. It is a device by which there shall be actual instead of sham representation in Congress; by which men who come here into the people's Halls shall represent the men who vote for them and nobody else, and by which it shall not happen that nearly half the people of the United States shall have no efficient or fair representation where the laws are made.

How is this object accomplished? The manner of accomplishing it is as simple as the thing is itself. You take the State of Kentucky, about which there is some discussion now, I believe, in the House of Representatives as to membership. She is entitled to nine members in that House. What is proposed is, that an elector in Kentucky may go to the election and vote for nine members, if he choose, to represent his State in that House, giving each candidate one vote, or he may bestow his nine votes upon four candidates if he choose, or upon one or upon any other number less than the whole. All the provision of law that is necessary is that the elector may vote for a less number of candidates than the whole number to be chosen, and he may distribute his votes among that less number according to his judgment and discretion, enlightened or directed by his convictions of public duty. That is simple. It does not require a long explanation here; nor to the commonest-minded man in the country is it necessary to go into a protracted argument in order that he may comprehend it. The Senator from Kentucky remarked a short time ago that he was in favor of this thing if it were practicable. He was in favor of some improvement of this kind.

Mr. DAVIS. I did not mean to say that it was impracticable. I am very ready to receive information as to the practicability of it from the honorable Senator.

Mr. BUCKALEW. The Constitution of the United States says you may regulate the manner of electing members of Congress; you have interposed already by law to abolish the evils of the general ticket system by which a majority could elect all the members from a State. Now what I ask you to do is in the same line of reform with that former legislation that you shall go on, and instead of allowing any portion of the people of a State to be disfranchised, you shall permit them so to vote that they shall get actual representation.

Mr. DAVIS. If the honorable Senator will permit me, I will mention as an evidence of my friendliness to his principle, that I was a member of the House at the time that bill was passed, and voted for it; and I was then upon the Committee of Elections, and I made a report in favor of the bill. Some of the States then voted by general ticket, and some did not. Some voted by the district system, with districts entitled to send two or three or four Representatives, as was the case in the honorable Senator's State. That measure was deemed entirely a Whig measure; it was opposed by the Democracy; and there were four

States, according to my best recollection, two of which I remember, Mississippi and New Hampshire, who refused obedience to the law, and continued to elect their Representatives upon the exploded general ticket system, defying the law of Congress. But their representation, elected on the general ticket system, was accepted in the next House by a majority. I merely make this statement of my being a friend to that measure to give some assurance to the honorable Senator that I am not hostile to the principle of his proposition.

Mr. BUCKALEW. Well, sir, whatever may be said of this measure, it is certainly practicable. It requires nothing but an act of Congress of half a dozen lines permitting an elector in any State choosing members of Congress to bestow his vote on any number of candidates less than the whole. Nothing further is necessary than that the votes so taken shall be reported, counted by the secretary of the commonwealth in a State, and the returns signed by the Governor in the usual way, and sent to the Speaker of the House of Representatives. The scheme requires no machinery; it requires no involved legislation; it involves no difficulty in putting it into execution.

Now, let me illustrate how this scheme would work by a particular example. Take the case of Vermont, a State with sixty thousand voters, forty thousand of which are members of the majority party, and twenty thousand of the minority. By act of Congress—the existing apportionment law—that State is entitled to three members. The numbers I have stated are very nearly the exact numbers of voters in that State. Every one at a glance can see what ought to take place. The majority having forty thousand votes should choose two members of Congress from that State, and the minority having twenty thousand votes should elect one member. Then there would be just representation. Then there could be no complaint in any quarter. Then our principle of the representation of the people would be applied in the particular case, and no human being can conceive of any argument or objection against that result.

This system of cumulative voting renders just that result certain—renders it morally impossible that any other should take place; and why? Because the minority cumulating their votes upon a single candidate can give him sixty thousand votes; each elector giving his candidate three votes, it would count him sixty thousand. The forty thousand constituting the political majority in the State, if they attempt to vote for three candidates, can only give them forty thousand each. If they cumulate their votes upon two candidates, which is what they are entitled to, they can give them sixty thousand votes each; so that two men will be elected to Congress representing the majority and one man representing the minority, and it is impossible for either one of those political interests to prevent the other from obtaining its due share of representation.

Take the case of Pennsylvania, with twenty-four members. In that State at the last congressional election there were polled five hundred and ninety-six thousand one hundred and forty-one votes. The majority party polled three hundred and three thousand seven hundred and ninety and the minority two hundred and ninety-two thousand three hundred and fifty-one. It thus appears that there was a majority in favor of one political interest in that State at that congressional election, amounting to eleven thousand four hundred and thirty-nine votes. Multiplying that by five—one-fifth of the population ordinarily being the voters of the State—and you see that that surplus which one party possessed of votes over the other represents a population a little exceeding fifty-five thousand—less one-half the number of inhabitants in the State entitled to a representative in Congress, so that this surplus of votes of one party over the other represents a minority fraction upon a ratio of apportionment of members of

Congress to the State. The returns of that election (held in October last) were as follows:

PENNSYLVANIA CONGRESSIONAL DISTRICTS.

	Republican.	Democrat.
I.....	7,728	12,192
II.....	12,612	9,475
III.....	12,520	11,516
IV.....	14,551	12,126
V.....	12,259	11,800
VI.....	11,447	14,009
VII.....	12,011	8,531
VIII.....	6,999	13,188
IX.....	14,298	8,675
X.....	13,186	12,971
XI.....	9,121	15,907
XII.....	13,274	15,280
XIII.....	11,940	10,653
XIV.....	14,190	12,675
XV.....	12,489	15,830
XVI.....	13,589	12,964
XVII.....	11,298	9,979
XVIII.....	14,734	12,038
XIX.....	15,107	12,481
XX.....	17,106	15,222
XXI.....	13,023	12,669
XXII.....	12,720	9,655
XXIII.....	14,137	10,012
XXIV.....	13,391	11,853
	303,790	292,351
	292,351	

Majority..... 11,439

Ratio of votes for a Representative, according to votes polled..... 24,839

Now, sir, what is the result? Judging by the actual votes polled at that congressional election, there should have been an equal division of Representatives in the House, standing 12 to 12; or, if a Representative should be assigned to the majority interest on account of the excess of its vote, the numbers would stand 13 to 11. But in point of fact, under your single district system, the result in that State is that the delegation stands 18 to 6, instead of being equally divided according to the real votes which were polled at the election. But under this system of cumulative voting, what would take place? As each political interest in the State knows that its vote is about the same as that of the opposing one, and that if it attempt to obtain more than its fair share of representation, it may actually lose, instead of gaining, it will be forced to concentrate its votes upon twelve candidates, or upon thirteen at the most, and it is impossible that by any ingenuity or device whatever, it can increase its representation in Congress above about what its actual numbers entitle it to. If it should make the attempt, the opposite party would gain an advantage as the result of the sharp practice attempted upon them.

I have taken Vermont and Pennsylvania. Now take the case of Kentucky. There are nine members of the House elected from Kentucky, all of one political complexion. They are now demanding membership in the House, and they are met by a refusal for reasons which I need not discuss, and which it would be, perhaps, improper to discuss here. Suppose a just system of election had prevailed in Kentucky, would the whole nine have been Democratic members—a clean delegation of one political opinion? No such thing would have been possible. At that election the majority was about forty thousand for the party that prevailed.

Mr. DAVIS. Larger than that.

Mr. BUCKALEW. I thought it was in the neighborhood of forty thousand. As I make the number of voters required for the election of a member of Congress, that would represent nearly two members. Therefore the preponderance of one political interest in Kentucky over the other would represent two members. That would leave seven members of Congress to be equally divided between the two political interests: one party having four and the other three, and the result would be that the representation in the House would have been divided, more unequally, to be sure, than in most cases, but still not with gross inequality between the two parties that contend for mastery in this country.

Take the case of Maryland at the last election. You find that representation in the House of Representatives is not just, consid-

ering the men who gave the votes by which those Representatives were elected; that instead of there being but one Republican Representative from Maryland, there should be two on account of the actual votes polled in that State. Then, sir, take the case of Connecticut, an election recently held, and a most notable trial of political strength in the North. There, where the vote was a tie substantially, where the preponderance of one side over the other was very slight, not more than about a thousand or thirteen hundred, perhaps, the delegation stands three to one, whereas it should be equally divided according to the actual number of votes polled and returned according to law.

I cite these cases of recent State elections, and elections which on the whole have been favorable to that interest in the country which when the votes are taken in the aggregate is in the minority, and I cite the other two cases of Vermont and Pennsylvania as other illustrations. But nearly every State might be mentioned in illustration of the argument.

Thus, sir, whether you go to the North or to the West, or confine your researches to the central portions of the country, you find gross misrepresentation of the people of the United States in that House, which was peculiarly intended to represent them, and to represent them completely, year by year. The Senate was intended to be a more permanent body, and to possess somewhat of a different character. What I propose, then, is the correction of this injustice, whether it exist in the States I have mentioned or in any other States represented in Congress, and to guard against its extension to the States which you are about to restore under your legislation to their former places in the Union, and with regard to which a reform upon this point is more important than it is to the States of the North, the center, or the West.

Mr. President, I will proceed then briefly to state in succession, not to elaborate, several distinct arguments by which cumulative voting can be sustained, vindicated, and made good as I think against all objection. In the first place, this plan is one of justice; it is recognized as just by every one who hears me upon its mere statement; it will be recognized as just by any man in the country to whom you carry the proposition and submit it for his judgment. It will deal equal, even-handed justice among political interests in the country, whether they exist now or are created by the exigencies of our affairs hereafter.

In the next place, a system like this would bring into public life and keep in public life many able men who are now excluded under your single district system. A man of ability in a State can never reach the Hall of the House of Representatives as a Representative of the people unless there be a majority in his district to send him; and if he commence a career in public life, with high ambition before him, and devote himself zealously to the service of the people, and to qualify himself for high statesmanship, and to take rank in Congress as men take rank in the Parliament of Great Britain, he knows that a little shifting of the political scale in his district will leave him out. Those who agree with him in opinion cannot continue him in the public service. The result is that you have no twenty, thirty, or forty-year men in Congress. They are mostly men of the moment; they are two and four-year men in the House, and the example extends even here. If a member of this body gets reelected his friends think it is a subject for warm congratulation, regard it as a wonderful result to be wrung from a caucus and from managers at home. But, sir, I insist that in this country, as abroad, the House of Representatives ought to be the great House of our Legislature; its Hall should be resorted to for words of eloquence, for profound logic, and for the exhibition of the highest traits of American statesmanship. How is it and how must it be as long as you keep members there

two, four, and six years only? They have no opportunity to grow up into distinction; they have no opportunity to mature their abilities and become able statesmen.

The result is that the weight of that House in the Government is far below what it should be. This may increase the relative importance of the Senate; but upon the whole it is not a desirable condition of things, and the continuance of this system of rapid rotation in the membership of the House of Representatives bids fair to be one of those injurious influences which will bring republican institutions into contempt.

I say then, sir, that this system of election by cumulative voting will allow electors of a particular party in a State to continue their favorites in Congress, and will result in improved statesmanship in the House of Representatives, elevating that branch of the national Legislature, and, of consequence, promoting the public interests.

Again, sir, one great advantage of this system is that it abolishes gerrymandering in the States, cuts it up by the roots, ends it forever. That is one of the most crying evils of the time. Now, sir, I venture to say that from Maine westward to the Pacific ocean, in the last ten years, in no State whatever, has there been an honest and fair district apportionment bill passed for the selection of members of Congress. Nowhere, in no State, unless indeed it was in a particular and exceptional case where the two branches of a Legislature were divided in political opinion and one checked the other; but ordinarily, as we know, in the course of northern politics, legislative bodies have been of the same political complexion in the upper and lower houses; and I venture to say that whenever this was the fact, unfair and dishonest apportionment bills were passed.

Under the present system the temptation to party is too great to be resisted; party interests appeal to members of a Legislature, and they yield to its demands and enact injustice into law. The party that does this knows perfectly well that when a future apportionment bill is made, the opposite party, if it be in power, will retort this injustice, perhaps with increased force. Thus you have a competition between political interests with reference to the apportionment of the States continually increasing in injustice, leading to degradation of the Legislature and the corruption of the people. The system of cumulative voting, however, avoiding the creation of single districts in a State, avoids altogether this capital evil and mischief of gerrymandering and brings it to an end so far as the selection of members of Congress is concerned.

Well, Mr. President, in the southern country, as already hinted by me, I consider this system of cumulative voting as indispensable to the harmony, to the welfare of that section of the Union. You have vast masses of voters belonging to two different races there who are to be brought in antagonism to each other at the polls, and that in and through every State of the whole ten now unrepresented. How will you have them vote? Against each other, voting each other down under the majority rule, producing bad blood and riot and turbulence upon thousands of occasions, with widespread discontent and dissatisfaction through the whole social body? Are you going to permit the majority rule of elections to have uninterrupted effect there, causing results like these? Will you make no provision for amendment, for counteracting and countervailing these manifest evils and dangers?

Take the case of Georgia, with seven members. You can see what the result would be under cumulative voting following a regular registration of voters. It could be known beforehand about what number of representatives the colored voters and their white allies were entitled to, and how many representatives under that registration the other elements of population would be entitled to. The election would take place quietly, without collision; neither



side could deprive the other of its fair share in the result.

I should like to enlarge on that point, but I shall not do so; for the reason that the decision of the Senate ruling the amendment proposed by me out of order upon this bill does not render a discussion of the effects of this system in those States, in connection with the coming elections, as important as it would otherwise be.

I am going over, as briefly as I can, the different heads of the argument, in order that they may be considered here and elsewhere, because this is not the end of the subject. A proposition which is just in itself, which is capable of being vindicated by debate, which is important and vital to the working of our representative system, cannot be kept down or suppressed. If it be pushed aside at one time it will recur upon us, it will return again and again, until it be determined upon its merits and according to an enlightened public sentiment developed or produced by discussion.

In the last place, Mr. President, this system of cumulative voting will be a most valuable check upon fraud at elections. No measure ever proposed in this Union would have so extensive and salutary an effect in checking election frauds and corruption as this system of fair and honest voting which I defend. Do you not discover at a glance in looking over the States of the Union the main source from which electoral corruption issues, the main cause that brings it into existence? What is that? Why, sir, the motive put before every candidate in every district of the country that is anything like close, the strong incentive and the strong temptation is to corrupt a few votes in order to turn them into his scale and carry his election over an opposing candidate. And when one candidate resorts to this mode of promoting his interests, the opposing candidate feels justified in retaliating in the same way; and thus it is that an iniquity perpetrated on one side begets similar iniquity upon the other. There is a putting of corruption against corruption in the closely contested districts at all events, or most noticeably at commercial points, and our system of government is thereby poisoned at its very fountain. The evil is growing yearly.

As the country becomes denser in population, as wealth accumulates, as the various interests of society become more diverse, its affairs more complicated and dependent upon legislation, this evil of electoral corruption must increase and swell in volume. You must correct your arrangements for elections in order to check it. Cumulative voting will check it. There will be no longer a struggle for district majorities, a struggle for a few votes for one man over another, because one party in a State casting its votes for the number of men or about the number of men it can elect according to its numbers in that State will elect them against the whole world, and there is no motive to corrupt anybody, there is no turning of the scale by any species of illegitimate influence which may be brought to bear. Then no little local interest can come to a political party and command terms from it, command its action. Then no man with his pocket full of accumulated gain can go to election agents and through them corrupt a part of the electoral body to turn the scale in his own favor, provoking thereby similar corruption on the other side. Then illegitimate, pernicious, and selfish interests in a State will not use the machinery of your electoral system for the purpose of poisoning the sources of political power, because there will not be a sufficient motive. It is these contests for majorities between candidates that causes the major part of the evil of which we complain.

Sir, we have not in this regard attained to the full height and depth and breadth of possible evil. But we have declined far below the purity of former times. The Senator from Massachusetts [Mr. Wilson] thinks our elections in this country are models of purity, that nobody is corrupted, that there is little departure from honest principles in their management. Notwithstanding his opinion, I consider that

this evil is already extensive enough with us to alarm every patriot and every honest man. I could if it were necessary and time permitted put my finger upon cases in my own State which would establish a very different opinion (at least as to that section of the Union,) from that which the Senator from Massachusetts announces.

Let me illustrate the extent to which, under a system of elections by the majority rule, corruption may be carried for the purpose of obtaining these local majorities. I take cases from England—some parliamentary boroughs. In the debate in the House of Commons on the 30th of May last a provision of the reform bill was pending which had been proposed by the ministry for the disfranchisement of certain boroughs, on the ground of the corruption of the electors therein. Four boroughs were to be struck from the list of those to be represented hereafter in Parliament, (whether the inhabitants were to be counted as electors of the counties in which they were located or not was not determined at the last accounts.) There had been an examination by a board of commission of the subject of corruption in those boroughs at the previous parliamentary election. Witnesses were examined under oath; the case of each borough was thoroughly investigated, and the facts were laid before Parliament. What did the report of the commission show? The statement is a startling one, and is as follows:

#### CORRUPTION IN ENGLISH BOROUGHS.

	Registered Voters.	Impure Voters.
Totness.....	421	158
Reigate.....	912	346
Great Yarmouth.....	1,647	528
Lancaster.....	1,498	916

In Totness and Reigate the corrupt votes were thirty-eight per cent. of the whole; in Yarmouth thirty-two per cent., and in Lancaster sixty-four!

The reason why Yarmouth shows the lowest in this scale of infamy, is that by act of Parliament some years since the freemen were disfranchised, and suffrage was confined to householders; so that the percentage of corrupt voters is only thirty-two per cent.; whereas in Lancaster, a borough of somewhat similar character, the percentage amounts to sixty-four per cent. This is shown by a detail of the voters in Lancaster. There, of freemen, there were 980 registered, of whom 708 were proved to be impure; whereas of the householders, 439 registered, the number of corrupt was only 208. Here three fourths of the freemen were bribers or bribed, whereas less than one half of the householders were corrupted.

These are the facts as proved, and they of course do not include the corruption in those boroughs which was not detected by the commission, of which there may have been a considerable amount. You see here to what length electoral corruption may be carried under the district system—because in England their boroughs are really districts—where the majority or the plurality rule obtains, and where there is a motive for a corrupt man to struggle for the balance of power in order to turn the scale. One great objection I have always had to colored suffrage, and which I have stated upon this floor, has been this: that thereby you cast into the hands of corrupt and ambitious and evil men in this country, a vast opportunity for mischief for using this mass of votes for their own improper purposes. Looking from the practical point of view upon this question, I supposed that it connected itself with the subject of corruption; but if you had a system of cumulative voting in the South, each political party there would have the power to secure to itself due representation in Congress in spite of another; the causes of corruption would be cut off or limited, and you could have a system comparatively pure. Sir, I show you these English examples as a warning, as pointing out to you the great danger to which our representative system is liable particularly in that section with which your measures of reconstruction are concerned.

Mr. President, I had prepared some time

since a complete analysis of the recent elections in the States represented in Congress, from the best means of information within my power, for the purpose of showing the operation of our existing system of elections under the majority rule; but, sir, it is not necessary for me to go over that. All I shall say upon that point is that you cannot examine the facts as to any State, taking your figures from any authentic publication, without perceiving that your representative system requires reform; that it requires you to advance from the position that you have heretofore maintained as to the manner in which the right of suffrage shall be exercised by our people; and the further this investigation shall be carried the more thorough will be this conviction.

Mr. President, I have done what I supposed to be a duty in calling attention to this question, presenting it to the consideration of the Senate, knowing perfectly well that it will be again before us, and feeling assured that the proposition will eventually triumph here on this floor and throughout the country, that you will make your plan of taking the sense of the people in the election of members of Congress just, equitable, reasonable, fair; that you will make and shape it according to the information which you now possess, instead of continuing your present imperfect arrangement; that as you extend the basis of suffrage as you make changes in the foundations of political power, you will improve the plans upon which your system shall be worked and made to accomplish its proper objects.

I have in conclusion only to cite authority, which will be brief upon this question. In the first place I will read from an author of the first rank—from John Stuart Mill's work on parliamentary reform, on page 28. He is speaking of districts which shall elect each three members of the Parliament, and is proposing the application of improved modes of voting to them:

"Assuming, then, that each constituency elects three representatives, two modes have been proposed, in either of which a minority, amounting to a third of the constituency, may, by acting in concert, and determining to aim at no more, return one of the members. One plan is, that each elector should only be allowed to vote for two, or even for one, although three are to be elected. The other leaves to the elector his three votes, but allows him to give all of them to one candidate. The first of these plans was adopted in the reform bill of Lord Aberdeen's government; but I do not hesitate most decidedly to prefer the second, which has been advocated in an able and conclusive pamphlet by Mr. James Garth Marshall.

"The former plan must be always and inevitably unpopular, because it cuts down the privileges of the voter, while the latter on the contrary, extends them. And I am prepared to maintain that the permission of cumulative votes, that is, of giving either one, two, or three votes to a single candidate, is in itself, even independently of its effect in giving a representation to minorities, the mode of voting which gives the most faithful expression of the wishes of the elector. On the existing plan, an elector who votes for three can give his vote for the three candidates whom he prefers to their competitors; but among those three he may desire the success of one immeasurably more than that of the other two, and may be willing to relinquish them entirely for an increased chance of attaining the greater object.

"This portion of his wishes he has now no means of expressing by his vote. He may sacrifice two of his votes altogether, but in no case can he give more than a single vote to the object of his preference. Why should the mere fact of preference be alone considered, and no account whatever be taken of the degree of it? The power to give several votes to a single candidate would be eminently favorable to those whose claims to be chosen are derived from personal qualities, and not from their being the mere symbols of an opinion. For if the voter gives his suffrage to a candidate in consideration of pledges or because the candidate is of the same party with himself, he will not desire the success of that individual more than that of any other who will take the same pledges or belongs to the same party.

"When he is especially concerned for the election of some one candidate, it is on account of something which personally distinguishes that candidate from others on the same side. Where there is no overruling local influence in favor of an individual, those who would be benefited as candidates by the cumulative vote would generally be the persons of greatest real or reputed virtue or talents."

In his subsequent work on representative government he has gone elaborately into an investigation of the existing evils of the representative system as shown in Great Britain, and has laid elaborately the foundations of an



argument upon grounds distinct from those which I have stated, although in some cases approaching them, for the adoption of this or some other adequate system of reform; and in that subsequent work he repeats his recommendation of the system of cumulative voting as one of sensible and material reform. He, however, proceeds to state that his own opinion inclines to a still further reform, the introduction of a system of personal representation, which I shall not discuss here because the occasion does not invite it, because I do not suppose it is a system which can be within a twelvemonth or within several years debated and understood and adopted by the American people. It is one much more complicated, requiring perhaps a higher state of political experience; at any rate, a more advanced stage of discussion to its comprehension and adoption by our people.

I have quoted the authority of Mr. Mill in favor of the system of cumulative voting as a convenient, practicable, just, and useful measure of reform, confident that his authority will be accepted both by the Senate and by the people of this country as the highest perhaps which can be produced upon a question of this character. Next I quote from Earl Grey's work on Parliamentary Government and Reform, seventh chapter. This is a new edition, published in 1864. He says:

"The first of the reforms of a conservative tendency which I should suggest, and one which I should consider a great improvement under any circumstances, but quite indispensable if any changes favorable to Democratic power are to be admitted, would be the adoption of what Mr. James Marshall has called the 'cumulative vote'; that is to say, the principle of giving to every elector as many votes as there are members to be elected by the constituency to which he belongs, with the right of either giving all these votes to a single candidate or of dividing them, as he may prefer.

"The object of adopting this rule would be to secure to minorities a fair opportunity of making their opinions and wishes heard in the House of Commons. In order that it might fully answer this purpose, the right of returning members to Parliament ought to be contributed that each constituency should not have less than three representatives to choose. Supposing that three members were to be elected together, and that each elector were entitled to three votes, which he might unite in favor of a single candidate, it is obvious that a minority exceeding a fourth of the whole constituency would have the power of securing the election of one member. It is probable that in general three members would be thus returned, each representing a different shade of opinion among the voters.

The advantages this mode of voting would be calculated to produce, and the justice of making some such provision for the representation of minorities, or rather, the flagrant injustice of omitting to do so, have been so well shown by Mr. Marshall in the pamphlet I have already referred to, and by Mr. Mill in his highly philosophical treatise on Representative Government, that it is quite needless for me to argue the question as one of principle. But I may observe that, in addition to its being right in principle, this measure would be in strict accordance with the lessons of experience if read in their true spirit. One of the most remarkable peculiarities of the British House of Commons, as compared to other representative bodies, is that it has always had within its walls members representing most of the different classes of society, and of the various and conflicting opinions and interests to be found in the nation. Much of the acknowledged success with which the House of Commons has played its part in the government of the country has been attributed (I believe most justly) to this peculiarity.

The changes made by the reform act, and especially the abolition of the various rights of voting formerly to be found in different towns, and the establishment of one uniform franchise in all the English boroughs, (with only a small exception in favor of certain classes of freemen,) tended somewhat to impair the character of the House in this respect. The greatly increased intercourse between different parts of the country, and the rapidity with which opinions are propagated from one extremity of the kingdom to another, have had a similar tendency; and there is no longer the same probability as formerly that different opinions will be found to prevail in different places, so as to enable all parties to find somewhere the means of gaining an entrance to Parliament for at least enough of their adherents to give expression to their feelings."

And then he goes on with an elaborate investigation and application of this scheme to the House of Commons. There has been, therefore, not only an inquiry abroad, but an assent from minds very differently and variably constituted, in favor of cumulative voting; from Mr. Mill, a representative of radical opinion, than whom there is no one more eminent in political literature; and then, again,

from Earl Grey, representing a more conservative shade of political sentiment in that country. Why has not this system been adopted in Great Britain and applied in practice, and why has it not been incorporated in the existing reform bill? Because in that country they have not the same advantages that we have for its introduction. Here our existing States offer the facilities for introducing this plan without inconvenience, whereas in Great Britain, where they have their districts formed, districts which have existed for centuries, where the habits and relations of the people have been formed for long periods of time, until they have become inveterate, it is almost impossible to make up political constituencies upon whom to apply this plan of voting. In our States, however, in nearly all of which more than one member is to be elected by the same body of electors, the introduction of this plan is both possible and convenient.

I conclude, Mr. President, by saying that I shall attach, probably, to my remarks a tabular statement, summing up the results of representation as they are exhibited by the existing system in the composition of the Fortieth Congress, excluding, possibly, the recent elections the returns of which I do not possess. Now, I submit to the Senate, and to whoever in the country may pay attention to our proceedings, or see my remarks on this occasion, that both upon the grounds of reason and authority this proposition has been sustained; and that if it be introduced into this country, whether in one State or in many States, or universally throughout the country, in any event it will bear the character of a material, vital, useful, and necessary reform of our political system.

Mr. JOHNSON. Mr. President, the proposition of the honorable Senator from Pennsylvania is not now before the Senate, having been ruled out of order; and I rise, as far as that proposition is concerned, merely to state that if it should be introduced at another time and made applicable to all the States in the Union it would, as I am at present advised, receive my very cordial support. The works of Mr. Mill and of Earl Grey, which have been cited, have been familiar to me for some time, and they have had the same effect upon me that they seem to have had upon the judgment of the honorable member from Pennsylvania; and anything that may have been omitted in the argument adduced by them has been supplied by the honorable member from Pennsylvania. But that subject is not now before the Senate.

My principal purpose in rising was to say a word or two in relation to the opinion of the Attorney General, and only a word or two. The opinion of that officer has been criticised with a good deal of severity, not so much on account of the opinion itself as because it was supposed to have been in contravention of a former opinion which he is imagined to have expressed in what was called the veto message upon the acts of February and March. I feel it due to a friendship of very many years standing, and to a knowledge of the very eminent ability of that gentleman, to say that I know, so far as any intentional purpose is involved of wishing to obstruct at all what he believed to be the will of Congress, as found in their legislation, he is as incapable of it as any man in the country can be. He is a man of unquestioned integrity, private and political. He was a supporter of the Union from the beginning of our troubles up to their close—if they can be considered as now closed—and he is as anxious to have the Union restored as any member of this body can be. He differs with the majority of the body in relation to the policy which the body have adopted and seem still to think the best policy of bringing about that result; but he would hail with delight that result, no matter how it might be brought about.

Those Senators who have criticised the opinion, and who I suppose have read the opinion, I think should have stated that the district commanders, nearly all of them, requested to

be instructed as to the meaning of our legislation of last winter. They differed among themselves where they were able to form decided opinions, and in relation to some subjects they were not able to form any opinion; and they requested, therefore, instructions from the Government. The President, receiving that request from those commanders, naturally called upon the Attorney General to construe these laws in the form of an opinion; and that he has done. He has done it, as I think, with very great ability. There are one or two points in which I think he is mistaken. I think he is mistaken in the interpretation which he gives to the oath which was required, and in another particular which I forget, but it is comparatively unimportant. But I do not consider that he is mistaken at all when he says, if he does say, that the military authority by that legislation is not paramount to the civil authority in many respects. The veto message, I think it was stated by my friend from New York, [Mr. CONKLING,] was reputed to have been written by him. I know nothing certain upon the point, but I have reason to believe that it was not written by him. I take it for granted he approved of its results. I think, from the spirit and tone of that paper, that I could very correctly refer it to another hand; but I am sure he did not write a word found in that paper which reflects unkindly upon Congress; he is incapable of it.

If the Senate will look at the bill upon their table, as reported by the Judiciary Committee, I think they will come to the conclusion that in the opinion of that committee that of the Attorney General was substantially correct. The first section of the bill states that it was the purpose, it was the intent and is the intent, and the laws of the last session shall be so construed, that the civil is to be subordinate to the military authority. That was so by that act to a certain extent, but it was not so absolutely as we are about to make it. In relation to all civil controversies involving mere rights of property the military commander under the original bill had no control. He could, in the administration of the criminal law, whatever he might suppose that law to be, either call to his aid the local authorities or he could dispense with them altogether and act by means of military alone; but it is very clear, looking to the terms of that law, whatever Congress may have intended or individual members may have intended, that it is not the true meaning of that law, construed by itself, that the military is to be paramount to the civil authority of these several States in all things. Nor could it well have been otherwise. What is to be done in relation to the law of descents, the law of marriage, the law of parent and child, of guardian and ward, and all the other disputes which arise as between man and man? How are they to be decided? Are they to be decided by a military tribunal? If they are, is there to be an appeal? The only appeal that the Constitution gives is to the Supreme Court of the United States. There could be no writ of error to the decision of any military tribunal in a civil case.

Mr. FESSENDEN. I take it this law does not change that.

Mr. JOHNSON. I do not know that it does. It remains so still, unless the amendment adopted yesterday, which authorizes the military commander to appoint whatever persons he thinks proper to take the place of those whom he turns out, and of course authorizes him to turn out all persons that he thinks ought to be turned out, will lead to that result.

Mr. EDMUNDS. They would still administer civil justice in the same way, in the civil administration, although they would be different persons.

Mr. JOHNSON. How are they to do it? How is a military commander now to decide an action of ejectment?

Mr. EDMUNDS. He does not.

Mr. JOHNSON. Of course he does not; but nobody can doubt that if a judge is turned out, he is to put somebody in his place to do

it; and so in relation to all the other questions that can arise.

Mr. FESSENDEN. He might decide it.

Mr. JOHNSON. He might decide it, but his decision cannot be revised. I was about to say further—for I propose only to detain the Senate a moment or two—when it is said that these civil tribunals are merely provisional, exist merely upon the will of Congress, tribunals of sufferance, the Senate ought to recollect that the Supreme Court of the United States has, since the war terminated, entertained writs of error to decisions of those courts as State courts, and has reversed them. When it is said that these States are not States in the Union now as well as they were before the rebellion, the Senate ought to be informed, if they have not heard of it, that at the last session of that tribunal two cases arose which brought before it for decision that very question in one form. The State of Texas applied to the Supreme Court for the exercise of its original jurisdiction, which can only be exercised when a State is a party and in the case of ambassadors and other foreign ministers, for the purpose of enjoining some wrong which she alleged was about to be perpetrated on the State in regard to the issue of some bonds. I was not in the case; but the point was made that it was not a State, that it was carried out of the Union by the rebellion, that it had never been brought into the Union by any congressional action, and it had therefore no right to come into the Supreme Court as a State and invoke the original jurisdiction of that court. The Supreme Court decided, and as I believe unanimously, that she had a right, and they issued the injunction as prayed.

In another case, in which I was counsel, the State of Virginia filed a bill against the State of West Virginia, claiming that West Virginia was exercising jurisdiction over two counties that originally belonged to the Old Dominion, as they termed it, Jefferson and Berkeley. I demurred to the bill on the ground that the question whether the two counties had or had not separated themselves from Virginia and become a part of West Virginia was one over which the Supreme Court had no jurisdiction, for it was left, first to an election, to the choice of the people of those two counties, and the result of that election was to be passed upon by the Governor of Virginia, and if the Governor of Virginia was satisfied that a majority of the people of the counties were in favor of going with West Virginia he was to issue a proclamation to that effect, and that was done. But the other point that I made—and I wanted the question decided—the other point that I made in the argument was that Virginia was not a State; and I took this ground—the argument has been printed since and I think I have sent it to some of the Senators: I said, first, that the decisions of the Supreme Court upon political questions were not binding upon either of the other departments of the Government. I said, secondly, that upon a question of that kind, State or no State, which was a question in its nature political, it was to be submitted exclusively to the jurisdiction of Congress, as Congress had decided—not that it was my own opinion, but that the legislation of Congress on the subject rested, and could only rest, as I thought, upon the ground that over the question of State or no State, in the sense of the Constitution, that department of the Government had supreme jurisdiction; and as they had decided by the acts of February and March of our last session that these States were not entitled to representation, were not States in the Union, and could not become entitled to representation as States in the Union until Congress should think proper to admit them after they should have conformed to the conditions which Congress might prescribe, that was binding on the judiciary. The case is now held under advisement. I do not know certainly what the opinion of any one of the judges is upon that particular question, but I have reason to believe that again they were unanimous in believing that

there was nothing in the point; that Virginia is as much a State now as she was the day she passed her ordinance of secession, and is, consequently, as much entitled now to claim the original jurisdiction of the Supreme Court as she would have been if she never had gone into the rebellion.

Mr. President, I think with the Attorney General in relation to most of the points covered by his opinion that he has properly interpreted the acts of Congress. I have already said that I think he is mistaken in one particular at least, but I think he has properly construed those acts in almost every other particular; and I rely, in corroboration of the correctness of that opinion, upon the bill on your table. The first section is perhaps inconsistent with the idea that the Judiciary Committee concur in opinion with the Attorney General, and the fifth section may show also that they differ with the Attorney General; but the second, the third, the fourth, and the sixth are all new enactments, not passed, as I understand it, looking to the bill with a view to correct any misconstruction of the original legislation, but passed because, in the judgment of the committee, and I suppose that will be the judgment of the Senate, it is important that some additional provision should be incorporated into the laws before the States come in.

For example, two sections are enough to illustrate what I mean. The fourth section confirms all acts of removal of civil officers by the military commanders and confirms all appointments. Now, what is the use of that if the military commander had the authority to remove under the original law? If he had the authority to appoint, it needs no vindication, no confirmation. It can only, as I think, be because it was supposed at least to be doubtful whether these commanders had either authority, the authority to remove or the authority to appoint.

Now, we come to the next section. That gives, in words, the authority to remove and the authority to appoint. It will not be pretended that those words are in the original acts. That is very clear. It will not be pretended at least that, looking to the original acts, it is not extremely doubtful if the construction is not obviously the other way, whether there was an authority to remove and appoint; and so in relation to the other sections. I consider the bill, therefore, in its main features as confirming the interpretation which the Attorney General has placed upon the acts of February and March last.

A word more, and I shall have done. Perhaps I said it in advance. If the honorable members of the Senate knew that officer as well as I do, and as well as others who have the pleasure of his acquaintance, private and professional, they would not for a moment harbor a suspicion that he would lend himself for any party purpose to misconstrue a law. His duty as Attorney General, his sworn duty when he is called upon by the President or any head of a Department, is to advise them upon legal points as he may conscientiously think the law is. That I have no doubt he has done. Whether he has done it correctly or not on the whole may be a matter subject to doubt; but that he has done it correctly in nearly every one of the points to which he has directed attention in my judgment seems to be clear, with due deference to the members of the Senate who may differ with me. Above all, I think, without meaning to disparage any member of the Senate, that it would be exceedingly difficult for any one of them to answer that opinion in the particulars to which I have adverted so as to carry conviction to a judicial mind.

Mr. SUMNER. Is the bill open to amendment?

The PRESIDENT *pro tempore*. Certainly.

Mr. SUMNER. Before offering some amendments which I have on my table, I desire to call the attention of the Senate very briefly to the character of this bill.

The subject of reconstruction has been before

Congress for many years. It first appeared in the Senate as a proposition of my own as long ago as February, 1862. From that time to this it has been constantly present. If at any time Congress has erred it has been from inaction and not from action. And now the same danger is imminent.

Mark, if you please, the stages. At every step there has been a battle. Nothing could be proposed which was not opposed, often with feeling, and sometimes even with animosity. I do not speak now of the other side, but of our friends on this side of the Chamber, some of whom have fought every measure.

To my mind nothing has been plainer from the beginning than the jurisdiction of Congress over this whole subject. Obviously it was not for the Executive, but for the Legislative. The President was Commander-in-Chief of the Army. That function was his. But he could not make States or constitutions, or determine how States or constitutions should be made. All that he did to this end was gross usurpation, aggravated by the motives and the consequences of his conduct.

Unquestionably the jurisdiction was in Congress; and I shall never cease to lament that it was not asserted promptly and courageously. Our delay has postponed the establishment of peace and reconciliation. Much as the President has erred, Congress has not been without its errors also. The President erred from assuming powers which did not belong to him; Congress erred from declining to assume powers which belonged to it. The sins of the President were of commission; the sins of Congress were of omission. The President did the things he ought not to have done; Congress left undone the things it ought to have done.

In the exercise of unquestioned jurisdiction Congress should at once have provided civil governments, through whose influence and agency the rebel States might have been shaped into republican forms. Such a proceeding would have been more constitutional and more according to the genius of our institutions than that which was adopted. It is hard to reconcile a military government or any government born of military power with the true idea of a republic. Tardily, too tardily, Congress entered upon the work; and then began hesitations of another character. Even when it assumed jurisdiction it halted. For a long time it refused to confer the suffrage upon the colored race. At last this was done. Then it refused to exclude rebels from the work of reconstruction, and when at last it attempted something its rule of exclusion was so little certain that an ingenious lawyer, by a written opinion, has set it aside.

There have been bills with riders, and after the passage of these bills there has been a supplementary bill with riders. And still further legislation is needed. Surely these successive failures have their lesson. They admonish us now to make thorough work.

If you will not establish civil governments, with the military power simply as a support, then at least do not hesitate to vacate the existing governments, which are so many roots and centers of sedition. All the officers of these governments, from the highest to the lowest, exercise an influence adverse to a just reconstruction. They are in the way of peace and reconciliation. They increase the essential difficulties of forming new governments. Through their influence a hostile spirit is engendered and sustained. Such an obstacle should be removed.

At the same time be careful that rebel influence is not allowed to prevail in the formation of the new governments. Of course this can be done only by excluding rebels during this transition period, until the new governments are formed. The rule of exclusion may be properly changed when loyal and republican governments have been established. My attention has already been called to cases deserving attention. For instance, there are naturalized citizens who have taken an oath to support the Constitution and afterward became rebels;

but they are not excluded. There are cadets at the Military and Naval Academies; persons who have contributed to rebel loans or invested money in rebel bonds or securities; contractors who furnished rebel supplies; also persons who, as authors, publishers, editors, contributors, or as speakers or preachers, encouraged the secession of any State or the waging of war against the United States.

Considering what we hear with regard to the boards of registration: that in some States they are of doubtful principles; that in some of the States colored persons are excluded, so that a large proportion of the voters have no representation in the boards; it seems to me that we ought by positive words to provide that the boards shall be constituted without distinction of color. Colored persons may be chosen to office, and I cannot doubt that we shall soon welcome colored Senators and Representatives to the national Capitol. Meanwhile the boards of registration must be kept as open as these Chambers; and no commanding general must be allowed to set up a rule adverse to the rights of a race.

A system of public schools without distinction of color should be required. This important duty must not be left to caprice or to the triumph of truth through local influence. Its performance should be enforced as essential to republican government in these States. You have required suffrage for all. You should require also education for all.

Provision should be made to invalidate the decrees of court in the rebel States which have not been voluntarily executed. This is necessary for the protection of loyal persons. Look, for instance, at Texas, where, according to recent report, immense sums have been taken by unjust decrees of court. If the remedy is not applied now, it is doubtful if the opportunity will not be lost forever.

In submitting a constitution to the people for adoption, it seems to me advisable that it should not be complicated by any election of officers, State or national; but that all elections should be postponed until after the approval of the constitution by Congress.

There should also be penalties provided for the violation of the act. The pardon of the President must not be allowed to confer a title to vote; and since officials have shown such a disposition to impair the efficacy of an act by interpretation, reducing it to a mere shadow, we ought to provide that it shall be interpreted liberally.

In making these propositions I ask that you should not hesitate simply because they may not be embraced within the terms of the original acts. Let us do now all that we can to make this measure of reconstruction just and beneficent. I know no other rule worthy of the Senate or adequate to the occasion.

In carrying out these ideas I propose to offer several amendments, which I will send to the Chair in order. I begin by sending to the Chair an amendment as an additional section:

*And be it further enacted,* That every constitution in the rebel States shall require the Legislature to establish and sustain a system of public schools open to all, without distinction of race or color.

Mr. TRUMBULL. That amendment is manifestly not in order under the rule of the Senate. I do not wish to take up time, and perhaps if we can get a vote upon it, it will do just as well as to raise the question of order.

Mr. SUMNER. That is all I ask.

Mr. TRUMBULL. Very well; let us vote.

Mr. SUMNER. I do not desire to debate it; but I should like to have a vote upon it. Let me have the yeas and nays on the proposition.

The yeas and nays were ordered.

Mr. TRUMBULL. I must insist upon the point of order, to be consistent with the action that I felt it my duty to take in regard to the amendment offered by the Senator from Missouri. He insists that inasmuch as his amendment was ruled out of order, the same question should be made upon all propositions of like character. This is a proposition to incor-

porate a provision in the bill which is not to carry out the original reconstruction acts, and I object to it, therefore, as out of order.

Mr. DRAKE. I wish to say, in reply to the remarks of the honorable Senator from Illinois, that I do not so much insist upon every other proposition being ruled out of order as I do that if you let other propositions come in that are equally objectionable in point of order with my own the Senate shall reconsider its vote and let mine in.

Mr. TRUMBULL. I make the point of order.

The PRESIDING OFFICER, (Mr. HENDRICKS in the chair.) The Chair would submit this question to the Senate except for the fact that the Chair is of opinion that it is exactly within the principle decided by the President of the Senate an hour since; and according to the ruling of the regular occupant of the chair, the Chair now holds this proposition to be out of order.

Mr. SUMNER. I do not wish to take up the time of the Senate. I had supposed the proposition would be submitted in another form without compelling me to take an appeal from the decision of the Chair. If the Chair will refer the disposition of it to the Senate that the Senate may vote upon it that is all I desire.

The PRESIDING OFFICER. That suggestion is entirely agreeable to the Chair, and so the question will be referred to the Senate.

Mr. SUMNER. The yeas and nays were ordered on the amendment, and I should like to have them on the proposition in that form.

Mr. JOHNSON. The Chair can certainly decide the question of order if he is clear in his opinion as to the question of order without referring to the Senate a question about which he entertains no doubt.

Mr. GRIMES. It has been decided two or three times already.

The PRESIDING OFFICER. The Chair has decided the question simply upon the precedent established an hour since, but upon the suggestion of the Senator from Massachusetts the Chair prefers to refer the question to the Senate; and the question is, is the proposition of the Senator from Massachusetts in order? Is the Senate ready for the question?

Mr. SUMNER. The yeas and nays have been ordered.

Mr. EDMUNDS. Not on that question.

Mr. SUMNER. On the original proposition.

Mr. TRUMBULL. You can have them if you want them.

Mr. SUMNER. Very well.

The PRESIDING OFFICER. They have not been ordered on the question now before the Senate.

Mr. SUMNER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POMEROY. I shall vote for this amendment of the Senator from Massachusetts whenever I can do so under the rules of the Senate. I do not apprehend that I can vote for it under the rule which has been adopted, and therefore I shall vote that it is out of order to introduce it.

Mr. WILSON. I think we had better vote on this proposition fairly, without any reference to this matter of rules. For myself I must say it does seem to me we ought to have the privilege of amending this bill as we choose. As to the amendment itself, it is one of those propositions that it is very hard to vote against; and still I have not a shadow of doubt that every one of these States will put this provision in its constitution. The people there of all parties are unanimous for it; and you might just as well require that they shall plant corn and cotton as a condition as to put this in; but still I can appreciate the moral effect of Congress putting it in. There is not a man in favor of restoring these States from here to the Rio Grande who is not in favor of common schools, and as strongly for them as we are ourselves. There is nothing so strong in that part of the country to-day as the proposition

to establish schools. Everybody is for it, of all parties and of all kinds.

The PRESIDENT *pro tempore*. The question is, whether this amendment is in order, on which the yeas and nays have been ordered.

The Chief Clerk proceeded to call the roll.

Mr. TIPTON (when his name was called) said: Before casting my vote I must say again, I am about to cast another vote in opposition to what ought to be common sense, and in opposition to what ought to be the usage and the rule of the Senate. I suppose that I must come to it, and confess that so beneficent a proposition as that of the Senator from Massachusetts is certainly out of order, and therefore I shall have to vote "no." That is the condition in which we find ourselves humiliated to-day.

The calling of the roll was concluded, and the result announced—yeas 11, nays 22; as follows:

YEAS—Messrs. Chandler, Dixon, Drake, Fowler, Harlan, Howe, Ross, Sumner, Thayer, Wade, and Wilson—11.

NAYS—Messrs. Anthony, Buckalew, Conkling, Cragin, Davis, Edmunds, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Tipton, Trumbull, Van Winkle, and Willey—22.

ABSENT—Messrs. Bayard, Cameron, Cattell, Cole, Conness, Corbett, Doolittle, Ferry, Fessenden, Guthrie, Morgan, Morrill of Vermont, Morton, Nye, Saulsbury, Sherman, Sprague, Stewart, Williams, and Yates—20.

So the amendment was ruled out of order.

Mr. SUMNER. I send to the Chair another amendment, which I am very sure must be in order, even under the stringent rule of the Senate. It is to insert the following proviso at the end of section five:

*Provided,* That no person shall be disqualified as member of any board of registration by reason of race or color.

I will explain that amendment. I have been told by gentlemen from Virginia that throughout that extensive State, where the colored vote is so numerous and is to exercise so important an influence over the destinies of the State, there is not a single colored person on any board of registration; the general there has excluded them. I feel that he was not justified in so doing. He ought to have constituted his boards of registration differently. They should have had a certain reference to the population, especially to the voters. They have no such reference; and the object of my amendment is to bring the bill in substantial harmony with the facts.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. CONKLING. I beg to inquire whether there is any doubt upon the law as it stands now that men otherwise qualified are eligible, notwithstanding they are black; and if there be no doubt on that point, I should like to know how the insertion of this provision will curb the disposition of any commander to make his selections among the whites rather than among the blacks?

Mr. SUMNER. I will answer the Senator, for I am accustomed to that class of questions on this floor. I remember when some two or three years ago I felt it my duty to move on one bill after another, that there should be no exclusion from the cars on the railroads on account of color, I was always encountered by learned lawyers, and by none more constantly than my excellent friend opposite, the Senator from Maryland, [Mr. JOHNSON,] with precisely the statement which my friend from New York now makes, that in point of law it was unnecessary; that under the actual law, the common law, there could be no exclusion on account of color; and yet, in the face of that common law, Senators about me all know that there was an exclusion from the cars on account of color, and the grossest outrages committed. Colored persons were precipitated into the streets, into the mud, in the rain, and they could get no remedy; and when I asked for a remedy, grave Senators said, "let them go to law; let them apply to the courts;" and

it was suggested to me that I, perhaps, had better volunteer as their counsel in court rather than appear in this Chamber. Now the question of my friend from New York is precisely in the same spirit. There is no doubt that—

Mr. TRUMBULL. Does this proviso give any remedy?

Mr. SUMNER. There is no doubt that under the existing law there can be no exclusion on account of color; nobody is for that reason disqualified from the exercise of any function. What is there to prevent a colored person from being a Senator of the United States; and who can doubt that within a very few months it will be our business to welcome a colored Senator on this floor? I cannot doubt it.

Mr. JOHNSON. How many?

Mr. SUMNER. That I do not know; but I ask you, who now look to the colored vote in these States as a means of security and peace, through which you are to find protection for this Republic and for your white citizens there as well as for themselves, to see to it that they have not this stigma put upon them by any commanding general who pretends to act by virtue of our legislation. It is not enough to tell me, therefore, that under the actual law colored persons may be designated. To that I reply, in the State of Virginia they have not been designated; and I wish now that Congress should take the matter in hand and say that any exclusion on account of color is without the sanction of law.

And now that brings me to the inquiry of my friend from Illinois as to the penalty I think, or as to the extent of the remedy.

Mr. TRUMBULL. The question was whether your proviso afforded any remedy.

Mr. SUMNER. That I will answer. My proviso affords precisely the same remedy that it afforded on the railroad bills. It is just in the same terms. I followed those terms because I know my friend likes good precedents, and we have enough of those on the question of the railroad cars. I think the Senate adopted that proviso at least half a dozen different times. There it is, without any penalty, and yet it has been most efficacious not only in these streets, but as an example throughout the whole country. And now adopt this proviso, and I am sure that it will be most efficacious with all our generals without adding any penalty. Should they exclude persons on account of color, it will be a violation of law; there will be no votes of thanks for them; no hope of golden spurs to-day. And, by the way, though I do not wish to be led aside from this discussion, I feel that I ought not to allude to General Schofield without expressing my doubt whether he does deserve the thanks of Congress for what he has done. I fear that he has been in many respects an impediment to a just reconstruction. At any rate, I have many letters from Virginia to that effect; and I merely call attention to the point simply by way of illustration of the necessity of some intervention on our part that this abuse should cease. The Senator from New York surely will not sustain the reasonableness of the present organization of the boards of registration in Virginia, where in that whole large State, now registering so many colored persons, there is not a single colored citizen on the board. Can he sustain that? Is it not unreasonable? Ought it not to be interfered with? Do not tell me there is nothing in the law to sanction it. It is there; it is done. Let us interfere to set it aside.

Mr. CONKLING. My inquiry was addressed to the case made by the amendment of the Senator from Massachusetts, and he answers by a reference to the legislation as to the street railroads here. I do not think the answer is a good one. The law as it stands now—not the common law, but the general understanding of mankind, not the statute law on this very subject—not only qualifies colored men for membership in boards of registry, but provides in different forms that there shall be no distinction as to their qualifications. The

Senator tells us that, despite that law, in one State at least, it happens in fact (he no doubt being right in saying that it is purposely so) that all the members of all the boards of registry are white men; and now he proposes as a practical measure to enact, in the language of his amendment, that color shall not disqualify—that is the word—that color shall not disqualify men from holding positions upon those boards; so that we have this case: first, a set of statutes which says much more strongly than this amendment says, because I think it is rather a provision of dilution than of strength—we have provisions which say there shall be no distinction whatever in this respect on account of race, color, or previous condition of servitude. Then we have the defiance or evasion by one of these commanders, the Senator thinks, of those provisions, and we have in this State to which he has referred boards of registry appointed, who have been executing their duties, and the same men to the end, unless we turn them out, are to continue such registers; and now, by way of a practical cure of this evil, a provision is presented to us which says that color shall not in the future be a disqualification to membership of these boards.

Mr. President, I think the Senator will see that to whatever other ends this amendment is adapted it has not the slightest effect in curing the difficulty of which the Senator speaks. In the first place, these boards are already appointed, and are to go on. In the next place, if they were not, if the whole thing was *in futuro*, when you have already on the statute-book provisions that black men just as much as white men are eligible, and the commander is left to choose, unless you have some provision which is to curb him, which is in some way to rein his natural disposition, it is a mere bull at the comet to repeat over again that black men shall not be disqualified.

Mr. JOHNSON. He might take all blacks.

Mr. CONKLING. Certainly, he might take all blacks if he pleases; and he might take all blacks under this provision; and so undoubtedly he might take all whites; and therefore my suggestion is that we are legislating in a circle; that we come out exactly where we go in; and that we cumulate upon the statute-book provisions, the phraseology of this particular one being, I submit to the Senator, not quite so strong, not quite so well, not quite so binding as two or three others on this subject now. If it gave any additional strength to the bill; if it tended in any degree to accomplish the purpose which the Senator has in view, I say to him I should vote for it with great pleasure, as I should always have voted for any provision which was likely to prevent the inhumanity, the barbarity, the incivility to which persons of a particular condition or color may have been subjected in the railway cars. But I do not wish, for one, to vote for an amendment which I think carries nothing with it, but which simply encumbers the bill with unnecessary, and, I might say, verbose provisions.

Mr. WILSON. General Schofield made his appointments very early. I regret to learn that no colored men were placed upon the boards of registration. I did not know it was a fact before; for so far as I have seen or heard from General Schofield I have certainly seen and heard that he has a disposition to do what is fair and just in this matter of reconstruction. General Sheridan made his appointments very early, and he appointed no colored men upon his boards. I believe recently there have been some vacancies which have been filled by colored men. General Pope, in making his boards of registration in Alabama and Georgia, put one colored man on every board. General Sickles has not yet appointed his boards; and I have no doubt myself that General Sickles, certainly with the feeling in the country, will appoint some colored men upon his boards. I have every reason to think so because I have conversed with him on that subject. I certainly see no harm that can be done by putting this amendment into this bill. It is not mandatory; it can compel nothing; but it

is an expression of the feeling of Congress if it is put in.

Mr. CONKLING. That is the reason why it is useless, because it can compel nothing to be done under it.

Mr. SUMNER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 18; as follows:

YEAS—Messrs. Chandler, Cragin, Drake, Fowler, Grimes, Harlan, Howard, Howe, Nye, Pomeroy, Ramsey, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—18.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cattell, Conkling, Davis, Dixon, Edmunds, Fessenden, Frelinghuysen, Hendricks, Johnson, Norton, Patterson of New Hampshire, Patterson of Tennessee, Trumbull, Van Winkle, and Wiley—18.

ABSENT—Messrs. Cameron, Cole, Conness, Corbett, Doolittle, Ferry, Guthrie, Henderson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Saulsbury, Sherman, Sprague, Stewart, and Williams—17.

So the amendment was rejected.

Mr. SUMNER. I offer another amendment, to come in at the end of the bill as a new section:

*And be it further enacted*, That there shall be no elections of State or national officers under any new constitution until after the same has been approved by Congress.

Mr. TRUMBULL. I raise the question of order upon that amendment. It is a direct repeal of a clause of the former law which we are instructed to carry out.

The PRESIDENT *pro tempore*. The Chair will refer that question to the decision of the Senate. The question will be whether the amendment offered by the Senator from Massachusetts is in order.

Mr. SUMNER. On that I hear no reason assigned for its not being in order.

Mr. EDMUNDS. It is directly contrary to the rule.

Mr. SUMNER. In what way?

Mr. TRUMBULL. The law as it exists provides for elections.

Mr. SUMNER. But this is that there shall be no election of officers, State or national, under any new constitution until it has been approved by Congress.

Mr. TRUMBULL. But the law we have passed provides for members of Congress being elected.

Mr. SUMNER. But it does not go into details. This goes into details.

Mr. TRUMBULL. It is unnecessary to take up time about it; but the Legislature has to be elected in the State and take action ratifying our constitutional amendment; and this is directly at war with the reconstruction acts we have passed instead of being to carry them out. I submit that it is clearly out of order under the rule.

The PRESIDENT *pro tempore*. The question is whether this amendment is in order.

The question being put, the amendment was decided to be in order.

Mr. SUMNER. I offer another amendment, to come in as an additional section:

*And be it further enacted*, That in each of these States all judgments and decrees of court which have not been voluntarily executed, and which have been rendered subsequent to the date of the ordinance of secession in each State respectively, shall be subject to appeal to the highest court in the State, organized after the State shall be admitted again by Congress into the Union; but no such appeal shall be allowed unless the motion for the same shall have been lodged in the court or clerk's office of the court in which the decree was rendered within sixty days after the governor appointed under this act shall have entered upon the discharge of the duties of his office; and for all judgments rendered subsequent to such date, within sixty days after the same have been rendered.

Mr. TRUMBULL. I regret that my friend from Massachusetts, who must see that this is new legislation, and clearly not in order under the rule of the Senate, should insist on offering these amendments. It compels me to object to them as out of order under the rule which the Senate has adopted. This amendment is clearly not carrying out any provision that is in the reconstruction acts. I object to it as out of order.

The PRESIDENT *pro tempore*. The Chair will refer the question to the Senate. It is impossible for the Chair to assume to know all



there is in what are called the reconstruction acts; and if I did know I could not judge what would be an obstruction, or what would prevent obstruction. They who made the rule will understand it much better than I do, and therefore I refer it to the Senate to decide. The question is, is the amendment offered by the Senator from Massachusetts in order?

Mr. SUMNER. I wish the Senate to understand the bearing of this amendment. My attention has been called to the necessity of such a provision as this very often by gentlemen from the South, and especially by lawyers there. They tell me that without some such provision the grossest injustice will be done. Throughout the whole rebellion the local tribunals were sitting to administer justice; but it was not justice, but injustice that they administered. Under their decrees private rights were overthrown; and I doubt not that my friend from Illinois has recently read in the papers an account of an extensive injustice in Texas, where private property to, I should say, an almost incalculable amount was taken away by these unjust decrees. There they are, decrees of court by which property has been transferred.

Should there not be a remedy? I think all will say that there should be. Now this is, if I may so express myself, the last time of asking. If those States are once organized as States and received into the Union, I know not if you have the power of applying a remedy. That you have now I am sure. I cannot doubt your constitutional power at this moment to set aside all those decrees so far as they have not been voluntarily submitted to, or subject them, according to the provision of my amendment, to appeal in a higher tribunal after the reorganization of justice in these States. Is not the proposition reasonable? Is it not to serve the ends of justice? If you do not accept it now, can you accept it at any time hereafter? And if you do not accept it now or hereafter, will not these parties go without a remedy? On that question I do not pronounce dogmatically. I do not mean to say that they will be absolutely without remedy; but I do not easily see their remedy. I see difficulties in the way, while at this moment I see no difficulties in the way.

Then I encounter the objection that this is not in order. Why not? Is not this to carry out your reconstruction bill, to smooth difficulties, to remove wrong, to establish justice? It may not have been specifically foreshadowed in your original bill or the supplemental bill; but I do submit that it is entirely germane to both of those bills. Besides, it is commended by an intrinsic justice which ought to make it accepted at any time.

The PRESIDENT *pro tempore*. The question is, is this amendment in order?

The question being put, the amendment was decided to be out of order.

Mr. SUMNER. I offer another amendment to come in as an additional section at the end of the bill:

*And be it further enacted*, That all the provisions of this act, and of the acts to which this is supplementary, shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

There is no objection to that on the grounds of order, I think.

The amendment was agreed to.

Mr. SUMNER. I offer another amendment, to come in at the end of section six:

And for the purpose of carrying out this, or any other act of Congress, all persons shall be considered as in the military or naval service as officers of the United States from the date of their being borne upon their respective Army and Navy registers as cadets and midshipmen or acting midshipmen.

Mr. TRUMBULL. I must object to that as coming strictly within the rule.

Mr. SUMNER. Not at all. It is by way of interpretation. I can explain it so that I think I can have the Senator's consent to it. Our act has been interpreted in this way: that persons in the Military or Naval Academy are not considered as officers in the mili-

tary or naval service, and therefore excluded when they have gone over to rebellion. The object of my amendment is simply to put persons who, being cadets, naval or military, then went over to rebellion, on the excluded list. That is the whole of it. It is doing it by interpretation. It is declaring that under the list of officers in the Army and Navy we intended to include cadets. Are they not officers, embryo officers? I submit to my friend that his objection is not well taken.

Mr. TRUMBULL. I have no objection to those persons being treated, and certainly suppose they ought to be treated, as officers who were excluded. I think a cadet in the Military Academy or a midshipman in the Naval Academy is in our service, and I understand them to be in our service.

Mr. SUMNER. But they are not excluded.

Mr. TRUMBULL. If they abandoned our service and went into rebellion I think they are within the law; and if an amendment of this kind is necessary to make it more clear I see no special objection to it. I will ask to have it read again. I thought there was something more in it.

The Chief Clerk again read the amendment.

Mr. TRUMBULL. "Or any other act of Congress." I do not know what that might apply to. If the Senator will strike out those words, I have no objection to the amendment. I will not object to it as a question of order.

Mr. GRIMES. I will inquire of the Senator from Massachusetts what effect this amendment would have upon the pay, emoluments, and rank of these persons? They are not now officers. By the interpretation that is proposed to be given, they will be made officers of the United States.

Mr. SUMNER. Only made so for the purposes of this bill, for this act alone. I will strike out the other words to which the Senator from Illinois referred.

Mr. GRIMES. In the first place, not a single military or naval cadet will, I apprehend, come under the operation of it if it receives the construction which the Senator from Massachusetts gives it. I imagine, however, on an examination of it, nobody can tell what the construction will be. The sentence is so involved that nobody can construe it. I call for its reading again.

The PRESIDENT *pro tempore*. It will be reported as modified.

The Chief Clerk read the amendment, as follows:

And for the purpose of carrying out this act all persons shall be considered as in the military or naval service as officers of the United States from the date of their being borne upon their respective Army and Navy registers as cadets, midshipmen, or acting midshipmen.

Mr. SUMNER. It is very plain. There can be no objection to it.

The PRESIDENT *pro tempore* put the question, and declared the yeas appeared to have it.

Mr. SUMNER. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. HENDRICKS. I am sure I cannot tell what will be the legal effect of this language. It is not safe to adopt it in this bill. It is not important, and the suggestion of the Senator from Iowa I think ought to admonish us not to adopt it.

The Chief Clerk proceeded to call the roll on the amendment.

Mr. FESSENDEN (after having first voted in the affirmative) said: I usually follow the committee, and I only voted "yea" because I understood the chairman of the committee to have no objection to the amendment; but as I see he votes against it I shall change my vote and vote "nay."

The result was then announced—yeas 13, nays 21; as follows:

YEAS—Messrs. Cattell, Drake, Fowler, Frelinghuysen, Harlan, Howard, Pomeroy, Ramsey, Sumner, Thayer, Tipton, Wade, and Yates—13.

NAYS—Messrs. Anthony, Bayard, Buckalew, Conkling, Cragin, Davis, Dixon, Edmunds, Fessenden, Grimes, Henderson, Hendricks, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of

Tennessee, Ross, Trumbull, Van Winkle, Willey, and Wilson—21.

ABSENT—Messrs. Cameron, Chandler, Cole, Conness, Corbett, Doolittle, Ferry, Guthrie, Howe, Johnson, Morgan, Morrill of Vermont, Morton, Nye, Saulsbury, Sherman, Sprague, Stewart, and Williams—19.

So the amendment was rejected.

Mr. SUMNER. I offer another amendment to come in as an additional section:

*And be it further enacted*, That any person who shall prevent, or attempt to prevent, the execution of this act, or either of the acts to which this act is supplementary, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding \$5,000, or imprisoned one year, or both, at the discretion of the court.

I take that from the House bill. It seems to me it is an improvement on ours. Ours has none.

Mr. TRUMBULL. That is an unusual provision to insert in a bill of this kind. I know it is in the House bill, but I think it is obnoxious to objection as coming within the rule under which the Senate is acting. But whether that is so or not, it is an unusual provision, and I myself would not insert it. I do not believe in that kind of legislation. I shall not, however, raise any question of order in regard to it, for I am not sure but that it is in order. I submit it to the Senate; if they think proper to adopt it, very well. I shall take up no time about it.

Mr. BUCKALEW. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOWE. I wish the amendment might be reported again.

The Chief Clerk read the amendment.

Mr. HOWE. I will ask if the Senator does not mean to limit that to those who attempt to prevent it by force?

Mr. SUMNER. Should it be so limited? Is not the offense the same whether they do it by force or in any way? Suppose they do it by fraud?

Mr. FESSENDEN. Suppose they do it accidentally; are they liable to punishment for a misdemeanor?

Mr. SUMNER. They must show an intention.

Mr. HOWE. Suppose that some one, putting a different construction upon the act from what we do, thinks that something is attempted to be done under it which the act does not authorize to be done, and commences a suit; or suppose the Attorney General should give an opinion, by and by, upon some clause of this act which is different from our opinion of its true construction, would that be regarded as an attempt to prevent the execution of the act?

Mr. POMEROY. Yes.

Mr. HOWE. The Senator from Kansas says yes; and would it subject him to a fine of \$5,000? I suppose if that consequence would be entailed upon the Attorney General it would be entailed upon any other lawyer who should be consulted by his client, and should happen to give a wrong construction of it, and subject him to a fine of \$5,000. I guess I will vote against it, if that is the fact.

Mr. EDMUNDS. When the Senator from Massachusetts first proposed this amendment, it struck me favorably upon general principles of law that there ought to be a penalty attached to every infraction of the law; but when I am reminded, and recollect that this bill is a military bill, and the bills to which it is supplementary are military bills, and that in these bills it is provided that all infractions of these laws shall be prevented by force and punished by a trial by military commission, it appears to me that if we were at the end of this bill to put on this penal, municipal section, providing for a penalty, which implies a civil court of the United States to enforce it, an indictment by the grand jury and a trial in a circuit or district court, we undoubtedly oust, by express enactment of this section, the military tribunals and the military commander of any power to prevent the violation of these laws. Hence, in my opinion, it would be entirely mischievous, as I reflect upon it, to interpose a civil

penalty of this kind at the end of the bill, which, as it appears to me, we should run great risk in doing by entirely ousting the military jurisdiction of the commission which we intend to try all objections to this measure on the spot.

The question being taken by yeas and nays, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Cameron, Chandler, Fowler, Grimes, Harlan, Howard, Pomeroy, Sumner, Thayer, Tipton, Wade, Williams, and Yates—13.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cattell, Cragin, Davis, Dixon, Drake, Edmunds, Fessenden, Frelinghuysen, Henderson, Hendricks, Howe, Morrill of Maine, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Trumbull, Van Winkle, and Willey—24.

ABSENT—Messrs. Cole, Conkling, Connors, Corbett, Doolittle, Ferry, Guthrie, Johnson, Morgan, Morrill of Vermont, Morton, Saulsbury, Sherman, Sprague, Stewart, and Wilson—16.

So the amendment was rejected.

Mr. HOWARD. I offer an amendment to insert at the end of section five, the following:

But in every case of a refusal by the board to register an applicant, and in every case of striking his name from the list, as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list.

Mr. TRUMBULL. A great many amendments have been proposed to this bill, which, in themselves, seem right enough at first blush, and this is of that character. But the difficulty about this amendment, and some others is, that it makes the bill so cumbersome that we could never execute it. I submit to my friend from Michigan, that if all the boards of registration in the South, of which there must be hundreds, are required to note down opposite the name of each person whom they strike off the list or add to the list, the reasons for so doing in brief, and that is to go to the commanding general, you will have a mass of returns that it will be impossible to examine and pass upon; and by this provision you give the commanding general no power to revise them. When he gets them what is he to do? It seems to me that it will encumber the bill and will add so much labor and machinery that it will be difficult of execution. The object which the Senator from Michigan has in view, of having these lists correct, having nobody on them who ought not to be on them, and everybody admitted who ought to be admitted to register and vote, I of course entirely concur in; but I think we had better leave the bill in this respect as it is. This amendment would make it so cumbersome that it would be difficult, if not impracticable altogether, to execute it.

Mr. HOWARD. Undoubtedly the labor implied by the amendment which I have offered would somewhat increase the labors of the various boards of registration; but we pay those gentlemen for their services, and I suppose we shall pay them liberally. I do not apprehend that they will complain particularly of being kept in the public service under good pay.

It will be observed, Mr. President, that a very broad judicial discretion is given to the various boards of registration by this bill. It is for them to determine, according to the terms of the bill, who shall be registered and who shall not. Their judgment on that particular question is absolutely final, and there is no appeal from it to any tribunal or any person in the world. I see the necessity plainly enough of giving to these boards some judicial power, some ability to inquire into the qualifications of persons who present themselves for registration beyond and outside of the mere oath which the applicant may take and present to the board. I do not believe with the Attorney General that even under the law as it now stands, the taking of the oath is of itself conclusive to show that the applicant is a voter; but in order to remedy that difficulty which has been raised by the Attorney General, the Committee on the Judiciary of this body have very properly incorporated in this bill a sort of judicial authority to inquire and hear and decide

upon the qualifications of applicants for registration; but they put no sort of constraint or qualification upon this power. The power is of such a nature as expressed here that it may be very easily abused. For instance, it is very possible to occur that there will be boards of registration who will take it into their heads that a negro shall not be allowed to register his name at all; and there is an opportunity for the exercise of this power in every conceivable whimsical way, much to the injury of the honest applicant who is entitled to vote. Again, the same unlimited discretion is given to the board over the question of striking the name of a person who has already registered from the list for causes which they may see fit to be governed by. They are made responsible to nobody. There can be no inquiry made into their action.

The object of my amendment is a very simple one. It is to require them, whenever they reject an applicant, to state briefly, in the form of a memorandum, not on the list itself, as seems to be the idea of the honorable Senator from Illinois, but in some way—it may be upon a separate piece of paper or in a separate book—the grounds of the rejection of the applicant; and in cases where a name has been registered and stricken off by the board, requiring them to state the reasons why the name is stricken off. These memoranda accompany the list of registered voters, and pass into the hands of the commander of the district. They are there for preservation, of course. When these constitutions have been made in pursuance of this registration, and the election and ratification by these same voters after the constitutions have been made, they are to be submitted to us for our examination; and unless we are satisfied, in the language of the supplemental act of March last, that the thing has been fair and without fraud, we are not bound to ratify the constitutions, or to admit the State into the Union. This memorandum will therefore be the only evidence which it will be in the power of Congress to obtain, of an official character, to demonstrate fraud, irregularity, force, violence, or any other objection which may in fact arise against the ratification of the Constitution. We can send for them; we can call on the general himself, or by a call made through the Secretary of War, or through the General of the Army, we can obtain this same information; and I do not think that the memoranda will be so voluminous as to make it impossible for us to handle them or use them.

I differ somewhat from the Senator from Illinois in that respect. I think they will not be very voluminous, and that they will not greatly increase the labor of the boards of registration. But, after all, unless we enact some such clause as this, these boards of registration may exercise their authority unjustly, whimsically, injuriously to the voters, or to some class of voters, and the case be absolutely without remedy, unless Congress should see fit to issue a roving commission to take the testimony of a thousand different witnesses to prove fraud and irregularity in the election. I really think the amendment had better be adopted.

Mr. CAMERON. I move that the Senate take a recess until eight o'clock to-night.

Mr. TRUMBULL. I hope not; I think this is the last amendment to be offered. My friend from Massachusetts told me he had no more. I think we can get through with the bill in thirty minutes.

Mr. CAMERON. I am afraid not. There will be so many amendments offered.

Mr. CONKLING. Let us go on and try a little while.

Mr. CAMERON. I think we had better take a recess, and meet again at eight o'clock this evening.

Mr. TRUMBULL. We do not want to meet in the evening if we get through the bill, and I think we shall get through in thirty minutes if the Senator will let us try.

Mr. CAMERON. Well, I will give you fifteen minutes. I withdraw the motion.

Mr. HENDRICKS. I am in favor of the

amendment proposed by the Senator from Michigan, for the simple reason that I think it is the only restraint, check, or limitation that is put upon these boards if they do wrong and illegal things. There is no report provided for; there is no mode of ascertaining what they are doing, and there is no check. As this is a check, I shall vote for the amendment.

The question being put, there were on a division—yeas 14, noes 11; no quorum voting.

Several SENATORS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 11, as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Chandler, Cragin, Davis, Drake, Grimes, Henderson, Hendricks, Howard, Howe, Morrill of Maine, Nye, Patterson of New Hampshire, Ross, Thayer, Wade, Wilson, and Yates—20.

NAYS—Messrs. Anthony, Conkling, Edmunds, Fessenden, Fowler, Frelinghuysen, Pomeroy, Ramsey, Trumbull, Van Winkle, and Willey—11.

ABSENT—Messrs. Cattell, Cole, Connors, Corbett, Dixon, Doolittle, Ferry, Guthrie, Harlan, Johnson, Morgan, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Saulsbury, Sherman, Sprague, Stewart, Sumner, Tipton, and Williams—22.

So the amendment was agreed to.

Mr. DAVIS. I rise, Mr. President, to state an objection to the passage of the bill and to read a few authorities in support of that objection, not to occupy much of the time of the Senate.

Mr. HENDRICKS. If the Senator will yield the floor, I will move that we take a recess until seven o'clock.

Mr. SUMNER. Why not go right on now?

Mr. HENDRICKS. There are some personal reasons.

Mr. TRUMBULL. I hope we may hold on to this bill.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. CAMERON. I think it is evident that we must have a night session.

Mr. CONKLING. I do not understand that the Senator from Kentucky, who is entitled to the floor, expresses any inclination for an adjournment; on the contrary he is ready to proceed; and I do not see why other Senators should interpose.

Mr. CAMERON. I believe the Senator from Kentucky is willing to yield. I think it will be more convenient to all of us to take a recess now.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield the floor for the motion that is indicated?

Mr. DAVIS. I am willing to abide the pleasure of the Senate in relation to proceeding or taking a recess; but my friend from Missouri [Mr. HENDERSON] requests me to give him the floor for a moment to offer an amendment. I am disposed to afford him that courtesy.

Mr. CAMERON. We shall have to occupy a great part of the night before we get through with this bill, and therefore I think we had better take a recess, so that gentlemen may go home and get their dinners and come back here and go on. My motion is that the Senate now take a recess until eight o'clock this evening.

Mr. TRUMBULL. I trust that motion will not prevail. It is known, I presume, to the members of the Senate that the House of Representatives have taken a recess until that hour, eight o'clock, with a view of acting upon this bill to-night. I myself have been approached by some members of the House to know if we could not get this bill through so that they may have it to-night. There is great anxiety to have early action upon it. We have arrived at that stage in regard to the bill that I think the amendments are entirely through, except, perhaps, a verbal amendment which my friend from Missouri [Mr. HENDERSON] thinks of suggesting; and at this hour I think we may finish the bill in a very short time, and let the other House have it, and then we can adjourn until to-morrow. There is no object in our being here to-night. If we go away now and come back after an hour or an hour and a half, the result will be that new debates will

spring up which are exhausted at this time, and we shall be here perhaps through the whole night, and pass the bill some time to-morrow morning; we all know what these night sessions are; and by that course the House of Representatives will have no chance to act on it to-night. I appeal to Senators, when we have the bill in this condition, to stay an hour and let us finish it. I hope the motion for a recess will not prevail; and on that question I call for the yeas and nays.

Mr. CAMERON. Very well, Mr. President, I am never alarmed at anybody calling for the yeas and nays, for I think a Senator ought not to be afraid to cast his vote. But, sir, I do not believe this question is going to be decided within half an hour, or an hour, or an hour and a half. If I did I should be content to wait; but I believe it will take hours yet to dispose of the bill, and I think it is better for the interests of the country that the question should be decided deliberately. I propose, therefore, that we now take a recess until eight o'clock. I believe if we do not do this we shall occupy a great part of the night. I want to give my friends a chance to go home and come back prepared to dispose of the measure in good feeling and temper. I think we shall save time for ourselves and do good to the country by this course. You cannot curtail this debate. My friend from New York [Mr. CONKLING] may smile as much as he pleases. Young gentlemen think older ones are not so wise as themselves. [Laughter.]

I want this question disposed of this week. I want the bill to be sent to the President, and I want him to take the responsibility of signing it or sending it back. If he does so at once, we can go home; but if he does not, we may have to wait ten days under the Constitution until he decides. I do not know what he will do; but it is for him to take the responsibility. I hope we shall go away now and come back three hours hence to listen to what gentlemen have to say.

The PRESIDENT *pro tempore*. On this question the yeas and nays have been asked for.

The yeas and nays were not ordered.

The PRESIDENT *pro tempore*. The question is on the motion that the Senate now take a recess till eight o'clock.

The question being put, the motion was declared to be rejected.

Mr. CAMERON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 9, nays 25; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Davis, Hendricks, Norton, Ross, Thayer, and Wade.—9.

NAYS—Messrs. Anthony, Bayard, Cattell, Conkling, Cragin, Drake, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Howard, Howe, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sumner, Trumbull, Van Winkle, Willey, Wilson, and Yates.—25.

ABSENT—Messrs. Cole, Conness, Corbett, Dixon, Doolittle, Ferry, Fowler, Guthrie, Harlan, Johnson, Morgan, Morrill of Vermont, Morton, Salsbury, Sherman, Sprague, Stewart, Tipton, and Williams.—19.

So the motion was not agreed to.

Mr. HENDERSON. Before the Senator from Kentucky proceeds, I desire to suggest an amendment in section seven, line nine, to strike out the word "three" before the word "days" and insert "five," so as to give five days for an examination of the registration lists.

Mr. TRUMBULL. That is merely extending the time two days, and persons somewhat familiar with the registration in these States seem to think three days is too short. I have no objection to its being changed to five.

The amendment was agreed to.

Mr. DAVIS addressed the Senate. [His speech will be published in the Appendix.]

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The Senate as in Committee of the Whole have made several amendments to the bill, and the question is in concurring in the amendments made as in Committee of the Whole.

Mr. BUCKALEW. I ask for a separate

vote on the first amendment offered by the Senator from Massachusetts, [Mr. Wilson.]

The PRESIDENT *pro tempore*. That will be excepted.

Mr. TRUMBULL. That is the amendment relating to the appointment of civilians?

Mr. BUCKALEW. Yes, sir.

Mr. TRUMBULL. Let the vote be taken on all the other amendments together, unless some Senator asks for a separate vote on a particular amendment.

The PRESIDENT *pro tempore*. If there be no objection, the question will be taken on concurring in all the other amendments, with the exception of the one named by the Senator from Pennsylvania.

The remaining amendments were concurred in.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment excepted by the Senator from Pennsylvania, which will be read.

The Chief Clerk read the amendment, which was in section two, line eighteen, after the word "Army" to insert the words "or by the appointment of some other person;" so as to make the clause read:

And upon such suspension or removal such commander, subject to the approval of the general aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army, or by the appointment of some other person to perform the same.

Mr. BUCKALEW. I desire to say a word on that. This amendment was adopted, I believe, by a vote of twenty to fifteen in committee, and a number of Senators who supported the amendment at that time did so upon the ground of curtailing the military authority and not confining this work of reconstruction to that class of appointees. Now, sir, I do not know that I have a very clear impression with regard to the whole machinery to be applied in the southern country under the former laws and under the present; but I think the complexion of the enactments, taken together, is extremely partial; that they will in effect, if not in intention, be calculated to produce unfairness at the elections. I do not know what was the motive actuating the committee in providing that these appointments should be confined to military officers and subordinates. I believe there has been no statement of the reasons which operated on the committee to carefully insert this provision in the bill.

The Senator from Massachusetts [Mr. Wilson] I believe stated that there were not officers enough already detailed on service in that section to fill up all these boards, or to fill up the vacancies in all these boards. It seems to me our Army is sufficiently numerous for that purpose. We know that we have a large superabundance of officers, as compared with the rank and file, in the military service, and if there be a demand for officers of inferior ranks liable to be appointed for the performance of these duties, I dare say there will be little difficulty in detailing an adequate number, and having the business pertaining to elections, so far as is contemplated in the former laws, carried on by military officers, making the whole system homogeneous throughout, and confining the action to the military of the country, who will be responsible to the law and responsible to public opinion.

Now, sir, I am afraid that under the amendment of the Senator from Massachusetts—perhaps he has not sufficiently considered the effect of it, nor looked at the consequences—these appointments will all become exclusively partisan; that they will be selected from the most violent, perhaps the most unfair men politically; and that a very considerable effect will be produced upon these southern elections in regard to fairness. We know that in the large districts of country over which these laws operate there were few persons—scarcely any persons of position, of standing, of capacity—who were not in some way connected with

the rebellion; and under these laws it is impossible to appoint persons to these offices who are not qualified to take what is called, in derision sometimes, the "iron-clad oath." That oath confines these appointments, therefore, to two classes of appointees, to wit, military officers or privates, and those few persons, perhaps not always men of character and competency in the southern communities, who can take that oath and who were not connected with the rebellion.

Now, sir, I would leave it to these military commanders, in making these selections, to select honorable and competent men in the several communities where the work is to be done; and I see no more reason to confine them in their choice in this respect than there is to confine the right of voting at the elections still more stringently than it is confined by the former law.

By the acts passed in March the whole machinery of registering these voters is committed to our five military commanders. We know that they all belong to the political majority in their opinions. Very extensive powers are given them, not only in making these appointments, but in superintending the whole proceeding afterward; and you give them power to fill all vacancies. They go to their work with the inclination on their minds, or the disposition on their minds, to favor a political party in the administration of this system. If they do not carry it beyond the bounds of fairness and justice we cannot complain. Then, in the next place, you have spread within this whole section of the country the machinery of your Freedmen's Bureau, with its numerous agents and its enormous disbursements of the public money; and we know that all the appointees of that Bureau sympathize politically with the party in the majority, and that taken together they constitute an enormous political influence, distributed through the whole of this section of country with which our legislation is concerned.

Now, sir, by the present supplement which you are about to pass, you give to these military commanders additional powers over this proceeding of the election. They are to appoint all the persons who are to hold the elections, every election officer; and the presumption is, that there will not be a single appointee put upon those boards, in view of the fact that they are required to take the iron-clad oath, and in view of the fact that they are appointed by these military commanders, whose political sympathies are not in a particular direction; or at all events, so far as appointments from the Army are concerned, they will be men who do not sympathize with the South or entertain any secession proclivities.

Now, the amendment of the Senator from Massachusetts is to permit appointments to be made out of the political class of civilians to complete these appointments and make the political complexion of this machinery complete and sweeping from beginning to end. Is it not sufficient when you exclude the men who participated in the rebellion from having anything to do with the registry or the holding of the election? Is not that a sufficient guaranty? If it be possible, then, to appoint military officers of inferior rank under these commanders, who will select prudent and proper men no doubt, if it be possible to appoint such persons to hold these elections, there will be a greater guarantee against fraud, against injustice, and against infamy and disgrace as connected with these elections. It looks to me that we do require some provision of this kind in the form in which it was reported from the committee to secure this system from falling entirely into the control of a political interest inflamed by warm and ardent passions, and making the whole system of reorganization odious.

Now, sir, I submit to the inevitable. I take these laws as they have been passed. I obey them as a citizen. I respect them, so far as I am called upon to respect them, in my public capacity. I am, for the time being at least,

content that they shall be executed in a fair and reasonable manner, and according to the spirit and intention with which they were enacted originally; but do not by amendments of this kind give such a complexion to this legislation as will render it odious and will provoke great dissatisfaction, and render the system much less satisfactory and the people concerned much less harmonious in regard to it.

Mr. WILSON. I shall not detain the Senate by further discussing this question. It was very fully discussed the other day. I will simply say that I trust the Senate will concur in the amendment. I do not think six hundred thousand or seven hundred thousand men ought to be entirely cut off and excluded from any participation in their government. Nearly all the offices held in those States under State authority, are held by men who have been appointed or elected for their devotion to the rebellion. That is the truth about it; while the Union men and the moderate class of men who have been compromised more or less in the rebellion are almost entirely excluded. I do not expect many changes to be made. If a change should be made for cause, it is certainly better that a person living there, knowing the people, knowing all about the laws and institutions of the State, should be appointed, than to pick up somebody out of the Army. I will state further that it is a fact that we are very short of officers in that portion of the country as we are in others. I state it, too, on authority.

The amendment was concurred in.

Mr. SUMNER. I now renew the proposition which I made before on which there was a tie vote. It is to insert at the end of section five the following proviso:

*Provided, That no person shall be disqualified as a member of any board of registration by reason of race or color.*

That is the only amendment I have to offer. If Senators will vote for that I shall not trouble them again.

Mr. HENDRICKS. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. As we are to have the yeas and nays upon the amendment, I wish to state my reason for voting against it, but not to take up any time. I entirely agree with the Senator from Massachusetts that no such distinction or disqualification ought to exist. The existing law absolutely prohibits any disqualification, which is the language of his amendment. But a disqualification or the absence of it is one thing, and the privilege of the military commander to select from among the whole body of those who are not disqualified is another thing. Now, my only objection to this amendment is what I have said and the fact that the law is exactly so now, and if we put a limitation of this description upon this section, it may lead any adverse official, who wants to construe it otherwise in the other section about appointments to civil offices, to say Congress intended to have this qualification to the other parts of the bill, because they have not put on a similar proviso. The amendment does that harm, and for that reason only, I shall vote against it.

Mr. SUMNER. I will not spend any time upon it. The point is, there has been an abuse which has come to our knowledge. We know that in whole States colored persons are excluded from the boards, and it seems to me that that justifies our intervention in that case. The question being taken by yeas and nays, resulted—yeas 21, nays 8; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cragin, Drake, Fowler, Frelinghuysen, Henderson, Howard, Howe, Morgan, Morrill of Maine, Nye, Pomeroy, Ramsey, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—21.

NAYS—Messrs. Buckalew, Davis, Edmunds, Hendricks, Patterson of Tennessee, Trumbull, Van Winkle, and Wiley—8.

ABSENT—Messrs. Bayard, Cameron, Cole, Conkling, Connors, Corbett, Dixon, Doolittle, Ferry, Fessenden, Grimes, Guthrie, Harlan, Johnson, Morrill of Vermont, Morton, Norton, Sprague, Stewart, and Williams—24.

Hampshire, Ross, Saulsbury, Sherman, Sprague, Stewart, and Williams—24.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed and read a third time.

Mr. TRUMBULL. I presume it is well understood in the Senate that the House has passed a bill on this same subject. We have now perfected a bill which has been under consideration in the Senate, and I believe considered all the amendments that any one desires to offer; and with a view of facilitating business between the two Houses, and that the action of the Senate may go back to the House as an amendment to their bill rather than send them a new bill, I move to lay aside the bill under consideration, the Senate bill, with a view to take up the House bill No. 123. If the Senate sustain that motion, I shall then move as a substitute for the House bill, by way of amendment, the matured bill of the Senate.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to lay aside the bill before the Senate, and proceed to the consideration of the bill mentioned by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. TRUMBULL. Unless some Senator desires it, I will not ask to have it read through. It has been on our tables, and been read twice before.

The PRESIDENT *pro tempore*. The reading of the bill will be dispensed with, unless called for by some Senator.

Mr. TRUMBULL. I now move to amend this House bill No. 123 by striking out all after the enacting clause, and inserting what I send to the Chair, which is the perfected bill upon which the Senate has been acting during the day.

The PRESIDENT *pro tempore*. The Senator from Illinois moves an amendment by way of substitute, which will be read if it is called for.

Mr. TRUMBULL. The Clerk has prepared the copy.

Mr. GRIMES. We all know what it is.

The PRESIDENT *pro tempore*. The reading of the amendment will be dispensed with unless called for by some Senator.

Mr. TRUMBULL. It is the bill upon which we have been acting that I have sent to the Secretary's desk. The Secretary has put upon our bill the amendments which have been made; and that is the bill which I now offer as a substitute for the House bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment by way of substitute.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. It was read a third time.

Mr. BUCKALEW addressed the Senate in opposition to the bill. [His remarks will be published in the Appendix.]

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 32, nays 6; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Conkling, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—32.

NAYS—Messrs. Bayard, Buckalew, Davis, Hendricks, Johnson, and Patterson of Tennessee—6.

ABSENT—Messrs. Cole, Connors, Corbett, Dixon, Doolittle, Ferry, Guthrie, Morrill of Vermont, Mor-

ton, Norton, Saulsbury, Sherman, Sprague, Stewart, and Williams—15.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next, and a concurrent resolution for an adjournment of the two Houses from the — day of July to Wednesday, the 13th day of November next, in both of which the concurrence of the Senate was requested.

A subsequent message from the House of Representatives announced that the House had passed a bill (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein designated, in which it requested the concurrence of the Senate.

#### MAURICE RICE EVANS.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a bill from the House of Representatives.

The joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next was read twice by its title.

Mr. POMEROY. I suppose that ought to lie on the table. To consider it is a violation of our rule.

Mr. CONKLING. I wish the Senator would yield to me a moment, that I may make a statement about that resolution. I do not know that the Senate will consent to make an exception of this measure, and yet I trust the Senate will indulge me in saying a word about it. It is the case of a young man who was nominated for appointment to the Naval School; and when he was nominated he was of the proper age to be sent there, and he is now of the proper age to go there; but unless a special examination is consented to by the Secretary of the Navy there will be no opportunity for him to be examined until some day in September, by which day his age will be greater than that falling within the statute. The Representative of his district made application to the Secretary of the Navy to dispense with the rule in some way or other, and was answered that except by a relaxation of the rule by Congress it cannot be done.

Upon this statement being made to the House of Representatives that House passed this joint resolution, and it comes here to us. The person to whom it relates I am told is a young man of great merit; there is every reason why he should go to the Naval School, and no reason why he should not; but his nomination reached here so late that he was not included in the general examination, and there is no other examination until September, by which time he will, for a technical reason, have lost forever eligibility to the Naval School. It seems a hard case; the House thought so, and passed this resolution. It is here; and it occurred to me upon the suggestion of the Representative to whose district he belongs that it might be the pleasure of the Senate to dispense with the rule that we have adopted and allow this resolution, being a matter so formal and so obviously unobjectionable, to pass. I do not wish to press it unduly upon the attention of the Senate; but if I can have the consent of the Senate to take it up I will ask that consent, or do it in the form of a motion to rescind our resolution for that purpose.

The PRESIDENT *pro tempore*. The joint resolution can be considered by the unanimous consent of the Senate.

Mr. TRUMBULL. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Will the Senator allow me to lay before the body a communication from the Secretary of the Interior?



Mr. TRUMBULL. I withdraw the motion for that purpose.

Mr. CAMERON. I hope the Senator from Illinois will withdraw his motion for a moment in order that we may—

Mr. TRUMBULL. I only withdraw it for the purpose of allowing the Chair to lay some papers before the Senate.

Mr. CAMERON. I think the Senator from Illinois will withdraw the motion when I appeal to his kindly feelings. I know he will, for I am sure he has a warm heart. Here is the case of a boy who, by no wrong or fault on his part, is excluded from examination; and all we ask is that you suspend your rule for a moment to allow this joint resolution to be passed, which merely gives him a chance to be examined as to his qualifications for the Academy. Who knows but that by sending him there you may send one who will prove to be a most able man when his time of service comes?

Mr. TRUMBULL. We are gaining nothing by this debate. I insist on the motion to adjourn, unless there be a desire to lay before the Senate the papers on the President's desk.

#### PACIFIC RAILROAD.

The PRESIDENT *pro tempore* laid before the Senate a communication of the Secretary of the Interior, transmitting, in compliance with a resolution of the Senate of the 6th of March last, the report of Brevet Brigadier General Simpson on the Pacific railroad and branches, submitted to the Secretary in February, 1867.

Mr. POMEROY. I move that those papers lie on the table.

Mr. HOWARD. And be printed.

Mr. POMEROY. I hope they will not be printed.

The motion to lay on the table was agreed to.

Mr. HOWARD. I withdraw the motion to print until there can be an examination of the papers.

Mr. TRUMBULL. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, July 11, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### MEMBERS SWORN IN.

Mr. HOTCHKISS. I desire to announce that Mr. RICHARD D. HUBBARD and Mr. WILLIAM H. BARNUM, members-elect from the State of Connecticut, are now present, and desire to take the oath of office.

Messrs. HUBBARD and BARNUM presented themselves, and were duly qualified by taking the oath prescribed by law.

#### ORDER OF BUSINESS.

The SPEAKER. The business first in order is the consideration of the concurrent resolution relative to adjournment, which was pending when the House adjourned last evening. On this question the gentleman from Massachusetts [Mr. BOUTWELL] has twenty-five minutes of his hour remaining.

Mr. BOUTWELL. I have agreed to yield temporarily to several gentlemen who desire to introduce business to which I understand there will be no objection.

#### AMERICAN SHIP-BUILDING INTEREST.

Mr. PHELPS. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on Commerce be instructed to inquire into the causes of the present decline of the ship-building interest in America; how far such depression is attributable to Congressional enactment, and how far it may be remedied by legislation, and to report by bill or otherwise.

Mr. ALLISON. I object.

#### BOUNTIES OF DECEASED SOLDIERS.

Mr. MOORHEAD, by unanimous consent,

submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs, when appointed, be requested to inquire into the expediency of amending the act of 28th July, 1866, giving additional bounties to soldiers, so as to provide that, in case of the death of the soldier, after his discharge from the service and before receiving the bounty, the same shall be allowed to his heirs.

#### PRIVILEGE OF RECORDING VOTES.

Mr. ROBINSON. I ask unanimous consent to make a motion to suspend the rules for the purpose of allowing to the gentleman from Connecticut, [Mr. HUBBARD,] just sworn in, the privilege of recording his vote, as he desires to do, upon the reconstruction bill passed by the House on the day before yesterday.

The SPEAKER. That would be contrary to the rules of the House. The Chair has no knowledge that the rules have ever been suspended to allow any gentleman, not a member of the House at the time of the passage of a bill, to record subsequently his vote upon it. If the gentleman from New York [Mr. ROBINSON] desires to test the question, he can do so at some time when there is no privileged question pending. Such a thing as the gentleman proposes has never been done heretofore.

#### MAURICE RICE EVANS.

Mr. VAN HORN, of New York. I desire unanimous consent to introduce a joint resolution authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next; and before the question is put I ask consent to make a brief explanation.

The SPEAKER. Is there objection to allowing the gentleman from New York [Mr. VAN HORN] to make a statement?

There was no objection.

Mr. VAN HORN, of New York. Mr. Speaker, when I was notified to send in the name of a candidate for appointment as a cadet in the Naval Academy, I supposed, misapprehending the law, that I could wait as I have done heretofore in reference to such nominations, as well as the nominations for appointment to West Point; and hence I postponed sending in a name until I should come to Washington to attend the present session. I went to the Department this morning for the purpose of presenting the name which I have for some time intended to present, that the candidate might be examined next September, when, as members will recollect, there is to be an examination of those who did not appear at the examination held between the 20th of June and the 1st of July. I find, however, that the young man whom I had intended to nominate will be eighteen years of age next August, while the law provides that the applicant for admission must be between the ages of fourteen and eighteen at the time of examination. But for my misapprehension of the law this young man would have presented himself at the examination in June last. All I desire now is that the Secretary of the Navy be authorized to admit to examination this young man in September next when others are to be examined, in the same manner as though he had appeared in June.

Mr. WOOD. Will the gentleman from New York allow me to ask him whether this applicant is black or white?

Mr. VAN HORN, of New York. He is white. I can see no objection to the introduction of the resolution.

There was no objection.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. FOX, by unanimous consent, was permitted to record his vote in the negative on the bill reported from the select Committee on

Reconstruction and passed day before yesterday.

#### IMPEACHMENT.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. BOUTWELL. Mr. Speaker, I do not, so far as I am concerned, propose to defer any further to the action of the committee. I believe that the committee have acted in good faith in this matter, but I am willing to trust to the judgment of the House as to whether there shall be a session in October.

The suggestion of the gentleman from Ohio [Mr. SPALDING] is objectionable to me in this particular in addition to the objection I made yesterday to his proposition, that the assembling of Congress in October should be contingent on the will of the majority to appear; and that reason is this: we know to-day distinctly and as well as we shall know in October next whether it is expedient to meet in October for the purpose of hearing the report of the Committee on the Judiciary and discussing the subject finally on that report. But I do think it is due in view of the gravity of this proceeding itself with reference to the charge before the House and a new proceeding in the history of this Government that will stand as a precedent for good or for evil; I say, sir, that it is due to the dignity of this House, to the reputation of the person accused, and to the character of the proceeding which shall remain after we have passed away, that we should find the time necessary for a fair and just judicial consideration of this question, and that we should not leave the matter to be involved in the mazes of party warfare which must exist during the next twelve months. It is an objection putting aside personal considerations, and putting aside considerations involved in the elections in certain States which cannot take place until November next; but it may be well suggested to gentlemen here who are personally and locally concerned in November next that the discussions may go on here if a quorum be present, and perhaps a quorum can be commanded in their place; and as what is said here is matter of public record, they can form a judgment on the proceedings nearly, if not quite, as well absent from the House as if present, it being only necessary that a quorum should be here for the purpose of considering this matter. Therefore if the House is ready for the vote I will call for the previous question.

Mr. PIKE. I appeal to the gentleman to let me offer an amendment to adjourn until the 11th of November.

Mr. BOUTWELL. I cannot consent to that. My conviction of the necessity of our meeting in October is so great that I cannot yield to it on my own judgment, but I shall accept the determination of the House.

Mr. PIKE. Let me say, then, that I propose to move an amendment, if I get the floor, to adjourn until the 11th of November, without any reference to the question of impeachment. I do not think that this House should hasten its meeting one day on account of the impeachment. I do not believe that the country wants to involve this question of impeachment in its business, as it must lead only to disturbance. I believe the country wants peace, that it wants time to recover from the waste of the war; and so far as the individual in the White House is concerned, it seems to me to stand in this way: that after having destroyed him politically, the only question that remains is whether we shall mangle his corpse. [Laughter.] For one I do not wish to excite the public sympathy in that way.

While saying this I do not wish to preclude any action on facts not within my knowledge. If the Judiciary Committee have facts not within the public knowledge sufficient to warrant impeachment, then, sitting here in my capacity of a Representative, I shall vote for it; but so far as public developments are concerned, for one I believe I act in consonance with the sentiments of the country, as I know I do with my own sense of right, if I shall not vote for that impeachment.

I place my motion to amend on other grounds. I desire an earlier meeting of Congress so that we may have an earlier adjournment in the spring. I think if we meet in November we may adjourn in May, and that the public business will be much better done; that it will be more fully and properly considered in November and December than in June and July next year. I hope, therefore, the previous question will be voted down, so I may have an opportunity to move my amendment.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, it is coming to what I supposed it would. There seems to be an idea growing in certain quarters of the House that the President was an innocent man, that he was a suffering man, that the country sympathized with him, and that Congress had been wrong all the time. It was coming to be the idea in certain quarters that it was vastly better to have a man in the White House who had persistently refused to execute the laws, and who would refuse to execute them, than a man who would execute them if he had the opportunity. When the gentleman from Maine [Mr. PIKE] said that the country did not want impeachment, he must have meant the country "away down East." [Laughter.] So far as the country about Lancaster was concerned there had never been any difficulty about it. I believe that the whole country believe that articles of impeachment ought to have been reported long ago. I believe that the delay is not in accordance with the sense of the community, is not in accordance with their sense of justice or propriety.

I have said this much in answer simply to the remarks of the gentleman from Maine, [Mr. PIKE,] which I do not believe express the views of one out of every hundred of the genuine Republicans of this country. I thank the gentleman from Massachusetts for his indulgence, and I will not trespass longer upon it, only wishing that the House might order a report at least partially at this session, so that the country may understand whether there is anything worthy of impeachment, or whether this movement is all against an innocent man, in whose favor gentlemen will vote against all impeachment.

Mr. SPALDING. I ask the indulgence of the gentleman from Massachusetts for one moment.

Mr. BOUTWELL. I will yield for a moment.

Mr. SPALDING. I said yesterday that at the conclusion of this debate I should interpose a motion to lay this resolution on the table. I give notice now that I shall not do that if the previous question is voted down, but shall offer an amendment to the same effect as the resolution under which Congress is now assembled, namely, that we meet, provided a quorum appears in each House, on the 16th day of October next, the same day named in the resolution. I have drawn up such an amendment.

The SPEAKER. The gentleman from Maine [Mr. PIKE] has already given notice of an amendment if the previous question should not be seconded, which is anterior to the notice of the gentleman from Ohio.

Mr. SPALDING. Very well.

Mr. PIKE. Will the gentleman from Massachusetts yield for a moment?

Mr. BOUTWELL. Yes, sir.

Mr. PIKE. I wish to say to the distinguished gentleman from Pennsylvania [Mr. STEVENS] that I do represent a district "down East," and am proud of it; and in my judgment the constituents of a member from "down East" have the same rights to be heard here as those of the district of the gentleman from Pennsylvania or any other district, and I propose while I am here to assert them. In relation to the present occupant of the presidential chair I have stated the popular sentiment of the country, as I understand it. It is one question whether he has discharged the duties of his office acceptably, and quite another question whether with him for a foot-ball this House shall enter upon the game of President-making.

The gentleman from Pennsylvania may wish to do it, but I do not. The practice is well out of vogue ever since the days of Crawford, and I am not inclined to resuscitate it. I am entirely willing to leave that question to the proper convention to be selected in the customary way next year, and I am unwilling by our action here to inaugurate a movement in favor of one aspirant or another; and that is the matter that now underlies in my judgment this most intense agitation on the question of impeachment.

Mr. BROMWELL. I wish to say a word on this question.

Mr. BOUTWELL. I will yield.

Mr. BROMWELL. In my opinion this House cannot console itself with any such reflection as that it can pass this subject over. This matter has gone too far for any House of Representatives to ignore the proceedings of this committee; and, whether it be in October or in January next, this House must sift the evidence, and must take some action either for or against the present incumbent of the presidential chair. The country demands this at our hands, and I know of no district of country in all the regions with which I have any acquaintance that considers this question unworthy the attention of the House. The people have chafed under the delay; they are angered at this hour because the House has not, in their opinion, sufficient energy in inquiring into the merits of this controversy between the people and the acting President. The people are weary with the delay in hunting up specialties and trifles when the grand, glaring fact stares them in the face that the Chief Magistrate has met both the last and the present Congress with the assumption of complete legislative power, exercising every attribute of a despot in this country, while Congress stood still and submitted.

The Thirty-Ninth Congress lingered out its life and never raised its voice in resistance. But the people are not so easy to be entreated, in my opinion, as the gentleman from Maine [Mr. PIKE] seems to think. I cannot conceive to what community in the United States he alludes when he draws the conclusion that the people are going to be satisfied with our ignoring the question of impeachment. They will not do it, sir. We may go on with it now; we may go on with it in October; we may put it off until March; but I tell you that whether we decide one way or the other, the question must be met by this House and be decided. I feel that I can certainly speak for the entire West when I say that they demand this of the House of Representatives of the United States. I know not what has influenced the Committee on the Judiciary or whether they have had sufficient time or not; but the people begin to think, considering the length of time spent in their investigation, it is about time that they should have discovered whether there is anything to be done, and the people demand to know whether they have made such a discovery, and to know it at once. It is no question of President-making. The very first principle, the very life of the Republic, is involved in the question whether there has been an impeachment offense committed by the President or not. It is not a question to be decided in a day. It will take time; but it is to be done and it will be done. The people will demand it. What we want to know is, what is the earliest possible day on which the committee can report upon this question; and let that be the day for the reassembling of this Congress, not for the purpose of impeaching the President, but for the purpose of deciding the question whether there has been any impeachable offense for us to try.

Mr. BOUTWELL. I will yield now for a moment to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. It seems to me that the duty of Congress is very plain in regard to this matter. For a long time this question of impeachment has been discussed both in Congress and out of it, through the newspapers

and by the people. The Committee on the Judiciary have spent months and months in taking testimony in regard to the charges against the President.

Now what is the duty of Congress? What do the people demand? It seems to me that our first duty is to require the Committee on the Judiciary to report the testimony they have already taken to the House that it may be printed, so that members of Congress and the people of the country may form a judgment with regard to its effect. Our next duty is to adjourn until such day in the fall when members shall have had an opportunity of examining the testimony and the people of the country shall have examined it, and we can then come together duly informed as to the facts. It is not so material that the committee should report their own conclusion at this time. We can form our own conclusions from the testimony, and so can the people of the country. The committee can present their conclusion when we assemble again; but in the mean time let the testimony which has been taken be reported to the House and printed, and let us have an opportunity of examining it. I do not wish to prolong this discussion. I have no certain idea whether Mr. Johnson ought to be impeached or not. I have some general idea, but I do not know what the testimony is. It seems to me, however, that if the committee was going to take any testimony on the question they must have taken it now. I give notice that I will at the proper time offer a resolution requiring the Committee on the Judiciary to report the testimony they have taken.

Mr. BOUTWELL. I yield now to my colleague on the Judiciary Committee from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. Mr. Speaker, I do not rise for the purpose of discussing the resolution now before the House. I desire simply to enter my protest against the remarks made by the gentleman from Maine, [Mr. PIKE.] He said, if I understood him correctly, that this proposition for impeachment is simply a scheme for "President-making." Sir, I repudiate that allegation as utterly unfounded and unwarrantable. I say to the gentleman that those who are in favor of impeachment are actuated by as pure motives as those who are opposed to it. I will not say, sir, that the gentleman from Maine is opposed to impeachment in order that he may prevent a particular man from becoming President of the United States; yet I might make that allegation with quite as much truthfulness and with quite as much evidence to sustain it as the allegation which has been made by the gentleman himself.

The gentleman tells us that the people, at least in his part of the country, are not in favor of impeachment. How does he know what will be the opinion of the people in any part of the country when they have seen and read and considered all the testimony upon this subject? Does any gentleman here expect that this question can be staved off, and that there shall be no consideration given to it? It is, as has been properly stated by the gentleman from Illinois, [Mr. BROMWELL,] a question that must be met; and gentlemen may as well prepare to "face the music" now as at any other time.

If the President of the United States shall not be found guilty of high crimes and misdemeanors when the evidence shall be presented against him, then, sir, it is due to this House, to him, and to the country that he should have the verdict of this body upon that question, and have it speedily. If he is guilty the country has a right to know it and to have the constitutional remedy applied.

Mr. BOUTWELL. The gentleman will excuse me for interrupting him; but I believe I cannot yield to him further, as I have promised a few minutes to the gentleman from Illinois, [Mr. ROSS.]

Mr. LAWRENCE, of Ohio. Very well, sir; I am sorry that I have not more time; but I yield, of course.

Mr. ROSS. Mr. Speaker, I am somewhat

surprised to hear gentlemen on this floor give their opinion as to what they will do in relation to impeachment. For my part, I am unable to determine what I shall do. As I understand, we have had a committee investigating this subject. The evidence taken before that committee has never been laid before the House; and consequently I do not understand how gentlemen can determine the manner in which they will vote, whether for or against impeachment.

All I desire to say on this subject is that in my judgment the time has come when this question should be brought before the House and the country for action. I do not pretend to say what my action will be in the case. I do not think any one can intelligently tell what his action will be before he has an opportunity to read and examine with care the testimony which has been collected by the committee. But, sir, it must be apparent to this House that the continuation of this subject in its present position before the country tends to paralyze the interests of the nation; and that the question should be determined in one way or the other.

Now, sir, in my judgment the committee has had sufficient time to collect the evidence; and we owe it to ourselves and to the country to require the committee to report at once to this House the testimony they have taken. If the chairman is not prepared with his report upon the testimony, give him time; but the House and the country are entitled to have before them the testimony which has been taken, and for one I am ready and willing to vote that the testimony be presented at once for our consideration and that of the people.

There is no propriety in procrastinating a subject of this kind. If the President has been guilty of that class of offenses with which he has been charged, we owe it to ourselves and to the country to impeach him at once. If he is innocent, that fact should be established that the country may be at rest. I have said that the continued suspense in regard to this question is paralyzing the industrial interests of the country. We feel it all over the great West. We want peace and quiet. We want this disturbing element removed. If the President is guilty, let him be impeached and removed at once. If he be not guilty, then let us so declare.

I know no reason why the committee should take so long a time to investigate this subject. It has, in my judgment, been before them long enough. As I understand, the sittings of the committee have been secret; yet gentlemen come here and announce how they are going to vote on the question of impeachment, although the evidence has not yet been presented. Why, sir, you might as well expect a juror to say on entering the jury-box and before he hears the testimony what will be his verdict on the case he is to try.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. BOUTWELL] that if he desires to move the previous question his hour is just about to expire.

Mr. BOUTWELL. I demand the previous question.

The previous question was not seconded, there being—ayes 36, noes 84.

Mr. PIKE. I move to amend by making it the 11th of November instead of the 16th of October.

A MEMBER. Say the 18th.

Mr. PIKE. It is suggested I should say Wednesday, the 18th of November, instead of the 16th, and I adopt that as a modification of my amendment. I will merely state that I do this irrespective of the impeachment and irrespective of the President-making. If I am mistaken about President-making, gentlemen know their own motives; but I only speak from what I observe and what I suppose to be the case.

Mr. SPALDING. I hope the gentleman will yield to me to submit an amendment. It is as follows:

Strike out all after the enacting clause, and insert in lieu thereof, the following:  
That the President of the Senate and the Speaker of

the House are hereby directed, upon the adjournment of their respective Houses, to adjourn the same to the 16th day of October, 1867, at twelve o'clock m., when the roll of each House shall be called, and immediately thereafter the Presiding Officer of each House shall cause the Presiding Officer of the other to be informed whether or not a quorum of its body has appeared, and thereupon if a quorum of the two Houses, respectively, shall not have appeared upon such call of the roll, the President of the Senate and the Speaker of the House of Representatives shall immediately adjourn their respective Houses without day.

Mr. PIKE. I told the gentleman that I would permit him to offer that amendment and then call for the previous question.

Mr. SCHENCK. I rise to a question of order; and my question of order is that it is not competent for this House to entertain any such resolution as that made in the shape of the amendment of my colleague.

The SPEAKER. The gentleman will state his reasons, and then the Chair will give his decision.

Mr. SCHENCK. That resolution proposes, in the language of the resolution passed before the late recess, that there shall be a meeting ordered, and if less than a quorum appear then the Presiding Officers of the Senate and House of Representatives shall adjourn Congress without day. I thought it a strange resolution, unprecedented, and did not believe it a constitutional one when passed before. Full reflection on the subject, and an examination as to whether I was right or wrong, has thoroughly satisfied me that we have no right to entertain such a resolution.

The Congress of the United States, as such, has certain general powers conferred upon it by the Constitution. Besides that, there is a contingency provided for, that if upon assembling it shall on any occasion find itself without a quorum it shall have a power it would not otherwise possess, and given to it by the Constitution, to adjourn from day to day and compel the attendance of absent members. But this proposition is that Congress shall convene, and if it finds itself without a quorum then the rule which the Constitution applies shall not prevail, and Congress will make for itself a different rule.

Mr. SPALDING rose.

Mr. SCHENCK. I think I know what will be the ruling of the Chair.

The SPEAKER. The Chair allows the gentleman to argue his point at full length.

Mr. SCHENCK. I think this House, perhaps a majority of the members, will take a different view of this subject; but, nevertheless, feeling convinced, as I am, that there is reason in what I present, I wish to go upon the record as one member who objects to any such extraordinary measure.

Taking this view of the matter I prepared before the meeting of Congress a resolution covering this point in the resolution under which we are now assembled; and I was gratified on the meeting of the Senate to find a distinguished member of that body entering a protest because the matter had struck his mind in the same way. It proved that I was not entirely alone in my opinion. As that resolution embodies the objections I make to this resolution, I will read it. It is as follows:

*Resolved*, That in order that the resolution under which this House of Representatives and the Fortieth Congress have assembled at the present session may not be drawn into a precedent for the future, it is hereby declared, that although the two Houses may by such concurrent resolution fix the time at which they are to meet after a recess or adjournment, yet is it not competent by such resolution to prescribe in advance to Congress what alone it shall be in their power to do when so assembled.

My objection then, sir, as embodied in that resolution, and as I make it now, is this: Congress has powers prescribed by the Constitution. They are general when Congress finds itself with a quorum in each body composing Congress prepared to do business. There is a special power when that case does not occur, and when each House finds itself without a quorum. How is it when there is not a quorum present? The Constitution then intervenes and makes a rule. When Congress finds itself assembled without a quorum in either branch the Constitution prescribes what it can do,

what it may do, what, if it chooses, it must do, but gives no latitude to any other body, or to the body itself, outside of its action when the case occurs, to prescribe in advance that it shall do certain things, and only certain things. I say that the power of Congress, therefore, to take a recess or to adjourn is limited to fixing a time when it shall reassemble; and, when reassembled, the Constitution intervenes, and if there be a quorum present, provides that it may go on and exercise its general powers, but if there be no quorum, that it shall have the specific power to adjourn from day to day, and compel the attendance of absent members. An attempt, therefore, to prescribe in advance a rule by which you shall disarm the Congress of the United States of its power to legislate, or of its power to compel the attendance of absent members, is to substitute your rule for the Constitution. That is the point of order which I make; and these are my reasons.

The SPEAKER. The gentleman from Ohio [Mr. SPALDING] offers a substitute for the pending resolution, which has been read by the Clerk. His colleague [Mr. SCHENCK] makes the point that it is unconstitutional and not in accordance with parliamentary law. The Chair has desired the gentleman from Ohio [Mr. SCHENCK] to explain and argue his point at length; which he has done with clearness, as he always does. The Chair, differing in toto from the conclusion of the gentleman, overrules the point of order. The Clerk will read the fourth clause of the fifth section of the Constitution.

The Clerk read it, as follows:

Each House shall be the judge of the election, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business. But a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.

The SPEAKER. The first part of that clause declares that "each House shall be the judge of the election, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business." This is the broad charter given in the Constitution by which the two Houses transact all their legislative business. It includes, of course, within its range of power the authority to lay down an order of business, to decide when they shall meet, and what business they shall or shall not take up when they do meet. This is the power conferred by the Constitution upon a quorum of each House.

The clause then concludes by giving certain powers to less than a quorum. "A smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members, but in such manner and under such penalties as each House may provide." They must, therefore, compel the attendance of absent members in such manner as each House (which means a quorum thereof) shall have provided anterior to that time. It follows, the Chair thinks, by the plain reading of the Constitution, that a minority of each House, less than a quorum, cannot have, as the gentleman from Ohio [Mr. SCHENCK] argues, larger power than a majority of each House sitting as a legislative body. If the point of order made is correct, less than a quorum has more power than more than a quorum, an anomaly never recognized by parliamentary law, nor conferred by the Constitution, in the opinion of the Chair. The limitation of the power of less than a quorum is absolute. They may do certain things in such manner and form and under such penalties as each House (which means a majority thereof) shall have previously provided.

The Chair therefore overrules the point of order on three grounds: first, that both Houses of Congress at the opening meeting of the first session of this Congress considered this provision of the Constitution when it declared for exactly such an adjournment as is provided for in the pending resolution. That is a parliamentary precedent not questioned at that time, as the Chair understands, by any mem-

ber in either branch; certainly not appealed from in either branch, but spoken of latterly, when it was supposed there might not be a quorum present on the 3d day of July.

The Chair overrules it for a second reason, which is, that a majority of each House, when there was a quorum present, have determined that when Congress assembled on the 3d of July, if there was not a quorum present the absent members should not be coerced, but that the Presiding Officers of both branches, who were simply the organs and servants of the two Houses to execute their orders, should then adjourn Congress without day, with full notice to every Senator and Representative of what would be the specific order of business on the 3d day of July, and what would be the result if a majority of either House failed to appear on that day.

The Chair overrules it on the third ground, that at the conclusion of long sessions the two Houses have sometimes provided for an adjournment at a specified day and hour, but that after a certain date only formal business, such as the signing of bills, shall be transacted, and at the final adjournment of such first session less than a quorum has been present.

If the point of order made by the gentleman from Ohio be correct, then if there were no quorum present at such a time, the absence of a quorum would render null the concurrent resolution of quorums of both the House and the Senate.

Upon these grounds the Chair overrules the point of order made by the gentleman from Ohio.

Mr. SCHENCK. The Chair will allow me to correct a misapprehension. The Chair will observe that my objection is purely constitutional. While I admit the power of the majority of Congress in either House to fix in advance the order of business, my objection is that they do not undertake to fix the order of business, but to say that no business shall be done. They undertake in advance to prevent Congress from acting at all.

The SPEAKER. The Chair cannot argue the question, but must overrule the point of order, and the amendment is therefore pending as a substitute for the original resolution.

Mr. SCHENCK. I appeal from the decision of the Chair.

The SPEAKER. The question then is, Shall the decision of the Speaker stand as the judgment of the House?

Mr. WILSON, of Iowa. As this is a very important question, I will demand the yeas and nays upon the appeal.

The question was taken; and it was decided in the affirmative—yeas 125, nays 14, not voting 31; as follows:

YEAS—Messrs. Adams, Allison, Archer, Baker, Baldwin, Banks, Barnes, Beaman, Bingham, Blair, Boyer, Broomall, Buckland, Burr, Churchill, Reader W. Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Glossbrenner, Gravelly, Griswold, Haight, Halsey, Hamilton, Hayes, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kelley, Kerr, Ketcham, Kitchen, Koontz, George V. Lawrence, Loan, Logan, Loughridge, Marshall, Marvin, McClurg, McCullough, Miller, Moore, Moorhead, Morgan, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Patne, Perham, Phelps, Pike, Pile, Poland, Polsley, Price, Randall, Raum, Robertson, Robinson, Ross, Sawyer, Scofield, Selye, Shellabarger, Sitgreaves, Smith, Spaulding, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—125.

NAYS—Messrs. James M. Ashley, Benton, Boutwell, Butler, Sidney Clarke, Coburn, Judd, Kelsey, William Lawrence, Lynch, Schenck, Shanks, Van Aernam, and Thomas Williams—14.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barnum, Benjamin, Blaine, Bromwell, Brooks, Cake, Chanler, Dodge, Eckley, Ela, Eldridge, Eliot, Finney, Harding, Asahel W. Hubbard, Humphrey, Laffin, Lincoln, Mallory, McCarthy, Mercer, Morrell, Morrissey, Noell, Orth, Pomeroy, Pruyn, Thaddeus Stevens, and Van Wyck—31.

So the decision of the Chair was sustained as the judgment of the House.

Mr. PIKE. I now insist on the demand for the previous question.

On seconding the previous question there were—ayes 62, noes 36.

Mr. SCHENCK. I call for tellers.

Tellers were not ordered.

So the previous question was seconded.

Mr. BURR. I desire to ask, for information, whether the amendment offered by the gentleman from Ohio [Mr. SPALDING] is pending?

The SPEAKER. It is. The Chair ruled the amendment to be in order; and the vote of the House upon the appeal settled the question that the amendment was pending.

The main question was ordered.

The SPEAKER. The first question is upon the amendment offered by the gentleman from Maine, [Mr. PIKE,] to strike out "the 16th day of October" and insert "the 13th day of November." Whether this amendment be agreed to or not the next question will be upon the substitute offered by the gentleman from Ohio, [Mr. SPALDING.]

Mr. GRISWOLD. I move to lay on the table the amendment, for the purpose of moving subsequently that when we adjourn it be *sine die*.

The SPEAKER. The effect of laying the amendment on the table would be to lay the whole subject on the table.

Mr. HOLMAN. If the whole subject should be laid on the table, would there not be an adjournment *sine die*?

The SPEAKER. The two Houses could adopt a resolution fixing a day upon which they would adjourn *sine die*, or could provide for reassembling on some definite day.

Mr. GRISWOLD. I understand the Chair to decide that, if the whole subject should be laid on the table, a motion providing that when Congress adjourns it will adjourn *sine die* would be in order.

The SPEAKER. Any proposition providing for an adjournment, either *sine die* or to a specific time, would be in order as a privileged question.

Mr. GRISWOLD. I move, then, that the whole subject be laid on the table.

Mr. WILLIAMS. I would suggest to the gentleman, if it be in order, that the effect of the adoption of the amendment of the gentleman from Ohio [Mr. SPALDING] would be precisely what he desires—that the House would adjourn *sine die*.

The motion of Mr. GRISWOLD that the whole subject be laid on the table was not agreed to; there being—ayes 47, noes 74.

The question being taken on the amendment of Mr. PIKE to strike out "the 16th day of October" and insert in lieu thereof "the 13th day of November," there were—ayes 75, noes 52.

Mr. BROMWELL called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 50, not voting 26; as follows:

YEAS—Messrs. Adams, Allison, Archer, Banks, Barnes, Barnum, Beaman, Bingham, Blair, Boyer, Brooks, Buckland, Burr, Chanler, Churchill, Reader W. Clarke, Cornell, Dawes, Dixon, Donnelly, Eldridge, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Glossbrenner, Griswold, Halsey, Hamilton, Harding, Hill, Holman, Hopkins, Hotchkiss, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Kelsey, Kerr, Ketcham, Kitchen, Koontz, George V. Lawrence, Loughridge, Lynch, Marshall, Marvin, McClurg, Miller, Moorhead, Morgan, Mungen, Myers, Niblack, Nicholson, O'Neill, Patne, Perham, Phelps, Pike, Poland, Polsley, Price, Randall, Raum, Robertson, Robinson, Selye, Shanks, Sitgreaves, Smith, Spaulding, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Taffe, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—94.

NAYS—Messrs. Anderson, James M. Ashley, Baker, Baldwin, Benton, Boutwell, Bromwell, Broomall, Butler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Driggs, Eggleston, Ela, Gravelly, Hayes, Hooper, Chester D. Hubbard, Judd, Julian, Kelley, William Lawrence, Loan, Logan, McClurg, Mercer, O'Neill, Orth, Patne, Peters, Pile, Plants, Ross, Sawyer, Schenck, Scofield, Shellabarger, Thaddeus Stevens, Taylor, Trowbridge, Twichell, Robert T. Van Horn, Ward, Welker, Thomas Williams, and Windom—50.

NOT VOTING—Messrs. Ames, Delos R. Ashley,

Benjamin, Blaine, Cake, Dodge, Eckley, Eliot, Farnsworth, Finney, Haight, Asahel W. Hubbard, Humphrey, Laffin, Lincoln, Mallory, McCarthy, Moore, Morrell, Morrissey, Newcomb, Noell, Pomeroy, Pruyn, Thomas, and Van Wyck—26.

So the amendment was agreed to.

The question then recurred on the substitute of Mr. SPALDING.

Mr. SCHENCK. Mr. Speaker, before the vote is taken I should like to inquire what will be the effect of this resolution in case it should pass. It requires, I believe, eighty-six members to constitute a quorum of this body. In case of the passage of this resolution and the assembling of the House after a recess in pursuance of its terms, if eighty-five should be present and all of them should desire to avail themselves of the constitutional rule to remain and compel the attendance of absent members, would you feel bound to disperse them and send them to their homes, notwithstanding the unanimous wish of the eighty-five to stay?

The SPEAKER. The Chair could only say that he would feel bound to execute the order of the House.

Mr. SCHENCK. The order of the House being to send them to their homes! They would then have to go, although the entire eighty-five might desire to stay and compel the attendance of the absentees under the positive provisions of the Constitution.

Mr. SPALDING. I insist on the rule being enforced. No debate is in order, as we are acting under the previous question.

The question was taken; and it was decided in the negative—yeas 40, nays 107, not voting 23; as follows:

YEAS—Messrs. Anderson, Baker, Beaman, Bingham, Broomall, Reader W. Clarke, Cobb, Cook, Covode, Cullom, Dawes, Driggs, Ela, Ferry, Glossbrenner, Hamilton, Hayes, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Koontz, Mercer, Paine, Peters, Plants, Ross, Sawyer, Spaulding, Thaddeus Stevens, Taylor, Thomas, Trowbridge, Twichell, Robert T. Van Horn, Ward, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—40.

NAYS—Messrs. Allison, Archer, James M. Ashley, Baldwin, Banks, Barnes, Barnum, Benjamin, Benton, Blair, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Chanler, Churchill, Sidney Clarke, Coburn, Cornell, Dixon, Donnelly, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Garfield, Getz, Gravelly, Griswold, Haight, Halsey, Harding, Hill, Holman, Hotchkiss, Richard D. Hubbard, Hulburd, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Marshall, Marvin, McClurg, McCullough, Miller, Moore, Moorhead, Morgan, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Perham, Phelps, Pike, Pile, Poland, Polsley, Price, Randall, Raum, Robertson, Robinson, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Taffe, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, Wood, and Woodbridge—107.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Blaine, Cake, Dodge, Eckley, Eliot, Farnsworth, Asahel W. Hubbard, Humphrey, Kerr, Laffin, Lincoln, Logan, Mallory, McCarthy, Morrell, Morrissey, Noell, Pomeroy, Pruyn, and Van Wyck—23.

So Mr. SPALDING's substitute was rejected.

The question then recurred on Mr. BOUTWELL's resolution as amended.

Mr. ELDRIDGE. Is it in order to move an amendment?

The SPEAKER. It is not, as the previous question is still pending.

Mr. ELDRIDGE. I want to move an amendment to make it the first Monday of December.

The House divided on Mr. BOUTWELL's resolution as amended; and there were ayes 68, noes 42.

Mr. ELDRIDGE demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The resolution, as amended, was then adopted.

Mr. PIKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON TREATMENT OF PRISONERS.

The SPEAKER announced the following as the select Committee on the Treatment of



Union Prisoners: Mr. SHANKS, Mr. PILE, Mr. HARDING, Mr. STEVENS of New Hampshire, and Mr. MUNGUN.

#### COMMITTEE OF ELECTIONS.

The SPEAKER also announced that he had appointed Mr. CHANLER to fill the vacancy on the Committee of Elections caused by the resignation of Mr. NICHOLSON.

#### MATHEW SOMERS.

On motion of Mr. HALSEY, by unanimous consent leave was granted for the withdrawal from the files of the House of the papers in the case of Mathew Somers.

#### LEAVE OF ABSENCE.

On motion of the Speaker, indefinite leave of absence was granted to Mr. GARFIELD.

#### REPUBLICAN GOVERNMENT.

Mr. BROOMALL, by unanimous consent, introduced a bill to guarantee to the several States of the Union a republican form of government; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### ELECTION CONTEST—SYMES VS. TRIMBLE.

Mr. PAINE. I rise to a question of privilege. I offer the following resolution:

*Resolved*, That G. G. Symes, contestant of the claim of L. S. Trimble to a seat in this House as the representative of the first district of Kentucky, be permitted to serve an amended or supplementary notice of contest within ten days after the passage of this resolution, and that L. S. Trimble be permitted to serve his answer thereto within thirty days after the service thereof.

Mr. RANDALL. Is this by consent of the two parties?

Mr. PAINE. It is not by the consent of Mr. Trimble, but it is by the consent of the contestant. I have submitted this matter to the chairman of the Committee of Elections; and he has informed me two courses are customary: one is to apply to the House for liberty to serve an amended notice after the expiration of the time, and the other to serve a notice, and then come in at the next session of Congress and ask it to abide by the action of the contestant. It seems to me, however, that inasmuch as the House is now in session it would be but fair that the contestant make his application now. Otherwise the House at the next session might ask him why he did not ask for leave to serve notice before. The chairman of the committee has no objection to this resolution.

Mr. RANDALL. I move a reference to the Committee of Elections.

Mr. PAINE. I will state, for the benefit of the gentleman from Pennsylvania, that the reason why it is necessary to take a course like this is that the time for serving notice under the law has expired some two days ago. But for that it would be competent for the contestant to serve his amended notice without leave of the House.

Mr. RANDALL. I merely want to remark that this is a very unusual procedure. The gentleman himself admits that the time has expired, evidently indicating that up to a very recent period and subsequent to the time of the expiration of notice this contestant never dreamed he had any right to contest the seat, or there was no use whatever in attempting it. Now, if I understand it, the objection to the admission of Mr. Trimble is alleged disloyalty. He was elected by some seven thousand majority over the gentleman who now comes forward to contest his seat. Under such circumstances it occurs to me that the question should be considered as originally presented, whether Mr. Trimble is disloyal or not, and not whether Mr. Symes shall contest his seat; because if Mr. Trimble is disloyal then the seat is vacant, Mr. Symes not having given proper notice of contest within the time that the law requires.

Mr. PAINE. I have not heard all the gentleman from Pennsylvania has said, but I apprehend from the tenor of what I have heard that he confounds this case with another which has been brought before the House. In this

case the notice was being served; and if it is true, as the gentleman has asserted, that this is not the usual procedure, the only reason is this: that heretofore there has been no session of Congress after the election before the session at which the contest was tried, and therefore it has been usual for contestants to first serve the amended notice and then come into the House and ask it to ratify their action; and I believe the House has invariably done so where the action was taken on good grounds. I now demand the previous question.

The previous question was seconded—ayes 64, noes 26, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. PAINE moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BLAKELY VS. HISE, (DECEASED.)

Mr. PAINE. I rise to another question of privilege. I offer the following preamble and resolution. The preamble will explain itself:

Whereas George D. Blakely asks for admission to this House as a Representative from the third district of Kentucky, and his competitor, Elijah Hise, having died before the votes were canvassed, and no other person claiming a seat in this House as a Representative of said district, this case is not provided for by any statute of the United States, but is subject to the provisions of the Constitution: Therefore,

*Resolved*, That in this case transcripts of official records and files, and of extracts therefrom and abstracts thereof, duly certified under seal by the clerks of the several county courts in said district, shall be competent evidence before the Committee of Elections and before this House of the facts therein shown.

I demand the previous question on this resolution, unless the chairman of the Committee of Elections prefers that it should be referred to the Committee of Elections.

Mr. SPALDING. I hope the gentleman will allow it to go to the committee.

Mr. PAINE. I will do so only in case the chairman desires it.

Mr. ROSS. I rise to a question of order. I do not think this is a privileged question. There is no report from a committee.

The SPEAKER. Everything affecting the right of a member to a seat is a question of privilege, although the House may not see fit to adopt the resolution.

Mr. ROSS. Even if a man comes here and claims a dead man's seat?

The SPEAKER. The Chair cannot argue the question. This resolution is in regard to the right of the member from the third district of Kentucky to his seat.

Mr. PAINE. This is not a case of contest. There is no one contesting the seat.

Mr. SPALDING. I ask that the resolution be again read.

The resolution was again read.

Mr. PAINE. It is not, of course, the design of this resolution to admit this claimant to a seat now; but it is to provide the kind of evidence that may be used for the purpose of establishing his claim before the Committee of Elections of this House. The gentleman asks if he is to be admitted without the certificate of the Governor of the State of Kentucky.

Mr. WOOD. I rise to a question of order. The gentleman from Wisconsin has demanded the previous question upon his resolution, and I want to know if it is in order for him to go into the merits of the question involved?

The SPEAKER. The Chair understood the gentleman to withdraw the demand for the previous question.

Mr. PAINE. No, sir; I did not withdraw it.

The question was put upon seconding the demand for the previous question, and there were—ayes 35, noes 49; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. WOOD and PAINE to act as tellers.

The House divided; and the tellers reported—ayes 61, noes 36.

So the previous question was seconded.

The main question was then ordered.

Mr. RANDALL. I rise for the purpose of asking information. I understand that the gentleman from Wisconsin will have an hour in which to discuss this question.

The SPEAKER. The gentleman has no such right, because this is not the report of a committee.

Mr. RANDALL. I was going to suggest that the gentleman should divide his hour.

The SPEAKER. No debate is in order.

The previous question was seconded, and the main question ordered.

Mr. BOYER. I demand the yeas and nays on agreeing to the preamble and resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 33, not voting 46; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Donnelly, Driggs, Eggleston, Elia, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Halsey, Hamilton, Harding, Hayes, Hill, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Kountz, William Lawrence, Loan, Logan, Loughridge, Mercer, Miller, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Plants, Price, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Trowbridge, Unson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—91.

NAYS—Messrs. Archer, Barnes, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Hotchkiss, Kerr, Ketcham, Marshall, McClurg, Morgan, Mungen, Nicholson, Randall, Robertson, Robinson, Ross, Sitgreaves, Spalding, Stewart, Stone, Taber, Van Auker, Van Trump, Ward, and Wood—33.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Baldwin, Barnum, Blaine, Buckland, Butler, Calk, Dixon, Dodge, Eckley, Eliot, Farnsworth, Griswold, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Latham, George V. Lawrence, Lincoln, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Morrell, Morrissey, Niblack, Noel, Phelps, Pike, Pile, Poland, Polsley, Pomeroy, Pruyn, Smith, Thomas, Twichell, Van Wyck, and Stephen F. Wilson—46.

So the preamble and resolution were adopted.

#### HONORABLE DISCHARGES OF SOLDIERS, ETC.

The House resumed the consideration of the special order, being the bill (H. R. No. 108) entitled "An act for the relief of certain volunteer soldiers and sailors therein designated;" on which Mr. ASHLEY, of Ohio, was entitled to the floor.

Mr. ASHLEY, of Ohio. I desire to make some verbal amendments to the first section of the bill. The first is to correct a typographical error by striking out "on" in line six and inserting in lieu thereof "until." I desire, also, to strike out the words "after said surrender" at the end of the section, and insert in lieu thereof the words "or refused to serve after said date." Thus amended the first section will read as follows:

*Be it enacted, &c.*, That no soldier or sailor shall be taken or held to be a deserter from the Army or Navy who voluntarily enlisted to serve and who did faithfully serve the prescribed period of his enlistment until the 19th of April, 1865, and who, without proper authority or leave first obtained, did quit his command or refused to serve after said date.

The SPEAKER. If there be no objection, these amendments will be considered as adopted.

There was no objection.

Mr. ASHLEY, of Ohio. Mr. Speaker, I have no objection to the amendment proposed yesterday by the gentleman from Wisconsin, [Mr. COBB:] and I presume it will be adopted by unanimous consent. I ask the Clerk to read that amendment.

The Clerk read as follows:

In section two insert after the words "mustered out" the words "or who was killed in battle or died before the expiration of his term of service;" so that the section will read as follows:

That any volunteer soldier or sailor who may at any time have absented himself from the service, and who voluntarily returned to duty and remained with his proper command until it was regularly mustered out, or who was killed in battle, or died before the expiration of his term of service, shall not be classed as a deserter.

The SPEAKER. If there be no objection, this amendment will be considered as adopted. There was no objection.

Mr. ASHLEY, of Ohio. I will state, also, that I have no objection to the amendment of the gentleman from Illinois [Mr. RAUM] provided it be modified by inserting after the word "act" the words "for such alleged desertion or such refusal to serve, and whose pay was forfeited therefor." With this modification the additional section which the gentleman proposes will read as follows:

*And be it further enacted,* That all dishonorable discharges given to any soldier or sailor included within the provisions of this act for such alleged desertion or such refusal to serve, and whose pay was forfeited therefor, are hereby vacated and set aside, and such soldiers and sailors shall be entitled to discharges and pay as other soldiers and sailors under this act.

The SPEAKER. This amendment, as modified, will be regarded as adopted, if there be no objection.

There was no objection.

Mr. ASHLEY, of Ohio. I am willing, also, that the amendment proposed by my colleague [Mr. GARFIELD] shall be adopted. It is to add the following as a new section:

*And be it further enacted,* That when any soldier or sailor of the late war, whose name is borne on the rolls of the Army or Navy as a deserter, shall present to the Secretary of War or Secretary of the Navy satisfactory proof that such desertion was only technical, and without intention to abandon the service, the Secretary is hereby authorized and directed to give such soldier or sailor a certificate that his record of desertion has been canceled.

The SPEAKER. This amendment, also, will be regarded as adopted, unless there be objection.

There was no objection.

Mr. ASHLEY, of Ohio. The gentleman from Illinois, [Mr. HARDING,] I believe, consents to withdraw his amendment, the substance of it having been inserted in the bill.

Mr. HARDING. Yes, sir; I withdraw it.

Mr. ASHLEY, of Ohio. I now call for the previous question.

Mr. HOLMAN. I trust that the gentleman will permit the reading of an amendment which I have prepared and would like to offer.

Mr. ASHLEY, of Ohio. Certainly; I will permit it to be read.

Mr. HOLMAN. I desire to say that my amendment may not be regarded as strictly germane to the bill; but it is a proposition which I think will appeal to the sense of justice of every gentleman here. It is to add the following as a new section:

*And be it further enacted,* That the widow, minor children, or parents, in the order named, of any soldier who shall have died after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled, if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said sections of said act shall be so construed.

Mr. HOLMAN. I trust that the gentleman from Ohio will not object to let this amendment come before the House. It is to cure a manifest defect in the act of the 23d of July, 1866. It was not the intention of Congress to deprive the widows and minor children of this bounty when the soldier had died after honorable discharge from service; but the construction placed upon it is this: that the soldier, if living, would receive the bounty, but that if he died after his discharge from service his widow and minor children would be entitled to it. I would not ask to submit the amendment if it were not on a subject about which there can be no difference of opinion. I hope, therefore, that the gentleman will let it come before the House.

Mr. ASHLEY, of Ohio. While I believe that the object sought to be accomplished by the gentleman from Indiana is one that commends itself to the House, still I think that it should be provided in a bill by itself. I do not think that it should be attached to this proposition.

Mr. HOLMAN. It is not entirely without

pertinency to this bill. It harmonizes with some provisions of the bill. It is to cure a manifest defect in the act of July, 1866.

Mr. ASHLEY, of Ohio. I cannot accept the amendment, although I will vote for it in a separate bill with great cheerfulness.

Mr. HOLMAN. I should like to say one word further. It is manifest unless this amendment comes before us now this evil will not be removed during this session. I therefore ask again that the amendment may be permitted to come before the House.

The SPEAKER. The title of the bill would have to be changed.

Mr. HOLMAN. This is a defect that ought to be remedied, because as the construction now is an injury is done to a very meritorious class of people.

Mr. SCHENCK. I will say that I introduced a bill on this subject after careful consideration, but as my colleague's bill has the precedence I have gone over it with him, and find by various modifications made to it that it now embodies all I thought proper to bring before this House on this subject, and I hope it will pass.

Mr. ASHLEY, of Ohio. I demand the previous question.

The previous question was seconded, and the main question ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DECLINE OF THE SHIP-BUILDING INTEREST.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved,* That the Committee on Commerce be instructed to inquire into the causes of the decline of the ship-building interest in America, and how far such depreciation is attributable to congressional enactment, and how far it may be remedied by legislation, and to report by bill or otherwise.

Mr. PHELPS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EQUALITY OF THE RACES.

Mr. SCOTFIELD. I ask leave to make a few words of explanation, and to send up a letter of Professor Agassiz.

There was no objection.

Mr. SCOTFIELD. Mr. Speaker, for some time an article has been going the rounds of the newspapers professing to give a theory of races by Professor Agassiz. It has assumed so much importance that on Monday last it was read by a member of this House from the State of Ohio (Mr. MUNCY) as a portion of his speech. On that very day (the 8th of July) Professor Agassiz wrote a letter, which I will send to the Clerk's desk to be read, together with the extract. I find on comparing the extract with that in the gentleman's able speech that they are exactly alike.

The Clerk read as follows:

NAHANT, July 8, 1867.

DEAR SIR: I have already seen the newspaper slip you inclose to me, and would like to know how a public teacher can protect himself from such villainous calumnies. I would be ashamed to entertain the vile sentiments expressed in those lines, and to use the vulgar language in which they are couched. I trust my printed views will protect me from such defamation. At all events, I do not feel called upon to waste my time in answering newspaper paragraphs. The only ground I may have given to question the soundness of my views concerning the different races of men is the opinion I have always maintained, and which I still hold now, that the different types of the human family have an independent origin one from the other, and are not descended from common ancestors; but this idea I do not apply to the negroes only, but to the Indians, the Chinese, the Indoos, the Australians, &c., as well. In fact, I believe that men were created in nations, not in individuals; but not in nations in the present sense of the word; on the contrary, in such

crowds as exhibited slight, if any, diversity among themselves, except those of sex.

The statements in the paragraph sent, concerning the bones of negroes and their blood, &c., are absolutely false, and no anatomist nor chemist ever uttered such absurdities. But I have no time to publish in parcels of a few lines a text-book of anatomy and physiology for the use of penny-a-liners. Moreover, I never touched upon those special topics in any of my public lectures.

Ever truly yours,

H. AGASSIZ.

Hon. H. WILSON, U. S. Senator.

"I have pointed out over a hundred specific differences between the bony and nervous system of the white man and negro. Indeed, their frames are alike in no particular. There is not a bone in the negro's body that is relatively the same shape, size, articulation, or chemically of the same composition as that of the white man. The negro's bones contain a far greater percentage of calcareous salts than those of the white man. Even the negro's blood is chemically a very different fluid from that which courses in the veins of the white man. The whole physical organization of the negro differs quite as much from the white man's as it does from that of the chimpanzee—that is, in his bones, muscles, nerves, and fibres. The chimpanzee has not much further to progress to become a negro than a negro has to become a white man. This fact science inexorably demonstrates."

\* \* \* \* "Climate has no more to do with the difference between the white man and negro than it has with that between the negro and the chimpanzee, or than it has between the horse and the ass, or the eagle and the owl. Each is a distinct and separate creation. The negro and the white man were created as specifically different as the owl and the eagle. They were designed to fill different places in the system of nature. The negro is no more a negro by accident or misfortune than the owl is the kind of bird he is by accident or misfortune. The negro is no more the white man's brother than the owl is the sister of the eagle, or than the ass is the brother of the horse. How stupendous, and yet how simple, is the doctrine that the Almighty Maker of the universe has created different species of men, just as he has different species of the lower animals, to fill different places and offices in the grand system of nature!"

Mr. SCOTFIELD. At the time of writing that letter the professor was not aware that these same sentiments were being read in the House of Representatives, and I put his letter upon the record because that extract was also upon the record, so that all may see what the professor himself says about it, and also that my friend from Ohio and all who have been influenced by the false sentiments attributed to him may see that they are not upheld by any theory of races originating with or indorsed by that eminent scholar, in their persistent persecution and oppression of four million southerners, to whom that section is mainly indebted for all its material prosperity.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. STEVENS, of Pennsylvania. I offer the following resolution:

*Resolved,* That the Committee on the Judiciary, to whom was referred the resolution and documents relative to the impeachment of the President, be directed to report the evidence at this session, with leave to make further report if they shall deem proper.

The SPEAKER. The Chair supposes that when the committees are called for reports that can be done. The first thing in order would be the calling of the committees for reports.

Mr. STEVENS, of Pennsylvania. I do not know as to that.

The SPEAKER. They cannot be compelled to report until they are regularly called.

Mr. FARNSWORTH. Is not the Committee on the Judiciary authorized to report at any time?

The SPEAKER. It is; but it is the privilege of the committee not to do it.

Mr. STEVENS, of Pennsylvania. I simply want to pass a resolution conformable to the rule.

The SPEAKER. The call of the committees will be made whenever any member demands the regular order.

Mr. STEVENS, of Pennsylvania. I do not want to interfere with the call. I now demand the previous question.

Mr. WILSON, of Iowa. Will the gentleman yield?

Mr. STEVENS, of Pennsylvania. I did not intend to indulge in any discussion which might lead to angry feelings between ourselves.

Mr. WILSON, of Iowa. If the gentleman will hear my statement he may then either insist upon the previous question or not.

Mr. STEVENS, of Pennsylvania. If the

gentleman wants to make any remarks that will not interfere with my object, which is to get along quietly—

Mr. WILSON, of Iowa. I do not intend anything else.

Mr. STEVENS, of Pennsylvania. Then I will allow the gentleman to make his statement.

Mr. WILSON, of Iowa. I merely wish to suggest to the gentleman from Pennsylvania that instead of the resolution in its present form he modify it so as to give authority to the committee to cause to be printed the usual number of copies of the evidence that has been taken in order that it may be laid on the table of members on the first day of the next session. I only wish to state the reason for it; the gentleman can accept the modification or not. It is this: that if the evidence is printed now it goes to the country for discussion before the House is ready to take it up for consideration. That is all I have to say.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I will simply say that the report of the evidence may be printed under the supervision of the committee.

Several MEMBERS. Oh, no.

Mr. STEVENS, of Pennsylvania. Well, sir, I will let it stand as it is, and demand the previous question.

Mr. WILSON, of Iowa. Mr. Speaker, if the previous question is not seconded it will then be in order, I believe, for me to move that authority be given to the committee to do that which I desire.

The SPEAKER. Any motion will then be in order.

On seconding the previous question there were—ayes 50, noes 56.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. FARNSWORTH, and WILSON of Iowa.

The House divided; and the tellers reported—ayes 55, noes 68.

So the previous question was not seconded.

Mr. WILSON, of Iowa. I now move, as a substitute for the resolution, the following:

*Resolved*, That the Committee on the Judiciary be, and they are hereby, authorized and directed to have the usual number of copies of the evidence by said committee relative to the impeachment of the President printed and laid on the desks of members of the House on the first day of the next session of Congress, whether adjourned or regular.

Mr. SCHENCK. I desire to ask the chairman of the committee whether he contemplates the testimony being all kept secret, not to be seen until the day of our assembling again, and then to be laid on our tables.

Mr. WILSON, of Iowa. Of course the object of the resolution is to keep the testimony where it is until it is reported to the House.

Mr. LAWRENCE, of Ohio. Will the gentleman yield?

Mr. WILSON, of Iowa. I decline.

Mr. ROSS. Will the gentleman permit an amendment by substituting Monday next?

Mr. WILSON, of Iowa. I have insisted on the demand for the previous question.

Mr. ELDRIDGE. I desire to know what is the usual number of copies?

Mr. PIKE. Fifteen hundred and fifty.

The previous question was seconded—ayes 57, noes 44.

Mr. STEVENS, of Pennsylvania. I must ask the yeas and nays upon ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 48, not voting 37; as follows:

YEAS—Messrs. Allison, Anderson, Archer, James M. Ashley, Baker, Baldwin, Barnes, Beaman, Bingham, Blair, Boyer, Brooks, Buckland, Chanler, Churchill, Reader W. Clarke, Cornell, Dawes, Dixon, Driggs, Eldridge, Ferriss, Ferry, Fields, Fox, Garfield, Glossbrenner, Haight, Hamilton, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Ketcham, Kithen, Koontz, George V. Lawrence, William Lawrence, Loughridge, Marshall, Moorhead, Mungen, Myers, Newcomb, Niblack, Nicholson, Perham, Peters, Phelps, Pike, Platts, Poland, Price, Randall, Raum, Robertson, Robinson, Sawyer, Scofield, Selye,

Shanks, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taffe, Taylor, Twichell, Van Auken, Burt Van Horn, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—85.

NAYS—Messrs. Barnum, Benjamin, Brewwell, Broomall, Burr, Butler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Eggleston, Ela, Finney, Getz, Gravelly, Harding, Judd, Julian, Kelley, Kelsey, Kerr, Loan, Logan, Lynch, McClurg, Mercer, Miller, Moore, Morgan, O'Neill, Orth, Paine, Polsley, Ross, Schenck, Shellabarger, Thaddeus Stevens, Trowbridge, Unson, Van Aernam, Robert T. Van Horn, Van Trump, Ward, Thomas Williams, and William Williams—48.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Banks, Benton, Blaine, Boutwell, Caho, Dodge, Eckley, Eliot, Farnsworth, Griswold, Halser, Hayes, Hill, Hooper, Asahel W. Hubbard, Hulburd, Humphrey, Ladin, Lincoln, Mallory, Marvin, McCarthy, McCullough, Morrell, Morrissey, Neell, Pile, Pomeroy, Pruyn, Aaron F. Stevens, Thomas, Van Wyck, Cadwalader C. Washburn, and John T. Wilson—37.

So the main question was ordered.

The Speaker stated the first question to be upon the amendment offered by the gentleman from Iowa, [Mr. WILSON.]

Mr. STEVENS, of Pennsylvania. After the vote which has been taken upon this resolution, indicating the views of the majority of the House in regard to it, I am willing to abandon it. I therefore move that the resolution as amended be laid on the table.

The motion was agreed to.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### COMMITTEE ON INTERNAL REVENUE.

Mr. ROBINSON asked unanimous consent to offer the following resolution:

*Resolved*, That an additional standing committee of nine members, to be known as the Committee on Internal Revenue, be appointed as the other standing committees of this House are appointed, to which shall be referred all such matters as pertain to the internal revenue department of the United States.

Mr. GARFIELD. I move that that resolution be referred to the Committee on Rules.

Mr. ROBINSON. I have no objection at all to that reference.

Mr. GARFIELD's motion was agreed to; and the resolution was accordingly referred to the Committee on Rules.

#### CONTESTED ELECTIONS.

Mr. DAWES. I offer as a question of privilege the following resolution, upon which I ask the previous question:

*Resolved*, That in the investigation ordered by this House in the several election cases from Kentucky, referred to the Committee of Elections for investigation by the House on the 8th instant, and also in the investigation ordered by the House into certain charges against William H. Barnum, member from the fourth congressional district of Connecticut, the Committee of Elections be, and hereby are, authorized to sit during the recess at such times and places, and to pursue such investigation, by such numbers of the committee as they shall determine.

The previous question was seconded, and the main question ordered, being first upon agreeing to the resolution.

Mr. BROOKS. I would ask the gentleman from Massachusetts, the chairman of the Committee of Elections, what he means by the expression "such numbers of the committee?"

Mr. DAWES. I mean to authorize the committee to hold sessions at the same time in different places, to permit, for instance, a portion of the committee to pursue the investigation in regard to the Kentucky elections, while another portion of it investigates this case of Barnum, in the State of Connecticut, that has been referred to us.

Mr. BROOKS. I made the inquiry because I think a very bad habit is growing up in this investigation, where one member of the committee sits as the committee, being intrusted with all the powers of the committee, and exercising all the powers belonging to the whole committee.

Mr. DAWES. It is not intended by the resolution to authorize a portion of the committee to take any final action, but simply to take testimony. If a portion of the committee be allowed to take testimony in Kentucky, and

another portion in Connecticut, the proceeding will be attended with much less expense than if the members from Illinois and Ohio should be compelled to go to Connecticut, and the members from Massachusetts and Vermont to go to Kentucky.

Mr. BROOKS. When a committee sits there should always be a quorum of the committee in attendance, because a committee has very large powers, and there should be, too, a representation of the minority of the committee.

Mr. DAWES. This resolution simply makes a portion of the committee commissioners to take testimony.

Mr. BROOKS. But a commissioner has very large powers—to accept or reject evidence, to examine or not to examine witnesses. This resolution would in effect constitute one man a committee on the organization of the House.

Mr. DAWES. It is supposed that each portion of the committee will take all the testimony and examine all the witnesses that anybody desires to bring before them. The object is to save the expense and the time which must otherwise be consumed. It does not seem to me worth while to require the nine members of the committee to go from one extreme of the country to the other. This taking of testimony amounts to nothing more than what a commissioner might do in taking depositions. I think that the gentleman from New York will not find in this proceeding anything that will endanger the rights of any gentleman. Certainly there is no such design.

Mr. BROOKS. I understand the explanations of the gentleman; but the result of this method of proceeding is that the Government, by occupying the time of its committees and its reporters, and by expenditures for travel, incurs the expense which hitherto, under the law, has fallen upon contestants of elections, in the payment of commissioners, &c.

Mr. DAWES. This does not apply to the contested cases; nor does it apply to the questions raised in any contest.

Mr. BROOKS. Is not the Connecticut case a case of contest?

Mr. DAWES. No, sir; it is a case where charges of improper conduct during the election canvass are made against a member, and it does not appear to me that either the sitting member or those who make the charges should pay the expense of the investigation.

I am quite sure that the members of the committee would prefer to postpone this investigation until the House shall again be in session, so that we might sit here in the Capitol and hear this testimony. But in that case every witness must be brought from Kentucky or from Connecticut. This resolution is offered simply with the design of avoiding expense, and for no other purpose. Certainly no final action can be had upon any testimony taken except by the full committee. I trust that this explanation is satisfactory to the gentleman.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EQUALITY OF THE RACES.

Mr. MUNGEN. I ask unanimous consent to say a few words in reply to the letter presented this morning by the gentleman from Pennsylvania [Mr. SCOFIELD,] and the remarks with which he accompanied it.

The SPEAKER. The gentleman will proceed if there be no objection.

There was no objection.

Mr. MUNGEN. Mr. Speaker, in the letter from Professor Agassiz, presented this morning by the gentleman from Pennsylvania, I find indorsed the doctrine which I hold with regard to the plurality of races. Upon this point I would like to ask the honorable gentleman from Pennsylvania whether he believes in the theory of Professor Agassiz upon this

subject. I hope the gentleman will answer the question, yes or no. Does the gentleman believe in the theory in which I believe, and in which Professor Agassiz believes; as to the plurality of races?

Mr. SCOFIELD. I did not suppose that any opinions I might hold as to the origin or number of races would be of any account either to the gentleman from Ohio [Mr. MUNGEN] or any other member of this House. I supposed that the gentleman would be contented with the opinion of so distinguished a scholar as he whose letter I have had the honor to present here to-day, and would not expect me or perhaps any other member of this House to enter into a controversy with that learned man upon this subject. I believe, never having investigated this subject myself, that the report presented by Professor Agassiz is unquestionably correct. I believe that the views and sentiments inculcated in the extract presented here the other day by the gentleman from Ohio are, as Professor Agassiz characterized them, "vile calumnies." Of course I do not say that they were so designed by the gentleman from Ohio; but they are "vile calumnies" upon the sentiments which this learned scholar has presented to the world. I make no issue with the letter, but I do take issue with the extract presented. I am sure that the gentleman would present none that he considered as a forgery. I understood him the other day to present these views as justifying the oppression of the black race, and of withholding from them the privileges which belong to our common humanity, and for forcing them back to the original bondage in which he and his political friends have endeavored to hold them.

Mr. MUNGEN. The gentleman has not yet answered my question. I cannot tell whether he believes in the plurality of the human races or not.

Mr. SCOFIELD. The gentleman did not listen to me. I say that I have not investigated the subject, and do not pretend to form an opinion in reference to the letter of Professor Agassiz; but, sir, I do differ *in toto* with the gentleman's speech, which the letter characterizes, so far as the extract quoted is concerned, as a "vile calumny."

Mr. MUNGEN. The professor has not read my speech. [Laughter.] In his letter he does not differ with me in reference to the plurality of races; he agrees with me. I was never a pro-slavery man in my life. I am glad that slavery is abolished, but I did not like the way in which it was done, [laughter;] and that, although I helped to do it. When I say I did not like the manner in which it was done I mean in respect to its costing us a million of lives.

Mr. WILLIAMS, of Pennsylvania. Let me ask the gentleman a question. If I understand the gentleman, he considers the question of ethnology as a question of politics. I have heard learned disquisitions on the other side of the House on that subject, and I confess that they afford me—

Mr. MUNGEN. What is the question? I yielded for a question, and not for a speech.

Mr. WILLIAMS, of Pennsylvania. Does the gentleman mean by his question that there are types of the human race which are unfit for self-government? And in that connection there is another question.

Mr. MUNGEN. One at a time. I will answer the first question before you put another. If the gentleman had read my speech he would not have had any necessity to ask me the question. It is clear and distinct on that subject. I believe, and have so asserted, that there are many races which are unfit for self-government.

Mr. WILLIAMS, of Pennsylvania. I wish to ask another question. I do not make any issue on that. I do not know but we may ultimately agree on that point. I ask him whether he knows any example in the history of any race of men, except the Teutonic branch of what the gentleman from New York is pleased to term the great Caucasian family, which has ever successfully maintained or established free

government? I ask him whether he knows of any case where the Celtic race, which is the backbone of the Democratic party in the United States, has ever established a free government? [Laughter.]

Mr. ROBINSON rose.

Mr. MUNGEN. I have answered the gentleman's question.

Mr. WILLIAMS, of Pennsylvania. I want to know whether the differences in the white races are not equal to the differences between the white and black races?

Mr. ROBINSON. I wish to know whether the gentleman addresses me on that point.

Mr. WILLIAMS, of Pennsylvania. I am putting the question to the gentleman from Ohio on his ethnological point.

Mr. MUNGEN. The gentleman is not very clear in his ideas of race. If he had read my speech he would have found that I have answered every proposition that he has advanced. He as well as other members will find it good reading. [Laughter.]

In answer to his question I will say that I do not believe the differences between the white races are equal to the differences between the white and black race. But, sir, I did not rise to go into any general discussion of this matter.

I want to say to the gentleman's colleague [Mr. SCOFIELD] that I found the extract I quoted going the rounds of the papers, and uncontradicted for months, and that it is in consonance with the public lectures of Professor Agassiz in the city of New York. I think that the professor has got a little thinskinnyed recently. He is up in a latitude in Boston where it will not do to hold the same views he held in his New York speech. Perhaps he will take back what he said in the Smithsonian Institution. It is apparent to every gentleman who read the extract and who heard the letter read in this House to-day that there is no difference whatever between Professor Agassiz and myself in reference to the plurality of races.

I have no fault to find with him. I simply say this, that the proposition I argued was whether such a bill as that, and the acts to which it was supplementary and explanatory, were beneficial to this Government or just to the white race. I argued the question as courteously as I could, avoiding the question of theology, which naturally does belong to it.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me another question?

Mr. MUNGEN. No, sir; I will not give way any more for stump speeches. [Laughter.] So far as that is concerned I am willing to give to Professor Agassiz the benefit of his disclaimer; but I appeal to those who heard that letter read whether he does not distinctly say that there are distinct races, and whether that letter does not fully indorse the remarks I made the other day as published in the Globe? I maintain that it does.

And I say another thing: that so far as the nerves and bones are concerned the learned and accomplished Dr. Knox takes the very same ground. He says in a case he examined of a black man that the nerves were one third less than in the Saxon of the same size and weight. Dr. Knox stands to-day undisputed on that point, either in Europe or America. Pritchard, who wrote largely on the subject, and took a different ground in the first two volumes, turns round in the third volume and virtually comes to the same conclusion that Francis Pulszky, Habersham, Nott, and Glendon have come. There is no man who thoroughly studies the physical sciences and can draw proper deductions from the premises who, in my opinion, can resist the truth of what Professor Agassiz states in regard to the great difference between races.

I have said this much in regard to the extract which I found in the paper and put into my speech together with other references. I have not misquoted Professor Agassiz, except that he says he did not speak about the bones, &c. He talks about the style of the language in

that article. For that I am not accountable. But so far as the extract is concerned, I must say I believe as a literary production it compares tolerably favorable with the rough words contained in that letter. I suppose he was in a rather bad humor when he wrote it. I am sorry.

Mr. SCOFIELD. Before the gentleman takes his seat I desire to ask my friend, whom I may call the learned anatomist, [laughter]—

Mr. MUNGEN. Not at all.

Mr. SCOFIELD. I desire to ask him whether the Doctor Nott to whom he appeals is not an Alabama slaveholder?

Mr. MUNGEN. It was Doctor Knox that I alluded to. He never was in this country at all that I know of; he is an English lecturer.

#### TREATMENT OF UNION PRISONERS.

Mr. MUNGEN. While I have the floor I ask leave to offer the following resolution:

*Resolved*, That the committee heretofore appointed to inquire of the treatment of prisoners, &c., be, and they are hereby, instructed to inquire into and report upon the treatment, &c., of prisoners confined in the camps and prisons of the United States Government during the war; and also to inquire into and report upon the facts connected with the cartel as to exchange of prisoners, and the action under the same by the officers of the United States and the so-called confederate government, and why the speedy exchange of prisoners was not effected.

Mr. VAN AERNAM. I object.

#### RECESS TO-DAY.

Mr. BINGHAM. Mr. Speaker, I move that the House now take a recess till eight o'clock, and I ask unanimous consent to give the reason.

The SPEAKER. Is there objection? The Chair hears none.

Mr. BINGHAM. I understand the Senate are considering the bill for reconstruction sent to them by this House, and they have notified members of the House that probably they will be able to send it back to the House at eight o'clock. In order to expedite the business I make this motion.

Mr. FARNSWORTH. I do not believe it is advisable.

Mr. JUDD. I move that the House adjourn.

The question being taken, the House refused to adjourn—ayes 42, noes 72.

The question then recurred on the motion to take a recess till eight o'clock, and it was agreed to.

Accordingly the House (at three o'clock and forty minutes p. m.) took a recess till eight o'clock p. m.

#### EVENING SESSION.

The House reassembled at eight o'clock p. m.

#### SOLDIERS' BOUNTIES.

The SPEAKER laid before the House the following communication from the Secretary of the Treasury; which was laid on the table and ordered to be printed:

TREASURY DEPARTMENT, July 10, 1867.

Sir: I have the honor to acknowledge the receipt of a resolution of the House of Representatives, dated yesterday, as follows:

*Resolved*, That the Secretary of War and the Secretary of the Treasury be directed to inform this House what further legislation, if any, is necessary to facilitate the payment of additional bounty granted by act of July 28, 1866.

In reply I would say that as far as this Department is concerned no further legislation is required to facilitate the payment of the bounty in question.

I am, sir, very respectfully,

HUGH McCULLOCH.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. HOLMAN. I desire to ask the unanimous consent of the House to introduce a bill in reference to bounties to the widows and heirs of soldiers.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed an act supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867,



and the act supplementary thereto, passed on the 23d day of March, 1867, with an amendment, in which he was directed to ask the concurrence of the House.

Mr. HOLMAN. I now ask leave to introduce my bill, and to have it printed.

Mr. BOUTWELL. Is that a bill in regard to reconstruction?

The SPEAKER. It is not in regard to reconstruction, but the gentleman from Indiana was upon the floor at the time the message came in.

Mr. HOLMAN. I desired to move to suspend the rules to enable me to introduce a bill in regard to bounties, but I am willing to waive it until this reconstruction bill is disposed of.

Mr. SCHENCK. Is the bill from the Senate to be referred to the Committee on Reconstruction?

Mr. BOUTWELL. This is substantially the bill reported by the Committee on the Judiciary.

Mr. HOLMAN. I insist on the reading of the bill.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

That the true intent and meaning of the "Act to provide for the more efficient government of the rebel States," passed March 2, A. D. 1867, was, is, and shall be construed to be that the military authority of the United States in said rebel States, as provided in said act, was and is paramount to any civil government existing therein, makes all such civil governments subordinate to such military authority, and prohibits them from interfering in any way with the exercise of such military authority.

SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the approval of the General of the Army of the United States, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the approval of the General aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army, or by the appointment of some other person to perform the same.

SEC. 3. *And be it further enacted*, That the General of the Army of the United States shall be invested with all the powers of suspension, removal, and detail granted in the preceding section to district commanders.

SEC. 4. *And be it further enacted*, That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers and appointing others in their stead are hereby confirmed. *Provided*, that any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district, or by the General of the Army.

SEC. 5. *And be it further enacted*, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" passed March 2, 1867, shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question; and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine under oath (to be administered by any member of such board) any one touching the qualification of any person claiming registration. But in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list: *Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color.

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act is (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the time and of the rebellion or had held it before, and who has afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the word "executive or judicial officer in any State" in said oath mentioned shall be construed to

include all civil offices created by law for the administration of the general laws of a State.

SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the 1st day of October, 1867; and the boards of registration shall have power, and it shall be their duty, commencing twenty days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall at any time be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

SEC. 8. *And be it further enacted*, That section four of said last named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

SEC. 9. *And be it further enacted*, That all provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

Mr. BOUTWELL. I will state that there has been no session of the committee in reference to this question, and I am not prepared to say whether the majority of that committee are of the opinion that it is wise for the House to concur in the amendment of the Senate or not. I see now that the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the committee, is present. With his permission I will state that before the meeting of the House this evening, it happened that four members of the Committee on Reconstruction were present in the committee room and they considered the amendment proposed by the Senate, and they were of the opinion, of course upon a very hasty examination, that this bill is as acceptable as the one that went from the House. Of course these proceedings of the committee are of no practical or parliamentary value; and the motion which I make is made in the belief that probably the House is ready to concur in what seemed to be the judgment of the members of the committee.

Mr. STEVENS, of Pennsylvania. I have no feeling in this matter. I am somewhat unwell, and I do not wish to trespass on the patience of the House, but I have not heard exactly what has been done.

Mr. BOUTWELL. The Senate have passed an entirely new bill.

Mr. STEVENS, of Pennsylvania. I have no disposition to complain of this hasty legislation, but I would like to hear what the bill is which the Senate has passed.

Mr. BINGHAM. I desire to say to the gentleman from Pennsylvania, as a member of the committee, that I desired to consult with him on this subject, but we understood from the clerk of the committee that he was too unwell to be present. Now, being here to answer for himself, after he has heard this bill read he will discover one thing. I have read it carefully myself. The Senate has retained in the bill as amended substantially every provision which went from this House to the Senate, save and except the penal section, which the gentleman will remember.

Mr. STEVENS, of Pennsylvania. I am not complaining that anything was done in my absence. It is competent to get along as well without as with me. But it seems there is to be unusual haste. If there is nothing in the bill that is altered that is another thing. This committee having considered the matter and reported the bill which was sent to the Senate, I do think it is only proper that the amendment of the Senate should be referred to it for its consideration. I do not wish to be captious, I do not wish to find any fault; but it is for the House to determine.

Mr. FARNSWORTH. I wish to state in addition to what has been stated by my colleague on the committee, that I obtained a copy of this bill from the Senate as it passed that body, and came over about twenty min-

utes before the meeting of the House. The Clerk of the House informed me that he had sent a messenger to the room of the gentleman from Pennsylvania, [Mr. STEVENS,] and that the messenger had returned with the message that he probably would not be here this evening. We held only an informal meeting of such members of the committee as could be found. We believed it was a good bill. It is substantially about the same as the House bill.

I am in no haste and do not think there is any necessity for any haste. If it be more acceptable to the House to have the amendment referred to the committee it will be acceptable to me. Many members are anxious that we should pass the bill to-night, so as to facilitate and hurry up the adjournment of Congress; and in that impatience I sympathize. But I do not desire to so hurry up our business as to leave anything undone which ought to be done. If it is the desire of the chairman of the committee that it should be referred to the Committee on Reconstruction, I hope that course will be taken.

Mr. STEVENS, of Pennsylvania. They have made some alterations in regard to the General of the Army which I regard as essential.

Mr. FARNSWORTH. They do not incorporate our section in regard to the removal of the commanding general. They are silent.

Mr. STEVENS, of Pennsylvania. Let us meet at ten o'clock to-morrow, and we can come into the House and recommend what should be done. I hope that course will be adopted.

Mr. ASHLEY, of Ohio. I hope that course will be adopted.

Mr. FARNSWORTH. I move that it be referred to the Committee on Reconstruction, and ordered to be printed.

Mr. SCHENCK. Mr. Speaker, I desire to ascertain, if there be no impropriety in knowing, what is in this bill before we pass upon it from some of these three or four gentlemen who had some twenty or thirty minutes to bestow upon it, whether it is by design that the General of the Army is to have no power to appoint civilians?

Mr. FARNSWORTH. That is in this bill. Mr. SCHENCK. Probably it was intended to be, but like a good many other things it is not there.

Mr. FARNSWORTH. It is there.

Mr. SCHENCK. I beg your pardon. It gives to the district commanders power to suspend or remove or detail officers or appoint other persons. Another section gives to the General-in-Chief power to suspend, remove, or detail. I suspect it was intended to give him the same power as is given to the district commanders, but we are in such great haste that perhaps it is improper to suggest that any such thing has been left out. I ask that the second section be read.

The Clerk read the second section of the Senate bill.

Mr. SCHENCK. That is a section giving power to the district commanders, that they may detail some officer or soldier, or appoint some other person. Then the third section provides that the General of the Army of the United States shall have the power of removal, suspension, and detail granted in the preceding section to the district commanders, but it does not grant him the power to appoint civilians. So the General of the Army has less power.

Mr. BINGHAM. Does the gentleman consider that of any serious importance?

Mr. SCHENCK. I do.

Mr. BINGHAM. It is no such thing.

Mr. SCHENCK. I am in the expectation of receiving a flat contradiction of that kind. There are some people in this world who know everything, and we must of course always differ with due submission from them. But I say that if it be thought that there are any officers and soldiers unfit to fill these offices when removals take place, and therefore the details will not answer, but they must resort always to the appointment of other persons, there is the

same propriety in giving that appointment to the generals as to the subordinates. And more than that, I have information from a Senator that it was an omission in not putting the amendment in the third section; that it was intended to put it in that section as well as the second. I give this as but an instance of what I believe has been overlooked. It struck me when I heard it read by the Clerk—and that is all the information I have—that that amendment, which was very properly made in the second section in the Senate bill, was in all probability intended to be inserted in the other section.

I hope this bill will be referred to the committee and printed. I hope we shall at least have the opportunity of seeing what those amendments are, whether material or immaterial. When we remember that a great deal of the difficulty with regard to the construction of the law as it now exists has arisen out of hair-splitting in reference to particular forms of phraseology contained in amendments put into the bill during its progress through the House it may not be improper to take a little warning by that, and see whether we cannot use such exactness of language and be so specific that we may have it in every way more to our purpose, even if we take a few hours more to wait, consider, reflect, and act, with a view to this object.

Now, sir, I am inclined to think the bill as it comes from the Senate is very much better than the House bill, and if I am forced to vote now, without further examination, I would at once vote with those who are for agreeing to this substitute of the Senate. I do not like either of the bills. I do not mean to detain the House with an argument, but I have not troubled them in relation to this bill from the beginning, and I desire to say that if I had had control of this matter—and so far as my vote would go I would at any time desire to give it in that direction—I would have swept away entirely all those pretended civil governments at the South and built up new ones from the foundation. I do not think anything else is a complete remedy for the state of things.

But the removal of obstacles does not appear to be the order here now. When an obstruction in the shape of a President lies in my path toward the accomplishment of that which ought to be our object, namely, the building up of civil governments in the southern States, I would not, so far as that obstruction is concerned, either attempt to dig canals around it, burrow under it, or climb over it, but remove it out of the way. And as I would remove the obstruction in the shape of an officer or person, so I would do in reference to a kindred principle, and remove these civil governments.

I do not know that the committee will take any different view of it from what they have heretofore taken, nor that we can expect any such amendment as that proposed to the amendment of the Senate; but I do think we might at least wait. And I am more inclined to think—to return to the point with which I set out—that when you come to examine the matter, it will be found that there was an omission in inserting the amendment I have alluded to by the Senate, and that they intended to make the amendment in the third section.

Mr. FARNSWORTH. I do not think there is anything in the point the gentleman makes with reference to the section which gives to the commanding General of the Army the power of detail and removal. The preceding section expressly gives to the commanding general of the district the power to appoint other persons; and another section gives to the commanding General the power to make detail, the same power that commanders of the district have.

Mr. SCHENCK. Not at all.

Mr. FARNSWORTH. To make detail and removal; but it does not take from the commanding general of the district the power to appoint other persons at all. It may be well to put into that section the same phraseology

as in the other—to appoint other persons; but I do not think it will have any particular significance nor make the bill any stronger or any less strong; for it is scarcely to be presumed that the commanding General of the Army is going to examine into these matters and appoint justices of the peace, judges of probate, sheriffs, constables, &c. I think it would perhaps be best that the bill should be recommit- ted and printed.

Mr. LOGAN. I desire, with the consent of the gentleman from Illinois, [Mr. FARNSWORTH,] to ask a question of the gentleman from Ohio, [Mr. BINGHAM.] It is in regard to the construction of the fourth section of this bill. It provides as follows:

That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers and appointing others in their stead are hereby confirmed.

Now, I wish to inquire whether under this bill officers may be displaced and others put in their stead for any acts done prior to the passage of this bill.

Mr. BINGHAM. I so understand; and I beg leave to say to the gentleman that the legal effect of the first section of this bill is, to all intents and purposes, precisely the same, according to my recollection, as that of the bill which we sent to the Senate.

Mr. LOGAN. That is not the point to which I am directing my remarks. My own view about the matter is that by the confirmation of the acts of the commanding general these officers will hold their positions, unless they do some act hereafter for which they can be removed.

Mr. FARNSWORTH. The Senate has amended the fourth section.

Mr. LOGAN. No, sir.

Mr. FARNSWORTH. Yes, sir; the Senate added these words:

*Provided, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army.*

Mr. LOGAN. I understand that; these persons may be removed in the same manner as any other officer. But the point which I wish to suggest is this: that by the confirming of the appointment, they must be removed hereafter for acts done subsequent to the passage of this bill. Now, I desire to ask whether, if the bill should go to the committee, it would not be well that the committee should add an amendment providing that these appointments already made shall be subject to the approval of the commanding general in the same manner as appointments to be made hereafter. Without going into any argument about the question, I think there have been appointed to office some persons whose appointments would not be deemed proper by this House. Hence I think the amendment I have suggested would be proper. Certainly, it seems to me, there can be no objection to it.

Mr. BINGHAM. Well, Mr. Speaker, I do not propose to enter into a discussion on that point.

Mr. LOGAN. Neither do I desire to discuss it. I merely made the suggestion.

Mr. BINGHAM. I understand the distinction which the gentleman has drawn, and it may be a proper distinction; but I will only say in reply, that the terms of the act *ex vi termini* import that the appointments are valid.

Mr. ELDRIDGE. I rise to a point of order. We are not able to hear on this side of the House the remarks of the gentleman from Ohio, [Mr. BINGHAM,] and I insist that he shall speak from his own seat. He belongs over here with us, and he ought to be here. [Laughter.]

The SPEAKER. If the gentleman from Wisconsin insists on the point, the gentleman from Ohio [Mr. BINGHAM] must speak from his own seat or from the Clerk's desk.

Mr. ELDRIDGE. I do not wish the gentleman to go back to wallowing in the mire. [Laughter.]

The SPEAKER. The gentleman from Wisconsin insists on his point, and therefore the

gentleman from Ohio must speak from his own seat or from the Clerk's desk.

Mr. BINGHAM. The gentleman from Wisconsin is in fun.

Mr. ELDRIDGE. The gentleman is mistaken. His experience may lead him to think that it is all fun. He may have been in fun in his remarks when he was over here. But we are deeply in earnest. [Laughter.]

Mr. BINGHAM. I desire to say, Mr. Speaker, that unless there be urged against this bill some stronger objection than any that we have yet heard I do not see why the House should spend any further time upon it.

Mr. SPALDING. Is there any restriction on the right of removal of these military commanders?

Mr. BINGHAM. Not at all. What I desire to say is this: that all of these military commanders are under the supervision of the General of the Army. I am willing to admit that my colleague is doubtless right that the Senate intended to put it in, but with all regard to him I must be permitted to say that I believe it to be a work of supererogation.

Mr. SCHENCK. When this bill was first reported it had two sections, the second and the third, in relation to this matter. By the second they gave power to the district commanders to suspend or remove and detail officers or soldiers to fill any vacancies thus occasioned. They afterward amended the bill in the second section so as to provide that the district commanders should not only have the power to fill these vacancies by detailing officers or soldiers, but for very good reason the Senate went further and provided that the offices might be filled by the appointment of any other persons, that is, by civilians. We all know that there are not officers enough to fill these places. But they have omitted in the third section to make the same provision in regard to the General of the Army. As originally reported, the language of the third section followed that of the second. They altered the second but did not alter the third. It stands now that the district commanders may suspend or remove, detail or appoint some other person, but the General of the Army can only suspend or remove and detail. The district commander may remove a Governor of a State and appoint some civilian to take his place or detail some officer to do it. The General may remove the Governor of a State and detail an officer or soldier to take his place, but he cannot appoint any one else. I do not believe it was the intention of the Senate, and I am well advised when I say that it was an oversight to give the General of the Army less power than the district commanders. I say that this discrepancy struck me when I heard it read, and if one flaw, if it be one, can be discovered on the reading of the manuscript of the bill as it comes from the Senate, when we come to have it in print as it passed the Senate it seems to me it is not at all impossible that some other inaccuracy may be found out, or that some other amendment may be made.

I do not know that I should dwell upon this but for the fact that it is considered little short of treason for any one to speak of amending, or seeking or claiming the right to deliberate upon or look at the language of this bill before it is passed. The gentleman says there was plenty of time given in the House on this bill. It does not occur to my recollection that any great time was given on that bill; perhaps an hour, with speeches of five or ten minutes in length. I am not making complaint. I did have five minutes allowed me on the original bill upon which Mr. Stanbery has commented. No other time have I taken, and I feel a malicious satisfaction in taking a little time now; doing that for the purpose of saying it would do no harm at least to sleep on this Senate bill. It would do no harm, sir, to see it in print. It would do no harm to so have the language that it would be expressed with precision, and not taken now hurriedly upon the judgment of some three or four members who have had twenty or thirty minutes to

bestow upon it. We ask, sir, that the bill shall not only be recommitted, but ordered to be printed, and we can then adjourn and take it up to-morrow.

Mr. BINGHAM. All I have heard amounts to this: that if the word "appointment" is inserted before the word "and" in the third section it would meet my colleague's objections.

Mr. SCHENCK. As far as that goes, I have other very serious objections.

Mr. BINGHAM. I cannot see why a General of the Army who is allowed to detail from the whole Army cannot be authorized to go outside of it and detail from the whole people of the United States.

Mr. FARNSWORTH. I am appealed to by my friend from Massachusetts to allow him three minutes.

Mr. BUTLER. I desire simply to call the attention of the House to the provisions of this bill. It is the most important legislative action, taken with the acts to which it is supplementary, that has been had since the Constitution of the United States was framed. And yet we propose without having read it, without seeing it in print, without having examined it so far as we would examine a private corporation act, to proceed to pass the bill. I pray gentlemen to pause, because this bill is to be made so as to exclude a conclusion that we have twice passed this kind of act and the Attorney General of the United States has found very weighty objections to it, in which judgment he is sustained by some of the ablest lawyers of the country, all in consequence of our haste. We are now passing a bill which will be revised by him, and to which the President of the United States, in the language of one of his generals, is in bitter political antagonism.

Under these circumstances I desire the House to allow this substitute to be referred to the committee and printed. There was no discussion on the original bill among its friends. Its enemies were allowed to discuss it upon general principles; but in perfecting the bill there was scarcely any discussion or deliberation. I hope, then, that we will let this bill go over to-night. We shall gain no time by passing it this evening. We can finish it to-morrow, and if we make any amendment we can send it to the Senate the same day, so that it will get to the President about as soon as if we were to pass it to-night.

Mr. LOGAN. I desire to ask the gentleman from Illinois a question, for I want information. Under this bill no persons are appointed to office not detailed from the Army except such as are referred to in the language "other persons," meaning civilians under the authority of the military governors or commanders. Now, what oath are those appointees to take to fulfill the duties of the office which they are appointed to fill?

Mr. FARNSWORTH. The bill makes no provision in regard to that whatever, neither did the House bill. I suppose when an officer or soldier is detailed he acts under his oath as such officer or soldier.

Mr. LOGAN. You say there is a general law for all officers appointed by military commanders. There is but one oath required where a person does military service, and if they are appointed by military commanders there is no law, as I understand it, requiring them to take any oath of office.

Mr. BINGHAM. Is any oath of office required of a person detailed from the Army?

Mr. LOGAN. There is not; that is what I am asking about; there is no oath required.

Mr. BINGHAM. I think the gentleman is mistaken.

Mr. LOGAN. No, sir; this is the point I make: if the military commander appoints a civilian, the law does not prescribe any oath; and if he details a soldier to perform soldier's duty, then I ask what oath the soldier takes to perform that simple duty? I only call the attention of the committee to this question with a view to have them consider it. I hope the substitute will be referred and printed.

Mr. FARNSWORTH. I will yield a moment to the gentleman from Ohio.

Mr. SHELLABARGER. I wish first to make an inquiry of the Chair. Suppose the motion to refer should fail, and the motion to concur in the Senate amendment should fail, could we then, by a vote of the House, request a committee of conference, and if so, what would be the right of the committee of conference to depart from the provisions of the two bills passed by the respective Houses?

The SPEAKER. The Chair will state that if the motion to refer and the motion to concur in the amendment of the Senate shall both be voted down, the House can disagree absolutely in the amendment of the Senate, or disagree and ask the appointment of a committee of conference. If a committee of conference shall be appointed, inasmuch as the amendment of the Senate proposes to strike out the entire bill of the House, the whole question will be before the committee.

Mr. SHELLABARGER. That will then bring about the state of things that I supposed it would if the House should take that course. Now, I think the experience and observation of all the members of the House in reference to bills of this importance is that the whole subject goes to the committee, who will have before them the views of each House, being in possession of the bills respectively passed by the two Houses. It seems to me that a state of things is now before us in which we may as well come directly to a committee of conference.

I would like to say, if I am not trespassing upon the time and patience of the House, that I do not like much of the phraseology of the House bill, and that I should be greatly pleased to see a more compact and careful bill, although I think the substance of what we want is in the House bill. I think we should make whatever bill we pass so compact that no coach-and-six can be driven through it hereafter by any Attorney General. I hope the motion to refer will not prevail, but that we shall have a committee of conference.

Mr. STEVENS, of Pennsylvania. As I understand it, the Senate have stricken out the whole of our bill, and there is nothing remaining about which the two Houses can confer.

Mr. FARNSWORTH. I understand from the reply which the Chair made to the question of the gentleman from Ohio [Mr. SHELLABARGER] that if a committee of conference is appointed the entire subject will go to that committee, and will be put in the hands of six men—three members of the House and three members of the Senate. For my own part I am not willing, in the first instance, until the Committee on Reconstruction shall have examined the matter, to place the whole subject of this bill in the hands of three members of the House and three of the Senate, whose conclusion will be forced through the House, as members well know, under the previous question. I hope, therefore, that the House will sustain the motion to refer the amendment of the Senate to the Committee on Reconstruction, and that it will be printed and laid upon the desks of members to-morrow morning. The Committee on Reconstruction can examine it and suggest such corrections as they think ought to be made. It seems to me that that would be only becoming a deliberative body like this. I know, sir, that we are all anxious to get home, but do not let us take to our heels and run away from Washington with our work half done, as we did before. I now demand the previous question on the motion to refer.

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. I object to his yielding.

The SPEAKER. The gentleman is entitled to the floor for one hour and has a right to yield.

Mr. FARNSWORTH. I yield, then, to the gentleman from Massachusetts, [Mr. DAWES].

Mr. DAWES. By a comparison of these two bills it will be found, I think, that the dif-

ference between the two is merely a difference of phraseology, with the exception that the Senate has stricken out that section of the House bill proposing to impose a penalty for hindrance or obstruction of the act. The Senate, so far as I am able to discover, seeks to carry out the same line of policy as that favored by the House. I agree with some other gentlemen here that the Senate has succeeded better than we did in carrying out the policy which both Houses favor. But there is a difference of phraseology, and there is a difference as to the section in reference to penalties. Now, inasmuch as the two Houses have approached so nearly an agreement, it does seem to me that the adoption of the suggestion of the gentleman from Ohio [Mr. SHELLABARGER] will bring this matter to a satisfactory conclusion better than any other method. Two committees representing the two Houses can no doubt, by conferring together, arrange readily the very few points of difference between the two Houses.

There is, as I have remarked, no difference of principle except upon one section. Should the House adhere to its position in reference to that section and the Senate also adhere, the matter will have to go to a committee of conference, after all. Such a committee is in all probability that method of settlement to which we shall ultimately be obliged to come; and, in my opinion, our differences will be adjusted better in that way than any other.

If the two Houses were differing upon principle, if they were differing upon any material points, I would insist that we should adhere to our position as long as might be proper, and as long as we could have any reasonable expectation of accomplishing our purpose. But the two Houses do not differ upon anything material except a single section. Why, then, should not our differences be settled in the manner in which such differences are usually settled—by referring them to a committee of conference? I hope that the suggestion of the gentleman from Ohio will be adopted by the House.

Mr. SCOFIELD. I ask the gentleman from Illinois [Mr. FARNSWORTH] to yield to me two minutes.

Mr. FARNSWORTH. I will.

Mr. SCOFIELD. Mr. Speaker, give us anything but a committee of conference. Send this bill, if you choose, to the Committee on Reconstruction or to the Committee of the Whole, or to any investigating committee; but save us from the blunders and secrecy of a committee of conference. All the blunders of legislation, all the follies that have been committed in this House since I have been here have come through that great hole. [Laughter.] And nobody can see what is coming until it does come; and you cannot see it then until it has passed out of sight, [laughter;] and the first thing we know of it is when it is published in the official record. When a report comes to us from a committee of conference we must either reject the whole or swallow the whole, and generally we do not know which is which. [Laughter.]

Mr. FARNSWORTH. I now call the previous question.

The previous question was seconded and the main question ordered.

The question being taken on the motion of Mr. FARNSWORTH, to refer the amendment of the Senate to the Committee on Reconstruction, it was agreed to; there being—ayes 74, noes 49.

The question being taken on the motion of Mr. FARNSWORTH, that the Senate amendment be ordered to be printed, the motion was agreed to.

Mr. INGERSOLL. I now move that the House adjourn.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] is not entitled to the floor. The floor reverts to the gentleman from Indiana, [Mr. HOLMAN,] who yielded it temporarily that the amendment of the Senate to the reconstruction bill might be taken up.

The bill upon which the gentleman has the floor is in relation to additional bounties.

Mr. HOLMAN. I enter a motion to suspend the rules. I also move that the bill be ordered to be printed.

The motion to print was agreed to.

Mr. HOLMAN. I now will yield to a motion to adjourn.

On motion of Mr. INGERSOLL, the House (at nine o'clock and fifteen minutes p. m.) adjourned.

#### PETITIONS. ETC.

The following petitions &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: Memorial of James J. Rogers, of New York, a soldier of the Union Army, in behalf of naturalized citizens of the United States arrested or convicted in Ireland for alleged violation of the laws of the British empire.

By Mr. BROOKS: The petition of Mrs. E. N. Jackson for a renewal of a patent for a bell annunciator and telegraph.

By Mr. STEVENS, of Pennsylvania: Resolutions of the Union Leagues of the city of Baltimore, asking for universal suffrage.

Also, the petition of William H. Weaver, late captain twelfth regiment Pennsylvania Reserves, asking for the return to him of \$2,500, taken from him by order of the general commanding Army of Potomac.

By Mr. WARD: The petition of 900 citizens of Maryland, asking Congress to pass a law abolishing all distinction in suffrage on account of race or color throughout the Union.

#### IN SENATE.

FRIDAY, July 12, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

Hon. CORNELIUS COLE, of California, and Hon. WILLARD SAULSBURY, of Delaware, appeared in their seats.

#### PERSONAL EXPLANATION.

Mr. DIXON. I ask the permission of the Senate to state that I was accidentally absent on the final vote on the passage of the bill supplementary to an act to provide for the more efficient government of the rebel States, passed the 2d of March, 1867, and the act supplementary thereto, passed March 23, 1867. If I had been present I should have voted against the passage of the bill, for the reasons which I had the honor to present to the Senate on the passage of the original bill.

#### MAXIMILIAN'S DECREES IN MEXICO.

Mr. CHANDLER. I move that the Senate proceed to the consideration of a resolution offered by me a few days since relative to Mexico.

The PRESIDENT *pro tempore*. The resolution will be read.

Mr. GRIMES. We understand what it is.

Mr. EDMUNDS. The reading is unnecessary.

Mr. CHANDLER. I will submit the remarks I have to make upon the motion to take up the resolution.

Mr. GRIMES. Let us take it up first.

Mr. CHANDLER. Very well; I move to take it up for consideration.

Mr. SUMNER. The question is one of order, as I take it.

The PRESIDENT *pro tempore*. The question is on taking up the resolution.

Mr. SUMNER. The question is one of order, whether the taking it up is in order under the rule of the Senate.

Mr. GRIMES. There is no doubt of that. The PRESIDENT *pro tempore*. The Chair will refer that question as to the construction of the rule to the Senate. I prefer that the Senate should construe its own rules.

Mr. GRIMES, (to Mr. CHANDLER.) Go on and make your speech on your motion.

Mr. CHANDLER. Well, Mr. President, I will say what I have to say on the question of taking up the resolution.

The PRESIDENT *pro tempore*. The question is whether it is in order to take up the resolution.

Mr. CHANDLER. Mr. President, it is well

known, it is an admitted fact, that the invasion of Mexico was in reality a part and parcel of our rebellion. If the United States Government had been at peace no one presumes that an attempt would have been made to establish an empire in the republic of Mexico. Had Maximilian gone to Mexico as other filibusters go, as Lopez and as the son of Henry Clay went to Cuba, and as others have gone, simply with his life in his hands in pursuit of a crown, he would have won a crown or lost his head, and no remarks would have been made. He staked his head for a crown, and there was no fault to be found certainly, nor had his friends a right to question the verdict. If he won, he won an empire; if he lost, he lost his head.

But, Mr. President, Maximilian claimed to be something more than an adventurer. He claimed to be something more than a filibuster. He claimed to have been elected by the Mexican people to occupy the Mexican throne; and I propose for a single moment to examine into that claim. I hold in my hand a letter from a very distinguished officer in our Army during the rebellion, who has since the close of the rebellion spent some months in Mexico, a man who is thoroughly acquainted with Mexican affairs, and who writes from a Mexican stand-point. He says:

"We all know how Maximilian was elected. Marshal Forey appointed thirty-five reactionary notables; these elected a regency of three—Generals Almonte and Salas and the Archbishop of Mexico, who had all been leaders in inviting the monarchy. These now elected a new assembly—all noted reactionists—and among them were found many of the men who had made Mexican horrors a proverb. The farce closed up with the election of Maximilian; and when General Bazaine made the electioneering tour, with forty thousand bayonets at his heels, seven eighths of the population of Mexico and twenty-nine thirtieths of its territory were beyond the lines of French protection, according to a reliable French calculation. Yet Maximilian accepted this unanimous vote. To say that he was ignorant of the way he was elected was an insult to his intelligence; for if nothing else existed at that time to prove the utter abhorrence of the great body of the Mexican people to the invasion the siege of Puebla, one of the most heroic defenses in history, was sufficient. Those who argue that Maximilian was deceived into the idea that Mexico wanted his government simply try to prove his intellectual incapacity."

Again, this same writer says:

"With the crushing and unprincipled hand of Bazaine, handling forty thousand French troops and the retrograde contingent that French gold supported, the empire commenced the desolation of Mexico. In this it was aided by William H. Seward, United States Secretary of State, who apparently impeded every effort of the republic to obtain arms in the United States, while all our ports appeared to be open to the empire from New York to the Rio Grande. At length the empire managed to hold possession of just those lines along which its bayonets gleamed. At no period of its existence, before or after, could a courier carry a letter safely between any two great cities without an escort. At this stage of the imperial game, Maximilian, exasperated at the desperate defense of the country, issued a decree October 3, 1865—do not forget, I pray you, that he went there to teach the Mexicans civilization—which for barbarity has not been equaled, and far surpasses the modern one of his brother, Francis Joseph, against the Hungarians. Under this decree the meanest officer of the empire could have arrested President Juarez and shot him inside of twenty-four hours without mercy; under this edict Mexico was put to the sword. I myself have seen the effects of its savage application. Northern Mexico especially was marked out for desolation, and thousands of the first people of the country bent to the bloody tornado, that spared neither age nor sex. I have passed through village after village leveled with the ground by imperial fiat after this decree was promulgated. Did the world cry out then with horror; or did the empire stifle with its gold the gurgle of the blood as it flowed from the veins of the republic?"

Mr. President, this pretense of an election, as every man at all acquainted with Mexican affairs knows, is but a mere pretense; for never, during the whole occupation of Mexico by the French troops, was it safe for a friend of the empire to step outside of the protection of French bayonets. Now, sir, I say that had Maximilian gone there as an ordinary filibuster, staking his life for a crown, his life would have been justly forfeited had he failed in revolutionizing the nation; but when, in addition to this unwarrantable filibustering expedition, he enacted that abominable decree, his life was more than forfeited. When he signed that decree he abandoned all hope of mercy unless he succeeded in putting down the Mexican

republic. Why, sir, since the foundation of the world, no such decree was ever issued or ever executed; and yet, since I have offered this resolution, I have been informed by persons on the spot, and those of the very highest respectability, that the decree was more savage in its execution than it was in its enunciation. Look for a single moment at that decree, issued in the nineteenth century, by a prince of the house of Hapsburg, a filibuster in Mexico, a man who staked his life for an empire, and lost.

"ARTICLE 1. All persons belonging to armed bands or corps not legally authorized, whether they proclaim or not any political principles, and whatever be the number of those who compose the said bands, their organization, character, and denomination, shall be tried militarily by the courts-martial; and if found guilty even of the only fact of belonging to the band they shall be condemned to capital punishment within the twenty-four hours following the sentence."

Sir, had Maximilian joined, as it was expected he would do, the rebels, he would have had a far greater hold upon the United States of North America than he had upon the republic of Mexico. Had he united with the rebels he would have had just as much right to issue that decree and declare that every soldier fighting for the liberties of this Government was an outlaw as he had to declare that Mexicans were outlaws. Suppose that Maximilian had landed in the rebel States and he had executed that decree; suppose he had captured by surprise General Grant—for Ortega stood as high in Mexico as General Grant does in the United States—suppose he had executed General Grant and more than ten thousand of our Union patriotic soldiers, would there have been any cry for mercy for the man who had executed the damnable decree? Would there have been any pity for the monster? And yet the cases are exactly parallel, only that Maximilian would have had a stronger and a faster hold on this Government than he ever had on the Government of Mexico. The decree would not have been one single iota more inhuman and more barbarous had it been issued on the soil of the United States and executed upon General Grant and upon the Union soldiers of the United States than it was when issued upon the soil of Mexico and executed upon the body of Ortega.

But again:

"ART. 2. Those who, belonging to the bands mentioned in the previous article, will be captured with arms in their hands, shall be tried by the officer of the force which has captured them."

It made no difference whether the officer of the force who captured a Mexican patriotic general was a general in the French army, a general in the Austrian army, or a corporal in either: the officer in command of the squad that captured him was ordered peremptorily to execute him within twenty-four hours without reference to any higher authority.

"And he shall within a delay never extending over twenty-four hours after the said capture make a verbal inquest of the offense, hearing the defense of the prisoner. Of this inquest he will draw an act, closing with the sentence, which must be to capital punishment if the accused is found guilty, even if only of the fact of belonging to the band. The officer shall have the sentence executed within the twenty-four hours aforesaid, seeing that the criminal receive spiritual assistance. The sentence having been executed, the officer shall forward the act of inquest to the minister of war."

Then it goes on naming others who are liable to execution under this decree. I shall occupy but a very brief period in reviewing this decree. I am sure that the people of the United States do not understand this question, or there would not be a man in the United States who would not say that the Mexican Government was not only justified, but that it was its duty to execute a man who had thus violated every rule of civilized warfare upon her patriotic soldiers.

"ART. 5. Shall be tried and sentenced conformably with article one of this law."

That is, tried by the officers arresting them, and shot within twenty-four hours.

"1st. All those who will voluntarily assist the 'guerrilleros' with money or any other means what-



ever. 2d. Those who will give them advice, information, or counsel. 3d. Those who voluntarily, and knowing that they are *guerrilleros*, will put within their reach, or sell them arms, horses, ammunition, subsistence, or any articles of war whatever."

Mr. President, the man who, knowing that his brother was a soldier in the army of the republic, gave a meal, gave a ration to that brother, or protected him over night, was liable to be taken and shot within twenty-four hours by the officer making the arrest. The mother who protected her own son—and I am told that thousands of homes were desolated under this decree—the mother who protected her own son, who was engaged in patriotically fighting for his Government and his country, was liable to be taken out and shot by the officer who arrested her. Was such a decree ever executed in any civilized nation before? Was such a decree ever executed in a civilized age before? Not that I have ever been informed of.

After the issue of such a decree, the last hope of leniency to him was thrown away in the event of his failure, because in issuing and executing that decree Maximilian signed his own death-warrant, and he knew it. He never hoped that his life would be saved; he knew he had signed his death-warrant in signing that decree. But, sir, forsooth, because perhaps he is a prince of the house of Hapsburg the sympathies of the world are to be enlisted for this unhappy prince. When the son of Henry Clay—and certainly no American will say that the son of Henry Clay did not carry as good blood in his veins as the son or brother of any prince or potentate on earth—was arrested on a filibustering expedition, what was done with him? He was garroted. Lopez was garroted. Was there any mourning for him?

Suppose the son of Andrew Johnson should think it would be a very good thing to establish a republic in France; suppose he should land upon French territory and proclaim a republic; suppose he should succeed in gathering the republicans of France around him—and that is a far more probable and possible supposition than was the supposition that it would be attempted to establish an empire in Mexico in 1860—suppose the son of Andrew Johnson should do that, and should establish himself in France, and after awhile should issue a similar decree, and suppose he should arrest Marshal Bazaine and should summarily shoot him, and should shoot more than ten thousand of the soldiers of France, and he were afterward captured, what do you think would be his fate? The French Government has shown us how they treat rebels. They put them in a cave and smother them with smoke.

Suppose he had thought that republicanism would be a good thing for Ireland, and had landed on the shores of Ireland, and had proclaimed a republic in Ireland, and had issued a decree that all men fighting against the republic of Ireland were outlaws, and when captured by any of his soldiers should be summarily shot within twenty-four hours; and suppose in the process of time the British Government had put down the son of Andrew Johnson; what do you think they would have done with him? The British Government have shown us what they do with men who are guilty of rebelling against their Government. They shoot them from the mouths of cannon, and do it remorselessly.

Suppose he had landed in Austria, and had thought republicanism was a good thing for Hungary, and had issued a decree that every man fighting against the liberties of Hungary should be summarily shot; what would the Emperor of Austria have done? They have shown us how they treat political offenders: they whip them to death with the lash.

But the Mexicans were more merciful and more civilized and more enlightened. I think that Mexico made a mistake. I think she did wrong. I think the man who was capable of issuing and capable of executing that decree was not entitled to death by the bullet. I think a just retaliation would have been to provide that wherever and whenever arrested

he should be summarily hanged. I think he forfeited his right to die a soldier's death. But the Mexicans were a chivalrous people, and they overlooked these outrages and granted him the very death that he would have received as an ordinary filibuster.

Mr. President, I am not discussing what I should have done, or what this nation would have done. I am discussing the right and the wrong of the thing, and what other nations have done or would do under such circumstances. The Mexicans might have been magnanimous and given him his life. They did not see fit to do it, and they were justified in not doing it. Maximilian never thought they would do it. He never dreamed of his life being saved. But now, forsooth, because this man has been shot, as he deserved to be, three nations go into mourning, and the representatives of those three nations are withdrawn from the Court of Mexico! I hope they never will be restored to the Court of Mexico. They have withdrawn their commercial agents from there. I hope those commercial agencies will never be restored.

Mr. President, Mexico during that long struggle of five years was our ally. Had she not resisted the French armies during those five years who knows but we might have had a diversion on our southern borders from the French army that was kept so busy by these patriotic Mexicans? Besides, it was under negotiation, as I am informed and believe, that the United States of America were to furnish a part of the territory for this empire. Negotiations were actually opened to surrender to them Texas and the large Territory of New Mexico. I say the United States were to furnish a large portion of this empire, had it been successful and had the rebellion been successful. This Mexican empire was part and parcel of the rebellion, and the Mexicans in their long and arduous and almost hopeless struggle for independence were our allies. How did we treat them while acting as our allies? Under the orders of the Secretary of State the French armies were permitted to purchase any material of war without stint or limit and ship it to Mexico. Thousands of mules and thousands of wagons and any quantity of war material was bought in open market and shipped to Mexico to aid this usurper. But, sir, when poor Mexico had bought a few thousand muskets, muskets that were not useful to us, our old smooth-bore weapons altered into percussion locks, and had them ready to ship, she could not get a clearance. The Mexican minister told me himself that he applied to the Secretary of State, and was by the Secretary of State referred to the Secretary of the Treasury. He applied to the Secretary of the Treasury, and the Secretary of the Treasury would not issue the permit, and he never got his arms into Mexico.

The course of this Government with relation to Mexico from the first has been a cowardly course. And now, sir, after we have left this Mexican nation to fight her battles alone, when the world is about to combine against her for aught we know, is this great nation to stand by and see the world combine against the republic of Mexico, or shall we issue an earnest protest against interference with Mexico by the Powers of the earth? Why, sir, it is but a day or two since that the following notification appeared in the New York Tribune:

"All the European Governments show the most intense excitement, and it can hardly be doubted that, but for the United States, a now and formidable combination of European Powers against the republican Government of Mexico would be formed."

But for the United States I have no doubt that that combination would be formed. But, sir, there is a United States; and you cannot find a man, woman, or child throughout the length and breadth of this land who was ever loyal to the Government of the United States who is not the friend of Mexico in her present trials and tribulations. Some condemn the action of Mexico, but I know of but three classes. In the first place, there are the

humanitarians, who do not believe in the shedding of blood for any crime. They, under the leadership of Horace Greeley, are shocked that the blood of this man should have been shed. Then there is another class of men who see something wonderful in royal blood. They may properly be denominated flunkies, who, under the leadership of Raymond of the Times, hope to stand well with foreign despotic Governments by denouncing the Government of Mexico. Then there is another class of men who four years ago were crying, "onward to Washington," rebels, traitors, men who living at the North were in sympathy with treason, and they are now crying, "onward to Mexico." They are the men who never lifted a finger to save this Government, whose whole sympathies were against the Government; and now, forsooth, because Mexico has executed this man they shout, "onward to Mexico; onward to the halls of the Montezumas." It is not the people of the United States, it is not the men who put down this rebellion, who are condemning the Mexican Government for the execution of Maximilian. There are a few who do not understand the facts in the case who think that perhaps it might have been as well to have spared his life; but the very moment they understand the facts in the case they say that Mexico has nobly vindicated her manhood in executing the man who dared to promulgate and carry out the infamous decree to which I have called attention.

Mr. President, since offering this resolution the other day, facts have come to my knowledge so strong and so positive that I care very little whether this resolution passes or not. But, sir, if this Congress adjourns without passing a strong resolution, not only of sympathy, but of aid if need be, to Mexico in case she is again invaded by the despotisms of the earth, it will forever disgrace itself in the eyes, not only of the nations, but of the loyal people of this land. We want the Austrians, the French, and the English to understand that if they commence a war against Mexico now they have got to fight the United States of North America. Sir, pass a simple resolution of sympathy and aid and no nation will interfere with Mexico. There is no nation to-day on the face of the earth that wants a war with the United States. All the nations of Europe combined would not undertake to fight the United States to-day on this side of the Atlantic.

Mr. President, now is the time to assert the Monroe doctrine to some purpose. There is not land enough on the continent of North America to hold an empire. It is not large enough, we have not room; and I want this Congress before it adjourns to say so in bold, manly language. I want to express sympathy for Mexico, and I want to assure Mexico that we appreciate the eminent services she has rendered us during the frightful rebellion through which we have passed, and to assure her that her good offices will not be forgotten, but that they will be reciprocated when opportunity offers.

Sir, Mexico has nobly vindicated her right to self-government by her powers of resistance and her powers of endurance. She has hoped against hope. She hoped for material aid from the Government of the United States, and inasmuch as we were both contending in the same cause she had a right to expect material aid from the Government of the United States. That material aid she never received. But now, sir, other nations that have heretofore monopolized the trade and the political influence in Mexico propose to cast her off and cut loose the bands that have bound them together for half a century. Very well, sir, I am glad to see it, and I propose now to say to Mexico, "We extend to you the right hand of fellowship; we are sister republics; you can rely upon our friendship and upon our aid." You may rest assured, sir, that never was there such an opportunity offered to any one nation as is now offered to this nation in a

material point of view with regard to Mexico. All the commerce of that republic would naturally fall as a matter of course into the hands of the people of the United States, who stand by her in her hour of trial. Mr. President, I ask for the passage of the resolution.

#### BILLS INTRODUCED.

Mr. WILSON. As this resolution may be debated a little further, I ask the Senator from Michigan to give way for a moment that I may obtain the unanimous consent of the Senate to introduce a bill for the purpose of raising four volunteer regiments in the Indian country, and to authorize the payment of some volunteers the Secretary of War has called out, and to make an appropriation to carry out the reconstruction act. If nobody objects to it, I should like to introduce the bill.

The PRESIDENT *pro tempore*. That is not in order until the motion to take up the resolution offered by the Senator from Michigan is disposed of.

Mr. WILSON. I suggest that that lie over for a few moments for this purpose.

Mr. POMEROY. I think we had better repeal our resolution and then proceed to business. There are matters in regard to the West which I want to bring forward, and I cannot do so under the resolution passed by the Senate. I think the better way is to repeal that resolution and let us proceed to business. I do not want to make an exception of one thing and then an exception of another.

Mr. WILSON. It seemed to be generally understood, as this was a matter of necessity, that there would be no objection to it.

Mr. POMEROY. I have a matter of necessity, too.

Mr. GRIMES. What does the Senator from Massachusetts propose?

Mr. WILSON. I propose to authorize the War Department to raise four or any portion of four regiments of mounted men in the Indian country, and to authorize the Secretary of War to pay out of the Army appropriations some troops called out for that purpose.

Mr. POMEROY. That is the very measure I want brought forward; but I want it brought forward, not by unanimous consent, but by a repeal of our resolution.

Mr. WILSON. Then there is a section in it appropriating \$1,648,277 to carry out the reconstruction act. That is the estimate of the Department.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, which must be first disposed of.

Mr. FOWLER. Before the vote is taken on that proposition, if that is the question before the Senate, I desire to make a few remarks.

The PRESIDENT *pro tempore*. The question is on taking up that resolution for consideration.

Mr. WILSON. I ask unanimous consent to introduce this bill.

Mr. GRIMES. There is another question before us.

Mr. WILSON. I move to lay that aside temporarily, for the purpose I have indicated.

The PRESIDENT *pro tempore*. The question is on taking up the resolution of the Senator from Michigan. Does the Senator from Massachusetts move to lay that motion on the table?

Mr. WILSON. Let us do that for a few moments.

Mr. ANTHONY, (to Mr. WILSON.) Do you want to pass your bill?

Mr. WILSON. I merely want to get it in and have it printed.

The PRESIDENT *pro tempore*. The question is on the motion to lay on the table.

Mr. ANTHONY. As I understand, the Senator from Massachusetts merely wants to introduce his bill and have it printed. I suppose it can be done by unanimous consent.

The PRESIDENT *pro tempore*. It may be done by unanimous consent.

Mr. ANTHONY. I hope he will be allowed to introduce it and have it printed.

Mr. POMEROY. Is that with a view to legislation at the present session?

Mr. WILSON. I propose to call it up this afternoon or to-morrow, if the Senate allow me to introduce it now and have it printed.

Mr. ANTHONY. Then it will be time enough to raise the question under the rule.

Mr. WILSON. At that time I shall ask the suspension of the rule for the purpose.

Mr. CONKLING. Or unanimous consent?

Mr. WILSON. Yes.

Mr. POMEROY. That is the measure I have been trying to get before the Senate since I came here. I do not want to object to that.

The PRESIDENT *pro tempore*. Is there any objection to the proposition of the Senator from Massachusetts? It can be entertained by unanimous consent. The Chair hears no objection.

Mr. WILSON. I will say that the bill which I propose to introduce is offered with the assent of the Committee on Military Affairs of the Senate, and I desire to have it read and printed.

There being no objection, leave was granted to introduce a bill (S. No. 132) to provide for the calling out of volunteers to suppress Indian hostilities, and for other purposes; which was read and passed to a second reading, and ordered to be printed.

Mr. TIPTON. I ask unanimous consent of the Senate to introduce a bill on the same subject, in order that it may be referred to the Committee on Military Affairs. It can be done in a moment.

Mr. FESSENDEN. We do not refer any bills at all.

The PRESIDENT *pro tempore*. Is there any objection to the introduction of the bill?

Mr. FESSENDEN. I object to it.

The PRESIDENT *pro tempore*. Objection being made, it cannot be received.

Mr. ANTHONY. I understand that the Senator from Nebraska merely offers this bill with a view of having it printed and referred.

Mr. FESSENDEN. I understood him to say he wanted to have it referred to the Committee on Military Affairs, and I am opposed to that.

Mr. TIPTON. I ask that it be printed, then. It is on this same subject; and coming from the scene of these occurrences the Senate surely will grant me that poor boon.

Mr. FESSENDEN. If the Senator merely wants to have it laid on the table and printed without going further, I shall withdraw any objection to it.

Mr. TIPTON. That is all I ask at the present time.

Mr. FESSENDEN. Very well.

There being no objection, leave was granted to introduce a bill (S. No. 133) in relation to the suppression of Indian hostilities; which was read a first time, passed to the second reading, and ordered to be printed.

Mr. ROSS. I ask the unanimous consent of the Senate to introduce a joint resolution. I do not ask for its consideration to-day, but simply that it may go upon the files and be printed.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 58) to authorize the enlistment of volunteers for the suppression of Indian hostilities; which was read and passed to a second reading, and ordered to be printed.

#### MAXIMILIAN'S DECREES IN MEXICO.

The PRESIDENT *pro tempore*. The question now is, Is the motion made by the Senator from Michigan [Mr. CHANDLER] to take up the resolution named by him in order under the rule of the Senate?

Mr. FOWLER. I desire to occupy the attention of the Senate for a few moments on this resolution, to repeat somewhat what I said in the Senate on a previous occasion. I know that it is a very late period to offer any expression of sympathy for the republic of

Mexico; but it is perhaps better that it should be offered now than that it should not be offered at all. There was a period in the history of the revolution in Mexico when an expression of sympathy from the United States would have been of great service, not only to the republicans of Mexico, so far as they were concerned, but for the purpose of arresting that invasion which swept away so many of her citizens, and came well nigh ruining that republic. I apprehend that it was owing to a want of courage on the part of those who had the management of the foreign relations of the United States that the invasion of Mexico was commenced at all. Had there been an expression of opinion even from that Department of the Government at the proper time Maximilian would never have set his foot on the soil of that republic. That expression was not made. Not only was it not made, but more than that, the opportunity was neglected. The traditional policy of our Government, so long held sacred, was entirely ignored. As has been stated here this morning, not only was no relief afforded to the republicans of Mexico, no expression of sympathy, no determination to maintain our policy, but an entire giving away, an entire giving over of the Government of the United States to the interest of the invaders was manifested. That was the policy which was carried out on the part of the Republic of the United States. It is true it was at a time when we were engaged in a fearful war in our own country, when perhaps it was impossible to extend any great amount of material aid to the republic of Mexico; but we were not under those circumstances prevented from expressing our determination to maintain a doctrine which we had held sacred through so many years, if those who had charge of the foreign relations of the Government possessed the courage requisite to the exigencies of the times.

I propose to examine to some extent the question whether the people of the republic of Mexico were justified in the act that they have recently committed; whether they were justified in executing Maximilian, the pretended emperor, the real filibuster into that republic. For fifty years the republicans in Mexico have been fighting a desperate battle against the aristocratic interests in that country. In 1857 the contest broke out in the most remarkable manner, and the revolution then was carried over every part of that republic. Perhaps no republicans have ever fought a more devoted battle than did the republicans there from 1857 until 1861. An opportunity was then sought by the Emperor of the French, the Spanish Government, and the British Government to invade Mexico for mere pretended claims which they had trumped up for the occasion. The most extraordinary and unjust demands were made upon the republic of Mexico by those Governments. Mexico was invaded by these three great western Powers for the purpose of enforcing the payment of these pretended debts that they had arranged to suit the occasion. In the course of the procedure England and Spain withdrew from the contest, leaving Napoleon to manage it alone. His sole object was to obtain the possession of that Government for the purpose of founding an empire there, with the view of giving him possession of the India seas, as well as to arrest the progress of the Union southward; and not only to arrest the progress of the Republic of North America southward, but also for the purpose of severing the Republic of North America, for the purpose of aiding the rebels in consummating the rebellion they had already commenced.

Maximilian, the unfortunate individual who has been executed in Mexico, was made a tool of, I admit, by the French emperor, for the purpose of consummating his designs. His first great crime was in suffering his name to be used at all for the purpose of carrying out the views of the French emperor. But although supposed to be a mild and Christian gentleman, as has been alleged, he has shown himself to

be one of the most accomplished barbarians of the age, the individual who has perpetrated the most barbarous deeds that have ever disgraced any country. Even the deeds which have characterized and distinguished the rebellion in the United States were not equal in barbarity to those which were inaugurated and perfected in this contemplated empire of Mexico.

He first, under the influence of his Austrian and French soldiers, had himself elected Emperor of Mexico, and then he claimed his position as resulting from the voice of the Mexican people, forced as it was, so far as there was an election, merely by bayonets. It was at this period, when he had a large force of foreign bayonets at his command, that the Mexican President, the republicans, and the patriots of Mexico, who were defending their country, were driven all over the republic, from one portion of it to the other. They retreated from one stronghold to another, all the time maintaining a gallant fight for their own country and their own institutions, never for one moment failing to maintain their position as patriots. This so-called emperor then proclaimed that these patriots were outlaws, and that they should be executed when taken prisoners, within twenty-four hours after they were captured. The punishment of death was to be inflicted upon them; and that punishment was inflicted, not only on many officers who were taken, but, from the accounts which I have received, on as many as perhaps ten or twelve thousand of the people of that devoted republic. Think of it, sir! under that most barbarous decree the blood of as many as ten or twelve thousand patriots was spilled upon the soil of Mexico, their native land, and for no other crime than that of defending their country and its liberties. Not only that, but he burnt down whole towns. Whenever the patriots passed through any village or town and received any succor from the people, the soldiers of Maximilian invaded that village or town, burnt the property, and left the unoffending citizens without homes and without any protection whatever. This was done not only in one, but in many instances. Here you have this pretended monarch, not only murdering soldiers whom he has captured, but burning down towns and the habitations of women and children, and turning them off without any protection whatever.

His master at length deserted him and left him there to maintain his existence, if possible. Here I will state to his credit that he showed some fidelity to the individuals that he had deluded from their duty to their country, and at that period of the contest determined to stake his fortune with them. I admit that in that he showed some courage and some faithfulness, far more than that which distinguished his seducer, the Emperor Napoleon, the very murderer of republics, who has slaughtered them wherever he has had a chance; first, in France; second, in Italy, and thirdly, in Mexico. The cause of the patriot President of that republic was strengthened; his army increased in power; he surrounded the invader and captured him, and subjected him to the laws, to be tried according to the laws of nations, and he executed him according to the law. This shows distinctly that these people had a just sense of that dignity which characterized them as a Government and as a people, and that they were determined to maintain that dignity, and to inflict punishment on every offender who should presume to violate the dignity of that nation; thus, although not so distinguished for their intelligence and their power and their influence as the Government of the United States, setting a most admirable example to the Government of the United States as to the manner in which we should have treated some of the terrible rebels in our own country.

Here, sir, is the simple, plain statement of the facts. Now it is as little, I think, as we can do—it is coming in at a miserably late hour, I know—but then it is the best we can do at this time, when the enemies of republican

institutions, not only in the United States, but in Europe, are endeavoring to make war on the republic of Mexico, to express our sympathy with the act they have done, with the vindication of their national rights and their national honor, and to maintain the relation that we ought to maintain toward that Government. If we were true to ourselves in regard to this matter; if we were faithful believers in republican institutions; if we were brave, true, courageous defenders of republican ideas, we would stand firmly on the side of the republicans of Mexico, and maintain the position that they have assumed on this occasion. Perhaps no people have ever exhibited more true courage, more devoted patriotism, more fidelity to their institutions than have those people; and no man living at the present day has exhibited those traits of character in a higher degree than has the President of that republic.

How is it that you hear no expressions of sympathy for the followers of Maximilian who perished by the same just law and in the same bad cause in which he perished? Why are not those Mexicans who deserted their country and their country's cause and who died with Maximilian pitied and mourned for? It is simply because they were poor Mexicans and the other man was a prince. Why was it that you heard no expression of sympathy for Lopez or Crittenden or Walker who perished in just the same kind of a cause as that in which Maximilian has perished? For no other reason than because they were simply poor republicans and had not the position that Maximilian held in the world. It is a fact that republicans in America are almost as ready to bow down to kings and princes as are the people in the old countries themselves. There is a portion of our population, if not the entire population, that is as ready to do obeisance to royalty as any of the devotees of that caste in Europe. In this country we would expect of course parties to separate themselves distinctly on this question. Those who are truly in favor of republican institutions, those whose hearts sympathize with republican institutions, will sympathize with the act of this unfortunate, brave, true, and courageous people in their gallant and patriotic conduct on this occasion, in their proud position in maintaining faithfully their principles, and visiting vengeance upon the man who assailed the dignity of their national character, and assumed to wield the power and the sovereignty of the Mexican nation in defiance of truth and justice.

Mr. JOHNSON. I ask for the reading of the resolution.

The Chief Clerk read it, as follows:

Whereas it is alleged that Maximilian, the so-called Emperor of Mexico, did on the 3d day of October, 1865, issue the following decree:

#### MAXIMILIAN, EMPEROR OF MEXICO.

Having heard our council of ministers and our council of state, we decree:

ARTICLE I. All persons belonging to armed bands or corps not legally authorized, whether they proclaim or not any political principles, and whatever be the number of those who compose the said bands, their organization, character, and denomination, shall be tried militarily by the courts-martial: and if found guilty, even of the only fact of belonging to the band, they shall be condemned to capital punishment within the twenty-four hours following the sentence.

ART. 2. Those who, belonging to the bands mentioned in the previous article, will be captured with arms in their hands, shall be tried by the officer of the force which has captured them, and he shall within a delay never extending over twenty-four hours after the said capture, make a verbal inquest of the offenses, hearing the defense of the prisoner. Of this inquest he will draw an act, closing with the sentence, which must be to capital punishment if the accused is found guilty, even if only of the fact of belonging to the band. The officer shall have the sentence executed within the twenty-four hours aforesaid, seeing that the criminal receive spiritual assistance. The sentence having been executed, the officer shall forward the act of inquest to the minister of war.

ART. 3. From the penalty established in the preceding article shall only be exempted those who, having done nothing more than being with the band, will prove that they were made to join it by force, or did not belong to it, but were found accidentally in it.

ART. 4. If, from the inquest mentioned in article two, facts are elicited which induce the officer holding it to believe that the prisoner was made to join the

band by force, without having committed any other crime, or that he was found accidentally in it, without belonging to it, the said officer shall abstain from passing sentence, and he shall send the accused, with the respective act of inquest, to the proper court-martial, in order that the trial be proceeded with by the latter, in conformity with article one.

ART. 5. Shall be tried and sentenced conformably with article one of this law: 1st. All those who will voluntarily assist the "guerrilleros" with money or any other means whatever. 2d. Those who will give them advice, information, or counsel. 3d. Those who voluntarily, and knowing that they are "guerrilleros," will put within their reach, or sell them arms, horses, ammunition, subsistence, or any articles of war whatever.

ART. 6. Shall also be tried conformably with the said article first: 1. Those who will hold with the "guerrilleros" such relations as infer connivance with them. 2. Those who, voluntarily and knowingly, will conceal them in their houses or estates. 3. Those who, by word or writing, will spread false or alarming reports by which public order may be disturbed, or will make against it any kind of demonstration whatever. 4. All owners or administrators of rural estates who will not give prompt notice to the nearest authority of the passage of some band through the same estates. Those included in paragraphs one and two of this article shall be punished by imprisonment from six months to two years, or by hard labor from one to three years, according to the gravity of the case. Those who, being included in paragraph two, were the ascendants, descendants, spouses, or brothers of the party concealed by them, shall not suffer the penalty aforesaid, but they shall remain subject to the vigilance of the authorities during the time the court-martial will fix. Those included in paragraph three of this article shall be punished by a fine of from twenty-five to one thousand dollars, or by imprisonment from one month to one year, according to the gravity of the offense. Those included in paragraph four of this article shall be punished by a fine of from two hundred to two thousand dollars.

ART. 7. The local authorities of the villages who will not give notice to their immediate superiors of the passage through their villages of armed men will be ministerially punished by the said superiors by a fine of from two hundred to two thousand dollars, or by seclusion from three months to two years.

ART. 8. Whatever residents of a village who, having information of the proximity or passage of armed men by the village, will not give notice of it to the authorities shall suffer a fine of from five to five hundred dollars.

ART. 9. All residents of a village threatened by some gang, who are between the ages of eighteen and fifty-five years, and have no physical disability, are obliged to present themselves for the common defense as soon as called, and for failing to do so they shall be punished by a fine of from five to two hundred dollars, or by imprisonment of fifteen days to four months. If the authorities think it more proper to punish the village for not having defended itself, they may impose upon it a fine of from two hundred to two thousand dollars, and the said fine shall be paid by all those together, who, being in the category prescribed by this article, did not present themselves for the common defense.

ART. 10. All owners or administrators of rural estates, who, being able to defend themselves, will not prevent the entrance on the said estates of guerrilleros or other malefactors; or, after these have entered, will not give immediate information of it to the nearest military authority; or will receive on the estates the tired or wounded horses of the gangs, without notifying the said authority of the fact, shall be punished for it by a fine of from one hundred to two thousand dollars, according to the importance of the case; and if it is of great gravity, they shall be put in prison and sent to the court-martial, to be tried by the latter conformably with the law. The fine shall be paid to the principal administrator of rents to which the estate belongs. The provision of the first part of this article is applicable to the populations.

ART. 11. Whatever authorities, whether political, military, or municipal, shall abstain from proceeding, in conformity with the provisions of this law, against parties suspected or known to have committed the offenses provided for in said law, will be ministerially punished by a fine of from fifty to one thousand dollars; and if it appear that the fault was of such a nature as to import complicity with the criminal, the said authorities will be submitted by order of the Government to the court-martial, to be tried by the latter and punished according to the gravity of the offense.

ART. 12. Thieves shall be tried and sentenced in conformity with article one of this law, whatever may be the nature and circumstances of the theft.

ART. 13. The sentence of death pronounced for offenses provided for by this law shall be executed within the delays prescribed in it, and it is prohibited that any demands for pardon be gone through. If the sentence is not of death and the criminal is a foreigner, even after its execution the Government may use toward him the faculty it has to expel from the territory of the nation all obnoxious strangers.

ART. 14. Amnesty is granted to all those who may have belonged, and may still belong, to armed bands if they present themselves to the authorities before the 15th of November next, provided they have not committed any other offenses subsequently to the date of the present law. The authorities will receive the arms of those who will present themselves to accept the amnesty.

ART. 15. The Government reserves the faculty to declare when the provisions of this law will cease.

Each one of our ministers is charged with the exe-

cution of this law in the part which concerns him; and will give the necessary orders for its strict observance.

Given at the Palace of Mexico on the 3d of October, 1865. **MAXIMILIAN.**

The Minister of Foreign Affairs, charged with the ministry of State,

**JOSE F. RAMIREZ.**

The Minister of War,

**JUAN DIAS PEZA.**

The Minister of Improvement,

**LUIS ROBLES PEZUELA.**

The Minister of the Interior,

**JOSE MARIA ESTEVA.**

The Minister of Justice,

**PEDRO ESCUDERO Y ECHANOVE.**

The Minister of Public Instruction and Religious Worship,

**MANUEL SILICEO.**

The Sub-Secretary of the Treasury,

**FRANCISCO DE P. CESAR.**

A true copy. Washington, October 25, 1865.

**IGNO MARISCAL, Secretary.**

And whereas it is alleged that, under that inhuman and barbarous decree, issued in violation of the laws of war, the rights of the Mexican people, and of the civilization of the nineteenth century, Major General José M. Ortega, Brigadier General Nicholas Salazar, Colonels Diaz Paracho, Villa Gomez, Perez Millicua, Villands, and more than two thousand other Mexican patriots, officers and men, were inhumanly murdered in cold blood, after having surrendered as prisoners of war, in violation of every law and usage of civilized warfare:

Resolved, That the Committee on Foreign Relations be directed to inquire as to the truth of the above allegations, and report the facts to this body at the earliest practicable moment.

Mr. JOHNSON. I do not exactly see, supposing the resolution to be in order, any practical object, so far as legislation is concerned, which may be accomplished by it. It is not proposed, I imagine, to follow it up by any legislative proceeding. It is a mere inquiry to ascertain what were the facts in relation to the charges contained in the resolution. After that information shall be obtained, we shall be pretty much in the situation we now are as far as Congress is concerned. It is desirable of course that events, like the one to which the resolution refers, should be ascertained, if any practical consequences are to follow from them.

My objection, however, is not so much to the resolution as to the terms of the resolution and the manner in which my friend from Michigan has thought proper to support his resolution. His information may be tinged, perhaps, with the medium through which it has come. Mine may have a different tinge, because of the medium through which mine comes. As I understand the fact, there were not even hundreds executed under the proclamation of the 3d of October, instead of thousands. I think that resolution says ten thousand. As I understand it, although Maximilian agreed to the promulgation of the order he himself directed that it should not be executed except from absolute necessity, and its purpose was that it should apply only to unauthorized brigand forces which were then prowling about Mexico, stopping stages and passengers, and committing all sorts of robberies and every species of atrocity. It was not intended to embrace any officer or soldier who was acting under the authority of the government of Juarez. I think it bears that interpretation upon its face, and upon an occasion to which it is not proper to refer except in general terms I undertook to satisfy the Senate that that was the meaning of that proclamation.

But even as far as the proclamation itself was concerned, whatever may be its meaning, my opinion is that Maximilian was so entirely at the moment under the control of the French commander that he consented to it in spite of his own protestations of the impolicy of such a provision. He was made to believe that the Government of the republic, as it was termed, had ceased to exist, and that there was no legally constituted force within the limits of Mexico, that they were nothing but guerrillas, carrying on a war of such a description as is usually carried on by a force of that character. The determination was to put an end to a warfare of that kind by force of this proclamation, shooting or hanging those who might be caught in the prosecution of such a war. As far as that is concerned—I mean as far as the principle which it involves is con-

cerned—it is precisely what we have done during our late unhappy war. The enemy threatened us, I think the president of the confederacy said that the war could be carried on for years and years by means of a guerrilla force. These forces were organized in smaller or larger bands in several of the States, and upon more than one occasion when the parties were captured they were executed, and nobody in the United States found fault with the justice of such executions or with the policy of such executions. I do not know whether the order in question was intended to apply to any other description of force; nor do I know that it was applied to any other description of force; nor do I know the extent to which it was applied to that description of force; but, as I stated just now, the information which has come to me is that very few men who were captured as guerrillas were executed.

Now, Mr. President, we ought not to forget, as I think—and I have no feeling upon the subject other than that which involves the good name of our country and is called for by the usages of civilized life, political life—we ought not to forget the circumstances under which Maximilian came to Mexico. We have been in the habit of calling the Mexican Government a republic. We have treated it so officially. We have recognized it as a republic. But from the time of the original recognition up to the present, revolution after revolution has occurred, and in each instance it has been headed by a military chieftain. There has been no civil liberty in the land. The political chieftain of to-day succeeds, to yield only to another more fortunate one of to-morrow; and that is the case now. Juarez, in all human probability, will be in power, if he is in power at all, only for the moment. Some more decided military man (for Juarez I understand is not a military man and never was under fire) will soon be at the head of the Government; it may be Escobedo. I forbear to say what I have understood of Escobedo, for I do not know that the facts communicated to me are true; but he is a bold, daring man, perhaps of some military genius, and will stop at no obstacle which may stand between him and the acquisition of supreme power; and Juarez may share the fate that Maximilian has just met.

There is another thing that we ought not to forget; that that being the condition of Mexico she made an appeal to the United States to interpose by way of a protectorate. She was willing to enter into a treaty looking to that result. When I say that she was willing I mean that the wealth of Mexico desired it; the education of Mexico desired it; all the foreign population whose safety depended upon the maintenance of good order desired it. They applied to the United States, and they were refused. The treaty negotiated by Mr. McLane, of Maryland, then our minister to Mexico, would have brought about that result, and that was rejected. These citizens, therefore, of Mexico, failing to get the relief without which, as they supposed, they would be involved in ruin, went to Europe. They made their application finally to Maximilian. Maximilian agreed to come if supported by the armies of France, but only upon the condition that before he landed, he should have received the votes of the people of Mexico. Whether those votes were cast in his favor or not I do not know; whether, if they were cast physically, they were cast properly, fairly cast, or whether they were made to be cast by the force of French bayonets or other physical force, I do not know. But the fact is that such a vote was reported, and that upon the faith of that vote he left his home and came to Mexico. And how was he received? He was received at Vera Cruz with enthusiasm; his whole march from Vera Cruz to the City of Mexico was an ovation; his entrance into the city of Mexico was equally enthusiastic; and he commenced a system of government, which, if it had been carried out, would have given to Mexico a better government than it had ever had in the past.

Now, I am not to be understood as justifying or excusing the Emperor of the French in interfering for the purpose which he did interfere with the condition of Mexico. He wanted, as he said in a letter which was afterward published, to have the Latin race upon the American continent. He dreaded, as was evident, the growing power of the United States. I have no doubt he rejoiced in what he believed was then about to occur, the disruption of the United States, and he availed himself of that particular exigency in the condition of this country to take the step which he did. He has been forced to abandon Mexico almost in dishonor.

Mr. WILSON. Why not quite in dishonor?

Mr. JOHNSON. I mean dishonor as a soldier. I am not speaking of any other dishonor. There was no fighting which caused him to abandon it; but he saw—for he is an intelligent and far-seeing man, and how he should have been so short-sighted in the beginning of this expedition always amazed me—he is a far-seeing man in the general, and he saw that it would be impossible for him to maintain his army in Mexico after the dangers to the Union had ceased to exist and we were about to become again one people—a people powerful when divided, as the war proved, in all physical contests as powerful as any of the nations of Europe, but when united so powerful that it would be madness in France or in England or in any of the other Governments of Europe to join in the attempt to destroy or revolutionize the Government of Mexico or any nation in which the United States supposed it had an interest or which it was its duty to preserve, and he therefore abandoned the country.

Why did not Maximiliano go? There is something in his conduct that appeals, as I think, to the generosity of every man of generous feelings. He had abundant time to leave Mexico under the protection of the French army. No danger could have occurred to him. Why did he not go then? Because he loved honor more than life; because he apprehended that the men who had invited him into Mexico, and who had followed his fortunes during the period of that struggle, would be sacrificed to the mad or just passion of the conqueror if the Juarez government should be the conqueror, and he determined upon remaining and sharing the fate of his friends; and among those, as I believe, are found very many of the best men in Mexico; very many foreigners of all nations; men of education and of wealth, who looked to the certainty of losing property, and perhaps losing life, if the imperial government should be surrendered or abandoned; and they invoked him to remain; and listening to the impulses of a noble ambition at that moment he determined to remain.

What was his condition up to the period of his execution, from the time he took the reins of government? Recognized by all the civilized nations of the world except the United States; not only recognized, but with representatives to his court from every civilized nation of the world other than the United States. He was the head, then, as far as the world was concerned, of a legitimate nation. He was carrying on the war as the head of a legitimate nation. He was captured, as it is said, by treachery. I do not know how the fact is. It is said that his success would have been complete but for the alleged treachery.

But, however that may be, he was captured and sentenced to death, and that sentence executed. What for? Because he came under the protection of French bayonets—is that a cause for executing him? Because he remained there at the instance of Mexicans—is that a cause for executing him? Because he was not recognized by the United States—is that a cause for executing him? Could he not say with justice, and will not history say so hereafter when it comes to record the events of the day, that he who was recognized as the head of a Government by all the nations of the world had a right to do what every nation in the world has a right to do, to carry on war, and that he



cannot be executed in the event of his being captured?

Mr. President, as I have stated the United States are all powerful; but there is a weakness into which they may fall. They will prove to be all and sufficiently powerful in every righteous cause, in every judgment that strikes the good sense of the world; but if they vindicate an act which has shocked the sensibilities of all other nations, they will find that at least in moral strength they have lost ground.

The honorable member from Tennessee [Mr. FOWLER] has intimated that no feeling of regret has been expressed in relation to the execution of republican soldiers or generals. That is not applicable to me. Would to God that all violence of that description as between belligerents should cease and never be revived. The laws of war are not now what they were in former ages. They partake of the civilization of the world. They have been tempered by the good sense and the humanity of the world. They have been, above all, tempered and modified by that spirit of mutual good will from man to man which we have been taught by the Saviour of our race. They, therefore, at this moment of the world, denounce as an atrocity any violence not necessary to accomplish the purposes of a just war.

Now, what was to be accomplished by the execution of Maximilian? His army captured; the foreign troops upon which he relied for the most part gone; himself a prisoner, anxious and willing to depart; why not have let him depart? Has Mexico strengthened herself by his execution? To say nothing of public opinion across the water, what, judging from the press of the day, is the public opinion among ourselves? Nothing but deep sympathy and regret, nothing but strong condemnation of the act, almost throughout the United States. A young man in the prime of life, educated, and, except so far as the evidence to the contrary is to be found in this proclamation, a man of remarkable humanity, an accomplished gentleman, made a mistake, a political mistake. His object was the resuscitation of Mexico. He was told, and told truly, that hardly a month passed in which it was not shaken to its center by some political convulsion, and he was urged to go among them, and if he could, to terminate a state of things so fatal to the progress, the prosperity, and the individual happiness of the citizens of that country. He has paid dearly for his enterprise; but he has died, from all accounts, like a brave and honorable man, and his death has been the consequence of his having acted, after being abandoned by Napoleon, from the impulses of a brave and honorable man.

Mr. NYE. Mr. President, I have no feeling of anxiety about the exact wording of this resolution. I care nothing as to whether it shall be amended or its substance embodied in a different form. I am forcibly impressed with the importance of this discussion; and as it has been introduced, I think the subject demands an impartial review at the hands of all of us.

In looking at the map of the world we find that Mexico forms a part of this continent, and an important part of this continent in view of its proximity and locality to our own Government; and he who looks carefully will see that in order to complete the symmetry of this republic we need and will have, the addition of Mexico as belonging to us.

I do not quite agree with the distinguished Senator who has just taken his seat in regard to the object of Maximilian's going to Mexico. I deny, from the history of the time, that his object was to resuscitate or regenerate Mexico. His object in going there was not to benefit Mexico, but to injure us; for nobody at this hour will pretend to deny that the Mexican invasion was a part of the whole scheme of rebellion; that the French were to divert and divide our armies, as they supposed, by an invasion of Mexico, while the English Government was to amuse itself by making the ocean light with the blaze of our commerce. Early

that policy developed itself, and all the crowned heads of Europe, monarchical or imperial, were engaged in the work of aiding the rebellion by attempting to overthrow this Republic. Therefore I fail to share in the feeling of the distinguished Senator from Maryland when he says that he sympathizes with Maximilian for this noble purpose of attempting to regenerate distracted Mexico.

I do not know that the history of the Mexican republic in all its worst features has exhibited worse attributes than have been exhibited by the Government under which this archduke was reared. Cruelties as unparalleled and on a much larger scale by that enlightened Government has the world witnessed than have been seen on a much smaller scale in the republic of Mexico. I therefore look at this subject from a different stand-point entirely; and this discussion can only be profitable in view of our future relations with this natural portion of our own country.

The distinguished Senator from Maryland says that Juarez will soon be no more, and that Escobedo or some other potent man in arms will take his place, and the world will witness another revolution. There was one thing, however, that the Senator failed to comment upon. This man Juarez, to whom history and an enlightened world will pay proper tribute hereafter, under circumstances that would have disheartened even our own Government in all its strength, with all its power—with small armies, no baggage trains, no supplies, no treasury, guided alone by that star of liberty by which he has steered through a long night of trouble, of vexation, of anxiety and care, has never lost sight for one moment of that principle which the world begins to worship now—the principle of liberty. I feel rebuked, and Senators here should feel rebuked, for their want of attachment to that principle as compared with the attachment that that half-benighted people of Mexico have exhibited to it. Sir, no trials that we have undergone on our bloodiest fields with all our power, will compare with the trials of struggling Mexico for liberty; and I say I feel rebuked myself, born in the full blaze of liberty, that they with but indistinct and uncertain glimmerings of its beauty are more attached to it as a principle than even we who receive it as an inheritance.

Sir, let me suggest to the distinguished Senator from Maryland that a people who love liberty as well as these Mexicans have proved they love it no mortal power can ever overthrow. They will find its advocates at the sources of rivers and in the gorges of mountains. They will find them in just such bands as this bloody emperor issued his decree against, where rivers rise upon the mountain heights and in the deepest valleys, and their song is the music to which emperors do not listen with pleasure. Their songs are the songs of liberty, and those songs have their energetic power to nerve a people, half benighted as they are, to deeds of wondrous daring.

Juarez, says the Senator, is not a warrior. Neither was Lincoln; and yet he led armies that have astonished the world to victories that have likewise astonished the world. Juarez, like Lincoln, was a great and a good man; good for his fidelity to the principle of liberty, even when the last star of hope grew pale.

The distinguished Senator says that Maximilian was made a tool of by the Emperor of France. In the first place I deny the proposition, from the information I possess in relation to it; and in the next place, if he was, he did not know enough to bear transportation from Austria to Mexico.

Mr. JOHNSON. I am very unwilling to arrest for a moment the honorable member from Nevada; but I did not say that he was made a tool of.

Mr. NYE. I understood so. You said that he was made the instrument of the Emperor of France.

Mr. JOHNSON. No; I said he was protected by France, not that he was made a tool

of by Napoleon or anybody else. I do not think he could be made a tool of.

Mr. NYE. Sir, I am one of those who believe that the overthrow of the Republic of America was a question of consultation among the crowned heads of Europe; and in looking over those countries this was the only surplus scion of royalty that they could spare from any of those Governments; and he was chosen for the reason that he was of royalty. He came here. My friend from Maryland says that he was received with great enthusiasm at Vera Cruz. Yes, he was. Who received him? It was the royalists of Mexico and the royalists of all Europe that had congregated there, what the Senator terms the wealth and the learning of Mexico. Against that was a determined people who in their ignorance were not to be transformed in a moment from liberty to pay tribute to a Crown. When did that enthusiasm die out? When the emperor that sent this archduke found that the job was hopeless, never until then. It was not Mexicans that received him as a class. It was the descendants of that old Castilian race who cling yet to traditional imperialism. But, sir, the class that have grown up there, the people of Mexico, are as ardent in their attachment to liberty as the American citizen himself with all his intelligence. I confess very frankly I have no sympathy with these imported monarchs. Maximilian came, not to regenerate Mexico, but to take it by force of arms. It is not the first time that Mexico has been taken in that way. One other archduke, or archdevil, or some fellow took it before, but he did not hold it long. The people then began to rise, and the murmurings of that day make every valley echo with their music now.

My friend from Maryland does not quite like the Emperor of France. Nor I; and I desire to institute here a comparison to show why. He says that Maximilian came by what he called an election, the voice of the people. Sir, it was the voice of imperial power. The French Emperor, who now holds his throne so securely, ascended that ladder by the great American institution, the ballot. But, sir, there was the ballot-box, and there were the guillotine and the sword. "Vote for Napoleon and you are safe; vote against him and you are gone." So it was in Mexico; "vote for the emperor and you are safe; vote for Juarez and you are lost." I have no respect for such an election, and I have no respect for the intelligence of any archduke who should receive it as evidence of what the people want. The argument impeaches either the intelligence or the integrity of this archduke. No, sir, it was a crowned-head consultation, in answer to these emissaries from Mexico desiring imperial power over Mexico. Her masses could not be heard there; but the consultation was held in the French capital; it was held in the Austrian capital; it was held in the Prussian capital; it was held by representatives of every crowned head of Europe except Russia; and this offspring, this emperor, was born of that consultation. He went out to gather an empire. In it he has found a grave, and an enlightened world will say hereafter to that, amen.

Why, sir, but a few years ago one of our own citizens, a citizen of this Republic, called the "gray-eyed man of destiny," invaded one of the Central American republics. He was shot, and the world said they served him right. Why was not Walker as precious as Maximilian? Europe has gone into mourning. Why? Because a scion of royalty has fallen. But enlightened America, while it records his death and admires his bravery in his last hours, cannot but admit that it is the fate of the warrior who takes his life in one hand and a desire to steal an empire in the other and crosses the sea for felonious purposes. He understood his fate and met it like a man. Europe will mourn, and I mourn here because I hate to see a brave man so deluded.

But, sir, how did the Mexicans reason? From the western coast of Mexico to Vera

Cruz—ay, sir, from Acapulco to the Rio Grande, they have been pursued through every mountain gorge; they have been hunted as the hound hunts the hare; they have been wading literally through rivers of blood for four or five years, resisting the allied Powers of Europe, and an entire want of sympathy in America so far as material aid was concerned. They have been resisting this till the very waters through which they passed seemed as if their dropping blood reddened them to cry enough. Just at this moment and at this period of this history Maximilian is taken prisoner. There was an offer by the Queen of England, by the Prussian king, by the Austrian throne to go bail, if they would let him go, that he would never come back. How did the Mexicans reason? They counted over the bloody fields and the bloody paths over which they had walked; they saw a decimated and impoverished people; they saw that future struggle was to them more terrible than the past; and they said, "This man that could rally Governments of imperial strength around him before this war commenced, with the resentments and prejudices incident to defeat will rally around him stronger Powers and stronger Governments to come back again and invade us and retake the throne he has lost." I think the Mexicans reasoned well. They think now of allying in Europe to go to war with Mexico for his remains; and if they will do that over the dead what would they do for the living?

But let me ask the Senator from Maryland what business is it to us or the Governments of Europe how Mexico treats her foes? We would not allow them to interfere in our affairs. Suppose, for instance, that when the final clinch of arms came here, when Grant had them by the throat at Richmond, England, France, Prussia, and Austria had all come together and said, "Here is going to be bloody work: some of you are going to be killed: stop where you are: wait for humanity's sake;" or said, as they did say, "You may catch Mr. Davis, and if you do, for God's sake do not shoot him." What said our people to that? "Stand off; we settle our own affairs: we are the judges of our own matters." Now, I should like to ask the Senator from Maryland one question: suppose that Juarez had been the unfortunate one, how long would he have lived?

Mr. JOHNSON. If the honorable member wants me to answer, I do not know; but I suppose just as long as he will live now.

Mr. NYE. He would live probably under the advice of the allies of Maximilian, of Miramon and Mejia. They would have advised undoubtedly to keep Juarez alive for some time. What does Miramon say in his dying hour? All that he regrets is that the nation hereafter can point to his children as traitors. Sir, the Mexicans are peculiar in this respect; they execute judgments speedily. I recollect that when Santa Anna, in one of his invasions or in one of his fights, captured one of the most celebrated generals in Mexico and sent him word that he would be executed at three o'clock in the afternoon, the general replied: "Give General Santa Anna my regards, and tell him I am much obliged to him for his grace, for if I had taken him he would not have lived five minutes." It is a kind of custom these Mexicans have. They are enlightened enough to love liberty over the glittering baubles of imperial power. They love it well enough to fight for it in every mountain gorge, and no crowned heads can ever interfere there.

Sir, I have said all I desire to say about Maximilian. His history is written. He attempted to steal an empire and failed, and instead of finding a throne he found a grave. That sums up his history. A foolish prince that started to gather empire and gathered nothing but a hempen collar.

Mr. President, I was fully impressed with one remark made by the Senator from Michigan: this continent has no place for a throne. I have seen a little of this struggle in Mexico

myself. I have been in the habit of going up and down that coast for six years; and my blood was made to boil when I witnessed this fact: I have seen our ships from San Francisco to Acapulco laden with supplies for the French army; and I have seen the Mexican exiles on that coast begging for God's sake to get in a load of ammunition or arms, and the eyes of this Government, through their revenue cutters, were as sharp as the eagle's flash upon them. Sir, I sympathized with the struggling Mexicans then, and do now; and it was unbefitting this great Government, whose institutions rest upon the same hypothesis and theory, to furnish horses, provender, bread, and wine to these imperial powers, and refuse them to the thirsty, dying, starving Mexicans, who were fighting for a cause similar to our own. But, sir, I had no power to wield this Government. All that I could do was to look and weep.

But, Mr. President, my eye was always gladdened with one thing there. I was always glad to get to Acapulco, a snug little land-bound harbor, in which our ships and the Mexican fleet rode at perfect ease, land-locked entirely, except when the ocean would lash it into disturbance. Right on the mountain-top above, not two miles from the imperial garrison, stood flaunting the republican flag of Mexico, and every Frenchman and every traitor in Mexico that attempted to pass that flag was a dead man. There stood a man—Alvarez—with the frosts of eighty winters upon his head, with a blade that flashed defiance to imperial combinations, with five thousand Mexicans in that mountain pass, and he would have held it till the last Mexican was dead. There were seen under the folds of that flag this old hero and his two sons, worthy sons of a worthy sire. His integrity and his love of liberty had been transmitted to them, and he had infused this body of Mexicans with the spirit of liberty. France, with all her power; Prussia, with her needle-gun; Austria, with her legions of infancy, could never break the lines of Alvarez in that mountain gorge. For more than forty years has he stood guard in that mountain gorge, and there he will stand till he goes to the reward of the faithful and the liberty-loving in a better world, where there is no war.

The Senator from Maryland, in my judgment, underrates the power and the intelligence of this Mexican people. I have learned in my intercourse with them to have a high regard for them. They lack, it is true, that power of consolidation which is incident to education and refinement; but, sir, from the poorest to the richest, from the lowest to the highest, from the peon to his master, their evening hymns all sound of liberty and freedom; and the Mexican that I heard make an address in San Francisco stirred my very soul with his eloquence when he said that "music was born when liberty spoke." Sir, it is not wise for this nation to underrate Mexico. By every principle of sympathy that binds man to man and nation to nation we should be their friends and their allies. If, in the hour of our weakness, imperial Europe felt able to establish an empire in Mexico, with no other view than to distract our forces and overthrow our Government, we should say, in the hour of our strength, "Europe, hands off from Mexico: the ferry over which you come will be dangerous if you attempt to invade this sister republic." I would say it in the kindest spirit. I would not offend any of the imperial Powers by it if language could prevent it, but I would give them to understand most explicitly that we were quite at leisure now, and that we have an eye outward as well as inward.

Sir, what did France want with Mexico? She wanted it to break the commercial power of this mighty nation that faces the Pacific for four thousand miles. She wanted harbors and commercial marts and ports upon the western shores of Mexico. Sir, they were not made for France. As to this little innocent desire which the Senator from Maryland says Napoleon had to infuse the Latin race into Mexico—I take it for granted Maximilian shared in

that—he could not get the infusion there. It was a cross that could not be made. Liberty and imperialism have no progeny. Sir, it is written upon the map of this continent that it is ours, and we are going to have it.

Mr. WILSON. Do not be in a hurry.

Mr. NYE. I am in no hurry. We can let it alone; keep other hands off; allow no nurse from abroad for Mexico; if she needs one, we will nurse her ourselves. We will not attempt to establish an imperial power, but we will attempt what we can do: raise the standard of their intelligence and increase their love for republican institutions. The duty of the United States at present is that of a great teacher; indeed, I may say that the United States at the present day is a great missionary. Every flag that is borne upon our masts bespeaks the power and freedom of the Government at home. Every lesson that we teach in the uprising of mankind from slavery to freedom is an infusing accelerator into the mighty enginery of the downtrodden of the world. It gives them hope; it gives them life; and our noble example of clothing four million slaves in the garments of citizenship is a lesson to the people of all continents to-day that that prize and boon is within their grasp. Such, sir, is the way that I would conquer Mexico. I would conquer her with our benign principles. I would scatter our population among them, and make every one of them a missionary. I would have them speak encouraging words of promise for the future of that country.

These great imperial Powers that the Senator from Maryland is so fearful of offending are not above one of the meanest attributes of our nature—cupidity. The history of the century has spoken of the hidden, undeveloped, and developed wealth of Mexico. Her mountains are full of the precious metals. In her valleys grow every tropical fruit, and cotton flourishes there as well as in South Carolina. France and imperial Europe wanted these things. They had inducements held out by the rebels, with whom they were acting as allies. That these eleven tribes that went out with Jeroboam or Jefferson, it makes no odds which, only on Jeroboam they never had any Committee on Reconstruction, and I sometimes wish they had not on Jefferson, [laughter]—they had inducements held out that these eleven States would form a part of Maximilian's empire. You saw it in their public prints; it was published everywhere. Thank God, if they were going to have an emperor for these southern States even they had got to import him. There were none here. Our fathers put an end to their reign here, and another emperor will never live as a ruler upon the continent of redeemed America.

Mr. President, the conduct of the United States toward Mexico should be that of fraternal kindness, of sisterly sympathy, of kind words and encouragement and promise, and if need be the strong arm of intervention to this monarchical attempt to distract and destroy her. Sir, the history of Juarez will live through all time. The history of Maximilian will only be remembered as a warning to other scions of imperial power. Therefore, while I can drop a tear of sympathy over the fall of this man, yet I stand here to declare what I honestly and religiously believe, that his death and the manner of it will be a more potent event to Mexico than even our own triumph over rebellion.

Sir, the French emperor and the Austrian Government are in mourning. A prince is dead. But Mexico, thank God, is not dead, but liveth. It lives in the embrace of a liberty-loving people. It lives surrounded by as many heroes, in proportion to numbers, as any other band that ever fought for liberty. I know oppressors will mourn, but America should rejoice. I know that it is a great failure upon the move of the chess-board of the imperial world; but it is an indescribable victory for liberty and freedom that should make every American heart exultingly hope, not only for

Mexico, but for people struggling for freedom everywhere.

I hope, therefore, that this body will pass some resolution clearly indicating, and in most explicit terms declaring, that our sympathies as a nation, individually and collectively, are and have been with the struggling Mexicans. At once there should be sent from here to Mexico no inferior man, but a master hand; a man who sees where liberty has been wounded and knows the remedy to apply; a man whose heart beats high in sympathy with struggling freemen everywhere, and who should be a guide to them now in the labyrinth in which they seem to be going. Send no chargé. Pick out your master mind. I would be delighted, if we could spare him from here, to have the chairman of the Committee on Foreign Relations go. I should be glad to see the towering genius of the honorable Senator from Massachusetts there, giving the light to their pathway that he has so long given on the pathway of this Government. That is the way we should interfere—send a living man there; a man whose very eye bespeaks his love of liberty; a man with his compass broad enough to comprehend the wants of a struggling nation; a man so familiar in the pathway of struggling freedom that he knows that his footing is sure, to lead them and say to them, "This is the way; walk therein." Such, sir, is the interference that we can give. The power and influence of a legislative expression of this great nation at this time would be to them what the draught is to the thirsty or food to the hungry. It would be to them the resurrection and the life in the pathway of future progress.

One word more, sir, and I have done. These people, whether they are in the Senate or out of the Senate, that set back upon the old idea that kings and emperors are to reign, misjudge. The little time that you and I, sir, have lived has seen worked a perfect revolution. More history has been made in your day than for twelve centuries before; why? Because we have lived in a living age. If I was asked to-day what inscription to put upon a passing monument as we go as indicative of the spirit of this age, I would inscribe "progress"—progress individual and collective, progress in the upward ascent to the Heaven for which man has struggled; I see it in everything. Emperors' diamonds shake in their crowns while the tread of coming millions is heard. A decree that the workingmen of England shall not gather in Hyde Park tomorrow, by a vote of Parliament, at night is revoked ere the sun kisses the soil in the morning. Why? They hear the tread of coming millions. Rome to-day, under the genius of this progress, is on the eve of a revolution, civil, political, moral, religious. Under the glaring and blazing eye of a Garibaldi, who seems by infusion to have awakened the echoes of the old Romans, we see the Roman soldiery marshaled by thousands upon their plains. Sir, it is progress. Mexico, in this pathway of progress, lies right where we can give her aid; she is a sister republic; our soils touch; our productions are the same. They are rich in everything but men. We should furnish them those, and incorporate them, as they deserve to be by their valor, by their tenacity, by their patriotism, with this greater, nobler, higher body which has advanced in progress, and bleach them out, and make them a part of one harmonious whole.

Mr. HOWARD. I rise not to occupy the time of the Senate on this subject, but rather to express my entire concurrence with the view taken of this matter by the learned Senator from Maryland, when he says that we ought to move slowly and cautiously, and not take everything for granted, but endeavor to acquire the proofs in the case and reach the facts of the case. I approve of that. It is surely nothing but reasonable that we should get at the facts before we pass a judgment. Well, sir, a judgment has been passed in this case. If we are rightly informed, Maximilian, after being captured and made a prisoner, was in regular form sub-

jected to trial by court-martial, and after such hearing as is usual in such courts in Mexico, he was duly convicted of some offense against the authority of the Liberals in Mexico, and executed. I do not rise to impeach the judgment of a court. It is rather my duty, as a citizen of the United States and as a Senator, to take it for granted that this court-martial acted properly, legally, fairly, in accordance with the laws of war, and that the execution of their judgment is also regular and legal; and it devolves upon the opposite party, who impeach this proceeding, if I may allude to it as a sort of legal proceeding, to show in what respect there has been any error or irregularity. Maximilian was tried for something; he was convicted; he was executed. Now, sir, I should like the Clerk to read the first clause of the imperial decree of the 3d of October.

The Chief Clerk read as follows:

"ARTICLE 1. All persons belonging to armed bands or corps not legally authorized, whether they proclaim or not any political principles, and whatever be the number of those who compose the said bands, their organization, their character, and denomination, shall be tried militarily by the courts-martial; and if found guilty, even of the only fact of belonging to the band, they shall be condemned to capital punishment within the twenty-four hours following the sentence."

Mr. HOWARD. That is it. We do not know, because we have no proof before us at all, whether this order, and any action under the order, was introduced in evidence before the court-martial which tried Maximilian. It may be that such was the case; but thus far we are not informed. But whether it was the case or not, it seems to me that every right-minded citizen, every true lover of even military justice, every lover of honorable warfare, every man animated by a proper sense of honor, cannot but rebuke and condemn that most singular decree. What is it in its essence? Nothing more nor less than this: that every individual belonging to an armed band in Mexico, not authorized by law, is to be summarily shot if he happens to be made a prisoner. Authorized by what law? The decree does not explain. Was it the law of the republic, at the head of which was Juarez as president? That does not appear. Was it the law of the empire? If not either of these, what law, I beg to inquire of the honorable Senator from Maryland, was referred to?

Now, the question whether the party accused under that order belonged to a band that was authorized by law or not, was precisely the main question to be decided by the single officer—it might be a sergeant—before whom the party arrested was to be taken and tried; and the decree was so formed and so framed as to impose upon that single officer the duty of deciding whether the band was authorized by the law of Mexico, and whether, if so authorized, the law of Mexico itself was an authority for such an organization. It is not to be denied, Mr. President, that this decree opened the whole question, both of law and of fact, and left it to the officer who happened to have the good fortune to make the arrest to determine both the law and the fact, and there was no appeal. We all know perfectly well that the republican armies of Mexico were not organized in any considerable military bodies in their operations against the imperial forces; but they were from various causes necessarily divided up into small bodies and small squads; and in this way, for want of supplies and want of arms and other necessities, they were obliged to carry on the war against the imperial forces aided by the forces of France. Sir, it was an order unworthy of the age, unworthy of the French commander, if he made it, utterly unworthy of the spirit of even French law and French institutions, unworthy of an honorable soldier; an order under which, undoubtedly, any number of republican soldiers fighting for the republic might be executed, and were intended to be executed, whether they were or not. And in this I find the atrocity of the order itself.

Sir, do not tell me that an emperor, or a general, or a king, who issued such an order as

that, knowing as Maximilian was bound to know its complete legal effect and its necessary practical consequences, can be a magnanimous, courageous, and honorable man. It was the order of a temporarily successful highway chief, to put down and murder all persons who were found in opposition to his progress.

In my opinion, Maximilian met his just fate, and I am not inclined to join in the extensive lachrymation and mourning which seems to be pervading the Courts of Europe on this occasion. He undertook, at the instigation of the French emperor, to play the same game in poor Mexico that the allied Powers of Europe, including Great Britain, Prussia, and Austria, undertook to play in regard to France itself during the first Revolution. They undertook to say to the French people—these same crowned heads who are now mourning for Maximilian—undertook to say to France what should be her form of government, and employed means to put down the movement in that country and to extinguish the republican spirit which rose up in that wonderful epoch. Is it not a little remarkable that the Emperor of France should have this same poisoned chalice commended to his lips, that his brave uncle commended to the lips of those who interfered to put down the French people?

But, sir, I will not detain the Senate longer upon this subject than to say, as friends of Mexico, as friends of the independence of nations, and of the right of peoples constituting nations to form their own governments in their own way, as friends of the principle of liberty throughout the world, it becomes us to stand firmly, honestly, and courageously by Mexico in her struggle against the imperialism which she has just overthrown. I shall not, for one, join in these funeral ceremonies; I shall not put on sables, because a man crossed the ocean, converted himself into what, in my judgment, is very little better than a highwayman, and finally failing to accomplish the object of his guilty mission, found a grave where he expected to find an empire and a permanent throne.

Mr. YATES. I presume the Senator from Michigan is not anxious to press a vote on the question of order at this time, and I therefore move that the Senate proceed to the consideration of executive business.

Mr. FOWLER. If the Senator from Illinois will allow me, I desire the privilege of introducing a resolution, which I desire to have printed and laid on the table.

Mr. YATES. I withdraw the motion for the present.

#### REPUBLICAN GOVERNMENTS IN STATES.

Mr. FOWLER submitted the following resolution; which was ordered to lie on the table, and be printed:

*Resolved*, That the Committee on the Judiciary be, and they are hereby, instructed to report a bill for the proper enforcement of the first clause of section four, article four of the Constitution, namely:

"The United States shall guaranty to every State in the Union a republican form of government."

And that said bill among other things shall require all changes made in the organic law of any State to be ratified by the people of the State and by the Congress of the United States, and shall prohibit any new form of government or constitution hereafter made from going into operation until the same is duly authorized by a law of the United States.

#### EXECUTIVE SESSION.

Mr. YATES. I now renew my motion for an executive session.

Mr. POMEROY. That motion cannot be discussed under our rule; but there is no executive business that I know of to transact.

Mr. GRIMES. We will settle that when we get in.

Mr. POMEROY. I have no objection to going into executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

#### PROPOSED RECESS.

Mr. EDMUNDS. I move that the Senate take a recess until four o'clock.

Mr. CHANDLER. I move to substitute seven.

Mr. SUMNER. Why take a recess now? The PRESIDENT *pro tempore*. The question will be first put on the longest time proposed.

Mr. SUMNER. If we are to have a recess, I hope it will not be till seven o'clock.

The amendment was not agreed to; there being on a division—ayes 15, noes 18.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Vermont, that the Senate take a recess till four o'clock.

Mr. SUMNER. Say half past three or a quarter before four.

Mr. DRAKE. Why take a recess at all?

Mr. EDMUNDS. Because we have nothing to do at present.

The motion was not agreed to—ayes five, noes not counted.

Mr. TRUMBULL. Now I move that the Senate take a recess until half past seven, and on that I wish to say a word to the Senate. It is very certain that by remaining here now we cannot have the reconstruction bill back from the House of Representatives before the usual dinner hour. The House committee have recommended a number of amendments to our bill. If those amendments prevail it involves the necessity of engrossing the bill again, which of course must take time. It cannot be known what amendments are to be engrossed until they are acted upon. If we remain here, we may not perhaps get the bill before six or seven o'clock. Now, we may just as well go home and come back at half past seven. We shall lose no time by it, but it will give us an opportunity to get our dinners. Perhaps by that time we may get the bill; I hope so.

Mr. WADE, (Mr. POMEROY in the chair.) I wish the Senator from Illinois would withdraw his motion for a moment. I want to endeavor to get up a little bill that has come from the other House in regard to desertions from the Army. I believe that absolute justice and humanity require its passage.

Mr. TRUMBULL. I shall withdraw my motion at the suggestion of the Senator from Ohio if the Senate is disposed to do any business.

#### VOLUNTEER SOLDIERS AND SEAMEN.

Mr. WADE. I think the bill to which I have called attention ought to be passed, and it can be done very soon if gentlemen believe as I do that justice and humanity require that it should be. Soldiers enlisted for three years; and when their time was up and the war was supposed to be entirely over some of the best and bravest soldiers we had in the field left the Army, supposing they had the right to go, without a formal discharge. They went home under that supposition—men who would no more have deserted than General Grant would have deserted. Some of the best and bravest men you had, under that supposition, not being regular soldiers but volunteers, not understanding the technicalities of military rule, went home, and intended no wrong by it; but they are condemned now as deserters and many of them are languishing in prison. I hope we shall take the time, at all events, to pass that little bill, which I think justice requires. I ask unanimous consent of the Senate to do it.

The PRESIDING OFFICER, (Mr. POMEROY.) With the consent of the Senate, the Chair will lay before the body a bill from the House of Representatives. Is there any objection?

Mr. EDMUNDS. Let us hear what it is.

The PRESIDING OFFICER. The title of the bill will be read for the information of the Senate.

The CHIEF CLERK. A bill (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein designated.

Mr. HENDRICKS. When that bill is considered by the Senate, if it is within the rule of the Senate to consider it at this session at all, I desire to move an amendment proposing to repeal the provision of law passed some

three or four years ago prescribing an additional punishment for the crime of desertion, affecting the citizenship of the soldier who may have left the service. That provision to which I refer has created a good deal of doubt with regard to the condition of those soldiers, some of whom, to say the least of it, deserted without any moral wrong, as is the case with the class referred to by the Senator from Ohio. I should not be willing, however, to agree to the consideration of the bill now. I did not suppose, under the rule adopted by the Senate, that a bill of that sort could be considered at this session.

The PRESIDING OFFICER. The question before the Senate is, Is there objection?

Mr. HENDRICKS. There is objection to the passage of the bill now.

Mr. WADE. Will the Senator hear it read for information, to see whether there is any real objection?

Mr. HENDRICKS. I want to amend it whenever it is considered.

The PRESIDING OFFICER. The bill will have its first reading if there be no objection. Is there any objection? The Chair hears none.

Mr. EDMUNDS. There is objection. I am opposed to the bill myself, and I did not object because I understood the Senator from Indiana to object. I do not see any reason for taking this out of the usual rule we have adopted.

Mr. TRUMBULL. Then I renew my motion to take a recess until half past seven o'clock.

#### PETITION.

Mr. DIXON presented a petition of William Hillard, of the county of Matagorda, Texas, praying to be relieved from his disabilities under the military bill, and to be restored to all the rights and privileges of a citizen; which was ordered to lie on the table.

#### PROPOSED REËNROLLMENT OF A BILL.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois, [Mr. TRUMBULL.]

Mr. DRAKE. I appeal to the honorable Senator from Illinois to withdraw his motion, in order that the concurrent resolution which came from the House of Representatives the other day for the reënrollment of a bill may be taken up. I beg the Senator to indulge the Senators from Missouri to this extent. I think it will take but a very few minutes to dispose of it; and it is not at all within the prohibition of the resolution of the 5th of July.

Mr. TRUMBULL. If the Senate is disposed to act upon any business, I do not wish to press the motion, and I withdraw it.

Mr. DRAKE. Let us try and see whether the Senate will be disposed to act on it. I ask that the concurrent resolution which was sent from the House of Representatives the other day, directing the reënrollment of House joint resolution No. 6, be taken up.

The PRESIDING OFFICER. The Senator from Missouri moves to postpone all prior orders and proceed to the consideration of the resolution from the House of Representatives which he has indicated.

Mr. FESSENDEN. I suppose it can only be taken up by unanimous consent.

Mr. DRAKE. I hope no Senator will object.

Mr. FESSENDEN. I do not feel disposed to object except upon one ground. I do not think a measure of last session can be properly resuscitated in that way. The point that was taken the other day is entirely conclusive with me; the enrolled resolution having been sent to the President and not signed by him, and he having given his reasons for not signing it, I do not think we can, by merely reënrolling it and sending it to him again, make it a law.

Mr. DRAKE. Will the honorable Senator from Maine be so kind as to allow the matter to come before the Senate; and I think that in a few minutes we can gather the sense of the Senate one way or the other, and then we shall know how to act.

Mr. FESSENDEN. The only objection I have, and that is simply this: that when it is once before the Senate the rule is broken over for the sake of doing a thing which I think cannot be legally done.

Mr. DRAKE. Will the honorable Senator excuse me for calling his attention to the fact that this does not break over the resolution that was adopted on the 5th instant?

Mr. FESSENDEN. If the Senator merely wishes to get an expression of the Senate on that point, whether or not taking it up would be a violation of the rule or a breaking over the rule, or a rescinding of the rule, as you may choose to call it, I shall not interpose an objection. I am willing that that point may be decided.

Mr. DRAKE. I will state to the Senator from Maine that it is a matter of exceeding interest with the Senators and Representatives from the State of Missouri that the accident which defeated the signing of a bill that was passed without dissent in both Houses, should be remedied if possible. Now, I suggest to the honorable Senator that it can hardly be considered as "legislative business" within the meaning of the resolution of the 5th of July, when all that is asked to be done is simply to effectuate that which had been previously done by the two Houses. I submit with all respect to the distinguished Senator from Maine, whether it is not a stringent interpretation of the rule which the terms of the rule will not justify, to say that we cannot perform the simplest and minutest act of legislative administration merely, and that everything is to be cut off in this way. Here we are at this moment without anything to do, propositions made upon every side to take a recess; why may we not occupy the time in attending to a little matter of this kind and let it come before the Senate, without the question of order being raised? Then let the Senate determine the point which the honorable Senator from Maine has raised; we can do it in five minutes, and we shall know then what we have to do. If we cannot resuscitate this bill, I believe there will be a unanimous disposition on the part of the Senate to pass another. I beg the honorable Senator not to interpose a question of order at this time.

Mr. HENDERSON. In order that the Senate may understand the question which is before them—

The PRESIDING OFFICER. The question now is on proceeding to the consideration of the resolution.

Mr. HENDERSON. I am aware of it; but in order that the Senate may understand that in all probability we are not violating the rule by taking up this question I desire to refer to the facts. On the 28th of March last the Senate passed a House joint resolution in these words:

Joint resolution placing certain troops of Missouri on an equal footing with others as to bounties.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, be, and are hereby, considered as placed on an equal footing with the volunteers as to bounties, and that all laws relating to bounties be applicable to them as to other volunteers.

That joint resolution was passed on the 28th, and Congress adjourned on the 30th of March. The resolution after having been enrolled was put into the hands of the chairman of the Committee on Enrolled Bills. He laid it on his desk and neglected before the adjournment to take it to the President; but immediately after the adjournment of Congress he took it to the President, and the President made his indorsement upon the resolution:

Joint resolution placing certain troops of Missouri on an equal footing with others as to bounties.

The first session of the Fortieth Congress adjourned on the 30th day of March, 1867. This bill, which was passed during that session, was not presented for my approval by Hon. EDMUND G. ROSS, of the Senate of the United States, and a member of the Committee on Enrolled Bills, until Monday, the 1st day of April, 1867, two days after the adjournment. It is not



believed that the approval of any bill after the adjournment of Congress, whether presented before or after such adjournment, is authorized by the Constitution of the United States, that instrument expressly declaring that no bill shall become a law the return of which may have been prevented by the adjournment of Congress. To concede that, under the Constitution, the President, after the adjournment of Congress, may, without limitation in respect to time, exercise the power of approval, and thus determine at his discretion whether or not bills shall become laws, might subject the executive and legislative departments of the Government to influences most pernicious to correct legislation and sound public morals, and, with a single exception, occurring during the prevalence of civil war, would be contrary to the established practice of the Government from its inauguration to the present time. This bill will, therefore, be filed in the office of the Secretary of State without my approval.

ANDREW JOHNSON.

WASHINGTON, D. C., April 20, 1867.

The "exception" here alluded to is the act of March 4, 1863, in regard to abandoned property—

Mr. DRAKE. March 12.

Mr. HENDERSON. It was passed on the 2d of March and the President signed the bill on the 12th of March, 1863, after the adjournment of Congress. We have collected together not less than thirty or forty millions of property under that act of Congress, and the proceeds have gone into the Treasury. Mr. Lincoln signed that bill some eight or nine days after the adjournment of Congress; and it has no other validity than that. The joint resolution has neither been approved nor vetoed.

Mr. FESSENDEN. I will say to Senators that as the request is simply for unanimous consent to take up this matter, and as taking it up will not be a rescinding of the rule except so far as this particular case is concerned, I shall not object to taking it up, although I notify the Senators that it will require very considerable argument to convince me that there is power to have this bill reënrolled and resigned, without other legislative action.

Mr. DRAKE. May I inquire of the honorable Senator whether if by accident after this bill was enrolled and signed by the Presiding Officers it had been destroyed or lost it would not be competent for the two Houses to have it reënrolled.

Mr. FESSENDEN. During the session.

Mr. DRAKE. This is the same session.

Mr. FESSENDEN. It is contrary to all practice. There have been repeated cases—

Mr. DRAKE. Such a case never arose before.

Mr. FESSENDEN. There has never been one exactly like this; but there have been repeated cases where bills have been passed by both Houses and have failed by some accident to reach the President to be signed; and it has always been considered in such cases that it was necessary to legislate again.

Mr. DRAKE. That is where a bill fails to get to the President during the session; but this is the March session of Congress still. We have only taken a recess from March until July.

Mr. FESSENDEN. Then he might have carried all the bills over to this time, if he pleased, and kept them in his pocket.

Mr. HENDERSON. I hope the matter will come up before the Senate. I am disposed to think there is a good deal in the suggestion made by the Senator from Maine; perhaps the whole question is in it. Would it not be better to let the resolution come up? It is not a proposition to legislate, and does not come within the rule. I hope the Senate will take up the subject; and if on consideration it is determined that it is necessary to introduce a new bill, the Senators from Missouri will understand exactly what course to pursue in order that the men covered by the bill may obtain their rights. It is nothing but right that the resolution should be passed.

Mr. HENDRICKS. I was one of those who thought there was not a sufficient necessity for the present session of Congress, or for Congress to be in session at this time; and I was gratified when I saw that by a very decided vote the Senate had imposed a restraint upon its

own action, and had decided to consider no question except with regard to a particular measure. It was the judgment of the Senate that however important other legislation might be it should not now be considered; that we were not here for the purpose of considering other measures, although they might address the conscience and the judgment of the Senate without a great deal of force. I dare say this is a very proper bill, and perhaps it would relieve persons now if it were passed; but that is true in regard to many other matters. This is but one of a large class of cases; and especially as it is doubtful whether the proposed measure ought to be adopted, and as our power to legislate in the form that is proposed is doubted by the distinguished Senator from Maine, in view of the whole facts, I object.

Mr. HENDERSON. I suppose this objection having been filed, it becomes necessary for the Senate now to determine whether this resolution falls within the rule. I am rather of the impression that this being a concurrent resolution by the two bodies and in reference to business already transacted, it is not within the rule. If it is, then a concurrent resolution to adjourn the two branches of Congress would be within that rule, and I do not see how we can adjourn without suspending the rule.

Mr. DRAKE. Let me suggest to my colleague, too—

Mr. FESSENDEN. The point of order is made, and it is for the Chair to decide now whether the case is within the rule or not.

The PRESIDING OFFICER. Will the Senator from Missouri state his point of order?

Mr. HENDERSON. It was raised on the other side.

The PRESIDING OFFICER. The Senator from Indiana raised no point of order; he simply objected.

Mr. DRAKE. I would make this suggestion to my colleague, that this resolution has already been up before the Senate, taken up by unanimous consent the other day and interrupted by a motion to adjourn. ["No, no."]

Mr. HENDERSON. No; there was only a motion to take it up.

Mr. DRAKE. I thought it was before the Senate.

Mr. HENDERSON. No; my colleague is mistaken in that.

Mr. BUCKALEW. After assent is given to one measure of this kind, it will be a very ungracious thing to object to anything else that has merit in it; we shall have no ground to stand upon in doing so. Now, sir, I desire to make one suggestion at this time which may commend itself to the Senator from Missouri; it has occurred to me that after we have fixed our adjournment, when we have ascertained by conferring with the House of Representatives that we can leave at a particular time, there may not be so much objection, by unanimous consent, to waiving the resolution under which we have acted at this session, and attending to a few matters of detail that will not elicit debate, and about which there can be no difficulty. The objection I have at this time to yielding consent to taking up this measure is, that I do not know where we shall stop. If the House of Representatives agree with us that we shall adjourn at a fixed time, and we have control over that question, having received their assent, so that we know we can leave at a particular date, there will not be such mischief in doing things without objection, waiving all rules. I think, therefore, the Senator had best defer pressing this question until we ascertain when we shall adjourn, and if he can get common consent at any time, he can certainly then.

Mr. HENDRICKS. I understood the Chair to suggest to me to make the point of order—

The PRESIDING OFFICER. The Chair remarked that the Senator objected, but he made no point of order.

Mr. HENDRICKS. I objected under the rule adopted to the consideration of this busi-

ness, and if the Senate will indulge me, I wish to state, on the objection, why I make my opposition. I have not been in the habit of making objection to the consideration of anything that it was the pleasure of the Senate to consider; but I esteem it now to be my public duty. The day before yesterday I received a letter from a pensioner in the State of Indiana, informing me that by mistake his bill had been passed for six dollars a month when he ought to have been pensioned for a larger sum. I sat down at once and wrote to him returning the papers, saying that the Senate had decided to consider no general business, and I thought the decision was right, and I would therefore not present his papers now; but if they were returned in December justice could be done. I acted in regard to a constituent of my own on this principle because I thought it a public duty, and I make the objection because I so feel.

Mr. FOWLER. I do not intend to ask for any legislation for my own State, but I think a liberal interpretation of this resolution with a view to its object would permit the consideration of the proposition of the Senator from Missouri. The demands for it are so pressing and so urgent that I feel bound as far as I am concerned to consider it. I hope at any rate the subject will come before the Senate and be considered.

The PRESIDING OFFICER. The Chair will remark to the Senate that he has heard this resolution read by its title only, and according to its title it is a concurrent resolution. A concurrent resolution cannot be legislation, and therefore the Chair thinks it is not obnoxious to the objection that it violates the rule, and hence it can be taken up by a majority vote. The Chair says this without any knowledge of the body of the resolution, judging only by the title.

Mr. DRAKE. Then my motion is in order to take it up now, I understand the Chair?

The PRESIDING OFFICER. The Chair understands from the title that it is a concurrent resolution, and therefore it cannot be legislation.

Mr. GRIMES. I understand that anything is legislation that requires the concurrent action of the two Houses.

The PRESIDING OFFICER. A resolution of adjournment is a concurrent resolution.

Mr. CONKLING. Let us hear the resolution read.

Mr. HENDRICKS. Let us hear whether it proposes to make a law. I wish to ask this question—

The PRESIDING OFFICER. Does the Senator from Indiana appeal from the decision of the Chair?

Mr. HENDRICKS. No, sir; I wish to make this inquiry, whether this resolution proposes to make a law.

Mr. DRAKE. No, sir; it does not.

Mr. HENDRICKS. Does this resolution merely declare that there is now a law? If it proposes to do something which will make that a law which was not before, I do not care what its form is, it is legislation.

Mr. HENDERSON. I wish to state the fact that at the present session of Congress a bill which was passed at the last session before our adjournment, but was not presented to the President then, has been presented to him at this session and signed by him, and is now a law. I cannot say that it is not a law; but yet it was presented to the President at this session, though passed by Congress before the adjournment. This bill was sent to the President, and he has not vetoed it. It was given to him after our adjournment; that is, after the recess had been taken. The other bill to which I refer was not sent to him until the commencement of the present session, and he has signed it.

Mr. FESSENDEN. There is a difference in the cases.

Mr. HENDERSON. The Senator from Indiana asks whether this is to give validity or to

breathe the breath of life into a law. I say not, surely not. It is merely continuing control over our own action; it is to send a bill to the President.

Mr. FESSENDEN. The other bill we have nothing to do with. That was the action of the Clerk. A bill was found that had not been sent to the President; it had been enrolled and signed by the President of the Senate and the Speaker of the House of Representatives at the last session, and by some agency it got at this session to the President of the United States. It was by no agency of ours. We had nothing to do with it. He sends us notice that he has signed such a bill; and that calls for no action here. Now, this calls for action here.

Mr. HENDERSON. The only question between the Senator from Maine and myself is whether this is legislating.

Mr. FESSENDEN. That I do not say anything about. I only point out the difference between this case and that cited.

Mr. TRUMBULL. Gentlemen seem to be discussing this whole matter. It appears to me that the reading of the Constitution settles this question. It provides:

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him—  
this bill was presented to him—

"the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

Now, it is a law if we have been in session all the time, because it was presented to the President and he did not return it. If we were not in session, and by our adjournment prevented its return, then it is not a law. These are the words of the Constitution. Now, sir, it cannot be supposed that the President could have held all the bills of the last session for three months. During the intermediate time, from March to July, we were in session or we were not in session. Which were we? If we were in session, it is a law—he did not return it; if we were not in session, it is not a law.

Mr. HENDERSON. He has signed one bill.

Mr. TRUMBULL. That presents another question. If the bill was presented to him, he might sign it. Why can we not present a bill after a regular adjournment? What is the reason? I do not know anything in the Constitution that requires a bill to be taken to the President on the day it passes this body. Under our rules we can hold it for six months or till the next session of Congress before we send it to him.

Mr. MORRILL, of Maine. Allow me to ask whether this bill has ever been presented to the President?

Mr. TRUMBULL. The President says it has been.

Mr. MORRILL, of Maine. No, he does not say that. He says that two days after the adjournment it was presented.

Mr. TRUMBULL. It was presented.

Mr. MORRILL, of Maine. Could it be presented after Congress had adjourned? On the reasoning of the honorable Senator, I suggest that it may be presented now.

Mr. TRUMBULL. I do not know that there is anything to prevent a bill being presented to the President after our adjournment. When it is presented to him, what is he to do? Clearly, you cannot deprive the President of his right to veto a bill by a recess extending beyond ten days. That is a constitutional right; he has a right to send it back and have the judgment of the two Houses upon it. You cannot make it a law, in case he does not return it, when he has no power to return it. It is very clear to my mind that this bill is not a law, although it is more than ten days since it was presented to the President. Why is it not a law? If it is a law, it has become a law by depriving the President of an opportunity to return it. But suppose he had signed it; would it then have been a law? That presents another question. Perhaps it would.

I am inclined to think it would have been a law if he had signed it. I can see, however, that the practice of presenting and signing bills in that way would be a very bad practice, and I hope the Congress of the United States will never fall into the practice of presenting bills to the President after Congress has adjourned. But I do not see any legal or constitutional reason why this bill would not be a law if the President had thought proper to sign it; but not having signed it, it seems to me it is not a law. It was presented to him, and if by signing it he could have made it a law, then the presentation is good; but he not having signed it, it is a dead bill, and you cannot make it an act that is passed by both Houses by this process.

Mr. HENDERSON. I should like to ask the Senator whether if this be an adjournment the officers of the Senate had a right to present that bill to the President after our adjournment, or whether that was a legal presentation of the bill to the President?

Mr. TRUMBULL. I have already said that I thought the practice very bad, but I do not know any legal or constitutional reasons why we cannot present a bill to the President after adjournment, nor why he cannot, if he thinks proper, sign it. This having been presented to him, it has lost its vitality as a bill. That would be the view I should be inclined to take of it. At any rate, I hope the Senate will not act with any haste in regard to this matter. It involves very important constitutional questions, as the Senate will see by a moment's reflection. Certainly we cannot by our rules adopt any course of action which will deprive the President of his constitutional prerogative to veto.

Mr. FESSENDEN. I suggest to my friend that that clause of the Constitution which says that it shall not become a law in the event of an adjournment preventing its return is simply saying that we shall not by adjournment deprive the President of his power to send a bill back. It has no reference to a bill which he may choose to sign that has been sent to him in good season. I have no question on that subject that he may sign such a bill after we adjourn; but it does not become a law unless he does sign it, notwithstanding the expiration of the ten days after the adjournment.

Mr. HENDERSON. My idea upon this subject, from the lights now shed on it, is contained in the remarks of the Senator from Maine, that there never has been a legal presentation of this bill to the President. Now, suppose the President had never seen this bill, suppose the chairman of our committee had not taken it to him after the adjournment of the March session, what would have been the situation of the bill? Could it now by order of the Senate alone be sent to the President without the joint order of the two Houses? Could we have required the Committee on Enrolled Bills to take that bill up to the President for his signature? I think most assuredly so. If we could do that, certainly this proposed resolution does not fall within the rule we have adopted, because it is not legislation. It does not require the action of the President. It is only the control which we may properly exercise over our own proceedings, just such as a court exercises over its proceedings, over its record and over the returns of its officers. It seems to me that it is clearly within the jurisdiction of the Senate to say that this was no legal presentation of the bill, that it has never been before the President at all, and not having been presented to him it is a bill before us. Now can we not order that bill to be sent to the President? If not, the President assuredly has made a law by his signature of a bill, improperly at the present session. He certainly exercised the right to sign it and he made no objection to it because it was presented at this session, having been passed at the last.

The difficulty of this question is that this is the first session of the Fortieth Congress. It

cannot be the second session. If there was an adjournment, it is the second session. If this is a session made by law it is the second session of the Fortieth Congress. But surely our proceedings are all under the head and title of the first session of the Fortieth Congress, and will go to the country as such. Then there has been a mere recess of the two Houses. We took a recess, I believe, from the 20th of last December to the 3d of January. I can show to the Senate bills that were signed by the President during that recess. There was an interval of more than ten days during which Congress was not in session. We adjourned on the 20th of December, and yet there was an act signed by the President on the 26th. Was that a law?

Mr. TRUMBULL. We all think so.

Mr. HENDERSON. If it be so, why is it that we cannot take jurisdiction over this matter ourselves without the action of the House of Representatives at all? This is not a resolution to be sent to the President to give validity to the old act, but we simply ask our officer to represent, or rather to present, because the first presentation was an illegal one, and therefore without validity.

Mr. TRUMBULL. Not that. It was a legal presentation on the ground that he could sign the bill and make it a law. That is exactly what the Senator has been proving. He has shown that the bill was signed during a recess.

Mr. HENDERSON. But the Senator says that this was an adjournment; he takes the ground that this was an adjournment and not a recess. If it was an adjournment, what right had the chairman of the committee to present this bill? Surely the Senator is not correct. His argument does not hang together.

Mr. TRUMBULL. The Senator, I understand, has undertaken to prove that during the holidays bills were presented to and signed by the President.

Mr. HENDERSON. Because that was a recess.

Mr. TRUMBULL. Well, if it had been an adjournment and a bill had been presented to him and signed by him, it would have been a law.

Mr. HENDERSON. I think not.

Mr. TRUMBULL. I think so.

Mr. HENDERSON. Surely not.

Mr. TRUMBULL. If a bill was presented to him and he thought proper to sign it, that made it a law, whether there was an adjournment or a recess. You cannot adjourn for more than three days at a time except by a concurrent resolution, and then it amounts to an adjournment of Congress.

Mr. HENDERSON. The Senator from Maine calls my attention to the ninth joint rule of the two Houses in regard to the presentation of enrolled bills to the President:

"9. After a bill shall have been thus signed in each House, it shall be presented by the said committee to the President of the United States for his approbation, (it being first indorsed on the back of the roll, certifying in which House the same originated, which indorsement shall be signed by the Secretary or Clerk, as the case may be, of the House in which the same did originate,) and shall be entered on the Journal of each House. The same committee shall report the day of presentation to the President; which time shall also be carefully entered on the Journal of each House."

How can that be done unless we are in session? I cannot see.

Mr. TRUMBULL. The rule seems to imply that.

Mr. HENDERSON. Therefore it must certainly be that there has been no presentation of this bill. Now, the only question is, have we jurisdiction over this act of Congress. Have we a right to pass a simple resolution by the Senate requiring the chairman of the Committee on Enrolled Bills to present a certain bill to the President? That is the only question now before the Senate. That is not legislation, surely. There is nothing legislative in it.

Mr. CONKLING. Then the resolution ought not to be concurrent.

Mr. HENDERSON. That does not injure it. I thought it need not be a concurrent resolution when the other House acted.

Mr. DRAKE. I suggest to the honorable Senator from New York that the reason why it was made a concurrent resolution was in order that the Presiding Officers of the two Houses might have the warrant of this resolution for signing the reenrolled bill.

The PRESIDING OFFICER. The reading of the resolution was called for some time ago by the Senator from Missouri, [Mr. DRAKE.] It will now be read if there be no objection.

The Chief Clerk read the following resolution adopted by the House of Representatives on the 8th instant:

*Resolved by the House of Representatives, (the Senate concurring),* That the Clerk of the House of Representatives be instructed and directed, and is hereby instructed and directed, to reenroll House resolution No. 6 of this the Fortieth Congress, that the same may be again signed by the Presiding Officers of the Senate and the House, and be again presented to the President for his approval.

The PRESIDING OFFICER. The Chair will remark that after hearing the resolution read, and seeing that it proposes to make that a law which is not now a law, he must change his ruling, and hold that it be objectionable under the resolution heretofore adopted by the Senate.

Mr. DRAKE. I beg the Chair to submit the question to the Senate.

The PRESIDING OFFICER. The Senator from Missouri appeals from the decision of the Chair.

Mr. DRAKE. No, I do not appeal. I beg the Chair to submit the question to the Senate.

The PRESIDING OFFICER. The Chair will submit the question to the Senate whether the resolution shall be considered, notwithstanding the resolution of the 5th of July.

Mr. HENDRICKS. The question is whether it is in order.

The PRESIDING OFFICER. The question is, Is it in order, under the resolution of the Senate, to consider this concurrent resolution?

The question being put, there were, on a division—ayes 11, noes 15; no quorum voting.

Mr. HENDERSON called for the yeas and nays, and they were ordered.

Mr. DRAKE. Without wishing to protract debate, I simply desire to call the attention of Senators to the exact position of the matter. It is not a question whether the Senate is in favor of this resolution or not, but the simple question is whether it is out of order or in order to act upon this particular proposition under the resolution of the 5th of July.

Mr. CONKLING. The question submitted to the Senate is whether the Senate is in favor of taking up this matter. I wish to say for one that I cannot believe this is the true way to correct the difficulty; but I understand that we are called to vote now upon the simple question whether this resolution, which is merely concurrent and which I think need not have been even concurrent, and which I conceive to be only an order of the Senate and of the House acting upon their officers, is legislative business or not. Whatever may be the form of the question, that is the substance on which I for one feel bound to vote. I do not see in what sense it is legislative any more than would be an order of the Senate directing one of its ministers to do any other act. It is not the making of a law. Although, as I say, I do not believe this is the true way to cure the difficulty, and I do not believe it is competent to resuscitate this law in this way, yet on the mere question of taking up the resolution, I feel bound to vote in the affirmative, because I do not believe it is legislative business, and therefore not within the rule lately adopted by the Senate.

Mr. ROSS. I cannot see how this resolution can be objectionable under the rule which has been adopted by the Senate. As has been suggested, it is simply a direction to the Clerks of the two bodies to perform a clerical duty. It is no more making a law than is the direction

to perform any other clerical duty. The law, in my judgment, exists; or the bill is in existence. There has been no legal presentation of it to the President. I think that is evident from the discussion we have had to-day; and under the peculiar circumstances of the case I trust the Senate will take this view of it and permit the subject to be acted on.

Mr. TRUMBULL. I should like to inquire how many kinds of business we have in this body. Is it not executive business that is proposed to be done? If it is not executive—

Mr. POMEROY. It is clerical.

Mr. TRUMBULL. I was not aware that there was any such business.

Mr. BUCKALEW. I suppose the President of the Senate signs an enrolled bill and announces it publicly in the session of the Senate.

Mr. TRUMBULL. I do not know what sort of business this is. My friend from New York says it is not legislative, and I suppose it is not executive. If it has any other designation, I do not know what to call it.

Mr. CONKLING. I hope the Senator from Illinois does not mean to instruct us that all business that we do which is not legislative must be executive, that these are the only two kinds of business.

Mr. TRUMBULL. What other business is there?

Mr. CONKLING. Does the Senator mean that every resolution or order that the Senate makes is legislative business? Suppose the Senate should pass a resolution that they would dispense with the services of a chaplain tomorrow morning, and not require him to make a prayer; would that be legislative business?

Mr. TRUMBULL. What sort of business is it?

Mr. CONKLING. Legislative business I conceive to be that business which pertains to the making of a law, a law being a public rule of action, which must be adopted by both Houses with the concurrence of the Executive. Whatever goes to that, whatever goes to the function of law-making, is legislative business; but whatever pertains to the direction of our own officers is not necessarily legislative business. Suppose we direct the Sergeant-at-Arms to employ three more pages than are here, or to dispense with three pages, is that legislative business? Suppose we direct the Clerk to make a certain entry on the Journal, is that legislative business? And yet all this is done by an order or resolution of the Senate. I heard it said here the other day that votes of thanks to officers were legislative in their character, and the reason assigned was that they were joint resolutions and the President must sign them; and Senators said they went into the statute-book, in a place by themselves to be sure, but still were treated in a quasi sense as laws. That may be so; that, if you please, is a border case; but the idea that every utterance of the Senate in the nature of an order directed to one of the ministers of the Senate is necessarily legislative I must say I cannot consent to, even upon authority so high as that of the distinguished Senator from Illinois.

The PRESIDING OFFICER. The question for the Senate is whether it is in order to take up for consideration the resolution mentioned, and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 18; as follows:

YEAS—Messrs. Conkling, Drake, Fowler, Harlan, Henderson, Norton, Nye, Ross, Sumner, Thayer, Tipton, and Wade—12.

NAYS—Messrs. Bayard, Buckalew, Cameron, Cole, Cragin, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Hendricks, Morgan, Patterson of Tennessee, Pomerooy, Trumbull, Van Winkle, Willey, and Wilson—18.

ABSENT—Messrs. Anthony, Cattell, Chandler, Conness, Corbett, Dixon, Doolittle, Ferry, Guthrie, Howard, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Williams, and Yates—23.

So the resolution was held not to be in order.

Mr. FRELINGHUYSEN. I now move that

the Senate take a recess until half past seven o'clock.

Mr. SUMNER. I hope not; and I desire to make a statement. A gentleman came in from the House a short time ago, who told me that a distinguished member of the House assured him that the vote would probably be taken within an hour.

Mr. EDMUNDS. They are calling the yeas and nays now, but they may have to take them once or twice more.

Mr. SUMNER. I received that information about half an hour ago; and I suggest that we sit here to receive the bill and order it to be printed. I understand that there are five sections, and it seems to me we ought not to act, and for one I should object to proceeding with it until I can see it in print. I think it is too important a matter for us to undertake to shoot flying. I think, therefore, we had better proceed a little while longer.

Mr. TRUMBULL. I will state that I was informed very directly, as the Senator from Massachusetts was, that in fifteen minutes we should have the bill here. That was about three quarters of an hour ago. About twenty-five minutes ago, nearly half an hour, another gentleman came over and said they were about ready to vote, and he thought we should get the bill here in an hour. I have not the slightest idea that we shall get the bill here for any action before half past seven o'clock. We may as well go and get our dinners, and come back then and see what we can do with it, either act on it or print it, as the Senator from Massachusetts desires. We can then determine what to do with it; at any rate we can do no good by staying here now.

Mr. SUMNER. We cannot proceed with it to-night. I appeal to the Senator would it be right for us now to act on five sections?

Mr. TRUMBULL. I do not suppose there will be any five sections. The Senator assumes that. The amendments may be merely verbal. I have no such information as that, and the Senator cannot have.

Mr. SUMNER. My information is that there are five sections that have been incorporated.

Mr. TRUMBULL. Have they been agreed to?

Mr. ANTHONY. I believe they are mainly amendments that the Senator from Massachusetts offered here, and we shall have no trouble with them.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey, that the Senate take a recess until half past seven o'clock.

Mr. SUMNER. I move to amend that by saying eight o'clock. It will be a little cooler then.

The amendment was not agreed to.

Mr. ANTHONY. I move to amend the motion by naming six o'clock.

The amendment was not agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from New Jersey.

The motion was agreed to; and at five minutes past four o'clock the Senate took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

Mr. SUMNER. Is there any business before the Senate?

The PRESIDING OFFICER. No, sir.

Mr. SUMNER. I would ask the Senate if they can do anything better than proceed with the consideration of Senate bill No. 115?

Mr. HARLAN. Before that is taken up I have a little resolution to offer, that will not, I think, lead to any debate.

Mr. SUMNER. I give way, but with great reluctance. This is an important measure.

#### REVISION OF DISTRICT LAWS.

Mr. HARLAN submitted the following res-

olution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the District of Columbia, in the prosecution of the revision of the laws of said District, as provided by Senate resolution of 2d April, 1867, have leave to sit during the recess of Congress.

#### RECONSTRUCTION.

Mr. SUMNER. I now move that the Senate proceed to the consideration of Senate bill No. 115; and if there is any objection to it I should like to hear it.

Mr. GRIMES. Give us the title of the bill.

Mr. SUMNER. That can be given from the desk.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House concurred in the amendment of the Senate to the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the acts supplementary thereto, passed on the 23d day of March, 1867, with amendments, in which the concurrence of the Senate was requested.

Mr. SUMNER. I should like to have the title of the bill that I propose to take up read.

The CHIEF CLERK. A bill (S. No. 115) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government, by securing the elective franchise to colored citizens.

Mr. SUMNER. Now, if that should be passed unanimously to-night, it would put the cap-stone on the reconstruction act, and the Senate might go home in peace and expect peace throughout the country.

Mr. TRUMBULL. I presume my friend from Massachusetts is not serious in asking to call up that bill to-night, and with his permission I propose that we take up the message from the House of Representatives.

Mr. SUMNER. I do not intend to antagonize my bill with that, because they are entirely in harmony. The one is the natural sequence of the other. You cannot pass the one if you are reasonable Senators, as of course you are, without passing the other.

Mr. TRUMBULL. Let us take up the message from the House first, at any rate.

Mr. SUMNER. Very well. Pass the House bill, and then take up mine.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Massachusetts to withdraw his motion.

Mr. TRUMBULL. I move that we proceed to the consideration of the message from the House of Representatives.

The motion was agreed to.

The Chief Clerk proceeded to read the amendments of the House of Representatives to the Senate amendment to House-bill No. 123. The first amendment was to strike out the first section of the Senate amendment, and in lieu thereof to insert:

That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the 23d day of March, 1867, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were illegal; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the authority of Congress.

The next amendment was to strike out in lines three and four of section two the words "subject to the approval of the General of the Army of the United States;" and in lines seventeen and eighteen to strike out the words "subject to the approval of the General aforesaid;" and to add to the section these words:

And to fill vacancies occasioned by death or resignation; and the district commander, whenever he shall deem it necessary, shall have power to set aside, suspend, or affirm any act or proceeding of any State government, or any municipal, or other division thereof, or any act or thing done under or by virtue of its authority.

The next amendment was in section three,

after the word "appointment" in line three, to insert "removal."

The next amendment was to add to section four:

And it shall be the duty of such commander to remove from office, as aforesaid, all persons who are disloyal to the Government of the United States, or who use their official influence in any manner to hinder, delay, or obstruct the due and proper administration of this act and the acts to which it is supplementary.

The next amendment was in section five, to strike out from the word "before" in line ten to the word "act" in line fourteen, inclusive, and to insert in lieu of the words stricken out "to admit to registration only such persons as they may deem entitled to be registered by the acts aforesaid."

The next amendment was in section five, to strike out all after the word "registration," in line twenty-two, to the word "provided" in line twenty-nine.

The next amendment was in section six, line seventeen, to strike out the words "the general laws," and in lieu thereof insert "any general law."

The next amendment was to add to section six "or for the administration of justice, or for the keeping of the public peace."

The next amendment was in section seven, line eight, to strike out the word "twenty" and insert "fourteen."

The next amendment was to add after section eight the following section:

SEC. 9. *And be it further enacted*, That no civil court of the United States, or of any State, shall have jurisdiction of any action or proceeding, civil or criminal, against any such district commander or any officer or person acting by his authority, for or on account of the discharge of the duties imposed upon him by this act or the acts to which it is supplementary.

SEC. 10. *And be it further enacted*, That no district commander shall be relieved from the command assigned to him under the aforesaid acts, unless by order of the General of the Army of the United States, or unless the Senate shall have first advised and consented thereto, or unless by sentence of court-martial he shall be cashiered and dismissed from the Army, or in arrest for an offense punishable by dismissal from the Army, or disqualified by sickness for the performance of his duties.

SEC. 11. *And be it further enacted*, That any person or persons who shall prevent or attempt to prevent or obstruct the execution of this act or either of the acts to which it is supplementary, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding \$5,000, or imprisoned one year, or both, at the discretion of the court; *Provided*, That this section shall not extend to or include any offense or offenses of which the military authorities may have or take jurisdiction under the provisions of this act or the acts to which it is supplementary.

SEC. 12. *And be it further enacted*, That all members of said boards of registration, and all persons holding office in said military districts under State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and subscribe the oath of office prescribed by law for officers of the United States.

SEC. 13. *And be it further enacted*, That no district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any officer of the United States.

The next amendment was to change section nine to section fourteen.

Mr. TRUMBULL. There are two courses, I think, which we might pursue with these amendments. There are, I think, some eight or ten of them; I did not keep the precise count. I am sure, from looking over them carefully—at least that is my own opinion, and I think from the indications in the Senate it would be the opinion of the Senate—that there are some of those amendments that the Senate never would agree to. There are some of them that I could not vote for. There are a number of them and probably a majority of them that I think the Senate could agree to without any departure from the principles upon which it has been acting. Now, the bill may either be referred to the committee, that it may examine and report such amendments as in its opinion ought to be agreed to, and we could act upon them separately and agree, as far as it is in the power of the Senate to agree, to the amendments of the House, or we can disagree to all the amendments and let it go in the first instance to the committee of conference. I think one course or the other had better be adopted; but as I myself never was very

partial to these committees of conference, and think it better the whole body should act on important bills of this kind, and they can act on each amendment by itself rather than be forced to vote on the whole report of a committee of conference. I will move, rather as my own judgment in the matter than as knowing whether it will meet the view of the Senate or not, to refer the bill and amendments to the Committee on the Judiciary, and that they be printed.

Mr. WILSON. I hope this course will not be pursued. I think it will keep us here a long while. These are very plain and simple propositions, and I think most of them we can concur in at once and send the bill back to the House and then have a conference on the disagreeing votes. I do not think there are more than one or two of the House propositions which the Senate will not concur in. They are very simple propositions and I think generally improvements on our bill. I hope we shall proceed now and act on these amendments, concur in what we can, and then send the others to the House, and perhaps the House will recede; if not, they may propose a committee of conference and then we can have one.

Mr. EDMUNDS. I hope this matter will not be sent to the Judiciary Committee again. It will be noticed that there is no new proposition in these amendments of the House; they are all ideas which were distinctly contained in the House bill which was sent to us; they are all ideas which have been in some form or other, almost all of them, and I do not know but all, presented by the Senator from Massachusetts [Mr. SUMNER] as amendments to the bill of the Senate, which we finally adopted as an amendment to the House bill. They have all had the consideration of this body. They have had its judgment in votes adverse to agreeing to them. Now, it seems to me that the plainest and shortest way is to disagree to the whole of these amendments in a body, and ask of the House of Representatives a conference in the usual way, that we may harmonize our views. It is useless to take up the time of the Senate in agreeing to a half dozen of these amendments that are merely phraseological, so to speak, because they are perfectly trifling; they mean the same thing that the bill means now, and they can be agreed to in a conference and harmonize, or still better phraseology substituted without the least difficulty. Everybody understands that; while if we agree to them now in the haste of a present consideration, they are taken away from the consideration of a committee of conference entirely, and if a conference should perceive that some better phraseology still or some modification ought to be adopted, it is entirely out of their power. Hence, it appears to me to be very plain, inasmuch as there is nothing new in these differences between the two Houses. It is the same old question; the same old ideas presented. We had better follow the usual and straightforward course of disagreeing in a body and having a conference. I think it had better not be sent to the Judiciary Committee again.

Mr. TRUMBULL. I wish to say to the Senate that I have no sort of feeling about this as to which course is adopted. Legislation by committees of conference has always seemed very objectionable to me, because the report of such a committee has to be taken as a whole or rejected as a whole; there is no opportunity to amend it or change it in any way. But this bill, as the Senator from Vermont properly remarks, has had the consideration of both Houses now; we have considered most of the provisions that are added as amendments by the House to our amendment; they were mostly in the original House bill; and if the Senate think it the more expeditious to proceed to send it to a committee of conference, I have no objection, although my own preference, I confess, is to mature a bill by the body where there can be an opportunity to act separately upon the amendments of the other House and agree to all that we can agree



to; and after that of course a conference would be useless, because there would be nothing to confer about. When the Senate has considered every one of the House amendments, and deliberately decide that it cannot agree to them, it would be of no use to appoint a committee that would have nothing to yield; and if a committee of conference is to be had, I suppose we may as well have it now and consider all these amendments together. The Senator from Massachusetts [Mr. WILSON] says that there is nothing to trade about; but it is the very business of a committee of conference to harmonize by giving and taking and arranging the differences between the two Houses. It is a mode of legislation I am not partial to; but if the Senate think proper to send it to a committee of conference, as suggested by the Senator from Vermont, it will be entirely agreeable to me. I made the other motion as an individual, preferring that course of proceeding upon this and all other general bills. I do not know which motion has preference.

The PRESIDENT *pro tempore*. The motion to refer, I believe, has precedence.

Mr. SUMNER. This is one of the most important measures that could be brought before Congress; it is one of the most important that has ever been brought before Congress; it ought to be considered, therefore, in such a way as to secure for it the most careful attention, and if that can be accomplished in one way rather than in another that way ought to be adopted. Now, if by proceeding with each proposition in full Senate we can act upon them all successively, I think upon the whole that would be the most advisable. It seems to me that in that way we should secure what the old lawyers and judges always required, the *aggregatio mentum*; the bringing of minds together, which I take it is the object we have to seek. We wish to bring every one of these propositions, if possible, before every Senator; but if Senators are not disposed to take up these different propositions one by one and sift them successively, then I think it would be better for it to go to our committee, who should go through the sifting process and make us a report that we may on their report have an opportunity of doing that.

But I would observe that I do not think any care, any attention, any time that we can give to this will be misplaced. It is too important for us to allow any question of time to interfere with what our best judgment shall think the best course of proceeding. In order to determine what that best course is, I would put ourselves back in the middle of a long session when we had weeks and months before us, and I would ask then what we should do with a bill like this. I would do the same now if it took hours, days, weeks, for our main object should be to perfect the bill.

With these ideas my first suggestion would be that the Senate should proceed with these different propositions one by one, *seriatim*, and see if we cannot dispose of them, or if I may so express myself, eliminate one after the other, and if we cannot succeed in that, we may ask the assistance of one of our own committees or may refer it all to a committee of conference.

Mr. WILSON. The Senator from Illinois does not like committees of conference. I think, with his explanation of what a committee of conference is to do, he ought not to like them; he thinks they are to trade. I do not think committees of conference are appointed to trade. I think committees of conference are appointed for a higher purpose than that. Clearly all these amendments are of the simplest character. We do not know whether we agree with the House or not. Suppose we go on now and act on the amendments, agree to what we can, and refer the rest to a committee of conference. It seems to me that is the fair course, but if we are not to take them up in that way, I prefer that they should go to a committee of conference now rather than to the Committee on the Judiciary.

Mr. DRAKE. I suppose it will be in order after the Senate shall have acted upon these proposed amendments, and adopted part of them, and disagreed to part of them, to have a committee of conference on those that we do disagree to.

The PRESIDENT *pro tempore*. Of course that would be in order.

Mr. DRAKE. Would a motion now be in order to proceed to the consideration of these amendments *seriatim*?

The PRESIDENT *pro tempore*. The question now is on the motion to refer them to the Committee on the Judiciary.

Mr. DRAKE. I hope that motion will not prevail, but that the Senate will proceed to act upon the amendments *seriatim*, find what they can agree to and what they cannot agree to, and send the bill back to the House.

Mr. FRELINGHUYSEN. I hope that this subject will not be referred to the Committee on the Judiciary. It seems to me that the best way to arrive at a conclusion is to refer the subject directly to a committee of conference now. If they cannot agree, then we can come back here and take up these amendments *seriatim*, and legislate in reference to them.

Mr. GRIMES. I have precisely the same objections to the conduct of some committees of conference that the Senator from Illinois has; that is to say, I object to the plan that is sometimes adopted of a committee of conference agreeing to an entire new measure or to provisions that have not been considered by either House of Congress, as is sometimes the case; but I apprehend that this committee of conference, with the Senator from Illinois, the chairman of the Judiciary Committee, at the head of it, who has such a strong repugnance to any such course, will not do anything objectionable. If we want to get through with the business of this session the right way is to submit this whole bill as it now stands to a committee of conference. There is not a single proposition, we are told by the Senator from Massachusetts and by the Senator from Illinois, that has not in some form or other been before both the Senate and the House. We have our opinions already made up upon them; there is nothing new in them; and if we adopt the course that has been proposed of considering some of these amendments now, we shall find that we have got in the end to seek the aid of a committee of conference, and the matter will go over until next week.

Mr. CONKLING. I agree entirely with the Senator from Massachusetts who first addressed the Senate on this subject, that the question of time in the sense of our own convenience is a very paltry question, if it be one at all which enters into this subject; and I wish to say for one that the heat of the weather and the personal inconvenience of this particular season of the year has never entered into the judgment which I have formed of the wise duration of this session. I say this now because I have heard it stated here by implication a good many times that almost all of us, excepting the gentleman who took pains to disclaim it, were not thinking of much here except how hot we were or whether we were hot or not. I want to say for one that if the mercury could be graduated anywhere which might be measured exactly by instruments, my judgment as to the propriety of the length of this session and as to the correct mode of disposing of this measure would, unless I deceive myself, be precisely what it is now; and therefore I must say that I do not feel in need of any admonition or advice from anybody to see to it that I do not allow my sensation of warmth or cold to confuse or warp my judgment during this session.

Now, sir, there is among these amendments a very important one in principle and in character. It will seem practically very important to the country. It is that amendment which binds the President hand and foot as to the displacement of these commanders. There are in the country a great many discerning persons who believe that, legislate as we may, this act-

ing President of the United States, fatally bent on mischief as they think he is, retaining the power to put out men who efficiently and earnestly will execute this law and replace them with those who will pervert and paralyze it, will have at last the power to defeat it all. The views of those who thus think and thus fear are embodied in a measure in one of these amendments which makes the power of removal hinge upon some one of three things: first, the assent of this body; or second, the assent of the General of the Army; or third, the judgment and sentence of a military court. Now, I surmise there are those who think that such a provision comes so near deposing the President of the United States in his character of Commander-in-Chief of the Army and Navy, that they would feel bound to resist the provision. Here, then, is an issue distinct and important which as it stands now is made between the two Houses; and I beg leave, although that is aside from the purpose with which I rose, to say that important as it is, important as it seems to me at least to be, to guard as far as constitutionally we can guard against interference by the President with these commanders, it is no more important than it is to guard against the same interference with the commanders of other military districts.

I do not know what may be the views of Senators as to the distinctions to be made between the power that we have in the district to which Georgia belongs and the military division to which Tennessee and Kentucky belongs; but I think I can see this: that if these five generals commanding districts in the far South are secured in their places, and when that is done, if a fair election should be overturned and prevented in the State of Tennessee by the removal of the commander of that district and his replacement by one who would prevent a fair election by military force—if that should happen, those who have devoted themselves to the discussion of this question and have confined it to those five military districts would be in the condition of that celebrated man who was hoist with his petard; and my impression is, that if any provision is to be put into the bill on that subject, it ought to extend, if it is constitutional at all and constitutionally can be extended, at least so far as to guard the case which I have suggested.

I was going, however, to say that this amendment is no doubt one of those to which the chairman of the Committee on the Judiciary referred when he said he believed there were those to which the Senate could not and would not assent, and he must have had in his mind other amendments also, for he spoke in the plural. If that be so—and I agree with the chairman in the view he has on that subject—it is very clear that sooner or later we come to a conference committee; and what is there in any aspect to be gained by taking up those amendments, which, because they are verbal, or because they are inconsequential, or for some other reason we might, and probably could and would agree to, and come at last to the same thing, with the same delay, the same chances of ultimate difference which would exist to-night were we to refer the whole question now?

I agree with the Senator from Massachusetts who was last up that a conference committee is not a committee made to trade; I believe that was the word which he made use of; but, as everybody knows, a conference committee is a piece of machinery arranged upon the theory of giving and taking, upon the theory of concession and compromise, upon the theory of surrendering on both sides whatever is deemed not vital and a proper subject of surrender, to the end that all sides may insist upon that which is deemed indispensable. In that view we all know that this bill precisely as it stands now is in a better condition than it can ever assume again in its subsequent parliamentary stages to go, if it is to go at all, to a committee of conference. And while as I say I agree with the Senator who goes furthest

that time as a matter of convenience is not important, yet the practical, expeditious, straightforward, safe mode is the true mode; and I submit to the Senate that while you sit here to-night, to-morrow, and to-morrow night, and vote no matter how long upon those things which are not going to divide the two Houses, in place of advancing, we retrograde, because we are absolutely depriving the committee of conference, to which ultimately we look, of the very means of bringing the two Houses together. For one I hope we shall disagree, *pro formâ*, in bulk to all of these amendments, and let them all go to a committee in the hope that they may be arranged.

Mr. SUMNER. I have listened to these remarks of my friend from New York with absolute pain; I am sorry that such a speech has been made in the Senate. Here is an open suggestion that we are to trade off one proposition for another in a committee of conference. That is the practical result of his statement and of his argument. I protest with my whole soul, with every fibre of my body, with every sentiment of my heart, against any such suggestion. It is not constitutional. I hope I shall not have the suggestion thrown out to me that I stand alone when I say that such a suggestion is not constitutional. I say it is not constitutional that we should go into a committee of conference in order to trade off one truth against another truth, one principle against another principle, one proposition against another proposition. No, sir, we go into a committee of conference for a better purpose. It is for a comparison of judgments, as I said a moment ago, for what the old lawyers called an aggregation of minds, not for a trading of principles.

Now the aggregations of minds is to be on those points where there is a difference. If there is no difference in question, then there is no occasion of question; but when the difference occurs, there is the question and there is the occasion for the committee of conference. The committee of conference should meet, and each side should state its views as strongly as it can, and then it is to be trusted that one will recede. If there is a recession on either side, then there may be some alternative proposition as a substitute for that special proposition. But, in the name of the Constitution of my country, do not let us trade one proposition against another. I object to it. I say it is unconstitutional, and it is unconstitutional precisely as I said the other day your proposition was unconstitutional, because it was irrational and unjust. I know Senators objected to my use of that language; but the language still lives, and the occasion for it lives. I hope that we shall not go into any committee of conference with any such purpose. Let us go there sincerely and simply in order to meet our colleagues of the other House with a view to arrive at an agreement on those points on which there is a real difference; but if there is no real difference between us on any particular points, let us then at once withdraw our opposition, and raise no question except where there is a difference.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois to refer the bill and amendments to the Committee on the Judiciary.

The motion was not agreed to; there being on a division—ayes 13, noes 20.

Mr. EDMUNDS. I move that the Senate non-concur in the amendments of the House of Representatives, and ask for a committee of conference.

Mr. SUMNER. I hope that will not be done. I hope that the Senate will take up the different propositions and will proceed with them one by one, and when we have arrived at any point on which we cannot agree, that with regard to that we shall ask for a committee of conference. It seems to me that is the honest proceeding, and here in the Senate as elsewhere I am satisfied that honesty is the best policy.

Mr. HENDERSON. Is the other course dishonest?

Mr. SUMNER. If it is with an idea that we are to abandon one proposition as a consideration for an abandonment on the other side, I do not think it honest. That is the way it strikes me. I do not think it constitutional. I think that the true way is to meet each question by itself and bring the best mind of the Senate and of the House to bear upon it, not to trade off one proposition against another.

Mr. HENDERSON. I certainly do not desire to do anything either now or hereafter that will be regarded by the country or suspected by myself to be dishonest; but I desire to get through with this measure. I am not prepared to say, from the reading by the Clerk of these amendments, that I understand them all; but if I am not mistaken, there is no principle enunciated in these amendments that we did not discuss during the preparation of the bill that has gone to the House of Representatives and been amended and sent back. I am satisfied that almost every one of the propositions sent to us from the House has been considered more or less by the Senate. The Senator from Massachusetts proposes to take up each one of the propositions and go over that discussion once more. I have not participated in the discussion heretofore, and I do not desire to do so now. The Senator from Massachusetts and others have spent a good deal of time in the discussion of the principles involved in the amendments; I myself have made up my mind in reference to all of them, and I sincerely hope that the Senate will adopt the proposition made by the Senator from Vermont.

I desire to see a good bill; I desire to see something done which will satisfy the country, and which will carry out in the spirit of the original bills the policy that we have adopted; but I cannot see that that end will not be secured by acceding now to the suggestion of the Senator from Vermont, and I hope the Senate will adopt it and send the bill to a committee of conference. The gentlemen who will be selected will understand what the Senate has already decided. We have discussed these propositions and come to a vote upon them; and the three gentlemen who will be selected will certainly understand the feelings and the views of the Senate. I do not understand that they must necessarily give up a principle or that they must barter truth, that they must give up anything that is of substantial importance. If a committee of conference in this case is to barter away principle and truth, why is it not so in every other case of committees of conference? If a committee of conference is unconstitutional in this case, why is it not equally unconstitutional in every other case? We have resorted to committees of conference ever since I have been here, and at the close of a session almost every bill is sent to a committee of conference to perfect, and indeed it seems to me that without such committees we are utterly unable to perfect legislation.

Now, what is the use of discussing these amendments that are merely questions of phraseology, going over the entire week's work again and accomplishing nothing at all, and at last submitting the questions, if there be questions of difference between the two Houses, to a committee of conference? It is a waste of time in my judgment. I can see no question of honesty or dishonesty about it, and I hope that we shall adopt this plan and pass the bill to-morrow and send it to the President, or pass it to-night if the committees can agree to-night.

Mr. TRUMBULL. The Senate having decided not to refer the bill to the Committee on the Judiciary, I desire to say a word, lest my former remarks may be misunderstood. When I said that I supposed the Senate could agree to some of these amendments—there are twelve or fifteen of them in all—I did not mean to be understood as saying that I supposed the Senate would prefer them. There are several

proposed amendments here which I would be willing to assent to because the House of Representatives insists upon them, which I do not think improve the bill at all. There are not more than two which I regard as improvements of the bill. Several others I would agree to for the purpose of harmonizing with the House, not thinking them very essential or important; and it is only in that sense I presume that a committee of conference could act—not by way of trading away anything that was deemed essential by the Senate in the bill. While I would be willing to vote in the Senate or to act in a committee of conference so as to endeavor to harmonize the two Houses, and would give up anything which did not seem to be essential or involve some principle, I should not think that in doing so I was acting improperly or trading away anything that the Senate ought to insist upon.

I am satisfied myself, as the Senate has thought proper not to refer the bill with the amendments to the Committee on the Judiciary, that the most expeditious way would be to refer it at once to a committee of conference, because, as I have just remarked, I shall vote against concurring with the House in several of these amendments if a distinct proposition is made here whether we shall agree to concur with the House or not, unless we are going to succeed or there is a probability of our succeeding in harmonizing. If there was, then I would give up certain things, I would consent to certain amendments, but it would be with the view to bring about harmony when I thought that by assenting to them I was not materially injuring the effect of the bill. I think the better course will be, therefore, and the most expeditious course, for the Senate to agree to the proposition of the Senator from Vermont, for if the bill has to go to a committee of conference—and I consider that the Senate has decided that by deciding not to refer it to the Judiciary Committee—it may as well go now as after spending the night upon these amendments, some of which I am sure the Senate would not agree to if left simply to act without any reference to harmonizing with the other House.

Mr. HENDRICKS. There perhaps would be one mode more expeditious than that suggested by the Senator from Illinois, and that would be to refer this bill to be decided upon to the Presiding Officer of this body and the Presiding Officer of the House. If expedition is what is desired, that perhaps would be the most expeditious, because reducing the number to two would be excluding the possibility of so great a difference of opinion. Three representing the Senate and three representing the House may disagree; perhaps two agreeing in opinions in regard to this policy would not disagree at all. This is making legislation easy. The Senator says it is the most expeditious mode. What is the occasion for expedition? I did not want to hear myself at this time; I did not hurry to get here; but I am here now and ready to discharge my duties according to my own judgment; and I think the question of expedition, dispatch of this business, is not to be considered.

Now, Mr. President, there having come from the House, as I understand, five additional sections to this bill, what is the reason that in the course of deliberation in this body I am not to have the privilege of discussing these sections, section by section, according to the usages of the Senate, and of voting upon each? What is the reason that I am to be cut off from the right as a Senator to propose amendments to the amendments of the House?

Mr. SUMNER. And allow me to suggest, to see them all in print, too?

Mr. HENDRICKS. Yes, sir, there would be some comfort in that. [Laughter.] A man would have some assurance at least that he understood himself the subject he was talking about and voting upon.

Mr. TRUMBULL. Will the Senator from Indiana allow me to interrupt him a moment?

Mr. HENDRICKS. Certainly.

Mr. TRUMBULL. The additional sections are the sections that were in the original House bill very nearly. I am not sure but there is perhaps one or two besides that we have had in print before us.

Mr. SUMNER. They are different.

Mr. TRUMBULL. Very nearly the same; and I was going to make another suggestion, that there is an amendment to an amendment pending, and the Senator from Indiana could offer but one amendment to it; we cannot make several amendments as I understand; it would be only in order to offer one.

Mr. HENDRICKS. I am obliged to the Senator from Illinois for one suggestion. He says the House bill has been before the Senate and these additional five sections were in the House bill.

Mr. TRUMBULL. Substantially.

Mr. HENDRICKS. And we acted upon the House bill. Now, how fair is that answer? Let the Senator turn back to the proceedings of yesterday, controlled by himself, and answer me whether the Senate has ever considered the House bill. The Senate took up the Senate bill, went through with it section by section, agreed upon amendments, and after the bill had been considered in Committee of the Whole, came back into the Senate and was ready to be voted upon, the last word of debate had been uttered, the last amendment proposed; the Senator from Illinois then moved to take up the House bill, and offered as a substitute for the House bill the entire Senate bill as perfected.

Mr. TRUMBULL. If the Senator from Indiana had noticed, quite a number of the amendments which were offered to the Senate bill which was pending were exact copies of sections of the House bill. I think we had yea and nay votes upon several of them; I know they were offered by the Senator from Massachusetts; the very same sections that you now find are added by these amendments. The Senator from Vermont, who observed more closely than I did, thinks he offered all of them; I was not sure of that.

Mr. EDMUNDS. All of those that differed from our bill.

Mr. HENDRICKS. That is a change of ground, with entire respect to the Senator from Illinois. I was answering the suggestion made by the Senator that we had considered the House bill and that these sections are parts of that House bill. Now, we did not consider the House bill. We went so far yesterday as to amend the House bill by striking out all after the enacting clause without reading the House bill, and as I now recollect, the House bill never was read in this body. So the answer of the Senator lacks all force when he claims that the House bill was considered at all. What were offered in the course of debate as amendments in the Senate to the Senate bill, I do not now choose to consider. The Senate agreed to certain amendments of its own bill, and disagreed to propositions that came from different Senators. Whether Senators proposed what now comes from the House, I do not choose now to judge. It is not printed; we have not had an opportunity of examining carefully what has come from the House; what is the language used in the House amendments.

Mr. EDMUNDS. Will my friend allow me to ask him a question? I wish to inquire for my own information in all sincerity, whether my friend from Indiana prefers the House bill to the Senate bill?

Mr. HENDRICKS. I am not prepared to express any opinion as to the merits or demerits of the House amendments. The House bill has never been read in the Senate.

Mr. EDMUNDS. Twice.

Mr. HENDRICKS. Not while we have been considering the Senate bill. It might have been read before we took up the Senate bill.

Mr. ANTHONY. The House bill was read twice at full length in the Senate, and all those portions of the House bill which differed from

the Senate bill were, I believe, offered by the Senator from Massachusetts, and every one of them was voted on separately.

Mr. HENDRICKS. That is what the Senator from Illinois stated. Does the Senator from Rhode Island know that the precise propositions that now come from the House as amendments to the Senate bill as the Senate passed it, agree exactly with the amendments that were proposed in the Senate? The Senator from Rhode Island has stated that the amendments proposed by the House now, which we ought to consider, in my judgment, were proposed in the Senate, debated, and voted upon. I want to know from the Senator from Rhode Island whether he knows that the amendments now coming from the House agree in sentiment and phraseology with the amendments that were proposed in the Senate.

Mr. ANTHONY. Does the Senator wish me to answer?

Mr. HENDRICKS. Yes, sir.

Mr. ANTHONY. I cannot say that they are *in totidem verbis*, because I only listened to them as they were read from the Clerk's desk; but they struck me as being in substance the same. I recognized the same propositions I had been voting against all day yesterday.

Mr. HENDRICKS. I will ask the Senator one question. I understand the House has amended the text of the Senate bill. Were those amendments to the Senate bill proposed and debated in the Senate?

Mr. ANTHONY. I do not understand that the House has amended the text of the Senate bill except to correct some inaccuracies. There was an omission in the third section, a mistake on the part of the Senate which the House has corrected. I presume that amendment would be accepted unanimously by the Senate. I have not of course read the bill with that accuracy which would enable me to answer the questions of the Senator from Indiana; but I feel confident that the differences between the House bill and the Senate bill have been substantially acted upon and voted upon in the Senate, and the House bill has been read in the Senate twice.

Mr. HENDRICKS. In a measure of this sort the very language is important, especially when Congress is now in session, because the language in the legislation of the last session became a matter of controversy. Now the Senator is not able to say that these amendments are just the amendments that were proposed in the Senate. I suppose no Senator does know.

Mr. President, I will answer the inquiry of the Senator from Vermont. I do not like either the Senate bill or the House bill, and do not expect to vote for either; but I expect conscientiously to vote for whatever I think will make the measure less objectionable, and vote against whatever I believe will make the bill more objectionable. As to weighing propositions, neither of which commands the approval of my judgment and conscience, in the presence of the Senate I do not choose to it. I think they are both bad, and I will vote against either and feel that I am doing my duty to the country in doing so. That is all the answer upon that subject.

Mr. President, I think that each Senator ought to have the privilege of proposing amendments to the amendments of the House. There are five sections, original sections. Those sections should be considered, and amendments should be proposed, and it should not be left to any three Senators to control the judgment of this body. What shall be the character of the bill that will come to us from the committee of conference will depend altogether upon the pleasure of the Presiding Officer of this body and of the House.

Mr. EDMUNDS. But it will depend upon our pleasure whether we agree to the report.

Mr. HENDRICKS. In part, but their report is not amendable; their report is not divisible; the Senate has but very little control over it. It is, then, a question of the defeat of the bill

entirely or an agreement to their report entirely. The Senate is tied from the time a report is made. There is no use of talking about free, intelligent legislation, when we submit a question to a committee of conference. You can reject the report, but when you reject the report you reject the bill.

Mr. EDMUNDS. Allow me to say that we do not. We can reject the report and agree to a further conference and suit ourselves at last to the views both of the Senator from Indiana and my friend from Massachusetts.

Mr. HENDRICKS. What are the disagreements now between the Senate and the House? Five sections come from the House, and the will and pleasure of the Senate has not been expressed upon either one in the shape they come here.

Mr. EDMUNDS. In the substantial shape they come it has been.

Mr. HENDRICKS. There are five new sections and Senators assume that there is a disagreement upon all of them; and yet the Senator from Illinois says there are two amendments that he thinks improve the bill. I might think so; I do not know to what amendments he refers; but there may be a majority of the Senate who think that those amendments improve the bill. Then why can we and who ought we to say that there is a disagreement in regard to those two? As far as the action of the House has improved the bill, the Senate ought to say so, and where the House has made the bill worse, the Senate ought to say so, and then we arrive at the disagreement; and until we reach that point in open, free, fair discussion and propositions of amendment, I think we are not in a condition to send the bill to a committee of conference.

Mr. President, I think the practice of legislating through committees of conference is not to be indulged in except when it becomes a necessity. It is a necessary evil where laws are the work of two separate branches of the Legislature. They must be; I admit that; but I have seen this practice carried, as I think, to a vicious extent. I think they are scarcely applicable upon a bill like this. An appropriation bill is pending between the two Houses; the question is whether \$100,000 more or \$100,000 less shall go to a particular object; or whether an appropriation shall go to a particular object at all or not; scarcely ever a question of principle, a question reaching down to the foundations of government. There we may indulge in the practice of settling what seems to be a difference of opinion by committees of conference; but when we have got to settle questions like this, I think they ought to be settled in open Senate and in the open House, after full discussion and full opportunities to propose amendments. The Senate and the House are not free to legislate as they please when a bill has been once sent to a committee of conference, it has gone then beyond the point of amendment. A measure may be agreeable to the body, but not in the shape presented, and yet we cannot correct the evil.

My purpose in rising was simply to protest against the proposed reference. I think this bill ought to be considered in open Senate. I am as desirous for an adjournment, I suppose, as any Senator here. I was, perhaps, as reluctant to come here as any Senator; but when we are here I do not propose that the fate of a large part of this country—ten States of the Union—shall be submitted, by my vote, to the judgment of three Senators and three members of the House of Representatives. When this thing is done it ought to be done in open Senate and in open House, after full debate and free amendment.

Mr. ANTHONY. The Senator from Indiana is perfectly consistent. He is opposed to the Senate bill; he is opposed to the House bill; and therefore he is opposed to a committee of conference, which is the only mode by which we shall have any bill. If the Senate insists upon its amendment, and will give up nothing, and, as the Senator from Massachusetts says, will not trade, and the House insists on its

propositions and will give up nothing, we shall have no legislation on this subject and we shall have to adjourn and go home without passing any bill, which is precisely what the Senator from Indiana desires; and so from his point of view he is correct.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Vermont that the Senate non-concur in the amendments of the House of Representatives and ask for a committee of conference.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the committee on the part of the Senate, Messrs. TRUMBULL, EDMUNDS, and HENDRICKS were appointed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 127) in relation to additional bounty, in which the concurrence of the Senate was requested.

#### APPROPRIATION FOR RECONSTRUCTION.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 134) making an appropriation for the execution of the laws providing for the more efficient government of the rebel States; which was read the first time by its title.

Mr. WILSON. Let the bill be read at length.

The Chief Clerk read the bill, which proposes to appropriate \$1,648,277 for the purpose indicated.

Mr. WILSON. The amount named in the bill is what is estimated for by the War Department as necessary to carry the several acts into effect; and if there be no objection I should like to have the bill put on its passage now; if there is objection it can go over until to-morrow. I will simply say it is necessary to have this appropriation made at this session. The amount appropriated last session was \$500,000, and it has been more than expended now. Money has been temporarily used from other appropriations to the amount of \$200,000 to \$300,000.

The bill was read the second time by its title.

Mr. BUCKALEW. I do not desire to make an objection to the progress of this bill, but I desire to be within reach to-morrow on its final passage.

Mr. FESSENDEN. My friend from Massachusetts will allow me to suggest that it is not safe to establish a precedent by which a bill of that kind is to be passed on a simple statement that a certain amount is the estimate. The details of the estimate should be shown; we should know how the estimate is made up and of what items it consists.

Mr. BUCKALEW. I was going to add, before such a bill is put on its final passage, I shall feel it my duty to call for a statement of the estimates from the War Department and the reasons why so large a sum of money is demanded from the public Treasury, and I also desire some explanation of our former action on this subject.

Mr. WILSON. I will say to the Senator that if anybody objects I am willing to let the bill go over until to-morrow morning, when we can have the estimates here.

The *PRESIDENT pro tempore*. The bill goes over under the rule.

#### SUFFRAGE FOR COLORED CITIZENS.

Mr. SUMNER. I move that the Senate proceed with the consideration of Senate bill No. 115.

Mr. GRIMES. I call for the reading of the bill *in extenso*.

The Chief Clerk read the title as follows:

A bill (S. No. 115) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guaranteeing a republican form of government, by securing the elective franchise to colored citizens.

The *PRESIDENT pro tempore*. The ques-

tion is on taking up the bill for consideration. Is there objection?

Several SENATORS. I object.

Mr. CONKLING. I want it read for information.

Mr. SUMNER. It is good reading.

The Chief Clerk read the bill.

Mr. EDMUNDS. I raise the question of order that it is inhibited by the rule.

The *PRESIDENT pro tempore*. All these questions of order arising under that rule the Chair will submit to the Senate. The question is, Is it in order under the late rule adopted by the Senate to take up this bill for consideration?

Mr. EDMUNDS. And in that connection I ask that the rule be again read. It expressly prohibits it.

The Chief Clerk read the resolution adopted on the 5th instant.

Mr. SUMNER. Do I understand that the Chair refers that question to the Senate?

The *PRESIDENT pro tempore*. Certainly.

Mr. SUMNER. On that I should like to make one remark. I insist that this bill comes clearly, plainly, obviously within the language of the rule adopted by the Senate. By that rule legislation is confined to removing obstructions to our existing acts of reconstruction and the carrying those acts forward without introducing new matter. Now, I insist that the bill before you is precisely of that character. You have already by act of Congress given suffrage to colored persons in the rebel States. It is under your reconstruction acts that you have done it. Senators smile or laugh even, as if it had not been done. Does my friend from Maryland doubt the validity of those acts?

Mr. JOHNSON. I laughed because the honorable Senator himself laughed. [Laughter.]

Mr. SUMNER. I was laughing because I saw the honorable Senator from Maryland laugh.

My argument is precisely this, and I ask the attention of my honorable friend from Maryland to this as a lawyer. We all know his eminence at the bar of the Supreme Court; he has no superior; and I submit to him this: we have already by our reconstruction acts conferred the suffrage upon colored persons in the rebel States; now, is it not important that this act of legislation should be completed and rounded by conferring the suffrage in the other States precisely as you have conferred it in the rebel States. I submit that to him as a question. You have conferred it in the rebel States.

Mr. JOHNSON. What has that to do with the other States?

Mr. SUMNER. You have conferred it by act of Congress in the rebel States. Will you have that great right of suffrage depend upon act of Congress in one half of the Union and not upon act of Congress in the other half. If you can do it in one half, can you not do it in the other half? I know the answer of my friend possibly, that in the rebel States the very fact of rebellion will give us a power which we have not in the other States; but then the bill under consideration is founded not simply upon the fact of rebellion, but upon the clause in the Constitution by which we are bound to guaranty a republican form of government throughout the whole country; also, upon the other clause by which slavery has been abolished throughout the whole country, and we are empowered by proper legislation to enforce it; also, that still other clause by which the rights of citizens are secured throughout the whole country, and we are empowered by proper legislation to enforce it. There you have the three sources of power equally applicable to all the States, rebel or disloyal. And now I submit that the doing it in the loyal States is only the just complement to your action in the rebel States.

How can you look the rebel States in the face when you have required colored suffrage of them and fail to require it in the other States? Be just; require it in the loyal States

as you have now required it in the rebel States. There is an unanswerable argument, and I submit it on the question of order. If we are now privileged to consider only matters that are in aid of the original reconstruction measures, then I submit that this bill is in aid of those measures, for it is to give to them completeness and roundness. Unless you pass this bill your original measure is imperfect, ay, it is radically unjust. I know it is said you have one title to legislation over the rebel States which you have not over the loyal States, to-wit, that they have been in rebellion; but the great cardinal sources of power over the rebel States are identical with those over the loyal States. They are one and the same.

There is the clause in the Constitution directing you to guaranty a republican form of government. It is a clause which is like a sleeping giant in the Constitution, never until this recent war awakened, but now it comes forward with a giant's power. There is no clause in the Constitution like it. There is no clause which gives to Congress such supreme power over the States as that clause. Then, as I have already said, you have the two other clauses. Your power under the Constitution is complete. It is not less beneficent than complete.

However, I am not to be betrayed into the general constitutional argument. I am now simply on the question of order. I say that this bill is essential to perfect the original reconstruction measure. You ought not to go to your homes after having passed your reconstruction measure without this additional act by which that is finished. If any Senator has any reason to bring against this bill, if any one can suggest any doubt about its constitutionality, I really should like to hear the reason for the doubt, and I shall be ready to answer it. I challenge discussion of the bill. I challenge the expression of any reason against it, or of any doubt with regard to its constitutionality; and I appeal to Senators to look at this measure as a great measure of expediency as well as of justice. How are you going to settle this question in the loyal States? Here are Delaware, Maryland—my friend over the way will not be sensitive when I allude to his State—and Kentucky, in each of which this measure is the only salvation of Union citizens. Then there are other States like Pennsylvania, where this measure will give at once—I am speaking now on the question of expediency—twenty thousand votes to the Union cause. There is Indiana, too, where this bill will settle the suffrage question. I will say nothing about Iowa. There is Wisconsin.

Mr. TRUMBULL. They all vote there now.

Mr. SUMNER. Under the decision of the Supreme Court. Very well; so much the better then. There is Connecticut. Let us secure three thousand votes in Connecticut for the good cause. You can secure them by act of Congress. A little, short act of Congress can determine the political fortunes of Connecticut for an indefinite period by securing three thousand additional votes to the right side. There is New York, also, where the bill would have the same excellent, beneficent influence.

Who then can hesitate? Look at it in any light in which you please. Regard it as the completion of these reconstruction measures; regard it as a constitutional enactment; regard it as a measure of expediency in order to secure those results which we all desire at the approaching elections, and who can hesitate? You have had no bill before you for a long time the passage of which would be of more practical advantage than this. I hope there can be no question about proceeding with it, and that we may pass it before we separate to-night.

Mr. EDMUNDS. I do not rise to make a speech, but only to remind the Senate that the question now is one of order under the resolution that we have adopted. It is not a question as to the merit of this bill. I agree with my friend from Massachusetts that it has very great merit. It has supreme moral merit. I agree to every word of it. I am a little afraid,



it is true, that there is a higher law that will bind us not to pass it for want of power.

Mr. SUMNER. Want of power! Will the Senator be good enough to state the reason?

Mr. EDMUNDS. No, not on this point, because it is not relevant to this question of order.

Mr. SUMNER. But as long as the Senator is going into the question of the want of power I really wish he would deign to enlighten us upon that, for I have been reading newspapers, listening to arguments, conversing to the right and left, and I have never yet heard one argument against the power.

Mr. EDMUNDS. My friend will have to go without it so far as I am concerned, for I shall not make it.

Mr. SUMNER. Then I shall begin to think the Senator cannot make it.

Mr. EDMUNDS. That is not a very dangerous state of things; but there are others who can. I merely wish to say that this is a question of order, not on the merit of this bill at all, and we have decided over and over again against pressing claims upon our consideration of the very highest merit that we would not break over this rule, and we are bound to adhere to it.

The PRESIDENT *pro tempore*. The question is, whether the motion of the Senator from Massachusetts to take up this bill for consideration is in order.

Mr. SUMNER. I think we had better have the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 22; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Fowler, Harlan, Nye, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—12.

NAYS—Messrs. Anthony, Bayard, Buckalew, Conkling, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Trumbull, Van Winkle, and Willey—22.

ABSENT—Messrs. Cattell, Conness, Corbett, Cragin, Dixon, Doolittle, Drake, Ferry, Guthrie, Howe, Morrill of Vermont, Morton, Pomeroy, Ross, Saulsbury, Sherman, Sprague, Stewart, and Williams—19.

So the Senate decided the motion to be out of order.

#### BOUNTY BILL.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a bill of the House (No. 127) in relation to additional bounty. What disposition will the Senate make of it?

Mr. EDMUNDS. That must be laid on the table under the rule.

The PRESIDENT *pro tempore*. The first reading of the bill—

Mr. HENDRICKS. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. It will be laid on the table under the rule.

Mr. CAMERON. I move that that bill be read a first time.

Mr. FESSENDEN. It must be laid on the table under the rule.

The PRESIDENT *pro tempore*. The bill will be read, as I understand the Senator from Pennsylvania to call for it.

Mr. FESSENDEN. I object to its being read. It is out of order to read it. It has been laid on the table.

The PRESIDENT *pro tempore*. It can only be done by common consent, and objection is made.

Mr. CAMERON. It is to extend the bounties to widows and orphans as I understand. I hope there will be no objection to reading the bill.

Mr. FESSENDEN. The Senator can go to the desk and read it if he wants to do so.

#### MAURICE RICE EVANS.

Mr. CONKLING. Encouraged by the manifest disposition of the Senate to take up whatever is necessary and desirable, I have been requested to ask that a little joint resolution which lies on the table there about a midshipman be taken up, and I do not think there could be a more auspicious time than now. I therefore ask that it may be taken up. It is

the joint resolution of which something was said yesterday, allowing a young man who is of proper age now to enter the Naval Academy, but who will forever be deprived of that opportunity before the next regular examination.

Mr. DRAKE. As the Senate seems to have adopted Heaven's first law, that of order, and as it has applied that law with exceeding rigor in a case where hundreds of the brave soldiers of Missouri were concerned to-day, I do not feel disposed to mar the order of this heavenly place by allowing other things to come in. I am afraid it would disturb too many of the saints in this Chamber. [Laughter.] Therefore I object to the consideration of that bill.

Mr. CONKLING. The Senator's statement is so brief that I am not satisfied whether he means to object or not. If he would extend his remarks a little, make them a little more full, I should be able to know whether he does object; but I am left in doubt whether he wishes to have this resolution taken up and put on its passage or not. [Laughter.]

Mr. DRAKE. I would commend the gentleman very respectfully to the latest edition of Webster's Unabridged Dictionary for the meaning of the words. [Laughter.]

The PRESIDENT *pro tempore*. It is objected to, and of course you are under the rules. It can only be taken up by common consent.

Mr. SUMNER. I was going to say in reply to my friend from New York who is pressing this bill, if I understood him it is a bill that certainly has merits, to secure a certain right to a young man. That is it, I believe.

Mr. CONKLING. Yes, sir.

Mr. SUMNER. My friend from New York has just voted against proceeding with a bill to confer rights upon a whole race, and yet he asks us to set aside a rule of order in order to proceed with a bill to confer a right upon one young man. [Laughter.]

Mr. JOHNSON. Of "the so-called white race." [Laughter.]

The PRESIDENT *pro tempore*. Debate is out of order. There is nothing before the Senate.

Mr. SUMNER. I merely wish that the inconsistency of my friend from New York should be noted.

The PRESIDENT *pro tempore*. There is nothing before the Senate.

#### PROPOSED RECESS.

Mr. RAMSEY. I move that the Senate take a recess for half an hour. ["No!" "No!"] There is nothing doing here, and we might as well take a recess. We have to wait the action of the House.

Several SENATORS. We shall have it in five minutes.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the Senate take a recess for half an hour.

Mr. TRUMBULL. I believe that is debatable?

The PRESIDENT *pro tempore*. Of course it is debatable.

Mr. TRUMBULL. I have only to say to my excellent friend from Minnesota that we shall have a communication from the other House in the course of a few moments, either agreeing or disagreeing to our proposition for a committee of conference, and as soon as we learn that fact, the Senate will take such action as it thinks proper; but I think we had better be in a condition to receive the communication.

Mr. GRIMES. Cannot the committee act without the official notification being brought back here?

Mr. TRUMBULL. It seems to be understood at the Secretary's table that we must have official notice of it.

Mr. JOHNSON. I was informed just now by a member of the House that they have insisted on their amendments and appointed their committee.

Mr. TRUMBULL. Very well; then we

shall have it in a moment. If it is already done, it will be announced here very soon.

Mr. RAMSEY. If that is the case I withdraw my motion.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted on its amendments to the amendment of the Senate to the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, agreed to the conference asked by the Senate, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. G. S. BOUTWELL of Massachusetts, and Mr. W. S. HOLMAN of Indiana, the managers of the conference on the part of the House.

Mr. TRUMBULL. I should like to have an order to print the bill, as it has gone to the committee of conference.

The PRESIDENT *pro tempore*. That order will be made, if there be no objection.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, July 12, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. HOLMAN, the reading of the Journal of yesterday was dispensed with.

#### AMENDMENT TO THE CONSTITUTION.

The SPEAKER laid before the House the following communication received by him since March last:

COMMONWEALTH OF MASSACHUSETTS,  
EXECUTIVE DEPARTMENT,  
Boston, March 30, 1867.

SIR: I have the honor to transmit herewith an attested copy of a resolve of the Legislature of the Commonwealth, ratifying the amendment proposed by Congress as a fourteenth article of the Constitution of the United States.

I have the honor to be, very respectfully, your obedient servant,

ALEX. H. BULLOCK.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, Washington, D. C.

The communication, with the accompanying paper, was laid on the table, and ordered to be printed.

#### GRANTS TO SOUTHERN RAILROADS.

Mr. JULIAN. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on Reconstruction be instructed to report a bill declaring forfeited to the United States all lands granted by Congress in the year 1856 to the States of the South to aid in the construction of railroads, which grants have now expired by limitation.

Mr. WOOD and Mr. CHANLER objected.

Mr. JULIAN. I move to suspend the rules; and I ask leave to make a statement in the way of explanation.

Mr. CHANLER. I do not object if we can have an opportunity to reply.

There was no objection.

Mr. JULIAN. Mr. Speaker, I ask the attention of the House to a single statement which I desire to make. In the year 1856, as is well known, grants of land to aid in the construction of various railroads in the South were made by Congress, amounting in all to about five million acres of land, much of it good land, as I learn from the records of the Land Office. Instead of building those roads the rebels engaged in war against the Government which granted the lands to them, and although the limitation of the grants have expired, yet these millions of acres are tied up in the hands of rebel corporations, so that the poor men, white and black, who desire homesteads upon them cannot resort to them.

Sir, I think we ought not to adjourn this session without removing that restriction, and opening up these lands to settlement and till-

age under the act of June 21, 1866. I hope that the resolution will be adopted, and the committee allowed to consider the question at this session.

Mr. CHANLER. As a member of the Committee on the Southern Railroads, in the absence of the chairman I will state that we are prosecuting a thorough investigation of the relations which these roads hold toward the Government at this time. The condition of the stock and other property held by those roads is still being inquired into, and this, therefore, would be premature action on the part of the House. We ought to know first how the property of those southern roads now stands, who holds it, and what the other facts may be.

I think the gentleman from Indiana is mistaken in supposing that the property of those roads is in the hands of enemies of the Government, or those who have been enemies of the Government. It is a very mixed question. The select committee have asked and obtained leave to travel and inquire into the conditions of those roads. While I would not ask to keep from the emigrant southern lands in favor of land corporations, I certainly think it due to the rights of vested property that this legislative body should wait until one of its own organized select committees, authorized to examine into this special subject, should report. While I do not oppose the final action of the chairman of the Committee on Public Lands, I do ask that we shall not act prematurely on this subject. The stockholders of these railroads are to be found North, South, East, and West.

Mr. JULIAN. I am not able of course to state what facts the gentleman has obtained through the medium of the committee of which he is a member. I know those lands are valuable, large in amount, and were granted to these States on conditions which were not complied with, because the men whose duty it was to comply with them, instead thereof, engaged in war against the Government; and I think we ought now to expose those lands to homestead entry and settlement in common with the other public lands of the South.

Sir, this resolution hinders no right action that the gentleman's committee may hereafter see fit to recommend. These lands ought to be available for present settlement, and if the committee should report the bill indicated and we should pass it, Congress could still make any disposition of these lands, or the renewal of those grants, that it might see fit to adopt. But I will modify the resolution so as to let the committee inquire into the expediency of reporting a bill for the purpose I have indicated.

Mr. CHANLER. This is a special question, and should be referred to the special committee on the subject. It is not a question of reconstruction; it is a question of vested rights in property.

Mr. JULIAN. I submit to the House whether this does not fairly pertain to the question of reconstruction and the pacification of the South and the country. The House must judge of this.

Mr. WILLIAMS, of Pennsylvania. I desire to ask the gentleman from New York whether there is any pretense that loyal men are interested as stockholders in any of those roads?

Mr. CHANLER. Yes, sir; it is a fact before the committee.

Mr. WILLIAMS, of Pennsylvania. In what case?

Mr. CHANLER. Roads in Tennessee and throughout the South. The question of loyalty lies at the bottom of the whole investigation by the committee, and I assure the gentlemen as far as the investigation has gone you are jeopardizing the rights of citizens who were loyal throughout the whole war by the proposed action.

Mr. WILLIAMS, of Pennsylvania. I would like the gentleman to point out a road, and further to state whether there is any pretense of this sort as to any of the other States in rebellion.

Mr. CHANLER. Yes, sir; I understand so from the committee.

Mr. WILLIAMS, of Pennsylvania. Name the road.

Mr. CHANLER. I do not know; I only give the information as a fact before the committee. It would not be right to jeopardize the loyal stockholders of these roads. I do not profess to be acquainted with the names of the roads, but I assert the fact that if you assail the rights of these stockholders you assail the rights of citizens who were loyal to you through the whole war.

Mr. WILLIAMS, of Pennsylvania. I wish to know whether the property is not confiscated by capture, under the laws of the United States.

Mr. CHANLER. That is a question for the Congress to decide. It is claimed by one side that it is so, and by the other it is denied. I understand there are certain rights which are exempt even under that stringent construction of the right of conquest. I understand from the Secretary of War, who was examined before the committee, that there is great leniency to be exercised in certain regards toward certain roads; that the rolling stock and all the force of those roads were used by the directors and corporators for the Government of the United States during the war.

Mr. WILLIAMS, of Pennsylvania. Name any case of that sort.

Mr. CHANLER. I assert it as a fact. I do not know the names of the roads. I have not the report in my hands, but I assure you it is the fact. I am only protecting the rights of those in regard to whom I am charged by gentlemen on the other side as having no sympathy, the loyal men of the South.

Mr. JULIAN. The resolution offered relates to land grants in the States of Alabama, Mississippi, Florida, and Arkansas. I wish to know whether any of the roads to which the gentleman refers are located in those States.

Mr. CHANLER. I am under the impression that there are such roads in Alabama and Mississippi. I do not wish to have any political question involved; I only wish to state to the House, as a member of the select committee, that this is premature action, in my opinion. If the House will wait until the committee reports it will then have as much power to take this property as now, and will be doing just as much for the promotion of emigration in December next as it could do at this session.

Mr. JULIAN. I now demand the previous question.

Mr. WOOD. Will the gentleman permit me to make a single remark? I think I can correct him and the gentleman from Pennsylvania [Mr. WILLIAMS] in one very material fact with reference to some of these southern roads. Some of them, running through Georgia and into Alabama, were originally constructed by northern capitalists, a very small portion of them being owned by southern men before the war. During the war the confederate government confiscated all the northern interests in those roads, but at the close of the war that confiscation ceased to be recognized at the South, and the vested rights of the northern capitalists in those roads were at once recognized, and they have been paying dividends to northern capitalists ever since.

Now, sir, I venture the assertion—and I know nothing of the investigation which has taken place before this special Committee on Southern Railroads—that there has not been a southern railroad constructed for the last twenty years, but either New York, Boston, or Philadelphia has furnished three fourths of the capital required for the purpose of construction. And if I am asked, as my colleague has been, to specify a case, I will name the Macon and Western railroad, which is owned principally at the North. The northern interests were confiscated since the close of the war; those northern interests have been recognized and transferred, the books are open in the Bank of the Republic, in the city of New York; the original stockholders have been transfer-

ring the stock and receiving dividends, and there is no question as to their rights.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me a word of inquiry? Will he be kind enough to state from whom and from what quarters the recognition of which he speaks comes, and further, whether most of the rebel States have not contributed to a very large extent to the construction of those roads, and, also, whether in some instances they were not the exclusive owners thereof?

Mr. WOOD. If I understand the gentleman's question correctly, I will endeavor to reply to it. I suppose that the trustees of these roads recognized the northern stockholders, and that their names have been placed upon the books. I do not know that any State government in the South has taken any action on the question. I only state the fact, because a relative of my own is a very large stockholder. In reference to the general question, I can only say that about three fourths of the southern railroads, and three fourths of all the railroads in the United States, western as well as southern, have been constructed by northern capital. The object of this resolution is to confiscate northern capital, to apply a rule to northern capital because it is invested in the southern States which has not been applied to railroads in the West. The gentleman from Indiana knows very well that there is scarcely one western State that has kept its engagements with the Government, and where Congress has not granted an extension of time. Now, if in consequence of the war, in consequence of the deplorable condition of the southern States, the roads were not finished in time, if the roads could not be constructed so that these lands could be transferred to the companies, I hold that the Government should extend the same liberality to these roads that it has extended to others, especially as northern capital is invested in them.

Mr. WILLIAMS, of Pennsylvania. I think it will be found that while the appropriate departments of the Government disclaim any authority to convey any title to real estate, it will be found that they have actually transferred to the State of Georgia a very large amount of mining stock claimed to have been identified by the original proprietors as belonging to them before the rebellion.

Mr. WOOD. I submit that the Congress of the United States cannot, by any retroactive action, disturb the interest of these men actually in possession of the land. The assumption is that the land never would have been transferred if the conditions prescribed by the law had not been fulfilled, and I hold that the third party now in occupation should not be sustained by any premature action of the House at this time.

Mr. JULIAN. Let me state to the gentleman from New York that no proposition is made here to confiscate the property of northern capitalists, because those northern capitalists, if the facts are as alleged, can unite with the loyal men of the South in asking for a renewal of those grants for sufficient reasons, and Congress could undoubtedly grant it, or allow new grants. As to the declaration of the gentleman that we have been in the habit of reviving and continuing these grants, it has only been done, as I understand, where a fair and honest effort has been made to do the work; but it was the intervention of the rebellion that stopped the work, and not the inability of the States to complete it. The rebels waged war against the nation, and hence the expiration of these grants by limitation.

Mr. WOOD. The northern capitalists are not to blame for that.

Mr. JULIAN. Neither should the landless millions of the South now be made to suffer by reason of it. What I ask is that the committee shall inquire into the expediency of reporting a bill declaring the forfeiture of the grant and leaving all the parties hereafter to make such showing as they can before the

select Committee on Southern Railroads, or before the Committee on Public Lands. No rights can be concluded or compromised by the action I propose.

I now renew the motion to suspend the rules.

Mr. WOOD. I rise to a question of order. My point of order is this: that the Committee on Reconstruction was raised for a special purpose; that when we have disposed of the pending bill on that subject, the duties of that committee are exhausted; that they cannot be required to go into an investigation of land titles in the southern States; and that if the resolution is to be referred at all, it should be referred to some appropriate committee—not the Committee on Reconstruction.

The SPEAKER. The Chair overrules the point of order on these grounds: in the first place, the Committee on Reconstruction have not exhausted their powers or jurisdiction, as they have been charged with the consideration of a Senate amendment to a House bill, upon which they have not yet reported; and secondly, because the House has already referred to that committee a bill relative to the same subject as that embraced in this resolution; so that the committee have already jurisdiction of this subject without the adoption of this resolution.

Mr. WOOD. Two wrongs do not make a right.

The SPEAKER. The action of the House has already given jurisdiction to the committee.

On the motion of Mr. JULIAN to suspend the rules to permit the introduction of the resolution, there were—ayes 72, noes 33.

Mr. BURR called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 34, not voting 38; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dixon, Donnelly, Driggs, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Halsey, Hamilton, Hayes, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenekes, Judd, Julian, Kelley, Kelsey, Kitchen, Krontz, William Lawrence, Loan, Logan, Loughbridge, Lynch, Marvin, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pile, Polsey, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Trowbridge, Twitchell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James P. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—98.

NAYS—Messrs. Adams, Archer, Barnes, Barnum, Bingham, Boyer, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Griswold, Haight, Holman, Hotchkiss, Richard D. Hubbard, Kerr, Marshall, Morgan, Mungen, Niblack, Nicholson, Noell, Phelps, Ross, Sitgreaves, Spalding, Stone, Taber, Taffe, Van Auker, Van Trump, and Wood—34.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Baldwin, Blaine, Brooks, Cake, Covode, Dawes, Dodge, Eckley, Eliot, Garfield, Harding, Hill, Hubbard, Humphrey, Ketchum, Lufkin, George V. Lawrence, Lincoln, Mallory, McCarthy, McCullough, Morrell, Morrissey, Pike, Plants, Poland, Pomroy, Pruyn, Randall, Robinson, Selye, Stewart, Taylor, Thomas, Burt Van Horn, and Van Wyck—33.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was introduced.

Mr. JULIAN. I now ask unanimous consent to modify my resolution by striking out the words "States of the South" and inserting in lieu thereof the words "Mississippi, Alabama, Florida, Louisiana, and Arkansas;" also by striking out "the Committee on Reconstruction" and inserting "the select Committee on Southern Railroads."

There being no objection, the resolution was modified accordingly.

The resolution, as modified, was adopted.

#### GOVERNMENT OF LOUISIANA.

Mr. BUTLER. I ask unanimous consent to introduce a resolution for reference to the Committee on Reconstruction. When the resolution shall have been read I shall ask consent to make a brief explanation.

The Clerk read the preamble and resolution, as follows:

Whereas by the several acts of Congress, called

the reconstruction acts, the State government existing in Louisiana since the cessation of hostilities has been declared to be illegal and void, which declaration prevents said State or any official thereof from selling any State bond, obligation, or evidence of debt because of the doubt thrown on their validity; and whereas by the overflow of the Mississippi river, at times of high water, the most valuable and fertile lands, heretofore protected by levees, are washed and drowned and rendered wholly useless; and whereas it is necessary in the coming season of low water that the levees along the banks of the Mississippi river, and the bayous leading therefrom, should be strengthened, repaired, and enlarged, so as to prevent the recurrence of the overflow in the high water of the coming spring: Therefore,

Be it resolved, That the Committee on Reconstruction, as one of the measures rendered necessary by the action of Congress on reconstruction, be directed to report forthwith a bill to the House which shall embody in substance the following provisions, namely:

First. That the commanding general of the fifth military district be hereby authorized to issue on the credit of the State of Louisiana coupon bonds, or registered bonds, to an amount not exceeding four million dollars payable twenty years from date, and bearing interest at the rate of seven and three tenths per centum per annum, payable semi-annually; and that the bonds thereby authorized shall be of such denomination, not less than one hundred dollars each, as may be determined on by the commanding general. And the commanding general may cause such bonds to be disposed of at any time at the market value thereof, but at not less than seventy-five per centum of the par value for the lawful money of the United States.

Second. That the said bonds and the proceeds thereof shall be applied, under the direction of the State government authorized by said commanding general, to the repairs, enlargement, and construction of levees to protect the lands in said State from overflow, or for opening such bayous and outlets as may be necessary for the same purpose, and for no other purpose or use whatever; and the application or diversion of the proceeds of said bonds from the purpose and use contemplated by said act by any person whatever shall be a misdemeanor, punishable by a fine not exceeding the amount so diverted, and by imprisonment not less than one year nor more than five years, at the discretion of the circuit court of the United States, which shall have jurisdiction to try such offenses.

Third. For the payment of these bonds a perpetual lien shall be declared upon all the lands benefited or protected by such repairs, construction, and enlargement of such levee, or by the draining thereof by the opening of such bayous and outlets. And such lands shall be divided into three separate classes, according to the degree of benefit derived by them from such expenditure, and a proportionate tax shall be levied thereon sufficient to pay the semi-annual interest on said bonds, and to form a sinking fund adequate to pay the same at the end of said twenty years; and the several amounts payable to said sinking fund as they accrue shall be invested in United States registered securities only, which shall be sold and disposed of by the State authorities for the purpose only of paying said bonds; and when said sinking fund shall amount to enough to cancel said bonds and to pay the interest thereon, such taxation and levy shall cease.

Fourth. And as this act is for the benefit of the people of said State, and to relieve them from the disasters of flood and overflow, it shall be made a condition of the restoration of said State to its political rights in the Union, and of the acceptance of its frame of government by the Congress of the United States, that the constitution thereof as accepted by the people shall contain apt and competent provisions for the assumption of the obligation of said bonds by the State, and for the taxation and payment of the interest and principal thereof at the times and in the manner provided by said act, to which condition shall be embodied in the resolution or act of Congress accepting such constitution, and providing for the restoration of the State of Louisiana to her political rights and privileges as a State under the provisions of the several reconstruction acts and the acts supplemental thereto.

Fifth. The proceeds of said bonds shall be paid into the treasury of the State of Louisiana, and so much thereof as may not be expended held there under the direction of the commanding general for the purposes above specified until such State is restored to its political rights; and the work of construction, enlargement, and repairs of such levees shall be done and carried on under the direction of such commanding general until said State is so restored, in such manner and by such commissioners as he may deem expedient, and after such restoration, by a board of three commissioners, to be chosen by concurrent vote of both Houses of the Legislature of such State, which board shall be provided for in the constitution thereof.

Mr. WOOD. I object.

Mr. BUTLER. I move to suspend the rules.

The rules were not suspended.

J. SCHIFFER AND COMPANY.

On motion of Mr. WASHBURN, of Indiana, leave was granted for the withdrawal from the files of the House of the papers in the case of J. Schiffer & Co.; and the same were referred to the Committee of Claims.

#### RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania, from the Committee on Reconstruction, reported back the Senate amendment to House bill No. 129, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867," with the following amendments:—

##### First amendment:

Strike out the first section, as follows:

That the true intent and meaning of the act to provide for the more efficient government of the rebel States, passed March 2, anno Domini 1867, was, is, and shall be construed to be that the military authority of the United States in said rebel States, as provided in said act, was and is paramount to any civil government existing therein, makes all such civil governments subordinate to such military authority, and prohibits them from interfering in any way with the exercise of such military authority, and in lieu thereof insert the following:

That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed the 23d of March, 1867, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were illegal; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the authority of Congress.

##### Second amendment:

Amend the second section by striking out the words "subject to the approval of the General of the Armies of the United States" in the second, third, and fourth lines; and also the words "subject to the approval of the General aforesaid" in the thirteenth and fourteenth lines, and at the end of the section adding the following:

And to fill vacancies occasioned by death or resignation; and the district commander whenever he shall deem it necessary, shall have power to suspend, set aside, or affirm any act or proceeding of any State government, or any municipal or other division thereof, or any act or thing done under or by virtue of its authority.

Sec. 2. And be it further enacted, That the commander of any district named in said acts shall have power, whenever in the opinion of such commander the proper administration of said acts shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from or granted by or claimed under any so-called State or the government thereof, or any municipal or other division thereof, and upon such suspension or removal such commander shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed by the detail of some competent officer or soldier of the Army, or by the appointment of some other person to perform the same, and to fill vacancies occasioned, &c.

##### Third amendment:

Amend the third section by adding the word "appointment" after the word "removal" in the third line; so it will read:

Sec. 3. And be it further enacted, That the General of the Army of the United States shall be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders.

##### Fourth amendment:

Amend the fourth section by adding at the end thereof the following: "And it shall be the duty of such commander to remove from office, as aforesaid, all persons who are disloyal to the Government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act and the acts to which it is supplementary;" so it will read:

Sec. 4. And be it further enacted, That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: *Provided*, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army, and it shall be the duty of such commander, &c.

##### Fifth amendment:

Amend the fifth section by striking out from the word "before" in the seventh line to the word "act" in the tenth line, inclusive, and inserting in lieu thereof: "to admit to registration only such persons as they may deem entitled to be registered by the acts aforesaid;" and by striking out these words: "but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding

general of the district, setting forth the ground of such refusal, or such striking from the list: *Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color;" so it will read:

SEC. 5. *And be it further enacted*, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," passed March 23, 1867, shall have power, and it shall be their duty to admit to registration only such persons as they may deem entitled to be registered by the acts aforesaid, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine, under oath, (to be administered by any member of such board,) any one touching the qualification of any person claiming registration.

The sixth section of the Senate substitute was reported unamended, as follows:

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act is (among other things) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the time of the rebellion, or had held it before, and who has afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial office in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of the general laws of a State.

#### Sixth amendment:

In line six of section seven strike out "twenty" and insert "fourteen;" so that the section will read as follows:

SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the 1st day of October, 1867; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days the registration lists, and upon being satisfied that any person not entitled thereto has been registered to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

The eighth and ninth sections were reported unamended, as follows:

SEC. 8. *And be it further enacted*, That section four of said last named act shall be construed to authorize the commanding general named therein, whenever he shall deem it useful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

SEC. 9. *And be it further enacted*, That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

The next amendment of the committee was to add to the substitute of the Senate the following sections:

SEC. 10. *And be it further enacted*, That no civil court of the United States or of any State shall have jurisdiction of any action or proceeding, civil or criminal, against any such district commander, or any officer or person acting by his authority, for or on account of the discharge of the duties imposed upon him by this act or the acts to which it is supplementary.

SEC. 11. *And be it further enacted*, That no district commander shall be relieved from the command assigned to him under the aforesaid acts, unless the Senate shall have first advised and consented thereto, or unless by sentence of court-martial he shall be cashiered or dismissed from the Army, or in arrest for an offense punishable by dismissal from the Army, or disqualified by sickness for the performance of his duties.

SEC. 12. *And be it further enacted*, That any person or persons who shall prevent or attempt to prevent or obstruct the execution of this act or either of the acts to which this act is supplementary, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding \$5,000, or imprisoned one year, or both, at the discretion of the court.

SEC. 13. *And be it further enacted*, That all members of said boards of registration, and all persons holding office in said military districts, under State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of office prescribed by law for the officers of the United States.

SEC. 14. *And be it further enacted*, That no district commander or member of the board of registration, or the officers or appointees acting under them,

shall pay any regard to the opinions or directions of the Attorney General or any other officer of the Government, unless so directed by Congress.

Mr. STEVENS, of Pennsylvania. I desire to make a motion to recommit the bill for the purpose of allowing debate to go on.

Mr. WILSON, of Iowa. I desire to correct an omission by adding a proviso at the end of section twelve. I am informed that it was the intention of the committee to report it.

Mr. STEVENS, of Pennsylvania. I will allow it to be offered.

The Clerk read the proviso, as follows:

*Provided*, This section shall not extend to or include any offense or offenses of which the military authorities may have or take jurisdiction under the provisions of this act or the acts to which it is supplementary.

Mr. BOUTWELL. I ask if there is not an error in the last line of the sixth section. Instead of the words "of the general laws of a State," it should be "of any general law of a State."

Mr. STEVENS, of Pennsylvania. I now move to recommit the bill.

The SPEAKER. Before the House can vote on these various amendments that motion will have to be withdrawn.

Mr. STEVENS, of Pennsylvania. I know that; but I desire to allow several gentlemen to speak.

Mr. FARNSWORTH. I would like to hear from the gentleman from Pennsylvania in regard to this last section. I think the committee has inadvertently put language in that section which they did not intend. The section as it now stands provides that the boards of registration shall not give attention to any opinion of any officer of the Government. I think that it would be better to say that they shall not be bound by the opinion of any officer of the United States. They may ask the opinion of the general commanding, but they should not be bound by it. That they shall not regard the opinion of anybody, is not a good phrase. I will therefore move, at the proper time, to substitute the language of the section of the House bill. I understand that the chairman of the committee [Mr. STEVENS] has no objection to that.

The SPEAKER. That can be done when the amendments shall be reached after the motion to recommit shall be withdrawn if the House intends to act on the amendments separately.

Mr. FARNSWORTH. Well, I give notice of that amendment.

Mr. SCHENCK. I understand that the amendment proposed by the gentleman from Massachusetts, [Mr. BOUTWELL] in the fourteenth line of the sixth section, is to insert the word "any" before the word "general." I suggest to the gentleman that that may not accomplish what he desires. That last clause now is a mere reenactment of the opinion of the Attorney General, that the words "executive or judicial office in any State" shall be construed to include all civil officers created by law for the administration of the general laws of the State. I do not see that that yet gets rid of the difficulty that I apprehend exists. That difficulty is this: as the section now stands no one who holds an office created for the administration of municipal acts, such as for the incorporation of cities or towns, becomes amenable to its provisions. The consequence of that would be that the mayor of Mobile, in reference to whose action on one occasion the gentleman from Pennsylvania [Mr. KELLEY] had some reason to complain, or Mayor Monroe, of New Orleans, who undertook to dispose of a convention because it did not answer his purpose, would be perfectly competent to be registered or to hold office. I think we ought to be more specific. I think we ought to include not only all civil officers created for the administration of any general law of a State, but to add to the section some such words as these, "or for the administration of justice or the keeping of the public peace." Then all mayors and all marshals of towns, and all persons whose duty it is to keep the public peace, and to act

as magistrates in administering justice, will fall within the provisions of the law. It seems to me that they constitute a large class of persons upon whom devolve such responsibilities that they ought to be included.

I would therefore move, instead of the amendment proposed by the gentleman from Massachusetts, to add the words which I have suggested, "or for the administration of justice or the keeping of the public peace;" so that any civil officer who is charged in any way with the administration of justice or with the keeping of the public peace shall be held to come within the description of "civil officer."

Mr. WOOD. I would ask whether the bill will not be acted on by sections, so that the gentleman can offer his amendment where it legitimately belongs?

The SPEAKER. The amendments proposed by the Committee on Reconstruction will be acted upon separately.

Mr. WOOD. Do I understand that this whole question is open to debate?

The SPEAKER. It is open to debate on the amendments.

Mr. WOOD. Then I desire to say one or two words. Although this bill is obnoxious to all the objections that applied to the bill as originally reported, inasmuch as it is in direct antagonism to the Constitution of the United States, is calculated to delay the matter of reconstruction, is all wrong, and can never be practically executed, yet in my judgment it is in detail somewhat of an improvement on the bill of the House.

I hope, Mr. Speaker, that the ambiguous phraseology of several sections of the bill now reported by the committee may be corrected, so that there can be no difficulty hereafter in knowing exactly the wishes of Congress in reference to reconstruction.

Now, sir, in the second section the committee propose to strike out lines three, four, and five, which give a discretionary power to the General of the Army of the United States; thus showing, permit me to say in passing, a very extraordinary distrust of General Grant. But the third section, in reference to the power of appointment, appears to me in conflict with the provisions of the second section. Again, by the sixth section all State officers are excluded from registry. Is this to be understood as applying to municipal officers? Are village officers excluded? Are county officers excluded?

Now, sir, in my judgment the committee should have so perfected the details of this bill as to render impossible a resort to the opinion of the Attorney General, so that Congress may not be again called together to remove any supposed obstruction in that direction. Although we on this side of the House cannot consent to the principles upon which this bill is founded, we are honestly desirous that the subject shall be disposed of; and for the purpose of disposing of it at once and forever, we desire a bill, plain, simple, and unequivocal in its provisions, so that there may be hereafter no difficulty on the part of the boards of registry in comprehending what classes of individuals they may enroll, and what classes are to be excluded; and that there may be a uniformity of action on the part of the commanding generals. The action of Congress at this time should be definite and unequivocal. Hence I think it is the duty of the Committee on Reconstruction, if the bill shall be recommitted, as I trust it will be, to examine again the phraseology of this proposed act, weighing well the differences between this bill and the bill of the Senate. The bill of the Senate seems to me decidedly preferable. It contains fewer sections, and its provisions are clothed in less ambiguous language. They are easy to be comprehended. There is no attempt in that bill, as we attempt here, to enfranchise all of one race and disfranchise all of another. There is no attempt in that bill to place the power of removal and appointment exclusively in the hands of the military. There is no attempt in that bill to



override entirely the authority of the Supreme Court of the United States. I only regret, Mr. Speaker, that the committee has not facilitated the disposition of this subject by reporting back to the House the bill as it came from the Senate. That bill, although as objectionable in its principles as the bill now reported, or the bill originally passed by the House, was one which there could be no difficulty in understanding on the part of the President of the United States, the Attorney General, or anybody else. Such a bill is what we want. We want this question disposed of now at once and forever. We want these States back again into the Union, even under the conditions which Congress is disposed to impose upon them. Let them know the worst, so that at no distant day we may have the southern States represented in the Congress of the United States.

Now, sir, I do not wish to examine the details of this bill reported by the committee; but I believe that it contains scarcely a section in reference to which honest men might not differ as to what was really designed to be accomplished. In one section it refers to municipal officers and in another to State officers. In one section it says that the commanding generals may do certain things, and in a subsequent section it provides, as I understand it, that only the General of the Army may do those things. There is confusion, there is uncertainty, there is doubt, which even a Philadelphia lawyer could not unravel, as to the design of the bill reported by the committee. Therefore I hope that whatever measure we may adopt shall be intelligible and plain, so that hereafter there can be no possible difficulty in understanding precisely what was the design of Congress in passing it. I now yield the floor to my colleague, [Mr. ROBINSON.]

Mr. ELDRIDGE. With the consent of the gentleman from New York, [Mr. ROBINSON,] I desire to say a single word. The gentleman from New York [Mr. Wood] finds a great deal of difficulty in understanding this bill; and Congress itself has had some difficulty in understanding its action heretofore.

I will suggest to my friend from New York [Mr. Wood] that he should offer an amendment that will cover the whole case, I think, conclusively, and settle the whole matter beyond all cavil and doubt; and that is an amendment proposing to abolish the Constitution of the United States and all the laws of the United States, as well as all the constitutions of these ten States and the laws made under them, and under which these people have lived heretofore. It seems to me that will make the matter entirely clear and do away with all difficulty. The President will not be troubled with it any further. The Commander-in-Chief will not be troubled with it. You will then have no difficulty with the Constitution and laws of the United States. You will thus get rid of the whole question.

Mr. WOOD. The gentleman from Wisconsin is an old foggy, for he ought to know that the Constitution of the United States has been obsolete for some time.

Mr. ELDRIDGE. I want it declared to be obsolete, so that gentlemen hereafter shall not refer to it. I wish to relieve my friend from Ohio from all scruples on the subject, so that he may hereafter have no qualms of conscience when called upon to vote for propositions which shall come from the most radical gentlemen of the House.

Mr. ROBINSON addressed the House. [His remarks will be published in the Appendix.]

#### CUSTOMS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of March 6, 1867, a statement of the number of officers of customs removed and the names of the new appointees, increase of compensation allowed, &c., since March 3, 1866; and also a statement of the expenses of collecting the customs dur-

ing the year 1865-66; which were laid upon the table, and ordered to be printed.

#### RECONSTRUCTION ACT.

The SPEAKER also laid before the House a communication from the Secretary of War in answer to a resolution of the 5th instant, transmitting a report from the Adjutant General relative to the execution and administration of the reconstruction act; which was laid on the table, and ordered to be printed.

#### TAX ON SPIRITS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the House of July 8, a communication from the Commissioner of Internal Revenue, as to the amount of revenue received from the tax on distilled spirits; which was laid on the table, and ordered to be printed.

#### PAYMENT OF BOUNTIES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in answer to a resolution of the House of July 9, a report of the Paymaster General relative to the necessity of further legislation to facilitate the payment of additional bounty; which was laid on the table, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. KITCHEN asked and obtained leave of absence after to-day.

#### RECONSTRUCTION—AGAIN.

The House resumed the consideration of the reconstruction bill.

Mr. LOGAN addressed the House. [His remarks will be published in the Appendix.]

Mr. STEVENS, of Pennsylvania. This debate has taken a range wholly unexpected. I supposed a few gentlemen would discuss the merits of the bill and that we would then take a vote. I do not feel at liberty to extend the time; therefore, if the House agree with me, I will withdraw the motion to recommit, and before I call the previous question ask any gentlemen if they have amendments to offer. If they have they may do so now and we will consider them as pending.

Mr. SCHENCK. I will offer the amendment which I indicated this morning, namely, to add to the end of section six these words: "or for the administration of justice or for keeping the public peace."

The SPEAKER. That is an amendment to the Senate amendment, and not to the amendment of the committee.

Mr. SCHENCK. So I understand; I propose to amend the Senate amendment.

Mr. WILLIAMS, of Pennsylvania. I desire to offer a further amendment to section six, in line twelve, by striking out the word "construe" and inserting the words "so extended as," and I would like to assign my reasons.

Mr. FARNSWORTH. I desire to offer an amendment to the fourteenth section, which requires the board of registry not to regard the opinions of anybody, by substituting these words: "Said board of registry shall not be bound in their action by the opinion of any officer of the United States."

Mr. PILE. I move an amendment to the Senate amendment in section seven, line eight, by striking out "five" and inserting "ten," so that it will read "and upon reasonable public notice of the time and place thereof to revise for the period of ten days the registration list."

Mr. STEVENS, of Pennsylvania. I now call the previous question.

Mr. LOGAN. I desire to move to amend section four by inserting in line four, after the word "confirm," the words "subject to the approval of the General of the Army of the United States."

Mr. STEVENS, of Pennsylvania. I decline to yield for further amendments.

Mr. WILLIAMS, of Pennsylvania. I would move that five minutes debate be allowed for and against every amendment that may be offered or that is pending.

The SPEAKER. That can be done by unanimous consent or by a suspension of the rules.

Mr. WILLIAMS, of Pennsylvania. Then I move that the rules be suspended for that purpose.

Mr. SCHENCK. I ask the yeas and nays on suspending the rules for the purpose of allowing us the poor privilege of five minutes debate on amendments, and I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. SCHENCK and SCOTFIELD were appointed.

The House divided; and the tellers reported forty in the affirmative.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 61, nays 80, not voting 39; as follows:

YEAS—Messrs. Allison, Archer, James M. Ashley, Baker, Barnes, Benton, Boyer, Bromwell, Burr, Butler, Chanler, Coburn, Cook, Cullom, Donnelly, Elia, Eldridge, Fox, Getz, Haight, Holman, Hooper, Hunter, Judd, Julian, Kelley, Kelsey, Kerr, William Lawrence, Logan, Loughridge, Marshall, Morgan, Mungen, Myers, Niblack, Nicholson, Noel, Pile, Poland, Randall, Raum, Robinson, Ross, Schenck, Shanks, Sitgreaves, Aaron F. Stevens, Stone, Taber, Thomas, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Thomas Williams, William Williams, John T. Wilson, and Wood—61.

NAYS—Messrs. Anderson, Baldwin, Banks, Barnum, Beaman, Bingham, Blair, Boutwell, Broomall, Buckland, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cornell, Covode, Dawes, Dixon, Driggs, Eggleston, Farnsworth, Ferriss, Ferry, Fields, Finney, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jencks, Ketcham, Kitchen, Koontz, George V. Lawrence, Loan, Lynch, Marvin, Mercer, Miller, Moore, Moorhead, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polesley, Price, Robertson, Sawyer, Seofield, Shellabarger, Smith, Spalding, Starkweather, Taylor, Twichell, Upson, Burt Van Horn, Ward, Cadwalader, C. Washburn, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—80.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Benjamin, Blaine, Brooks, Caho, Dodge, Eckley, Eliot, Garfield, Glossbrenner, Gravelly, Humphrey, Laffin, Lincoln, Mallory, McCarthy, McClure, McCullough, Morrill, Morrissey, Phelps, Pomeroy, Pruyn, Thaddeus Stevens, Stewart, Taffe, and Van Wyck—39.

So (two-thirds not voting in favor thereof) the rules were not suspended.

The previous question was then seconded and the main question ordered.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. STEVENS] claim his right to close the debate?

Mr. STEVENS, of Pennsylvania. I do not intend to make any remarks whatever. I wish to go on, and, if possible, to finish the bill. I waive my right to close the debate.

The Clerk then read the first amendment reported by the Committee on Reconstruction.

The amendment was agreed to.

The second amendment was read.

Mr. HOLMAN. Is not that amendment divisible?

The SPEAKER. It is not. The committee reported it as one amendment, to change the second section so as to read in the manner just reported by the Clerk.

Mr. SCHENCK. Will it be in order to think that the last part of that amendment is very good, while the first is all wrong? [Laughter.]

The SPEAKER. Debate is not in order, and audible thinking is in the nature of debate.

The amendment was agreed to; there being, on a division—ayes 66, noes 38.

The third, fourth, fifth, and sixth amendments were severally read and agreed to.

The seventh amendment was read and agreed to; there being, on a division—ayes eighty-five, noes not counted.

The eighth, ninth, and tenth amendments were read and agreed to.

The eleventh amendment was read.

The SPEAKER. If there be no objection, before this amendment of the committee is voted upon, the question will be taken on the motion of the gentleman from Illinois [Mr. FARNSWORTH] to amend the amendment.

There was no objection.

The amendment of Mr. FARNSWORTH was read, as follows:

Strike out in the eleventh amendment of the committee the words "pay any regard to the opinions or directions of the Attorney General or any other officer of the Government, unless so directed by Congress," and insert in lieu thereof the words "shall be bound in their action by any opinion of any officer of the United States;" so that the section proposed by the committee will read as follows:

SEC. 14. *And be it further enacted*, That no district commissioner or member of the board of registration or any officers or appointees acting under them shall be bound in their action by any opinion of any officer of the United States.

Mr. STEVENS, of Pennsylvania. I believe there is no objection to that amendment on the part of the committee.

Mr. NIBLACK. I suggest that instead of "any officer of the United States" it would be better to say "any civil officer of the United States."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted; there being on a division—ayes 62, noes 51.

Mr. BOUTWELL moved to reconsider the votes by which the several amendments of the committee had been adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Clerk will now report the various amendments proposed by gentlemen on the floor, the first being that of the gentleman from Massachusetts [Mr. BOUTWELL] to the sixth section.

Mr. BOUTWELL. That amendment was offered by me on behalf of the committee.

The SPEAKER. The Clerk did not so understand; but it will now be reported as one of the amendments of the committee.

The amendment was read, as follows:

In line fourteen of section six strike out "the" and insert "any," and strike out "laws" and insert "law;" so that the last clause of the section will read as follows:

And the words "executive or judicial office in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State.

The amendment was agreed to.

The question next recurred on the amendment of Mr. WILLIAMS, of Pennsylvania, as follows:

In the sixth section, line twelve, instead of "construed" insert "so extended as."

The amendment was disagreed to.

The question next recurred on Mr. SCHENCK's amendment:

At the end of section six add the following: Or for the administration of justice, or for the keeping of the public peace.

The amendment was agreed to.

The question next recurred on the amendment offered by Mr. PILE.

Mr. PILE. I withdraw my amendment, the House having changed the section.

The question next recurred on the following amendment of Mr. WILSON, of Iowa:

At the end of section twelve insert: *Provided*, That this section shall not extend to or include any offense or offenses to which the military authorities may have or take jurisdiction under the provisions of this act or the acts to which this is supplementary.

The amendment was agreed to.

Mr. SCHENCK. I suggest that as section nine is a sort of codicil explaining the law, it should be at the end of the bill.

There was no objection, and it was ordered accordingly.

The question then recurred on the amendment of the Senate as amended.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 32, not voting 25; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Brownell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Coyode, Cullom, Dawes, Dixon, Donnelly, Driggs, Ela, Farnsworth, Ferriss, Ferry, Fields, Gravely, Griswold, Halsey, Hamilton, Harding, Hayes, Hill, Hooper, Hop-

kins, Asabel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Marvin, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pelsley, Price, Raum, Robertson, Sawyer, Schenck, Seofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernum, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—113.

NAYS—Messrs. Adams, Archer, Barnes, Barnum, Boyer, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Holman, Hotchkiss, R. D. Hubbard, Kerr, Marshall, Morgan, Mungen, Niblack, Nicholson, Noell, Phelps, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Van Auker, Van Trump, and Wood—32.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Blaine, Brooks, Cate, Dodge, Eckley, Eggleston, Eliot, Finney, Garfield, Hulburd, Humphrey, Ladin, Lincoln, Mallory, McCarthy, McCullough, Morrell, Morrissey, Pomeroy, Pruyn, Stewart, Van Wyck, and Windom—25.

So the Senate amendment, as amended, was passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOOPER, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House if any and what additional appropriation is required to carry out the provisions of the act to provide for the more efficient government of the rebel States.

And then, on motion of Mr. PIKE, the House (at four o'clock and twenty minutes p. m.) took a recess until eight o'clock p. m.

#### EVENING SESSION.

The House at eight o'clock p. m. reassembled.

The SPEAKER stated the first thing in order to be the motion of Mr. HOLMAN to suspend the rules for the purpose of introducing the following bill:

A bill in relation to additional bounty.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the widow, minor children, or parents, in the order named, of any soldier who shall have died after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said provisions of said act shall be so construed: *Provided, however*, That such widow, minor children, or parents shall only be entitled to receive such additional bounty in case where such soldier, if living, would be entitled under the provisions of said act to receive the same.

SEC. 2. *And be it further enacted*, That this act shall be in force from and after its passage.

The rules were suspended; and the bill was received, and read a first and second time.

Mr. HOLMAN. I suppose that the provisions and objects of the bill are well understood, and I therefore call for the previous question.

Mr. UPSON. I ask the gentleman to yield to me for a question.

Mr. HOLMAN. I yield for that purpose.

Mr. UPSON. I would inquire what is the object of the second section?

Mr. HOLMAN. I suppose that is mere surplusage.

Mr. UPSON. I move then to strike out the second section.

The motion was agreed to.

Mr. HOLMAN. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. HOLMAN. I demand the previous question on the passage.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING FOR THE DEPARTMENTS.

Mr. ELA. I ask unanimous consent to introduce a joint resolution explanatory of the concluding proviso of section ten, chapter sixty-seven of the laws of the Thirty-Ninth Congress, passed March 2, 1867.

The resolution was read. It declares that the provision was not intended to prevent the necessary printing heretofore done in connection with the issue, transfer, or assignment of Government bonds or notes or official envelopes or confidential circulars used in the Executive Departments by their own employes.

Mr. BINGHAM. Does this come from any committee?

The SPEAKER. It does not. Does the gentleman from New Hampshire offer it for reference or action?

Mr. ELA. For action.

Mr. WILSON, of Iowa. I object.

Mr. ELA. I desire to make an explanation for the information of the House.

The SPEAKER. Is there objection? The Chair hears none.

Mr. ELA. As the law now stands the section of the law referred to provides that the printing of the Government shall be done at the Government Printing Office whenever practicable, and in all other cases that it shall be procured by the Clerk of the House. It will be manifest to every gentleman here that it would neither be proper nor safe, as regards the transfer and assignments which are printed upon the backs of the Government bonds and notes, for them to be carried to the general printing office. This resolution simply provides that in cases of that kind it was not the design of the act that it should be done elsewhere. It provides still further for the printing of confidential circulars by the different Executive Departments as they have been done heretofore; also that official envelopes may be printed in the same way, which is perhaps immaterial; but as I understand they are manufactured there and there is no expense attending it, it would be much more convenient and beneficial to keep the printing there.

Mr. WILSON, of Iowa. I do not withdraw the objection.

Mr. ELA. Then I move to suspend the rules for the purpose of considering the resolution.

On suspending the rules there were—ayes 20, noes 46; no quorum voting.

Mr. DRIGGS. I move a call of the House. The motion was disagreed to.

The SPEAKER ordered tellers on the motion to suspend the rules, and appointed Messrs. DRIGGS and WILSON of Iowa.

The House divided; and the tellers reported—ayes 34, noes 41; no quorum voting.

Mr. INGERSOLL. I move that the House adjourn till to-morrow morning at ten o'clock.

The SPEAKER. That motion requires a suspension of the rules.

Mr. INGERSOLL. I move then that the House adjourn.

The motion was disagreed to.

Mr. DRIGGS. My object in pressing the motion was to compel the attendance of members who are now in the Senate Chamber, but who ought to be here. I again move a call of the House.

The question being put; there were—ayes 40, noes 31.

Mr. WILSON, of Iowa. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 59, not voting 72; as follows:

YEAS—Messrs. Archer, Burr, Reader W. Clarke, Cobb, Driggs, Ela, Ferry, Finney, Fox, Getz, Gravely, Haight, Hunter, Ingersoll, Judd, Koontz, George V.

Lawrence, William Lawrence, Logan, McClurg, Niblack, Orth, Peters, Plants, Raam, Sawyer, Selye, Shanks, Smith, Spalding, Taylor, Thomas, Trowbridge, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, John T. Wilson, Windom, and Wood—39.

**YAYS**—Messrs. Allison, James M. Ashley, Baker, Beaman, Bingham, Blair, Boutwell, Brownell, Broomall, Buckland, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Farnsworth, Ferriss, Fields, Griswold, Halsey, Hamilton, Hayes, Holman, Hooper, Chester D. Hubbard, Kelley, Ketcham, Kitchen, Marvin, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Paine, Perham, Pike, Poland, Polsley, Price, Robertson, Scofield, Taber, Taffe, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Trump, William B. Washburn, Welker, William Williams, and James F. Wilson—59.

**NOT VOTING**—Messrs. Adams, Ames, Anderson, Delos R. Ashley, Baldwin, Banks, Barnes, Barnum, Benjamin, Benton, Blaine, Boyer, Brooks, Butler, Cake, Chanler, Dodge, Donnelly, Eckley, Eggleston, Eldridge, Eliot, Garfield, Glossbrenner, Harding, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jencks, Julian, Kelsey, Kerr, Laffin, Lincoln, Loan, Loughbridge, Lynch, Mallory, Marshall, McCarthy, McCullough, Morgan, Morrill, Morrissey, Mungen, Nicholson, Noell, Phelps, Pile, Pomeroy, Prunty, Randall, Robinson, Ross, Schenck, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Van Auker, Burt Van Horn, Van Wyck, Ward, Stephen F. Wilson, and Woodbridge—72.

So the call of the House was refused.

During the roll-call,

Mr. BINGHAM stated that his colleague, Mr. EGLESTON, had been called home by illness in his family.

The result of the vote was then announced, as above recorded.

The SPEAKER. The tellers will again take their places. The question is on suspending the rules to enable the House to proceed to the consideration of the joint resolution introduced by the gentleman from New Hampshire, [Mr. ELA.] upon which no quorum voted.

The tellers (Messrs. DRIGGS, and WILSON of Iowa) resumed their places.

The House again divided; and the tellers reported—ayes 57, noes 49.

So (two thirds not voting in the affirmative) the rules were not suspended.

Mr. ELA. I now ask leave to introduce the joint resolution, for the purpose of having it referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I suggest to the gentleman that if there is a quorum of the Committee on Printing present he had probably better refer it to that committee.

The SPEAKER. The Chair will state that only one member of the Committee on Printing is in attendance on the session of the House at this time.

Objection was made to the introduction of the resolution.

#### MOTION TO RECONSIDER.

Mr. BROOMALL. I desire to enter a motion to reconsider the vote by which the bill of the House to guaranty to the several States of the Union a republican form of government was referred to the Committee on Reconstruction.

The motion was entered.

#### FORMS OF PROCEEDINGS IN BANKRUPTCY.

Mr. MILLER. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Printing be, and is hereby, requested to cause to be printed, for the use of the members of this House, ten thousand copies of the forms of proceeding in bankruptcy, as promulgated by the Supreme Court of the United States.

I will state, by the leave of the House, that the Senate have already ordered the printing of these forms.

The SPEAKER. The resolution is referred under the law to the Committee on Printing.

Mr. FARNSWORTH. The House has nothing to do with the matter. It is of interest only to bankrupts and lawyers.

The SPEAKER. The Chair will state that the resolution has already been referred under the law to the Committee on Printing.

Mr. CULLOM. I thought it was read only for information.

Mr. FARNSWORTH. I move to reconsider the vote by which the resolution was referred.

Mr. MILLER. I move to lay the motion to reconsider on the table.

The question was taken; and the House refused to lay the motion to reconsider on the table.

The motion to reconsider was then agreed to.

Mr. FARNSWORTH. I now move to lay the resolution on the table.

Mr. DAWES. I desire to move to amend the resolution by adding thereto the words "together with the book recently published by Mr. Clinton Rice upon the same subject."

The SPEAKER. A motion to lay the resolution upon the table is not debatable or amendable.

The question was taken on Mr. FARNSWORTH'S motion, and it was agreed to.

So the resolution was laid on the table.

#### THE MILITIA.

Mr. PAINE. I ask unanimous consent to introduce a bill to provide for organizing, arming, and disciplining the militia, and for other purposes, with a view of having it referred to the appropriate committee when appointed.

Mr. WOOD. I object to its consideration at this time.

Mr. PAINE. I do not desire its consideration at this time. I only desire that it shall be referred to the proper committee when appointed, and that it shall be printed.

Mr. WOOD. I have no objection to that. No objection being made, the bill was read a first and second time, referred to the Committee on the Militia when appointed, and ordered to be printed.

#### PETITION FROM ARKANSAS.

Mr. MORGAN. I hold in my hand and desire to present the memorial of the Legislature of Arkansas in regard to levees on the Mississippi river.

The memorial was read.

Mr. SPALDING. I move the reference of this memorial to the Committee on Appropriations.

Mr. MORGAN. I have no objection to that.

The Speaker was putting the question: on the motion to refer the petition, when

Mr. INGERSOLL said: Before this reference is made, I desire to inquire whether this paper purports to be from the Legislature of Arkansas as a legislative body?

The SPEAKER. It does.

Mr. INGERSOLL. Then I desire to object to its reception. I am not aware that there is any such body in existence.

The SPEAKER. The Chair will state that this is a petition.

Mr. INGERSOLL. It purports to come from the Legislature of the State of Arkansas. I am not aware of the existence of any such body; and I object to the reception of the paper.

Mr. FARNSWORTH. It seems to me any member has the right to refer any such paper under the rule.

The SPEAKER. The memorial could be presented under the rule by handing it to the Journal Clerk; but when any member desires to present such a paper in the House any gentleman can object. A number of years ago there prevailed in the House of Representatives a rule under which the presentation of petitions could be objected to in every case. But that rule has been abrogated; and the present rule allows any member to present any petition by handing it to the Journal Clerk. When, however, a member seeks to present a petition in open House objection may be made to its reception.

Mr. INGERSOLL. I object to the reception of this petition.

Mr. MORGAN. After the memorial has been received and referred to a committee is it not too late to object?

The SPEAKER. The gentleman from Illinois made his objection before the question of reference had been decided. Objection being made to the reception of the memorial, the question is, Shall it be received?

Mr. KELLEY. Mr. Speaker, there is an opportunity to get the petition to the appropriate committee without its reception by this House. I find here a divided duty. I am not prepared to concur in the reception by this House of a petition from a body which I know does not exist. Yet I believe there are few more important topics that can be brought to the consideration of any of the committees of this House than the question of the levees of the Mississippi—not only upon the banks of the rivers in Arkansas, but upon the upper tributaries of the Mississippi, where levees are required, and down to its mouth. I believe that there ought to be a national levee system—that the owners of the lands on the lower part of the river ought not to be compelled to depend upon the enforcement of an imperfect levee system above.

I hope that this subject will engage the attention of Congress at an early day after its re-assembling; and I hope that the gentleman from Ohio [Mr. MORGAN] will avail himself of his privilege under the rule and have this petition referred to the appropriate committee. But I am opposed to receiving what purports to be a petition from a body which does not exist, and has not existed since 1861, the Legislature of Arkansas.

Mr. FARNSWORTH. The gentleman says that this body does not exist. I desire to inquire of him whether he means that there is no such body in fact?

Mr. KELLEY. I mean, sir, that there is no Legislature of the State of Arkansas, because there is no State of Arkansas, and has been none since its government was overthrown by the violence of revolution.

Mr. DAWES. I would inquire of the gentleman from Pennsylvania [Mr. KELLEY] what is the meaning of the phrase in the law, for which he voted at the last session, "recognizing certain governments in Arkansas and other southern States as 'provisional governments?'"

Mr. KELLEY. Mr. Speaker, I cannot be held personally accountable for the phraseology of all the laws for which I have voted any more than the gentleman from Massachusetts [Mr. DAWES] can. So early as when Congress voted for the admission of the State of West Virginia I united with my venerable colleague from the Lancaster district [Mr. STEVENS] in asking that I might not be stultified by being supposed to have voted for the admission of West Virginia because the Legislature of Virginia had consented to the formation of that State. I agreed with my colleague that there was no State of Virginia, and that consequently there could be no Legislature of that State to give consent. I have never changed my opinion on the subject from that time to this.

Those State governments had been overthrown by the violence of revolution, and I borrow language from my venerable colleague [Mr. STEVENS] when I state that I voted for the bill containing that language because I was here upon this floor coöperating with men, and not with angels, and took the best thing I could get.

Mr. DAWES. My friend from Pennsylvania forgets one thing. He forgets that upon an amendment, unaccompanied by anything else, that in the struggle upon that amendment, whether or not that line should be inserted as a provisional government, my friend voted for it and I voted against it.

Mr. KELLEY. I apprehend the gentleman cannot show the provision in which I endeavored to convey the impression that I believed there was a government there.

Mr. DAWES. The gentleman voted for the proposition simply alone and unconnected with anything else, that the *de facto* government should have the effect of a provisional government.

Mr. KELLEY. I cannot recall an occasion such as the gentleman refers to. I voted for a bill in which that language was used for the purpose of limitation, and declaring that the governments previously referred to in the bill

should be regarded as provisional only, subject to be suspended by the provisional authorities to whom the government of the people of these alleged States was about being confided. Here upon the floor of Congress and upon the platform when confronting my constituents I have uniformly and consistently held there was no government in those States, because there were no States, and have believed that it was the duty of the Government of the United States to govern those people as they would any other territory acquired or conquered.

Mr. FARNSWORTH. I desire to say what I wish to and then to surrender the floor.

Mr. NIBLACK. I desire to have the attention of the gentleman from Pennsylvania a moment.

Mr. FARNSWORTH. I cannot yield now. Mr. Speaker, I had no idea of the debate taking so wide a range. It seems to me that this is a hair-splitting discussion on States in reference to the presentation of a petition. Here is a petition from gentlemen who style themselves the Legislature of Arkansas. I do not care what they style themselves; whoever presents a petition in respectful language on a legitimate subject is entitled to be heard. I do not believe its reception commits this House to anything. I do not believe that we commit ourselves to the government in Arkansas when we receive this petition and refer it. It has nothing to do with it. There is such a body, which has been recognized as provisional.

Mr. KELLEY. They cannot make a law which this Government cannot set aside.

Mr. FARNSWORTH. It is a body sitting there, a so-called Legislature. We may denominate it a so-called Legislature, or the petition of a so-called Legislature of Arkansas. It is a fact that no one can gainsay that there is a so-called government there, and that it has a Legislature which may pass laws which can be nullified and set aside by some higher authority. They present a petition and ask it to be referred to a committee of this House. It is a simple matter. I believe in the right of petition to Congress, and I hope this one will be received and properly referred.

Mr. MORGAN. Let me ask the gentleman from Pennsylvania when did Arkansas cease to be a State?

Mr. KELLEY. When her Legislature elected under the Constitution of the United States refused to take the oath to support the Constitution of the United States, and swore to support that of a belligerent confederacy, then Arkansas as a State in this Union ceased to exist.

Mr. MORGAN. In what year was that?

Mr. KELLEY. I believe in the year 1861.

Mr. MORGAN. In the year 1862 the Congress of the United States recognized Arkansas as a State and as entitled to her rightful number of Representatives in this Hall. After the act of secession had been passed the Congress of the United States, as it had the right to do, imposed upon Arkansas her share of the direct taxes, not as a Territory but as a State.

Mr. KELLEY. The Congress of the United States knew that the Army of the United States would conquer Arkansas, and presumed that there would be a new State created there before the decade expired, and it was its duty to declare how many members of Congress the State of Arkansas should have when thus reconstructed. Looking again to the certain conquest of the territory of Arkansas, and to the proper reconstruction of a State of Arkansas, Congress apportioned the taxes to the people of that then rebellious territory. And I cite the very argument of the gentleman against receiving this petition as an illustration of the folly of piling up these ridiculous precedents that, without due explanation, may be cited to show that the course of Congress has not been as straight as it might have been.

Mr. MORGAN. I would ask if the gentleman considers the act of Congress to amend the Constitution of the United States and presented to the Legislature of Arkansas for adoption no precedent or authority?

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, announcing that the Senate had disagreed to the amendments of the House to the amendment of the Senate to the bill of the House supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, asked for a committee of conference on the disagreeing votes of the two Houses thereon, and had appointed as conferees on the part of the Senate Messrs. TRUMBULL, EDMUNDS, and HENDRICKS.

Mr. BOUTWELL. I move that the House insist, and that a committee of conference be appointed.

Mr. DAWES. Before the vote is taken consigning this bill to a committee of conference, I wish to congratulate my friend from Pennsylvania [Mr. SCOFIELD] on the equanimity with which he has witnessed the rushing of this bill to-night into that hole from which he rescued it with so much zeal last night. [Laughter.]

Mr. SCOFIELD. If it had gone in last night it would have taken the gentleman from Massachusetts with it.

Mr. HOLMAN. If it is in order I move as an amendment that the House recede.

Mr. BOUTWELL. I call the previous question.

The previous question was seconded and the main question ordered.

The question was taken first on the motion to recede, and it was disagreed to.

The question recurred on the motion to insist and that a committee of conference be appointed, and it was agreed to.

The SPEAKER subsequently appointed as conferees Messrs. STEVENS, of Pennsylvania, BOUTWELL, and HOLMAN.

#### PETITION FROM ARKANSAS—AGAIN.

The House resumed the consideration of the petition from Arkansas in regard to levees on the Mississippi river.

Mr. KELLEY. The question propounded to me was whether I had voted for the amendment to the Constitution known as the fourteenth article, and for submitting it to the State of Arkansas for ratification.

Mr. VAN TRUMP. Not whether the gentleman voted for it, but whether it was not presented to the Legislature of Arkansas.

Mr. KELLEY. I voted for that amendment, and it was passed, but it was never constitutionally or rightfully submitted to the Legislature of Arkansas. If the Secretary of State, or rather the gentleman occupying that position, Hon. William H. Seward, saw fit to submit that article, he may have done it for his personal gratification or in support of his peculiar views. But Congress never directed it to be submitted, nor did the Constitution or any law of the land require it; and whenever the question can be got before the Supreme Court of the United States, that court will, if it adheres to the principles which have controlled its decisions in the *interim*, decide that the submission of that article to the then twenty-six States adhering to the Union and supporting the Constitution is all that the Constitution requires; and that the submission of it to those bodies which assumed to legislate for the territory which is described by Andrew Johnson, the present political idol of the Democratic party, who is esteemed by the gentleman from New York [Mr. ROBINSON] as the greatest President this country ever had except Washington, Jackson, and perhaps Jefferson, was unnecessary and nugatory. The language of that great idol of the Democracy, in his proclamation of May 29, 1865, in appointing a provisional governor for North Carolina, and which, as neither Mr. Seward nor he could improve it, was reiterated in all other like proclamations six times, was:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Govern-

ment thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina [naming each of the other States in the subsequent proclamations] of all civil government."

I agree with Andrew Johnson that the violence of revolution had deprived the people of Arkansas of all civil government, which Congress alone could restore.

Mr. NIBLACK. Is not the gentleman from Pennsylvania mistaken when he says that a proclamation was issued as to Arkansas?

Mr. KELLEY. I may perhaps be.

Mr. NIBLACK. If I rightly understand the matter, that State was reorganized during the Administration of President Lincoln, and Governor Murphy was elected under Mr. Lincoln's proclamation by the State of Arkansas as reorganized by Mr. Lincoln's Administration. The propriety of that action I know entered into the canvass of 1864, but whether it was recognized or not, the government thus organized has been in existence ever since as the government of Arkansas. Whether it was regularly organized or not, the blame does not rest with the present Administration, but with its predecessor.

Mr. KELLEY. I accept the geographical correction of the gentleman from Indiana. It was only as to seven States, so called, that Mr. Johnson issued this proclamation.

Mr. NIBLACK. I would ask if the gentleman during the late Administration of Mr. Lincoln objected to the reorganization of Arkansas?

Mr. KELLEY. I will come to that point in a moment.

Mr. INGERSOLL. I would ask the gentleman from Pennsylvania if he will not yield, so that the committee of conference ordered by the House may be appointed?

The SPEAKER. The Chair will state that committees of conference are never announced in the House.

Mr. INGERSOLL. I would like to inquire if it has been appointed?

The SPEAKER. The Chair will respond to that question, although it is not one that comes within parliamentary rules.

Mr. INGERSOLL. I desire to know if it has been done, in order that a motion may be made to adjourn, if the gentleman from Pennsylvania will yield for that purpose.

The SPEAKER. The Chair will state that the gentleman from Massachusetts [Mr. BOUTWELL] has gone to the Senate Chamber to ascertain if it is the intention of that body to sit to-night until the report of the committee of conference is acted on. If not the conference committee will include a member nowhere to-night, but who can act to-morrow.

Mr. INGERSOLL. That is the information I desired.

Mr. KELLEY. I will say in response to the question of the gentleman from Indiana [Mr. NIBLACK] that I did protest against that reorganization of the government of Arkansas as wholly unwarranted by the Constitution of the United States, that I argued the question with our late lamented President more than once, and in the presence of more than one person, and that I steadily and uniformly voted and worked upon this floor to prevent the admission to seats of the so-called Senators and so-called Representatives from the so-called State of Arkansas upon the ground that the same revolutionary violence that Mr. Johnson, before his abandonment of the professions on which he had been elected, recognized as having deprived the people of seven States of all civil government, had deprived the people of Arkansas of all civil government, and that the President had no power to reorganize or attempt to reorganize, except by the provision of Congress, governments upon all that territory; and, sir, this House is endeavoring and has been for the last week to learn something of the views of the Administration on the question at issue. My colleague from the Erie district on the 5th of this month introduced a resolution calling upon the Secretary of State for



information as to how many States had approved the constitutional amendment known as the fourteenth article. No answer has yet been received so far as the House has learned. Mr. Speaker, may I inquire of you whether one has come into your hands?

The SPEAKER. In regard to what?

Mr. KELLEY. The call on the President was for information as to how many States had approved that constitutional amendment.

The SPEAKER. At this adjourned meeting there has been no answer. The Chair thinks there was a communication on the subject at the March session.

Mr. KELLEY. There has been no answer to the resolution offered by my colleague?

The SPEAKER. There has been none at this session.

Mr. KELLEY. Whenever that answer comes in, should he recognize these pretended States, it will be my pleasure, as it will be my duty to move, or to sustain the motion of somebody else, a resolution declaring the secession of this House that the constitutional amendment was improperly submitted to these pretended Legislatures.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. MORGAN] that the Senate does not intend to sit to finish the reconstruction bill this evening. The Chair has appointed the conference committee on the part of the House; and whenever the gentleman from Ohio concludes his remarks or yields the floor, no further business in relation to reconstruction renders necessary a prolongation of this evening's session.

Mr. MORGAN. Mr. Speaker, it is neither my purpose nor my desire to make a speech. I do not rise with any such intention.

Mr. HOLMAN. I appeal to the gentleman from Ohio to yield for a motion to adjourn. This question will come up the first thing in the morning as unfinished business.

Mr. MORGAN. I yield for an adjournment.

Mr. HOLMAN. I move that the House now adjourn.

The motion was agreed to; and thereupon (at nine o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER. The petition of Charles F. Fletcher, praying that the right of citizenship may be given to the aborigines.

By Mr. MYERS. The petition of honorably discharged soldiers of Pennsylvania entitled to the additional bounty granted by act of Congress of July 23, 1866, asking congressional action to expedite the payment of said bounty.

#### IN SENATE.

SATURDAY, July 13, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITION.

Mr. MORGAN. I present the petition of Nathaniel D. Carlile & Son, praying for the passage of a joint resolution by which certain wool imported by them and entered for duty on the 4th day of March last may be subject to payment of duty according to the laws in force prior to the passage of the act of last session increasing the duties on wool. This is a case where the petitioners allege that they paid the duty on this wool the day that the tariff bill became a law, the 4th day of March, and the increased duties were exacted; that the entry has not yet been liquidated at the custom-house; and they ask the passage of an act placing them on the same footing as they would have been if the goods had been entered on the previous day, as the vessel was in port on the previous day. If there was any business to be transacted at this session I should think this would be a proper case; but under the decision of the Senate, I move that the petition lie on the table.

The PRESIDENT *pro tempore*. The petition will lie on the table under the rule.

#### PAPERS WITHDRAWN.

Mr. PATTERSON, of Tennessee. I ask leave to withdraw the papers in the case of Elias Beale. There was a favorable report, and all the relief he asked of Congress has been granted. My object in withdrawing the papers is to have them presented to the Commissioner of Pensions with his application for a pension.

Leave was granted.

#### RECESS.

Mr. TIPTON. I ask that the bill introduced by me yesterday may be taken up for the purpose of referring it to the Committee on Indian Affairs. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks the unanimous consent of the Senate to refer a bill to the appropriate committee. Is there any objection?

Mr. GRIMES. I move that the Senate take a recess for half an hour. I understand the committee of conference will be ready to report at that time.

The PRESIDENT *pro tempore*. I suppose that motion takes precedence.

The motion was agreed to; there being, on a division—ayes 15, noes 12; and the Senate accordingly took a recess for half an hour.

#### INDIAN HOSTILITIES.

The Senate reassembled at fifteen minutes to one o'clock.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from the Secretary of the Interior.

The communication was read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., July 13, 1867.

SIR: In compliance with a resolution of the Senate of the 8th instant, calling for reports made to this Department by commissioners heretofore appointed, or by superintendents or agents of Indian tribes, together with any other authentic and reliable information in his possession, touching the origin and progress of existing Indian hostilities on the frontier, &c., I have the honor to transmit herewith a report of the Commissioner of Indian Affairs, dated the 12th instant, with accompanying printed reports of Generals Buford and Sanborn, marked A and B, and copies of the reports, letters, and telegrams, numbered one to forty-five, inclusive, referred to in said report of the Commissioner of Indian Affairs.

Very respectfully, your obedient servant.

W. T. OTTO, Acting Secretary.

Hon. BENJAMIN F. WADE, President of the United States Senate.

Mr. HENDERSON. I understand that there is a short report there from the Indian department, and as it is a matter of very great importance, and as the report of the committee of conference is not now before us, and I do not think there is anything else the Senate can engage in, I hope the Senate will hear it. It will not take more than fifteen minutes to read it.

Mr. POMEROY. I hope that report of the Commissioner of Indian Affairs will be read. We have been called on since I have been here this session two or three times for some plan to settle this Indian difficulty. I believe a plan is suggested in the report of the Commissioner of Indian Affairs, and I should like to hear it.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Chief Clerk read the report, as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS,  
July 12, 1867.

SIR: I have the honor to acknowledge the receipt by reference from your Department of Senate resolution of the 8th instant, calling upon the Secretary of the Interior to communicate to the Senate any reports made to his Department by commissioners heretofore appointed, or by superintendents or agents of Indian tribes, together with any other authentic and reliable information in his possession touching the origin and progress of the existing Indian hostilities on the frontier; also to communicate as far as he can the extent of the disaffection among the Indian tribes, whether they are waging war as tribes or as individuals, and if as individuals what disposition has been or is likely to be made of the friendly Indians formerly belonging to the hostile bands; and that he make such suggestions as in his judgment will lead to the most speedy termination of pending hostilities and prevent Indian wars in the future.

In compliance with your instructions to report all the facts in regard to these difficulties now in possession of this office, with such suggestions and views as I may deem necessary and proper in the premises, I

would respectfully invite your attention to the inclosed printed copy of the reports of the Secretaries of War and Interior relative to the Fort Phil. Kearney massacre, which it is thought will show the cause of the commencement of the present hostilities, or at least of those at or near said fort where hostile demonstrations by any considerable force were first made by the Indians. The views in regard to the visit of the Indians who made these demonstrations, which resulted in the massacre of our troops, expressed by my predecessor in his report of the 4th of February last, are not correct, as will be seen from the report of General Buford, one of the commissioners appointed by the President to visit the Indian country, [see copy herewith marked A.] and from General Sanborn's report, also herewith B.

I also inclose copies of reports, letters, and telegrams received at this office since the reports of late Commissioner Bogy were made, as contained in said printed copy of reports. These papers, numbered from one to forty-five, inclusive, in the order of their dates, contain all the reliable information I have in regard to the matter since the 21st of February last.

A careful examination of these papers has led me to the following conclusions:

First. That the tribes and parts of tribes involved in the war are the following, namely: as tribes the Northern Cheyennes and Arapahoes, numbering about one hundred and eighty lodges, say three hundred warriors; the Minneconjon band of the Teton Sioux nation, three hundred lodges, about five hundred warriors; those of the O'Gallala band of Sioux who would not consent to cede the right of way for the Montana road via Powder river and the right to plant military posts in their country, one hundred and thirty lodges, about two hundred and fifty warriors; those of the Brulé band of Sioux, who coincided with the O'Gallalas in opposing the cession of the road and post privileges, some one hundred and fifty lodges, about three hundred warriors; those of the Two Kettle band of Sioux entertaining the same views, about one hundred and fifty lodges and some three hundred warriors, making in all about sixteen hundred to eighteen hundred effective warriors.

These were the Indians who perpetrated the Phil. Kearney massacre, and who have been carrying on the war in the north.

On the Plains further south the only Indians known to be making hostile demonstrations are the southern Cheyennes and Arapahoes, numbering some two hundred lodges and about five hundred warriors, with possibly a few individuals from other tribes.

I am led to the conclusion—

Second. That the causes of the war are easily traced and readily understood when a few facts are known. These facts I proceed to cull from the official records.

In December, 1864, occurred the horrible Sand Creek massacre of friendly Cheyennes and Arapahoes in Colorado Territory. Exasperated and maddened by this cold-blooded butchery of their women and children, disarmed warriors, and old men, the remnant of these Indians sought the aid and protection of the Comanches and Kiowas, and obtained both. The combination which followed embraced all the tribes of the Plains from the Red river of the South to the Red river of the North, and resulted in the general Indian war of 1865, which cost our people many valuable lives and \$40,000,000 in money. Peace was concluded with all the southern Indians in October, 1865. Peace was likewise made with the Missouri river Indians late in the same autumn, and the Indians engaged in the recent hostilities gave notice that they also were willing to bury the tomahawk.

Commissioners were accordingly appointed to treat with these Indians at Laramie, in June, 1866. Unfortunately a new complication arose. The commissioners insisted that the Indians grant the United States the right of establishing military posts at the base of the Big Horn mountain (now Fort Phil. Kearney) and on the headwaters of the Yellowstone river, (now Fort C. F. Smith,) the only remaining reliable hunting grounds of these Indians. The Indians occupying the country in the vicinity of the proposed military posts refused to grant the required rights. While this matter was still under consideration a military command arrived on its way to plant these forts, and the Indians, being informed that the posts were to be immediately established and garrisoned by these troops with or without their consent, at once withdrew from the council, refusing to accept presents, and very soon went to war upon all the troops who attempted to pass over this road. Such was the origin of the war on the Montana road.

In April of the current year the southern Cheyennes and Arapahoes were peacefully occupying their village on the grounds assigned to them as hunting grounds by the treaty of October, 1865, when a military command under Major General Hancock, without any known provocation, burned down their homes of three hundred lodges (including perhaps one hundred lodges of friendly Sioux) and all their provisions, clothing, utensils, and property of every description. In view of these facts it is scarcely deemed necessary to seek further for reasons for the hostility of the southern Cheyennes and Arapahoes.

While searching for the origin of our existing Indian war, I beg leave to insert here the following extract from a letter of Lieutenant General Sherman, dated Fort Lyon, Colorado, September 30, 1866, forwarded to the Secretary of War by General Grant, and referred to this office:

"Craig (formerly a colonel or captain in the Army, and owner of a large rancho on the Huacriano) may be taken as the largest rancho of the class of men who are settling along the east base of the mountains. He has thoroughly proven the ability to produce, but then comes the more difficult problem of consumption—who is to buy his corn? The miners of Colorado in the mountains two hundred miles distant will take some, but the cost of hauling is enormous. The few travelers and stage companies will buy a little, but

he and all situated like him look to our military for a market, and that is the real pressure for garrisons and an Indian war. The Utes are harmless and peaceable, and the Cheyennes and Arapahoes are off after the buffalo, God only knows where, and I do not see how we can make a decent excuse for an Indian war.

"I have traveled all the way from Laramie without a single soldier or escort. I met single men unarmed traveling along the road, as in Missouri. Cattle and horses graze loose far from their owners, most tempting to a starving Indian, and though the Indians might easily make a descent on these scattered ranches, yet they have not done so, and I see no external signs of a fear of such an event, though all the people are clamorous for military protection. I received at Pueblo a petition to that effect, signed by so many names that I could not help answering that the names to the petition exceeded in number the strength of any of our small garrisons. Still I do think that the efforts of these people to transform the desert into productive farms is worthy of encouragement of the General Government, and I will treat of the subject again at length. After spending part of a day and the night at Craig's I resumed the journey down the Huertano twenty miles to its mouth, thereforde the Arkansas, and turned up five miles to the house of Colonel Boone, a man of note in this quarter. He also has a good two-story frame house, with his family, embracing the wife of Colonel Elmer Otis, but she happened to be away on a visit to some neighbor and I did not see her. Colonel Boone was at home, and I talked with him freely on the above and all other points of interest. He is an old Indian man, was on the Plains with General Ashley as early as 1824, and has been more or less connected with the Indians ever since. He also made the treaty with the Cheyennes and Arapahoes in 1860. He cultivates a farm and lives seemingly as little apprehensive of danger from Indians as the rest of the people. After camping a night near his house, we turned down the Arkansas, and traveled, in three days, one hundred miles to this post, Fort Lyon. I did not see or hear of an Indian the whole distance, though we passed through the whole length of the Cheyenne and Arapaho reservation."

The above letter is dated September 30, 1866. I learn from the papers herewith, particularly from General Sanborn's report of the 8th instant:

*Third.* That a portion of our commission met representatives of all or nearly all the hostile bands of the north at Fort Laramie as late as the 12th of June last, and went into council with them; that they professed a willingness to make peace, agreed to cease offensive war until autumn, with a view of making a satisfactory treaty in the interim, and I am informed by one of the commission now in Washington, namely, General Sanborn, that they are willing to stipulate that the Montana road, with necessary military posts to protect it, may go through their country west of the Big Horn mountain, which would avoid their choice hunting grounds. He is satisfied also that they will, for a reasonable compensation, agree by treaty to the present location of the road and the posts. I conclude—

*Fourth.* That while the hostile bands are willing to make a lasting peace upon anything like equitable terms, and while the friendly Indians are exceedingly reluctant to go into war with the United States, yet a further and persistent disregard and violation of the natural rights of the Indians and of the treaty obligations of the Government toward them, such as have characterized our military operations among them for the past twelve months, will soon result in an Indian war of gigantic proportions, and of prolonged and indefinite duration, at an appalling expense of life and at a cost of hundreds of millions of dollars. If we desire this result, if we want the war we have provoked enlarged and intensified till our whole frontier is in a blaze, till our infant Territories are isolated and besieged and Pacific overland communication cut off, we have only to press a little further the policy we are now pursuing and we will get all we desire.

From the facts before me I conclude—

*Fifth.* That we can have all we want from the Indians, and peace without war, if we will, with entire security on all our frontiers and in all our territorial domain, at a cost of less than two days' expenses of the existing war, (to wit, \$250,000,) and in less than one hundred days. But how shall peace be so easily and so soon made? Simply by retracing our wrong steps and by doing right. Pay the northern Cheyennes and Arapahoes and the hostile Sioux for the trespass we have committed upon their recognized rights, and negotiate with them by fair treaty for the privileges of way and of military posts on their lands so far as we may need them. This is only doing them justice, as our established policy requires, and this makes them our friends at once, renders travel and transportation safe and garrisons almost useless. Restore to the southern Cheyennes their village and their property we so wantonly and foolishly burned and destroyed, or pay them a fair price for them, and they will come back from the war path and resume the avocations of peace.

It is believed that the destruction by our forces of the Cheyenne village and property (valued at \$100,000) in April last has already cost the Government more than five million dollars in money, one hundred lives of citizens and soldiers, and jeopardized all our material interests on the Plains and along hundreds of miles of our frontier.

It will be seen among the papers herewith that Lieutenant General Sherman, in a dispatch to the Secretary of War, dated Fort McPherson, Nebraska, June 17, 1867, among other things, says: "My opinion is if fifty Indians are allowed to remain between the Arkansas and Platte, we will have to guard every stage station, every train, and all railroad working parties. In other words, fifty hostile

Indians will checkmate three thousand soldiers." Now, if this be true between the Arkansas and the Platte, of which region he is speaking, what a tremendous army will be required in the field if we conclude to precipitate a general Indian war and to prosecute it to a successful result.

In my judgment we have war general, prolonged, bloody, and ruinous, with all its accompanying barbarities and atrocities, and peace speedy and durable, with all its concomitant and consequent blessings, in our own hands and at our own option.

To make peace it is, in my opinion, necessary, first, that that part of an act approved March 29, 1867, repealing "all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs to enter into treaties with any Indian tribe" shall be repealed; otherwise there can be no binding agreement for peace made with the hostile Indians, second, that an appropriation should be made to defray all the necessary expenses to be incurred in making the desired treaties; third, that all military operations within the Indian country shall be subject to the direction and control of the Indian department. Supply these essential prerequisites, and I am firmly of the opinion that peace can be restored in a very short time.

In regard to the best means to secure and perpetuate peace between the Indians and our people, I beg leave to suggest that it is essential to the perpetuation of peace with the Indians, first, that the Government respect religiously and protect by all means their natural rights, as ascertained by our own highest judicial tribunal; and second, that it observe strictly and carry out faithfully all its treaty obligations to them.

We have reached a point in our national history when, it seems to me, there are but two alternatives left us as to what shall be the future of the Indian, namely, swift extermination by the sword and famine, or preservation by gradual concentration on territorial reserves and civilization. Our present policy or rather want of a policy in this regard is working out, and must result, if persisted in, in extermination. As now situated the Indian tribes are in the way of our toiling and enterprising population, and unprotected they will soon be inevitably submerged and buried beneath its confluent surges. Possessing originally the continent, they roamed at will among its mountains, valleys, and broad plains free and untrammelled, the proprietors and lords of them all. But rapidly our race has relieved them of their vast domain, and the remnants of the ancient red nations encircled by the pressing millions of our people maintain a precarious foothold on their last hunting grounds. These millions will soon crush them out from the face of the earth unless the humanity and Christian philanthropy of our enlightened statesmen shall interfere and rescue them. The sentiment of our people will not for a moment tolerate the idea of extermination.

In my judgment, the Indians can only be saved from extinction by consolidating them as rapidly as it can be peacefully done on larger reservations, from which all whites, except Government employés, shall be excluded, and educating them intellectually and morally, and training them in the arts of civilization, so as to render them at the earliest practicable moment self-supporting, and at the proper time to clothe them with the rights and immunities of citizenship.

The path by which humanity has emerged from a condition of savage barbarity to its largest development has been through pastoral pursuits into agriculture and the arts up to the highest sphere of mental refinement in the learned professions.

Entertaining these ideas I beg leave to recommend that the Government take such steps as may be deemed proper to set apart a territory somewhere north of the northern line of Nebraska and west of the Missouri river of liberal dimensions for the exclusive occupation and ultimate home of all the Indians north of the Platte and of Iowa, and east of the summit of the Rocky mountains, and make appropriations at once to enable this department to make suitable preparations for such Indians as are now ready to enter upon pastoral and agricultural pursuits in said territory. To initiate this policy, if adopted, I ask an appropriation of \$100,000.

That the policy indicated may be of universal application, I would respectfully recommend that a large territory be set apart south of the southern line of Kansas and west of Arkansas, including the present Indian Territory and the country known as the staked plains of Texas, and so much of New Mexico as may be necessary, for the exclusive occupation and ultimate home of all the Indians south of the Platte and east of Arizona, and for the inauguration of this plan in reference to said territory and said Indians I respectfully ask that an appropriation be made of \$100,000.

I recommend that all necessary provisions be made by Congress to procure at once that portion of Texas, or so much thereof as may be necessary, lying between the western boundary of the Indian Territory and the eastern boundary of New Mexico.

I would recommend that a commission be appointed, to proceed to the Pacific coast and Arizona, to select one or more reservations of ample size upon which to concentrate all the Indians west of the Rocky mountains. And for this object I ask an appropriation of \$20,000.

There are now concentrated on the Niobrara river near the Platte river, under the chiefs Spotted Tail, Swift Bear, Two Strike, Big Mouth, and others, about fifteen hundred friendly Sioux who have separated from the hostile bands. To this number will soon be added some twenty to twenty-five hundred friendly Indians now on their way from the hostile country. Pending hostilities, or until placed on reservations, and until they shall have raised a crop or two, these Indians will have to be subsisted by the Government, or permitted to join their hostile kindred. To

give them three-quarter rations will cost \$300,000 per annum, and I recommend that this sum be appropriated by Congress at its present session for their subsistence for the fiscal year ending June 30, 1868.

The friendly Cheyennes, Arapahoes, and Apaches of the south, forced by General Hancock's command to abandon their hunting grounds set apart to them by the treaty of October, 1865, are now at or near Fort Cobb, in the Indian country, in a destitute condition, and numbering (with the Kiowas and Comanches) from five to seven thousand souls. These Indians, if not permitted to return to their own hunting grounds, must either be fed by the Government or be driven to plundering the border inhabitants and war. I therefore ask an appropriation of \$500,000, for the purpose of supplying these Indians, if found to be necessary.

I ask also an appropriation of \$100,000 to enable the Department, if found expedient, to reimburse the southern Cheyennes and Arapahoes and friendly Sioux for their village and property destroyed by our troops in April last, with a view to restoring peaceful relations to them and safety and security to life and property on the Plains.

In conclusion, I take the liberty of stating to the honorable Secretary, for the information of the country, that the total cost of the Indian Bureau in its extended field of operations, including all its expenditures, does not exceed \$3,000,000 per annum.

Very respectfully, your obedient servant,  
N. G. TAYLOR, *Commissioner.*

Hon. W. T. OTTO,  
*Acting Secretary of the Interior.*

Mr. HENDERSON. I move that the report lie on the table and be printed.

The motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Acting Secretary of the Interior, submitting an estimate of an appropriation required to supply a deficiency in the appropriation for the relief of the Navajo Indians now at or near Fort Sumner, for the fiscal year ending June 30, 1867. The amount is \$304,320.

Mr. POMEROY. Do I understand that is an estimate for an appropriation sent to us by the head of a Department?

The PRESIDENT *pro tempore*. The Secretary of the Interior.

Mr. POMEROY. Such communications should be sent to us through the President. It is against our rules to receive communications making estimates for appropriations, excepting through the President of the United States.

Mr. GRIMES. The Secretaries send estimates.

Mr. POMEROY. I remember once the Senate passed a resolution returning such a communication because it did not come through the President.

Mr. WILSON. This is from the Secretary of the Interior, the head of a Department.

Mr. POMEROY. I know it is from the Secretary of the Interior. It has been done in a few instances; but the Senate, in more than one instance, has sent it back to the head of a Department because it did not come to us through the President. I do not know that I shall make a motion now; I only call attention to the fact that such communications making estimates for appropriations should be sent to us from the Departments through the President.

Mr. HENDERSON. The Senator is clearly mistaken. Each Secretary makes his own estimates. They are sent here certainly sometimes by the Secretary of the Treasury without coming through the President at all.

Mr. FESSENDEN. By law the Secretary of the Treasury communicates directly with Congress.

Mr. HENDERSON. The instances alluded to by the Senator from Kansas are certainly instances of this character, where heads of bureaus and not the heads of Departments have made estimates. He is certainly mistaken. I move that the report be printed.

The motion was agreed to.

#### EXECUTIVE SESSION.

Several executive messages in writing were received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some

time spent in executive session, the doors were reopened at half past one o'clock, when the Senate took a recess for three quarters of an hour.

The Senate was again called to order at a quarter past two o'clock.

#### RECONSTRUCTION.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Mr. TRUMBULL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate agree to the first amendment of the House with the following amendments: in line ten strike out the word "illegal" and in lieu thereof insert "not legal State governments;" in line thirteen, before the word "authority," insert the word "paramount;" and that the House agree to the same as amended.

That the House recede from its second amendment to the amendment of the Senate, and agree to the second section of the Senate amendment amended as follows: In line three strike out the word "approval" and insert "disapproval;" in line four, after the word "States" insert and to have effect till disapproved;" in line seventeen strike out the word "approved" and insert "disapproved;" in line seventeen after the word "general" insert the word "as;" and add at the end of the section, "and to fill vacancies occasioned by death, resignation, or otherwise;" and that the Senate agree to the same.

That the Senate agree to the amendment of the House to the third section of the amendment of the Senate.

That the Senate agree to the amendment of the House to the fourth section of the amendment of the Senate.

That the House recede from its amendments to the fifth section of the amendment of the Senate.

That the House recede from its amendments to the sixth section of the amendment of the Senate and agree to the same with the following amendments: strike out the word "time" in the ninth line and in lieu thereof insert "commencement;" in line seventeen strike out the words "the general laws" and in lieu thereof insert "any general law;" and at the end of line seventeen add "or for the administration of justice;" and that the Senate agree to the same as amended.

That the Senate agree to the amendment of the House to the seventh section of the amendment of the Senate.

That the House recede from its amendments adding sections nine, ten, and eleven, being House amendments eight, nine, and ten.

That the Senate agree to the House amendment eleven, numbered section twelve, with the following amendments: strike out the word "holding" after the word "persons" in line two and in lieu thereof insert the words "hereafter elected or appointed to;" insert the words "any so-called" before the word "State" in line three; and that the House agree to the same.

That the Senate agree to the twelfth amendment of the House, numbered section thirteen, with the following amendment: insert the word "civil" before the word "officer" in the fifth line, and that the House agree to the same.

That the Senate agree to the thirteenth amendment of the House, amended as follows: in line one strike out "fourteen" and insert "eleven."

L. TRUMBULL,  
G. F. EDMUNDS,  
T. A. HENDRICKS,

*Managers on the part of the Senate.*

T. STEVENS,  
G. S. BOUTWELL,  
W. S. HOLMAN,

*Managers on the part of the House.*

Mr. SUMNER. I should like to have some explanation of this report, for following it as closely as I was able to I am still left in some doubt as to the extent of the change which has been made. I should like to ask my friend in what condition section twelve of the House amendments is left.

Mr. TRUMBULL. The Senate agrees to section twelve of the House amendment with amendments. If the Senator has it before him he will see that the amendment is by striking out the word "holding" in the second line and inserting in lieu thereof "hereafter elected

or appointed to;" and then in the next line by inserting the words "any so-called;" so that the section as reported by the committee on conference will read:

That all members of said boards of registration, and all persons hereafter elected or appointed to any office in said military districts under any so-called State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States.

I shall be very happy to answer any question, or to make any explanation in my power, to enable any member of the Senate to understand exactly the condition of the bill as reported by the committee of conference. I would go on and make a statement as to all the amendments; but I apprehend it would be very difficult to make it so clearly as to have it understood without attention being called to the particular amendments. If there is any particular amendment that the Senate does not understand, or any Senator, I shall be very happy to afford any information. I believe I have answered the question of the Senator from Massachusetts so that he will understand exactly what the change is.

Mr. SUMNER. I do now. The change, as I understand it, is to make this clause prospective instead of being at once prospective and retroactive. As it came from the House it practically vacated all existing offices. In that respect, I must say in all frankness, I prefer the proposition as it came originally from the House of Representatives. I regret that our committee felt obliged to require any such change. And now, as we are about to dismiss this subject for the present session, I cannot forbear again expressing my regret that the measure has not been made more complete, in one word, more radical. This is the third bill of reconstruction on which we have been called to act. We ought never to have acted on more than one; and had the Senate been sufficiently radical, had it founded its bill on clear, definite principle, there would have been no occasion for more than one. Just to the extent to which we have failed to found ourselves on clear, definite principle our bills have failed; and should there be a failure hereafter under the present bill it will be precisely on that account. I shall never cease to lament that Congress did not at once assume jurisdiction of this whole region, and establish civil governments in the exercise of its plenary authority under the Constitution of the United States, giving to those governments ample military support. Such a measure of reconstruction would have been founded on principles which would defy the criticism of history. I hope that what we have done will hereafter be judged leniently. I know, however, that it is not above criticism. Of course such a measure would have removed out of sight all the existing State governments and municipal governments which have been set up there by rebel authority or by the President in the exercise of a usurped authority. And now I think it is not too late to do this last work; even if you decline to establish civil governments, I think that under your military bill you should go forward and brush away all the existing governments there. From the information that comes to me privately and publicly out of every one of the rebel States I am led to this conclusion. Those governments, whether State or municipal, are just so many centers of rebel influence. They stand in the way of reconstruction. They prevent the beneficent operation of your legislation. However, the Senate has declined to enter upon that path. I regret it, and I now at this last moment record my regret.

Again, the Senate has declined to require of these people certain conditions which I think essential to a system of republican government. One of these is a system of public education. I shall never cease to lament that there has been a failure in that regard. I have now in my hands a paper from New Orleans, which has come to me since I have been at my desk to-day, of July 9, 1867—it is a paper I believe edited by colored persons, and an

excellent paper it is, The New Orleans Tribune—which contains an article entitled "Public Schools," from which I will read a brief sentence:

"Who will open the public schools to all children? We are of opinion that it will only be done by a colored mayor with colored members of the city council. This opinion is justified by facts."

The article then goes on to set forth the impediments which they have found in the way of public schools. And yet in the face of such intelligence from the rebel States, we have declined to require a system of public education as an essential element in these new governments. I regret it; and I desire again to record my regret.

I fear, also, Mr. President, that in the operation of this bill you will find that we have not been sufficiently explicit in the exclusion of rebel influence. I have made my best effort to remove doubts on the existing bill and to add to the exclusion. In saying that, I desire, however, to remark that I regard all exclusions as belonging to what I call the transition period. When reconstruction is accomplished then the time will come for us to open the gates, but not till then.

Mr. TRUMBULL. Mr. President, I am a little surprised at the course of my friend from Massachusetts. The committee of conference was charged with a certain duty as I supposed, which was to meet with the conferees of the House and endeavor to agree with those conferees in carrying a bill, in regard to the details of which the two Houses had disagreed, in such a way on our part as to carry out the views of the Senate. Now the Senator from Massachusetts must know that we had no jurisdiction over this question of schools. There was no such provision in the bill. So far from it, the Senate had voted down his educational proposition refused to entertain it. Then what could the committee do? He certainly could not expect the committee of conference, against the vote of the Senate, to put such a clause in this report.

Mr. SUMNER. I hope the Senator will understand me as not making any criticism on the committee. I was simply speaking of the bill in this final form.

Mr. TRUMBULL. The question before the Senate is on agreeing to the report of the committee of conference. The conferees of the Senate endeavored to carry out the views of the Senate, and we think we have substantially done so. We have preserved in the bill which is reported all the features which were in the bill passed by the Senate. I think there is no change that materially affects the bill as we passed it.

We have also been compelled to accept some amendments made by the House. I think the amendments that we have agreed to accept in order to produce harmony between the two Houses are of a character that do not materially affect the bill as it was passed by the Senate; and I believe the bill now as it comes back from the committee of conference is substantially the bill as the Senate matured it and sent it to the other House. This is all we could do as a committee of conference. Certainly the Senator's remarks now upon this question of agreeing to the report of the committee, going to show that the original bill was not right, are entirely out of place, it seems to me, because we are by no means responsible for not having such a bill as the Senator wanted. We should be responsible to the Senate if we had reported a bill from this committee substantially different from the views of the Senate as expressed in the passage of its bill. That I think we have not done.

Now, sir, I have not gone into an explanation of these various amendments. I state, however, to the Senate that the bill as reported by the committee of conference embraces, as I think, substantially the bill as it passed the Senate, and that it has no new features incorporated into it materially affecting the bill as we passed it. If any Senator desires informa-



tion as to any particular section I shall be most happy to give it.

Mr. THAYER. I desire to ask the chairman of the committee of conference if section nine of the House amendments is retained or stricken out?

Mr. TRUMBULL. Section nine of the House amendments was disagreed to by the committee of conference, and is stricken out.

Mr. THAYER. That is the section prohibiting civil courts from certain interference.

Mr. TRUMBULL. Yes, sir; that is left out.

Mr. THAYER. And also sections ten, eleven, and twelve?

Mr. TRUMBULL. No; section twelve is retained with a slight amendment; sections ten and eleven are stricken out.

Mr. HENDRICKS. I may be excused perhaps for imitating the example of the Senator from Massachusetts and making an explanation, though I have no solemn protests to record or regrets to express about this business. I was on the committee of conference—not representing myself on that committee as I understood, but representing the Senate, and felt it to be my duty to secure, as far as my influence would go, the will of the Senate as it had been expressed on questions of disagreement between the two Houses. I think the result of the conference has been to secure substantially the pleasure of the Senate as it had been expressed in the votes during the last few days. But perhaps it is due to myself to say that in signing the report I did not give my personal approval to the result of this legislation, nor to all the matters that find their way into this report; but as a representative of the Senate I thought it my right and my duty to sign the report, inasmuch as it substantially secured the will of the Senate, that is of the majority of this body.

In one or two particulars I do not like this bill as well as I did the Senate bill. The first section of the Senate bill was a franker statement and a more logical statement of this legislation than this first section, as it now stands upon the report of the committee. Indeed, much of this section, as it comes from the House of Representatives, has not very much force or intelligence in it. It declares in the first part just what was declared in the legislation of last March: that the southern State governments are not legal; and then it is stated that said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress. That is substantially declared in the first section of the Senate bill.

I could not, if voting on my own account, at all have supported the twelfth section; but the modification which the committee secured made it less offensive to me than it was as it came from the House. The oath which is to be required of southern office-holders hereafter, as the House framed the bill, was required of all now in office. The effect would have been to drive every man in the southern States holding office under the State governments from office if he could not take this oath. As the section now stands it requires the oath only of those who may be hereafter elected or appointed; so that it stands now less objectionable, in my judgment, than the section as it came from the House, and never as I thought to the wish of the Senate.

The thirteenth section I thought ought never to find its way into any act of Congress:

No district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States.

I suppose the purpose of that is to declare that in the administration of this law and the laws to which it is amendatory the officers shall not be bound by the opinion of the Attorney General. I do not think Congress ought to make a declaration of that sort in any law. It has been the policy of the Government from the first to provide to the Cabinet and the President an adviser upon law questions. It

has been found a wise policy; the Attorney General has been found a useful public officer; and to say that a subordinate officer, who may have no knowledge whatever of law, shall be authorized to disregard the opinion of the Attorney General of the United States upon the construction of the law which that officer is to execute is to assert a higher intelligence and higher integrity in that subordinate officer than is presumed to be found in the Attorney General—a contradiction to the policy of the Government from almost, if not altogether from, its foundation. A registrar of votes is authorized by this bill to say that the opinion of the Attorney General, if it shall be given in regard to this law, is not the correct construction of the law. I suppose that the opinion of the Attorney General is not binding on any officer of the Government in one sense. It is not binding in the sense that a superior officer may issue an order to an inferior officer which that inferior ought to and must obey; but the opinion of the Attorney General is addressed to the judgment, and ought certainly to receive the respectful consideration, of any officer who is called upon to execute any law upon which that opinion may be expressed; and is there such a crisis in our affairs that we are authorized to reverse a policy which has been found so useful and so wise?

Mr. JOHNSON. Does that section relate to the President?

Mr. HENDRICKS. The section relates to any officer who gives an opinion; but it would not relate to the President if the President issued an order. Practically, this section is not hurtful. The President will yet take the advice of the Attorney General, I presume; and if he believes that advice to be sound, upon it he will issue the proper orders as the superior in command of the Army, as at the head of the administration of the laws; and that order must be obeyed by all inferior officers. While the inferior may not regard, in his judgment, the opinion of the Attorney General, he must obey the order that comes from his superior; so that the section itself, practically, is not hurtful perhaps; but in my judgment it is a blot upon the legislation of the country and not creditable to the intelligence of Congress.

I regret very much that the officers of the State governments are required to take what is called the iron-clad oath. I think it is inconsistent with what Congress proposes to do. Does Congress undertake to regulate these State governments which in its very law it declares to have no legal foundation? It is competent for Congress to require of officers who may be appointed under this law and under the laws to which this is an amendment to take any oath that may be prescribed; but for Congress to go beyond that and prescribe the oath which shall be taken by an officer in a government which Congress declares not to be legal is in my judgment simply an absurdity. But I hope it will not be hurtful. The opinion has been expressed to me by a very well-informed gentleman that it will be difficult to find in very many localities persons to fill the local and, in many instances, important offices under the State governments if this becomes a law. If a practical inconvenience be found I will trust to the fairness of Congress to remove the trouble. I believe one of the commanding generals in a letter recently written has expressed the opinion that if all the class of men who would fall within the provisions of this section be excluded from public office, government must suffer for the want of intelligence and integrity in the service; and with that information from one general, who I believe commands in a very high degree the confidence of the majority in Congress, we enact this section. It did not command the approval of my judgment; but I was not advised that it was offensive to the majority of the Senate, and therefore I felt authorized as representing the Senate to sign the report of the conference committee which contained that section.

I was very much gratified that we were able to reject the ninth section altogether as it came

from the House, which provided that no man should be heard in court for any wrong done to him by any officer under the pretense of the authority of this legislation. It could not be heard in any court, State or Federal. The fact that the man was acting under the color of this legislation was to be a complete answer to the suit. Whether he went beyond the legislation and did a willful, cruel, and malicious wrong to a man mattered not if this section had continued.

So I was gratified that we were able to reject the tenth section. That section undertook to strip the President of his authority as Commander-in-Chief of the Army. I thought I knew the sentiment of the Senate upon that subject; that if we had agreed to that section the report could not have been adopted in this body. Whenever the question has been raised in the Senate the proposition to strip the President of a constitutional authority and to relieve him from constitutional duties has failed in the Senate. He is the Commander-in-Chief of the Army. We cannot say that he is less, nor take from him any power which he possesses rightfully as such commander.

So I was gratified that the eleventh section was stricken out, which undertook—I believe it might be expressed in a very few words—to lay a foundation for impeaching somebody; to declare that in any way to disregard the obligations of this law should be a misdemeanor and subject the person to punishment. What particular act should be punished was not defined; but any effort to interfere with the execution of this law by anybody should subject that party to a punishment for a misdemeanor. Of course the Senate could not agree to that. There are too many obvious reasons why they could not. Crime should be exactly and accurately defined, and it would be an odious thing to punish a man upon such a general description and definition of an offense as that. You would have to go beyond the limits of Europe to find such a definition of a crime, I think, as that. You would have to go into the despotisms of Asia. When a man is to be punished he is to be advised in advance what is the thing required of him or forbidden.

Mr. President, I did not intend to extend my remarks so far. I intended to say that I signed this report, not as expressing my individual views upon the several propositions, but as expressing, as far as I could ascertain, the pleasure of the majority of this body. I signed it in a representative capacity, the representative upon that committee of the pleasure of the Senate; and I think I am authorized to say that, with the exception of the section numbered twelve as it comes from the House and section thirteen as it comes from the House, the will of the Senate has prevailed in this report. I judge from the votes of the Senate that have been given for several days past.

Mr. TRUMBULL. I desire to say in regard to this thirteenth section that as an independent proposition it does not meet my approbation. I should prefer that it was not in the report. But, sir, it was insisted upon by the conferees on the part of the House, and as has been stated by the Senator from Indiana there were other sections which the House had added to our bill that we thought of vital importance to have stricken out. This one I did not think would have any practical importance to defeat the operation of the bill. I think myself it was in bad taste to insert this section in it. I do not believe that without this section an officer charged with a duty, a civil officer acting as a judge at an election is to be bound by the opinions of anybody else. He should pay proper respect to the opinions of persons who are supposed to understand the questions which he is to decide and about which they express opinions; but if I was acting as a judge of an election, or as a justice of the peace, or in any other capacity where I had a discretion imposed upon me, I would not recognize the authority of anybody to bind me in giving a decision, though I should doubtless be disposed to follow the opinions of those who



I thought might understand the questions better than I did, if they did not disagree with my convictions of duty. But inasmuch as we thought there was no practical importance in the section to interfere with the operation of the bill, as the Senate had agreed to it, rather than have a disagreement with the House about it the conferees of the Senate agreed to the thirteenth section as it was amended. I think I am authorized in saying, not only for the Senator from Indiana, but also for my colleague from Vermont, [Mr. EDMUNDS,] that none of us would have preferred this thirteenth section, and it was only left in as a necessity to bring about an agreement between the two Houses, thinking it would do no special harm.

Mr. EDMUNDS. It is mere smoke.

Mr. TRUMBULL. The twelfth section I think is not obnoxious now to any serious objection. It only applies to persons hereafter elected or appointed to office. The Senate will recollect and the Senator from Indiana will remember that under our original reconstruction act no person was to be eligible to office who would be disqualified for holding office under the provisions of the third article of our proposed constitutional amendment. The third clause of that proposed constitutional amendment would embrace the very parties who would be disqualified to take this oath, so that substantially there is no great importance in the twelfth section. For my own part I can say in reference to the twelfth section what I could not say as to the thirteenth. I would not allow a man to hold office or to be elected to office in these rebel States that could not take the oath.

Mr. WILSON. Mr. President, if this law is carried out without any interference on the part of the executive government the Senator from Indiana will not regret that he has signed the report of the conference committee. It is possible we might have framed better bills than these bills; but everybody in the rebel States can bear testimony to the wonderful effectiveness of the laws already passed, until the opinion of the Attorney General was given. The passage of this bill will complete the work, and I have the fullest confidence that it will be effective. I rise now to express the hope that throughout that part of our country men of all parties and of all sentiments and feelings will clearly understand that, if they comply with the terms and conditions of these three reconstruction laws honestly and faithfully, all obstacles will be removed, and they will be admitted into these Chambers. I think it is important that they should so understand these acts. The original law provides that if the terms and conditions are complied with faithfully, so that Congress shall be satisfied of it, they shall be entitled to representation; and if they elect men who can take the oath they shall be admitted into these Chambers. In my judgment all discussion, all doubt or question on this point operates against the friends of reconstruction. It is a common thing for those who are opposed to reconstruction on any terms, who would defeat what we have done, to charge us with insincerity and trifling. Let it be distinctly understood by all that these laws are passed by Congress to restore the rebel States and people to their practical relations; that if they comply with the conditions prescribed, Congress will redeem its pledge.

I should have preferred to have fixed a time for the expiration of the terms of those who are now in office, because ninety-nine out of a hundred of them cannot take the oath. But many of them have changed their sentiments and opinions, are faithful officers and good men, and the military commanders could have continued such men in office. If we had required them to take the oath the very best men among them would have been the men who would not have taken the oath. The Governor of Alabama, the other day, attended the convention in that State, and made an earnest speech in favor of reconstruction; and he committed himself fully to the policy of Congress. He is in Washington, and he brings me a letter from

General Pope recommending that Congress shall remove his disabilities at once. It seems to be understood that we cannot enter upon the policy of removing disabilities until these States are reconstructed and their representatives admitted. Under this section, as it came from the House of Representatives, he would have to vacate his office; he could not take the oath; and so with some others who are earnest and devoted to the policy of Congress. The friends of reconstruction lose quite as much as the opponents of reconstruction by the exclusions from voting. I indulge the hope that this bill will complete the work, and that in the course of a few months or a twelvemonth these States will honestly comply with our terms and conditions. I have no doubt they will do so, and that a large majority of the men they send to the Senate and House of Representatives will be earnest, devoted Union men, in favor of the equal rights of all men, and who will think and speak and act as the majority of these two Chambers now think, speak, and act.

Mr. FOWLER. I wish to say one word in regard to this bill and its general principles. I shall vote for it, as I did for the previous bills, because it proposes some method of adjusting our difficulties and restoring these States. I have, however, some objections to it. The first objection is that it is not the kind of bill which I think the Congress of the United States ought to have provided. I think they should have provided a civil government, not a military government. Secondly, starting with the proposition that the existing governments there are illegal governments, they are yet reserved as auxiliary, if not as primary, civil governments in this respect. They have the whole civil power of those communities in their hands. As we believe that power was placed in the hands of the enemies of the party that has triumphed in the war, it was our duty to take it out of their hands and to place it in the hands of our friends. To avoid any misconception in regard to this matter, I will say that I believe that the party in the majority should have organized civil governments there, placing the entire social and political power in the hands of our friends, and not in the hands of our enemies. Much fault has been found with the Executive; much denunciation has been heaped upon him for placing the political power there in the hands of his friends. But now, Congress, after taking the whole subject into their own hands, have thought proper to leave this entire organization as they found it; and hereafter the fault will be upon them, not upon the Executive.

There is another objection I have, because the measure is not sufficiently thorough; it does not go to the bottom of the subject. It places the freedmen entirely under the control of those who hold property. It is the duty of the Government of the United States to render the freedmen independent of the circumstances which surround them, so as to enable them to cast their votes independently of the property-holders, or landholders, who have a social and a political influence, which, when exerted upon them, is almost a necessary power compelling them to vote as it thinks proper. Any thorough measure of reconstruction should have provided for the freedmen, so as to render them independent of the proprietors. Notwithstanding these objections, however, I shall vote for the report, because it promises some method of reconstruction, and of restoring these States to the Union.

Mr. JOHNSON. I have but a word to say before casting my vote. When the original laws were before us I voted for them, for reasons which I then supposed to be satisfactory, and which certainly were satisfactory to my judgment; and I adhered to that vote when the bills were vetoed by the President. I have seen no reason since to regret that determination. I believed then—and I voted under that impression—that the effect of the bills would be that these States would soon be in the Union. I think now that they would be in the Union without this additional legislation, even as that

legislation has been interpreted by the Attorney General. But the Senate entertain a different opinion; they suppose that the effect of that interpretation and the action which they anticipated would be taken by the Executive would interfere very materially with the execution of those laws; and they therefore thought proper to introduce and pass the bill which we acted upon yesterday. That has gone to the House in the shape of an amendment to a bill which the House had passed on the same subject; and the question for me now to decide is whether I will vote for or against the report of the committee of conference.

It is my purpose to vote for it. In voting for it, however, I do not abandon the opinion which I entertained when the subject was brought before us in the first instance, that the construction given by the Attorney General was in the main correct, and I have reason to believe that that is the view taken of it by most of the profession in the United States, including judges as well as gentlemen of the bar. But the question as it now stands before us is, as I think, whether it is proper for one who entertains the opinion which I do entertain to vote for the report of the committee or to vote against it. I have come to the conclusion that it is my duty to vote for it. If I should vote against it—and in advance I cannot tell necessarily what will be the vote of the Senate—and if the effect of that vote should be to defeat the report of the committee, then it might very naturally happen that a bill even more objectionable than his would have been if the amendments proposed by the House to our bill and which they have agreed to recede from, had been adopted by the committee.

I shall therefore, as I said just now, vote for the report of the committee, and I sincerely hope that this will be the last occasion when in the judgment of any member of Congress it will be deemed necessary to legislate upon this subject. It is high time that the Union should be restored as it was before the attempt at its disruption. It is in my view—and I say it with no intention of reproaching anybody—a reproach to the wisdom of the Government in all its departments that after we have terminated in the field this war, put an end to every effort to obstruct the execution of the laws, we should still be without a representation from ten of the States where the war was originally waged. I look therefore to a very early determination of that anomalous state of things; and when that shall have occurred, I shall look at an early period thereafter for a restoration of all the kind and fraternal feelings which Americans should feel for each other, and anticipate that the Union will be what it was when it was originally established, a union of hearts as well as a union of men.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

Mr. DAVIS. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I did not intend to say anything on this subject, and should not do so now if I were not required to go upon the record. I am very much surprised at the character of this report from the committee of conference. I had no expectation that our committee would have been able to obtain from the committee of the House so many concessions to those opinions which have heretofore obtained in the Senate. I think that the report is much more favorable than could have been reasonably expected, considering the constitution of the House branch of this committee of conference; and that in very many respects the results of the deliberations of the committee are worthy of commendation. But, sir, when I am to go upon the record on this report, when I am called upon to assent to the final passage of this measure, containing certain provisions upon which I have heretofore spoken, and which are abhorrent to my ideas in regard to the power of Congress and in regard to the public policy of the country, I am compelled to vote in the

negative. I should not have undertaken myself to make up the record, but as it is to be made up, I think that my duty to myself and my public convictions require me to vote in the negative.

Mr. CAMERON. Mr. President, I did not intend to say a word on this subject, and I shall only say one or two words now. I regret very much that my colleague is not able to vote for this report. I am glad to arrive at any decision here which will bring this Union together again; and I have thought that was the desire of my colleague also. In my judgment if the executive officer of the Government had let well enough alone we should not have been called here now, and there would have been no necessity for another bill on this subject. I want the Union restored; but I want those people who have been in rebellion and who have brought all this trouble upon the country to know that they have done wrong. If they had been let alone after the surrender of Lee, I am sure it would not have been necessary for us to pass any of these bills that are called reconstruction bills. I think, too, that if their officious friends, their unwise friends, had let well enough alone since the last adjournment of Congress, it would have been better for them, and perhaps better for the country.

Now, sir, I vote for this measure with the desire that it shall be the end of our legislation on the subject; but if the people of the South are not content with the clemency of Congress, then I say I hope we shall come back again and give them something else. They have been rebels to the Government; they have tried to destroy it, and they had no right to expect the clemency with which Congress has treated them.

When I look back to the history of other countries I find that from the time of the Stuarts it was the Parliament which saved the liberties of the people; and I am satisfied now that it is the representatives of the people who are going to save the liberties of this country. I dislike all this mawkishness which we hear about constitutional questions. What mockery to hear prating about the Constitution from the mouths of those who have disregarded the Constitution; who sought not only to destroy the Constitution, but to destroy the whole country, and who, when they were in rebellion, did all they could to make themselves shameless before the world; who were not only disgraceful in their conduct, in their injuries to their fellow-citizens, but to the whole world. And these people have no claim to governmental rights except what the people of the North are willing to extend to them. I think one of the grandest spectacles which I ever read of in history has been that justice which has lately been meted out to a man who went down into Mexico to subvert the liberties of that country. I believe that if we had been a little more positive in our acts of justice at the close of this war we should not have had the trouble we now have.

I have only got to say, Mr. President, that I approve of this bill. I would have taken the bill of the Senate, or I would have taken the bill of the House. Either of them was strong enough for me. Either of them, I think, would save us from any further trouble. And I repeat again, if this does not satisfy the people who were in rebellion, I shall be willing to come back and try to legislate them into the Union.

Mr. DAVIS. Mr. President, I concede that the crimes of the people of the South have been very great, but I deny that the crimes of any portion of the people of the United States can increase the powers of Congress; and at the same time I maintain that it is not the people of the South alone who have committed crimes. Crimes have been committed by others besides the rebels.

I voted and spoke against the original bill, of which the measure under consideration is a supplement. I voted and spoke against the supplement that was passed in March to that original bill. If I had occupied the position

of being a supporter of the original measure, and had voted for it, I should have felt myself free to vote for this measure; but when this measure is an aggravation of the original bill and of the supplemental bill, and its only purpose is to put down this noose tighter and more inexorably upon the people of the South, how can any man who voted against those original measures give his sanction to the present measure by voting for the adoption of this report of the committee of conference? This is the very question: whether the present supplemental bill shall become a law or shall fall? The vote of the Senate on this report decides that question. If we vote in favor of the report of the committee of conference we vote that the measure shall become a law. If we vote against the report of the committee of conference we vote practically and essentially to reject the measure.

Mr. President, it is not in any clemency to the people of the South that I have taken my course in relation to the policy of the late war and the measures which the Government adopted to put it down. It is for no purpose to benefit or to relieve them that I have pursued the course which I since thought proper to pursue; but my principles and course have been dictated by my understanding of the Constitution of our country, and by my devotion to that Constitution and to the liberties, not of the South, but of the whole people of the United States, including those of my own State. Sir, if I were to give this measure my sanction, with my convictions of its utter unconstitutionality and its total overthrow and destruction of American liberty, I should deem myself a base recreant, unworthy to be a member of the Senate, unworthy to be ranged as a friend of constitutional liberty.

Sir, I am not going to enlarge my remarks on this occasion, but I say that the people of the southern States have a right to self-government under the Constitution of the United States; and according to the principles of the Constitution they have that right at this time as ample and unquestioned, as little subject to interference by Congress, as has the State of Ohio or the State of Massachusetts. I utterly deny that Congress has any power to impose a government upon the ten States that were lately in rebellion. There is not a vestige of any such power in the Constitution; and so far as it has been exercised, according to the concession and in the words of the bold innovator in the House, it is a power outside of the Constitution and independent of the Constitution. Your idea of revolutionizing States, of conquering States, of clothing Congress or the whole Government of the United States with the powers of conquerors because they have constitutionally suppressed a rebellion in certain States, is preposterous in the last degree, and it is utterly inimical to all ideas of constitutional government and popular liberty. I think that is a position which never has been and never will be refuted. I denied a few days ago that Congress had any power to establish a military government. I again, in a word, repeat that position. Congress has committed the double enormity not only of usurping the power of ten States to establish their own governments, but of infringing upon the constitutional authority of the President of the United States as Commander-in-Chief to see to the establishment of order in a conquered territory.

But, sir, I merely got up to protest that I believe that consistency and principle and the highest sense of duty require me and every man who is a member of either House of Congress, and who believes that the original measure was unconstitutional, to vote against this and all other measures proposed as subsidiary to it.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 31, nays 6; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Cole,

Conkling, Cragin, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—31.

NAYS—Messrs. Bayard, Buckalew, Davis, Hendricks, Norton, and Patterson of Tennessee—6.

ABSENT—Messrs. Cattell, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Guthrie, Morrill of Vermont, Morton, Ross, Saulsbury, Sherman, Sprague, Stewart, and Williams—16.

So the report was agreed to.

#### SUFFRAGE FOR COLORED CITIZENS.

Mr. SUMNER. The Senate has completed one important work; and I now move that the rule will be so far suspended as to authorize the proceeding with the consideration of Senate bill No. 124.

Mr. TRUMBULL. What is it?

Mr. SUMNER. The bill that was ruled out of order last night.

Mr. TRUMBULL. There have been so many ruled out of order that we do not know by that mere statement what it is.

Mr. SUMNER. It is a bill to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government by securing the elective franchise to colored citizens.

Mr. TRUMBULL. I am under the impression that that bill was referred to the Judiciary Committee and never reported back.

Mr. SUMNER. I beg the Senator's pardon. It is on the Calendar reported back with the request of that committee to be discharged from its further consideration.

Mr. TRUMBULL. I think this is not one of those bills. I have no recollection of its ever having been considered by the committee, and I think so important a bill ought certainly to receive the serious and careful consideration of some committee. If the bill has been reported back, I think it was an inadvertence.

Mr. SUMNER. My motion is that rule of July 5 be suspended, so as to allow the consideration of Senate bill No. 124.

Mr. GRIMES. The Senator has not stated the title, nor has it been read by the Clerk at the desk. I trust, therefore, the Senator will explain to us the provisions of the bill, so that we may know what it is.

Mr. SUMNER. I take it the Senator is aware of the provisions of the bill. It was explained last night.

Mr. HENDRICKS. I rise to a question of order. It is that the resolution adopted by the Senate cannot be suspended as a rule of the Senate might be by unanimous consent. That resolution became the law of the body for this session, and it cannot be disturbed except by a motion to reconsider, and the time for a reconsideration has passed.

Mr. CONKLING. Or on one day's notice the rule may be changed.

Mr. HENDRICKS. I do not think it is an ordinary rule of the Senate, which can be changed on one day's notice. It is a resolution, which stands as a fixed law of the body for the session, and can be only disturbed by a motion of reconsideration. Therefore the motion of the Senator to suspend it is not in order.

The PRESIDENT *pro tempore*. I know of no process by which a rule of the Senate can be suspended by a two-thirds vote, as is done in the other House in regard to the rules of that body. I believe a rule allowing such a vote of suspension has never prevailed in the Senate. By unanimous consent we supersede our rules frequently, but in no other way. In order to rescind or modify a rule one day's notice previously must be given. I do not think this motion is in order.

Mr. SUMNER. Then I give notice that to-morrow or the next day I shall move to suspend the rule of the Senate so far as to allow the consideration of this special bill.

#### RECONSTRUCTION EXPENSES.

Mr. WILSON. I move to take up Senate bill No. 134, making an appropriation for the

execution of the laws providing for the more efficient government of the rebel States.

Mr. HENDRICKS. I wish to make an inquiry of the chairman of the Finance Committee, if it is not a very unusual thing to originate an appropriation bill in the Senate? I know the constitutional provision does not extend to it; but I ask whether it is not a very unusual thing, whether it is not a departure from the uniform practice, to originate an appropriation bill in the Senate?

Mr. FESSENDEN. The chairman of the Committee on Finance [Mr. SHERMAN] is not here.

Mr. HENDRICKS. Then I will make the inquiry of the Senator from Maine, who is, with me, on a question of that sort as good authority now as if he were chairman.

Mr. FESSENDEN. Well, sir, there is no constitutional objection to originating an appropriation bill in this body, because the constitutional provision applies only to bills for raising revenue, and not to bills appropriating revenue. Within my recollection, at one session the Senate concluded that in order to advance business they would originate one of the general appropriation bills, although the custom had been to have them originate in the other House. That was done, and the bill was sent down to the House; but the House objected to it, and laid it on the table, and I think immediately adopted it as their own, originating there as a new bill.

Mr. JOHNSON. The House has uniformly objected to our taking any such course.

Mr. FESSENDEN. They have uniformly objected to it, and claimed the sole right to originate such bills themselves. But we are in the habit every day of originating appropriations here for specific purposes, not the general appropriation bills. I do not see any objection to originating this bill in the Senate, and I presume the other House will take no exception to it, as it appropriates a sum of money for a specific purpose. There is really no constitutional objection to it.

Mr. HENDRICKS. I was quite aware that the constitutional provision extended only to revenue bills; but I felt at the same time very sure that the Senate was not in the habit of originating appropriation bills. It has been the understanding, I think, from the foundation of the Government that those bills ought to originate in the popular branch of the Legislature when the members come directly from the tax-paying people. I do not think there is a sufficient reason now to depart from a principle that the House has insisted upon whenever the question has been presented. I suppose, however, there is no rule under which objection can be made; but upon this ground I shall vote against taking up the bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to take up Senate bill No. 134 for consideration.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WILSON. The bill was laid over last night for the purpose of getting the estimates. I have now received them, and I send the letter containing them to the desk to be read.

The Chief Clerk read as follows:

WAR DEPARTMENT,  
PAYMASTER GENERAL'S OFFICE,  
WASHINGTON, July 9, 1867.

Sir: The undersigned, to whom the subject has been referred, have the honor to report that a further appropriation of \$1,648,277 would appear from the estimates received to be possibly necessary to complete the work of reconstruction in the rebel States under the acts of Congress of March 2 and 23, 1867; the original appropriation for this object (\$500,000, by joint resolution of March 30, 1867), having been distributed to the respective districts, as follows:

First district.....	\$69,444 44
Second district.....	69,444 45
Third district.....	97,222 22
Fourth district.....	97,222 22
Fifth district.....	166,666 67
	\$500,000 00

It appears by the estimate transmitted that a further large amount is requisite, as follows:	
First district, estimate for further sum necessary to complete.....	\$80,000 00
Second district, same.....	461,805 00
Third district, same.....	27,778 00
Fourth district, estimates to July 1, in addition to the amount (\$97,222 22) already supplied.....	245,539 00
Fifth district, estimates for one month dated April 17, for \$243,420, of which \$166,666 67 have already been supplied, leaving a remainder called for.....	76,753 00
Total.....	\$891,875 00

If General Ord's (fourth district) registrars, estimated for to the 1st of July only, should be continued on duty under pay to the end of July, then there should be added to the above the expenses for that month, at the rates of compensation stated in his estimate, the sum of \$159,781, and if continued to the end of August double that sum—\$319,562.

The same, likewise, of General Sheridan's district, (fifth), whose estimate received is for one month only. If the monthly expenses continue for a period of two months at the rate stated they will amount to the further sum of \$218,420. If for three months, to \$436,840.

These figures give the sum of \$1,648,277 as possibly required, but dependent upon contingencies which cannot now be determined.

We have the honor to be, very respectfully, your obedient servants,

B. W. BRICE,

Paymaster General.

E. D. TOWNSEND,

Assistant Adjutant General.

Hon. EDWIN M. STANTON, Secretary of War.

Mr. JOHNSON. I ask the chairman of the committee if that recommendation is sanctioned by the Secretary of War?

Mr. WILSON. I suppose it is. I have here a note signed by General Schriver. I was at the War Department yesterday morning and the Secretary of War placed the document which has been read in my hands. I handed it back to him, and he said that he would send it down yesterday.

Mr. JOHNSON. Apparently it is from the Paymaster General.

Mr. WILSON. It is a report of the Paymaster General and the Adjutant General to the Secretary of War of the amount necessary for the purpose; but just now I received from the War Department a letter of General Schriver inclosing this report from the War Department, signed by these officers as their estimate.

Mr. EDMUNDS. General Schriver is the chief officer of the Department.

Mr. JOHNSON. We are never in the habit of appropriating on estimates from subordinate officers.

Mr. WILSON. There were certain estimates made by persons in these offices, and the papers were all referred to the Adjutant General and the Paymaster General for them to make up the estimate of what would be necessary to be done, and this report was made to the Secretary of War and is sent here by General Schriver. Why it was not signed by the Secretary I do not know. It was in his hands yesterday because he handed it to me to read.

Mr. JOHNSON. For one, I should like to have the sanction of the Secretary of War. I should not like to vote such a sum as this without the sanction of the head of the Department. At the last session it was supposed that \$500,000 would be amply sufficient for the execution of the law. Now we are asked to appropriate over sixteen hundred thousand dollars upon the mere estimate of the Paymaster General's department. Why it should be now necessary, when the matter is about to be brought to a close, and the registration is to close everywhere, I believe, in November, to appropriate \$1,600,000 more I am at a loss to imagine. It may be right; and I am not to be considered as wishing to oppose any necessary appropriation to carry out these laws; but I think the Senate ought to have the opinion of the Secretary of War on the subject before they act.

Mr. FESSENDEN. I quite agree with the Senator from Maryland in his view about this matter. I have no doubt that more money is necessary, because all these officers say so; but it strikes me that it is very unwise to pro-

ceed in this manner without having any recommendation from the President or from the Secretary of War, who is the head of the Department. The Secretary of War should examine the estimate so far as to give his sanction to it, to say the least, before we are called upon to act. Here we have a letter from an officer of the War Department, a bureau officer merely, inclosing this communication, which is founded simply upon the statement of the five district commanders that they want so much money, as near as they can guess. That they may want more I have no doubt, and that they think they want this sum, possibly, I do not question. You will notice the expression of the Paymaster General is repeated, "possibly this sum may be necessary."

Mr. EDMUNDS. That depends upon the length of time the registration is kept open.

Mr. FESSENDEN. It may or may not be necessary to appropriate so much. We have got into very loose habits on the subject of appropriations lately.

Mr. EDMUNDS. My friend from Massachusetts has handed me the letter of General Schriver, and as I am a very good reader of bad writing I think when I read this to the Senate it will relieve the objection that this is not by order of the Secretary of War. With the leave of the Senate I will read it:

WAR DEPARTMENT, July 13, 1867.

Sir: I send herewith a detailed estimate by the Adjutant General and Paymaster General of the appropriation required for the carrying out of the reconstruction acts, agreeably to your verbal request of this morning.

By order of the Secretary of War:  
ED. SCHRIVER, Inspector General.

Hon. HENRY WILSON, United States Senate.

I should infer, therefore, that Mr. Schriver would not write this letter unless the Secretary told him.

Mr. CONKLING. I have just been informed by a member of the House, who has come directly from that body, that the Secretary of War, in response to their resolution, has sent a communication to the House giving estimates, which he supposes are identical with these, but, at all events, giving estimates in detail on this subject. That communication has been referred to what is called there the Committee of Reconstruction, which, under the resolution of the House raising it, has the right to report at any time. As that committee will no doubt report back something, and as the usage is for such bills to originate in the other House, I suggest for the consideration of the Senator from Massachusetts whether or not he will govern his management of this bill accordingly.

Mr. FESSENDEN. I do not know but that this is all right. I presume it to be so; I have no doubt that the officers think it is all right; my objection is that when we appropriate sums of money, and especially large sums of money, we should have at least a recommendation in writing from the head of the Department, signed by his own hand; otherwise we act without any responsibility. It seems my friend from Massachusetts took from the Secretary of War a statement that so much money was wanted by these officers, a verbal statement, and he prepares a bill upon that. We have no record here of a recommendation by the Secretary of War. All we have is a letter from General Schriver saying that he sends this estimate here. That may be all very well; but we ought to have the data on which this calculation is founded before making the appropriation. If to-day was the last day, and we were about adjourning, and there was a pressure upon us, I should be willing, perhaps, with my belief that all is right, to waive the ordinary course of proceeding; but as the matter is before the other House, I suggest to my friend from Massachusetts whether he had not better let this bill lie over until Monday, so that we may, at any rate, keep up the form of doing business regularly and in accordance with precedent.

Mr. WILSON. I have no objection to the bill going over. I will simply say that the estimate was sent here to-day, by order of the

Secretary of War, by General Schriver. I do not know why it is that the Secretary did not sign the paper himself and send it in the usual form. But I understand the Secretary has sent the same estimates to the House of Representatives, and his communication has been referred to the committee there, and no doubt it will be promptly acted upon. I have no objection to waiting until we hear from the House, and therefore I will move that for the present, at any rate, the bill lie upon the table, unless the Senator from Pennsylvania, [Mr. CAMERON,] who appears anxious to obtain the floor, desires to say something.

Mr. CAMERON. I wish to say a word.

Mr. WILSON. I withdraw the motion.

Mr. CAMERON. I am glad to find that the Senator from Massachusetts is willing to let this bill lie over, for to my mind this is a most irregular proceeding. The whole thing is wrong. In the first place an appropriation of a very large sum of money is asked, and there is no detailed estimate. The whole statement is made by irresponsible persons. The Secretary of War, knowing as he does what is right, knowing what is the courtesy due to Congress, familiar as a business man with the proper mode of proceeding, ought not to allow his subordinates to send a statement of this kind here, because we cannot hold him responsible for it, nor can we hold the President responsible for such a recommendation. Estimates like this should come from the responsible head of the Department.

Sir, while I am up I will take this occasion to say that we must very soon change our notions in regard to sums of money. During the war we got up from millions to hundreds of millions and thousands of millions, and I do not know but that if it had continued a little longer we should have gone to hundreds of thousands of millions of dollars. We have got to stop wasteful expenditure. We must in the first place husband our means. We must in some way or other collect our revenue in a better manner than we are doing now. I think the country will find when the statement of this year is made out, that the money raised by revenue is much less than it was last year. I think much of this is due to the extravagance which the war, naturally perhaps, brought upon us.

I felt inclined to say something more about this matter; but as the Senator from Massachusetts has withdrawn his motion for the present consideration of the bill, I shall reserve what I have to say to a future time. I am glad it is withdrawn.

Mr. BUCKALEW. This bill was laid over yesterday at my instance. What I desired to obtain by the delay of this bill was not a mere statement from the Paymaster General that gross amounts were needed for the administration of the reconstruction laws, but some statement of the objects upon which this disbursement was to be made. In the paper which has been read we are simply told that certain gross sums have been expended in particular districts, naming them, and that certain additional sums are called for by the military commanders in those respective districts. There is no statement furnished us in detail pointing out the purposes or objects for which the outlays already incurred have been made; nor is there any statement of the objects or purposes for which the money is asked. So far as we know the committee that reported this bill have made no investigation into the facts to ascertain whether the money that has been already expended has been properly applied to legitimate purposes, whether there is any suggestion or any possibility of improvident outlays in the expenditure hitherto incurred.

In connection with the statement which has been read we ought also to have the different districts and their commanders mentioned. In this paper there was nothing to distinguish them but their numbers. I cannot remember what constitutes the first district, though I believe Virginia is in that district—

Mr. WILSON. Virginia is the first district,

North and South Carolina the second, Alabama, Georgia and Florida the third, Arkansas and Mississippi the fourth, and Louisiana and Texas the fifth.

Mr. BUCKALEW. That statement, then, will enable us to understand the paper which has been read so far as the statement applies to the numbering of the respective districts; but I think the Senator from Massachusetts, before he asks us on a future occasion (as this bill is now to go over) to vote this large sum of money, ought to be able to explain to us the purposes for which it is applied. I suppose that the payment of our military officers in that section of the country and the payment of our troops employed there is out of the general appropriation for the War Department, and consequently these special appropriations must be applied to some other object besides the payment of officers and privates that are discharging their duties there, and I think the country ought to know how this money has been applied and expended and how this additional large sum which is to be appropriated is to be applied. He ought to have some idea of the demand for the purpose of paying persons appointed to take the registry of voters, and what sum will probably be demanded to pay the election officers who are to hold the election.

Now, sir, let it be understood that under the existing reconstruction laws there is large discretion left to these military commanders. We have not regulated them; we have not limited them with reference to what acts they may perform in carrying out those laws. There is no restraint, therefore, left in our hands except that which may be exercised over the appropriation of money, and we ought to require from these officers a statement of what they have been doing, and of what they propose to do, when they ask us to vote to them such large masses of the public money. We have no power or control or regulation over these disbursements except what we may exercise in voting appropriations. Everything else has been left to their discretion without regulation, without check or limit.

These considerations I think will appeal to the Senate to demand of the committee when this measure is again brought before us a full exhibit, a luminous statement, giving us some account of how our money is expended, and how it is proposed to be used.

Mr. DAVIS. It would seem that this want of the Military Department has sprung up very suddenly. On the 6th of this month the subject of the exposed condition of the northwestern frontier of the United States was under debate, and the honorable chairman of the Committee on Military Affairs in that debate made use of these remarks:

"Mr. WILSON. I desire simply to say in regard to this matter of the protection of the frontiers which has been alluded to here to-day, that I went this morning to see the Secretary of War, and I asked him if he desired any legislation whatever in regard to that or any subject in his Department. He said he desired nothing whatever; they had everything they wished for except one thing, and that he proposed to send in on Monday—the estimates for carrying out our reconstruction measures in the South. They want a further appropriation of money for that purpose; but as regards legislation for the protection of the frontier or any other matters of public defense he asked nothing whatever. Therefore so far as that is concerned he asks nothing of us, and I do not know that anybody proposes anything in that regard."

It appears to me that if the head of the War Department wanted this large sum of money to establish a Radical party in the southern States, and to subjugate the southern States, he ought to have been prepared with his estimates at the beginning of this session. It seems the Secretary of War has his eye directed pretty much, if not exclusively, upon this work of reconstruction. We have all listened to the statement of the Indian depredations on the northwestern frontier, of their extent, and of their threatening character. The Secretary is entirely oblivious in relation to all the proper, legitimate, and imperative demands upon the Government of the United States, and upon its Treasury; but when the matter is the recon-

struction of the southern States, the establishment of a Radical party in the southern States, that will subjugate that people and force upon them a government odious, oppressive, and grinding, the Secretary holds in reserve his right to ask an estimate for that purpose; and when the estimate is presented it amounts to \$1,648,277. If half a million dollars were thought a sufficient expenditure of Government money for this purpose when the original measure was passed, what sudden and great exigencies have arisen since to require more than three times the amount originally asked?

Sir, the war-whoop of the Sioux and other wild bands of the West may awake the slumbers of the women and children on that defenseless frontier, as has been the case for months, and the Secretary of War hears nothing of it; and when gentlemen here appeal by facts, appalling in their character, to the Government to come to the rescue of your suffering frontier, and to relieve helpless women and children from the scalping-knife and the tomahawk, the Secretary of War has no appropriation to ask for, and the honorable chairman of the Committee on Military Affairs has no appropriation to ask for. But when this scheme of subjugating the southern States and providing for the aggrandizement and the aggregation of the power of the Radical party is made the issue, the Government and its high officials turn their backs callously, coldly, without any sensation at all, upon this scene of blood and savage warfare that is being enacted in the Northwest, and they can come up here and ask three times the original amount appropriated to be added to a corruption fund—a fund intended to enforce the laws of the United States that deprive the people of ten States of their right of self-government.

Mr. President, before this sum, so large in amount, so enormously in excess of the original amount, is devoted to a purpose not only questionable, but in my mind altogether atrocious, it seems to me that the most precise and exact estimates should be demanded from the Department, that the particular purposes for which this aggregate sum, and all its purposes, in detail by precise amounts, ought to be set forth in the estimates.

Mr. WILSON. Mr. President, the War Department has the appropriations for the Army for the year to use in any part of the country in support of the Army. They do not ask us for money for the Army in any direction. They have got abundance of it. Therefore when I asked the Secretary of War if he desired any legislation he answered properly that he had nothing to ask either in men or money. There has been a strong pressure to raise some troops for the frontier and General Sherman has been teased into recommending four regiments of mounted men, and on the strength of his letter I have offered a bill which the Secretary has not asked for, and I do not think General Grant has asked for, and from what I hear I do not think the Senate will pass it.

Now, I wish simply to say to the Senator from Kentucky that these Indian outrages do not compare with the outrages that have been perpetrated in the southern section of the country within the last year. There have been ten murders there to one by the Indians. His own State, too, must be included as one in which these outrages have occurred. There are very few parts of the country where there have been more of them than there. For one I desire to suppress Indian outrages and all other kinds of outrages, and have law and order and justice and humanity prevail in every portion of the country. I suppose we all agree in that respect; certainly we ought to do so.

Now, sir, as to this particular sum the Secretary has sent under his own name a statement to the House of Representatives of what he desires, and when we receive their bill we shall see whether there are any further details than there are on the paper which has been read. I do not suppose there are; but if there be we shall have the benefit of them. I



suppose we all want to spend just as little as we possibly can. The Secretary said to me the other day when I called on him for information, as has been read, that he was having the estimates made out and the requisitions examined carefully by the Paymaster General and the Adjutant General, and he thought he would be able to send in the estimate on last Monday. It appears, however, it has just come in to-day. Whether the statement sent to the House is any more in detail than this report of these two officers I do not know. I shall be glad to see just where every dollar goes in this matter, as I would in everything else. I certainly think it is among the first and highest duties of Congress to be careful in appropriations. I agree with the Senator from Pennsylvania [Mr. CAMERON] on that point.

I now move that this measure lie on the table for the present with a view of waiting for the bill from the House of Representatives, which they will undoubtedly send to us in a short time, and then we shall have the benefit of any statement of facts which may have been made to them.

Mr. DAVIS. I hope the honorable Senator will withdraw his motion for a moment to enable me to say a few words.

Mr. WILSON. I have no objection to accommodating the gentlemen, and I withdraw the motion.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867; and it was signed by the President *pro tempore*.

#### RECONSTRUCTION EXPENSES.

Mr. DAVIS. Mr. President, the greatest fictions of this day, in my judgment, are the stories that have been retailed in Congress of wrongs and crimes committed in the southern States against negroes and Union men. So far as my own State is concerned I know it to be so; notwithstanding every once in a while an utterance escapes the Senators from Massachusetts that indicates that their purpose is to reconstruct Kentucky. I will read what was said by the honorable Senator who is at the head of the Committee on Foreign Relations [Mr. SUMNER] upon this subject on the 5th instant, as it is not long. In the course of his remarks he said to the Senator from Maryland, [Mr. JOHNSON:]

"Communicate with your late colleague upon this floor, that able and patriotic Senator, Mr. Creswell. Listen to his testimony. There can be no doubt that the Unionists, whether black or white, in Maryland, require your protection. Give it to them. Do not leave them a prey to rebels. They are exposed in the same way in Kentucky. Here is a letter which I have from a distinguished citizen of that State, dated July 1, and I read these, out of many others, simply because they are the latest; they have come within a few hours. I read as follows:

"I hope you will be able to do good at the extra session, and extend and protect the rights of the freedmen, as they are sadly in need of it in Kentucky. Reconstruct us. This is the only loyal hope."

Now for the comment of the Senator on this false and most infamous communication:

"Such is the cry. Kentucky needs reconstruction, and it is your duty to provide it. Put it on an equality with the rebel States. Let her colored citizens enjoy the full-blown rights of citizens, and let the white Unionists there have the protection of their votes. You sent muskets once. Send votes now."

Now, I say to both the Senators from Massachusetts, that the whole black population of Kentucky are better protected and more secure in their rights than are the white people of Massachusetts. My own county was one of the largest slaveholding counties in that State, the second in number. I know that county, and I know its population, white and black, very generally, and I know that there is not a community in the United States where there is more of order, of security, of protection to life and person and property than in that county,

and I believe in the State of Kentucky generally. As in all communities, these rights in ours are sometimes violated; but very unfrequently. The wretch who from Kentucky could send to the Senator from Massachusetts such an invocation for the reconstruction of his State upon the model of the southern States, is a base calumniator of the land that gave him birth or protection, or both, and I dare the Senator to give his name to the Senate. I care not what his name is, I say here, and I will say to him when I can know and confront him that he is a vile calumniator of the noble State which his residence dishonors.

Mr. President, there are a few unclean birds in Kentucky, office-seekers, heretofore, and now Treasury rats, that have not the ability, character, and popularity to obtain office and salary by popular suffrage, who hovered upon the skirts of the Army during the war, and wish that Army to be organized again that they may still feed and fatten upon its offal; and the writer of this missive I doubt not is one of them, or of kin to them. Sir, how magisterially the Senator from Massachusetts speaks of reconstruction, and reconstructing Kentucky! The loyalty of Kentucky to the Constitution of the United States, and to the Union under that Constitution, now and heretofore, would shame that of Massachusetts; and in its extent, its intensity, its purity, and its universality among the people, is incomparably greater than that of this old and most malcontent, insubordinate, seditious, and traitorous State of Massachusetts.

Mr. President, Massachusetts was once a great and noble State, and had a great and noble people. She once had great principles and great objects. No people of their numbers ever did more for constitutional government and popular liberty than the people of Massachusetts did in the era of the Revolution. But from the acquisition of Louisiana, Massachusetts has been disloyal generally; and we have seen her people in flagrant rebellion against the laws and authorities of the United States. Treason not only hung upon the skirts of that Commonwealth, but covered it all over as with a cloak in the war of 1812. If the sentiments, principles, rules, and precedents which her Senators have aided in putting upon the people of the southern States, and which with whetted appetites they are impatient to fix upon Kentucky, had been let loose upon the people of Massachusetts at the close of the war of 1812, in a spirit fierce and reckless as that of her Senators toward the southern States and Kentucky at this time, Massachusetts as a State would have been obliterated from the Union. But the able and pure men of that day knew that vile a sinner as she was, the law and measure of her responsibility was the Constitution of the United States; and although covered all over with treason, dishonor, and shame, still she was to exist as a State of the United States, and with all her political power unshorn so long as our system of government continued.

But, Mr. President, the Senator from Massachusetts himself has been complicated in the crime of treason. After the Supreme Court and all the courts of America before which that law came for adjudication, had pronounced it to be constitutional and valid, he had the audacity to declare, publicly and repeatedly, that he would resist its execution. He has been charged on the floor of the Senate with having been in council with an armed organization in Massachusetts, formed for no other purpose than to resist the execution of that law; and with having counseled that organization, after the law had been sustained by all the courts, to rescue a slave who was in the custody of the United States marshal, and that rescue was made in conformity with that Senator's counsel, and resulted in the rescue of the fugitive and the murder of the marshal. The Senator remained mute because the charges were true.

Mr. WILSON. Mr. President—

Mr. DAVIS. I am alluding to the Senator behind the Senator who has now addressed the

Chair. Mr. President, Massachusetts now is in high feather. Why? She feels conscious and proud that the Constitution of the United States is prostrate at her feet; and that she is leading the whole Radical host of America to execute her wild, oppressive, and unconstitutional behests. The affairs of men are very changeable. The time may come when the tables may be turned upon Massachusetts; and I tell you, reading and interpreting from her history, that whenever that change does come, and the principles and precedents which she has been so potent to establish are brought against her, she will be disloyal again, and sedition, insurrection, and treason will again mark her course.

The Senator from Massachusetts pretends to be a statesman and sets up to speak in this Chamber, not only to the Senate, not only to the people of the United States, but to the legislators and statesmen and publicists of Europe; and he gravely proposes that Congress, that is that he, shall reconstruct Kentucky. If the men who framed our Constitution could come into this Chamber and listen to such wild and incoherent invocations to demolish their great work as we so frequently hear from that Senator, we might well fancy their amazement to see it given over to such a keeper. Sir, if reconstruction of Kentucky and Massachusetts were possible, both the Senator and his State would be incomparably a fitter subject than Kentucky. The Senator talks not only flippantly, but with the extravagance of a monomaniac, as if he fancied himself the autocratic law-giver of the whole land; as though he was a great Colossus in wisdom and power, bestriding Government, Constitution, and country. He is impatient, ardent to reconstruct Kentucky, and suggests that this session shall continue for that work. Sir, I wish that before the sun sets the Senator from Massachusetts and myself could meet alone upon the soil of Kentucky, and he there to reconstruct it, and no interference, we all alone. [Laughter.]

Mr. President, I have never had a principle or a sentiment or a purpose or an affection of my soul that was not in strict loyalty to the Constitution of the United States and to the Union under that Constitution. I intend to cherish those principles and sentiments, and the last regret of my life will be that the madness of party ever imperiled the Union and this Constitution and brought upon them ruin and chaos, from which I fear they will never be extricated.

Mr. SUMNER. Mr. President, I say nothing about Massachusetts. Her history and her character will speak for her. I shall say something, however, of Kentucky. I have in my hands a newspaper which I have received this morning, which contains the account of a celebration of the Fourth of July at Lexington. Is not that a town in Kentucky? I read therefore, for what I say, only Kentucky authority. On that occasion one speaker, whom many on this floor know as an excellent gentleman—Judge Goodloe—said:

"He wanted the negroes to have the right to vote and sit on juries, and he believed they soon would be found in both places."

Then came another speaker, Willard Davis, who makes an elaborate, able, compact, forcible address, and any Senator on this floor might covet the ability to make such an address as is made by Mr. Willard Davis, of Kentucky. In the course of his address, Mr. Willard Davis, of Kentucky, says to his audience:

"What is your property and your lives worth without the means of that complete protection derived from the enforcement of all those legal remedies enjoyed by your white neighbors? The present law of Kentucky regarding testimony in your case is mere mockery of justice."

Strong words for a Kentuckian—a mere mockery of justice. Surely a State which has such laws needs a little reconstruction. Then the Kentucky orator proceeds to say:

"This is a monstrous wrong, and I believe the next Legislature will remove it. I know that undue prejudice against your race has shed its damning blight like mildew over our whole political fabric; that it

stands to-day in our midst like the poisonous Bohan Upas, infusing decay and death into every nerve and sinew of the body-politic; that it has affected alike our unwary youth and mature and reflective age. But I will not despair of our own people."

Such is the voice of a patriot Kentuckian. He then proceeds, in another place, to say:

"The right to act for yourself, or to say who shall act for you, is higher than all human law, and no State can deprive a freeman of this right and be republican in fact."

Such is the voice of a Kentucky patriot speaking on Kentucky soil.

"No government can be just and deprive any portion of her citizens of this right. In this respect suffrage is a natural right; the age at which you may exercise it is political, and may be altered or amended, and so may a State fix qualifications, but the great original right to vote at some time remains, and cannot be taken from freemen except by despotic force."

Such is the voice of a patriot Kentuckian speaking in his own State. Then comes another Kentuckian, a colored orator, the Rev. G. H. Graham, from whose speech I will read but one brief sentence:

"Sires, grant us justice." [Continued cheering.]

This was on Kentucky soil. Does not Kentucky need reconstruction?

That is not all. The most elaborate speech of the occasion was made by a Major General of the Army of the United States, General Brisben, who vindicates the power of Congress to confer suffrage in Kentucky. He says:

"To go back a little, suffrage to you, black people of Kentucky, is not so much a question of right as it is one of how you shall get it." [Cries of hear, hear.]

That is in Kentucky.

"I have always believed that Congress had full power over the question of suffrage, not only in the seceded States, but in all the States of this Union. [Cheers.] I contend that Congress may enfranchise your people in Kentucky any time it chooses to do so." [Loud cheers.]

This was in Kentucky. The orator proceeds:

"Congress may do it—

"First. Under that provision of the constitutional amendment abolishing slavery, which requires and empowers Congress to make all appropriate legislation to secure the objects intended by the abolition of slavery, namely, the perfect liberty, equality, protection, and freedom of all the people.

"Second. Under that clause of the Constitution which requires Congress to guaranty to every State in the Union a republican form of government."

Mark, Mr. President, this is a Kentucky orator, celebrating the Fourth of July in Kentucky; and what does he say? I am not speaking now; it is a Kentucky orator that is speaking:

"Certainly it cannot be said with any degree of truth that a State which disfranchises nearly one third of its adult male population has a republican form of government. Under the Constitution Congress has power, and in good time I believe will secure to the people, irrespective of color, all their republican rights, among which is the right of suffrage." [Loud cheers.]

Kentucky cheers when it was announced that without the right of suffrage there was not a republican government. The orator then says:

"Third. As we make no discrimination on account of color in claiming the allegiance of our people, so we must make no discrimination in according to them protection. It is a principle of nations that allegiance and protection go together, the one being the consideration of the other. As we claim allegiance from the blacks, we are bound to accord them full protection in all their rights as citizens, both civil and political." [Cheers.]

Kentucky cheers that sentiment. The orator proceeds:

"Fourth. Congress may extend the suffrage under the well established and just principle of our Government that taxation and representation go together." [Cheers.]

Kentucky cheers again.

"Fifth. Congress may do it as a measure of national safety. The men who are engaged in or sympathized with rebellion must not be allowed to become the governing class in any part of this country." [Continued cheering.]

Kentucky cheering.

"State lines make no difference in the offense of treason. Geographical position cannot shield the people from the liabilities of our rebellion. Technical loyalty in the face of absolute treason will not avail. Punishment for rebellion in one State and immunities and privileges to it in another is not only devoid of reason and principle, but unjust." [Cheers.]

Kentucky cheers.

"There stand the men who were with me at Saltville," [cheers.]

the orator proceeds—a brave general of our Army—

"who, out of four hundred engaged in the battle, left one hundred and seventeen of their number dead and wounded on the rugged hillside. [Cries of 'oh,'] Shall they be deprived of the ballot while the rebels against whom they fought, whose hands are yet red with the blood of the loyal, who murdered our poor captive colored soldiers, are allowed to vote." [Cries of "No, no, no"]

Kentucky cries, those!

"Such injustice—f forbid it Almighty God! The voices of the dead who fell contending for the Union, the maimed and battle-scarred bodies of the living appeal to us by every consideration of honor and duty to do justice to these men and secure them all the rights of citizenship. When this nation ceases to honor and protect the soldiers who in the hour of great public peril bared their breasts and shed their blood in defense of the Union, then indeed will it be undeserving of the favor of God or the support of man." [Cries of "True, true, true"]

Kentucky cries! The orator proceeds:

"In addition to what I have already said, I might adduce many other reasons why Congress should extend you the franchise, but let these for the present suffice."

"Why Congress should extend you the franchise;" in other words, reconstruct Kentucky. Then the orator proceeds:

"The power of Congress over this question clearly exists; your patriotic services demand this reward at the hands of a just Government, and I have no doubt but that before the end of the present year our liberty-loving Congressmen will fearlessly do their duty and give the ballot to every adult black man in Kentucky." [Continued cheering.]

Ay, sir, there is the true voice of Kentucky. Let that voice answer the Senator.

Mr. DAVIS. Mr. President, a word in reply. The Senator reads from speeches pronounced on a Fourth of July celebration at Lexington, the chief interior town of the State of Kentucky. There were present about ten thousand negroes and all the allies of negro equality that could be summoned up from the adjacent counties. The Senator has ostentatiously read from the speeches on that occasion; but those speeches are like his in the Senate, much sound and little else in them. They prove one thing though, that a perfect freedom of speech exists without interruption in the State of Kentucky. Now, suppose that such a meeting as that had taken place in the South, and men advocating the right of the southern people to self-government, and opposed to the usurpations of Congress upon that right, had got up such a meeting and made similar speeches on their side to those which the Senator has read—speeches that were made by negro and abolition orators in Lexington, Kentucky—what would have been the fate of such a meeting and the advocates of the southern people who were there to address it? The Freedmen's Bureau and all of its bloodhounds, the five military satraps and their myrmidons, would have been after them in a crusade, hissed on by the howl of the Senator from this Chamber. No, Mr. President, the people of the South are enslaved; they are enslaved by the usurped power of the Senator from Massachusetts in part, and he knows it; they feel it; the nation knows it; and the world looks upon it in abhorrence and astonishment. Mr. President, let me read now one or two—no, I will not read.

I was going to read an account of two or three atrocities, revolting and sickening to the human soul, perpetrated in the South by negroes upon white families, whole white families, father, mother, daughters, and grandchildren. They are horrible to read; they are of daily occurrence; they come up to the knowledge of the Senator from Massachusetts by every mail, and he never utters a word in condemnation or to memorialize any such crimes on the part of the freedmen; but whenever any incident of outrage or injustice upon a negro anywhere in the former slave States is enacted, he bores the Senate with a narration of it day after day. But, Mr. President, the facts which the Senator gives from his anonymous correspondents are false so far

as they regard Kentucky. I reiterate the charge, that his correspondent who wrote him an infamous missive, asking the reconstruction of Kentucky according to the plan of the military acts of Congress, is a vile and cowardly calumniator. He utters nothing but foul falsehood and he knows it, and that is the cause why he skulks under the shelter of an anonymous letter.

Mr. SUMNER. Not an anonymous letter.

Mr. DAVIS. A letter whose writer is not known is anonymous. Sir, when a man writes me an anonymous letter I throw it in the fire and say nothing about it. If he desires me to conceal his name and his shame, his cowardice, and calumny, I scorn him. The lowest of all degradation is for a Senator to submit to become the conduit of the vile falsehoods of those who are so cowardly as to impose the condition to conceal his name to escape the infamy that would attach to it if it were known. And what is to be thought of a Senator who revels in such a vocation? The Senator read some bold declamation of Fourth of July orators in relation to the constitution of Kentucky and its civil polity and the great principles in the Constitution of the United States. What do those men know about the Constitution of the United States and its proper operation? Almost as little as the Senator from Massachusetts himself. Reconstructing Kentucky! If justice could overtake the States of this Union, Massachusetts would be reconstructed and brought to greater shame than even South Carolina. The honorable Senator was almost in an ecstasy a few days ago when he foretold the advent of negro Senators into this body. He was jubilant; and I thought, to increase his beatitude, he would have proposed to have resigned his seat that the Governor of Massachusetts should send some negro here to fill it. Well, if anything in the world could reconcile my people and myself to negro representation it would be such an exchange. [Laughter.]

Mr. President, I have no sympathy with the rebels. Their action was as much in opposition to my principles and sentiments and they did me as much wrong as any other man. I have condemned their course, and I still do from the inmost recesses of my soul; but, sir, my aversion to their crime shall never make me a usurper, shall never make me disregard my oath to support the Constitution of the United States, shall never pervert my reason to the overthrow of that Constitution, as the honorable Senator from Massachusetts acts daily. This idea and this charge of tyranny and oppression upon the people of Kentucky to the negro population, whether slave or free, is without foundation, and the honorable Senator himself ought to know it. I have seen him on an excursion into that State. He was then, and his principles were then, as odious to our people as they now are; and when I speak of a contest between myself and that Senator I had no reference to discourteous treatment to him. I believe he never received it there.

He could come to Kentucky, and could there make, day after day, such speeches as he does here, and not be molested. Why, sir, a miserable, miscreant tool of radicalism, lower than any that I know, who boasts to be a citizen and a native of that State, Samuel McKee, does it daily. I heard him in the last canvass, and there never was greater freedom—licentiousness in its extremest and most abhorrent features—indulged in by a candidate or by a man who was making a public canvass, and he was never molested. I was in the midst of the last election in Kentucky, and notwithstanding her Representatives, with one exception, are excluded from the House, and although I would have preferred different men myself, with another exception, and sought for the nomination of different men, I say that a more peaceful, legal, and fair election never took place.

Now, Mr. President, one word in relation to the treatment by the people of Kentucky of

the negro race, slave and free. About one fifth of our population was negro, and about ten thousand of them free. From the beginning negroes were excluded from giving testimony in cases where white men were parties, and that upon this reason and this principle: that almost all of them belonged at the time this regulation was made to white men, and they could not be supposed to give their evidence unbiassed in cases in which their masters would be parties. This philosophic truth in relation to our nature excluded them; but when the negro was freed he had every right to acquire property that the white man had; he had every right to institute his suit that white men had; he had every right to institute a penal prosecution or a criminal prosecution for an outrage upon his rights that a white man had. He was not allowed to give evidence. But the suggestion of one of the orators at the Fourth of July meeting in Lexington will certainly prove true, that that disability will be removed at the next session of our Legislature. I have been consulted myself by various men who will be in the Legislature as to what ought to be done on that subject, and I have given them as my advice that it ought unhesitatingly to be done; and they will be placed on the same basis in relation to testimony in courts that white people are.

Mr. President, I have seen hundreds of negroes suing for their rights in our courts, slave and free. I have been the counsel of many of them. None has ever been so poor, so degraded, so penniless as not to be able to command my services and the services of any lawyer of that State, and those services were rendered to them with as much zeal and fidelity as though they had had countless thousands of gold to compensate for them. There never went a negro into a Kentucky court who had law and right upon his side that did not have the sympathies of the entire presence of people there, except his opponent and the lawyers of his opponent. The people of Kentucky are a brave, gallant people. They sympathize with the weak; they are magnanimous to the weak. They uphold those that are falling; they defend the weak and the powerless. It is only the vicious, the wicked, the base, the cowardly that want this characteristic of magnanimity. It may be wanting in Massachusetts, but it is not in Kentucky. Courage and magnanimity are the proudest characteristics of Kentucky.

Mr. President, we see the fell purpose of the honorable Senator from Massachusetts. We know with what persistence he pursues his objects, it makes no odds what is the character of those objects, and we know that he intends to press this work of reconstruction. Well, let him press it. We will defend as best we may. We will appeal to the Constitution, to the reason, the judgment, the patriotism of Congress, to the highest courts of our country, to the bar of the American people and of American opinion to stay such an outrage upon their fundamental law and upon the rights of one of the truest members—according to the spirit of the Constitution—of the Union; and I have no doubt that this reference will discomfit the honorable Senator, though it may pain his heart.

Mr. POMEROY. Mr. President—

Mr. SUMNER. I hope the Senator will allow me to send up to the Chair a notice in formal shape, which I gave a short time ago.

Mr. POMEROY. I merely want to give notice that on Monday I shall ask for the consideration of House bill No. 108, for the relief of certain volunteer soldiers and sailors therein designated.

Mr. SUMNER. I have no objection.

Mr. POMEROY. And to that end I shall ask for a repeal or for a suspension of so much of our rule as interferes with the consideration of that bill.

Mr. SUMNER. I send to the Chair a notice to that effect with regard to the bill to which I called attention. I wish to have it recorded.

The PRESIDENT *pro tempore*. The notice will be entered. The Chair will remind

the Senate, however, that there is a bill before the body.

Mr. WILSON. I move to lay the bill before the Senate on the table, with a view of taking up the House bill upon the same subject.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 130) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867; and

A joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States. House bill No. 130 was read twice by its title and ordered to lie on the table.

House joint resolution No. 71 was read twice by its title.

Mr. WILSON. I propose that we now adjourn, but I first move to lay the joint resolution on the table.

Mr. HENDRICKS. If that joint resolution comes within the rule of the Senate I object to its consideration, and if the motion of the Senator to lay it on the table be such action as will be regarded as a waiver of the objection I shall urge it now.

The PRESIDENT *pro tempore*. If there is any objection it will not be waived by laying the bill on the table. It will be regarded as laid on the table if there be no objection.

#### BILL INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 135) to provide for the permanent location of all the Indian tribes west of the Missouri river and east of the Rocky mountains upon two reservations; which was read and passed to a second reading, and ordered to be printed, and lie on the table.

On motion of Mr. WILSON, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 13, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNTON.

The Journal of yesterday was read and approved.

#### NORTHERN PACIFIC RAILROAD.

Mr. DAWES, by unanimous consent, presented a resolution of the Legislature of Massachusetts relating to the Northern Pacific railroad; which was laid on the table, and ordered to be printed.

#### CAPE COD HARBOR.

Mr. DAWES also, by unanimous consent, presented a resolution of the Legislature of Massachusetts concerning Cape Cod harbor, at Provincetown; which was laid on the table, and ordered to be printed.

#### KENTUCKY ELECTION CONTEST.

Mr. DAWES also presented testimony in the contested-election case from Kentucky, of J. E. Smith vs. John Young Brown; which was referred to the Committee of Elections.

#### REBEL TREATMENT OF PRISONERS, ETC.

Mr. PILE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select committee appointed to investigate the treatment of prisoners of war and Union citizens by the so-called confederate Government are hereby authorized to sit at such place and take testimony by such number of the committee as they shall deem proper.

#### EXTENSION OF HOMESTEAD LAW.

Mr. WASHBURN, of Wisconsin, by unanimous consent, introduced a bill to extend the provisions of the homestead law to any public lands within the limits of any railroad land grant in any State or Territory of the United States; which was read a first and second time,

and ordered to be referred to the Committee on the Public Lands when appointed.

#### COMMITTEE ON EDUCATION.

Mr. DONNELLY. I ask leave to introduce the following resolution for reference to the Committee on the Rules:

*Resolved*, That an additional standing committee of nine members, to be known as the Committee on Education, be appointed as the other standing committees are appointed, to which shall be referred all such matters as pertain to the educational interests of the United States.

There being no objection, the resolution was received and referred to the Committee on the Rules.

#### TREATMENT OF REBEL PRISONERS, ETC.

Mr. MUNGEN. I wish to make an inquiry in reference to a resolution offered by myself a day or two ago—a resolution in reference to the same subject as the resolution offered a few moments ago by the gentleman from Missouri, [Mr. PILE.] I wish to know whether my resolution is still pending.

The SPEAKER. The gentleman refers, as the Chair understands, to a resolution extending the investigation of the select Committee on Union Prisoners.

Mr. MUNGEN. Yes, sir.

The SPEAKER. Objection was made to the introduction of the resolution, and it was not received.

Mr. MUNGEN. I wish to say that the purpose of that resolution was evidently misunderstood by the gentleman who objected; and I desire again to ask consent to offer that resolution and to make a few remarks in explanation of it.

The SPEAKER. Is there any objection to the gentleman from Ohio explaining briefly a resolution which he asks unanimous consent to offer?

There was no objection.

Mr. MUNGEN. The resolution which I propose to offer is as follows:

*Resolved*, That the committee appointed to inquire into the treatment of prisoners, &c., be, and they are hereby, instructed to inquire into and report upon the treatment, &c., of prisoners confined in the camps of the United States Government during the war; and also to inquire into and report upon facts connected with the cartel as to exchange of prisoners, and the action under the same by the officers of the United States; and the so-called confederate government, and why a speedy exchange of prisoners from time to time was not effected.

Mr. Speaker, I did not then, and I do not now, offer this resolution with any captious feeling. I say, sir, in regard to the treatment of the prisoners in the camps of the United States that the investigation will show that they were treated as well as they could be treated under the circumstances. I know, so far as my knowledge goes, that they had enough to eat. Now, the instructions under which the committee is now acting will necessarily involve an investigation into the complicity of the confederate government with the suffering of our soldiers in the southern prisons. The archives of the confederate government, so-called, will necessarily have to be investigated to a certain extent by this committee, and the correspondence in reference to the exchange of prisoners will also have to be looked into.

I say now, with all respect to the officers of the United States Government, there were rumors which reached us in the field, and which have been prevalent ever since the war, that there was blame attached to some of the officers of the United States Army in regard to the exchange of prisoners. There were and there are rumors of that kind. If they are true we ought to know it; and if not true that fact should be made evident, and those who have been charged with blame should be inculpated. If they are guilty—I do not care who they may be—whoever is responsible for the death of our soldiers ought to be made known. That is the reason why I offer this resolution, and not for any partisan purpose.

Mr. JUDD. I ask unanimous consent to make a statement.

There was no objection.

Mr. PRICE. I object to the resolution.

Mr. MUNGEN. I move to suspend the rules?

Mr. JUDD. I desire to say a few words in regard to that resolution, if the House will allow me.

Mr. Speaker, on the previous day when this resolution was introduced it struck me as an insinuation and a reflection upon the generals who commanded our armies and upon the loyal people of the North; and for one I would distinctly oppose by my vote any action of mine upon this floor to leave the inference to be drawn that the prisoners in our hands during that terrible fight were treated without charity or in any other than a proper manner.

Mr. MUNGEN. I have disclaimed any such intention.

Mr. JUDD. Who, sir, of the North to-day, who of the loyal men in the North, demands that investigation should be made? Is there any belief among our friends that there was any such wrong that this Congress should solemnly resolve to investigate acts in reference to which in the loyal North there is no complaint? I say, Mr. Speaker, and I regret, it is a reflection upon the loyal people of the country who had those confederate prisoners in charge if this House should entertain for a moment, even by implication, the assertion that wrong was done to those prisoners. I am further of the opinion, sir, as to the propriety of the exchange of prisoners, and as to whether it was well conducted, that all those matters have been thoroughly investigated by the Committee on the Conduct of the War.

At any rate, I am not prepared or desirous of affording my honorable friend from Ohio opportunity to pick a hole in anybody's coat; and that is the object of the resolution, as I understand it. It is to get up a controversy as to the persons responsible for delay, if there was any, in the exchange of prisoners, and I hope that the loyal members of the House will not agree to any such investigation.

Mr. MUNGEN. Suppose it were true that an officer of this Government standing at the head of the exchange of prisoners made a remark in regard to the prisoners taken by our troops that we should not exchange these healthy, well-fed men for skeletons, thus leaving thousands of our soldiers to die of starvation, would the gentleman from Illinois be unwilling to have the matter investigated?

Mr. JUDD. In reply to the gentleman's interrogatory, I will say that it shows that this investigation, if not intended, will be used for partisan purposes.

Mr. BUTLER. Having been a commissioner of exchange, I wish the House to allow me to say a word.

Mr. MUNGEN. I had no intention of referring specially to the gentleman or any other person.

Mr. BUTLER. I wish to say, having been during the last year of the war, during the campaign of 1864, in charge of the exchange of prisoners on behalf of the United States Government, that for one and for all that had anything to do with it, we not only are ready, but we court any investigation into any action taken by the Exchange Bureau on this subject of the treatment of prisoners. I do not indicate and do not mean to indicate what shall be the action of the House upon this question. I only wish to say for myself and my associates, lest there should be any mistaken impression here or lest any mistaken impression should go forth to the country, that we are ready and willing that every act shall be subject to the most full and complete investigation.

Mr. INGERSOLL. I wish to inquire if the resolution is offered as an amendment to the resolution that passed the other day, or as an independent resolution?

The SPEAKER. An independent resolution.

Mr. INGERSOLL. Is it pending?

The SPEAKER. It is not; the motion is to suspend the rules.

Mr. INGERSOLL. I desire to say a word or two on the subject.

The SPEAKER. Is there objection? The Chair hears none.

Mr. INGERSOLL. I simply say that if we refuse the investigation called for by this resolution we thereby cast a greater reflection upon honest Union generals who had charge of this business than we possibly could by adopting it. If there is any reason why the investigation should be had, then let us have it, and if, as I hope the case is, all our generals who had anything to do with the treatment and exchange of rebel prisoners did as they ought to have done, the matter will stand out in brighter contrast when laid side by side with the action of the rebel authorities in their treatment of Union prisoners.

Mr. LOGAN. Will the gentleman yield for a question?

Mr. INGERSOLL. I will.

Mr. LOGAN. I desire to ask the gentleman if he has ever heard an accusation made against the authorities of the United States of maltreatment of prisoners on our part; and further, if he has ever heard of any such accusation coming from any leading rebels?

Mr. INGERSOLL. I cannot see what difference it makes, so far as the action of this House is concerned, whether I have or have not heard such accusations. I have had no communications from rebels one way or the other since the commencement of hostilities. But I say that I have read in some of the rebel papers charges of cruelty on our part toward their soldiers while in our hands, although, for one, I will say that I do not believe the charges were true. They were to this effect: that rebel prisoners confined in Camp Douglas, in Chicago, were not properly fed and clothed; were left to suffer from the inclemency of a northern winter, and that many of their men were frozen to death.

\* Mr. ELDRIDGE. Will the gentleman yield to allow me to reply to the question put by his colleague?

Mr. INGERSOLL. I have no objection.

Mr. ELDRIDGE. The question was, as I understand it, whether any charge was made against any of our officers in regard to the exchange of prisoners which implicated them in the consequences that followed the non-exchange of prisoners; and whether any prominent rebel officers had made any such charge.

Mr. LOGAN. That is not the question I asked.

Mr. PRICE. Mr. Speaker, is this debate in order?

The SPEAKER. The House granted to the gentleman from Illinois [Mr. INGERSOLL] the privilege to make a brief statement.

Mr. ELDRIDGE. Will the gentleman from Illinois [Mr. LOGAN] repeat his question?

Mr. LOGAN. I asked if my colleague had ever heard charges made against the authorities of the United States of maltreatment of rebel prisoners; and further, if he had ever heard such charges made by leading rebel officers, and I will add, leading authorities of the rebel government.

Mr. ELDRIDGE. That was a little different from what I understood it. But upon the other charge which the resolution is intended to cover I can say this: that I had a conversation with General Ould, in which he declared that he offered to the officers of the United States having in charge the subject of exchange of prisoners to give them twenty thousand United States prisoners confined in the South without equivalent, finding themselves unable to feed and take care of them as they ought to be. He made that offer distinctly to the generals in authority; and if I am not mistaken General Butler and General Grant were referred to; I am not certain of that, however. And the question was put by me: suppose you have not got twenty thousand sick and wounded men? Then, he said, we will make up the number with well men and give you twenty thousand men or all you will take off our hands, because we are unable to feed them or furnish them with the necessary medical supplies.

Mr. INGERSOLL. I am not pressing for an investigation of this subject, nor do I expect to throw any particular light on the details which may be involved in this question. I know nothing about them personally. I do not know that any Union officer who was connected with this matter of exchange failed to do his whole duty in regard to the exchange of prisoners. I do not know that there was one instance of tyranny or cruelty on the part of Union officers toward confederate prisoners. I hope that if an examination shall be had it will be made to appear that all Union officers acted with a sense of humanity and the rights of prisoners under the laws of war.

No man will say that it is because I have any sympathy with rebels as such that I favor the investigation proposed. But, sir, when I remember that our party have had the control of this war and of all questions connected with it, civil, military, and political, during the last four years, it seems to me that we ought not to object to an investigation as to the treatment of the rebel prisoners who were in our hands. I have no objection that the whole question shall be examined. I do not wish to refer the question as to the conduct of one particular general in reference to this matter to the committee. I would rather have a general investigation.

Mr. LOGAN. Will my colleague yield for a question?

Mr. INGERSOLL. I will yield for a question.

Mr. LOGAN. I would suggest to my colleague that if he or any other gentleman desires to investigate the conduct of any individual officer it would be better for him to name him in the resolution, and of course the House will adopt that resolution. But the resolution offered here is offered as an express rebuttal to a resolution offered in reference to the treatment of rebel prisoners.

Mr. INGERSOLL. That is not a question.

Mr. LOGAN. I will try to put it in the form of a question. I would ask if it would not be better that my colleague should so frame his resolution that it shall charge some persons, some particular Army officer, with some particular act of wrong that has been perpetrated, and allow that to be investigated, without bringing up a kind of general rebuttal, the design of which is to leave an impression on the mind of the community that wrong has been done where no wrong has ever been done?

Mr. INGERSOLL. I must now resume the floor.

Mr. DAWES. I rise to a point of order.

The SPEAKER. The House has by unanimous consent granted to the gentleman from Illinois [Mr. INGERSOLL] permission to make a brief statement. It is for the House to determine whether that statement has been too much enlarged.

Mr. BINGHAM. There is objection to a general discussion about this matter.

The SPEAKER. If the gentleman from Massachusetts [Mr. DAWES] will raise that point of order the Chair will rule upon it.

Mr. INGERSOLL. I do not understand that the gentleman from Massachusetts [Mr. DAWES] objects to my proceeding with my remarks.

Mr. ELDRIDGE. Inasmuch as the gentleman from Illinois [Mr. INGERSOLL] has yielded a large portion of his time to his colleague [Mr. LOGAN] and to others, it seems to me that it would be unfair to cut him off now.

Mr. DAWES. Then, sir, I will withdraw the objection I raised for a brief moment.

Mr. LOGAN. I will put my question in this form: while there is no doubt throughout the country as to the humane treatment of rebel prisoners, would it not be as well to investigate the question as to whether Christ was crucified on Mount Calvary as to investigate a fact in reference to which there is no doubt in any part of the country?

Mr. INGERSOLL. I have no doubt whatever upon the question of the crucifixion which



the gentleman raises. If he is doubtful about it let him offer a proposition for an investigating committee, if he desires it.

Now, sir, my colleague assumes that this is my resolution, or that I desire some investigation in regard to our treatment of prisoners. The resolution had not its origin with me. If I understand the matter, it arose in this way: The gentleman from Indiana [Mr. SHANKS] introduced a resolution proposing an investigation in regard to the treatment of our prisoners by the rebels. The gentleman from Ohio [Mr. MÜNGEN] now seeks to offer this resolution, proposing to refer to the same committee the other branch of the subject—the treatment of rebel prisoners in our hands. Now, sir, the gentleman from Indiana, the chairman of this committee, is a Union man, and the majority of this committee are also Union men—friends of the Union Army and the Union party. What objection can there be, when a Democratic member of the House proposes to direct an investigation by this committee of a subject germane to that already referred to them? There seems to be some apprehension here that some particular officer of the Union Army who had connection with the exchange of prisoners will be damaged by this investigation.

Now, sir, it is not my object to damage any one; nor do I desire to promote the interests of any particular individual. I wish simply to have the truth; and I believe that a fair, full, and free investigation of this subject will reflect nothing but credit upon the officers of the Union Army and upon the Union party that prosecuted the war. I believe this investigation will show that we treated the rebel prisoners with humanity and considerate kindness. Will the gentlemen who had charge of the exchange of prisoners be damaged by an investigation of this kind, conducted by a committee of our own friends?

When we have control of this whole subject, when we have a committee of our own friends, is it magnanimous for us, while we order an investigation of this question so far as the conduct of the rebels is concerned, to forbid that the same committee—a committee of our own friends—shall investigate the treatment of rebel prisoners while in our hands? I say it is not magnanimous; it is not fair; and it will do us as a party no good to smother a resolution of this kind.

One word further. My colleague assumes that this resolution of the gentleman from Ohio is sought to be introduced for no other purpose than as a sort of rejoinder, rebutter, or offset to the resolution introduced by the gentleman from Indiana. I submit, sir, that we have no right to assume any such thing. If my colleague has any information on that subject he has more information than I have. All I know is that a gentleman, exercising his right as a Representative on this floor, has risen in his place and proposed this resolution. He has not, as he might have done, asked for the appointment of an independent committee, of which, if it had been appointed, he would by courtesy have been the chairman. He is content (which seems to me fair and reasonable) that the committee appointed under the resolution of the gentleman from Indiana shall investigate the whole subject.

Mr. DAWES. I rise to a point of order. I think the gentleman from Illinois has made himself perfectly understood, and I raise the point of order that the motion to suspend the rules is not debatable.

The SPEAKER. The Chair must sustain the point of order, as consent was asked, not to speak for an hour, but to make a brief statement.

Mr. INGERSOLL. I have but a word further to say.

The SPEAKER. The gentleman from Massachusetts [Mr. DAWES] insists on the point of order, and the Chair must rule that the motion to suspend the rules is not debatable.

Mr. ELDRIDGE. I ask unanimous consent to speak upon this subject for four minutes.

The SPEAKER. If there be no objection the gentleman will proceed.

There was no objection.

Mr. INGERSOLL. Will the gentleman from Wisconsin allow me one word?

Mr. ELDRIDGE. Yes, I will allow the gentleman one word.

Mr. INGERSOLL. I understand the gentleman has only four minutes.

Mr. ELDRIDGE. Mr. Speaker, the gentleman from Illinois has certainly made a very strong point against his own friends. It seems to me eminently proper and just that this investigation should be extended. I wish to say to the House, without making any charge against any general of the Army or against any officer of any kind whatever, that there is in the minds of the people some doubt as to whether that course was pursued which ought to have been with reference to exchange of prisoners with the so-called confederate States. The gentleman from Massachusetts [Mr. BURLER] in the speeches which he made all over the country, or at least in many places in the country, charged that General Grant was responsible for or was the cause of the exchanges not having been made.

Mr. BUTLER, (in his seat.) Never.

Mr. ELDRIDGE. It was claimed at the time the confederate States were unable to feed and take care of or to furnish the necessary medical and other supplies to the prisoners, and that the person at that time having the matter in charge on behalf of the so-called confederate States offered to deliver twenty thousand of our soldiers held as prisoners without any equivalents on our part whatever. It is so charged. I do not say that it is true, but I had the statement myself from General Ould. I also understand that our general or officer having the matter in charge either declined to make any exchange or made no reply to the proposition. General Ould was not so much surprised, he said, at not receiving an answer from General Grant, because General Grant knew at the time that the confederacy was a mere shell and that it was only a question of time when it must fall to pieces. General Ould stated that he made that offer to the officer of the United States having the matter in charge several months before the confederacy fell through; that they would give us twenty thousand sick and wounded men, and if they had not that number of sick and wounded men he would make the number up to twenty thousand of able-bodied prisoners; and that he made the offer in the interest of humanity. Whether this is true or not I do not know. I should like to know exactly how the matter stands. This is the subject the resolution proposes to investigate. What can be the objection? The people want to know the truth of these charges. I tell you, sir, that the majority of this House dare not refuse to permit this subject to be investigated. Your constituency when you go home will not justify you for refusing to order such an investigation. If the generals or officers having the subject in charge are free from blame they will go unscathed. If they are guilty it ought to be known, and the guilt rest where it belongs. The guilty alone will object to the investigation; the innocent cannot be injured by it. It is a matter of justice to both—

[Here the hammer fell.]

Mr. PILE. I ask to speak two minutes.

Mr. BINGHAM. I object to any further debate on this subject.

Mr. PILE. I would like to make a statement.

Mr. BROMWELL. I also wish to make a suggestion to the House.

Mr. BINGHAM. I object.

Mr. BUTLER. I wish unanimous consent of the House to reply to what I understand to be the charge in relation to this matter. I do not want more than five minutes.

Mr. BOYER. I object.

Mr. INGERSOLL. I hope that the gentleman from Massachusetts may be allowed five minutes.

The resolution was again read.

The House divided on the motion to suspend the rules; and there were—ayes 38, noes 75.

Mr. ELDRIDGE demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The House refused to suspend the rules.

Mr. BUTLER. I now ask to make a personal explanation.

Mr. BOYER. I withdraw my objection.

Mr. BUTLER. Mr. Speaker, I feel compelled to enter into this matter of exchange in answer to the gentleman from Wisconsin, [Mr. ELDRIDGE.] I wish to premise in the first place that in 1864, at the December session of this House, all the correspondence on the subject of exchange of prisoners was called for by the House from the Secretary of War, and was furnished on the 6th day of January, 1865, and is upon the records of this House and can be referred to by gentlemen. Every letter, every telegram received or sent by the commissioner on the part of the United States or on the part of the rebel government is upon your files; so that every written document is before us now.

Now as regards the specific charge of the gentleman from Wisconsin—

Mr. ELDRIDGE. If the gentleman will allow me, I did not make any charge. I only stated the information I received and the source of it.

Mr. BUTLER. In regard to the information given by the commissioner of exchange on the part of the rebels to the gentleman from Wisconsin, I think a slight statement will acquit everybody of any blame. In the fall of 1864, after the exchange had been stopped, a proposition was made on the part of the rebel authorities to give us the sick men that they had in Savannah and Millen, Georgia, as soon as transportation could be got. That proposition was accepted.

More than that: the commissioner of exchange on the part of the United States offered to allow them to send cotton to the North and sell it in the market of New York for the purpose of supplying themselves with the necessary provisions and clothing for our prisoners in their hands.

More than that: we offered to send anything that they would take, and as soon as sea transportation necessary for that purpose could be procured by the commissioner of exchange from the quartermaster's department six boats, capable of taking over seven thousand men, were sent down to Savannah, and the sick Union prisoners in the hands of the rebels were delivered over to us and brought here as fast as they could be by all the transportation that could be obtained. There was some delay in regard to getting the transportation because of the necessary movements of the Army, as I am informed by the Quartermaster General. But the correspondence on your files will show the proposition on the one side that we made and the acceptance on the other, and then a counter offer, when it was said they had not the means of taking care of the Union prisoners in their hands, that they might send to their own select agent in New York city—and they had enough who sympathized sufficiently with them to do it—cotton or other produce, and sell it at the then high price, for the purpose of feeding, clothing, and administering medicine to the Union prisoners in the hands of the rebels.

That is the exact state of facts, and these facts will come out upon investigation. And I say again, if the gentleman will turn to the files of this House of January, 1865, he will find every word that I have stated in the written propositions and acceptances on one side and on the other, which have never yet been printed and sent to the country, to my knowledge. If the gentleman wants to pursue this subject, the first thing that had better be done is to have that correspondence printed and sent to the country. Everybody will then understand exactly what was done and what was

not done up to within three months of the surrender of General Lee.

[Here the hammer fell.]

Mr. ELDRIDGE. I wanted to make an inquiry of the gentleman; I hope the House will allow me to do so.

Mr. BINGHAM. I object.

#### PETITION FROM ARKANSAS.

The House resumed the consideration of the question pending at the adjournment last evening, being a motion to suspend the rules for the purpose of receiving a petition from the Legislature of Arkansas in relation to the levees of the Mississippi river, on which Mr. MORGAN was entitled to the floor for twenty-three minutes, the remainder of his hour.

Mr. WASHBURN, of Wisconsin. Will the gentleman from Ohio allow me to offer a resolution? I will say to my colleague [Mr. ELDRIDGE] that whenever he or anybody will make a distinct and definite charge we are ready for an investigation.

Mr. ELDRIDGE. Will my colleague allow me to say—

The SPEAKER. The gentleman from Ohio [Mr. MORGAN] has the floor.

Mr. MORGAN. Mr. Speaker, I believe I did not occupy but about three minutes of the thirty-seven which I find charged to me, the gentleman from Pennsylvania [Mr. KELLEY] having occupied thirty-four minutes. It would afford me great pleasure to yield now to the gentleman were not the time which I propose to occupy upon this subject so very brief.

The SPEAKER. The gentleman will be entitled to twenty-three minutes. He may yield by unanimous consent.

Mr. WASHBURN, of Wisconsin. I ask to be allowed to offer a resolution for information.

Mr. MORGAN. I will yield for that.

The Clerk read the following preamble and resolution:

Whereas irresponsible statements have been made by persons in sympathy with the late rebellion implying that the Government of the United States has inhumanly treated its prisoners during the late rebellion; and whereas no evidence has been produced to show that such allegations have any foundation in fact; and whereas the loyal people of the United States are well satisfied that in no instance were its prisoners treated otherwise than with kindness and humanity; Therefore,

Resolved, That this House will entertain no resolution which implies other than the most kind, tender, and humane treatment of its prisoners, unless such resolution is accompanied by a responsible charge that they were treated otherwise.

The SPEAKER. Is there any objection?

Mr. ELDRIDGE. I object to a resolution of that character.

The SPEAKER. Then the resolution is not before the House.

Mr. WASHBURN, of Wisconsin. I move a suspension of the rules to enable me to offer the resolution.

Mr. BALDWIN. I demand the regular order of business.

The SPEAKER. The regular order of business being demanded, the gentleman from Ohio [Mr. MORGAN] must either proceed with his remarks or surrender the floor.

Mr. MORGAN. I arose in my place last evening, Mr. Speaker, to present a petition from the Legislature of the State of Arkansas, without anticipating that it would involve any opposition or lead to any debate. I supposed that in this Hall the right of petition was sacred; a right guaranteed by the Constitution; a right which no free Government or free assembly would deny; and I am unwilling to believe, sir, that honorable gentlemen in this House will deny the right of the people of Arkansas to be heard by petition to the constituted authorities of the country.

I understand the objection made by the honorable gentleman to the reception of this petition to be that the State of Arkansas is not a State of the Union. Now, sir, with great deference to the opinion of the honorable gentleman who made that point, I would say that I know of but two methods by which a State once in the Union can get without its limits. It could only be done by the unanimous con-

sent of the States of the Union or by force of arms.

It is not claimed, I think, by any gentleman upon this floor that the State of Arkansas obtained the consent of all the other States of the Union to withdraw from this Confederation; nor will it be claimed that the State of Arkansas succeeded in getting out of the Union by force of arms. It is true that on the 6th day of May, 1861, an illegal and revolutionary body in the State of Arkansas did pass what was termed an ordinance of secession, the design of which was to take Arkansas out of the Union. If that ordinance did take that State out of the Union then Arkansas had the right to secede. But if it did not withdraw Arkansas from the Union, then that ordinance was null and void.

Mr. KELLEY. Will the gentleman allow me to ask him a question?

Mr. MORGAN. If the gentleman from Pennsylvania [Mr. KELLEY] will pardon me, without any discourtesy to him, I must decline now to give way.

It will not be denied that on the 5th day of May, 1861, the State of Arkansas was within the Union. If on the 6th day of May, within twenty-four hours afterward, she was out of the Union, it must have been by force of the ordinance of secession, and if so she had the right to secede, which I deny.

If, then, the State of Arkansas had no right to secede from the Union, and failed to go out by force of arms, she is as much in the Union as she was before the first hostile gun was fired at Fort Sumter. Not only this, but the Federal Government in all its coordinate branches, executive, legislative, and judicial, has recognized that all of the so-called seceding States are and have been States in the Union during the entire time of the war. I believe that President Lincoln during his term of office never issued a single proclamation in which he did not distinctly speak of these States as States of the Union.

The Supreme Court of the United States has decided that these States were States of the Union, and this House have time and again by almost unanimous vote recognized the fact by their acts that the insurrectionary States are States of the Union. It is true that an insurrection arose in these States, but it is also true that it was not only the right but the duty of the Federal Government to put down that insurrection, and if necessary by force of arms. The insurrection was suppressed, and now these States occupy the same position under the Constitution as they did prior to the war.

Why, sir, in 1862 the President of the United States, acting through the Secretary of War, issued letters appointing provisional governors for all the States that were in rebellion. The appointment of the provisional governor of North Carolina was in the following terms:

WAR DEPARTMENT,  
WASHINGTON CITY, D. C., May 19, 1862.

SIR: You are hereby appointed military governor of the State of North Carolina, with authority to exercise and perform within the limits of that State all and singular the powers, duties, and functions pertaining to the office of military governor (including the power to establish all necessary offices and tribunals, and suspend the writ of *habeas corpus*) during the pleasure of the President, or until the loyal inhabitants of that State shall organize a civil government in conformity with the Constitution of the United States.

EDWIN M. STANTON,  
Secretary of War.

And President Lincoln, following out his plan of reorganizing the southern States as States within the Union, declared in his amnesty proclamation:

"And I do further proclaim, declare, and make known that whenever in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Virginia, Florida, South Carolina, and North Carolina, a number of persons not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no

wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion.'"

Now, sir, under this proclamation of President Lincoln, the State of Arkansas did reorganize her State government, and it was recognized as such by him as President of the United States.

In his proclamation of July 8, 1864, Mr. Lincoln said:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known that while I am (as I was in December last when by proclamation I propounded a plan of restoration) unprepared, by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort," &c.

It was, sir, but the other day that this House in conjunction with the Senate of the United States appropriated one million or a million and a half dollars from the national Treasury—for what purpose? To give relief to the starving people of the South. Now, sir, this petition which the honorable gentlemen seek to reject—this prayer of the loyal people of Arkansas—people as loyal as any of the honorable and distinguished gentlemen who object to the reception of this memorial—comes from a government constituted and formed by the loyal people of Arkansas nearly one year before the capitulation of Lee and Johnston. This government was then formed, not by the rebellious people of Arkansas, but by loyal citizens of that State, who were then, are now, and always have been devoted to the Constitution of the United States.

What does this petition ask? It asks an appropriation of \$2,500,000 that the lands of Arkansas and Louisiana may be protected from the devastation caused by the overflowing of the Mississippi river. It states that three hundred thousand acres of the most valuable land in the State of Arkansas cannot now be put under cultivation for the want of sufficient levees, and that one half of this land is capable of producing four hundred pounds of cotton to the acre; and that the tax imposed upon that cotton would yield to the Government an annual revenue of \$1,800,000. Now, I ask whether it would not be wise and patriotic for Congress to grant to those people the means of returning to the pursuits of agricultural industry, to enable them once more to put their fields under cultivation, to develop their resources, instead of compelling them to come before the national Legislature to ask for alms.

Sir, I know something of the people of that State, and there are other gentlemen on this floor who were acquainted with them during the war and prior thereto, and who entertain the same opinion of them that I do. I declare here that during the late contest, from the time the first gun was fired to the last, the majority of the people of Arkansas were with the Union. I know that when the army of the Southwest advanced to take Fort Hindman the people all along the Arkansas river greeted them with cheers and with the waving of handkerchiefs.

Now, Mr. Speaker, I ask whether it is wise for a great, triumphant, and powerful people to act toward this State of Arkansas as the gentlemen from Pennsylvania and Illinois would have us do in refusing to receive this petition? Is there not an attempt, Mr. Speaker, to place loyalists and disloyalists under the same iron rule? And if we continue to treat the Union men of the South with injustice and contempt may we not inspire in their hearts a hatred more intense and inveterate than that which ever animated secession soldier or secession politician? I trust, sir, that gentlemen will rise superior to partisan considerations, and act in a spirit of humanity and justice, if not with generosity and magnanimity.

Mr. INGERSOLL. If there be any time

remaining to the gentleman from Ohio I should like to make an explanation of my action.

Mr. MORGAN. I yield for that purpose.

The SPEAKER. There are only four minutes left.

Mr. INGERSOLL. Mr. Speaker, I raised the question on the reception of the petition purporting to come from the Legislature of the State of Arkansas solely for the purpose of bringing before the House the question whether the Legislature of Arkansas is a constitutional body representing a State of this Union, and whether we should recognize it as existing by the reception of a petition from that body to the Congress of the United States. I want to disclaim here any hostility whatever to the objects mentioned in the petition. I would be glad to see Congress do whatever it can rightly do toward repressing, if you please, the mighty Mississippi in its ravages in the southern and southwestern States. I should like to see the improvement of that river undertaken by Congress so far as it can be, or at least I should like to see Congress give such guarantees to the people of those territories as will enable them to make the necessary improvements of that river. If the United States would guaranty the undertaking the improvement would be made speedily; and it would not only result in the local prosperity of the people down there, but, sir, it would result in the general prosperity of the whole country. I therefore desire to disclaim any hostility to the object of the petition. My only object in making the motion was to see whether we would, as the House of Representatives, recognize the Legislature of the State of Arkansas as having a constitutional existence.

Mr. MORGAN. I now demand the previous question.

The House divided; and there were—ayes 54; noes 37.

So the previous question was seconded.

The main question was ordered to be now put.

Mr. ELDRIDGE demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

Mr. ELDRIDGE. I did not think gentlemen on the other side were afraid to face the record.

The petition was then received, and ordered to be referred to the Committee on Appropriations when appointed.

#### RELIEF OF NAVAJO INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, submitting estimates to supply a deficiency in the appropriations for the relief of the Navajo Indians at or near Fort Sumner, New Mexico; which was laid on the table, and ordered to be printed.

#### FRAUDS ON REVENUE IN NORTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in answer to the resolution of the House of the 9th instant, a communication from the Commissioner of Internal Revenue relative to the frauds on the internal revenue in the fifth district of North Carolina; which was laid on the table, and ordered to be printed.

#### ALMANSON EATON.

On motion of Mr. COBB, leave was granted for the withdrawal from the files of the House of the papers in the case of Almanson Eaton, of Stevens's Point, Wisconsin.

#### DEDICATION OF ANTIETAM CEMETERY.

The SPEAKER laid before the House the following letter of invitation from the managers of the Antietam cemetery:

184 EAST BROADWAY, NEW YORK, July 8, 1867.

Sir: A committee of arrangements appointed by the board of management of the Antietam National Cemetery have fixed upon the 17th day of July, 1867, the anniversary of the battle from which it derives its name, for the dedication of the same, and constitute the undersigned a special committee to secure the attendance of yourself and the members and other officers of the body over which you preside. In fulfilling this pleasant duty, in consideration of

the favorable influence upon others, which an early assurance of your compliance with this invitation would not fail to have, and in grateful remembrance of what Congress have already done for the sepulture of the nation's heroic dead, we shall await your acceptance of it, with no little concern, giving, as it would, proof of the continuance of your sympathy in the patriotic work committed, in part, to the board which we represent, by States having dead on the field of Antietam.

Asking that you will lay this communication before the House of Representatives at your earliest convenience, we beg to subscribe ourselves,

Very respectfully, yours,  
J. E. SNODGRASS,  
THOMAS A. BOULLT,  
G. L. CRANMER,  
Special Committee of Invitation.  
Hon. SCHUYLER COLFAX, Speaker of the House of Representatives.

#### TREATMENT OF REBEL PRISONERS.

Mr. WASHBURN, of Wisconsin. I now ask consent to offer the following:

Whereas irresponsible statements have been made by persons in sympathy with the late rebellion, implying that the Government of the United States has inhumanly treated its prisoners during the late rebellion; and whereas no evidence has been produced to show that such allegations have any foundation in fact, and no responsible person has yet made any such charge; and whereas the loyal people of the United States are well satisfied that in no instance were its prisoners treated otherwise than with kindness and humanity: Therefore,

Resolved, That this House will entertain no resolution which implies other than the most kind, tender, and humane treatment of its prisoners, unless such resolution is accompanied by a responsible charge that they were treated otherwise.

Mr. BURR. I object.

Mr. WASHBURN, of Wisconsin. I move to suspend the rules.

The motion was agreed to—ayes 82, noes 19.

Mr. WASHBURN, of Wisconsin. I demand the previous question.

Mr. WOOD. I desire simply to say that the resolution is inaccurate in one respect. The New York Tribune has distinctly stated that these charges have existed, and that the matter should be investigated.

Mr. WASHBURN, of Wisconsin. I do not yield for discussion.

Mr. GETZ. Will the gentleman yield for a question?

Mr. WASHBURN, of Wisconsin. I have declined to yield to several gentlemen on this side.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the preamble and resolution.

The yeas and nays were ordered.

Mr. HOLMAN. I call for a separate vote on the preamble.

The question was taken on the adoption of the resolution; and it was decided in the affirmative—ayes 108, nays 20, not voting 42; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Brownell, Broome, Buckland, Churchill, Reaver, W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullum, Dawes, Dixon, Donnelly, Driggs, Eila, Ferriss, Ferry, Finney, Gravely, Griswold, Halscy, Hamilton, Hayes, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kootz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Martin, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pic, Plants, Polsley, Price, Randall, Raum, Robertson, Sawyer, Schenck, Seofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry T. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Burr, Chanler, Eldridge, Fox, Getz, Haight, Richard D. Hubbard, Marshall, Mungen, Niblack, Robinson, Ross, Sigreaves, Van Auken, Van Trump, and Wood—20.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Barnum, Blaine, Brooks, Butler, Cake, Coburn, Dodge, Eckley, Eggleston, Eliot, Farnsworth, Fields, Garrison, Glossbrenner, Harding, Hill, Hotchkiss, Hubbard, Kerr, Kitchen, Laffin, Lincoln, Mallory, McCarthy, McCullough, Morgan, Morrell, Morrissey, Nicholson, Noell, Phelps, Pike, Poland, Pomeroy, Pruyn, Aaron F. Stevens, Stewart, Stone, Van Aernam, and Van Wyck—42.

So the resolution was agreed to.

During the roll-call,

Mr. MORGAN stated that he had paired off with one of his colleagues, who was under the necessity of going home.

The question recurred on the adoption of the preamble, and it was agreed to.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the preamble and resolution were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania. I rise to a question of privilege. I submit a report from the committee of conference on the disagreeing votes of the two Houses on the supplemental reconstruction bill. I ask that the report be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill of the House No. 123, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate agree to the first amendment of the House, with the following amendments: in line ten strike out the word "illegal" and in lieu thereof insert "not legal State governments;" line thirteen before the word "authority" insert the word "paramount;" and that the House agree to the same as amended.

That the House recede from its second amendment to the amendment of the Senate, and agree to the second section of the Senate amendment, amended as follows: in line three strike out the word "approval" and insert "disapproval;" line four after the word "States" insert "and to have effect till disapproved;" line seven, strike out the word "approval" and insert "disapproval;" line seven, after the word "General" insert "as;" add at the end of the section "and to fill vacancies occasioned by death, resignation, or otherwise;" and that the Senate agree to the same.

That the Senate agree to the amendment of the House to the third section of the amendment of the Senate.

That the Senate agree to the amendment of the House to the fourth section of the amendment of the Senate.

That the House recede from its amendments to the fifth section of the amendment of the Senate.

That the House recede from its amendment to the sixth section of the amendment of the Senate, and agree to the same with the following amendments: strike out the word "time" in the ninth line and in lieu thereof insert "commencement;" line seven, strike out the words "the general laws" and in lieu thereof insert "any general law;" at the end of line seventeen add "or for the administration of justice;" and that the Senate agree to the same as amended.

That the Senate agree to the amendment of the House to the seventh section of the amendment of the Senate.

That the House recede from its amendments in adding sections nine, ten, and eleven, being House amendments eight, nine, and ten.

That the Senate agree to the House amendment eleven, numbered section twelve, with the following amendments: strike out the word "holding" after the word "persons" in line two, and in lieu thereof insert the words "hereafter elected or appointed to;" insert the words "any so-called" before the word "State" in line three; and that the House agree to the same.

That the Senate agree to the twelfth amendment of the House, numbered section thirteen, with the following amendment: insert the word "civil" before the word "officer" in the fifth line, and that the House agree to the same.

That the Senate agree to the thirteenth amendment of the House, amended as follows: in line one strike out "fourteen" and insert "eleven."

LYMAN TRUMBULL,  
GEORGE S. EDMUNDS,  
THOMAS A. HENDRICKS,  
Managers on the part of the Senate.  
THADDEUS STEVENS,  
GEORGE S. BOUTWELL,  
W. S. HOLMAN,  
Managers on the part of the House.

Mr. KELSEY. I ask that the fifth section of the bill as agreed to by the committee of conference be read.

The SPEAKER. If there be no objection it will be read, but the matter before the House is the report of the committee of conference as a whole. It will perhaps be easier for the gentleman from Pennsylvania to explain it.

Mr. STEVENS, of Pennsylvania. Let it be read.

Mr. WILLIAMS, of Pennsylvania. I suggest to my colleague that he allow the bill

to be read by sections, as it is proposed to amend it.

The SPEAKER. It will probably take some length of time for the Clerk to read it.

Mr. STEVENS, of Pennsylvania. I have no objection to the reading, but I think I can explain in a few words the essential amendments.

Mr. BOUTWELL. The committee of conference recommend that the House recede from its amendments to the fifth section, and therefore if the two Houses agree to the report of the committee the fifth section will stand precisely as it came from the Senate.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, most of the amendments made by the House have been agreed to with some slight amendments. One of these is, I think, quite an improvement. Where the House bill originally spoke of the authority of Congress over this whole subject we have so modified it as to speak of "the paramount authority of Congress," which put the matter in a position which I think decidedly preferable.

The principal provisions of our bill have been retained, except two. One is the section offered by the gentleman from Iowa [Mr. WILSON] in relation to penalties, which the members of the committee representing the Senate said that the Senate could not agree to on account of some reasons which that body deems sufficient. We did not think it worth while to split upon that. The other provision is one which I had more at heart—that district commanders should not be removed without the consent of the Senate. Upon this question we were about to split, having agreed upon everything else. After the Senate had finally consented to concede the "paramount authority of Congress" over this subject, I could not see the logic of their reasoning in contending that we have no constitutional power to say that these officers shall not be removed without the consent of the Senate. But I beg the House to consider that the Senate is several furlongs behind the House in the march of reform—perhaps I ought to say of radicalism. They are coming up sidelong; they have not got square up. I have already illustrated this in stating the fact that while they conceded in one part of the bill the "paramount authority of Congress," they still doubted whether the Constitution did not control the subject in a particular way.

This seems to me very strange; and I can account for it only by supposing in traveling South they see the ghost of the Constitution "as it was," and forget that the part which covered the dominion of the so-called Confederate States of America had been consumed in the fierce conflict and wholly repudiated by a belligerent acknowledged to be independent, (as a belligerent,) and thus their action is obstructed. This is natural enough. I do not find any fault in regard to the matter. I am only apologizing for the Senate and stating the reason why I thought it right for us to yield rather than to press them under these peculiar circumstances.

As I said before, I would decidedly have preferred that the section in relation to penalties should have been retained; but the Senate considered it unnecessary on the ground that existing laws provided for all that. I did not feel disposed to quarrel with them upon that point. Generally, as I have already remarked, the points in which this bill differs from the original House bill appear to me improvements. If any gentleman wishes to ask me any question in reference to any particular point I shall be happy to answer him. If not, I will yield to my colleague on the committee, the gentleman from Indiana, [Mr. HOLMAN,] who desires to explain briefly his reasons for signing this report, which is a unanimous report of the committee.

Mr. WILSON, of Iowa. I wish to ask the gentleman from Pennsylvania what is the provision of the bill as to requiring the removal from office of disloyal persons and those who obstruct the execution of the law on this subject in the southern States.

Mr. STEVENS, of Pennsylvania. That is just as we sent it to the Senate. We took care that it should be retained. I now yield to the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. Mr. Speaker, I was opposed to the original bill of the House, as well as to the amendment of the Senate, and the various amendments made by the House to the Senate amendment, indeed to this entire measure; but taking in view alone the question of adjustment of the matters in difference between the two Houses, and without concurring in most of the propositions upon which the committee have agreed, I have signed the report as the best adjustment that could be made of the points of difference between the two Houses, regarding the conclusions reached as preferable to the propositions adopted by either House. In this view I have concurred in the report, and not as giving my approval to this measure of legislation.

Mr. STEVENS, of Pennsylvania. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays on the adoption of the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 22, not voting 36; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Archer, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Broomall, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Daves, Dixon, Donnelly, Driggs, Ela, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Griswold, Halsey, Hamilton, Hayes, Hill, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenekes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Marvin, McClurg, Mercer, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polesley, Price, Ramm, Robertson, Sawyer, Schenck, Seofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William E. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—112.

NAYS—Messrs. Adams, Barnes, Boyer, Burr, Chandler, Eldridge, Fox, Getz, Haight, Holman, Richard D. Hubbard, Marshall, Mungen, Niblack, Noell, Randall, Robinson, Ross, Taber, Van Auken, Van Trump, and Wood—22.

NOT VOTING—Messrs. Delos R. Ashley, Barnum, Blaine, Brooks, Cake, Dodge, Eekley, Eggleston, Eliot, Garfield, Glossbrenner, Harding, Hooper, Hotchkiss, Hulburd, Humphrey, Kerr, Kitchin, Ladin, Lincoln, Mallory, McCarthy, McCullough, Morgan, Morrill, Morrissey, Nicholson, Phelps, Pomeroy, Pruyn, Shellabarger, Sitgreaves, Stewart, Stone, Van Wyck, and John T. Wilson—36.

So the report was adopted.

During the vote,

Mr. MORGAN stated that if he had not been paired off he would have voted in the negative.

The vote was then announced as above recorded.

Mr. BOUTWELL moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAYMENT OF ADDITIONAL BOUNTY.

Mr. PAINE. Mr. Speaker, I wish to make a proposition which I think will challenge the cordial approval of every member of the House, whatever his political relations may be. I find that the cause of the great delay in the payment of the additional bounty under the act of 1866 is that the muster-out rolls are deposited in the office of the Second Auditor. It becomes necessary, therefore, in every case to make application to the Second Auditor for information. I understand that there are ninety thousand applications in that office now unanswered, and that it is impossible to carry on these cases any faster than ten thousand a month. I offer a resolution, which I present at the suggestion of one of the officers of the pay department, drawn up substantially at that department, and which, if adopted, will

relieve the soldiers of the difficulty and delay in being paid their bounties. I ask that the resolution be read, and if there be any objection I shall move to suspend the rules. It is a joint resolution authorizing the Secretary of the Treasury to cause certain muster-out rolls to be photographed.

The joint resolution was read. It provides that, in order to facilitate the payment of bounty to soldiers of the United States under the act of July 28, 1866, the Secretary of the Treasury is authorized and directed to have photographic copies of the muster-out rolls of all organizations employed during the war of the rebellion the members of which are entitled to bounty; and that duplicate copies shall be furnished to the Paymaster General, one to be retained by him, and one to be used in the Division of Referred Claims.

It also provides that the expenses attending the photographing of said rolls shall be paid out of any money in the Treasury not otherwise appropriated.

There was no objection, and the joint resolution was received and read a first and second time.

Mr. PILE. I wish to suggest to the gentleman from Wisconsin that we ought to provide against the multiplication of copies of these rolls, as I understand the negative from which they will be printed is upon glass, and there ought to be some provision made in regard to the security of that negative.

Mr. PAINE. I will accept any proper amendment which the gentleman will prepare. I wish to add that as the law now stands, I am informed it will be impossible to pay these bounties within four years.

Mr. MYERS. I desire to ask the gentleman whether the inability to copy these rolls fast enough is the special cause of the delay in the payment of the bounties. The country ought to know what is the cause of the delay, and I wish to know if, in his inquiry at the Department, he has found that to be the main cause. If so, it seems to me a very trivial one. The resolution is to some extent a remedy of the evil; but I do not see why the labor of copying papers of this kind should cause all the delay complained of.

Mr. PAINE. I am informed and believe that it is. The delay in examining these rolls is the precise difficulty which stands in the way of the speedy payment of the bounties, and this resolution is intended to afford prompt relief.

Mr. BROMWELL. I wish to know why this resolution is necessary. Is it because the Department has no authority at all to do this, or is it because it is easier and cheaper to photograph than to copy in the ordinary way? It seems to me that they can put clerks to copying many different rolls at once; and if they have not sufficient force, all they want is the authority to employ additional clerks. Certainly if there are so many rolls as are stated there can be many more clerks employed; and I suppose a copy in manuscript is just as good for all practical purposes as a copy by photograph. I wish to know whether they have delayed the soldiers all this time because they have had not sufficient force or no authority to put the clerks at work copying the rolls.

Mr. FARNSWORTH. I desire, with the permission of my friend, to move to amend the last section of the joint resolution by substituting therefor the following:

That the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to pay the expenses of the execution of this act.

I believe by a rule of this House it is necessary to limit the appropriation.

Mr. PAINE. I accept the amendment, and now demand the previous question.

Mr. SCHENCK. I hope this resolution will not be put on its passage until there is some security provided against the multiplication of these copies by photography. I understand the gentleman from Missouri [Mr. PILE] is now preparing an amendment for that purpose. In the mean time I wish to make another sug-



gestion. There is cause of complaint, I think, actually existing in reference to the order in which these applications for bounty are taken up. I do not aver it of my own knowledge; but I am in possession of proof, which, I think, I shall make very distinct before long, that a system of favoritism has been pursued in the taking up out of their order cases where claims have been made for additional bounty as well as for the settlement of accounts by the officers of the different Departments. I would therefore like to have the gentleman accept an amendment which will make it a misdemeanor and provide some penalty where an officer shall practice favoritism of that sort. An application sometimes lies there years undisposed of, as I am advised, while other applications are considered and acted upon which were subsequently filed. As to the reason suggested that they have not the rolls, I can only say this: that accounts and pay-rolls presented on the settlement of different accounts of different paymasters have been taken out of their order, and gross favoritism has been shown. There has been at least one claim agent who was afterward detected in the vilest frauds against the Government, who seems to have, in a good degree, the run of one of the Departments of this Government in bringing these claims forward and getting them acted upon. I will prepare an amendment to meet that case.

Mr. BENJAMIN. If the gentleman from Wisconsin will allow me, I will inquire if he has any information as to the probable cost of photographing all these rolls?

Mr. PAINE. I have not.

Mr. BENJAMIN. Or as to the length of time that it will take to get them taken?

Mr. PAINE. I have no information on either of these points.

Mr. BENJAMIN. It seems to me, then, that it will be a little dangerous for us to enter upon legislation of that kind without knowing something as to whether in fact this resolution will facilitate the payment of these bounties in the least. And I suggest to the gentleman from Wisconsin [Mr. PAINE] that as there is not the slightest probability of getting this joint resolution through the Senate at this session he consent to its reference to the Committee on Military Affairs, so that that committee may investigate these points and we may not legislate in the dark. This is a new species of legislation which has not been practiced heretofore by the Government, and it seems to me that it would be a dangerous precedent for us to set at this time. I should much prefer that the matter should be investigated by a proper committee before we vote upon it.

Mr. MUNGEN. I think that there is another difficulty in the way besides the lack of photographers in that Department. After the close of the last session of Congress I had occasion to go to the office of the Second Auditor, and I found there over three hundred mail bags full of applications which never had been opened. I asked the Chief Clerk what was the reason, and he replied that they had not sufficient clerical force; that they were driving this matter through as speedily as possible. I received this information from Mr. E. B. French, Chief Clerk in the Second Auditor's office.

Mr. COOK. During the last session of Congress my attention was called to the delay in the payment of bounties, and I introduced a resolution providing for an increase of the clerical force in the office of the Second Auditor. But on conversing with the Second Auditor on the subject I understood him to say that they had as many clerks then employed as could be employed to any advantage about the business of preparing these rolls. Consequently that resolution was suffered to fall. There is no doubt that the paymaster's office would have paid these bounties a good deal faster than they have done if they could have procured the necessary information from the office of the Second Auditor. And in examining the subject at the last session I could not see how

an increase in the clerical force in the Second Auditor's office would accomplish the result which we desired.

While I am upon the floor I would like to state that very great irregularity has taken place in the payment of these bounties. I know that applications made have been suffered to remain in the office long after applications subsequently made have been paid, applications from members of the same company and the same regiment. I do not know what the reason is, but it seems to me to be very singular that claims should be paid in that irregular manner.

#### DUTY ON DISTILLED SPIRITS.

Mr. BARNES. I ask the gentleman from Wisconsin [Mr. PAINE] to yield to me, to allow me to ask unanimous consent to offer a resolution.

Mr. PAINE. I will yield to have the resolution read, but I have already yielded so long that after that I must insist upon the demand for the previous question.

The Clerk read Mr. BARNES'S resolution, as follows:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to furnish to this House the amount of money raised in the different collection districts of the United States from the manufacture of distilled spirits for the several fiscal years since 1862; and for the separate quarters of the last fiscal year so far as received, together with the tax per gallon levied upon said article during said period.

Mr. PILE. I object to the resolution.

#### LEAVE OF ABSENCE.

The SPEAKER. The gentleman from New York [Mr. TABER] asks leave of absence after to-day.

No objection was made, and the leave of absence was granted.

#### RIGHTS OF CITIZENS OF THE UNITED STATES.

Mr. JULIAN. I ask unanimous consent to offer for reference to the Committee on the Judiciary a joint resolution in relation to the right of franchise of citizens of the United States.

Mr. RANDALL. I call for the reading of the joint resolution.

The Clerk read as follows:

Whereas the fourth section of the fourth article of the Constitution of the United States declares that "the United States shall guaranty to every State in this Union a republican form of government;" and whereas the duty thus enjoined is necessarily devolved upon the Congress of the United States, and carries with it the right to determine what is a republican form of government, which question, being a purely political one, belongs solely to the legislative department of the Government: Therefore,

*Be it enacted by the Senate and House of Representatives, &c.,* as the deliberate judgment of this Congress, that the right to the elective franchise, unless forfeited by crime, is an absolutely necessary and fundamental principle of republican government, affording the true safeguard of the citizen against partial and unjust legislation, and essential to the national security and peace; and that the constitutions or laws of any States of this Union which deny to any of their citizens, being citizens of the United States, the right to vote on account of race or color, or which impose any conditions or qualifications for the exercise of the right not demanded of all other citizens, are repugnant to the form and spirit of republican government, at war with the Declaration of Independence, in violation of the Constitution of the United States, and ought to be so amended as to conform thereto.

Several members objected.

Mr. JULIAN. I move to suspend the rules to permit the introduction of the joint resolution.

The SPEAKER. That motion is not in order at present, as the House is acting upon another subject under a suspension of the rules.

#### PAYMENT OF ADDITIONAL BOUNTIES—AGAIN.

Mr. PAINE. I wish now to have the amendment of the gentleman from Missouri read.

The Clerk read the amendment of Mr. PILE, as follows:

Add to the first resolution these words: "and that he shall cause the negative plates from which these copies are taken to be at once destroyed."

The amendment was agreed to.

Mr. PAINE. I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. Instead of making any remarks, I will simply propose the following as an additional resolution:

*Be it further resolved*, That in taking up and considering claims for additional bounty, such claims shall be acted on in the order in which they may be or have been severally presented or filed; and any officer or employé of the Government who shall be found guilty of authorizing, favoring, or filed in giving preference to the examination of and action on any such claim, to the exclusion of other like claims previously filed or presented, shall be held to be guilty of a misdemeanor, and shall be punished, on conviction thereof, by fine not exceeding \$1,000, or by imprisonment for not more than six months, or both, and shall be dismissed from his office or employment.

Mr. FARNSWORTH. I wish to suggest to the gentleman from Ohio that his amendment, providing that claims shall be acted on in the order in which they are filed or presented, may cause in some cases a great deal of unnecessary delay. The pay department, as I understand, acts upon the claims filed as fast as the rolls are obtained from the Second Auditor's office. The pay department might have the roll containing the name of a claimant whose claim was filed only yesterday; while it might not have the roll containing the name of a claimant whose claim was filed six months ago.

Mr. PAINE. I now demand the previous question on the joint resolution and pending amendment.

The previous question was seconded, and the main question ordered.

Mr. ROSS. I desire to suggest that the amendment of the gentleman from Ohio [Mr. SCHENCK] might have a different effect from that which he intends. Suppose that there should be a case in which the proof should be defective; would it not be necessary, under his amendment, that action on all claims subsequently filed should be deferred until that particular claim could be finally acted upon?

Mr. SCHENCK. If, on taking up any particular case, it should be discovered that the proof was defective, that claim must of course be laid aside. The object of my amendment is simply that claims shall be taken up in their order.

Mr. ROSS. I am satisfied that they would be required under the amendment to stop until that case was disposed of.

Mr. SCHENCK. If there is any doubt on that point I am willing to modify it in that respect. My object is to stimulate the disposal of this business. Insert the words "except in case of defect of proof."

Mr. HOLMAN. It also should say "or the suspension of any case."

Mr. SCHENCK. Insert "or from some other good cause."

Mr. BENJAMIN. Is it in order to move that this be referred to the Committee on Military Affairs?

The SPEAKER. It is not while the House is acting under the previous question.

Mr. BENJAMIN. I move to reconsider the vote by which the main question was ordered.

The House divided; and there were—ayes 39, noes 36; no quorum voting.

The SPEAKER ordered tellers, and appointed Mr. PAINE and Mr. BENJAMIN.

The House again divided; and the tellers reported—ayes 48, noes 47.

The Speaker voted in the negative.

So the motion was disagreed to.

Mr. SCHENCK'S amendment, as modified, was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Massachusetts, demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 18, not voting 61; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, James M. Ashley, Baker, Banks, Beaman,

Benton, Bingham, Boyer, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Ela, Ferry, Fields, Finney, Fox, Getz, Gravely, Halsey, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Kelley, Kelsey, Kerr, Ketcham, Koontz, William Lawrence, Loughbridge, Marshall, McClurg, Mercur, Miller, Mungen, Myers, Newcomb, Niblack, O'Neill, Paine, Perham, Pike, Plants, Poland, Polesiey, Price, Randall, Raum, Robertson, Robinson, Ross, Sawyer, Schenck, Shanks, Sitgreaves, Spaulding, Starkweather, Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—31.

**YAYS.**—Messrs. Benjamin, Blair, Boutwell, Burr, Butler, Chanler, Ferriss, Haight, Hamilton, Judd, Moorhead, Noell, Taffe, Trowbridge, Twichell, Van Trump, William B. Washburn, and Thomas Williams—18.

**NOT VOTING.**—Messrs. Delos R. Ashley, Baldwin, Barnes, Barnum, Blaine, Brownell, Brooks, Cake, Churchill, Cornell, Dodge, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Garfield, Glossbrouner, Griswold, Harding, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburd, Humphrey, Julian, Kitchen, Lafin, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McCullough, Moore, Morgan, Morrell, Morrissey, Nicholson, Orth, Peters, Phelps, Pike, Pomeroy, Pruyn, Scofield, Selye, Shellabarger, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Taber, Taylor, Van Auken, Van Wyck, and John T. Wilson—31.

So the joint resolution was passed.

Mr. PAINE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTIVE FRANCHISE.

Mr. JULIAN. I ask unanimous consent to submit the following resolution:

Whereas the fourth section of the fourth article of the Constitution of the United States declares that "the United States shall guaranty to every State in this Union a republican form of government;" and whereas the duty thus enjoined is necessarily devolved upon the Congress of the United States, and carries with it the right to determine what is a republican form of government, which question, being a purely political one, belongs solely to the legislative department of the Government: Therefore,

Be it resolved by the Senate and House of Representatives, &c., as the deliberate judgment of this Congress, That the right to the elective franchise, unless forfeited by crime, is an absolutely necessary and fundamental principle of republican government, affording the true safeguard of the citizen against partial and unjust legislation, and essential to the national security and peace; and that the constitutions or laws of any States of this Union which deny to any of their citizens, being citizens of the United States, the right to vote on account of race or color, or which impose any conditions or qualifications for the exercise of the right not demanded of all other citizens, are repugnant to the form and spirit of republican government, at war with the Declaration of Independence, in violation of the Constitution of the United States, and ought to be so amended as to conform thereto.

Mr. WOOD. I object.

Mr. JULIAN. I move to suspend the rules for the purpose of introducing the resolution.

Mr. CHANLER. I demand tellers on that motion.

Tellers were refused.

The motion to suspend the rules was agreed to—ayes 68, noes 20.

The joint resolution was read a first and second time.

Mr. WILLIAMS, of Pennsylvania. I desire to suggest a form of expression in the title which is not well warranted. It is the expression "right of franchise," a very common expression, I admit, but nevertheless incorrect. The body of the resolution contains the words "right of the elective franchise," which is correct. Franchise is nothing more than right, and to say "right of franchise" is equivalent to saying "franchise of franchise."

Mr. JULIAN. The phrase was not indorsed upon the paper by me. I accept the modification of the title suggested by the gentleman from Pennsylvania.

Mr. CHANLER. I rise for information. I wish to know whether by this resolution the gentleman seeks to have the same standard of intelligence among the voters throughout the country.

Mr. JULIAN. It does not raise any question as to the intelligence of voters.

Mr. CHANLER. I desire to know, in other

words, whether the gentleman intends to educate the people generally up to the standard of Massachusetts, or to educate the people of Massachusetts up to the standard of the negro.

Mr. JULIAN. There is no question of intelligence raised in the resolution; if there were I fear it would be troublesome to the gentleman's constituents. [Laughter.]

Mr. CHANLER. I cannot hear the gentleman's reply; I presume it is pretty apt; but he has not given us any explanation of the general bearing of this resolution as regards the rule of equalization.

Mr. JULIAN. The resolution I think is in pretty good English, and if the gentleman had listened to it he would probably have comprehended perfectly its drift.

The joint resolution was referred to the Committee on the Judiciary.

#### RECONSTRUCTION ACT.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in answer to a resolution of the House of the 12th instant, estimates of the Adjutant General and Paymaster General for additional appropriations to carry into effect the reconstruction act; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### ADJOURNMENT.

Mr. WARD, at three o'clock and ten minutes, moved that the House adjourn.

The SPEAKER. The Chair will state that if the House adjourns the reconstruction bill cannot be signed and sent to the President until Monday.

The motion to adjourn was disagreed to.

Mr. HOLMAN I move a recess until four o'clock.

Mr. INGERSOLL. I move to amend by making it eight o'clock.

Mr. FARNSWORTH. I doubt whether we shall get the bill from the Senate by four o'clock.

The SPEAKER. The motion is not debatable, but unless some member objects the Chair will not interrupt debate.

Mr. HOLMAN. The reason I suggested an early hour was that the bill might go to the Executive at the earliest possible moment. I will modify my motion by making it five o'clock.

Mr. CULLOM. Is there any likelihood that the bill will be here by that time?

Mr. KELSEY. Would it be in order to suspend the rules and discuss matters and things in general now?

The SPEAKER. Not pending a motion for recess. If any gentleman objects the Chair will arrest debate.

Mr. PRICE. I object.

Mr. INGERSOLL. I modify my amendment by saying seven o'clock.

Mr. PRICE. I move to amend the amendment by substituting four o'clock.

The question being taken on the amendment to the amendment, namely, to substitute four o'clock, there were—ayes 60, noes 29.

Mr. BEAMAN demanded the yeas and nays. The yeas and nays were refused.

So the amendment to the amendment was agreed to.

The question recurred on the amendment of Mr. INGERSOLL as amended, and it was agreed to.

The question then recurred on the original motion as amended; and being put, there were—ayes 59, noes 28.

Mr. WILSON, of Iowa, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 55, not voting 70; as follows:

**YEAS.**—Messrs. Ames, Archer, Baker, Barnes, Boyer, Buckland, Sidney Clarke, Cobb, Coburn, Cook, Covode, Dixon, Driggs, Ela, Fields, Finney, Fox, Getz, Haight, Halsey, Hamilton, Hooper, Julian, George V. Lawrence, Mercur, Myers, Niblack, Plants, Price, Robertson, Scofield, Shanks, Spaulding, Starkweather, Aaron F. Stevens, Taylor, Taber, Twichell,

Van Auken, Burt Van Horn, Van Trump, Ward, William Williams, Windom, and Woodbridge—45.

**NAYS.**—Messrs. Allison, Anderson, James M. Ashley, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Broomall, Burr, Reader W. Clarke, Cullom, Dawes, Eldridge, Farnsworth, Ferriss, Gravely, Holman, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Ketcham, Koontz, William Lawrence, Loughbridge, McClurg, Miller, Moore, Moorhead, Newcomb, Noell, O'Neill, Orth, Paine, Perham, Pike, Polesiey, Raum, Robinson, Ross, Schenck, Selye, Sitgreaves, Smith, Thomas, Trowbridge, Upson, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, and Stephen F. Wilson—55.

**NOT VOTING.**—Messrs. Adams, Delos R. Ashley, Baldwin, Banks, Barnum, Blaine, Brownell, Brooks, Butler, Cake, Chanler, Churchill, Cornell, Dodge, Donnelly, Eckley, Eggleston, Eliot, Ferry, Garfield, Glossbrouner, Griswold, Harding, Hayes, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Hulburd, Humphrey, Judd, Kelley, Kelsey, Kerr, Kitchen, Ladin, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Marvin, McCarthy, McCullough, Morgan, Morrell, Morrissey, Mungen, Nicholson, Peters, Phelps, Pike, Poland, Pomeroy, Pruyn, Randall, Sawyer, Shellabarger, Thaddeus Stevens, Stewart, Stone, Taffe, Van Aernam, Robert T. Van Horn, Van Wyck, Thomas Williams, John T. Wilson, and Wood—70.

So the House refused to take a recess.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. SHELLABARGER for the remainder of the session.

#### PRINTING FOR THE DEPARTMENTS.

Mr. WILSON, of Iowa. I ask leave to report back from the Committee on the Judiciary the joint resolution referred to it last evening in regard to the printing of the Departments, with a substitute in the form of a bill. It is a bill explanatory of section ten of chapter eighty-seven of the law of the Thirty-Ninth Congress, passed March 2, 1867.

No objection was made, and the bill was received and read a first and second time by its title, as follows:

A bill supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867.

Mr. WILSON, of Iowa. I will state that the amendment reported by the committee does not make any material change in the joint resolution as referred, but we have described the act to which it is an amendment by its proper title.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses in relation to the supplementary reconstruction bill.

#### COMMUNICATION FROM STATE DEPARTMENT.

Mr. BANKS. I wish to present a communication from the Secretary of State, transmitting a report of the resident minister of the United States at Quito, republic of Ecuador, relative to persons claiming to be naturalized citizens of the United States residing in that country.

I move that it be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. VAN TRUMP. I am not sufficiently acquainted with the rules of the House to know whether what I now desire is in the nature of a privileged question or a personal right; but as the gentleman from Pennsylvania, [Mr. KELLEY,] in reply to a question which I propounded to him, entered at some length into the question of the position of the southern States, and inasmuch as I could not get the floor to reply to him, I ask unanimous consent of the House to print the remarks which I desired to make.

No objection was made.

Mr. VAN TRUMP's remarks will be published in the Appendix.

## CONSTITUTIONAL AMENDMENT.

Mr. SCOFIELD. On the 5th of this month, a week ago yesterday, a resolution was passed calling upon the President of the United States to inform the House what States had adopted the fourteenth article of the Constitution. I wish to inquire of the Speaker if any response has been received to that resolution.

The SPEAKER. No response has been received.

## PERSONAL EXPLANATION.

Mr. MUNGEN. I rise to ask unanimous consent to make a personal explanation.

Mr. UPSON. How long will the gentleman require?

Mr. MUNGEN. Well, about a minute.

The SPEAKER. Is there objection?

No objection was made.

Mr. MUNGEN. It is in reference to a remark which fell this morning, I suppose inadvertently, from the gentleman from Illinois [Mr. INGERSOLL] in speaking of the committee to inquire into the sufferings of Union prisoners or of rebel prisoners. In speaking of it he said that some of its members were good Union men and the friends of Union soldiers; but he left me out in the cold, and the implication might be that I am not a Union man or a good friend of the Union soldiers. I would simply ask the gentleman whether he meant that or not?

Mr. INGERSOLL. Before I proceed to answer that question I would inquire if any of my colleagues would like to have the floor. [Laughter.] If the gentleman from Ohio [Mr. MUNGEN] construed my remark as implicating him among the enemies of the Union or of Union soldiers I am glad that he has called my attention to it.

I intended no such thing. I know nothing whatever of the past political career of the gentleman from Ohio. I simply know that he is associated on this floor with the Democratic party. I understand, however, that he was an officer of a Union regiment, fighting on our side during the war; and I am only surprised that he is not on our side since the war. I certainly think the gentleman has misunderstood the purport of my remarks. I intended no reflection upon him whatever. I do not remember making any discrimination with regard to the various gentlemen on the committee. If I did, I intended to discriminate only in a political sense, meaning that a majority of them belong to the party to which I belong, the members of which I designate as "our friends," while the minority, as I supposed, belong to the Democratic party, the members of which I designate as "our political enemies." I meant nothing more. I did not mean that they were the enemies of the Union or of Union soldiers. I hope this explanation is satisfactory to the gentleman.

Mr. MUNGEN. The gentleman's explanation is perfectly satisfactory to me.

## ORDER OF BUSINESS.

Mr. WARD. I call for the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports.

No reports were presented.

The SPEAKER proceeded, as the next business in order, to call the States for resolutions.

## FORMS OF PROCEEDINGS IN BANKRUPTCY.

Mr. MILLER. I offer the following resolution, upon which I ask consent to make an explanation:

*Resolved*, That the Committee on Printing be, and is hereby, requested to cause to be printed, for the use of the members of this House, ten thousand copies of the forms of proceeding in bankruptcy, as promulgated by the Supreme Court of the United States.

The SPEAKER. Is there objection to the gentleman from Pennsylvania [Mr. MILLER] making an explanation in reference to this resolution? By the rule, a resolution presented under this order must, if it gives rise to debate, go over.

There was no objection.

Mr. DAWES. I desire to ask the gentleman whether he has amended this resolution in the manner I suggested yesterday?

Mr. MILLER. No, sir; and I think that when the gentleman shall have heard my explanation he will see that he was under a misapprehension in making that suggestion.

Mr. Speaker, I desire in the first place that the Clerk shall read the tenth section of the bankruptcy act of March 2, 1867.

The Clerk read as follows:

*Sec. 10. And be it further enacted*, That the justices of the Supreme Court of the United States subject to the provisions of this act shall frame general orders for the following purposes:

For regulating the practice and procedure of the district courts in bankruptcy, and the several forms of petitions, orders, and other proceedings to be used in said courts in all matters under this act;

For regulating the duties of the various officers of said courts;

For regulating the fees payable, and the charges and costs to be allowed, except such as are established by this act or by law, with respect to all proceedings in bankruptcy before said courts, not exceeding the rate of fees now allowed by law for similar services in other proceedings;

For regulating the practice and procedure upon appeals;

For regulating the filing, custody, and inspection of records;

And generally for carrying the provisions of this act into effect.

After such general orders shall have been so framed, they, or any of them, may be rescinded or varied, and other general orders may be framed in manner aforesaid, and all such general orders so framed shall, from time to time, be reported to Congress, with such suggestions as said justices may think proper.

Mr. ROSS. I raise the point of order that this resolution must go, under the law, to the Committee on Printing.

The SPEAKER. The gentleman from Illinois [Mr. ROSS] is correct. But the gentleman from Pennsylvania [Mr. MILLER] has unanimous consent to make an explanation. When he shall have concluded, the resolution will be referred.

Mr. ROSS. I have no objection to hearing the explanation.

Mr. MILLER. Under the bankruptcy act the justices of the Supreme Court were authorized to frame rules and regulations for the government of proceedings in bankruptcy. They have done so. The Senate has ordered the printing of two thousand copies of these rules and regulations. The type has already been set; so that if the House should order copies of the document there would be no expense but that of the paper.

Mr. DAWES. I would like to inquire whether there is anything in the law providing that Congress shall print these blanks for the convenience of lawyers?

The resolution was referred to the Committee on Printing.

Mr. MILLER moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ROBERT A. PARRISH.

On motion of Mr. O'NEILL, leave was granted for the withdrawal from the files of the House of the papers in the case of Robert A. Parrish.

## NAVY ACTIVE LIST.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to report to this House whether any officer of the Navy has been retained on the active list after having been fifty-five years or longer in the service, and after he should have been retired by law; and if so, by whose order and authority.

## GOVERNMENT EMPLOYÉS IN WASHINGTON.

Mr. NOELL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the heads of the Departments of War, Navy, State, Interior, Treasury, and Post Office are requested to inform the House of the names of the clerks in their respective Departments, their salary, and the term of service of each, and the district, State, or Territory from which appointed.

Mr. CULLOM. I object.

Mr. NOELL. The gentleman comes from

the West, and he ought not to object to its being shown that these appointees come mostly from the East.

Objection being made, the resolution was accordingly laid over.

## POST ROAD.

Mr. HOLBROOK, by unanimous consent, introduced a bill to establish a certain post road, which was read a first and second time, and ordered to be referred to the Committee on the Post Office and Post Roads when appointed.

## PETITION FROM ARKANSAS—AGAIN.

Mr. LAWRENCE, of Ohio. I move to reconsider the vote by which the House received and referred a petition from the Legislature of Arkansas in regard to levees, and demand the previous question.

Mr. HOLMAN moved that the motion to reconsider be laid upon the table.

Mr. BURR. The gentleman who presented the petition is not now in his seat, and I suggest that the matter had better be deferred for the present.

Mr. LAWRENCE, of Ohio. I do not wish to do anything that may be regarded as discourteous, and will consent that the subject shall be postponed until Monday next, after the reading of the Journal.

There was no objection, and it was so ordered.

## ENROLLED BILL.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title:

An act (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867; when the Speaker signed the same.

## RECONSTRUCTION APPROPRIATION.

Mr. BINGHAM. I ask unanimous consent to move to discharge the select Committee on Reconstruction from the further consideration of a joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States. The joint resolution declares that for the purpose of carrying into effect the above-named acts there shall be appropriated out of the Treasury, not otherwise appropriated, \$1,675,000.

Mr. RANDALL. I object.

Mr. BINGHAM. I move to suspend the rules.

The motion was agreed to.

The joint resolution was read a first and second time.

Mr. BINGHAM. I demand the previous question.

Mr. ELDRIDGE. Will the gentleman yield a minute?

Mr. BINGHAM. Yes, sir.

Mr. ELDRIDGE. I desire to state that I think the money is being squandered. I will ask the Clerk to read a brief paragraph from a Republican paper, published yesterday, in regard to General Sickles, showing the pomp and ceremony with which he performs his duty. He is a great deal more of a harlequin, I reckon, than our friend in Louisiana.

The Clerk read as follows:

"General Sickles, commander of the Carolinas, lives in great state in Charleston. He appears on the streets on pleasant afternoons in a carriage, driving four splendid black horses, with splendid silver mountings, generally with his daughter beside him, and a servant in livery behind. Of course this splendid establishment attracts the unbounded enthusiasm of the negro population."

Several MEMBERS. Who is the editor?

Mr. ELDRIDGE. That is by Thurlow Weed, a Republican.

Mr. BINGHAM. One word as to that article. It seems to me fit that a man who has lost his limb in maintaining on the field of battle the supremacy of the Constitution and the

majesty of violated law of the Republic should be allowed to ride in a coach-and-four. [Applause.]

Mr. ELDRIDGE. I wish to inquire if it requires more horses to draw a man with one leg than with two? [Laughter.]

Mr. SCHENCK. Certain gentlemen went up to Canada with the aid of their two legs and no horses. [Laughter.]

Mr. ELDRIDGE. The gentleman from Ohio, [Mr. SCHENCK,] as I have heard, made a charge in the late war which, if he had followed up, might have taken him to Canada. [Laughter.]

Mr. SCHENCK. That is an old lie, which has been exploded in the teeth of liars long ago.

Mr. ELDRIDGE. I supposed the gentleman would get nervous over it. I know he has contradicted it.

Mr. BINGHAM. I renew the demand for the previous question, and decline to yield further.

Mr. RANDALL. I desire to ask a pertinent question. Upon what information or what estimate of the War Department is this appropriation asked for? In considering an appropriation of such a large amount of money it is proper that the House should be in possession of information which will warrant us in passing it. Here is a naked resolution, without rhyme or reason, appropriating a very large amount of money.

Mr. BINGHAM. My answer to the gentleman is that the estimate has been made by the War Department under the requirement of this House; it has been reported to the House and referred to the Committee on Reconstruction.

Mr. ELDRIDGE. I would inquire if General Sickles does not claim that he wants the whole amount of this appropriation for the two Carolinas?

Mr. BINGHAM. I do not so understand.

Mr. HOLMAN. Perhaps the gentleman will allow the estimate to be read.

Several MEMBERS. It is before us.

The previous question was seconded—ayes 73, noes 19, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CHANLER. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 20, not voting 66; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Buckland, Churchill, Cobb, Coburn, Cook, Covode, Cullom, Daves, Dixon, Driggs, Ela, Ferriss, Finney, Halsey, Hamilton, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketchum, Kootz, William Lawrence, Loan, Logan, McClurg, Mercer, Miller, Moore, Moorhead, Myers, O'Neill, Orth, Perham, Peters, Pile, Plants, Polsley, Price, Raum, Robertson, Schenck, Seefeld, Selye, Shanks, Spalding, Starkweather, Aaron F. Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—84.

NAYS—Messrs. Adams, Archer, Boyer, Burr, Chanler, Eldridge, Fox, Getz, Haight, Holman, Morrissey, Newcomb, Nicholson, Randall, Robinson, Ross, Sitgreaves, Taber, Van Auker, and Van Trump—20.

NOT VOTING—Messrs. Delos R. Ashley, Baldwin, Banks, Barnes, Barnum, Blaine, Bronwell, Brooks, Broomall, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cornell, Dodge, Donnelly, Eekley, Eggleston, Eliot, Farnsworth, Ferry, Fields, Garfield, Glossbrenner, Gravelly, Griswold, Harding, Hayes, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Kerr, Kitchen, Ladin, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marshall, Marvin, McCarthy, McCullough, Morgan, Morrell, Mungen, Niblack, Noell, Paine, Phelps, Pike, Poland, Pomeroy, Pruyn, Sawyer, Shellabarger, Smith, Thaddeus Stevens, Stewart, Stone, Robert T. Van Horn, Van Wyck, Windom, and Wood—63.

So the bill was passed.

Mr. BEAMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOOPER, of Massachusetts. I move that when the House adjourns it adjourn to meet at seven o'clock on Monday evening. And I will state in explanation of my motion that I am told that there is no possibility of our getting the veto during the day session if we meet at twelve o'clock; that we certainly cannot get it before the evening.

Mr. INGERSOLL. I move to amend the motion of the gentleman from Massachusetts so as to provide that the House shall meet at ten o'clock on Tuesday morning.

Mr. ELDRIDGE. I would inquire which of those gentlemen opposite has had a personal interview with the President to inquire when the veto would come in? I suppose it must be the gentleman from the Lancaster district of Pennsylvania, [Mr. STEVENS.] [Laughter.]

Mr. INGERSOLL. I will modify my motion so as to provide that the House shall meet at the usual hour on Tuesday.

The question was taken on Mr. INGERSOLL'S amendment, and there were—ayes 41, noes 53.

So the amendment was disagreed to.

The question recurred upon Mr. HOOPER'S motion.

The SPEAKER. The Chair will state that if any gentleman objects it will require a suspension of the rules, inasmuch as the gentleman's motion proposes to change the hour of meeting.

Several members objected.

Mr. HOOPER. I move a suspension of the rules to enable me to submit my motion.

The question was taken; and (two thirds not voting in the affirmative) the rules were not suspended.

And then, on motion of Mr. HOOPER, (at four o'clock and twenty-five minutes p. m.) the House adjourned.

#### PETITION, ETC.

The following petition, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Miss Eugenia Washington, praying that Congress may purchase a sword formerly belonging to General Washington.

By Mr. BANKS: The memorial of Elias Howe, for the extension of his patent as the inventor of the sewing-machine for the term of seven years from the 10th of September, 1867.

#### IN SENATE.

Monday, July 15, 1867.

Prayer by Rev. E. H. Gray, D. D.

The Journal of Saturday last was read and approved.

Hon. JOHN SHERMAN, of Ohio, appeared in his seat.

#### BUSINESS OF THE SESSION.

Mr. SUMNER. I move that the Senate take up the resolution that I laid on the table on Saturday.

Mr. HENDRICKS. Let it be read.

The Chief Clerk read as follows:

*Resolved*, That the rule of the Senate limiting business be suspended, so far as to allow the consideration of the bill (S. No. 124) to enforce the several provisions of the Constitution abolishing slavery, declaring the immunities of citizens, and guarantying a republican form of government, and securing the elective franchise to colored citizens.

Mr. HENDRICKS. As this is a question peculiarly belonging to the majority, perhaps it is not my province to interpose. If it is the pleasure of the majority to take up and pass this bill, I suppose I ought not to object; but I think the rule of the Senate adopted at the commencement of this session was a wise one; and indeed I think it would have been better if Congress were not in session at this time at all. I am in favor of standing rigidly by that rule. I have objected to taking up measures that I felt were in and of themselves right enough; but if we open the door at all, we cannot tell how far we may go before we close it, and as I think there is nothing for the Senate to do this morning, I move an adjournment.

Mr. RAMSEY. We had better have an executive session, I think. There are some nominations to be reported and acted on.

Mr. HENDRICKS. I think that is proper

enough. I move, therefore, that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Will the Senator suspend that motion while I present a letter which seems to be addressed to the Senate, and it had perhaps better be read?

Mr. HENDRICKS. Certainly.

#### ANTIETAM NATIONAL CEMETERY DEDICATION.

The PRESIDENT *pro tempore*. The Chair has received a letter which he will have read for the information of the Senate.

The Chief Clerk read as follows:

184 EAST BROADWAY, NEW YORK, July 8, 1867.

SIR: A committee of arrangements appointed by the board of management of the Antietam National Cemetery have fixed upon the 17th day of July, 1867, the anniversary of the battle from which it derives its name, for the dedication of the same, and constitute the undersigned a special committee to secure the attendance of yourself and the members and other officers of the body over which you preside.

In fulfilling this pleasant duty, in consideration of the favorable influence upon others, which an early assurance of your compliance with this invitation would not fail to have, and in grateful remembrance of what Congress have already done for the sepulture of the nation's heroic dead, we shall await your acceptance of it with no little concern, giving, as it would, proof of the continuance of your sympathy in the patriotic work committed, in part, to the board which we represent, by States having dead on the field of Antietam.

Asking that you will lay this communication before the Senate at your earliest convenience, we beg to subscribe ourselves,

Very respectfully, yours,

J. E. SNODGRASS,

THOMAS A. BOULLT,

G. L. CRANMER,

Special Committee of Invitation.

Hon. BENJAMIN F. WADE,

President of the Senate.

The PRESIDENT *pro tempore*. This seems to be an invitation to the Senators of this body to attend on the occasion named, and of course it is proper to lay it before the Senate. The communication will lie on the table if no other disposition of it be proposed.

#### EXECUTIVE SESSION.

Mr. HENDRICKS. Now, as a test question whether the Senate will stand by its rule, I move, in antagonism to the motion of the Senator from Massachusetts, that the Senate proceed to the consideration of executive business.

Mr. SUMNER. Of course I did not expect the vote of the Senator from Indiana for the bill giving suffrage throughout this country without distinction of color. He is against it naturally by all the professions of his life. Therefore, when he moves that the Senate proceed with the consideration of other business, he is acting logically according to his convictions and practice. I am not surprised at the motion. I shall not oppose it now, because looking around I find that the attendance is so thin that I cannot hope to bring the question to a final decision. Possibly, after discussion, even my friend from Indiana may change his whole system of policy. Who knows? He, too, may see light, and he may see that my bill is the only effectual way of carrying suffrage into Indiana. He will see that without my bill equal suffrage cannot be established in Indiana; and then inspired by democratic ideas—I speak of democratic ideas in the true sense—who knows that he may not sustain the bill? I welcome him to the ranks of equal justice; but for the present I shall make no opposition to his motion.

Mr. HENDRICKS. It is not necessary for the Senator to express any surprise or make any remark about the fact that I make this opposition. This rule of the Senate was adopted before I was able to be present. I thought when I came to learn of it that it was right. I understand it was adopted by a very decided majority that the Senate would not go into the consideration of other business. If the Senate should go into the consideration of other business, however, I think that logically, to return the compliment of the Senator, he is right; not that I ever expect to support his bill, but I think that there is just as much authority under the Constitution for Congress to regulate suffrage in Indiana as in any other State of this Union.



I am very clearly of opinion, however, that there is a lack of authority to control that subject in any State; but I think he is simply in advance logically of the other gentlemen of his party when he demands the same legislation for one State that they demand in another. If it is right to regulate suffrage in one State, it is right in another; but my purpose is by this motion to test the question whether it is the pleasure of the Senate to stand by the rule. There is no legislative business requiring us to stay in session; there is some executive business that perhaps might be attended to to-day; therefore I make the motion at the suggestion of the Senator from Minnesota, [Mr. RAMSEY.]

Mr. HARLAN. I shall vote for the Senator's motion for an executive session, but not on the grounds that he presents. I may feel it to be my duty to vote to rescind the rule to which he refers, but as there is some executive business requiring an executive session during the day, I have no objection to his motion and shall vote for it.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After half an hour spent therein, the doors were reopened.

#### EXPLANATION.

Mr. ROSS. Owing to indisposition I was not able to be in my seat on Saturday, and was, therefore, unable to vote on the reconstruction bill which was finally passed on that day. I desire to state that if I had been here I should have voted for the bill which was then finally disposed of by the adoption of the report of the committee of conference.

#### PHOTOGRAPHS OF MUSTER ROLLS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 72) authorizing the Secretary of the Treasury to cause certain muster-out rolls to be photographed.

Mr. ANTHONY. I move that the bill which has just come from the other House be taken up for the purpose of reference.

Mr. WILSON. I hope it will not be referred.

House joint resolution No. 72 was read the first time by its title.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts object to the second reading?

Mr. ANTHONY. I will make a statement in regard to it.

Mr. WILSON. It is the greatest imposition ever put on any member of Congress to suppose that the thing proposed is within the range of possibility. It cannot be done.

Mr. EDMUNDS. Let the resolution be read at length for information.

The joint resolution was read. To facilitate the payment of the additional bounty allowed to soldiers of the United States under the act of Congress approved July 28, 1866, it proposes to authorize and direct the Secretary of the Treasury to have photographic copies made of the muster-out rolls of all organizations which were employed during the war of rebellion, the members of which are entitled to bounty under that act, of which rolls duplicate copies are to be furnished to the Paymaster General, one to be retained by him, and one furnished for use in the division of referred claims. The negative plates from which these copies are taken are to be at once destroyed. Fifty thousand dollars is proposed to be appropriated to carry the resolution into effect.

Mr. ANTHONY. I beg pardon of the Senate; it is not the bill I thought it was. I know nothing about this bill.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts object to the second reading of the bill?

Mr. WILSON. I do; and in doing so I wish simply to say that while the object of this bill is a good one it is utterly impossible to photograph these rolls. They are patched up, and with pieces pasted on them in such a way that

it cannot be done. If they were whole and perfect the photographic copies would have to be read with a powerful glass. If they were perfect rolls, without any interlineation or any pieces put on them, it would not hasten the thing at all. The truth is that nothing can be done in this matter, and therefore I do not propose to take up the bill at this time; but I hope we shall pass a resolution calling on the Secretary of War and the Secretary of the Treasury to see if some plan can be devised to hasten the completion of this work. When we passed the bounty bill, it was not supposed the work could be completed under three or four years.

The PRESIDENT *pro tempore*. The Senator objects to the second reading of the bill, and it goes over accordingly.

#### RECONSTRUCTION EXPENSES.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States. To carry into effect those acts it proposes to appropriate \$1,675,000.

Mr. WILSON. When I introduced the bill making this appropriation information was called for in regard to it. The House of Representatives had the same information we had, with the difference that the paper of the Adjutant General and the Paymaster General was sent to the House directly by the Secretary of War as evidence on which to found action, and the paper was sent here by the order of the Secretary of War, signed by General Schriver. I have been to the pay department this morning, and I have had placed in my hands the reports of the commanders of the several departments. They were asked to make estimates of the cost of carrying out the law in their several departments, and they have gone into a detailed statement, stating for what they want the money, how many boards of registration they have, the number of persons on the boards, the amount of time consumed, the number of clerks, the amount required for printing, the mileage or traveling expenses, and all matters of that kind pertaining to the work. We have in the bill we passed the other day lengthened out the time a month, which will add to the expense, and there has been an estimate made of that. But I will say that no money will be drawn, no matter what we appropriate, by these officers, except on the presentation of the items in each individual case. If we appropriate the amount in the resolution and it is not called for, it will remain in the Treasury. I have here the report of each of the five generals, in which they go into details in each of their departments as to the necessary cost. I think some of them are very low and some of them seem to me to be pretty large estimates of what will be necessary for this work; but we ourselves have added perhaps from one fourth to one third of the expense by authorizing the commanders to extend the time for making the registration a month, going from the 1st of September to the 1st of October.

Mr. POMEROY. The thing I did not understand was that some of these commanders asked for not more than thirty or forty thousand dollars in addition to what they had had, while others asked for \$300,000. I could not understand why there was such a difference between the expenses of one district and another. Has the Senator anything to account for this difference? It is not because the districts are so much larger, but I see that in one or two districts the addition asked for is some three hundred thousand dollars, while in districts equally as large not more than forty or fifty thousand dollars is asked for. I cannot for myself understand why one district is so much more expensive than another. If the Senator has any information on that subject, I should like to hear it.

Mr. WILSON. The first district, General Schofield's district, includes the State of Virginia. He made his appointments very early,

I think before any other officer, and he detailed a larger number of Army officers on boards that receive their pay from the Army direct. Therefore the expenses in his district have been very much less than some others in that respect. Besides, in Virginia there is a smaller number of persons to be registered than in other districts. Then take the next district, General Sickles's. In South Carolina they have one hundred and twenty-five boards, and the cost of those boards is estimated for a certain number of days, the amount set down, and the cost of travel or mileage, at \$160,000. The officers have not yet been appointed. The work is to be done. In North Carolina there are one hundred and fifty boards, and the cost is estimated at \$192,000. The number of days' work and the cost of traveling are all set down. Then there is an estimate of the cost of printing and books and papers and other matters of that kind. His estimates are larger than those of any other officer.

Mr. POMEROY. What is the amount?

Mr. WILSON. The balance of appropriation asked for is \$461,805 for his district. General Sheridan's district includes Louisiana and Texas. Texas is a very large country, and the expenses there will necessarily be very great. There will be a large number of officers there. General Ord's and General Pope's demands are less; General Pope's remarkably so, it seems to me, for the extent of his district, including Alabama, Georgia, and Florida.

Mr. POMEROY. I notice that when the Department divided the money we appropriated originally, \$500,000, they divided it equally among these several commanders, as if the Department thought their expenses would be about alike; and yet when they come to make their estimates, we find a deficiency in one of over four hundred thousand dollars, while the deficiency in another is less than thirty thousand dollars. That is the point I cannot understand.

Mr. WILSON. The deficiency in General Ord's district is \$245,539. It covers Arkansas and Mississippi. He has three hundred and forty-eight registrars employed for Mississippi, and one hundred and sixty-eight for Arkansas, and one hundred and sixteen clerks. General Pope's whole expenses, including what he has already received and what he estimates for, are \$125,000, which, considering the extent of territory of his district, is certainly very small it seems to me. The expense in General Schofield's district is less than in some of the others, principally from the fact that he has employed so many Army officers. He detailed them early, and acted in that matter before any other commander. By detailing so many from the Army he has saved a very large amount of expense to the Government. He asks for \$80,000.

If Senators think the sum of \$1,675,000, as contained in the bill passed by the House of Representatives, is too large, they can reduce it. I do not believe all that money is wanted for that purpose; but I leave the matter in the hands of the Senate.

Mr. JOHNSON. I called the attention of the Senate on Saturday to the proposition on the table. It struck me with very great surprise that an appropriation of \$1,600,000 should be asked for without any detailed statement, and more especially that the statement which was sent in, short as it was, had not been apparently sanctioned by the Secretary of War. I do not understand now, although the Secretary of War has signed the letter which transmits that statement to the House of Representatives, that he has recommended that appropriation. But upon looking at the statement in its details, such as they were, I was forcibly struck with what seemed to me to be a singular discrepancy between the action of these several commanders, a great difference between the amounts which they respectively require.

General Pope, who commands one of the districts, consisting, I think, of Florida, Alabama, and Georgia, has had some ninety-seven thousand dollars, and only requires \$27,000 more. General Sickles, who received \$69,000

under the former appropriation, and whose district is composed, I believe, of South Carolina and North Carolina alone, wants \$461,000, making, if we give it to him, the expenses in his district upward of five hundred thousand dollars. General Sheridan, who commands the district consisting of Louisiana and Texas, has received \$166,000, and wanted for one month, which at the time he made his statement he supposed might be the extent of time for registration, some two hundred and forty-five thousand dollars more; and then he goes on to estimate for the amount that would be required if an additional month should become necessary, and still another additional month, making the amount which he would require upward of six hundred thousand dollars. Without going over all the districts in detail, I will present a statement which I have made up from the paper read the other day of the amount required by each district commander and what he has already received, showing of course the total amount which he will have received if the request be granted.

Schofield.		
First district has received.....	\$69,444 44	
Estimates to complete.....	80,000 00	
	149,444 44	
Sickles.		
Second district has received....	69,444 45	
Estimates to complete.....	461,805 00	
	531,249 45	
Pope.		
Third district has received.....	97,222 22	
Estimate to complete.....	27,778 00	
	125,000 22	
Ord.		
Fourth district has received....	97,222 22	
Additional estimate up to July, 1867.....	245,539 00	
If continued to July 31, additional.....	159,781 00	
If continued to August 31, additional.....	159,781 00	
	662,323 22	
Sheridan.		
Fifth district has received.....	136,666 67	
Additional estimate for one month from April 17.....	76,753 00	
If continued two months more..	218,420 00	
If continued one month more..	218,420 00	
	680,250 67	
Whole amount.....	2,148,277 00	
Already received.....	500,000 00	
	\$1,648,277 00	

Mr. BUCKALEW. I wish that the estimates which the Senator from Massachusetts has in his possession were in some way made accessible to the public, in order that there may be a just attention directed to the expenditures which shall hereafter be incurred by these officers. They are not before us in any official form and subject to motion; but it would be, I submit, a very proper thing that the Senator from Massachusetts should in some way insert them in the Congressional Globe.

There are two modes by which these estimates may be enormously reduced. First, by the employment in other districts of the same mode which has been adopted by General Schofield; that is, so far as officers and privates of capacity are within the command of the general, that they shall be employed in this duty. By that means a very large and very considerable reduction could no doubt be secured in the other districts, except, possibly, that of General Pope. Then there is another mode by which these generals no doubt might reduce estimates possibly one third or one half, according to the statements as I get them; and that is by not requiring that the boards of registration should sit in continuous session. If the time is extended to the 1st of October, those boards might take a recess of a month or two, giving notice when they would reassemble again. By this means full opportunity would be afforded to all citizens to be registered without our incurring the expense of keeping up these boards the whole time until the period when the proceeding of registration is to close.

I submit, in view of these two considerations which I have mentioned showing how these expenditures may be reduced below the amount

estimated, and in view of the fact that upon the very face of these estimates some of them must be greatly beyond any requirement of the public service, that we ought to reduce this appropriation very largely. I will therefore submit a motion that the appropriation be reduced to the sum of \$1,000,000.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. WILSON. I do not know whether that will be enough or not. It seems to me the amount in the resolution is too large, and I had proposed to put it at a million and a quarter; but we shall be here again in a few months, and I do not think there will be any trouble about it. Therefore I shall not oppose the amendment proposed by the Senator from Pennsylvania.

The amendment was agreed to.

Mr. WILSON. I move to add to the resolution the words "to be expended under the direction of the Secretary of War," so as to be sure that it shall go through the War Department.

Mr. SHERMAN. The Senator probably ought to inquire into the effect of that amendment. That might withdraw the expenditure of money from the supervision of the accounting officers of the Treasury Department. I have not the slightest objection to the Secretary of War directing the expenditure of the money; but the law should be so framed that the expenditures themselves should pass under the review of the accounting officers of the Treasury Department. In some cases, during the war especially, this language in an act directing money to be expended under the order of particular officers has been held to dispense with the otherwise legal examination by the accounting officers. That ought to be avoided in all cases. The Secretary of War, as a matter of course, has not the opportunity, the time, or the means to examine the details of this expenditure. It is proper enough that he should direct the expenditure; but the details of the expenditure, the accounts, &c., should pass under proper supervision.

Mr. WILSON. At the suggestion of the Senator from Ohio, I withdraw this amendment. It was pressed upon me by Senators about me who thought it would be a check. With the explanation made by the Senator certainly I have no objection to passing the resolution without these words. Whether they be inserted or not, these are Army officers acting under the control of the War Department, and they will make their estimates and send their bill to the War Department and the War Department will make requisitions on the Treasury Department to pay the expenses.

Mr. SHERMAN. The difference would be that if these words were inserted the order of the Secretary of War would be final as to amounts in the adjustment of the accounts, because the law expressly said the money should be expended under his direction.

Mr. WILSON. I withdraw the amendment. The resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the resolution to be read the third time. The joint resolution was read the third time.

Mr. PATTERSON, of Tennessee. I ask for the yeas and nays on the passage of this resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 3; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Cole, Conkling, Cragin, Edmunds, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Johnson, Morgan, Morrill of Maine, Nye, Pomeroy, Ramsey, Ross, Sherman, Sprague, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Wilson, and Yates—29.

NAYS—Messrs. Davis, Hendricks, and Patterson of Tennessee—3.

ABSENT—Messrs. Bayard, Buckalew, Chandler, Conness, Corbett, Dixon, Doodittle, Drake, Ferry, Fowler, Grimes, Guthrie, Howe, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Saulsbury, Stewart, Trumbull, and Williams—21.

So the joint resolution was passed.

#### RELIEF OF DESERTERS.

Mr. POMEROY. I gave notice on Saturday that I desired to call up for consideration the House bill No. 108; it is a bill relating to some soldiers who were reported as deserters; it has already passed the House and come here. I ask for its present consideration, and I move that the Senate proceed to the consideration of that bill.

Mr. WILSON. If that bill is to be taken up in the form it is now, I think we ought not to act upon it. Here is a proposition to remove the penalties of desertion from men who left their regiments and went home. Of course it carries with it bounty, back pay, and pension. There is not a man who fought the battles of the country who will not feel outraged if such a system as that is adopted. I am willing to aid in getting up a plan to remove disabilities; but I think we ought not to put upon the Treasury this expense, and say to the world that men who deserted their regiments and went home are to stand on the same footing with men who stayed in their regiments and fought the battles of the country to the end.

Mr. POMEROY. When the bill comes up, the Senator from Massachusetts will be at liberty to move any amendment, and perhaps I shall not resist any amendment of the kind he suggests. The hardship that results to certain soldiers whose cases have come to my attention is this: soldiers who were enlisted, many of them for the war, after the surrender of Lee and Johnston were returned to their several States with a view of being mustered out, and some of them, supposing that they had served their full term, the term for which they had enlisted, as their muster-out was delayed in some cases several days, and sometimes weeks, went home and they were returned on the rolls as deserters. This bill is simply to relieve them from the penalties of desertion in such cases. If it is not sufficiently restricted it ought to be, so as to relieve only that class of soldiers who served through the entire war, and, as they thought, to the full end of their enlistment and left their regiments because the mustering officer did not appear on the day they expected and they were detained in camp near their homes, some of them in sight of their homes, waiting for some mustering officer, and while that delay was in progress went home. If the bill is not sufficiently restricted I am willing to restrict it; but certainly we ought to relieve that class of soldiers, and it is for that purpose that I call for the present consideration of the bill.

Mr. HENDRICKS. What was the decision of the Chair upon the question of order that was made? When a motion was interposed by the Senator from Massachusetts [Mr. SUMNER] I presented to the Chair the question of order, whether the resolution of the Senate having been adopted as a rule for this session, and the time for its reconsideration having passed, it is now in order to suspend or control it. I submitted to the Chair that the resolution having been adopted by the body as a rule for the session cannot be suspended. It perhaps may be repealed, I do not know how that is. The point as presented is that the resolution cannot be suspended for a particular purpose.

The PRESIDENT *pro tempore*. Notice was given on Saturday of a motion to suspend the rule for the purpose of taking up this bill.

Mr. POMEROY. When I called for the consideration of the bill I remarked that agreeably to the notice which I gave on Saturday I made the motion.

The PRESIDENT *pro tempore*. The question involves simply the suspension of the rule for the taking up of this bill. If that prevails the next question will be on taking it up.

Mr. WILSON. I have no objection to taking up the bill; but I should like to refer it to the Committee on Military Affairs. If referred I believe we shall take it into consideration and report it back in a short time. I cannot consent to the bill in the form in which it is or to anything that is going to put a burden on the Treasury.

Mr. POMEROY. I have no objection to the reference; but I want the bill taken up first.

Mr. CONKLING. I should like to hear the bill read for information before I vote even on the question of taking it up. I have no objection to taking up a bill which shall be certainly confined to the object which I understand it is had in view. I am told there are in all some ninety-three thousand deserters standing as such upon the rolls. Now, a bill which even runs the risk, however slight that risk may be, of embracing all those men and restoring them as to pay, as to rights, and as to standing of all sorts to an equality with the men who bore the heat and burden of the war and never did desert, is so objectionable that it is unnecessary to argue it. I should like to know for one what is the precise provision of the bill; and before voting even to take it up, I should want to be assured that it was very carefully guarded. I understand that there is already a decision of the officers of the Government as to the rights of deserters under certain proclamations that have been issued; and I conceive that if there is any subject as to which this body ought to be careful, it is a subject which may run in any possible aspect or in any event into untying and loosening any of the disabilities or deprivations of pay which may now be imposed upon deserters at large. If, as I say, the bill is confined to what I understand prompted it in this case, I for one have no objection.

Mr. WILSON. I understand the object of the bill is to relieve soldiers who at the close of the war, after the cessation of active hostilities, after the surrender of the rebel armies, left the service and went home. At that time, I am aware of the fact that there was great dissatisfaction in the Army on account of our soldiers having been kept for months. Some of the regiments were sent into the Indian country; others were sent into Texas; some of them were kept many months in the service; and I incline to think some of them are in the service even now.

Mr. CONKLING. Allow me to say to the Senator from Massachusetts that as to the men to whom he now refers, I have every disposition to relieve them, and to vote to relieve all other men who were only technically or accidentally deserters. I only speak of the danger, by unguarded legislation, of opening the door to the whole ninety-three thousand men, or whatever the number may be, who are recorded as deserters.

Mr. WILSON. So I understand. Now, in regard to this class of men, I agree with the Senator from New York; I feel kindly toward them. I know that they felt, many of them, that the Government exacted more than they had agreed to. But I think every soldier in this country will feel outraged if we remove the stigma and the penalties of desertion from those men, who from the opening of the war until the defeat of Lee and the capture of Richmond, deserted our armies and went home, and place them on the same footing with the men who fought bravely through the war. I would be willing to pardon them, to take off disabilities; but to vote them back pay, pensions, and bounties, would be an outrage upon the soldiers who fought the battles of the country and remained true.

Mr. CONKLING. And on the tax-payers.

Mr. WILSON. If we were to do such a thing as that, the bounty-jumpers would seize the occasion to come forward and make claims on the Government. Indeed, sir, I am told that there is a class of claim agents who have examined everything of record here, who have sent into the States and got the names of vast numbers who deserted, who are writing letters to them promising to get their disabilities removed if the deserters will agree to pay to the claim agents the back pay and the bounties which they would receive in that event. I think we cannot be too guarded and too careful in legislating on this whole subject. I am willing to take up this bill, but I think it should be referred either to the Military Committee or the Committee on the Judiciary.

Mr. POMEROY. I have no objection to the reference of this bill to the Military Committee. I wish, however, to say to the Senator from Massachusetts that there is no proposition here to pay men who deserted before the surrender. He has a virtuous indignation, which is shared in, of course, by everybody, toward men who deserted before the surrender. There is nothing here that is in sympathy with claim agents. The point of the bill and what we desire is to relieve cases of peculiar hardship, to which even the Senator from New York is not opposed. I only want the bill taken up and considered by the committee and reported on at the earliest possible moment, with as many safeguards as they choose to put about the measure, so that it accomplishes the object I have in view; that is to relieve those who ought to be relieved; relieve those who served through the war, and are only technically deserters. That is all we propose to do in this bill.

Mr. SHERMAN. I did not know anything about the contents of the bill until my attention was called to it by a colleague of mine in the other House. I have since read the bill, and I find that it is confined to two specific classes of deserters, so-called. First, those who after the war was over, believing that their enlistment had expired by law, went home before they were formally discharged. I have always believed that the enlistment by law expired on the surrender of the rebel forces, and that any other construction was a harsh one against the soldier, which the Government ought not to exact. Many of these soldiers, believing that they had served their country during the full term of their enlistment, went to their homes, and they were entered on the rolls as deserters. The bill also applies to another class of persons who were entered as deserter on the rolls, but actually afterward returned to their duty in the service under the proclamation of the President, and should thus be relieved from disability.

This matter is of peculiar interest to the people of Ohio from another consideration. The Legislature at its last session proposed a constitutional amendment, one of the provisions of which disfranchises from the right to vote or hold office all deserters. The result is that men who served faithfully during the war, upon whom there is no moral turpitude, who believed that they were acting in pursuance of their enlistment, many of them veteran soldiers who had served four years, will be disfranchised and disabled from holding office. As these men are not really deserters except technically, as they do not come within the meaning of the word "desertion," as their act involved no moral turpitude, they ought to be relieved from this disability. I perceive that the bill is carefully guarded. It does not give them any extra pay or any bounty, but simply gives them pay up to the time they actually left the service.

I have no objection as a matter of course to the proposed reference of the bill, but I hope the Committee on Military Affairs will report upon it so that it can be acted upon at this session. In our own State it involves a great many persons and may involve very serious results. I therefore solicit the attention of the Military Committee so that in some form we may pass it. I do not care what clogs or limitations are added to it, or what guards are thrown around it; but certainly we ought not to enforce these disabilities against persons who were not strictly deserters.

Mr. CONKLING. I should still like to hear the bill read for information.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill.

The first section provides that no soldier or sailor shall be held or taken to be a deserter from the Army or Navy who voluntarily enlisted to serve and did faithfully serve the prescribed period of his enlistment until April 19, 1865, and who, without proper authority or leave first obtained, did quit his command or refuse to serve after that date.

The second section provides that any volunteer soldier or sailor who may at any time have absented himself from service, and who voluntarily returned to duty and returned to his command and remained there until it was regularly mustered out, or who was killed in battle or died before the expiration of his term of service, shall not be classed as a deserter.

The third section proposes to direct the Secretary of War and the Secretary of the Navy, under such rules and regulations as they may prescribe, to cause all applications of soldiers or sailors of the classes before described as deserters, asking for a correction of the rolls or to be reinstated, which may hereafter be presented to their respective Departments, to be examined, and if it shall be found that the applicant voluntarily entered the service and faithfully served the term of his enlistment or until April 19, 1865, and only left the service after that date, his name shall be replaced upon the rolls and he shall be entitled to his pay up to the day he so left the service, but shall not receive any additional or extra pay. Such a person is also to be entitled to a discharge, setting forth the facts as they exist, and is not to be subject to any penalty, disability, or forfeiture of citizenship as a deserter.

Section four proposes to vacate and set aside all dishonorable discharges given to any soldier or sailor included within the previous provisions for such alleged desertion or refusal to serve.

The fifth section provides that when any soldier or sailor of the late war whose name is borne on the rolls as a deserter, shall present to the Secretary of War or the Secretary of the Navy satisfactory proof that the desertion was only technical and without intention to abandon the service, the Secretary may give him a certificate that his record of desertion has been canceled.

Mr. HENDRICKS. I objected to the consideration of this bill, for the reason that I think this whole subject should be considered very carefully and fully. At this session it ought not to be taken up. There are other cases that appeal, in my judgment, to Congress for relief, that ought to be considered in this connection. Therefore I object to the consideration of the bill at this session; and I raise the point that the resolution of the Senate cannot be suspended. It may possibly be repealed or rescinded, and then the action of the Senate is left free; but it does not stand like a rule of the body which is subject to the practice of suspension, if there be any such practice in the Senate, and I am not sure whether there is or not. I believe in all other cases the rules are suspended by unanimous consent. I think the Chair decided on Friday or Saturday that the rules could not be suspended by any majority, or two-thirds vote, as in the other House; that it can only be done by unanimous consent. Now this is a resolution which stands as the decision of this body, which I submit to the Chair, and can only be repealed or rescinded in the regular way, and cannot be suspended unless by unanimous consent. Of course any business may be done by unanimous consent. Upon this point, I ask the decision of the Chair. The merit of this bill has been somewhat discussed. I do not choose to discuss it at all; I think under the resolution it cannot come before the body.

Mr. POMEROY. Any motion to modify or repeal a rule cannot be acted upon the day the motion is made.

The PRESIDENT *pro tempore*. I suppose the question of order is not debatable.

Mr. POMEROY. I do not desire to debate it; but I gave notice on Saturday that I should make this motion to-day to repeal so much of the resolution of the Senate as interferes or conflicts with the consideration of this bill. That is the notice which I gave.

Mr. HENDRICKS. The point of order I make is, that that motion is not in order. The rules do not allow a motion to rescind or modify a rule of the Senate. A change of rules requires one day's notice. But the proposition of the

Senator is not a proposition to amend the rules or to rescind the rules, but a proposition to declare that this rule shall not be applied to a particular proposition.

The PRESIDENT *pro tempore*. The question of order having been made, it is not debatable in the first instance, and the Chair must decide it in the light he has. After the decision of the Chair has been made, then on appeal the question will be open to debate. I suppose that by the rules of the Senate a standing rule cannot be modified or rescinded except after at least one day's notice. In this case I understand that notice was given that a motion would be made to suspend or modify the rule for the purpose of taking up this bill.

Mr. POMEROY. It is not a rule of the Senate that is in conflict with this. It is a resolution we passed at the opening of the session, which is confined to this session. It is not a resolution to be standing here perpetually; it is only for this session.

The PRESIDENT *pro tempore*. I do not suppose that makes any difference.

Mr. EDMUNDS. I ask that the notice given by the Senator from Kansas may be read from the Journal of Saturday.

The PRESIDENT *pro tempore*. It will be read.

The Chief Clerk read the following extract from the Journal of Saturday last:

"Mr. POMEROY gave notice that on Monday next he would move to suspend or repeal so much of the resolution of the Senate of the 5th instant, limiting the legislation of the present session, as would enable the Senate to consider the bill (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein designated."

The PRESIDENT *pro tempore*. The Chair believes it is in order under that notice now to make the motion. The motion is in order to suspend, according to that notice, the rule for the purpose of taking up this bill; and the motion is under the control of a majority of the Senate.

Mr. HENDRICKS. From that decision of the Chair I appeal.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. HENDRICKS. The rules of the Senate may be changed and amended, or any particular rule may be repealed or rescinded by resolution. That resolution being presented to the body to amend the rules or to repeal any portion of them, must lie over one day. It cannot be considered if objection be made on the day it is presented. As I understand it, such a resolution falls within the rule governing the introduction of any other resolution. Now, what is the purpose of the Senator from Kansas? It is not a proposition to amend the rules; it is not a proposition to rescind any rule; but stripping it of its language it is simply a proposition to declare that a resolution of the Senate shall not apply to a particular bill; in other words, that we will transact business in disregard of a rule which his resolution leaves in force. He does not propose to repeal the resolution; he does not propose to change the resolution, but for the time being and in regard to this particular bill, that the resolution shall not be the law of the Senate. That is what he proposes. I say that is not in order. We may amend our rules; I admit we may rescind them; but we cannot declare that for a particular piece of business the rule is not the law of the Senate. On that ground I think the motion is out of order.

Mr. SHERMAN. I am a little surprised that so clear-headed a gentleman as we all know our friend from Indiana to be cannot see that the Senate could not pass an order which it might not in some way change, modify, or revoke at its pleasure. In the House of Representatives, to change a rule requires two thirds. Here a majority is sufficient. But for the rule that has been referred to, a majority might revoke any order, any rule, at any time, without reflection or consideration; but to guard against hasty action, the rule of the Senate requires that one day's notice shall be given of

the intention to change an order or rule of the Senate. That has been given in this case, so that the only limitation on our power made by the rules has been applied. The case is so clear that I am surprised that my friend from Indiana should appeal from the decision of the Chair. That is rarely done in this body except where there is very grave question.

Mr. SUMNER. I cannot doubt that under the rules of the Senate, and according to its practice we may change the rule *pro tanto*, if I may so express myself, by a majority vote, but as the Senator from Ohio says on proper notice. Notice has been given and we are now in condition to make the change. Had the notice been given for a proposition to rescind the rule or to change it entirely, I presume no Senator would doubt that it could be done; but the notice has not been given to that extent, but simply to the extent of modifying the rule so far as to allow the introduction of certain business. I cannot doubt that such a notice is according to the usage of the Senate; and I will go further now, as I am up, and state that I shall vote for it, because I am anxious to secure to every measure an opportunity of being heard; but in voting for its consideration I would have it understood that I do not mean to pledge myself with regard to the bill. I mean to keep that question open.

Mr. HENDRICKS. The honorable Senator from Ohio did not understand the precise point that I made. I do not question that by resolution we may repeal a resolution of the body. I do not question that we may rescind a rule of the body; but that is not the proposition before the Senate. The proposition of the Senator from Kansas is, that the rule of the Senate remaining such shall not apply, for the time being, to a particular piece of business.

Mr. FESSENDEN. I ask the Senator whether that is anything more or less than a modification of the rule?

Mr. HENDRICKS. I think it is not a modification of the rule at all. You may amend the rule by declaring that hereafter it shall only apply to a particular class of business, such as to joint resolutions, or such as to bills, and to nothing else. I do not question that you may amend it; but this is not an amendment of the rule itself, but a declaration that for the time being its force is suspended. Does the Senator from Maine think we can suspend a rule by a majority vote, that we can leave a rule standing and yet suspend it until we act in disregard of it? That is the precise question that is submitted to the Senate.

Mr. POMEROY. There are one or two rules that we are in the habit toward the close of every session of suspending for the session, relative to receiving bills from the House of Representatives.

Mr. EDMUNDS. But there is a special provision for that, giving authority to do so under the 26th Rule.

Mr. POMEROY. I know there is, but it shows that we have the power.

Mr. EDMUNDS. It shows you have the power as far as it is granted.

Mr. BUCKALEW. Mr. President, we are to judge of this argument by the result at which we arrive. The practical result is that a mere majority of the Senate by a proceeding of this kind can suspend any of its rules, provided always that you commence twenty-four hours before the act is perfected. Therefore, instead of the Senate being protected against haste by the requirement of a two-thirds vote to suspend a rule, as is the case in the House of Representatives, business is subject to a mere vote of a majority, and the importance and effect of your rules as a check upon legislation is almost entirely removed. We have heretofore supposed that you may do this, that, and the other thing by unanimous consent, but that a two-thirds vote of the Senate could not disturb the order of our business. The practical result of having such motions as that now submitted and indorsing them as in order will be that hereafter the rules of the Senate may be suspended by a mere majority

upon any particular occasion whenever a majority may desire to act, and we shall be in a worse situation with reference to the integrity and operation of our rules than even the House of Representatives, when we supposed that we were acting under more stringent and salutary principles.

Mr. EDMUNDS. If I understand the Chair to rule that it is in order to suspend a rule or order of the Senate, or the operation of it, upon a day's notice, or any other notice, and that the appeal is taken from that abstract decision I shall be obliged to vote against the decision of the Chair; but if I understand the Chair to rule that under this notice of the Senator from Kansas it is in order to proceed to the consideration of this bill, then I believe the Chair to be right under the latter branch of the proposition of the Senator from Kansas, that is, that this order be so far modified as to permit that.

The PRESIDENT *pro tempore*. The Chair did not intend to decide any more than the question before it; that is, that the notice was to modify the rule so that this bill might be taken up, and notice having been given of that, the Chair supposed the greater included the less. If you could rescind a rule on such a notice, I suppose you might modify it for any particular purpose like this. That was the idea the Chair had.

Mr. EDMUNDS. In that opinion I concur; and I rose to say, understanding the language of the Chair differently, and desiring to understand what the meaning of it was, that I do not think we can suspend a rule of order on a day's notice any better than we can do it immediately, because that is an entirely different thing. The suspension of a rule is one thing and the repeal or modification of it is another. We cannot suspend a rule at all, unless there is provision for it, on any amount of notice. At least so it appears to me. Understanding now the ruling of the Chair, I deem it correct, and shall vote to sustain it.

Mr. POMEROY. I did not give notice of suspending the rule of the Senate, but notice to suspend it so far as should be necessary to enable us to consider this bill.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. FESSENDEN. I wish simply to say that on the mere question of order, whether the Chair is right in the ruling, I shall be compelled to vote to sustain the ruling of the Chair, believing it to be right; but when we come to the question of proceeding to the consideration of the bill, that is another question.

Mr. EDMUNDS. Quite a different question.

Mr. FESSENDEN. So far as the mere ruling of the Chair is concerned I think it is right.

Mr. HENDRICKS. My opinion on this question is changed; but after hearing the expression of experienced Senators upon it, that it is right to amend a resolution of this sort so as to let in one particular bill, I must yield to their judgment. I think its effect is simply to suspend the rule; that is my opinion about it now; but as Senators for whom I have so much respect differ with me on that question I withdraw the appeal.

The PRESIDENT *pro tempore*. The appeal being withdrawn, the question is on taking up the bill named by the Senator from Kansas.

Mr. EDMUNDS. The question as to whether it is desirable to go into general legislation may as well be settled on this motion as on any other that I know of. This is one of a class of a great many bills that interest certain sections of the country. Every section of the country has its share of that sort of bills. There may be merit upon which this bill is founded; I presume there is some. There may be many cases which might justly claim the protection that this bill would give; but I am satisfied that the bill contains elements that will require a good deal of discussion; that questions of finance will be involved in it, the expenditure of public money, of how far it is necessary to



go to protect the Treasury against claims for bounties, extra pay, allowances for clothing, and a variety of considerations that always surround cases of that description. Now I do not see any reason, I confess, why this bill, more than half a dozen others that have been laid on your table, should be passed at this session; and therefore it is that I shall be obliged, without committing myself as to the perfect merit of the bill itself either way, to vote against taking it up, because I have heard no good special reason assigned why there is any just cause for haste. It has been said that some people are in prison charged with desertion. If any people are in prison charged with desertion who come within what is said to be the proper scope of the bill, that is, persons who left their commands after the surrender of Lee in good faith, satisfied their time was out and that it was right for them to go home, I undertake to say that it would require only an application on the part of any Senator or Representative from any State where such a case existed to the War Department to obtain an order that that person shall be discharged on his own recognizance. To say the least, I think that if there were any Vermonter imprisoned under such circumstances, of whom I could go to the Secretary of War and truly say that I was satisfied it was a case of innocent technical breach of the law, he would have sufficient faith in my word to say that the soldier should not be kept in prison—that he should be discharged on his own recognizance.

Mr. SHERMAN. It is not a question of *habeas corpus*, but a question whether these men shall be disfranchised under the laws disfranchising deserters.

Mr. EDMUNDS. I understand that; but I was now alluding to what was said to me the other day by a distinguished Senator that there was necessity for haste on account of the hardship of certain persons being imprisoned. As to that, I think that in any case which would commend itself to the favorable consideration of any Senator or Representative so that he would feel authorized to make an application of that behalf, the soldier would have his liberty.

Now, as to disfranchisement: we have always held as to all State elections and matters certainly, that that was a matter of State cognizance and that the States were to decide who among their citizens were to be entitled to vote or to be disqualified for crimes that were committed. Certainly, whether so or not, these facts must have existed since 1865, when these armies were disbanded; and there can be, therefore, now no special reason that I understand why we should proceed at this time to make haste to enfranchise or to disfranchise any of these classes of persons, because under that head it falls into the general class of legislation which at the proper time and in the ordinary way of course we all expect to attend to.

Mr. HOWE. Some of the Senate may remember that when this resolution, which it is now proposed to modify, was before the Senate, I remonstrated as strongly as I knew how against the passage of it. I thought the doors of legislation should be left open to the whole country, that anybody might be allowed to introduce a bill here and have it passed upon according to its merits. The Senate thought otherwise; and by a very decided majority agreed to this resolution, which has excluded so far the whole people of the country, except in reference to specified subjects. Now, Mr. President, whatever has been said or whatever can be said hereafter in reference to the merits of this measure before the Senate, I must be allowed to say for one that while all the rest of the nation is excluded from these Halls, I do not think it is worth while for us to reach out and drag in the deserters here for relief to the exclusion of everybody else. Until, therefore, you consent to open these doors to everybody, to those who have not deserted, I shall not agree to open them to those who have,

even although the desertion may be said to be technical.

Mr. SHERMAN. I do not like to hear the class of men described in this bill characterized as deserters. Technically they may be; but the Senator from Wisconsin certainly would not desire to perpetuate a stigma that is cast by the construction of a law, as I think wrongly put on the law, upon a class of men who served their country for four years during the war, and served until the end of the war. The only interest I feel in the bill is an interest that I get from my colleagues in the other House who are more familiar with the details and the facts than I am. Under the construction put upon the law, as I understand, quite a number of soldiers, not only from Ohio, but from all the States, who served their country to the close of the war, until every rebel arm had been laid down, until there was no hostile force in the United States, are stigmatized as deserters. They believed their service was then at an end. I believe so now. I believe that under the terms of their enlistment they were entitled to their discharge. I believe the authorities of the War Department thought so; but they believed the condition of the country justified them in giving a different construction to the enlistment. I myself served as an enlisting officer, and uniformly told all the men that when the war was over, even if it should be within the three years, they would be entitled to their discharge. I have seen statements posted all over the country, signed by officers of the Army, that the enlistment was for three years, if the war should so long continue; and if it did not continue so long the enlistment would be at an end. On the faith of that many of these enlistments were made. Many of the men served more than three years; and then some of them reenlisted. Foolishly, however, they put their own construction on the law, and went home. I do not justify that. By so doing they lost their pay; they lost their bounty; they lost the honors which they had fairly won for their previous service. Now, in addition to all that, on account of the patriotism of some of our States, they are about to be branded with exclusion from office and from the right to vote.

Do Senators desire that? I do not care how you limit the bill, how you restrict it and restrain it; I do not care how much you affect their pay, their bounty, their emoluments. Let them forfeit all these, because they acted foolishly in giving their construction to the law. But is it right that you should inflict upon them the stigma of being classed as deserters, when they are not, in the true sense of the word, deserters? That infamy ought not to be stamped upon them. You will find cases of this kind in every one of the loyal States.

I do not know anything about the rule which Senators have been commenting upon. I was not here when it was adopted, and I have not yet been able to read the debate on the subject, and to understand how far that rule goes.

Mr. EDMUNDS. The case is out of the rule now.

Mr. SHERMAN. If the rule is out of the way, the only question is whether we ought not now, when we have nothing else to do, to correct this injustice as far as we can. Let the Military Committee take up this bill, strip it of every objectionable feature; if they think it ought not to go further than merely to remove the disabilities in the class of cases to which I have referred, let them do that. It seems to me it is not time misspent, and that it ought to be done now; because if we postpone it until next winter, as a matter of course these men will be deprived of their right to vote and their right to hold office.

Mr. EDMUNDS. Will my friend allow me to ask him where is the difficulty in any State making provision for these exceptional and merely technical cases? If the State of Vermont wishes to disfranchise deserters, why can she not say in her constitution or in her law,

"We disfranchise all deserters; but no man shall be considered as a deserter who in good faith, after the surrender of Lee, left his ranks and went home?"

Mr. SHERMAN. I will answer that. The difficulty is because the Legislatures are not in session. Congress would not have declared a person of this character a deserter if they had foreseen all the events that arose afterward, and known the circumstances connected with these cases. The Legislatures of the States are not in session, however. Take the case of my own State; there for a patriotic purpose, to stamp with infamy men who had deserted their country in the hour of trial and need, after enlisting into its service, it is proposed to exclude permanently from voting all persons who are really deserters.

Mr. EDMUNDS. The Legislature can rectify that.

Mr. SHERMAN. But it is not in session.

Mr. EDMUNDS. It can do it when it meets again.

Mr. SHERMAN. The difficulty is that the constitutional amendment of which I have spoken is submitted under the laws of the State of Ohio to the people of the State. That constitutional amendment embraces two propositions: first, that there shall be no distinction in the State of Ohio on account of color in voting; and second, that deserters shall not vote. Will you endanger the first provision by refusing at this time, when you have the opportunity, to relieve from this stigma of desertion a class of men who served faithfully during the war? Will you say that the Legislature ought not to have made this provision? It is there and it cannot be changed; there is no power by which it can be changed. The vote must be taken on it before you meet again.

This is the case in the State I represent upon the hasty information given to me; but it is the case also all over the United States that the construction given to the law will disfranchise many honorable men; men who have won scars in your service, and will stamp the name of many of them with infamy. Many of these men reentered the service after the time when they went home foolishly. In some cases they are dead, and their children are to be stamped with this infamy, because it is an infamy to be branded as a deserter.

Mr. EDMUNDS. Do you mean that any returned to the service after they left on the 19th of April—went back and served again?

Mr. SHERMAN. Doubtless some went back, joined their regiments when they found that this thing was wrong.

Mr. EDMUNDS. The regiments were mustered out within a very few months after that time.

Mr. SHERMAN. My friend is mistaken. Some men were held for more than a year after that. Two regiments that I knew were held and sent to Texas, and served in the most offensive of all services, remote, far from home, for nearly a year after their real term of enlistment had expired. The Senator from Massachusetts [Mr. WILSON] can tell how many thousands, probably one hundred thousand men, were kept in service months and months after their enlistment expired, many of them from our State. Many of them, when they found that they had put a wrong construction on the law, and that the penalties were likely to be very severe, returned again to their regiments; but still that fatal mark stands on the muster-roll against them, and although they served their country afterward and in some cases died in the service, that word "deserter" stands opposite their names on the muster-roll. It seems to me that we ought to correct the injustice in this case, where it is so manifest and plain, leaving the doubtful cases to be settled hereafter.

Mr. HOWARD. I would beg to inquire of the Senator from Ohio whether there is anything in the constitution of his State that will prohibit the Legislature from relieving in such cases as those to which he refers?

Mr. SHERMAN. I doubt very much whether the Legislature could give any construction to or change or affect the constitution.

Mr. HOWARD. Is the Senator quite sure that the bill on our table now will operate to relieve that class of persons from the disabilities against which he complains? I entertain some doubt about it.

Mr. SHERMAN. The framers of the bill are of that opinion; but if there is any doubt about it the bill is to go to the Military Committee, and they can examine it. The last section in the bill I am not prepared to vote for; I think the bill should be modified; but the main purpose and idea of the bill it seems to me ought to be acted upon. I hope the Senate will see the matter as I do, and let the subject go to the Military Committee for decision.

Mr. HOWE. This is a bill for the relief of a certain portion of the people of the United States. I called them deserters, because they are called deserters in the bill. The Senator from Ohio insists now, as he insisted before, that they are only technically deserters. That may be so. Of course I do not prejudge that question; but they belong to one of two classes of men; either to a class of men who, during the war, in the heat of the service, deserted their regiments and their standards and left the field, and afterward repenting returned, perhaps before the surrender, perhaps after the surrender of the rebel armies, (I do not know which, for it covers both cases,) or to a class of men who, thinking or pretending that they had served, or believing, if you please, that they had served to the end of the required term, after the surrender of the rebel armies, in defiance of the authority of the United States, refused to serve any longer, left the post of duty and went to their homes, while their comrades remained still obedient to the authority of the nation. These are the two classes of men provided for in this bill. Just how much merit they may have of course I am not prepared to say here now. The Senator says I cannot wish to perpetuate a stigma on them. I cannot have any wish about it. I do not know how many of my own fellow-citizens belonging to the State of Wisconsin may be included within the relief intended by this bill. I simply know that neither class of those described in the bill are the most meritorious men we have in Wisconsin, and while you exclude all the rest from these Halls I am not prepared to let them in.

Mr. POMEROY. I hope that on the motion to take up the bill for the purpose of referring it to a committee we shall not have any further discussion. Indeed, this discussion is really out of order. I hope we may have a vote.

Mr. BUCKALEW. I differ from the Senator from Kansas in opinion. This vote is to determine whether we are to enter upon general legislation or not.

Mr. POMEROY. I submit that that question has been decided.

Mr. HOWE. When was it decided?

Mr. BUCKALEW. I say the taking up of this bill will determine by the vote of the Senate whether we are to enter upon other business except those measures which relate to reconstruction; and therefore the present question, the question of taking up this bill by a vote of the Senate, is more important vastly than it would be under ordinary circumstances.

Mr. POMEROY. I submit that the Senate have decided that the motion is in order to proceed to the consideration of this bill. They have not decided that it is in order to proceed to the consideration of other bills. The question now simply is, it having been decided to be in order to take this bill up for consideration, whether we shall so take it up.

Mr. BUCKALEW. And if we take this bill up because it is said to be a bill of merit relating to the general legislation necessary for the country, there is no ground left for resisting an appeal for taking up another meas-

ure. Therefore, sir, I repeat that the present vote of the Senate is to determine whether we are to enter upon general legislative business or not. We cannot resist an appeal in favor of another measure which may be brought before us if it appear to have merit, as the Senator from Kansas thinks this bill has.

But what I rose to speak to is the necessity of the action of Congress at this time upon this particular measure for the purpose of affording relief to the deserters spoken of. If it can be shown that there is no necessity or pretense of necessity why Congress should act at this time in order to extend relief to those persons, all argument for taking up this bill, for departing from the course which we hitherto pursued, is removed from the debate.

Now, sir, there is no provision in the constitution of Ohio, the State which has been alluded to, disfranchising deserters. That question is to be voted upon at the fall election; but for the time being all those persons in whose behalf the appeal is made are entitled to vote, so far as anything in the constitution of that State is concerned. There will be no disfranchisement of anybody for desertion under the constitution of Ohio if you do not proceed to act at this session; and if it be desired to remove disabilities from persons of that class, it can be done at the next regular session of Congress, after full debate, and in a bill which shall include all other cases that ought to be excluded from the operation of our former law. There will then be no general election in that State after this exclusion comes into effect until the fall of 1868, and it will be perfectly competent for Congress to extend any relief which it may think proper to the class of persons who have been alluded to in this debate. I suppose this answers the only argument of importance which has been submitted to the Senate.

Mr. SHERMAN. I should like to reply to one observation of the Senator before he takes his seat, so that he may have the reply in his mind. I do not make the point myself. The constitution of the State of Ohio declares that every white male citizen of the United States having a certain age and certain residence shall be entitled to vote. A law of Congress, passed, I think, in 1863, denationalizes deserters. The question is then raised whether under the constitution of Ohio as it now stands, any deserter can vote, whether he is a citizen within the meaning of our constitution. Considerable doubt exists in the State whether or not these persons, although innocent of the moral turpitude of desertion, can vote under the existing constitution. I do not give any opinion upon that point myself, but it is claimed that the effect of the act of Congress was to denationalize them, and as the voters must be citizens of the United States, the question is whether they can vote under the existing constitution. We are, therefore, embarrassed by that matter.

Mr. BUCKALEW. I will answer the Senator on that point, because I have a complete reply, I think, and one that will satisfy him; but before I give it I will go on and state in a word what I proposed to add when the Senator rose to interrupt me; and that is, that if we take up this bill for consideration, it must be referred to the Committee on Military Affairs, it must come back again to the Senate, and it must and it will be debated thoroughly upon this floor, consuming a great amount of time. It is not to be expected that Congress shall interpose in favor of one class of men who are harshly dealt with by the existing law, without having other cases of hardship heard in debate, and amendments proposed concerning them.

And now a few words as to the point which the Senator from Ohio has just made, and which I understand to be this: that under the State constitution the right of voting is limited to citizens who shall possess certain local qualifications, residence, &c. We are perfectly familiar with all that question in Pennsylvania,

and there is no difficulty about it. I believe that the constitution of our State is very similar on that subject to the constitution of Ohio, and it has been held throughout our State by our courts, by the local courts, and by the supreme court of the State, that the act of Congress of 1863 has no effect upon electoral qualifications in that State until a person who is accused of desertion has been, according to the terms of the United States law, sent before a military tribunal for trial and has been tried and convicted. That decision has been made by judges of both political parties in my State, and it has been held as sound and valid law, under the constitution of Pennsylvania, by the supreme court. It is, therefore, the undoubted law of the State that no person can be disfranchised under an act of the Legislature for desertion until he shall have been tried in the manner pointed out by the act of Congress of 1863. Now, what does that provide? It provides that persons who shall desert from the public service shall forfeit their *status* as citizens of the United States, and that they shall be arrested and immediately sent by the officer arresting them to the nearest military post to be put upon trial before a military court. That is the tribunal appointed by the act of Congress for the trial of those cases, and until that tribunal has acted and pronounced the judgment of the law upon these persons they are not deprived of their citizenship; there is no judgment of law against them, and no State law can come in and deprive them of citizenship upon pretense that there has been adjudged against them a forfeiture under the laws of the United States.

The question has been so well determined in my State that at the coming October election I suppose no person will be deprived of the right to vote by virtue of the act of 1863, unless there be a record of a military court produced adjudging him to be guilty, and pronouncing against him the penalty of the law. Then only can it be argued that our State legislation comes into action, and takes effect upon his case. I do not enter into the question whether such an argument would be sound or not, although I have a clear opinion upon it. But its present discussion is unnecessary.

Now, sir, we know that there were none of those persons alluded to by the Senator from Ohio ever tried by a military court; that is, persons who left the ranks after the termination of the war. In fact there was an order issued from the War Department discontinuing all proceedings in cases of desertion. It was not desired by the Government that the enormous expense of investigating these cases should be incurred; and an additional reason was that the necessities of the public service did not require that these cases should be investigated.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. BUCKALEW. Certainly.

Mr. CONKLING. Is there in Pennsylvania an oath required of electors, which oath is to the effect, among other things, that they did not desert or flee the draft? There is such an oath required by the statutes of several of the States; and I should like to know, even on the theory the Senator suggests, what would become of a person's right to vote under such a statute as that—a statute requiring him, in case he was challenged, to take an oath to the effect that he had not deserted?

Mr. BUCKALEW. I think such a man ought not to vote, if he has actually been in the service of the United States and has left it. *Prima facie*, until some excuse is made for him, I think he ought not to vote. But I understand this question belongs to a different class of cases. This question ordinarily arises in the case of non-reporting drafted men who have never actually been in the service, and who may or who may not have some excuse. There is no such oath as that to which the Senator alludes in my State.

Mr. CAMERON. Mr. President, I prefer that this whole subject should lie over for this

session. I am not prepared to decide it now. I do not think it proper that we should infringe the rule we have adopted. But I have risen to say that I think my colleague is somewhat in error in regard to the decisions in Pennsylvania. I know there was a decision of the supreme court, carried, I think, by one majority on the bench, somewhat to the effect that he states; but I think as a general thing the judges of the different courts of the State have not believed that that was a correct decision, and the impression prevails, to some extent at any rate, that it was governed by political feelings. My colleague is a lawyer; I am not; and of course he ought to be better acquainted with the decisions of the courts than I am. I know that there is a strong feeling in the State against allowing deserters to vote; and I know that in many of our districts at the next election any man who deserted, if proof can be brought before the election officers of that fact, will not be permitted to vote.

I am in favor of what I suppose to be the intention of this bill; but I think no harm will be done by letting the question lie over until next session. In the mean time the matter can be investigated. My own judgment is in favor of relieving everybody who actually performed duty until the end of the war. I think the decision of the War Department wrong that detained men a day after the war was entirely over, or at any rate a day longer than the necessary machinery could be got to work to muster them out of the service. I am aware of the fact that volunteers from Pennsylvania were sent away to Texas and served there months after the war was over, and I think some of them are there still; particularly a colored regiment. Some men are still in service who enlisted only to serve during the war. That is unjust to those men, and I was not surprised that many high-minded men who entered the service from the best motives, motives of patriotism, should have deserted, if you call it desertion; should have gone to their homes when they felt that they had performed their duty and fulfilled their contract.

Mr. HENDRICKS. Because of the position that the distinguished Senator from Pennsylvania once held as Secretary of War, I desire to ask his opinion as to the precise time when the war did close. My opinion is very clear upon that question; but I should like to have his opinion upon it. The enlistment was for a term of years or during the war. Now, it is claimed that the soldier had a right to decide that question. Very able statesmen may differ upon it, and I should like to know of the Senator when the war did close.

Mr. CAMERON. I did not say that the soldier had a right to decide when the war did close, and I did not mean to have it supposed that I said so. What I said was that I was not surprised that many high-minded men, having served during the whole war, and feeling that they were detained long after their enlistment expired, in violation of their contract with the Government, should have left the ranks. I remember a case at the first battle of Bull Run. I happened to be there the day before the battle. Several of the regiments had served out their time. General Scott made what I supposed to be a mere technical decision that their term of service should commence from the time that they had been mustered into the service here in Washington. I said they were entitled to their discharge in three months from the date that they mustered themselves into their organization and marched for their destination. I remember particularly the case of the regiment from Rhode Island which came here under the auspices of the present Senator from that State, [Mr. SPRAGUE.] The officers of that regiment came to me and said that feeling that they had performed their whole duty they did not want to stay longer unless somebody in authority would say to them their services were important to the interests of the country, that while they were willing to stay in an emergency they desired to have understood that they

had performed their duty. They said they would stay as long as it was necessary for the interests of the country, and especially until the battle was over. On such terms the Rhode Island regiment engaged in that battle and fought so gallantly as history records they did.

Mr. BUCKALEW. Mr. President, I was about concluding what I had to say when I gave way to my colleague. My remarks at this time have been directed, or at least I intended to direct them, to the single point of the absence of any necessity for present action, and while I say this I desire it to be distinctly understood that I am strongly in favor of the proposition contained in this bill. At the next session of Congress, if I am here, and this subject shall come up, I shall very cheerfully give it my support.

As to what my colleague has said about the decisions of the courts in our State, I do not care to go into a debate on that subject. I simply wish to enter my protest against his statement of the facts.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. HENDRICKS. I submit to the Chair that there is a prior question to the one that is now stated by the Chair. The question is: Will the Senate agree to the modification of the resolution proposed by the Senator from Kansas pursuant to his notice of Saturday last? The Senate has not agreed to modify the resolution yet. That is the first question. Then the question will arise, Will the Senate take up the bill? It is not in order yet to propose to take up the bill until the Senate agrees to modify the resolution so far as to allow that. So the first question upon which the Senate are called upon to vote will be, Shall the resolution be so modified as to allow the taking up of this bill?

The PRESIDENT *pro tempore*. The Chair so decided, from which the Senator took an appeal, and afterward withdrew his appeal and left the decision of the Chair standing, that it was in order to proceed under that notice to call up the bill.

Mr. SHERMAN. I will avoid my friend's technicality and move, with the consent of the Senator from Kansas, that the rule referred to be so modified that this bill be now taken up for consideration; that the rule be modified to that extent.

Mr. HENDRICKS. So as to allow the taking up of this bill?

Mr. SHERMAN. That is the ordinary form, I may say, in which the motion is put in the other House, and we had better adopt that form.

The PRESIDENT *pro tempore*. Very well; the Chair will put it in the way suggested, if that be agreeable.

Mr. HENDRICKS. I did not appeal from the decision of the Chair that the rule was modified. The Chair did not undertake to decide; but the Chair decided that it was competent for the Senator to move to modify the rule as he proposed. From that I appealed; but upon that motion there has been no vote of the Senate.

The PRESIDENT *pro tempore*. The Senator is right about that. The question is on modifying the rule so as to take up the bill alluded to for consideration.

Mr. POMEROY. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 18; as follows:

YEAS—Messrs. Cattell, Chandler, Cragin, Fowler, Frelinghuysen, Harlan, Morrill of Maine, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sprague, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—19.

NAYS—Messrs. Buckalew, Cameron, Cole, Davis, Edmunds, Fessenden, Grimes, Hendricks, Howard, Howe, Johnson, Morgan, Norton, Nye, Patterson of Tennessee, Trumbull, Van Winkle, and Willey—18.

ABSENT—Messrs. Anthony, Bayard, Conkling, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Guthrie, Henderson, Morrill of Vermont, Morton, Saulsbury, Stewart, and Williams—16.

The PRESIDENT *pro tempore*. The Sen-

ate agree to modify the rule for the purpose of taking up the bill. The question now is on taking up the bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill will now receive its first reading.

The bill (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein designated, was read the first time by its title.

Mr. POMEROY. I move that the bill be referred to the Committee on Military Affairs.

Mr. EDMUNDS. It cannot be referred until it has received its second reading.

The bill was then read a second time by its title.

Mr. HOWARD. I move that it be referred to the Committee on Military Affairs.

Mr. GRIMES. I move to amend that motion by referring it to the Committee on the Judiciary.

Mr. TRUMBULL. Oh, no.

Mr. GRIMES. There is no bill before Congress, or likely to come before us, that involves more legal and constitutional questions than are embraced in this bill, and that is the appropriate committee to which it should be referred.

Mr. TRUMBULL. I hope it will not be referred to the Judiciary Committee. It is certainly a matter relating to military affairs with which the Military Committee are known to be familiar. The Committee on Military Affairs understand all the laws in regard to deserters and their operation. It is a matter that has never been taken cognizance of by the Committee on the Judiciary. It would involve an examination by that committee which would take time; and I will state to the Senator from Iowa that that committee have had their full share of the labors of this session, and this is a matter that properly belongs to the Military Committee. I trust it will not be referred to the Judiciary Committee.

The PRESIDENT *pro tempore*. The first question will be on the amendment of the Senator from Iowa, to refer this bill to the Committee on the Judiciary.

The amendment was not agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion to refer the bill to the Committee on Military Affairs.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States.

#### ENROLLED BILLS SIGNED.

The message further announced that the House having directed the reenrollment of the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, after its return by the President of the United States on the request of the House to correct an error, the reenrolled bill had been signed by the Speaker of the House; and it was thereupon signed by the President *pro tempore* of the Senate.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States; and it was thereupon signed by the President *pro tempore* of the Senate.

#### RECONSTRUCTION.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I transmit herewith reports from the Secretary of War and the Attorney General, contain-

ing the information called for by the resolution of the 3d instant requesting the President "to communicate to the Senate copies of all orders, instructions, circular letters, or letters of advice issued to the respective military officers assigned to the command of the several military districts under the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 23, 1867; also copies of all opinions given to him by the Attorney General of the United States touching the construction and interpretation of said acts, and of all correspondence relating to the operation, construction, or execution of said acts that may have taken place between himself and any of said commanders, or between him and the General of the Army, or between the latter and any of the said commanders touching the same subjects; also copies of all orders issued by any of said commanders in carrying out the provisions of said acts, or either of them; also that he inform the Senate what progress has been made in the matter of registration under said acts, and whether the sum of money heretofore appropriated for carrying them out is probably sufficient."

In answer to that portion of the resolution which inquires whether the sum of money heretofore appropriated for carrying these acts into effect is probably sufficient, reference is made to the accompanying report of the Secretary of War. It will be seen from that report that the appropriation of \$500,000 made in the act approved March 30, 1867, for the purpose of carrying into effect an "act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act supplementary thereto, passed March 23, 1867, has already been expended by the commanders of the several military districts; and that in addition the sum of \$1,648,277 is required for present purposes.

It is exceedingly difficult at the present time to estimate the probable expense of carrying into full effect the two acts of March last and the bill which passed the two Houses of Congress on the 13th instant. If the existing governments of ten States of the Union are to be deposed, and the entire machinery is to be placed under the exclusive control and authority of the respective district commanders, all the expenditures incident to the administration of such governments must necessarily be incurred by the Federal Government. It is believed that, in addition to the \$2,100,000 already expended or estimated for, the sum which would be required for this purpose would not be less than \$14,000,000—the aggregate amount expended prior to the rebellion in the administration of their respective governments by the ten States embraced in the provisions of these acts.

This sum would no doubt be considerably augmented if the machinery of these States is to be operated by the Federal Government, and would be largely increased if the United States, by abolishing the existing State governments, should become responsible for liabilities incurred by them before the rebellion in laudable efforts to develop their resources, and in no wise created for insurrectionary or revolutionary purposes. The debts of these States, thus legitimately incurred, when accurately ascertained, will, it is believed, approximate a hundred million dollars; and they are held not only by our own citizens, among whom are residents of portions of the country which have ever remained loyal to the Union, but by persons who are the subjects of foreign Governments. It is worthy the consideration of Congress and the country whether, if the Federal Government by its action were to assume such obligations, so large an addition to our public expenditures would not seriously impair the credit of the nation; or, on the other hand, whether the refusal of Congress to guaranty the payment of the debts of these States, after having displaced or abolished their State governments, would not be viewed as a violation of

good faith and a repudiation by the national Legislature of liabilities which these States had justly and legally incurred.

ANDREW JOHNSON.

WASHINGTON, D. C., July 15, 1867.

Mr. HOWARD. I do not sympathize at all with the message in its prognostications about the liability of the United States to pay the debts of these reconstructed States. I look upon all that in the message as purely a false alarm started for the purpose of shaking the nerves of creditors and other persons interested in these new governments of Mr. Johnson. All that is pure moonshine, according to my apprehension, thrown in for the mere purpose of producing a party effect and agitating public opinion and public credit. But I will not go into the message further than to make that simple observation. I move that the message and accompanying documents be laid on the table and printed.

Mr. HENDRICKS. I do not think the Senator from Michigan is justified under the principles of public law in stating that that portion of the message to which he refers is moonshine or is calculated simply to excite a false alarm. The Senator from Michigan will hardly question the proposition of law, that the conqueror in acquiring territory by conquest does not acquire that territory free from the obligations and debts of the government overcome, existing at the time of the commencement of hostilities; and if these southern States, according to the present doctrine and policy of the majority, are to be held as conquered territory, governments deposed and in their stead governments established by Congress, under what obligation does Congress, or rather does the Government of the United States acquire this territory by conquest? Will the Senator say that the State governments which were found in existence at the time of the commencement of hostilities, and which many believed continued to exist as governments *de jure* and *de facto* during the war and up to the close of the war, being suppressed and wiped out of existence by the authority of the Government of the United States, and other governments being established in their stead, the debt which was owed by those States has ceased to exist, or that Congress can impose that debt upon a separate government which it may establish down there?

The President of the United States has expressed no positive opinion on this question, but he has made the suggestion, and my attention has not been called to this subject for the first time by this message. In the fall of 1865, the then Governor of the State of Indiana, who is my present colleague in this body, made a very able speech in vindication of the policy and course of President Johnson at that time, and in that speech he called the attention of the country to the fact that, under law the conqueror does not acquire the conquered country free from the debts owed by the prior government, and that if we hold this country by conquest and suppress existing governments we must look to the question of the indebtedness which may fall upon us. Nearly two years ago, one of the very ablest men of the Republican and now Radical party of the United States, in a very carefully considered speech, expressed the views that are enunciated in this message. So that the Senator from Michigan, in my judgment, is hardly authorized to speak of this view of the subject as "moonshine." It is not to be got rid of quite so easily. The debts that were owed by the southern States at the time of the commencement of hostilities are existing debts still; and if the Government of the United States acquires that country by conquest, holds it by conquest, wipes out of existence the existing governments, and establishes a government there according to its own pleasure, it is worthy of very grave consideration upon whose shoulders the indebtedness of the conquered country must rest.

Mr. President, the Senator will have to meet

this question, possibly, in a graver form than he has seen fit to speak of it this morning. He will find the attention of the country attracted to this question. The able speech to which I have referred attracted a great deal of attention at the time. I do not believe that in any possible event these debts are to fall upon the United States, for I believe the State governments have never been out of existence. I do not believe that any ordinance of secession could take them out of the Union. I do not believe the war took them out. I believe they have been, in the eye of the Constitution, States of the Union all the while, and that they rightfully came into the exercise of all their rights and to the discharge of all their duties with the Union at the close of the war, and that their indebtedness remains upon themselves.

Mr. HOWE. Will the Senator allow me to ask him a question?

Mr. HENDRICKS. With great pleasure.

Mr. HOWE. If they were States during the war, were they or were they not entitled to all the rights of States then, including the right of representation in this body?

Mr. HENDRICKS. I think the question is answered more satisfactorily in the language that has been attributed to Mr. Lincoln than in any language that I can use: by the war, the practical relation of the States in connection with the Union was disturbed; when peace returned it was the business of this Government to see that those practical relations were restored. When practical relations are broken off practical representation ceases.

Mr. HOWE. I agree with that statement, that the practical relations were disturbed. The question I submitted to the Senator from Indiana was, how far they were disturbed; if they were disturbed so far as to deprive them during the war of the right to representation in the Congress of the United States and the Electoral College?

Mr. HENDRICKS. That was the opinion I expressed, that their practical relations being suspended practical representation was necessarily suspended.

Mr. HOWE. Then, in order that I may understand the whole theory of the Senator, I should like to ask what it was, what clause of the Constitution it was which deprived them of the right of representation here so long as they were States? Where did we get our power to deny them the right of representation here if they were States?

Mr. HENDRICKS. I do not understand that the practical relations of the southern States to the Union were disturbed by virtue of any provision of the Constitution of the United States. The Constitution remained all the while; and during a part of the war, when the practical relations were not so far broken off as to prevent it, some of these States were represented, and were represented with the approval, as I understand, of the Senator from Wisconsin. What was the position of Virginia when I came as a Representative to this body in the middle of the war? She had two Senators here—Senators recognized by the Senator—and I believe both of those Senators came to this body after the commencement of hostilities, after the declaration of secession by the State of Virginia. The Senator himself recognized the right of representation. Sir, the practical disturbance was that which resulted from the war which made, practically, representation impossible.

Mr. HOWE. Mr. President, the practical relation—

Mr. HENDRICKS. Before the Senator goes on I will ask him a question. Did he believe, in 1863, in the midst of the war, Virginia having seceded, that she was entitled to representation in this body?

Mr. HOWE. I will answer the Senator very promptly and very willingly. The right of Virginia, or her authority in the Union, was no more affected, in my judgment, by her ordinance of secession, than was the authority of



Massachusetts by the ordinance of secession passed in Virginia; but by the act of revolution, by the act of rebellion, by the several plain violations of several positive commands of the Constitution which are involved in that rebellion, I thought the question of authority was remitted to the Congress of the United States to say when and how far those rights of a State should be recognized, how far they should not be forfeited; that if Congress chose to recognize any new government set up there, and loyal in fact, as the government of a State, Congress had authority to do so. If Congress denied that authority, Congress had equal authority to deny it. If that is not so, if the political character of a State was still preserved in spite of this rebellion and in spite of all its violations of the Constitution, I have never been able to see how the rights of a State could be denied; and it was that question I wanted the Senator from Indiana to answer.

Mr. HENDRICKS. It is a little difficult for me to say what the answer of the Senator is. He admits that, with his approbation, Virginia was represented here by Senators elected after the ordinance of secession and after the commencement of hostilities; after the revolution commenced, as he says; and I found those Senators holding positions in this body when I came here two years after the commencement of the war. Now, I should like to know of the Senator, if revolution strikes a State from the Union, why it is he recognized the election of Senators by a State in flagrant revolution and war.

Mr. HOWE. The Senator has very ingeniously turned this into a catechism propounded to me, instead of what I wanted it to be, a catechism for his own exercise. [Laughter.] I wished him, not me, to give information. If I cannot get information from the Senator from Indiana upon the points on which I wish instruction I will give him the best I can. I can give you no more information than to repeat what I said: that I do hold there were certain commands in the Constitution resting upon every State which those States that entered into rebellion violated. Among others, there was the command that every one of its officers, executive, judicial, and legislative, should be under an oath to support the Constitution of the United States. They violated that. They had governments that were not under that oath. They were commanded not to enter into any league or compact or alliance with other States. They violated that. Nor with foreign Powers. They sought to do that. They violated very many commands of the Constitution, and then made flagrant war upon the United States to support these violations. I did understand it to be the duty of the President of the United States to enforce every one of these commands; they were the supreme law; and I did understand it to be the duty and right of Congress to clothe the President of the United States with authority, with power, to pass any law to enable him to execute those laws, to enforce those commands, to see that there was no State government which violated those commands; and I thought a very proper way was to abolish those governments. We had not done it when Virginia sent her representatives here; we had not done it when Arkansas sent up her Senators. I thought we ought to have done it. I do not remember whether I voted to admit the Senators from Virginia or not. I did vote, if the question was put to the Senate, and I think it was in the case of the Arkansas Senators, to admit them. I thought they ought to be admitted. I thought the Senate ought to admit them, because they were loyal themselves; they were sent here by a loyal Legislature, representing a loyal constituency; and our law said still that Arkansas was a State. I said in that very connection that I thought Arkansas had done that which authorized us and required us to say that Arkansas should no longer be a State, should no longer be entitled to the right of representation, and that we ought to do that; but until we did it I thought the Senate

should obey the law upon its own statute-book. It has been my theory from the beginning down to this time; it is my theory to-day. But upon the theory of the Senator from Indiana, that they were States in fact and States in right, *de jure* and *de facto*, just as New York, Massachusetts, Wisconsin, and Indiana are, I want to know still upon his theory if we were bound to receive Senators from South Carolina and North Carolina sent up here during the war?

Mr. HENDRICKS. I do not know whether the Senator designed what he said as a criticism upon me for asking him the question. It was a question he invited. I did not invite him. I was making a few remarks in reply to the Senator from Michigan; and it is not usually my custom to allow all the questions in any debate to be upon one side. I asked him a very straight question. That question was: if he believes, as he said in his first remarks, that revolution cut these States off?

Mr. HOWE. I did not say so.

Mr. HENDRICKS. I so understood the Senator.

Mr. HOWE. The Senator was mistaken; I did not say so. I said, on the contrary, that the ordinance of secession of Virginia had no more effect upon her rights or her authority than the same act had upon the authority of Massachusetts; but I thought it made the ground for our action upon the rights of Virginia.

Mr. HENDRICKS. Then, according to the theory of the Senator as now declared, neither the ordinance of secession nor flagrant war disturbed the relation of the States to the Union.

Mr. HOWE. No; I did not say that by any manner of means. I think it did disturb the relations of the State.

Mr. HENDRICKS. I think so; that is my theory; but the States, as I understand the Senator now to assume, lose their right of representation by the act of Congress declaring that they are not States. Now, as there was no such act of Congress during the war, and none, as I now recollect, until last spring, declaring the States to be illegal in the South, what took away from the States the right to representation which he recognized in Virginia in the middle of the war?

Mr. HOWE. I do not understand that it was lost. Virginia had that right of representation, he says.

Mr. HENDRICKS. It was not so much myself as the Senator, for when I came to this body I found these Virginia Senators here.

Mr. HOWE. Then they had not lost the right.

Mr. HENDRICKS. That is exactly what the Senator says; and as it required an act of Congress, according to his present opinion, to take away from them the right, I want to know what did, at any time during the war, take away from them the right of representation, inasmuch as the acts of Congress never declared that they were separated from the Union, never declared that they were not entitled to representation, never declared that the State governments were illegal until last March. On the contrary, the acts of Congress recognized them as States, the acts of Congress taxing them as States, the acts of Congress apportioning representation among them as States, spoke of them as States. Congress legislating in that direction, and the revolution not disturbing their relations to the Union so far as the right of representation is concerned, I want to know of the Senator what took away from them the right of representation, if it is his pleasure to answer the question?

Mr. HOWE. I never have stated that they lost the right of representation. I say, on the contrary, I think they did not lose the statutory right of representation until we took it away ourselves; that it was conferred, as it is conferred upon every State, by an act of Congress; and that it was never lost in law until it was taken away by act of Congress; but those acts of rebellion were the acts which justified Congress to legislate and to take it away. I do

not understand that this right was denied to Virginia. Of course it was not denied while she had Senators on the floor.

Mr. HENDRICKS. Of course not; and the Senator in allowing representation to Tennessee, in allowing it to Virginia, and in favoring it from Arkansas under elections that took place during the rebellion, after the ordinance of secession, and while war was flagrant, recognized the right of representation; and it is a hard point for him now to tell us when it was and how it was that the States lost the right of representation. Mr. President, my view is that the right of representation is given by the Constitution of the United States—that Constitution that bound the States to the Federal Union—that Constitution which fixed the relations between the Federal and State Governments, that each State of the Union is entitled to two Senators and to at least one Representative in Congress. My view is, that the right of representation does not and cannot depend upon any act of Congress; that Congress has no power to increase or decrease the right of representation of any State in this Union; that it is fixed by the Constitution of the United States. But, on the other hand, my view is very clear, as it has been expressed much better than I can express it by the distinguished statesman to whom I have referred, that by the war the practical relations of the States to the Government were broken, and it became practically impossible for them to be represented in this body; practically they had no right to be represented in this body; the Constitution remaining all the while; the State governments indestructible in their character so far as their relation to the Federal Government was concerned.

Mr. President, I have gone further into this than I thought of at the time I got up. My purpose was simply to respond to the remarks of the Senator from Michigan. I would suggest to him to review his learning somewhat on this subject of the acquisition of territory by conquest, and I think he will give a little more importance to this subject than he has in his remarks this morning.

Mr. SUMNER. It does not seem to me that there is any substantial difference of opinion between the Senator from Indiana and the Senator from Michigan. The Senator from Indiana thinks the suggestion of the President entirely out of place. He believes that these States may continue hereafter liable for all their honest antecedent debts. The Senator from Michigan believes so likewise; and my friend from Michigan goes further and suggests that the President, in holding up the idea of any possible liability on the part of the nation, was indulging in moonshine. I agree with the Senator from Michigan; that whole suggestion of the President is moonshine, and nothing else. See how it is presented, sir. After setting forth the possible liabilities of the national Government from undertaking to administer the governments of the rebel States, he says:

"This sum would no doubt be considerably augmented if"—

Mark that "if," if you please—

"if the machinery of these States is to be operated by the Federal Government, and would be largely increased if"—

Mark again the "if"—

"if the United States, by abolishing the State governments, should become responsible for liabilities incurred by them before the rebellion in laudable efforts to develop their resources, and in no wise created for insurrectionary or revolutionary purposes. The debts of these States, thus legitimately incurred, when accurately ascertained, will, it is believed, approximate \$100,000,000; and they are held, not only by our own citizens, among whom are residents of portions of the country which have ever remained loyal to the Union, but by persons who are the subjects of foreign Governments. It is worthy the consideration of Congress and the country, whether, if the Federal Government, by its action, were to assume such obligations, so large an addition to our expenditures would not seriously impair the credit of the nation; or, on the other hand, whether the refusal of Congress to guaranty the payment of the debts of these States, after having displaced or abolished their State governments, would not be viewed as a violation of good faith and a repudiation by the national Legislature of liabilities which these States had justly and legally incurred."

It will be observed that all this suggestion of the President is placed under the shelter of an "if;" if the national Government is so liable, then such consequences will ensue. Listening to the message, I was reminded of a sentence of Shakspeare: "If is a gaoler to bring forth some horrid malefactor." If the hypothesis of the President is true, it is a horrid malefactor that he has led out; our liabilities surely would be great; but if there is nothing in the hypothesis, then there is no malefactor brought out, and there is no liability on our part.

Now it seems to me as a question of public law, and it is in that way that I meet it, nothing can be clearer than that there is no liability on the part of the national Government. Unquestionably a State lives; and as long as it lives, it carries with it all its original just obligations. I take it, that is a received principle of public law. If we resort to the practice of civilized nations, I may remind you of France, which in the course of fifty years has been administered by a succession of governments, one giving way to another; a monarchy giving way first to a republic; that republic then assuming different forms, finally giving way to a consulate; then again to an empire; then again to a royalty; then again to a royalty in another form; then again to a republic; and then again to an empire; and yet, under all those successive forms, where conquest once intervened, the original liabilities have been continued. Perhaps no more striking illustration of that can be given, than the fact that the pension to the sister of Robespierre, awarded to her shortly after the death of her brother, was paid down to a very late day by the successive governments, having, surely, no sympathy with the family. I believe it may be accepted as a principle of public law which cannot be called in question, that as long as the State exists, its original and just obligations inhere in it, and they cannot be avoided except by annihilation. That is my answer, therefore, to the suggestion of the President. As soon as these States shall be reorganized and again take their place in our Government, they will be under all their original obligations, none of them impaired; nor will there be any additional obligations on our part.

Mr. JOHNSON. The opinion expressed by the President in the message which is before us is hypothetical; but coming from a functionary so distinguished as he is, the President of the United States, it is calculated, if it be wrong at all, to produce some mischief. The debt of the United States, which everybody recognizes as due and to be paid to the last dollar, is very large, and every addition to it increases the public solicitude; and it is therefore at all times unadvisable to express, as I think, any speculative opinion as to the possible increase of that debt. I am sorry, therefore, that the President should have deemed it his duty to express such an opinion in the message before us; for although, as I have stated, he does not give it as a positive opinion, but only expresses it hypothetically, it cannot but serve in some degree to affect our financial credit.

Whether the opinion is right or wrong is a matter upon which I do not propose to express any very decided opinion; but, as at present advised, I am obliged to say that I think it is wrong. These States, even assuming, as I am obliged to assume, the hypothesis of the President to be right, are for a time out of the Union; they are in the hands of the Government of the Union to be molded by that Government and governed by that Government as in its own wisdom it may think proper. For the time, therefore, State existence is at an end. But whether the United States, by holding that relation to the States, has become responsible, or will be responsible for the debts of the States, is a very different inquiry. Nobody pretends that it is the purpose of the Government of the United States to retain these States in the condition of territories. They are held now, in the judgment of us all, only until they can be reinstated in their original

condition as States of the Union. But the question suggested by the President is, whether because we hold them in that state of suspense, we become responsible for the debts of those States, as we should be if we became the governors of those States in all time to come.

Now, he says, and my friend from Indiana states the same thing—and to that extent they are both, as I think, clearly right—that the conquest of any existing State does not rid the conqueror of the obligation to pay the debts that the original State may have owed. All the obligations of a conquered State, as between the State conquered and other nations, remain and fall upon the conquering State. All the rights belonging to citizens of the conquered State, as between themselves, remain still as rights to be protected by the conquering State. But suppose a State to be conquered to-day and held for a year or longer, and then receded, the creditors of the conquered States not calling upon the conqueror during the period that he held his conquest, to pay the debts, making no demand, or if making the demand, that demand not being responded to; when the conquered State has been receded or has been recovered by conquest at the instance of the original conquered State, the first conquering State is no longer responsible for the debt; it remains a debt of the original State; and that, I think, was illustrated very clearly in the case of the Government of Spain. Spain was conquered by Napoleon. During that conquest many outrages were perpetrated upon the Government of the United States and upon her citizens. After Spain recovered her sovereignty, after France was driven away, we made a demand upon Spain to pay, not only the original debts which Spain owed the United States, but all the debts which she would have owed if she had not been conquered and had done the acts which gave the United States a right to demand of her indemnity. And we recovered it upon the ground that Spain remained Spain, and was responsible for all the obligations of Spain the very moment she reinstated herself in her original authority.

Now, to apply that precedent to the case before us: suppose—and I concede that for the purpose of the argument—that we are rightfully to be considered as the conquerors of these ten States in the absolute sense of the term; that they are ours to do as we may think proper, to be governed by us we may think expedient, or to be disposed of by us by treaty with other nations; we keep them for a year or more, when they are again States; we recognize them then as States of the Union, invested with all the rights that belonged to them before the rebellion; are we then to be responsible for the debts they originally owed, or are they? Can both be responsible? That they are responsible the United States cannot well deny, because the United States have enforced that doctrine as against Spain, and have always held the doctrine to be a sound one, that if a State has been stricken out of existence by conquest and lost her authority, and she regains it, she is at once liable for all her original engagements. So in relation to Georgia: I mention Georgia by way of illustration. Georgia is conquered, or is supposed to be conquered. We, as the conquerors, hold her under our control. We say to her, we say to her people, "Do certain acts, and you shall again be in the condition in which you were before the contingency happened which justified or made it our duty to conquer you;" and that is done. All her debts revive. Can it be true that with the revival of her obligation to pay her debts that does not terminate (if there ever was such an obligation) any obligation on the part of the United States until she was revived, to pay the same debt? Can the United States be responsible and Georgia be responsible at one and the same time for the same debts? I submit not; and I was about to say but for the hypothetical opinion of the President of the United States, clearly not.

Now, in relation to the other apprehension

of the President, that we shall be responsible for the expenses of carrying on these State governments or governing these people as long as we hold them in the condition in which they are: suppose we are, what then? If we are, it is only because they are conquered; and if we are because we are conquerors, we can do what every conqueror can do: we can levy a tax on these States to pay the expense. We are not to charge the expense of governing them upon the loyal States. We are not to consider it as an obligation, to be paid out of the Treasury of the United States. If as conqueror, with a view to what we believe to be their benefit and the benefit of the United States, we think proper to govern them, we have a right to say to them, "You must pay the expense of that government;" and that they are abundantly able to meet, or will be if they are not now abundantly able to meet.

Then the conclusion to which, as I am now advised, I come, is, that we are not responsible at all for any debts contracted by the States before the rebellion; and if we were responsible at all in the first instance to contribute out of the Treasury an amount sufficient to carry on this process of reconstruction, it is an amount for which we shall have a right to tax those States.

I was very glad to hear my friend from Massachusetts [Mr. SUMNER] say—I think it is the first time he has said it in this Chamber—that these States can never die; they cannot commit suicide upon themselves. My recollection is—I may be mistaken, and I suppose I am from the opinion the honorable member expressed just now—that he has more than once said that they were in our hands, just as absolutely ours as if we had conquered them from a foreign nation; just as much in our hands as if there never had been State governments over them, as if they had remained from the time the territory became the territory of the United States by cession a territory. But I understand him now to say that they are States. I beg him to reflect, however, whether he has not in making that admission gone a step too far, whether he has properly considered the consequences of the doctrine which, as I understand him, he is now maintaining. He says that a State can never die; the State of course always lives; that any debts contracted by a State before its supposed death and any debts contracted by a State after its supposed death, or in the interval between its supposed death and its revival into full life, are debts. I beg him to reflect more seriously on that subject. If he is right, the United States may be compelled to pay the rebel debt contracted by the rebel government?

Mr. SUMNER. How so?

Mr. JOHNSON. They have gone abroad and borrowed money—

Mr. SUMNER. That is not an honest debt. I said an honest and just debt.

Mr. JOHNSON. Whether the debt is honest or not is not to be tested by the Government of the United States. We say that they had no right to leave the United States. In that I believe we are unanimous. We say, therefore, that they have never had any authority to contract any debts. I believe in that until now we have been unanimous. But I understood the honorable member to say that during the several revolutions or stages of revolution that happened in France all the debts contracted by each Government to that revolution from time to time were considered eventually as debts due by the nation. If that is logically so, then the debts contracted by these rebel governments will become the debts of the reinstated State governments, or debts of the United States, and I protest against both.

Mr. SUMNER. So do I.

Mr. FESSENDEN. I ask the Senator from Maryland if it is not an illustration of what he is saying. If these States had succeeded in securing what they call their independence, and had been called upon by foreign Governments to pay their obligations contracted dur-

ing the rebellion, could they set up that they were not honest debts?

Mr. JOHNSON. Certainly not; unquestionably not. Then the question for us to decide is whether if the State government contracting the debt would be bound to admit the legality of the debt, could not get clear of the obligation to pay the debt as between itself and the person holding that debt, the creditor of the State, when we take possession of them as conquerors we become responsible for the debt? We do according to the doctrine of my friend from Massachusetts.

Mr. SUMNER. Oh, no.

Mr. JOHNSON. I am sure my friend did not intend it, and therefore it was that I asked the honorable member either to restate his opinion or more maturely to reflect upon the results of that opinion.

But, sir, I rose not so much or at all for that purpose as simply to say that as far as I am now able to come to a conclusion, with all due respect for the opinion of the President of the United States, I do not believe that the opinion expressed by him hypothetically in relation to the debts to be incurred in carrying on our reconstruction acts or the obligation of the United States to make good any debts antecedently contracted by these State governments is at all correct.

Mr. FESSENDEN. I have but a word or two to say on this subject. I regret very much, with other Senators, that the President has brought this subject before us in the shape that he has. I will not call what he says moonshine, as it has been designated by my friend from Michigan; but it is so exceedingly fallacious in my judgment, and has so very little foundation, that I do not think the President is justified in making this suggestion, even under the circumstances, thus perhaps producing an effect injurious to our credit.

I accede to the correctness of the doctrine laid down by the honorable Senator from Indiana; but as he states it, and with the inference that he draws from it, it seems to me to be quite fallacious when applied to the existing state of facts. What is the foundation of the doctrine? It is that if one nation absorbs a conquered country into itself, deprives it of all revenues, deprives it of government, deprives it of responsibility, and therefore of all power in every way it makes itself the heir or successor to its obligations. That I take to be the principle on which the rule is founded.

Now, sir, what sort of application has a doctrine of that kind, thus founded, to the existing state of facts? When a nation makes war upon another, it may be supposed to do so in order to enforce and protect its own rights; and if, in enforcing and protecting its own rights, it interferes with the obligations that people have assumed toward another and independent nation, it is by no means a ground of complaint on the part of that nation whose obligations are thus interfered with, because every nation has a right to enforce its own claims, if they are just claims, against another; and if, from the necessity of the case, claims of a third party are interfered with, postponed, delayed, it gives no just cause of offense against the nation seeking to enforce its own; and if it becomes necessary, even in the case of independent peoples, to hold them in subjection for a time in order to complete the claim which the conquering nation has on the nation thus conquered, it has a right to do so, and it does not, by taking that course, subject itself to be called upon by third parties to meet their claims. The question is, whether the conquering nation goes further than is necessary, and for such a length of time and under such circumstances as show that they are not satisfied with enforcing their just claims, but mean to absorb and deprive of all power of meeting claims upon it, the nation thus conquered.

We stand even in a better situation than that. The obligation that a State of the Union could assume was perfectly understood by all

the world, either toward an individual or toward a foreign Government or a foreign corporation. That obligation is totally independent of the United States; it is like the obligation of an individual; it takes it upon itself. The United States is in no way bound to carry it out, is in no way bound to enforce it, is in no way bound to do anything except not to interfere improperly to prevent the payment by a State of its obligations. If it does thus improperly interfere it might lay the foundation, undoubtedly, of an equitable claim upon itself. Now, what was the condition of things? Here were States over which the United States had a certain right. That right was denied; that right was violated; that obligation was broken. What did the United States do as a people? Simply attempted to enforce, and succeeded in enforcing its own rights of government and its own rights of property. To that extent we went—no further. That was the occasion of the war, and with the occasion ends the war. But the question is whether we have absorbed these people, whether we have deprived them of their power as States improperly, whether we have done anything to prevent the enforcement and collection of any just claims that might exist against them outside of and beyond the proper enforcement of our own just claims upon them as connected with the United States. That is the simple question. And do gentlemen pretend, can the President or anybody else say that by the exercise of our fair judgment in obtaining our rights of empire, if you please to call it so, our rights under the Constitution—the rights of the United States, I mean, as against a State thus setting up its authority in opposition to it—we have placed ourselves, or are liable to place ourselves in a condition where we are bound to discharge all their obligations?

Sir, the pretense seems to me to be an idle one, having no foundation whatever in fact, and affording no just ground for the suggestion that is made in the message to that effect. When the time comes that we have obliterated them; when the time comes that we have so conducted as to show that we mean that they never shall exist as States again, that we mean to deprive them of their power to carry out and discharge the obligations into which they have entered, that we have destroyed them as a people and destroyed them as a government, and mean to do so, it will be time enough then for any claimants upon these States, whether private or public, to say that we have assumed their obligations. Until that time comes, any suggestion of this sort is in my judgment perfectly uncalled for, and ought not to be considered for a moment as having weight enough to alarm even those most likely and most liable to be alarmed for the safety of any claims they may have against the ten or eleven States formerly in rebellion.

As to the other question that has been stated, I do not feel disposed to discuss it. I rose simply to enter my protest with regard even to a suggestion in the present state of things that we had put ourselves in the category supposed possible by the President, and supposed possible by my friend from Indiana.

Mr. HENDRICKS. Before this subject passes from the consideration of the Senate, I desire simply to add that in my view of this subject the Government of the United States can rightfully come under no obligation to pay the debts of the southern States existing prior to the war. I think the war was prosecuted, as it was declared by Congress, for the purpose of maintaining the rightful authority of the Government of the United States; for the purpose of maintaining the Constitution and perpetuating the Union; that that being accomplished by the war, the States restored to their rightful position in the Union, or rather their rightful position being maintained, no obligation whatever rests upon the Government of the United States in regard to their debts. But, sir, I think it is worthy of consideration and reflection what obligations may fall upon the United States in the event that we

maintain the doctrine that the States of the South do not rightfully exist, and that in some way or other they have ceased to be legal States, and that they exist, if at all, by the sufferance and permission of the United States, and upon that position we establish down there a government of our own.

In other words, if we strike out of existence the State government, its machinery of officers and of courts, and establish in its stead a government of our own, placing there our own officers, taking control through our own officers, appointed by the United States, of the revenue of these States, and in every way control the States, it is worthy of reflection whether that is not an absorption practically and by force, and in that event what may become of the obligations of the Government. Rightfully there can no obligation rest upon the United States, in my judgment; and the States being held in their relation to the Union as defined by the Constitution, we can incur no obligation. However much their relations may have been interrupted by a rebellion which they bring on, we cannot be responsible to any parties for any loss resulting to them from that. I agree thus far fully with the Senator from Maine; but if we, in fact, strike their State governments out of existence upon the proposition that they are illegal and *de jure*, do not exist at all, and exist only *de facto*—that is our position as declared last spring and now—and if upon that position we assume over them all the powers that may be exercised by any Government, we, by our officers, controlling the revenues which might go to the payment of their debts; we, by our officers, declaring how much of those revenues of necessity must go to purposes which we declare and enforce, then it is a practical question of great moment for us whether that is not an absorption upon which obligations may rest upon us. I hope, sir, we shall not go so far; but I am not prepared to say that it is unwise for the President, when he sees that Congress has now declared that these State governments do not exist *de jure* at all, and that they exist *de facto* only by our permission and only so far as we do permit, when we are legislating in the direction of taking possession and absorbing these State governments, and making them a part of Federal machinery, it is not unwise, in my judgment, for the President, when he sees this course of legislation initiated, to admonish us of the possible obligations that may be incurred.

Mr. HOWARD. Mr. President, the Senator from Indiana and myself, I think, do not differ at all upon some of the points raised in this discussion. We do not differ as to the original and continued liability of the rebel States, for instance, for all debts contracted *ante bellum*. Such obligations arose under legitimate governments, recognized by the United States, and are, of course, still binding upon the governments and people of those States and will always remain so as long as there is a people constituting a State. That is natural justice, and that, I understand, is the public law. It is matter of plain common sense and common justice. We agree in this. Then as to all obligations contracted by these several States during the war against the United States and in and of that treasonable war, I take it that we both agree that there is no principle of constitutional law or of public law which in any possible event could make it obligatory upon the Government of the United States to pay those debts.

Mr. HENDRICKS. I agree with the Senator in that.

Mr. HOWARD. Why not? The answer is obvious. Those debts were created in hostility to the Government of the United States, and for the purpose of overthrowing that Government; and whatever may be the legal condition of these States, whether they be absolutely conquered States and as such entirely and in all respects and forever subject to the will of their conqueror—a proposition which I have never advanced and am not disposed to advance—or whether they are held by

the Government of the United States, in temporary subjection and subjugation as temporarily conquered country, it must result, as a matter of course, that debts contracted by the conquered party in such a contest are debts which can never rest upon the conquering party; for the honorable Senator will not deny that it is the right of every Government in the world to put down and subjugate rebellion. This process is legal and lawful everywhere, at all times, and in all countries. It would be a very strange doctrine, it seems to me, that should make it requisite for the legitimate Government to pay the debts of a rebellious portion of its empire or possessions. It would be simply saying to rebels, "Go on; you are an actual Government now; you govern a portion of the country now by an actual *de facto* Government; go on; contract such an amount of debt as you please; run your faces as far as you can; and if the old Government shall finally succeed in subjugating you one result will certainly be that the old Government will be compelled to pay your debts;" that is to say, the old Government will be obliged to pay the expenses of both sides of the war. Surely, Mr. President, the honorable Senator from Indiana will hold no such doctrine.

Mr. HENDRICKS. I did not suppose that I gave the Senator occasion to intimate that I had held such a doctrine.

Mr. HOWARD. No, sir.

Mr. HENDRICKS. By no means. I expressed no such view. I simply expressed the view which was much more ably and clearly expressed by the Senator from Maine, that if the conquering nation absorbs the conquered country it absorbs it with its debts before the war. I will not undertake to say that in any event the conqueror can be made responsible for the debts incurred by the conquered country during the war. I am not prepared to say exactly what is the rule on that subject. While the nation is making its resistance and is a *de facto* government, perhaps *de jure*, making its resistance against the Government that ultimately becomes the conqueror, it incurs debts. Whether as between independent nations the debts thus incurred during the war would fall upon the conqueror I do not undertake to say now; but certainly no such doctrine could apply in any event between portions of the same country.

Mr. HOWARD. I was entirely right, Mr. President. I have all along felt satisfied that my honorable friend from Indiana would not commit the Democratic party to the payment of the rebel debts. That is an issue with which he certainly will not venture into the campaign. He acts very wisely, and not only acts wisely, but his views are founded on solid sense and solid law, as I believe; and I am extremely happy to hear the honorable Senator make the announcement he has made.

But there is a third state of facts arising in this case. He seems to entertain an apprehension, and expresses it with much more delicacy, I confess, than does the President in the message which is before us, that by some sort of legerdemain it may turn out that these Johnson governments—I use that epithet for brevity's sake—if they are extinguished and go out of existence will leave to the United States the charming legacy of their debts. Well now, sir, I do not sympathize in this apprehension at all; but if the apprehension be well founded, it presents to our minds, if possible, an aggravating view of that state of absolutism and usurpation which Mr. Johnson has indulged in in reference to reconstruction. The ground which he takes in his message, the ground which my honorable friend, I believe on more than one occasion, has taken is, that the President has established the Johnson governments, that he has done it by virtue of his executive power as President of the United States, or as Commander-in-Chief of the armies of the United States, or in some capacity, and that they are legal governments because he has thus launched them into being.

On the other hand, on this side of the Cham-

ber, we hold that that proceeding was illegal. Would it not have been rather prudent—certainly it would have been modest—upon the part of Mr. Johnson if he had reflected a moment before launching these governments into being, that the time might come when this Black Republican Congress might lay a heavy hand upon those mushroom States and extinguish, or in the words of the Senator from Indiana, absorb them, and that one consequence of that proceeding (which all will admit to be legal) might be that the United States would charge themselves with all the debts of the Johnson governments? Sir, if the President foresaw such a result he was very unwise to attempt the experiment which he undertook; and if the debts which have been created already by these States during the Johnson régime there amount to one hundred millions, the country, according to the doctrine of the President of the United States in this message, will see the dangers into which he and his advisers have carelessly and recklessly run the Government of the United States.

But sir, I deny any such liability on the part of the United States, whatever their Government may see fit to do with the Johnson governments. I look upon those governments now, as I always have done, as being without law, as resting not on the foundation of law, but the capricious will of the Executive of the United States, who, under the Constitution, had no authority to establish them or to take the first step toward their establishment. Whoever, therefore, has assumed to contract with these Johnson governments, has done so with his eyes open; and if he has become a creditor of these States, and it shall turn out that in law and justice they were no States having the faculty to enter into contracts and obligations, he has but to thank himself for his own folly; and if he is in the end a loser he has nobody to complain of except himself, and to regret his own indiscretion.

But even that is not the case, as I hold. These are governments *de facto*, existing, not of law, not by the sanction of law, but existing simply in fact. The people of these respective States have submitted to them; they have submitted to the authority of these usurped governments; and for all purposes of public law, according to my judgment, the people of those States will still carry these obligations, if there are any such, upon their shoulders, until they fully discharge them as States. If they were so unwise as to submit to the illegal proclamations of the President of the United States, to attempt to reorganize their governments in that way, they must submit to the consequences. And this I hold to be public law, applicable to the people of those States as well as all other people, so that after Congress has acted and these States are reconstructed, formally and properly readmitted to their privileges in this Union, if there be any such old debts accruing under the Johnson governments it will be for the people of those States to take such course in regard to them as they themselves shall see fit.

I make no further comment upon the gratuitous introduction into this message of language on the part of the Executive which is certainly calculated, if it were not intended, to alarm capitalists and to create a ferment among them throughout the United States, and to throw odium upon this Congress for its attempt to reconstruct fully and properly these States. I think it was very gratuitous and very unkind; I do not think that, in the end, the sensible capitalists of this country who hold that description of securities, if there be any such, will thank Mr. Johnson or his advisers for this gratuitous attempt to impair the credit and the value of their securities.

Mr. WILSON. Mr. President, this message is in perfect keeping with the action of the President during the last two years. He has lost no occasion, public or private, to talk about "the bonded aristocracy;" to hint to the country that there is to be a great contest over the payment of the debt incurred by

the war. The effect of this action on the part of the President tends to impair the credit of the Government. In his conversation with General Halpine, published to the country months ago, we had the arguments in support of the hints that he is so accustomed to make whenever he can get anybody to listen to him. The suggestion is made in this message for the purpose of bringing odium on Congress, of making the impression that the public debt is in danger, of alarming those who hold the public debt, and perhaps those who hold debts against these States. Those who hold the public debt need have no anxiety whatever, and those who hold the debts of these States need not have any. The reason is very plain. The policy of Congress has a tendency to strengthen the national debt and the debts of those States. Why, and how? We have established by law a plan by which these States can be restored to their practical relations, can come back again into these Halls. It is now clear to the comprehension of men of intelligence that the friends of the Union, the friends of the united country, the friends of equal liberty, the men who are in favor of education, in favor of diversified industries, in favor of developing the natural resources of those States, are coming into power there, and they will demand the payment of their own debts and the payment of the national debt. By their legislation and policy they will enable these States to start afresh in a career of prosperity, increasing their own power and means to pay their debts and their securities will increase in value. I have not the shadow of a doubt that the policy of Congress adds to the value of the national debt, and adds to the value of the debts of these States.

That policy tends to the prosperity of these States; and all of them, with the exception of Texas, will pass into the control of men who condemn the policy of the President, who condemn the policy of those who sympathize with him. These States, sir, will pass into the hands of men true to the country, true to the rights of man, men who are in favor of developing and increasing the power of these States, and of strengthening the whole country. We shall have in a few months from this time, in the election in Virginia, evidence of this which will satisfy Mr. Johnson and Mr. Johnson's friends. All the hints, messages, and conversations of the President, whether with editors in this country, or with correspondents of papers in England, will not affect the national debt, nor the debts of any of these States; and the holders of both need give themselves no anxiety on account of any hints, messages, or talks of the President. All these suggestions, therefore, will not come back upon Congress, will not affect the national credit, nor the credit of any of these States. We need give ourselves no anxiety about the effect of the message upon the country politically or financially.

Mr. FRELINGHUYSEN. Mr. President, I regret that the President of the United States has, by the message just read, disturbed, or assumed to disturb, public confidence in the national debt; and I am glad that from no State, no party, no Senator here does the message receive any favorable response. It finds no sympathy in the Senate of the United States.

The message is calculated to do great injury; not that the intelligence of the country will be disturbed by it, but unprincipled speculators can and will use it to play upon the fears of the uninformed, and thus prey upon their property. Holders of our securities abroad may be affected by it.

The suggestions of the message are entirely groundless. If it be true that a conquering nation that absorbs the government found existing and institutes one of its own in its place thereby assumes the debt of the country conquered, yet the debt contracted by the conquered country in carrying on the resistance to the conquering nation is not thus assumed. Even this message does not suggest the absurdity that the United States may become liable



for the debt of the rebel States contracted during the war; it is the debt of States existing at the time and prior to the war to which the message makes allusion.

And how, I ask, can the United States, even on the law and principles relative to conquest, become liable for the States' debts existing at the time of the war? The United States have not set aside those governments and instituted the Government of the United States in their stead. The governments which the United States have superseded and declared illegal are the governments without authority organized by the Executive. Congress finding the functions of government not lawfully in force in the rebel States properly undertakes to reconstruct the States. This is not conquest, and the principles incident to conquest do not apply.

But besides, sir, the doctrine of conquest is not in any view the proper one to invoke on this question. The fundamental law of the nation declares "That the Constitution of the United States and the laws made in pursuance thereof shall be the supreme law of this land," of every rood and acre of it. The rebel States refused to obey the laws of the United States, and the United States compelled them to obey. They rebelled and we put down the rebellion. We suppressed the insurrection. This is not making a conquest. It is maintaining our own Government according to the terms of a Constitution binding on all parties. The rebel States thus by their rebellion forfeited certain of their rights, and Congress have declared those rights forfeited. They did the acts of forfeiture, and we recognize it as a forfeiture. The very existence of the nation required that this forfeiture should be declared and recognized. We could not permit our open enemies to rule us in our councils.

I respectfully insist that the doctrine of conquest and its incidents are not applicable to the relations existing between the Federal and the State governments.

Mr. BUCKALEW. Mr. President, I suppose it to be an advantage to have this message in print so as to be able to command its contents before we proceed to discuss it thoroughly and exhaustively. I confess I did not hear the whole of it read, and I observed that there was not general attention in the Senate during its reading. If, however, I were to judge by the speeches delivered subsequently, I should suppose that no document ever commanded such profound attention, or was so completely understood by the members of the Senate as this is. I suspect that when gentlemen outside of our Chamber who have not the privilege of hearing documents read, but who wish to read and ponder them for themselves, come to examine this message it will come to pass that they will take a somewhat different view of it from that which has been taken by the Senator from New Jersey and others who have spoken. I think, sir, it will come to be understood from thorough examination of the document itself, and not of the speeches that have been made concerning it, that the President of the United States is not in favor of the assumption by this Government of any portion of the State indebtedness of the southern country, whether it existed before the war or was incurred by irregular and disloyal governments during the progress of the war. I think it will be understood that he is simply putting an argument to show the fallacy, the unsoundness of that policy in the government of this country to which he is opposed, that he is simply suggesting that upon the theory and upon the doctrines which prevail with gentlemen to whom he is opposed politically these consequences would legitimately follow.

Now, it seems to be admitted also in this Chamber that if the existing condition of things in the southern country should continue, if there should not be a change, such results might be predicated upon that condition of things; in other words, if you establish military governments there, if you declare them

superior to all civil authority, if the power to pass laws of taxation and to form contracts there is subject to the military authority of the United States entirely and exclusively, and continue that condition of things for some time, the creditors of those States could come to you, this obligation would be cast upon you legitimately and properly, because there would be no civil government in any one of these States that could respond to a public creditor. Therefore, sir, the argument against the President's suggestion, and the only argument, is that your policy, your system in that country is to come to an end, that it is to terminate, that a regular civil authority established by the people themselves is to come into being. Then, you think, according to the argument, it follows that you will escape the suggestion which the President has made.

Well, sir, whether it was worth while to have this point raised and debated or not is perhaps not very material. Perhaps we do not differ upon principles. Perhaps we agree more nearly than we supposed, all of us, with the principles laid down by the President of the United States. Some persons have the opinion that you intend to continue your existing system for a considerable time. You assert that you intend to bring it to a conclusion speedily. I think upon both sides of this great debate the conclusion we shall come to and must come to is that the sooner we terminate the authority of the United States in that country, the sooner self-government reasserts its prerogative in that section, the better at least for the creditors of these southern governments and the better for the Treasury of the United States.

However, sir, I did not intend to enter into this debate. I rose for the purpose of suggesting that we have arrived at that period of the day when it would be convenient to adjourn, and I submit that motion, unless there be some reason for withholding it.

Mr. PATTERSON, of Tennessee. I desire to give a notice if the Senator will allow me.

Mr. BUCKALEW. Very well. I do not make the motion at present.

Mr. THAYER. This hypothetical opinion of the President is so clearly presented that I think the Senator from Pennsylvania with his usual sagacity will not be long in arriving at a condemnation. I have read it carefully in order to understand it. It is in these words: he says that the expenditures "would be largely increased if the United States by abolishing the existing State governments should become responsible for liabilities incurred by them before the war in laudable efforts to develop their resources." He has not the boldness to assert the opinion that the United States, by abolishing these State governments, becomes responsible; but he resorts to an insidious effort to create a suspicion in the public mind that the Government of the United States, by declaring these State governments to be illegal, does assume these obligations created before the war. It is in my judgment another attempt, by insidious means, to throw an obstacle in the way of the work of reconstruction, or, in other words, to throw a new disturbing element into the national politics of this country, to lead the public mind to inquire whether we do not become responsible for these debts; and in my judgment it is the duty of the Senate, it is due to the country, to treat it in that manner which shows that the Senate, at least, regards it with the utmost indifference.

Now, sir, I should like to ask any one who indorses this opinion or intimation of the President, who was responsible for the payment of these debts when the acting President of the United States created State governments in the revolted States? If those governments which were created by his order are responsible for them, then of course the governments which will be created under the reconstruction acts of Congress will be responsible for them. We, by declaring the mode and manner in which these State governments shall be formed and created, subject to our approval, provide for the organization of legal State governments;

and if the obligation exists to pay these debts honestly contracted—and I hold that the obligation does exist—those governments which follow will have the obligation resting upon them to pay these debts, and not the Government of the United States.

Mr. ANTHONY. I move that the Senate do now adjourn.

Mr. SUMNER. I hope we shall have the question on printing the message.

Mr. ANTHONY. I have no objection to that, and I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the motion that this message lie on the table and be printed.

The motion was agreed to.

MALINDA HARMON.

Mr. PATTERSON, of Tennessee. I have uniformly voted against every proposition to open up subjects of legislation; but inasmuch as the rule has been departed from to-day in favor of despatch, I now give notice that to-morrow I shall ask a mitigation of the rule adopted by the Senate for the purpose of taking up Senate bills No. 127 and No. 128.

Mr. ANTHONY. I now renew my motion.

Mr. HENDERSON. I ask the Senator to withdraw that motion for a moment to enable me to introduce a bill on the subject of our Indian affairs for the purpose of having it printed so that the Senate can see it to-morrow morning.

Mr. ANTHONY. Very well.

BILL INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 136) to establish peace with certain hostile Indian tribes; which was read twice by its title and ordered to be printed, and to lie on the table.

Mr. ANTHONY. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, July 15, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to the appropriate committees, not to be brought back by motions to reconsider, beginning with the State of New Hampshire.

The Speaker proceeded with the call.

### DECISIONS OF MILITARY COURTS.

Mr. KELLEY introduced a joint resolution relative to the decisions of military courts; which was read, as follows:

Joint resolution relative to the decisions of military courts.

*Be it resolved, &c.,* That decisions of military courts or commissions made in civil causes in the States lately in rebellion, at times when no civil courts were in operation in the said rebellious States or any of them, shall be held valid and binding.

The joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

### AMENDMENT TO THE CONSTITUTION.

Mr. WILLIAMS, of Pennsylvania, introduced a joint resolution proposing an amendment to the Constitution of the United States in regard to the judges of the Supreme Court and other courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### LEGAL-TENDER NOTES.

Mr. NOELL introduced a bill to make legal-tender notes receivable for duties on imports; which was read a first and second time, and referred to the Committee on Commerce when appointed.

Mr. NOELL. I desire now to call up a

resolution offered on Saturday, and which was then objected to.

The SPEAKER. That is not now in order.

Mr. BOUTWELL. Was the resolution in reference to legal-tender notes referred to the Committee on Commerce?

The SPEAKER. It was, because no other motion was made in regard to it.

Mr. BOUTWELL. I move to reconsider the vote by which it was referred, with a view of referring it to the Committee of Ways and Means.

The motion to reconsider was agreed to; and the joint resolution was then referred to the Committee of Ways and Means.

#### HARBOR AT STRAIGHT CUT, WISCONSIN.

Mr. PAINE presented joint resolutions of the Legislature of Wisconsin, asking an appropriation to the city of Milwaukee to reimburse to it the expense of constructing a harbor at Straight Cut; which was referred to the Committee on Commerce when appointed, and ordered to be printed.

#### GEORGE WILLIAMSON AND COMPANY.

Mr. PAINE also introduced a joint resolution to refund to George Williamson & Co., of Milwaukee, certain duties paid upon pig iron; which was read a first and second time, and referred to the Committee of Claims when appointed.

#### MRS. HELEN L. GASS.

Mr. PILE introduced a bill for the relief of Mrs. Helen L. Gass; which was read a first and second time, and referred to the Committee on Pensions when appointed.

#### REGISTRY, ETC., OF CERTAIN VESSELS.

Mr. CHURCHILL introduced a bill authorizing the Secretary of the Treasury to issue certificates of registry or enrollment and license to certain vessels; which was read a first and second time, and ordered to be referred to the Committee on Commerce when appointed.

#### ADJOURNMENT.

Mr. WOODBRIDGE, (at twenty minutes after twelve o'clock p. m.) I move that the House now adjourn.

On the motion, there were, on a division—ayes sixty-two.

Before the negative votes had been counted, Mr. WOODBRIDGE withdrew the motion. Mr. FARNSWORTH. I renew the motion.

#### SUPPLEMENTARY RECONSTRUCTION BILL.

The SPEAKER. The Chair asks consent to state to the House that it has been discovered that in enrolling the supplementary reconstruction bill two or three words were omitted. The President of the United States has stated to the Clerk that he has no objections to the bill being withdrawn, that it may be properly reënrolled and submitted to him again to-day.

Mr. FARNSWORTH. In view of this statement I withdraw the motion to adjourn.

Mr. WILSON, of Pennsylvania. Do I understand that it is alleged that there was a mistake made in the enrollment of the reconstruction bill?

The SPEAKER. The Chair is informed by the Clerk that two or three words were omitted.

Mr. WILSON, of Pennsylvania. I would like to inquire what were the words omitted?

The SPEAKER. They were in respect to appointments by military commanders.

Mr. FARNSWORTH. I would like to inquire whether there is any necessity that the House should remain in session for the purpose of correcting the enrollment?

The SPEAKER. The House must decide that question for itself. The Chair will submit the question.

Mr. WOODBRIDGE. Will it be necessary for the Speaker to re-sign the bill?

The SPEAKER. The Chair will state the question, and the House can decide the matter for itself.

In the haste with which on last Saturday this bill was enrolled from the report of the committee of conference that part of the section in regard to appointment and removal from office by military commanders, which states that the appointments shall stand until they are disapproved by the General of the Army, has been omitted. The Chair is informed by the Clerk that the President, whom he has seen to-day, is willing that the bill may be withdrawn and those words inserted. It is for the House to decide whether the legality of the bill would be affected if the words were inserted without any new action on the part of the House. The question is, whether the House shall now adjourn and allow the Clerk, as the enrolling officer of the House, to make this correction, or whether the bill shall be again enrolled and signed by the Presiding Officers. It is a question of such importance that the Chair will not attempt to decide it.

Mr. WOODBRIDGE. I hope we shall not adjourn. We had better be on the safe side.

Mr. FARNSWORTH. If there is any doubt on this question I will not press the motion to adjourn.

Mr. BANKS. Mr. Speaker—

The SPEAKER. The Chair will take the responsibility of interrupting the business of the morning hour, this being a matter of very great importance—more importance probably than any business of the morning hour. The gentleman from Massachusetts [Mr. BANKS] is recognized.

Mr. BANKS. If there has been an error in the enrollment of the bill I think it due to the importance of the question with reference to the two Houses of Congress that the bill should be reënrolled, and that the signatures of the Presiding Officers should be affixed to it anew. This will present the question in the proper light, and relieve us from any possibility of embarrassment hereafter. I hope this course will be pursued. I move, therefore, that the Clerk be directed to request from the President the return of the bill, that it may be reënrolled.

The motion was agreed to.

#### NEW YORK WAR EXPENSES.

Mr. ROBERTSON introduced a bill to reimburse the State of New York for moneys expended for the United States in enrolling, equipping, and provisioning volunteer forces to aid in suppressing the rebellion; which was read a first and second time, ordered to be printed, and referred to the Committee on Military Affairs when appointed.

#### INVESTIGATION OF THE REVENUE SYSTEM.

Mr. ROBINSON. I submit the following resolution:

The Clerk read as follows:

*Resolved*, That a committee of five be appointed by this House with power to sit during the recess of Congress, to send for persons and papers and to employ a stenographer to examine into the working of the detective system of the internal revenue department, into the seizure of spirits and tobacco made by persons other than those designated in the acts of Congress, and to examine into the disposal of spirits and other goods, wares and merchandises sold by order of the courts, and to report by bill or otherwise.

Mr. ROBINSON. Mr. Speaker, I desire to state that if the resolution be adopted I do not wish to be placed on it as chairman.

Mr. WASHBURN, of Massachusetts. I rise to debate the resolution.

The SPEAKER. It then goes over under the rules.

#### TAXATION OF UNITED STATES BONDS.

Mr. SELYE submitted the following resolution; which was ordered to be referred to the Committee of Ways and Means when appointed:

*Resolved by the House of Representatives*, That in the opinion of Congress no further issue of the bonds of the United States ought to be made for any purpose not already provided for except upon the distinct condition that they shall be subject to taxation for State, county, and municipal expenses in the same manner and to the same extent as other property is now or may hereafter be assessed.

#### FORFEITURE OF SOUTHERN SWAMP GRANTS.

Mr. JULIAN submitted the following res-

olution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of reporting a bill providing for the forfeiture to the United States of the swamp land heretofore granted to States lately in rebellion which have not been lawfully disposed of by said States.

#### TAXATION OF UNITED STATES BONDS.

Mr. HOLMAN submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, That in the judgment of this House the bonds and other securities issued by the United States, which by law are exempt from State and municipal taxation, ought to be taxed by the authority of Congress for national purposes, in such manner and to such extent as may be necessary to substantially equalize taxation, taking into consideration the average tax imposed on other property for local purposes in the several States, such bonds and other securities not being exempt by any provision of law from such taxation; and that the Committee of Ways and Means, when appointed, be instructed to report a bill providing for such equalization of taxation.

The previous question was not seconded.

Mr. PRICE. I rise to debate the resolution. The resolution, under the rules, accordingly went over.

#### REVENUE SYSTEM.

Mr. SCHENCK submitted the following resolution, and demanded the previous question:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to inform this House whether he has established, or caused to be constituted, in the city of New York, an association or commission of officers or persons known as the "Metropolitan Board of Revenue," or a commission or organization in that city in any way connected with the revenue service by any other name or style; and if so, that he state under what authority or under what provision of law and with what object or for what purpose such a board has been created, what individuals compose it, when, by whom, and under what authority they were selected or appointed, what powers they exercise, what instructions have been given to them, and what have been up to this time their acts or proceedings, collectively or as members of such a board, in relation to revenue matters; and also that the said Secretary furnish, with his reply hereto, copies of all correspondence that the Treasury Department or Revenue Bureau have had with officer or person in relation to the establishing of said board or its proceedings, including all letters, orders, decisions, accounts, communications, or writings of any character on record or file in the Treasury Department or in any bureau thereof having relation to or connection with said so-called "Metropolitan Board of Revenue" or any other such commission in the said city of New York.

The SPEAKER. This being a call on one of the executive Departments for information requires unanimous consent to be now considered.

Mr. ROBINSON. I object, as it is the same as my resolution.

Objection being made, the resolution under the rules went over.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. COVODE submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the testimony taken by the Judiciary Committee on the subject of the impeachment of the President of the United States be printed, and that any portion of said committee be allowed to report thereon at any time.

The House divided, and there were—ayes 41, noes 36; no quorum voting.

The SPEAKER ordered tellers, and appointed Mr. WILSON of Iowa, and Mr. COVODE.

The House again divided, and the tellers reported—ayes 36, noes 59.

So the previous question was not seconded.

Mr. WILSON, of Iowa, rose to debate the resolution, and it accordingly went over.

#### SUPERINTENDING INSPECTOR OF STREETS, ETC.

Mr. ASHLEY, of Ohio, introduced a bill to abolish the office of superintending inspector of streets and carriage ways in the District of Columbia; which was read a first and second time, ordered to be printed, and referred to the Committee for the District of Columbia when appointed.

#### KENTUCKY, MARYLAND, AND DELAWARE.

Mr. KELSEY offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on the Judiciary be,

and they are hereby instructed to inquire and report to this House whether the States of Kentucky, Maryland, and Delaware now have State governments republican in form, and that the committee have leave to report by bill or otherwise at any time.

Mr. ELDRIDGE. I suggest that the State of Maryland is already embraced in a resolution referred to the Judiciary Committee.

The SPEAKER. Debate is not in order.

On seconding the previous question there were—ayes 33, noes 36; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. KELSEY and ELDRIDGE.

The House divided; and the tellers reported—ayes 47, noes 47.

The Chair voted in the affirmative; so the previous question was seconded.

Mr. HOLMAN moved to lay the resolution on the table.

Mr. ELDRIDGE demanded the yeas and nays on the motion.

The yeas and nays were not ordered.

The motion was disagreed to.

The main question was then ordered.

Mr. ROBINSON. I ask the mover of this resolution to accept an amendment to include the State of New Hampshire.

The SPEAKER. It can only be done by unanimous consent.

Mr. NOELL. I ask the gentleman to include the State of Missouri.

Mr. KELSEY. I decline to allow any amendment.

On agreeing to the resolution there were—ayes 61, noes 40.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 39, not voting 54; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Bromwell, Buckland, Butler, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Cullom, Driggs, Farnsworth, Ferriss, Fields, Finney, Gravelly, Halsey, Hill, Hooper, Asahel W. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, McClurg, Mercer, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Polesley, Price, Raum, Schenck, Scofield, Shanks, Starkweather, Aaron E. Stevens, Taylor, Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—77.

NAYS—Messrs. Baldwin, Blair, Burr, Chanler, Cobb, Dawes, Dixon, Donnelly, Eldridge, Ferry, Getz, Glessbrenner, Griswold, Holman, Hopkins, Chester D. Hubbard, Jenckes, Kerr, Ketcham, George V. Lawrence, Marshall, Marvin, Mungen, Noell, Phelps, Randall, Robertson, Robinson, Ross, Sawyer, Selye, Smith, Stone, Taffe, Twichell, Van Auker, Van Trump, William B. Washburn, and Windom—39.

NOT VOTING—Messrs. Adams, Archer, Delos R. Ashley, Barnes, Barnum, Blaine, Boyer, Brooks, Broadmalt, Cake, Sidney Clarke, Dodge, Eckley, Eggleston, Ela, Eliot, Fox, Garfield, Haight, Hamilton, Harding, Hayes, Hotchkiss, Richard D. Hubbard, Hubard, Humphrey, Kitchen, Lafin, Lincoln, Lynch, Mallory, McCarthy, McCullough, Miller, Morgan, Morrell, Morrissey, Niblack, Nicholson, Peters, Poland, Pomeroy, Pruyn, Shellabarger, Sitgreaves, Spaulding, Thaddeus Stevens, Stewart, Taber, Trowbridge, Upson, Van Wyck, Wood, and Woodbridge—54.

So the resolution was adopted.

During the roll-call,

Mr. BEAMAN stated that his colleague, Mr. Urson, had been called away by the death of his father.

Mr. MORGAN. Had I not been paired I would vote no.

Mr. KELSEY. My colleague, Mr. LINCOLN, is absent on account of sickness, as I have just learned by a telegram.

The result having been declared as above recorded.

Mr. KELSEY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. Ela, on account of serious illness in his family.

GOVERNMENT DEPOSITORIES.

Mr. RANDALL offered the following reso-

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lution, and demanded the previous question thereon:

*Resolved*, That in the judgment of this House no national bank should be selected as a public depository of Government moneys in any city or place where there is located the Treasurer or an Assistant Treasurer of the United States, but all public moneys collected and received in any such city or place for the Government should be deposited with such Treasurer or Assistant Treasurer; and the Secretary of the Treasury is hereby requested to transfer any moneys now in such national banks to said Treasurer or Assistant Treasurer of the United States at the earliest day practicable.

Mr. O'NEILL. I think this had better lay over for debate.

The SPEAKER. The previous question will arrest debate.

Mr. PILE. I suggest that it be a joint resolution. The Secretary of the Treasury is not amenable to this House alone.

Mr. RANDALL. It is merely a request. The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to—ayes sixty-six, noes not counted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TELEGRAM FROM GENERAL SHERIDAN.

Mr. JUDD introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War have leave to withdraw from the files of the House a private telegram from General Sheridan to General Grant, dated 22d of June, the same having been communicated to this House by mistake.

IMPEACHMENT OF THE PRESIDENT.

Mr. FARNSWORTH. I offer the following resolution, upon which I demand the previous question:

*Resolved*, That the Committee on the Judiciary be discharged from the further consideration of the question of the impeachment of the President of the United States, and that the testimony already taken by said committee be printed for the use of this House.

The question was taken on seconding the demand for the previous question, and there were—ayes 23, noes 66.

So the previous question was not seconded.

Mr. PIKE. I rise to debate the resolution.

The SPEAKER. Then the resolution goes over under the rules.

Mr. FARNSWORTH. I move to suspend the rules to enable me to introduce the resolution.

The SPEAKER. That motion is not in order, as the morning hour has not yet expired.

SWAMP LANDS.

Mr. BROMWELL. I offer the following resolution, upon which I demand the previous question:

Whereas certain swamp lands have heretofore been granted by the United States to the several States in which they lie, and said lands, or some portion of them, were afterward disposed of by the United States by permitting military bounty land warrants to be located on the same, and in lieu thereof warrants have been issued to such States which in some cases are of no value to such States, for the reason that the public lands in such States have been sold by the United States: Therefore,

*Resolved*, That the Committee on the Public Lands, when appointed, be and are hereby instructed to inquire into and report to this House the expediency of providing by law for the issuance of land warrants to such States, to be located on any of the public lands of the United States, in lieu of the lands so disposed of by the Government, and that said committee have leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered.

Mr. JULIAN. Let me state that this question has been repeatedly before the Committee on the Public Lands, and that they have uniformly reported adversely. I have no objection, however, to the resolution.

The question was taken on the resolution, and it was disagreed to.

The SPEAKER. The morning hour has now expired.

Mr. PIKE. I move that the House take a recess until three o'clock p. m.

Mr. ELDRIDGE. Before the gentleman

presses that motion, will he allow me to offer a resolution, to which I think there will be no objection?

Mr. RANDALL. Will the gentleman from Maine allow me to move as an amendment to his motion that when the House adjourns it adjourn to meet on Wednesday?

Mr. PIKE. I waive my motion for a moment.

RECEPTION OF "LOYAL" CONGRESSMEN.

Mr. ELDRIDGE. I ask unanimous consent to offer the following preamble and resolution:

Whereas it has been alleged in one of the loyal papers of the State of Ohio, that the expenses in a large part remain unpaid for the wines and liquors, &c., furnished at the reception given to the loyal part of Congress: Therefore,

*Resolved*, That the same should in the opinion of this House be at once paid out of the fund raised for evangelizing the colored race now in the hands of the Republican executive committee.

Several members objected.

ROCK ISLAND RAILROAD BRIDGE.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent to offer the following preamble and resolution:

Whereas the Congress of the United States did by act approved June 27, 1866, authorize the Secretary of War to change the location of the Rock Island railroad bridge, and to grant pecuniary aid or otherwise toward effecting said change to the railroad companies using said bridge; and whereas by an act approved March 2, 1867, an appropriation of \$200,000 was made toward the building of a new bridge, which should not seriously obstruct the navigation of the Mississippi river; and whereas said appropriation was on condition that the Rock Island and Pacific Railroad Company should first agree to pay and should secure to be paid one half the cost of said bridge; and whereas said company has utterly failed to notice either of said acts, or to enter into any agreement for the change of the location of their present bridge, which bridge is believed to be a great obstruction to the free navigation of the Mississippi river and a public nuisance: Therefore,

*Be it resolved by the Senate and House of Representatives*, That the Attorney General of the United States be directed to institute legal proceedings in some court of competent jurisdiction for the removal of said bridge, and the abatement of the same as a public nuisance, provided said company shall not within three months from the date of the passage of this resolution comply with the terms of the acts before named.

Mr. ELDRIDGE. How does that resolution come in?

The SPEAKER. It is not yet before the House. The Chair was about to ask if there was any objection to it.

Mr. ELDRIDGE. I object.

Mr. WASHBURN, of Wisconsin. I move a suspension of the rules to enable me to offer the resolution.

The SPEAKER. That motion cannot be made unless the gentleman from Maine [Mr. PIKE] withdraws his motion for a recess.

Mr. PIKE. I insist on my motion for a recess until three o'clock.

Mr. RANDALL. Is not my motion pending?

The SPEAKER. A motion contemplating a recess in the day's session cannot be so amended. If it be voted down, then the gentleman's motion can be made.

Mr. ELDRIDGE. I did not understand correctly the resolution of the gentleman from Wisconsin, [Mr. WASHBURN.] I supposed that it related to another matter. I withdraw the objection.

Mr. COOK. I renew the objection.

The SPEAKER. The Chair will state that a message requesting the return of the reconstruction bill has been sent to the President; and the bill may be returned during the recess. If there be no objection, it will be understood as the sense of the House that the Speaker shall receive any message which may be sent by the President during the recess. The Chair hears no objection.

The motion of Mr. PIKE was agreed to; and the House (at one o'clock and twenty-five minutes p. m.) took a recess till three o'clock p. m.

The recess having expired, the House resumed its session.

APPROPRIATION FOR RECONSTRUCTION.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Sen-

ate had passed the joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States, with an amendment, in which the concurrence of the House was requested.

The amendment of the Senate was read, as follows:

In lines four and five strike out the words "six hundred and seventy-five thousand dollars," so that the clause will read: "for the purpose of carrying into effect the above-named acts there be appropriated out of any money in the Treasury not otherwise appropriated the sum of \$1,000,000."

Mr. BOUTWELL. Mr. Speaker, I do not know precisely the reason for this amendment; but there can be no doubt that the reduced appropriation proposed by the Senate will be sufficient for all the purposes contemplated until the next session of Congress. I therefore move that the House concur in the amendment; and on this motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of the Senate was concurred in.

#### SUPPLEMENTAL RECONSTRUCTION BILL.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly reënrolled an act (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867; which, agreeably to the request of the House, had been returned by the President for the correction of an error in the enrollment.

#### MILITARY FLOGGING OF A CIVILIAN.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in answer to a resolution of the House of the 3d instant, a report from the General of the Army relative to the alleged flogging of a civilian at Fort Sedgwick by order of Colonel Dodge.

Mr. HOLMAN. As that communication is brief I ask that it be read.

The Clerk read as follows:

WAR DEPARTMENT,  
WASHINGTON, July 13, 1867.

Sir: In relation to the resolution of the House of Representatives of July 3, respecting the flogging of a civilian by order of Colonel Dodge, at Fort Sedgwick, I have the honor to state that there being no information in the Department on the subject, the resolution was referred to General Grant, by whom the following report has been made:

"No official information of the flogging of a civilian at Fort Sedgwick has been received at these headquarters. On the 28th June, 1867, a newspaper slip containing an account of the affair was sent to General Augur, commanding department of the Platte, indorsed as follows:

"Respectfully referred to General Augur for investigation. If the newspaper statement is found correct, General Augur will order the trial by general court-martial of the offender; otherwise the statement will be contradicted."

"Immediately on its receipt, the report of General Augur will be transmitted to the Secretary of War."

U. S. GRANT, General.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

The communication was laid on the table, and ordered to be printed.

#### RECONSTRUCTION APPROPRIATION BILL.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States; when the Speaker signed the same.

#### INDIAN WAR.

Mr. WINDOM. Mr. Speaker, I ask unanimous consent to introduce a bill amendatory to the act making appropriations to supply deficiencies in the appropriations for the contingent expenses of the Senate of the United States for the fiscal year ending the 30th June,

1867, and for other purposes, and to make a brief explanation of the purpose sought to be accomplished.

Mr. HOLMAN. I hope the bill will be reported to the House before any action is taken upon it.

The SPEAKER. The bill is not yet before the House.

Mr. WINDOM. Mr. Speaker, the object of the bill is to repeal the following clause of an act approved March 29, 1867:

"And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs to enter into treaties with any Indian tribes are hereby repealed, and no expense shall be hereafter incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law."

I desire to repeal this clause of the act and to state my reasons for it. I have reliable authority for saying that the chief of the Army has made the statement that we are now expending in this Indian war \$1,000,000 per week, and that we have in the field about six thousand men. Now, sir, if this war is to be continued, as it is now being waged, until the next session of Congress, I venture the assertion that we will be called upon next December to appropriate at least \$50,000,000 to pay its cost. At the same time that a war of this magnitude is being waged we have upon our statute-books a law which prohibits anybody making a treaty of peace under any circumstances whatever. No matter if every hostile Indian upon the Plains shall come in and ask to lay down their arms and abide by the terms that we may dictate, I believe under this law that no one has a right to treat with them, and we are to continue expending money at the rate of \$1,000,000 per week.

Mr. Speaker, if we were to expend more than that perhaps the Government could stand this luxury for a year or two; but General Sherman, on the 17th of June, 1867, writes from Fort McPherson, Nebraska, to the Secretary of War as follows:

"My opinion is if fifty Indians are allowed to remain between the Arkansas and the Platte we will have to guard every stage station, every train, and all railroad working parties; in other words, fifty hostile Indians will checkmate three thousand soldiers."

He was deemed insane in the early part of the war for saying that it would require two hundred thousand troops to hold Kentucky in the Union, but it was afterward proved he was correct.

I believe, sir, that he is right in this estimate, and that fifty hostile Indians upon the Plains will hold in check three thousand soldiers. That being the case, those now hostile can put into the field three thousand warriors; and if General Sherman is correct, in order to conquer those three thousand warriors we will have to put into the field one hundred and eighty thousand men. But perhaps that is an exaggeration.

The Comanches and their affiliated tribes will soon be compelled to join the hostile bands, for though a portion of them are anxious to make peace there is no one authorized to treat with them. I will be more moderate, and say that it will require before the war is ended fifty thousand soldiers; and I firmly believe, sir, that twice fifty thousand soldiers cannot subdue them.

Mr. CHANLER. I ask the gentleman to state to the House in what condition, by the taking away of all treaty-making power, the country is now left? I ask him whether the present great difficulty does not arise altogether from the taking away of that treaty-making power with these Indians from the proper Department?

Mr. WINDOM. I believe so, and have just so stated. I have endeavored in my opening remarks to state the condition of the country so far as these hostile Indians are concerned. I repeat, sir, that no one is authorized to treat with them; and I was about saying that fifty thousand troops would be hardly sufficient to conquer them.

Now, if it requires one million per week at

present to carry on the war with six thousand soldiers in the field—and we shall soon require fifty thousand, which is a moderate estimate of the probable cost; I ask gentlemen to look at the figures for themselves: seven millions per week or one million per day will be required before the end of the next six months to carry on this most unnecessary war.

Mr. CHANLER. I would ask the gentleman if he proposes to bring forward at this time any earnest proposition for peace with these Indians. It seems to me a war waged without the intention of bringing peace is an absurdity, unless you propose to annihilate the Indian tribes. And all legislation upon this subject will have the effect merely to put money into the hands of contractors. I do not believe the gentlemen having charge of this measure means anything but what is wise and right; but I ask him if the proposition now before the House is intended to bring about peace with the Indian tribes?

Mr. WINDOM. The proposition I have made is simply to remove an obstacle in making peace. The gentleman, I apprehend, did not hear my opening remarks.

Mr. CHANLER. I was not in the House at the beginning; the gentleman will excuse me.

Mr. WINDOM. We passed a bill during the last session of the Thirty-Ninth Congress declaring that nobody should have any power to make peace with the Indian tribes. I want merely to remove that obstruction, so that if a condition of affairs shall transpire whereby peace can be made we shall have power in somebody's hands to make it. I have not to-day any definite plan of peace prepared, because I suppose the House would not act upon any such measure at this time. But I do desire to place in the hands of somebody the power to make peace, if it is possible, without expending money after this fashion.

Sir, I firmly believe this whole Indian war might have been avoided in the first place. I will not now go into that question, though I would like to do so. I will only say I think its origin was in the massacre of the Cheyennes at Sand Creek by Colonel Chivington. There the war commenced, and from that most atrocious act it has grown to its present proportions. The Indians were further aroused during the last session of Congress when General Sherman issued an order that any Indian found within certain boundaries, between the Platte and Missouri rivers, without a written pass from a military officer should be summarily dealt with; that is to say, shot.

Now, the Indians who occupied that territory had a right, by treaty stipulation with this Government, to hunt on that very territory; but your military commander issued a proclamation that if any of them were found hunting there they should be shot. Delegations from all these tribes were here in this city and in these galleries last winter, and remained here for a month. They heard this military order of General Sherman, and considered it a proclamation of war against every Indian on the Plains, and they are now uniting against us to resist this declaration of war.

Another thing: General Sherman at the same time issued an order to which I once before called the attention of the House, and which, on account of its unequaled atrocity, I desire again to repeat. It was in these words:

"We must act with vindictive earnestness against the Sioux, even to their extermination, men, women, and children. Nothing else will reach the root of the case."

The Indians know that the commanding general of your Army in the West coolly proposes to murder their wives and little children, and they are in open resistance to that order. Are they not justifiable in resisting it?

Mr. HOLMAN. I did not understand to what general the gentleman alluded when he read that remarkable passage called a general order or proclamation.

Mr. WINDOM. To General Sherman.

Mr. ELDRIDGE. Will the gentleman from Minnesota yield to an inquiry?



Mr. WINDOM. Certainly.

Mr. ELDRIDGE. I agree with the gentleman in reference to this question, if I understand his proposition aright. I think whenever a great nation prosecutes a war there should be some competent power authorized at all times and at every step to make peace. But I wish to inquire where the gentleman proposes to vest the power to make peace with the Indians.

Mr. WINDOM. I believe the President has always exercised the power to do it.

Mr. ELDRIDGE. Does the gentleman expect he can procure from this House authority for the present Executive to do anything of that sort? Does he think the majority of this House will trust the present Executive with any such power, either in the interest of humanity or of constitutional government?

Mr. WINDOM. I do not introduce this bill as a political question. I think it rises above politics. All I desire to say is that it leaves the question where it was before we passed the act referred to at the close of the Thirty-Ninth Congress. It places the power where it has hitherto been, and leaves somebody authorized to treat and make peace, if peace be possible. I yield now to the gentleman from Pennsylvania, [Mr. COVODE.]

Mr. COVODE. Mr. Speaker, I wish to say a word upon this subject, as I believe that I am the only member of the House who has been out upon the Plains looking after the matter during this summer. I was with General Sherman in the valley of the Platte at a time when families who had been driven from their ranches came to him and asked that the Government should pay a reward for Indian scalps. At North Platte there were several hundred men there, and General Sherman attempted to talk to them, but they did not want to listen to him; he told them that the Government would not pay for scalps, and endeavored to allay their bloodthirsty feeling by reasoning with them, but it was all in vain. I have seen the difficulties with which General Sherman has been surrounded, that it would require a large number of troops to protect the scattered population of the Territories, that it would require almost a regiment to protect each family. General Sherman told them that the only security he saw for them was for them to concentrate themselves, as the Government would not be able to protect them in their present isolated positions.

Now, sir, in regard to what is best to be done—and as the gentleman from Minnesota says, this question is one far above political questions—I do not see, after having examined the matter thoroughly for a considerable length of time, any daylight unless we can accomplish something by treating with these Indians; and I would say, as I said to the Secretary of War the other day, that we must have a different class of men to treat with the Indians, or a different class of men to fight with them, if fight them we must. I believe that a large majority of the agents appointed go out to plunder the Indians; and I know that when the Indians descended into the valley of the Platte and drove away a large amount of stock the soldiers sent after them did not want to follow and fight the Indians. There is not a sufficient number of troops out there to follow and fight all the Indians when they come to be collected together. We do not know where, if ever, we are going to meet the united forces of the hostile Indians; and if we are going to fight with them we must have a largely increased army. I listened to the plea made by a portion of the Indian tribes now on the war path. They claim that the country between the Platte and the Arkansas was assigned to them as a hunting-ground, but that we have come there to build railroads and establish settlements, thus driving away the buffaloes; and while they admit that there is no use in their trying to fight us, they say distinctly that they may as well be killed in war as starved to death. These are the statements of the peaceable portions of the tribes now upon the war path, and it is impos-

sible for us to wage war against those tribes when our own people have been the aggressors.

There are such difficulties surrounding the question that it is almost impossible to decide what is best to be done. My opinion is, that if the Government would send out men to them who would neither steal nor murder, we might withdraw our army. You may send out five times as many troops as you have yet done, but you cannot thereby prevent murders such as have occurred in the frontier settlements and upon those engaged in constructing the great Pacific railroads. The Indians know where our troops are and they do not go there, but they destroy life, capture property, and drive off stock at points where they know we have no troops. I know that it is utterly useless to expect the regular troops to follow and punish the Indians, and recapture the stolen property. If you want to fight the Indians, you must employ frontier men, who will follow them. The troops of the regular Army will not do that; they will only follow them out of sight, in obedience to the orders of their superiors.

I said to General Sherman that there cannot possibly be any glory for him in such a war, and the sooner it is off his hands the better.

I take occasion now to say that it is yet within the power of the Government to treat with those Indians and induce them to lay down their arms. But this must be accomplished through the medium of men who understand the Indian character, men who are worthy of confidence. If men be sent there as a reward for party services or political infidelity, they endeavor to steal all they can from the Indians, as they know they can hold their positions for only a brief period. Hence they seek to make fortunes while they have the chance.

Mr. Speaker, the cheapest solution to these troubles is in the prompt construction of the Union Pacific railroad to the Pacific ocean. As it now presses on toward the Rocky mountains it drives the frontier ahead and dispenses with the use of forts and troops, while it affords the emigrants a base along which they can settle and form their own defenses for the future, as the Indian makes war only upon isolated settlers and gives the iron horse a wide margin. The expense of keeping one regiment on the Plains for a year will build a hundred miles of railroad. Let the Government aid the Pacific railroads by indorsing their bonds liberally, for they will settle this question more rapidly and more certainly than any means I have yet been able to discover.

The SPEAKER. The gentleman from Minnesota [Mr. WINDOM] obtained consent to make a brief statement. The Chair thinks the time allowed is exhausted, unless the House extends it. The gentleman asks unanimous consent to introduce a bill entitled "An act amendatory of an act making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes."

The bill, which was read for information, provides for the repeal of the following clause of the sixth section of the act named in the title:

"And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs to enter into treaties with any Indian tribes are hereby repealed, and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law."

There being no objection, the bill was introduced, and read a first and second time.

The question was on ordering the bill to be engrossed and read a third time.

Mr. WINDOM. I call the previous question.

Mr. KELLEY. I ask the gentleman to yield to me for a few moments.

Mr. WINDOM. I will do so.

Mr. KELLEY. Mr. Speaker, I rise for the purpose of expressing the hope that this bill will be passed, not because I think it is in

principle the best measure that we could devise, but because I think it the best that can be adopted in the existing juncture of affairs. There is now no power to arrest this Indian war by treaty. I would give such power, and if possible arrest it. It is a war that can do our country no good nor add any glory to our arms, while it may disgrace us. It can only be arrested by treaty, and I am in favor of thus bringing it to a close.

I rise also to throw out an idea which I hope will meet the concurrence of members generally, that our whole system of dealing with the Indians ought to be changed, and to express the hope that at the next session such a change will be consummated. Our present system of treating with the Indians as tribes, maintaining foreign nations in our midst, is a system by which the Government and the Indians are swindled and wars created. Were we to deal with the Indians as families and as individuals—were we to extend to them the benefits of the homestead law, and disburse no more money than we now spend in annuities in furnishing seeds, implements, and stock to those who would adopt the pursuits of agriculture—we should find that many thousands of our Indians could be made good citizens, and would become protectors of our railroads, interested in our carrying trade, and be gradually absorbed in our community.

My object is accomplished in bringing this idea to the attention of the House and avowing the purpose at the commencement of the next session to propose such modification of our Indian system as shall reject the idea of the existence of tribes and nations, and bringing the influence of the Government to bear on individuals and families.

Mr. WINDOM demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. ELDRIDGE. I move that when the House adjourns to-day it adjourn to meet on Wednesday next. I think we will accomplish nothing by meeting here to-morrow.

The House divided; and there were—ayes eighteen, noes not counted.

Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Mr. ELDRIDGE and Mr. LAWRENCE of Ohio were appointed.

The House again divided; and the tellers reported—ayes 44, noes 45.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 63, not voting 67; as follows:

YEAS—Messrs. Anderson, Archer, James M. Ashley, Barnes, Bingham, Blair, Boyer, Buckland, Burr, Driggs, Eldridge, Fields, Gatz, Glossbrenner, Hamilton, Holman, Asahel W. Hubbard, Chester D. Hubbard, Judd, Kerr, Koontz, Loan, Marshall, Marvin, Mercer, Morgan, Mungen, Niblack, Noel, Phelps, Polesky, Randall, Robinson, Sawyer, Stone, Thomas, Van Aernam, Van Auken, Ward, and Henry D. Washburn—40.

NAYS—Messrs. Allison, Ames, Baker, Baldwin, Beaman, Benton, Boutwell, Bromwell, Churchill, Cobb, Cornell, Covode, Dawes, Dixon, Donnelly, Ferriss, Ferry, Finney, Hill, Hunter, Ingersoll, Jenckes, Kelley, Kelsey, William Lawrence, Logan, McClure, Moore, Moorhead, Myers, Newcomb, O'Neill, Paine, Perham, Pike, Pile, Plants, Poland, Price, Raum, Robertson, Ross, Scofield, Shanks, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Taylor, Trowbridge, Twichell, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—63.

NOT VOTING—Messrs. Adams, Delos R. Ashley, Banks, Benjamin, Blaine, Brooks, Broome, Butler, Calkins, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cullom, Dodge, Eckley, Eggleston, Ela, Eliot, Farnsworth, Fox, Garfield, Gravelly, Gris-

wold, Haight, Halsey, Harding, Hayes, Hooper, Hopkins, Hotchkiss, Hulburd, Humphrey, Julian, Ketcham, Kitchen, Ladin, George V. Lawrence, Lincoln, Loughridge, Lynch, McCarthy, McCullough, Miller, Morrell, Morrissey, Nicholson, Orth, Peters, Pomeroy, Pruyn, Schenck, Selye, Shel-labarger, Spalding, Thaddeus Stevens, Stewart, Taber, Taffe, Upson, Van Trump, Van Wyck, and Wood—57.

So the motion was disagreed to.

KENTUCKY, MARYLAND, AND DELAWARE.

Mr. ARCHER and Mr. PHELPS stated that if they had been present when the vote was taken on Mr. KELSEY's resolution they would have voted in the negative, and that they would favor the motion to reconsider the vote by which the resolution was referred when it came up.

Mr. SCOFIELD moved to adjourn.

Mr. STEVENS, of Pennsylvania, asked that the motion to adjourn be withdrawn until he could submit a bill for paying mileage for this session.

Mr. SCOFIELD declined to yield.

The motion was agreed to; and thereupon (at four o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees: By the SPEAKER: The petition of W. D. Pearsall, of Kewansville, North Carolina, asking for restoration to full rights of citizenship.

By Mr. BANKS: The memorial of James M. Sandige, of Louisiana, for the removal of political disabilities imposed upon him and his father, Garrett L. Sandige, seventy-seven years of age, a soldier of the late war with Great Britain, by the several acts of Congress for the reconstruction of government in the rebel States.

By Mr. KELLEY: The petition of citizens of the fourth ward of the city of Washington, praying Congress to strike from the city charter the property qualification and the word white, so that there shall be no distinction on account of color in the qualification for holding office.

#### IN SENATE.

TUESDAY, July 16, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. HENDRICKS presented a petition of Daniel Sigler, register of the land office at Natchitoches, Louisiana, praying the passage of a law, whereby the people of that district may reënter the same lands at \$1 25 per acre which they entered under the confederate rule at twenty-five cents per acre; which was referred to the Committee on Public Lands.

Mr. WILSON presented a petition of discharged soldiers, praying for the speedy payment of the bounty under the act of July 28, 1866; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I present a petition of Ann Augusta Pinckney, in which she represents that she is the widow of the late Charles Pinckney, for ten years secretary of the United States legation at the court of St. Petersburg, the second son of the late Mr. Pinckney, Senator of the United States and minister at several courts; that she is the mother also of two sons who died from wounds in the war, that she is poor, without means of support, and she asks that Congress take into consideration her circumstances, her sons' and her late husband's, and give her a pension. The case as I understand it is without any precedent. I ask that the petition be referred to the Committee on Pensions.

The PRESIDENT *pro tempore*. It will be so referred, if there be no objection.

Mr. SUMNER. I also offer the petition of D. E. B. Braman, of the county of Matagorda, in Texas, asking to be reinstated in all his rights as a loyal American citizen under the powers reserved to Congress by the constitutional amendment.

I also offer a similar petition from Samuel S. Houston, of Mobile, Alabama, with accompanying papers and recommendations setting forth his merits as a loyal citizen, asking a res-

toration to his privileges as an American citizen. I move the reference of these two petitions to the Committee on the Judiciary.

The motion was agreed to.

#### EQUAL RIGHTS IN THE DISTRICT.

Mr. SUMNER. I also offer a petition of citizens of the fourth ward of Washington, in which they set forth a grievance to which they are exposed under the existing charter of the city of Washington, to the effect that, though there is a large number of colored voters in the city, yet by the terms of the charter colored persons are excluded from holding office. They ask that those words of the charter shall be removed, and they also ask that the property qualification in the charter shall be struck out. I move the reference of this petition to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SUMNER. If it is in order now, I desire to introduce a bill in part to carry out the prayer of the petition which I last presented. I send the bill to the Chair.

The PRESIDENT *pro tempore*. If there be no objection, the bill will be received and read the first time.

The bill (S. No. 137) for the further security of equal rights in the District of Columbia was read twice by its title.

Mr. SUMNER. I should like to have it read at length. It is only one short section.

The Chief Clerk read the bill, which proposes to declare that in the District of Columbia no person shall be excluded from any office by reason of race or color, and to repeal all laws making any such discrimination.

Mr. SUMNER. I would ask the Senate to proceed with the consideration of that bill now by unanimous consent. I think there can be no objection to it. It is simply to carry out what I believe in the Senate is understood to be the effect of the existing legislation, but which practically does not seem to be its effect. At the late election in the District it was understood that by the existing terms of the charter colored persons could not be qualified as aldermen or as common councilmen or as assessors; and on examining the charter which I have on my desk now, I find that by its terms, strictly construed, it is so—that these offices are confined to free white persons. By our legislation all persons, without distinction of color, can be voters, but nothing is said about their being office-holders. For one I should not doubt that under the Constitution and particularly after the recent legislation, the existing discrimination adverse to colored persons would be void; but practically it is not so regarded; and I submit, therefore, that it is proper in Congress to brush it away. I think there can be no objection to doing so.

The PRESIDENT *pro tempore*. The Senator asks unanimous consent to consider this bill now. Is there any objection?

Mr. BUCKALEW. I have no particular objection to the consideration of this bill as a special measure; but I do not see how we can object to any other bill if no objection be made to the introduction of this. I believe I must object.

Mr. SUMNER. I asked unanimous consent. I put it on that ground.

Mr. BUCKALEW. Yes, I understand.

The PRESIDENT *pro tempore*. Objection being made—

Mr. SUMNER. It is withdrawn, is it not?

Mr. BUCKALEW. I object.

Mr. SUMNER. Then I give notice that I shall endeavor to call up the bill to-morrow.

#### RELIEF OF DESERTERS.

Mr. WILSON. I am instructed by the Committee on Military Affairs and the Militia to report back the bill which was referred to them yesterday (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein designated, with an amendment striking out the preamble, and striking out all after the enacting clause of the bill and inserting a substitute. I ask for the consideration of the bill now.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks the unanimous consent of the Senate to consider the bill named by him at this time. Is there any objection? The Chair hears no objection. The bill is before the Senate as in Committee of the Whole. It is proposed to amend the bill by striking out the preamble, and also by striking out all after the enacting clause and inserting the words which will be read.

The Chief Clerk read the words proposed to be inserted, as follows:

That no soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the 19th day of April, 1865, and who without proper authority or leave first obtained, did quit his command or refuse to serve after said date: but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pay, bounty, pension, or other allowances; but this act shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

Mr. HENDRICKS. I thought the bill that was up was the bill offered by the Senator from Massachusetts, [Mr. SUMNER.] The Senator from Pennsylvania, [Mr. BUCKALEW,] I understand, withdrew his objection, and when it was again asked if there was objection, I thought it was with reference to that bill. As that bill was the line of business here I did not choose to make an objection.

The PRESIDENT *pro tempore*. This is the bill which was yesterday referred to the Military Committee.

Mr. SUMNER. As soon as this bill is out of the way I will call mine up.

Mr. HENDRICKS. Is this bill printed?

Mr. WILSON. No, sir. We propose to strike out the whole of the long bill that came from the House and insert a brief section which is very clear and plain. I hope the Secretary will read it again.

Mr. POMEROY. Why is the date of April 19, 1865, fixed?

Mr. WILSON. Because that date was in the House bill, and that is the date of the surrender of Johnston's army.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill? The Chair hears none. It is before the Senate as in Committee of the Whole, and the question is on the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HENDRICKS. Mr. President, I am not, and was not at the time, in favor of the punishment of stripping a party of his citizenship of the country because he may have deserted from the service; and I offer an amendment, as an additional section to the bill, to repeal that provision of law in the following words:

And be it further enacted, That section twenty-one of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and the same is hereby, repealed.

Mr. JOHNSON. What is that section?

Mr. HENDRICKS. A section that found its way most unnaturally into one of the laws providing for the draft, filling up the armies. It is in this language:

"That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States; or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation

the President is requested to notify all deserters returning within sixty days as aforesaid that they shall be pardoned on condition of returning to their regiments and companies or to such other organizations as they may be assigned to, until they shall have served for a period of time equal to their original term of enlistment."

I think that section ought to be repealed. The purpose of it was to secure the efficient execution of the law authorizing the draft. It was a provision for the exigencies of the service during the war; now that peace has come I do not think it ought to continue. Practically there have been troubles under this law. In the State of Indiana the constitution says that citizens of the United States and persons who have declared their intention to become citizens shall be voters. The question has never gone to the courts, or to the supreme court at least, in that State, as it has in the State of Pennsylvania, whether this penalty can attach prior to a conviction. To my own mind it is very clear that no penalty for a crime can attach until the guilt of the party has been ascertained as required by law. It would seem to me that the decision of the supreme court of Pennsylvania was very clearly right upon that question. But some of the election boards hold that it may be inquired into by them; and in a most unsatisfactory way, without the possibility of trying the question properly, they examine whether a man has been a deserter, and pass upon it. Anybody will see that that is unsatisfactory and ought not to be the case. Where the party has been convicted, and there is a record of the fact, there is no difficulty about it. Where there has been no proceeding it is a very unsatisfactory examination, as every one will admit, and it ought not to be thus left. The War Department leaves it permanently in that position. The War Department has decided to prosecute no person since the return of peace for desertion. The necessities of the service do not require it; the peace and quiet of the country do not require it; and therefore they prosecute nobody. On one occasion I applied to the Department for the pardon of a person who had left the service under excusable circumstances, as I thought. The reply made was that a pardon was not necessary, that the Department did not contemplate the prosecution of anybody; therefore it was in reality useless to trouble them on the subject. On that ground it was declined.

As the Department having charge of this sort of questions has decided that it is not good policy to press to conviction those men who during the war left the service, I think Congress ought not to leave a statute which brings up troublesome and unnecessary questions in the country.

Mr. President, I never was so impressed with the kindness of heart of President Lincoln as upon one occasion when I applied to him to relieve from the penalties of a conviction a young man from my State who had been found guilty of desertion under circumstances that appealed to the kindness as well as to the justice of the Executive. He said to me that his interference by the pardon of deserters was a subject of a good deal of embarrassment to him; that if he pardoned them the commanders said to him that he was disturbing the service; but, said he, "I know how this is. Young fellows who have lived at home all their lives under the excitement of the times go into the Army; they do not understand much of its hardships, do not appreciate the step they are taking; they go into the service, and after they are away from home a little while they become homesick, and they, not thinking of the disregard of duty, start off home;" and, said he, "whenever there comes to my knowledge any such case as that I do not allow them to be shot." He pointed me to where he had in a pigeon-hole a very large number of sentences that he held up, and he said he was not going to allow the sentences to be executed, but would leave them for the time being in that condition as an admonition to others as well as themselves,

detaining them in the service with their position as it then was until he could act without embarrassment to the service. Nothing that he ever said to me impressed me more favorably toward him as a man and as an officer than that conversation. And, sir, in the spirit of that conversation I submit the amendment that is now presented. I know of cases in which parties left the service, even before the close of the war, under circumstances that would appeal, if the question ever came to a trial, very strongly to the sympathies and to the sense of justice of any court or of any Executive.

But the reason mainly, Mr. President, why I offer this amendment is, that I think a statute which causes embarrassment in the country, and is not required any longer as the War Department has decided by refusing to prosecute anybody under it, ought not longer to stand on the statute-book. The service is not embarrassed by its repeal; no wrong is done. The war is now over. There is no need of having any class of people in our midst stripped of their citizenship. We have been adding these two years very largely to the citizenship of the country, and it is not necessary that this section, which places a large number of people in an uncertain condition in the eyes of the law, shall longer continue, and I think a provision repealing it may well be added to this bill. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CONKLING. Let the amendment be read.

The Chief Clerk read the amendment.

Mr. HENDRICKS. I will say that it does not prevent the punishment of desertion under the Articles of War; it leaves it to be punished just as it was punished prior to the act of 1865. That act simply strips them of their citizenship, and that is what I propose to repeal. The law was passed March 3, 1865, just at the close of the war.

Mr. EDMUNDS. Will my friend from Indiana please read the section that it is proposed to repeal?

Mr. HENDRICKS. I suppose no one will claim that this ought to have a retrospective effect. It was at the close of the war, but a month before the surrender, the 3d of March, and yet it does reach to some persons. The section is:

"That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost-marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which he is enrolled, or to go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section."

I submit to Senators that the latter provision could not be enforced in a military court, as I think a party before he is drafted is not a soldier; and if he goes away to avoid a draft the punishment must be enforced in the civil courts.

Mr. EDMUNDS. Has not the Supreme Court decided the other way in a case from Pennsylvania some years ago?

Mr. HENDRICKS. No, sir.

Mr. EDMUNDS. I think they have.

Mr. HENDRICKS. On that point the supreme court of Pennsylvania decided that a man was not to be held a deserter unless he was convicted as such.

Mr. EDMUNDS. The Supreme Court of the United States have held that such men might be tried by a military tribunal on the ground that they were in the military service, and they could therefore if they were in the military service commit a military crime.

Mr. HENDRICKS. Men who were not drafted at all?

Mr. EDMUNDS. Where they had been enrolled and escaped in order to avoid being called upon to perform military service.

Mr. HENDRICKS. The language of the law is "who being duly enrolled shall depart the jurisdiction." This law was passed, as I said, shortly before the close of the war. It has not a very general operation, I suppose. I do not know what number of cases would come within its provisions; perhaps not a very large number. The desertions that took place were really most of them during the earlier part of the war, as I understand, perhaps in 1861, 1862, and 1863.

Mr. JOHNSON. Are they covered by it?

Mr. HENDRICKS. They would not be covered by it, of course, because they mainly returned to the service before that.

Mr. EDMUNDS. But it would operate prospectively upon them, giving them sixty days to return.

Mr. HENDRICKS. But let me submit the facts to the Senator: this law was passed on the 3d of March, 1865; then some time after that I believe there was a proclamation issued; I am not sure whether the President did issue the proclamation pursuant to this law or not.

Mr. EDMUNDS. There was one.

Mr. HENDRICKS. That would bring it to the latter part of March or the first of April, and then the proclamation allowing sixty days, they would be called upon to return after the close of the war. This bill itself relieves parties who actually deserted from the ranks after the close of the war. This provision would operate only upon those that did not return after the close of the war. There was no injury in that, no wrong in that.

Mr. EDMUNDS. There would be no great danger in their returning then.

Mr. HENDRICKS. There are just two classes that this section operates upon, it having been passed just immediately before the close of the war, first, those who did not return under the proclamation of the President. I wish I knew the exact time when that proclamation was issued; but it must have been some time after the passage of the law, and they were called upon to return within sixty days, so that their return would be after peace had come, at least after the surrender, after the time mentioned in the bill that is now upon the table. That class comes within the principle, and all the others would be such as may have deserted from the 3d of March up to the close of the war. I do not propose to relieve them from all penalties, as this bill does the others, but I simply propose to relieve them from the loss of their citizenship. Does any Senator believe it is better to keep in this country any class of men stripped of citizenship? It has not been the doctrine of the Senate in regard to another race. I have not agreed with the majority on that question, for reasons, however, that do not apply here; but a very broad sentiment has extended over an entire race because it was held that it was better that the people living in this country should be citizens. Now, as there are so few that this law can operate upon, and as it is a mischievous question, and the Courts have not yet decided upon it, I think we had better repeal it.

Mr. WILSON. I suppose the Senator from Indiana understands that his proposition does not relieve these men from desertion and all the responsibilities of desertion. They are deserters still.

Mr. HENDRICKS. Certainly.

Mr. WILSON. It simply relieves them from the loss of citizenship.

Mr. HENDRICKS. They are liable to every punishment for desertion, to every disability, and every loss except that. If this section be repealed, they will not be stripped of citizenship.

Mr. EDMUNDS. It is entirely true that it does not relieve them from the penalties of desertion; but we understand perfectly, as has been stated by some Senator, that the idea of

punishing a man for desertion in the late war is entirely gone by; the prosecutions have been discontinued; the Department does not think it worth while to undertake to go over the hundreds and thousands of cases of men who, disaffected toward their country, and sympathizing with the rebellion, have either deserted from the ranks after they got into them or ran away to avoid being brought in at all. When there were thousands of such disloyal and unpatriotic citizens—I hope very few in Indiana, which is a gallant State, but perhaps some, from the interest my friend takes in it—Congress declared to these persons, “If you will return within sixty days, your previous offenses shall be forgiven; we will have a species of military amnesty extending to a certain limited extent, if you will come back to the service of your country; we give you time to repent and to reconsider of this greatest crime that a citizen can commit against his country next to actual treason, and that is a cowardly and disloyal refusal to fight and peril his life in her defense.” Very well. Now, within the sixty days many did return, undoubtedly, especially as thirty of the sixty days were when there was no further personal danger, the war being over. I think we may take it, therefore, that all returned who had any special sentiment which might be supposed to animate the breast of a citizen to show some respect to his duty toward his country.

Now, then, there are still left out under the prohibition of this act a certain other class, who, having set their duty as citizens at defiance, having betrayed their fellow-soldiers by leaving them, as Irishmen say, “in the gap,” and running away from the field or having run away to avoid the draft—all that class of persons refusing the clemency of the Government and still staying away and not coming forward, are simply deprived of the right to exercise the political privilege of citizenship. I take it they may still sue in the courts, because aliens can do that.

If a respectable foreigner comes into the country who is not a citizen, while we receive him we do not allow him to become a citizen until he shall have resided five years in the country; and he must not only have resided five years in the country, but during all that time he must have led a virtuous and patriotic life. That is required also. He must not show sympathy with the enemies of the country; he must not undertake to evade the responsibilities that fall upon a denizen as well as a citizen; and when he shall have complied with that provision we receive him into citizenship.

Now my friend from Indiana says that it is a hard case, indeed—hard, I take it, toward the millions of men who actually stood up to their duty—that these deserters and cowards and runaways, half traitors, should have been kept out of the privilege of voting for him or for me for a period of more than two years. It is now two years since the war closed. I think they can afford to wait the other three, to say the least of it.

Besides, this amendment has no cognate relation to the bill itself, as my friend from Indiana supposes. The bill proceeds upon the hypothesis that it is to operate only upon a class of men who honestly and in good faith, but with a mistaken view of their rights, after having fought through to the close, went home without leave, which at the most would be a mere technical desertion. I do not think it would be that. This amendment proposes to restore to their political privileges as citizens a body of men who, so far as we know, have no excuse whatever for their refusal to do their duty to their country. That is the distinction.

Mr. BUCKALEW. Mr. President, I recollect very well the occasion when this law was passed. I remember that a division was not called upon it, that there was a general acquiescence in its enactment, although there were some doubts, and very grave doubts, about the authority of Congress to enact a law disfranchising any portion of the citizens of

this country, and to do it upon a conviction by a military tribunal. It was then regarded, however, as a useful measure in order to induce persons who were derelict to return to the Army. The leading and controlling motive, I think, as then stated by the Senator from Massachusetts, the chairman of the Committee on Military Affairs, was to induce those men to return, to get men to fill up the ranks and to carry on the struggle in which we were then engaged. It was intended as a measure of intimidation to meet the exigencies and necessities of the time, and there was not very particular attention paid to the question of our power to disfranchise citizens of the United States, nor to the propriety of the unusual and very extreme punishment provided by the law.

I know that that was my view. Although I had grave doubts about this legislation, I sat quiet and acquiesced in it, because I supposed it would be but temporary in its duration, and that it would meet the requirement of that occasion in bringing back to the Army men who had departed from it under circumstances of varied character, and bring men in who had not responded to the draft. But, sir, I then looked forward to the conclusion of the war and to our repeal of the law when the necessities which brought it into existence no longer pressed upon the counsels of the Government. That time has arrived.

Now, let me call the attention of the Senate, for a short time, to some considerations which, in my judgment, appeal to them with imperative force in favor of the repeal of this act of 1865. By a prior law all cases of desertion were to be heard before courts-martial, and in case of the draft persons who were found or arrested by the military authorities were to be sent at once for trial to the nearest post; their cases were to be heard by courts-martial and the judgment of the law pronounced. That was the mode of trial provided by the law, and it attached to this enactment of 1865, and covered all cases which might arise under it.

Now, sir, there are no such tribunals organized. There are no trials going on in the country, and have not been for two years. There was a general order of the War Department suspending all proceedings by the military authorities in cases of this kind. What is the consequence? Here you have your enrollment lists as they were made up in the different districts in the country; they are in existence, and they show an enormous number of names of men who are alleged to be deserters, and there is no mode of trying them, no mode of investigating their cases. It is perfectly well known that probably half the names upon those lists are there incorrectly. They are either blunders of the enrollment boards, or they are cases of men who had some legal excuse, who could have made a legal defense if they had been called upon at the proper time to respond to the demand of the Government upon them. Why, sir, there are thousands of cases upon those rolls of this character; cases of men who were drawn in the draft, and who did not respond for one reason and another, and who are recorded as having failed in their duty to the Government, and yet they were men who were drawn in subsequent drafts and actually went into the service, or they were men who enlisted and served in the Army, or they were men who went as substitutes, and thus rendered equal service to the Government. A very large percentage of these deserters' lists are made up of the names of men who actually performed service for the Government under one or the other of the circumstances which I have mentioned.

Now, sir, I need not go over a great variety of other cases which existed where the party, if he had been called upon at the proper time, could have made defense under some provision of the existing law. I know one case of a man fresh from the Pennsylvania State Lunatic Asylum, who was reported upon one of these lists; no notice was served upon him or anybody else; he was carried off and tried before

a military tribunal at Harrisburg, and put in a prison, and under the sentence passed upon him he was loaded down with a ball and chain—an insane man. The case was heard rapidly, summarily; nobody appeared for him; the court did not know that he was insane; they asked him some questions; he gave some absurd replies, and they supposed he was an incorrigible offender. It was necessary to appeal to the President in that case and have the man pardoned, in order to discharge him from his prison and from bonds.

The cases of error in these lists and the cases where there was a legal defense of the party at the time are innumerable; but the Government provides no mode by which these lists may be investigated, by which they may be purged of error and injustice, and by which the rights of the citizen may be maintained—his legal and reasonable rights. A man who did not respond to the draft, or a man whose name is incorrectly upon these lists cannot have his case heard; he cannot organize a military tribunal to hear it, he cannot make his defense. There he stands condemned so far as that record is concerned, and with no opportunity of trial; he cannot even go to the President and get a pardon, although he may have a meritorious case, because there is no conviction.

Mr. EDMUNDS. Will my friend allow me to ask him a question?

Mr. BUCKALEW. Yes, sir.

Mr. EDMUNDS. Why under this state of hardship has not my friend from Pennsylvania before this time brought forward a measure which should relieve the innocent, while it still left the guilty to suffer the consequences of their crimes?

Mr. BUCKALEW. Well, sir, if I brought forward a measure providing courts for the trial of all these cases through the country, the Senator from Vermont and other members of the Senate might have occasion to laugh in my face at the idea of expending the enormous amount of money that would be necessary to effect the object in view. The Government cannot undertake that business. The War Department made a very proper order after the war was over and the necessities of the public service had passed by, and when it would have been extremely unreasonable and extremely oppressive upon the Treasury to proceed with an investigation of these cases; the Department acted very reasonably in issuing this order, under the authority of the President.

Now, sir, as the whole country knows the complication of cases upon these lists, the infinite variety of them, the known fact that a large percentage of them, perhaps a majority of them, are cases where the Government would have no case if there was an actual hearing, and considering also the fact that there is no mode provided for the trial and examination of these cases, and no redress even to the party by appeal to the President of the United States for a pardon, you have a clear case made out for the repeal of the act of 1865, especially in view of the argument already made by the Senator from Indiana, that all the usual punishments provided by law for desertion would still continue in full force.

The bill itself brings to our attention a class of very interesting cases from the State of Ohio, and possibly from other States, and the merit of the proposition contained in the bill cannot be disputed; and yet in point of law, in point of technical law, perhaps, that class of cases is one to which punishment should be applied much more than to some others not covered by the bill. There seems to be no question that in point of law a large number of persons did desert after the war was over. Why do you repeal the law as to them? Because as to them the law is not now founded upon public policy; it is good policy to withdraw this peculiar statute, passed under peculiar circumstances, and allow the ordinary laws that prevail in relation to desertions in the Army of the United States to resume their operation.

Mr. POMEROY. I am ready to accept the



substitute which the committee have reported as being better than nothing, and perhaps it will answer the purpose. I felt particularly interested in this matter, because to my own State there came a large number of regiments in 1865 to fight the Indians. They came there from Ohio, Indiana, and Pennsylvania, and other States. They were sent out there after their term of enlistment, as they claimed, was ended. They had fought, as they thought, through the war for which they enlisted. It was after the surrender of Lee and Johnston; then they were sent out to the borders of Kansas to fight the Indians. They said that they did not enlist for that; that that was not the war they had agreed to engage in; and the whole thing was so distasteful to them, they felt so little interest in it, that many of them left the Army and settled in my State. Thousands of them are there to-day—a great many, at any rate. We are not very particular in Kansas in regard to voting, because our suffrage law is quite liberal; but at the same time there is a cloud hanging over these men who are said to have deserted that I want to have uplifted. It is sometimes said of them that they are not citizens, that they have been denaturalized. I confess that many of them I have found to be very good men, laboring honestly and faithfully, building up the State, adhering to our institutions, and I should feel gratified, as thousands of others would be, if that cloud were uplifted from these men, who are technically deserters.

But there is another class who will be reached by this amendment that I do not think are so worthy of commiseration. I had the fortune or misfortune to be at Chicago in 1864 at the convention that nominated McClellan; and after the convention was over, I found the cars on the road to Canada filled with American citizens, or men who had been American citizens, going to Canada. Some of them had been over to attend the convention, and I remember the discussions which were had—they were earnest and severe—in the cars. I told those men that if they ran to Canada under such circumstances to avoid the draft they ought to be British subjects, and I would never agree that they should be American citizens again until they had been naturalized here like other British subjects, and staid five years and took the oath of allegiance. A man who left his responsibilities on this side, at such a crisis in the history of the country as that was, and dodged over the other side of the line, adhering to the men there who were our enemies, rebels, should not now be dealt with mercifully by legislation. I am not disposed to extend any peculiar favor to such men; and if this amendment of the Senator from Indiana is looking in that direction I shall vote against it. I do not propose to alleviate the condition of those who ran away from their responsibilities at such a time as the Government was then passing through. I do not think that even five years of probation would bleach out their crime. It is but a little behind treason itself for a man to avoid taking a part with his country on the right side.

Mr. CAMERON. I hope there will be no amendment made to the bill as reported from the Committee on Military Affairs. The subject was there well considered and maturely reflected upon, and I think what the committee have prepared is better calculated to suit the circumstances than anything the Senate might agree to in the hurry and confusion of business here. As the bill is reported by the committee it applies only to those who left the service after the war was really over, when there was no necessity for their services. That is not the case with those who would be excused by the amendment of the Senator from Indiana, as I understand. That would excuse a large number of men in my State, men who left the service while the war was in progress, men who left after they were drafted, and men who ran away before the draft was made. Probably there were many of that class of people in my State who ran off to Canada, and I have

no doubt their number is sufficient to change the result of the election this fall. I am not in favor of extending the right of suffrage to men who by their acts would have destroyed the Government during its struggle, and especially do I not want anything passed now which would interfere with the interests of the elections in Pennsylvania, if you choose; I have no concealments. Every honest patriotic man who served his country is entitled to vote, and will be allowed to vote, and every traitorous rascal who ran off when the country needed his services will be excluded if we can exclude him, and I am sorry to say that there were many of that kind of men in our State. I think it but fair that men who served during the whole war, and until they were no longer actually needed, should be excused; and perhaps after awhile we shall become more liberal and extend the same rights and the same pardon to men whose offense is much greater, but I am not in favor of doing it at present.

Mr. BUCKALEW. Mr. President, there are other privileges of United States citizenship besides the right of suffrage which has been alluded to. If a citizen goes abroad from this country he is entitled to a passport from the Department of State, and carries his nationality with him wherever he goes, over the face of the earth.

Mr. EDMUNDS. Most of these went abroad during the war without any passport.

Mr. BUCKALEW. Under certain statutes citizenship is a requisite to the bringing of suits in the United States courts for the protection of property. I think it was under one of these statutes that the celebrated decision from Missouri in regard to negro citizenship was made by the Supreme Court. And in many other respects this question of citizenship is one of transcendent interest and importance.

Now, sir, I do not understand that this question is material in my State. I understand that under the law as pronounced there by the highest judicial tribunal, as well as by a number of the courts of common pleas in the several districts, and by Republican judges as well as those of the opposite party, this question does not possess practical importance as a question of suffrage. But in other aspects it is interesting, and it may be more important in other sections of the country.

I understand also that under your act of Congress there is no disfranchisement of any human being in the United States from the right of suffrage; that that must be the act of the State itself, either by its constitution or by State law passed in pursuance of its constitution. It is therefore perfectly feasible, it is a thing eligible and possible, for any State that pleases, by fundamental provisions to disfranchise persons of this class, to make her electoral system exclude them from this right. You cannot do it. All you can do is what you did in 1865, to pass an act of intimidation for the immediate necessities of the public service, by which you make proclamation that you will withdraw United States citizenship and withhold such privileges as pertain to United States citizenship under your laws, and that you will inflict upon the individual whatever of disgrace, whatever of ignominy is attached to his coming within the purview of your law.

But, sir, so long as that law remains on the statute-book, what is it? It is an element of disturbance; it is an element of dispute; it is an element of unpleasantness in the country. It is a thing upon which there is unnecessary and fruitless but vexatious debate. After you repeal this law, after you withdraw it, now that the reasons for its enactment no longer exist, every individual that was or is within its provisions remains accountable to public opinion, accountable among his neighbors for his former conduct, and he must suffer their censure and ill opinion as long as he lives, and perhaps his family after him. This takes place without your law; and whatever there be of retribution and of punishment and of justice to these persons from the reproaches of neighbor and enemy, they will suffer. I suppose this may

be considered adequate punishment for simply withholding themselves from the public service when they ought not. It is a very different offense from a deliberate desertion of the flag after the soldier is in the public service, after he has been sworn in, and has been marched to the field of conflict. It is a very different thing when he plays the traitor, not only to his country, but to his associates who are about him; when he imperils their lives and imperils the success of the public cause by his conduct. That is a crime of a very different description from this one of avoiding a public duty to the community, whether it be instigated by cowardice or by any other influence or circumstance which may operate on the human mind.

I think, sir, that the repeal of this law will be wholesome in its effects; that it will promote the public interests; that no reason exists for continuing it on our statute-books; and that those who desire that these persons should continue to be punished hereafter, can be fully gratified by there being brought to bear upon them that social ostracism and that disapprobation of their fellow-citizens which their conduct is calculated to provoke. This moral punishment will attend upon them long after your law is repealed, and is an appropriate substitute for the extraordinary, injudicious, and unreasonable penalties, additional to former ones, contained in the act of 1865.

Mr. CAMERON. I rise only to correct what seems to be an error on the part of my colleague. He says there must be a law of the State before you can punish these men. Why, sir, we had a law in Pennsylvania carrying out the law of Congress, and yet the supreme court, which happened by some particular organization to have the power against the country, decided that that law was unconstitutional or illegal somehow. No man in Pennsylvania who was with the country during the war believes that that decision of the supreme court was right or that it will stand when a new judge shall have been put upon that bench, who will probably go there next fall.

Mr. BUCKALEW. I desire to interrupt my colleague and to remind him that the decision to which he refers was pronounced by Judge Strong, who has been an ardent and active member of the gentleman's own party.

Mr. CAMERON. I have only to say in reply that Judge Strong is one of the best men on the bench anywhere; but Judge Strong was a Democrat up to the time of the war, and he had a little too much of his Democracy left to enable him to disagree with Judge Woodward, who was the leading judge upon that bench.

Now, as to the public opinion of which my colleague speaks, that is very well in some places, but it does not amount to much in the case of deserters up in his county or the adjoining county, where the majority is so large on the Democratic side, and was so large against the war. It did not hurt a man there to be a deserter, and they ran off in crowds. I do not want those people to come back this fall and vote. As I said before, perhaps after a while we shall forgive them, after we have forgotten how many men have been destroyed by their desertion and by their bad conduct; but for the present I think it is going far enough to relieve from disfranchisement those men who remained in the service until the war was over, until they were really no longer needed—men who fought, and many of whom were wounded in battle.

Mr. HENDRICKS. Before the vote is taken I wish to say one or two words in reply to the Senator from Vermont, [Mr. EDMUNDS.] I do not propose to discuss the political questions which the Senator from Pennsylvania [Mr. CAMERON] has referred to, how this may affect the votes of particular sections of the country. Although the statement of the Senator from Ohio [Mr. SHERMAN] yesterday would allow the suspicion that there was some political purpose to be accomplished in some locality or other by this bill that is upon the table, yet I

choose to consider this subject upon its honest merits; and in that light and in that alone I propose to answer in a word or two, if I can, the argument of the Senator from Vermont.

He is an able lawyer, as is known to us all; and I submit to that distinguished Senator and able lawyer whether a penalty described in a statute can attach to a party before conviction. When the law itself requires an investigation before a tribunal established by the law, and that investigation has never been had, do any of the penalties prescribed as a punishment for the crime attach to the party before he is convicted? I think the decision of the supreme court of Pennsylvania is clearly right. I do not care what is the language of a penal statute, the guilt of a party cannot be collaterally inquired into, nor can punishment be inflicted under any proceeding of that sort.

Suppose, as in the State of Indiana, disfranchisement is a part of the punishment for some crime, no lawyer ever supposed that an election board could inquire whether a party proposing to vote was guilty of larceny or guilty of arson, and upon the finding of the fact against him, when there had been no investigation in court, say that he stood disfranchised because he had done acts which produced disfranchisement? The consequences of the act are to be found by a court, and until that be done there is no punishment.

So, sir, practically under the law, in my judgment, this section has no bearing in the country; at least not in my State; but it has come up as a troublesome question. In one case, for instance, the members of an election board have been sued because they rejected a vote under this law. We ought not to have a statute thus standing that does no good and produces simply confusion.

Mr. CONKLING. If the Senator will allow me a moment, I should like to suggest to him with a view to the particular argument which he makes, whether after all the difficulty is not one of the form of legislation, supposing his general proposition to be correct. Now, suppose a State Legislature prescribes as a qualification for every voter that he shall take an oath, which oath among other things shall be to the effect that he has never deserted the service of the United States; so far as the objection which he now makes is concerned, does the Senator say that it would not be competent for an election board clothed with the power to administer that oath to insist upon it and to exclude a man that could not take it? If so, then it follows, so far from this statute being nugatory, except as applied to those men who have been convicted, it is applicable to every man in the form of an oath. Whether for other reasons such an oath would be competent or not is a question which I do not suggest, because the Senator has not done so. There are other suggestions which I think apply to it; but I do submit to him in answer to his argument that there is a practical form of legislation by which a mode could be devised equally efficacious with conviction in order to ascertain and punish by practical disfranchisement the guilt of which disfranchisement is the punishment in whole or in part; so that it will not do to dismiss the statute by saying it cannot be effectual in the States except upon those who have been convicted by a military tribunal.

Mr. HENDRICKS. The answer to the Senator from New York is, as I think, a very clear one. The party is not disfranchised in the case he mentions because of this statute. This statute does not define the crime of desertion. This statute does not create the offense of desertion, and the disfranchisement in the case which he mentions is not because the party comes within the provisions of this statute. The case that he mentions may have occurred long before this statute was enacted. The deserter may be liable to punishment under other laws and not liable to punishment under this law at all, and yet he cannot take the oath that is mentioned by the Senator. The party in the case that the Senator mentions is disfranchised because he cannot take a particular oath, just

as a party cannot take his seat in the Senate here unless he can take the iron-clad oath. The State sees fit to exclude from the privilege of voting all who cannot take a prescribed oath. It is the act of the State; and if this section were repealed I ask the Senator whether the party could still take the oath. Suppose you repealed all laws punishing desertion, could a party who had deserted still take the oath?

Mr. CONKLING. I will answer. Such a provision in a State statute is predicated on this very statute. Why? Because no State can pass an *ex post facto* law. Desertion from the armies of the United States is no offense against the laws of the State of New York or the State of Pennsylvania; but when by law, whether upon conviction or otherwise, a State undertakes to inflict pains and penalties—because disfranchisement is a pain and a penalty—upon a man for doing an act which was no offense against any law when he did it, and which was at no time an offense against the law of the State which denounced it, that State is passing first an *ex post facto* law, and second a law which is void by another provision of the Constitution of the United States. Therefore, if it can be done at all, it is to be done as auxiliary to this very statute which the Senator is discussing.

Mr. HENDRICKS. Because the Congress of the United States sees fit to punish an offense in a particular way, can a State law, an *ex post facto* law, punish an act committed before it was passed?

Mr. CONKLING. That is another question which I alluded to a few moments ago, which I said had not been suggested by the Senator from Indiana. That question I know is in the minds of the bar and the bench. How that may be is another thing; but my statement was that if it could be done at all it could be done in theory of this law, and that this law was an essential ingredient in the operation of doing it by any mode short of fundamental provisions put into the constitution of the State. Now, whether it can be done at all or not is a question which I hope the Senator will not invite me to discuss. I do not intend to enter into it here.

Mr. HENDRICKS. As I think, this law gives the State no power. This is simply an additional punishment, leaving the crime of desertion as it was defined before, with all the prior punishments upon it, adding simply the punishment of loss of citizenship. Now, the case that the Senator mentions is a case where a State, not for the purpose of punishment, but for the purpose of prescribing the qualifications of an elector, says that nobody shall be an elector unless he can take the oath which the Senator states.

Mr. President, I am very clearly of the opinion that an election board cannot exclude the vote of any man unless upon a record of conviction. An election board cannot enforce this law against any party unless he has been first convicted. I say that in answer to what seemed to be the view of the Senator from Vermont, [Mr. EDMUNDS.]

The Senator from Vermont, departing from the legal question, has appealed to what he supposes, I presume, to be a prejudice in the Senate, and has spoken of the cowards and the traitors who may have deserted from the Army. He has spoken of all deserters as cowards and traitors. Mr. President, to my own knowledge that is not so. I know of a case of a very dear friend of mine who was a private soldier and fought bravely in the southwestern army. He was, however, addicted to the habit of intemperance, and when that army came to a large city he fell under the influence of his habit; and in that state and condition he left the lines, went to his home and continued on his spree for some time. Although his friends urged his return at once, he thought he would return in time and all would be right; but when he came to his sober senses he dared not return, he was afraid to return, and instead of returning to that regiment, he enlisted in another regiment, and until the close of the

war was a soldier in the service. He carried the banner at Fredericksburg, at Gettysburg, and through the Wilderness, and was captured at Cold Harbor, and was a prisoner for eight months in the southern prisons. That flag was riddled, and his regiment came out of Fredericksburg, where it went in with a full thousand, with less than three hundred; and at Gettysburg, after it had been filled up, it came out again with less than half its numbers. That soldier never faltered in the Southwest or in any of the terrible battles to which I have referred; and yet because of his folly he stands recorded as a deserter, but furnishing to the Government as valuable service as any man that went into the Army. I say that in reply to the Senator's general charge of cowardice against everybody who may have deserted. Sitting here in the Senate and sitting in our comfortable homes we do not know the many influences that may have induced a young man to desert; and I do not think that the broad charge of treason or cowardice should be brought against them as a class. I have done my duty on this question, Mr. President. This law reaches to but a few.

One other point made by the Senator I must refer to. He says they had the opportunity of returning. This law was passed on the 2d of March, 1865. The President's proclamation was issued after that time. Sixty days were given them for returning. Before the expiration of sixty days, perhaps before the expiration of thirty days, the war was substantially at an end. Lee surrendered, and many of the regiments were discharged from service before the time limited for the return expired. I leave the question with the Senate.

Mr. EDMUNDS. All this story about the particular dear friend of my friend from Indiana is very fine; it is very moving; but my friend has forgotten to tell us and the country of his dear ten thousand other friends who, instead of going South from Indiana, went North or staid at home. They are the men that this law is to operate upon in general, instead of the one dear companion whose story has been told. Now, it is a fact of public notoriety in this country that thousands of the citizens of Indiana having the political views, I will not say of my friend, because I believe he was a patriot, but having political views in favor of the right of secession and opposed to the right of the country, determined that by force or by fraud they would escape from their duty as citizens and either aid the other side or avoid aiding their own. Am I right or wrong? My friend from Indiana does not reply.

Mr. HENDRICKS. I did not suppose the Senator wanted a reply just now.

Mr. EDMUNDS. Yes.

Mr. HENDRICKS. I will very cheerfully give it, sir. The Senator is very much misinformed; there was no ten thousand men from Indiana that went North; nothing like it. A very few may have gone North; a very few compared with the number of men who volunteered and that were drafted, and that entered the Army as substitutes. But allow me to correct the Senator. The section we are speaking of now touches none of that class. This section was passed in March; the draft under this bill was but commenced; it was never completed. The war came to a close on the 3d of March, and in regard to all who avoided the draft it is prospective; it is retrospective only in regard to those who were in the Army. This section has nothing to do with the large class, as he denominates them, to which he refers.

Mr. EDMUNDS. Very well, Mr. President; although my friend has evaded the point and gone to discuss the effect of this law, it still appears from his confession that in proportion to the number who are unjustly wronged by this law whom he has described as one man, a friend of his, so far as his knowledge goes, there is a large number who, under one category or the other, are justly obnoxious to the epithets which I applied to them when I was up before; men whom he despised as much as I do; who added to the crime of moral trea-

son—I was about to say the greater crime of meanness and cowardice. We can have some respect for an out-and-out traitor, a man who in accordance with his sincere convictions believes it to be his duty to fight against his country and for his State. You can respect his courage if he fights bravely; you can respect his spirit of Anglo-Saxon persistence if he fights to the end. No man can fail to do it, and we all do it toward the rebels; but a man who in a northern State avoids the draft, or being drafted or enlisting deserts his flag, in my judgment, in a moral sense is a meaner and a worse citizen than the out-and-out traitor.

This is the class of persons of whom I am speaking. I believe there are some even in Indiana. There were some in Vermont; and no soldier of Vermont who returned from the war, and no citizen of Vermont who assisted in carrying on the war, desires to have that class of persons receive as yet any favor at all. The time has not yet come for pardon and reconciliation toward that class. After we have pardoned rebels, fair and square rebels, after we have restored them, as I hope we shall in the fullness of time, to the full exercise of all rights of citizenship, it will be time enough to take up this class of outcasts and traitors and cowards that I have been describing; not the exceptional case that my friend from Indiana speaks of as his friend, because there are exceptions in all these cases, but the great body of those men of whom it was known over the whole country that they were avoiding their duty, and enlisting for the bounty and deserting, running away from the draft and resorting to every means that they could secretly to aid the cause of the enemy and put down our own. They are the class of persons.

Now, my friend from Indiana says the law does not apply to them, that they cannot be made the subject of its condemnation until they are tried and convicted, and he appeals to me whether I do not agree with him. It is not necessary to settle that question now and here. Our judgment would be of no value upon it to the tribunals who will have it to pass upon. It is sufficient to say to my friend that it seems to me to be a quite illogical reason in favor of the repeal of a statute merely to say that the statute cannot operate upon the subject of it until some step is taken pursuant to the law. On that ground my friend would repeal the whole criminal code of the country. You cannot deprive a man who is to suffer a punishment for perjury of any of his rights until he is convicted. Therefore, says my friend, repeal the statute against perjury, because it is of no use until you get the liar and convict him and apply to him the penalty of the law!

Now, let the law stand, and if it turns out that the election boards, the judges of election, in the various States have no rightful authority as a tribunal to apply the law to the subject of it, as I believe they have, then let the courts of the country interfere and apply the remedy. Let us not repeal the law because there are exceptional instances, as there are in every law, in which it may operate hardly. Let us not repeal it because it may not operate upon the body of the offenders until some further step is taken; but let it stand for what it is worth until the country shall have time to see whether it can be applied or not.

Mr. TIPTON. I wish to say a word in regard to one class of soldiers, and that class were a set of as true and honorable soldiers as ever went upon the battle-field, and some of them to-day are deserters. They proved their prowess on your southern battle-fields where they had an open, fair enemy to meet, and always sustained the honor of your country. You sent them on the Plains and you sent an insufficient number of soldiers to protect the Plains. You cut up their regiments that had charged in column against enemies anywhere, and were willing to charge anywhere; you divided them into sections; you placed them in charge of the ranches, the stage-horses, the stations, the property of the Overland Stage

Company. You placed these brave men subordinate to semi-rebels in the employment of Ben. Holladay's great monopoly, the Overland Stage Company. They followed the fortunes of the stages, were liable to be shot by the savages from their horses as escorts; were commanded to protect the horses, not the people who lived along the line, but sacredly to take care of the stage-horses of Ben. Holladay's stage line. Their comrades, shot from their horses and from the stages, were only common soldiers of the United States, and they were not to stop to take care of their bodies if thereby a horse was lost, or a stage without passengers liable to be captured! It was the property of a corporation with much body and very little soul, that these brave soldiers upon the Plains were to guard. I have seen them refused the poor privilege of entering the coaches by the subordinates of those who controlled that stage line, at a time when it was next to impossible for them to preserve their lives unless they had the protection of the inside of those coaches.

They became dispirited. They said it was a dishonorable service; they said it was a service in which a brave man had no chance for his life; and temptation came upon them, and some of them deserted. About that same time the war closed; the rebels were fleeing from the State of Missouri to seek a congenial clime in the Territory of Montana, or some other of the mountain Territories. And whenever these brave men were put in command of emigrant trains, they were guarding rebels; they were protecting the property of rebels fleeing from the vengeance of the returned Union soldiers upon the borders of the United States. They heard rebel songs sung in those camps for the first time in their lives, and they found scarcely a ranchman from one end of a line of six hundred miles to the other that was loyal to the country. It was treason everywhere, with which these brave men were identified. They were simply to defend themselves as they could and this property, without being permitted to carry on any offensive war against a cruel, savage foe. And when the bodies of their friends were found before them mutilated as they only could be in savage Indian warfare, and when they found the mutilated bodies of the emigrants along their lines, they had no manhood and no bravery about them if they did not desire to break away from the strict and hard rule of military discipline and defend emigrants along their line as independent volunteers. This was not according to the military law. It was unfortunate that they should have yielded. These were the temptations that often caused these men to step aside from what was really their military duty.

Under these circumstances, therefore, while I will enter no justification for their act, I will say that some brave soldiers, as honorable young men as ever this country relied on in the hour of peril and calamity, did desert; and it is questionable how far they are guilty.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Indiana; and upon this question the yeas and nays have been ordered.

The question being taken by yeas and nays resulted—yeas 7, nays 28; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, Johnson, Norton, Patterson of Tennessee, and Van Winkle—7.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Edmunds, Fessenden, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sprague, Sumner, Thayer, Tipton, Trumbull, Wade, Wiley, Wilson, and Yates—28.

ABSENT—Messrs. Bayard, Connors, Corbett, Dixon, Doollittle, Drake, Ferry, Fowler, Grimes, Guthrie, Henderson, Morrill of Vermont, Morton, Ross, Saulsbury, Sherman, Stewart, and Williams—18.

So the amendment was rejected.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time and passed.

Mr. WILSON. I move to amend the title by striking out the word "volunteer;" so as to make it read "An act for the relief of certain soldiers and sailors therein designated."

The amendment was agreed to.

#### TREATY WITH RUSSIA.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting to Congress a copy of a treaty between the United States and His Majesty the Emperor of all the Russias, the ratifications of which were exchanged in this city on the 20th of June last, providing for a cession of territory to the United States in consideration of the payment of \$7,200,000 in gold; and inviting the attention of Congress to the subject of an appropriation for this payment, and also to that of proper legislation for the government and occupation of the territory as a part of the dominion of the United States.

Mr. SUMNER. I move that that communication and the accompanying treaty be printed and—

Several SENATORS. Laid on the table.

Mr. SUMNER. I think it ought to be referred to the appropriate committees for consideration—so much as relates to an appropriation, to the Committee on Appropriations, and so much as relates to an organization of the territory, to the Committee on Territories; and I make that motion.

The motion was agreed to.

#### TREATY WITH VENEZUELA.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, transmitting a copy of a convention between the United States and the republic of Venezuela for the adjustment of claims of citizens of the United States upon the Government of that republic, the ratifications of which were exchanged at Caracas on the 10th of April last. As its first article stipulates that the commissioners shall meet within four months from that date, the expediency of passing the usual act for the purpose of carrying the convention into effect will of course engage the attention of Congress.

Mr. SUMNER. I move that that message be printed, and referred to the Committee on Foreign Relations.

The motion was agreed to.

#### MEXICAN AFFAIRS.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, in response to a resolution of the 8th instant, calling for the official correspondence between the Department of State and Hon. L. D. Campbell, late minister to Mexico; and also the correspondence of the Department with his successor; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

#### CHIEF JUSTICE'S OPINION.

Mr. ANTHONY. I beg to offer the following resolution:

*Resolved*, That two thousand copies of the opinion of Chase, Chief Justice, delivered in Raleigh, North Carolina, in June, 1867, be printed for the use of the Senate.

The resolution comes from the Committee on Printing; it has been considered by them; the expense is very trifling—but a few dollars.

The resolution was considered by unanimous consent, and agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 137) amendatory of an act making appropriations to supply deficiencies in the appropriations for the contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes, in which it requested the concurrence of the Senate.

The bill was read twice by its title, and referred to the Committee on Indian Affairs.

#### EQUAL RIGHTS IN THE DISTRICT.

Several executive messages were received from the President of the United States, by Mr. MOORE, his Secretary.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I desire to give notice that

I shall to-morrow ask consent to proceed with the consideration of the bill to which the Senator from Pennsylvania objected this morning, further to secure equal rights in the District of Columbia. I hope I shall have unanimous consent for that purpose; but if any objection should be made, I give notice that I shall move to so far suspend the rule of the Senate as to allow that bill to be received.

#### COMMITTEE ON RETRENCHMENT.

Mr. EDMUNDS. With the consent of my friend from Iowa, who withdraws his motion for that purpose, I ask consent to offer the following resolution:

*Resolved by the Senate of the United States of America, (the House of Representatives concurring.) That one member of the Senate and two members of the House be added to the joint select Committee on Retrenchment, to be appointed by the Presiding Officers of the respective Houses.*

I ask unanimous consent to have this resolution considered and passed, because it has been found, on account of the absence of some of the members on the western coast, that the specific duties this committee have to go through with during the vacation cannot be performed without this addition to their number. I presume there will be no objection to the adoption of the resolution.

The resolution was considered by unanimous consent, and agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business; and after twenty minutes spent therein the doors were reopened.

#### MELINDA HARMON.

Mr. PATTERSON, of Tennessee. I yesterday gave notice of my intention to move to suspend the rule of the Senate so far as it would interfere with the consideration of Senate bills No. 127 and No. 128. I will state to the Senate that at the last session a bill was passed for the relief of the widow of Jacob Harmon, who was executed by the rebels in East Tennessee for having been engaged in bridge burning under orders from our officers. The law, however, is of no use, because the name is described in the bill as Matilda instead of Melinda Harmon. I now propose that those bills be taken up.

The PRESIDENT *pro tempore*. If no objection be interposed the Chair will regard Senate bill No. 127 as before the body.

By unanimous consent, the bill (S. No. 127) to repeal an act entitled "An act for the relief of Matilda Harmon, of the county of Greene and State of Tennessee, widow of Jacob Harmon," approved January 31, 1867, was considered as in Committee of the Whole.

Mr. TRUMBULL. How does the bill get before the Senate?

Mr. PATTERSON, of Tennessee. It has been taken up by unanimous consent. It is simply to correct an error that occurred at the second session of the Thirty-Ninth Congress.

Mr. TRUMBULL. Does it come from any committee?

Mr. PATTERSON, of Tennessee. The bill came from a committee at the last session, and this is simply to correct an error in the Christian name of Mrs. Harmon.

Mr. TRUMBULL. I should like to have that error explained.

Mr. PATTERSON, of Tennessee. The Senator from Illinois could not have heard me when I was up before. At the second session of the Thirty-Ninth Congress I introduced a bill for the relief of Mrs. Harmon, leaving the first name blank. It went to the House of Representatives and I furnished my colleague there [Mr. MAYNARD] with the name; but by some mistake the name of Matilda was inserted instead of Melinda. So it turned out that the widow is not provided for at all. That is the error I wish to correct. I have therefore introduced now a bill to repeal that act passed at the second session of the Thirty-Ninth Congress, and another bill granting a pension to Melinda Harmon. Melinda Harmon is the widow of Jacob Harmon, who was

hung in East Tennessee by the rebels for having been engaged in bridge burning.

Mr. SHERMAN. Why does not the Senator include the whole proposition in one bill?

Mr. PATTERSON, of Tennessee. I might have done it, but I thought it proper to introduce two bills.

Mr. SHERMAN. That will require a double enrollment.

Mr. HENDRICKS. I move to add the other bill to this.

Mr. PATTERSON, of Tennessee. I have no objection.

Mr. HENDRICKS. If we add the other bill the result will be that one section will repeal the law of last year, and the second section will give the right woman the pension.

Mr. PATTERSON, of Tennessee. I care not about the form; but I want Melinda Harmon provided for.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Indiana will be read.

The Chief Clerk read the amendment, as follows:

*And be it further enacted, That the Secretary of the Interior be and he is hereby authorized to place the name of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon, on the pension-roll at the rate of eight dollars per month, to commence on the 17th day of December, 1861, and to continue during her widowhood.*

Mr. PATTERSON, of Tennessee. I accept the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read a third time and passed.

Mr. BUCKALEW. I suppose it would be more convenient to put the title of the second bill to this. I move that amendment.

The motion was agreed to; and the title of the bill was amended to read: A bill for the relief of Melinda Harmon, of the county of Greene, State of Tennessee, widow of Jacob Harmon.

#### DEPARTMENT PRINTING.

Mr. ANTHONY. There is a bill on the table from the House of Representatives which is intended to correct an inconvenience that the Treasury Department has been subjected to by what seems to me to be a misconception of the law; but I suppose the Secretary knows how to construe it better than I do. A law was passed at the last session providing that when any printing was to be done other than in the Government Printing Office, the Clerk of the House of Representatives should designate the place where it should be printed—a kind of legislation of which we have had a good deal lately, passing a general law in order to affect the petty patronage of the Departments. The Secretary of the Treasury construes that law so that he is unable to do in his Department the printing that was formerly done there upon the back of bonds and notes and the printing of transfers upon them. It would be manifestly improper that the bonds of the Government should be sent to the Public Printing Office to have the transfers printed on the backs. It can only be done by confidential men and under the supervision of a clerk of the Department in whom all confidence can be placed; and I suppose rather than to have this printing done at the Government Printing Office the Secretary of the Treasury would have the work done by writing, which would be very laborious indeed. They are also in the habit of printing three bands which they put around the bills and the bonds. The paper used in these bands is manufactured from the refuse of the office, the currency that comes back to be destroyed. That is manufactured into paper there, and printed there. I do not see any evil, any abuse that can come from restoring this privilege to the Secretary of the Treasury, if the law has deprived him of it; and if the Senate is willing, I should like to have the bill taken up.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks unanimous consent for the consideration of the bill named by him, which is House bill No. 130, supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that the concluding proviso of section ten of the act described in its title shall not be held to prevent the necessary printing, as heretofore done, in connection with the issue, transfer, or assignment of Government bonds or notes, or official envelopes or confidential circulars used in the Executive Departments by their own employés.

Mr. ANTHONY. I have an amendment to offer, which has been prepared by the Treasurer. The bill as passed by the other House seems to confirm the construction which the Secretary of the Treasury has put upon the law, and does not allow any printing to be done in the Department, except upon the notes and bonds of the Government. I propose to amend it by striking out the words "in connection with the issue, transfer, or assignment of Government bonds or notes, or official envelopes, or confidential circulars used in the executive department," and in lieu of those words to insert "the Executive Departments and the bureaus thereof;" so as to make the bill read:

That the concluding proviso of section ten of the act described in the title hereof, shall not be held to prevent the necessary printing as heretofore done in the Executive Departments and the bureaus thereof, by their own employés.

The amendment was agreed to.

Mr. SHERMAN. Does that apply to the Internal Revenue Bureau—all the blanks?

Mr. ANTHONY. It is confined to the printing heretofore done in the Departments. The Internal Revenue blanks have all been printed at the Government Printing Office.

Mr. SHERMAN. It is perfectly right that the bonds and transfers and all the printing connected with the issuing of bonds should be done in the Treasury Department. It ought not to be done elsewhere. As a matter of course, the transfers have to be printed in the presence of a clerk. It seems to me, however, that this amendment would now extend to all the printing of the Internal Revenue Bureau.

Mr. ANTHONY. Oh, no; only to such printing as has heretofore been done in the Departments.

Mr. SHERMAN. I submit to the Senator whether it is not enlarging the law further than the occasion demands. The difficulty that the Treasurer complains of is about issuing the transfers of bonds. That must be done in the Treasury Department.

Mr. FESSENDEN. There are a great many labels.

Mr. SHERMAN. That is true; but this amendment would extend to anything printed heretofore by the Treasury Department or any bureau thereof. It would extend to the internal revenue office, with the millions of blanks they require. I do not wish the bill to extend beyond the mischief which I admit to exist.

Mr. FESSENDEN. It is simply confined to what they have been in the habit of doing in the Departments.

Mr. ANTHONY. I believe there has been so much printing done in the Departments as to amount to an abuse. All the Departments during the war, I believe, had their private printing offices, and the compositors were rated as clerks, and they worked but very few hours a day. The work that was done in the Departments in that way must have cost the Government a great deal more than it could have been done for at the Government Printing Office. It was the intention of the joint Committee on Printing at the last session to introduce a bill to prevent all this, but the bill was not perfected. There is some printing that must necessarily be done in the Depart-



ments. I am not prepared to offer an amendment that will define exactly how much should be permitted and how much should be prohibited, and I think the better plan is to give to the heads of Departments the discretion they have heretofore had; but still if the Senator from Ohio will move any amendment that will meet his view I shall be disposed to accept it.

Mr. SHERMAN. I should like to have the bill read as it stands.

The bill as amended was read.

Mr. ANTHONY. That covers all the printing that has heretofore been done in the Executive Departments.

Mr. SHERMAN. We are going to be here a day or two yet; and I move that this bill be referred to the Committee on Printing. I think it is a repeal of the law.

Mr. ANTHONY. Let it lie on the table for the present and the Senator can look into it.

Mr. SHERMAN. Very well.

Mr. ANTHONY. I move that the bill lie on the table for the present.

The motion was agreed to.

#### FACILITATING BOUNTY PAYMENTS.

Mr. WILSON. I presented a petition this morning from some soldiers complaining of the delay in the payment of the additional bounty. At the time we passed the act providing for it it was supposed it would take four years, but at the rate they are going on it will take six or seven years. I desire now to offer a resolution on the subject:

*Resolved*, That the Secretary of War and the Secretary of the Treasury be instructed to inform the Senate whether any means can be adopted by their respective Departments, or either of them, to expedite the payment of the bounties provided for by the act approved July 28, 1866.

Mr. ANTHONY. I can furnish that information to the Senator at once. The only reason is that there is not clerical force enough in the Department to do the business. In the Auditor's office that is charged with the investigation of these bounty cases there is not a force that would begin to do the business, and there are very few clerks of the higher grades allowed there. I had a curious case presented to my notice the other day, which I will relate to the Senate. A constituent of mine who is in the Second Auditor's office, being a young man of more than ordinary capacity and a very faithful clerk, had an offer to be transferred into one of the other Departments and to be promoted two grades. The Auditor would not let him go, and could not let him go. He said that the other bureau might have any number of clerks that he could designate, but they should not be allowed to take out his best clerk, for he could not do the business without him, and he was not able to promote him. So the young man's merit stood in the way of his advancement. The Auditor has not power to promote him and he will not let him go. The result will be that men like him will resign. There should be a larger force allowed in the Auditor's bureau, and he should be allowed to have a larger number of second and third class clerks.

Mr. WILSON. I think the Secretary of War and the Secretary of the Treasury perhaps may report in favor of that very thing. I should like to have them cooperate and present a plan by which this matter can be closed up in a reasonable time.

By unanimous consent the resolution was considered, and agreed to.

#### PEACE WITH INDIAN TRIBES.

Mr. HENDERSON. I ask the Senate now to proceed to the consideration of Senate bill No. 136, in reference to Indian affairs. Of course the motion is obnoxious to the objection which has been made to other bills on account of the rule, and I therefore ask unanimous consent to consider it at this time.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. HENDRICKS. Let the bill be read.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Chief Clerk read the bill, as follows:

A bill (S. No. 136) to establish peace with certain hostile Indian tribes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Lieutenant General William T. Sherman, Major General W. S. Hancock, Major General C. C. Auger, Major General John E. Smith, Major General William S. Harney, John B. Sanborn, William Bent, G. P. Beauvais, and Kit Carson be, and they are hereby, appointed commissioners on the part of the United States, with power and authority to call together the chiefs and headmen of such bands or tribes of Indians as are now waging war against the United States or committing depredations upon the people thereof, to ascertain the alleged reasons for their acts of hostility, and in their discretion to make and conclude with said bands or tribes such treaty stipulations, subject to the action of the Senate, as may remove all just causes of complaint on their part, and at the same time establish security for person and property along the lines of railroad now being constructed to the Pacific and other thoroughfares of travel to the western Territories, and such as will most likely insure civilization for the Indian and peace and safety for the whites.

SEC. 2. *And be it further enacted*, That said commissioners are required to make selection of a district of country lying north of the State of Nebraska, west of the Missouri river, and east of the traveled routes to Montana Territory, upon the waters of the White Earth, the Cheyenne, the Little Missouri, and Yellowstone rivers, of sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains and north of the Platte river and the State of Iowa, in which district there shall be a sufficient quantity of tillable land to enable the said tribes to support themselves by labor. Said territory when so selected, and the selection approved by Congress, shall be and remain a permanent home for the Indians located thereon, and no person not connected with said tribes shall ever be permitted to enter thereon without the permission of the tribes interested.

SEC. 3. *And be it further enacted*, That the said commissioners are authorized and required to select, as provided in the preceding section, a district of country south of the State of Kansas and west of the State of Arkansas, including the present Indian Territory or such part of it as may be necessary, together with such other adjacent territory as may be thought suitable, to constitute a permanent home for such Indians as now inhabit south of the Platte and east of Arizona, which territory, when so defined and selected, and the selection approved by Congress, shall not be entered upon or settled in any manner except by consent of the tribes interested.

SEC. 4. *And be it further enacted*, That the said commissioners, with a view to the ultimate concentration of all the Indians named in sections two and three of this act on the reservations selected, are authorized to make such treaties with tribes now at peace with the United States as will tend to facilitate that object or remove obstructions from the lines of travel aforesaid.

SEC. 5. *And be it further enacted*, That the following sums of money are hereby appropriated out of any moneys in the Treasury, to wit: To carry out the provisions of the preceding sections of this act, \$150,000; to enable the Secretary of the Interior to subsidize such friendly Indians as may have separated or may hereafter separate themselves from the hostile bands or tribes and seek the protection of the United States, \$300,000.

SEC. 6. *And be it further enacted*, That the Secretary of War be required to furnish transportation, subsistence, and protection to the commissioners herein named during the discharge of their duties.

The PRESIDENT *pro tempore*. The Senator from Missouri asks the unanimous consent of the Senate to consider this bill at this time. Is there any objection? No objection being made, the bill is before the Senate as in Committee of the Whole.

Mr. MORRILL, of Maine. I suggest to the Senator from Missouri an amendment in section two, to strike out in line two the words "required to make selection of" and to insert the word "examine;" so as to read: "said commissioners are required to examine a district of country lying north of the State of Nebraska," &c.

Mr. HOWARD. I do not wish to discuss this particular amendment, but I rise to ask some explanation of this very important bill from the Senator from Missouri who has reported it. I do not know that I understand the scope and purpose of the bill sprung upon us at this moment of the session. It contemplates, as I understand, a complete change of our Indian policy, and provides for the "concentration" in the language of the bill, of the various Indian tribes upon lands to be selected in or north of Nebraska, for the settlement of a portion of them, and lands to be selected south of Kansas, embracing the Indian Territory, for the permanent settlement of another

portion of the Indians. Does the Senator from Missouri suppose that the people in this northern section of the country, and those especially who may be disposed to emigrate in that direction, will be very well satisfied that the country shall be filled up with Indians, occupying what he calls permanent homes? Is it his design that there should be no more acquisition of lands from the Indians, and that they shall occupy and possess these two regions—the one north and the other south of the line of the Pacific railroad—permanently? I should really like some explanation from the Senator from Missouri. As the bill is now framed, I feel very much indisposed to support it; but I ask particularly for an explanation of it.

Mr. HENDERSON. Mr. President, I will state that at a meeting of the Committee on Indian Affairs yesterday morning, a majority, four members, being present, the other three not being in the city, this bill, with the exception of the first section, naming the commissioners, was agreed upon as the result of their deliberations. It is known to us that an Indian war is now being waged. Hostilities are of daily occurrence upon the Plains. I have in my possession a report from General Wright, who started out to survey the line of what is called the Smoky Hill route. He says that he will be compelled to abandon the survey. The fight at Fort Wallace the other day (on the 28th of June) occurred between the escort of his party and the Cheyenne Indians; a fight in which some fifty or sixty men were engaged on each side; a fair fight in the open Plains, in which our men got whipped. He says that the Indians are better mounted than our men; that it is idle to talk about making a survey through that section of country under present circumstances; that they are just as well armed as our men; that they have carbines and ammunitions equal to ours; that they fight with as much spirit as our men; that they are decidedly better mounted, as I have said; and a very great advantage they have is that they are better horsemen and their horses are better trained; and another great advantage which he suggests is that they use the bow and arrow, which our men cannot use, and in close conflict he says it is superior as a weapon for horsemen, far superior to the carbine.

Now we are attempting to construct across the Plains two railroads. With these facts before us it is useless to pretend that these railroads can be constructed. General Sherman in his report says that fifty of these Indians can checkmate three thousand of our soldiers. It is unnecessary for me to go into the history of this Indian war—I have the notes of it before me—because there are but two tribes of any great extent that are engaged in hostilities against the United States; I mean the Sioux or Dakota Indians, as they are sometimes called, and the Cheyennes and Arapahoes united together.

It is useless for me to say who is in fault. I shall not pretend to enter into that discussion, for the reason that it will not facilitate the passage of this measure or any other measure to bring about peace. We know the fact that unless these hostilities are suppressed, and suddenly suppressed, a very large expenditure will be forced upon us. Our treasury is in no condition to meet it. We need to husband our resources, and if we can make peace with the Indians we had better do it. This war, if it lasts during the summer and fall, will cost us \$100,000,000. I know that Senators will hear this statement with some degree of unbelief; but I state what I believe, and what will occur in point of fact in a very short time, and all Senators will be satisfied that what I say is correct. We are expending from \$125,000 to \$250,000, perhaps, daily in this war, and these expenditures will be rapidly increased from day to day, because our friends here from the border now will offer an amendment to this bill—whether the Senate will adopt it or not I cannot say—providing for calling out a large number of volunteers for additional protection, such protection as they say the

regular Army cannot give. They want border men called out, men who understand Indian character and understand best how to fight them. How many regiments will be called out? Perhaps four, five, six, seven, or eight regiments. If four regiments are called out, it will be but a short time until General Sherman will be compelled to call out others, and the State authorities will be compelled to offer to General Sherman or other commanders other volunteers in order to protect the frontiers. The war is but begun, and it will increase, and alarmingly increase, in its proportions of atrocity and also in its proportions of public debt. Now, it behooves the Congress of the United States in session to do something, if we possibly can, to put an end to it.

Now, what is the proposition before us? It is very plain and simple. I propose that a joint commission of military men, who have been engaged in this war, and who understand the condition of affairs, and certain eminent civilians, to whom I shall propose to add the Commissioner of Indian Affairs, be appointed; and that that commission shall undertake, if possible, to make peace. Here are the Cheyennes at war against us. Why? We made a treaty with the Cheyennes in 1851, after the discovery of the gold mines in California, in which they obligated themselves to let our emigrants pass over their lands. It will be remembered that the Cheyennes once owned all the mines of Colorado, even up to 1851. Under the treaty of 1825 we did not pretend to say that we had any rights there. Under the treaty of 1825 we said the Cheyennes and the Arapahoes owned that whole country, and with no right for a white man to pass across it at all. Did our emigrants to California ever meet with obstructions that amounted to anything from the Cheyennes and Arapahoes? Surely not. That thing lasted until 1861, when we made a treaty with these Indians, giving up the entire Territory of Colorado, all the rich mines of Colorado, and confining them to a very small reservation on the Arkansas river. In 1865 we asked them still further to go out of our way. Why? Because then we had concluded to build a railroad to California, and we insisted that they should go south of the Arkansas river, and we made a treaty with them which is now upon your statute-book. What was it? It proposed to give them a reservation, part of which was in Kansas, two thirds or three fourths of it in Kansas, and the rest of it belonged to other Indian tribes; but we said they should remain where they were on this small reservation on the north side of the Arkansas river until we secured the title to that country. When the treaty was under consideration a Senator from Kansas rose and moved an amendment. What was that? He said no part of the State of Kansas should be taken for this reservation except with the consent of the State of Kansas, and the President should find other quarters for these Indians. We have failed, so far, to procure the consent of the other Indian tribes owning the rest of the reservation, and it turns out that we have no home for the Cheyennes and Arapahoes at all, and now we propose to kill them. Why? Because they are standing in the way of a railroad to California. The Cheyennes and Arapahoes say, "Gentlemen, we have given you up the entire Territory of Colorado; we have given you up all our land there except a small reservation, and now you propose to build a railroad through it without our consent, and we tell you we intend to resist it." That is the whole case of the Cheyennes. General Sherman found them in the way, and they commenced their fight when we proposed to survey a line through there. General Sherman then said it was necessary to send them south of the Arkansas and to clean the line of these two roads; all the country between the Platte and the Arkansas, he said, must be cleaned of Indians, and if they remained there they must be looked upon as in hostility to the United States. We grumble and complain that the Cheyennes fight. I apprehend that if they were white men under these circumstances

they would fight. I apprehend that if any of us here were in their situation we would fight. I am not justifying the Indians in their barbarity; but we, in the treaty, said they shall stay where they are until the President finds other quarters for them. He has been unable to do so; he has not got the consent of the State of Kansas to their being located in that State; and we have made no arrangements with the other Indian tribes who own a part of the reservation for purchasing out their title, and there is no place for these Indians to go.

Now, in regard to the Sioux Indians: in 1825 we made a treaty with them. That, I suppose, is superseded, and it is unnecessary for me now to refer to it. In 1851 the celebrated confederate treaty with all the Indian tribes there was made at Fort Laramie. The Sioux entered into that, the Cheyennes, the Assiniboinces, the Crows, and others. I have a map before me to which I could refer gentlemen if I desired to do so, but it is unnecessary. That map includes all the territory arranged by the treaty at Fort Laramie up to Montana Territory, and including Montana Territory. They divided out the country; the Cheyennes took their share of it, taking Colorado Territory, running away down to the mouth of the South Platte and down to the Arkansas river; and the Sioux took the country lying north of Fort Laramie, and what is called the Powder river country, where we have now built the forts, Reno, Phil. Kearney, and C. F. Smith. Under that treaty we got along very well, and lived in peace with the Sioux Indians. That treaty was made by General D. D. Mitchell, of St. Louis, and the Indians respected it, and we had no trouble from that time on.

The treaty of Fort Laramie acknowledged on our part their ownership of the entire country with our right to pass to California. We did not reserve any right to pass to Montana then, because the mines of Montana had not been discovered; but the mines of California had been discovered, and we required of the Sioux Indians, the Ogallallas, and the Brulés that we should have the right to pass over their country by the South Pass on the way to California, and that our emigrants should be undisturbed. From 1851, the date of that treaty, up to 1861, I believe I may defy anybody to refer to an outrage committed by these hostile Sioux of Fort Laramie upon any of the emigrants of our country. I do not remember such an occurrence; but I do remember the fact that emigrants from the south of Missouri passed out from year to year in parties of two, three, four, and five, and, in fact, solitary and alone to California, and I never heard any fear of Indian depredations expressed by anybody.

In that treaty of 1851 we acknowledged the entire right of the Sioux to the country they claimed, with the exception of a right reserved to our citizens to pass to California. We claimed no right to go to Montana then, because nobody supposed a white man would want to go to Montana. No mines had been discovered there; the riches of that country had not been developed. We did not suppose we should ever want the Powder river country. We were to give the Sioux \$50,000 per annum for fifty years for this right to pass through their country to California. When the treaty came to the Senate, the Senate amended it, reducing the time to ten years, but leaving the amount at \$50,000 per annum, with a right in the President to continue the payment for five years longer if he should see fit. We commenced paying \$50,000 a year in 1851, and kept it up to 1861. Mr. Lincoln extended the time for five years under the amendment to the treaty, and continued the payment up to 1866. Up to that time we had scarcely any difficulty. Perhaps there may have been murders, as there are murders almost daily in the various States of the Union. Murders and outrages are committed in various sections of the country. Perhaps there are some bad Indians as well as bad white men. They did commit some depredations, but there was

nothing like general war in that section of the country. In 1866, then, under the amendment to the treaty of 1851, the time expired, and now what is our condition with the Sioux Indians? General Pope at St. Louis issued an order in 1866, after the expiration of our treaty with these Indians. I do not mean to reflect on our military men, and I have the highest respect for General Pope; but I must call attention to this order. It was to establish three forts upon the Powder river route to Montana. Why? Because people wanted to go there and mine. He then went to work to establish the three forts called Fort Reno, Fort Phil. Kearney, and Fort C. F. Smith. He did that under military order, and there is our difficulty.

Mr. JOHNSON. What authority had he?

Mr. HENDRICKS. No authority in the world. I state frankly that he had no more authority than I had to establish a line of travel over the Sioux country, because if gentlemen will look back to the treaty of 1851 they will find that we pledge ourselves that there shall be no travel over that country except over the line of the South Pass on the way to California. It was not then supposed that we should ever want the Montana route; but when we find that that was the easiest and best route, and it became necessary for our purposes, we determined to go over it, and the military commander in order to facilitate emigration to that country ordered and built these three forts.

I hold in my hand the letter of the agent of these Indians to the Department here, saying that if we undertook to establish these forts we must fight the Sioux; they were unwilling to submit to it. But after that order was issued, and after the difficulty came to pass, General Pope issues his order and goes to work to build the forts, and after war ensued from it he writes a letter to which I wish to call attention. It is found on page 59 of a report which I hold in my hand, that was submitted by the Indian department last spring in answer to a resolution at that time. The report was called for when this war came upon us, as I undertake to say, principally through the orders of General Pope. He acted of course from the very best intentions. His idea was to give facility to emigrants and miners to cross this territory. Of course the order was demanded by the people of the State of Missouri. I do not doubt it; and nine tenths of the people of my State in all probability sympathize with General Pope in it. I perhaps stand almost alone. I know what the feeling is in the western States on this subject.

Mr. HOWARD. Were these forts in the Indian country?

Mr. HENDERSON. Clearly; as defined by the treaty of 1851, unquestionably so. I will state to the Senator from Michigan that the evidence is that the Indians said we might pass west of the mountains there instead of east, but that by going to the eastern side of the mountains, passing over the valleys of the Powder river, we should interfere with the only game that they had left; that they had no other country upon which the buffalo could feed and subsist there. If we would go to the west of the Big Horn mountains they would not object to our making a road up there, but they objected to the construction of a road and the building of forts on the eastern side of the mountains. They even said that they would not object to the building and garrisoning of the fort at Fort Reno, but further up than that they objected to our going, because there Powder river became a good large stream, and the bottoms upon it were large and the grass could grow. I understand that blue-grass grows there in large quantities. It is a good grazing country. They said that if we would turn off to the west and go to the west of the Big Horn mountains, through Fort Reno, we were welcome to march through their country there to that extent, but no further. That is some ninety miles north of the Platte river. Fort Phil. Kearney is, I understand, some two hundred miles north of the

Platte river; and ninety miles further on is the Fort C. F. Smith on the route to Montana. Now, I wish to read a few words from General Pope's letter to General Grant after this war had broken out, clearly because in part, at least, of his order made without any regard to the rights of the Indians. He writes a letter urging that the Indian department be turned over to the military, and at the conclusion of it he says:

"A reference to my communications on this subject for the past twelve months will exhibit the fact that I have repeatedly warned the Government that the Indian war now upon us was inevitable, and that no reliance whatever could be placed upon treaties of peace such as had been negotiated. The peace commissioners promise the Indian, in the first place, that the whites shall not go into the Indian country, knowing well that it is impossible to fulfill such a promise."

We had made that promise in the treaty of 1851, but we simply recognized the existing rights of the Indians; that is, we pledged ourselves to protect them in all their rights, acknowledging their ownership of the country. General Pope says:

"It is impossible to fulfill any promise of the sort; the parties who make these treaties know they must be broken; and I have broken them, and I have known for twelve months that war would come out of it."

That is the whole of it.

"This is the first and most persistent demand of the Indian; a demand readily conceded, but never executed. Other provisions are inserted in the treaty equally certain to remain unfulfilled. The Indian has lost all confidence in such promises, and only makes a treaty to secure the money and supplies which accompany it. In this unscrupulous manner treaties are made."

I should like to know how he applies the word "unscrupulous" here. Does he mean unscrupulousness in making the promise or in breaking it?

"In this unscrupulous manner treaties are made and violated on both sides, and in this manner they will continue to be made unless some change in our Indian system is effected."

While the policy of the Government toward the Indian tribes is humane and liberal, so far as legal enactments are concerned, the mode of administering that policy has not only frustrated all the kind and benevolent intentions of the Government, but has absolutely worked wrong and injustice both to whites and Indians, which could not have occurred had there been no laws whatever on the subject."

That is, if we had no laws on the subject, we could get along very well, he says. I might stand here and read for any length of time, but I need not do so. When this war came, and the massacre of Fort Phil. Kearney occurred, General Sherman, of course, was exasperated by this conduct; and he sent a telegram here which the Indians have full knowledge of now, which I will read. I have the greatest respect for General Sherman, but this was a sad mistake on his part. No greater mistake could possibly have been committed. We undertook to construct forts in that country in which we had no right. Gentlemen may say that the savage must give way to civilization. Surely so; but then we ought to make the savage give way to civilization in such a manner as that we shall show a decent respect for ourselves and something like a regard for our own honor. Civilization ought to be civil. We have treaty stipulations with them, in which we say that they are entitled to a particular country; but we discover a gold mine beyond there, and then we break that treaty stipulation by having a military order to erect forts upon it to protect the settlers. Now we know, as a matter of fact, that not a mortal has traveled over that route to Montana for the last twelve months except a soldier; and scarcely a soldier has traveled over it since the Fort Phil. Kearney massacre. I know of not a single soldier who has traversed the Powder river country from the time of that massacre in December last down to the present time. It will not be done; and let me tell you that if fifty of these Indians can checkmate three thousand of our best cavalry it will be a long time before there will be any travel over it.

When this war came, instead of going back to the root of the evil, and correcting our wrongs to the Indians, General Sherman, feeling of course as any other man would feel,

stung and nettled by these reverses of our arms, and by the fact that so many good men had been killed, and perhaps not understanding our treaty stipulations—in fact I know he did not—because in another letter he calls General Grant's attention to that, and asks him to see the Interior Department and have the matter examined so as to know exactly what are our rights, and what the rights of the Indians, and when ascertained that he desired to stand by the rights of the Indians—but nettled, as I say, on the 28th of December last he sent this telegram here, which has been communicated to the Sioux, and which they understand quite well:

ST. LOUIS, December 28, 1866.

GENERAL: Just arrived in time to attend the funeral of my adjutant general, Sawyer. I have given general instructions to General Cooke about the Sioux. I do not yet understand how the massacre of Colonel Fetterman's party could have been so complete. We must act with vindictive earnestness against the Sioux, even to their extermination, men, women, and children. Nothing else will reach the root of this case.

W. T. SHERMAN,  
Lieutenant General.

U. S. GRANT.

You will find that in this war of extermination twenty-five of our own men will fall for every man, woman, or child of the Sioux. Mark what I tell you. General Sherman himself is now satisfied of it. But suppose we do exterminate them all; suppose that stung to the quick by these reverses and by this attempt of a barbarous band of people to wage war against the United States with all their fiendish malignity we go to war and kill them all, what does it amount to? Is it any honor to the people of the United States? What amount of credit do we gain by it? Is there any glory in a war of that sort? None whatever.

Then, sir, what is the proposition of the committee? I come to it at once, for I do not desire to take up the time of the Senate. We find a war waging and we want to get rid of it. We find no honor in waging such a war; we cannot see any laurels to be won; we cannot see anything except a blot upon our character as a people and upon the honor and good faith of the United States and a large accumulation of our public debt. That is all I can see in it. We might as well be honest, plain, blunt, and frank about this whole matter. We shall have thousands of our soldiers killed there, and all for glory. That is, an Indian has scalped somebody, and we must wage a perpetual war in order to avenge the wrong!

Mr. President, I am not here to justify the Indians. I am only here for the purpose of standing up to our own treaty obligations, and in my opinion when we do that we shall have less trouble with the Indians. We may have some trouble to be sure; but we shall have trouble with the negroes of the South, we shall have trouble with the white people of the South. Are not murders being committed in Texas? Certainly. Murders in North Carolina? Yes. Even in the fine old State of Massachusetts and in the very intelligent and great Empire State, New York, we find murders committed. Because a Sioux Indian commits a murder, because he steals a horse, (a light accomplishment that perhaps he has learned from the white man,) are you to wage war against an entire tribe? It will only inflict dishonor upon ourselves and accumulate our public debt.

Now, what is this proposition? It is to do something with these Indians; and what is that? To remove them off the line of these two railroads, the Platte road and the Smoky Hill road. We want to get them south of the Arkansas river and north of the Platte river, and bind them by treaty stipulations not to go upon the line of these roads. I do not propose even to close up the Powder river route, but to leave it open. The people of my State want it left open because it is the nearest and best route to Montana. I do not ask that it shall be closed, but I ask that a section of country be obtained for these Indians along the Missouri river, and that will enable us to

furnish goods, annuities, &c., which we annually furnish to them under treaty stipulations, cheaper than in any other way. As it is now the Indians are scattered over an immense district of country. Here are the Crow Indians; they live west of the Big Horn mountain, far away west of the Powder river country, and we have to furnish them with annuities, and have to haul the goods out to them through these hostile regions. The boast of these Indians is that they have never yet killed a white man; that the blood of no white man is upon their skirts. They are peaceable, they are kind, they are pacific in all their intentions, and all their motives and desires.

They treat us with marked kindness, and they act as our friends in all our hostile operations against other tribes of Indians. We are annually to furnish them with provisions and annuities, and, if we possibly can do so, remove them within narrower boundaries. If we intend that the military shall operate against the Indians in time to come, let us put them in stated reservations, where forts can be built around them, so that so large a force will not be required to take care of them and watch them. Our proposition is to take the various Indians that are out in that section of country and bring them to a "district of country lying north of the State of Nebraska, west of the Missouri river, and east of the traveled routes to Montana Territory." That will leave the Powder river route entirely in our possession. I may be asked if I propose to select an immense district of country lying on the borders of the Little Missouri, the Yellowstone, the White Earth, and the Cheyenne rivers and leave it to the Indians for all time to come. I answer that I would do so for the present. We have got to do something with the Indians, and, the way the matter now stands, perhaps another thousand millions of debt will be added to our present heavy burden in that shape in order to exterminate them. They are now upon the lines of travel, and we have got to select some country to put them upon.

Mr. HOWARD. Will the Senator be good enough to state about what quantity of territory he proposes to turn over to the Indians for their occupancy, north of Nebraska?

Mr. HENDERSON. I do not know.

Mr. HOWARD. I do not suppose the Senator can form any definite idea on that subject; but he will see at once that is a very important item for our consideration.

Mr. HENDERSON. I will state to the Senator that my information is that this country is worth very little, and that it is not likely that it will be settled up within the next hundred years. It includes what is called the *mauvais terre* country, the poor land country of the Missouri river. With the exception of small or narrow valleys upon these several rivers that I have named, and some other smaller streams, there is no arable or tillable land at all. It is a section of country that the white man in all probability will not need during the present generation, or perhaps the one to come.

Mr. HOWARD. How is it as to hunting grounds?

Mr. HENDERSON. I understand the buffalo, the elk, and the deer do live in large quantities upon these river bottoms, and that in all probability the Indian may by a proper system of tillage be enabled to support himself; but I will state to the Senator those valleys are very narrow. I do not pretend to say that the Indians can live there. There is some doubt about it. But we desire to leave this discretionary with this commission upon an examination. My friend from Maine [Mr. MORRILL] offers now to amend the bill so as to require of them first to examine it, I suppose with that view, and afterward to make the selection; but in the bill now before the Senate it will be observed that it is to be left upon their report to the confirmation of the two Houses of Congress. It will not become a permanent selection for the Indians until we ratify it, and I suppose it will be the duty of these gentlemen

to report all the facts they can gather in reference to it.

If this thing is done, in the course of a few years we can get the entire body of Indians of the Northwest off from the lines of travel, the Pacific railway, the Powder river route, and various other routes of travel, and can confine them upon this district of country where they can be supplied more cheaply than in any other district of country that I know of with their goods; and if it be necessary hereafter to use the military, they will be confined within narrower bounds, where it will not require three thousand of our best cavalry to check-mate fifty wild Indians.

It will be impossible to put all the Indian tribes there. I do not know whether we can put the tribes that I have named there. That will be a matter for subsequent adjudication by Congress upon the report of all the facts that can be gathered. The committee propose in the third section to select another district of country in the present Indian Territory, or adjoining to it. I would take in also perhaps a part or the eastern portion of New Mexico. That would be my idea; and if they can make any negotiation with the State of Texas, to take what are called the Staked Plains of Texas. There is a large district of country there that might be very profitably used by the Indians, and which perhaps cannot be used by the white man for a century to come. I did not wish to insert anything of that sort, because that would involve a serious difficulty perhaps with Texas; but the commissioners can see whether they can make any arrangements with the State of Texas by which to get a portion of that section of country.

Upon this southern reservation we propose to gather all of the southern tribes of Indians named in the third section; and in that way we shall clear out the line of travel on the Smoky Hill route to California, and also on the line of travel to Santa Fé.

The fourth section provides that the commissioners, with a view to the concentration of the Indians in these two reservations, may make treaties with other tribes than the hostile Indians. No treaty will be final upon us until it is submitted to the Senate and ratified. We can determine whether it is advisable to do so or not; and I apprehend, with all the facts before us, and a report such as these commissioners can make to us, that we shall have no trouble whatever in coming to correct conclusions.

The fifth section is an appropriation of money; first, "to carry out the provisions of the preceding sections of this act, \$150,000." It will be seen that this is less than one day's cost of the present war. If these military men in conjunction with these eminent civilians can do anything toward stopping this war for \$150,000, why, in the name of sense, let us try it. One day of the war will cost it all, and then, if we can make peace, remember that we have rid ourselves of the most brilliant prospect for a three or four years' war that we have had since the beginning of the recent rebellion, because this is much more important and much greater in its proportions than any Senator, perhaps, here to-day imagines.

The fifth section further appropriates as follows:

"To enable the Secretary of the Interior to subside such friendly Indians as may have separated or may hereafter separate themselves from the hostile bands or tribes and seek the protection of the United States, \$300,000."

I will read from the very able report of the Commissioner of Indian Affairs the other day in reference to this matter. I do not come up to his estimates at all, because I propose to provide simply for the period of time between this and the next meeting of Congress. He proposes an appropriation for the fiscal year ending the 30th of June next. I will read to the Senate an extract from his report, which will show the necessity of this last provision. He says:

"There are now on the Niobrara river, near the Platte river, about fifteen hundred friendly Sioux,

who have separated from the hostile bands. To this number will soon be added some two thousand or two thousand five hundred friendly Indians, now on their way from the hostile country."

These are the Sioux Indians. Some of them come in and give themselves up, and when they do they are turned over to the Interior Department by the military, all of which is perfectly right. It is impossible for the military to subsist in a proper manner their own troops, much less to subsist these Indian captives, where they have large numbers of them. Many of the bands of the Sioux have come in and said, "We are not waging war against the United States; we have nothing to do with these Brulé and Ogallalla bands; we are friendly; we are not hostile; we wage no war against the United States; but if we remain among our own people they force us into the ranks." They have surrendered themselves, and they have to be taken care of. At this season of the year they cannot raise a crop; in fact they have no means; they have no country upon which to do it, and they have to be taken care of by the United States just as prisoners of war are; we have to feed them. It is a necessity. It is upon us. The Commissioner says:

"To this number will soon be added some two thousand or twenty-five hundred friendly Indians, now on their way from the hostile country. Pending hostilities, or until placed on reservations, and until they shall have raised a crop or two, these Indians will have to be subsisted by the Government, or permitted to join their hostile kindred. To give them three-quarter rations will cost \$300,000; and it is recommended that this sum be appropriated by Congress at the present session for their subsistence for the fiscal year ending June 30, 1865."

In regard to the Cheyennes he says:

"The friendly Cheyennes, Arapahoes, and Apaches of the south, forced by General Hancock's command to abandon their hunting grounds, set apart to them by the treaty of October, 1865, are now at or near Fort Cobb, in the Indian Territory, in a destitute condition, and number, it is believed, from five to seven thousand souls. These Indians, if not permitted to return to their own hunting grounds, must either be fed by the Government or be driven to plundering the border inhabitants and war. An appropriation is therefore asked of \$500,000 for the purpose of supplying these Indians if found to be necessary."

Instead of appropriating \$800,000, as asked by the Commissioner—and I think the Commissioner has overestimated the number who segregated themselves from the Arapahoes and Cheyennes—we propose merely to provide from this time until the next meeting of Congress, and give him, instead of \$800,000, the sum of \$300,000 for this subsistence.

Mr. President, that is the bill. It is all of it. It is an honest effort, as we conceive, on the part of the committee to get rid of this Indian war, a war that gives us no character at home or abroad; one that involves us in calamities and miseries; one that will cause the death of many of our soldiers; one which has already caused the desertion of numbers from the service, because it is the hardest service soldiers ever did, and which, in the end, must saddle us with large, increased debt. We are not particular about the shape of the bill at all. We only desire that some earnest effort be made on the part of civilians and of our military men who have been engaged in this war, and who understand perhaps by this time the Indian character, to do something toward that State of peace which existed from 1851 up to 1865.

Now, in regard to the names of the commission, this is a suggestion of my own; the committee is not involved in this at all, because the committee did not consult in regard to the names. I am willing that any name be stricken from the list and others be added. I have selected General Sherman. I think he ought to be upon the commission. I have selected Major General Hancock. He has been implicated; there have been charges against him that he unnecessarily and wantonly burned the Cheyenne village. I do not want to leave General Hancock off this commission. Let him be upon the commission, and if he has reasons for his conduct, let him there state them; let the commission be notified, have all the facts before them, and not have it a one-sided affair.

I do not want all civilians. I want the military represented upon it; and if we have got to fight it out, no man will more cheerfully give the means, the money, and the men in order to put it down. If nothing else but extermination will do, we cannot permit the Indian to stand in the way of civilization, and his termination must come. But I desire to try everything before I come to that, to see if it is possible to settle this unfortunate difficulty of races. It seems that we are afflicted more than any people on earth with this matter of races. We had the negro question that convulsed this country from 1820 up to 1861, and then the bloodiest war known, the greatest war known in the annals of time, over the question of race, the black race. Now we have scarcely got through that when, it seems, we must have another war over the red man. If we can settle this question peaceably and amicably we ought to do so. My idea is to civilize the Indian. Let him fall back into civilization instead of pressing him out of it. I think wherever we can make citizens of the Indians it ought to be done. They ought to be mixed up with the whites as far as possible in order to prevent complaint, and in order to save our own credit and our own honor.

Then I propose to take General Hancock. I know him. There is no better man. I need not say a word in favor of General Augur. He is known perhaps to every member of this Senate; a man of eminent ability, a very distinguished officer, and one who will make a good commissioner. Then I take General John E. Smith. He is now in command at Fort Phil. Kearney. Then I take General William S. Harney, the man who above all others waged a successful war against the Indians; in fact, the only man up to the present day who has ever successfully waged war against them. Then I take General John B. Sanborn, who is known to every member of the Senate perhaps. He was a distinguished officer in our late war. He is now a civilian, a good man, a man of eminent abilities, moral, upright, discreet. I take also William Bent, who is known to every man who knows anything about the Indians, a man who has been among them for an age almost, now an aged man living in the city of St. Louis, who has traded with them, been among them, and dealt with them. I take also G. P. Beauvais. He is an Indian trader. The reason why I put him on the commission is that he speaks fluently and well all the dialects of the Sioux tribes. He can go among them, has influence with them, is known to all their chiefs and head men, and in all probability will do more to secure peace with them than any other man we can name. Then I take Kit Carson. It is unnecessary to say anything in favor of Kit Carson. He is a man eminently qualified for a commission of this sort.

Now, Mr. President, with this commission I think we can bring about a peace; and by adding simply the name of the Commissioner of Indian Affairs, which I think we ought to do, it is, in my judgment, as good a commission as we can obtain. The general purposes of the bill are such as eminently commend themselves to my mind, and ought to commend themselves, I think, to the Senate of the United States.

Mr. HOWARD. I move that the Senate adjourn.

Mr. HENDERSON. I hope not.

The question being put, there were, on a division—ayes 8, noes 12; no quorum voting.

Mr. HENDERSON. There is a quorum present. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. I hope my friend from Michigan will withdraw his motion, and let us act on this bill. I understand that the message of the President will come in to-morrow or the next day, and whatever we are going to do on this subject we had better do at once.

Mr. HOWARD. I would do so out of courtesy to my friend—

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The yeas and nays having been



ordered, the call can only be withdrawn by unanimous consent.

Mr. HOWARD. But the bill is of so much importance that I want sometime to consider it.

The PRESIDING OFFICER. No objection being made, the call is withdrawn.

Mr. HARLAN. I am gratified with the general tenor of the bill. There are some amendments that I will suggest, if they shall not be previously suggested by members of the committee.

Mr. HOWARD. I beg to ask what was the result of the vote on the motion to adjourn?

Mr. HARLAN. You withdrew the call for the yeas and nays.

Mr. HOWARD. I did not withdraw the call for the yeas and nays.

The PRESIDING OFFICER. The Chair understood the call to be withdrawn.

Mr. HOWARD. No, sir; I did not call for the yeas and nays myself. Some other gentleman called for them; and I am sure the division showed there was no quorum voting.

The PRESIDING OFFICER. Then upon the motion to adjourn the yeas and nays are ordered.

The question being taken by yeas and nays, resulted—yeas 9, nays 18; as follows:

YEAS—Messrs. Chandler, Cole, Fowler, Frelinghuysen, Howard, Ramsey, Thayer, Van Winkle, and Willey—9.

NAYS—Messrs. Anthony, Conkling, Cragin, Harlan, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Pomeroy, Ross, Sprague, Sumner, Tipton, Wade, Wilson, and Yates—18.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Conness, Corbett, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Grimes, Guthrie, Hendricks, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Saulsbury, Sherman, Stewart, Trumbull, and Williams—26.

So the Senate refused to adjourn.

Mr. HARLAN. The first difficulty which I suggest on noticing this bill may not be real, and yet I will venture to call the attention of the committee to it—

Mr. MORRILL, of Maine. The Senator will allow me to remind him that the question now is on my amendment to strike out the words "make selection of" in the second line of the second section, and to insert the word "examine."

The PRESIDING OFFICER. The Chair will put the question on the amendment of the Senator from Maine; after which the amendment of the Senator from Iowa will be in order.

The amendment was agreed to.

Mr. MORRILL, of Maine. I move further to amend the same section, section two, by inserting after the word "labor" in the eleventh line the words, "and if found suited to that purpose to select and describe the same."

The amendment was agreed to.

Mr. RAMSEY. While the Senator is engaged in amending that second section with regard to the boundaries, I should like to make a suggestion which probably he will accept, and thus dispose of it. For instance, in the third line of the second section I would strike out the words "north of the State of Nebraska." Then, again, I suggest to him to have stricken out, after the word "river" in the fourth line, the words, "and east of the traveled routes to Montana Territory, upon the waters of the White Earth, the Cheyenne, the Little Missouri, and Yellowstone rivers," so that the section would read: "That said commissioners are required to examine a district of country lying west of the Missouri river, of sufficient area," and so on, not being more particular in the designation of the country than that, giving them the whole country west of Missouri river to select from. At present they are restricted to the country north of Nebraska and south of Kansas, and giving them the choice as far north as the mouth of the Yellowstone; thus, if they are so disposed, erecting a barrier of wild Indians against all access east and west, north of Nebraska. I presume that is not the purpose of the chairman of the committee; but it seems to me very strange that he should leave a wide belt there

of four hundred miles west of Kansas in which not an Indian hereafter is to be located, and spread all those Indians north of Nebraska as far up as the mouth of the Yellowstone, thus effectually excluding travel east and west on this continent north of Nebraska. That certainly cannot be the purpose of the committee, or of its chairman; and yet the language of the section would lead to that conclusion, unless the amendment that I suggest be made.

Mr. MORRILL, of Maine. I suppose the idea was that they should have ample territory to examine, and when selected and described, it is to be reported to Congress for its adoption. But the chairman of the committee has special charge of this bill, and therefore I refer the matter to him.

Mr. RAMSEY. But why, at this early stage, express a preference for such a result as I have indicated?

Mr. HENDERSON. I suggest to my friend from Minnesota that we cannot select Indian reservations in the State of Nebraska without the consent of that State, and I suppose the Senators from that State would very seriously object to such a proposition.

Mr. RAMSEY. I have no objection to your going north of Nebraska, if you please, but why go as far as the international boundary and cover that entire region of country and erect a barrier to all the travel that passes through there now?

Mr. HENDERSON. It does not contemplate anything of that sort.

Mr. RAMSEY. It is within the power of the commissioners under this bill.

Mr. MORRILL, of Maine. Oh, no.

Mr. RAMSEY. "That said commissioners are required to make selection of a district of country lying north of the State of Nebraska, west of the Missouri river, and east of the traveled routes to Montana Territory."

Mr. MORRILL, of Maine. As amended, they are required to examine that district.

Mr. RAMSEY. Certainly.

Mr. MORRILL, of Maine. And then it comes back to us.

Mr. RAMSEY. Why should they in their examination and recommendation confine themselves to this district of country? There are only about thirty-five or forty thousand Indians to provide for. Why put it into the power of the commission to locate them all over that country?

Mr. MORRILL, of Maine. The bill does not do so. If my honorable friend will examine it, he will find that it is not obnoxious to that criticism.

Mr. RAMSEY. Of course it is, though you have modified it somewhat.

Mr. MORRILL, of Maine. Allow me to offer my amendments. I move further to amend the same section, section two, by striking out all after the word "thereon" in the thirteenth line, in the following words:

And no person not connected with said tribes shall ever be permitted to enter thereon without the permission of the tribes interested.

And inserting in lieu thereof:

Secured to said Indians, subject only to the jurisdiction of the United States.

So that the clause will read:

Said territory when so selected, and the selection approved by Congress, shall be and remain a permanent home for the Indians located thereon, secured to said Indians subject only to the jurisdiction of the United States.

Mr. HARLAN. I have a doubt about the propriety of that amendment, unless the Senator intends to amend further. I suppose the object in adopting this phraseology was to prevent white persons intruding on the reservations to be selected. We all know that there is a class of trappers and hunters hovering on the frontiers that are not much better than Indians, and not so good as some of them, and they intrude themselves on the Indian territories and commit depredations which generally lead to the wars that cost the Government so much, and frequently cost the loss of so many lives. I think it better to preserve what has been the policy heretofore of the Government on that

subject, and exclude intrusion of this kind of white persons on the reservations donated or set apart to the Indians.

Mr. MORRILL, of Maine. This section contemplates the action of Congress upon the report of the commissioners, and the object of this amendment is, in the first place, to avoid the implication of the language now that when this territory is selected, no white man shall ever set his foot on it except by the consent of the Indians. That, I think, is too strong. That would seem to oust the jurisdiction of the United States and put it absolutely within the control of the Indians.

Mr. HARLAN. The usual phraseology is "except employes of the Government and those authorized by the Government to enter the territory."

Mr. MORRILL, of Maine. Instead of that I propose to strengthen the idea in this section that the title which the Indians shall have in it shall be secured to them as property by suitable provisions of Congress; that whatever territory this commission shall set out, and to which these Indians are removed, they shall be entitled to remain there as their home, and they shall be secured in it. I wish to make that idea prominent, and it is not, as the bill now stands. Then I wish to avoid the implication that it shall be set up there as an absolute barrier to our travel over it, and therefore, while I secure their rights, I subject their rights to the absolute jurisdiction of the United States; so that the Government of the United States may hold their rights as they hold the rights of the citizens of the United States, and grant privileges in regard to this territory by right of way, or anything else, as it may deem proper, subject to the personal rights of these parties.

Mr. HOWARD. Does the honorable gentleman from Maine contemplate establishing a Territory north of Nebraska, in that region of country, so large as to accommodate all the tribes lying in that region, and that that Territory is to remain inaccessible to settlers for any considerable period of time? Does he contemplate that the title of this Indian Territory thus to be selected shall remain in the Indians, and that the lands shall not be purchasable by settlers? Is this the policy?

Mr. MORRILL, of Maine. Yes, sir, without their consent, precisely following the example in the case of the Cherokees and Chickasaws.

Mr. HOWARD. I beg, then, for one, *in limine*, to raise my feeble voice against any such policy as that.

Mr. MORRILL, of Maine. I hope it will turn out to be very feeble. [Laughter.]

Mr. HOWARD. Feeble as it is it will be used in opposition to that policy. I believe it to be the most mischievous policy that ever has been adopted.

Mr. MORRILL, of Maine. I meet that question precisely here, and say to the honorable Senator that I propose, when these Indians are removed to such territory as this commission shall say is suited to them, suited to their improvement and civilization, that it shall be theirs, for them and their posterity forever, against settlers and everybody else, without their consent.

Mr. SHERMAN. I will ask the honorable Senator, if that is the case, why does he not end the matter by enforcing the existing treaties. By the existing treaties and laws of the United States the Cheyennes and the Sioux have a right to the soil upon which we are now building two railroads. You complain about military officers and other persons violating the law, and yet Congress itself has violated the law over and over again. It has by law authorized companies to enter upon this land and locate railroads. It has located roads and authorized the construction of roads over these lands, to be traveled in violation of the treaties. If we are simply to make treaties there are treaties enough if you will enforce them; if you violate them you will violate this treaty.

Mr. HOWARD. And this very selection,

if the Senator will allow me one word, they extend so far to the north as to terminate with the divisional boundary line of the United States on the north, and it may embrace the very route over which the Northern Pacific railroad is about to be laid out.

Mr. RAMSEY. We have already made a grant of lands for it.

Mr. HOWARD. We have already made a grant of land to that railroad, a very large grant; and it cannot be denied, it seems to me, that this policy will lead directly to a defeat of perhaps all the objects embraced in the original charter of the Northern Pacific Railroad Company. Why pile up the Indians to the injury of that company and for the benefit of other companies? Why huddle them together in that particular region?

Mr. MORRILL, of Maine. If my honorable friend would give this subject a little careful attention and hear what the committee have to say, I am inclined to think most of the difficulties he raises here would fall. There is not the slightest apprehension of any such thing as he suggests. The difficulty of the honorable Senator is that he does not want to have the thing explained. In the first place, the limits of the bill do not reach anywhere near the region of country he supposes; and, in the second place, by its terms it only proposes an examination. It does not invest the commission with the slightest power to locate, but simply to examine that region of country to see if it is suitable for the residence of these Indians, and if they find it to be so in their judgment, they are to indicate it and describe it particularly, so that Congress can exercise its judgment, whether it interferes with any existing rights, or whether, on that report, it is consistent with the present condition of the country and its future growth, its future prosperity, its future development, that they should be located in that particular place.

Now, not to accept a proposition of that kind is to say that you are not willing to agree that the Indian shall have an abiding place on this continent anywhere; that he is to be bargained with to-day and faith broken with him to-morrow, as in all the past; that there is no place where you are willing to put down your foot and say, "There; if you will accept that, you shall have the guarantee of the Government that you shall be secure in it." If I understand the theory of the honorable Senator from Michigan, when the committee propose to locate the Indian here permanently and define his rights and give him a right in the soil, it is that he is not willing that the nation shall pledge its faith that the Indian shall have a permanent abiding place anywhere.

Now, sir, we have come to this point in the history of the country, that there is no place beyond population to which you can remove the Indian. It has been so in the past. As population has approached the Indian we have removed him beyond population. But population now encounters him on both sides of the continent, and there is no place on the continent to which he can be removed beyond the progress of population. That is the point now; and the precise question is, will you exterminate him, or will you fix an abiding place for him? That is what you have got to do; fight him, make war on him to his extinction, or treat with him, define in your own judgment, having a proper regard for his rights as a human being, say arbitrarily—I agree to that—that he shall be where the necessities of civilization require him to take his place; and when he has taken it, give him the guarantees of security. That is all we ask. That is precisely the character of this measure.

Now, I say that we authorize this commission, first, to examine a much larger tract of country than we suppose they would think of locating the Indian upon; to examine and see if they can find in this whole region of country a tract suitable for this location. Of course they will take into consideration the question to which the Senator from Michigan alludes; that is, the question whether it comes within

the limits of heretofore granted rights either to the Northern Pacific or the Southern Pacific railroad, or anybody else. But we say to the commission, "Locate it somewhere, if you can—in some area in the north which shall be suited to the wants of the Indian, and report it to Congress." If, upon that report, it shall be found to be consistent with the rights of the United States, to be compatible with its interests, then I submit we ought to say to the Indian, "If you will take your place there on the continent it shall be secured to you against the rights of the settlers." But I would subject it to the jurisdiction of the United States, for I hold that we ought to extend our jurisdiction and our laws over these tribes, and it should not depend upon the conditions of a treaty whether the citizens of the United States shall pass over the territory they inhabit, or whether the United States shall charter railroad corporations or anything of that sort.

Mr. RAMSEY. Has the Senator fixed his boundaries? Is he through with his amendments to this second section?

Mr. MORRILL, of Maine. Yes, sir.

Mr. RAMSEY. Has the Senate voted upon all those amendments?

Mr. MORRILL, of Maine. Yes, sir.

Mr. RAMSEY. Then I move a further amendment, to insert after the word "rivers," in the sixth line the words "south of the forty-fourth degree of north latitude."

The PRESIDING OFFICER. The amendment will be in order after the amendment now pending is disposed of.

Mr. MORRILL, of Maine. I thought it had been adopted.

The PRESIDING OFFICER. No vote has been taken upon it.

Mr. MORRILL, of Maine. I beg pardon; I thought it was.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine, in section two, line thirteen, after the word "thereon" to strike out the words "and no person not connected with said tribes shall ever be permitted to enter thereon without the permission of the tribes interested," and to insert "secured to said Indians subject only to the jurisdiction of the United States."

The amendment was agreed to.

Mr. RAMSEY. I move further to amend this second section by striking out in the third line the words "north of the State of Nebraska," and in lines four, five, and six, by striking out the words "and east of the traveled routes to Montana Territory, upon the waters of the White Earth, the Cheyenne, the Little Missouri, and the Yellowstone rivers;" so as to leave all the country west of the Missouri river and north of the line of Nebraska open to the selection of this commission. They have but to provide for about thirty-five or forty thousand Indians, and I am sure they can get a passable country in all that large district, country that is in some degree agricultural, as much so as the Indians require at least, without giving the commission the privilege of settling these Indians all through that country.

Mr. HENDERSON. I want to hear the amendment read. I do not understand it.

The Chief Clerk read the amendment, which was in section two, line three, to strike out the words "north of the State of Nebraska," and in lines four, five, and six to strike out the words "and east of the traveled routes to Montana Territory, upon the waters of the White Earth, the Cheyenne, the Little Missouri, and the Yellowstone rivers;" so that the section will read:

That said commissioners are required to examine a district of country lying west of the Missouri river of sufficient area to receive all the Indian tribes, &c.

Mr. HENDERSON. I should like to know the object of the amendment.

Mr. RAMSEY. Mr. President, I am not opposed to the general scope and purpose of this bill. I approve of it. I approve of select-

ing reservations and locating the Indians upon them; but certainly from this debate it must be clear to the Senate that there has been no very thorough examination of the districts of country named in this bill. The matter does not seem to be very well understood, and has not been well considered. Hence I think it is wrong at this stage of the business to hamper and confine this commission to the designation of localities for these reservations; we should leave that whole matter to their judgment. The purpose of the committee seems to be to provide for the Indians a reservation north of the Central Pacific railroad and west of the Missouri river. Then why follow that up with any more particular designations in the absence of more full information than the committee seem to have about it?

The Senator from Maine, in his liberality and generosity to the Indians, after they have been driven out fifteen hundred miles to the West and despoiled of their country, seems disposed, and the chairman of the committee seems disposed, to locate them forever, and give them a title that shall hereafter be considered sacred beyond all Indian titles, upon the poorest lands, as they describe them themselves, that they can find upon the continent; the bad lands west of the Missouri and the Staked Plains down in northern Texas. That is very liberal and very generous, is it not? But, after all, from what we have learned in this debate, I think the largest range should be left to this commission, that they may select throughout all the country west of the Missouri river.

There are but thirty-five thousand Indians to provide for. There are the hostile Sioux, the Teton Sioux; there are fifteen thousand of them, and they are not all hostile. Then there are some of the northern Cheyennes and the Arapahoes; and assuming that you intend to provide for the Indians north of this line not hostile, there are the Crows, about ten thousand, and the Blackfeet, about seven thousand; and that is all that you have to provide for—not over about thirty-five thousand Indians.

Mr. HENDERSON. How many Sioux?

Mr. RAMSEY. About fifteen thousand Teton Sioux.

Mr. HENDERSON. But they are not all the entire band of Sioux up there. The object is to take all.

Mr. RAMSEY. They are all the Dakotas that are hostile. The Sissetons and Wahpetons are provided for by a treaty which you ratified at the last session of Congress. The Medawakantons and the Waupakootas are down on a reservation near the mouth of the Niobrara, and the Yanctons have a reservation down below Fort Randall; they are few in number. The hostile Sioux are entirely Teton, and they number about fifteen thousand. There are only about thirty-five thousand Indians in all to be provided for.

Mr. HENDERSON. I am not at all particular about this matter. I suppose the Senator, from the intimation he has made, is under the impression that the committee are attempting to block up the way of the Northern Pacific railroad. I can assure the Senator from Minnesota that an idea of that sort never entered my mind.

Mr. RAMSEY. I distinctly said that I did not think that was the purpose, but it looked like it.

Mr. HENDERSON. That may be the case; but I did not think of the railroad in drafting the bill; and now I can state to the Senator that according to my recollection of the character of that road, the bill as it stands will throw his road north of the reservation proposed. If the Senator is of the impression that it does not, let him strike out the words "and Yellowstone," and that surely will confine the reservation entirely south of the proposed line of the North Pacific railroad. If there is any Senator here who is favorable to a measure of that sort, I suppose that I am. I have never been inimical to it. I desire to see it constructed. I do not wish to put any obstacle in the way of its construction.

I will state to the Senator from Minnesota that the people of my State will make objection, just as he now does, to having an Indian reservation down in the Indian Territory; and bringing other tribes there. They are very anxious to get rid of the tribes that are there now. The Indian Territory is west of my State, and they are all the time talking of the blocking up of civilization to the west of my State. We cannot put these Indians anywhere without having a squabble with Senators about their location. The Senator from Minnesota is not singular in this matter. The people of the West all complain when you begin to put Indians in their neighborhood. Now the Senator is complaining—not that Minnesota is to be troubled, because I believe Minnesota has got rid of her Indians very well. He says I now propose to put them on the poorest land in the world. I believe my friend from Minnesota has driven the Indians from place to place, putting them upon poorer and poorer lands and smaller reservations, until now I think the Chippewas and others are living upon fish entirely; on large reservations covering lakes only—no lands, but all lakes. [Laughter.] I think that was one of the difficulties last winter.

Mr. RAMSEY. It is the diet they prefer. [Laughter.]

Mr. HENDERSON. He says I propose now to put them on the *mauvais terre*, the bad lands of the Missouri river. There are some good lands there, I believe, on almost all the rivers, where I suppose they could sustain themselves. I do not wish to put them anywhere unless this commission say they can sustain themselves there.

But my friend ought not to say, that pretending to be friendly to the Indian—I am no more friendly to him than he ought to be—I am now providing a way and means for starving him to death. Not by any means. I select a commission of able and distinguished men, and direct that they go and seek a reservation for these Indians, and try and save them, if it can possibly be done. Otherwise let us at least get them upon reservations where we can kill them without so much expenditure as it now costs us. Let us get them upon smaller reservations where it will not cost so much to kill them. It costs us now \$1,000,000 to kill an Indian, and the Senator knows it. If he wants extermination, let him join with me and get them on a small reservation, where a regiment of men can do the work. It will be an easy matter to kill them then, with forts all around them; but now it is exceedingly difficult. Therefore, even upon the hypothesis of some Senators who want extermination, I think it would be infinitely better to get the Indians on small reservations where they can be exterminated without great cost.

But, sir, I rose with reference to what the Senator said in regard to my desire to block up the North Pacific railroad. I do not desire to do it. If he will strike out the words "and Yellowstone" he will then accomplish his object; because surely his line of road cannot go south of the Yellowstone. He knows that, and that will leave this Indian reservation south of the Yellowstone river. That will accomplish all he wants.

Mr. RAMSEY. I will accept that amendment with the further modification, which I presume the Senator will agree to, "and south of the forty-fourth degree of north latitude."

Mr. HENDERSON. I would not do that, because it may be necessary to go a little north of that; but surely the Senator does not desire to build that road on any stream north of the Yellowstone river.

Mr. RAMSEY. The Senator knows that the Northern Pacific railroad is permitted to go as far south as the forty-fifth degree of north latitude.

Mr. HENDERSON. Then say the forty-fifth degree of north latitude.

Mr. RAMSEY. Your disposition is to keep the Indians from the lines of railway, I suppose.

Mr. HENDERSON. I suppose these gen-

tlemen ought to have some discretion and some sense. There are gentlemen on the commission who are interested in the road, or if not, let the Senator name some one who will have an eye to the interests of the Northern Pacific railroad. I am not particular about the man.

Mr. RAMSEY. I am willing to accept the forty-fifth degree of north latitude.

Mr. HENDERSON. Let them have a discretion between those lines.

Mr. RAMSEY. Then I will only move to strike out the words "and Yellowstone" and add the words "south of the forty-fifth degree of north latitude."

The PRESIDING OFFICER. The amendment will be reported as modified.

The Chief Clerk read the amendment as modified, which was at the end of line five to insert the word "and," and in line six to strike out the words "and Yellowstone," and after the word "rivers" to insert "south of the forty-fifth degree of north latitude;" so that the section will read:

That said commissioners are required to examine a district of country lying north of the State of Nebraska, west of the Missouri river, and east of the traveled route to Montana Territory, upon the waters of the White Earth, the Cheyenne, and the Little Missouri rivers, south of the forty-fifth degree of north latitude, of sufficient area to receive all the Indian tribes, &c.

The amendment was agreed to.

Mr. HOWE. I am decidedly of the opinion that that section had better be stricken out altogether. We have but about three hundred thousand Indians left in the United States. Of that number a good many—I have not the figures before me, and I am not prepared to say how many—are still taken care of in the eastern and the western States. A good many are in Nebraska—peaceable Indians. A good many are in Kansas. Some are in Wisconsin. Some are in States east of Wisconsin. Now there is already dedicated to the use of the Indians a territory, referred to in the third section of this bill, of about fifty million acres, admirably adapted to Indian occupation, precisely the territory, unless it is belied, that is needed to commence the work of civilizing the Indians and of educating them to take care of themselves. That territory is abundant for the occupation of all the Indian tribes, it seems to me, east of the mountains, and who are not permanently located on some of the reservations included within the several States. That is dedicated now to the use of the Indian tribes. Under treaty stipulations existing as I understand, they cannot be disturbed. Why not then provide for all these Indians in that territory? Why have two reservations, especially when you take into consideration the fact already stated by the Senator from Missouri, and the same fact is alluded to by the Senator from Maine, that it is very doubtful whether the character of the country included in the territory mentioned in the second section will permit Indians to subsist upon it, very doubtful whether they can get a living. They must live. The argument of the Senator from Missouri is entirely sound upon that point. If they cannot subsist by their own efforts, we must take care of them. The Government must support them, or they will plunder the surrounding population. If that region of country is of that character, why undertake by the obligations of a treaty to locate these people upon it? We shall have to support them, or else they will be hereafter, as heretofore, plundering the population living about them.

This territory alluded to in the third section is a territory upon which we know they can subsist. It is of no sort of consequence to the surrounding States and Territories whether there are a hundred thousand or two hundred thousand Indians in that territory. They are excluded from that territory and should be excluded. That is all that is necessary, I take it, to maintain peace, to keep the two populations apart, each to have its home, and each kept within its home. With a view of providing by a subsequent amendment for these

Indians in this southern territory, I move to strike out the second section of the bill.

Mr. EDMUNDS. I want to think of that; and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 16, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### OHIO CONTESTED-ELECTION CASE.

The SPEAKER laid before the House evidence in the Ohio contested-election case of Delano vs. Morgan; which was referred to the Committee of Elections.

### PETITION FROM ARKANSAS.

The SPEAKER. The first business in order is the motion of the gentleman from Ohio, [Mr. LAWRENCE,] pending at the adjournment on Saturday last, to reconsider the vote by which the House received the petition from the Legislature of Arkansas.

Mr. VAN TRUMP. As my colleague [Mr. MORGAN] who presented the petition is not present, I move that the matter be passed over for the present.

No objection being made, the resolution was passed over temporarily.

### RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania, by unanimous consent, introduced a bill for the military protection of the loyal inhabitants of the late rebel States; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

Also, a bill to enable the inhabitants of said territories to form State governments; which was read a first time, referred to the same committee, and ordered to be printed.

### COMMON SCHOOLS IN THE DISTRICT.

Mr. STEVENS, of Pennsylvania. I introduced a bill at the last session of the Thirty-Ninth Congress to establish a system of common schools for the District of Columbia, which was referred to the select Committee on the subject of Education in the District. I ask now to have a bill on the same subject referred to the same committee when appointed.

The bill was accordingly read a first and second time, and ordered to be referred to the select Committee on Education in the District of Columbia when appointed.

### REVENUE SYSTEM.

Mr. SCHENCK. I offered yesterday a resolution calling for information from the Secretary of the Treasury in relation to the "Metropolitan Board of Revenue" in New York city. It was objected to by the gentleman from New York, [Mr. ROBINSON,] I understand he now withdraws his objection.

Mr. ROBINSON. Would it be in order, Mr. Speaker, for me to move to suspend the rules for the purpose of introducing the resolution that I offered yesterday?

The SPEAKER. Each resolution will have to stand independently if there is objection.

Mr. ROBINSON. If the gentleman will allow me to offer my resolution now and to move to suspend the rules first I will then withdraw my objection.

Mr. SCHENCK. I feel a natural affection for my own resolution.

Mr. ROBINSON. I love the resolution of the gentleman from Ohio almost as much as my own, for they both go together; they are friendly to each other.

Mr. SCHENCK. I desire to move to suspend the rules myself if the objection is not withdrawn.

Mr. ROBINSON. Then I hope the gentleman will allow me to say I trust he will introduce the whole subject under the suspension of the rules.

Mr. HOLMAN. I desire to interpose a gen-

eral objection to the introduction of these resolutions.

Mr. SCHENCK. Then I move to suspend the rules.

Mr. ELDRIDGE. I rise to a question of order. The Speaker, I believe, has held during the entire present session that it is in order at any time to move to suspend all the rules of this House. I can hardly suppose that the intention of the House when it adopted the resolution to suspend the rules for the balance of the March session was that that order should continue on indefinitely or for the whole time that this Congress should be in session. I apprehend it was not the general understanding that the rule prohibiting the suspension of the rules except on certain days, which is the only protection of the minority, for whose benefit I had always supposed the rules were made, was to be suspended so long. I will not say that the Speaker is incorrect in his ruling, but it does seem to me that at the time the resolution was passed it was not expected by the majority, arbitrary and exacting as they are, to continue the suspension indefinitely.

The SPEAKER. That line of argument is not pertinent—whether the majority are arbitrary. The gentleman may state his point of order, but not indulge in any such strictures on the House.

Mr. ELDRIDGE. I was simply making the remark, without reflecting on the other side, that the rules which the majority would enforce are always arbitrary, and that the rules are themselves made for the protection of the minority. I think it can hardly be disputed, even by gentlemen on the other side of the House, that the suspension of the rules for the balance of the then session was not intended to continue many months, as it has done.

The SPEAKER. The Clerk will read the order made in March last from page 61 of the Journal.

The Clerk read as follows:

"On motion of Mr. THOMAS, the rules having been suspended for that purpose, ordered that it shall be in order at any time during the remainder of the present session to suspend the rules by a two-thirds vote."

The SPEAKER. That order was made at the first session of the Fortieth Congress, and is still in operation. But it is in the power of the House of course to rescind that order and leave the matter subject to the ordinary rule of the House, allowing a suspension of the rules only on Mondays and during the last ten days of the session.

The question now is on the motion of the gentleman from Ohio [Mr. SCHENCK] to suspend the rules to enable him to offer the resolution which the Clerk will read.

The Clerk read as follows:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to inform this House whether he has established, or caused to be constituted, in the city of New York, an association or commission of officers or persons known as the "Metropolitan Board of Revenue," or a commission or organization in that city in any way connected with the revenue service by any other name or style; and if so, that he state under what authority or under what provision of law and with what object or for what purpose such a board has been created; what individuals compose it; when, by whom, and under what authority they were selected or appointed; what powers they exercise, what instructions have been given to them, and what have been up to this time their acts or proceedings, collectively or as members of such a board, in relation to revenue matters; and also that the said Secretary furnish, with his reply hereto, copies of all correspondence that the Treasury Department or Revenue Bureau have had with officer or person in relation to the establishing of said board or its proceedings, including all letters, orders, decisions, accounts, communications, or writings of any character on record or file in the Treasury Department or in any bureau thereof having relation to or connection with said so-called "Metropolitan Board of Revenue," or any other such commission in the said city of New York.

Mr. ROBINSON. Allow me to withdraw my objection.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] has renewed the objection.

Mr. HOLMAN. Is it in order to introduce a resolution calling for executive information at this time?

The SPEAKER. The resolution was introduced yesterday, and its immediate consideration was objected to, and it went over one day under the rules.

The question was taken on suspending the rules, and there were—ayes 56, noes 18; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. SCHENCK and HOLMAN.

The House divided; and the tellers reported—ayes eighty-two, noes not counted.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. SCHENCK. I demand the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROBINSON. I now move to suspend the rules to enable me to introduce the following resolution:

*Resolved*, That a committee of five be appointed by this House, with power to sit during the recess of Congress, to send for persons and papers, and to employ a stenographer to examine into the working of the detective system of the internal revenue department, into the seizure of spirits and tobacco made by persons other than those designated in the acts of Congress, and to examine into the disposal of spirits and other goods, wares, and merchandise seized or sold by order of the courts, and to report by bill or otherwise.

Though the other resolution was good, this is ten times as good. I believe that if this committee is appointed it will save before December next \$10,000,000 to the United States. But if this committee shall be appointed I do not wish to take the position usually assigned to the mover of a resolution, that of chairman. All I ask is that a good committee shall be appointed, and I believe that it will save a vast amount of money during the next three months.

The question was taken; and there were—ayes 30, noes 67.

Mr. ROBINSON. I call for tellers; and if it be in order I would like to make a statement.

The SPEAKER. It can be done only by unanimous consent.

Mr. ROBINSON. One single remark, with the consent of the House. Gentlemen around me say that they would vote for the resolution if I could give any good reason for its adoption. I will give one reason in a single word. I believe the seizures coming before a single court alone amount to—

Mr. WASHBURN, of Massachusetts. I object to debate.

The SPEAKER. Objection being made, debate is not in order. Does the gentleman from New York [Mr. ROBINSON] insist on the call for tellers.

Mr. ROBINSON. I do.

Tellers were ordered, and Mr. ROBINSON and Mr. WASHBURN of Massachusetts were appointed.

The House divided; and the tellers reported—ayes twenty-five.

Mr. ROBINSON. I will not insist upon a further count. I see the unwillingness of the House to adopt the resolution.

So the motion to suspend the rules to allow the introduction of the resolution was not agreed to.

#### LEAVE OF ABSENCE.

The SPEAKER. The Chair asks leave of absence after to-day for the gentleman from Maine, Mr. PETERS.

No objection was made, and the leave of absence was granted.

#### BRIDGE AT ROCK ISLAND, ILLINOIS.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent to introduce a joint resolution, which I ask may be read at length.

The joint resolution, which was read in full, provides that the bridge at Rock Island, Illi-

nois, named in an act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, shall be construed to be the bridge from the city of Davenport via Rock Island to the city of Rock Island, as defined in section two of an act making further provisions for the establishment of an armory and arsenal of construction, deposit, and repair on Rock Island, in the State of Illinois, approved June 27, 1866.

Mr. WASHBURN, of Wisconsin. Before the question is taken on allowing the introduction of the joint resolution, I ask unanimous consent to make a brief statement.

The SPEAKER. If there is no objection the gentleman will proceed.

There was no objection.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, it will be recollected that I yesterday offered a resolution reciting in the preamble certain facts, and instructing the Attorney General to proceed against the Rock Island bridge, to have the same declared a nuisance and abated. The reception of the resolution was objected to by my friend from Illinois, [Mr. Cook.]

I will say to the House (though it is a fact which is now pretty well known to the House and country) that the Rock Island bridge, which has been in existence some ten years, is regarded by the people who have occasion to navigate the Mississippi river as a great obstruction and a public nuisance. It is no exaggeration to say that property to the amount of \$1,000,000 has been lost by reason of the obstruction of navigation since that bridge was erected. Still we have no disposition to declare that bridges may not be constructed across the Mississippi river. We know they are necessary. But we maintain that they should be constructed where they will be the least obstruction to navigation and in the most approved manner.

These complaints have frequently come before Congress, and in 1866 Congress determined that this obstruction to navigation should be removed; and accordingly passed an act, which is cited in the resolution I yesterday presented. It became necessary that there should be further legislation, which was adopted at the last Congress. I was informed that the railroad companies had wholly neglected to take notice of these enactments.

It was believed that they had no intention to coöperate with the Government in building a new bridge so long as they were quietly permitted to occupy the old one. It was for this reason that I offered the resolution bringing the matter before the House. After doing so I was called upon by my friend from Illinois, [Mr. Cook,] who it seems has been in communication with the managers of the railroad company, and he assured me that it was the disposition of the company to proceed to execute the laws so far as they were concerned, but that there was a misunderstanding as to the construction of the law. For this reason I this morning ask to introduce a joint resolution defining the existing law, so that there shall be no misunderstanding between the Secretary of War and the railroad company or the bridge company. This resolution has been submitted to the gentleman from Illinois, and is satisfactory to him, as I believe it will be satisfactory to the friends of the free navigation of the Mississippi. It will remove any obstacle to the Secretary of War proceeding and entering into a contract with this bridge company or these railroad companies for the construction of a new bridge in such manner as will be the least possible obstruction to the navigation of the river. I do not desire to press the resolution I presented yesterday; but I ask to introduce and have passed this joint resolution explanatory of the law. I will say, however, that if the railroad company does not, between this time and the next session of Congress, carry out in good faith the intention of Congress, then we shall insist upon the resolution I offered yesterday.



Mr. STEVENS, of Pennsylvania. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Wisconsin. I will do so.

Mr. STEVENS, of Pennsylvania. I regard this as very large legislation at this season of Congress. For two years past we have been called upon to legislate in regard to this very subject; and I believe that we have appropriated between two and three million dollars on this bridge.

Mr. WASHBURN, of Wisconsin. We have simply appropriated some two hundred thousand dollars. There was an understanding that the railroad company should pay one half the expenses of the bridge.

Mr. STEVENS, of Pennsylvania. I speak of our appropriations to Rock Island.

Mr. WASHBURN, of Wisconsin. You have an arsenal, armory, and workshops there, all interested in this bridge; and it was for these works that the large appropriations spoken of were made.

Mr. STEVENS, of Pennsylvania. We had considerable trouble in regard to this bridge at the last session of Congress. There was a committee of conference of the two Houses on the subject, and there was much difficulty in arranging for the proper construction of the bridge. I hope the resolution will be again read, so that we may see what is its precise effect.

Mr. WASHBURN, of Wisconsin. The resolution is simply explanatory of the law passed at the last session of Congress.

Mr. STEVENS, of Pennsylvania. I know there were efforts made then to make the law as plain as possible. I suggest to the gentleman that the matter had better be allowed to go over for the present.

Mr. WASHBURN, of Wisconsin. I sincerely trust that my friend from Pennsylvania will not object to the introduction of the resolution. It simply proposes to define the duties of the Secretary of War. There are two laws. The law of 1866 provided for a new bridge from Davenport to the city of Rock Island across the island of Rock Island. Now, by a subsequent act, he is in doubt whether he is allowed to construct the bridge over Rock Island to the Illinois shore. This is to relieve his mind so that the work may go on.

Mr. STEVENS, of Pennsylvania. Would it be asking too much to wait first until we receive a communication from the Secretary of War, so that we may exactly understand this matter?

Mr. WASHBURN, of Wisconsin. I do not object to calling on the Secretary of War; but it is important that the work on this bridge should go on. I say to this House that my constituents have, during this year, in consequence of the high water in the Mississippi, sustained a loss to the amount of \$50,000 by the wrecks of rafts of lumber. And that loss was as nothing to the great losses of the steamboat interest.

The gentleman from Pennsylvania [Mr. STEVENS] alluded to the large appropriations to Rock Island. That is true; but, sir, by means of these large appropriations you are establishing there an arsenal and armory and other extensive works, the most magnificent in the world; and, sir, it is the finest position in the world for such an establishment. It is because the Government needs this bridge and the railroad needs it that it has been provided that it should be built at the joint expense of both.

The SPEAKER. The Chair thinks that the time allotted for the gentleman's explanation has expired.

Mr. WASHBURN, of Wisconsin. I ask for fifteen minutes more to hear the gentleman from Missouri, [Mr. PILE] and the gentleman from Illinois, [Mr. COOK].

Mr. STEVENS, of Pennsylvania. I object to further discussion.

The resolution was objected to.

Mr. WASHBURN, of Wisconsin, moved to suspend the rules.

The House divided; and there were—ayes 50, noes 44.

So the rules were not suspended.

INSPECTOR OF STREETS IN WASHINGTON CITY.

Mr. ASHLEY, of Ohio, entered a motion to reconsider the vote by which the House referred to the Committee for the District of Columbia a bill abolishing the office of inspector of streets and carriage-ways, &c., in Washington city.

UNITED STATES COURTS IN NEW HAMPSHIRE.

Mr. BENTON, by unanimous consent, introduced a bill to remove the terms of the circuit and district courts from Exeter, in the district of New Hampshire, to Concord, in said State; which was read a first and second time, and referred to the Committee on the Judiciary.

ADJOURNMENT OVER.

Mr. WASHBURN, of Massachusetts, moved that the House adjourn.

Mr. ELDRIDGE moved that when the House adjourns to-day it adjourn to meet on Thursday next.

Mr. SCOFIELD. Is there any information in the possession of the Chair as to when we may expect a communication from the Executive?

The SPEAKER. The Chair has been informed, by what he supposes to be reliable authority, the best authority, he believes, that the President does not expect to be able to communicate on the supplementary reconstruction bill before Thursday next.

The House divided on Mr. ELDRIDGE's motion, and there were—ayes 52, noes 47.

Mr. WINDOM demanded tellers.

Tellers were ordered; and Mr. WINDOM and Mr. BURR were appointed.

The House again divided, and the tellers reported—ayes 46, noes 60.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were not ordered.

So the House refused to adjourn over.

The question recurred on the motion to adjourn.

Mr. WASHBURN, of Massachusetts. I withdraw it to allow the gentleman from Michigan to offer a resolution.

WASHINGTON MONUMENT ASSOCIATION.

Mr. DRIGGS, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas an association known as "The Washington Monument Association" has been in existence for some twenty years without having accomplished anything, so far as known to the public, beyond the partial erection of a square column on the public grounds of this city, now abandoned; and whereas it is believed that large sums of money have been collected by said association from the public, which collections are continued in the United States Patent Office and other public buildings; Therefore,

Resolved, That the Secretary of the Interior be requested to inform this House, so far as may be in his power, what becomes of the money collected for this object in the Patent Office, and whether he has any knowledge of the present condition of the association, who its officers are, and what they propose to do with the funds.

COURT OF CLAIMS.

Mr. HOLMAN. I ask unanimous consent to introduce the following resolution:

Resolved, That the Judiciary Committee be instructed to inquire whether any further legislation is required to define and limit the jurisdiction of the Court of Claims, and whether the final judgments of that court should be subject to any other method of revision than that now established by law, and that said committee be authorized to report by bill or otherwise on any matter concerning the jurisdiction of said court.

Mr. WOODBRIDGE objected.

Mr. WASHBURN, of Illinois. I now renew the motion that the House adjourn.

The motion was agreed to; and thereupon (at one o'clock p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:  
By the SPEAKER: The petition of the Yorkville,

South Carolina, bar, for a session of United States court at that place.

By Mr. LOAN: The petition of citizens of Daviess county, Missouri, asking that the name of John D. Lay may be placed on the pension-rolls.

IN SENATE.

WEDNESDAY, July 17, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the memorial of Origen Vandenberg, praying for the passage of an act to incorporate the New York Bay Tunnel Company; which was referred to the Committee on Commerce.

Mr. HOWARD presented the petition of Charlotte Posey, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HOWE presented a memorial of the Legislature of Wisconsin in favor of an appropriation to the city of Milwaukee to reimburse that city for expenses incurred in constructing the harbor at the "Straight Cut;" which was referred to the Committee on Commerce.

Mr. SHERMAN. I present a petition from a number of citizens of Kentucky, praying for an amendment to the judiciary acts so as to authorize an appeal to be taken from the court of appeals of Kentucky to the Supreme Court of the United States in a case involving the rights of the Presbyterian church of the United States. They say that the case comes within the meaning, they think, of the judiciary act, but not within its letter. I move its reference to the Committee on the Judiciary.

It was so referred.

Mr. WILSON presented the petition of Anna B. Perkins, praying that out of the sums of money to be paid to the imperial Government of Russia under the terms of the recent treaty between that Government and the United States there shall be withheld a sum sufficient to pay the claim of the late B. W. Perkins against that Government, until that Government shall grant a full hearing and adjudication of said claim by some competent tribunal; which was referred to the Committee on Appropriations.

Mr. MORGAN. On Saturday last I presented the petition of Nathaniel D. Carlile & Son, praying to be relieved from the payment of the increased duties upon certain wool. At that time it was the order of the Senate that all petitions should be laid upon the table, and I had that petition laid on the table accordingly. I now ask that that petition be taken from the table and referred to the Committee on Finance.

The PRESIDENT *pro tempore*. That order will be made, no objection being made.

BILL INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 59) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States; which was read a first time by its title, laid on the table, and ordered to be printed.

DEPARTMENT PRINTING.

Mr. ANTHONY. I ask the Senate to indulge me by taking up the bill that was laid aside yesterday that I might prepare an amendment to it. It is the bill from the House in regard to printing in the Departments.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 130) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867.

Mr. GRIMES. I ask that the bill be reported as it stands.

The CHIEF CLERK. The bill was yesterday amended, and now reads as follows:

Be it enacted, &c., That the concluding proviso of section ten of the act described in the title hereof

shall not be held to prevent the necessary printing, as heretofore done, in the Executive Departments and the bureaus thereof by their own employees.

Mr. ANTHONY. I offer an amendment that I think will meet the objection that was made yesterday. It is to insert at the end of the bill, "but the number of persons employed in this service shall not be increased."

The amendment was agreed to.

Mr. ANTHONY. I am told they have but a single compositor engaged in that service.

Mr. GRIMES. What service?

Mr. ANTHONY. That this bill authorizes; that is, for printing the transfers on the back of the bonds and for printing labels to go around the bonds and notes, which labels are printed upon the refuse paper of the bonds returned, the paper cut into narrow strips, and printed from stereotyped plates there.

Mr. GRIMES. I will inquire of the chairman of the Committee on Printing, then, who are the compositors that set up the Secretary's report, the Commissioner of Internal Revenue's report, and the President's message in some cases—documents that bear the imprint of the Treasury Department of the United States?

Mr. ANTHONY. I am not able to answer that; but those documents that I have seen have been very few indeed. I have seen nothing but the President's message, which I suppose has been set up there for more convenience on account of its confidential character, and the report of the Secretary of the Treasury. It would take one compositor but a few days to do that.

Mr. GRIMES. I think one of the greatest nuisances about the Treasury Department—and I apprehend there is more than one—is the printing establishment. I understand from the superintending architect that the printing establishment there is destroying the building. That printing establishment has grown up without any authority of law whatever. We have printing capacity enough at the Government Printing Office to do all the printing, and it can be done just as safely, just as well, and much more economically there than it can be done at the Treasury Department. I believe we have also a printing establishment at the War Department.

Mr. ANTHONY. Yes, sir.

Mr. GRIMES. We have a printing establishment at the War Department which has grown up also without any authority of law, so far as I know. I will inquire of the chairman of the Committee on Printing if there was any authority for establishing a printing office in the War Department?

Mr. ANTHONY. I am not aware of any.

Mr. GRIMES. I think there is no authority anywhere to establish any of them. Now, as they have engaged in it, this bill merely declares that they shall go on and be permitted to print as heretofore, provided they do not increase the amount of their clerical force. Who knows what amount of clerical force they have there now? Is the Senator able to tell us? For the specific work which General Spinner wants authority to print he only wants two compositors; but for how many other purposes they desire compositors nobody can tell. I know that there are a great many compositors employed in the Treasury Department by somebody, under some sort of guise.

Mr. ANTHONY. The printing to which the Senator from Iowa alludes as endangering the building, if at all, must be the printing of the bonds and notes. That must be done in the Treasury building. No one, I fancy, would recommend that the securities of the Government should be printed at the Public Printing Office. They must be printed in the Treasury building.

Mr. GRIMES. Why so?

Mr. ANTHONY. For security. I think it would be very unsafe that those should be where they could be for one moment out of the superintendence of the confidential Treasury officers.

Mr. GRIMES. I do not know why there should be any more necessity to do that print-

ing in the Treasury Department than to print the national currency there; and that is not printed there; it is all printed in New York.

Mr. ANTHONY. That is at the risk of the banks.

Mr. GRIMES. No, sir; at the risk of the United States until after it is delivered to the banks.

Mr. ANTHONY. This bill does not affect that printing at all. I do not think that the bill is at all necessary; I think that the Departments have all the authority that this bill confers upon them, and I believe all the Secretaries that have hitherto had printing done in their Departments continue to do it, except the Secretary of the Treasury. He has had so many hard knocks in both Houses of Congress, and has been so continually complained of here, that he puts a stricter construction on the law than either of the other Secretaries. I am perfectly willing that this bill should read, if it will suit the Senator from Iowa better:

*Provided*, That not more than two compositors shall be employed in such service.

They assure me at the Department that they have but one there. I will consent to that, instead of the other amendment, if it is preferred.

Mr. GRIMES. If they have only one now, why give them another?

Mr. ANTHONY. I thought we might give them a little lee-way. Sometimes they may want two perhaps. I have introduced this amendment and called up this bill at the request of General Spinner, the Treasurer, who informs me that he considers it very important indeed to the convenient and economical dispatch of business in his department. I think the practice of having general printing done in the Departments is entirely wrong. I think I mentioned yesterday that the subject had come to the attention of the joint Committee on Printing, and that we were preparing a bill to require all the printing to be done at the Government Printing Office; but before presenting that to the Senate we wished to confer with the heads of Departments and ascertain what necessity there was for any printing there, and to give them as much privilege of that kind as should be thought proper. I have no sort of desire about this bill except to accommodate the Treasury Department. I think it ought to pass.

Mr. SHERMAN. I interposed an objection to this bill yesterday; but I am entirely satisfied, so far as the object as stated to me is concerned, that the bill ought to pass. The Treasury Department are printing certain blanks and forms and indorsements on bonds. For instance, yesterday one bank exchanged four hundred securities, one security for another, to the amount of nearly half a million dollars. It would not have been very proper or safe to send those in charge of a messenger to the Public Printing Office, and have them transferred there. They have a printing press in the Treasury to do this work, and it is executed promptly in the presence of the Treasurer himself, or his authorized agent for that express purpose. To the extent of printing all the necessary blanks, forms, envelopes, &c., in the Treasury Department, the bill ought to pass. My fear was yesterday that under pretense of this law they would transfer other printing to the Treasury and other Departments, and print the documents that the Senator from Iowa refers to, that is, messages and documents that ought properly to be printed in the Public Printing Office; but on the statement of the Senator from Rhode Island, that they could not be effected under the operation of this bill, I am perfectly willing that it shall pass. The force now employed is very small. I am told by the Treasurer there are scarcely any. There are but one or two compositors, and with that force they certainly could not commit any very great abuse. I therefore have no objection to the passage of the bill.

Mr. GRIMES. How does the bill read as it is now amended?

The Chief Clerk read the amended bill, as follows:

*Be it enacted, &c.*, That the concluding proviso of section ten of the act described in the title hereof shall not be held to prevent the necessary printing, as heretofore done, in the Executive Departments and the bureaus thereof by their own employees; but the number of persons employed in this service shall not be increased.

Mr. ANTHONY. There seems to be a good deal of jealousy on this subject, and I am willing that it should read "Treasury Department" instead of "Executive Departments," if that will make the bill more acceptable to Senators. I think that is the only Department that so construes the law. The question, however, will arise, if we pass a bill giving special permission to the Treasury Department, whether it will not be construed as prohibiting the other Departments, although no other Department puts this construction upon the law.

Mr. SHERMAN. The War Department print their general orders, and that is proper. They must do it.

Mr. ANTHONY. Certainly, it is a very great convenience for them to print their general orders there.

Mr. SHERMAN. They must be printed there, because they are confidential orders to military commanders put in printed form, and it is better not to send them to the General Public Printing Office.

Mr. GRIMES. We are in the habit of printing in confidence treaties, nominations, and everything of that kind. They have a confidential bureau connected with the national Printing Office, and these War Department orders could be printed there with just exactly the same secrecy and with as great celerity as they are printed in the War Department. Such a thing was never thought of until within the last few years as allowing printing to be done either in the Treasury Department or the War Department. It is an abuse that sprang up during the war. It might have been a necessity at one time, but now it is proposed to continue it through all time, after the war has ceased.

Mr. ANTHONY. I think at the next session there can be a bill proposed that will meet the views of the Senate on this question. I think there is no difference of opinion upon it, but I am of the opinion from what the Treasurer has told me that this printing is very desirable for the convenience and for the economy of the Department. I see the Senator from Maine on his feet, and will say no more about it.

Mr. FESSENDEN. I have no doubt, as a matter of time, that it is important, but I do not see the use of extending this privilege beyond the Treasury Department. I think it ought to be confined to the Treasury Department. I will ask how does it read now?

Mr. ANTHONY. It reads "the Executive Departments." I will amend it so as that it shall refer only to the Treasury Department; but no other Department construes the law in this way, and I think the Treasury Department does not construe it correctly. It is merely because the Secretary thinks Congress has been pretty hard on him, and he is afraid of being charged with disregarding the law.

Mr. FESSENDEN. If the other Departments do not construe it in this way, they will go on as heretofore, I suppose.

Mr. ANTHONY. Unless this bill, by specially excepting the Treasury Department, may make the other construction more imperative on the other Departments. However, I am willing that the bill shall be amended in the way suggested, and then if the other Departments want relief they can come and get it.

Mr. FESSENDEN. That will be better. I am not aware that there is any printing establishment in the other Departments at all.

Mr. ANTHONY. There has been in the War Department, and I am not sure but that there has been in the Interior Department. A great deal of printing has been done in the Departments that I think ought not to have been done there, but I do not think this comes under that class.

Mr. FESSENDEN. This grew up in consequence of the printing that was carried on there of our bills and notes and bonds and those things. It was found convenient and, at the same time, economical. It was found that divers sundry little things could be done there instantly when called for, at a saving of time and money. There is a printing establishment there, and we have made an appropriation of some one or two hundred thousand dollars to erect a building for the express purposes of this printing.

Mr. GRIMES. We have not done it yet.

Mr. FESSENDEN. I know there is a difficulty between the architect and somebody else on the subject; but we have so far recognized it as to put up the building, because it will be absolutely necessary to continue for some length of time the printing of bonds and notes; and this printing can be as well done, and more economically, and better done at the Department; but I do not see the use of extending it to other Departments, and it ought not to be extended to them.

The PRESIDENT *pro tempore*. The Senator from Rhode Island proposes to amend the bill in lines seven and eight by striking out the words "Executive Departments" and inserting "Treasury Department."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### CLAIMS ON VENEZUELA.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the message of the President, communicating the copy of a convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic, and inviting the action of Congress in order to carry out that convention, have had the same under consideration, and have directed me to report a bill. As there can be no question with regard to the bill, and as it is important that it should be acted upon promptly, I ask the unanimous consent of the Senate to proceed with it now. It is simply to carry the treaty into execution.

By unanimous consent the bill (S. No. 138) to carry into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic was read twice by its title and considered as in Committee of the Whole. For the purpose of carrying into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic, signed at Caracas on the 25th of April, 1866, the commissioner (to be appointed by the President of the United States, by and with the advice and consent of the Senate,) is to be allowed a compensation in full for his services of \$3,000, and \$10 a day in commutation of traveling expenses for the time actually and necessarily occupied in going from the place of his residence to Caracas and returning to his home after the termination of his duties.

If the President of the United States shall elect to appoint the minister resident of the United States in Venezuela to perform the duties of commissioner under the convention, such minister is to receive a compensation for his services of fifty per cent. of the sum before mentioned, pursuant to the provisions of the ninth section of the act of August 18, 1856, "to regulate the diplomatic and consular systems of the United States."

The President is also authorized to make such provision for the contingent expenses of the commission under the convention, including the moiety of the United States for the compensation of the umpire and of the secretary who may be chosen by the commissioners pursuant to the provisions of the convention, as he shall deem just and proper; and such

sums as may be necessary to carry out the provisions of the act are appropriated out of any money in the Treasury not otherwise appropriated.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### EQUAL RIGHTS IN THE DISTRICT.

Mr. SUMNER. I now ask the Senate to take up the little bill which I introduced yesterday, in regard to which I think there can be no question, to amend the charter of the city of Washington.

Mr. CONKLING. I ask to hear the bill read for information.

The Chief Clerk read it, as follows:

A bill (S. No. 137) for the further security of equal rights in the District of Columbia.

*Be it enacted, &c.* That in the District of Columbia no person shall be excluded from any office by reason of race or color, and all laws making any such discrimination are hereby repealed.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. HENDERSON rose.

Mr. SUMNER. There will be no debate on that.

Mr. HENDERSON. The Senator from Massachusetts says there will be no debate on that question.

Mr. SUMNER. Of course not.

Mr. HENDERSON. Of course I will not debate it, but I know there are Senators here who will debate it. When the Senate adjourned yesterday evening we had under consideration a bill of very great importance, and we should settle it in some way. It is the pending question; it is the matter now in order; and I shall object to taking up anything until that bill is disposed of. It is a matter of vital importance, one that will save the Government an immense amount of money in the one way and will leave us subject to an immense amount of tax in the other way, in my judgment, accordingly as it shall be decided. It involves millions and millions of money. This other matter can be postponed until we dispose of it, and I therefore object to the consideration of anything until the bill to which I refer is disposed of.

Mr. SUMNER. I have no disposition to antagonize my bill against the bill of the Senator; but will the Senator bear in mind that his bill is in order at one o'clock? It is not yet one o'clock. This bill can be passed in a very few minutes. I have no idea anybody wishes to discuss it. I believe it would have been passed before now if the Senator had not interposed his objection. I ask him therefore to let it be proceeded with. He has the floor at one o'clock on his bill, and I am very desirous to speed the action of the Senate on his bill. As I have now made the motion with regard to my bill, I submit that it had better be finished. There can be no objection to it. I hope the Senator will withdraw his opposition and let it be considered.

Mr. HENDERSON. I will inquire of the Chair whether, if the bill to which the Senator from Massachusetts refers shall be taken up, the Indian bill will be the business in order at one o'clock?

Mr. SUMNER. Of course it will. There is no doubt about that.

The PRESIDENT *pro tempore*. The bill of the Senator from Missouri is the unfinished business of yesterday, and it will be in order at one o'clock; that is, it will be the duty of the Chair to call it up at that time. It will be under the control of the Senate, of course.

Mr. HENDERSON. Then I withdraw any objection at present.

The PRESIDENT *pro tempore*. The question is on taking up the bill alluded to by the Senator from Massachusetts.

Mr. DAVIS. I object to the bill being taken up.

The PRESIDENT *pro tempore*. It is under the control of the Senate, I suppose.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to

consider the bill (S. No. 137) for the further security of equal rights in the District of Columbia.

Mr. SHERMAN. Let us hear the bill read. The Chief Clerk read the bill.

Mr. FRELINGHUYSEN. I suggest before the words "all laws" to insert the words "so much of." You do not want to repeal the whole of the laws.

Mr. SUMNER. I accept the amendment.

The PRESIDENT *pro tempore*. That amendment will be made, no objection being interposed.

Mr. HENDRICKS. The Senator from Massachusetts was the author of the proposition that the colored people should vote. He made the commencement of that policy with the District of Columbia. He now claims—and I believe his party friends have come up to his position—that that is to be made universal throughout the States. I suppose he will be frank enough to inform us whether it is intended as the commencement of the policy that negroes shall be allowed to become office-holders, to hold both Federal and State offices throughout the country; whether he regards this as the inauguration of that policy? I suppose he does from the fact that he expressed with a great deal of warmth the other day the desire that he might see colored Senators here in a very short time. If we are to regard it as the inauguration of the policy it is well enough to know it.

Mr. SUMNER. Question.

The bill was reported to the Senate as amended, and the amendment was concurred in; the bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDRICKS. I guess we had better have the yeas and nays on the passage of this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 5; as follows:

YEAS—Messrs. Cattell, Chandler, Cole, Edmunds, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Thayer, Tipton, Wade, Wiley, Wilson, and Yates—25.

NAYS—Messrs. Bayard, Buckalew, Davis, Hendricks, and Johnson—5.

ABSENT—Messrs. Anthony, Cameron, Conkling, Conness, Corbett, Cragin, Dixon, Doolittle, Drake, Ferry, Fowler, Grimes, Guthrie, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Ross, Saulsbury, Stewart, Trumbull, Van Winkle, and Williams—23.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House agreed to the amendments of the Senate to the bill (H. R. No. 130) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867.

The message also announced that the House had passed the bill (S. No. 127) for the relief of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon.

#### COMMITTEE ON RETRENCHMENT.

The message further announced that the House had concurred in the resolution of the Senate providing for the addition of one member of the Senate and two members of the House to the joint select Committee on Retrenchment, and had appointed Messrs. T. A. JENCKES, of Rhode Island, and J. F. BENJAMIN, of Missouri, such additional members on the part of the House.

The PRESIDENT *pro tempore* appointed Mr. PATTERSON, of New Hampshire, the additional member of the joint select Committee on Retrenchment on the part of the Senate.

#### RELIEF OF DESERTERS.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H. R. No. 108) for the relief of certain volunteer soldiers and sailors therein

designated, asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. J. M. ASHLEY of Ohio, Mr. AMASA COBB of Wisconsin, and Mr. C. E. PHELPS of Maryland, managers on the part of the House.

On motion of Mr. GRIMES, the Senate adhered to its amendment to House bill No. 108.

A subsequent message from the House of Representatives announced that the House receded from its disagreement to the amendment of the Senate to House bill No. 108, and agreed to the same.

#### ENROLLED BILLS SIGNED.

A subsequent message announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 180) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867;

A bill (S. No. 127) for the relief of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon; and

A bill (H. R. No. 108) for the relief of certain soldiers and sailors therein designated.

#### PEACE WITH INDIAN TRIBES.

Mr. POMEROY. I move that the Senate proceed with the consideration of the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 136) to establish peace with certain hostile Indian tribes; the pending question being on the amendment offered by Mr. HOWE, to strike out the second second section of the bill, as amended, in these words:

SEC. 2. And be it further enacted, That said commissioners are required to examine a district of country lying north of the State of Nebraska, west of the Missouri river, and east of the traveled routes to Montana Territory, upon the waters of the White Earth, the Cheyenne, and the Little Missouri rivers, south of the forty-fifth degree of north latitude, of sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains and north of the Platte river and the State of Iowa; in which district there shall be a sufficient quantity of tillable land to enable the said tribes to support themselves by labor, and if suited to that purpose to select and describe the same. Said territory, when so selected, and the selection approved by Congress, shall be and remain a permanent home for the Indians located thereon, secured to said Indians, subject only to the jurisdiction of the United States.

Mr. HARLAN. I do not think this section ought to be stricken out, with the view I take of the subject. There are several points, however, suggested by the bill in relation to which I desire to submit a very few remarks, and I will be as brief as possible, and follow the order in which they arise in the bill.

The object of the bill, I suppose, is approved by every member of the Senate, it being its purpose, as I understand it, to remove the Indians from the Plains immediately west of the settlements in Kansas and Nebraska with a view of greater security of life and property on the great lines of travel between the States on the Missouri river and the Rocky mountains, and ultimately the Pacific coast. These Plains are now infested, it is said, by a few bands of Indians, numbering about sixteen hundred warriors, that are hostile to the United States and committing constant depredations on individuals and property. Some of them occupy a portion of this territory under treaty stipulations, but as they are now engaged in hostilities their rights under the treaties of course have been abandoned, and the Government would have the right to remove them. It is thought they can be removed by peaceful means more successfully than by a more vigorous prosecution of the war against them; and hence the committee propose the appointment of commissioners to see them and treat with them. I think, however, the committee have made a mistake in attempting to appoint the commissioners in the bill itself; and in connection with

this suggestion I ask their attention to the provisions of the Constitution, and also to what has been the policy of the Government from the beginning. The Constitution of the United States says:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties."

I know of no instance in which Congress has attempted, through its own legislative machinery, or through the action of individuals appointed by Congress, to make a treaty, either with the Indian tribes or with foreign Powers; and I see no necessity, if it were not unconstitutional, in attempting now to depart from what has been heretofore the policy of the Government. "With a view of testing the judgment of the Senate on this subject, at the proper time, if no one else shall do so, I will move to amend that section so as to authorize the President to appoint commissioners to negotiate with these Indians.

That brings me to the second section of the bill, which proposes that these commissioners when appointed shall make a selection of territory north of the north line of Nebraska, on which to locate the Indians that are now residing north of the Platte river. The exact question now pending is the motion to strike out that section of the bill, under the belief on the part of the Senator from Wisconsin who made the motion, [Mr. HOWE.] that all these Indians might be removed to what is called the Indian Territory, south of the State of Kansas and west of the State of Arkansas. I think, perhaps, that Senator has not reflected that these Indians could not probably live in peace with the Indians now located in that Territory. The most of the Indians now engaged in hostilities are a wild, nomadic people, who live by the chase almost exclusively. I do not think they make any attempt to cultivate the soil, or to live by pastoral pursuits of any kind; and they would be as dangerous to the peace and quiet of the civilized Indians in the Indian Territory as they now are to the white settlers on the frontier. But, besides that, it would be exceedingly difficult to induce them to remove.

Mr. HOWE. Upon that point will the Senator allow me to suggest to him whether the second section of this very bill does not propose to send the Cheyennes down into this very country, and if they are not Indians for all the world cousins-german to the Sioux, who, the Senator says, cannot be sent there?

Mr. HARLAN. I will come to that presently, but for the time being will state that the Cheyennes are divided, and part of them have for a long time been inhabiting the southern part of the Plains, and part of them have been living north.

But, sir, this section seems to contemplate an arrangement with other tribes of Indians residing on the spurs of the mountains, and east of them, as well as those actually engaged in hostilities. There are the Crows and the Blackfeet, who have inhabited this region of country for centuries, and who are as much attached to the soil, doubtless, as the white people are attached to their homes, and they would be as difficult to remove as the people of Switzerland would be from the hills on which they have resided for centuries.

Mr. HOWE. I understand by the first section of the bill that these commissioners are only to treat with those Indians who are engaged in hostilities with the United States.

Mr. HARLAN. The Senator will pardon me for calling his attention to the fourth section of the bill, which seems to contemplate the negotiation of treaties with all those tribes.

Mr. HOWE. I am aware of that section. If that shall continue to be a part of the bill then the Senator's remarks will be in point.

Mr. HARLAN. I do not think, Mr. President, it would be wise at this time to attempt to remove all these tribes of Indians from the extreme north to the extreme southern portion of this territory. It would be difficult to

do it by force, and I am quite sure they would not consent to go.

But there is an additional fact in connection with this feature of the subject, to which I should like to have the attention of the members of the committee; and that is, that they propose but one district of country or one reservation. Doubtless they know, and on my calling their attention to it will be aware of the fact that these Indians do not live in harmony with each other; that they are from time to time engaged in hostilities, and are at enmity with each other from age to age; and if an effort should be made to crowd them all on one reservation, it would be laying the foundation for their extermination by the hostilities of each with the other. Hence I think that section of the bill, if it should not be stricken out, ought to be modified so as to allow the commissioners to select "reservations" instead of "a reservation," with a view of locating those that are hostile to each other at remote points from each other, with a view to their living in peace and harmony, not only with the people of the United States, but with each other.

The third section proposes to select a similar district "south of the State of Kansas, and west of the State of Arkansas, including the present Indian Territory, or such part of it as may be necessary." I think that section ought not to be adopted in its present shape. As I before remarked, these Indians are civilized, at least a very large proportion of them. There are in the neighborhood of sixty thousand Indians now residing in this Indian Territory. Perhaps one-half of them, in point of general intelligence and civilization, will compare favorably with the white people of any of the States. They do not live by the chase, but by agricultural pursuits. They have a written language, and live under written laws enacted by legislatures regularly constituted. In addition to this, they own the land in fee-simple. The Government of the United States has no more legal right to oust them from their possessions than it would have to oust you, sir, from the homestead on which you live. These Indians, however, have, in treaties that were ratified about a year since, ceded to the United States as trustee for the use of other civilized Indians a part of this territory; but they were very careful to include in those treaties the provision that it was to be for the use of other civilized Indians; bringing me to the point before named, that they would be as much endangered by the location of hostile tribes of Indians in their immediate vicinity as white people would be; and if we now were to even take that portion of the territory that has been ceded to the United States for the purposes named and bestow it on wild, uncultivated savage tribes of Indians, and bring them into the immediate vicinity of these civilized tribes, and thus endanger their peace and quiet, in my opinion the United States would be breaking faith with these Indians in so gross a manner as not to justify itself to the approval of any member of this body. If that clause in the bill, therefore, should stand, it ought, in my opinion, to be amended so as to preserve to the Indians now residing in that Territory the rights that they can properly claim under the treaties that have been ratified between the United States and them since the termination of the war of the rebellion.

The PRESIDENT *pro tempore*. It is in order to amend the section before it is stricken out.

Mr. HARLAN. When the proper time comes, if the committee, or other members of the Senate, should not remove the objections that I have to the section as it now stands, I will make a motion to amend it in the manner suggested.

This brings me to the fourth section of the bill, by which these commissioners, when appointed—

With a view to the ultimate concentration of all the Indians named in sections two and three of this act



on the reservations selected, are authorized to make such treaties with tribes now at peace with the United States as will tend to facilitate that object or remove obstructions from the lines of travel as aforesaid.

I do not doubt but that I approve the intention of the committee in drafting that section of the bill; but it seems to me that it is too broad, and it ought to be modified so as to exclude from its purview the Indians who are now residing in peace and quiet on reservations assigned to them under treaties between them and the United States. There are from thirty-five to forty thousand Indians residing on reservations in the States of Kansas and Nebraska, a large part of whom live by agricultural pursuits. They are living in peace and quiet. They have not engaged in any of the hostile raids made by the wild tribes of the Plains, either on the laborers on the railroads or on the settlements or on transportation trains. They are living in strict conformity with their treaty obligations with the United States; and I do not think we should authorize, and perhaps it was not the intention of the committee to authorize these commissioners to unsettle these tribes of Indians at this time. This bill, as I suppose, ought to be confined to the removal of the difficulties, the extraordinary condition of things now existing on the Plains; and the Indians living on these reservations in the States to which I have referred, living in peace and quiet, in strict conformity with their treaty stipulations, ought to be permitted to remain there, and these commissioners should be authorized only to make treaties with such peaceful Indians as are not residing on reservations in pursuance of treaties.

With such amendments as these, I can vote very cheerfully for the bill. I think the committee are on the right track, and perhaps, if they had had a little more time to mature it, the bill would have included the suggestions that I have made, or those that would have been wiser.

Mr. SHERMAN. Mr. President, I have made up my mind to vote for this bill, although it contains some provisions that I do not approve. As we are on the eve probably of serious Indian hostilities that will tend to prevent the construction of the Pacific railroad and the settlement of the western country, I should vote for almost any measure to bring about a cessation of hostilities with a view to some final settlement of the controversy.

I should have said nothing in regard to this measure but for some observations made by my friend from Missouri [Mr. HENDERSON] in regard to General Pope and the management of military affairs on the western plains, which I think probably did some injustice to General Pope. My own opinion is that the only true settlement of our Indian difficulties is to absorb the Indians in our general population. Our settlements are now spread so much over the whole extent of our territory that there is no room for the Indian to pursue his nomadic mode of life. He must adopt, to some extent, the habits of civilization or starve, or else be fed by the bounty of the Government. Settlements have now reached every portion of the western country. Utah, Montana, Nevada, Colorado, all these Territories have settlements and organized governments. The Indian is driven from his home; he is driven from his hunting grounds; he cannot subsist in any portion of the western territory without the aid of the national Government. He has either, therefore, to make war upon us and rob and plunder the white people, or else he has got to give way to the march of civilization.

This may be inhuman, but it has been the whole course of Indian affairs since the first settlement of white men in this country. Even within my recollection, and that does not go very far back, many Indians lived in Ohio on reservations, on which they had churches, schools, and colleges, in which many of them were educated, Christianized; they had preachers of the Gospel and teachers of schools among them; and yet such was the state of natural

hostility between our Indian population and the white people around them that they were driven from their homes. The white people, in violation of treaty, in violation of law, continually encroached upon the Indians, provoked quarrels which finally led to the interposition of military power, and the last vestige of the Indians were at last driven from their cultivated homes into Kansas; and the tribe which once probably owned nearly one fourth of our whole western country is now almost out of existence, the great Wyandotte tribe. I believe there are not five hundred of that tribe left to tell the tale of the disappearance of their race.

This must necessarily be so. As our white population progress westward over the Plains they will either absorb the Indian population or kill it off. It may be hard; but such is the fate of all barbarous communities, all wild tribes, when they come in contact with civilized tribes. If we attempt to absorb them by putting them on reservations the same hostility continues. The result is that tribe after tribe will gradually disappear, until finally the remnant of the tribe either go off and join some other tribes or become vagrants in our streets, and finally disappear entirely from the race of human beings. You cannot stop or change that law of nature.

There is, therefore, in my judgment, no solution of the Indian trouble except the gradual and humane absorption into our general population of all the Indian tribes, and all your legislation should be based upon that view. You may make all the treaties that can be written by lawyers or by officers, and those treaties will not be observed. Take the very case now before us. You made a treaty with the Cheyenne Indians, one of the hostile tribes, by which you set apart to them forever as a part of their hunting grounds the upper valley of the very river over which you are now building a railroad. By the stipulations of the treaty with the Sioux Indians you have no right to go upon any portion of their territory, except the right to pass over the main emigrant route by way of the South Pass to the Pacific. That was reserved. The very reservation of that route excluded all others. The Indians owned the country north of that line and south of that line. They roamed over it. That treaty was not violated until it was necessary for us to send out a force against Utah, when General Johnston selected a better route to Utah, and went then over the route that is now to be the route of the great Union Pacific railroad; that is, by the Catchpole creek. He went up then by what is called the Cheyenne Pass, and so across over into Laramie Plains, and on to Utah. Then for the first time this route was laid out in express violation of the treaty that had been made not long before. Now what would prevent the United States officers going there?

Not only that, my honored friend complained that General Pope established three military stations on the Powder river. How did that come about? This very Congress authorized the construction of a military road, appropriated money to build a military road on that very line. It was absolutely necessary to do so from our stand-point, from our view. Why? Because mines had been discovered in Montana, north of Utah. There was no way to get to Montana except to go through Salt Lake City and then go northward. It was a long way around. Our people would not go a long way around when they could go a more direct way, especially if there were nothing but Indians and wild beasts in the way. The result was they made a road themselves up by the Powder river, along the base of the mountain, and followed it two or three hundred miles. Shortly afterward the delegates from that region asked us for an appropriation to aid them in building a military road there. Congress granted it. It was an express violation of the treaty. It was a new road in the region of country and the best region of country that was lived upon by the Indians. It was authorized by Congress; money was appropriated; and your officers

were sent out there, and bridges were constructed on this very route by the United States.

What was then to be done by the military authorities? Were General Pope and the soldiers under his command to stand there where that route diverged from the great Plain route to Fort Laramie? The white settlers went there on the road built by the national Government, and it became the duty of the military officers to protect them. The result was that an order was issued, not by General Pope, but an order was issued from the headquarters here of the Army of the United States, directing that protection should be given to the people traveling along the highway built by the United States Government. In order to give them protection these military forts were required. Three of them were ordered to be erected along the line of the route. Fort Phil. Kearney was erected as one of them. Remember, the whole of this country, every foot of it, was set apart for the occupation of these Indians; and yet we authorized a road to be constructed here, I think from Laramie to Montana. The whole of that country was Indian country, and reserved for the Indians. If, therefore, there was any violation of law it was Congress that did it, and all the military officers did was simply to protect our own people traveling over a route that had been laid out by the national Government. In the course of that three military forts were required. Fort Phil. Kearney was one of them, and it was at Fort Phil. Kearney that the massacre of Lieutenant Fetterman and his band took place, or very near there. As a matter of course there could be no fault found with General Pope.

But my friend from Missouri read an extract from General Pope's report which made an impression upon me rather unfavorable to General Pope. It seemed as if General Pope treated this subject with a degree of levity. On the contrary, after reading the dispatch I find that I can indorse every word that General Pope says, and I have no doubt Senators will make the same observation when they come to read it carefully. General Pope is giving simply a narration of his view of Indian affairs on the western plains. He had recently gone over the whole country, and toward the close of his letter he says:

"A reference to my communications on this subject for the past twelve months will exhibit the fact that I have repeatedly warned the Government that the Indian war now upon us was inevitable, and that no reliance whatever could be placed upon treaties of peace such as had been negotiated."

We know that now; so that he was a prophet:

"The peace commissioners promise the Indian, in the first place, that the whites shall not go into the Indian country, knowing well that it is impossible to fulfill such a promise."

And yet this bill as it is reported contains that very promise, which every one of us knows cannot and will not be complied with. General Pope here says that the peace commissioners—not the Army officers, for they do not make treaties, but agents sent out from the Interior Department—make stipulations that they know themselves never have been and never will be observed. That is so. The stipulations contained in all these treaties were violated, yea, they were violated before we ratified the treaties, and we never looked at the treaties when we authorized the opening of these roads and the construction of the Pacific railroad. Why, sir, the construction of the Pacific railroad, each and every branch of it, is an express violation of an Indian treaty. What right had we to authorize the Union Pacific Railroad Company to build a line of railroad up along the Catchpole creek and the Cheyenne Pass and over the Laramie Plains on the best road to Utah and California? We had expressly agreed that the route of travel over these Plains should be confined to two main lines, one down south through Texas and another by way of the South Pass. The South Pass is more than a hundred miles north of

the very line we authorized a railroad to be constructed over, and the Union Pacific railroad now is being constructed, under our law, right over the region of country that we expressly reserved to these Indian tribes.

Why, sir, you read in this morning's paper the account of the attack by the Indians upon our party at Fort Wallace. What caused that attack? It was an engineering corps exploring a line for a railroad, running their levels, with the compass, the chain, and all the implements they use to lay out a railroad. The Indians saw this. They knew what was coming after them. They knew that was but the precursor of a railroad. They knew that a railroad was to be built there. They, therefore, made the attack to prevent the railroad from being built there.

Mr. HENDERSON. We attacked them.

Mr. SHERMAN. According to the newspaper account this morning we did not attack them; they attacked us.

Mr. HENDERSON. I have here General Wright's report.

Mr. SHERMAN. I am speaking of the newspaper account.

Mr. HENDERSON. I have here General Wright's report. The Indians were not attacking the surveying party at all. They were attacking the fort, the military; but General Wright sent out his escort, who had charge of the surveying party, to help the soldiers at the fort, and immediately thereafter a detachment of the Indians came out and met our attacking party, and in that way the fight commenced.

Mr. SHERMAN. How came that fort to be located there? Simply to protect a route that had been marked out by an act of Congress. If we were talking about special demurrers we might say our laws did not authorize them to go over this particular route; but our laws, without exception or qualification or reference to any Indian treaty, authorized these companies to go on the most direct, feasible, and proper route for a railroad from such a point to such a point; and there was no reference to any exception or any Indian treaty. According to the treaty, we had no right to build a railroad except by way of the South Pass, and then we must keep along the traveled route, because that is the language of the treaty; but we authorized the opening of these wagon-roads and the building of railroads, and our military men established forts in order to protect the people building them and in order to protect the people who were going to Montana and to Utah.

If you ask me who is wrong about this matter, I say that the white people are wrong in one sense for invading the land of the Indians and for violating the treaty stipulations made with them; but, on the other hand, I say that it is the will of Providence that these races must give way to the march of civilization; and although always in these great movements cruelty may be the result, yet in the end great good comes to the human family. Although, in my judgment, the Indians are hardly dealt with, although we have violated our promises to them, yet, whatever promises we make, we cannot protect them from the inevitable destiny by which they must disappear from the face of the earth or be absorbed in the white population of this country. If that is a cruel idea, it is made cruel by the logic of events. It is a part of that higher law which will not be controlled by the simple agencies of your statutes or by any act of ordinary human beings.

I say, therefore, our military officers were not wrong in what they did here, because they simply carried into execution the laws of Congress. It would not do for General Pope to stop and inquire and say that the Indian treaty being anterior to and of superior force to the law of Congress, therefore the Indian treaty must be observed and not the law of Congress. We would not tolerate that for a moment. These military officers must not stop to inquire into the validity of a law. They must obey their orders. They must leave the law-making power to judge of the law and the

courts to construe it. They must execute the orders that are given. Therefore when an order is given to a military officer to protect a particular line of travel, that includes the right to build forts for the protection of that line of travel and to use all the necessary aids and agencies and means. It seems to me, therefore, that there is no ground for criticising either the declarations or the acts of General Pope in laying out and locating these forts and in maintaining his authority there. What he says is literally true, that the peace commissioners have put in these treaties stipulations that never have been and never will be complied with. It is not the fault of the Army officers: the fault is in making stipulations or promises to the Indians when we have a moral certainty that those stipulations cannot and will not be performed. He goes on to say:

"The peace commissioners promise the Indian, in the first place, that the whites shall not go into the Indian country."

That is contained in all our treaty stipulations.

"This is the first and most persistent demand of the Indian, a demand readily conceded, but never executed. Other provisions are inserted in the treaty equally certain to remain unfulfilled. The Indian has lost all confidence in such promises, and only makes a treaty to secure the money and supplies which accompany it."

That is true.

"In this unscrupulous manner treaties are made and violated on both sides, and in this manner they will continue to be made unless some change in our Indian system is effected."

Is not that true? I appeal to every Senator who is familiar with the subject to know if it is not true that we have ourselves violated these treaties whenever they stood in our way. If a little settlement of one hundred white people on the top of the highest hills of the Rocky mountains should call on us for aid and protection against the Indians, or if they should discover gold in any valley of that vast region, and our settlers from all parts of the country should go there, I ask whether any Indian treaty would stop or stay the current of emigration thither? We know it would not. If the whole Army of the United States stood in the way, the wave of emigration would pass over it to seek the valley where gold was to be found. They never look at your Indian treaties and do not care anything about them.

Mr. FESSENDEN. Then why should we follow them up?

Mr. SHERMAN. I do not see the use of making these stipulations. What General Pope says is true, that we have in an unscrupulous manner made and violated our treaties, and put in those treaties stipulations that we knew could not and would not be observed. Why, sir, I have here, I sent to the Library and got the famous treaty of Greenville, made by General Wayne I think in 1805 or 1806, by which it was stipulated with certain Indian tribes that a large portion of the State of Ohio should forever belong to the Indians, that they should be divided by a geographical line from the white people. How long was that treaty observed? Not one year; and now the very region of country that was set aside for the Indian tribes in Ohio contains over a million white people. General Wayne, Mr. Jefferson who approved the treaty, and all who took part in it simply made a stipulation which they had no power to perform, and no human agency, no human power could have enabled them to carry out the stipulations of that treaty.

I believe that if you should gather these Indian tribes within the region of country described in this bill the white people would invade them. In the first place, I think you give them land that they cannot occupy. They cannot go upon the lands that are described in the second section of the bill and make a living. It is not a place where they could find either their food or their clothing. The buffalo would never enter upon any portion of that territory, because the buffalo always keeps where the grass is good and where he can find something to eat. The land that you propose to give to the northern reservation has been

known as the bad land of that country since the French first crossed those Plains. When you leave the valleys of the Plains, you reach a high and arid region where there are no summer rains, where they cannot have irrigation, and where the grass withers and parches, and where neither an Indian nor a snail can live.

Therefore, I say, if you would carry literally into effect the terms of this bill, you would make a condition that it would be impossible to perform, and, therefore, you would come within the criticism of General Pope, every word of whose declarations on this subject is perfectly true.

My own opinion is that there is no solution of our Indian troubles until we regard the Indians as subjects of the United States, to be dealt with kindly and humanely, to be fed where necessary, to be clothed where necessary, to be treated as a great Government should treat the wards of the Government until they are educated and able to support themselves. The true way, in my judgment, would be to put them on small reservations as a means of tuition only; but the very moment the wave of settlement comes to these reservations, let them be absorbed in the general population, with the right to vote, to hold office, and do whatever a man can do. That is the only way in which you can civilize them. There are Indians from all the tribes that have lived in the United States that are now respectable citizens of the United States, and I can recall to mind men among them who would be worthy to adorn this Chamber, men of education and ability. The only way, however, that you can educate the Indians is first by inoculating them with all the vices as well as all the virtues of Christian civilization. In that process one half of them will disappear, and the other half may possibly make pretty good citizens of the United States. But this thing of keeping them apart, separated from the white population, as a caste to be governed by the whites without any authority here, without any political power, will always fail to succeed, and in the end will lead to war and the extirpation of the Indian tribes.

I have said all I desire to say on this subject. I shall vote for any measure that will put off an Indian war. It is an inglorious contest—one in which our Army certainly does not desire to take any part. They can gain no reputation by fighting with these Indians. Indeed, the only way to fight with them is by assuming their own weapons. It may seem hard for us to burn villages, as General Hancock did, to murder women and children; but how are you going to fight with savages? I wish that every Senator here could travel over the Plains and see the habits and character of these Indian tribes. I saw a part of the very band which committed these massacres; that is, the old men and the women and children. I noticed that there were no males among them between the ages of twenty and forty, or scarcely any. The old chiefs were there, and they would talk peace and smoke the pipe with you as often as you chose, and the women and children would beg of you, while their young men were on the war path two or three hundred miles away.

How are you going to fight the Sioux band of Indians; the band that destroyed Lieutenant Fetterman with ninety-four men, entrapped them in an ambuscade, and then killed every man of them, mutilating their bodies, scalping them, deforming them in the most odious and revolting manner, until not a single person was left to tell the tale? How are you to deal with those people? Would you follow them? Why, sir, you might as well follow the wind. On their light ponies, armed with their native weapon, the bow and arrow, with the expertness of the Arab, yea, with more than the expertness of any branch of the human family, they send over the Plains, and your infantry and cavalry might as well chase the wind. You cannot fight them in that way. The only way to fight the Indian is to go to his wigwam where his women and children are left, capture them if you choose and hold them as prisoners of war, or rather as I would do, I

think, if I had the power, I would bring back the women and children into the settlements and keep them there, far beyond the reach of their husbands and fathers. I would not hang them nor slaughter them, but I would feed them. You never can defeat the Indian by attacking the Indian himself. You must go to his habitation, for, after all—you call him semi-civilized—he is an affectionate creature, who, sooner or later, will come back to the buffalo robe that covers his wife and his children; and if you have the control over their persons, you have the control over him, and only in that way.

Sir, it is impossible to pursue these Indians over the Plains with our troops unless you adopt the western mode of fighting, and our friends here would revolt at the old manner of fighting the Indians. Then men who had felt the wrongs of Indian warfare, who had suffered some grievous wrong from them, took up the tomahawk and the scalping knife in Indian fashion. Like Cooper's hero, they assumed the dress and fashion of the Indian, and then the prowess of the white man, even in barbaric virtues, was greater than that of the Indian. By that means alone can you fight the Indian warrior—by assuming his dress, by assuming his weapons, by following upon his track. You may fight him in that way; but who desires to see the United States fight the Indians in that way? That was the way by which the Indians were driven from the States of Pennsylvania, New York, and nearly all the middle States. That was the way by which the Indians were driven from Indiana, and Ohio, and the West. As a matter of course, no one proposes to fight them in this way; but there is no other way of fighting the Indians except either by arming our people in the West in a kind of uncivilized warfare to destroy the Indians, or else to seize their people, men, women, and children, wherever you can find them, and bring them within the reach of civilization, far within our lines. There you can control and manage them.

But, sir, as I said before, I did not intend to take up the time of the Senate, but only to make these remarks, especially in regard to General Pope and the course the military officers generally have seen fit to pursue. It is a very ungracious task I know, and Senators around me know, for some of them have told me, that our officers there are begging on the one hand the white people not to go to the Indians, fighting them off. The people out West want to offer a premium for scalps. They want to resume the old-fashioned way of fighting the Indians. The army stands there as a bulwark against the white as well as a bulwark against the Indians. It is a very unpleasant attitude. Now, if this bill does open a way by which a parley may be brought about, by which we may have some kind of conference with the Indians, which at least will postpone murder and robbery and massacre for a while, I am willing to vote the half a million dollars involved in it, with the hope that some good may result; at least that some delay may be caused in the operations now going on upon the Plains. From the advices we have, a desultory warfare now exists over a region of country nearly eight hundred miles long by three hundred miles wide. If we can stop this warfare by the spending of a considerable sum of money it will be a saving, not only of our funds, but I think of the character of our civilization and the character of our nation.

Mr. POMEROY. I shall vote for this bill as a sort of temporary measure, as the Senator from Ohio has said. I do not believe that any system of this kind will be a permanent settlement. I agree with what the Senator from Ohio has said very fully in regard to that point. The Senator's information, however, differs from mine in one respect. I never have known an Indian tribe go to war and leave their women and children exposed.

Mr. SHERMAN. I did not say they did.

Mr. POMEROY. I understood the Senator to say he met their old men, women, and

children, and the old men would smoke with him, and the women and children would beg.

Mr. SHERMAN. That is true; but at that time the warriors were off north. They professed to be at peace. There was no war then. That was in August of last year; but only three months afterward that particular band of Indians, no doubt the very men then away from their homes, committed the murder of Lieutenant Fetterman and his command.

Mr. POMEROY. They might have gone into war afterward; but my information about Indian warfare is, that when a tribe propose to go to war, the very first thing they do is to remove their lodges and their women and children, and they never leave them exposed. When General Hancock burned a village, the very fact that they had a village ought to have been evidence to him that they were not fighting, for their first business is to destroy their villages themselves. Their villages consist simply of buffalo-skin tents got up in an extemporized and temporary manner. The first business of the tribe when they go to war is to destroy their own villages, move their women and children, and then they select their warriors and make their attack, if an attack is to be made. It ought to have been evidence to General Hancock that that band particularly were not at war, or they would not have had any village for him to burn.

I agree with what the Senator from Iowa has said in regard to trying to get these Indians upon one reservation or two reservations. It cannot be done. If you amend this bill by striking out the second section, and undertake to remove them all into the Indian country, it is a thing preposterous. You might just as well remove them into Delaware; you might just as well remove them into my own State or any other State. These roving bands of hostile Indians who are at war cannot be put down among civilized Indians. If that was attempted they would only destroy each other, and it would only be a hasty effort at extermination. I believe that this commission, instead of being limited, as the bill prescribes, should have more latitude, and instead of selecting one or two reservations, should have discretion to recommend at least several; and then it will be for the action of Congress to approve or disapprove.

I believe, however, religiously, that the only ultimate solution of this whole question is, that the Indian shall take his place among other men and accept the march of civilization, as he must ultimately, or there is nothing except his destiny that awaits him, which is extinction. The fact is, there are battles with fate that can never be won. We may have as many theories on this subject as we please. I believe that these Indians should be concentrated, and let the different tribes take their choice. Those that prefer to go north, let them go north, and those that prefer to go south, let them go south. But they ought not to be put on reservations with other Indians; and it may not be prudent even to put them alongside of civilized Indians. They should be sufficiently removed, so that they will know definitely their limits; and those limits should not interfere with the prescribed limits of other tribes.

This is a most difficult and delicate question, but I can see nothing better than to commit it to a commission with large discretion. I would not limit them in this law to particular localities and defined boundaries. That is an immense country, and let this commission go out there, as there is nothing final in their action, with enlarged powers to find a suitable country for the Indians. If they are prescribed in this statute so that they cannot go where they ought to go, they will simply report that they have not been able under the provisions of this bill to locate them where they ought to be located, and that will be an embarrassment which we shall meet at the next session. Instead of striking out the second section, you ought to put in another section very much like it; that is, that they may examine both the southern

and northern country and select one or more reservations, and I would give them enlarged powers, because, after all, they can only recommend. I shall vote for this bill. I like the amendments suggested by the Senator from Iowa, and I hope he will make them.

Mr. HOWE. I do not pretend to be skilled in Indian affairs; but I have taken something of an interest in this question ever since my recent trip to the West, and I think, if I have not a very correct idea, I have got a very fixed idea as to what ought to be done. I have this idea to begin with: that whatever is done, ought to be done at once. The fact is, you are expending from one to two millions a week to defend a widespread frontier population that you must defend, and to protect an already voluminous commerce which is pouring through that country between the Mississippi and the Pacific. You are expending, I say, from one to two millions a week. Hostilities, you are told, actually exist. It is a fact. Blood is running; and why? I think I know why. It is not because anybody wants to fight in the world. I am perfectly satisfied the Indians no more want to fight than we do.

Mr. FESSENDEN. Nor half as much.

Mr. HOWE. Nor half as much, the Senator from Maine says. Certainly the United States, whatever may be the disposition of individuals, does not want to fight this remnant of Indians. It is just as conclusive, in my mind, that this remnant of Indians do not want to fight the United States; and yet they are fighting, and they are fighting, as I believe, for all the world just for that reason that you have seen two drunken men fight: because in their staggering condition they happened to collide, and because they have not moral force enough to separate themselves. We are fighting just for those reasons. We have come together, these Indians with our frontiers; we have got by the ears; and we as yet have not discovered any way of getting apart. I do think, upon my soul, Mr. President, that this bill tends to a separation in some of its features; and I do think, if the Senate would attend rightly to it, it can be perfected so as to effect a separation, and a separation, I do believe, for all time.

I subscribe almost word by word, and letter by letter, to the gospel just proclaimed here by the Senator from Ohio. I want to make a qualification: it is true historically that the obligations of your treaties have not been attended to or observed at all by our Government or by our people; but it is not true that the American people or the American Government cannot be trusted. The obligations of a treaty will be observed when you find a treaty which ought to be preserved. A title is as secure and as safe in the United States as it is anywhere in the world. When a man claims under a title that ought to be respected, that title is respected here as much as anywhere else. But the trouble is that by your treaties heretofore you have turned out to barbarism immense tracts of country which were needed by civilization. Now, you ought not to do that, and you cannot do it. You must remember that already this population of ours has taken hold of both our coasts, the eastern and the western. You must remember that the emigration of the world is being poured in here, and it will have free course; it will run; and I believe it will be glorified. You cannot any more limit the swash of this population by treaty, than you can protect by treaty the Nahant beach against the surges of the ocean, and you should not try it. Humanity! That is no dictate of humanity which requires that civilization should stand back while barbarism has free scope to disport itself here or elsewhere.

But, Mr. President, while I hold that the highest humanity demands that barbarism and not civilization should give way, I do hold that there is a civilized and a barbarous way also of making barbarism give way. The Senator from Ohio I think has struck the very truth of this matter when he says that these

populations must be absorbed. You cannot give them any of these great paths by treaty or otherwise and observe those obligations, for the very reasons he has stated. They have not been observed before; they will not be hereafter.

I had but two purposes in rising. One was, and I have already fulfilled that, to say amen to what the Senator from Ohio has said, and the other was, to add a little by way, as the preachers sometimes say, of practical application. [Laughter.] If it be true that the only way of solving this Indian problem is to civilize and absorb these populations—for certainly the Senator from Ohio would admit that it is idle to talk of absorption until some degree of civilization has preceded it—if it be true that this is the only way to solve this problem, what does that policy dictate to us now?

Remember, Mr. President, and the Senate will remember, that the pending question is upon striking out the second section. What is the second section? It is a proposition instructing this commission to select upon what have been known from the time our first *royaumeurs* went over the country between the Mississippi and the mountains as the bad lands, and set apart another large area within which all the Indians east of the Rocky mountains and above the Platte river are to be congregated, and you are to bind them by the stipulations of a treaty to stay there, and you are to bind our people by the stipulations of the same treaty to keep off.

In the first place, I have to say that I believe those Indians are too smart ever to make any such treaty, and it is useless to send any commission out there with any such instructions. In the next place, it would be absolutely impossible to maintain such a treaty, and for two reasons: that very territory selected there fronts Iowa and Minnesota. It is in the path of one column of western emigration that is constantly going toward the mountains. It is right in the path of what will soon be, I believe, the great route to Montana and the country west, and you cannot keep the white people out of it; but if you could, that is not the great difficulty; you could not keep the Indians upon it.

Why, Mr. President, we have already—that is, if you subscribe as heartily to the theory of the Senator from Ohio as I do—agreed that we must commence now to civilize all these Indians, and the Sioux and the Cheyennes among the others. What do you mean by civilization? Teach them gradually to abandon the pursuits of the chase as a means of living, and gradually to learn to obtain their living from the soil. So, then, it is gravely proposed here, with that policy in view, to take these wild Indians of the Plains, who perhaps never saw a hoe in their lives, and who certainly never handled one, and turn them out on the bad lands west of the Missouri as apprentices in the way of agriculture. That is a poor place for them. Take a New England neighborhood; take a neighborhood in Maine, where I was raised, and where they work twenty-six hours a day [laughter] to get a living; take such a population, so hardy, so resolute, so educated to effort, put them out there, and they might live. I would not insure them, but they might live. But it is proposed here to instruct this commission to make these stipulations with a band of savage Indians, to put them up there to learn the business of agriculture. No, sir; put them up there and you would educate them not in this branch of effort, but you would perfect their education in the great business of plundering and killing and starving. Yes, sir; you propose by this second section of the bill to instruct the commission to go out there to collect these hostile tribes, and to ask them, almost in so many words, what they will take to go up there north of Nebraska and the White Earth river, upon the bad lands, and starve to death. That is the proposition that by this second section this commission is instructed to go out there and make to them. I would not send any such proposition.

I said yesterday, when I moved this amendment, that I thought all these Indians should be collected down here in what is known to-day as the Indian Territory. The Senator from Kansas says it cannot be done.

Mr. POMEROY. It cannot.

Mr. HOWE. The Senator from Kansas repeats that it cannot be done. I have but one reply to make to that, and that is to say it can be done. Yes, I have another reply to make, and that is, it ought to be done. I have one more reply to make, and that is, it must be done, or you never will have permanent peace. Either they must be sent there or those who are there must be sent somewhere else. Mr. President, you have about fifty thousand or sixty thousand Indians down there in that Indian Territory. It is the most capable territory there is in the country. There is a section and a half of land to every man, woman, and child there. Do you suppose that the American people are going to stand back and leave that large quantity? There are not, probably, two acres to a section of it under cultivation, and those the easiest to cultivate, the most productive. I admit these estimates are rough, but there are not probably two acres to a section under cultivation. I know they own these lands by the stipulations of our treaties, just as these other Indians own their lands. You propose to induce them to sell. Why do you not induce these who are down there to sell also? You know that it is for the interest of those men to sell. You know the money we should pay them for the land, properly expended, is worth more to them than the land itself, unoccupied as it is. Why not put these Indians there?

But these are uncivilized, you say; these are barbarous; these are savage; and those down there are semi-civilized; there will be collisions. Are the Indians down there more civilized than our white population on the frontier are? You have got to put them somewhere; and there is danger of their being in contact with somebody. Are you more careful to preserve them from contact with those half-civilized Indians than you are with our own population? Will not your control over them be as ample; will not your means of protection be as adequate for these Indians already there as they will be for our populations, put them where you will?

What, then, is the advantage of putting them there? Why, there is land that hardly an Indian can help cultivating; and he cannot help producing from it if he does cultivate. Whatever you sow grows. There is the place to learn the business of agriculture. There is the place to commence the instruction of these populations. There are streams running through it, I am told, swarming with fish. There is some game left yet. This helps. Your annuities must eke out their support.

Mr. President, it seems to me that the very lessons taught us so forcibly by the Senator from Ohio this morning call upon us to concentrate our efforts at this time upon selecting one reservation, and not a dozen. I have thought this the best one, because I believed it to be the most capable. If there is any other anywhere else, I am just as willing to take that; but I think they had better all be got together. Why cannot these Indians be moved down there? Do you know how large that nation is that we are fighting with? The Indian Bureau, I believe, tell us that of the hostile Sioux bands there are about seven thousand; of the hostile Cheyennes among them there are about eighteen hundred; and of the Cheyennes and Arapahoes, who now belong down in this very country under existing treaties, there are about four thousand—altogether thirteen thousand men, women, and children in these nations with which we are at war, and in which we are spending from one to two millions a week.

Some one asked me this morning if it was proposed to board these Indians at a first-class hotel. Well, I told him I had never heard that the proposition was made by any one, but whoever made it was a statesman. [Laughter.] You had better board them at the Fifth Avenue

Hotel or anywhere else than undertake to control them by the agency of war; build houses of correction for them; do anything but fight. Now you must fight of course; but I do believe that, sent out with proper instructions, the commission proposed in the first section of this bill would effect an arrangement which would not only postpone this fight, but prevent it, remove the causes for it, make the Indians feel as though at last their good was looked after as well as our own. They can be made to understand that they have no business to lie in the way of the commerce that is already pouring through their country. They can understand that as well as we can. They can be made to understand how important it is to their interests as well as our own that they should get out of the way of it. Only let them see that while we ask them to get out of the way of it we are willing to make them compensation and take care of them elsewhere and I believe they will go quietly. I was assured while I was out in the West, by one of the most experienced agents I think we have in the service of the Government, that whatever fair treaty you made with these Indians would be obeyed implicitly by them; that an order enforcing any treaty that was proper to be made with the Indians, issuing from any of the departments at Washington, would be promptly obeyed. I believe it. Mr. President, I have occupied more time than I intended.

Mr. HOWARD. Mr. President, this discussion thus far has surely, so far as I am concerned at least, thrown a good deal of light upon the subject, and I am very glad indeed that it has taken place. The subject is one of great gravity, great importance. Nobody denies that. We ought to treat it as of that character. There seems to be no doubt of the fact that Indian hostilities exist upon our frontier, and that they have eventuated in many cases in scenes which humanity must deplore, both in regard to the whites and in regard to the Indians themselves. Our first object, as men loving justice and anxious to maintain our own self-respect, is to ascertain what are the real causes of these hostilities and contentions; what are the real grounds of complaint, if there be any on the part of the Indian tribes, which have led them to take up arms, and what wrongs may have been committed by our own people toward the Indian tribes; and after having acquired this information it will then be our duty, an indispensable duty, for us to apply the remedy.

Now, sir, it appears from the statement of the honorable chairman of the Committee on Indian Affairs, and also from that of the honorable Senator from Ohio, that whatever may have been the conduct of the Indians, the United States had committed wrongs upon them. It appears that by our treaties with the Indian tribes who are now acting in hostility against us, we stipulated not to enter their territories except in a certain way; not to interfere with their hunting-grounds, but to leave them alone undisturbed, and that instead of obeying this obligation on our part, even the Congress itself has proceeded to enact laws for the construction of railroads through the Indian Territory and wagon-roads through the Indian Territory in direct contravention of the terms of those treaties.

Mr. MORRILL, of Maine. The Senator will allow me to interrupt him?

Mr. HOWARD. Certainly.

Mr. MORRILL, of Maine. The Senator is laboring under an entire misapprehension. I know it has been asserted, and he is repeating what has been asserted, but there is not the slightest foundation for the assumption that Congress has done any such thing, either authorized the construction of railways through this country in violation of treaties, or authorized the construction of wagon-roads. It is an entire misapprehension of the whole thing. I was on my feet some time ago to correct it, but I did not get the opportunity. I will show the Senate that it is an entire misapprehension.

Mr. HOWARD. Congress has certainly



authorized the construction of a wagon-road leading to Montana, has it not?

Mr. MORRILL, of Maine. Not within five hundred miles of the scene of the difficulty.

Mr. HOWARD. A road running through the Indian country.

Mr. MORRILL, of Maine. Not through this Indian country, and not within five hundred miles of it.

Mr. HOWARD. Through an Indian country where we had no right to go?

Mr. MORRILL. No, sir.

Mr. HOWARD. That is a question of fact about which I am not as well informed as the Senator from Maine.

Mr. MORRILL, of Maine. That is an entire misapprehension of the law and the stipulations of the treaty, as I will show by and by.

Mr. HOWARD. I was about to say that if it be the fact that Congress has authorized the construction of railroads and wagon-roads through the Indian country where we have no right to go it is very much to be regretted.

Mr. RAMSEY. Allow me to state to the Senator from Michigan that we certainly passed a law, I think two years ago, making an appropriation for a wagon-road up the Cheyenne river, through the very country we now propose to locate these Indians upon.

Mr. HOWARD. I would inquire of the honorable Senator from Missouri, the chairman of the Committee on Indian Affairs, whether that be not the fact. Did not Congress by a formal statute authorize the construction of a wagon-road through a portion of the Indian country where we had no right of passage by treaty?

Mr. HENDERSON. I believe so, but not over this route.

Mr. HOWARD. I do not care what route it was.

Mr. MORRILL, of Maine. Not where this difficulty has occurred; that is the point.

Mr. HENDERSON. I will read the act of March 3, 1865, the only act on that subject which I have been able to find:

"That the Secretary of the Interior be, and he is hereby, authorized and empowered to survey, locate, and construct the following wagon-roads"—

Note the fact that the authority is given to the Secretary of the Interior, not to the Secretary of War. The military authorities were not empowered to locate any road anywhere; but the authority was given to the Secretary of the Interior, who has charge of the Indian department—

"First. A road from Niobrara to the mouth of the Turtle Hill river, and thence, upon the most direct practicable route, to Virginia City, in Montana Territory, with a branch from the mouth of Turtle Hill river, or such other point as may be selected, to Omaha.

"Second. A road from a point at or near the mouth of the Big Sioux river, via Yankton, Dakota Territory, to a point at or near the mouth of the Big Cheyenne river; thence up said river to its main forks; thence up the north fork to a point of intersection with the road from Niobrara.

"Third. For a road from a point on the western boundary of Minnesota, to be determined by the Secretary of the Interior, to a point at or near the mouth of the Big Cheyenne river.

"Fourth. A road from Virginia City, in Montana, upon the most practicable route, to Lewiston, in Idaho."

Then the law goes on to appropriate the money to enable the Secretary of the Interior to construct these roads.

Mr. HOWARD. I am very much obliged to the honorable Senator. Now, I will ask him whether these roads, or some of them, do not pass through or are not contemplated as passing through the Indian country. I think every one of these roads is in that category.

Mr. HENDERSON. I of course am not perfectly familiar with the geography of the country; but according to my understanding of the routes indicated here, neither one of them would have gone over the land of the Ogallallas and Brulés, belonging to the Sioux tribe. Neither of those routes would have passed over their lands at all, the lands admitted to belong to them by the treaty of 1851.

Mr. HOWARD. Well, Mr. President, the Indian tribes cannot very well draw a distinc-

tion between the authority of the Secretary of the Interior and that of the Secretary of War—

Mr. HENDERSON. That was not the point. My point was that the war officers undertook to do a duty for which they had no authority, and which had never been conferred on them at all. In fact, a route was opened where there was no authority even for the Secretary of the Interior to open it; and in consequence of this act the war came.

Mr. HOWARD. Then the ground of complaint on the part of the Indians is this, I suppose: that the authority of the United States has been used in establishing roads through Indian territory where the United States had no right to penetrate. That is one ground, is it not? And further, that the United States, through some of its officers, has been building forts within the Indian Territory where the United States had no right to establish forts. That I understand to be the great ground for complaint. Well, sir, I do not suppose the Indian tribes are very careful to look into the question whether the Secretary of War or the military authorities are authorized by act of Congress to do these various things of which they complain. It is not natural they should do so. It is sufficient for them to know that the Government of the United States, through some of its functionaries, is encroaching upon its possessions. That is the point.

Mr. SHERMAN. I will reply to my friend from Michigan that the authority was exercised to a certain extent without the consent of the Indians. We attempted to open the road; that was the beginning of this trouble.

Mr. HOWARD. That was the *causa belli*. Well, sir, if our authorities have been guilty of any of these derelictions, and especially if the Congress of the United States have passed acts authorizing trespasses of this description to be committed upon the Indian Territory, it is high time that we correct the evil, and that we correct our own wrongs, before we make any particular complaints against the Indians.

Mr. HENDERSON. Now, in order to shorten this matter, will my friend from Michigan permit me to state the facts?

Mr. HOWARD. Certainly. I am anxious to get all the light I can upon the subject.

Mr. HENDERSON. There are various tribes on the road to Montana. The Sioux Indians consist of a large number of different tribes. It is a nation: there are a large number of them, some thirty or thirty-five thousand in all. There are different tribes. The Ogallalla and Brulé bands are the most numerous and the most warlike in this confederacy of tribes, and, as I understand, are the rulers, the controllers; perhaps they have as much influence as Austria and Prussia formerly had in the German Confederation over the other German States. Then there are the Minniconjongs, the Lower Brulés, the Two Kettles, the Black-foot Sioux, the Yanktonnais Sioux, and the Ogallallas of the Missouri river up about Fort Sully or Fort Rice. There are some twelve or thirteen different tribes; and we have treaty stipulations with some of those other tribes. Our treaty stipulations with the Ogallalla and Brulé tribes expired in 1866, as I explained yesterday, leaving, though, the treaty made in 1866, which the Senate has never confirmed. There was a treaty made, but they say not with their leading men, and they object to its ratification, and say it does not conform to their wishes. By that treaty we undertook to get a route across this country; but the leading members of the tribe objecting to it, it has never been ratified by the Senate; it has never been acted on, and has never become a law. Some of the other tribes I have named have treaty stipulations with the United States, and those treaty stipulations permit the Secretary of the Interior to build roads provided we pay the Indians just as we would pay any citizens of the United States for damages in crossing their lands. It requires a stipulation with them, and the Senator will by examining the treaties discover that this is the fact.

Mr. HOWARD. Have they been paid at all for those lands?

Mr. HENDERSON. The objection would have been made by these interior Indian tribes to the Secretary of War opening a road across their lands, because no payment was to be made under such an arrangement as that. The Brulé and Ogallalla bands object for two reasons: first, that neither the Secretary of the Interior nor the Secretary of War had a right to run any road there at all; and in the next place, if the Secretary of War did open it, there could be no payment made to them, and there was no proposition to pay them a dollar; hence it was that Congress had a right, as I conceive, to pass the law referred to by the Senator from Ohio; and therein he commits an error. He says that if we pass laws authorizing officers to commit trespasses we ought to stand by the officers. We never authorized the war officers to open any road at all; we authorized the Secretary of the Interior, but we had treaty stipulations with those tribes over whose lands we proposed to authorize the Secretary to open roads by which the Secretary was bound to pay them when he did open the roads.

Mr. SHERMAN. I have not as perfect a knowledge as I like to have when I speak to the Senate about a matter of fact; but I know that the Secretary of the Interior to some extent did execute this law by marking out the route, defining its course; and the first difficulty with the Indians grew out of what is called the Niobrara route. The first controversy between the Sioux bands and our own people grew out of the attempt by the Secretary of the Interior under this law to open up that road. The military authorities, as a matter of course, had to protect the people. They did not open the road, but when our people were doing what the law authorized them to do, of course the military were called upon to suppress the trouble which grew out of the opening of the Niobrara road, which, I believe, is through the very line of country occupied by the Sioux.

Mr. HENDERSON. Not by those bands of Sioux.

Mr. HOWARD. Well, Mr. President, there appears to be a cloudy state of facts here; an embroglio, which I do not pretend to understand; a sort of Gordian knot, which some are anxious to cut with the sword and some are anxious to untie honorably and skillfully. For the present I am in favor of endeavoring to untie the knot without cutting it, and if the United States, through the Secretary of the Interior, the Secretary of War, or any other of its functionaries, has committed a wrong upon the Indians, it is our duty, and ought to be our pride, to hasten to its correction; and as a preliminary step to that correction, to make an inquiry of the Indians themselves and ascertain what are the real grounds of their complaints. Let us, therefore, send a commission and confer honestly and peaceably with the chiefs and head men of those tribes, with a view to ascertain the grounds of their complaints. I guaranty, if we will send a commission of honorable men among them and hear their complaints and listen to what they have to say and to confer with them as friends, hostilities will cease and we shall thereafter have an opportunity to settle this matter in the best possible way. For the present at least, let us, if possible, abstain from rushing into a general war with these tribes, which may possibly result in their utter extermination, and which may possibly leave us, after all, in the wrong; and I do not wish to occupy that position. Let us confer with them, let us meet them; let us have an Indian talk with them and ascertain what they have to say; and then if there are any real grievances of which they have ground to complain as against us let us hasten to remove that by legislation. I am, therefore, in favor of the enactment of the first section of the bill appointing a commission. I do not care whether it is appointed by Congress or whether it is turned over to the Executive to appoint the commission. My

great object is to have a conference with the Indians, a friendly interview and a friendly understanding, so that both parties may know clearly what each one complains of. I think that would put an end to the war for the present.

We know very well, Mr. President, how it is with Indian tribes. When an insult or an injury is done to a single member of an Indian tribe, although it may be done by a humble private individual citizen of the United States, the tribe itself deems it a duty to take up the cause of the injured Indian and avenge it by a regular Indian movement. These difficulties sometimes, as we know perfectly well, result in the slaughter of men, women, and children. I desire to avoid all that. I prefer to confer with the Indians and ascertain if possible whether we can settle this thing peacefully.

I shall vote also for the motion of the Senator from Wisconsin, to strike out the second section of the bill. That second section contemplates the ultimate establishment of a large portion of the tribes now subsisting between the Rocky mountains and the Missouri on a tract of country lying north of Nebraska. I do not think the people concerned in this project will be very well content with it. I do not believe that those portions of the United States which are immediately interested in the business of emigration and settlement in the far-off West will be well content that so large a tract of country north of Nebraska as is contemplated by this section shall be thus set apart for the permanent home of the Indians. About how much is it likely that this reservation will occupy? Let us look at it.

In 1836, when General Jackson established the Cherokees and the Chickasaws and the Seminoles west of the Mississippi upon what is known as the Indian country there, there was a grant made by the United States to those several tribes in fee-simple; the extent of that grant could not be much less, if at all less, than the superficial contents of the State of Arkansas, which lies on its east. It is about the size of the State of Kansas. If you look upon the map you will discover it. It is now proposed to establish Indian tribes upon the north of Nebraska very much in the same way, and the tract of country that will necessarily be occupied if this project shall be carried out will not be much less in extent than the present State of Kansas. It will necessarily extend far up northwardly toward the national boundary line. It may, and probably will, extend north of the forty-fifth degree of north latitude. If you will look on your maps you will discover this.

Now, sir, we have granted, as I observed yesterday, to the Northern Pacific Railroad Company the right of way through all the territory of the United States upon any route which the company may select north of the forty-fifth degree of north latitude, and it is by no means impossible that it will turn out that this immense reservation in favor of those Indian tribes who are to be huddled together upon it will actually embrace the route of that road. Our faith is already pledged to that road to pass at any point the company may select north of latitude forty-five; and I have no idea of encroaching upon the rights of the company. It is our duty, of course, as every Senator knows, to preserve the privileges of that company as of all other companies intact and inviolate. I do not suppose it is in the contemplation of the honorable Senator from Maine to disturb their rights and privileges. I take it not; I hope not; but he will see at once if he glances at the map that this may be one of the results of this immense reservation. If the section is not stricken out, I shall offer an amendment so drawn as to protect and preserve the rights of that company.

But, sir, I am opposed entirely to this attempt to establish the Indian tribes in that region of country. I do not believe in it at all. I do not believe in its practicability. The Indians are a roving race. You will find it utterly impossible, by any course of education or teach-

ing or preaching, or by whatever means you may see fit to employ, to reconcile the wild Indians such as these tribes are to the business of agriculture or to the habits of civilized life. That experiment has been going on for the last two hundred years and more. It commenced with the very discovery of this country, and good men, philanthropists, Christians, missionaries of every denomination, have had the subject very much at heart, and have expended millions of dollars from the days that Elliot first commenced the attempt in Massachusetts down to the present time; and what is the present result of all these humane and philanthropic efforts to civilize and Christianize the Indian? Sir, the net result of the whole is hardly worth speaking about. From some fatality or other, no matter what, it is perfectly apparent that the North American Indian cannot be civilized, cannot be Christianized. The most effectual attempt in this line that ever was made was undoubtedly that of the Jesuits, who commenced and carried on the settlement of Canada. No enterprise of a philanthropic or religious character was ever prosecuted with as much zeal, perseverance, and self-sacrifice as was that of the Jesuits to Christianize the North American Indians, and what is the result to-day? You will find, if you go along the line of the lakes and visit the occasional Indian settlements in that vast region of country, here and there a small settlement of Indians who make a profession of the Roman Catholic religion; but they are few, they are still ignorant, very few of them depend at all upon agriculture or the habits of civilized life.

If, therefore, it be the purpose of the Senator from Maine or of any others to accomplish the civilization or Christianization of these Indian tribes by locating them on that region of country north of Nebraska, I have to say that in my humble opinion the attempt is entirely fruitless and will turn out so to be, whatever may be the amount of effort exerted in that direction.

Besides, sir, within the limits of this contemplated reservation will be, so to speak, herded together a great many thousands of Indians, composing a great many Indian tribes, many of them hostile to each other, having held hatreds, incompatible in their habits and tastes and in their feelings; and I guaranty if this project shall be carried out that there will be more destructive Indian wars within these limits than have ever taken place among the tribes who are running at large over the Plains, and those difficulties cannot fail to embroil the white population in the same wars and in the same contentions; so that, instead of having peace by the establishment of this reservation, you will have protracted wars, constantly occurring wars, and in the end you will be compelled, not only by the very necessities of the Indians themselves, but by the irresistible pressure of the white population from without, to remove them to some other locality, to take them away and lay hold of their lands you have thus reserved and sell them to the settler who is pressing onward into the West. That will be the result; and that will in a few years be the result in regard to the southern Indian reservation, known as the Indian district west of Arkansas.

It is in my judgment absolutely vain to make these attempts to reduce the Indian to civilization or to habits of agriculture. We may regret it, we may mourn over it; we may sorrow over the impracticability of the thing; but still there stands the everlasting fact proved to us by an experience of two and a half centuries that the North American Indian cannot be civilized, cannot be Christianized. We can then deal with him in such manner as shall best protect his rights and prolong his existence upon the face of the earth. He must yield before the advance of the white men. He cannot throw himself across the path of progress. It is in the very nature of things that barbarism, which is but another name for feebleness and dependence, must yield before the firm tread of the white man, carrying for-

ward, as he always will, the flag and the institutions of civilization.

Let us, therefore, commence our reforms in our Indian affairs by endeavoring to ascertain the wrongs which exist, by hearing the complaint of the Indian, by doing justice to him, and not launching out upon any experiment which in the end may make a bad matter worse.

Mr. RAMSEY. Mr. President, it seems to me that one great difficulty in considering this question in the Senate arises from the fact that we assume an obligation which is not forced upon us at all, to settle the whole Indian problem, that has been a very vexatious one from the beginning of the Government, and is likely to continue as long as an Indian remains upon the continent. I think we had better defer the settlement of that great question until an occasion when we shall have more time for deliberation than we have now. At present an Indian war is on our hands; the construction of railroads to the Pacific is interrupted; the travel across the continent is interrupted on a particular line, but nowhere else. There is no trouble elsewhere among the fifty or sixty tribes of Indians on the continent. The war is confined to the Sioux Indians, the Cheyennes, and the Arapahoes, the warlike Indians, as has been said by the Senator from Wisconsin, probably not exceeding from seven to ten thousand. Why then thus hastily, within an hour or two of our adjournment, should we assume to settle this whole, great, vexed Indian question? There is no necessity for it. Confine your commissioners to treating with the Indians you are at war with; go no further than that. They are very few. Arrange with them if you can. Let the commissioners ascertain where a proper reservation can be had for them, and indicate to them that if the Senate approves of what may be done they may be located on it. That is all you need at present, and reserve the consideration of the great question for the regular session in the winter, when you will have more time to deliberate on it.

But, sir, if the Senate were disposed to go into the question so broadly, I doubt very much whether the best men have been selected for this commission. I recognize here the names of men who are familiar with the Indian character, men who are in every way fit to be on this commission. Among them is my own constituent, General John B. Sanborn. Long acquaintance with the Indians has made him eminently fit for such a position. So with Mr. Bent, Kit Carson, and others. But as to some of the generals named, able, patriotic, and gallant men as they are, I doubt whether they have that familiarity with Indian affairs which would justify us in putting in their charge the selection of reservations, for that is all that is wanted, on which to place the hostile Indians. I think we should confine ourselves to that at this time, and next winter take up and deliberately consider a bill having for its scope and purpose the settlement of the whole Indian problem. There are now only fifteen thousand Indians to be provided for, warriors, squaws and papooses. A comparatively small reservation will answer the purpose. Why should we now arrange about the Blackfeet and the Assiniboines and the Crow Indians, and all the others that are not at war with us? Why should you want to find a reservation for them? Why provide for them in this bill? By the way, the bill is not consistent with itself.

The first section provides that the commissioners shall have power and authority to call together the chiefs and head men of such tribes and bands of Indians as are now waging war against the United States. That, I have no doubt, was the chief purpose of the committee in the introduction of the bill, and it is very proper; but the second section goes further than that, and it requires the commission to select a reservation upon the rivers named, west of the Missouri and north of the Platte, in which there shall be "a sufficient quantity of tillable land to enable the said tribes to support themselves by labor;" and the territory

when selected and the selection approved by Congress, is to remain a permanent home for the Indians. This reservation is to receive all the Indian tribes now occupying territory east of the Rocky mountains. That is a larger business than presses upon us at this time. Why should we now trouble ourselves about the Indians that are peaceable? This section includes, as I said before, the Crows, the Assiniboinés, and the Blackfeet, who are not at war with us at all, who are at home and are provided for. We are by this bill assuming a task that is not imposed upon us, that is entirely gratuitous.

Then, although we contemplate in the first instance treating only with hostile Indians, you go on and provide a reservation for Indians who are not at all hostile and who are far away from where this trouble is. The fourth section goes still further and authorizes the commissioners—

With a view to the ultimate concentration of all the Indians named in sections two and three of this act on the reservations selected, are authorized to make such treaties with tribes now at peace with the United States as will tend to facilitate that object or remove obstructions from the lines of travel aforesaid.

It seems to me we ought to confine ourselves at this time to what is the object of the committee so far as it is portrayed in the first section, and there we ought to stop; confine our action to the appointment of a commission to make arrangements with the hostile Indians, and recommend to the Senate some proper reservation for the location of these hostile Indians; and whatever other action is required in regard to Indian affairs should be deferred until the next session.

Mr. HALLAN. Mr. President, I approve heartily of the suggestions made by the Senator from Minnesota, and before I had the pleasure of hearing his remarks I had prepared an amendment, which is in strict harmony with the views he has presented; and as it is now in order, I believe, I will offer it. The proposition being to strike out the second section, I propose to amend the matter before it is stricken out by striking out all after the word "that" in the second section and inserting:

Said commissioners are required to examine and select districts of country lying north of the State of Nebraska and west of the Missouri river, of sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains and north of that river and the State of Iowa, not now peacefully residing on permanent reservations under treaty stipulations, in which district there shall be sufficient tillable and grazing land to enable said tribes respectively to support themselves by agriculture and pastoral pursuits in said districts. Said districts, when so selected and the selections approved by Congress, shall be and remain permanent homes for the said Indians to be located thereon, and no person, not members of said tribes, shall ever be permitted to enter thereon without the permission of the tribe interested, except officers and employés of the United States: *Provided*, that said districts shall be so located as not to interfere with the traveled highways located by authority of the United States, and the probable route of the Northern Pacific railroad.

Mr. MORRILL, of Maine. I do not rise to enter into the debate at any length, but to notice some few points which have been stated in the course of it, and to state the only object which I had in this bill and notice some of the objections which have been made to it.

Mr. President, it seems to me that the case before us, upon the statements and views presented by Senators, is one of first impression, as the lawyers say, and I will say in some respects of novel impression. The honorable Senator from Michigan [Mr. HOWARD] sits down with the solemn asseveration that according to the history of the Indian tribes in this country it is a settled fact that they cannot be civilized; that they are not subject to civilization; that if they are members of the human family they are not susceptible to the influences to which the human race generally yield; and from his stand-point they are to be considered as inexorably, wholly intractable and subject to some supposed fatality; and he seems to contemplate it, I do not say with any degree of equanimity and satisfaction, but as a thing settled that they are to become extinct; and

of course the American people are expected to act upon that solemn asseveration. That is to be the fundamental idea upon which we are to inaugurate a policy with regard to the Indians. He says two hundred years of American history verify that statement.

I hope that is not so, and I am the last man on earth to believe it is so. At any rate I hope I shall never come to that conclusion. Nor do I believe that American history discloses any such fact. Sir, there are civilized Indians in this country. Does the Senator know that? There are many civilized Indians. In spite of the merciless and faithless policy of this Government there are civilized Indians, and there are many of them, and there are enough to repel this assumption of the honorable Senator and to vindicate their race to a place in the scale of humanity, and show that they are the children of a common father; that they belong to human kind, that they are susceptible to its emotions, that they may be influenced by the considerations which influence other human beings. The history of American civilization shows no such thing as the honorable Senator supposes, and I am sorry that the utterance has come from him.

Sir, I have been accustomed to hear in the last twenty years this same assumption in regard to another race, that not only American history had taught that the negro was not capable of civilization, was inferior, was not a man, was not entitled to our consideration, and that three thousand years of the world's history had proved it. Who believes it? Has not the negro in the last six years shown that that was a libel on his race? Have we not stood here to verify it by our legislation, and have we not placed him now on the common scale of humanity by our laws? And that Senator has contributed as much perhaps as any other man in that direction, and now he turns upon the poor Indian, and tells you that the great American nation, which could put down gigantic rebellion and civil war, which could emancipate a race and enfranchise it and elevate it to the plane of a common humanity, and declare that it had absolute rights which should be respected and protected. He tells you that a nation which could do all that and defy the world in arms cannot protect three hundred thousand red men from the fate which he insists is inexorable and tends to their extinction! I deny it utterly.

I do not propose to legislate on any such theory, on any such assumption. The Indian is a man, and he is entitled to protection, and I never will consent to legislate on any other theory than that. He is susceptible of civilization I do not doubt. His history shows it. His race has vindicated itself amid perils and difficulties that have surrounded him ever since the dawn of civilization on this continent. We declare here now that we want an adequate portion of land on this continent, over which he roamed, and which, under God, in some sense belonged to him, and to which our fathers said he had at least the right of possession. In the bloody days of the Revolution, in the struggle for national independence they called him brother, and asked him to come to their side and vindicate our right to this continent as an inheritance to him and to us. Now, sir, when we have stripped him of his possessions, taken away his hunting grounds, and the graves of his fathers, and driven him on either side to the center of the continent to which our population is rapidly tending, the honorable Senator from Michigan says he will raise his "feeble voice" against any attempt to secure to him a foot of ground on which he shall stand and say it is his own. Well, sir, I meet him on that, and say that he is entitled to a portion of the continent, once his own, adequate to his necessities; and I take up the refrain of the honorable Senator from Massachusetts, so often repeated here and elsewhere, that the only salvation for the negro whom you have enfranchised is land to stand on; and I say the only hope for the Indian is that he shall have a piece of land on

which he shall stand, and the "border" shall not prevail against him; the nation shall stand behind him, and when population advances, shall guide it and guard it, and protect him against its invasion.

That is my doctrine, and that is the doctrine of the committee. Let this commission go anywhere within the limits of this continent, select a suitable patch of land anywhere for the Indian, where they shall say as a human being he can subsist by honest industry upon the supposition I agree that he is to turn his attention to the arts of civilization; and let it be his. That is all the committee propose.

Then, sir, we are met with other objections. This is only one of the difficulties which are supposed to be inherent in the subject. I need not say that this doctrine looks to the extinction of the Indian. The honorable Senator says he laments it. May we not be told that one of his humane views must lament such a conclusion as that. He laments it; but he sees no escape from it. It looks, and he does not disguise the fact, to the utter extinction of the entire race, and he thinks it is only a question of time. You move him to one reservation to-day, to be removed from that to-morrow at the point of the bayonet. Thus far in our career we have communicated to the Indian nothing but our vices, and the worst of them. That is the condition of the Indian to-day; and Senators rise here and excuse themselves from applying a radical remedy by the declaration that he is a barbarian and an outlaw; he is a vagabond on the earth; he hath no abiding place; it is fated that he is to be doomed to utter extinction!

My honorable friend from Ohio not now in his seat, [Mr. SHERMAN,] said a good many things with which I agree; but he said a good many other things to which I dissent. To the sentiments of this honorable Senator, I have very little to reply; I sympathize with very much that he said; but to the policy which he proposes, I am utterly opposed, as inadequate in the first place to meet the case; and in the second, utterly impracticable. What is it? He says the Indians must be absorbed. He did not explain what he meant by absorption; but the inferences from what he did say are clear enough; it means extinction. They are correlative terms on his argument. How are they to be absorbed? By what communities absorbed? Have they not been ejected from every civil and political community organized? From all the old States? Is not the great struggle here to-day, by every State that we have recently organized, to eject them? What is the voice of Kansas? They cannot live in Kansas. The Indians there are civilized, many of them; many of them own farms, cultivate lands; but they cannot live there.

Mr. POMEROY. We have no quarrel with the Indians who live in my State, no trouble with them.

Mr. MORRILL, of Maine. No quarrel at all! The records of the Senate show what the policy of Kansas is. It is to eject all these Indian tribes upon the idea that their existence is incompatible with that of the State, with that high civilization of which we boast. That is the fact. I am not complaining of it. The Senator ought not to feel that I am criticising his State offensively. I am only stating the fact.

Mr. POMEROY. I only wish to say that the reservations in my State are always peaceable and quiet. We have no fighting.

Mr. MORRILL, of Maine. Undoubtedly.

Mr. POMEROY. The tribes themselves ask to be removed and to go elsewhere.

Mr. MORRILL, of Maine. Certainly they ask to be removed, and so they have been asking ever since the Pilgrim Fathers landed, to be removed out of our way to some inch of ground on this continent to which they could go and be secure in their mode of life. Does the Senator from Kansas mean to say that the civilization of Kansas has nothing to do with the making it so uncomfortable to live in Kansas that it is better for them to remove? He will

not say that. There is the same state of things in Kansas, the same irrepressible conflict that has been enacted in all the States. The Indian has no absolute rights conceded to him. The high morality and civilization of this nation have not in the past guaranteed to him any rights of person or property, do not to-day, and I fear you will not get an expression of this Senate to-day or at any other time that it is possible for the savage to be protected in any absolute right whatever, either of person or property. He has no rights, the Senate has said over and over again by its policy, which the American nation can respect. By virtue of its necessities, by virtue of that great law of manifest destiny under which we are developing our institutions, he cannot have protection. We want his possessions; the presence of the Indian is incompatible with our civilization; he is a savage, he is a barbarian, which the honorable Senator from Michigan explains to be weakness, and therefore he is to be trodden under foot of men! Sir, I protest against all that sort of legislation.

Mr. President, this idea of absorption is a delusion and a snare. What community will absorb him? Will you leave him to those populations that are forming on the border? They will absorb him with a vengeance. They are absorbing him. They are communicating to him the worst vices that afflict the human race, and he is perishing from the fatal contact of our population. Everybody knows that. What community, then, will absorb him and take to its bosom the remnant of these tribes? Will New York take those whom she expelled? Not a bit of it. Will Indiana, will Illinois, will any State take them? Not one. They have gone from those communities toward the sunset, and gone forever.

So, Mr. President, I deprecate this idea of absorption as a delusion. I agree that it would have been beneficent, and eminently fit and wise in the beginning; but you have gone too far for that now. You have expelled them from every political and civil community, excepting those only on the extreme border; and you have measures now before the Senate, to which I am not permitted to allude in detail, which contemplate excluding them from the remainder of those communities. Then, sir, there is nothing left of this question of absorption. They cannot be taken back into these organized communities. Nobody expects to take them. How, then, are they to be absorbed? The honorable Senator from Ohio did not explain; but there is only one way possible, and that is, that the advancing current of population, as it reaches the Territories, is to harmonize with these Indians, indoctrinate them with the principles of our civilization, imbue them with the sentiments of Christianity, inculcate in them the loftiest conceptions of our institutions, a love of letters and the arts of civilized life, and so absorb and assimilate them. Is anybody childish enough to indulge in such speculations? Does the spirit of the border justify us in any such conclusion as that? Is the spirit of the border eminently Christian, eminently forbearing, eminently loving, and eminently kind to the Indian? Not a bit of it. The sentiment is, "he is a savage; he is a barbarian; a bounty on his head; is his presence compatible with our rights?" That is the spirit of the border. Nobody will deny that. And that spirit is to absorb him! I have already said what that means; it means extinction. Absorption is the Indian's scalp for a bounty. Now I ask Senators if they are willing to vote for that absorption? If so, the theory of the honorable Senator from Ohio is to be adopted.

But, mark you, how guarded he is. He goes for this thing as a temporary expedient. He absorbs them only for a temporary expedient. He evidently looks to that sunset to which they are being driven, and beyond which there is nothing left of the race. Then there is the theory of my honorable friend from Michigan, who believes that we must contemplate with as much serenity as it is practicable for an Amer-

ican Senator to observe, the utter extinction of the race, yielding to a fate which he assumes is theirs, contemplate their doom, though he does not say he would hasten it. I waited anxiously to see if I could not gather from something he did say that he would do anything to avert it.

These are the theories on which this bill is resisted; these are the theories on which now, as in the past, and I fear in the future, all legislation looking to establishing the Indian on any square foot of ground on this continent, and seeing that it is his, and shall be to him and his children, and he shall be protected in it and in his person, will be rendered abortive. I say so, Mr. President, because I look at this question in a practical way, in some sense. I have not shut my eyes to what I see around us.

The Senator from Michigan says one thing is clear; amid all this doubt and diversity of opinion and sentiment, speculation, and belief, one thing is clear: there is conflict on the border. Well, that is pretty clear; and I believe another honorable Senator from Minnesota has declared to us that there is war on the border. In some sense there is war, but in the sense which I look at it not war—conflict, not war. It does not come up to the dignity of war. It lacks the necessary parties to make it tolerable war even.

Now, sir, one thing that fills me with despair is the spirit in which the constituted authorities of this Government treat this question. It is undoubtedly true that our arms are turned against certain bands of the savages at this time on the frontier. Why? Because they have gone to war with us? Nobody pretends it. It would be mockery to say so. Has any Indian nation with which we have a treaty, or any band with which we have a treaty, proved faithless to that treaty and gone to war? Nobody asserts it and nobody believes it. Have they committed aggressions in the first place on us, either on our overland travel or on our railroad enterprises? Not a bit of it. The records of the Senate flatly contradict the idea of aggression on their part. If there is conflict we are the aggressors before the nation and before the civilized world. If there is conflict we induced it; if there is war we made it. That is the condition of things, and no man will gainsay it.

Well, sir, how did conflict come about? My honorable friend from Missouri yesterday told you better than I can how it happened; but I am dealing with the question of the method of conducting the affairs of the border by the military, and do not care to be diverted from it just at this moment. General Pope, in command of this region of country, took it upon himself to explain in January last to the General of the Army the difficulties under which he found himself; and what is his account of them? He says:

"A reference to my communications on this subject for the past twelve months will exhibit the fact that I repeatedly warned the Government that the Indian war now upon us was inevitable, and that no reliance whatever could be placed upon treaties of peace such as had been negotiated."

Here you have the subject-matter brought distinctly to the attention of the General and of the nation, that there were Indian hostilities, that there was conflict in this region of country, and that it was inevitable, as he says, from the manner in which our treaties had been negotiated. Who was at fault? He says:

"The peace commissioners promise the Indian, in the first place, that the whites shall not go into the Indian country, knowing well that it is impossible to fulfill such a promise."

Who knows that? Who is authorized to say that for the American people? Who is authorized to give us the bad eminence before the civilized nations of the earth that we send out commissioners to make treaties with the Indians, and the Senate ratifies the treaties, and before the American people we knowingly violate them, we know when we make the treaties we will violate them, and we do not intend to keep faith with the Indians; neither the peace

commissioners nor Congress intend to keep faith with them? I should like to know who authorized General Pope to make that criticism either upon Congress, the peace commissioners, or the American people. If I were to characterize it, I should do so in language that General Pope might think offensive. I am sure I cannot brand it as I feel without making him sensible that he had committed a very great and grave offense against the American people and the constituted authorities when he uttered such an assumption.

We make treaties, and a major general of the Army of the United States tells his commanding general and the American people that we do not intend to keep them, for that is the upshot of it. We do not intend to keep them; we knew we would not keep them when we made them; and therefore he believes himself the instrument in the hands of a perfidious people to outrage the rights of these Indians, and this is his justification. Yes, he does not deny that he has outraged the rights of these people; he does not deny that he has made war upon them and violated the stipulations of a solemn treaty. He admits it; and what is his plea?

Why, the treaty was not made to be kept; everybody knows it was not made to be kept; the peace commissioners did not mean to keep it when they made it, and the Senate did not mean to keep it when they ratified it. That is the doctrine, and that is the language of a major general of the Army to his General-in-Chief, and he has not been cashiered; nay, sir, he has not been reprimanded in orders, that I have heard of. Why can you not keep it, General Pope? It was not made to be kept. Well why was it not made to be kept? He says everybody knows you cannot keep such a treaty. Why not? Such is the rapacity of the American people, such is the spirit of the border, such is the character of that course of empire which is making its way over the continent, that it crushes everything that stands in its way, irrespective of the laws of God and man. That is represented to be American civilization, the Christian civilization of the nineteenth century. We have concentrated an inexorable force on the border, growing out of our civilization, which has become our master; not only master of the savage, but the master of the Government as well; and your major general tells you so. He virtually says, "I am not obeying orders; I am obeying the manifest destiny; which I interpret to mean that there is no power, no authority in this nation to protect the Indian; nobody expects it." That is the way he interprets the American faith to the savage. Sir, need I stand here to say that that is a libel on this nation and a libel on the American people? If I were to say less than that and allude to it at all, I should not say what I think.

We make a treaty with the Indians in solemn faith; close these doors from the world, such is the solemn character of our work, and only open them when we have ratified and sealed our covenant vows with the Indian that he shall have certain rights in certain localities, in consideration of the fact that he is a man, in consideration of the fact that our forefathers recognized him as a brother, and in consideration of the fact that we hold the executive head of the nation out to him as his great father. In consideration, also, of the humanities of the age we say: "We will pledge our solemn vows that you shall have certain rights, shall be protected in them, and no white man's foot shall intrude without your consent; and if he does, refer your question to the national authorities and you shall have protection. Yet your major general says it cannot be done. You send him to the frontier, and he takes not the law, not the spirit of the nation, not its sense of justice, not the solemn treaty stipulation, for his guide and direction; but, in the spirit of the border, hunts the Indian, makes war on him, deprives him of his rights, and all in the name of a supposed inevitable destiny, manifest destiny, and seems neither to have respect



for treaties, nor laws, nor the good faith of the nation, nor its honor, nor humanity. He seems to feel as if in the service of the border. That is what his words imply. We are going forward in the spirit of the border, and on this showing your treaties are a lie, a mockery, and a shame. I was sorry to hear the honorable Senator from Ohio make a solemn confession, not only that this was so now, but that it has been so in all the past, and must be so in the future. If, says the honorable Senator, you pass this bill, it is all as a rope of sand; it will be violated. Senators, I ask you to pronounce a word now which shall not be violated. I ask you to speak a word now and establish a right so definite, certain, and absolute, in regard to the Indian, that there is no power on earth, the right being on our side, which can violate it with impunity.

The savage is in extremity. Your population has driven him into the very fastnesses of the center of the continent where there is no escape, where he has not even the poor pitiful prospect of extinction in the western sea, the Pacific ocean, at no remote day. The peril is imminent on him this moment. You have placed him in an extremity. You are approaching him on both sides with resistless columns of population; civilization with a flaming sword advances on him from both oceans. You have driven him into the fastnesses, and you are asked to say that you will give him one foot of land on which he can stand and be safe; and the reply is, "absorb him;" "his inevitable doom is extinction;" "we may want to build a railroad"—God only knows where. The honorable Senator from Michigan says we have got large rights upon the northern border, railroad rights. What is humanity? Sir, I do not ask you to give up railroads; I do not ask you to appropriate any considerable portion of the continent; I do not ask you to strip any individual white man or anybody else of his rights; I only say, take a commission of your own choice; take a commission, not of the humanitarian, "sickly sentimentality" of the country, but take men of iron will, take men who will be governed by their judgment and intellect alone, and instruct them to find some place, however small, where these people can be gathered together and be safe from the invasions that are made upon them, be safe from that spirit which, while my honorable friend from Michigan does not invoke, he gives full play.

Nor, sir, is there the poor justification or apology even for General Pope in the idea that he supposed he was executing a law and was not called upon to be technical and lawyer-like as to whether the law or the treaty was supreme. He does not seem to make that plea. If he had had my honorable friend from Ohio for counsel at an early period he would have stood a great deal better before the nation. He puts in an ingenious and lawyer-like plea, that he was executing a law and blundered on the law, not remembering the treaty. He blundered on the Gospel: there is the trouble. He blundered on those instincts and intuitions which are common to men. He blundered on the great law of right reason, and of course he is confounded and the end is confusion, as it ever must be. It will go down to posterity as a blot and a stain on him, and on us, too, if we do not wash it out and rebuke it. General Pope does not put in the plea of my honorable friend that he blundered on the law. He puts it on the broad ground that he is faithless because the nation is faithless, and the nation is faithless on account of its creed; the nation is faithless on the ground that the Indian has no rights, that he is a doomed man, and we are not bound as statesmen to interpose to save him from destruction. That is his sin; that is his difficulty, that he mistakes these men for beasts of prey, and not as men entitled to be treated as human beings. That is his great mistake, a grievous mistake, a mistake gratuitously made. He traveled out of the way to make it. He made his own record, taking counsel not of the Government, not of his su-

perior, not of the spirit of the age, but he takes it of the worst passions that gather always upon the advance guard in these great marches of population which go forward to subdue and populate the earth.

Now, Mr. President, there is not the slightest excuse or pretense for this war. We are not called upon to appropriate one dollar for war; and here a word of reply to the remark of the honorable Senator from Minnesota. There is no war in this country with the Indians in any proper sense or in any enlarged or just sense whatever. Who says there is war?

Mr. RAMSEY. In this very bill you say it.

Mr. MORRILL, of Maine. Have it stricken out then.

Mr. RAMSEY. The first section of the bill, the eleventh line, says it.

Mr. MORRILL, of Maine. I wonder the honorable Senator has not had it stricken out; it is a misnomer; it does not apply to our situation or condition; it does not describe it at all. Who says there is war? Who ought to know? The President of the United States. Has he said anything about it? Not a word. The first thing we did when we met in session here was to send a committee to the President to know if he had any communication to make to us. Now, if war on the border had sprung up since we left, was it not his duty to make that communication? Certainly it was. As he did not make that, we have no right to presume it.

The Secretary of War has been called upon on this subject ten days ago to tell us whether there was war on the border. He is silent; he has sent no communication in reply. The General of the Army makes no communication, gives you no hint that there is war which requires the interference of Congress. General Sherman, on the other hand, in command, cognizant of the whole thing, it being all under his command, says the nation has not a decent excuse for war. Of course he is not making it then. General Sherman is not the man to do indecent things anyway; and in a very recent communication he tells the nation there is not a decent excuse for making war on the Indians, and of course he is not waging it, and of course he is not invoking it, and of course he does not want our aid on that subject. Is not that so? But still we have the cry of war; I know we have. I believe he says it is for us to choose whether we will have war. We are all in the wrong now. If we choose to prosecute the wrong we can have war. If you choose to return to your strict treaty stipulations, if you choose to do justice to the Indian, you can have peace. That is his language; that is his doctrine; that is my belief. Whence, then, this cry on the border? It is the spirit of the border. I do not mean to say that in any offensive sense at all. I do not mean to characterize the spirit of the border as infernal, reckless. I know every community has its reckless men and bad men, and I know that the bold and daring and reckless are very likely to crowd into the advance guard of population which makes its way. That is the way I account for it. The great bulk of the people on the border are as humane, I do not doubt, as most men, most communities; but the adventurers and the reckless from all the land and from all other lands crowd in and crowd on in this great march, eager to pursue it irrespective of the rights of the Indian; and so he is trampled in the dust, and so conflict comes; and that is all the war there is. It is in no sense a war; it is a conflict on the border, and our responsibility is about it; that instead of pursuing the Indian when he has not violated our treaties, we did not turn our arms to the rear and march back upon the border and command order and obedience, rebuke the spirit of the border and say, "Peace, be still;" and this nation can command it and ought to command it. That is the remedy for what afflicts the nation, disturbs its repose and exhausts its treasury.

Mr. President, I have been drawn into re-

marks to a much greater extent than I contemplated when I rose, and I conclude by saying that there is only one feature in this bill I care anything for. You may fix the limits as you please. This bill has been criticised in various directions. Some say it is broad. Some say that the second section of the bill contemplates the location of the Indians in an inhospitable, bad country, that it will be impossible for them to survive. I hardly need say after what I have said already that that is not my purpose, that is no part of the purpose of the committee. If there is danger of that I should hope the Senate would adopt the broader view of my honorable friend from Wisconsin, [Mr. Howe,] which is that we should not limit the commission, but allow them to find a place for those Indians anywhere. I believe that is the view of the committee. These limitations in the bill were only directory: they should be called upon to examine those particular localities with the view of finding some locality outside of the immediate collision, because of the railway enterprises which are going forward, and to which, when they were removed, they should be entirely set aside from all those enterprises and not liable thereafter to come in contact with our people. On all that part of the bill I have not a word to say. Gentlemen may direct this commission wherever they please and to whatever section of the continent they please. The only interest I take in this bill is the brief amendment I submitted yesterday, and that is that when they do locate them, when they do find a locality which they say is suitable, which may be cultivated as a means of support, that it shall be to them a home; they shall not be disturbed by the settler; the lands shall be withdrawn from settlement; they shall not be open to the settler; they shall be open to no interference and no intrusion save and except only that general jurisdiction which the Government of the United States ought never to part with over all its people, both denizens and citizens. That is all I invoke for the Indian. All the rest I care nothing for. I make no issue with any Senator who thinks it is too narrow or too broad. Go where you please; let your commission locate where in their judgment it is practicable for these people to live and secure it to them, and I am content. My antagonism is with the doctrine which has been promulgated here that consigns them to utter extinction. Against that I have always protested, I protest now, and I trust in God I shall never live to see the day when I will not protest here or elsewhere.

Mr. THAYER. Mr. President, it is not my desire to be a participant to any great extent in the discussions of this body, at least so soon after entering it; but I hope I shall be indulged if I occupy a very brief portion of the time of the Senate in saying a few words on this occasion, especially as the border from which I come has been the subject of the kind remarks of my friend from Maine.

I think it must be apparent to every member of the Senate that there is a condition of things on the border which should arrest the attention of this Congress. I think the reports of our Government commissioners, the reports of our military officers, and the statements of newspaper reports, (though the latter may be somewhat exaggerated,) furnish sufficient evidence to justify this Congress in taking some action in reference to the subject. I had hoped that the Senate would approach it calmly, dispassionately, and without prejudice. I certainly feel conscious of having no prejudice in the matter, and I desire to consider it in that spirit.

Now, there is a war there, no matter if it may not come up to our ideas of civilized war. There is a kind of warfare existing there which should be arrested. The necessity of the case appeals to this Congress and to every member of it to adopt some legislation which shall bring it to a termination. It is with that purpose that I rise to ask the Senate to give this bill, or a bill similar to it, favorable consideration. I do not come here to advocate the

extermination of the Indians; and if my friend from Maine would take a trip to the border and spend a year there, or even six months, I pledge him my word, if it is worth anything, that he would come back a new man in reference to this question, renewed in heart and spirit; he would come back with entirely different notions in regard to the border and to this Indian question. How can one understand the question clearly; how can one be thoroughly posted who has never seen that region of country and only judges by reports in the newspapers? I have seen dispatch after dispatch sent abroad over this country which gave an entirely erroneous view as to the condition of things and as to the causes of these difficulties. No matter who may be to blame, whether the white people or the Indians, the necessity comes home to us to act so as to arrest the existing state of things. We had better spend a million to-day in carrying out a system of policy that shall put an end to these difficulties than five hundred millions two years hence; for if this state of things continues it will come to that.

I grant you there has been no declaration of war on the part of Congress, and no proclamation has been issued by the President declaring the existence of a state of hostilities; but there is a hostile condition of things there, which the border appeals to Congress to arrest. If there is to be a war, the people of the border want a short, quick, sharp, incisive, and decisive campaign, and want the matter ended. I believe no instructions whatever have been given to General Sherman as to whether he shall carry on a war or not. He is ordered out with his forces to protect the settlers and prevent Indian hostilities; and yet nothing has been laid down by Congress as to what shall be done or what shall not be done. I do not believe General Sherman wants a war. I have in my hand a letter received from him a few days ago, in which he says:

"In the mean time I trust Congress will prescribe clearly by law what the military ought to do, and say who shall declare war against any and what Indians. This should not be left an open question."

He has only troops enough to guard the two lines of railroad, and is not even able to afford protection to them at all points. Yet he is doing his utmost to accomplish that object.

The impression has been generally circulated through the eastern States, and has been advanced here, that the people of the border are in favor of a war. I find in the New York Tribune of the 11th of June what purports to be a statement of the report of General Buford, one of the commissioners to investigate the Fort Phil. Kearney massacre, which I will read:

"General N. B. Buford, one of the special commissioners appointed to visit Dakota and investigate the Fort Phil. Kearney massacre, says there is no necessity for an Indian war, and there would be none if the Indians were protected from the rapacity and rascality of frontier settlers, whose interests are to bring on a war, and supply our armies with subsistence at exorbitant prices. In fact, the present war which is upon us is nothing but a raid upon the Treasury of the United States by the frontiersmen and Army contractors. These men band together and make false reports of alleged massacres by Indians, and then call upon the Government to send troops to protect them, when in fact they only ask for them that they may grow rich from the supplies furnished them. These men see that the Pacific railroad is fast driving them out of business, because it furnished supplies cheaper and with more dispatch to our military stations than the ranche traders could do; therefore they get up the war so that the Indians can be driven away from the lines of railroad, and our Army following them must be supplied as they were heretofore. To show you the enormous profits made by this class of people, it need only be stated that at Fort Laramie our Government pays four dollars per bushel for oats, five dollars for corn, and one hundred and twenty-five dollars per ton for hay. These prices are obtained by the sellers, creating the impression that they run hair-breadth escapes on the route to camp, when they are in fact the instigators of the hostilities. The employes of the Union Pacific railroad are also advocates of war, because the transportation of troops and passengers would put into the treasury of the company large sums of money."

Whereupon the Tribune says:

"Not long ago a military commission was appointed to investigate Indian affairs, taking the massacre at Fort Kearney for a text. Though this event was deemed at the time of its occurrence an exasperation of the first magnitude, the commissioners can only report that the Indians are not greatly to blame. We

infer this from the remark of one of the most prominent of their number, General Buford, that there is no present need for an Indian war, and that there would be none at any time could the savages be protected from foes still more savage in effect than themselves—we mean the merciless and dishonest frontiersman and the swindling Army contractor, who between them manage to sophisticate a war into existence, not more at the expense of the Indian, whom they rob, than at the expense of the Army, by which they profit enormously in the business of supplies."

I give that as one specimen of the kind of reports that are sent over the country. I observed also a few weeks ago the following statement in a dispatch from Washington to the New York Tribune:

"Senator HENDERSON, chairman of the Indian Committee, who has been out on the Plains with General Hancock, says half the reports concerning Indian depredations are false, gotten up to make money by putting the Government to cost. It cost the Government in 1865 \$23,000,000 to carry on the Indian war, and \$3,000,000 alone was paid one firm on the Kansas border for the transportation of parties whom the newspapers call escorts; and traders are engaged in provoking the Indians to hostilities."

I wish to ask the chairman of the Committee on Indian Affairs whether he was out with General Hancock on any expedition?

Mr. HENDERSON. I will state that I met General Hancock at Fort Harker. I did not go any further than Fort Harker. I was not there with a view of looking into Indian matters. I was out on an excursion with a company. I suppose the statement to which the Senator refers comes from a conversation which I had at St. Louis with perhaps a newspaper reporter; I did not know at the time that he was a newspaper reporter. I do not recollect all the facts stated in the extract which has been read, but there are some statements there of which I have some remembrance. Does the Senator desire to know whether my opinion is in accordance with the statement?

Mr. THAYER. The idea is here given out that the chairman of the Committee on Indian Affairs had been out on an Indian expedition with General Hancock.

Mr. HENDERSON. I was not.

Mr. THAYER. That impression went abroad, and I wished to call the Senator's attention to it.

Mr. HENDERSON. I will state to the Senator that I made no investigation of Indian matters, but was on an excursion there, not with a view of looking into Indian affairs. I met General Hancock at Fort Leavenworth first. I had no conversation with him there. I met him again at Fort Harker, where I did have some conversation on Indian affairs. Many of the things stated in the extract which the Senator has read are, I think, true; some of them, perhaps, are not true. My impression is that a great many reports of Indian barbarities are wholly untrue, and they are gotten up for a purpose. For instance, the Senator will remember that it was stated a very short time ago that a steamboat had been seized by the Indians on the Missouri river, and that all the passengers and crew had been murdered and scalped, and the boat burned. It turned out in the course of a few days that it was all a lie, gotten up for a purpose, and that no steamboat had been seized by the Indians at all. It is also true that a firm at Leavenworth city last year or the year before, I believe last year, was paid some three millions for transportation. I could very well conceive how a firm of that sort, expecting to transport overland a large amount of matter for the Army, would be interested in sending these telegraphic reports abroad; not that to my knowledge they had done so. I will state further that my impressions then were and now are that a war was unnecessary, and that it could have been avoided, and that we can avoid it now and save a great deal of expense, and that many of these reports ought to have no attention paid to them.

Mr. THAYER. The Senator does not deny, for I know he has too much evidence in his possession not to be convinced that there is a state of hostilities on these lines of travel.

Mr. HENDERSON. No doubt about that.

Mr. THAYER. You have most complete testimony bearing on that. I hold in my hand an official statement from the engineer of the

Union Pacific railroad giving a list of killed and wounded within a short time:

CAMP No. 13, FORT WALLACE, June 29, 1867.

DEAR SIR: As a matter of record, I send you the following statement of persons killed and wounded by the Indians at and in the vicinity of this post during the month of June, and the month is not yet ended:

**Soldiers**—William H. Dummel, sergeant, company G, seventh cavalry, killed; Frederick Wyllyams, sergeant, company G, seventh cavalry, killed; James Douglass, corporal, company G, seventh cavalry, killed; James K. Ludlow, corporal, company G, seventh cavalry, badly wounded; Charles Clarke, bugler, company G, seventh cavalry, killed; Frederick A. Bacon, private, company I, seventh cavalry, killed; Peter Britton, private, company G, seventh cavalry, badly wounded; John Heaney, private, company L, seventh cavalry, badly wounded; John G. Hammond, private, company G, seventh cavalry, badly wounded; Jacob S. Miller, private, company E, third infantry, killed; Edward McNally, private, company E, third infantry, killed; Frank Rheamer, private, company G, seventh cavalry, killed; Hugh Riley, private, company I, seventh cavalry, badly wounded; Nathan Wall, private, company G, seventh cavalry, killed; Thomas Townley, private, company I, seventh cavalry, wounded; Joseph Woldroff, private, company E, third infantry, killed; — Welsh, private, company G, seventh cavalry, killed; George Gaffney, private, company L, seventh cavalry, wounded; — Morehouse, private, company E, third infantry, wounded; John Rivers, corporal, company L, seventh cavalry, wounded.

**Citizens**—Warren Faer, killed; — Thompson, killed; two men unknown traveling east from Denver, killed; — McCarthy, mortally wounded; Mr. Brownell (passenger in coach bound west) killed; Mr. Blake, wounded; unknown, (another passenger), wounded.

Making a total of fifteen killed and twelve wounded—pretty well for one locality in less than a month in time of peace. Most of the soldiers were killed in the two fights that have occurred here at the fort. The first occurred on the 21st, and the last on the 25th instant.

We are actually in a state of siege here, and cannot send out a man or team two miles from the fort without an escort. We have no communication with the outside world and do not know what is going on around us. The fort was considered in great and constant danger before our arrival, and even now it is not considered safe.

The last stage from the East arrived on the 25th; the one previous to that on the 13th ultimo. The last stage from the West arrived on the 23d, and the one before that on the 17th ultimo. The stage station east of here, Henshaw Springs, was attacked on the 21st, and the one west of here, Pond Creek, on the 25th.

Over one hundred thousand dollars worth of property belonging to the stage company has been taken or destroyed during the month of June between Chalk Bluff and Lake stations—a distance of one hundred and eighty miles. All this will have to be paid for by the United States.

Without being tedious and presenting all the facts in the case, I think I have shown enough to convince any one that if this route is to be kept open it must be furnished with additional military protection; that it was very detrimental to our interests to take the troops from the Smoky Hill route to protect the Platte route, and that the interests of our road and the country contiguous to our line require that these troops should be returned here at once and even an additional force sent here.

Very respectfully,

W. W. WRIGHT,  
Chief Engineer.

JOHN D. PERRY, Esq., President.

A true copy:

JOHN D. PERRY, President.

The chairman of the Committee on Indian Affairs has abundant documentary evidence in his possession showing that every day men are killed on the line of these two roads. It cannot be denied. Then there is a State of warfare there; I care not whether it is civilized warfare or barbarous warfare, a state of hostilities exist. It is true that it is desirable to know who is responsible for it; but that is not the question now to be settled. I ask Congress, shall this state of things continue or not? That is what interests us on the border.

I alluded to a statement attributed to the Senator from Missouri, as to a contractor who is alleged to have received \$3,000,000. I presume it is so, for the transportation of freight over these routes last year was immense. I alluded to it for the reason that the person referred to is a citizen of Philadelphia, and not a citizen of the border.

Mr. POMEROY. If the Senator will allow me, I will state that the contractors are all broke. They have taken contracts at \$1 60 per hundred pounds, and are paying \$2 60 themselves. Wells, Fargo & Co. would give \$1,000,000 to-day to get out of their contract. Instead of making money, they are being broke. There is not a man there who wants the contract at the prices they took it.

Mr. THAYER. I was coming to that very point. The quartermaster of the Department of the Platte told me, before I left my home at Omaha, that Wells, Fargo & Co., then in the early part of June, were in to the tune of over five hundred thousand dollars dead loss. And yet my friend from Maine says that the contractors want an Indian war.

Mr. MORRILL, of Maine. Oh, no; I did not say that.

Mr. THAYER. I beg the Senator's pardon. He did not make that declaration; but that statement is being circulated all over the East, and is the foundation for these homilies in regard to the people of the border.

Mr. MORRILL, of Maine. I beg the Senator to understand that on that question there is not the slightest testimony before the committee, and our people do not know anything about it.

Mr. THAYER. I read that statement from one of the leading papers of New York city—the New York Tribune; and I could refer to a similar article in the Boston Journal, which certainly does circulate in the State of Maine. That article was founded on this alleged report of General Buford. And then it appealed to the country somewhat in this style: "Here, you see, it is the people of the border who get up these Indian wars." This brings to my mind another incident. At the council between General Hancock and the Indian chief by the name of Satanter, Colonel Leavenworth, the agent for his tribe, was present. The Indian came in, and in the presence of Colonel Leavenworth charged him with cheating them out of their money. That went abroad and was the subject of remark. It was pointed to as evidence of how these wars are gotten up. Now, sir, General Sherman told me a short time ago that he indorsed exactly what Colonel Leavenworth did in that particular instance; that he withheld the money with General Sherman's approval, because these Indians had captured the Box family in Texas, had killed the father, and had kept the daughters captive, who had endured barbarities which cannot be named here; and the agent withheld their annuities, and General Sherman approved of his action. And yet the charge went abroad over the country that Colonel Leavenworth had defrauded the Indians. I refer to Colonel Leavenworth only in connection with that one transaction. I know nothing in regard to him in reference to other matters.

But to come back to the question as to the origin of this war and the allegation that it is gotten up by the people on the border, by the frontiersmen, I stand here to say to the Senate, speaking in behalf of every class of the community on the border, speaking in behalf of every industrial pursuit, that nothing can be more abhorrent, nothing more dreaded by them than an Indian war. Why, sir, until these hostilities upon the frontier everything was prosperous there; the commerce on the Plains had risen to an immense magnitude; we could talk about the commerce of the Plains as well as you could talk of the commerce of the seas and the lakes. There were men who went out upon the Plains and did business in the mountains. You could go in no direction across these wide Plains that you did not see long caravans of trains bearing merchandise from all the points of the Missouri to all the Territories in the mountains and away to the Northwest. It is the main source of our income; it is the market for our productive industry; and to send it forth to this nation that we frontiersmen are in for a war to make money is the most atrocious calumny of the nineteenth century. Why, sir, the very gamblers and thieves whom Chicago, and St. Louis and New York and Cincinnati and Boston and Philadelphia have failed to hang dread an Indian war. We have some of that class of people there. I am sorry for it, but it is because you in the East have not done your duty and hung them. They fled out there to escape, but they do not represent the border. My friend from New York [Mr. CONKLING] suggests that they do

not come from New York. If so, it is because they treat them so kindly there that they do not have to run away; they vote the right way in New York city. [Laughter.]

Let me say to my friend from Maine that if he would visit the border he would change his views somewhat. And there is no one whom I would welcome there more cordially than I would him; for there is no man who is actuated more by high and honorable impulses than he is. I tell him as a friend, frankly, without prejudice, that he would come back with different ideas as to that section of country. He talks about Christianity and about civilization. Why, sir, from whence did the people of the border come? They came from New England. Men have settled there, whom I have the honor now in part to represent, whom he has heretofore represented on this floor. The people of the border are bone of your bone and flesh of your flesh. They have carried the same civilization which has marked your progress in Maine, in Massachusetts, in New York, and Ohio, on to the border. Sir, I have seen a Christian people there coming from their humble cabins, meeting at cross-roads, or by-roads, in an improvised school-house; and I have seen them there raise the voice of thanksgiving and the song of praise to Almighty God, and worship Him with as much feeling and as much sincerity as is manifested by those who worship in the gorgeous tabernacles of your eastern cities. You will find there an humble Christianity; but it is as pure as that which dwells in the East. You will find there as enlightened, as intelligent, as honest a people as you find in any State of the Union. I assert this in behalf of the people of the border, of Kansas and Nebraska, and the Territories beyond, because I have a personal knowledge which leads me to the conviction that it is true. In the name of every class of people out there, good and bad, I tell the Senate and I tell the country that they dread an Indian war, because it is like an incubus upon them and their prosperity.

Sir, now, all along the valley of the Platte and the Smoky Hill route, the lines are marked with ruin, desolation, and death. The reports are borne to you by every mail from the West. You may tell me they are exaggerated. I will strike off one half and then appeal to Congress, and appeal to the country, and ask if there is not a necessity for legislation in this matter. Not long ago the surveyor-in-chief of the party on the line of the Union Pacific railroad from Omaha, while surveying the line of the route, while carrying out the provisions of the very act of Congress for which my friend from Maine voted, was waylaid by a party of Indians and stealthily murdered. He was engaged in carrying forward that great enterprise which this Congress, which this Government, which this nation demands, ay, which the world demands, for it is continental; it is the world's highway. You have ordered it to be built. If there is a wrong in its being carried out, let the wrong come home to those who voted for it, and my friend from Maine among others.

Mr. MORRILL, of Maine. If my honorable friend will examine the law he will find that the company were not to exercise their rights under the law, to run their railroad through a country belonging to Indians, unless upon the express condition of payment. Not the first step was to be taken until the Indians had their rights.

Mr. POMEROY. Does the Senator say we authorized payment to the Indians?

Mr. MORRILL, of Maine. I say the treaty stipulations contemplated payment to the Indians.

Mr. POMEROY. But we are speaking of the act of Congress authorizing the construction of the road.

Mr. MORRILL, of Maine. But the Senator from Nebraska argues that Congress chartered a company with the right to build a railroad to the Pacific, and that therefore we gave power to that company to override a treaty stipulation.

Mr. POMEROY. The Senator from Nebraska was only arguing what the act of Congress did; not the treaty. He said that by law of Congress the company were authorized to build the road.

Mr. MORRILL, of Maine. And I was explaining that the law of Congress gave no such authority, because there was an antecedent and superior treaty stipulation. That is the answer.

Mr. THAYER. I will say to my friend from Maine that that railroad company can have no transactions with the Indians. If there has been any failure it has been on the part of the Government. They were obliged to commence within a certain time and to build the road within ten years, or forfeit their franchise and the benefits which the Government granted. If any wrong has been done it is not the fault of the company, but it was done by Congress. If the Government has not carried out the provisions of the treaty which required payment to the Indians, why has not the Senator from Maine called attention to that very point, and why has he not demanded that the provisions of the treaty should be complied with, and justice done to the Indians? Why has he remained quiet through four long years and taken no step?

Mr. MORRILL, of Maine. I will answer the honorable Senator. The company was authorized to build a road from the one hundredth degree of longitude, which I believe was the point of departure westward, running in any direction they chose to go, specifying nothing, not limiting them to any particular point, but to go in a general direction to the Pacific ocean by the most feasible route. Congress knew that it had granted certain rights to the Indians by treaty, and who could presume that this company would undertake to set the rights under that treaty at defiance without coming to Congress?

Mr. THAYER. I will say in answer to my friend from Maine that the company have nothing to do with the Indians, and nothing to do with the treaty. They do not know, and are presumed not to know, whether the Government has done its duty or not. The Government has required the company to go on and construct that road. It required them to commence it within a certain period, and to complete it within ten years. I say the company is not at fault, and no one connected with it is at fault. Let me add further that the Union Pacific railroad from Omaha has been built over lands which have been ceded, over which the Indian title has ceased. They may have got now a little beyond the ceded territory. I do not know how that fact is; but for three hundred miles through the State of Nebraska, the lands have been ceded I know; and so it is in Kansas, as my friend from Kansas [Mr. ROSS] informs me. In both States the Indian title has been extinguished to the line of these roads; and yet the Indians come down from this territory on the North, hundreds of miles, to the line of these roads, and commit these depredations and outrages which the Senator from Maine says are not war. It is immaterial to me what you call them; murder, devastation, death is there. You may call it by what name you please.

Mr. HENDERSON. With the Senator's permission, before he leaves this point I desire to suggest that if I understand the complaint of the Indian tribes now waging war against the United States, if it be war, they do not allege that they object to the building of these roads. I have never heard any complaint on the part of the Cheyennes or the Arapahoes or the Sioux Indians in reference to the building of these roads. They do not object to the building of the Pacific railroads so far as I am aware; and until the burning of the Cheyenne village I never heard of any attack upon the railroad parties. I have never heard of a stage-coach being attacked on either of these lines until after the burning of the Cheyenne village.

Mr. HENDRICKS. Why was that burned?

Mr. HENDERSON. I do not know.

Mr. THAYER. It was burned by General Hancock in his operations. The reason given by him, I believe, was that they had been guilty of bad faith and treachery in some operations with him. No attacks have been made on the Union Pacific railroad from Omaha until this spring.

Mr. HENDERSON. And I am satisfied there were none on the other roads before that time.

Mr. THAYER. The chairman of the Committee on Indian Affairs is mistaken in one respect. The Indians are opposed to the building of these roads. There is no mistake about it. I have heard it from them myself. The reason they object is that it cuts in two their buffalo range. The buffalo range in certain seasons of the year from away north of Nebraska down toward Red river, and they think the roads will interfere with that. One Indian chief expressed his objection in this way: "We do not object to the horse going through our country that goes so," imitating in his manner the galloping of a horse; "but," he added, "we do object to the horse that goes so," imitating the noise of a steam-engine. That was his expressive way of giving utterance to his objection.

The difficulty is that the Indians do not like these roads; and hence I have favored this bill which proposes to open these two lines of road by taking the Indians away and putting them on reservations to the north and to the south; not that I want to put them so far north that my friend from Minnesota [Mr. RAMSEY] will be in any danger. I would do nothing and favor nothing that would interfere with the Northern Pacific railroad. I am willing to put any restrictions in the bill which will prevent interference with that line. I am willing to put in a clause declaring that in the treaty to be made the right of way shall be granted to any railroad north of a certain parallel. The proposed reservation for the northern Indians, the Sioux nation, lies north of Nebraska. I do not object to their being on the border of our State, and our people do not object to it. I have come to the conclusion that there must be a final disposition of the Indian question, and you may as well meet it to-day as to put it off for one year or two years. You cannot evade it much longer.

Why, sir, the policy has been to move the tribes westward from reservation to reservation in order to give way to the march of empire to which my friend from Maine has so beautifully alluded with a little vein of sarcasm. After the settlers advance and surround a reservation, then the Indians have to go further off. Now we have arrived at that condition of things wherein you can move them no further. You have got to find a permanent settlement for them.

I am not for their extermination; but I might answer the honorable Senator from Maine, when he alluded to the argument of the Senator from Michigan, what has been the result of two hundred years experience? Has it not led almost to their extinction? You may take the fact as you please; whether you like it or not, whether the white race has done wrong or not, the fact stands out that the Indian race has dwindled from millions to about three hundred thousand. Reasoning from that, what will be their fate? It is clear what will be the result.

I repeat, I am not in favor of extermination, but I am in favor of a policy which shall bring to a close, and forever, our Indian difficulties. If you mean a war, say so, and provide the means for a quick, short, incisive and decisive campaign, and end it. That is the sentiment of the people of the border. If the Government means to accomplish this thing by war then call out the men who have been bred and raised upon the frontier, who are familiar with Indian habits, and mount them on Indian ponies, and they can accomplish the purpose. Give a few regiments of that character to General Sherman and he will end it. Your American horses will wilt down

in one day's pursuit over those Plains after Indians. You must have the grass-fed horses of the prairie or Indian ponies in order to accomplish anything.

The Senator from Massachusetts, the chairman of the Committee on Military Affairs, said the other day that General Sherman had been teased into recommending the raising of four regiments of volunteers. That was a mistake. General Sherman is not in the habit of being teased into doing anything against his judgment. He is a man who can say yes or no; and I know these are his views. His report of September, 1866, is quoted here as authority to-day. That report does not apply to the present state of things. He did travel over that region in September, 1866, with a small escort and without danger. At that particular time there was comparative quiet. But that report does not represent the condition of things to-day. There is the difference. It is hardly ingenuous to quote that report of September, 1866, as representing the condition of the border and of the Plains at the present time. I deny the fact, and I say General Sherman has different views on that question to-day.

I desire to say a word in regard to the amendment offered by the Senator from Wisconsin. He proposes to strike out the second section, and send all these Indians from that region north down into the southern Indian Territory. That is the purport of it. Now let me say to him that we do not propose to put an additional Indian into that territory north. We merely provide for those who are already there. That is their home. It is said that the bad lands are up there. If that is going to be an objection it has been an objection all the time, for the Indians have lived in that very country. They have been there all the time. We do not propose to put any additional tribes of Indians into that region; but to enact what shall result in their complete separation from the white race. That is what I want. That is what we want on the border. We want a final disposition made of the question. Let them remain there, and enact such laws or frame such treaties as shall keep them on that reservation and keep the white people from going among them. Non-intercourse is what is needed; complete and perpetual separation.

I can illustrate this subject to you by the condition of the Indian tribes in Nebraska. When Nebraska was first settled there were difficulties with the Indians; and by the way let me tell the Senate that I know from my own personal knowledge that the Indians commenced at once depredating upon the property and taking the lives of the white settlers. Not a provocation was given them, for I was there, and I know it, and it became my duty to go as a commissioner and hold a council with them. They commenced, within six weeks after the settlers had crossed the Missouri river and settled on lands which had been ceded to the United States, to steal their cattle, and in the second raid they made they killed two or three settlers. But those days have passed. Since those Indians have been placed upon reservations there has been entire peace and quiet. There is good feeling between the Omahas, the Pawnees, the Winnebagoes, and even the Sans Arcs Sioux, a band engaged in the Minnesota massacre, who are now located in the northeastern corner of Nebraska. They are on entirely friendly terms with the whites; no collision, no clashing whatever. We do not ask to have those Indians removed. I tell the Senator from Maine that there is a condition of peace and quiet between the people of the border and the peaceable Indians, and you may go among those tribes to-day and they will point to the white people, the settlers on the border, as their friends. Why, sir, but a few weeks ago some of them, fearing an incursion or a raid of the Sioux, came into Omaha for our protection. They came to us as their friends.

So much for the amendment proposed by the Senator from Wisconsin. I hope it will not prevail. I desire that all those Indians shall

be left within that territory where they now are. We simply propose by sending this commission there to make a treaty with them by which they shall be satisfied; and we shall get the right of the road up to Montana, for that we must have; get it peaceably, as I believe you can, and then I think the way will be open for a permanent settlement of these Indian difficulties.

I will not trouble the Senate further on this subject.

Mr. RAMSEY. I move that the Senate do now adjourn.

Mr. HENDERSON. I hope not. I trust the Senate will not adjourn until we dispose of this question.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 17, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### ACTIVE LIST OF THE NAVY.

The Speaker laid before the House the following executive communication:

NAVY DEPARTMENT, July 15, 1867.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives, adopted on the 13th instant, directing the Secretary of the Navy to report to the House, whether any officer of the Navy has been retained on the active list after having been fifty-five years or longer in the service, or after he should have been retired by law, and if so, by whose order or authority.

In compliance with the resolution I have the honor to state that the only officers of the Navy on the active list who appear by the Register to have been fifty-five years or longer in the service are Admiral D. G. Farragut and Rear Admiral L. M. Goldsborough.

Rear Admiral Goldsborough's original entry into the service was, according to the Navy Register, on the 18th of June, 1812.

By that record, which is the governing rule of the Department, he had been an officer of the Navy fifty-five years on the 18th of June, 1867. Rear Admiral Goldsborough claims, however, that though his appointment is registered of that date, he did not receive orders or pay until July 1, 1816, and that his record of service should not commence until the date mentioned. This claim conflicts with the usage of the Department, and consequently was not sanctioned by it. A correspondence of some length took place between Rear Admiral Goldsborough and the Department on the subject, which eventuated in a submission of the question, by request, to the President and Cabinet, when the opinion of the Department was overruled, and Rear Admiral Goldsborough is therefore still registered as on the active list.

Very respectfully, your obedient servant,

GIDEON WELLES,

Secretary of the Navy.

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Mr. SCHENCK. I move that the communication be referred to the Committee on Naval Affairs, and printed.

The motion was agreed to.

Mr. SCHENCK. In connection with this subject I now offer for adoption the following resolution:

*Resolved*, That the Secretary of the Navy be directed to communicate to this House all correspondence between his Department and Rear Admiral Goldsborough, of the United States Navy, relating to the question of the length of service of said Goldsborough; and whether he is subject by law to be placed on the retired list; and also any former official communications of that officer relative to the length of time he has been in the service; or any other facts showing how long he has been or has claimed to be borne on the list of officers of the Navy.

The resolution was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed a concurrent resolution for the appointment of one member of the Senate and two members of the House to be added to the joint Committee on Retrenchment, in which he was directed to ask the concurrence of the House.

It also announced that the Senate had passed



House bill No. 108, for the relief of certain soldiers and sailors therein designated, with amendments, in which he was directed to ask the concurrence of the House.

It further announced that the Senate had passed a bill (S. No. 127) for the relief of Melinda Harmon, of the county of Greene, State of Tennessee, widow of Jacob Harmon, in which he was directed to ask the concurrence of the House.

#### OHIO CONTESTED ELECTION.

The SPEAKER laid before the House additional papers in the case of the contested election of Delano vs. Morgan; which were referred to the Committee of Elections.

#### UNITED STATES COURTS IN NORTHERN OHIO.

Mr. ASHLEY, of Ohio. I ask unanimous consent of the House to introduce a bill that affects my own district and the northern district of Ohio. The delegation from the State are unanimous in its favor. It is a bill to provide that alternate sessions of the district court of the United States for the northern district of Ohio shall be held annually, one session in the city of Cleveland on the second Tuesday of July, and one in Toledo on the second Tuesday in November, under such rules and regulations as the district judge for said district may prescribe; and it authorizes the holding of adjourned courts when the business before the court shall in the opinion of the court require it.

Mr. SCOFIELD. I object, on the ground that we have adopted a rule that no other business but on the question of reconstruction shall be done.

Mr. ASHLEY, of Ohio. I hope the gentleman from Pennsylvania will not object.

Mr. JENCKES. I call the attention of the gentleman from Ohio [Mr. ASHLEY] to the fact that the law now authorizes the judges of the United States courts to hold adjourned sessions, and there is, therefore, no reason for the last provision of his bill.

Mr. ASHLEY, of Ohio. I do not so understand it.

The SPEAKER. The bill is not before the House, being objected to.

Mr. ASHLEY, of Ohio. I hope the objection will be withdrawn.

Mr. SCOFIELD. If we pass a bill of this character we may pass a bill of any character. It is not in its nature at all pressing. I have a similar bill for my section of Pennsylvania. I have not presented it here because it would be a violation of the rule which the House has adopted, and we know from the remarks of the gentleman from Rhode Island [Mr. JENCKES] that if this bill had been referred to a committee that is familiar with such questions they certainly would have reported, if the statement of the gentleman from Rhode Island is correct, that such a bill ought not to pass at all.

Yesterday we passed a bill which went over to the Senate, and they learn from the Secretary of War that no such bill is needed. We ought not to pass bills when we have no proper committees to examine them, and I insist on my objection on that ground.

#### COURT OF CLAIMS.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent to offer the following resolution:

*Resolved*, That the clerk of the Court of Claims be directed to furnish this House with a list of the judgments that have been rendered in said court since March 3, 1863, the amount of said judgments, the residence of claimants, the nature of claims, by whom said claims were prosecuted; also a list of the claims now before said court, in whose favor, and the amount of the same.

No objection was made to the reception of the resolution.

Mr. HOLMAN. I wish the gentleman would add to the resolution the words "and also a list of the judgments from which appeals have been taken to the Supreme Court of the United States."

Mr. WASHBURN, of Wisconsin. That is

a good suggestion, and I accept it as an addition to my resolution.

The resolution, as modified, was agreed to.

#### PRESIDENTIAL ELECTORS IN REBEL STATES.

Mr. COBURN. I desire to introduce a bill to provide for the election of electors for President and Vice President of the United States in the States to be formed out of the territory included within the late confederate States, except Tennessee, and defining their qualifications.

Mr. ELDRIDGE. Must not any bill or resolution either go upon the table or be referred to a committee without debate?

The SPEAKER. The Chair understands that the gentleman desires to have the bill referred.

Mr. COBURN. Yes, sir; I ask that it be referred to the Committee on Reconstruction.

The bill was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

#### MEXICAN AFFAIRS.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be, and is hereby, requested, if not inconsistent with the public welfare, to communicate to this House all information which has been received at the several Departments of the Government touching the organization within or near the territory of the United States of America of men for the real or pretended purpose of avenging the death of the Archduke Maximilian, or of intervening in Mexican affairs; and also to inform this House whether and what measures have been taken to prevent such organization or the sailing of such organized bodies for the purpose of carrying out such object.

Mr. COBB moved to reconsider the vote by which the resolution was adopted: and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. BUTLER. I ask leave to make a personal explanation with reference to a matter which appears in one of the public journals.

The SPEAKER. If there be no objection the gentleman will proceed.

There was no objection.

Mr. BUTLER. In the *Intelligencer* published in this city on the 16th instant there appeared the following:

"In the discussion Mr. ELDRIDGE made the surprising statement that in a conversation which he had had with General Ould, who had charge of the exchange of prisoners on the part of the confederate government, he had been informed that an offer was made by General Ould to the Union officers having the matter in charge that he would give them twenty thousand Union prisoners, sick and wounded, (making up the number of deficient with able-bodied men,) without any equivalent, as the confederate government was unable to feed and take care of them properly, and that the offer was refused. It is probable that the important fact thus set forth would have been disputed by the partisan press if it had not been verified on the spot by General BUTLER himself, who was in charge of the exchange of prisoners on the part of the United States at the time.

"The fact that the offer was made to give up, 'without equivalent,' twenty thousand Federal troops, for the reason that their captors could not properly provide for them, and that this offer was not accepted at the time, but a proposition instead was submitted which would necessarily have caused indefinite delay, is here unequivocally admitted by General BUTLER, he distinctly admitting, as we understand the *Chronicle's* report, that upon receiving the offer he proposed 'to the rebels to let them send cotton to New York, sell it through their own agents, and with the proceeds procure what was necessary for their prisoners.' Now, it would seem that these astonishing disclosures would almost render superfluous the raising of a committee for the purpose of inquiring as to where lay the fault for the 'starving condition' of Federal prisoners in southern Andersonvilles! But it produced no perceptible effect upon the House, and we suppose the committee will peg away in the further solution of the vexed problem.

"A grave point, however, the committee may very fittingly investigate. General BUTLER fills a dismal void in this painful history by the convenient phrase, 'There has been some unavoidable delay in it, consequent on the operations of the Army.' This 'unavoidable delay' is all that appears to account for the failure, even if the offer of the rebels was promptly accepted, of the delivery of the thirteen thousand prisoners in addition to the alleged seven thousand prisoners whom the rebels had offered to restore to their homes; and who is to judge of 'delay consequent on the operations of the Army?' Who knows it was unavoidable? Who knows it was in conse-

quence of Army operations? Who puts off the mourning kindred of these perishing thirteen thousand with the assurance of 'Army necessity?' The answer is, this exploded and inglorious muddler in warfare on the floor of the House. Let it be investigated."

Now, sir, I have made it a rule of my life never to reply to any newspaper or scandal slanders upon myself when I alone am affected. But when, through me, it is sought to charge the Government of the country, and the loyal men of the country, with what would be a gross act of cruelty, as well as a violation of all laws of humanity and the laws of war, I think it is my duty to myself and to the country to set the matter right, as in this instance I know I can.

This charge takes three distinct forms or branches: First, that the confederate commissioner of exchange made an offer to give up to our Government twenty thousand sick and wounded or able-bodied prisoners without any equivalent, and that this offer was refused; second, that this fact was distinctly admitted by General BUTLER in this House; third, that instead of accepting the offer, General BUTLER submitted a counter-proposition, which would necessarily have caused indefinite delay. The writer then asks, "Who gave General BUTLER the right to put off thirteen thousand men from exchange?"

Now, I have to say that each and all of these allegations are untrue in fact, in statement, and in inference. But words of characterization are useless. They will not add to the infamy of the charge; and epithets can by no means describe the author. Therefore I content myself with dealing with the simple fact and showing the proof. And the first proof I offer is that the supposed fact of the offer of exchange of twenty thousand sick and wounded prisoners without equivalent has no foundation in truth. No such offer was ever made. On the contrary, the offer to exchange sick and wounded prisoners came from myself, and was addressed to the rebel commissioner, Judge Ould, as will be seen by a letter which I ask the Clerk to read from page 155 of House Document No. 32, second session, Thirty-Eighth Congress, being the correspondence on the subject of exchange of prisoners published by order of Congress.

The Clerk read as follows:

#### HEADQUARTERS

DEPARTMENT OF VIRGINIA AND NORTH CAROLINA,  
IN THE FIELD, September 9, 1864.

SIR: I propose that the belligerent parties, waiving all other questions, shall from time to time exchange all sick and invalid officers and men who from wounds or sickness shall, in the judgment of the party holding them, be unfit for duty, and likely to remain so for sixty days.

I make this proposition in order to alleviate the sufferings of those unable to bear the confinement incident to a prisoner of war, and whose condition might be benefited by the comforts of home and medical treatment by their friends.

I trust and believe that this measure of obvious humanity will meet your agreement, as I am satisfied no advantage can accrue to either party by retaining such men in confinement. As a further evidence of the strong desire on the part of this Government to expose their soldiers to as little hardship as possible, consistently with such action as they feel called upon to take to observe their good faith, pledged alike to all soldiers, although it will involve the Government in a very considerable expense, yet, to save the sick and suffering a long and tedious transportation by rail, I will receive such invalid officers and soldiers of the United States as may be confined in the States of North and South Carolina and Georgia at Fort Pulaski, near Savannah, and will transport thither any such invalids of the confederate forces as may be in our possession who can be more easily carried thither. Other invalid prisoners in the western department I will deliver at such points on the Mississippi river as may hereafter be agreed upon; the invalid soldiers of the United States to be received in exchange therefore who are convenient to the points. Full rolls of the invalids so exchanged to be kept, so that the equivalents may be adjusted hereafter.

Asking as early as possible attention to this proposition, I have the honor to be your obedient servant, &c.,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.

Mr. BUTLER. I received to that proposition an informal answer, which was communicated to the Secretary of War by letter dated September 30, 1864, which I beg to have read.

The Clerk read as follows:

HEADQUARTERS  
DEPARTMENT OF VIRGINIA AND NORTH CAROLINA,  
IN THE FIELD, VIRGINIA, September 13, 1864.

SIR: I have the honor to inclose herewith five propositions as to matters relating to the exchange of prisoners made by me to Mr. Ould, together with a printed copy of my note of August 27, also forwarded to him.

I have as yet received no formal answer to either of my propositions, but I am informed, unofficially, that the proposition to exchange invalid prisoners will be accepted, and that I may prepare and send down to Fort Pulaski transportation for at least five thousand invalid men forthwith. This I shall at once proceed to do to make all possible provision for the comfort of our sick soldiers. If my action is approved, please direct the commissary general of prisoners to inform me at what points, and how many of the confederate invalids not fit for service within sixty days, will be ready, that my boat may take them for delivery. As soon as they can be got ready I propose to take them down by the same transportation that brings our men up.

Perhaps it may not be out of place to say that all these propositions received the sanction of the lieutenant general commanding.

If my action is approved, I pray early attention on the part of the commissary general of prisoners, as I will endeavor to be ready to move the confederate sick as soon as they are ready for me.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.

Hon. E. M. STANTON, Secretary of War,

Mr. BUTLER. It will be observed, Mr. Speaker, that the proposition by the confederates was to give us the sick and wounded in answer to my proposition, the 10th of October, and it will be seen also there was no delay, when we come to read the telegrams and letters which passed between the commissary general of prisoners and the rebel commissioner and myself, which I ask that they be read.

The Clerk read as follows:

[Telegram.]

HEADQUARTERS ARMY OF THE JAMES,  
September 25, 1864—11 a. m.

Major Mulford leaves City Point this morning with six hundred officers and soldiers, mostly disabled, except in case of special exchange. There are at least six hundred more in and about Richmond for another load.

Please get ready six hundred of disabled confederates either at Point Lookout or Fort Delaware, preferably the latter, for return trip.

Nearly thirty died out of five hundred in the last load. Instruct the surgeons to send none who are in that condition. The occurrence does not speak well either for the Government or its officials.

The rebel commissioner of exchange agrees to deliver us at Fort Pulaski all the sick in Georgia by the 10th of next month, to the number of at least five thousand. I am preparing transportation for five thousand disabled confederates, to be carried down by the same transports that bring ours up. Please assemble them from the various camps and hospitals to points where they can be reached by the boats, and notify me.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.

Colonel HOFFMAN, Commissary General of Prisoners,  
Washington, District of Columbia.

[Telegram.]

HEADQUARTERS ARMY OF THE JAMES,  
September 25, 1864—8.30 p. m.

I have made arrangements with Mr. Ould to give me at least five thousand of our sick men in Georgia and South Carolina, and take what equivalent we may have. I have offered to take them at Fort Pulaski as an act of humanity, because I think that railroading through the confederacy, with such accommodations as they could get, would bring many of them to their death. He will receive on the Mississippi or its tributaries, at such points as may be agreed upon, all the sick we may have at the western camps, and will be glad to do it for the same reason. After the boat load up the river, we may as well send our balance down with the same transportation to Fort Pulaski.

Please advise me, looking on the matter in the light of this dispatch.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.

Colonel HOFFMAN, Commissary General of Prisoners,  
Washington, District of Columbia.

[Telegram.]

HEADQUARTERS  
DEPARTMENT OF VIRGINIA AND NORTH CAROLINA,  
IN THE FIELD, September 27, 1864.

GENERAL: Dispatch received. Please understand that Ould will give us the five thousand, whether we send down so many sick or not, if we send those that

we have on this coast, and afterward those in the interior, as many as we can.

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
Colonel W. HOFFMAN, Commissary General of Prisoners,  
Washington, District of Columbia.

[Telegram.]

HEADQUARTERS  
DEPARTMENT OF VIRGINIA AND NORTH CAROLINA,  
September 28, 1864—8.15 p. m.

The one thousand invalid prisoners of which you spoke better be sent to Point Lookout. I will see that they are furnished with transportation to Fort Pulaski. On the going up of the flag-of-truce boat I will arrange with Mr. Ould as to where he will receive the invalid prisoners on the Mississippi.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
Colonel HOFFMAN, Commissary General of Prisoners,  
Washington, District of Columbia.

Mr. BUTLER. I ask the Clerk to read the telegraphic order given to Major Mulford, assistant commissioner of exchange on the part of the United States, in reference to getting the prisoners together.

The Clerk read as follows:

[Telegram.]

HEADQUARTERS  
DEPARTMENT VIRGINIA AND NORTH CAROLINA,  
IN THE FIELD, September 27, 1864.

Get a full load of prisoners either at Fort Delaware, Point Lookout, or Fort McHenry.

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
MAJOR MULFORD, Fort Monroe.

Mr. BUTLER. I now desire to put before the House a letter to Judge Ould accompanying these sick prisoners.

The Clerk read as follows:

IN THE FIELD, HEADQUARTERS  
JUNCTION OF VARINA AND NEW MARKET ROADS,  
October 4, 1864.

SIR: Major Mulford, my assistant agent of exchange, has at Varina about seven hundred invalid prisoners for delivery.

For obvious reasons they cannot be received by you there, and in the present state of the roads it would be cruel to transport them far by wagons.

I would suggest that they be delivered at Port Walthall, at the same point where it is proposed to deliver the naval prisoners.

If so, the prisoners will be delivered there at any hour you may name.

We will also receive yours at the same point. Or, if you prefer, we will deliver at the point on the New Market roads between the pickets.

Respectfully, your obedient servant,

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
ROBERT OULD, Esq., Commissioner for Exchange.

HEADQUARTERS ARMY OF THE JAMES,  
October 5, 1864—5.30 p. m.

Rev. Isaac Wholly will be forwarded.

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
Colonel HOFFMAN, Commissary of Prisoners, Washington, District of Columbia.

HEADQUARTERS ARMY OF THE JAMES,  
October 8, 1864.

Lieutenant Colonel Mulford leaves Varina to-morrow morning with thirteen hundred prisoners, officers and men. He will beat Annapolis on the 10th. I desire all the sick and disabled up to six hundred to be got ready at once, so as not to detain his boat.

Please inform Colonel Mulford, at Annapolis, at what point he will get them. I further desire that the sick and wounded of the confederate prisoners this side of the mountains be gathered at once at Baltimore, Fort Delaware, and Point Lookout, so that they may be taken to Savannah and exchanged for our men. Please notify me at what time they will be ready, and I will provide transportation.

The special exchanges, so far as possible, have been effected.

BENJ. F. BUTLER,

Major General and Commissioner for Exchange.  
Colonel HOFFMAN, Commissary General of Prisoners.

Mr. BUTLER. Now, Mr. Speaker, I am ready to submit to this House and to the country, first, whether there was any proposition to send twenty thousand prisoners to us without equivalent; and second, whether this Government did not make the first offer to send down the sick and wounded we had and to take from the confederates all the sick and wounded they had.

We offered to send the prisoners to Georgia for exchange, when the cartel required they should be exchanged at Richmond, rather than cause these disabled sick men to be carried in the condition they were over the poor rail-

roads of the South. Sir, does not this record evidence dispose of the calumny that the United States Government was not in favor of receiving from the confederates and actually taking from the confederacy all the sick and wounded prisoners which they had?

The next statement of this article is that I made a counter proposition to this offer of the rebels relating to their selling cotton to support their prisoners, which would cause indefinite delay. On the contrary that proposition was sent to the rebel commissioner by Major Mulford with the first steamers having on board five thousand sick rebel prisoners for Savannah; and it is a proposition so eminently just, humane, and generous, that I beg leave to submit it to the House and to the country. I ask therefore to have read a letter of instruction to the assistant commissioner of exchange on the part of the United States, dated October 26, only sixteen days after the first day on which we were notified by the rebels that it was possible for them to have prisoners ready.

The Clerk read as follows:

HEADQUARTERS ARMY OF THE JAMES,  
IN THE FIELD, October 26, 1864.

Having, in obedience to orders by telegraph, received on board the fleet of vessels which Colonel Webster, chief quartermaster, has been ordered to place at your disposal, all invalid confederate prisoners of war as certified to me by Colonel Hoffman in the eastern camps held by us, you will proceed to Fort Pulaski with your prisoners and there tender them for exchange, according to the agreement made between the Commissioner of Exchange on the part of the United States and the agent of exchange for the confederate authorities, and there receive on board all the prisoners belonging to the United States which shall be given you by the confederate authorities.

You will also inform the confederate authorities that there are from two thousand five hundred to three thousand invalid prisoners within the agreement ready for delivery on the Mississippi river as soon as the point shall be designated. They are in the western camps. As this matter of the exchange of prisoners is managed in behalf of the military authorities of the United States through the agent of exchange, you will take no direction upon the subject except from the Commissioner of Exchange or the Secretary of War. This direction is given you because your business at Fort Pulaski will be within the department of General Foster; and to save all possible conflict of authority you will report your arrival and business to the commander of the department, so that your operations may not interfere with any military movements within his lines.

You will doubtless be obliged to go into Port Royal with your large ships and load them with your smaller vessels from the inside passage, which will be more conducive to the comfort of the men and safety of your fleet. As soon as you get one of the larger vessels loaded you will send it forward to Annapolis; and if you can receive more prisoners than your fleet can accommodate, order her to return. You will allow one agent of either the Christian or Sanitary Commission on each vessel. You will take competent pilots and see that your vessels are well watered. You will draw from the quartermaster such extra clothing, blankets, and other articles as may be necessary for the comfort of the prisoners. The United States Government will by no means stint these men who have suffered so much in anything for their comfort as soon as they come within our jurisdiction. For other details I must depend upon your judgment, zeal, and activity in the service.

In the matter which has been discussed between the United States Government and the confederate authorities providing for their respective prisoners, you are authorized to offer the confederate military authorities the following terms:

It is understood that prisoners of both sides complain of their treatment by those having them in charge, in shelter, food, clothing, and hospital stores. You will then offer on the part of the United States—

First. That the United States will furnish food according to its discretion to the prisoners held by the confederate authorities, delivering it at the nearest seaport to the place where the prisoners are held, the confederate authorities to furnish transportation from the point of delivery. The United States will furnish its prisoners in the hands of the confederate authorities, delivered in like manner, with such articles of clothing and other necessary articles, including tea, coffee, tobacco, and stationery, as they may judge expedient, delivered in like manner. The United States will furnish such hospital stores as they deem expedient to their prisoners, delivered and to be transported in like manner. The United States will furnish such shelter to their prisoners as they deem expedient, delivered in like manner. The United States, on the other hand, will permit the confederate authorities to furnish, at such points as they may choose, confederates held as prisoners of war with shelter, food, clothing, including blankets and hospital stores, at the discretion of the confederate authorities; or if preferred by the confederate authorities, the United States will permit the confederate authorities to purchase from the quartermaster, commissary, and medical departments of the United States such food and clothing, including blankets, as the confederate authorities may choose for their prisoners, at such prices paid by the United States for such articles, except the uniform of the soldiers of the United

States, which will not be permitted to be worn by the confederate prisoners; and the United States will permit to be purchased in the markets of the United States such clothing as the confederate authorities may choose, including blankets, to furnish to the confederate prisoners of war, all to be paid for in the legal currency of the United States, or the United States will receive in payment for such goods so sold by them, cotton, upon the terms and conditions upon which cotton is pledged for the confederate loan in Europe, and will permit such cotton to be sent from any port in the United States, whether such ports are in the possession of the confederate authorities or otherwise, or we will receive such cotton in payment at any port to be designated by the confederate authorities in the United States, or whether said port is in the possession of the confederate authorities or otherwise, for all articles. The United States will also permit the purchase of tents, at the price paid by the United States, for shelter to the confederate prisoners held by them upon the same terms and conditions as the purchase of provisions and supplies. Hospital stores may be furnished upon the same condition by the confederate authorities.

All these to be receipted for and distributed and expended by a board of three officers from the prisoners of war held by either side above the rank of company officers at each prison, who shall be paroled for that purpose, and shall have full liberty to communicate with the commissioner of exchange of the confederate authorities and the United States in open letters. It being understood and agreed that no article permitted by either Government for the use of its prisoners shall be upon any pretext or for any cause whatever diverted from the use for which they are dedicated; and any surplus of articles furnished by the United States or by the confederate authorities is to be returned to the place where received by either party and put at the disposal of the party owning the same.

Any other minor details not provided for in these instructions will be the subject of further just and equitable arrangement.

It is further understood and agreed that either party shall have the privilege of putting a surgeon on each board of officers herein provided for.

All these terms are believed to be equitable and just, and will so relieve either party from complaints of the other party that it is hoped they will be accepted. If any minor points, any objections are made on the part of the confederate authorities you will report the objections and they will be carefully considered, and, unless vital, will be yielded to. These terms you will write out separately from your letters of instruction or propositions for agreement and certify them officially so that there may be no mistake in the terms offered.

If, as may be the case, it is objected by the confederate authorities that the United States had a larger number of prisoners taken from the confederate army than the confederate authorities hold taken from the Army of the United States, and that, therefore, accepting these terms will impose a burden upon the confederate authorities greater than that assumed by the United States, although such claims would not apparently be well founded, yet the Government of the United States being very anxious to relieve in so far as they may their prisoners of war from what they are instructed and believe to be great want and distress, you are authorized to offer, rather than the negotiations shall be broken off upon this point, that the United States will, after supplying an equal number of the prisoners held by the United States according to the equivalent established by the cartel, using that as a measure of reference, supply only the surplus of prisoners held by us with precisely the same and not other and different shelter, clothing, food, and medicine with which the confederate authorities supply an equal number of their prisoners held by the United States; but this proposition is not made except for the purpose of closing the negotiation on the point, as it is not deemed just that, from motives of humanity, the United States should bear any portion of the burden which properly belongs to the confederate authorities because of the superiority of the United States in capturing prisoners of war.

All propositions received upon this subject from the confederate authorities will be received by you in writing, but they will not prevent oral discussion of the several points involved in order to their true and just settlement, but such discussion shall not be taken or deemed to be propositions on the one side or the other.

You will see how much is confided to your discretion, care, and judgment, and it is hoped that you may succeed in having established some just and equitable arrangement upon the basis of these instructions for the care and treatment of prisoners of war, which seem very likely not to be exchanged.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER.

Major General and Commissioner for Exchange, Colonel M'FORD.

Mr. BUTLER. Thus you see, Mr. Speaker, the Government of the United States not only offered to take care of all the confederate prisoners it had, but also offered to take charge of, shelter, warm, clothe, and feed all our prisoners in the hands of the confederacy; and that offer was continued open so long as I had anything to do with the matter of exchange. I think that these documents will satisfy the country that there is no truth whatever in the charge made by those who say our Government only is always wrong and the rebels only were

always right, that any officer having charge of the exchange of prisoners failed in any respect in our duty to our sick and wounded soldiers.

Therefore let me say to the Intelligencer, which the sworn testimony in a court of justice has lately shown to be the chosen and accredited organ of John Wilkes Booth, that if it is not satisfied with this explanation, I propose to go a little further and show how its rebel friends treated American soldiers when captured by them.

In the first place, sir, there is the irrefragable proof that they took our gallant soldiers captured in war as prisoners and with their uniforms on turned them over to their supposed masters as slaves. Lest I fail to speak by the book, I will ask the Clerk to read an official notice of that fact published in the Richmond Examiner on the 11th of October, 1864, and the letter from me giving notice of retaliation for such treatment of our soldiers.

The Clerk read as follows:

#### Notice.

HEADQUARTERS CAMP OF INSTRUCTION, RICHMOND, October 8, 1864.

In accordance with the provisions of General Orders No. 25, adjutant and inspector general's office, last series, the owners of the following negroes will call at this camp and prove their claims, as required by act of Congress:

Junius, slave of Thad's Dillard, Surrey county, Virginia.

Philip, slave of John Fisher, Essex county, Virginia.

Elijah, slave of Luther Bryan, company F, fifth South Carolina regiment.

James Bush, slave of Griffin Bush, Montgomery county, Virginia.

Revel Garrison, slave of Ed. Garrison, Accomac county, Virginia.

Richard Saunders, slave of George Strother, Stafford county, Virginia.

George Washington, slave of Calvin Goodlow, Franklin county, Virginia.

George and William, slaves of Dr. Charles Weisger, Chesterfield county, Virginia.

Jim, slave of William Graham, Fort Monroe, Virginia.

Gray, slave of B. Barnes, Wayne county, North Carolina.

George, slave of Mrs. Morrison, Alleghany county, Virginia.

Charles, slave of Mr. Ashton, Portsmouth, Virginia.

By order of Major T. G. PEYTON.

Official: L. O. PETTUS, Lieutenant and Adjutant.

Official: W. H. TAYLOR, Lieutenant Colonel, A. A. G.

HEADQUARTERS ARMY OF THE JAMES, October 12, 1864.

SIR: I inclose a copy of an advertisement cut from a Richmond paper, where a military officer commanding a camp near Richmond calls upon their masters to come forward and make claim to the services and labor of certain colored men therein described. Some of these are believed to be soldiers of the United States Army, captured in arms.

If I am mistaken in this belief, I desire to be promptly corrected. I have ordered to such manual labor as I deem most fitting to meet the exigency an equal number of prisoners of war held by us, and I shall continue to order to labor captives in war to an equal number of all the soldiers of the United States I have reason to believe are held to labor and service by the forces you represent, until I am notified that this practice on your part has ceased. Much as I regret the necessity imposed upon me to do this, yet I am compelled by the sternest convictions of duty thus to inaugurate a system of retaliation which will be firmly carried out.

I have the honor to be, very respectfully your obedient servant,

BENJ. F. BUTLER.

Major General Commanding.

Hon. ROBERT OULD, Commissioner for Exchange, Richmond, Virginia.

Mr. BUTLER. Not only that; but when on the 29th of September, 1864, the rebels captured one hundred and ten of our colored soldiers from regiments, one of which was raised and organized in this District, after they had made one of the most gallant charges of the war on Fort Gilmer, a very strong work, but failed to capture it, how do you suppose the rebel friends of the Intelligencer treated them? Marched them over to the trenches in front of our guns, and set them at work digging fortifications for the enemy. And not only that, but they starved them while they were so at work under fire. Showing I am not wrong in this, I beg to submit to the House and the country the affidavits of three men from among others taken at the time.

The Clerk read as follows:

HEADQUARTERS ARMY OF THE JAMES, October 12, 1864.

James F. Knight, company F, fifty-ninth Virginia regiment, put into the first regiment Virginia reserves, being duly sworn, deposes and says, that on Thursday, the 6th, and on Friday, the 7th instant, he was on duty with his regiment, (first Virginia reserves,) and that on one of the above-mentioned days, which he does not now definitely remember, he, with his company, (company A, first regiment Virginia reserves,) went from their camp, which was then on the intermediate line near the Darbytown road, to Richmond, Virginia, and took from Libby prison about eighty-two colored men who were there as captured prisoners of war, and brought them to the intermediate lines between the Newmarket and Darbytown roads, where they were put to work throwing up intrenchments; and where, to the best of his knowledge and belief, they now remained, doing work in the manner described above, he having left them on the morning of this day. Deponent further says that they were clad in uniform.

JAMES F. KNIGHT.

Sworn to and subscribed to before me, this 12th day of October, 1864.

JOHN J. DAVENPORT.

Aid-de-Camp and Assistant Provost Marshal.

HEADQUARTERS ARMY OF THE JAMES, October 12, 1864.

Chapman Dinking, of Yadkin county, North Carolina, member of the thirty-eighth North Carolina regiment, put into the Virginia local reserves, lately stationed at Fort Gilmer, on oath deposes and says, that coming to Fort Gilmer on the night of Thursday, the 6th of October, he found one hundred and ten colored soldiers in the uniform of the United States, captured in the recent engagements, at work in the trenches at Fort Gilmer, without sufficient food, so that they were exchanging their clothes for food with the confederate soldiers. Deponent further says that he left the confederate lines on the night of the 11th instant, and that when he left the trenches they were still at work.

CHAPMAN DINKING.

Sworn to and subscribed before me, this 12th day of October, 1864.

JOHN J. DAVENPORT.

Aid-de-Camp and Assistant Provost Marshal.

HEADQUARTERS ARMY OF THE JAMES, October 12, 1864.

Samuel Miller, of battery C, eighteenth Virginia battalion of artillery, being duly sworn, deposes and says, that he, with his company, has been for some weeks past stationed at battery No. 8, situated on the intermediate lines between the Charles City and Darbytown roads, and that to his personal knowledge he knows of some twenty-five to eighty colored prisoners of war, clad in the uniform of the United States, to have been kept at work on fortifications and intrenchments in that vicinity and upon that line since Thursday, the 6th instant. Deponent also further says that he knows of numbers of them having been obliged to trade their clothes and shoes with the confederate soldiers for food, owing to an insufficiency being furnished them.

SAMUEL MILLER.

Sworn to and subscribed before me, this 12th day of October, 1864.

JOHN J. DAVENPORT.

Lieutenant and Aid-de-Camp, Assistant Provost Marshal.

Mr. BUTLER. Mr. Speaker, this proof having come to me that our colored soldiers, prisoners of war, were being worked in the trenches in their uniforms, it became my duty to provide a remedy, and that remedy you will find set forth in this letter.

The Clerk read as follows:

HEADQUARTERS ARMY OF THE JAMES, IN THE FIELD, October 12, 1864.

SIR: I inclose herewith affidavits showing the employment of one hundred and ten United States colored soldiers by the military officers of the confederate forces in the trenches near Fort Gilmer, a practice justified by no rule of war or claim heretofore made by the confederate authorities. I have ordered a like number of the officers and soldiers captured by us (preferring as many of the Virginia reserve forces, by whom this outrage is being done, as I have captured) into the canal at Dutch Gap, and put them at hard labor, and shall continue to add to their number until this practice is stopped.

I have the honor to be, very respectfully, your obedient servant,

BENJ. F. BUTLER.

Major General Commanding.

Hon. ROBERT OULD, Commissioner for Exchange, Richmond, Virginia.

Mr. BUTLER. Let me say that the medicine was potent. In twenty-four hours from that time I was informed from Robert E. Lee, commanding the confederate forces, that all the colored men had been withdrawn from the trenches, and I withdrew the Virginia reserve from Dutch Gap, much to their relief. It was a stern measure of retaliation, but justified, it seemed to me, by the fact that there was an attempt to put our soldiers who were prisoners under our own fire and make their comrades murder them.



Now, sir, I have brought this question before the House in order that these facts which are buried up in the mass of the correspondence may become known to the country. All the correspondence upon this subject now exists on the records of the House. There will be found no word to controvert any portion of that which I have brought before you. I have not felt it to be my duty, nor indeed within the scope of the liberty given me here of explanation to advert to the question as to upon whom the blame rests, if any there be, as to the general exchange of prisoners, whether upon the one side or upon the other. Whenever that question comes up I shall be quite prepared to discuss it. It is not now before the House or the country. The question is as to the treatment of prisoners while they were held.

It is due, however, to myself and to the General commanding the Army of the United States that I should say here that in all these measures which I have brought to the attention of the House, I had his full and hearty cooperation. I will not by my silence on that subject seem to countenance the idea that I had not his fullest support.

It only remains for me now to thank the House for the patience with which they have listened to what were it not for the interest in the subject might seem somewhat dry details; but I think that when this correspondence is carefully and coolly read it will put the authorities—not speaking of the individual, but the authorities who had this matter of the rights of our soldiers in prison in charge—firmer and deeper in the affections of the country, and will by no means tend to relieve the great burden which now bears heavily on the rebel authorities because they violated the rules of war in the treatment of captured, helpless prisoners.

Mr. ELDRIDGE. Mr. Speaker, I ask unanimous consent to make a remark upon this subject, as my name has been somewhat connected with it.

No objection was made.

Mr. BUTLER. Before the gentleman proceeds, let me say that it was no part of my desire to intimate one word against him.

Mr. ELDRIDGE. I did not understand the gentleman to make any personal reflection on me, neither shall I make any personal reflection on him or upon any of the officers who had this matter of exchange in charge. I did not, in bringing before the House the statements which came to me from General Ould, the rebel commissioner of exchange, make any such reflections. I spoke only in vindication of history, and it is for that purpose that I now rise. I do not say that the rebels were right, or that they were willing at all times to make exchanges upon proper terms. I do not deny any of the propositions which the gentleman may have made. But General Ould occupied a position in the confederate army, and occupies a position to-day as a man which entitles his statement to much credit upon this subject of exchange, and the people of this country have felt very great anxiety about it.

Many doubts have existed as to the propriety of the conduct of our officers having that subject in charge. These may relate alone, as the gentleman in his concluding remarks seemed to indicate, to the general subject of exchange. Upon that I cannot speak. But General Ould made the statement to me in the presence of other gentlemen who are members of this House. If gentlemen are capable of vindicating themselves to the full extent which the gentleman from Massachusetts says they can, what was the objection, I ask, to the investigation which was desired by the gentleman from Ohio, [Mr. MUNGEN?] Why should gentlemen not be willing to have the matter investigated before a committee of this House, a committee of the political friends of the gentleman from Massachusetts? Why was it that we found the majority of this House voting *in solido* against any investigation on this sub-

ject; against referring this subject to the committee?

Mr. BUTLER. Will the gentleman allow me to make a single remark?

Mr. ELDRIDGE. Certainly.

Mr. BUTLER. I desire to say that I did not vote against that investigation; and my reason was, that I felt that it pointed to me, and that I had no right to vote on the question.

Mr. ELDRIDGE. The gentleman certainly did not help me to get the yeas and nays. I tried to ascertain precisely who would vote against it. I sought to obtain the yeas and nays on that question, but we were too few and feeble to do it. By a very decided majority the ruling party in this House refused to give the gentleman from Ohio, one of the committee raised to investigate this subject of the treatment of Union prisoners, the additional power to inquire into this very question.

Now, I propose to gentlemen on that side of the House to give us a committee a majority of which shall be members of that side of the House; and let us investigate that subject and see whether there is any wrong and where the responsibility for that wrong should rest. It is not in the interest of the confederates or of any rebel that I ask this committee. I ask it in vindication of history. A grave charge has gone out to the world from the man who had principal connection with this subject in the confederate States. Other nations may not look so charitably on this subject and upon those engaged in exchanges upon our side as we are inclined to do. Let us have this matter investigated, and then truth of history shall be vindicated.

I know not whether the statement made by General Ould is true or not. But I know he made the statement, and also that he stated he was subpoenaed here as a witness in the Wirz trial, and after he had been here in the neighborhood of ten days a messenger was sent to him from the court announcing that his subpoena was revoked. What that means I leave to Congress to determine. He declined to surrender his subpoena. He had been subpoenaed on behalf of the defense. He compromised with the messenger by promising to appear in court next morning and submit himself to its order or authority. The Judge Advocate General then compromised with him by revoking his subpoena in writing upon the back of it, and redelivering it to him. And General Ould, at the time that he spoke of this matter, claimed, if I recollect rightly, that he then had the subpoena in his possession. He supposed that the reason for that proceeding, and that he was not allowed to testify in that case, was because it had transpired in some way that he would testify to the facts substantially which I have stated as having been related to me by him. Now, I ask, I entreat, gentlemen having the power to determine it, to give us a committee to investigate this subject, to ascertain whether there is wrong with reference to these exchanges, and to fix the responsibility for that wrong where it should properly rest.

Mr. BALDWIN. Will the gentleman permit me to ask him a question?

Mr. ELDRIDGE. Certainly I will.

Mr. BALDWIN. I desire to ask the gentleman whether he desires or expects this House to take the assertion of the rebel General Ould against the documentary evidence and the statements of our own military officers?

Mr. ELDRIDGE. I do not ask this House or the country or the world to take the statement of General Ould. I ask only this House to raise a committee composed of the political friends of the majority of this House, if they dare do so, for the purpose of investigating the fact and ascertaining if it be true or false.

Mr. BALDWIN. On the ground that the statement of Ould is to prevail against the documents and against the statements of our own generals?

Mr. ELDRIDGE. Only in case upon the investigation it shall prove to be true. I insist

that General Ould occupied during the war and now occupies a position which entitles his statement to sufficient consideration to justify us in investigating this subject and ascertaining whether or not he tells the truth; and whether or not any of the consequences of those long and fatal imprisonments of Union soldiers properly ought to rest upon Union authorities.

Mr. BUTLER. I hope that I will be allowed one word.

Mr. ELDRIDGE. In a moment I will. Our generals were in constant intercourse with General Ould during a greater part of the war, and know him better than I do; and I appeal to the gentleman from Massachusetts, and believe he will not hesitate here to state that General Ould, although he may have committed the crime of treason and gone into the rebel army, was not in other respects a highly honorable and conscientious man.

The SPEAKER. The gentleman from Indiana is entitled to the floor.

Mr. JULIAN. I yield for a short while further.

Mr. BUTLER. Before the war, sir, I believe General Ould was a highly conscientious and honorable man; but I hold that when a man commits treason he is like a woman who loses her virtue, ready for any crime, and from that moment no one knows where to find him.

Now, sir, I say further that if the gentleman from Wisconsin will take this volume of correspondence and read it carefully, and then come into the House, and upon his honor as a member of the House, as he will state if he states at all, say he finds any reason to believe any wrong has been done, I for one will vote, and ask our friends in the House to vote, for any investigation he may desire.

Mr. ELDRIDGE. The gentleman from Massachusetts makes a sweeping charge when he alleges that any one who goes into rebellion loses all character for truth and honesty. I think the gentleman cannot have forgotten that eminent men from his own State once went into rebellion. He cannot have forgotten John Hancock and John Adams, General Washington, and a host of others, and that every one of them was called a rebel. Every one of them, sir, was a rebel. [Hissing upon the floor and in the galleries.] Every one of them was guilty of treason until their rebellion was crowned with success. The crime of rebellion, I insist, does not destroy every other virtue—

The SPEAKER. Gentlemen upon the floor cannot manifest approbation or disapprobation without violating the rules which they have themselves established.

Mr. ELDRIDGE. It is not strange that these eminent names are hissed in these days—

Mr. JULIAN. I think that this has gone far enough.

Mr. ELDRIDGE. I wish simply to make this further remark in response to the proposition of the gentleman from Massachusetts. His statements have included but little more than records made by himself, and they are but one side of the case. He has not pretended or attempted to put in any evidence before the House to meet the point involved in the statement made to me by General Ould.

Mr. SCHENCK rose.

Mr. ELDRIDGE. In one moment. That statement of General Ould may be true, and the statement of the gentleman from Massachusetts may also be true. The charge contained in the statement remains unanswered and should certainly be investigated by a committee.

#### REBEL STATE DEBTS.

Mr. JULIAN. I now insist on resuming the floor, and ask unanimous consent of the House to submit the following resolution:

*Resolved*, That the doctrines avowed by the President of the United States in his message to Congress on the 15th instant, to the effect that the abrogation of the governments of the rebel States binds the nation to pay their debts incurred prior to the late rebel-



lion, is at war with the principles of international law, a deliberate stab at the national credit, abhorrent to every sentiment of loyalty, and well-pleasing only to the vanquished traitors by whose agency alone the governments of said States were overthrown and destroyed.

Mr. BURR. I desire to ask a question.

Mr. ROBINSON. I object to the resolution.

Mr. JULIAN moved to suspend the rules.

Mr. ROBINSON withdrew his objection.

The resolution was received.

Mr. JULIAN. I demand the previous question on its adoption.

Mr. BROOKS. You cannot vote down Vattel and Phillimore and Wheaton and Bynkershock and other writers on the law of nations. This House, sir, can pass this resolution, but it does not change the law of nations.

Mr. JULIAN. I do not propose to discuss Vattel now. We on this side are ready to vote on the resolution, having examined the gentleman's authorities some time ago.

Mr. NIBLACK. I desire to inquire of my colleague whether Governor Morton, of Indiana, and now Senator from that State, did not while Governor avow the same doctrine, and argue it very ably in a carefully prepared speech in 1865, at Richmond, Indiana, in the gentleman's own district?

Mr. JULIAN. If I recollect the facts, I think the Governor of our State did avow and argue it at the time and place mentioned. I am very sure, however, that he regrets the avowal deeply, in common with all his Republican friends. I now desire to amend the resolution by inserting the words "their allies and sympathizers" at the end of the word "traitors."

Mr. ROBINSON. Does the gentleman mean by that phrase the gentleman who is the father of the doctrine in this country from his own State?

Mr. JULIAN. In reply to the gentleman, I will state that I think the gentlemen on the opposite side understand as perfectly as I do whom I mean by the phrase "allies and sympathizers."

Mr. BURR. I desire to ask the gentleman whether he avers that the President of the United States has expressly avowed or affirmed any such doctrine as is stated in the resolution?

Mr. JULIAN. I mean to say he has avowed it in effect in the message to which the resolution refers.

Mr. FARNSWORTH. I desire to offer an amendment.

Mr. JULIAN. I will hear it read for information.

Mr. FARNSWORTH. I move to amend by adding the following:

And that the Judiciary Committee be instructed to inquire whether the intention of said message was to impair the financial credit of this Government.

Mr. JULIAN. I prefer the resolution as I offered it. I demand the previous question.

The previous question was seconded—yeas 78, noes 18, and the main question ordered.

Mr. BROOKS. Mr. Speaker, is the resolution divisible? If so, I want to settle the law of nations in the House first.

The SPEAKER. It is not divisible.

Mr. VAN TRUMP. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 18, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Hamilton, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenekes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Kountz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Aaron F. Stevens,

Thaddeus Stevens, Taffe, Taylor, Trowbridge, Twichell, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, and Stephen F. Wilson—100.

NAYS—Messrs. Adams, Archer, Brooks, Eldridge, Getz, Glessbrenner, Holman, Hotchkiss, Marshall, Mungen, Niblack, Nicholson, Pruyn, Robinson, Sitgreaves, Stewart, Stone, and Van Trump—18.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnes, Barnum, Blaine, Boyer, Burr, Cake, Chanler, Dodge, Eckley, Eggleston, Ma, Eliot, Fox, Garfield, Griswold, Haight, Halsey, Harding, Richard D. Hubbard, Hulburd, Humphrey, Kerr, Ladin, Lynch, Malory, Marvin, McCarthy, McPullough, Morgan, Morrissey, Noell, Peters, Phelps, Pike, Pomeroy, Randall, Ross, Selje, Shellabarger, Spalding, Starkweather, Taber, Thomas, Upson, Van Aiken, Burt Van Horn, James F. Wilson, Windom, Wood, and Woodbridge—52.

So the resolution was agreed to.

Mr. JULIAN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### JOINT COMMITTEE ON RETRENCHMENT.

The SPEAKER laid before the House the resolution of the Senate appointing one additional member of the Senate and two members of the House upon the joint Committee on Retrenchment.

Mr. JENCKES. I move that the House concur in the resolution of the Senate.

The motion was agreed to.

The SPEAKER subsequently appointed the following gentlemen as additional members of the committee on the part of the House: THOMAS A. JENCKES, of Rhode Island, JOHN F. BENJAMIN, of Missouri.

#### RELIEF OF DESERTERS.

The SPEAKER also laid before the House the various bills and resolutions received from the Senate; the first of which was House bill No. 108, for the relief of certain volunteer soldiers and sailors therein designated, with amendments, as follows:

Strike out all after the enacting clause and insert in lieu thereof as follows:

That no soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, did quit his command or refuse to serve after said date; but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pay, bounty, pension, or other allowances; but this act shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

Also to strike out from the title of the bill the word "volunteer."

Mr. ASHLEY, of Ohio, obtained the floor.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will move a non-concurrence. If these men were not deserters they ought not to be fined.

Mr. ASHLEY, of Ohio. My State is, perhaps, more directly interested in this matter than any other, and I should dislike very much to have this amendment concurred in.

After the surrender of the armies of Lee and Johnston a majority of the volunteer soldiers of the United States believed that they had legally fulfilled their contract with the Government. Many of the regiments from my own State and from my own district were retained in the service months after that event happened. From ten to fifty persons, perhaps, in each regiment, and in one or two regiments with whose history I am peculiarly acquainted, a larger number left their regiments and went home, refusing to serve longer. Those men had gone through the whole war, many of them having served four years, and been faithful in the discharge of every duty. They left, not because they were deserters, but because they believed that they had fulfilled their contract with the Government, and were determined to go home even though they forfeited their pay. In one instance a gentleman, whom I know very well, and who owned a farm in Ohio, left his regiment on account of the state of his health, and died a few days after he reached his home. His name is borne on the rolls as a deserter,

and his family have applied in vain for his pay. This bill as it passed the Senate affords no relief in such cases. It is simply a pardon to those who thus deserted. I hope the House will not concur in the amendment, but that we shall have a conference with the Senate. I yield now to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. These soldiers, most of them, were enlisted for a special period or during the war. After the surrender of the rebel armies the Government commenced to muster out regiments all over the country. In all the different military departments officers were mustered out and granted their three months' extra pay; and yet other officers who resigned subsequently to that time were refused their three months' extra pay. It was a breach of faith against those men who had enlisted for the war against the rebellion to keep them in the service after the war against the rebellion was over. Many regiments were kept in service for months after the rebellion was over. Some of them who had enlisted to fight the rebels were sent out to the Plains to fight the Indians.

Mr. ASHLEY, of Ohio. And some of them were sent to Texas to make railroads.

Mr. FARNSWORTH. As the gentleman suggests, some of them were sent to Texas. I know that some regiments from my own State that I raised myself were sent out to the western part of Kansas to take care of the Indians long after the war was over. It was an injustice and a breach of faith to these men. This bill of the Senate says that they shall not be considered guilty of desertion, and yet that they shall not be entitled to their pay and bounty. If they were not guilty of desertion how was there any forfeiture of pay? For Congress to say that these men were not guilty of desertion, and yet refuse to pay them after they had served the term for which they enlisted, is simply rank injustice, and I hope the House will not concur in the amendment of the Senate.

Mr. ASHLEY, of Ohio. I now ask the previous question.

The previous question seconded, and the main question ordered; and under the operation thereof the motion of Mr. ASHLEY, of Ohio, that the House non-concur in the amendment of the Senate and ask a conference, was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed a bill for the further security of equal rights in the District of Columbia, and also a bill to carry into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed bill of the House supplementary to an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, with an amendment, in which he was requested to ask the concurrence of the House.

#### MELINDA HARMON.

Senate bill No. 127, entitled "An act for the relief of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon," was read a first and second time.

Mr. PERHAM. This bill is simply designed to correct an error in a bill passed at the last session of the Thirty-Ninth Congress. In the act for the relief of this lady her name was written "Matilda Harmon," instead of "Melinda Harmon." I hope the bill will be put on its passage.

The bill, which was read, provides in the first section for the repeal of the act of January 31, 1867, for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon.

The second section provides that the Secretary of the Interior be authorized to place the name of Melinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon, on the pension-roll at eight dollars per month, to commence on the 17th of December, 1861, and to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

#### PRINTING FOR THE DEPARTMENTS.

Senate amendment to the bill (H. R. No. 130) entitled "An act supplementary to an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, was read, as follows:

Strike out all after the word "in" in line four, down to and including "department" in line eight, and insert in lieu thereof "the Treasury Department and bureaus thereof;" and at the end of the bill add the words, "but the number of persons employed in this service shall not be increased," so that the clause will read:

That the concluding proviso of section ten of the act described in the title hereof shall not be held to prevent the necessary printing as heretofore done in the Treasury Department and bureaus thereof by their own employees; but the number of persons employed in this service shall not be increased.

The amendment was concurred in.

#### EQUAL RIGHTS IN DISTRICT OF COLUMBIA.

Senate bill No. 137, entitled "An act for the further security of equal rights in the District of Columbia," was read a first and second time.

Mr. INGERSOLL. I hope that bill will be put upon its passage at once.

The bill, which was read, provides that in the District of Columbia no person shall be excluded from any office by reason of race or color, and that so much of any law as makes any such discrimination shall be repealed.

Mr. INGERSOLL. I yield to my colleague, [Mr. JUDD,] who desires to offer an amendment.

Mr. JUDD. I move to amend by inserting after the word "office" the words "or from serving on juries."

Mr. INGERSOLL. I suggest to my colleague that he had better modify his amendment so that it will read, "or from being selected as a juror."

Mr. JUDD. I am not particular as to the form, so that it accomplishes my object, which is that all the citizens of the District of Columbia shall be allowed to serve upon juries. I modify my amendment so as to read, "or from being selected and serving as a juror."

Mr. INGERSOLL. If no other gentleman desires to say anything, I will now call the previous question.

Mr. SCHENCK. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. Yes, sir.

Mr. SCHENCK. It seems to me, Mr. Speaker, that we are defeating the very thing that we profess to have established in the progress toward freedom and equality, by passing continually acts declaring there shall be no discrimination "on account of race or color." I would suggest to the gentleman that the language of the bill would be much better if it provided that all citizens of the District of Columbia shall be eligible to any of these positions. Some phraseology of this sort appears to me decidedly preferable.

We have by our bill securing civil rights, I mean to citizens otherwise qualified—we have by our bill securing civil rights, we have by amendment to the Constitution abolishing slavery, we have in various ways, as far as the statute-book can make it so, abolished this distinction in reference to all these things, but we seem continually in our bills by inserting the words "without distinction of race or color" to keep up and attract attention to a

distinction which otherwise would not and could not, as it ought not, to exist. I trust therefore, sir, that the gentleman who was chairman of the Committee for the District of Columbia will amend it in some way so as to leave out that eternal iteration and reiteration of an old phrase, "without distinction of race or color." I think we might as well put into our statute-book that men shall have certain privileges without distinction of being tall or short, without distinction of being red-haired or black-haired, thin or stout. Yet we are continually in our statute-book making such distinctions when we eling to such a phrase as is introduced into this bill.

I merely make this suggestion. I think that the bill ought to be amended so as to read "citizens who are electors." Put in that language and then let any man disregard the law at his peril.

Mr. INGERSOLL. I yield now to my colleague.

Mr. JUDD. I desire to say, Mr. Speaker, that the suggestion of the honorable gentleman from Ohio meets my views exactly on this question. I offered the amendment in the form it was given, because I saw that my colleague desired to pass the bill at the present time, and I desired to restrict that right so far as the serving on juries was concerned. If the bill had originated with the Committee for the District of Columbia in this House, I have no doubt the language of the gentleman from Ohio would have been adopted. I concede, sir, the force of the objection that the gentleman from Ohio makes, and I think that this is as good a time and this is as good a place to declare that all who are entitled to citizenship shall have all the rights and privileges of citizenship; that all citizens in the District of Columbia shall serve as jurors.

Mr. INGERSOLL. I demand the previous question on the bill and amendment.

Mr. STEVENS, of Pennsylvania. Only a word. I am not quite sure that the use of the word "citizens" in the present bill will not be going too far. It ought to read, all qualified electors.

Mr. INGERSOLL. I do not care about offering any amendment of that kind myself, because I believe the object sought to be accomplished by the gentleman from Ohio is really accomplished by the language of the bill already. But I will submit this to the House, that it shall read thus: "that in the District of Columbia no citizen, being an elector, shall be excluded," &c.

Mr. STEVENS, of Pennsylvania. That will do.

Mr. INGERSOLL. I offer that amendment, and demand the previous question.

Mr. PRUYN. I desire to say a word.

Mr. INGERSOLL. I yield for a moment.

Mr. PRUYN. In reference to what has fallen from the gentlemen from Ohio, I beg to say that the current of things in the Senate seems to be taking quite a different direction. In the bill just reported to the Senate, offered by the distinguished Senator from Massachusetts, he not only speaks of the distinction of race or color, but of the distinction of the so-called white race. We can hardly, in this condition of things in the Senate, expect to carry out the views of the gentleman from Ohio.

Mr. INGERSOLL. I now demand the previous question.

Mr. PILE. I suggest that the gentleman insert the word "qualified" before "electors."

Mr. INGERSOLL. I suppose all electors are required to have certain qualifications in order to become electors, consequently there is no necessity for such an amendment.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment of Mr. JUDD and the amendment of Mr. INGERSOLL were agreed to.

The bill as amended was then read a third time.

Mr. INGERSOLL. Mr. Speaker, in order to reach the subject which has been so fully

discussed, I move to reconsider the vote by which the bill was read a third time.

The motion was agreed to.

Mr. INGERSOLL. I now move to strike out the words "by reason of race or color."

The motion was disagreed to.

Mr. SCHENCK. It had better be referred to a committee.

Mr. INGERSOLL. I will let it be referred to any committee, provided the committee have leave to report at any time.

Mr. SCHENCK. I move that it be referred to the Committee on the Judiciary, with leave to report at any time.

The motion to refer was agreed to.

The SPEAKER. The latter part of the motion giving leave to the committee to report at any time requires a two-thirds vote.

The motion was agreed to without objection.

#### TREATY WITH VENEZUELA.

The SPEAKER next laid before the House Senate bill No. 138, to carry into effect the convention with the republic of Venezuela, and for the adjustment of claims of citizens of the United States on the Government of that republic; which was read a first and second time, and, on motion of Mr. HOLMAN, referred to the Committee on Foreign Affairs.

#### COMMITTEE ON EDUCATION IN THE DISTRICT.

The SPEAKER announced the following select Committee on Education in the District of Columbia:

THADDEUS STEVENS of Pennsylvania, HENRY VAN AERNAM of New York, WILLIAM WILLIAMS of Indiana, WILLIAM LOUGHRIDGE of Iowa, and STEVENSON ARCHER of Maryland.

#### ORDER OF BUSINESS.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] resumes the floor, which he had before the messages from the Senate were taken up.

Mr. INGERSOLL. I have been desired to yield by several gentlemen. If there be no objection I will yield to the gentleman from Missouri.

#### COMMITTEE ON SOUTHERN RAILROADS

Mr. McCLURG. I ask leave to offer the following resolution:

*Resolved*, That the Committee on Southern Railroads have power to divide itself into sub-committees, and to sit at different points for the purpose of taking testimony, and that they be authorized to appoint a clerk, and the Clerk of the House of Representatives be authorized to advance to the chairman of said committee, taking his receipt therefor, a sufficient sum of money to defray the necessary expenses of said investigation.

Mr. BROOKS. I object.

Mr. McCLURG. I move to suspend the rules.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] will have to yield the floor for that motion.

#### INVASION OF MEXICO.

Mr. SELYE. I ask leave to offer the following preamble and resolution:

Whereas it is currently reported in the public press and otherwise that bodies of armed men are being organized in different parts of the country for the purpose of invading the territory of our neighboring republic of Mexico, in direct violation of the neutrality laws; and whereas all such attempts and purposes are also at variance with the wishes and feelings of all good citizens of the United States, and contrary to established public policy: Therefore,

*Resolved*, That the President of the United States, in case he shall be satisfied that such organizations exist, or are being formed, be respectfully requested to issue a proclamation requiring all proper officers of the United States to prevent such unlawful organizations being formed within the United States, warning all persons that whosoever shall depart from the United States, either individually or collectively, for the purpose of invading the republic of Mexico or any other country, or creating any disturbance therein, shall forfeit all rights to protection under the laws of the United States.

Mr. ROSS objected, but subsequently withdrew his objection for the purpose of allowing the resolution to be referred to the Committee on Foreign Affairs; and it was accordingly so referred.

## MILEAGE OF MEMBERS.

Mr. INGERSOLL. I will now yield the floor to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS, of Pennsylvania. I ask the unanimous consent of the House to introduce a bill authorizing the payment of mileage to members of the Fortieth Congress. It is a bill of justice rather than of popularity. I should like to say a word upon it before the vote is taken if the House will allow me.

A MEMBER. Let the bill be read first.

The bill was read. It provides that Senators, Representatives, and Delegates of the Fortieth Congress who were in attendance at the first session of this Congress, prior to the recess before the 13th day of March, 1867, and who after that date and before the reassembling of Congress on the 3d day of July, 1867, actually went to their respective homes and returned to take their seats in Congress after said recess, shall be allowed and paid the usual mileage for going and returning from their respective residences, provided that they shall have remained in attendance until Congress shall again at this present session adjourn or take a recess, unless prevented from so remaining by sickness of themselves or death or sickness in their families.

Mr. BROOMALL. I object to the introduction of that bill.

Mr. STEVENS, of Pennsylvania. I merely want to say a word or two.

Mr. BROOMALL. I have no objection to any explanation, but I object to the bill.

Mr. BOYER. I object to explanation.

Mr. STEVENS, of Pennsylvania. I move to suspend the rules to enable me to introduce the bill.

The SPEAKER. That can only be done by the gentleman from Illinois [Mr. INGERSOLL] surrendering the floor.

Mr. INGERSOLL. I surrender the floor unconditionally.

Mr. STEVENS, of Pennsylvania. Then I move a suspension of the rules.

Mr. BAKER. Will the gentleman from Pennsylvania allow me a word?

The SPEAKER. The motion is not debatable.

Mr. LAWRENCE, of Ohio. I ask the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 45, nays 65, not voting 60; as follows:

YEAS—Messrs. Anderson, James M. Ashley, Baldwin, Benjamin, Benton, Blair, Butler, Churchill, Sidney Clarke, Cullom, Daves, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Finney, Gravely, Hunter, Ingersoll, Jenckes, Loan, Logan, Marshall, McClurg, Miller, Moorhead, Myers, Newcomb, Nicholson, Noell, Orth, Pile, Poland, Robinson, Ross, Schenck, Smith, Aaron F. Stevens, Thaddeus Stevens, Taffe, Twichell, Robert T. Van Horn, William Williams, and Windom—45.

NAYS—Messrs. Adams, Allison, Ames, Archer, Baker, Bingham, Boutwell, Boyer, Brownell, Brooks, Broomall, Buckland, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Ferry, Fields, Getz, Glossbrenner, Halsey, Hamilton, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Judd, Julian, Kelley, Kelsey, Kitcham, Kitchen, Krontz, George V. Lawrence, William Lawrence, Loughridge, Mercer, Moore, Morrell, Niblack, O'Neill, Paine, Perham, Pike, Platts, Pruyn, Robertson, Sawyer, Scofield, Shanks, Sitgreaves, Stone, Taylor, Thomas, Trowbridge, Van Aernam, Van Aiken, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, and Thomas Williams—65.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Barnes, Barnum, Beaman, Blaine, Burr, Calk, Chandler, Cornell, Dodge, Eckley, Eggleston, Elna, Eldridge, Eliot, Fox, Garfield, Griswold, Haight, Harding, Hayes, Hill, Hooper, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kerr, Laffin, Lincoln, Lynch, Mallory, Marvin, McCarthy, McCullough, Morgan, Morrissey, Mungen, Peters, Phelps, Polesley, Pomeroy, Price, Randall, Raum, Selye, Shellabarger, Spalding, Starkweather, Stewart, Taber, Upson, Burt Van Horn, Van Wyck, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—60.

So (two thirds not voting in favor thereof) the rules were not suspended.

## IMPEACHMENT.

Mr. COVODE. I rise to a question of privilege. I offer the following preamble and resolution:

Whereas Andrew Johnson, President of the United

States, did upon the 4th day of July, 1867, at the request of the counsel of John H. Surratt, cause to be issued to Stephen F. Cameron, of the rebel army, and one of the most notorious violators of the laws of war, a full pardon for all his crimes, in order that his credibility might be increased as a witness to aid in the exculpation of said Surratt from his participation in the murder of Mr. Lincoln, thus showing his sympathy with the men that murdered the President: Therefore,

Be it resolved, That the Committee on the Judiciary be instructed to inquire into the foregoing charge, and report the evidence to the House in the first week of its next session, together with all the testimony already taken in the impeachment case.

I hope that this resolution will be adopted. If any gentleman desires to ask any question I will try to answer it. If not, I call the previous question on the adoption of the resolution.

Mr. INGERSOLL. If the gentleman desires an immediate vote on the resolution I ask him to modify it in one particular. It asserts that the person named in the resolution has been "notoriously" guilty of a violation of the laws of war. I do not know that such is the fact. Perhaps the gentleman has some information on this subject. If so, I trust he will submit it to the House. I cannot vote that a man is "notoriously guilty of a violation of the laws of war" without first having satisfactory evidence of the fact.

Mr. COVODE. I will state—

Mr. BOYER. I rise to a point of order. I submit to the Chair whether this resolution presents a question of privilege.

The SPEAKER. It does unquestionably, in the opinion of the Chair, present a question of the very highest privilege.

Mr. COVODE. I will state that I have put this resolution in the mildest form in which I was able to frame it. I could have made it much stronger. It will be seen, by examining the testimony of this witness taken in court yesterday, that this pardon was antedated on the 16th of June. I could go further and refer to the pardon of Toombs, after he had written a letter which many gentlemen here have read, showing that he is ready again to inaugurate treason. But I have confined the resolution to one single fact.

In connection with this matter I desire also to settle the question in regard to printing and reporting during the first week of the next session the testimony already taken by the Judiciary Committee on the subject of impeachment. I call the previous question.

Mr. WILSON, of Iowa. I ask the gentleman to yield to me, that I may make a statement in regard to the last portion of the resolution.

Mr. COVODE. I will do so.

Mr. WILSON, of Iowa. I wish to state that it was the intention of the Committee on the Judiciary to ask authority to have this testimony printed in time to be presented at the commencement of the next session. Although the question was not finally acted on in committee, yet the expression of the committee was in favor of that course. I presume, therefore, that no member of the committee will have any objection to that part of the resolution which authorizes the printing of the testimony in time to be presented during the first week of the next session. I am not authorized, of course, to express the views or wishes of any other members of the committee than myself; but I understand that to be the case. Therefore I have no objection to giving to the committee such authority as the resolution proposes.

Mr. WILLIAMS, of Pennsylvania. Will my colleague [Mr. Covode] yield to me for a moment?

Mr. COVODE. Yes, sir.

Mr. WILLIAMS, of Pennsylvania. It seems to me that the powers of the committee are ample, under the resolution under which they are now acting, for the full examination of the case to which the first part of the resolution refers; and I would say that while there has been discovered in the conduct of the President of the United States much which I regard as highly culpable, I do not know that the

granting of a pardon (which I suppose may probably amount only to a safe-conduct, or may have been intended as such,) might not possibly be proper, if the defendant now on his trial for a very high crime insisted that the testimony of this witness was essential to his defense. I understand that in like cases pardons have been issued in order to enable witnesses to appear on the part of the prosecution. I merely throw out this suggestion.

Mr. COVODE. I now insist on the previous question.

Mr. GETZ. Will my colleague yield to me for a question?

Mr. COVODE. Yes, sir.

Mr. GETZ. I wish to inquire whether the gentleman knows that John H. Surratt is, as charged in the resolution, guilty of being an accomplice in the murder of President Lincoln?

Mr. COVODE. I think the testimony will settle that. We are not to settle it.

Mr. GETZ. I was only going to remark that if my colleague knows the fact he would be a very valuable witness for the prosecution, and I am only surprised that he is not subpoenaed.

Mr. INGERSOLL. I ask that the vote be taken separately on the preamble and resolution.

The previous question was seconded, and the main question ordered, which was first upon agreeing to the resolution.

Mr. BURR. The resolution instructs the committee to examine into "the foregoing charge"—language which without the preamble is unintelligible.

Mr. SCOTFIELD. I rise to a point of order. Can the resolution be separated from the preamble when the resolution standing alone does not make complete sense?

The SPEAKER. The rule provides that whenever any member desires it a preamble and resolution must be voted on separately.

The resolution was adopted.

The question then recurred on the preamble.

Mr. COVODE demanded the previous question.

Mr. ROSS. Is it in order to move to refer this subject to the Committee on the Judiciary?

The SPEAKER. The preamble is not covered by the previous question ordered on the resolution, but requires a separate demand for the previous question.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body adhered to its amendments to House bill No. 108, for the relief of certain volunteer soldiers and sailors.

## IMPEACHMENT—AGAIN.

Mr. COVODE. I will modify the preamble by inserting the word "alleged," so it will read "alleged participation;" and then demand the previous question.

The previous question was seconded, and the main question ordered.

The House divided; and there were—ayes 40, noes 65.

So the preamble was rejected.

Mr. COVODE. I will strike out the latter clause of the preamble.

Mr. DAWES. What will be the purport of the resolution we have adopted as it now stands?

The SPEAKER. It will not make good sense.

Mr. DAWES. It refers to "the foregoing charge," and that has been rejected.

Mr. MORRELL. I move to reconsider the vote by which the preamble was rejected.

The House divided; and there were—ayes 54, noes 39.

So the motion was agreed to.

The question again recurred on the adoption of the preamble.

Mr. COVODE. I move to strike out the latter clause.

**Mr. BOUTWELL.** I move as a substitute the following:

Whereas it is reported that the President has pardoned S. F. Cameron: Therefore, &c.

**Mr. ROSS.** Is not the previous question pending?

**The SPEAKER.** It has been exhausted.

**Mr. COVODE.** I accept the modification, and demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was agreed to, and then the preamble, as amended, was adopted.

#### WASHINGTON MONUMENT ASSOCIATION.

**The SPEAKER** laid before the House the report of the Secretary of the Interior, in answer to a resolution of the House of the 16th instant, making certain inquiries touching the Washington Monument Association; which was laid upon the table, and ordered to be printed.

#### ENROLLED BILL.

**Mr. WILSON,** of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 130, supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867, when the Speaker signed the same.

#### CONTROL OF INDIAN AFFAIRS.

**Mr. SCHENCK** asked leave to introduce, for reference, a bill to restore the Bureau for Indian Affairs to the War Department.

**Mr. ROSS** objected.

#### RICHARD CHENERY.

**Mr. PILE.** Mr. Speaker, I ask unanimous consent, in the absence of the Representatives from California, to make a motion in reference to a private bill for the relief of Richard Chenery. I can state the circumstances in a few moments. It is an old claim for beef furnished in the State of California. The last Congress passed an act to examine and settle the claim, but failed to make the necessary appropriation of \$3,000 in case the Secretary should find the claim to be just. The claim has been found, after examination, to be just, but there is no money to pay it. The Senate passed a resolution on the 21st of last March to supply the appropriation, and that resolution is now before this House. The resolution has been referred to the Committee of the Whole, and I desire to move that the Committee of the Whole be discharged from its further consideration, and that it be taken up for consideration now. It is Senate joint resolution No. 40, to provide for the payment of Richard Chenery.

**Mr. SCOFIELD.** I object.

#### SELECTION OF OFFICERS IN WASHINGTON.

**Mr. INGERSOLL** resumed the floor, and asked leave to introduce a bill to regulate the selection of officers in the city of Washington, and for other purposes.

The bill was read. It provides that it shall be the duty of the mayor of the city of Washington, District of Columbia, the Board of Aldermen, and the Board of Common Council thereof, to assemble in joint convention, at the City Hall, in said city, on the first Monday in August in each year, and select by ballot all officers whose appointments are now authorized by the charter, or by any law of the United States, or act or ordinance of said city, or which may hereafter be authorized thereby; provided that when so assembled they may abolish any of the offices now established, or change the duties connected therewith, or the compensation thereof, as they may deem proper or necessary for the interests of said city; and provided further that no person shall be regarded as incompetent to hold any of said offices, or be disqualified therefor, on account of his race or color.

It further provides that in all the meetings of the mayor of the city of Washington and of the Boards of Aldermen and Common Council,

for the purposes mentioned in the first section of this act, the mayor or the president of either of said boards shall preside, and the secretaries of said boards shall act as tellers and keep a record of the proceedings, and the mayor or any member of either of said boards may nominate one or more persons for the offices required to be filled, and the person having the highest number of votes shall be publicly declared selected, and a certificate of his selection shall within five days be made out, and signed by the presiding officer and secretaries, and be transmitted to the person selected, who shall, within ten days thereafter, enter on the discharge of the duties of his office.

The third section provides that all questions arising in the joint convention authorized by this act shall be determined by a majority of the votes of the members thereof present at any of its meetings, and it shall have power to adjourn from time to time until all the duties imposed upon it shall be completed, and to require of the persons selected for any office such security as may be deemed necessary.

Section four repeals all acts or parts of acts inconsistent herewith.

**Mr. BOYER.** I object.

**Mr. INGERSOLL.** I move to suspend the rules in order to consider the bill at the present time.

On suspending the rules there were—ayes 54, noes 22; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. INGERSOLL and BOYER.

The House divided; and the tellers reported—ayes 79, noes 14.

So the rules were suspended.

The bill was read a first and second time.

**Mr. SCOFIELD.** Will the gentleman allow me to make a motion to refer this bill to the Judiciary Committee? It is somewhat imperfect in phraseology. They can report it back to-morrow morning.

**Mr. INGERSOLL.** I do not know that we have anything of more importance to consider at this time than this bill. If it is imperfect we can take it up and amend it section by section. I will allow any amendment to be offered. I do not think it needs to be sent to the Judiciary Committee.

**Mr. SCHENCK.** I move to strike out the words, at the end of the first section, "on account of his race or color," and insert in lieu thereof the words "who is a qualified elector in said district."

**Mr. INGERSOLL.** I will accept that amendment, and will modify the bill accordingly.

**Mr. WELKER.** I move to amend by inserting after the words "may abolish any of the offices now established," the words "not elective by the voters of the city."

**Mr. INGERSOLL.** I accept that modification. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### ENROLLED BILL.

**Mr. WILSON,** of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 127) for the relief of Melinda Harmon, of the county of Greene and State of Tennessee, widow of Jacob Harmon; and

An act (H. R. No. 108) for the relief of certain soldiers and sailors therein designated.

#### RELIEF OF VOLUNTEER SOLDIERS.

**The SPEAKER.** The Chair, in accordance with the rule of the House, lays before the House the following message from the Senate of the United States:

IN SENATE OF THE UNITED STATES.  
July 17, 1867.

*Resolved,* That the Senate adhere to its amendment to the bill No. 108 of the House for the relief of certain volunteer soldiers therein designated, disagreed to by the House of Representatives.

**Mr. ASHLEY,** of Ohio. I move that the House recede from its disagreement. In making this motion I wish to state that under the rule adopted by the Senate one objection carries a bill over, and it will be impossible to have any bill passed at this session unless the House recedes from its disagreement to the amendment of the Senate.

The question was taken on **Mr. ASHLEY's** motion that the House recede from its disagreement to the amendment of the Senate, and it was agreed to.

**Mr. ASHLEY,** of Ohio. I move to reconsider the vote by which the motion was agreed to; and also to lay the motion to reconsider on the table.

The latter motion was agreed to.

**Mr. ASHLEY,** of Ohio, then, by unanimous consent, introduced a bill for the relief of certain volunteer soldiers and sailors therein designated; which was read a first and second time, referred to the Committee on Military Affairs when appointed, and ordered to be printed.

#### KENTUCKY ELECTION.

**Mr. BROOKS.** I rise to a question of privilege. I hold in my hand a memorial from a colored gentleman in the State of Kentucky in the matter of the Kentucky election, which I hope, if for no other reason, will attract the attention of this House. On the 3d of July there was presented to the House a memorial of Willis Hockaday in behalf of Captain McKee, who is a contestant of the seat of John D. Young, of the ninth Kentucky district, who holds the certificate from the Governor of that State. This Willis Hockaday, whose memorial was then presented and published in the Globe, in that affidavit represented that in the month of September or October, 1861, a band of rebels came to Raccoon Furnace, in Greenup county, Kentucky, and captured a number of men and horses and took also other property, and carried him off among others, but that he escaped in four or five days; and that John D. Young, elected on the 4th day of May, 1867, to the Fortieth Congress, was with this band of rebels representing himself as their colonel, and being called by that title by the men.

**Mr. DAWES.** I suggest to the gentleman that he send the statement to the Clerk's desk and have it read.

**Mr. BROOKS.** I want first to state what the question of privilege is. It will be recollected that on the 3d of July, when this subject was up, I stated in behalf of the Representative from Kentucky that he did not know who this Hockaday was, and I supposed that he was of the same class of character as Geoghegan, who swore me out of my seat in the last Congress; but it seems that he is a much better man, because after he has made these errors he is perfectly willing to correct them. I hold in my hand a memorial from Willis Hockaday, and I ask that it be read.

The Clerk read as follows:

#### STATE OF KENTUCKY, MONTGOMERY COUNTY, &c.

Personally appeared before me, a notary public in and for the county and State aforesaid, Willis Hockaday, who states that he is a colored citizen of the State of Kentucky, and can neither read nor write; that he is the same individual whose pretended affidavit was taken by Captain Samuel McKee, on June 15, 1867, and the same which was read in Congress on motion to refer the credentials of the Kentucky Congressmen to the Committee on Elections; that said affidavit, a copy of which is herewith filed in print, does not contain a statement of the facts as detailed by him to Captain Samuel McKee when said affidavit was taken; this affiant never did tell Samuel McKee that "John D. Young, of the county of Bath, and the same man who was on 4th May, 1867, elected to the Fortieth Congress from the ninth Kentucky district, was with said band of rebels that captured him, and was in command of the same, representing himself as a colonel, and was by the men under him called by that title;" he never did make any such statements to Samuel McKee; and said affidavit in that respect is untrue, and does not contain what he detailed to said McKee at the time he pretended to take said affidavit, and in this respect this affiant has been made to swear what he never stated; that this affiant does not know John D. Young, who was elected to the Fortieth Congress on the 4th May, 1867, from the ninth Kentucky district, and never saw him that he recollects, and would not know him if he should now see him; that this affiant did not know or recognize any of the men who cap-



tured him, as stated in said affidavit; that this affiant never told Samuel McKee that "on the next day after his capture he saw John D. Young commanding the men who captured him;" that he never told Samuel McKee he was captured by rebels; he does not know now, and did not then, whether his captors were rebels or home guards; that this affiant never told Samuel McKee that "on his way to Camp Dick Robinson, through Owingsville, Bath county, he related the circumstance, and was then told that Young was absent from home and had gone to the rebel camp at Prestonsburg;" this affiant never stopped in Owingsville, never inquired about John D. Young, never heard any one say anything about him, and did not so much as know whether John D. Young was in being; this affiant has no knowledge about John D. Young's being connected with the rebellion in any way, nor does he know whether Young is what is called a "rebel" or not; this affiant says he only told McKee that he was captured in 1861 by a party of men at Raccoon Furnace, in Greenup county, Kentucky; that he did not know whether they were rebels or home guards; that he was captured on Saturday night and taken by the said party and escaped on the second night of his capture and saw no more of them; that he was told by said men that they were commanded by a man named Young, but what Young they did not say, and this affiant does not know whether the said party was commanded by a man named Young or not; that said affidavit was written by Samuel McKee, and was never read to this affiant either by him or the notary who certifies that he was sworn to it and had read it to him.

his  
WILLIS HOCKADAY.  
mark.

Attest: R. S. P. ANDERSON, J. M. CRAWFORD, JAS. H. TRUMBLE.

Sworn to before me, by Willis Hockaday, of color, who states in my presence, and the presence of the witnesses whose names appear above, that he has heard the foregoing affidavit read, and has fixed his mark to his name to the same, and that its statements are true.

Witness my hand and seal this 11th July, 1867.

J. D. REID.

Notary Public for Montgomery county, Kentucky.

Mr. BROOKS. Mr. Speaker, I wish to state that that affidavit was forwarded to me by several respectable citizens of Kentucky, and among them by Mr. Thomas Metcalfe, a respectable citizen of Mount Sterling, who says:

"Willis Hockaday lives in this town, and as soon as he heard the affidavit read, as it appeared in the Courier, he immediately disowned it, and said that he never did make any such statements to McKee as are set forth in that affidavit. He says that McKee wrote the affidavit himself, and that neither McKee nor the notary who swore him to it read the affidavit to him. He says further that the affidavit is a gross perversion of the facts detailed to McKee by him when the affidavit was given. Hockaday is an ignorant negro man, can neither read nor write, and says McKee has imposed upon him and grossly misrepresented him. He desired to make a second affidavit, and state what he did say to McKee when he gave that affidavit, and I took him before a notary public, and he yesterday made the affidavit which I inclose to you. The affidavit speaks for itself; comment is unnecessary."

I also hold in my hand a letter from Hon. Richard H. Stanton, of Maysville, Kentucky, a gentleman well known to some here as an old member of this House, who says that in this district the rebel votes cast in the district do not amount to as many as one half of Judge Young's majority. It is, therefore, most shameful to charge that his success was achieved by rebel votes. A large number of Union soldiers voted for Judge Young, and some of his most active friends were men who had signaled their Unionism in every manner it was possible.

Mr. Speaker, I do not expect the House in this case to do immediate justice; perhaps that would be expecting too much; but I do ask in the name of the State of Kentucky, I do ask for the honor of this House, that this memorial be referred to the Committee of Elections, and that some immediate action be taken upon the subject before this Congress adjourns. For, sir, the exclusion of a member bearing a certificate under the seal of the State almost exclusively on the ground of an affidavit from an ignorant negro who was imposed upon, and who now contradicts his previous affidavit by a counter-affidavit, is such a monstrosity that I am quite sure the House would not be guilty of it, if it were aware of the facts. I ask, therefore, the immediate attention of the Committee of Elections to this subject, and I hope that they will promptly report that Mr. Young is entitled to a seat on this floor.

Mr. DAWES. I was about to call the attention of the gentleman from New York [Mr. Brooks] to the fact that when a matter has

been referred to a committee with instructions by the House to investigate the truth of the charges and to report to the House, there is an evident impropriety in bringing the matter up again *ex parte* upon affidavits, without referring those affidavits to the committee for their consideration and examination. But I reflect, sir, that no gentleman on this floor is so able in the matter of affidavits as my distinguished friend from New York; and I do not know that I can blame him for still lingering upon the field in which he has won so many laurels with affidavits which he has carried around in his pocket. Therefore I have no complaint to make on that subject. Every man must be conscious of that in which he has the greatest gift and that in which he can serve his country in the most distinguished manner.

I do not myself intend to express an opinion upon the condition of things in the district alluded to by the gentleman from New York. I supposed that it was my duty, as I supposed it was that of the gentleman from New York, to wait until an investigation has been had of all the facts, upon testimony properly taken, when all parties interested can be present and cross-examine witnesses, and when the committee could consider the weight due to such testimony and bring it before the House with such conclusions as they might think it justified. I do not now intend to express an opinion beyond this: that I can very well understand the condition of things in Kentucky that would bring about the production of the affidavit which my distinguished friend from New York has carried in his pocket and has brought forward, as I think inopportune, as is usual with him. But, sir, if there be any truth in the statement of the original affidavit, that there was in Kentucky in 1861 such a condition of things as would permit an armed band of rebels to come there and carry off a citizen of that State into the rebel confederacy and wage war upon him and other peaceful citizens of that State, I can understand very well how that condition of things may still remain to such an extent that the poor, unfortunate colored man whose name has been brought in here to-day may be under such an apprehension with regard to his present personal safety as to find his only way of deliverance in signing such an affidavit as has just been read to the House. Whether this be the fact or not I do not know. It would perhaps have been as well to refer this affidavit to the committee that they might examine whether there was any ground for it. I have, however, just had put into my hand the affidavit of two gentlemen who witnessed Hockaday's signature to the affidavit which was produced here on the 3d of July. The affidavit of these two gentlemen may throw some little additional light upon the condition of things in Kentucky to-day as well as at the time when the witness signed the affidavit originally read in this House, and also at the time when some person named Young—I do not know who—headed a band of rebels that invaded the State of Kentucky and carried off with impunity this poor colored man into the rebel confederacy.

I ask that this may be read and also referred to the Committee of Elections, which committee I trust will undertake to examine in a proper and legal manner the witnesses they may find who will throw any light on the real condition of things in Kentucky, and report at as early a day as possible.

The Clerk read as follows:

STATE OF KENTUCKY, County of Montgomery:

This day personally appeared before me J. P. Nelson and E. A. Thomas, well known to me to be credible persons, who state that they witnessed the signature of an affidavit made by Willis Hockaday, and read in the proceedings of the House of Representatives, United States Congress, on the 3d day of July instant, as a paper accompanying the protest filed against John D. Young being permitted to qualify as member for the ninth Kentucky district. They state that at the time said Hockaday directed his name signed to said paper he was asked the question, "Have you heard this paper read over, and are its statements true?" Hockaday answered: "I have heard it read; it is true every word of it, and I will

swear to it anywhere." His name was then signed to the paper. Affiants witnessed it and were present before the notary, George E. Miller, who swore Hockaday to the same, and signed his own name to the certificate, asking witness if he had heard the affidavit read, who answered he had.

J. P. NELSON,  
E. A. THOMAS.

Sworn to before me, by J. P. Nelson and E. A. Thomas this 12th day of July, 1867.

E. E. GARRETT,  
Police Judge, Mount Sterling.

Mr. SCHENCK. Mr. Speaker, I happened to be the member who presented the protest on the first day of the session bringing up the question of the propriety of admitting Young to be sworn into his seat, or I would not trouble the House for one moment. But as I did present those papers I desire to make some little correction in regard to the statements submitted by the gentleman from New York, [Mr. Brooks.]

In the first place, sir, as to the papers which were presented, there was a protest presented by Mr. McKee, late a member of this House, and now contesting the right to this seat against Young being permitted to take the oath, reciting some ten or twelve or fourteen, I do not know how many, reasons for the exclusion of Young. There were two other protests numerous signed by citizens of the ninth district of Kentucky precisely similar to that presented by Mr. McKee. The action of the House was not, as the gentleman from New York supposes, based upon the single affidavit of what this negro man swore to, but there were ten, twelve, fourteen, perhaps more, affidavits of various persons covering various charges. Only one or two of the affidavits were read. The reading of the affidavits were suspended, and then all of the papers were referred to the Committee of Elections.

One word more. These affidavits were necessarily *ex parte*. They were not evidence against Young's right to a seat except as raising the question as to the propriety of his being permitted to take his seat. For that purpose, as a matter of course, they were sufficient simply to raise the preliminary question on which to base investigation into the matter and determine whether he ought to be permitted or not to take his seat. I offered it for no other purpose but simply to stop Young being sworn in. These affidavits were a fair, just, and sufficient showing for the preliminary action of the House. The papers, with the protest, went to the Committee of Elections, and I took care in the original resolution, and also in the substitute for the resolution, to provide that the committee should investigate the whole matter in regard to these charges, particularly including this charge of disloyalty, and for the purpose of making the investigation what it should be they should have the power to take testimony, and for this purpose to send for persons and papers.

Now, sir, the case was made before the committee. After that it seems to me there remained nothing to do except as the testimony might come into the House to send it to that committee, and for the committee at their discretion to send also for persons and papers. The gentleman from New York [Mr. Brooks] has thought proper to introduce at this late stage a counter affidavit. It can have no effect one way or the other unless it may be supposed in some way or other to clear up the character of Mr. Young as it appears in the newspapers from that first affidavit which was submitted. I make no question in regard to the propriety or impropriety of having it read now. It can take no other course than to be referred to the Committee of Elections; and I may be permitted perhaps to say it cannot have much effect there any further than to help direct the committee to the sources of inquiry which they shall hereafter make.

I presume, therefore, the committee will send for this black man, and as he seems to have sworn one way at one time and another way at another, as he may have been deceived at one time or the other or at both times, the only way of eliciting the truth will be, the

inquiry being established, to send for papers and look into the matter carefully. I suppose the only question is, shall these two conflicting depositions, one offered by the gentleman from New York and the other by the chairman of the committee, be sent to the Committee of Elections? I shall vote that they both go to that committee, there to be taken for what they are worth. But I wish to enter my protest against the committee acting definitely upon either of these affidavits, or upon any such testimony as concluding the case in regard to the right of Mr. Young to a seat. I think the witnesses should be before the committee, or else that affidavit should be taken upon proper notice, so that we may be sure, if the witnesses are not within reach, that both parties have had an opportunity of being present when the testimony is taken.

Mr. BROOKS. The gentleman from Ohio and the gentleman from Massachusetts do not seem to comprehend the real point of this case, or rather I may say, perhaps they do not desire exactly to comprehend the great point at issue, which is the right of the State of Kentucky to an immediate representation on the floor of this House upon presenting the certificates of the Governor of the State, under the great seal of the State. The only one among these affidavits that was published, if I recollect right, is the *ex parte* affidavit of Hockaday. That was carried to the State of Kentucky, and there it turns out that the affiant is a colored man, who swears two ways. There were numerous other *ex parte* affidavits which were not published—made, it may be, by black men or not—which if published in the State of Kentucky would perhaps bring out counter affidavits like the one I presented.

Now I ask if under *ex parte* affidavits taken by a contestant, who, if I am correctly informed, is guilty of a most monstrous act—I may be incorrectly informed as to that—but at all events an eager, greedy contestant, who without regard to the law of elections brings those *ex parte* affidavits before this House, without having given any notice to Mr. Young, as he ought to have done—I ask if, under such affidavits, it is right to exclude a whole delegation from a State from their seats? Here are *ex parte* affidavits against the great seal of the State. They are taken without any notice whatever to the other party. They are sent to the Committee of Elections, and what is the result? Why, the honorable gentleman from Massachusetts [Mr. DAWES] knows as well as I do that the effect of this action is, although the loyalty of Mr. Young may be undisputed, and he may be proved to have been the most loyal man in the country, to keep him out of his seat until March, April, or May next, until this Congress has exhausted a large portion of its legislative term. And in excluding him you at the same time exclude all the delegation from the State of Kentucky, except one member.

It is obvious, from the remarks of the chairman of the Committee of Elections, that he intends to make this a long examination. The argument of the gentleman is, if he is a disloyal man and has his seat given him under the certificate of the great seal of the State we are obliged to sit here with such disloyal member, and there is no remedy for that unfortunate position. Why, sir, if the precedents of this House had been followed, Mr. Young would have been admitted to his seat forthwith as a member of the House; and if he had been disloyal, if on taking the oath of office he had been guilty of perjury, it would have been in the power of two thirds of this House—and the dominant party here have a clear majority of two thirds—immediately to expel him from his seat. But the final result of all this action is to exclude the State of Kentucky from representation here until March, April, or May next upon *ex parte* affidavits of this negro, Hockaday, who has sworn two ways, and the *ex parte* affidavits of other persons whose testimony is not worth more than that of Hockaday. I followed the precedents of the House

in proposing to refer this matter to the Committee of Elections, following out all the proprieties of the occasion in the most temperate manner possible. I violated none of the privileges well known and recognized in the proceedings of the House in asking the reference of this paper to a committee on which the political friends of Mr. Young have two members, while his political opponents have seven. I ask the immediate action of the committee on the case, because Mr. Young can at any time be excluded from the House if the charges made against him are established. All I ask of the committee is an early and immediate report. I have shown that the affidavit upon which this Representative was excluded is worthless. This is the spectacle presented: a member from the State of Kentucky, holding his commission under the great seal of his State, is excluded by negro testimony taken *ex parte* without his knowledge! To establish such a precedent would be monstrous.

Mr. DAWES. The gentleman from New York asks the immediate action of the Committee of Elections upon this question. Does the gentleman ask the Committee of Elections to pass upon the great question whether a man claiming a seat in this House is loyal or not, upon the mere affidavits of persons for or against him? I await his answer.

Mr. BROOKS. I answer by saying that *ex parte* affidavits, taken in violation of law, prove nobody disloyal under the election laws of Congress.

Mr. DAWES. Very well; then the gentleman desires the action of the Committee of Elections without evidence.

Mr. BROOKS. Upon the certificate of election.

Mr. DAWES. That I take to be the interpretation of the gentleman's remarks, both to-day and on a former occasion. He places so light an estimate upon the charge that a man claiming a seat in this House has waged war upon his country that he proposes to let the question be decided without evidence and upon such statements as may be made in his behalf in private letters addressed to the gentleman from New York.

I would like to ask the gentleman—and I want a categorical answer—whether, if it should be proved to his satisfaction that the gentleman claiming a seat in this House as a Representative from this district did actually, as is stated in this original affidavit, head a band of rebels who carried Hockaday off into the confederacy, he would vote to admit him to a seat? I ask a categorical answer.

Mr. BROOKS. Is there any proof of that?

Mr. DAWES. It is not for me to say whether there is or is not. I am instructed by the House to inquire whether the charge is true or not; and I again ask the gentleman to tell me whether, if it is proved to his satisfaction that this man did lead the band of rebels that carried off this negro, he will vote to admit him to a seat here?

Mr. BROOKS. I hold that where a man presents a certificate of membership under the great seal of his State, he ought to have the oath administered to him, and then, if he take the oath, he can be expelled for perjury or otherwise.

Mr. DAWES. Then I understand the gentleman that no crime of that character against the nation can be committed by any man claiming a seat here which shall be of so dark a dye that will justify his exclusion from a seat in this House.

Mr. SCHENCK. Let in enough of such men, and they would exclude us.

Mr. DAWES. Exactly; let us get enough of them here, and they would soon have enough to exclude all the rest of us, excepting perhaps the gentleman from New York.

Mr. ROBINSON. Will the gentleman allow me to ask him a question?

Mr. DAWES. Certainly, sir.

Mr. ROBINSON. All the proof, as I understand, against the loyalty of Mr. Young rests upon the statement of one Hockaday, who

now withdraws that statement. Hence, so far as I can see, the record of Mr. Young as to loyalty is the same as that of the gentleman from Massachusetts [Mr. DAWES] or myself.

Mr. DAWES. In answer to the gentleman from New York, [Mr. ROBINSON,] I will say that he is exceedingly oblivious to what has been stated over and over again on this floor, and to what has been read from the Clerk's desk. There have been a multitude of affidavits presented. I suppose that an answer of the character of that furnished to-day by the gentleman from New York [Mr. Brooks] has not been furnished in reference to the other affidavits for perhaps one of two reasons, either because the affiants could not be found out or hunted down, or because they had more backbone than the poor colored man whose counter-affidavit has been presented here to-day.

Now, sir, the gentleman from New York [Mr. Brooks] is over-zealous in behalf of his friends. He goes further than Mr. Young himself. While Mr. Young is anxious, as is every member of the committee, to proceed at once in the investigation of this matter, the question was put to him distinctly whether he desired this investigation to go on without further testimony, and, unlike the gentleman from New York, Mr. Young said that he desired that the committee should have an opportunity to investigate this matter upon evidence properly taken, upon due notice to the parties, and upon cross-examination. Hence the committee supposed it was in accordance with the wish of Mr. Young (whatever may be the wish of the gentleman from New York) that they should take time to proceed to Kentucky and examine this case according to the rules of evidence, so as to bring testimony here for the satisfaction of such members of this House as believe that a man may be such a traitor that he ought to be excluded from this floor. To the gentleman from New York it is quite unnecessary to take testimony. I submit that that gentleman has already committed himself to the doctrine that no matter what crime a man may have committed against his country, he has a right to come here and take a seat in this House—to sit here in mockery of the authority of the Government, pretending to make laws in its support.

Mr. ROSS. Will the gentleman yield to me a moment?

Mr. DAWES. Yes, sir.

Mr. ROSS. I desire to ask the gentleman whether, in his judgment, a certificate of election from the proper authority does not, *prima facie*, entitle a member to a seat in this House?

Mr. DAWES. Most certainly, sir; I have said so a hundred times on this floor. Unless something can be brought forward deserving the name of testimony—something that deserves to have weight with honest and honorable men, who regard their country and regard the character of the men who sit here, such certificate of election should be sufficient, *prima facie*, to entitle a man to admission.

Mr. ROSS. Then I would inquire of the gentleman whether the holder of such certificate has not a right to take and hold his seat until it is shown by legitimate and legal testimony that he is disqualified?

Mr. DAWES. I hold, Mr. Speaker, that when there is presented alongside of the certificate a case which leads members here, clothed by the Constitution with the power and duty of passing upon the qualifications of those who apply for admission—when there is presented alongside of such a certificate such a case as leads us to suppose that there is good reason to believe that the man presenting himself is disqualified, it is the duty of those whom the Constitution requires to pass upon the qualifications of members to stop at this initial point and pass upon that question. In order to do this they must be furnished with testimony; and if they are to be furnished with testimony they cannot rely upon affidavits or counter-affidavits or private letters. They must summon witnesses either at the bar of the House or

before a committee, and permit the party affected to cross-examine those witnesses. This testimony should be brought before us, and we should pass upon it under our responsibility as members here.

Mr. ROSS. I would like to inquire of the gentleman whether he thinks there is before the House any such legal testimony as should rightly deprive Mr. Young of his *prima facie* right to occupy a seat here?

Mr. DAWES. Why does the gentleman put that question to me, when the House, in my absence, passed upon this subject?

Mr. ROSS. Because I want an answer.

Mr. DAWES. The gentleman from Illinois [Mr. Ross] knows very well that no member of this House claims that a man should be deprived of his seat here upon any testimony that was produced in the Kentucky cases. But the House did decide, and I believe rightly, that there was presented in reference to some of the applicants for seats, including Mr. Young, sufficient ground to justify us in saying that the qualifications of these men to seats on this floor should be examined into and passed upon by the House before they take their seats.

The motion of Mr. Brooks was agreed to; and the paper was accordingly referred to the Committee of Elections.

#### CONTROL OF INDIAN AFFAIRS.

Mr. SCHENCK. I ask unanimous consent to introduce a bill for reference and to be printed. It is a bill to restore the Bureau for Indian Affairs to the War Department.

Mr. ROSS. I will not object if it be referred to the Committee on Indian Affairs.

Mr. SCHENCK. It relates to a military subject, and ought to be referred to the Committee on Military Affairs. Let it come in, and then the House can refer it to whatever committee it pleases. I move to suspend the rules.

The House divided; and there were—ayes 54, noes 20.

Mr. ROSS demanded tellers.

Tellers were ordered; and Mr. Ross and Mr. SCHENCK were appointed.

Mr. ROSS moved that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock and fifty minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petition of citizens of the late State of Mississippi, praying that their civil organization be set aside.

By Mr. COBB: The petition of Andrew C. Smith, late sergeant of company G, thirty-second regiment Iowa infantry volunteers, for back pension.

By Mr. PERHAM: The petition of Daniel Hauser and others, soldiers and widows of the war of 1812, for pensions.

By Mr. POLAND: The petition of John F. Conoley, judge of probate, of Dallas county, Alabama, praying to be relieved from disability on account of having been engaged in the rebellion. Accompanying the petition and recommending that the prayer thereof be granted are petitions from leading Union men of Alabama, also from General Swayne and several other officers of the United States Army.

#### IN SENATE.

THURSDAY, July 18, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### MAURICE RICE EVANS.

Mr. CONKLING. There is on the table a joint resolution to which attention has once or twice been called before. I rise to ask the Senate to allow it to be taken up, and I think I can make a statement which will deter every Senator from making any objection. It is, as has been stated before, a resolution to give to a meritorious young man the opportunity of entering the Naval Academy, to which he has been nominated; but the time has been allowed to pass when regularly he could be examined. There is no other regular and matter-of-course opportunity to be examined until September, by which time he will have passed the age

within which, if at all, he must enter this Academy. Previously, when something was said about this matter, Senators—and among them, I think, the chairman of the Naval Committee—did not appear inclined to give assent to the agreement by the Senate in the House resolution, because they thought a proper application to the Secretary of the Navy in so small a matter as this must lead to his allowing this young man to be examined now by some one of the number of officers who I understand are here and might just as well do it as not. Accordingly an effort to that end was made. I think the Naval Committee of this body unanimously or nearly so (all those who were here, at any rate, concurring in it) united in an urgent request to the Secretary to allow it to be done, feeling the hardship of the case. Without any reason that I can understand or any reason that I can learn from others he simply refused to allow it to be done, putting himself upon the law and saying that Congress has the power to order it to be done, and if the case appeals to anybody it appeals to Congress; in short, he will not do it; and I am informed that he also says that he has issued some regulation which this would not be in accordance with; and therefore, although I believe he considers himself competent to almost any task, it seems that he does not think his jurisdiction is broad and deep enough to vary some marinet regulation which he has, which prescribes that this thing shall be done on one day rather than on another; and accordingly, unless the clemency (perhaps I ought to say) of this body can be successfully appealed to, this young man, who has made all his arrangements and whose family have made all their arrangements for his entering upon this life, the life of a sailor, is to lose the opportunity and go home disappointed, with the loss of money and the loss of expectation. It seems to me too bad; and although I have been one of those insisting, as far as I thought I properly could, against the taking up of matters other than those referred to in our rule, yet we have done it heretofore, and this is so small a thing I hope the resolution may be taken up and acted upon. I think it will consume no time.

Mr. SUMNER. Let it be done at once.

The PRESIDENT *pro tempore*. The Senator from New York asks unanimous consent to take up House joint resolution No. 69, authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next. Is there any objection to taking up the resolution? The Chair hears none.

The joint resolution was read the second time, and considered as in Committee of the Whole.

Mr. GRIMES. It is true, as stated by the Senator from New York, that when this bill was under consideration a few days ago I interposed some objection, and there are reasons why, as a general proposition, we should not indulge in such legislation as is proposed. But under the circumstances I do not feel like availing myself of the rule of the Senate to object to the consideration of the bill. It is true, as stated by him also, that the Naval Committee of this body, not able to perceive any objection to a special examination of this young man, united in a request to the Secretary of the Navy, urging him to order him to a special examination, well knowing as we did that there are thirty or forty officers of the Navy at this time in the city of Washington, who might as well spend two or three hours in his examination as not; and also knowing that there are naval officers now remaining at the Naval Academy at Annapolis who are qualified to make the examination, and who would be perfectly content to make it if they were so directed by the Secretary of the Navy. It seems that the Secretary of the Navy objects to complying with the request of the member of Congress who bestowed this appointment upon the young gentleman named in the resolution, or complying with the request of the

Naval Committee, because he says that the law of Congress passed two or three years ago declares that these candidates shall be examined according to the regulations established by the Secretary of the Navy, and he having established certain regulations, he thinks that it is better for parties to come to Congress to get legislation here than it is for him with a stroke of his pen to change a regulation of his Department which he can renew in two minutes after the change has been made.

If such is to be the spirit and construction of the Department upon a question of this kind, I cannot of course interpose any objection to the consideration of such a resolution as this.

The joint resolution was reported to the Senate without amendment.

Mr. JOHNSON. I concurred in the propriety of not taking this resolution up when it was first called to the attention of the Senate for the reasons stated by the honorable member from Iowa. I had no doubt that the Secretary of the Navy had complete power to authorize the examination of this young man, and I could not doubt that that power he would exercise. That he had officers enough within his reach from whom to select a board of examiners I understood was true beyond all doubt. But now he insists upon it that he will do nothing unless Congress interfere. He forces us to violate a rule which we have established in view of the general service of the country rather than do an act which he is authorized to perform, which every intelligent man and every liberal man would say ought to be performed, to give this young man an opportunity of being examined, when he will be lost to the service and when his own ambition will be entirely defeated of being an officer of the service if that examination is not now had. I hope, therefore, that the Senate will not hesitate a moment in passing this resolution. It will not only be an act of justice to the young man, but I hope will serve in some measure to rebuke the obstinacy of the Secretary.

Mr. HENDRICKS. I joined with the committee in recommending the application for this examination to the Secretary of the Navy. I thought it possible for him to do it under the law. And while I now vote for the resolution, I shall not vote for it with the understanding that the Secretary of the Navy is necessarily censured, as is intimated by the Senator from Maryland. On so trifling a matter as this I do not intend to vote a censure upon any officer of the Government. I do not know what would be the embarrassments of any of the Departments if, upon a mere matter of accommodation to some boy or some family, the regulations of the Department which are found useful for the public service are to be departed from. I shall vote for this because it appeals to my sympathies, and only for that reason.

The joint resolution was ordered to a third reading, read the third time, and passed.

#### PETITIONS.

Mr. RAMSEY presented a memorial of citizens of Alabama, expressive of their thanks to the Government of the United States for supplies forwarded to the suffering people of that State; which was ordered to lie on the table and be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Chief Clerk, announced that the House had passed a bill (H. R. No. 143) regulating the selection of officers in the city of Washington, and for other purposes.

#### AFFAIRS IN MEXICO.

Mr. CHANDLER. I move that the Senate take up the resolution which I offered the other day in regard to certain affairs in Mexico.

The motion was agreed to; and the Senate resumed the consideration of the resolution submitted on July 8, directing the Committee on Foreign Relations to inquire into the facts connected with the alleged murder of officers



and men in Mexico under a decree of the Emperor Maximilian.

Mr. CHANDLER. I ask for the passage of the resolution. It is only a resolution of inquiry. I presume there is no objection to it.

Mr. ANTHONY. I believe that resolution declares in the preamble that more than ten thousand Mexicans were killed.

Mr. CHANDLER. It simply says that is the allegation.

Mr. SPRAGUE and others. Let the resolution be read.

The Chief Clerk read the resolution, as follows:

Whereas it is alleged that Maximilian, the so-called emperor of Mexico, did on the 3d day of October, 1865, issue the following decree:

MAXIMILIAN, EMPEROR OF MEXICO.

Having heard our council of ministers and our council of state, we decree:

ARTICLE I. All persons belonging to armed bands or corps not legally authorized, whether they proclaim or not any political principles, and whatever be the number of those who compose the said bands, their organization, character, and denomination, shall be tried militarily by the courts-martial; and if found guilty, even of the only fact of belonging to the band, they shall be condemned to capital punishment within the twenty-four hours following the sentence.

ART. 2. Those who, belonging to the bands mentioned in the previous article will be captured with arms in their hands, shall be tried by the officer of the force which has captured them, and he shall within a delay never extending over twenty-four hours after the said capture make a verbal inquest of the offense, hearing the defense of the prisoner. Of this inquest he will draw an act, closing with the sentence, which must be to capital punishment if the accused is found guilty, even if only of the fact of belonging to the band. The officer shall have the sentence executed within the twenty-four hours aforesaid, seeing that the criminal receive spiritual assistance. The sentence having been executed, the officer shall forward the act of inquest to the minister of war.

ART. 3. From the penalty established in the preceding article shall only be exempted those who, having done nothing more than being with the band, will prove that they were made to join it by force, or did not belong to it, but were found accidentally in it.

ART. 4. If, from the inquest mentioned in article two, facts are elicited which induce the officer holding it to believe that the prisoner was made to join the band by force, without having committed any other crime, or that he was found accidentally in it, without belonging to it, the said officer shall abstain from passing sentence, and he shall send the accused, with the respective act of inquest, to the proper court-martial, in order that the trial be proceeded with by the latter, in conformity with article one.

ART. 5. Shall be tried and sentenced conformably with article one of this law: 1st. All those who will voluntarily assist the "guerrilleros" with money or any other means whatever. 2d. Those who will give them advice, information, or counsel. 3d. Those who voluntarily, and knowing that they are "guerrilleros," will put within their reach, or sell them arms, horses, ammunition, subsistence, or any articles of war whatever.

ART. 6. Shall also be tried conformably with the said article first: 1. Those who will hold with the "guerrilleros" such relations as infer connivance with them. 2. Those who, voluntarily and knowingly, will conceal them in their houses or estates. 3. Those who, by word or writing, will spread false or alarming reports by which public order may be disturbed, or will make against it any kind of demonstration whatever. 4. All owners or administrators of rural estates who will not give prompt notice to the nearest authority of the passage of some band through the same estates. Those included in paragraphs one and two of this article shall be punished by imprisonment from six months to two years, or by hard labor from one to three years, according to the gravity of the case. Those who, being included in paragraph two, were the ascendants, descendants, spouses, or brothers of the party concealed by them, shall not suffer the penalty aforesaid, but they shall remain subject to the vigilance of the authorities during the time the court-martial will fix. Those included in paragraph three of this article shall be punished by a fine of from twenty-five to one thousand dollars, or by imprisonment from one month to one year, according to the gravity of the offense. Those included in paragraph four of this article shall be punished by a fine of from two hundred to two thousand dollars.

ART. 7. The local authorities of the villages who will not give notice to their immediate superiors of the passage through their villages of armed men will be ministerially punished by the said superiors by a fine of from two hundred to two thousand dollars, or by seclusion from three months to two years.

ART. 8. Whatever residents of a village who, having information of the proximity or passage of armed men by the village, will not give notice of it to the authorities shall suffer a fine of from five to five hundred dollars.

ART. 9. All residents of a village threatened by some gang, who are between the ages of eighteen and fifty-five years, and have no physical disability, are obliged to present themselves for the common defense as soon as called, and for failing to do so they shall be punished by a fine of from five to two hundred dollars, or by imprisonment of fifteen days to four months. If the authorities think it more proper

to punish the village for not having defended itself, they may impose upon it a fine of from two hundred to two thousand dollars, and the said fine shall be paid by all those together, who, being in the category prescribed by this article, did not present themselves for the common defense.

ART. 10. All owners or administrators of rural estates, who, being able to defend themselves, will not prevent the entrance on the said estates of guerrilleros or other malefactors; or, after these have entered, will not give immediate information of it to the nearest military authority, or will receive on the estates the tired or wounded horses of the gangs, without notifying the said authority of the fact, shall be punished for it by a fine of from one hundred to two thousand dollars, according to the importance of the case; and if it is of great gravity, they shall be put in prison and sent to the court-martial, to be tried by the latter conformably with the law. The fine shall be paid to the principal administrator of rents to which the estate belongs. The provision of the first part of this article is applicable to the population.

ART. 11. Whatever authorities, whether political, military, or municipal, shall abstain from proceeding, in conformity with the provisions of this law, against parties suspected or known to have committed the offenses provided for in said law, will be ministerially punished by a fine of from fifty to one thousand dollars; and if it appears that the fault was of such a nature as to import complicity with the criminal, the said authorities will be submitted by order of the Government to the court-martial, to be tried by the latter and punished according to the gravity of the offense.

ART. 12. Thieves shall be tried and sentenced in conformity with article one of this law, whatever may be the nature and circumstances of the theft.

ART. 13. The sentence of death pronounced for offenses provided for by this law shall be executed within the delays prescribed in it, and it is prohibited that any demands for pardon be gone through. If the sentence is not of death and the criminal is a foreigner, even after its execution the Government may use toward him the faculty it has to expel from the territory of the nation all obnoxious strangers.

ART. 14. Amnesty is granted to all those who may have belonged, and may still belong, to armed bands if they present themselves to the authorities before the 15th of November next, provided they have not committed any other offenses subsequently to the date of the present law. The authorities will receive the arms of those who will present themselves to accept the amnesty.

ART. 15. The Government reserves the faculty to declare when the provisions of this law will cease.

Each one of our ministers is charged with the execution of this law in the part which concerns him, and will give the necessary orders for its strict observance.

Given at the Palace of Mexico on the 3d of October, 1865. MAXIMILIAN.

The Minister of Foreign Affairs, charged with the ministry of state.

JOSE F. RAMIREZ.

The Minister of War,

JUAN DIAS PEZA.

The Minister of Improvement,

LUIS ROBLES PEZUELA.

The Minister of the Interior,

JOSE MARIA ESTEVA.

The Minister of Justice,

PEDRO ESCUDERO Y ECHANOVE.

The Minister of Public Instruction and Religious Worship,

MANUEL SILICEO.

The Sub-Secretary of the Treasury,

FRANCISCO DE P. CESAR.

A true copy. Washington, October 23, 1865.

IGNO. MARISCAL, Secretary.

And whereas it is alleged that, under that inhuman and barbarous decree, issued in violation of the laws of war, the rights of the Mexican people, and of the civilization of the nineteenth century, Major General José M. Ortega, Brigadier General Nicolas Salazar, Colonels Diaz Paracho, Villa Gomez, Perez Milieua, Villands, and more than two thousand other Mexican patriots, officers and men, were inhumanly murdered in cold blood, after having surrendered as prisoners of war, in violation of every law and usage of civilized warfare.

Resolved, That the Committee on Foreign Relations be directed to inquire as to the truth of the above allegations, and report the facts to this body at the earliest practicable moment.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 60) authorizing extensions of the mail steamship service between the United States and China; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

He also asked and obtained leave to introduce a joint resolution (S. R. No. 61) relative to letter-carriers; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint reso-

lution (S. R. No. 62) expressive of the sense of the American people toward the republic of Mexico; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. ANTHONY. I should like to hear the resolution read at length.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States, for and in behalf of the people of the United States, hereby express to the republican patriots of the republic of Mexico their admiration for the long, persistent, and heroic struggle of their people to maintain the integrity of their country and the republican form of its government and institutions, their congratulation for the signal triumph they have gained over foreign influence and domestic treachery, and their earnest hope that their victory will consolidate and strengthen the republic, establish and confirm republican institutions, law, and order, and a due regard for the rights of person and property, and that a humane and liberal policy toward the vanquished may crown the glory of their endurance, courage, and valor.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 145) in relation to the district court of the United States for the northern district of Ohio; a joint resolution (H. R. No. 77) in regard to judgments in the Court of Claims in cotton cases; a joint resolution (H. R. No. 78) authorizing the extension of mail steamship service between the United States and China and Japan, and a joint resolution (H. R. No. 79) relative to the purchase of Hall's carbines, in all of which the concurrence of the Senate was requested.

The message further announced that the House had passed a concurrent resolution instructing the Commissioner of Education to report upon the feasibility and expediency of introducing the phonetic system of spelling into general use.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next.

PEACE WITH INDIAN TRIBES.

Mr. HENDERSON. I move that the Senate proceed to the consideration—

Mr. SUMNER. Before the Senate proceeds with his bill I hope the bill which came from the House will be taken up. There is a bill on the table just received from the House. Let us have it disposed of.

Mr. HENDERSON. This is a matter of much more importance. I desire that the Senate should consider it. We can pass this bill in a few minutes now.

Mr. SUMNER. But there probably will be debate.

Mr. HENDERSON. I move to take up Senate bill No. 136, to establish peace with certain hostile Indian tribes. I have been very patient about this matter. I desire to get through with the bill, so that it may go to the other House.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, (S. No. 136,) the pending question being on the amendment offered by Mr. HARLAN to the second section.

Mr. HENDERSON. I ask that the amendment be read again.

The Chief Clerk read the amendment, which was to strike out all after the word "that" in the first line of the second section and to insert in lieu of the words stricken out:

Said commissioners are required to examine and select districts of country lying north of the State of Nebraska and west of the Missouri river, of sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains and north of that river and the State of Iowa, not now peacefully residing on permanent reservations under treaty stipulations, in which districts there shall be sufficient tillable and grazing land to enable said tribes respectively to support themselves by agriculture and pastoral pursuits. Said districts, when so



selected and the selections approved by Congress, shall be and remain permanent homes for the said Indians to be located thereon, and no person, not members of said tribes, shall ever be permitted to enter thereon without the permission of the tribe interested, except officers and employes of the United States: *Provided*, that said districts shall be so located as not to interfere with the traveled highways located by authority of the United States and the probable route of the Northern Pacific railroad.

Mr. HENDERSON. I hope that amendment will be adopted, because the objections that I have heard presented to the bill will be removed by it, and a similar amendment in the third section. I have consulted with the Senator from Iowa, and he has consented to offer an amendment of a similar character to section three; and then, by striking out section four, I believe all the objections that have been urged against the bill will be removed. Perhaps not all the objections, but certainly all except the objections urged by the Senator from Wisconsin [Mr. Howe] the other day. He objected to having any reservation in this northern section of country at all, but wanted the entire body of Indians removed to the southern reservation; that is the reservation contemplated in section three. The objection to that is, in the first place, that this section of country north of Nebraska is already occupied by the Indians, and this provision renders it no more difficult than it now is to get their consent when it becomes necessary to build roads across their lands. Indian reservations cover the entire section of country now. All that these commissioners will have to do will be to see these tribes and get their consent in order to remove the hostile Sioux. It will be observed that the difficulty of removing the Sioux Indians to the southern reservation, as contemplated by the Senator from Wisconsin, is a very great one, when we come to a knowledge of the country. Indeed, it will not do to remove the Sioux Indians, who know nothing in regard to agriculture, to that country, because if we remove them there there is nothing for their support. That is not the buffalo range of the Plains of the West; and we shall force them necessarily to adopt the habits of civilization and resort to agricultural pursuits to support themselves from the time they are removed there. The Senator from Wisconsin says they do not know the use of a hoe; they never had a hoe in their hands in their lives. That is true. They have lived by the chase entirely. It will not do to think of removing the savage Sioux to that section of country. If we do they will be simply prisoners of war, and we shall have to do as we are now doing with the Navajoes, spend perhaps one, two, or three millions annually to feed them. We can put them in this region of country, where I understand there are elk, buffalo, and fish enough to support them, and it will cost the United States nothing.

Now, in regard to the objection urged by the Senator from Minnesota, he will observe by looking to the map of that country and the treaties already made—

Mr. RAMSEY. I have no objection to this amendment.

Mr. HENDERSON. I am very glad to hear that there is no objection to it; and without detaining the Senate, as I am exceedingly anxious to have something done in reference to this matter, I will propose an amendment to the first section myself after the amendments of the Senator from Iowa have been adopted. I will here remark that his amendments simply carry out the idea of the committee. There is nothing in these amendments inconsistent with the original purpose of the bill; and they do away with the objections urged by various Senators, and I believe make the bill acceptable to every person who has spoken, with the single exception of the Senator from Wisconsin, who clearly is mistaken in his ideas of removing the hostile Sioux into the Indian territory south of the Arkansas river. It will not do, and a reflection of five minutes by the Senator himself on the subject will satisfy him.

Now, without further discussion, without taking up any more time of the Senate than is

absolutely necessary, I hope this amendment may be adopted, and the bill passed by the Senate and sent to the House of Representatives. I will remark that in all that has been said nothing of objection to the main purpose of the bill has been urged. I believe that every Senator has expressed his determination to vote for the bill in some shape, and in fact to vote for it carrying out the leading ideas entertained by the committee in its preparation.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the second section, offered by the Senator from Iowa. [Mr. HARLAN.]

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Wisconsin, [Mr. HOWE.] to strike out the second section of the bill as modified.

The motion was not agreed to.

Mr. HARLAN. I now offer an amendment to the third section, to strike out all after the end of the fourth line and substitute what I send to the desk. I will state that this has been drawn at the suggestion of the chairman of the Committee on Indian Affairs and meets his view fully. The words proposed to be inserted are as follows:

That part of the present Indian Territory ceded to the United States for the use of other Indian tribes, or such part of it as may be necessary and which under existing treaties can be so appropriated, together with such other adjacent territory as may be suitable to constitute a permanent home for such Indians as now inhabit south of the Platte and east of the Rocky mountains and Pecos river, not peacefully residing on permanent reservations under treaty stipulations, which territory when so defined and approved by Congress shall not be entered upon or settled in any manner, except by consent of the tribes interested, by any person other than members of said tribes and officers and employes of the United States.

So as to make the section read:

That said commissioners are authorized and required to select, as provided in the preceding section, a district of country south of the State of Kansas and west of the State of Arkansas, including that part of the present Indian territory ceded, &c.

The amendment was agreed to.

Mr. HENDERSON. I move now to strike out section four, because those two amendments will confine the action of the commissioners to tribes of Indians who are not located already by treaty stipulations upon reservations. The fourth section, it will be perceived, would be in direct conflict with that, and therefore I move to strike it out.

The motion was agreed to.

Mr. HENDERSON. In the first section, line twelve, after the word "discretion," the last word but one of the line, I move to insert the words "under the direction of the President;" so as to read:

And in their discretion, under the direction of the President, to make and conclude with said bands or tribes such treaty stipulations, &c.

The amendment was agreed to.

Mr. HENDERSON. In line six of section one, after the word "Beauvais," I move to insert "Nathaniel G. Taylor."

The amendment was agreed to.

Mr. HENDERSON. I move further to strike out the titles of the officers: "Lieutenant General" before "William T. Sherman;" "Major General" before "W. S. Hancock;" "Major General" before "C. C. Augur;" "Major General" before "William S. Harney;" and to strike out "Major General John E. Smith." There will be some difficulty perhaps in securing his services. He is at Fort Phil. Kearney in the midst of these disturbances, and perhaps it would be better not to have him on the commission.

The amendment was agreed to.

Mr. RAMSEY. I should like to suggest to the chairman on the committee that in this commission it would be well to include General Alfred Sully, who probably has as large an amount of Indian experience as any officer of the Army, and he is now in that country. General Todd, of Dakota, is also in that country, and would be a very proper man for such a commission.

Mr. HENDERSON. I would inquire whether General Sully is yet connected with the regular Army.

Mr. RAMSEY. Yes, sir.

Mr. HENDERSON. I have no objection to General Sully; he is a very good man, but Senators object to having so large a number of Army officers. We have a large number already, and the desire is to have a larger proportion of civilians, I believe, than we now have, and perhaps it would be better. I have struck out General Smith's name, not on account of any objection to him, but because I do not believe he will be able to serve, from what I understand.

Mr. ROSS. I desire to offer an amendment as additional sections:

*And be it further enacted*, That the General of the Army is hereby authorized to accept the services of mounted volunteers from the Governors of the States of Kansas and Nebraska, and the Territories of New Mexico, Colorado, Montana, Idaho, and Dakota, in organized companies and battalions, not exceeding four thousand men in number, and for such term of service as in his judgment may be necessary for the suppression of Indian hostilities in those States and Territories.

*And be it further enacted*, That all volunteers so accepted shall be placed upon the same footing in respect to pay, clothing, subsistence, and equipment as the troops of the regular Army.

Mr. DAVIS. I move to strike out the words "General of the Army" and insert "President of the United States." I do not make this proposition in any advocacy of the present incumbent of the executive chair, but I make it because it is proper and decorous to the head of the executive branch of our Government. Heretofore a proposition to refer a question of this kind to the discretion and judgment of the General of the Army or to any other officer in exclusion of the President would have been thought altogether improper. I think the Senate ought not seek to degrade the office of President of the United States. I have no reference whatever to the present incumbent in this motion, as I have said; but it is fit and proper that when a discretion of the kind proposed is created by an act of Congress and is vested it ought to be vested in the proper officer; and the proper officer is unquestionably the President of the United States, the Commander-in-Chief of our Army. I do hope that Senators will not object to this proposed amendment to the amendment. I move it for the decorum of the proceedings of the Senate, for the decorum that is due from the Senate to the chief executive officer of the Government, without any reference to the present or to any future incumbent.

Mr. HENDERSON. It seems to me that this amendment is quite inconsistent with the objects of the bill—

Mr. FESSENDEN. The question is now on the amendment to the amendment.

Mr. HENDERSON. I suppose there is no objection to that.

Mr. JOHNSON. Let the question be taken.

Mr. HENDERSON. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky to the amendment of the Senator from Kansas.

Mr. HOWARD. I hope this amendment to strike out the words "the General of the Army" and insert "the President of the United States" will not prevail. I think the General of the Army is the very person whose attention ought to be especially called to this matter, and for these reasons: these border difficulties have been pending now for several months. We heard the distant approach of the storm weeks and months ago. We saw the western horizon beginning to lower with an Indian war. We have a President of the United States whose duty it is to see that the laws are executed, and of course the word "laws" includes the treaties of the United States as well with the Indian tribes as with foreign nations; and during all this period of time the executive branch of the Government seems not to have bestowed the slightest attention upon the subject of our Indian difficulties and dangers. Instead of making provision for

the protection of the frontier, instead of sending commissioners out there to make inquiries into the causes of complaint which the Indians may have had against the officers of the United States, the attention of the executive branch of the Government has been given to other subjects, and for hundreds of miles along the border there has been for long weeks and months and still is a feverish anxiety, a timidity, a trembling in the presence of some danger which appears to be approaching from that quarter. The executive government has done nothing.

They have sent no messenger there to make inquiry. They seem to have taken no pains to send troops there for the protection of the settlers. But instead of attending to this branch of business, certainly as pressing as anything else on the part of the Executive, the President has been amusing the people and himself on journeys to North Carolina and making speeches there, with a portion of his Cabinet, and making journeys to Boston and various other places, delivering speeches, making what political capital he could, exhibiting the utmost inattention to this most important and exigent state of affairs between ourselves and the Indians upon the western frontier.

I would under ordinary circumstances intrust a matter of this kind to the President of the United States. I would be content to refer the matter even to such a man as James Buchanan, for I should expect that he would have patriotism enough at least to do his duty and endeavor to enforce the laws and treaties of the United States in regard to the Indians. But as to the present incumbent of the presidential chair, his past acts are sufficient to justify us, and to demand at our hands—I will go as far as that—that we shall address this whole subject to the General of the Army, in whose fidelity and patriotism we certainly have the best reason to trust. I hope, therefore, the amendment of the honorable Senator from Kansas will be adopted in the form he has presented it.

Mr. FESSENDEN. I should not say a word on this subject, but that the whole speech of my honorable friend from Michigan is a sharp, a gross, a very injurious attack upon the Secretary of War—not so intended by him, I believe, but necessarily so in its effect. It cannot be contended that the President in person can attend to all these details of business in the different Departments. The question is whether in those Departments business of whatever character is properly attended to. If it has not been in this particular instance, if it has been neglected, if the peace of the border has been ignored and everything which should have been attended to has been left to suffer, it must be the fault of the Secretary of War, who is the managing officer in regard to all these matters. I cannot consent to sit here quietly and hear remarks made that necessarily reflect upon him. Sir, I believe that all these matters have been as thoroughly investigated and attended to by the distinguished officer at the head of the War Department (in whom I think we all have confidence) as they could have been; that he has been constantly in communication with the commanding general; that the subject has engaged all his thoughts that it could engage; that nothing has been neglected on his part which he believed necessary to be done; and that he has acquired all the information which it was possible for him to acquire and which it was necessary for him to possess. I do not know this any otherwise than the honorable Senator from Michigan himself knows it; any otherwise than the chairman of the Committee on Military Affairs knows it. Probably they know it better than I do; but if there has been anything neglected on the part of the distinguished officer at the head of the War Department I should like to know what it is.

Mr. WILSON. I do not think anything has been neglected on his part.

Mr. FESSENDEN. He has been making no journeys; he has not been indulging in any pursuit except that of attending to the public

business, and attending to it so closely that I regret to say I believe his health has suffered much under the severe labors he has been called upon to perform during the last year. And it is very hard upon such an officer to have it said that little information has been acquired and that these affairs, so important to the country, have been neglected in that Department.

Now, sir, I conceive that it is his business, as the agent and right-hand man of the President, the Commander-in-Chief of the Army, to see that these matters are well conducted. It is his business to recommend measures to Congress, through the President, if any are necessary. It is his business to inquire whether more troops are wanted, and what descriptions of troops are required. It is his business to ascertain all these things, and to see that they are communicated to Congress, if there is any necessity of communicating them. This is not the business of the commanding general. He does not manage, and ought not to be required to manage the war affairs any otherwise than as an executive officer. The President is Commander-in-Chief of the Army of the United States; and he has at the head of the War Department, which manages and controls all these things, or ought to do so, an officer perfectly capable, as distinguished certainly as any man in the country, and entirely devoted to his duties. To him I would commit such a matter as this, and not to the commanding general.

Sir, in my judgment we are going a little too far with regard to the military: the disposition seems to be to put everything into the hands of the military. Now, while I trust General Grant just as far as I would trust any living man, while I have the utmost respect for him, I do not think it proper to commit to him, a mere military officer, the management of affairs which belong to the War Department proper under the direction of Congress. I think we may just as well pause a little in this career and inquire whether we are not setting at defiance the great rules which regulate the conduct of affairs as divided into civil and military, and not run them all together into one channel. In my judgment, it is a dangerous precedent, and not to be followed except in cases of absolute necessity.

Mr. HOWARD. I have but one word to say. It was not my purpose, Mr. President, to pass any reflection upon the Secretary of War. That was the farthest from my view.

Mr. FESSENDEN. I supposed not, and so said.

Mr. HOWARD. I have as high an appreciation of the value of the talents of that gentleman and of his labors during the last five or six years in behalf of the country as any other person. I have no doubt that in respect to the dangers which have been hovering upon the western frontier he has honestly and faithfully done or endeavored to do his whole duty. Of this I entertain no doubt; but, sir, in my seat here, I am under no obligation to hold a subordinate officer of the Government responsible for the evils of which I complain. I have a right to look to the Constitution, which instructs me that it is the duty of the President of the United States to see to it that the laws are faithfully executed, and I propose to hold responsible the highest officer, who alone is ultimately responsible for this, as I would for every other act. He has had ears to hear the rumblings of the storm; he has eyes to see the approaching danger; and if he had faithfully used both these organs I think we should not have found it necessary at this day to spend our time in the consideration of the bill now before us. I think the neglect, or at least the inattention to duty, is chargeable, not to the Secretary of War, but to the highest officer of the Government.

Mr. ROSS. I regret that we are to have a further discussion of this subject. I had hoped the bill, after being properly amended, would pass this morning with as little delay as possible. It is a matter of very grave importance to the whole West, and to my own State especially, and I have refrained until now from

occupying a moment of the time of the Senate. I consider this to be a proposition of paramount importance, as without it the bill is comparatively inoperative. What we need on the frontier at this time is immediate, present protection. My reason for offering the amendment is, that as the bill now stands it is entirely inoperative for the purpose of present protection. There is no provision in the bill authorizing the adoption of measures for the suppression of present hostilities. I do not know that any will be necessary, but I do know that it is the opinion of General Grant and of General Sherman that a protracted and general war can more certainly be averted by the employment of a limited number of volunteers and for a brief enlistment than in any other way. It is for the purpose of enabling our commanding generals to carry out this idea by authorizing them, if in their discretion it should be necessary, and not otherwise, to accept the services of volunteers from the States and Territories named. It must necessarily be weeks, perhaps months, before this commission can take any effective action for the suppression of hostilities. They will be compelled to act through an organized and powerful military force, because they can have access to the councils of the Indian in no other way. They must be enabled to show to the Indians that they have the power to execute the purpose of their commission, and that it will be useless for them to stand in the way. But, sir, I desire to avoid further discussion, and I therefore accept the amendment to the amendment.

Mr. DAVIS. I suggest to the honorable Senator that he allow me to modify my proposed amendment so as to read thus: strike out the words "General of the Army" and say the "Secretary of War, under the authority of the President of the United States."

Mr. ROSS. Very well, I will accept it in that form.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, as modified.

Mr. COLE. I am opposed to this amendment, and I believe my opposition is upon the same ground as that about to be expressed by the Senator from Missouri, who was interrupted in his remarks a few moments ago. It seems to me to be inconsistent with the objects of the bill. I regard the bill as it has been modified as a peace measure, and that its object is to secure peace at all hazards with the Indian tribes of the Plains, and of that object I most fully approve. I think peace is so desirable that it ought to be attained at almost any sacrifice, because the war if carried on will be an inglorious one at best, and a very expensive one at a time when we are little prepared to add to the expenses of the Government. I would be glad if the propositions to appoint commissioners to treat with the Indians could stand alone and independent of any other propositions in the bill; but to add this further proposition to raise an army of mounted volunteers from several States to carry on the war with the Indian tribes seems to me to be injudicious. We have a very considerable standing army under pay already, one large enough I believe to meet all the hostile Indians that may be found in the country, and I cannot see that it is necessary to add to this a large volunteer force at this time. I hope this amendment may not prevail.

Mr. ROSS. I regret that the proposition which I have submitted should be opposed by the Senator from California, whose State has suffered so much in consequence of these Indian hostilities; and as the discussion seems to have been reopened I hope I shall be pardoned for trespassing upon the attention of the Senate for a few minutes.

A state of things similar to that now prevailing on the frontiers, though in a modified form, has existed in Kansas for the past ten years. Scarcely a season has passed in which the frontiers have not been more or less disturbed by the incursions of bands of hostile Indians, who have murdered and robbed the

pioneers and obstructed the extension of settlements and of civilization across the Plains.

During the late years of the war, and since, those incursions have been much more frequent, as the settlements have encroached more closely upon the ancient domain of the red man, and as desperadoes from the rebel armies have fled to these Plains to escape the punishment due their crimes of outlawry, and there joined the Indians to wreak their vengeance upon the loyal pioneer.

These disturbances have now culminated in hostile attacks along the entire frontier of the West, from the British possessions almost to the Gulf of Mexico. Kansas and Nebraska, especially, as the most forward in projected improvement toward the West, and having the most exposed settlements, have been singled out as peculiar objects of vengeance, and such has been the destruction of life and property in my own State that the State government has been compelled to initiate measures for the protection of its people, to take the risk of incurring the displeasure of the Federal Government or of seeing hundreds of its best citizens butchered, their homes destroyed, and all development to the West stopped. The State, however, first seeks the protection of the Government, or rather permission to protect itself, and in the hope of securing that protection the Governor has addressed to the Senate, through me, the following communication:

TOPEKA, June 29, 1867.

DEAR SIR: Our Indian troubles are growing worse every day.

On Wednesday last a band of Kiowas attacked and captured a train between Harker and Larned, killing and scalping eleven of the teamsters, (mostly Mexicans), burning the wagons, and driving off the stock.

On Thursday they made another attack on the railroad men fifteen miles west of Harker, killing one engineer and mortally wounding an employe. This almost entirely stops the work on the road, as Colonel Shoemaker's dispatch, herewith transmitted, will show.

It may be possible that during the present week we shall not suffer as we have during the past three or four months, since the same tribes which have been perpetrating these outrages are required to meet Colonel Leavenworth, agent for the Comanches and Kiowas, and Major Wynkoop, agent for the Apaches, Arapahoes, and Cheyennes, at or near Salt Plains, in the southern part of this State, there to receive one hundred and sixty thousand pounds of annuity goods, which were shipped from Atchison last week, and will reach their destination and be distributed to the murderers within the next ten days. As soon as they receive these supplies from the Government they will, without the least shadow of doubt, return to their fields of operation, which are already stained from one end to the other with the blood of our own citizens, and which contain in Kansas alone the fresh graves of more than five hundred men, women, and children, victims of these "noble red men."

This state of affairs cannot be tolerated any longer. General Sherman and other United States officers are willing to do all in their power to suppress further depredations, but they have not a sufficient force with which to operate.

The Indians, from Minnesota to Texas, have declared war. They have formed themselves into one powerful confederate band or army, and are moving with concert of action from one end of the line to the other.

Since the 1st day of July, 1866, more than five hundred persons, to whom the Government of the United States guaranteed protection, have been killed, scalped, and their bodies most shamefully mutilated by the same Indians who are now receiving aid and comfort from the Government.

With the aid they are receiving this year they will be able to prosecute the war more vigorously than ever; while if their annuities were stopped, former treaties declared void, and a vigorous effort made, they could soon be reduced to a state of suffering and compelled to sue for peace.

Then if the Government would send them to the Indian territory south of Kansas, give each twenty acres of land, invest one twentieth part of the money that is now being foolishly expended for annuities in school-houses, farming implements, &c., for their use, and compel them to remain at home, we should have no further trouble.

But before this can be done, they will have to be reduced to actual want, and made to feel and fear the power of the Government.

They have a powerful army in the field, well organized, armed, and equipped.

They mean war, and the Government of the United States can meet them in no other way than by organizing an army and moving against them in force.

Congress might, with equal propriety and justice, have forwarded a train of supplies and munitions of war to the rebel army after the battle of Bull Run, and upon that demanded or expected their surrender, as to demand or expect the hostile Indians to stop the war by giving them annuities.

There is no such thing as peace except by war, and the sooner you convince Congress of this the better it will be for the country.

It is to the pecuniary interests of Indian agents, traders, and contractors to prevent a war as long as possible, and, in my opinion, some of their representing wild tribes, rather than lose their position, would misrepresent the true state of affairs at whatever cost or sacrifice of life.

Most of them, if not all, represent their Indians as being at home quiet and peaceable, when in fact they know that every Indian belonging to their respective tribes (I mean those at war) is now and has been for months past murdering and scalping citizens whenever and wherever they could be found, either alone or in parties sufficiently small to be overpowered without the Indians incurring too much danger to themselves. Nine of them came into a small settlement a few days since on the frontier, west of Lake Sibley, murdered and scalped two men and one boy, and wounded another boy, who made his escape. They then took two women prisoners, upon one of whom each of the nine committed a fiendish outrage, and afterward, while she was lying in a helpless condition, plunged a tomahawk into her head and left her dead on the ground, and in this condition she was subsequently found by the citizens. The other woman they took with them as a prisoner, to suffer, if possible, even a worse fate.

I have represented the condition of affairs to the Secretary of War, who from some cause has taken no action.

I have appealed to Sherman, but he cannot engage in a war without troops or authority, so the whole subject rests with Congress, either to declare all former treaties with hostile tribes void by act of war on their part, declare war against them, and furnish Sherman with a volunteer force sufficient to enable him to take the offensive, or send out peace commissioners, who will doubtless guarantee additional protection to the Indians, assure them that their conduct has been entirely satisfactory to the Government, and that their supply of annuity goods shall be largely increased in the future. I judge of the future by the past. If peace commissioners are sent out it is equivalent to saying to the Indians, "Goon with the war and we will pay you a premium for all you do;" or, in other words, "we will pay you a reward for the scalps you take." In the name of God and humanity, I do earnestly protest against such a policy.

I hope that the false impressions which exist in the minds of many persons East in regard to the character and disposition of the Indian will not prevent members of Congress from discharging their whole duty fearlessly.

If those who believe that the Indian embodies in his nature everything that is noble and great could see their friends butchered and mangled as we of the West have seen ours, the probability is they would change their opinions. But whether they do or not is a matter of indifference to me, and I trust it will also be to Congress, which in fact is responsible for these atrocities. I could within a short time complete the organization of a militia force, composed of experienced officers and soldiers, and move against the Indians in Western Kansas. But in doing this I would necessarily be compelled to violate the law (if treaties are valid) which I have no disposition to do if it can possibly be avoided; besides, it is the duty of the Government to protect her citizens. If Congress fails to make provision for protecting our citizens and those quietly traveling through the State then there is but one course for me to pursue.

I cannot and will not allow a band of irresponsible, uncivilized, blood-thirsty fiends to invade the State, murder our citizens, stop the work on our most important railroads, and completely blockade the routes of travel to other States and Territories. This is asking a little too much, even though we have humanitarians in the country who may think it better to suffer a hundred or more of our people to be murdered and scalped than to sacrifice the life of one Indian.

I have submitted until forbearance has ceased to be a virtue.

If Congress will adopt prompt and decisive measures to bring this war to an end, or rather commence the war, I will render the Government all the assistance in my power. I will furnish troops, as many as may be desired. But if Congress fails to take action, I shall be compelled to declare all the Indians in Western Kansas invaders, outlaws, murderers, and highway robbers, and proceed against them with such force as may be necessary to bring them to justice or drive them from the State.

Yours, very truly, S. J. CRAWFORD.

Hon. E. G. Ross, United States Senator,  
Washington, District of Columbia.

Further to show the actual existing condition of things, let me submit a communication from a respectable constituent of mine, received only a short time ago:

BACHELDER, RILEY COUNTY, KANSAS,  
May 30, 1867.

DEAR SIR: I improve this opportunity to call your attention to a few facts in regard to the wants of the settlers of the Republican Valley.

As one of the first settlers west of Fort Riley, having been here more than eleven years, and being in a business that brings me in contact with all the people of the valley for one hundred miles west of Fort Riley—running the only flouring mill in the valley—I know whereof I affirm, and refer you to the business men of Riley, Davis, and Clay counties as to my responsibility. First, then, as to the Indian troubles on the frontier. The bare fact of so many outrages committed on the settlers ought to be sufficient evidence to the Government that the Indians are hostile; and having induced the settlers to go on the lands, by offering them for sale, it surely ought to protect their lives and property.

Less than one year ago six men from within fifty miles of Fort Riley, on a buffalo hunt, were massacred, their teams killed and taken, and not a man left to tell of the desperate fight they made for twenty miles before they were taken. Later, two more men from higher up the Republican were killed; a woman taken from the house and outraged by a dozen savages in sight of her family; a man robbed and shot, but not killed, and other outrages committed. This spring brings a repetition of these horrors. On White Rock a whole family is annihilated; three men are killed; a boy shot and left for dead, but who revived after the Indians left; and worse than all, a woman carried off captive, tenfold more horrible than instant death. On the same ground, a few days later, a party were attacked and robbed of their teams, and narrowly escaped with their lives. These are but a part of undisputed outrages on the settlers, and for a strip of thirty miles the settlement is abandoned, and homeless families are seeking bread and shelter all up and down the valley. Within a few days I have had a dozen applications for work from men drove out from their homes by Indian hostilities—many of them with no home for their families but the wagon which carried them to a place of safety. You, sir, was a pioneer in Kansas. Your fancy can tell you their misery. The proofs of these outrages point strongly to the Otoes and Pawnees as the guilty parties—robbing and killing to the credit of Cheyenne and Sioux. Cannot something be done to protect these people; something worthy the name of protection, that shall not be a satire and burlesque on the Government? A. B. WHITING.

Hon. E. G. Ross.

Previous to the war and during the first year of its rise the commerce of the Plains involved a capital of not less than \$100,000,000 per annum, employing thousands of men, and was the means of building up prosperous communities at the terminal as at the initial points of the lines of communication. The prosperity of the Territories of New Mexico, Colorado, and Montana, as of California, Oregon, and Washington, was largely promoted and sustained by this commerce.

Since that time, and under the hazards which have attended that trade from the hostilities of the Indians which inhabit the great Plains, that great commerce has languished, until at this time one quarter of the amount of wealth then represented would be a liberal estimate of the amount of capital involved, while life as well as property is utterly unsafe on those Plains outside the lines of an organized army.

For many years previous to the opening for settlement of the Territories of Kansas and Nebraska these hostilities were comparatively unknown. It will be remembered that the immense emigration across the Plains to California in 1849 and subsequent years was with comparative safety, so far as the Indians were concerned, and the cause of this change in the attitude of the Indian has become a pertinent inquiry. Many and sage have been the hypotheses upon which it has sought to be accounted for. The reasons assigned have been various, and partaken largely of the prejudices peculiar to the different localities of the country. In the East, far removed from contact with the wild Indian, utterly ignorant of his habits and impregnated with the romantic fantasies of novel writers, these nomads have been invested with an heroic halo, and they represented as fighting for their homes and the graves of their fathers, &c., while the pioneer, who has been serving as the advanced guard of civilization, Christianity, and free government, who cultivates the soil, and fulfils the divine injunction, to earn his bread by the sweat of his face, is set down as the ruthless intruder upon the sacred realms of these creations of the imaginative novel reader.

On the other hand, and among those who have felt the force of his terrible blows, the Indian is regarded in directly the reverse light, as the incarnation of all that is devilish and brutal, as a very wolf, whose utter destruction is a work of humanity to our race and to the world. To his wantonness and innate blood-thirstiness have been attributed all his acts of violence upon the pioneer and his hostility to all trespasses upon his manorial hunting grounds.

Both these hypotheses are, in my judgment, mistaken. The real cause of these troubles lies beyond and deeper than these—the savage nature of the one, and the trespasses of the other having nothing to do, as moving causes with the case. They are merely inci-



dents to the strife, and should not be taken into the account when seeking for the remedy. The strife and turbulence which is now going on in the western section of Kansas and Nebraska is but a continuation of the war which was inaugurated upon the early colonists upon the shores of the Atlantic. The massacre of Wyoming, to which touching allusion was made on this floor a few days since, was but the beginning of a series of butcheries which have been continued upon the frontiers of civilization as they have receded to the West from that day to this, and which every year of the settlement of Kansas has witnessed upon our prairies on a less extensive but none less brutal scale. The massacre of Fort Phil. Kearney of 1865 is but a repetition of many such during and subsequent to the revolutionary war.

Who will claim that the Indian hostilities of those days were induced by frauds upon the Indians; by the peculations or deceit of individuals, or by wrongs of omission or commission on the part of the Government?

The conflict now, as then, is one between civilization and barbarism. From that day to this the forces of each have been constantly marshaled, the one for conquest, the other for resistance. The Indian, stimulated by the instinct of self-preservation, has resisted and struck at the advancing wave of emigration rudely and awkwardly, but with all the barbaric force at his command, while the white man, as instinctively possessed with the desire for conquest and development, pressed forward by the constantly increasing density of population in the older States, impressed with the consciousness of his destiny and the philosophy of the sacred injunction to replenish and subdue the earth, and armed by a superior civilization, has as steadily moved forward in his self-imposed mission, until prosperous and powerful States now embrace the great hunting grounds of the aborigines, and beautiful cities with all their wealth of commerce, their elegant churches, and school-houses crown their ancient burial-places. Who wonders that in his barbaric simplicity the Indian has so persistently, though impotently resisted this, to him, destructive march of the white man? The wagon of the emigrant is to him the precursor of eventual but certain banishment from the home of his people. The sound of the church bell tells him of the presence of a stronger race, armed to his untutored conception with magic power, before which he is as the dry grass of his native plains, swept by a tornado of fire; the scream of the locomotive is the very presence of the engine by which his race is being swept from the face of the earth. No wonder that he holds on with a death-grasp to the grounds where he and his fathers for many generations before him have followed the chase and roamed at will.

On the other hand, who can say nay to that advancing wave of civilization which is year by year subduing the regions of the far West and spreading all over that vast domain the arts and sciences, wresting it from the hands of an unproducing, revolting barbarism, and establishing there the humanizing influences of a better life? How could we, if we would, curb the aggressive spirit of emigration which was landed from the Mayflower, and which in two centuries has well nigh peopled an entire continent, subjecting to the dominion of law, and curbing by the restraints of religion that which before was barbarous, wild, and chaotic?

On the one hand, the country was held by a race rude and unsuited to culture, and the purpose of whose existence, whatever that may have been, is substantially fulfilled, and who are now passing away. On the other, the pressing needs of a multiplying people demand room for development. Civilization and Christianity demand that no barrier shall be thrown in the way of the accomplishment of their mission of peace and humanity.

Herein lies the text of the controversy. The Indian is fighting for existence and the white man for the fulfillment of a destiny whose bonds are as potent as the decrees of fate.

The duty of the hour is to temper the conflict consistently with the exalted maxims of humanity by which we profess to be governed, to render not unnecessarily painful the pathway to the grave of an expiring race.

But above all things else that duty is first to those who are bound to us by the ties of consanguinity, of a common language, and a common religion. Our own race has claims upon us which the dictates of humanity and the instincts of self-preservation ever adjure us to regard. The people who have carried the flag of our nationality upon the Plains are our brothers and friends. Many of them have sacrificed all but life in battle for the Republic, and have gone upon these wild wastes to build for themselves new homes, in the effort to recover their former positions of comfort and independence. They carry with them a tried and unflagging loyalty to the country and its institutions. They are ready now, as in the past, to brave all and endure all for its perpetuity and success. We have invited them upon these lands by surveying them and opening them to purchase. We have taken their money for them, and thereby incurred the obligation of protection in the peaceable enjoyment of their purchase. They have in turn organized communities and extended over themselves laws, the paramount purpose of which, next to immediate self-protection, is the maintenance of allegiance to that Government for which they have on so many sanguinary fields demonstrated their fidelity and affection. Who will say that they are not entitled to it, or that they shall not have it?

We are engaged in building two great lines of railroad across these Plains. The Government has embarked many millions in these enterprises. Their speedy construction is demanded not only by commercial considerations of the very highest import, but for very grave political reasons also. Sundered as important sections of the country are by rugged and almost impassable mountains and barren plains, no time nor effort should be spared to secure the more perfect connection and a more thorough community of interest, political and commercial, by the speedy completion of these lines of rail.

Yet, in the face of a conquering army, and despite the fabulous resources of the nation, they are permitted to languish. A handful of nomads has for months held them at bay. The settlements along their routes, which at one time bid fair to keep pace with the track-layer, to become at once their support and protection, have been stopped, and in some instances obliterated. The pioneer, the *avant-courier* of civilization and self-government, is either turned back upon his westward march, or, as is frequently the case, slain, and his wife and children captured and reserved for a fate worse than death.

An interdiction is laid upon the travel and traffic of the Plains; the great United States mails are stopped; the great interior States and Territories of the Union are more effectively cut off from the capital of the nation than though the ocean rolled between. There are vacant seats in these Halls which could not be filled by reason of an intervening hostile people, who are defying the power of the Government, and in that far have succeeded in obstructing its legislation.

Yet, when we ask for protection and redress, we are met by the criticism that we have brought this calamity upon ourselves, that the West desires war that her farmers may find a market for their surplus grain. When we point to the mangled corpses of our friends, slain in the vain effort to stop the course of empire, we are met with the sneering cry of "Grain! Grain!" When we point to the record of defenseless children murdered and women outraged and tomahawked to gratify the brutal lust and revenge of a savage foe, we are taunted with the response that we have too much "Grain!" as though the venturesome pioneer, who does well for the first few years if he keeps the wolf from the door, were already

blessed with full stock-yards and plethoric granaries, and as though the incoming tide of immigration, sure to follow the maintenance of peace, were not and had not always been more than enough to consume the surplus food of the country.

Yet, in one sense the criticism is true. The country has brought this calamity upon itself by the maintenance of a false and pernicious Indian policy. We have committed the almost unpardonable absurdity of dignifying a few roving bands of Ishmaelites as independent sovereignties, when they were properly the wards of the nation, subject in every respect to a stronger power and a higher intelligence, which knew better than they what was for their good, and should have treated them accordingly.

It is true, also, that the West wants war when the peace and safety of life and property on its frontier can only be secured by war, and only then. That time is now. War we already have whether we want or not. Gentlemen may call it war or conflict or collision, or whatever other term may best please their fancy; but to us, whose homes are threatened by the scalping-knife and the torch, and whose friends are daily being butchered while in the pursuit of their legitimate vocations, it is *war* in all its horrors.

That war will be continued until the savage is made to feel in a most effective and wholesome manner the restraining influence of the power of the Government. His depredations have so long been regarded with apparent indifference that he has come to look upon his pastime as in a measure licensed, and laughs to scorn the weakness of the garrisons and the contemptible numbers of the squads of soldiers with which the Government essays to stop his plunderings and protect his victims.

He must be made to know and to feel that the Government has the power to protect its citizens, and will use that power. He must be convinced that we intend to construct the two great highways of the Plains, and that interruptions on his part will not be tolerated; that they will carry civilization in their path, and that unless he will accommodate himself to the new and higher life which it gives he at least will not be permitted to obstruct its march, but must go beyond the radius of its influence, where he can have lands and game and protection in all just rights and indulgence in all privileges consistent with the good of our own race.

Let him go without these lines. Give him land and stock, instead of money and goods. Encourage him in pastoral pursuits, and learn him to assimilate himself in some degree, at least, with the customs of civilization, and in time to abandon his nomadic habits and become self-sustaining.

By the adoption of some plan like this, and only this, in my judgment, will permanent peace with him ever be secured. It is idle to talk about extermination; the humanity of the age forbids us to entertain such a proposition. We need no more war than enough to demonstrate to the Indian the power of the Government to protect its citizens and compel obedience to its mandates. Place him beyond the lines of civilization, and without the course of immigration, and the subsequent encouragement which I suggest will secure his comparative good behavior for all time to come.

Mr. GRIMES. If I understand the proposition now under consideration, it proposes to authorize the Secretary of War to raise four thousand men, and confines the levy to certain States and Territories. I move to amend the amendment so as to authorize the Secretary of War, under the direction of the President, to call these troops from any portion of the United States. I know no reason why, if the Secretary of War is satisfied that he can raise the troops upon more reasonable terms and get equally good troops in the State of Indiana or the State of New York, he should not be permitted to do so. I therefore move that amendment.

Mr. TIPTON. On that amendment I will



simply say that the advantage of having troops already acclimated is very great, as every gentleman understands thoroughly. If you confine it to the western States and Territories, the men there are acclimated and you gain that point at once. In the next place they will volunteer on account of the interest they have in their own homes and their own region of the country. I apprehend that there will be no great desire on the part of volunteers from the State of New York or from New England to go to the West to run the miserable chance of being scalped by savages. I see no harm in confining the selection to our region of country; and if this service should be any advantage at all in a pecuniary point of view to the soldier who may volunteer I would say let those who are already in peril by their present locality have an opportunity of filling these companies and these regiments.

The PRESIDENT *pro tempore*. The Senator from Iowa proposes to amend the amendment, so as to make it read:

That the Secretary of War, under the direction of the President, is hereby authorized to accept the services of mounted volunteers from the Governors of the several States and Territories, &c.

Mr. SPRAGUE. I suggest an amendment: to add the words "without distinction of color." [Laughter.]

The PRESIDENT *pro tempore*. That is not now in order.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. Ross,] as amended.

Mr. HENDERSON. I doubt very much the propriety of adopting this amendment of my friend from Kansas. As I stated before, it is totally inconsistent with the view that we entertain in the bill. If the Senate intends to pass the bill at all, I cannot for my life see the absolute necessity of this amendment. I certainly would not be willing to go further in this direction than to provide that if these commissioners shall fail to make peace with the Indians, General Sherman, under the direction of the President, may be authorized to call out troops. I think there might be some reason in that. But to pass a bill authorizing a commission to make peace with the Indians, and then in the same bill to add a provision for the raising of four additional regiments in order to prosecute a war, looks to me to be a little contradictory. I cannot for my life see that the amendment is at all consistent with the measure itself.

My friend from Iowa has proposed to amend the amendment so as to have the troops raised in every section of the country. What difference would that make? I can state to my friend from Iowa that my opinion is that Colonel Chivington will be the first man who will be ready with his regiment under this provision. Colonel Chivington has already cost us money enough, I may safely say not less than \$50,000,000. He was a candidate for Congress, perhaps, at the time he committed the massacre, and rendered himself exceedingly popular, in all probability, with a certain class of people; and but for the anger aroused throughout the country everywhere perhaps he would have been elected on account of this very great deed, on account of the glory that he won at the Sand Creek massacre! I think the probability is that if you adopt this amendment in any shape whatever Colonel Chivington will be ready with his regiment, and instead of making peace with the Indians the result will be that we shall have further troubles. I know that we can make no peace with such men at the head of our military commands. Two thirds of the present difficulty grows out of the fact that lieutenants in the service have issued orders that the Indians do not understand. The Secretary of the Interior and the Commissioner of Indian Affairs have protested against these orders; but their protest does no good. I do not know really who is commanding in the Indian nation, whether the agents or the military. We must, at the next session of

Congress, when we have a little more time, attempt to get some order out of this confusion; and I desire hereafter when an Indian war occurs in this country to know who it is that starts it; I desire to know from whence it originates, and who is responsible. The truth is, I do not want any war, except a defensive war, with the Indians, unless it be by order of the Secretary of War, or by order of the President of the United States, or by act of Congress. If we must have wars, why not submit the matter to Congress, and let us determine whether we want an expenditure of millions of money in order to carry on an inglorious, unprofitable, and injurious war, injurious to our trade, injurious to our business, and injurious to our character.

I do not wish to reflect upon Colonel Chivington; but I have made some examination into the matter, and it is my honest belief that our present difficulties are due in a great degree to his act at the Sand Creek massacre, a thing uncalled for, a thing unmerited on the part of the Indians; and in fact it was a deed committed upon them at a time when they were under the pledge of the protection of the United States, for they had been brought there by the order, not only of military commanders, but of civilians, for the purpose of making peace—an unparalleled butchery which necessarily drove them into war; and I should have had no respect for them if they had not gone to war after that, and nobody else would have had. In fact it is one of the redeeming qualities of the Indian that he does go to war after acts of that character. Now, that the Indians commit depredations on the whites out there, that they have committed a great many, I do not deny; but that they do it as tribes until they are driven into it I am not disposed readily to believe.

I doubt the policy of adopting this amendment, and I submit to my friend from Kansas whether it is really necessary. If it were absolutely necessary for the protection of Kansas, or Nebraska, or Colorado, or any part of that section of country, I should be perfectly willing to vote for it; but is it necessary? As I understand, the President can enlarge the regular Army to any extent he desires; can he not? He can fill up the regiments to a much larger number than they now have.

Mr. GRIMES. He cannot increase the number of regiments.

Mr. HENDERSON. He cannot increase the number of regiments, but he can increase the number of men in the regiments.

Mr. GRIMES. A few.

Mr. HENDERSON. He can increase them so as to enlarge the Army from fifty thousand to about seventy-five thousand men. Am I not correct?

Mr. EDMUNDS. You are.

Mr. HENDERSON. He has that authority already; and the chairman of the Committee on Military Affairs has stated on the floor of the Senate during this session that the Secretary of War needs no further power in order to carry on a war against the Indians; whatever is necessary he has now. If it becomes material for him to increase the Army he thinks he has sufficient authority and thinks he has the power to pay them. In view of this, I cannot doubt that this amendment is unnecessary. I should certainly be unwilling to vote for it unless it were predicated upon the hypothesis that this commission shall make an earnest effort to make peace and then fail. Only upon that condition would I consent that the President should have authority to call out volunteers. Indeed I do not think it would be necessary then. The Secretary of War says he needs nothing of this sort. If, however, the calling out of troops should become essential, I for one am willing to pledge the Senator from Kansas that if in an emergency troops are called out by the Governor of his State no man will more willingly vote in favor of paying them than I shall. Let them be called out and paid and subsisted by the respective States; let them be accepted by Gen-

eral Sherman, and let them be put in command of Federal officers. The State of Kansas is rich enough to pay them for the time being. In the State of Missouri we paid some seven or eight million dollars during the war to defend ourselves and drive the rebels back from that State. We raised the troops by State authority, put them under the command of the Federal officers at St. Louis, and the State raised the money to pay them. My friend from Kansas lives in a rich, prosperous, thriving State, and certainly that State, through her Governor, will be able to raise as many troops as will be absolutely necessary to protect the border of the State. So in other States in the West. There is no difficulty in Colorado requiring troops to be raised. The difficulty is far this side of Colorado; in fact there is no difficulty beyond Fort Wallace. But if anything should be needed there the Governor of the Territory can call out troops. They have already done so in Montana. Whether they have waged any war against Indians there I do not know.

I do not deem this amendment at all necessary. I think the better plan would be to pass this bill as it is; let this amendment go by the board; and if it becomes absolutely essential to raise troops the people in the western country are patriotic enough to raise as many as may be needed to protect themselves, and if they are not patriotic enough to do it they surely will be driven to do it by self-interest and for their own security. If troops must be raised there, let them be put under the orders of our military commanders, and then let the Governor of the State send in the account and we will audit it and pay it. That strikes me to be the proper course. It seems to me quite inconsistent indeed to have four or five sections of a bill looking to peace with the Indians, providing for the appointment of commissioners, and making appropriations for that purpose, and then at the close of the bill to provide for raising an immense volunteer force to engage in warlike operations against them.

Mr. ROSS. The Senator from Missouri presupposes that these troops are going to be called out by the President at all events. That, to say the least, is a violent presumption. It does not necessarily follow that because we authorize him in case of necessity to do it he is going to do it anyhow.

There is another feature of the case which renders it somewhat important that the amendment should be adopted. General Sherman has already called on the Governor of the State of Kansas for eight companies of troops, and four of them are now in the field, having been mustered in at Fort Harker the day before yesterday. General Sherman distinctly says to the Governor, "I want your troops, but I have not a dollar to pay them. You must look to Congress for their pay." And unless the bill contains a provision of this kind, there is no authority on the part of anybody to pay them. These men are poor; they cannot afford to turn out and fight, not only for their homesteads but for the protection of Government property, and give their time for nothing. They want some assurance that they will get some recompense for their time while protecting the Government property, the lines of the Pacific railroad, and the lands which the Government proposes to sell to the people for money.

Sir, I see no better way of strengthening this bill than by this very proposition. So far as the inconsistency of putting a war proposition on a peace bill is concerned I do not see that. Any man acquainted with the Indian character knows very well that the most effectual way to reach the Indian is by a manifestation of your power. You cannot reach him in any other way. Commissions may visit him year after year for the next century, and they can do nothing with him unless there is some manifestation of power which shows him that there is a disposition and a force to compel a strict observation of treaty stipulations on his part.

Mr. MORRILL, of Maine. I should regret exceedingly if it should be the sense of the Senate to adopt this amendment and put it on this bill; first for the reason stated by my honorable friend from Missouri, that it is utterly inconsistent with the object of the bill, and would defeat all that the friends of the bill I think could reasonably expect from it; and in the next place, I should regret it particularly for the consequences that I am sure could not fail to come from such a proceeding.

I said on a former occasion all that I feel justified in saying upon the general subject to show that there was no necessity for strengthening the military arm of the Government against the Indians, and I have no occasion to do more than repeat now what General Sherman emphatically says in one of his communications of a recent date, that there is no decent pretext for a war with these Indians. In the face of such a declaration as that from the general commanding in the field, on the spot, conversant with all the movements on both sides, that this nation has no decent pretext whatever for war, you are asked to raise four regiments of volunteers on the border for the purpose of prosecuting war.

Mr. THAYER. Allow me to ask the Senator from Maine when was that report of General Sherman made from which that remark was taken?

Mr. MORRILL, of Maine. The report was submitted to us at the last session.

Mr. THAYER. I think it was in September, 1866. General Sherman on that very point recently complained to me of detached portions of his dispatches being published, extracts, sentences cut out from the context, and spread abroad over the country. He complained that that proceeding misrepresented him and did great injustice. He spoke on that very point, and said he did not intend to convey any such impression as that at this time or since the massacre of Fort Phil. Kearney.

Mr. MORRILL, of Maine. The date does not become material to the point to which I am addressing myself. It is the last utterance to the country on the subject, and that is sufficient. The last word he has spoken to the country is that war will disgrace the nation. There it stands on record.

Mr. ROSS. Allow me to say to the honorable Senator that the object of this proposition is not to raise troops for the purpose of making war.

Mr. MORRILL, of Maine. It will come to that.

Mr. ROSS. If I wanted to make war on the Indians, I should ask for a great many more regiments.

Mr. MORRILL, of Maine. I understand it. Mr. ROSS. It is simply for the protection of the two lines of railroad and the frontier. Four regiments would be a very small number with which to make war.

Mr. MORRILL, of Maine. I have a word to say about that. I am now addressing myself to the question of the necessity of troops, of strengthening the arm of the Government. If I understand anything from the commanding general in the field you cannot do it consistently with your honor. That is what he says; you cannot contemplate war, and if you cannot contemplate war, on what ground can you raise troops? Sir, there is no necessity for it. That is my first answer, and this is the evidence, and I submit whether it is not conclusive.

The next answer is one of a financial character. What is to be the expense of four regiments of volunteers on the border put on a footing with the regular Army? Heaven only knows. We do know this: that out of the war of 1864 and 1865, as it is called, which turns out to have been a bloody and atrocious massacre on our part, we have \$40,000,000 as the result. What is to be the result of a war now on an extended scale if you enter upon it? Who can tell the millions, the scores and hundreds of millions that will necessarily come of it? If there were no humanity or sense of justice in the country that of itself ought to be

sufficient with the declaration of the commanding general that he does not want it, and that you cannot enter upon it with honor, and with the utter silence of the War Department, who have been interrogated on this subject to know whether they wanted force, from which I have a right to infer that they do not want it. My honorable friend who has charge of Indian affairs, and is the organ of that committee in the Senate, had a resolution addressed to the Secretary of War when we first met at this session, asking him to communicate the facts in regard to the Indian difficulties on the border, and whether he wanted any aid from Congress. He is silent on that subject. He has not answered the resolution at all. There is not a word from the commanding general, who is here, and of course is cognizant of what is going forward.

But, Mr. President, there is another reason why I submit to my honorable friend from Kansas. He ought not to urge the nation to consider this question at the present time. I can understand the solicitude which he feels; I can understand the interests which urge him to make this proposition. Nay, sir, he has disclosed the fact now that without authority of law the Governor of his State has already put into the field—I do not know what force, but a military force to take protection into their own hands.

Mr. POMEROY. Under the authority of General Sherman; he has accepted them.

Mr. MORRILL, of Maine. If the military power of this Government is to be strengthened I submit that the only safe method to strengthen it is through the regular Army. I object to the employment of volunteers from the border. I understand perfectly their expertness; I can understand perfectly well that they may be more familiar with the haunts of the Indians than persons taken remote from there; but there is a disqualifying fact that accompanies the condition of the men of the border, which I hope will admonish the Senate that they ought not to put the defense even of the border, and particularly the prosecution of war, if you are to have war, into the hands of the men of the border. I will illustrate this by a reference to a fact which has become historical. In 1864 we had these border collisions with Indians, it was said. There was the regular Army on the border which was there to keep order, and they had a force at Fort Lyon, on the Platte river, I think. Colonel Chivington, however, was at the head of a regiment recruited on the border, border volunteers.

Mr. HENDRICKS. For my own information I wish to ask the Senator one question, whether those troops of Chivington were organized under a proclamation that was issued by the Governor of Colorado directing the enlisted men to make their own pay off the Indians?

Mr. MORRILL, of Maine. My understanding is that they were enlisted under a proclamation of the Governor; but as to the latter fact in regard to which the Senator inquires I do not know. There was the presence of the Army of the United States, which was doing its duty keeping order on the borders, and here was a regiment of volunteers organized under circumstances similar to what are supposed by the amendment of the honorable Senator from Kansas. What was the result? The commander at Fort Lyon had induced a portion of the Indians to separate from the hostile portion and to come into the neighborhood of the fort over which he had command, receive the protection of the Government, and to make treaty stipulations for peace. They came there, men, women, and children, to the number of some six hundred or seven hundred, encamped within the military protection, and having the word and faith of the Government for their security. Colonel Chivington at the head of his regiment arrived at the fort, and was advertised of this fact that these people were assembled, men, women, and children, in that region of country, and had the protection of the Government. What did he do? In the night he marched upon their encampment, reaching

there at early dawn; the Indians were surprised; he drew his regiment up in line for the assault. The Indians raised the flag of the United States and a white flag under it. The chiefs put themselves in front to show themselves to Colonel Chivington's command. The women and children were brought under the American flag with a white flag run up; and there, in the presence of the flag, these men were inspired with the spirit of demons by a speech from Colonel Chivington, in which he charged them to remember the outrages which the Indians had perpetrated upon the border settlements, and to "go in," and they went in like savages, like devils, slaughtering men, women, and children indiscriminately. But more, the record shows that having murdered in cold blood under these circumstances some hundred men, women, and children, more or less, in every instance they scalped not only men, but women and children, and committed upon them such outrages and mutilation of body that the details are too sickening and disgusting to be detailed in open Senate.

Mr. President, I do not want to have that scene repeated. When the honorable Senator tells me that the Army of the United States is not capable of defending the border, and that they wish to take their defense into their own hands, and to enlist men inspired by such passions and entertaining such sentiments, I hesitate; nay, sir, I deprecate it altogether. With the history and the record of these outrages fresh in our memories, I admonish the Senate that if they would not have the barbarities and the atrocities of 1864 repeated, to confine the defense of the border to the Army of the United States, and not give up the protection of the border or the prosecution of war upon any plea whatever to volunteer troops residing there. I have the record here as to the transaction to which I have alluded. I hardly know that it is worth while now to read it. There are portions of it that I would not feel authorized to read; but I will read one answer of a very intelligent witness to a question that was put to him in regard to it:

"I can state, according to the received version, that the command marched at eight o'clock in the evening from Fort Lyon. They attacked the village, which was thirty miles distant, and fired into it about daylight. The Indians for a while made some resistance. Some of the chiefs did not lift an arm, but stood there and were shot down. One of them, Black Kettle, raised the American flag and raised a white flag. He was supposed to be killed, but was not. They retreated right up the creek. They were followed up and pursued and killed and butchered. None denied that they were butchered in a brutal manner and scalped and mutilated as bad as an Indian ever did to a white man. That is admitted by the parties who did it. They were cut to pieces in almost every manner and form."

And then follow details too sickening to be read in open Senate. I protest, sir, if the border is to be defended, let it be defended by the regular Army, and do not call in this sort of troops.

Mr. POMEROY. Before the vote is taken on this amendment I would be glad to suggest an amendment to it. I have supposed that this bill was looking toward peace, and did not contemplate the employment of force. I have been an advocate of this bill, thinking it would stop the war; and I did not suppose it was intended to prosecute war by any provision in this bill. I propose to amend the amendment of my colleague by inserting the following words, to precede its first section: "If said commissioners fail to secure the consent of the Indians to remove upon the reservations, then," and then will follow the words of my colleague's amendment authorizing troops to be raised. If the commission shall fail and the Government must prosecute war, it may then be well enough and expedient to raise volunteers; but I am exceedingly anxious that this effort to secure peace should not fail. It is of the utmost importance to us in the western country that peace be at once secured. I think it can be secured by removing the hostile Indians, with their consent. I regard this as only a temporary measure. This bill is designed to allay this war temporarily, to get through with

it for the present. I do not know that any one can tell what may happen years to come; but for the present, for this year, I think hostilities can be brought to a close by a commission of intelligent gentlemen going out there and having the Indians consent to a removal; and even if the Government supported them in their new homes, temporarily, for a time, it would be better and cheaper in every way than to fight them.

Mr. MORRILL, of Maine. That is true.

Mr. POMEROY. But before I sit down I must say that I do not think the difficulties we are liable to get into will arise altogether from the border. I want the Senator from Maine to remember that there are two borders to this country. There is an eastern border as well as a western border; and we are as liable to get into difficulty by advice and influence from the eastern border as from the western.

I have had my attention called to the solution of this problem of dealing with the Indians by men on the eastern border. The last time I was in Bangor I went up to Old Town to see how a little tribe of Indians flourished under the administration of my friends of the eastern border, and I confess that what I saw there convinced me that the doctrine of absorption had been pretty well applied there—not the kind of absorption that the Senator from Ohio advocated yesterday, incorporating them into the body-politic, making them citizens and voters, putting them into your schools, educating them with your children, letting them come into your courts, and regarding them as men. That is the absorption which the Senator from Ohio advocated; but the other absorption that has been practiced on the eastern border has been absorbing all the Indian blood out of them. There is not a pure-blooded Indian among them. They are cooped up on little reservations about seven by nine, with almost no intercourse with the white people. They are not improving under that culture. There is a little colony of them in Massachusetts, and a little remnant of Narragansetts in Rhode Island, and they, too, are being absorbed by the Indian blood wasting away. In fact, there is no real Indian blood among them; but it is French and Irish, and everything else. So with the Senecas and the Onondagas in New York. They have got little reservations; the lines of the reservations are well defined, and the white people do not trespass upon them. The lines of their reservations are as well defined as the lines of a white man's farm; but what progress do the Indians on those reservations make? None at all. They are no further advanced to-day than they were twenty years ago, in my opinion. You are absorbing them, and the absorption consists in changing them from Indians to a sort of mongrel human beings, so that if they were mere animals I should say they were neither fish, flesh, nor fowl.

In this country the way to absorb a race is to take them in and reckon them among mankind. The Senator from Maine yesterday eloquently and beautifully showed to the Senate and to the country how, in the last six years, we had taken a race, brought them up to manhood and citizenship, and solved the great problem of a war of races by giving them the ballot, in that way making them learn to love each other and respect each other. We did not take the negro and put him away on a reservation, and coop him up, and draw a line around him, and stop intercourse with him. That would not elevate him in a thousand generations. We elevate him by making a man of him. When men are counted as men then you can assimilate them and make American citizens of them; and that is the great reason why we have elevated a race. It is not by excluding them from society; it is not by driving them away when the march of civilization overtakes them. The true way is to take them in, to treat them as belonging to the great human family. By that course we should have long since demonstrated that they are of one blood, of which all the nations of the earth are made. The policy of isolating a race on this American continent, where everybody should

be an American and an American citizen and a voter, is the ruinous policy in this whole Indian arrangement. Facts will repeat themselves, history will repeat itself. You may put them on little reservations in the West, and you will only reenact what you have done in Maine, Rhode Island, New York, and every eastern State; you will keep a little race together until they die out or become bleached out. That is not the solution of this question. That is not the way to solve the problem.

I repeat, without trying to defend my friend from Ohio, that the policy of civilizing and evangelizing the Indians by making them citizens, by associating them with white men, by educating their children with our children, is the solution of this question. If you lose half of the first generation by it you will save the second, and if the second is saved you save the race.

But, sir, I will not prolong my remarks on this amendment. I repeat if this commission fails, if the object of this bill fails altogether, then I am for the proposition of my colleague; but I propose to amend his amendment by prefacing to it these words: "if said commissioners fail to secure the consent of the Indians to remove to the reservations, then."

Mr. HENDERSON. I suggest to the Senator that he add the words "or fail from any cause to secure peace."

Mr. POMEROY. I accept those words as a modification of my proposition.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Kansas [Mr. Ross] as amended.

Mr. EDMUNDS. The amendment just adopted, as to the failure of the commissioners to induce these Indians to move to the reservations, or to secure peace, seems to be in the alternative. Now, I wish to know whether it is intended to have these regiments raised in case the commissioners fail to induce the Indians to go to the reservations without their also failing to make any other terms with the Indians that shall be satisfactory. I do not think we ought to raise these regiments unless the commissioners fail in both instead of one of the two. It may be that the Indians can be composed without their being removed to these reservations. They may be very unwilling to go; if I were an Indian I think I should be. At the same time they may be willing to make peace upon some other just terms. Now the question is, whether this amendment is not in such form that if the Secretary of War should choose he could raise these regiments the moment he found out that the Indians were indisposed to go to the reservations without waiting to try any other measures of composition.

Mr. MORRILL, of Maine. I think that would be the effect of the amendment from the language.

Mr. EDMUNDS. The language is such that if the commissioners fail either to get the Indians to go, or to make peace in some other way, the failure of either one of the propositions or causes for raising troops authorizes them to be raised. I think they ought to fail on both points before we go to this extent.

Mr. POMEROY. That is the object of this amendment.

Mr. EDMUNDS. But the amendment is drawn in such language that it is susceptible fairly only of the adverse construction.

Mr. JOHNSON. Let it be read again.

The Chief Clerk read as follows:

That if said commissioners fail to secure the consent of the Indians to remove to the reservations, or fail from any cause to secure peace, &c.

Mr. POMEROY. Strike out "or" and insert "and;" so as to read "and fail to secure peace."

Mr. HOWE. Now, either that does not meet the point made by the Senator from Vermont, or it does not meet the point that I mean

to make myself. In order to prevent the raising of these troops, as the amendment now stands, these commissioners have got both to make peace with them and to induce them to go down to these reservations.

Mr. EDMUNDS. No, they have got to fail to do both before the troops can be raised.

Mr. JOHNSON. If they fail in both, then, and not before, troops can be raised.

Mr. HOWE. Very well; if that is the construction I have nothing to say.

Mr. JOHNSON. It will not be a direction to the Secretary of War or to the President to raise troops. He may, upon the happening of the contingency stated in the amendment, receive the regiments or not, as he thinks proper. He certainly would not do it if the commissioners can secure peace upon any terms.

Mr. ROSS. I feel that the adoption of this amendment to my amendment has weakened the force of my proposition very materially; but as it is apparent to me that it cannot pass as originally introduced by myself, or in any better form than that in which it now stands, I suppose I must content myself with it as it is.

The amendment, as amended, was agreed to.

Mr. HARLAN. I move to amend the bill by striking out all after the word "that" in the third line of the first section to the word "power" in the eighth line, and to insert in lieu of the words stricken out:

And the President be and he is authorized to appoint a commission to consist of three officers of the Army not below the rank of brigadier general, who, together with N. G. Taylor, Commissioner of Indian Affairs, John B. Henderson, and William Windom, chairmen of the Committees on Indian Affairs of the Senate and House of Representatives, shall have, &c.

My reason for this is twofold. A year or two since General Sherman (the first name standing on the list as reported by the committee) was requested to serve on a similar commission, and he then declined doing so on the ground that it was incompatible with his other duties. I have no doubt that it would be a very irksome duty also for him to perform, and would in all probability come in direct conflict with the performance of his duties as second officer in command of the Army of the United States. There are other names here of persons who I do not think are well acquainted with our Indian affairs. They are able generals, men of great intelligence, and men who doubtless would discharge this duty to the best of their ability; and yet men who have occupied a less prominent position in the public eye, in all human probability, would make better commissioners than some of these high officers of the Army to negotiate with Indians. I therefore would prefer myself, and I think it would conduce to the public interest, to leave the appointment of the officers of the Army who shall be on this commission to the President of the United States, who will doubtless consult with the Secretary of War and the Secretary of the Interior in making the selections.

Then the Commissioner of Indian Affairs and the chairmen of the Indian Committees of the two Houses I think ought to be coupled with the commission. Senators will remember that a year or so since two or three members of the Committee on Indian Affairs of the Senate, under a joint resolution of the Senate and House of Representatives, did visit the Indian country, and doubtless then prevented a long and bloody and expensive Indian war. They became personally acquainted with some of the chiefs and head men of the hostile bands, and induced them to believe that it was for their interest to preserve peace with the United States; and I have no doubt that the distinguished gentlemen who are now at the head of these committees, together with the distinguished officer at the head of the Indian Bureau, would be very important auxiliaries in these negotiations, and be much more likely to succeed on terms that would meet with the approval of the Senate and House of Representatives than some of the Army officers who

are named, and some Indian traders whose names I see at the end of the list. I am not personally particular who go, but this amendment is in accordance with my judgment of what is wisdom in the premises.

Mr. TIPTON. I think if we are not to take the list of commissioners as already indicated in the bill, it would be better to leave it blank entirely, and let the whole commission be appointed by the President of the United States. The men of the border States then would have an opportunity of making at least recommendations; and I do think that a man so eminently qualified as Beauvais is supposed to be, speaking the Sioux language fluently and well, not being included in the amendment of the Senator from Iowa, should have a chance, and I want the bill left in such a shape that we can use influence in behalf of such a man, if we can get his recommendations considered by the President. I would rather have it blank, therefore, than filled in the way indicated either by the chairman of the committee or the Senator from Iowa.

Mr. HENDERSON. I do not think the amendment ought to be adopted. My impression is that the commissioners named in the bill are the very best men who can possibly be selected. I feel, of course, very grateful to the Senator from Iowa for what he has said in behalf of myself; but there is scarcely a man whom I have named in the bill upon this commission who is not better qualified than I possibly can be to discharge this duty. Again, it is a duty that ought to be performed immediately. Of course I will not say that I cannot attend to it if it be imposed upon me; but it would be exceedingly difficult for me to undertake a trip of this sort at present; and with so small a commission as the Senator from Iowa proposes, it would be absolutely necessary for me to go with them and be with them, if I were one of them. I think the military men who have been engaged in this war ought to be upon the commission. The President, if the matter be left to him, may select other officers, and I am not sure that any of the men whom I have named will be left in the commission.

I will state further that one of the very best commissioners we can possibly select—a man who ought not to be left off the commission—is John B. Sanborn. According to my friend's proposition he will not be included. He knows more about this matter than any man I have yet been able to talk with. He is better acquainted with this whole question than any gentleman I have met with, not excepting the officers who are immediately charged with the duty of conducting Indian affairs.

It is true that Mr. Bent, whose name is in the bill, is an old Indian trader; and he speaks the Cheyenne and the Arapaho language as well as any Indian chief among them, is perfectly familiar with it, and I understand the Indians have great confidence in him. So it is with Kit Carson, who also speaks the language. I inserted Mr. Beauvais's name because I knew he was perfectly familiar with the Sioux language, all the dialects spoken among the Sioux or Dakota nation. The commission that my friend from Iowa suggested will be utterly unable to converse with any of the Indians, though of course interpreters might be sent with them. But will it not be better to have men who are familiar with them, who speak well their language, on the commission—men who can therefore speak with authority?

It seems to me that the objection which my friend urged yesterday, that the President ought to be authorized to appoint all the officers, has been done away with by an amendment made this morning in the twelfth line, which perhaps he did not notice at the time, inserting the words "under the direction of the President," which removes any constitutional objection, if any there were. I do not think there were, but if any existed they are certainly removed by the insertion of those words. I think that perhaps the very best commission that can be selected is already selected by the bill. If you

adopt the amendment of the Senator from Iowa, the President may select any military officers he pleases, and I think it exceedingly doubtful whether I could undertake the duty which it is proposed to devolve on me.

Mr. RAMSEY. I agree with the Senator from Missouri, that one of the most useful men on such a commission would be John B. Sanborn. He has had much experience in Indian affairs. He is a man of excellent judgment, and an active man. He would be in every way useful on such a commission; no man in the country, more so; and I should consider it a very great loss to the object which the committee and Congress have in view in creating this commission if his name were omitted; and I respectfully suggest to the Senator from Iowa that he add his name to the other names mentioned in the amendment. Indeed, I shall move that myself as an amendment to the proposition of the Senator from Iowa. I propose to insert the name of Mr. Sanborn.

Mr. TIPTON. In regard to the nomination of Mr. Sanborn, I will say that all we ask is an impartial commission, and I understand he is already committed against us. He has expressed an opinion on the subject.

Mr. RAMSEY. The business of the commission is simply to manage to quiet the Indians, and select a proper reservation on which to locate them.

Mr. NYE. A remark was made a moment ago by the Senator from Nebraska, the meaning of which I should like to know. He says that he understands Mr. Sanborn is "committed against us." What does that mean?

Mr. TIPTON. I take it for granted that no man should be placed upon this commission who has prejudged this case. When I hear among Senators and others that a particular gentleman has been expressing opinions on this subject, and coming to the conclusion that there is no special trouble, no necessity for prosecuting this matter, I take it for granted that he has so far prejudged the case that he is not prepared to consider the question in all its length and breadth. When you send men to negotiate with the Indians we want to have men who have not been discussing this question as publicly as some of these gentlemen have. That is what I mean.

Mr. GRIMES. I suppose the question has been duly considered by my colleague, who has proposed this amendment; but it is well enough for the Senate to consider it, whether or not we have the power to create this office of commissioner and then to appoint members of Congress to fill the office. We have a clause in the Constitution which expressly declares that no member of Congress shall hold any office created during the term for which he was elected. I suppose this is an office created by this bill, as much so as if we used the term "office" instead of the term "commission."

Mr. HARLAN. I will say in reply to my colleague's suggestion that I think the amendment as proposed does not involve the difficulty which he suggests. It authorizes the President to appoint a commission to consist of three officers of the Army not below the rank of brigadier general, who (together with the Commissioner of Indian Affairs, and the chairman of our committee) shall proceed to negotiate with the Indians. The commission will consist of the three men appointed by the President.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Minnesota to the amendment of the Senator from Iowa.

The amendment to the amendment was agreed to.

Mr. HOWARD. There is nothing in this bill requiring this board of commissioners to report to any particular branch of the Government. In order to impose that requirement I offer the following amendment as a new section:

And be it further enacted, That the said commissioners report their doings under this act to the President of the United States, including all such

treaties and all correspondence, as well as evidence by them taken.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. HOWE. I desire to have a separate vote taken on the amendments which were agreed to in the second and third sections.

The PRESIDENT *pro tempore*. The amendments referred to by the Senator from Wisconsin will be excepted from the general vote of concurrence. The question now is on concurring in the residue of the amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDENT *pro tempore*. The first reserved amendments will now be read.

The Chief Clerk read the amendment to the second section, which was to strike out all after its enacting clause and insert in lieu thereof the following:

That said commissioners are required to examine and select districts of country lying north of the State of Nebraska and west of the Missouri river, of sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains and north of the Platte river and the State of Iowa, not now peacefully residing on permanent reservations under treaty stipulations, in which districts there shall be tillable and grazing land to enable the said tribes respectively to support themselves by agricultural and pastoral pursuits. Said districts, when so selected, and the selections approved by Congress, shall be and remain permanent homes for the said Indians to be located thereon; and no person not members of said tribes shall ever be permitted to enter thereon without the permission of the tribe interested, except officers and employes of the United States; *Provided*, That said districts shall be so located as not to interfere with the traveled highways located by the authority of the United States, and the probable route of the Northern Pacific railroad.

Mr. HOWE. I was not in the Senate when the vote was taken upon adopting that amendment. I did not suppose the bill would come up until one o'clock, and I was occupied outside. I would not raise the question again if I were not firmly convinced that it is just as idle to send this commission out there under the instructions contained in those two amendments as it would be to send them to Japan with a view of negotiating a peace with these same tribes. The amendment instructs these commissioners to make peace with these Indians only in one way, and that is by negotiating with the northern hostile bands to agree to be shut up within the territory described there, between the forty-fifth and the forty-third degrees of latitude, and between the Missouri river and the Powder river.

Mr. HARLAN. If the Senator will allow me, the amendment, if it should be adopted in the Senate as it was in Committee of the Whole, prescribes different limits. The district of country may be selected at any place west of the Missouri river, north of Nebraska and east of the Rocky mountains.

Mr. HOWE. But it must not interfere with located highways, one of which I understand to be by the Powder river. Therefore I suppose it must be east of that.

Mr. HARLAN. It may be west of it.

Mr. HOWE. If it had been suggested that any point could be selected west of the Powder river I should have thought of that expedient, but hitherto the whole discussion has turned upon giving them a location upon the White Earth, the Little Missouri, and the Big Cheyenne rivers. Now, there is not only one road built running right along to the south of that country, and another located running to the north of it, but it is traversed by four public highways, located by the Congress of the United States, and to which they appropriated \$150,000 two years ago: one running up the Niobrara river, one running up the valley of the Cheyenne itself, another running up from the mouth of the Big Sioux river to the mouth of the Cheyenne river, and another running from the western boundary of Minnesota across to the mouth of the Cheyenne river—four high-



ways laid out by act of Congress in 1864, and \$150,000 appropriated to the opening of them. These commissioners must say to these Indians, if they propose for them to go up there, "You must keep off from these highways." Well, these highways occupy all these valleys. Where can you offer them a home in this district of country? Besides, the Northern Pacific road is authorized to go down to the forty-fifth parallel, and you have already granted to that company alternate sections to the distance of twenty miles to the south of that line.

Then, in reference to the southern bands of Indians, the Cheyenne Indians, I am very much afraid, though I do not speak with so much certainty, that the district of country within which the amendment to the third section instructs these commissioners to secure a possession for them is so limited that it will be absolutely impossible. They are to keep out of the Indian country; they are to keep out of every country already appropriated by existing treaties to any other bands of Indians. Where is there a tract of country, then, for them? It authorizes them to fix them upon any portion of the Indian country to which we have already acquired jurisdiction, and I do not know that we have acquired jurisdiction to any portion of that Indian country. The Senator from Iowa does know if that is the fact.

Mr. HARLAN. Yes, sir; under a treaty with the Choctaws and Chickasaws the Government acquires the right to settle other Indians in what is called the leased district, containing several million acres of excellent land. They also acquire the entire control for that purpose of the original reservation of the Seminoles, and a large part of the Creek reservation, and more than two thirds of the Cherokee lands, particularly including that part extending westward into the plains.

Mr. HOWE. I was not aware of that. If that is done there is ample territory to settle all these ten or thirteen thousand Indians, with whom alone this bill as it now stands authorizes these commissioners to negotiate.

Now, Mr. President, as a compromise, if the Senate will not agree to these two amendments, I have drawn one that I think ought not to be objected to, and I will read it for the purpose of information. This is a substitute for both the second and third sections:

That said commissioners are required to examine and select a district of country having sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains not now peacefully residing on permanent reservations under treaty stipulations, to which the Government has the right of occupation, or to which said commissioners can obtain the right of occupation, and in which district there shall be sufficient tillable and grazing land to enable the said tribes respectively—

Going on, then, in the language of the amendment drawn by the Senator from Iowa. The only difference between this amendment and the amendments agreed to is that it refers the subject to the commissioners, without restrictions, to get territory where they can get it and get it rightly, territory sufficient for these hostile tribes, subject to no supervision but that of Congress, to be exercised after the negotiation is concluded.

I wish, Mr. President, that this substitute could be adopted. I do not see the slightest propriety in expending \$150,000 to send this commission out there to make a treaty which I do not believe can be made, and if it could be made I do not believe that the Indians could exist under it twelve months. The Senator from Kansas [Mr. POMEROY] said a short time ago that this was a temporary expedient, that it might last a year. It would be worth something if it lasted a year; but, sir, is it worth while for us to make a negotiation only for a year when you can make one for years just as well? Mr. President, these people are on our hands, and must be provided for at some time and in some way; and why not address yourselves to the work of making permanent provision for them? Here is a formidable and influential commission provided for. I agree with what the Senator from Maine [Mr. MORRILL] said yesterday that extermination is not the work

blocked out for us. We are not commissioned to any such enterprise. They are, what is left of them, to be preserved and protected. Somewhere, then, they must have a foothold within this domain of ours. Instruct this commission, the largest you ever organized, to find that location where they may have a home, to get possession of it, to purchase it if necessary, to set it apart if we already own it, and to induce the Indians to take up their residence upon it.

Mr. President, while I am up I want to make one comment upon the remarks made yesterday by my friend, the Senator from Maine. I listened to his speech with a great deal of interest, as the Senate did; and it was so good, taken altogether, that I would not indulge in a single criticism but for one fact, of which I think the Senator was not conscious at the time he was speaking. The Senator from Ohio [Mr. SHERMAN] had argued, as I thought with force and completeness, that the true solution of this Indian problem was in what he called the policy of absorption. The Senator from Maine, replying to that with immense force, insisted that that meant extermination. I should not interfere with the prosecution of the Senator from Maine against the Senator from Ohio but for the simple fact that I happened to have indorsed, as the published debate will show, the bill which he drew, and if the Senator from Maine maintains his suit against the drawer I may find myself liable as indorser. [Laughter.] I therefore beg leave to say that if the Senator insists that absorption and extermination mean the same thing he uses a dictionary different from what I use and from what I suppose the Senator from Ohio used. According to my understanding it means no such thing. It means the salvation, the preservation of the Indians, the absorption of them into the human family as soon as they can be prepared for that sort of absorption. If I understand the policy of the Indian Committee, they are already looking toward that very thing. There is, as I happen to know, one treaty before them which recognizes that idea, and which proposes—I suppose I may speak of it—to incorporate, to absorb a portion, one half of one tribe into the political system of the United States; in point of fact, to make citizens of them, to settle up with them as Indians, and to receive them into the great body of American citizens; and that thing has been done before. It has been done once in the history of this country with a whole tribe. I agree thoroughly and fully with what the Senator says: that these Indians may be civilized. I know they have been. There is one tribe of them constituting to-day a portion of the population of Wisconsin.

Mr. MORRILL, of Maine. What tribe is that?

Mr. HOWE. The Brotherton Indians. Twice during the existence of our State government persons who were members of the Brotherton tribe have represented their district in the Legislature of the State. I myself have held court and had an Indian for the sheriff of the county, and a good sheriff he was, too; so that I believe they are capable of civilization. I believe they are capable of becoming good citizens. I know they are. It may take more culture than is required for some other portions of the human family, and it may take a different culture; but they are capable of that sort of culture; and what I meant by absorption was the giving them that sort of culture, and then receiving them into our political system. I never did look upon the policy of extermination with any degree of complacency. I do not believe there is any considerable portion of the American people that does contemplate any such fate or any such destiny as that for the Indian race; and I thought it no more than right that I should say so much in explanation of what I meant by the policy of absorption when I indorsed it.

Now, Mr. President, I conclude by expressing the hope that the Senate will non-concur in this amendment; indeed, I hope the Senator from Iowa and the chairman of the Com-

mittee on Indian Affairs will consent to take the proposition which I have read as a fair compromise between these two opinions.

Mr. HOWARD. I will not consume the time of the Senate in discussing this bill; I said yesterday as much perhaps as it is important for me to say on the subject; but I cannot suffer the bill to pass without again expressing my dissent from the proposition embraced in the second section. The amendment offered by my friend from Wisconsin is a great improvement upon it, and if it shall come to a vote I shall support that amendment. But, sir, I am opposed to the principle of attempting to gather these wild Indians of the Plains together and settle them upon what are called permanent homes; and especially am I opposed to the project of huddling together some fifty or sixty thousand wild Indians upon the northern border of Nebraska, occupying, as they probably will if this bill shall take effect, at least one half of the present Territory of Dakota, and embracing the most valuable portion of that Territory.

I think, sir, that instead of having a tendency to secure peace between our people and the Indians, this mere proposal, the simple passage of this bill, will have the effect to alienate the Indians still more from us. It will be saying to them in very plain terms: "Our purpose is to permit you no longer to pursue the buffalo, the deer, and other game upon the wild prairies of the West, nor to suffer you to fish in the streams of those immense regions; but it is to collect you together, a dozen, fifteen, or perhaps twenty different bands of wild Indians, and confine you to a particular territory, and to compel you, from the very necessity of the case, to resort to the arts of agriculture for your subsistence. We intend, in other words, to compel you to become agriculturists. We intend to compel you to submit to the arts of civilization. We have seen, and still see, that if you are suffered to rove your ancient nomadic lives over this continent you will soon become extinct. We therefore, in order to save you from extinction, will compel you to resort to agriculture to raise your bread and thus feed and subsist yourselves. We will compel you to become educated. We will compel you to become voters. We intend to coerce you to give up your old habits, your old customs, to abandon all your old traditions, your old ideas, as old as the continent. We intend to compel you to abandon all this, and to become citizens of the United States, educated men, and Christians."

Now, sir, is this practicable? Is it in its nature possible? Will not the mere announcement that such is our policy make them still more unfriendly, more irreconcilable to us? I fear it will; and I think the passage of this bill will be but the signal for them to resort to still severer measures against our settlers upon the frontier. I think, in short, that instead of this being an olive branch of peace sent to these Indians, it will be but the signal for a still more flagrant and destructive warfare against us on their part. It will not be peace, but it will be a sword.

Mr. GRIMES. What do you propose? What is your plan?

Mr. HOWARD. The Senator from Iowa asks me what my plan is. My plan is a very simple one: let us send among them commissioners, ascertain what grounds of complaint they really have against us or our authority, look into the evils of which they complain, and if it be possible for us to remedy those evils, and especially if those evils have grown out of our own legislation or the acts of our own functionaries, let us hasten to do the Indian justice, frankly and fairly, and immediately remove the grounds of complaint, whatever they are. We do not know at present what they are. We have not been informed, and I do not know that there is any gentleman in this Chamber who is able to give us full and ample and sufficient information as to what the real grounds of the complaint of the Indians are. But it will cost us nothing to send a com-

mission among them to confer with them, to ascertain what the evils are, and it would cost us very little to apply the proper remedy by way of legislation. I shall therefore vote to non-concur in the amendment made in Committee of the Whole in regard to the second section, and if the proposition is made to substitute for it the amendment of the Senator from Wisconsin, I shall vote for that as being the less of two evils.

Before I sit down, let me say one word in reply to some of the remarks of the honorable Senator from Maine, [Mr. MORRILL,] made yesterday. He seems to entertain the idea, whence derived I know not, that the whole course of policy of the United States toward the Indian tribes has been one of oppression, wrong, and injustice. Indeed, he characterizes it by a far severer term, and he says that it has been a mere robbery of the Indian; that we have driven the Indian from one point to another, first toward the West, now from the West, and that we are finally cooping up his tribes in the center of the continent, and that our purpose is his ultimate extinction and extermination. Sir, it is not necessary for me to vindicate the character and policy of the Government of the United States against so serious an imputation as this; and I will content myself by simply saying that, according to my reading of the history of our relations with the Indians, there are very few cases in which the United States have been in the wrong.

Mr. MORRILL, of Maine. The Senator misapprehended me if he supposed I said it was the purpose of the Government to adopt a policy for the extinction of the Indian. What I said was, that its policy in the past and the present tended to his extinction.

Mr. HOWARD. I accept the correction, with this observation: that it is to be presumed the Congress of the United States and the Government of the United States legislate and act with their eyes open, and that they must be cognizant of the tendency of their own measures; they must know what their measures tend to establish or to produce.

Now, sir, I deny that the Indian has been driven from his hunting grounds, if by the word "driven," so often used by the honorable Senator from Maine, he means any act of injustice. The American people have, from time to time, from the earliest period of their colonial history down to the present moment, acquired the Indian territory by honest purchase. They have paid the Indian his own price for his land, and have obtained his title of occupancy by the payment of money or by the delivery of such articles of property as the Indian preferred. The necessities of the Indian have constrained him to make these sales. Why? Because from the very habits which he has adopted, from his mode of life, his tastes, and, in short, his savage condition, he has been obliged to part with his possessions in order to obtain subsistence and to preserve body and soul together. He has been obliged to sell his land to the white man.

Was it a crime in the white man that he had been raised in a different state; that his habits were different; that he supported himself and his family by means of agriculture and the mechanical arts? Was it a crime that he was thus raised? No, sir, it was no crime, unless you condemn the civilization of which we boast. The necessities of the Indian have constrained him to sell. It is this same necessity that now constrains him to sell. He must sell his lands in order to obtain subsistence, and if he sells, he must sell necessarily to the white man, who acquires his lands for the purpose of agriculture and other purposes of civilized life. This has been the course of events. This will continue to be the course of events so long as there is an Indian tribe upon the face of the continent, and there is no way to prevent it, unless we can address to the Indian some inducements that will lead him voluntarily to abandon his savage habits and resort to those of civilization. Can you invent any such

persuasion? I say, as I said yesterday, the ingenuity, the humanity, the philosophy, the religion of this country for the last two hundred years has failed to bring about a result which I admit is most desirable, if it were attainable; but, sir, it is not attainable.

I think, therefore, that the Indian must submit to his destiny, and that our duty in regard to him is to preserve his life and his existence by observing justice toward him, treating him kindly, treating him fairly, and by no means looking to schemes of extermination or cruelty. He must go the way of all the earth. He is the weaker party, and his habits of life, his social system, his governmental system will render him and keep him forever the weaker party, and he must abide his fate, although it may produce a thousand such eloquent speeches as we listened to yesterday from the Senator from Maine. The truth stands out broadly and prominently, that the object of the honorable Senator, judging from the past history of the two races, is absolutely a chimera. I wish it were otherwise, but I must recognize existing facts.

In making these remarks I certainly do not intend to deny that the efforts of philanthropists have done much occasionally to mitigate and to improve the condition of the Indian. In my own State these experiments have been attended with rather unusual success, and we have at the present time, I am very happy to say, some four or five thousand Indians within the limits of my State who have abandoned their tribal connections and their barbarous habits and resorted to the arts of civilization, and are actually at this time voters and citizens of that State. It is one of the happiest results that I am able to put my finger upon anywhere in the United States. But that is not the general fact in regard to the Indian tribes. The general truth is the reverse of that.

I hope that the second section will be stricken out, and that we shall confine ourselves to sending a peaceful mission among the Indians to ascertain the ground of their complaints, and then it will be time enough for us to apply the proper remedy.

Mr. HARIAN. It is not my purpose to enter into a discussion of the Indian policy of the Government, but to say a few words in relation to the point suggested by the Senators from Michigan and Wisconsin. The Senator who has just resumed his seat says he is in favor of sending out a commission to ascertain what the grievances may be of which the Indians complain. Sir, we know what the grievances are; and if the Senator is not very well posted upon this subject, he can obtain valuable information by going to the Commissioner of Indian Affairs, where the records of the Government in regard to it are kept.

A short time ago, less than two years I think, we made a treaty with the Arapahoes and Cheyennes. In negotiating that treaty no less than three of the men now named by the Committee on Indian Affairs served as commissioners, and the Government in that treaty allowed the southern Cheyennes and Arapahoes to occupy the territory over which the southern branch of the Pacific railroad has since been located by a subsequent act of Congress. At that time the territory was open. The southern branch of the railroad, usually called the Kansas branch, was located up the Republican river and was to intersect the main branch on the one hundredth parallel, leaving this country all open. It has been the buffalo region or the hunting ground for these Arapahoes and Cheyennes time out of mind. They would not agree to give it up, and for the purpose of making peace with them the commissioners agreed in the treaty that they might pursue the buffalo across the Arkansas up into these Plains during the summer months of the year. They have done so, and they have met there thousands of men laboring on a railroad right across the territory we gave them. That is the reason of the difficulty with the southern Arapahoes and Cheyennes.

The origin of the difficulty with the northern Cheyennes and Sioux has been stated over and

over again by other Senators. In violation of what they understood to be their rights under previous treaties made with them, the Government attempted to locate a military road across their country, and to erect posts and fortifications. They objected to this for more reasons than one, because it drove away the game, and because it brought in a population which they did not deem calculated to promote their interests and welfare. I do not now desire to enter into that subject, but everybody who is familiar with it knows that a soldiery located in the immediate vicinity of an Indian tribe tend to demoralize them, for reasons perhaps we could not without blushing describe. The Indians know this as well as we do, and they did not desire to have forts erected within the heart of their hunting grounds, where they lived and brought up their families. This was the original reason of the difficulty with the southern Cheyennes and Arapahoes and the Sioux that are now at war. There is not a large number of these people.

This brings me to the objection suggested by the Senator from Wisconsin. He says that there is not a district of country north of Nebraska large enough on which to locate these Indians properly without interfering with wagon-roads and railroads. Why, sir, according to the best accounts that we can get, there are less than ten thousand of them, and it is an immense country, an empire, territorially speaking, west of the Missouri river, east of the Rocky mountains, and north of Nebraska; and if this bill be permitted to remain as it now is this commission may roam over the whole country and locate them on the north side or the south side or the east or west side of any one of these roads. I do not doubt but that there is country there large enough to support these Indians by their usual pursuits. But then it may happen that they cannot live as well afterward as before, if they are not permitted to roam down south on to the Platte and the Arkansas rivers; but they will see to this. When this commission meets there they will talk over the amount of supplies that will be cut off by their giving up their district of country. They know the number of buffalo and elk they take in this region from year to year, and they know what will be necessary to supply the amount of which they are thus robbed; and they will be careful to stipulate for indemnity. Doubtless they will require that a few thousand head of cattle and a few hundred or thousand barrels of flour shall be given them from year to year in lieu of the supplies that they will be deprived of by such a contingency.

The Senator from Michigan seems to be laboring under the delusion that these Indians can remain there in a condition of peace if they would agree to preserve the peace. Why, sir, it is an impossibility now. There are three great lines of travel across this region of country, the railroad leading from Omaha westward, and that from the mouth of the Kansas river up the Smoky Hill fork of the Republican river, and the great wagon-road to Sante Fé. It would be, in my opinion, a literal impossibility to preserve the Indians who roam over the country traversed by these great lines of travel. The policy of the committee seems to be, and I approve it most heartily, to remove those Indians peaceably if possible, but if that is not possible, then by force, north and south of this strip of country. We shall have to come to it sooner or later. They believe, and so do I, that it can be done peaceably; that we can enter into negotiations and agree with them what they will receive as indemnity for the loss they will sustain by giving up this country; and hence I hope that the amendments agreed to in Committee of the Whole may be adopted by the Senate.

Mr. HOWE. Just five words more. The issue between the Senator from Iowa and myself is this: he insists that this commission can find a location for these Indians within the limits described in his amendment. My opinion is right the reverse of that; but I do not

ask the Senate to take my opinion. I only ask that the Senate shall not act upon his opinion, but refer the whole matter without any restrictions to the commission. If they find such a location that they can negotiate with the Indians better for, then they can negotiate and there they will put them. I would just as lief that they should all be put on that section of country as any other if they can be put there. But if you send the commission out under the restrictions contained in the Senator's amendment, and they find that they cannot negotiate for a location there, then the commission has utterly failed, is powerless; the negotiation is at an end; for they must do that specific thing or nothing. If you send them out under the instructions as I have drawn them, then if you cannot suit them there they can look elsewhere. That is the issue between the Senator and myself.

Mr. HARLAN. The Senator, if I understand his proposition, proposes to have but one district of country provided for these Indians, which shall be either south or north, and that they shall all be persuaded to go to the one country or to the other, or compelled as a last resort. That is objectionable practically on this account: those that have heretofore lived north cannot be induced without great difficulty to go south some seven or eight hundred miles, I believe nearly a thousand miles, from their old homes where their ancestors have lived for hundreds of years. The Committee on Indian Affairs propose to leave them on a part of the very country on which they and their ancestors have been living time out of mind, contemplating a great difficulty in securing their removal south. If you attempt it by force you will have to catch them first, which will be as difficult as to catch the wolves. They propose to send the southern Cheyennes and southern Arapahoes south, where they live a large part of the year. In this way they will avoid a conflict with the civilized Indians now residing in the Indian Territory, because under the old treaties with these Indians they have agreed to aid the United States in controlling the wild tribes; they have agreed to do so in the more recent treaties, and if we compel these Indians to live on their borders, it violates no agreement that we have heretofore made with them. But the very moment we attempt to send down wild and savage tribes of Indians from the north, the sixty thousand Indians now living in the Indian Territory will be disquieted, and probably make us more trouble and difficulty and occasion a greater expenditure of the public treasure than will be occasioned by the war now existing.

We must look at these things practically. Theoretically, it might be very well to send them all down south on to that beautiful land, for it is an excellent country; but we know practically, I suppose, everybody who has looked into the subject closely knows, that the northern Indians probably cannot be induced to go down there. They have lived on the buffalo, the elk, the antelope, the deer, the vegetable products of that country, and the fish of the streams for century after century, and they are as much attached to their homes as we are to ours. Now, the committee propose merely to confine them to a limited district of country, and then of course to pay them what may be necessary to enable them to live, if they are unable to live afterward by their usual pursuits.

Mr. HOWE. Now, Mr. President, mark how plain a tale shall put that down. The Senator assumes, and asks the Senate to believe, that these northern Indians cannot be induced to go south, nor the southern Indians to go north. In the very last treaty the Government negotiated with the Cheyennes, there was a band of about eighteen hundred protestants among them who did not agree to the treaty. What did they do? These are southern Indians. The treaty provided for their going south and being located there. They went south; but these eighteen hundred who did not agree to that treaty did go north, and they are now allied with the Sioux Indians

who are waging these hostilities from the north. So there is no such reluctance to go in the one direction or the other; but if the Senator makes a point of fact that I have provided for one district he can make it two or three districts. I think they are precisely the same kind of men, and there is no more difficulty in this case than in that. The southern Indians are located in the neighborhood of this Indian Territory. There is no other disturbance between them. I assume that putting nine thousand more there would not create any disturbance; but if they cannot go there let them all go north; or if the Senator insists that there shall be or may be or ought to be two districts or three districts instead of one, as I think, then I have no objection to altering this to the plural, and let the commission select there a district or districts, and let the commission have authority when they get out there to do what they find it is best to do, not restrict them within such terms as induce me to believe that they cannot negotiate at all.

Mr. HENDERSON. I rise not to discuss this question but simply to appeal to the Senate to let us have a vote. If we desire to settle this difficulty, let us adopt this plan and see if we can settle it. The proposition of the Senator from Wisconsin is simply the proposition he offered yesterday when the bill was in Committee of the Whole. Our proposition is to close the difficulties with the Indians. Suppose that when the commission go out there we can close them by having two localities to remove them to; suppose the Sioux Indians do not wish to go south and the Cheyenne Indians do not wish to go north, the commission can settle the matter under the bill as it now stands. But if the proposition of my friend from Wisconsin be adopted, we must drive them all to one locality and we must have but one locality; and if it does not meet the favor of the two several tribes or three or four tribes, if they are unwilling to get upon the same reservation, then of course the commission will fail of the object intended by the bill.

The Senator ought to remember another fact: suppose that the commission shall recommend but one reservation, as they will have the right to do, or suppose they recommend two or three, under the amendments as they now stand it is left in the power of the Senate to adopt the one, two, or three as it may choose when the report comes in. The commission must certainly report to Congress; and when that report comes before us it will be within our discretion to adopt these suggestions or not; we can take one of these reservations, we can take two, or we can take three. Is it not better to have the privilege on the part of the commission of selecting several localities?—because it may conduce to the pacification of the Indians. I think therefore we had better take the amendments as they are now. And I hope we shall have a vote and let the bill go to the House of Representatives.

Mr. HOWE. If the Senator had not made another argument I would not have objected to a vote; or if in making that argument he had not represented my amendment as so essentially different from what it is. First he undertakes to tell the Senate that it is precisely what I introduced yesterday, and which the Senate rejected. It differs as broadly from that as is possible for two propositions to differ. In that proposition I asked the Senate to instruct the commissioners to provide for all these men within the Indian Territory. Now I simply propose to ask that the commission shall provide for them within the United States.

Mr. HENDERSON. But on one reservation. Mr. HOWE. But I do not insist that they should select but one reservation; for I expressly told the Senate that if that was objectionable I would put it in the plural, so that they would have authority to select a district or districts; but I do not wish them to be so tied up as that when they get out there they may find they cannot negotiate at all.

The Senator says, and says truly, they have

got to report their doings here, and if we do not like what they agree to we can reject it. Very true; but how will the question stand before us? They go out under these instructions, which require them to provide for one portion of the Indians in one part of the country within narrow limits, and for another portion in another part, and they do so feeling obliged to do so under our instructions, and they come back here. How shall we object? It will be said to us at once, "If you do not agree to this arrangement there is a war on your hands." But if you give them now full discretion to go out and make the best provision for the Indians and the cheapest one for the Government without this territorial restriction, then when they come back here you cannot urge that argument. Now I am willing to have a vote.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. HOWE. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 6; as follows:

YEAS—Messrs. Anthony, Cole, Conkling, Davis, Grimes, Harlan, Henderson, Hendricks, Johnson, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Thayer, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—25.

NAYS—Messrs. Buckalew, Chandler, Frelinghuysen, Howard, Howe, and Sprague—6.

ABSENT—Messrs. Bayard, Cameron, Cattell, Conness, Corbett, Cragin, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Fowler, Guthrie, Morrill of Vermont, Morton, Norton, Saulsbury, Stewart, Sumner, Tipton, and Williams—22.

So the amendment was concurred in.

The PRESIDENT *pro tempore*. The next reserved amendment made as in Committee of the Whole is in the third section, after the word "including" in the fourth line, to strike out the residue of the section and in lieu of the part stricken out to insert:

That part of the present Indian Territory ceded to the United States for the use of other Indian tribes, or such part of it as may be necessary, and which, under existing treaties, can be so appropriated, together with such other adjacent territory as may be suitable to constitute a permanent home for such Indians as now inhabit south of the Platte and east of the Rocky mountains and Pecos river, not peacefully residing on permanent reservations under treaty stipulations, which territory when so defined and approved by Congress shall not be entered upon or settled in any manner, except by consent of the tribes interested, by any person other than members of such tribes and officers and employees of the United States.

The amendment was concurred in.

Mr. HOWE. Is it in order now to move to amend the bill by striking out the second and third sections and putting in a substitute?

The PRESIDENT *pro tempore*. I suppose that is in order.

Mr. HOWE. Then I move to strike out the second and third sections and to substitute what I send to the Chair, and I will take a vote on it without any further argument.

The words proposed to be inserted were read, as follows:

That said commissioners are required to examine and select a district or districts of country having sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains not now peacefully residing on permanent reservations under treaty stipulations, to which the Government has the right of occupation or to which said commissioners can obtain the right of occupation, and in which district or districts there shall be sufficient tillable or grazing land to enable the said tribes respectively to support themselves by agricultural and pastoral pursuits. Said district or districts when so selected, and the selection approved by Congress, shall be and remain permanent homes for said Indians to be located thereon, and no person not members of said tribes shall ever be permitted to enter thereon without the permission of the tribes interested, except officers and employees of the United States: *Provided*, That the district or districts shall be so located as not to interfere with travel on highways located by authority of the United States, nor with the route of the Northern Pacific railroad.

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Edmunds, Frelinghuysen, Howard, Howe, Ramsey, and Wade—11.

NAYS—Messrs. Conkling, Davis, Fowler, Grimes, Harlan, Henderson, Hendricks, Johnson, Morgan, Morrill of Maine, Nye, Patterson of New Hamp-



shire, Pomeroy, Ross, Sherman, Sprague, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, Wilson, and Yates—24.

ABSENT—Messrs. Bayard, Cameron, Conness, Corbett, Cragin, Dixon, Doolittle, Drake, Ferry, Fessenden, Guthrie, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Saulsbury, Stewart, and Williams—18.

So the amendment was rejected.

Mr. EDMUNDS. I should like to have the first section read for the information of the Senate as it now stands amended.

The Chief Clerk read as follows:

That the President of the United States be, and he is hereby, authorized to appoint a commission to consist of three officers of the Army not below the rank of brigadier general, who, together with N. G. Taylor, Commissioner of Indian Affairs, John B. Henderson and William Windom, chairmen of the Committees on Indian Affairs of the Senate and House of Representatives, and John B. Snoborn, shall have power and authority to call together the chiefs and head men of such bands or tribes of Indians as are now waging war against the United States, or committing depredations upon the people thereof, to ascertain the alleged reasons for their acts of hostility, and in their discretion, under the direction of the President, to make and conclude with said bands or tribes such treaty stipulations for the action of the Senate, as may remove all just causes of complaint on their part, and at the same time establish security for person and property along the lines of railroad now being constructed to the Pacific and other thoroughfares of travel to the western Territories, and such as will most likely insure civilization for the Indians and peace and safety for the whites.

The bill was ordered to be engrossed for a third reading.

Mr. YATES. I had not intended to say anything on this bill, and I do not intend now to say more than a very few words, and I hope they will provoke no reply. I think they are necessary under the circumstances. My attention has just been called to some remarks which were made by the honorable Senator from Maine, [Mr. MORRILL,] in relation to certain expressions that were made use of by a distinguished general of the Army, General Pope. I did not happen to be present when those remarks were made or I should have replied to them at the time.

The honorable Senator from Maine seems to characterize the expressions of General Pope as a high crime or misdemeanor, or something for which he should be cashiered by the Government of the United States and deprived of his office. Sir, as I know General Pope to have been one of the most effective and one of the most skillful and patriotic generals of the Army, one who won as much distinction in the late war as any other general, and I feel that it is due to him and due from me as his friend and as representing here in part the State from which he comes, to say a few words in response to what the honorable Senator from Maine has said upon this subject.

What is the offense of General Pope? On looking into the facts of the case it will appear that General Pope, instead of having committed any offense for which he should be arraigned by the Senator from Maine, has only said that in a former communication he warned the Government of the United States, or the General in command of the Army, that this Indian war was inevitable, that there was no reliance to be placed upon the treaties which are made by the Indians with this Government, saying in that respect nothing more than the honorable Senator himself said half a dozen times in the course of his own speech. He told us that the conduct of this Government toward the Indians had been inhuman and barbarous; in effect that we had not kept our treaties of peace. General Pope only gave a warning to the Government that this same policy would be continued.

The Senator quoted from General Pope's report, in which he said that the commissioners knew when they made these treaties, and agreed that the whites should not go into the Indian Territory, that these promises would not be kept. Sir, I say they did know it. General Pope told the truth. Every one knows that fact; the Government knows it; the honorable Senator from Maine knows it; He knows that such promises have never been kept. General Pope's offense is in having stated that fact. The honorable Senator himself makes the same charge against the Gov-

ernment of the United States when he speaks of its inhumanity and its barbarity to the Indians. General Pope was warning the Government against this war, which was inevitable. He told the simple truth when he said that the commissioners who made these treaties knew well that such a promise would not be kept. The Senator from Maine knows well that whatever treaties we make with the Indians we cannot stay the advance tide of population on its westward way.

The Senators who have spoken have said as much. They have said that these tribes were barbarous; that they were roving tribes; that they will not stay in any fixed locality; that the whites must have this territory; that the whites must occupy this territory west; and General Pope's offense is that he said the commissioners who made these treaties knew that such would be the case. Sir, he knew well, as the honorable Senator knows, that when one of these six-footer pioneers from the pine hills of Maine goes out West in the neighborhood of an Indian tribe and wants Indian territory he will go there and occupy that territory. He has done it from the beginning of the Government down to the present time.

I say, then, General Pope has committed no offense. I agree with him that the policy of the Government as to the Indians has been wrong. I will not enter into that subject now. I will simply say that the Indians should never have been treated as owning the land. They never did own the land. No man has a right to own land who will not work it. The Government should never have treated them as owning the land; but as barbarous, roving tribes, it was the duty of the Government to treat them with that Christian humanity and consideration which was due to their condition.

What the true policy is I do not pretend now to indicate. I rose simply to say that what the honorable Senator from Maine charges as a crime, as an offense upon the part of General Pope, should go to his highest credit. It is a merit in him. He predicted this war; the war is now upon us according to his prediction. His warnings were unheeded. These treaties have not been kept, and will not be kept. White men will not keep out of the Indian country whatever treaties you may make, and Senators all around say they ought not, and should not, and will not be kept out of that territory. But if the Senator says that General Pope has not done his duty as an officer of the Government in this war, or any other war, to the best of his knowledge and ability, then I call upon him for the proof. Where are the facts? Where is the evidence that he has not done his duty? There is certainly no evidence couched in this language which he has used. When he said there was no reliance to be placed on these Indian negotiations he did not mean to reflect on the Government of the United States. Sir, the fact is, from the circumstances we all know it to be so, that there is no reliance to be placed upon these negotiations. We are dealing with men with whom we can have no treaties really, and we admit that fact, because we acknowledge that they are savages, that they are barbarous, that they are not civilized, that they will not stand by their obligations. When General Pope said there was no reliance to be placed upon these negotiations with the Indians he did not mean to reflect upon the duty of the Government, or to intimate that the Government had failed to keep its faith, as far as it possibly could, in regard to all the treaties and in regard to all its policy as to the Indians.

Mr. MORRILL, of Maine. Perhaps, Mr. President, I ought to say a word in reply to the honorable Senator from Illinois. He seems to suppose that in the remarks which I had the honor to submit to the Senate yesterday I, too, had arraigned the Government for perfidy. I had no such idea in my mind, and I am sure no language I used is fairly susceptible of any such interpretation. The Government on its theory has been just enough to the Indian. I

did not arraign the Government of the United States in its purposes, as I had occasion to explain to the honorable Senator from Michigan a moment ago. What I complained of was that spirit to which the honorable Senator from Illinois refers when he speaks of men from other parts of the country who approach the border and disclose a lawlessness of purpose to trespass upon the rights of the Indian, irrespective of law or treaty. That was the spirit that I deprecated yesterday; and my arraignment of General Pope was that he took that spirit for his guide, and not the treaty and the law; and that he had the bad taste to say to the General of the Army and to the American people that they negotiated treaties with the purpose of breaking those treaties. That was the arraignment.

Mr. YATES. That language is not used in what the Senator read from General Pope.

Mr. MORRILL, of Maine. I will quote it again and see whether it is or not:

"The peace commissioners promise the Indian, in the first place, that the whites shall not go into the Indian country, knowing well that it is impossible to fulfill such a promise."

General Pope has no right to know any such thing if he speaks for the Government, for he ought to know that what the Government promises the Government means to fulfill. My objection to General Pope and my arraignment of him was that being there to fulfill the purposes of the Government, which are the promises of the peace commissioners, he allows himself to cooperate with the spirit of the border that overrules the Government; he falls in; he becomes—I will not use an offensive word—but the instrument in the hands of that spirit of the border which the honorable Senator himself recognizes as irrepressible on the frontier, and turns upon the Government and tells it to its face "You need not expect me to observe your treaty stipulations."

Now, sir, I say that was neither in good taste nor decorous. It was not in accordance with the fact; and it was not in accordance with the theory of the Government, and it did not lie in his mouth to utter any such sentiment, to predict any such thing, or to assert any such thing; and I submit to the honorable Senator whether I am not fully borne out in stating that, while he arraigns the Government, he shows clearly that he is acting on the spirit which is lawless on the border, and which I am sorry to say seems to impress Senators more or less that there is not power enough in this Government to keep a treaty after you have made it.

That was my specification; that is what I meant to say precisely; and that is what I meant to hold him responsible for. I did not mean, and I think no language I employed yesterday was susceptible of the interpretation that I intended to arraign the purposes of the Government. I say that the Government in its general purposes has been humane; but its policy has been constantly overruled in the manner I undertook to describe, and in the very way the honorable Senator himself illustrates by this six-footer from Maine, who goes upon the border and cannot be resisted. General Pope said that, and for that I condemn him. When he goes there to maintain the flag and the honor of the country and the treaties of the nation made with these Indians, he is to stand by the flag and stand by the nation, and he is not to yield to the six-footer from Maine nor to the spirit of the border; and when he does that and turns to the Government and in its face says, "Your treaties cannot be kept; they were never made to be kept; the commissioners who made them knew they were not to be kept;" I say he takes a high responsibility.

If the honorable Senator from Illinois can find a justification in any duty that is devolved upon a major general in the service of the United States for using such language, he can do better than I can. If he can find an apology for it even, I shall be glad. I have no personal feeling in the matter, of course. I desire



to say, now that I am up, that I have not the honor of knowing General Pope, and I have no fault to find with his general record. That he is brave and gallant and patriotic I do not question. I applaud him in that particular, as would the honorable Senator from Illinois; but on a great question of this kind neither General Pope nor any other general has a right to use such language with impunity. Rights higher than the individual rights of Major General Pope or any other major general are in controversy here. It was with that view and no other that I alluded to General Pope yesterday and criticised what he had said.

Mr. YATES. A single word, sir. The remarks of the honorable Senator as printed, which I did not hear, seem to me very uncharitable in reference to General Pope. General Pope never meant, as is evident from the phraseology employed by him, to say that the Government had acted in bad faith. He was charging no crime, no offense upon the part of the Government, no wrong upon the part of the Government. He evidently never meant any such thing. But he meant simply to say that when the Government made these treaties they would not be kept, from the nature of the case, considering the parties with whom he had to act, and judging from the past history of the country. That was General Pope's meaning. Sir, we have to deal with these Indians in some way. We have treated them as owners of the land, which we never should have done; and we have found that we can deal with them in no satisfactory way.

All that General Pope meant to say was, that any barrier we might attempt to throw up against the advance of the white man would be unavailing. He meant to say only what every Senator has said, that we cannot stay the wave of population; that you may promise the Indians that the white man will not go into their country, but the white man will go there. It was very uncharitable, I think, on the part of the Senator from Maine, thus to arraign General Pope for making a prediction which has proved to be true, and for stating to the Government that war would result, and that the consequences would follow which have followed.

Mr. JOHNSON. Mr. President, it was not my intention to have said a word on this bill or upon any cognate subject; but I cannot forbear protesting, whatever the protest may be worth, against the idea that the United States are unable to fulfill their faith pledged by any treaty with Indians or with civilized nations. I cannot understand how it is possible that these treaties should be violated with impunity unless the United States are to be considered as a party to such violation. I have no idea that it has ever been the purpose of the Government of the United States not to fulfill any of their obligations. It is certain that so far these treaties have been made and they have been broken. I do not know in the history of these tribes since they came under the *quasi* dominion of the United States that they have ever upon any occasion broken any of their treaties. They have been broken by the whites, not acting under the authority of the Government, but they have been broken by the whites without the interference of the Government, I mean the practical and influential interference of the Government.

It is idle, I think, and disparaging the power of the Government to assert for a moment that it is not in its power to enforce obedience upon the part of its citizens to all these treaties. What are we doing now? Here we have in subjection, absolute subjection—not an arm raised against the power of the Government—ten States with a white population of some eight or nine millions; and the principal purpose for which the friends of that policy avow the propriety of adopting that policy is the protection of three or four millions of the so-called black race, and we are doing it, and doing it effectually with an army comparatively small, properly distributed. No black

man's rights are violated except in occasional instances, such instances as occur in the other States in the Union. And is it to be said that we cannot protect three or four hundred thousand Indians in their possessions of land which God and nature gave them in the beginning of their existence? Why is it that we cannot protect them? Are our people such marauders; such rebels to the due authority of the Government, that they will not obey the orders of the Government and perform their duties as good citizens to the Government? That I think is a libel upon our people, with due deference to those who entertain a different opinion.

There may be spirits upon the outer borders of the United States which it would be difficult without force to restrain; but the idea that the power of a Government strong enough to keep ten States in subjection, to hold in its hand eight or nine million people consisting of as gallant men as ever trod on the soil of any land, is not able to keep against violating the treaties of the Government the few men, unruly and reckless spirits, who without any fault on the part of the mass of the people in those borders from time to time are found violating their duties to the United States and trampling upon the rights of the Indians secured by the pledged faith of the United States—the idea is not to be entertained. No matter what General Pope designed, and it certainly is far from my purpose to call in question his gallantry or his services during the war, I think he has unintentionally or intentionally libeled the Government or the people whom it is the duty of the Government to restrain from the perpetration of any wrongs upon any people, be they black or be they copper-colored.

Now, that we cannot find a place within the broad limits of the United States within which to place these three hundred thousand Indians and there save them harmless against any power, domestic or foreign, I do not believe. I should regret to be forced to believe it, because if forced into such a conviction I should believe that it was a foul and damning spot upon the reputation of the country.

The bill was read a third time, and passed.

On the motion of Mr. GRIMES, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, July 18, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### NATIONAL ASYLUM FOR DISABLED SOLDIERS.

The SPEAKER laid before the House a report of the board of managers of the National Asylum for Disabled Volunteer Soldiers; which was laid on the table, and ordered to be printed.

### PERSONAL EXPLANATION.

Mr. HUBBARD, of West Virginia. Mr. Speaker, I ask unanimous consent to make a personal explanation.

There was no objection.

Mr. HUBBARD, of West Virginia. Mr. Speaker, I find in the Globe of yesterday certain remarks of the gentleman from Ohio, [Mr. VAN TRUMP,] representing the twelfth district, purporting to have been made on the 13th instant, but which, if I am correctly informed, were not made in the House, but are published and sent to the country under a permission to print. I now ask the Clerk to read the paragraph which I send to the desk.

The Clerk read as follows:

"Sir, I will notice one other significant but false recognition by the Republican party of the fact that the southern States are still legitimate sovereignties within the Union. In looking over the certificate of States ratifying the late amendments to the Constitution of the United States, by the Secretary of State, with the broad seal of the Union attached, and to which the honorable gentleman from Pennsylvania [Mr. KELLEY] so much objects, I find the name of a so-called State of the Union voting upon said amendment, to which, I suppose, the honorable gentleman will not object. I mean, sir, the so-called State of West Virginia. West Virginia, by act of Congress,

was attempted to be erected into a State in July, 1862, one of the most doubtful and desponding periods of the war. In order to impart to it the semblance of constitutional existence the huge legislative mendacity was resorted to of reciting that it was done with the consent of the sovereign legislative authority of the State of Virginia. West Virginia, indeed! What withering, irrepressible scorn must any honest mind feel for the miserable, inconsistent, and ridiculous assumption which claims West Virginia to be a State constitutionally within the Union, and that Arkansas is a mere wail upon the sea of national life, an unorganized colonial dependency outside of the Union! West Virginia, sir! she has no constitutional home, no rightful, legal abiding place in the great family of States; she is a bastard Commonwealth, a mere political foundling, without a drop of constitutional blood in her veins; she is an illegitimate star in our political constellation; she was conceived in the sin and born in the iniquity of modern radical republicanism; and the whole rightful constitutional theory of our confederate system, the whole original framework of our Government as designed by our fathers is disturbed and dislocated by this horrid burlesque of a State. And yet, sir, its erection, however revolutionary and unconstitutional, when you look to the *animus* and mode of its accomplishment, as against those who perpetrated the outrage, is a clear and unequivocal recognition of the fact that Old Virginia was and is a State within the Union, unshorn of any of its original sovereignty."

Mr. VAN TRUMP. I ask the gentleman to yield to me for a moment.

Mr. HUBBARD, of West Virginia. I will yield to the gentleman when I get through with my explanation.

Mr. VAN TRUMP. One moment.

Mr. HUBBARD, of West Virginia. The gentleman published his speech in the Globe, a speech not delivered upon this floor, and I had no opportunity to reply. I do not think under the circumstances the gentleman deserves the courtesy at my hands.

Mr. Speaker, I now ask the Clerk to read a second time that part of the paragraph which I have marked with double lines; for I want those words "seared as if with a hot iron" on the heart and memory of every loyal man in West Virginia, that they may know the future that awaits them if the party with which the gentleman from Ohio is associated obtains control of this Government.

The Clerk read as follows:

"West Virginia, sir! she has no constitutional home, no rightful, legal abiding place in the great family of States; she is a bastard Commonwealth, a mere political foundling, without a drop of constitutional blood in her veins; she is an illegitimate star in our political constellation; she was conceived in the sin and born in the iniquity of modern radical republicanism; and the whole rightful constitutional theory of our confederate system, the whole original framework of our Government as designed by our fathers is disturbed and dislocated by this horrid burlesque of a State."

Mr. HUBBARD, of West Virginia. I do not propose to enter into a discussion of any constitutional question connected with the admission of the State. It is sufficient for me to know that West Virginia has been admitted as a State by the Congress of the United States, that branch of the Government authorized by the Constitution to admit new States, and I presume the members of that Congress understood their constitutional obligations fully as well as the gentleman from Ohio. West Virginia has been acknowledged as a State by the executive department of the Government in all its branches. Her name has been entered on the roll of States by the Supreme Court of the United States, no justice on that bench, so far as I know, dissenting therefrom. She has fulfilled all her constitutional obligations as a State since her admission. She furnished her full quota of soldiers for the defense of the Union—all volunteers, no drafted men among them. Can the gentleman's district say as much? She has paid her share of the direct tax, and stands as ready to-day to sustain a preserved Union as she did to defend it in its time of danger and peril.

Yes, sir, West Virginia has a home, a constitutional home, a legal abiding place in the great family of States; she is a true Commonwealth saved from insurrection and rebellion by the best blood of freemen; an honored star in our political constellation; born of loyalty and dedicated to freedom she magnifies our national system of government and proclaims to the coming future that loyalty is the birthright of a State.

I know she is not a State by the consent of rebels or rebel sympathizers. I know her name is not called in Democratic conventions, that it is not enrolled on Democratic banners, for she does not muster in that camp; and I am not surprised that the gentleman's ire is excited by seeing her Representatives on this floor. But I am surprised at the bitterness of invective with which she is assailed, and especially that it should come from a Representative from the State of Ohio—a State which, of all others, (I speak it in no spirit of boasting,) has most reason to thank God for the loyalty of West Virginia. For four long years of fire and death West Virginia stood between the citizens of Ohio and the destroyer. We were her wall of defense; while our fields were laid waste and desolated theirs were rich with fruitful harvests; while our homes were left without a roof-tree by the ruthless hand of war theirs were the abodes of peace and plenty; and yet a government and recognition among the States of the Union, secured by such earnest devotion and won by such heroic sacrifices, must be branded as "illegitimate," "conceived in sin and born in iniquity," and that by a Representative of a people who have been most benefited by that devotion and that sacrifice. O shame, where is thy blush?

Mr. Speaker, I have been at a loss to conceive any sufficient reason for this unwarrantable attack on West Virginia, made, too, not on the floor of the House in the heat of debate, but in the quiet meditations of his room, under a permission to print, and published some four days afterward; so that it would probably have escaped my notice entirely had not my attention been called to it by a member of the other House.

I say I am at a loss to assign any reasonable motive for it. Can it be because the admission of West Virginia as a State will ever stand as a reproach to rebels and traitors, and will be an encouragement to loyal men and patriots in all ages of the Republic, or that her recognition here is an abiding assurance that the "lost cause" can have no hereafter so long as the name of West Virginia is on the roll of States; or is it that she cannot be forgiven because she would have stood in the way of the hundred thousand men who were going to bring Vandalism home from the rebel lines if he had been elected Governor of Ohio? But I am at a loss for the reason.

I can only say, in conclusion, that had the gentleman from Ohio referred to the admission of West Virginia in the same manner and spirit in which he refers to Mr. Lincoln's action in reference to Arkansas his remarks would have passed without any notice from me. Under the circumstances I could not do otherwise than I have done. And it only remains now for me to thank the gentleman from Ohio for the undisguised expression of his sentiments and those of his party toward the State of West Virginia, for I am sure the warning will not be passed by unheeded by her loyal people.

Mr. VAN TRUMP. I ask to make a brief reply.

Mr. UPSON. I hope that the time will be limited.

Mr. VAN TRUMP. I do not rise to make a speech.

Mr. UPSON. I object unless the time is limited.

The SPEAKER. The time will be limited to ten minutes, if there be no objection.

Mr. VAN TRUMP. I wish to make an explanation, and that is, it is manifest to every gentleman in this House I could have meant no disrespect to the people of the so-called State of West Virginia as citizens of the United States. By no means, sir; I simply spoke of their organization as a State or corporation without the consent of old Virginia under the provisions of the Constitution.

Sir, I have every reason to have the highest regard for the people of West Virginia. I lived within her borders, such as they are now, for a year, and some of the best friends of my life are there; and, sir, I have nothing to

reply to the gentleman. I was an admiring auditor of the eloquence and energy with which the gentleman defended his State. I repeat I meant no disrespect to the people of West Virginia.

#### SOUTHERN RELIEF.

Mr. KELLEY. I rise for the purpose of presenting to the House a paper in the nature of a letter of thanks, signed by citizens of Alabama. Early in the Thirty-Ninth Congress I had the honor of introducing a resolution requesting the President to direct the chief Commissioner of the Freedmen's Bureau to supply the then starving people of the mountain counties of Alabama and Georgia with seed with which to put in a crop. That resolution was adopted and the seed furnished. The letter I ask to have read is in acknowledgment of the kindness of Congress in furnishing this timely and vital relief, with an assurance that with the aid thus given they hope to be able to provide for their future wants. I ask to have the letter read.

The letter was read, as follows:

DECATUR, ALABAMA, July 13, 1867.

To the Thirty-Ninth and Fortieth Congress:

GENTLEMEN: In behalf of the suffering poor of North Alabama accept our heartfelt thanks for your timely supplies forwarded through your worthy agent, General O. O. Howard, to this needy and desolate class. Be assured that the recipients of your favor duly appreciate your act of humanity, and the lives you have thus saved will be used to bless and honor you. We are aware that the consciousness of having performed an act of benevolence is more to you than any pleasure you can derive from outside expression, but nevertheless we cannot forbear this token of our appreciation for the lasting benefit you have conferred upon our famished country.

We are happy to state that the prospects for a crop are so flattering that we hope that we shall this year raise an abundance of everything, and that we will be able to dispense with your further bounty.

We are gratefully, your obedient servants,

GEORGE M. TABER, and numerous others.

The letter was laid on the table, and ordered to be printed.

#### CORRECTION.

Mr. ARCHER. I ask leave to make a correction. On Saturday last, on the adoption of the report of the committee of conference on the reconstruction bill I am recorded in the Globe as voting ay. I voted nay, as the Journal will show.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed without amendment a joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next.

Also, that the President *pro tempore* of the Senate had appointed Hon. Mr. PATTERSON, of New Hampshire, the additional member on the part of the Senate of the joint Committee on Retrenchment.

#### CAPTURED AND ABANDONED COTTON.

Mr. SCOTFIELD. I ask unanimous consent to introduce the following joint resolution:

Whereas it is stated that the Court of Claims has rendered judgments to the amount of \$3,000,000 in favor of parties claiming for captured or abandoned cotton: Therefore,

*Be it resolved by the Senate and House of Representatives, &c.,* That the Secretary of the Treasury be hereby instructed to withhold the payment of said judgments until further action by Congress.

No objection being made, the joint resolution was read a first and second time.

Mr. HOLMAN. I appeal to the gentleman to allow me to offer the following amendment.

Mr. SCOTFIELD. I will hear it read.

The proposed amendment was read, as follows:

Whereas this House on the 30th day of April, 1862, adopted the following resolution: "Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines purchased through Simon Stevens, esq., by General John C. Fremont, on the 6th day of August, 1861, and afterward delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for \$12 50 each, rejecting all other demands against the Government on account of the purchase of said arms."

And whereas by a recent judgment of the Court of Claims the said Simon Stevens has recovered against the United States the sum of \$58,000 on account of said arms, being, with the sum heretofore paid on said purchase, at the rate of twenty-two dollars for each of said arms, the said arms having been sold on the 6th day of June, 1861, by the order of the Secretary of War, as condemned arms at \$3 50 each: Therefore,

*Resolved,* That the Judiciary Committee be instructed to inquire into the circumstances under which said judgment was recovered, and whether the judgment of said court should be subject to any other method of review than that now authorized by law, with authority to report by bill or otherwise.

Mr. SCOTFIELD. I do not yield for that amendment. I may vote for it separately, but I do not wish to have it attached to a resolution which I think nobody will oppose, while there may be objection to the gentleman's proposition.

Mr. HOLMAN. Very well.

Mr. SCOTFIELD. I desire to state that at the last session of Congress, and I believe for almost every session since I have been here, bills have been introduced by different members requiring the action of Congress before judgments rendered by the Court of Claims should be paid by the Secretary of the Treasury. I have always opposed them mainly because I was personally very well acquainted with two of the judges of that court who hailed from Pennsylvania, and had confidence in them as well as in other judges. I am satisfied from what is being said in the press and what I hear in private circles that great frauds on the Government have been perpetrated on this question of cotton claims. I do not say that anything wrong has been done by the Court of Claims, or that we can ultimately, when we come to examine the judgments, avoid their payment; but so much has been said upon this question that I think it is but just to relieve the Secretary of the Treasury from the embarrassment that he feels, as I hear, about paying claims that I understand he believes are somewhat unjust, by action on our part. I hope there will be no objection to this resolution unless it be an objection as to form. At the next session of Congress these judgments or claims can be examined by the proper committee, and if found correct we can authorize the Secretary of the Treasury to pay them. I yield now to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker, I do not rise to oppose the resolution, but to suggest what the practical difficulties are that need the action of the House. By the abandoned and captured property act all parties who proved their loyalty during the war are allowed to reclaim in the Court of Claims property captured from them by our armies or taken as abandoned by the Treasury agents. The difficulty is that we have made no definition of loyalty, and it is left to the court to judge upon the evidence whether a given claimant was loyal in sentiment. Now, it is very difficult in the South to prove that there is any one who ever was not loyal. Everybody who did not hold a commission in the confederate army or in their government comes forward and proves by his neighbors that he was a good Union man during the war, and therefore, under the laws of evidence, the Court of Claims could not do otherwise than as they did in the cases under consideration. I think we should have this matter of this operation of the law inquired into; otherwise all this property, amounting to many millions—I think I am safe in saying thirty millions—may be all taken back by the rebel owners or by those from whom it was captured, who had abandoned it to go into the rebel service.

The difficulty, as I have stated, is that Congress has given to the court no law and no guide as to what shall be the presumption as to loyalty. With the permission of the gentleman I will state what might be the needed legislation. In a loyal State we treat every man as loyal, however disloyal he may be, unless he commits some overt act of disloyalty. So in disloyal States every man should be treated as disloyal until he shows some overt act of loyalty during the war. And for the purpose of getting

that definition into the law I hope the House will pass the resolution proposed by the gentleman from Pennsylvania; although I think, as a rule, it is not well for this House or Congress to interfere with the judgment of courts duly constituted, against whom there can be no just censure. I think the Court of Claims have carried out the law in what they have done, and the law I understand to be what my friend now desires to reach.

Mr. SCOFIELD. I now yield to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. I am glad to hear the latter portion of the remarks of the gentleman from Massachusetts, [Mr. BUTLER,] because I can fully accord with him and with the gentleman from Pennsylvania [Mr. SCOFIELD] in paying the highest tribute to what I believe to be the integrity and ability of the judges of the Court of Claims; and I think that we ought not lightly to interfere with their judgments.

I wish to inquire of the gentleman from Pennsylvania whether the amount of the judgments to which the resolution refers is to be paid out of the Treasury as a matter of course, or whether an appropriation by Congress is needed for that purpose? I suppose an appropriation to be needed.

Mr. SCOFIELD. The law as it now stands requires the Secretary of the Treasury to pay all judgments rendered by the Court of Claims without further action of Congress. Repeated efforts have been made by different members of Congress to get some law passed requiring an appropriation by Congress for the payment of a judgment after its rendition by the court. Those efforts have always failed. So far as my vote, and sometimes my voice, would go, they have been heretofore against any such action, because I have had confidence, as I still have, in the Court of Claims. But when so large an amount of money is about to be paid, with many more claims of a similar nature still unacted on, I think that the matter should be examined by Congress, that the propriety of the payment may be considered by us. I think that the Secretary of the Treasury should not be allowed—indeed I presume he is not inclined, unless compelled by law—to pay the large amount involved in these cases, without any examination of the matter by Congress.

Mr. PRUYN. Does the gentleman propose an examination by a commission or a reference of the subject to a committee?

Mr. SCOFIELD. Neither. This joint resolution simply proposes to relieve the Secretary of the Treasury from paying these judgments until Congress shall make an appropriation for the purpose.

I now yield to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. I wish to suggest to the gentleman from Pennsylvania [Mr. SCOFIELD] that while I agree with him in this proposition it does not meet the evil. It is but superficial legislation. While I have as much confidence as he or any one else can have in the gentlemen who compose the Court of Claims, one of them being a gentleman from my own State, whose integrity is above suspicion, yet, sir, let any gentleman look at the organization and constitution of that court, as well as to the results of the litigation in that court, and he will see at once that the Treasury of the United States is put at the mercy of the solicitor of that court. Let me show why this is so.

We pass an appropriation bill setting apart a certain amount of money to pay the judgments of the Court of Claims. That money can be used for no other purpose. It is liable to be expended for paying these cotton claims as well as others. Now, the Court of Claims can try a case only as it is presented to the court by the solicitor; and although the gentleman who occupies that office is a personal friend of mine, in whose integrity I have all confidence, yet I happen to know—

Mr. WASHBURN, of Wisconsin. I would inquire of the gentleman who is, as he understands, the present solicitor of the Court of Claims?

Mr. DAWES. I am speaking with reference to Hon. Jesse O. Norton.

Mr. WASHBURN, of Wisconsin. The gentleman is mistaken in supposing that gentleman to be the solicitor.

Mr. DAWES. It is to that gentleman I refer, although I know nothing against any other gentleman who may occupy the office.

Mr. WASHBURN, of Wisconsin. The present solicitor of the Court of Claims is Mr. Eli Norton. If any gentleman here knows him it is more than I do.

Mr. DAWES. Very well; then I was mistaken. But I wish to call the attention of the gentleman from Pennsylvania, while he has this matter in hand, to the operation of things in that court, as illustrated in my own observation.

There has been a judgment of that court for \$58,000, rendered, I have no doubt, in all integrity by the court, but which never would have been rendered but for the failure (from one cause or another, I know not what) of the solicitor to bring to the attention of the court matters that are spread upon the records of this House as a part of the official documents of Congress, and also spread upon the report of a commission appointed by President Lincoln, consisting of Judge Holt and Mr. Robert Dale Owen. That judgment for \$58,000 has been rendered since we left here last March, in consequence of the fact that the solicitor of the Court of Claims (it may have been from lack of knowledge; I do not mean to intimate that there was the slightest lack of integrity on his part) failed for some reason to bring to the attention of the court certain facts, which, if they had been presented, would have made it utterly impossible for the court in its integrity to render such a judgment.

That is only one case. Now, sir, on the integrity and ability of the solicitor of the Court of Claims rests the question whether millions are not taken out of the Treasury of the United States past the inquiry of the House of Representatives, or indeed either branch of Congress. Such has been the case in reference to these cotton claims as to attract the attention of my friend from Pennsylvania, and in the last Congress such was his strong influence against the movement as to put some guard over the Court of Claims and secure some protection to the Treasury of the United States against the mistakes in that court of a grievous character like those which have come to his knowledge and mine. I beg my friend, while he has the matter in his hands, to see whether he cannot bring that Court of Claims within the pale of legislative inquiry, touching the judgments they may render by mistake, for I have not the slightest disposition to lay anything beyond mistake to their charge. They are not more above errors than any other tribunal. Let us by some means suggested by my friend from Pennsylvania, some method of review of their judgments, save the Treasury of the United States and not have it depleted by lack of knowledge or integrity in the officer appointed to present the facts to the Court of Claims on which they are to pass their judgments, their judgments being final upon the Treasury of the United States.

Mr. SCOFIELD. I do not understand my friend from Massachusetts to oppose the adoption of my resolution.

Mr. DAWES. Not a bit.

Mr. SCOFIELD. I have always opposed all general legislation, as I have stated before, but now when a case has come up where I see we ought to have general legislation, I shall hereafter change my action, and if the gentleman from Massachusetts or some one else will introduce a resolution I will support it. I have introduced this to meet the present emergency. There is a doubt whether these cotton cases can be appealed to the Supreme Court, although an effort will be made to appeal them to the Supreme Court of the United States. If I am correctly informed there is a doubt that all these claims will be paid before Congress

assembles again, and therefore it is this ought to pass immediately. I yield to the gentleman from New York.

Mr. PRUYN. I should like to know from the gentleman from Pennsylvania whether the Secretary of the Treasury doubts the legality and propriety of this claim; whether there is any charge against the fairness of these claims? I ask whether we ought to act here in opposition unless there is some doubt.

Mr. SCOFIELD. I have had no consultation with the Secretary of the Treasury, and all I know about his doubts and feelings is from his order. Therefore I cannot speak with any authority. I have understood that the Secretary of the Treasury was unwilling to pay these claims as they stood unless forced to do so. I yield now to the gentleman from Illinois.

Mr. FARNSWORTH. I know nothing about this matter except what I have seen in the papers. I notice by the morning papers that the Secretary of the Treasury has presented the matter to the President and Cabinet to seek advice whether he shall pay this judgment or abide an appeal to the Supreme Court of the United States. I hope the House will not adopt a resolution which will in any way have the effect to prevent the Secretary from appealing these cases to the Supreme Court of the United States.

One word more while I am up. I hope we are not going to pay the speculators and cotton kings for cotton captured by our own Army in the rebel States, while we strenuously and persistently refuse to pay the poor widow for the loss of her cow and her mule because she lived in the rebel States. It seems to me Congress should either pay the poor people who lost all they had or else shut down the gate and refuse to pay speculators and rebel cotton men for the cotton we have captured from the rebels. I am not opposed to the resolution provided it will not prevent the appeal of these cases. I rise more for the purpose of saying that than anything else. I do not wish that the Secretary of the Treasury shall lie down on a single resolution of Congress and not appeal these cases to the Supreme Court where the decision of the Court of Claims may be reviewed.

Mr. KELLEY. I ask the gentleman to yield to me a moment.

Mr. SCOFIELD. Certainly.

Mr. KELLEY. Although my acquaintance with the Secretary of the Treasury is not of an intimate character, I am able in part to answer the gentleman from New York. I happened to be at the Treasury Department within a week when the question passing between the Secretary of the Treasury and his subordinates led to an incidental remark which impressed me with the conviction that an immense amount of wrong is being done to the country, and that there is an indication of combination in behalf of the most inveterate blockade-runners, those who were powerful on both sides of the military line, powerful in resources, sending cotton to England to be sold and remitting funds to the confederate government; and he believes that the agencies are now on foot to induce or compel this Government by processes like this to pay to these most insidious and powerful enemies of this Government for the balance of cotton found in their hands when the army surrendered. I do hope, whether this resolution be the wisest that can be framed or not—it certainly is a good step for the present—that some check will be put upon any payment out of the Treasury to rebels for cotton found in their possession at the close of the war.

Mr. SCOFIELD. I yield to my colleague.

Mr. COVODE. Mr. Speaker, I am very thankful that this matter has been brought to the attention of Congress. In connection with what my colleague has said I will state a case that came to my knowledge which will go to show that there are large fraudulent claims made upon the Treasury.

While in New Orleans two years ago I was

informed of a certain lot of cotton, thirty-five hundred bales, which was surrendered by the Treasury Department in Mobile by Mr. Dexter, through his sub-agent, to a rebel by the name of Violet. It was shipped to New Orleans. A thousand bales came into New Orleans one evening on the Cherokee. I went to General Canby, then in command in Louisiana, and asked him to take possession of this cotton, giving him the information I had. General Canby said he knew it belonged to the Government; that he had captured about two hundred thousand bales in Alabama, and under orders had delivered it over to the Treasury Department. At that time the agent of the Treasury Department, Mr. Dexter, was surrendering cotton on fraudulent claims, and General Canby told me that having got clear of it himself he did not want to touch it, but advised me to see to it. I went and got the United States marshal to take possession of this cotton. He required a bond to the amount of \$100,000 before he could do it, and I got a gentleman in New Orleans to furnish the bond on my responsibility. He then went and seized the cotton.

Mr. Dexter came from Mobile to plead the cause of the man to whom he had surrendered the cotton. After making his statement, I told him he might go home, and I would hold on to the cotton. I telegraphed to the Treasury Department to send down a man whom I named, Major McQuaide, to take possession of the cotton and ship it to New York. I got General Canby to give me a military guard for the purpose of holding it there. I came home and went to the Secretary of the Treasury and explained the case fully to him, as I also did to the President. I told him there was a hundred thousand bales of cotton in the South which were being used in this corrupt way. The Secretary of the Treasury said he knew it, that the Treasury agents became scoundrels there, even if they were honest when he sent them down. He then sent down one Mellen, who, after being well fed and treated, came back and reported that the matter was all right. The President afterward pardoned Mr. Violet, and with the pardon came the restoration of the property. He was thus put in possession of property which he never owned, property belonging to the Government. And this man Violet has now a claim, as I understand, in the hands of an attorney in this city to be prosecuted against the Government for three thousand five hundred bales of cotton, amounting to, I think, over five hundred thousand dollars, not one bale of which belonged to him. The Treasury agent, Dexter, I will state by the way, was afterward arrested and imprisoned, and his case was so bad that the Government would not let him out on bail.

Sir, it is time to put a stop to the payment of these claims. I am satisfied that parties have been buying these claims against the Treasury Department. I have told the Assistant Secretary of the Treasury so and he admitted it. I know of about eighteen million dollars worth of the Draper cotton claims in the hands of agents here, and these claims ought to be shut down upon so that they shall not be paid until Congress examines them. I am opposed to allowing either the courts or the Treasury Department from passing upon these claims, as they will amount to scores of millions. I believe Congress should examine them before they are allowed.

Mr. SCOTFIELD. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCOTFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### COMMITTEE ON SOUTHERN RAILROADS.

Mr. McCLURG. I ask leave to offer the following resolution:

*Resolved*, That the Committee on Southern Railroads be ordered to proceed in their investigations by sub-committees.

Mr. BROOKS. I wish the gentleman to explain the object of this resolution.

Mr. McCLURG. Two of the members of the Committee on Southern Railroads also belong to the Committee of Elections. Under the order of the House it is necessary for the Committee of Elections to take testimony in Kentucky during the coming vacation. The Committee on Southern Railroads have also been, by a resolution passed by the House, required to inquire into the expediency of reporting a bill declaring certain lands forfeited to the Government which were ceded to five States that were in the rebellion, Alabama, Florida, Mississippi, Louisiana, and Arkansas. That resolution may cause a necessity for an investigation in various States, and if we are not permitted to investigate by sub-committees it may be impossible for us to discharge the duty imposed upon us by that resolution.

Mr. BROOKS. I do not know that I object to the resolution, but I wish to state that the practice of creating special committees and sub-committees, with reporters and clerks, is objectionable, and I think the House should put a check upon it; yet it is not for me to interpose an objection.

Mr. ASHLEY, of Ohio. Have not the committee this power without an order of the House?

The SPEAKER. They have not. A quorum of the committee must ordinarily be present, and of course it increases the expense to have the whole committee go to distant portions of the country when a sub-committee can act.

The resolution was agreed to.

#### COMMITTEE ON POLITICAL ETHNOLOGY.

Mr. WASHBURN, of Indiana. I yield now to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I ask the unanimous consent of the House to offer the following resolution for reference to the Committee on the Rules:

*Resolved*, That the Speaker be authorized to appoint a standing committee, to consist of thirteen members and to be called the Committee on Ethnology, whose duty it shall be to take cognizance of all matters relating to the origin of and differences among the several races of America, and particularly to inquire whether these three great races of the country, the whites, the negroes, and the Democrats, are specifically different and descended from so many distinct original creations; and if so, whether that fact makes any difference in their respective rights and duties.

Several members objected.

#### UNITED STATES COURTS IN NORTHERN OHIO.

Mr. WASHBURN, of Indiana. I yield now to the gentleman from Ohio, [Mr. ASHLEY.]

Mr. ASHLEY, of Ohio. I ask leave to introduce the bill in relation to the district court of the United States for the northern district of Ohio, to which the gentleman from Pennsylvania [Mr. SCOTFIELD] objected yesterday. The gentleman from Pennsylvania now withdraws his objection, as I understand. I ask that the bill be read.

The bill was read. It provides that the alternate sessions of the district court of the United States for the northern district of Ohio shall be held annually, one session in the city of Cleveland on the second Tuesday of July, and one in Toledo on the second Tuesday in November, under such rules and regulations as the district judge for said district may prescribe; and it authorizes the holding of adjourned courts when the business before the court shall in the opinion of the court require it.

The bill was received, and read a first and second time.

Mr. ASHLEY, of Ohio. I wish to say that this bill has been submitted to the chairman of the Judiciary Committee, who approves it,

and that the delegation from my State are unanimous in its favor.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CLAIM OF SIMON STEVENS.

Mr. HOLMAN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas the House on the 30th day of April, 1862, adopted the following resolution, namely:

*Resolved*, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines purchased through Simon Stevens, esq., by General John C. Frémont, on the 6th day of August, 1861, and afterward delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for \$12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

And whereas by a recent judgment of the Court of Claims the said Simon Stevens has recovered against the United States the sum of \$58,000 on account of said arms, being, with the sum heretofore paid on said purchase, at the rate of twenty-two dollars for each of said arms, the said arms having been sold on the 6th day of June, 1861, by the order of the Secretary of War as condemned arms, at \$5 50 each: Therefore,

*Resolved*, That the Judiciary Committee be instructed to inquire into the circumstances under which said judgments were recovered, and whether the judgments of said court should be subject to any other method of review than that now authorized by law, with authority to report by bill or otherwise.

Mr. HOLMAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Morris Rice Evans for admission to the Naval Academy in September next.

#### EXAMINATION OF BOUNTY CLAIMS.

Mr. WASHBURN, of Indiana. I ask unanimous consent to submit the following resolution:

*Resolved*, That a committee of three be appointed by the Speaker to confer with the Paymaster General and the Second Auditor of the Treasury as to the propriety of transferring all claims arising under the bounty bill of last July from the Paymaster General's office to that of the Second Auditor, and thereby facilitating the payment of said claims, with leave to report at any time by bill or otherwise.

The SPEAKER. Is there objection to the reception of the resolution?

There was no objection.

Mr. WASHBURN, of Indiana. I wish merely to state that under the rules and regulations prescribed by the bounty act all claims for bounty are first sent to the Paymaster General and then referred to the Second Auditor. All the labor required in the examination of these claims is now performed in the Second Auditor's office, after which the cases are reported to the Paymaster General, who simply issues his check for the amount reported to be due. Thus the reference of the claims in the first instance to the Paymaster General operates simply to prevent the settlement of those claims at as early a period as would otherwise be possible. I believe that a conference by a committee of this House with these officers will result in suggesting a system which will obviate the complaints now made by the soldiers that they cannot get their bounty.

I now demand the previous question.

Mr. PAINE. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Indiana. Certainly.

Mr. PAINE. I shall vote for this resolution, unless by doing so I shall be regarded as committing myself to the idea that, by making the transfer proposed, the payment of these bounties will be expedited. I have carefully looked



into this matter, and I am by no means satisfied that such will be the result. Hence I am unwilling to pledge myself indirectly, as I shall do by voting for this resolution, to the idea that this transfer will expedite the payment of bounties.

The fact is that the Second Auditor, who is, I am sure, very anxious to pay these bounties as rapidly as possible, who is devoted to the interests of the soldiers in this matter, informs me that he is only able to prepare the statements in five hundred cases each day. It will be seen at a glance that at this rate the payment of these bounties cannot be accomplished with such promptitude as to satisfy the soldiers of the country or the members of this House. The Second Auditor further informs me that the number of clerks now at work in that Department upon the rolls is as great as can be employed in his office upon those rolls.

Now, it seems to be almost impossible to expedite this matter by a simple transfer of duties from one office to another. These clerks cannot prepare more than five hundred cases in one day, whether the duties are discharged in the office of the Second Auditor or the papers are transferred to the pay department for final disposition. I hope the gentleman will strike out that latter clause.

Mr. WASHBURN, of Indiana. I accept the gentleman's modification of my resolution.

Mr. HOLMAN. I hope the gentleman will add to his resolution a further inquiry as to how far the use of muster-rolls of the Army in the Adjutant General's Department can be made available in facilitating the adjustment of said bounty.

Mr. WASHBURN, of Indiana. I agree to that as a modification of my resolution, and now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MAIL SERVICE TO JAPAN AND CHINA.

Mr. FERRY. I ask the unanimous consent of the House to introduce a joint resolution authorizing a modification and extension of the mail steamship service between the United States and China and Japan.

There was no objection, and the joint resolution was read a first and second time.

Mr. FERRY. Mr. Speaker, if the House will indulge me a moment, I will state the necessity for this proposed legislation. We have now a monthly mail steamship service between San Francisco and Hong Kong, in China, via Yokohama, in Japan, with a branch service from Yokohama to Shanghai. The port of Osaka, the chief port of Japan, is to be opened to foreign trade on the 1st of January next, and this joint resolution will empower the Postmaster General to change the port of call from Yokohama to Osaka. Steamers bearing our flag are plying from Shanghai to and from the ports on the coast of China as far as Hong Kong, and the interests of the Government demand that postal should keep pace with our commercial interests. It will be observed that the resolution involves no additional expense to the Government. It simply authorizes the Postmaster General, in his discretion, to modify the line of route and practically multiply the termini of the western end of that branch of our Pacific mail steamship service. There can be no reasonable objection to the proposition, manifestly protecting and developing so important a part of our foreign postal relations, and I hope the resolution will at once be passed.

Mr. BROOKS. It seems to me that we ought to know whether this is to be done without expense to the steamship company. I do not think that the company will run any additional lines in Japan or China without an increase of pay.

Mr. FERRY. If the gentleman from New York had observed the phraseology of the resolution he would have discovered that it does not propose to increase the expense to the company at all. It merely permits the Postmaster General to change the port of call from Yokohama to Osaka when the latter port shall be thrown open to trade; and also to extend the mail service to the various ports along the coast of China, to and from which steamers under our flag now run. The routes under contract to the Pacific Steamship Company are in no wise essentially changed by the proposed modification, nor does it in any way increase the trips of this line of steamers, as will be seen by the language of the joint resolution.

Mr. BROOKS. Is it a joint resolution?

The SPEAKER. It can only be effected by a joint resolution.

Mr. BROOKS. It does not change the existing contract?

Mr. FERRY. It does not materially.

Mr. BROOKS. The existing law requires them to run from Yokohama to Shanghai.

Mr. FERRY. So I understand it. The only change in that respect is to make Osaka instead of Yokohama the port of call at Japan, which will not in any manner prejudice the terms of the existing contract. I would also state in this connection that application has already been made to the Government by those more immediately interested to cause this change to be made. Furthermore, the object of the resolution is to allow our mails to be carried from Shanghai to Hong Kong and the intermediate ports along the coast where steamers now run, and where there is now no authority of law to allow such service so essential to the necessities of the country.

Mr. BROOKS. We have a contract with that company, and I should like to know whether they are willing to make the change?

Mr. FERRY. I have already stated that it does not interfere with the contract with the company. And I may add that a moment's reflection will impress the House and the country with the vast importance of facilitating and rendering more efficient and useful that rapidly developing department of our foreign mail service.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FERRY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX ON COTTON.

Mr. ROBINSON. I ask unanimous consent to offer the following preamble and resolution:

Whereas the great staple product of the southern States, cotton, is the only article of importance of regular export from the United States forming the great basis of exchange for the vast imports; and whereas the successful culture of cotton in those States involves the deepest interests of all sections of this nation; and whereas from the development to perfect success of the production of cotton in many foreign lands the price in the markets of the world is no longer controlled by the American crop, and hence is already at a low figure, with every prospect of still further reduction; and whereas it is clearly apparent that with the increased cost of the growth of cotton in this country under the new system of free labor it is impossible to profitably produce it subject to the present oppressive internal revenue tax of two and one half cents per pound, and since there is actual danger of the very general suspension of its cultivation after the present year: Therefore,

*Resolved, &c.*, That so much of the acts of Congress known as the internal revenue laws as finally amended and approved March 2, 1867, as creates and provides for the assessment and collection of any tax on raw cotton be, and the same is hereby, repealed.

Mr. ALLISON and Mr. BENJAMIN objected.

Mr. ROBINSON. I move to suspend the rules. I want to repeal the tax on cotton as the best thing we can do for the reconstruction of the South and the best thing we can do for our colored friends.

The SPEAKER. It is not before the House.

Mr. ROBINSON. The party on the other side rule out all such things, and we have to submit.

The SPEAKER. The Chair does not understand the last remark. He will explain the rule.

Mr. ROBINSON. I have made no reflection on the Chair.

The SPEAKER. All business thus far today has been done by unanimous consent. No motion can be made to suspend the rules while another is pending.

Mr. ROBINSON. What I said was that the gentlemen on the opposite side are objecting to such useful legislation here, and we on this side cannot help it.

#### CANDIA.

Mr. BROMWELL, by unanimous consent, offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas the people of the United States cannot look with indifference upon the struggles of any oppressed people contending for human rights against absolute power; and whereas the moral force of this Republic should in all cases be wielded for the encouragement and support of those in all parts of the world who strive for the security of human liberty, so far as their efforts may appear to be honorable, and just: Therefore,

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire into and report to this House what action of this Government will best manifest the sympathy of our people for the heroic people of Candia and other communities subject to the Turkish empire, now engaged in a sanguinary conflict with the Ottoman Government, and in what way, consistent with our duties as a neutral and friendly Power, the good offices of this Government may be most successfully interposed to secure for said people of Candia the blessings of peace and an amelioration of their political condition.

#### CIRCUIT COURT IN PENNSYLVANIA.

Mr. SCOFIELD. I ask unanimous consent to introduce a bill directing the circuit court of the United States to be held at the city of Erie, in the State of Pennsylvania. It is a matter of interest to the people of western Pennsylvania. It is a question whether the circuit judge can sit at Erie with the district judge, and it is important that some business should be done.

The bill was read.

Mr. JENCKES. I object.

#### ASSASSINATION COMMITTEE.

Mr. BUTLER. I ask unanimous consent to offer the following resolution:

*Resolved*, That the committee for the investigation of the assassination of the President be, and is, authorized to conduct the investigation by such sub-committees as the committee may appoint, and at such places as may be convenient.

Mr. BROOKS. I object.

#### REVENUE FRAUDS.

Mr. BARNES. I ask unanimous consent of the House to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to furnish this House with the amount of money received in the different collection districts in the United States from the manufacture of distilled spirits for the several fiscal years since 1862, and for the separate quarters of the last fiscal year so far as received, together with the tax per gallon levied upon said article during said periods; and also a statement, so far as the returns will admit, of the expenditure on the part of the Government for prosecuting offenders against the law for manufacturing, storing, transporting, buying, and selling said articles. Also the number of gallons of said article seized by the agents of the Government, and the amount of money received for said confiscated spirits, and for fines imposed upon parties for violating the laws in said particulars.

Mr. SCHENCK. I want to understand the resolution before I object. Does it propose that the Secretary shall furnish this amount of money to the House, because it would be more than the mileage would come to? [Laughter.]

Mr. BUTLER. I object to the resolution.

#### CONTROL OF INDIAN AFFAIRS.

Mr. SCHENCK. I now insist on my motion to suspend the rules to enable me to introduce a bill to restore the Bureau for Indian Affairs to the War Department.

The question was put; and (two thirds voting in favor thereof) the rules were suspended.

The bill was then read a first and second time, and referred to the Committee on Military Affairs when appointed.

Mr. SCHENCK moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GENERAL SICKLES.

Mr. BINGHAM. I ask leave to have read at the Clerk's desk, that it may appear in the Globe, the telegram that I send up.

No objection was made.

The Clerk read as follows:

CHARLESTON, SOUTH CAROLINA, July 18, 1867.

Hon. JOHN A. BINGHAM, House of Representatives:

Thanks for your handsome reply to ELDREDGE. You may relieve his anxiety with the consoling information that my equipage has not cost him or his friends anything, said equipage being the cherished gift of my colleagues of the third Army corps.

D. E. SICKLES.

Mr. BINGHAM. All I ask is that that telegram shall appear in the published proceedings of the House.

#### THE PHONETIC SYSTEM.

Mr. NOELL, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Education and Labor when appointed:

*Resolved by the House of Representatives, (the Senate concurring), That the Commissioner of Education is instructed to report to Congress upon the feasibility and expediency of introducing the phonetic system of spelling into general use in the schools and its adoption in general literature; and in said report shall embody the main features of difference between the present system and the phonetic system, and that the report shall embody such information as shall impart a general knowledge of the system.*

#### INVASION OF MEXICO.

Mr. LOGAN. I wish to offer again a resolution offered yesterday by the gentleman from New York [Mr. SELYE] and referred to the Committee on Foreign Affairs. If that committee—whose chairman, the gentleman from Massachusetts, [Mr. BANKS,] I do not now see in his seat—design reporting the resolution to-day, I would not of course present it. But, presuming that, as the members of the committee have not been called together, it is not the intention to report the resolution to-day, nor probably before Congress adjourns, I ask consent to offer this resolution, that it may be acted on at once:

Whereas it is currently reported in the public press and otherwise that bodies of armed men are being organized in different parts of the country for the purpose of invading the territory of our neighboring republic of Mexico, in direct violation of the neutrality laws; and whereas all such attempts and purposes are also at variance with the wishes and feelings of all good citizens of the United States, and contrary to established public policy: Therefore,

*Resolved, That the President of the United States, in case he shall be satisfied that such organizations exist, or are being formed, be respectfully requested to issue a proclamation requiring all proper officers of the United States to prevent such unlawful organizations being formed within the United States, warning all persons that whosoever shall depart from the United States, either individually or collectively, for the purpose of invading the republic of Mexico or any other country, or creating any disturbance therein, shall forfeit all rights to protection under the laws of the United States.*

Mr. ROBINSON. I trust that my friend from Illinois [Mr. LOGAN] will not consider me discourteous in objecting to the introduction of this resolution. There are serious objections to it, and I would like to debate it.

Mr. LOGAN. Well, sir, I wish to say—

The SPEAKER. The resolution is not yet before the House. The gentleman from New York [Mr. ROBINSON] objects to its introduction.

Mr. LOGAN. I am aware of that; but I wish to make a suggestion.

Mr. ROBINSON. Before the gentleman discusses the question I hope the committee may have time to consider the subject. I would rather not have any hasty action on this question.

Mr. LOGAN. I will modify the resolution, so as to apply only to the republic of Mexico, if that will be satisfactory to the gentleman.

Mr. ROBINSON. I prefer that the subject

should be considered by the committee. I think it quite likely that we shall have a meeting before Congress adjourns.

Mr. LOGAN. As the gentleman is one of the members of the Committee on Foreign Affairs I will ask him whether the members of the committee have been called together?

Mr. ROBINSON. Not to my knowledge.

Mr. LOGAN. I ask the gentleman to state what prospect or probability there is that the committee will meet for the purpose of considering this question?

Mr. ROBINSON. I am sorry that the chairman of the committee has just been called out of the House. I cannot give the gentleman a positive answer.

Mr. LOGAN. I mean no reflection at all upon the committee, but I regard this as a question that does not require the consideration of a committee. It is a question of the infringement of the rights of a nation with which we are on friendly terms; it is a question of law, and the execution of the law by the President of the United States. It is a question that this House can consider without a reference to any committee. I will state to the House that I am satisfied from evidence worthy of belief that there is to-day an organization in this country formed with the intention of invading the republic of Mexico and overthrowing its government.

Mr. ROSS. I rise to a point of order, that the resolution is not before the House, and therefore is not open to debate.

The SPEAKER. The Chair sustains the point of order.

Mr. LOGAN. I knew that I was probably trespassing upon the patience of gentlemen who object to the resolution, though perhaps not upon the patience of the House. I will move that the rules be suspended to allow the introduction of the resolution.

Mr. ROBINSON. I do not like to persist in the objection, and I withdraw it. I am willing to leave the question entirely to the House.

Mr. LOGAN. I now modify the resolution by striking out after the words "republic of Mexico" the words "or any other country."

There being no objection, the preamble and resolution, as modified, were considered and adopted.

Mr. LOGAN moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SIMON STEVENS.

Mr. PILE. I ask unanimous consent of the House to introduce a joint resolution to the effect that the Secretary of the Treasury be directed to suspend the payment of the judgment of the Court of Claims for \$58,000 in favor of Simon Stevens, for payment of his alleged claim against the Government of the United States for the purchase of Hall's carbines by order of John C. Frémont, until further action by Congress.

There was no objection, and the joint resolution was read a first and second time. It was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PILE demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. INGERSOLL. I should like to have some reason for this joint resolution.

The SPEAKER. The previous question has been seconded.

Mr. INGERSOLL. I move to reconsider the vote by which the main question was ordered. Let us have some statement to go upon the Journal for invading the jurisdiction of this court.

The SPEAKER. Debate is not in order.

The motion was disagreed to.

The joint resolution was then passed.

Mr. PILE moved to reconsider the vote by which the joint resolution was passed; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOUTHERN SWAMP LAND GRANTS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the Secretary of War be instructed to inform this House through the Freedmen's Bureau or the military commanders of their proper districts what quantity of swamp lands heretofore granted to the States lately in rebellion yet remain undisposed of by said States.*

#### IMPEACHMENT.

Mr. BROOMALL obtained the floor, but yielded to

Mr. ROSS, who asked unanimous consent to submit the following resolution:

*Resolved, That the Committee on the Judiciary be instructed to report to this House at its present session the testimony taken by them upon the subject of impeaching the President of the United States, with a view of having the same published and laid before the country.*

Mr. BINGHAM. I object.

Mr. ROSS. I move to suspend the rules.

Mr. BROOMALL. I cannot yield for that purpose.

Mr. ROSS. I will offer it again.

#### MISSISSIPPI.

Mr. BROOMALL. Mr. Speaker, I hold in my hand the proceedings of a public meeting held in Choctaw county in the late State of Mississippi, which came to me accompanied by the request to present them to the House. I therefore move to suspend the rules for the purpose of having these proceedings read and referred to the Committee on Reconstruction; also for the purpose of having them published in the Congressional Globe.

Mr. BROOKS. The Congressional Globe is so big now that nobody reads it.

Mr. BROOMALL. It is a petition to this body that the civil government of that State be set aside and the military government be allowed authority to protect the citizens there. I ask a division on the motion to suspend the rules.

The House divided; and there were—ayes 54, noes 29; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. BROOMALL and Mr. BROOKS.

The House again divided; and the tellers reported—ayes 70, noes 16.

So the rules were suspended.

The Clerk read as follows:

SPRING VALLEY, CHOCTAW COUNTY, July 4, 1867.

After a celebration in which we raised the old United States flag, and had several speeches endorsing Congress, a convention was called, and Mr. G. H. Holland was called to the chair, and Mr. G. W. Dudley was elected secretary. The following resolutions were read and unanimously adopted:

Whereas the position of the loyal citizens of the late rebel States has been a theme of misrepresentation among the enemies of the Government; and whereas we consider that justice to ourselves demands an honest avowal of the principles which really actuate our party: Therefore,

*Be it resolved, That we consider the course pursued by the rebel party, lately dominant here, and even now making desperate efforts to regain their former ascendancy as likely to cause southern men, irrespective of their real sentiments, to be regarded with suspicion and distrust.*

*Resolved, That we, the loyal citizens of the State of Mississippi, disclaim all connection or sympathy with any party or persons advocating or professing sentiments unfriendly to the legislative branch of the United States Government.*

*Resolved, That we heartily and unhesitatingly denounce the policy of President Johnson, considering it detrimental to the cause of liberty and the Union, and as exercising a baneful influence upon the attempts of the loyal and law-abiding citizens of both sections to destroy the political prejudices and restore harmony and unanimity of sentiment.*

*Resolved, That we consider that the present civil authority in this State, wielded in a majority of cases by persons at enmity with the Union Government, is not calculated to protect the lives, liberties, and property of the loyal citizens thereof.*

*Resolved, That we desire the United States Government to enforce the military government in this State, making it efficient in giving aid and comfort to the friends of the Government, and discourage all attempts at treason and rebellion; and we hereby pledge our fortunes and our lives, if necessary, in assisting in its enforcement.*

*Resolved, That we hereby ask Congress to relieve us of the present enormous and uncalled for rebel*

State and county tax, and that we pay but one tax and that a loyal one.

And resolved, That a copy of these resolutions be sent to the Congress of the United States of America.

G. H. HOLLAND, *Chairman*.

G. W. DUDLEY, *Secretary*.

Mr. BROOMALL. I move that they be referred to the Committee on Reconstruction. The motion was agreed to.

#### REAR ADMIRAL GOLDSBOROUGH.

The SPEAKER laid before the House a communication from the Secretary of the Navy, in reply to a call for information relative to the case of Rear Admiral L. M. Goldsborough; which was laid on the table, and ordered to be printed.

#### METROPOLITAN REVENUE BOARD.

The SPEAKER also laid before the House a communication from the Treasury Department; in reply to a resolution of the House asking for information in regard to the Metropolitan Revenue Board; which was read, as follows:

TREASURY DEPARTMENT, July 18, 1867.

SIR: To the resolution of the House of Representatives of the 16th instant, requiring information concerning a commission organized by this Department in the city of New York, and styled "the Metropolitan Revenue Board," I have the honor to reply that a board was established there under that designation by this Department on the 21st ultimo, the powers and duties of which are best defined by reference to the order creating it, which is as follows:

TREASURY DEPARTMENT, June 21, 1867.

For the purpose of aiding the Internal Revenue Bureau in the prevention, detection, and punishment of fraud upon the internal revenue, and with a view to a more stringent enforcement of the law, Isaac E. Messmore, Deputy Commissioner of Internal Revenue; H. H. Van Dyck, Assistant Treasurer at New York; Samuel G. Courtney, United States Attorney southern district of New York; A. Q. Keasbey, United States Attorney for the district of New Jersey, and B. E. Tracy, United States Attorney for the eastern district of New York, are hereby with their consent constituted a board to be known as the Metropolitan Revenue Board.

All revenue inspectors, revenue agents, general inspectors of spirits, and special agents of the Treasury Department in the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and thirty-second districts of New York, and the third, fourth, and fifth districts of New Jersey, will immediately report to said board for duty, and will hereafter act under the direction of said board.

Such revenue officers as may be designated by said board will be specially authorized by the Commissioner of Internal Revenue to make seizures within said districts, and are hereby required to report all seizures immediately to the said board, and also to the collector of the district in which any seizures are made, and all special authority heretofore conferred on any officer to seize property within the said districts, or either of them, is hereby revoked.

Immediately upon the seizure or detention of any property within said districts the said board will investigate the causes thereof. If in the opinion of said board the property so seized is not liable to forfeiture, or for any sufficient reason ought not to be held for forfeiture, if the value thereof does not exceed \$3,000, the said board is hereby authorized to direct the seizing officer to release the same.

If the value thereof is over \$3,000, and in the opinion of the board the same should be released, the facts of the case, together with the opinion of the board thereon, will be reported to the Commissioner for his action.

Hereafter no collector in said districts will approve any distiller's bond, or bond for bonded warehouse, or bond for transportation or rectification, redistillation, or change of package of any spirits, or tobacco manufacturer's bond, until after the same shall have been transmitted to said board for investigation and report as to the responsibility of the sureties thereto. The collector or assessor will not consider himself in any manner released by the creation of said board from the performance of any of the duties imposed on him by law or regulation.

Said board shall have the power, with the approval of the Secretary of the Treasury, to make all necessary rules and regulations for the transaction of its business and the execution of the powers hereby or hereafter conferred.

H. McCULLOCH, *Secretary*.

E. A. ROLLINS, *Commissioner*.

It will be observed that the duties devolved upon the commission are chiefly advisory. The authority for creating it is found in the general scope and spirit of the internal revenue laws, which clothe the Secretary of the Treasury and the Commissioner of Internal Revenue with power to enforce them by the use of such means as to them may seem to be judicious, not inconsistent with the provisions of these laws.

It is a matter of public notoriety and of painful interest to those who are cheerfully bearing their portion of the public burdens that the internal revenue laws in regard to distilled spirits have been shamefully violated and set at naught throughout the country, and especially in the city of New York.

The Department has used every exertion through the ordinary instrumentalities to correct this evil, but without success. Officers have been not only

inefficient in the discharge of their duties, but in many cases they have been suspected of direct complicity with dishonest men to defraud the Government.

Satisfied that the means heretofore employed for the purpose were insufficient to suppress fraud and to expose and bring to punishment dishonest officers, and convinced that a faithful enforcement of the laws in the city of New York is necessary to secure the collection of the tax upon distilled liquors throughout the country, and of vital importance to the welfare of the entire public service, I felt it my duty to exercise in a special manner the supervisory powers conferred upon me by law. The course that has been taken in creating the commission referred to is believed to be strictly within the limits of those powers; and so confident are both myself and the Commissioner of Internal Revenue that good results will be attained by it that, unless Congress shall disapprove of our action, measures will be taken to organize similar commissions in other cities in which the Government is largely defrauded of its revenues.

The board in New York has been so recently instituted that the advantages to be derived from it cannot now be properly estimated; but it is believed that in consequence of its labors the removal of spirits on fraudulent bonds has ceased, and illicit distillation largely decreased. The violence with which it has been assailed by some who, to say the least, do not favor an honest execution of the law, affords encouraging evidence that it is a movement in the right direction, and that distillers may yet be compelled to bear with others their portion of the burdens of the public debt.

In conclusion, it is proper for me to remark that the board in New York was created with the concurrence and advice of the Commissioner of Internal Revenue, whose untiring efforts to enforce the law against the powerful interests which have been combined to evade and violate it, merit the thanks of every honest tax-payer in the country.

Inclosed will be found copies of all documents and correspondence relating to this board that are of record or on file in this Department or its bureaus.

Very respectfully,

HUGH McCULLOCH,

*Secretary of the Treasury.*

Hon. SCHUYLER COLFAX,

*Speaker House of Representatives.*

Mr. SCHENCK. I will move to refer it to the Committee of Ways and Means when appointed, and that it be printed. Before making that motion, however, I desire to say that the resolution I introduced the other day, which has resulted in bringing from the Department this information in reply, was offered because I had received a great number of communications, not, as the Secretary seems to suppose, from parties in the whisky interest, but from persons directly or indirectly connected with the revenue service itself, criticising the establishment of this board, and expressing not merely doubt as to whether it would result in anything good, but also an apprehension that it already foreshadowed evil in the establishment of a strong and controlling outside power in the city of New York over a great number of revenue districts, and that this power would be likely to be abused so as to result in positive evil to the Government in aiding corruption rather than preventing it.

Now, I do not for one moment pretend to think, much less to say, that the motives of the Secretary and of the Commissioner of Internal Revenue were not perfectly good, and just such as they have detailed to the House, in the establishment of this board. But notwithstanding their explanation, which upon its face I admit seems to be in a good degree satisfactory to myself, I can most clearly perceive that there is an extraordinary power vested in an extra-legal body in the city of New York, to be followed up by similar experiments, as I understand, elsewhere. There at that great commercial city and in that great commercial center from which the Government derives a large proportion of its revenue, is established a board not contemplated by law, which is to exercise something more even than a supervisory or advisory power over ten districts in the State of New York and three in the State of New Jersey. All the officials in those districts connected with the collection of the revenue are required to report to this board for instructions, for advice, and for direction. We know how much mischief ensues from that necessarily large power vested in the United States officers in a single district to make seizures, to make adjustments, to call into requisition and appliance all that very forcible legislation which we have found it necessary to resort to in order to compel the honest and faithful collection of the revenues of the country. But here is a

board which is to exercise that extraordinary power over thirteen districts, and that, too, without one particle of legislation on the subject authorizing this substitution of such a power in place of that of the Commissioner of Internal Revenue or in place of the Treasury Department.

Now, though it may be a good experiment, though it may be that the law ought to have provided some such boards as this, one thing is very certain, and that is the law has not provided anything of the kind. I think, therefore, this whole subject ought to go to the Committee of Ways and Means. Let that committee report whether it is proper that the laws should be so amended as to give this extraordinary power to any commission whatever. I move that the communication be referred to that committee when appointed, and printed.

Mr. ALLISON. Mr. Speaker, I desire to say a few words, partially in reply to the gentleman from Ohio, [Mr. SCHENCK,] with reference to the organization of this board. If the gentleman has listened attentively to the reading of the instructions given to this board by the Secretary of the Treasury he will have observed that the main object of its appointment was to control and direct the seizures in the State of New York and in three districts in the State of New Jersey. Now, I submit to him and to the consideration of this House that there could be no better agents selected to supervise the seizure of property under the internal revenue laws than the precise parties selected by the Secretary of the Treasury in this instance. The chairman of the board is the deputy commissioner of internal revenue. Three other members of the board are district attorneys of the United States, who have the control of seizures in the courts of the United States and who must from necessity have the prosecution of all proceedings in the courts in reference to these seizures. The other member of the board is the United States Treasurer, Mr. Van Duyck. With the exception of Mr. Van Duyck, all the members of the board selected by the Secretary of the Treasury are men whose duty it is under the law to supervise these seizure and control and direct them.

I believe for myself that this arrangement will work advantageously to the Treasury of the United States. It had become notorious in the city of New York that there were men making seizures there and the next day making releases, and all sorts of corruptions were indulged in by officers of the United States.

Now, it may be that these three district attorneys, the Assistant Treasurer at New York, and the deputy commissioners of internal revenue can all be subsidized by these men who are defrauding the Government in the city of New York. For one I do not believe it, and I do think that it was a wise proceeding on the part of the Secretary of the Treasury to provide this board, which I believe he had the power to do under the existing law, and if the gentleman from Ohio [Mr. SCHENCK] has observed the instructions given by the Secretary of the Treasury he will see that this board has no power except what is individually given by law to four members of the board. Therefore they cannot in any manner violate the law or exercise any powers not given to them under the law.

It seems to me, therefore, that the Secretary of the Treasury ought not to be censured by the House for selecting this board, and giving them the authority that he has given them in the city of New York. His object being, if there is a possibility of doing it, to break up the enormous frauds on the revenue committed there, amounting to millions of dollars, that must be replaced by the honest tax-payers of the country. I for one give him credit for it, and hope that at least now we will not interfere with this experiment of the Secretary in the right direction.

Mr. SCHENCK. It becomes necessary that I should say a word in reply to the gentleman from Iowa, [Mr. ALLISON,] who is a member of the Committee of Ways and Means. Per-

haps there is not any great difference of opinion between that gentleman and myself except upon one or two points. I understand this board to have been established with the contemplation of like boards in other places hereafter if the experiment shall be successful, with a view to supervising, watching, and preventing as far as practicable the corruption prevailing among the officers and employes of the Government.

Well, I do not know that a more wholesome duty could be imposed upon anybody. Heaven knows that there has been enough of rascality practiced in this country by those who are making whisky and selling whisky, and still more by those who are speculating in whisky; but I doubt very much whether one tenth part of their rascality would ever have existed if they had not had an opportunity of perpetrating it in collusion with the rascals employed by the Government, who have helped and winked at the perpetration of these frauds. That being the case, I do not intend to say that something should not be done to watch those whom the Government employs as well as to watch those from whom we desire to raise revenue. But the whole argument of the gentleman from Iowa, it seems to me, goes to the proposition that there ought to be some board of this kind provided; that this is the kind of board for which the law should provide. It is true he goes a little further toward the close of his argument, and insists with the Secretary that there is authority for the establishment of the board to be found in some intangible form somewhere within the general provisions of the law regulating the collection of revenue. The most that the Secretary says is, that he claims to exercise the power under the "general tenor" of that law. It is not usual to establish boards with extraordinary and very large powers under the "general tenor" of a law, vaguely implied, with no specific provision in the law creating such boards or authorizing the officers to perform specific duties. And my complaint is that here is a purely extra-legal commission created with powers almost equal to those of the Commissioner of Internal Revenue, or even the Secretary of the Treasury, so far as this subject is concerned.

The Secretary, it is true, says that this board is to exercise advisory supervision, or advisory powers; but he qualifies this by saying that its powers are for the most part advisory, admitting that there are some substantial, actual, real powers to be exercised beyond the mere giving of advice. Any gentleman who will read the order creating the board will see at once, as I said before, that all the officials of thirteen districts in the most populous part of the United States of America are to report to that board for their instructions; are to report to that board to ascertain what they are to do; are to be subjected to the decisions of that board in relation to seizures or anything else in the enforcement of the revenue laws.

I say again that this is most extraordinary power, not given anywhere by any specific provision of law; and that this Congress, jealous of its right to legislate for the country, ought not to look lightly upon an attempt on the part of any branch of the Government to assume large legislative powers of this kind; to create boards unknown to the law and to invest them with extraordinary and extensive powers such as are permitted to this board now under consideration.

The gentleman from Iowa argues that the Secretary has selected just the right kind of persons for his board—the Assistant Treasurer and the district attorneys—one in Brooklyn, one in New York, and one on the Jersey side of the river, associated perhaps with some other persons. Now, sir, all this is but an argument in favor of the thing itself; it does not touch the question whether the law authorizes that thing. But, sir, one word upon this point. Are district attorneys the very best men in the world to advise and direct seizures in all cases? Everything that these district attorneys do may be done, the Secretary claims, very properly,

because they are trusted officers of the law, charged with the supervision of the enforcement of that law, and therefore they are proper persons to be selected for the duty. But then, it must be remembered—and I say this not with reference to any particular individual among these men; I say it with reference to the principle involved—it must be remembered that as everybody knows the more seizures these officers can make the more fish they drag to their nets. In their Pickwickian character as members of this board outside of the law, they are to do those things which shall increase their fees as district attorneys; so that although their pay as members of the board may be directly nothing, they may, acting in that capacity, increase very largely their compensation by driving fees into their offices through the course which they pursue as members of the board. I repeat, sir, I do not charge that they are doing this; I know nothing about it; but I say that such a board is capable of being thus perverted, and it is right that the law-making power should take under its supervision this whole subject, consider the pros and cons, and determine whether in connection with the enforcement of our revenue laws we require such boards to be established. If they are to be established they ought to be established by law.

In the unsettled condition of the country arising out of the war, and the large extension from necessity of powers in various new directions, there is far too great a tendency, as we all know, to departmental legislation. And when there is a glaring instance of it, as I conceive there is in this case, I submit with due deference to the opinions and motives of the Secretary of the Treasury and the Commissioner of Internal Revenue that the law-making power ought to be a little jealous of its privileges and rights, and should see that Secretaries of the Treasury do not make the law instead of confining themselves, as they ought to do, to its enforcement.

Mr. ROBINSON. Mr. Speaker, a good many of the remarks which have been made have been such as to relieve me from going over the ground I intended, and hence I have not as much to say as if I had obtained the floor at first.

I believe that the motion of the gentleman from Ohio [Mr. SCHENCK] is to refer to the Committee of Ways and Means. That committee, I understand, is not to be appointed until some time next session. This investigation will then, if that motion be carried, be postponed till then. I offered a resolution, which was referred to the Committee on the Rules a few days since, to raise a standing committee on this subject of internal revenue. It is a subject much greater, requiring more time, of more importance, covering a greater field than those referred to all the committees of the House of Representatives some ten or fifteen years ago. There are more things to be taken care of by a committee on internal revenue, pertaining to the collection of internal revenue, than in the whole business here some years ago; and I trust, therefore, that the Committee on the Rules will recommend the creation of a standing committee on that most important subject. If, however, the gentleman insists the investigation shall be referred to the Committee of Ways and Means, I ask that the House shall direct the Speaker to appoint that committee immediately, so that the work may be begun at once. If the Committee on Internal Revenue be created, let that committee also be at once appointed. I will now move, if it be in order, that it be referred to such a committee as the Speaker of this House will appoint to take into immediate consideration the communication of the Secretary of the Treasury and all the matters involved in the internal revenue, including the detective system to which my resolution referred. If this be done at once, and report made to this House, I am confident it will result in saving to the Government vast sums of money, as well as much future trouble in reference to all these matters.

The SPEAKER. The gentleman can move to refer to a select committee, but the motion to refer to a standing committee has the priority.

Mr. ROBINSON. It was for the purpose of referring it to a select committee that I have risen. I move that it be referred to a select committee of five, or any other number as may be desired; that they shall consider everything relating to this subject and report by bill or otherwise. I again say that I do not wish to be made the chairman of that committee.

Mr. WILSON, of Iowa. I move to refer the subject to the joint Committee on Retrenchment.

Mr. SCHENCK. The gentleman moves that as a substitute for the select committee.

Mr. ROBINSON. I ask the serious attention of the House to my proposition.

Mr. ROSS. Has the Committee on Retrenchment been appointed?

The SPEAKER. It has, and is now transacting business.

Mr. SCHENCK. I now yield to the gentleman from New York.

Mr. BARNES. Mr. Speaker, a sufficient justification of the benefit of this commission appointed by the Secretary of the Treasury is to be found in the fact that since they assumed control in those respective districts the price of distilled spirits in the United States has advanced at least forty cents per gallon.

Mr. SCOFIELD. That will break down the Democratic party.

Mr. BARNES. Now, sir, anything which will give the revenues derived from the immense manufacture of this article of spirits in the United States to the people and the Government for the purpose of paying our debts and relieving us from taxation, instead of turning it into the pockets of those who are speculating upon the necessities and misfortunes of the Government, must be regarded as of the greatest benefit. The advantages which will result from the enforcement of the law will amount to millions of dollars. It is patent to every man in this House that as the duties have been increased upon spirits the revenue therefrom has decreased. I hear, sir, from what I understand to be good authority, that the revenue for the present fiscal year from distilled spirits at two dollars a gallon will not amount to more than \$20,000,000, whereas at a much less price it amounted last year to a good deal more than that. Taking into consideration the large tax upon the Department, due to the fact of the vast numbers of subordinates of the Government employed for the purpose of attending to the detection of illegal distillation of this article, the amount seized and then released without any returns, added to the falling off in receipts, almost obliterates all revenue from this prolific source.

For the purpose of ascertaining what net revenue the Government derives from the distillation of spirits in the United States, I offered a resolution of inquiry this morning, knowing that it would require some time to get the information, and not expecting to receive it till next session. When Congress convenes in December all matters pertinent to the revenue will necessarily be investigated. The information here sought is a part of what is necessary upon which to form an opinion as to what should be the basis of a bill with reference to the amount of tax to be placed on this article and the manner of its collection.

I have it in my power now to say to this House, that under the old *regime* just before the appointment of this revenue board one lot of spirits which was seized in my district was released upon the payment by the manufacturer of \$1,200. On the same day the same lot of spirits was again seized by another officer from another district and was again released upon the payment of \$1,600. A day or two afterward it was again seized by a third officer, and was again released upon the payment of \$2,200. Now, I desire to know, and I intend if possible that this House shall know, where that \$1,200, \$1,600, and \$2,200, which the Government agents received to my knowledge,



went. Whether the Government itself received the money, or whether it went to private and illegitimate account I do not pretend to know, but I do know the facts I have stated, and I undertake to say that most of the gentlemen residing in commercial districts are aware of the fact that this is but an example of the manner in which the revenues of the country are frittered away that should be derived from this most important article.

I believe there has been manufactured in the United States within the last year two hundred million gallons of spirits, while I believe the natural demand for consumption was little more than one hundred million gallons. The inducement to an excess of manufacture is found in the want of enforcement of the revenue law. It makes no difference what kind of restriction Congress may put on the business the law will be violated. As the law now stands it offers especial inducements to evade it.

I see at this time, so near the close of this session, no more beneficial way on the part of the Government than to allow the commission as it now exists the privilege of exercising the jurisdiction it has been allowed to assume under the direction of the Secretary of the Treasury and Commissioner of Internal Revenue.

One word more. The gentleman from Massachusetts, who objected to the resolution of inquiry which I this morning offered, has withdrawn his objection, and I desire to have the resolution again reported to the House and passed.

The SPEAKER. If there is no objection the resolution of the gentleman from New York will be considered as adopted. The Chair hears none, and it is adopted.

Mr. WILSON, of Iowa. I desire to withdraw my motion.

Mr. SCHENCK. I yield to the gentleman from New York.

Mr. VAN WYCK. I differ with the gentleman from Ohio as to the effect of the action of the Secretary of the Treasury. It would seem that the creation of this board was merely as an advisory one, and it certainly will go forth to the country as a strange spectacle that in the American Congress there should be any objection urged to any measure leading to the correction of the revenue laws, or rather to prevent the damage which is done to the country by the violation of the law.

Now, it is a well-known fact that millions upon millions of dollars are taken from this Government by those who are defrauding it, by not paying the tax on whisky and tobacco. The newspapers have been full of charges against the Secretary of the Treasury, and of inquiries why he has not done something to correct these abuses. He has sought to do something in the way of correction by calling together public officers, sworn officers of the law, three or four district attorneys, whose duty it is to examine such cases, to report upon them and to recommend when seizures should be made. With this board is connected a deputy commissioner, who has power to make seizures, as was before done by the collector and assessor of each district. Heretofore these assessors and collectors could seize and could release as they chose. No power is taken from them by this action of the Secretary. Everybody in New York city knew that there were scores of distilleries costing from twenty-five to two hundred and fifty thousand dollars, and employing from five to twenty-five men each, making reports to the assessors and collectors of from one to three barrels of liquor distilled per month. Every one knew that it was a fraud except the collectors and assessors. Something must be done. The Secretary said to these men, the deputy commissioner of internal revenue and the three district attorneys, "With your consent I will call upon you to act as a board to see to the execution of this law." What powers were they clothed with? Not to make seizures, but to advise when seizures should be made. The collectors in these districts are not relieved from their duty.

Another thing: under the law as it now stands liquors placed in bond may be taken out for distillation and for other purposes upon bonds. Now, it is well known that hundreds of thousands of worthless bonds are lying in the offices of the district attorneys and revenue offices in New York city. Six hundred thousand dollars of such bonds were taken in one office in the State of New York in six months. The sureties on the bonds were not known, and the records did not show where the liquors had gone at all. In another collector's office there were \$60,000 of these bonds, and in another \$80,000. Now, no man would suffer \$60,000 of his own property to rest upon security about which he knows nothing.

Sir, these frauds upon the revenue are committed, not so much by illicit distillation—that is a mere bagatelle—as by the open and legalized distillers, who return not a tenth part of the liquor distilled, and that known to the officers of the Government, whose duty it is to protect the Government but who are *particeps criminis* in these frauds.

I hope the House will stand by the Secretary of the Treasury in this matter for the purpose of saving the Government and gathering into the Treasury that which properly belongs there. I therefore move to lay the whole subject on the table.

Mr. SCHENCK. That motion cannot be made now, as I certainly did not yield to the gentleman for that purpose.

Mr. VAN WYCK. Then I will make the motion at the proper time.

Mr. SCHENCK. I must be permitted to say with all due deference, that gentlemen have not talked exactly about the case before us. There is a great talk about advisory power, but there is a great deal more than advisory power exercised here. From the papers connected with this matter, I find this board sitting as a board resolving what seizures shall be made, how it shall be done, and under what circumstances.

Now, my objection is this: every collector and assessor has to give a bond, and you propose to put this whole matter into the hands of men who have given no bonds at all, and you prefer to substitute for the judgment of assessors and collectors and other revenue officers the decisions of this board, who are not under bonds, when seizures shall be made and when not made, and how the revenue shall be collected and how not. If the gentleman will look at the papers he will find the exercise of a good deal more than advisory power. How does the system work practically? Here is a collector who is charged by your laws with the performance of certain duties. He is a rascal not to be trusted. Here is another of the same sort, and another who has obtained his office because he swung round the circle and showed his devotion to bread and butter as a wholesome article of diet.

Instead of turning out such men, instead of putting in these positions pure and honest men, the Secretary keeps in office his brood of rascals, and then selects a board to supervise and watch them, that board not being provided for by law nor responsible under any bond for that which they decide to do.

How does the system work practically? One of these men, suspected of rascality or strictly honest, no matter which, is by law authorized to perform certain duties. Associated with him as members of a board are three or four other officers who have by law no such right to exercise specific duties. The members of this board vote upon a subject, and the three who do not possess power under the law vote down the one who by law is endowed with power. And then they act, not as a board, but in his name. Why, sir, if I am not misinformed, the deputy commissioner himself has been more or less disgusted with the course pursued by this board.

The gentleman from New York [Mr. VAN WYCK] says that no one except those who sympathize with these robberies will make objection to this board. With due deference to the

gentleman, let me say that I sympathize as little with these rascalities as any New Yorker upon the face of the earth.

Mr. VAN WYCK. The gentleman misunderstood me. I said that I thought no one outside of Congress would object to this board, except such men as I spoke of.

Mr. SCHENCK. Well, sir, I have received my information from men as honest as the gentleman from New York or myself or anybody else. Whether they be right or wrong, they give me facts. I could detail some of these. Take, for instance, one illustration of the workings of this system. I am informed—perhaps the gentleman knows whether the statement is true or not—that already one of these favored district attorneys has succeeded in getting a brother, a brother-in-law, and a nephew appointed as subordinates to this board to assist in carrying on this business. It is said that one of these three relatives, having been extremely poor, has within a few weeks become a man of considerable means. I do not vouch for this statement, but this is the information given to me, with names and facts, by good men, men in no way connected with these whisky frauds.

What is the proposition which I submit to the House? Simply to print this communication and refer it to the Committee of Ways and Means. In voting for this motion, it will be my expectation that the committee will look into the subject and report at as early a day as possible whether the law needs amendment so as to provide for the establishment of boards of this kind. And I call the attention of the House to the fact that the very disclosures made by gentlemen in their arguments upon this matter show that there has been a wheel within a wheel, a revenue system within a revenue system, established by the creation of a board utterly unknown to any statutory provision. If this House has respect for itself or for the laws of the country, it will not, I think, submit to have the power of the legislative department taken away, bit by bit, until the Executive Departments shall do just what they please in regard to matters of this kind.

Mr. BUTLER. Will the gentleman from Ohio allow me to read the law under which, as I understand, this commission has been appointed?

Mr. SCHENCK. Certainly.

Mr. BUTLER. I understand that the provision under which the power to appoint this commission is claimed—and I submit to the House that it is sufficient authority—is contained in a clause of section fifteen of the internal revenue act of March 2, 1867. It is in these words:

"And the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use such hydrometers, weighing and gauging instruments, meters, or other means for ascertaining the strength and quantity of spirits subject to tax, or for the prevention or detection of frauds by distillers of spirits, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing and gauging of spirits subject to tax throughout the United States."

Mr. SCHENCK. I have heard the law. I do not believe that these men are either meters or hydrometers.

Mr. BUTLER. I have not called them either. They are among "the other means" of preventing fraud.

Mr. SCHENCK. Then there must be other means under the rules established by the Secretary of the Treasury. In other words, there is a transfer of all power of legislation even to the extent of creating offices, a transfer from this branch of the legislative department of the Government to that at the other end of the avenue. It is a most latitudinarian construction of the law. It beats the "general welfare" clause of the Constitution all hollow in the way in which it is administered.

Mr. INGERSOLL. I desire to ask the gentleman a question.

Mr. SCHENCK. The gentleman from Illinois represents more whisky than anybody else. Peoria is full of it. [Laughter.]

Mr. INGERSOLL. I hope the gentleman,

then, will yield to me so I may say a word in reference to an interest which he declares I represent so largely.

Mr. SCHENCK. I yield to the gentleman for five minutes.

Mr. INGERSOLL. Mr. Speaker, I desire to ask the gentleman from Ohio if it is expected, should the House adopt his suggestion and refer this communication of the Secretary of the Treasury to any committee, that of itself will suspend the present powers of the Secretary of the Treasury? Would that control him till further action is taken by the House? What is the object of bringing the House to a vote now? Does it suspend the powers claimed and exercised by the Secretary of the Treasury, or does it leave him to exercise them until the existing law shall have been amended?

Mr. SCHENCK. I have made no motion on that subject. I have brought this information before the House, and moved that it be referred to our proper organ—the Committee of Ways and Means. I have not myself proposed to do anything further than that. Whether any one else will or not it is not for me to say, but it will be for the Secretary, under the previous act of Congress, to say whether he is exercising doubtful powers and will continue to do so in the face of what may be done by Congress.

Mr. INGERSOLL. Mr. Speaker, before the House takes any action which will curtail the powers of the Secretary of the Treasury and throw any obstacle in the way of collecting the revenue on this article, I hope it will have full and complete information; for otherwise, instead of mending matters it will make them worse.

Now, sir, in my district there are a great many distilleries. In Chicago there are nearly as many more. In Dubuque there are several. In Cincinnati there are about as many more. In Lawrenceburg, Indiana, about as many more. This great interest, therefore, does not center in New York. The West manufactures more whisky when the frauds of distilleries can be checked than the East, put it all together. There was a time, sir, when twenty distilleries were running in the city of Peoria, paying \$100,000 a day into the United States Treasury; but there is not one running to-day. Such is my information. The frauds in New York have put it beyond the power of the honest distillers of the West to make a single gallon. And the gentleman's own district of Ohio, the Dayton district, has some distilleries. They cannot run now. Why? Because the city of New York has made such an enormous amount of illicit whisky. This great western interest is now paralyzed. That is the evidence before the Commissioner of Internal Revenue and the Secretary of the Treasury. They have pursued the illicit traffickers until they have found that New York is the great source and center of corruption and fraud, and now hope and expect that by the establishment of this board they can stop it. It is anticipated if they succeed that that branch of industry will be revived in the West and throughout the country, and that the revenues of the Government will be immensely increased.

Now, sir, I hope there will be no action taken by the House which will take from the Secretary of the Treasury and the Commissioner of Internal Revenue this power, rightfully and honestly exercised by them, in my opinion, under the law as it now stands.

If the gentleman from Ohio [Mr. SCHENCK] can convince me that the action he proposes will invigorate the industries of the West or any other part of the country I will go with him; but I cannot consent to go haphazard and interfere with the action of the Secretary and the Commissioner of Internal Revenue in this important matter.

What we want is an honest administration of the revenue law. We want to put down illicit distillation. As long as the Government recognizes the manufacture of whisky as legitimate it should be our object to protect the

honest manufacturer everywhere and pursue with relentless vigor every fraudulent dealer or manufacturer. I believe the Secretary of the Treasury is endeavoring to do that, and I am opposed to hampering him by any interference of ours at this time.

Mr. KELLEY. Will the gentleman allow me to ask him whether the Secretary was engaged in that endeavor when he removed all the assessors and collectors of experience and tried integrity, and put in their places fellows without experience or character, political or moral?

Mr. INGERSOLL. I am not aware that the Secretary "removed all the assessors and collectors of experience and tried integrity, and put in their places fellows without experience or character, political or moral." I have no sympathy with the Secretary of the Treasury politically, but so far as the practical administration of the revenue law is concerned I have seen no evidence of maladministration or corruption on the part of the Secretary or the Commissioner of Internal Revenue.

Mr. KELLEY. Did the gentleman ever hear of an honest, experienced officer being turned out to put in a bread-and-butter man of known bad character? If he did not he is the only member of this House that is ignorant of the reported occurrence of such a thing. This, in my judgment, was part of the Secretary's practical administration of the affairs of the Revenue Bureau.

Mr. INGERSOLL. I have never heard of the case the gentleman presents. We have suffered some in our part of the country by the removal of officers, I admit. There was an excellent assessor removed in my district; but I do not believe the Secretary of the Treasury had anything to do with it. I believe the President of the United States, on his own motion, directed the removal and the appointment of another man, against whom, however, I never heard one word, so far as his integrity and honesty were concerned.

Mr. SCHENCK. What member of the Cabinet, when serenaded, made a speech entirely indorsing the President and all his policy, and so demeaned himself as to make a dirty, blackguard attack upon the legislative department of the Government? Who was it but the Secretary of the Treasury?

Mr. INGERSOLL. The gentleman has answered his own question. I did not indorse that speech, and it has nothing to do with the question before the House.

Mr. KELLEY. He also denounced the gentleman from Illinois himself as "a tinker." [Laughter.]

Mr. INGERSOLL. Well, sir, I admit that I was one of the one hundred and fifty members of Congress denounced as "Constitution tinkers" by the Secretary. But what has that to do with the collection of the revenue?

Mr. ROSS. I rise to a question of order. Is there any rule of the House to prevent gentlemen from making blackguards of themselves on this floor? If so I would like to have it read. [Laughter.]

The SPEAKER. If the point of order had been made when any words were spoken the Chair would have ruled upon it. It is made too late.

Mr. INGERSOLL. There is no propriety in referring at this time to that speech. It was an impromptu affair, and I do not believe the Secretary himself would now indorse it. I do not indorse it by any means when I say I believe he is honestly endeavoring to do the best he can to suppress the illicit manufacture of whisky. Neither do I believe him to be a dishonest man because he made that speech.

Mr. KELLEY. I will say this, that he has so mismanaged the Treasury and the internal revenue department that the distillers in my district, from whom the Government does not get \$10,000 a month, would regard it as a matter of economy to put up United States bonds as security for the payment daily, weekly, or monthly to the Government of \$120,000 per

month tax upon the capacity of their stills, if the leeches of the revenue department were taken off from them. They wish to be honest, but the agents of the Government keep whisky below two dollars per gallon in the market and will not let them give the Treasury its dues. This is equally true of other districts.

Mr. INGERSOLL. So it may be said with regard to many other districts. The Peoria distillers would willingly give \$1,000,000 per month if they would be allowed to run their distilleries up to their full capacity. There is nothing whatever in this statement of the gentleman.

Mr. KELLEY. Can you keep down speculation and fraud by turning honest and experienced men out of office and substituting those that neither political party is willing to acknowledge and much less to indorse?

Mr. INGERSOLL. Of course you cannot. But this has nothing to do with the question before us. I do not want honest men turned out; I want honest men kept in office. If all men were honest the question would be of easy solution. But the fact is you have as many illicit distillers, in proportion to the number engaged in that business, in your city as in any other, and in my opinion a similar board ought to be established there to protect the revenue. The Commissioner of Internal Revenue agrees with the Secretary in the necessity of establishing this board, and I have much confidence in his judgment.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. SCHENCK] that he has but four minutes remaining of his time.

Mr. KELLEY. The gentleman will yield to me to complete my sentence. I gave notice to the Secretary from the floor that he was then entering upon a career that would cost the Government \$50,000,000. It has cost the Government sixty or eighty million dollars on distilled spirits alone.

Mr. INGERSOLL. What career does the gentleman refer to?

Mr. KELLEY. The career of turning out all the experienced and trusty men in the several revenue districts, and selecting their successors from those whom neither party will recognize, who have no principles that attach them to any party or constrain them to obey any code, but who are ready to follow any flag that opens an avenue to plunder.

Mr. INGERSOLL. I must say here that it is lamentable that no man can rise here and defend the action of any man who does not agree with us in politics unless he is at once assailed as sympathizing with him politically. I have heard too much of this. It is not right or just. Where the Secretary puts a man out of office on political grounds I oppose him. But when I agree with the Secretary in matters of finance, or in the administration of the revenue system, I do not wish it to be understood that I sympathize with him in his political opinions or indorse them.

Mr. SCHENCK. Let us end this matter. I wish it understood that it is not anybody's fault but that of the Secretary of the Treasury that he has such persons in office, and if the gentleman will read these letters he will see by the confession of Mr. Van Wyck that his subordinates are a set of rascals in his own opinion.

Mr. ROSS. I would ask the gentleman how they came to be confirmed by the Senate?

Mr. SCHENCK. I do not know. They have confirmed a great many rascals that I would have had nothing to do with.

Mr. VAN WYCK. I move that the communication be laid upon the table, and printed.

Mr. ROBINSON. If the motion to lay on the table does not prevail, will not the motion to refer to a select committee have precedence?

The SPEAKER. The motion to refer to a standing committee will have precedence.

The question was put on Mr. VAN WYCK's motion, and there were—ayes 68, noes 37.

Mr. BENJAMIN called for the yeas and nays. The yeas and nays were not ordered.

So the motion of Mr. VAN WYCK was agreed to.

## GOVERNMENT OF ARKANSAS.

The SPEAKER. The Chair will lay before the House a document which has been sent to him for presentation to the House. To avoid the necessity of reading it, the Chair will state that it is a protest by one Senator and four Representatives, claiming to be members of the Legislature of the State of Arkansas, against being prohibited from meeting in their official capacity by the military authority which now prevails in that State under the reconstruction law. These gentlemen met and inquired of the military authorities whether they should be permitted to exercise the privilege of adjourning from day to day, and compelling the attendance of absent members. The military officer commanding told them that under the order of General Ord the Legislature could not meet. These gentlemen have sent to the Chair their protest. It is for the House to determine what shall be done with it.

Mr. FARNSWORTH. I move that the paper be referred to the Committee on Reconstruction, and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. BOYER. Is it too late to ask for the reading of the paper?

The SPEAKER. The Chair submitted to the House the question of the disposition of the paper, and he thinks it is too late now to have it read except by a suspension of the rules or unanimous consent. Is there objection to the reading of the paper?

Several members objected.

Mr. ELDRIDGE. We did not understand the proposition of the Chair as he has just stated it. We understood him to say that before the reading of the paper he would state its contents.

The SPEAKER. The Chair made an abridged statement of the contents of the paper for the purpose of dispensing with the necessity of reading it, supposing, of course, that any gentleman who desired the paper read at length would call for the reading in time.

Mr. ELDRIDGE. We did not so understand.

The SPEAKER. If there is any objection to the presentation of the paper, the Chair will withdraw it.

Mr. ELDRIDGE. I object to dispensing with the reading of the document.

The SPEAKER. The Chair, then, will withdraw the paper and present it under the rules to the Journal Clerk.

Mr. ELDRIDGE. I do not wish to be understood as objecting to the reception of the paper. I simply ask that it shall be read.

The SPEAKER. The Chair does not desire to occupy unnecessarily the time of the House by the presentation of documents of this kind. He will withdraw the paper and present it under the rules.

Mr. BOYER. Nobody on this side objects to the presentation of the paper.

The SPEAKER. Gentlemen on the left objected to the reading of the document, and gentlemen on the right stated that they understood it was to be read, which was not the understanding of the Chair, as he made a brief statement of its contents for the purpose of dispensing with the necessity of reading it. If there be no objection, it will be understood that the communication is referred to the Committee on Reconstruction.

Mr. BOYER. I object.

The SPEAKER. Then the Chair will hand the paper to the Journal Clerk, under the rule.

## EQUAL RIGHTS IN DISTRICT OF COLUMBIA.

Mr. WILSON, of Iowa. The Committee on the Judiciary, who are authorized to report at any time, have directed me to report back with an amendment Senate bill No. 137, entitled "An act for the further security of equal rights in the District of Columbia."

The bill, which was read, provides that in

excluded from any office by reason of race or color, and that so much of any law as makes any such discrimination shall be repealed.

The amendment reported by the committee was read, as follows:

Strike out all after the enacting clause of the bill and insert in lieu thereof the following:

The word "white," wherever it occurs in the laws relating to the District of Columbia or in the charter or ordinances of the city of Washington or Georgetown, and operates as a limitation on the right of any elector of said District or either of said cities to hold any office or to be selected and to serve as a juror, be and the same is hereby repealed; and it shall be unlawful for any person or officer to enforce or attempt to enforce said limitation after the passage of this act.

Mr. WILSON, of Iowa. I desire to state that this amendment has been drafted in accordance with the suggestion of the gentleman from Ohio [Mr. SCHENCK] for the purpose of avoiding the repetition in our legislation of the phrase "race or color." The object of the amendment is simply to repeal or strike out in all the laws relating to this District, and in its charter and ordinances, the word "white." I move the previous question.

Mr. BENJAMIN. Will the gentleman yield to me for one moment?

Mr. WILSON, of Iowa. Yes, sir.

Mr. BENJAMIN. I wish to call the attention of the gentleman from Iowa to the phraseology of this amendment. If I understood it correctly as read, it provides that the word "white" wherever it occurs shall be repealed.

Mr. WILSON, of Iowa. That is the phrase of the law. It provides that wherever that word "white" occurs as a limitation of any right it shall be repealed.

Mr. SCHENCK. Suppose a law or ordinance says that no negro or mulatto shall sit upon a jury, what word "white" do you strike out?

Mr. WILSON, of Iowa. The law does not read that way. It speaks of white persons. I demand the previous question.

The previous question was seconded, and the main question ordered.

The amendment of the committee was agreed to.

Mr. PRUYN. I should like to know whether any petitions have been presented asking for this legislation.

The SPEAKER. Debate is not in order.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON, of Iowa, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JUDD demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 20, not voting 60; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Daves, Dixon, Driggs, Ferriss, Ferry, Fields, Finney, Gravely, Halsey, Hamilton, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Lincoln, Loan, Logan, Loughbridge, McClurg, Mercut, Moore, Morrell, Myers, Newcomb, O'Neill, Paine, Perham, Pike, Plants, Polsley, Price, Raum, Robertson, Schenck, Scofield, Selye, Shanks, Smith, Aaron F. Stevens, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Woodbridge—90.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Haight, Holman, Kerr, Niblack, Nicholson, Noell, Prayn, Robinson, Stone, Van Aiken, and Van Trump—20.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barnum, Blaine, Bromwell, Calk, Chanler, Cullom, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Fox, Garfield, Griswold, Harding, Hayes, Hill, Richard D. Hubbard, Hubburd, Humphrey, Ladin, George V. Lawrence, Lynch, Mallory, Marshall, Marvin, McCarthy, McCullough, Miller, Moorhead, Morgan, Morrissey, Mungen, Orth, Peters, Phelps, Pike, Poland, Pomeroy, Randall, Ross, Sawyer, Shellabarger, Sitgreaves, Spalding, Starkweather,

or, Thaddeus Stevens, Stewart, Taber, Taffe, Taylor, Thomas, Van Wyck, Stephen F. Wilson, Windom, and Wood—60.

So the bill was passed.

During the vote,

Mr. ROBINSON stated that his colleague, Mr. CHANLER, was paired with Mr. NEWCOMB. The vote was then announced as above recorded.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## IMPEACHMENT.

Mr. WILSON, of Iowa. Mr. Speaker, in the resolution passed yesterday in reference to impeachment, power was not given to print. I now move that the usual number of copies be printed for presentation to the House at its next session, under the resolution in reference to the impeachment.

Mr. SCHENCK. I move the following as a substitute:

*Resolved*, That the instruction heretofore given to the Judiciary Committee to cause the testimony in the matter of impeachment of the President to be printed and reported to the House on the first day of the next session of Congress, be so amended as to require that the said testimony be accompanied by a full index, showing the names of witnesses and subjects of their testimony, with reference to the pages.

Mr. WILSON, of Iowa. I cannot yield for that. The committee is having that done now.

Mr. INGERSOLL. There can be no harm in letting it go upon the record.

Mr. WILSON, of Iowa. It is not necessary. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion of Mr. WILSON, of Iowa, was adopted.

## BOUNTY CLAIMS COMMITTEE.

The SPEAKER announced the following as the select Committee on Soldiers and Sailors Bounty: Mr. WASHBURN of Indiana, Mr. PAINE, and Mr. GETZ.

## ASSASSINATION COMMITTEE.

Mr. BUTLER. I ask unanimous consent to submit the following resolution, which I do at the request of the committee:

*Resolved*, That the committee for the investigation of the assassination of the President be, and is, authorized to conduct the investigation by such subcommittees as the committee may appoint, and at such places as may be convenient, and such subcommittees shall be authorized to administer oaths.

Mr. ROSS. I think that the number of subcommittees should not be less than three.

Mr. BUTLER. I move to suspend the rules.

Mr. ROSS. I would like the gentleman to state whether he will not allow an amendment by inserting after "sub-committee" the words "of not less than three."

Mr. BUTLER. Three make a majority.

Mr. ROSS. I thought there were nine.

Mr. BUTLER. Only five.

Mr. ROSS. Say two, then. I do not think it is best for one man to be prowling around to get this testimony alone.

Mr. BUTLER. This resolution was agreed to by every member of the committee.

Mr. ROSS. That may be; but I think there had better be two men together when they are getting that kind of testimony. It should be done in the presence of a witness at least.

On suspending the rules, there were—ayes 64, noes 10; no quorum voting.

The SPEAKER ordered tellers under the rule.

Mr. ROSS. I move that the House adjourn. The motion was agreed to; and thereupon (at three o'clock and forty minutes p. m.) the House adjourned.

## PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. McCURDY: The petition of sundry citizens of African descent of Missouri, asking Congress to amend the law of March, 1857, as to allow claimants to collect their bounties without the intervention of the Freedmen's Bureau.

## IN SENATE.

FRIDAY, July 19, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## HOUSE BILLS ON THE TABLE.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate certain communications from the House of Representatives. The first one is the joint resolution (H. R. No. 53) tendering the thanks of Congress to Major General Philip H. Sheridan. What disposition will the Senate make of that?

Mr. EDMUNDS. I think it has been decided once that that could not be considered under the resolution limiting the business of the session.

Mr. GRIMES. It was laid on the table once.

Mr. FESSENDEN. All of them have been laid on the table.

The PRESIDENT *pro tempore*. These bills are all lying on the table and subject to the disposition of the Senate.

Mr. FESSENDEN. They must lie there unless they are called up.

The PRESIDENT *pro tempore*. Well, let them lie there. I did not know but that the Senate might wish to dispose of them. I thought it proper to call the attention of the Senate to them.

Mr. GRIMES. All those resolutions of thanks were laid on the table.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 137) for the further security of equal rights in the District of Columbia, with an amendment, in which it requested the concurrence of the Senate.

Mr. SUMNER. I ask the Senate to proceed with the consideration of that bill. It comes back from the House with an amendment. I should like to have the amendment read.

Mr. RAMSEY. I think we had better go through with the business on the President's table first.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a resolution from the House in regard to certain judgments of the Court of Claims.

## COTTON CASES IN THE COURT OF CLAIMS.

The joint resolution (H. R. No. 77) in regard to judgments of the Court of Claims in cotton cases was read twice by its title.

Mr. GRIMES, and others. Let it be read at length.

The Chief Clerk read it, as follows:

Whereas it is stated that the Court of Claims has rendered judgments to the amount of \$3,000,000 in favor of parties claiming for captured or abandoned cotton: Therefore,

*Be it resolved by the Senate and House of Representatives, &c.,* That the Secretary of the Treasury be hereby instructed to withhold the payment of said judgments until further action by Congress.

Mr. JOHNSON. I suppose the proper reference of that resolution would be to the Judiciary Committee, and I propose to make that motion after a word or two. I know nothing of the facts, except as I hear them from some of the officers of the Court of Claims, and I am told—

The PRESIDENT *pro tempore*. It will be so referred, no objection being made.

Mr. JOHNSON. I move its reference to the Committee on the Judiciary. I believe the whole amount is but \$120,000.

Mr. TRUMBULL. Before that resolution is referred, I think it proper to say a word in regard to it.

Mr. JOHNSON. That was what I was about to do.

Mr. TRUMBULL. I beg the Senator's pardon; I thought he was through.

Mr. JOHNSON. I understood the Chair to say that it was referred.

Mr. TRUMBULL. It is before the Senate, and I suppose it is open to discussion.

The PRESIDENT *pro tempore*. The question is on the motion to refer.

Mr. JOHNSON. All I intended was not to touch the principle which is involved in legislation of that description, but merely to correct what I understand to be an error of fact. I am told that the amount of judgments referred to in the resolution instead of being \$3,000,000 does not exceed \$119,000 or \$120,000. I cannot imagine, if that be so, how that error could have crept into the resolution. The amount allowed by the Treasury, as I understand, in cases that the Secretary of the Treasury had the right to adjudicate, exceeds \$1,000,000, and there is no complaint as to them. I know the judges of the Court of Claims sufficiently to be satisfied that they have in these judgments, as well as in every other judgment in a case that has been before them, decided with impartiality and ability. I say that not from any professional knowledge acquired by practicing in that tribunal, for no member of Congress can practice there, but from having read their decisions from time to time in important cases, and from my knowledge of their individual professional character. I believe also it is due to the solicitors of that court on the part of the United States to say that they are very able, certainly very industrious officers, and I believe they have collected all the evidence that could be collected in relation to all the cases that have been before that tribunal. The principle, however, upon which the resolution goes is a very dangerous one. We might as well abolish the court altogether if their judgments are to have no effect, but to be suspended whenever Congress thinks proper to suspend them. I believe in all these cases there is or will be an appeal to the Supreme Court of the United States.

Mr. TRUMBULL. I was quite surprised when I saw this joint resolution upon the desk, to find that such a measure should have passed one of the Houses of Congress without consideration, and I made some inquiry and learned substantially the same state of facts that has been detailed by the Senator from Maryland. This joint resolution has evidently been passed by the House of Representatives under a very great misapprehension. There have been vast claims against the Government growing, not only out of these cotton cases, but out of various other matters connected with the war; and those claims have been settled in a Department here by clerks, often amounting to tens of thousands, and hundreds of thousands, and even millions of dollars, without any judicial investigation whatever, without any examination of witnesses, but simply on *ex parte* affidavits. Now we have established a Court of Claims with five judges, some of whom have been members of this body and are known probably to all the Senators. Others of them I happen to know personally; and I believe that you cannot find five men of greater integrity than the judges of the Court of Claims. Cases undergo judicial investigation there. We have counsel there, three solicitors, to investigate every claim that is presented. Depositions are taken. Commissioners are appointed under the direction of the court in different parts of the country before whom the witnesses whose testimony is to go before the court are examined and cross-examined. The cases are argued, deliberately considered, and passed upon by this court, composed of gentlemen of high legal ability and attainments and integrity. But for some reason or other there is raised an alarm that the Court of Claims is going to bankrupt the Treasury, and a resolution is passed on a newspaper paragraph that \$3,000,000 are coming out of the Treasury, when many times three millions are taken out on the mere judgment of a clerk in one of these Departments, without any examination whatever. I do not know what gives rise to these misrepresentations. It looks to me a little as if there might be claims in the hands of parties who did not wish them to undergo this judicial investigation, who wish to get rid of this Court

of Claims, and have an *ex parte* examination in the dark. All the business of this court is done before the public; its opinions are published; the testimony is public to everybody; and I regard it as a great safety to this Government.

I was very much surprised to find a resolution of this kind passing the House of Representatives. On inquiry it turns out that instead of any \$3,000,000 of judgments being entered in favor of cotton claimants, the whole of them together amounts to about one hundred and ten thousand dollars, and that divided between seven or twelve persons. And then we have provided, the law provides, that appeals may be taken in all these cases, involving, I think, more than three thousand dollars, to the Supreme Court of the United States. I was unwilling, therefore, that a resolution of this character, with such a statement in the preamble, so utterly at fault, should be referred without correcting this misstatement, and correcting as far as I can a misapprehension that seems to prevail in the minds of some persons, and which is sought to be impressed on the minds of others, that the Treasury is in danger from the Court of Claims. There is not where the danger lies. That court is a protection to the Treasury and to the Government against dishonest claims.

Mr. BUCKALEW. Mr. President, I do not understand that any cotton claims are being adjudicated in the Treasury Department, nor that such claims have been examined and passed upon at the Treasury Department for a considerable time past. I think the Secretary of the Treasury declines acting upon those cases; and whenever his attention is pressed to them he says to the claimants that they must go to the Court of Claims. I think, therefore, there is some misapprehension in regard to the Treasury Department as well as in regard to the action which has been taken by this court.

Mr. TRUMBULL. If the Senator from Pennsylvania will allow me, I will say that was not formerly the case in the Treasury Department. It is only recently so. He is aware that the Department did take jurisdiction of these cases heretofore.

Mr. BUCKALEW. That is very true. The Senator stated the fact as to the former practice of the Department, and it is certainly open to all the observations which he made concerning it.

I wish to make but one remark on the occasion of this joint resolution. It is very true that hasty action appears to be taken in the other branch of Congress, and frequently taken. I do not know that we can expect anything else in a House which does its business under the operation of the previous question, and where there is no opportunity for public debate. I think the general volume of our legislative action for several sessions past has received an injurious complexion from the fact that that branch of Congress acts without debate and without careful examination of the subjects presented, consequently when their measures are brought into the Senate we are obliged to commence their examination as if nothing had been done; an extraordinary labor and responsibility is imposed upon this branch of Congress which does not properly belong to it. Whether there can be any remedy or not remains to be seen. I have heretofore in argument endeavored to point out modes of reform which would eventually reach that House, and make its membership more perfect; and by that means, and perhaps some amendment to the rules, we may hereafter have better bills and better joint resolutions sent to us than appear to be coming at the present and have come at recent sessions.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after three quarters of an hour spent in executive session the doors were reopened.

## EQUAL RIGHTS IN THE DISTRICT.

Mr. SUMNER. I now ask the Senate to



take up the bill which was returned from the House this morning with an amendment.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 137) for the further security of equal rights in the District of Columbia. The amendment was to strike out all after the enacting clause of the bill and insert in lieu thereof the following:

That the word "white," wherever it occurs in the laws relating to the District of Columbia or in the charter or ordinances of the city of Washington or Georgetown, and operates as a limitation on the right of any elector of said District or either of said cities to hold any office or to be selected and to serve as a juror, be, and the same is hereby, repealed; and it shall be unlawful for any person or officer to enforce or attempt to enforce said limitation after the passage of this act.

Mr. HARLAN. I move that the Senate concur in the amendment of the House with the following amendment as a new section:

*And be it further enacted,* That the supreme court of the District of Columbia sitting for the trial of crimes and misdemeanors be, and is hereby, authorized to order drawn from the jury-box provided for that purpose, and in the manner provided by law, the necessary grand and petit jurors for the June term of the criminal court for the year 1867.

Mr. BUCKALEW. I will inquire whether that amendment is in order? I believe it relates to proceedings in courts in the District, the drawings of jurors, and the bill is for the repeal of the disqualification to the right of holding office. The amendment, it occurs to me, does not relate to the same subject at all.

The PRESIDENT *pro tempore*. I suppose it is in order.

Mr. HARLAN. There is no incongruity that would amount to a barrier to the action of the Senate; and I will state to the Senate that there is a great necessity for the passage of an amendatory law on this subject. The criminal court now in session is unable to organize, as I understand, either a grand jury or a petit jury. In the trial now pending the empaneling of the jury was agreed to by the attorneys on both sides; otherwise the court would have been unable to try the case now in hand. I was informed by the chief justice of the court this morning that without some such action the court would be compelled to adjourn, and the criminal business could not be proceeded with, and consequently all parties now in prison would have to be retained until after next February. There is, therefore, a great necessity for some such amendment as this.

The amendment to the amendment was agreed to.

The amendment of the House, as amended, was concurred in.

#### MAIL SERVICE TO CHINA AND JAPAN.

The PRESIDENT *pro tempore* laid before the Senate the joint resolution (H. R. No. 78) authorizing extensions of the mail steamship service between the United States and China and Japan; which was read twice by its title.

Mr. RAMSEY. I move that the Senate proceed to the immediate consideration of that joint resolution.

Mr. GRIMES. I call for the reading of the resolution, so that we may know what it is.

The Chief Clerk read the joint resolution. It authorizes the Postmaster General to extend and improve the mail steamship service to Japan and China, authorized by the act of February 17, 1865, by establishing regular connections with such other seaports in China and Japan as will, in his judgment, promote the usefulness and efficiency of the mail service established by that act, provided such extensions and improvements of the service are made without additional expense to the Government.

Mr. RAMSEY. I will state that a similar bill was considered by the Committee on Post Offices and Post Roads of the Senate and unanimously agreed to by the committee. There is no expense involved. It provides for the extension of the mail service to the new ports just about to be opened in Japan.

Mr. POMEROY. I think the Postmaster General has a right to extend this service to

other ports under the bill passed in February last, but he thinks he has not, and this resolution allows him to extend it to other ports as fast as they are opened, provided it can be done without expense. I think it ought to pass. The British and French lines run to all these other ports and they will get the mail service unless we authorize this to be done.

Mr. HENDERSON. What are the ports?

Mr. POMEROY. There are three or four that have been opened lately.

Mr. RAMSEY. The new port of Osaka, the principal port just opened by the new treaty, is one. If we do not pass this proposition we shall get no American mails into these ports.

Mr. SHERMAN. I understand the effect of it is to allow them to stop at the intermediate ports without any additional subsidy.

Mr. RAMSEY. It is not to cost anything additional.

The PRESIDENT *pro tempore*. Is there any objection to considering this joint resolution at this time?

Mr. TRUMBULL. I should like to know if the rule we have adopted is considered as waived and we are going into general business. We are taking up measures here, and they are depending upon their merits. If the Senate has concluded to depart from the rule that has been adopted we can consider these questions.

Mr. RAMSEY. I think there can be no objection to a proposition so inexpensive as this.

Mr. TRUMBULL. If there is no objection to it another Senator will rise, and there will be no objection to his bill, and we shall consider everything that a majority of the Senate is for. If we have come to that conclusion, if that is the opinion of the Senate, of course we shall pass this bill, and pass every other bill that it shall be found a majority of the Senate is in favor of.

Mr. FESSENDEN. Any Senator can interpose an objection, and that will carry it over.

Mr. RAMSEY. Why would a Senator object to a measure of this character?

Mr. FESSENDEN. I do not object; but I say any Senator can object.

Mr. RAMSEY. This is an inexpensive proposition, and I am sure no Senator will object to it.

Mr. TRUMBULL. If the Senate is going on with general business I have nothing to say.

Mr. RAMSEY. Doubtless there are bills to which objection would be proper, but certainly not to one of this character.

Mr. TRUMBULL. Then it amounts to this: that every bill is to pass which Senators can go through the body and get gentlemen not to object to. It is just the kind of legislation we are getting through Congress and giving no consideration to. We have half a dozen bills and resolutions from the House of Representatives that are proposed to be considered here, though they have never been before any committee.

Mr. RAMSEY. This has been considered by the Committee on Post Offices and Post Roads.

Mr. TRUMBULL. Has this bill been before any committee?

Mr. RAMSEY. Not this particular bill, but a bill in words and letters just like this, and reported upon by our committee.

Mr. TRUMBULL. Very well, that being the case I do not object if nobody else does.

The joint resolution was ordered to a third reading, read the third time, and passed.

#### SYMPATHY WITH CRETE.

Mr. SUMNER. Are reports in order? I lost my opportunity by the motion to go into executive session to make a report, which I was directed to make this morning by the Committee on Foreign Relations, and to ask immediate action of the Senate upon it.

The PRESIDENT *pro tempore*. The Chair will receive the report.

Mr. SUMNER, from the Committee on Foreign Relations, reported a joint resolution (S.

R. No. 63) declaring sympathy with the suffering people of Crete.

Mr. SUMNER. I ask for the action of the Senate upon the joint resolution at this time.

The PRESIDENT *pro tempore*. Is there any objection to the consideration of the resolution? The Chair hears none.

The joint resolution was by unanimous consent read three times, and passed. It is as follows:

*Resolved, &c.,* That the people of the United States, feeling a strong sympathy with the people of Crete, constituting a part of the Greek family, to which civilization owes so much, are pained by the report of the present sufferings of this interesting people; and they unite in the hope that this declaration, which they feel it their duty to make, will be favorably considered by the Government of Turkey in determining its policy toward Crete.

*And be it further resolved,* That it shall be the duty of the President of the United States to communicate this resolution to the Government of Turkey.

#### BOUNTY TO MISSOURI TROOPS.

Mr. HENDERSON. I ask unanimous consent to introduce a joint resolution.

Mr. SUMNER. I hope the Chair will proceed with the bills on the table.

Mr. HENDERSON. I think the matter which I propose to offer will not consume much time. I think it can be disposed of in a few moments.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent to introduce a joint resolution of which no notice has been given. Is there any objection? The Chair hears none.

By unanimous consent, the joint resolution (S. R. No. 64) placing certain troops of Missouri on an equal footing with others as to bounties was read twice by its title.

Mr. HENDERSON. I will state that this is an exact copy of the joint resolution which was passed at the last session of Congress, but failed to become a law in consequence of its failure to reach the President during the session. I know it to be an exact copy of that resolution. If the Senate is disposed to violate its rule at all, I think this is a case as meritorious as any in which the rule can be disregarded. Senators will remember that I had the measure up the other day in another form, in the shape of a resolution requesting the officers of the two branches of Congress to sign a reënrolled copy of the resolution which was passed at the last session, and to represent it to the President. Senators will remember that that matter was discussed here, and a majority of the members seemed to come to the conclusion that the better form to accomplish the object would be to pass over again the resolution of last session, in the same language in which it was then passed, and have it presented to the President again. I ask that it be considered now.

Mr. SHERMAN. I think it had better go to the Military Committee. If they report it back I shall have no objection.

Mr. HENDERSON. The Senator from Ohio was not present the other day when the debate to which I have alluded occurred, and I think he did not pay attention to my remarks a moment ago. I will state to him that this is an exact copy of a joint resolution passed by both Houses in March last, and presented to the President after the adjournment of Congress. The Senator from Kansas, the chairman of the Committee on Enrolled Bills, [Mr. Ross,] laid the enrolled joint resolution in his desk after it was signed by the Presiding Officers of the two Houses, and forgot that it was there, and the two Houses adjourned before its presentation to the President. It was presented to the President after the adjournment, and the President indorsed on the resolution a statement to the effect that he conceived that he had no authority to sign it, and he sent it to the office of the Secretary of State. Before the Senator from Ohio returned the question came up here on a proposition directing the officers of the two Houses again to enroll the joint resolution and send it to the President at this session; but a majority of the Senators seemed to be of opinion that the object might

be better reached, and many of them thought it could only be reached, in this manner. I therefore present now an exact copy of the resolution passed at the last session, and desire to have it acted upon.

Mr. SHERMAN. I ask the Senator if this measure was examined by any committee before its passage at the last session?

Mr. HENDERSON. It was reported from the Military Committee of the two Houses at the last session and examined thoroughly. It is a question that has been before the Senate for two years.

Mr. SHERMAN. If a bill in the same identical words has been reported by the Military Committee I do not insist on my motion to refer. I withdraw that motion.

Mr. WILSON. I think there is no need of referring the bill, and I think we ought to pass it. The Military Committee examined it carefully at the last session; it was the deliberate judgment of the committee and of both Houses of Congress that it should be passed; but by an accident it failed to become a law. I do not think we should take advantage of that accident. I hope the resolution will be put upon its passage at once.

Mr. GRIMES. If I recollect aright this question was settled in the early days of the present session, and I do not think we ought now to overturn what we did then. I must interpose an objection.

The PRESIDENT *pro tempore*. A question of order is now made under the resolution of the Senate. That question the Chair will refer to the Senate for decision.

Mr. SHERMAN. I suppose a motion to refer is in order. The resolution has been read the first and second time, and if an objection is made to its consideration I think it had better be referred. I move that it be referred to the Committee on Military Affairs. They can report it back immediately if they choose.

The PRESIDENT *pro tempore*. The Chair will put the question on the motion to refer the bill to the Committee on Military Affairs, no question of order being made on that motion.

The motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication of the Secretary of the Treasury, in answer to a resolution of the 16th instant calling for information as to whether means can be adopted to expedite the payment of bounties under the act of July 28, 1866; which, on motion of Mr. WILSON, was ordered to lie on the table, and be printed.

#### LETTER-CARRIERS.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred a joint resolution (S. R. No. 61) relative to letter-carriers, have instructed me to report it back; and I ask for its immediate consideration.

Several SENATORS. What is it?

Mr. RAMSEY. Increasing the pay of letter-carriers.

Mr. EDMUNDS. I object to its present consideration.

The PRESIDENT *pro tempore*. It cannot be considered, objection being made.

#### RECESS.

Mr. GRIMES. I move that the Senate take a recess—

Mr. SUMNER. Not quite yet. There is a little bill I want to introduce, to which there can be no objection.

Mr. GRIMES. I submit my motion, which is that the Senate take a recess for one hour.

Mr. SUMNER. I object; and it cannot be considered without unanimous consent.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

Mr. SUMNER. The usage of the Senate has always been to require the unanimous consent for the reception of a motion for a recess.

Mr. FESSENDEN. Never.

Mr. SUMNER. I beg the Senator's pardon.

Mr. GRIMES. That has never been the rule.

Mr. SUMNER. I wish to introduce a bill to which the Senate can have no objection.

Mr. GRIMES. Let us have the question of order settled; and that is not open to debate.

The PRESIDENT *pro tempore*. The Chair is of opinion that a motion for a recess is always in order when a gentleman can get the floor to make it.

Mr. GRIMES. When a question is pending before the House, then it is necessary that there should be unanimous consent in order to lay that business aside and take up a motion for a recess; but there being no business before the Senate the motion I made was perfectly in order, and the decision of the Chair is entirely correct.

Mr. SUMNER. The motion the Senator makes is in the nature of a resolution; and a resolution, if objected to, must lie over twenty-four hours.

Mr. GRIMES. So is a motion to adjourn or a motion to go into executive session in the nature of a resolution; and by parity of reasoning such a motion must lie over for twenty-four hours for consideration.

Mr. SUMNER. No; because our rules provide for the consideration of a motion to adjourn.

Mr. JOHNSON. The Chair has decided the question.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts appeal from the decision of the Chair?

Mr. SUMNER. No, sir; but I ask the Senator from Iowa to withdraw his motion. I want to offer a bill that can be acted upon at once.

Mr. GRIMES. You can do it when we come back.

Mr. SUMNER. I hope the Senate will not take a recess. There is a little bill that I have in my hands which I desire to introduce.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa, that the Senate take a recess for an hour. The motion was agreed to.

The PRESIDENT *pro tempore* again called the Senate to order at half past two o'clock.

#### NATURALIZATION LAWS.

Mr. SUMNER. I ask the unanimous consent of the Senate to introduce a bill without any previous notice.

Mr. FESSENDEN. I should like to know what it is.

Mr. SUMNER. It is a bill to amend the several acts of Congress relating to naturalization. Let it be read at length.

The Chief Clerk read the bill, which proposes to amend all the acts of Congress relating to naturalization, by striking out wherever they occur the words "being a free white person" and the words "free white" and the words "a free white person and," so that in naturalization there shall be no distinction of race or color.

The PRESIDENT *pro tempore*. Is there any objection to the introduction of this bill without notice?

No objection being made, leave was granted to introduce a bill (S. No. 139) to amend the several acts of Congress relating to naturalization, and it was read twice by its title.

Mr. SUMNER. I ask the unanimous consent of the Senate to have the bill acted upon now.

Mr. EDMUNDS. I object.

Mr. SUMNER. I hope the Senator will not object. I will state that I have received a letter from Norfolk calling my attention to a very hard case of a colored person who has been an inhabitant, and in my opinion a citizen in all his rights, for more than twenty-five years, but he is unable to obtain naturalization because of the words of color in our naturalization laws. I think it is only reasonable that now we should put an end to that. In short, I wish to punch that word "white" out of the statute-book wherever it appears.

If the Senator from Vermont is disposed to keep it in, then I can understand that he would object to the bill.

Mr. EDMUNDS. I am not disposed to keep it in—

Mr. SUMNER. I did not suppose the Senator was.

Mr. EDMUNDS. My punch is not quite so case-hardened as that of my friend. But I have found from observation and experience in my short life that a bill of this kind requires to be examined by a committee to be sure that you are doing exactly what you suppose you are doing. I am as much in favor of the idea of the bill as my friend is. I think our Norfolk friend—and there are a good many others in the same category, I have no doubt—can wait until December, when this bill can be reported perfect by a committee. I move that it be referred to the Committee on the Judiciary.

Mr. SUMNER. I hope the Senate will proceed with it now.

The PRESIDENT *pro tempore*. The Senator from Vermont objects. It cannot be considered now.

Mr. SHERMAN. There is no objection to the reference.

Mr. SUMNER. But then the reference kills the bill for the present session.

Several SENATORS. Why can it not go over?

Mr. SUMNER. Senators ask why it cannot go over to December? Is it not a wrong thing in our statute-book? I say it is a wrong thing, and we ought to terminate it. I do not wish that it should go over to December. I do not wish that any wrong should go over to December. The moment I can I would put an end to it.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on the Judiciary.

Mr. SUMNER. I hope it will not be done. I hope the Senate will act on it at once.

The question being put, a division was called for; and the yeas were seventeen.

Mr. SUMNER. I call for the yeas and nays. The yeas and nays were ordered.

Mr. SHERMAN. Suppose the bill should not be referred to the Judiciary Committee, what is the consequence? It lies on the table, and cannot be acted on, being objected to.

Mr. SUMNER. Can it not be proceeded with now? It is before the Senate.

Mr. SHERMAN. A single objection prevents the reading of the bill a third time to-day.

Mr. SUMNER. If there is that disposition, if Senators are determined to object to it—

Mr. SHERMAN. One Senator has objected to the bill. I do not care about it. I am simply asking the Senator what he wants?

Mr. SUMNER. I want to pass the bill.

Mr. SHERMAN. That is impossible, because one Senator objects, and that prevents its passage to day.

Mr. SUMNER. If it is understood that Senators are determined that the bill shall not pass—

Mr. SHERMAN. I do not care whether it passes or not.

Mr. SUMNER. The bill is in the hands of the Senate.

Mr. SHERMAN. In the hands of any one Senator who objects.

Mr. SUMNER. I do not wish to take up the time of the Senate. If any one Senator objects to the bill, and takes advantage of his unquestioned senatorial privilege, he does it on his responsibility.

Mr. EDMUNDS. I do not want my friend from Massachusetts to put me in the wrong; I know he would not intentionally.

Mr. SUMNER. Of course not.

Mr. EDMUNDS. He knows perfectly well that I am just as much in favor of a bill, and very likely of this bill, as he is; that Vermont is not a particle behind Massachusetts on this great question, not a single step. But we know, and it is our duty to act upon that knowledge, that it is exceedingly unsafe legislation to hurry through a bill that any one member introduces here on this or any other subject

that involves a careful reëxamination of a series of statutes, because the chances are more than even that you will get something passed that you do not want, that does not hit the case, or that does something more than you expect it is to do. It is to prevent such results that we have committees. Now, therefore, my simple motion is that this bill shall go to a committee, so that there may be that examination which will make the bill perfect, if it is not now perfect, to answer the end that my friend from Massachusetts and myself both want to reach. That is my position.

The *PRESIDENT pro tempore*. The question is on referring the bill to the Committee on the Judiciary, and on that question the yeas and nays have been ordered.

Mr. SUMNER. As I understand that Senators will positively object to the passage of the bill to-day, I submit, and make no objection to its going to the Committee on the Judiciary.

The *PRESIDENT pro tempore*. The yeas and nays having been ordered, the call for them may be withdrawn by unanimous consent. The Chair hears no objection, and that call is withdrawn. The question now is on the motion to refer.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

#### RECONSTRUCTION—VETO.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the President of the United States having returned to the House of Representatives, in which it originated, the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, with his objections thereto, the House of Representatives had proceeded in pursuance of the Constitution to reconsider the same, and had passed the bill by a vote of two thirds of the House.

#### ENROLLED BILL JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 78) authorizing extensions of the mail steamship service between China and Japan; and it was signed by the President *pro tempore* of the Senate.

#### INTER-OCEANIC TELEGRAPH CHARGES.

Mr. NYE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire and report what measures, if any, can be adopted to prevent the practice of extortion upon citizens of the United States and the press by inter-oceanic telegraph companies.

#### EXECUTIVE COMMUNICATIONS.

The *PRESIDENT pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the Senate of February 13, 1866, the report of Major Reynolds, United States Engineers, of his explorations of the Yellowstone and the country drained by that river.

Mr. HOWARD. I move that the communication and its accompanying document lie on the table, and be printed.

The *PRESIDENT pro tempore*. The accompanying document has not been brought into the room. It constitutes a very large box, as I am told.

Mr. HOWARD. It is a very valuable report. Mr. JOHNSON. It ought to be referred to the Committee on Printing.

Mr. HOWARD. Very well; I move to refer it to the Committee on Printing.

The motion was agreed to.

The *PRESIDENT pro tempore* also laid

before the Senate a communication from the Secretary of War, in answer to a resolution of the Senate of the 16th instant asking him to report whether any means can be adopted by the War Department to expedite the payment of bounties under the act of July 28, 1866.

Mr. WILSON. I move that that report lie on the table, and be printed.

The motion was agreed to.

The *PRESIDENT pro tempore* also laid before the Senate a message from the President, in answer to the resolution of the 8th instant calling for copies of any correspondence on the files of the Department of State relating to any recent events in Mexico.

Mr. SUMNER. I move that that message be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, subsequently reported back the message and documents, and moved that they be printed; and the motion was agreed to.

#### ADJOURNMENT RESOLUTION.

Mr. SHERMAN. I believe there is a concurrent resolution in regard to the time of adjournment lying on the table. I move that it be taken up.

Mr. SUMNER. I hope that will not be taken up now. I hope it will not be proceeded with until after the consideration of the veto message.

The *PRESIDENT pro tempore*. Is there any objection to taking up the resolution referred to?

Mr. SHERMAN. There is a reason for taking it up now.

Mr. SUMNER. I do not think we can take it up now. I wish to hear the veto message before I determine whether to vote to adjourn or not.

Mr. SHERMAN. I do not wish to occupy time about it. Let it stand for the present.

The *PRESIDENT pro tempore*. It can only be taken up by unanimous consent.

Mr. SHERMAN. I do not make the motion now.

#### RECONSTRUCTION—VETO.

The *PRESIDENT pro tempore*. A communication has been received from the House of Representatives, which will be read.

The Chief Clerk read as follows:

#### IN THE HOUSE OF REPRESENTATIVES.

July 19, 1867.

The President having returned to the House of Representatives, in which it originated, the bill (H. R. No. 123) entitled "An act supplementary to 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867," with his objections thereto, the House of Representatives proceeded in pursuance of the Constitution to reconsider the same: and *Resolved*, That the bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

EDWARD MCPHERSON, Clerk.

Mr. JOHNSON. I suppose the message accompanies that resolution. I ask for the reading of the message.

Mr. RAMSEY. I suggest to the Senator from Maryland that we take a recess for two hours. ["No, no."]

Mr. SUMNER. I ask if we had not better hear the message before we take a recess. We can hear the message by five o'clock, and then take a recess for two hours.

Mr. RAMSEY. I propose that we take our dinners and hear the message afterward.

Mr. ANTHONY. I wish to make a suggestion in regard to the motion submitted by the Senator from Ohio, which I think had better be put to a vote before we proceed with the message. It is very doubtful whether there will be a quorum in the House of Representatives after six o'clock, and we ought to settle the time of adjournment now.

Mr. SHERMAN. I call for the reading of the message.

Mr. ANTHONY. Very well; I will not insist upon calling up the adjournment resolution against the wish of the Senator from Ohio, who made that motion.

Mr. JOHNSON. I ask for the reading of the message.

Mr. SUMNER. I ask for the reading of the message, too.

The *PRESIDENT pro tempore*. The message will be read.

The Chief Clerk commenced the reading of the message.

Mr. JOHNSON. It is impossible to hear.

Mr. POMEROY. I think we had better take a recess. It will take an hour to read the message.

Mr. SUMNER. Only half an hour. I think we had better hear it before a recess.

Mr. JOHNSON. Unless there is order it might as well not be read.

The *PRESIDENT pro tempore*. There must be less confusion in the Hall. Gentlemen must take their seats and preserve order.

The Chief Clerk proceeded to read the veto message. It is as follows:

#### To the House of Representatives of the United States:

I return herewith the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto passed on the 23d day of March, 1867," and will state as briefly as possible some of the reasons which prevent me from giving it my approval.

This is one of a series of measures passed by Congress during the last four months on the subject of reconstruction. The message returning the act of the 2d of March last states at length my objections to the passage of that measure. They apply equally well to the bill now before me, and I am content merely to refer to them and to reiterate my conviction that they are sound and unanswerable.

There are some points peculiar to this bill which I will proceed at once to consider.

The first section proposes to declare "the true intent and meaning" in some particulars of the two prior acts upon this subject. It is declared that the intent of those acts was:

First, that the existing governments in the ten "rebel States" "were not legal State governments;" and

Second, "that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress."

Congress may, by a declaratory act, fix upon a prior act a construction altogether at variance with its apparent meaning, and from the time, at least, when such construction is fixed, the original act will be construed to mean exactly what it is stated to mean by the declaratory statute. There will be, then, from the time this bill may become a law no doubt, no question as to the relation in which the "existing governments" in those States, called in the original act "the provisional governments," stand toward the military authority. As those relations stood before the declaratory act, these "governments," it is true, were made subject to absolute military authority in many important respects, but not in all, the language of the act being "subject to the military authority of the United States, as hereinafter prescribed." By the sixth section of the original act, these governments were made "in all respects subject to the paramount authority of the United States."

Now, by this declaratory act it appears that Congress did not, by the original act, intend to limit the military authority to any particulars or subjects therein "prescribed," but meant to make it universal. Thus over all these ten States this military government is now declared to have unlimited authority. It is no longer confined to the preservation of the public peace, the administration of criminal law, the registration of voters, and the superintendence of elections; but "in all respects" is asserted to be paramount to the existing civil governments.

It is impossible to conceive any state of

society more intolerable than this, and yet it is to this condition that twelve million American citizens are reduced by the Congress of the United States. Over every foot of the immense territory occupied by these American citizens the Constitution of the United States is theoretically in full operation. It binds all the people there, and should protect them, yet they are denied every one of its sacred guarantees.

Of what avail will it be to any one of these southern people when seized by a file of soldiers to ask for the cause of arrest, or for the production of the warrant? Of what avail to ask for the privilege of bail when in military custody, which knows no such thing as bail? Of what avail to demand a trial by jury, process for witnesses, a copy of the indictment, the privilege of counsel, or that greater privilege, the writ of *habeas corpus*?

The veto of the original bill of the 2d of March was based on two distinct grounds, the interference of Congress in matters strictly appertaining to the reserved powers of the States, and the establishment of military tribunals for the trial of citizens in time of peace. The impartial reader of that message will understand that all that it contains with respect to military despotism and martial law has reference especially to the fearful power conferred on the district commanders to displace the criminal courts and assume jurisdiction to try and to punish by military boards; that, potentially, the suspension of the *habeas corpus* was martial law and military despotism. The act now before me not only declares that the intent was to confer such military authority, but also to confer unlimited military authority over all the other courts of the State, and over all the officers of the State, legislative, executive, and judicial. Not content with the general grant of power, Congress, in the second section of this bill, specifically gives to each military commander the power "to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district, under any power, election, appointment, or authority derived from or granted by, or claimed under any so-called State or the government thereof, or any municipal or other division thereof."

A power that hitherto all the departments of the Federal Government, acting in concert or separately, have not dared to exercise is here attempted to be conferred on a subordinate military officer. To him, as a military officer of the Federal Government, is given the power, supported by "a sufficient military force," to remove every civil officer of the State. What next? The district commander who has thus displaced a civil officer is authorized to fill the vacancy by the detail of an officer or soldier of the Army, or by the appointment "of some other person." This military appointee, whether an officer, a soldier, or "some other person," is to perform "the duties of such officer or person so suspended or removed." In other words, an officer or soldier of the Army is thus transformed into a civil officer. He may be made a Governor, a legislator, or a judge. However unfit he may deem himself for such civil duties he must obey the order. The officer of the Army must, if "detailed," go upon the supreme bench of the State with the same prompt obedience as if he were detailed to go upon a court-martial. The soldier, if detailed to act as a justice of the peace, must obey as quickly as if he were detailed for picket duty. What is the character of such a military-civil officer? This bill declares that he shall perform the duties of the civil office to which he is detailed. It is clear, however, that he does not lose his position in the military service. He is still an officer or soldier of the Army; he is still subject to the rules and regulations which govern it, and must yield due deference, respect, and obedience toward his superiors.

The clear intent of this section is that the

officer or soldier detailed to fill a civil office must execute its duties according to the laws of the State. If he is appointed a Governor of a State he is to execute the duties as provided by the laws of that State, and for the time being his military character is to be suspended in his new civil capacity. If he is appointed a State treasurer he must at once assume the custody and disbursement of the funds of the State, and must perform those duties precisely according to the laws of the State; for he is entrusted with no other official duty or other official power. Holding the office of treasurer, and intrusted with funds, it happens that he is required by the State laws to enter into bond with security, and to take an oath of office; yet from the beginning of the bill to the end there is no provision for any bond or oath of office, or for any single qualification required under the State law, such as residence, citizenship, or anything else. The only oath is that provided for in the ninth section, by the terms of which every one detailed or appointed to any civil office in the State is required "to take and to subscribe the oath of office prescribed by law for officers of the United States." Thus an officer of the Army of the United States detailed to fill a civil office in one of these States gives no official bond and takes no official oath for the performance of his new duties, but, as a civil officer of the State, only takes the same oath which he had already taken as a military officer of the United States. He is, at last, a military officer performing civil duties, and the authority under which he acts is Federal authority only; and the inevitable result is that the Federal Government, by the agency of its own sworn officers, in effect, assumes the civil government of the State.

A singular contradiction is apparent here. Congress declares these local State governments to be illegal governments, and then provides that these illegal governments shall be carried on by Federal officers, who are to perform the very duties imposed on its own officers by this illegal State authority. It certainly would be a novel spectacle if Congress should attempt to carry on a *legal* State government by the agency of its own officers. It is yet more strange that Congress attempts to sustain and carry on an *illegal* State government by the same Federal agency.

In this connection I must call attention to the tenth and eleventh sections of the bill, which provide that none of the officers or appointees of these military commanders "shall be bound in his action by any opinion of any civil officer of the United States," and that all the provisions of the act "shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out."

It seems Congress supposed that this bill might require construction, and they fix, therefore, the rule to be applied. But where is the construction to come from? Certainly no one can be more in want of instruction than a soldier or an officer of the Army detailed for a civil service, perhaps the most important in a State, with the duties of which he is altogether unfamiliar. This bill says he shall not be bound in his action by the opinion of any civil officer of the United States. The duties of the office are altogether civil, but when he asks for an opinion he can only ask the opinion of another military officer, who, perhaps, understands as little of his duties as he does himself; and as to his "action," he is answerable to the military authority, and to the military authority alone. Strictly no opinion of any civil officer, other than a judge, has a binding force.

But these military appointees would not be bound even by a judicial opinion. They might very well say, even when their action is in conflict with the Supreme Court of the United States, "That court is composed of civil officers of the United States, and we are not bound to conform our action to any opinion of any such authority."

This bill and the acts to which it is supplementary are all founded upon the assumption that these ten communities are not States, and

that their existing governments are not legal. Throughout the legislation upon this subject they are called "rebel States," and in this particular bill they are denominated "so-called States," and the vice of illegality is declared to pervade all of them. The obligations of consistency bind the legislative body as well as the individuals who compose it. It is now too late to say that these ten political communities are not States of this Union. Declarations to the contrary made in these three acts are contradicted again and again by repeated acts of legislation enacted by Congress from the year 1861 to the year 1867. During that period, while these States were in actual rebellion, and after that rebellion was brought to a close, they have been again and again recognized as States of the Union. Representation has been apportioned to them as States. They have been divided into judicial districts for the holding of district and circuit courts of the United States, as States of the Union only can be districted. The last act on this subject was passed July 23, 1866, by which every one of these ten States was arranged into districts and circuits. They have been called upon by Congress to act through their Legislatures upon at least two amendments to the Constitution of the United States. As States they have ratified one amendment, which required the vote of twenty-seven States of the thirty-six then composing the Union. When the requisite twenty-seven votes were given in favor of that amendment, seven of which votes were given by seven of these ten States, it was proclaimed to be a part of the Constitution of the United States, and slavery was declared no longer to exist within the United States or any place subject to their jurisdiction. If these seven States were not legal States of the Union it follows as an inevitable consequence that in some of the States slavery yet exists. It does not exist in these seven States, for they have abolished it also in their State constitutions; but Kentucky not having done so it would still remain in that State. But, in truth, if this assumption that these States have no legal State governments be true, then the abolition of slavery by these illegal governments binds no one, for Congress now denies to these States the power to abolish slavery by denying to them the power to elect a legal State Legislature, or to frame a constitution for any purpose, even for such a purpose as the abolition of slavery.

As to the other constitutional amendment having reference to suffrage, it happens that these States have not accepted it. The consequence is that it has never been proclaimed or understood, even by Congress, to be a part of the Constitution of the United States.

The Senate of the United States has repeatedly given its sanction to the appointment of judges, district attorneys, and marshals for every one of these States; and yet, if they are not legal States, not one of these judges is authorized to hold a court. So, too, both Houses of Congress have passed appropriation bills to pay all these judges, attorneys, and officers of the United States for exercising their functions in these States. Again, in the machinery of the internal revenue laws, all these States are districted, not as "Territories," but as "States."

So much for continuous legislative recognition. The instances cited, however, fall far short of all that might be enumerated.

Executive recognition, as is well known, has been frequent and unwavering.

The same may be said as to judicial recognition, through the Supreme Court of the United States. That august tribunal, from first to last, in the administration of its duties *in banc* and upon the circuit, has never failed to recognize these ten communities as legal States of the Union. The cases depending in that court upon appeal and writ of error from these States when the rebellion began have not been dismissed upon any idea of the cessation of jurisdiction. They were carefully continued from term to term until the rebellion was entirely subdued and peace reestablished, and then they



were called for argument and consideration as if no insurrection had intervened. New cases occurring since the rebellion have come from these States before that court by writ of error and appeal, and even by original suit, where only "a State" can bring such a suit. These cases are entertained by that tribunal in the exercise of its acknowledged jurisdiction, which could not attach to them if they had come from any political body other than a State of the Union. Finally, in the allotment of their circuits, made by the judges at the December term, 1865, every one of these States is put on the same footing of legality with all the other States of the Union. Virginia and North Carolina, being a part of the fourth circuit, are allotted to the Chief Justice. South Carolina, Georgia, Alabama, Mississippi, and Florida constitute the fifth circuit, and are allotted to the late Mr. Justice Wayne. Louisiana, Arkansas, and Texas are allotted to the sixth judicial circuit, as to which there is a vacancy on the bench.

The Chief Justice, in the exercise of his circuit duties, has recently held a circuit court in the State of North Carolina. If North Carolina is not a State of this Union the Chief Justice had no authority to hold a court there, and every order, judgment, and decree rendered by him in that court were *coram non judice* and void.

Another ground on which these reconstruction acts are attempted to be sustained is this: that these ten States are conquered territory; that the constitutional relation in which they stood as States toward the Federal Government prior to the rebellion has given place to a new relation; that their territory is a conquered country and their citizens a conquered people, and that in this new relation Congress can govern them by military power.

A title by conquest stands on clear ground. It is a new title acquired by war. It applies only to territory, for goods or movable things regularly captured in war are called "booty," or if taken by individual soldiers, "plunder."

There is not a foot of the land in any one of these ten States which the United States holds by conquest, save only such land as did not belong to either of these States or to any individual owner. I mean such lands as did belong to the pretended government called the confederate States. These lands we may claim to hold by conquest. As to all other land or territory, whether belonging to the States or to individuals, the Federal Government has now no more title or right to it than it had before the rebellion. Our own forts, arsenals, navy-yards, custom-houses, and other Federal property situate in those States we now hold, not by the title of conquest, but by our old title, acquired by purchase or condemnation for public use with compensation to former owners. We have not conquered these places, but have simply "repossessed" them.

If we require more sites for forts, custom-houses, or other public use we must acquire the title to them by purchase or appropriation in the regular mode. At this moment the United States, in the acquisition of sites for national cemeteries in these States, acquires title in the same way. The Federal courts sit in court-houses owned or leased by the United States, not in the court-houses of the States. The United States pays each of these States for the use of its jails. Finally, the United States levies its direct taxes and its internal revenue upon the property in these States, including the productions of the lands within their territorial limits; not by way of levy and contribution in the character of a conqueror, but in the regular way of taxation under the same laws which apply to all the other States of the Union.

From first to last, during the rebellion and since, the title of each of these States to the lands and public buildings owned by them has never been disturbed, and not a foot of it has ever been acquired by the United States, even

under a title by confiscation, and not a foot of it has ever been taxed under Federal law.

In conclusion, I must respectfully ask the attention of Congress to the consideration of one more question arising under this bill. It vests in the military commander, subject only to the approval of the General of the Army of the United States, an unlimited power to remove from office any civil or military officer in each of these ten States, and the further power, subject to the same approval, to detail or appoint any military officer or soldier of the United States to perform the duties of the officer so removed, and to fill all vacancies occurring in those States by death, resignation, or otherwise. The military appointee thus required to perform the duties of a civil office, according to the laws of the States, and as such required to take an oath, is for the time being a civil officer. What is his character? Is he a civil officer of the State or a civil officer of the United States? If he is a civil officer of the State, where is the Federal power under our Constitution which authorizes his appointment by any Federal officer? If, however, he is to be considered a civil officer of the United States, as his appointment and oath would seem to indicate, where is the authority for his appointment vested by the Constitution? The power of appointment of all officers of the United States, civil or military, where not provided for in the Constitution, is vested in the President, by and with the advice and consent of the Senate, with this exception: that Congress "may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." But this bill, if these are to be considered inferior officers within the meaning of the Constitution, does not provide for their appointment by the President alone, or by the courts of law, or by the heads of Departments, but vests the appointment in one subordinate executive officer, subject to the approval of another subordinate executive officer; so that, if we put this question and fix the character of this military appointee either way, this provision of the bill is equally opposed to the Constitution.

Take the case of a soldier or officer appointed to perform the office of judge in one of these States, and as such to administer the proper laws of the State. Where is the authority to be found in the Constitution for vesting in a military or an executive officer strict judicial functions to be exercised under State law? It has been again and again decided by the Supreme Court of the United States that acts of Congress which have attempted to vest executive powers in the judicial courts or judges of the United States are not warranted by the Constitution. If Congress cannot clothe a judge with merely executive duties, how can they clothe an officer or soldier of the Army with judicial duties over citizens of the United States, who are not in the military or naval service? So, too, it has been repeatedly decided that Congress cannot require a State officer, executive or judicial, to perform any duty enjoined upon him by a law of the United States. How, then, can Congress confer power upon an executive officer of the United States to perform such duties in a State? If Congress could not vest in a judge of one of these States any judicial authority under the United States by direct enactment, how can it accomplish the same thing indirectly by removing the State judge and putting an officer of the United States in his place?

To me these considerations are conclusive of the unconstitutionality of this part of the bill now before me, and I earnestly commend their consideration to the deliberate judgment of Congress.

Within a period less than a year the legislation of Congress has attempted to strip the executive department of the Government of some of its essential powers. The Constitution and the oath provided in it devolve upon the President the power and duty to see that the

laws are faithfully executed. The Constitution, in order to carry out this power, gives him the choice of the agents, and makes them subject to his control and supervision. But in the execution of these laws the constitutional obligation upon the President remains, but the power to exercise that constitutional duty is effectually taken away.

The military commander is, as to the power of appointment, made to take the place of the President, and the General of the Army the place of the Senate; and any attempt on the part of the President to assert his own constitutional power may, under pretense of law, be met by official insubordination. It is to be feared that these military officers, looking to the authority given by these laws rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the Army.

If there were no other objection than this to this proposed legislation it would be sufficient. While I hold the chief executive authority of the United States, while the obligation rests upon me to see that all the laws are faithfully executed, I can never willingly surrender that trust or the powers given for its execution. I can never give my assent to be made responsible for the faithful execution of laws, and at the same time surrender that trust and the powers which accompany it to any other executive officer, high or low, or to any number of executive officers. If this executive trust, vested by the Constitution in the President, is to be taken from him and vested in a subordinate officer, the responsibility will be with Congress in clothing the subordinate with unconstitutional power and with the officer who assumes its exercise.

This interference with the constitutional authority of the executive department is an evil that will inevitably sap the foundations of our Federal system, but it is not the worst evil of this legislation. It is a great public wrong to take from the President powers conferred on him alone by the Constitution; but the wrong is more flagrant and more dangerous when the powers so taken from the President are conferred upon subordinate executive officers, and especially upon military officers. Over nearly one third of the States of the Union military power, regulated by no fixed law, rules supreme. Each one of the five district commanders, though not chosen by the people or responsible to them, exercises at this hour more executive power, military and civil, than the people have ever been willing to confer upon the head of the executive department, though chosen by and responsible to themselves. The remedy must come from the people themselves. They know what it is, and how it is to be applied. At the present time they cannot, according to the forms of the Constitution, repeal these laws: they cannot remove or control this military despotism. The remedy is, nevertheless, in their hands; it is to be found in the ballot, and is a sure one, if not controlled by fraud, overawed by arbitrary power, or from apathy on their part too long delayed. With abiding confidence in their patriotism, wisdom, and integrity, I am still hopeful of the future, and that in the end the rod of despotism will be broken, the armed heel of power lifted from the necks of the people, and the principles of a violated Constitution preserved.

ANDREW JOHNSON.

WASHINGTON, D. C., July 19, 1867.

MR. TRUMBULL. Mr. President, the extraordinary and as I think indefensible position assumed in that message might well call for a reply. I think most of the positions assumed, and indeed all of them so far as they go to deny the authority of Congress to pass this bill, are untenable; but there is an indisposition in the Senate to have its time occupied with the discussion of the message, and if it be the pleasure of the Senate to vote upon it at once, I shall forego any remarks that, under other circumstances, and if the Senate were to continue

in session, I should be inclined to make. If it is the pleasure of the Senate to take the vote I shall not trespass on its time. ["Question," "Question."]

The *PRESIDENT pro tempore*. The question is, Shall this bill pass notwithstanding the objections of the President? The question will be taken by yeas and nays, so as to determine whether two thirds vote for the bill or not.

The question being taken by yeas and nays, resulted—yeas 30, nays 6; as follows:

**YEAS**—Messrs. Anthony, Cattell, Chandler, Conkling, Cragin, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sprague, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—30.

**NAYS**—Messrs. Bayard, Buckalew, Davis, Hendricks, Johnson, and Patterson of Tennessee—6.

**ABSENT**—Messrs. Cameron, Cole, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Guthrie, Howe, Morrill of Vermont, Morton, Norton, Saulsbury, Sprague, Stewart, and Williams—17.

The *PRESIDENT pro tempore*. Two thirds of the Senators present having voted to pass the bill, it is now a law notwithstanding the veto of the President.

Mr. SPRAGUE subsequently said: I ask unanimous consent to have my name recorded in the affirmative on the final passage of the supplementary reconstruction bill. I was necessarily absent from my seat when the final vote was taken, and I ask unanimous consent to be allowed to record my vote.

Mr. POMEROY. I should like to accommodate the Senator, but under our rules it cannot be done.

The *PRESIDENT pro tempore*. Under the rules the vote of a Senator not present at the time cannot be recorded, even by unanimous consent.

Mr. SPRAGUE. Then I will state that if present I would have voted for the bill.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 63) declaring sympathy with the suffering people of Crete.

The message also announced that the House had concurred with the amendment of the Senate to the amendment of the House to the bill (S. No. 137) for the further security of equal rights in the District of Columbia.

The message further announced that the House of Representatives had passed a joint resolution (H. R. No. 80) concerning the government of the Army of the United States, in which it requested the concurrence of the Senate.

#### RECONSTRUCTION EXPENSES—VETO.

The message also announced that the President of the United States, having returned to the House of Representatives, in which it originated, the joint resolution (H. R. No. 71) to carry into effect the several acts providing for the more efficient government of the rebel States, with his objections thereto, the House of Representatives proceeded, in pursuance with the Constitution, to reconsider the same, and passed the same, two thirds of the House agreeing thereto.

The *PRESIDENT pro tempore*. The Chair will lay before the Senate the message just received from the House of Representatives. The message of the President will be read.

The Chief Clerk read as follows:

To the House of Representatives:

For reasons heretofore stated in my several veto messages to Congress upon the subject of reconstruction, I return without my approval "the joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States," and appropriating for that purpose the sum of \$1,000,000.

ANDREW JOHNSON.

WASHINGTON, July 19, 1867.

The *PRESIDENT pro tempore*. The question is on the passage of the joint resolution, notwithstanding the objections of the President.

Mr. JOHNSON. Is this the measure which makes an appropriation of \$1,000,000, in addition to what has been heretofore appropriated? ["Yes."]

The question being taken by yeas and nays, resulted—yeas 32, nays 4; as follows:

**YEAS**—Messrs. Anthony, Cattell, Chandler, Conkling, Cragin, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Johnson, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sprague, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—32.

**NAYS**—Messrs. Buckalew, Davis, Hendricks, and Patterson of Tennessee—4.

**ABSENT**—Messrs. Bayard, Cameron, Cole, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Guthrie, Howe, Morrill of Vermont, Morton, Norton, Saulsbury, Stewart, and Williams—17.

The *PRESIDENT pro tempore*. Two thirds of the Senate having voted to pass the joint resolution notwithstanding the objections of the President, it is a law.

#### REMOVAL OF DISTRICT COMMANDERS.

The *PRESIDENT pro tempore* laid before the Senate the joint resolution (H. R. No. 80) concerning the government of the Army of the United States; and it was read the first time. It provides that no district or department commander shall be relieved by the President from the command heretofore assigned to and now exercised by him, without the advice and consent of the Senate, unless the change of command be recommended by the General commanding the Army.

Mr. SUMNER. I hope we may proceed with that at once.

Mr. HENDRICKS. I object to the consideration of it.

Mr. JOHNSON. So do I.

Mr. SUMNER. That is the very key of the whole structure of reconstruction.

The *PRESIDENT pro tempore*. The bill has had its first reading, and objection being made, it goes over under the rules.

Mr. SUMNER. I wish to know from the Chair if one objection carries it over?

The *PRESIDENT pro tempore*. It cannot be read more than once to-day, objection being made.

#### ADJOURNMENT OF CONGRESS.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of the House resolution for adjournment, and I desire to offer a substitute for it.

The *PRESIDENT pro tempore*. The resolution will be read for information.

The Chief Clerk read the following resolution, adopted by the House of Representatives on the 11th instant:

Resolved, (the Senate concurring,) That when the two Houses of Congress shall adjourn on the — day of July instant, the adjournment shall be to Wednesday, the 13th day of November next, at noon, and the two Houses shall then reassemble without further order.

Mr. SHERMAN. I propose to amend the resolution by striking out all after the resolving clause and inserting as a substitute:

That the President of the Senate and the Speaker of the House of Representatives shall at twelve o'clock, meridian, of the 20th day of July instant adjourn their respective Houses, to meet on the first Monday of December next.

Mr. FESSENDEN. Allow me to suggest to the Senator from Ohio that I understand the other House has adjourned to meet at twelve o'clock to-morrow, and they will have to act on this amendment if it is sent back.

Mr. SHERMAN. I will name four o'clock, or any other hour that will be satisfactory.

Several SENATORS. Say two o'clock.

Mr. SHERMAN. Very well; I will say two o'clock. That will give plenty of time.

The *PRESIDENT pro tempore*. The first question is on taking up the resolution. Is there any objection?

Mr. HENDERSON. I object—

Mr. FESSENDEN. The motion is in order to take up the resolution. A resolution of adjournment does not require unanimous consent.

The *PRESIDENT pro tempore*. It is a peculiar resolution, and I supposed it to be

excluded by our rule or I should have laid it before the Senate long ago.

Mr. FESSENDEN. It is not legislative business.

Mr. HENDERSON. I have no objection to taking up the resolution, but I wish to state an objection to its passage now.

The *PRESIDENT pro tempore*. No objection being made, the resolution is before the Senate. The question is on the amendment of the Senator from Ohio.

Mr. HENDERSON. I wish to suggest to the Senator from Ohio this difficulty in the way of the adoption of the resolution: the other House has not yet acted on our Indian bill—

Mr. FESSENDEN. And there is not the slightest possibility of their doing so.

Mr. HENDERSON. Then, if there is no possibility of that, we ought to pass the House bill repealing the provision which prohibits the making of any Indian treaties by the President or the Secretary of the Interior or the Commissioner of Indian Affairs.

Several SENATORS. We will take that up and pass it presently.

Mr. HENDERSON. Very well.

Mr. POMEROY. We ought not to adjourn until Monday or Tuesday. There is enough executive business to keep us two or three days.

Mr. FESSENDEN. We can pass the bill referred to by the Senator from Missouri before two o'clock to-morrow.

Mr. HENDERSON. But there will be no train for any Senator to get away by until five or six o'clock.

Mr. JOHNSON. There is a train at half past four.

Mr. EDMUNDS. We can pass the bill of the Senator from Missouri in five minutes.

Mr. HENDERSON. If the Senate will take up that bill now I shall be satisfied.

Mr. EDMUNDS. As soon as this is disposed of.

The *PRESIDENT pro tempore*. There is a resolution before the Senate, and the question is on the amendment of the Senator from Ohio.

Mr. EDMUNDS. I ask that the amendment be read.

The Chief Clerk read the amendment, which was to strike out all after the word "that" and insert—

The President of the Senate and the Speaker of the House of Representatives shall, at two o'clock p. m. on the 20th day of July instant, adjourn their respective Houses, to meet on the first Monday of December next.

Mr. FESSENDEN. Why not say "without day?"

Mr. SHERMAN. Because it has been suggested that the act of the last Congress may have disturbed to some extent the operation of the former provisions as to our meeting.

Mr. FESSENDEN. Very well.

Mr. SUMNER. I move to amend the amendment by substituting instead of the "first Monday of December next" the "second Wednesday of October next."

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. SUMNER. On that question I have a word to say. Pardon me if I speak frankly. I cannot help it. How Congress, after listening to the message of to-day, which is only the logical consequence of other messages, can quietly vote to go home and leave this post of duty until next winter, passes my understanding. To me it is incomprehensible. The message from beginning to end was of defiance. It is needless to quote its precise language. Its defiant tone still fills this Chamber, and will soon fill the whole country. As I listened to this appeal, which was calculated to revive the dying rebellion, I felt that one of two things must be done; its author must be removed from the executive chair, or Congress must continue in permanent session to watch and counteract him. Such is the alternative. One failing, the other must be done.

Now, sir, when I thus insist, let it be understood that I am not unmindful of any of my responsibilities in this Chamber. Other duties may devolve upon me hereafter. For the present I speak as a Senator, bound in the discharge of his public duties to do what he can for the public good. As a Senator I must be plain; nor can I be constrained by the possibility that hereafter I may be called to judge the President. I am called to judge him now. The proposition that Congress should go home compels me to judge him.

Unquestionably it belongs to the other House to initiate the proceedings which shall set the President at your bar. But until then it is the right and the duty of every Senator to express himself freely with regard to his conduct; nor can there be any limit to this latitude. It is as broad as human thought. No future duty can be a straight-jacket now. Because the President may be impeached the Senate is not obliged to be silent with regard to him. Our Constitution is guilty of no such absurdity. Until a Senator is sworn as a judge on the trial of impeachment, according to the requirement of the Constitution, he is a Senator, free to criticise any public functionary from the President to the humblest officer; and if either has so acted as to deserve removal, there is no reason why he should not say so. This is only according to the Constitution and common sense.

Now, since Andrew Johnson is still President and he is not yet set to your bar, I insist that you shall stay in your seats in order to encounter the evil which must proceed from him just so long as he continues in power. You should meet him here constantly and not leave the field to him.

For this reason, simply and briefly stated, I object to the proposition of the Senator from Ohio, [Mr. SHERMAN.] If I had powers of persuasion I would use them all to induce you to remain as a guard to the Constitution and a constabulary force for the rebel States. Possibly you may not like the office. But I doubt if any of us can be better employed anywhere than in contributing to the success of reconstruction and in preserving the peace throughout that distressed region of country. Sitting in your seats here, you are a mighty police, at the call of general or citizen, and you are also a terror to that evil-doer, the President.

Senators wish to leave. So do I. Nobody can wish to leave more than myself. I suffer much from these heats. I long to be at home; but I feel that it is my duty to be here. All that I have felt before is now intensified by the menace of this veto message. Hereafter no Senator can say that he did not know what to expect. He will not be taken by surprise. Here is distinct and open notice that the President will do all in his power to thwart your legislation and to arrest a just reconstruction. There he stands, a constant impediment to peace, and an ally to the rebellion. And yet knowing these things, you propose to go home and leave him undisturbed master till winter.

Mr. SHERMAN. With the views of the honorable Senator from Massachusetts, I am surprised that he offers this amendment. He proposes to adjourn to the 16th of October; and I propose to adjourn to the first Monday in December. If his mind is full of fears and apprehensions, if he sees any way in which the President will overthrow the liberties of the country and place the lives of citizens in the South in danger, he certainly ought not to contribute by his vote or by his motion to an adjournment of Congress even for a day. The House of Representatives propose to adjourn in the ordinary way. They are through with their business. We have confined ourselves by a rule which prevents us from passing any measure that does not receive the unanimous approbation of the body. We are through with our business. We know that to remain here after the business which called us together has been disposed of will make probable the passage of bills that ought not to be passed. We are through with the ordinary business of

the country. The session of Congress for a day after that business has transpired can be of no public benefit.

The House of Representatives have proposed to adjourn to the middle of November. I should be very willing to comply with the desire of the House if there was any practical good to result from it; and if the House of Representatives really think it is important for us to come here in the middle of November, I for one will be glad to do so. My own judgment is that nothing can be gained by coming two weeks earlier than the usual time. The departmental reports are usually made up to the first Monday of December, and have been time out of mind. To come here two weeks sooner would probably only anticipate the making of the ordinary annual reports. By law those reports are made on the first Monday of December. They will not be made any sooner because we have changed the day of adjournment. Therefore, we gain nothing by coming here before the usual time. If, however, there is anything in the condition of the country unusual or unnatural that in the opinion of the House of Representatives ought to call us here two weeks earlier, I have not the least objection to come; but I must be allowed to express my opinion in the first place that there is no such occasion, and therefore I think we ought to adjourn to the usual time.

Now, it is not right, it seems to me, for me to discuss another proposition named by the Senator from Massachusetts. He says that the President must be removed from office.

Mr. SUMNER. Or Congress must stay here to watch him. I put the alternative proposition.

Mr. SHERMAN. If Congress must stay here to watch him we ought to vote down the proposition of the Senator from Massachusetts. We ought to insist that he either take one position or the other. Now, it does seem to me a very strange thing that a judge by whose vote alone the President can be removed should declare that he must be removed. We cannot remove the President of the United States until after another political body has declared that he should be impeached, and that body have their proposition before us to adjourn until the middle of November. Now, shall we, the judges, who can only act after the indictment is found, after the grand inquest has been held, decide beforehand that the President ought to be removed before the House of Representatives have laid any indictment, when a committee of that House have declared that the case has not yet arisen for an indictment, and when the House has itself passed a resolution to adjourn until the middle of November? It seems to me this will strike the people of the country with some surprise, and I think we should not add to that surprise by following the lead of the Senator from Massachusetts. If the House of Representatives desire to present an impeachment of any officer of the Government, I am perfectly willing to stay and try him. No such case is presented.

The only question now before us is, whether we shall adjourn to the time proposed by the House of Representatives, the middle of November, or whether we shall adjourn to the first Monday in December. That is a question of very small moment in which I have no feeling, because I should be perfectly willing to come back here in the middle of November if the Senate thought there would be occasion for it; and if, after we have expressed our views, the House shall insist on a session in the middle of November I am perfectly willing to yield. Certainly I see no occasion for us to come here in the middle of the elections, when several of the principal States in the Union will be engaged in canvassing, when many of our political friends will be upon the stump before the people, when the very issues we are now and have been discussing will be before the people, when the great State of New York and the State of Illinois and many of the western States, and many States in the East will be holding their elections. Is it worth while for

us to come here from that arena to again discuss these matters here? I think not. My impression is that we ought to adjourn to the usual time; at least until after all the elections are held in all the States, which will be after the first Monday of November.

Mr. WILSON. The House of Representatives by a decisive majority fixed upon the 13th day of November as the day of meeting. I hope the Senate will concur with the House in fixing that day, and therefore I hope the amendment proposed by the Senator from Ohio will not be agreed to. As to what we have heard in this message to-day, I regard it as the most trifling piece of rhetoric I have ever heard for a long while. It will not have the slightest effect North or South. While men are writing such things, that people are settling their own destiny, and nothing can be done at Washington to prevent it, and it will be right and for the country, and I have no anxiety in regard to it or anything that can be done. But the House of Representatives by a large vote have fixed upon this day, the 13th of November, and I hope that we shall agree with the House; that these amendments will be voted down. I remember when—

Mr. SHERMAN. I will state to the Senator from Massachusetts that I have no desire at all to vary the time fixed by the House; but the form of the resolution as sent to us is not adapted to the changed condition because the blanks would have to be filled. The language I adopted is the ordinary form of an adjournment and to be followed. As to the time fixed I adopted the suggestion of Senators all around me. The Senate can very easily put in the very time fixed by the House without any trouble.

Mr. WILSON. It will be remembered that the House took this vote at a time when it was quite full. A large number of members have gone home since that time. The House now is a very small body, with but a few over the number necessary for a quorum. Perhaps tomorrow it will be smaller than it is to-day. Therefore I do not think we ought to differ from the deliberate judgment of a large majority of that body, and I hope we shall agree to the time fixed by the House of Representatives.

Mr. BUCKALEW. I do not know what disposition exists in the House at this time. I know that one of the members of that branch, in conversation, states to me that in his opinion, if the Senate send this resolution back to them amended, as now proposed by the Senator from Ohio, they would very promptly and cheerfully concur in it.

Mr. JOHNSON. Several have said so to me.

Mr. BUCKALEW. How the fact may be I do not know. One thing is certain; if the House do not desire this change to be made they can say so, and then we shall have an authentic expression of their opinion and can act upon it.

The Senator from Massachusetts [Mr. SUMNER] who first spoke, maintains his usual position at the end of this session. I do not remember any occasion when that member supported a resolution of adjournment. I do not remember an occasion when he did not vote for reassembling when the opportunity was afforded him at an early date. In fact I suspect that, if the truth were known, the Senator from Massachusetts would be prepared with business the whole three hundred and sixty-five days of the year, and that if we consult his views we should make a French revolutionary assemblage of the two Houses of Congress; we should be in permanent session without vacation and without recess.

But, sir, what I desired to say in rising, as our proceedings are published and go to the people of this country and throughout the world and are recorded for history, was this: that in my opinion the Senator from Massachusetts forgets his audience and forgets the place where he speaks, in the remarks which he now submits to us, in an alternative form to be sure, but yet conveying pretty expressly and

clearly his judgment and opinion upon a very grave question. I must be permitted to say, and that without any feeling of unkindness, without assuming to myself the function of a critic upon a gentleman whose position is as independent as my own, that I consider language of that sort to be a gross impropriety in this presence, in this Chamber, and that it is of evil example, and that out of respect to our political institutions and the Constitution of the country under which we assemble, and to the reasonable and just opinions of the American people, whose servants and servitors we are, we should withhold ourselves from the expression of judgment upon a question which is not here and which cannot come here unless it be brought here by the House of Representatives, over whose action we have no control.

Mr. SUMNER. Mr. President, there is just the point. The Senator says the question is not here; in other words, that this is not the time to discuss the President. He is mistaken; this is the very time to discuss the President. It is here on the proposition of the Senator from Ohio, who now gravely moves that we leave our seats, and from this time forward till December abdicate all guardianship of the public interests. To such a proposition there is but one natural and logical reply. It is that we must not abdicate, so long as Johnson is in the executive chair. If he is President, we must remain at our posts, precisely as Grant remained before Richmond.

Mr. President, if another person wielded the executive powers of the nation—if there was anybody in that high office mindful of the Constitution as interpreted by the Declaration of Independence, and disposed to carry forward the acts of Congress adopted by such triumphant majorities, then I could vote with Senators to go home. But unhappily it is not so. Anything but this. Our President is a public enemy, the successor in spirit and opinion of Jefferson Davis, through whom the rebellion is once more set on its legs. Who can doubt this? Does any Senator, accustomed to vote with the Union party and to sustain the Union cause, question this simple statement of fact? Does he believe it overdrawn? Let him answer, if he does. Let him say where my language goes by a hair's breadth beyond the exact truth. [Here Mr. SUMNER stopped, as if for an answer and then proceeded.]

Because we have the successor of Jefferson Davis in the presidential chair therefore Congress must stay. That is my argument in a nutshell. A volume or an oration could not make it plainer than it is when I simply state it.

The more I think of this duty the more commanding it seems. The President is the Executive; you are the Legislative. His influence is great; but yours is greater. If you choose to say so you can be the masters. You can apply the corrective to his mischief. Surely here is a motive. Ten States are now exposed to his malign influence, all of which may be arrested by your presence here. Let it be known that you are to continue in your seats, and every Union man throughout the rebel States will feel stronger. He will be conscious at once of a panoply, which the President and the rebel tail of which he is the head cannot penetrate.

There are your generals, also, who, as soon as you are gone, may be his victims. The telegraph may flash to you, in the comfort of your homes, that the gallant Sheridan, as true in government as he was skillful in war, has been driven from his post by an enemy with whom he cannot contend. It may flash to you the removal of Pope, who has shown such talent and thoroughness in the organization of his district; and also the removal of Sickles, who has carried into his new duties such varied experience and patriotic purposes. All this may occur, for the President is vindictive and malignant in his assaults upon the upholders of Human Rights. Is it not worth your care to provide against such calamity? But you pro-

pose to go home and leave all, whether citizens or generals, a prey to the President. I protest against it.

Mr. CAMERON. I am in favor of adopting the resolution of the House of Representatives, but for somewhat different reasons from those which have been assigned. In the first place I think an earlier meeting in the autumn than usual would be better for the country and better for the comfort and convenience of members of Congress. I have long thought that it would be better to meet here in October, if our elections would allow us to do it; but it seems they do not. By the 13th of November, however, all the elections will have taken place; and by meeting at that time we shall, in point of fact, add more than a month to our session in the pleasant part of the year.

Mr. JOHNSON. Only two weeks and a half.

Mr. CAMERON. I say more than a month, and I am right. The custom now is to meet on the first Monday in December, and to do no business then, because the Christmas holidays come on so soon; and all of us get ready to go home. It is very natural that we should desire to go home to our families at Christmas. The consequence is that no business is done here until after the first Monday in January. Now, if you meet on the 13th of November you will have a full month of pleasant weather in which to transact the ordinary business of the country. It would be much better than remaining here a month in August, or July, or June even. The custom of meeting in December and having a three months' session one year and a long summer session the next is, I think, injurious to members of Congress, and not advantageous to the country. For this reason I propose to meet the earliest day I can in the autumn, and I shall vote for the resolution as it came from the House of Representatives.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now recurs on the amendment of the Senator from Ohio.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. CHANDLER. I believe that the amendment now names two o'clock to-morrow as the hour for final adjournment.

Mr. SHERMAN. Yes, sir.

Mr. CHANDLER. I move to substitute four o'clock in place of two o'clock. I regret exceedingly that the Senate is disposed at this time to adjourn the present session; but if we are to adjourn to so late a period as the middle of November I would prefer the first Monday of December. I think we ought not to adjourn at all without passing the joint resolution that came from the other House to-day. At present, however, I content myself with moving to substitute four o'clock for two o'clock.

Mr. SHERMAN. I do not see any objection to substituting four for two o'clock. I have no preference as to the hour. The only object I have is to fix the hour of adjournment some time before the trains leave, so that there will be a possibility of gentlemen getting off by the evening trains.

Mr. JOHNSON, and others. Say three o'clock.

Mr. SHERMAN. I am told that a train leaves at half past four, and several Senators suggest three o'clock as the proper hour.

Mr. CHANDLER. Very well; I will compromise on three.

Mr. SHERMAN. I will accept that modification.

The PRESIDENT *pro tempore*. The amendment is modified by substituting three o'clock for two o'clock.

Mr. NYE. Do I understand that the vote on this amendment determines the question of adjourning to November or December?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, which proposes an adjournment to December.

Mr. NYE. And that amendment fixes December as the time for our meeting? ["Yes."]

Mr. SHERMAN. If the Senator wants a decisive vote, as there is no use in wasting time on a question of this kind, he can move to amend my amendment by inserting the 13th of November instead of the first Monday of December, and have the yeas and nays taken on that.

Mr. FESSENDEN. Why not take them on this amendment, and let those who want to meet on the 13th of November vote against the amendment?

Mr. SHERMAN. Very well; that will do. The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

The question being taken by yeas and nays, resulted—yeas 22, nays 15; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cattell, Conkling, Davis, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Trumbull, and Van Winkle—22.

NAYS—Messrs. Cameron, Chandler, Cragin, Edmunds, Howard, Howe, Nye, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—15.

ABSENT—Messrs. Cole, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Fowler, Guthrie, Morrill of Vermont, Morton, Norton, Saulsbury, Stewart, Wiley, and Williams—16.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

Mr. SUMNER. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWARD. Let the resolution be read as it now stands amended.

The Chief Clerk read as follows:

*Resolved, &c.*, That the President of the Senate and the Speaker of the House of Representatives shall, at three o'clock p. m. on the 20th day of July instant, adjourn their respective Houses, to meet on the first Monday of December next.

Mr. HOWARD. I rise merely to say that I think it unsafe for Congress to adjourn until the first of December. I am well satisfied in my own mind that our attendance here will be needed before that time; and I draw this conclusion from the extraordinary tone of the message which has been sent to us to-day. I see in that message the same defiant, revolutionary spirit which has marked all the messages of the present incumbent of the presidential chair on the subject of reconstruction. I am quite satisfied that it is his determination, by force or fraud, by any means within his reach, to defeat the great ends which Congress have in view by their reconstruction acts; and I think it is our bounden duty to be in such an attitude as will enable us, so far as practicable, to carry out that policy firmly and unflinchingly, let what will come.

By a remark which I have just heard drop from the Senator from Rhode Island [Mr. ANTHONY,] that Senator, I learn, seems to infer that with my feelings I ought to vote against any adjournment. That does not follow at all. We can adjourn to some intermediate time, which will put us in a position to check and thwart the action of the executive department should we see fit to do so. But if we now adjourn until the first Monday of December, we give him the space of four months and a half within which to operate, and, so to speak, to checkmate us and our legislation. I think it unsafe to adjourn so long.

The question being taken by yeas and nays, resulted—yeas 23, nays 14, as follows:—

YEAS—Messrs. Anthony, Bayard, Buckalew, Cattell, Conkling, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, Johnson, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Trumbull, and Van Winkle—23.

NAYS—Messrs. Cameron, Chandler, Cragin, Harlan, Howard, Nye, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—14.

ABSENT—Messrs. Cole, Conness, Corbett, Dixon, Doolittle, Drake, Ferry, Fowler, Guthrie, Morrill of



Vermont, Morton, Norton, Saulsbury, Stewart, Willey, and Williams—16.

So the resolution, as amended, was agreed to.

#### INDIAN TREATIES.

Mr. HENDERSON. I now ask leave to be allowed to report from the Committee on Indian Affairs the little bill to which I referred a short time ago, and I wish to have the Senate consider it at once. It is highly important that it should be passed.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent to report a bill and have it considered at this time. Is there any objection? The Chair hears none.

Mr. HENDERSON. The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 137) amendatory of an act making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes, have instructed me to report it back without amendment, and to ask that it be put on its passage at once.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to repeal the concluding portion of section six of an act approved March 29, 1867, in the words following:

"And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs, to enter into treaties with Indian tribes are hereby repealed; and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expenditures shall be first made by law."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### MESSENGERS AND PAGES.

Mr. NYE. I desire to submit a resolution, and to give notice that I shall call it up tomorrow:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, authorized to retain during the coming recess the special messengers and pages now in his employ.

#### EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, July 19, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### PERSONAL EXPLANATION.

Mr. BOYER. I ask consent to make a brief personal explanation.

The SPEAKER. Is there objection? The Chair hears none.

Mr. BOYER. Yesterday I objected to the reference of a certain communication sent to the House through the Speaker by a Senator and five Representatives of the Legislature of Arkansas. As it is reported by the Associated Press it would appear as if the objection had been a captious one. But I did not intend to object to the reception of the communication by this House, or to its reference to the Committee on Reconstruction, provided the communication would be permitted to be read to the House. My efforts to procure the reading of the communication were ineffectual, and it was on that account that I objected to its reference to the Reconstruction Committee, well knowing that after it had once passed into that receptacle it would be the last that we were likely to hear of it. I thought the communication was of such a character, and came from such a source as to entitle it at least to be read for the information of the House for which it was designed.

I beg leave to disclaim any disrespect to the Speaker in objecting as I did to his proposi-

tion. It could not be my intention to do so with the feelings which I entertain toward him, and in view of the well-known fact that he has been repeatedly thanked by the unanimous vote of this House for the impartial manner in which he has presided over its deliberations. But I do think, as I trust the House will so even now consider it, that the communication referred to ought to be read for the information of the House.

It is well known to all that this House has been in the habit of listening to communications received from private individuals in the form of letters, telegrams, &c., addressed to this body or to individual members of it, which favor the plans of the majority of Congress for the reconstruction of the Union. I did not at the time I objected know what were the contents of the particular communication referred to from the members of the Legislature of Arkansas; but coming as it did from the Representatives of a State, I thought it was entitled to a respectful hearing on the part of members of this House. Therefore it was that I objected to its reference, without a reading, to the Committee on Reconstruction.

The SPEAKER. In response to the remarks of the gentleman from Pennsylvania, the Chair will state that he received the communication by mail, signed by one Senator and five Representatives claiming to be members of the General Assembly of Arkansas. The Chair could present it in two ways; either by handing it to the Journal Clerk, under the rule, or bringing it before the House. The reading of the paper would have opened the whole question of reconstruction for debate in the House. It had then been engaged for a long time discussing an executive communication presented by the Speaker. The Chair, in giving a brief statement of the contents of the protest, said if there was no objection it would be referred to the Committee on Reconstruction, supposing that the gentlemen who signed it would prefer to have it presented to the House in that way. The gentleman from Pennsylvania objected, as he had a right to do, and the Chair did not of course except to such objection, and he then presented the paper, like other members, under the rules.

#### EXPULSION OF MEMBERS OF CONGRESS.

Mr. DAWES. I ask unanimous consent to make a statement.

No objection was made.

Mr. DAWES. I desire to have read what I send to the Clerk's desk.

The Clerk read as follows:

"THE EXPULSION OF INNOCENT MEN FROM CONGRESS.—Mr. Lowe, in a recent discussion in the English House of Commons, said: 'My honorable friend, the member for Reading, said that a majority in America had never been known to abuse its power. I will take one instance, which is just as good as a thousand. Certain things became necessary for the Republican party, which could not be carried without a majority of two thirds of Congress. Everybody knows that members who were innocent men were expelled from the Legislature in order to obtain the necessary Republican majority.'"

Mr. DAWES. The extract which I have sent up to the Clerk is from the National Intelligencer of this morning. So far as anything may be said in a partisan newspaper touching the character of the Republican party of the United States, I do not deem it worth while to take any notice of it, because before the American people the Republican party has vindicated itself, and certainly needs no word of defense from me, but a statement of the character which has been read at the Clerk's desk, made in the British Parliament, and apparently uncontradicted, I do deem worthy of some notice. The charge in the paper is that it having become necessary in the opinion of the Republican party of the country to carry certain measures that required a two-thirds vote, innocent members were expelled from Congress in order to secure a two-thirds majority.

I desire to call the attention of the House for a moment to show that it was impossible that this thing could be done, for, under the Constitution of the United States, no man can be

expelled from Congress without a vote of two thirds, and that therefore it would be impossible for the Republican party to obtain thereby the necessary majority, for they must first have that necessary majority before the expulsion can take place. Since the existence of the Republican party there have been only two members, so far as I remember, expelled from the House. Those men were expelled for active participation in the rebellion against the Government of the United States, and in expelling them there was no such thing as party division. I wish to say further, that if the member of Parliament who made this statement intended to make a broader charge, and to say that members of the House of Representatives or of Congress had been unseated upon the report of the Committee of Elections, or otherwise, in order to obtain thereby a two-thirds majority he was mistaken, and the record will demonstrate that fact. I deem it proper, having been connected with the Committee of Elections, in a responsible position, almost during the whole life of the Republican party, to contradict the charge, and to make the simple statement of fact that since the adoption of measures requiring a two-thirds vote have become necessary in order to save the Government of the United States there has always been a Republican majority far exceeding the requisite two-thirds majority, and no man has been unseated from this House upon the report of the Committee of Elections whose unseating in any way affected the majority. At no time since it has been necessary to adopt measures requiring a two-thirds vote has the Republican party been in want of votes to meet the emergency. That is all I desire to say.

Mr. ROSS. I desire to call the attention of the gentleman to the expulsion of Mr. Voorhees, of Indiana, and the gentleman from New York, [Mr. Brooks;] the refusal of a seat to Mr. Baldwin, of Michigan, when he was justly entitled to admission; the expulsion of a Senator from New Jersey in the other branch of Congress, in order that a two-thirds majority might be insured.

Mr. DAWES. Technically speaking those were no expulsions. Those were votes of the House or the Senate that the gentlemen referred to were not legally elected. I was not commenting upon the merits of those cases. It does not become the House of Representatives to review its action on such questions for the satisfaction of the British Parliament. But, sir, I was showing, as I think I did show, that our action could not have been for the purpose specified by the member of the British Parliament, that is, to obtain a two-thirds vote; for without the votes of the individuals who have been named by the gentleman from Illinois [Mr. Ross] the two-thirds power of this House was already with the Republican party, so as not to be affected by the action of the House on those cases.

Mr. ROSS. Perhaps that may not have been known at the time. I would suggest that some men on the other side of the House are very weak-kneed and have not much blood in their veins; consequently it became necessary to turn out some members on this side in order to insure a two-thirds majority.

Mr. DAWES. The Lord has the country in His keeping, and has ever furnished means and power sufficient to meet every attack upon it.

Mr. PRUYN. It seems to me that before formal notice is taken in this way by the House, or any member of it, of proceedings in the British Parliament it might be well to understand distinctly and clearly what was said and done on the occasion referred to. In the Intelligencer, in which the statement is published this morning, I observed no authority given for it; nor does the statement refer to the committee of which the gentleman from Massachusetts is chairman. Assuming that the quotation is correct, I infer that the member of the Parliament named intended to refer to a great general principle which had governed the conduct of the House, not in the matter of an actual expulsion by a vote of the House of any large number of members, but in what ended

in the same thing—the refusal of the House to permit representation from such parts of the Union as were not in accord politically with the majority of the House. The result is the same in either case, whether there was an actual expulsion or an unwillingness or refusal to permit persons from certain States to occupy seats. This, I suppose, was the view intended to be taken of this matter by the gentleman referred to. He did not, I presume, design to speak by way of censure upon the action of the committee of which the gentleman is chairman.

Mr. DAWES. Mr. Speaker, I have not the same facilities as the gentleman from New York [Mr. PRUYN] for knowing what the gentleman in the British Parliament intended to say. I am compelled to take what he did say as an indication of what he meant. I think I have given to the statement all the attention that is due from the American House of Representatives to so groundless a charge made in the British Parliament. Therefore I do not care to pursue the question further.

#### TRIBUTE TO MR. LINCOLN.

Mr. JUDD. I ask unanimous consent to submit the following resolution:

Whereas about a year since a stone commemorating the virtues of Mr. Lincoln was transmitted by the people of Rome to the President of the United States, bearing a Latin inscription, of which the following is a translation: "The citizens of Rome dedicate this stone, taken from the tomb of Servius Tullius, to Abraham Lincoln, a President for the second term, of the United States of America, by which the memory of either brave defender of liberty may be joined to that of the other;" and whereas this beautiful memorial has been allowed to remain in the cellar of the White House, where it now lies surrounded with the usual rubbish of such a place: Therefore,

*Resolved by the House of Representatives.* That the President of the United States be respectfully requested to cause the same to be sent to this body, that it may be given a conspicuous place in the national Capitol.

*And be it further resolved.* That in case it cannot be found till after the close of the present session the Commissioner of Public Buildings be directed to institute a search for the same, and in case it be successful that he cause the block to be placed in the old Hall of the House of Representatives, to the end that this beautiful tribute to the memory of our late President may be preserved to the nation.

There was no objection; and the preamble and resolution were accordingly received.

The SPEAKER. There is now no Commissioner of Public Buildings.

Mr. JUDD. I will modify the resolution in that respect, and say it shall be referred to the officer who has charge of the public buildings.

The SPEAKER. He is an officer of the Engineer corps.

Mr. JUDD. Mr. Speaker, without detailing any of the facts relating to this matter, without impugning anybody or anything, I will only say that the facts stated in that preamble and resolution are true. I think it is due to the nation that stone from the Liberals of Rome to commemorate the deeds of Abraham Lincoln should have a proper space in our archives.

The preamble and resolution were adopted.

Mr. JUDD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed.

#### MISSOURI CONTESTED-ELECTION CASE.

Mr. NOBEL presented the memorial of William F. Switzler, contesting the right of Hon. George W. Anderson to a seat from the ninth congressional district of Missouri; which was referred to the Committee of Elections, and ordered to be printed.

#### ASSASSINATION COMMITTEE.

The question in order, as unfinished business, was a motion made yesterday by Mr. BUTLER to suspend the rules to introduce the following resolution:

*Resolved.* That the committee for the investigation of the assassination of the President be, and is, authorized to conduct the investigation by such sub-committees as the committee may appoint, and at such places as may be convenient; and such sub-committees shall be authorized to administer oaths.

Mr. ROSS. I objected to that resolution yesterday supposing there were nine members on the committee. I wanted a sub-committee

to consist of at least three; but as there are only five on the committee I withdraw my objection.

The resolution was adopted.

Mr. ROSS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INVESTIGATION OF PAY DEPARTMENT.

Mr. LINCOLN. I ask unanimous consent of the House to submit the following preamble and resolution:

Whereas it is rumored and believed that frauds and peculations are being committed in the office of the Paymaster General: Therefore,

*Be it resolved.* That a committee of five members of this House be appointed by the Speaker, whose duty it shall be to investigate the workings of the Paymaster General's office and all transactions connected with the pay department, with a view to detect the errors and frauds therein, with power to employ a clerk and stenographer, and to send for persons and papers, with the privilege of holding their sessions during the recess of the session of Congress, and in such number and places as said committee shall deem best for the public interest, with the privilege of reporting at any time they may be prepared to do so.

Mr. FARNSWORTH. I object.

Mr. LINCOLN. I move to suspend the rules.

Mr. ROSS. I do not think there are members enough on all these committees.

The House divided; and there were—ayes 50, noes 38.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. LINCOLN and Mr. VAN TRUMP were appointed.

Mr. INGERSOLL. If the rules be suspended, will it be in order to move an amendment to the resolution?

The SPEAKER. It will if the previous question be not demanded and seconded.

The House divided; and the tellers reported—ayes 70, noes 29.

Mr. WILSON, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were not ordered.

So the rules were suspended.

Mr. INGERSOLL. I ask the gentleman from New York to yield to me.

Mr. FARNSWORTH. I wish to say a word.

Mr. LINCOLN. I cannot yield, but demand the previous question.

Mr. FARNSWORTH. If we cannot be heard I hope that the resolution will be voted down.

Mr. INGERSOLL. I wish to put a question to the Chair. Does not this resolution assume that these frauds have been committed?

The SPEAKER. That is not a parliamentary question.

Mr. INGERSOLL. I want to know whether this House is ready to vote for a resolution—

The SPEAKER. Debate is not in order.

Mr. LINCOLN. I yield five minutes to the gentleman from Ohio.

Mr. SCHENCK. I desire only to make a suggestion. The gentleman is probably in possession of some facts which induced him to offer a resolution of this kind to the House. Now, without calling the previous question and bringing members of the House to vote in the dark, which will probably result in the loss of his proposition, which may be founded upon something rendering investigation proper, I appeal to him to explain to the House why he offers a resolution of this kind, not confining himself to the general allegation that it is rumored and believed that there are frauds and peculations. I have no doubt the House would be willing to order an investigation if it can be founded upon the statement of any member of the House showing probable cause. I have no doubt under these circumstances those whose conduct is proposed to be investigated would be perfectly willing the investigation should take place. But it seems to me it is proper for the gentleman to disclose to the House some of the reasons why he offers the resolution.

Mr. LINCOLN. I withdraw the demand for the previous question for the purpose of

saying a word in explanation. Charges and allegations have been made that there are transactions connected with the paymaster's office that need investigation. Several gentlemen in connection with myself have for three or four months been looking into matters connected with the operations of that office, and we have in our possession papers and facts which lead us to believe that the transactions of the bureau ought to be investigated. There are allegations that have been made and to be made that clearly need investigation. I do not propose here to reiterate the charges, or make specifications. I will only say this: that there are persons connected with that department and in this House who are cognizant of facts, who have evidence before them which satisfies them that this investigation is demanded.

Mr. PRUYN. Do I understand the gentleman to say members of this House?

Mr. LINCOLN. There are members of the House who have seen letters and heard statements which lead them to believe that the investigation is demanded.

Mr. FARNSWORTH. Will the gentleman allow me a moment?

Mr. LINCOLN. Yes, sir.

Mr. FARNSWORTH. It seems to me it is improper for us to appoint special committees on outside hearsay statements. I do not know that any member of the House can vouch for the responsibility of the charges by stating by whom they are made or in what paper he finds them, or who writes communications embodying them. They are based, as I understand, on mere rumor, without disclosing to the House the names of the persons who give currency to them. That, I apprehend, is not sufficient for the appointment of a committee of investigation. All these special committees are empowered to employ a clerk and stenographer, and to travel over the country doing business which the committees of this House are adequate to perform, it seems to me, in a great many instances now. I would like to know of some basis or other for the appointment of a committee of investigation into the affairs of that bureau; for in all my business transactions with it or with its head I have found none that is conducted with more wisdom or diligence than that of the pay department of the Government. I would like to have something that is tangible, some basis for our action. It is said a clerk has made some statements, and that somebody else has written a letter; but who the clerk is and who wrote the letter the Lord only knows. Let us know who make the charges.

Mr. LINCOLN. I now yield to the gentleman from Wisconsin.

Mr. WASHBURN, of Wisconsin. I know nothing about this matter. Like the gentleman from Illinois, [Mr. FARNSWORTH,] I have always had the highest opinion of the pay department and its management. But I understand from gentlemen that there is good cause for this investigation, and I call upon my colleague, [Mr. COBB,] who has investigated this matter, to make a statement to the House of his knowledge on the subject. I certainly do not wish to vote for a resolution that shall cast any reflection upon any department of the Government unnecessarily, and if there are any facts in addition to those stated I shall be glad to hear of them.

Mr. COBB. I did not design to say a word upon this subject, nor should I have done so had I not been called upon by name by my colleague, [Mr. WASHBURN,] I have not prepared any remarks, and I was not aware until a moment ago that this resolution was to be offered. But I will state that some time last winter I was called upon by a gentleman who formerly served with me in the Army, and has since been acting as a claim agent in this city, to go with him and hear an investigation before the Second Auditor of the Treasury and the Second Comptroller in regard to certain claims that had been filed in the pay department, and had been transferred to the Second Auditor for settlement. They were the claims of cer-

tain colored soldiers. I heard the investigation and the evidence and arguments before those two officers, and that investigation disclosed a state of things which led me to wonder why the gentlemen connected with the pay department have rested so long without an investigation at the hands of Congress, or some competent tribunal of the Government, so that the facts vindicating them may be spread before the country. It is no friendship toward the officers of this department for gentlemen here to attempt to stifle investigation.

I cannot now enter into a particular account of this matter, but will briefly state that these claims were of those filed in the pay department by the late Jacob Lowanthal, claim agent, of this city. In the course of this investigation it was pretty clearly proved that a large number of claims had been paid to Lowanthal, as agent for colored soldiers, upon papers made out in this city and never seen or signed by the soldiers whose claims they purported to be, and the evidence left a painful impression upon my mind that at the time of their payment these claims were known to be forgeries by some connected with the pay department. It seemed from evidence read at that investigation that papers purporting to be from each man of several colored regiments mustered in and mustered out at New Orleans, and not a man of whom had ever been further north than that city, had been presented by Lowanthal, and which purported to have been executed before one J. Trubner Lovejoy, a notary public of New York, but which were really fraudulently executed on Pennsylvania avenue, in this city, in the office of these claim agents. These claims were paid by the pay department when, to say the least of it, there were circumstances or appearances of suspicion about it sufficient to have put the disbursing officers on their inquiry.

I will only add that gentlemen may remember the account of this matter that was published some time last winter in the New York Times. I read that account when the facts as elicited were fresh in my memory; and so far as that account purports to give the facts as brought out in the said investigation it is true and fair, and gives the same much fuller and more perfectly than I can at this time.

Mr. Speaker, like other gentlemen here, I have great respect for the officers of this department, but I do think that an investigation should be made into these facts.

Mr. LINCOLN. I yield now for a moment to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. After the statement we have heard from the gentleman from Wisconsin, [Mr. COBB,] I shall withdraw all objection to the appointment of the committee. I never oppose the appointment of investigating committees where distinct charges are made, and it would seem that that is the case now.

Mr. INGERSOLL. I hope the gentleman from New York will modify his resolution. I do not believe that it is according to parliamentary custom to introduce a resolution of this character, committing the House to an expression of a belief in the guilt of the person mentioned in the resolution. I hope the gentleman will strike out the words "and belief."

Mr. LINCOLN. I will do that; and I wish to say a single word in explanation. Since February last I have been giving attention to this subject in connection with other gentlemen; and I have in my possession documents which I believe will establish all that has been stated by the gentleman from Wisconsin, [Mr. COBB.] I did not see fit to make specific charges here; but I assure the House that there are now in the possession of certain parties in this city papers which will show that in that department claims have been paid which ought not to have been paid, and that the parties paying them understood this fact perfectly well. I move the previous question.

The previous question was seconded, and the

main question ordered; and under the operation thereof the preamble and resolution were adopted.

Mr. LINCOLN moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAYMENT OF SOLDIERS' BOUNTIES.

Mr. WASHBURN, of Indiana. I ask unanimous consent to offer a resolution which I am directed to offer by the select Committee on the Subject of the Payment of Soldiers' Bounty Claims:

*Resolved*, That the Committee on Soldiers' Bounty Claims be authorized to inquire generally into the cause of the delay in the payment of said bounties, with power to examine witnesses and send for persons and papers.

I am instructed by the committee to ask this additional power, satisfied that they can probe this thing to the bottom, and show clearly the cause of the delay in the settlement of these claims.

There being no objection, the resolution was received and adopted.

#### TAXATION OF GIFT ENTERPRISES.

Mr. VAN WYCK. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to communicate to this House the facts and reasons upon which an order was issued on the 3d day of June, 1867, by the Commissioner of Internal Revenue, exempting George W. Thomas from the payment of special tax or other duty on what said Thomas pretended to be a charitable enterprise.

If the House will permit me to occupy a few moments, I will state my reason for offering this resolution. It is not designed to reflect in the least upon the Secretary of the Treasury or the Commissioner of Internal Revenue. I have offered it simply with the view of obtaining the information indicated, so that at the next session of Congress we may strike out a very mischievous provision of the present law giving a species of governmental toleration to raffling, gambling, and lotteries, when conducted, as the phrase is, "for charitable or religious purposes." I understand that in the case mentioned in the resolution there has been granted to this man Thomas an exemption from the tax ordinarily imposed by the law, on the ground that this is a "charitable enterprise." I desire to obtain a statement of the reasons upon which has been based the conclusion that this is a "charitable enterprise." By Thomas's programme or circulars, which he is scattering all over the country, it appears that this scheme is indorsed semi-officially by the Government, and on this ground the attention and encouragement of the benevolent are claimed for it. I want to know on what grounds this Government has been committed to a lottery, a gambling operation, designed really to put money in the pocket of this man Thomas. He would not dare to open his lottery office in the city of New York or the city of Chicago. Such men have been driven out of those cities and the other money-centers of the North. The police have scourged all such persons into apparent submission to the laws. They have come here, where there is found a sort of city of refuge for such lottery dealers and gamblers.

General Howard, it appears, has consented to act as the distributor of \$150,000, which it is proposed to place in his hands. I can very easily see how, by certain letters and descriptive representations, General Howard may have been induced to consent to act in this capacity, as I can also understand why this man Thomas should seek to obtain for his scheme the apparent sanction of a name which is with all good and true men a tower of strength, and might induce many to scan less carefully the character and operations of the design. But, sir, if General Howard, after having seen the programme issued by this man Thomas, and in which the sanction of his name is publicly claimed, sits by and suffers this violation of law and good morals to be perpetrated with his tacit approval, then he implicates himself with those who devise and carry out this unlawful

and immoral scheme. And, sir, if the Commissioner of Internal Revenue, after he shall have seen this programme, shall still suffer the name of the Government and the seal of his office to be used to exempt this man Thomas from the payment of tax in the prosecution of this scheme, he then becomes a participant in its criminality, if criminal it be.

Now, sir, this man Thomas started a lottery scheme in the city of New York which was the father of all the other schemes since flooding the country. He then proposed to raise some money for a "Home for the Orphans of the War." He proposed to raise \$250,000, one half of which sum was to be donated to the object proposed, the remainder to be invested in presents for distribution to those who should purchase tickets. He raised nearly four hundred thousand dollars, and probably gave about one hundred thousand dollars or less to the "Home" referred to; the larger part of the remaining \$300,000 he put into his own pocket. In this manner presents were given said to be worth dollars which were not worth so many cents. So great was the indignation throughout the country the result was that swindlers of a like kind were driven from the city of New York, and this man Thomas dare not open this second lottery and swindling scheme in that city. But, sir, he next started the picture dodge. He is to give a man a picture probably worth about ten, twenty-five, or fifty cents. He has an office in this city where he claims to have the pictures exposed, as Peter Funks generally do. He has probably some artistic specimens which he exhibits for people to look at. He now proposes to raise \$500,000, of which \$150,000 for the destitute in the South is to be placed in the hands of General Howard; \$150,000 in money is to be drawn as prizes, thus giving the character of a lottery to the project. I have the programme in my hand. It is a lottery pure and simple which has been denounced and made illegal by every Christian community as antagonistic to good morals. Three hundred thousand dollars is to be disposed of in this way, and the remaining \$200,000 principally is to go into the pocket of Thomas. It is to be conducted I presume as the New York scheme, so at least has been claimed; and I want to say that that scheme was a fraud, a cheat, and a swindle. I want, sir, that some expression shall go forth from this House, inasmuch as it seems to be indorsed by men in whom we all have confidence. It is for that reason I have made this statement—that this branch of the Government shall brand any attempt to violate the letter or spirit of the law against gambling, no matter how careful the originators may be to conceal the design under specious pretexts or behind honorable names.

The fact of all this effort to sugar-coat and gild this crime only intensifies the guilt and makes the criminal more deserving reprobation. To bestow prizes cannot be done in any lawful manner by even "five prominent citizens," as he claims. The very proposition is in contempt of the law and an outrage to the moral sentiment of the nation. Gaming and lotteries with the sanction of religious societies under the guise of aids to the church, covered oftentimes with the mantle of charity to the sick and needy, have done far more of evil to all classes, ages, and even sexes, to promote and encourage the spirit which leads to the dice-box and faro table than all the open lotteries and public gaming-tables in the country.

The resolution was adopted.

#### MISSISSIPPI RIVER.

Mr. PILE. Mr. Speaker, I have in my hand a report made under act of Congress by Captain, now Major General, A. A. Humphreys on the physics and hydraulics of the Mississippi river and the protection of the alluvial lands from overflow. The large part of this report is purely scientific, and probably not interesting to the general public. There are three chapters, one on the Mississippi river below

the mouth of the Missouri river, one on the method of protection against overflow of the Mississippi river, and one on the delta of the Mississippi river, which contain practical facts gathered during five years of incessant labor by Captain Humphreys, that will furnish to every member of this House information essential to enable him to vote intelligently upon the question of protecting the alluvial lands of the Mississippi river against overflow. It is information we must have, for the question of the Mississippi levees is one that we must meet and decide at an early day. I ask unanimous consent, therefore, to submit a resolution authorizing the printing of those three chapters, together with one map and the introductory matter, making in all about two hundred pages, which will cost a mere nominal sum. I should like to ask for the printing of the whole book, except for its size and the expenditure that it would require.

The Clerk read as follows:

*Resolved*, That there be ordered to be printed for the use of the House the usual number of copies of the introductory letter, chapters Nos. 2, 6, and 7, and plate No. 2 of the report on the physics and hydraulics of the Mississippi river and the protection of the alluvial regions against overflow, made under acts of Congress by Captain, now Major General, A. A. Humphreys, of the engineer department of the United States Army.

Mr. CLARKE, of Ohio. I think that resolution ought to be referred to the Committee on Printing.

Mr. PILE. This is only for printing the usual number which it is customary to print without reference to the Committee on Printing.

Mr. CLARKE, of Ohio. There are maps to be printed, which are costly. I make the motion to refer.

Mr. PILE. I cannot yield for that purpose. The map is a small colored plate; and if that is the only ground of objection I will leave that out. I do not think it is essential, though important to the understanding of these three chapters.

Mr. PIKE. What will the work cost?

Mr. PILE. I cannot say exactly, but the expense will be small.

Mr. PIKE. The original report most of the members present have received and read. I certainly examined it some years ago with great care, and possessed myself of some material facts in the case. What the special object is now in having it printed or rather reprinted I do not know, nor what the cost would be.

Mr. PILE. In answer to the gentleman from Maine, I will say that I inquired at the engineer's department and the War Department and ascertained that but a few copies of the work were printed, and those by order of the War Department, and paid for out of the contingent fund belonging to that Department. I further learned that there are no copies now for distribution.

Mr. WASHBURN, of Wisconsin. This is a work I have never seen until recently, when I saw it in the hands of the gentleman from Missouri, [Mr. PILE,] and I presume it has not been seen by ten members of this House. It is very important. It contains information upon which we shall be called upon to act speedily in regard to the great question of leveeing the Mississippi river. I hope there will be no objection to the printing.

Mr. SCOFIELD. I would like to ask the gentleman if he believes ten members of the House will read it after it is printed?

Mr. WASHBURN, of Wisconsin. I certainly hope they will. It is important enough to arrest the attention of every member of this House who has the welfare of the country at heart.

Mr. SCOFIELD. It will be more than is usually the case in regard to Congressional documents if five members read it.

Mr. WARD. I desire to suggest to the gentleman from Missouri, as no one is able to give us the cost of this publication, and as we shall probably not need this information until the Committee on Printing or some committee can investigate the case and determine whether

it should be printed or not, that he give way for a motion to refer it to the Committee on Printing. If the gentleman will not yield for such a motion I trust the House will vote down the previous question in order that the motion can be made.

Mr. INGERSOLL. I rise to oppose the suggestion of the gentleman from New York. As there is no Committee on Printing now organized I hope the House will take this resolution into its own hands and pass it.

Mr. WARD. I understand that committee is organized.

Mr. INGERSOLL. It seems to me it is not organized when the members of it are all absent.

The SPEAKER. Only one member of the committee is now present. The committee has been appointed.

Mr. INGERSOLL. I am aware it was appointed at the March session. But, sir, how much is involved in this resolution in the way of expenditure? Not more than \$150. The cost will not exceed ten cents per copy.

A MEMBER. You cannot get it printed for that.

Mr. INGERSOLL. I think we can. The cost, at all events, is so small that it should not weigh a feather against the printing of a document which will impart so much information to a great many people in the country who cannot otherwise obtain it.

Mr. PILE. The information contained and compressed within the three chapters I propose to have printed has already cost for its collection a number of thousands of dollars. It has cost the labor of two of the most efficient engineers of the Government for five consecutive years. It relates to a district of country embracing over thirty-five thousand square miles, which, if protected from the overflow of the Mississippi river, has agricultural capacity unequaled by any other equal area on the face of the globe or that the sun has ever seen in the six thousand years that he has been turning his face toward it.

Now then, if after the expenditure of all this money and labor for the collection of this information for the use of the country, we do not need to have it printed, knowing that we shall need the information contained in these chapters at an early day at the next session of Congress, I am greatly in error, and I am surprised that any gentleman should object to the expenditure of the paltry sum required to place this information in the hands of the members of this House, in order that they may be able to vote intelligently upon the question that will be presented to us early in the next session. And in reply to the honorable gentleman from Pennsylvania [Mr. SCOFIELD] I wish to say that I do not at all entertain the reflection upon the industry, intelligence, and conscientiousness of this House made by him, but hope and believe that gentlemen, knowing that they must meet this question, will not do so without reading the information contained in the chapters that I propose to have printed. I think the intimation that they will not read it is out of place, not to say disrespectful to members of this body. I now yield to the gentleman from Ohio.

Mr. CLARKE, of Ohio. I have not objected to this resolution. I simply ask that the resolution shall be referred to the Committee on Printing, so that the House in passing it may know what expense they are about to incur. One gentleman says that this document will cost only ten cents a copy, and another gentleman who professes to know something of the printing business says that it will cost a dollar a copy. Let us have information from the Printing Committee of this House. It is said that the committee is not organized. I understand that there is one member of the committee present, and he can confer with the Superintendent of Public Printing and can make an estimate of the cost of this printing in a few minutes.

Mr. SCHENCK. I am inclined to go for the printing asked for here; but my attention

is particularly attracted to this matter from the fact that I propose to follow it with a proposition to print another small document from the Secretary of the Navy in relation to the retention of Rear Admiral Goldsborough on the active list, and it involves a correspondence exceedingly interesting to those connected with the Navy. The Secretary of the Navy, or rather the Assistant Secretary, has suggested that the Department would be exceedingly glad to have five hundred copies of this document. It will be a saving of composition and press work to have the work done now when it is going through the press in the Public Printing office. I would suggest that by unanimous consent we authorize the Speaker to appoint a temporary Committee on Printing.

The SPEAKER. The Chair will state that he learns that the only member of the Committee on Printing who has been in attendance here has been called home by the illness of his wife, and that now there is no member of the committee here.

Mr. SCHENCK. I ask, then, that by unanimous consent the Chair shall appoint a temporary Committee on Printing.

No objection was made; and the Speaker appointed Messrs. CLARKE of Ohio, GETZ, and TROWBRIDGE.

The resolution was referred to the Committee on Printing.

Mr. SCHENCK then, by unanimous consent, submitted the following resolution; which was read and referred, under the law, to the Committee on Printing:

*Resolved*, That two thousand copies of the two executive documents relating to the retention of Rear Admiral Goldsborough on the active list of the Navy be printed for the use of this House, except five hundred copies of the same, which shall be delivered to the Secretary of the Navy.

#### MISSISSIPPI LEVEES.

Mr. DRIGGS. I ask unanimous consent to offer the following preamble and resolution:

Whereas it is reported that great damage has been sustained to the crops and other property on the shores of the Mississippi and its tributaries by the overflowing of their banks and the destruction of the levees; and whereas appeals are made to the Government by the inhabitants of some of the States lately in rebellion for aid to repair the damage thus created; and whereas it is the anxious desire of Congress that all portions of the country shall receive a just share of its protection and fostering care, and to that end looks with earnest solicitude for the return of the inhabitants of those States to unreserved loyalty to the Government against which they rebelled, by accepting in good faith and carrying out without obstruction the laws of Congress in their case provided; and whereas neither Congress nor the loyal people of the country desire to withhold from any portion of the inhabitants under our flag any of the rights or benefits to which all loyal citizens are entitled: Therefore,

*Resolved*, That Congress desires the immediate restoration by a full and perfect return to allegiance of all the States lately in rebellion; and that as soon as this is done, and true and undivided Union men are returned to Congress, that the States and such members will be admitted to full communion in the Government, and the benefits of legislation extended to all the States without distinction.

Mr. SCOFIELD. I rise to a question of order. I would inquire whether, under the rule adopted by the House, that resolution should not be referred to the Committee on Reconstruction?

The SPEAKER. It should be, unless the resolution is introduced by unanimous consent or the rules are suspended for its introduction by a two-thirds vote.

Mr. SCOFIELD. I will ask the gentleman whether he will not let this resolution go to the Committee on Reconstruction, under the rule, or whether he desires to have it acted on at the present time?

The SPEAKER. It cannot be presented except by unanimous consent or by a suspension of the rules.

Mr. ELDRIDGE. Who offered this resolution?

The SPEAKER. The gentleman from Michigan, [Mr. DRIGGS.]

Mr. ELDRIDGE. Why, sir, it is the grandest joke I ever heard, coming from that side of the House.

The SPEAKER. Is there any objection to the introduction of the resolution?

There was no objection.



Mr. DRIGGS. Mr. Speaker, I think that the preamble and resolution sufficiently explain themselves—

Mr. SCOTFIELD. I rise to a question of order. Is this resolution debatable? Does not the rule require that everything relating to reconstruction shall go to the committee on that subject without debate?

The SPEAKER. This resolution has been received by unanimous consent, and is now before the House for its consideration. But the Chair will state that the rule during the present session is precisely the reverse of that stated by the gentleman from Pennsylvania, [Mr. SCOTFIELD.] Under the rule at the present session matters relating to reconstruction can be brought before the House for consideration, while all other matters must be laid on the table or referred without debate. The rule which has heretofore prevailed was changed at this session.

Mr. SCOTFIELD. It appears to me that this resolution refers not only to reconstruction, but to "all other matters," so that I think, under the rule as stated by the Chair, it should be referred without debate.

The SPEAKER. The Chair understood the granting of unanimous consent as being equivalent to a suspension of the rules for the purpose of considering the resolution.

Mr. DRIGGS. Mr. Speaker, I am not in the habit of rising to discuss every question that comes before the House; and I do not desire to discuss this proposition. I trust that it will commend itself to the favorable consideration of members. I call the previous question.

Mr. SCOTFIELD. I would like to ask the gentleman a question.

Mr. DRIGGS. I will yield to hear the gentleman's question.

Mr. SCOTFIELD. I desire to inquire whether this resolution, if it be adopted, will permit Congress to rebuild the levees on the Mississippi river; or if the gentleman thinks that we shall not be permitted under this resolution to rebuild those levees, then I desire to ask whether it is not an imposition upon the southern people to intimate to them that that will be done in case they do certain things. For one, I do not wish to be committed at the present time to the rebuilding of those levees; nor do I wish to intimate to those people that if they do certain things we will rebuild the levees.

Mr. DRIGGS. I will answer the gentleman's first question. This resolution will permit Congress, when these States and their people shall have returned to perfect loyalty, to extend to them equal beneficial legislation. That question being answered, I answer the second question by saying that the resolution does not propose any imposition upon the southern people. It simply proposes to extend to them equal legislation when they shall return to loyalty.

Mr. COVODE and several other members addressed the Chair.

Mr. DRIGGS. I cannot yield further. I insist on the call for the previous question.

Mr. SCOTFIELD. I desire to inquire of the Speaker whether, if the previous question be not sustained, it will not be in order to refer the resolution?

The SPEAKER. If the previous question be not sustained a motion to refer will be in order.

The question being taken on sustaining the previous question, there were—ayes 30, noes 53; no quorum voting.

Mr. DRIGGS. As there seems to be a desire that this resolution shall be referred, I am willing to consent to its reference; and I withdraw my demand for the previous question.

Mr. SCOTFIELD. I move the reference of the resolution to the Committee on Reconstruction.

Mr. ELDRIDGE. I hope that the gentleman from Michigan [Mr. DRIGGS] has not been induced to consent to the reference of the resolution by any idea that we on this side of the House are opposed to it. [Laughter.]

The motion of Mr. SCOTFIELD was agreed to; and the resolution was referred to the Committee on Reconstruction.

#### PERSONAL EXPLANATION.

Mr. MUNGEN. Mr. Speaker, I ask unanimous consent to make a personal explanation.

The SPEAKER. How long?

Mr. MUNGEN. I ask for two minutes.

There was no objection.

Mr. MUNGEN. The point I rise to, sir, is this: I understood the honorable gentleman from Missouri [Mr. PILE] in his discussion, or in the remarks which fell from his lips in regard to the printing of certain chapters of a scientific work—

A MEMBER. Humphrey's Report.

Mr. MUNGEN. Well, sir, he stated that the sun had been shining for six thousand years upon the Mississippi river. Inasmuch as no one questioned the statement then, I propose to raise the question now. I may in my ethnological views be in error, but I wish that the gentleman may be geographically correct. I ask, therefore, that his statement shall be specially submitted to the committee. If it is to go as a fixed fact, then all of our geographies must stand out of the road. I hope the matter will be decided by reference to some scientific board. [Laughter.]

Mr. PILE. I ask for three minutes.

There was no objection.

Mr. PILE. The gentleman is so absorbed in his ethnological investigations that he did not hear, or hearing did not understand, what I said. I said for about six thousand years the sun had been shining. I did not say it had been shining precisely that length of time. I ventured no opinion on that subject, not having investigated it so minutely. I did not consider it essential to the resolution I proposed. I hope the gentleman will be appointed a committee of one to inquire in reference to all the heavenly bodies, with power to report by bill or otherwise. [Laughter.]

#### ORDER OF BUSINESS.

Mr. HOLMAN demanded the regular order of business.

The SPEAKER stated the regular order of business to be the call of committees for reports.

#### COMMITTEE ON INTERNAL REVENUE.

Mr. BANKS, from the Committee on the Rules, submitted an adverse report on the following resolution; which was laid on the table:

*Resolved*, That an additional standing committee of nine members, to be known as the Committee on Internal Revenue, be appointed as the other standing committees of this House are appointed, to which shall be referred all such matters as pertain to the internal revenue department of the United States.

#### EDUCATION.

Mr. BANKS, from the same committee, reported the following resolution, and demanded the previous question:

*Resolved*, That an additional standing committee of nine members, to be known as the Committee on Education, be appointed as the other standing committees are appointed, to which shall be referred all such matters as pertain to the educational interests of the United States.

Mr. BAKER. I ask the gentleman to yield to me for one moment of explanation.

Mr. BANKS. I yield for that purpose.

Mr. BAKER. I desire that the House shall be advised of the existing condition of its committees in order that they may vote intelligently and understandingly upon the very singular, and to me unaccountable, report now presented from the Committee on the Rules. On the 21st day of March last this House adopted a rule that there should be raised a committee of nine members on the subjects of education and labor, to which committee all resolutions, reports, and matters relating to education and labor should be referred. Now, what propriety, what consistency, what logic of reason there is in establishing a second committee on education is more than I am able to say. We might as well have here a duplicate of our Committee on the Pacific Railroad, we might as well have a duplicate of the Judiciary Committee, or of

the Committee of Ways and Means. There is already a committee provided for taking cognizance of and action on this whole matter of education; and to show I am correct I will send to the Clerk's desk to be read our procedure on the subject.

The Clerk read as follows:

#### COMMITTEE ON EDUCATION AND LABOR.

"Mr. BANKS. The Committee on the Rules, to whom was referred the resolution offered by the gentleman from Illinois [Mr. BAKER] for the appointment of a standing committee on labor, respectfully report that as the recent establishment of a Department of Education seems to render necessary the organization of a committee on that subject, they propose the adoption of the following rule, upon which I call the previous question:

"*RULE*.—There shall be appointed at each Congress a Committee on Education and Labor, to consist of nine members, to whom shall be referred all petitions, bills, reports, and resolutions on those subjects, and who shall from time to time report thereon."

"The previous question was seconded, and the main question ordered; and under the operation thereof the rule was adopted."

"Mr. BANKS moved to reconsider the vote by which the rule was adopted; and also moved that the motion to reconsider be laid on the table."

"The latter motion was agreed to."

Mr. BAKER. Mr. Speaker, one more remark and I am done. It is entirely apparent, then, that we have a committee already provided, having explicit charge of all the matters that are proposed to be conferred upon a committee yet to be raised, so that if the committee now proposed shall be appointed, then we shall have in this House two committees having charge and jurisdiction of the same subject-matter, making conflicting reports thereon. As I stated, I am not able to see what logic or reason there is for offering this resolution. There may be some sort of logic in it that I do not comprehend, but I take it that unless there be some bearing of the resolution which has escaped my attention, and to which I would pay attention very respectfully if it is disclosed, the House will, as a matter of course, reject this report.

Mr. BANKS. The gentleman from Illinois labors under a misapprehension as to the effect of this resolution. It is simply to divide a committee which was appointed at the last session, which embraces two subjects, that of labor and that of education. It was the desire of the gentleman from Illinois at the last session that the committee on labor should be a distinct committee, and the gentlemen who were interested in the subject of education desired that that should also be a distinct committee. The effect of the resolution now reported is to comply with the views of those gentlemen in both respects; it is to divide the Committee on Labor and Education into two committees, leaving that on labor standing as provided last session, and providing for another independent committee on the subject of education. If the House should agree to the resolution now reported, the Committee on the Rules will then report to the House a rule which will remove all difficulty arising out of the suggestion of the gentleman from Illinois. I trust he will not make objection to it. I now demand the previous question.

The previous question was seconded, and the main question ordered; and the question being taken on the adoption of the resolution, there were—ayes 31, noes 48; no quorum voting.

Tellers were ordered; and Messrs. BANKS and BAKER were appointed.

The House divided; and the tellers reported—ayes 28, noes 60.

So the resolution was disagreed to.

Mr. BAKER moved to reconsider the vote by which the resolution was disagreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CALL OF COMMITTEES.

The SPEAKER stated as the next business in order the call of the committees for reports.

The committees were called and no reports were made.

#### INDIAN WAR.

The SPEAKER laid before the House Sen-

ate bill No. 186, to establish peace with certain hostile Indian tribes; which was read a first and second time.

Mr. WINDOM. I should be very glad if it were the pleasure of the House to consider this bill at once. It is a most important bill, but I am afraid to ask to have it considered now without having it printed. On the other hand, I am fearful to let it go over lest Congress should adjourn without acting upon it. If we should go home without acting upon this subject this Government will incur an expense of some hundred million dollars.

Mr. PILE. I simply desire to say that I think the bill ought to be printed, so that the House can see it. But I think some measure of this kind ought to be passed, even if we should have to sit ten days beyond the time we have expected to stay.

Mr. WINDOM. I move that the bill be printed, together with an amendment which I submit.

The bill and amendment were accordingly ordered to be printed.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States, by W. G. MOORE, his Private Secretary.

Also a message returning with his objections bill of the House No. 123, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Also, a message notifying the House that he had this day approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 107) to establish certain post roads;

An act (H. R. No. 108) for the relief of certain soldiers and sailors therein designated;

An act (H. R. No. 130) supplementary to an act entitled an "Act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," passed March 2, 1867; and

Joint resolution (H. R. No. 69) authorizing the Secretary of the Navy to admit to examination Maurice Rice Evans for admission to the Naval Academy in September next.

#### MAXIMILIAN AND SANTA ANNA.

The SPEAKER laid before the House the following message of the President:

*To the House of Representatives:*

In compliance with that part of the resolution of the House of Representatives of the 8th instant which requests me to transmit to the House of Representatives any official correspondence or other information relative to the capture and execution of Maximilian, and the arrest and reported execution of Santa Anna in Mexico, I inclose herewith a report from the Secretary of State, from which it appears that the correspondence called for by the House of Representatives has already been communicated to the Senate of the United States.

ANDREW JOHNSON.

WASHINGTON, July 18, 1867.

On motion of Mr. BANKS, the foregoing message was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### RUSSIAN TREATY.

The SPEAKER also laid before the House the following message of the President:

*To the Senate and House of Representatives:*

I transmit to Congress a copy of a treaty between the United States and His Majesty the Emperor of all the Russias, the ratifications of which were exchanged in this city on the 20th day of June last.

The instrument provides for a cession of territory to the United States in consideration of the payment of \$7,200,000 in gold. The attention of Congress is invited to the subject of an appropriation for that payment, and also to that of proper legislation for the occupation

and government of the territory as a part of the dominion of the United States.

ANDREW JOHNSON.

WASHINGTON, July 6, 1867.

On motion of Mr. BANKS, the foregoing message was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### CONSTITUTIONAL AMENDMENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 5th of July, requesting the President to inform "the House what States have ratified the amendment to the Constitution of the United States proposed by concurrent resolution of the two Houses of Congress, June 16, 1866," I transmit a report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, July 9, 1867.

#### DEPARTMENT OF STATE, WASHINGTON, July 9, 1867.

*To the President:*

The Secretary of State, to whom was referred a resolution of the House of Representatives, passed July 5, 1867, requesting the President to inform the House "what States have ratified the amendment to the Constitution of the United States proposed by concurrent resolution of the two Houses of Congress, June 16, 1866," has the honor to report, first, a copy of the concurrent resolutions of inquiry:

[Concurrent resolution received at Department of State, June 16, 1866.]

Joint resolution proposing an amendment to the Constitution of the United States.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:*

#### ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

SCHUYLER COLFAX.

*Speaker of the House of Representatives.*

LA FAYETTE S. FOSTER,

*President of the Senate pro tempore.*

Attest:

EDWARD McPHERSON,

*Clerk of the House of Representatives.*

J. W. FORTNEY,

*Secretary of the Senate.*

2d. A list of the States, the Legislatures of which have ratified the amendment proposed by the resolution of June 16, 1866, and which have given notice of

such ratification to the Department of State, with a memorandum of the date at which such notice with an attested copy of the ratification was received at the Department of State, and also of the date at which by such attested copy the ratification appears to have been made:

States.	When notice received with attested copy of ratification.	Date of ratification.
Connecticut.....	July 9, 1866.	June 30, 1866.
Tennessee.....	July 31, 1866.	July 19, 1866.
New Jersey.....	Sept. 28, 1866.	Sept. 11, 1866.
Oregon.....	Oct. 19, 1866.	Sept. 14-19, 1866.
Vermont.....	Nov. 14, 1866.	(No day of month given; certified Nov. 9, 1866.)
West Virginia.....	Jan. 25, 1867.	Jan. 16, 1867.
Kansas.....	Jan. 25, 1867.	Jan. 18, 1867.
Missouri.....	Jan. 30, 1867.	(No date; certified Jan. 26, 1867.)
Indiana.....	Feb. 8, 1867.	Jan. 29, 1867.
Ohio.....	Feb. 11, 1867.	Jan. 11, 1867.
Illinois.....	Feb. 12, 1867.	Jan. 15, 1867.
Minnesota.....	Feb. 15, 1867.	Feb. 1, 1867.
New York.....	Feb. 15, 1867.	Jan. 10, 1867.
Wisconsin.....	Feb. 18, 1867.	Feb. 13, 1867.
Pennsylvania.....	Feb. 18, 1867.	Feb. 13, 1867.
Rhode Island.....	Feb. 21, 1867.	Feb. 7, 1867.
Michigan.....	Feb. 23, 1867.	Feb. 15, 1867.
Nevada.....	Feb. 28, 1867.	Jan. 11-22, 1867.
New Hampshire.....	March 9, 1867.	July 7, 1866.
Massachusetts.....	April 3, 1867.	March 15-20, 1867.

Respectfully submitted.

WILLIAM H. SEWARD.

On motion of Mr. WILSON, of Iowa, the message was referred to the Committee on the Judiciary, and ordered to be printed.

#### CONVENTION WITH VENEZUELA.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the Senate and House of Representatives:*

I transmit to Congress a copy of a Convention between the United States and the republic of Venezuela, for the adjustment of claims of citizens of the United States on the Government of that republic. The ratifications of this Convention were exchanged at Caracas on the 10th of April last. As its first article stipulates that the commissioners shall meet in that city within four months from that date, the expediency of passing the usual act for the purpose of carrying the convention into effect will, of course, engage the attention of Congress.

ANDREW JOHNSON.

WASHINGTON, July 5, 1867.

Mr. BANKS. I move that that communication be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

#### MEXICAN AFFAIRS.

The SPEAKER also laid before the House an answer to the resolution of the House requesting all the official correspondence between the Department of State and Hon. Lewis D. Campbell, late minister to Mexico; which, on motion of Mr. BANKS, was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### REPUBLIC OF MEXICO.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

In compliance with so much of the resolution of the House of Representatives of the 8th instant as requests information in regard to certain agreements said to have been entered into between the United States, European, and West Virginia Land and Mining Company and certain reputed agents of the Republic of Mexico, I transmit a report from the Secretary of State and the papers accompanying it.

ANDREW JOHNSON.

WASHINGTON, July 10, 1867.

The message and the accompanying documents were, on motion of Mr. BANKS, referred to the Committee on Foreign Affairs, and ordered to be printed.

## PARDONS.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a report from the Attorney General, additional to the report submitted by him December 31, 1866, and March 2, 1867, in reply to a resolution of the House of Representatives of December 10, 1866, requesting "a list of names of all persons engaged in the late rebellion against the United States Government who have been pardoned by the President from April 15, 1865, to this date: that said list shall also state the rank of each person who has been so pardoned, if he has been engaged in the military service of the late so-called confederate government, and the position, if he shall have held any civil office under said so-called confederate government; and shall also further state whether such person has at any time prior to April 14, 1861, held any office under the United States Government, and if so, what office, together with the reasons for granting such pardon, and also the names of the person or persons at whose solicitation such pardon was granted."

ANDREW JOHNSON.

WASHINGTON, July 8, 1867.

The message and accompanying documents were, on motion of Mr. WILSON, of Iowa, referred to the Committee on the Judiciary, and ordered to be printed.

## SUPPLEMENTARY RECONSTRUCTION ACT.

The SPEAKER. The Chair also lays before the House a message from the President of the United States, returning with his objections to the House in which it originated the bill (H. R. No. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

The Clerk read the message, as follows:

*To the House of Representatives  
of the United States:*

I return herewith the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto passed on the 23d day of March, 1867," and will state as briefly as possible some of the reasons which prevent me from giving it my approval.

This is one of a series of measures passed by Congress during the last four months on the subject of reconstruction. The message returning the act of the 2d of March last states at length my objections to the passage of that measure. They apply equally well to the bill now before me, and I am content merely to refer to them and to reiterate my conviction that they are sound and unanswerable.

There are some points peculiar to this bill which I will proceed at once to consider.

The first section proposes to declare "the true intent and meaning" in some particulars of the two prior acts upon this subject. It is declared that the intent of those acts was:

First, that the existing governments in the ten "rebel States" "were not legal State governments;" and

Second, "that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress."

Congress may, by a declaratory act, fix upon a prior act a construction altogether at variance with its apparent meaning, and from the time, at least, when such construction is fixed the original act will be construed to mean exactly what it is stated to mean by the declaratory statute. There will be then, from the time this bill may become a law no doubt, no question as to the relation in which the "existing governments" in those States, called in the original

act "the provisional governments," stand toward the military authority. As those relations stood before the declaratory act, these "governments," it is true, were made subject to absolute military authority in many important respects, but not in all; the language of the act being "subject to the military authority of the United States, as hereinafter prescribed." By the sixth section of the original act these governments were made "in all respects subject to the paramount authority of the United States."

Now, by this declaratory act it appears that Congress did not, by the original act, intend to limit the military authority to any particulars or subjects therein "prescribed," but meant to make it universal. Thus over all these ten States this military government is now declared to have unlimited authority. It is no longer confined to the preservation of the public peace, the administration of criminal law, the registration of voters, and the superintendence of elections; but "in all respects" is asserted to be paramount to the existing civil governments.

It is impossible to conceive any state of society more intolerable than this, and yet it is to this condition that twelve million American citizens are reduced by the Congress of the United States. Over every foot of the immense territory occupied by these American citizens the Constitution of the United States is theoretically in full operation. It binds all the people there, and should protect them, yet they are denied every one of its sacred guarantees.

Of what avail will it be to any one of these southern people when seized by a file of soldiers to ask for the cause of arrest or for the production of the warrant? Of what avail to ask for the privilege of bail when in military custody, which knows no such thing as bail? Of what avail to demand a trial by jury, process for witnesses, a copy of the indictment, the privilege of counsel, or that greater privilege, the writ of *habeas corpus*?

The veto of the original bill of the 2d of March was based on two distinct grounds, the interference of Congress in matters strictly appertaining to the reserved powers of the States, and the establishment of military tribunals for the trial of citizens in time of peace. The impartial reader of that message will understand that all that it contains with respect to military despotism and martial law has reference especially to the fearful power conferred on the district commanders to displace the criminal courts and assume jurisdiction to try and to punish by military boards; that, potentially, the suspension of the *habeas corpus* was martial law and military despotism. The act now before me not only declares that the intent was to confer such military authority, but also to confer unlimited military authority over all the other courts of the State, and over all the officers of the State, legislative, executive, and judicial. Not content with the general grant of power, Congress, in the second section of this bill, specifically gives to each military commander the power "to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise any civil or military office or duty in such district, under any power, election, appointment, or authority derived from or granted by, or claimed under any so-called State or the government thereof, or any municipal or other division thereof."

A power that hitherto all the departments of the Federal Government, acting in concert or separately, have not dared to exercise is here attempted to be conferred on a subordinate military officer. To him, as a military officer of the Federal Government, is given the power, supported by "a sufficient military force," to remove every civil officer of the State. What next? The district commander who has thus displaced the civil officer is authorized to fill the vacancy by the detail of an officer or soldier of the Army, or by the appointment "of some other person." This

military appointee, whether an officer, a soldier, or "some other person," is to perform "the duties of such officer or person so suspended or removed." In other words, an officer or soldier of the Army is thus transformed into a civil officer. He may be made a governor, a legislator, or a judge. However unfit he may deem himself for such civil duties he must obey the order. The officer of the Army must, if "detailed," go upon the supreme bench of the State with the same prompt obedience as if he were detailed to go upon a court-martial. The soldier, if detailed to act as a justice of the peace, must obey as quickly as if he were detailed for picket duty. What is the character of such a military-civil officer? This bill declares that he shall perform the duties of the civil office to which he is detailed. It is clear, however, that he does not lose his position in the military service. He is still an officer or soldier of the Army; he is still subject to the rules and regulations which govern it, and must yield due deference, respect, and obedience toward his superiors.

The clear intent of this section is that the officer or soldier detailed to fill a civil office must execute his duties according to the laws of the State. If he is appointed a Governor of a State he is to execute the duties as provided by the laws of that State, and for the time being his military character is to be suspended in his new civil capacity. If he is appointed a State treasurer he must at once assume the custody and disbursement of the funds of the State, and must perform those duties precisely according to the laws of the State; for he is intrusted with no other official duty or other official power. Holding the office of treasurer, and intrusted with funds, it happens that he is required by the State laws to enter into bond with security, and to take an oath of office; yet from the beginning of the bill to the end there is no provision for any bond or oath of office, or for any single qualification required under the State law, such as residence, citizenship, or anything else. The only oath is that provided for in the ninth section, by the terms of which everyone detailed or appointed to any civil office in the State is required "to take and to subscribe the oath of office prescribed by law for officers of the United States." Thus an officer of the Army of the United States detailed to fill a civil office in one of these States gives no official bond and takes no official oath for the performance of his new duties, but, as a civil officer of the State, only takes the same oath which he had already taken as a military officer of the United States. He is, at last, a military officer performing civil duties, and the authority under which he acts is Federal authority only; and the inevitable result is that the Federal Government, by the agency of its own sworn officers, in effect assumes the civil government of the State.

A singular contradiction is apparent here. Congress declares these local State governments to be illegal governments, and then provides that these illegal governments shall be carried on by Federal officers, who are to perform the very duties imposed on its own officers by this illegal State authority. It certainly would be a novel spectacle if Congress should attempt to carry on a *legal* State government by the agency of its own officers. It is yet more strange that Congress attempts to sustain and carry on an *illegal* State government by the same Federal agency.

In this connection I must call attention to the tenth and eleventh sections of the bill, which provide that none of the officers or appointees of these military commanders "shall be bound in his action by any opinion of any civil officer of the United States," and that all the provisions of the act "shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out."

It seems Congress supposed that this bill might require construction, and they fix, therefore, the rule to be applied. But where is the construction to come from? Certainly no one can be more in want of instruction than a sol-

dier or an officer of the Army detailed for a civil service, perhaps the most important in a State, with the duties of which he is altogether unfamiliar. This bill says he shall not be bound in his action by the opinion of any civil officer of the United States. The duties of the office are altogether civil, but when he asks for an opinion he can only ask the opinion of another military officer, who, perhaps, understands as little of his duties as he does himself; and as to his "action," he is answerable to the military authority, and to the military authority alone. Strictly no opinion of any civil officer, other than a judge, has a binding force; but these military appointees would not be bound even by a judicial opinion. They might very well say, even when their action is in conflict with the Supreme Court of the United States, "That court is composed of civil officers of the United States, and we are not bound to conform our action to any opinion of any such authority."

This bill and the acts to which it is supplementary are all founded upon the assumption that these ten communities are not States, and that their existing governments are not legal. Throughout the legislation upon this subject they are called "rebel States," and in this particular bill they are denominated "so-called States," and the vice of illegality is declared to pervade all of them. The obligations of consistency bind the legislative body as well as the individuals who compose it. It is now too late to say that these ten political communities are not States of this Union. Declarations to the contrary made in these three acts are contradicted again and again by repeated acts of legislation enacted by Congress from the year 1861 to the year 1867. During that period, while these States were in actual rebellion, and after that rebellion was brought to a close, they have been again and again recognized as States of the Union. Representation has been apportioned to them as States. They have been divided into judicial districts for the holding of district and circuit courts of the United States, as States of the Union only can be districted. The last act on this subject was passed July 23, 1866, by which every one of these ten States was arranged into districts and circuits. They have been called upon by Congress to act through their Legislatures upon at least two amendments to the Constitution of the United States. As States they have ratified one amendment, which required the vote of twenty-seven States of the thirty-six then composing the Union. When the requisite twenty-seven votes were given in favor of that amendment, seven of which votes were given by seven of these ten States, it was proclaimed to be a part of the Constitution of the United States, and slavery was declared no longer to exist within the United States or any place subject to their jurisdiction. If these seven States were not legal States of the Union it follows as the inevitable consequence that in some of the States slavery yet exists. It does not exist in these seven States, for they have abolished it also in their State constitutions; but Kentucky not having done so it would still remain in that State. But, in truth, if this assumption that these States have no legal State governments be true, then the abolition of slavery by these illegal governments binds no one, for Congress now denies to these States the power to abolish slavery by denying to them the power to elect a legal State Legislature, or to frame a constitution for any purpose, even for such a purpose as the abolition of slavery.

As to the other constitutional amendment having reference to suffrage, it happens that these States have not accepted it. The consequence is that it has never been proclaimed or understood, even by Congress, to be a part of the Constitution of the United States.

The Senate of the United States has repeatedly given its sanction to the appointment of judges, district attorneys, and marshals for every one of these States; and yet, if they are not legal States, not one of these judges is authorized to

hold a court. So, too, both Houses of Congress have passed appropriation bills to pay all these judges, attorneys, and officers of the United States for exercising their functions in these States. Again, in the machinery of the internal revenue laws, all of these States are districted, not as "Territories," but as "States."

So much for continuous legislative recognition. The instances cited, however, fall far short of all that might be enumerated.

Executive recognition, as is well known, has been frequent and unwavering.

The same may be said as to judicial recognition through the Supreme Court of the United States. That august tribunal, from first to last, in the administration of its duties *in banc* and upon the circuit, has never failed to recognize these ten communities as legal States of the Union. The cases depending in that court upon appeal and writ of error from these States when the rebellion began have not been dismissed upon any idea of the cessation of jurisdiction. They were carefully continued from term to term until the rebellion was entirely subdued and peace reestablished, and then they were called for argument and consideration as if no insurrection had intervened. New cases occurring since the rebellion have come from these States before that court by writ of error and appeal, and even by original suit, where only "a State" can bring such a suit. These cases are entertained by that tribunal in the exercise of its acknowledged jurisdiction, which could not attach to them if they had come from any political body other than a State of the Union. Finally, in the allotment of their circuits, made by the judges at the December term, 1865, every one of these States is put on the same footing of legality with all the other States of the Union. Virginia and North Carolina, being a part of the fourth circuit, are allotted to the Chief Justice. South Carolina, Georgia, Alabama, Mississippi, and Florida constitute the fifth circuit, and are allotted to the late Mr. Justice Wayne. Louisiana, Arkansas, and Texas are allotted to the sixth judicial circuit, as to which there is a vacancy on the bench.

The Chief Justice, in the exercise of his circuit duties, has recently held a circuit court in the State of North Carolina. If North Carolina is not a State of this Union the Chief Justice had no authority to hold a court there, and every order, judgment, and decree rendered by him in that court were *coram non jure* and void.

Another ground on which these reconstruction acts are attempted to be sustained is this: that these ten States are conquered territory; that the constitutional relation in which they stood as States toward the Federal Government prior to the rebellion has given place to a new relation; that their territory is a conquered country and their citizens a conquered people, and that in this new relation Congress can govern them by military power.

A title by conquest stands on clear ground. It is a new title acquired by war. It applies only to territory; for goods or movable things regularly captured in war are called "booty," or if taken by individual soldiers, "plunder."

There is not a foot of the land in any one of these ten States which the United States holds by conquest, save only such land as did not belong to either of these States or to any individual owner. I mean such lands as did belong to the pretended government called the confederate States. These lands we may claim to hold by conquest. As to all other land or territory, whether belonging to the States or to individuals, the Federal Government has now no more title or right to it than it had before the rebellion. Our own forts, arsenals, navy-yards, custom-houses, and other Federal property situate in those States we now hold, not by the title of conquest but by our old title, acquired by purchase or condemnation for public use, with compensation to former owners. We have not conquered these places but have simply "repossessed" them. If we require more sites

for forts, custom-houses, or other public use, we must acquire the title to them by purchase or appropriation in the regular mode. At this moment the United States, in the acquisition of sites for national cemeteries in those States, acquires title in the same way. The Federal courts sit in court-houses owned or leased by the United States, not in the court-houses of the States. The United States pays each of these States for the use of its jails. Finally, the United States levies its direct taxes and its internal revenue upon the property in these States, including the productions of the lands within their territorial limits; not by way of levy and contribution in the character of a conqueror, but in the regular way of taxation under the same laws which apply to all the other States of the Union.

From first to last, during the rebellion and since, the title of each of these States to the lands and public buildings owned by them has never been disturbed, and not a foot of it has ever been acquired by the United States, even under a title by confiscation, and not a foot of it has ever been taxed under Federal law.

In conclusion, I must respectfully ask the attention of Congress to the consideration of one more question arising under this bill. It vests in the military commander, subject only to the approval of the General of the Army of the United States, an unlimited power to remove from office any civil or military officer in each of these ten States, and the further power, subject to the same approval, to detail or appoint any military officer or soldier of the United States to perform the duties of the officer so removed, and to fill all vacancies occurring in those States by death, resignation, or otherwise. The military appointee thus required to perform the duties of a civil office, according to the laws of the State and as such required to take an oath, is for the time being a civil officer. What is his character? Is he a civil officer of the State or a civil officer of the United States? If he is a civil officer of the State, where is the Federal power under our Constitution which authorizes his appointment by any Federal officer? If, however, he is to be considered a civil officer of the United States, as his appointment and oath would seem to indicate, where is the authority for his appointment vested by the Constitution?

The power of appointment of all officers of the United States, civil or military, where not provided for in the Constitution, is vested in the President, by and with the advice and consent of the Senate, with this exception: that Congress "may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." But this bill, if these are to be considered inferior officers within the meaning of the Constitution, does not provide for their appointment by the President alone, or by the courts of law, or by the heads of Departments, but vests the appointment in one subordinate executive officer, subject to the approval of another subordinate executive officer. So that if we put this question and fix the character of this military appointee either way, this provision of the bill is equally opposed to the Constitution.

Take the case of a soldier or officer appointed to perform the office of judge in one of these States, and as such to administer the proper laws of the State. Where is the authority to be found in the Constitution for vesting in a military or an executive officer strict judicial functions to be exercised under State law? It has been again and again decided by the Supreme Court of the United States that acts of Congress which have attempted to vest executive powers in the judicial courts or judges of the United States are not warranted by the Constitution. If Congress cannot clothe a judge with merely executive duties, how can they clothe an officer or soldier of the Army with judicial duties over citizens of the United States who are not in the military or naval service? So, too, it has been repeatedly decided



that Congress cannot require a State officer, executive or judicial, to perform any duty enjoined upon him by a law of the United States. How, then, can Congress confer power upon an executive officer of the United States to perform such duties in a State? If Congress could not vest in a judge of one of these States any judicial authority under the United States by direct enactment, how can it accomplish the same thing indirectly by removing the State judge and putting an officer of the United States in his place?

To me these considerations are conclusive of the unconstitutionality of this part of the bill now before me, and I earnestly commend their consideration to the deliberate judgment of Congress.

Within a period less than a year the legislation of Congress has attempted to strip the executive department of the Government of some of its essential powers. The Constitution and the oath provided in it devolve upon the President the power and duty to see that the laws are faithfully executed. The Constitution, in order to carry out this power, gives him the choice of the agents, and makes them subject to his control and supervision. But in the execution of these laws the constitutional obligation upon the President remains, but the power to exercise that constitutional duty is effectually taken away.

The military commander is, as to the power of appointment, made to take the place of the President, and the General of the Army the place of the Senate; and any attempt on the part of the President to assert his own constitutional power may, under pretense of law, be met by official insubordination. It is to be feared that these military officers, looking to the authority given by these laws rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the Army.

If there were no other objection than this to this proposed legislation it would be sufficient. While I hold the chief executive authority of the United States, while the obligation rests upon me to see that all the laws are faithfully executed, I can never willingly surrender that trust or the powers given for its execution. I can never give my assent to be made responsible for the faithful execution of laws and at the same time surrender that trust and the powers which accompany it to any other executive officer, high or low, or to any number of executive officers. If this executive trust, vested by the Constitution in the President, is to be taken from him and vested in a subordinate officer, the responsibility will be with Congress in clothing the subordinate with unconstitutional power and with the officer who assumes its exercise.

This interference with the constitutional authority of the executive department is an evil that will inevitably sap the foundations of our Federal system, but it is not the worst evil of this legislation. It is a great public wrong to take from the President powers conferred on him alone by the Constitution; but the wrong is more flagrant and more dangerous when the powers so taken from the President are conferred upon subordinate executive officers, and especially upon military officers. Over nearly one third of the States of the Union military power, regulated by no fixed law, rules supreme. Each one of the five district commanders, though not chosen by the people or responsible to them, exercises at this hour more executive power, military and civil, than the people have ever been willing to confer upon the head of the executive department, though chosen by and responsible to themselves. The remedy must come from the people themselves. They know what it is, and how it is to be applied. At the present time they cannot, according to the forms of the Constitution, repeal these laws; they cannot remove or control this military despotism. The remedy is, nevertheless, in their hands; it is to be found in the ballot, and is a sure one, if not controlled by fraud, overawed

by arbitrary power, or from apathy on their part too long delayed. With abiding confidence in their patriotism, wisdom, and integrity, I am still hopeful of the future, and that in the end the rod of despotism will be broken, the armed heel of power lifted from the necks of the people, and the principles of a violated Constitution preserved.

ANDREW JOHNSON.

WASHINGTON, D. C., July 19, 1867.

The SPEAKER. The objections of the President will be entered at large on the Journal, in accordance with the requirement of the Constitution.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I suppose that we may as well proceed at once to take the vote upon this question. I am not aware that there is any desire to discuss the subject. It has been so often discussed that I presume we all understand the argument of the President and the argument against him. If there should be no desire to discuss it on our side, I shall make no remarks; for I do not wish to take any advantage of other gentlemen by offering remarks myself and then precluding others from the same privilege. If there be any such desire, and gentlemen will indicate it, I do not know but that a few minutes might very well be spent in the discussion of the subject.

Several MEMBERS. Call the previous question.

Mr. STEVENS, of Pennsylvania. I prefer myself that the previous question should be called, and the bill passed and sent to the other branch of Congress, that they may decide upon it and be enabled to tell us when we can go home, so that the committee of this House, so diligently engaged in providing for the impeachment of the President, may complete their work in the shortest possible time. Therefore, unless some objection be made, I shall call the previous question.

Mr. BOUTWELL. I ask the gentleman from Pennsylvania [Mr. STEVENS] to yield to me for a few minutes.

Mr. STEVENS, of Pennsylvania. I will do so.

Mr. BOUTWELL. Mr. Speaker, I will not occupy much of the time of the House; yet I think this message so extraordinary in some of its declarations that it ought not to go to the country and the world without some expression of the effect which it has produced upon at least one mind here. The language of this document convinces me of that of which indeed I had but little doubt before, that from the oppression which, through the instrumentality of this man, has rested upon twelve million people, and which has been only temporarily removed by the measures against which the President in this document vainly protests, there is no relief except in the assertion of that great power which resides in this House alone, and for the neglect to exercise that power the people of the country will hold us to a strict account. Posterity, not intimidated by the fears which seem to control us, will render its stern verdict against us if we hesitate to arraign the President for the crimes and misdemeanors of which he is guilty before the country and the world. These charges are of the gravest official character, and it is only by a constitutional and judicial inquiry that we can ascertain whether the provision of the Constitution which gives the power of impeachment to this House now is and forever is to be a dead provision.

It is in vain that you seek by legislation to protect the freedmen of the South, to institute loyal governments in that region, or to infuse justice into the public policy of ten States, while the executive authority of the country, the command of the Army and the Navy, the power of nominating to office are in the hands of Mr. Johnson.

If he be not guilty of high crimes and misdemeanors then the country must endure the evils from which there are no constitutional means of escape. If, however, he be so guilty,

and we do not inquire into the facts and then impeach and arraign the delinquent, then does he, without relieving himself in any degree, compel us to bear an equal weight of guilt.

The President of the United States in the veto message before us uses this language:

"Within a period less than a year the legislation of Congress has attempted to strip the executive department of the Government of some of its essential powers. The Constitution and the oath provided in it devolve upon the President the power and the duty to see that the laws are faithfully executed. The Constitution, in order to carry out this power, gives him the choice of the agents, and makes them subject to his control and supervision. But in the execution of these laws, the constitutional obligation upon the President remains, but the power to exercise that constitutional duty is effectually taken away. The military commander is, as to the power of appointment, made to take the place of the President, and the General of the Army the place of the Senate, and any attempt on the part of the President to assert his own constitutional power may, under pretense of law, be met by official insubordination. It is to be feared that these military officers, looking to the authority given by these laws, rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the Army."

If there were no other objection than this to this proposed legislation it would be sufficient. While I hold the chief executive authority of the United States, while the obligation rests upon me to see that all the laws are faithfully executed, I can never willingly surrender that trust, or the powers given for its execution.

I can never give my assent to be made responsible for the faithful execution of laws and at the same time surrender that trust and the powers which accompany it to any other executive officer, high or low, or to any number of executive officers.

If this executive trust, vested by the Constitution in the President, is to be taken from him and vested in a subordinate officer, the responsibility will be with Congress in clothing the subordinate with unconstitutional power, and with the officer who assumes its exercise."

In this paragraph he speaks of the bill he now vetoes in connection with the acts of the 2d and the 23d of March, which Congress passed over his vetoes, and thus made them the supreme law of the land. He declares that he will never willingly surrender the power of the Chief Executive of the country, that it rests with him alone to see that the laws are faithfully executed, and that he will never consent to their execution through any other instrumentality or agency. Holding his version of the Constitution to be the supreme law and binding on him, he will set at defiance these laws of the Congress of the United States, as well as the bill which now waits upon the Speaker's table for the constitutional sanction of a two-thirds majority, which will make it the law of the land. The Constitution has made it his duty to see that the laws of the land are faithfully executed, and what Congress by its constitutional prerogative declares to be the law is the law to him, as it is to the humblest citizen of the Republic, until by the Supreme Court of the United States it has been decided otherwise. He has taken an oath to support the Constitution of the United States, a leading provision of which is that the President shall see that the laws are faithfully executed, but Congress in its discretion may confide their execution to other officers of the Government. If, however, there be any bearing in this document it is that he will not execute this law though we may pass it by the constitutional two-thirds majority, which is the substitute for the executive signature, and which makes it as much a law as though he had willingly given it his assent.

Once for all, sir, I say for myself, and upon the public records, that a man who by the exercise of unconstitutional authority for twelve or eighteen months encouraged war and rapine and bloodshed throughout ten or eleven States of the Union, that a man, who by his authority alone has, as appears by the public record, declared that he would set at naught your laws which enact that no man shall be appointed to office or receive the pay or emoluments of any office until he had taken the oath prescribed by the law of 1862; that the man who deliberately, upon forethought, intentionally sets aside that law and appointed men to office, and by illegal processes procured for them compensation for services in those offices, knowing

when he appointed them that they could not take the oath without adding perjury to the other crimes then resting upon their souls, at once provokes and demands the exercise of the highest and gravest duty of this House.

Mr. RANDALL. I ask the gentlemen to yield to me.

Mr. BOUTWELL. Not at this moment. I will say what I have to say and then leave the matter in the hands of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. Speaker, I do not propose to go over the arguments contained in this veto message. But we are sentinels here on the watch-tower of freedom. We see the principles of liberty assailed through the President. Vain appeals he makes to the people to sustain him in the struggle. The people will stand by the constitutional authorities of the country; but whether we stand or fall in this contest it is our duty to resist these usurpations. It is true we can endure these violations of law, of the Constitution, and of right for eighteen months more. England might have endured James II, and the American colonies might have endured George III, but for themselves and their posterity they demanded the constitutional rights of freemen, and those rights they secured. We have witnessed gross executive usurpation for a period of twenty-four months, usurpations which set at defiance the laws of the land and constitutional authority of Congress, while we sit here questioning whether we will devote a few months' time to the examination of the great charges already publicly made against this offender of the law, Constitution, and of the Union of the States. While we debate here our constitutional powers are wrested from us. While we consider and delay, precedents are established by which other men not worse than this man will find authority for invading public rights in other years and in other ages. Our duty as we love our country, as we contemplate the judgment that posterity will pass upon us, is clear. That duty is to investigate fairly, fully, faithfully, and without delay the charges that are made against the Executive of the country. If in the judgment of the House the charges are sustained, then let us proceed to arraign him deliberately and promptly, prosecuting the alleged offender according to the forms established by law and precedent. If Mr. Johnson's constitutional term be shortened by the judgment of the Senate for a day only liberty will be preserved to the country, and mankind through centuries will bless that people whose Representatives had the courage to arraign a usurper of power, to demand justice for the weak and the oppressed, to preserve the Constitution with its original vigor unimpaired, to protect liberty, and to transmit popular rights to other ages.

Mr. RANDALL. Will my colleague yield? Mr. STEVENS, of Pennsylvania. For how long?

Mr. RANDALL. Only a moment.

Mr. STEVENS, of Pennsylvania. I will.

Mr. RANDALL. Mr. Speaker, it is seldom that I intrude upon the House, but I desire to say to that Massachusetts impeacher that I have no faith in the bluster about impeachment of which we hear so much. You do not mean impeachment, gentlemen, for you do not dare to do it.

The SPEAKER. There is too much noise in the House.

Mr. RANDALL. My only purpose was to ask the gentlemen on the other side to impeach the President if they are ready.

Mr. BUTLER. Will the gentleman from Pennsylvania yield.

Several MEMBERS. Oh no; let us have the vote.

Mr. STEVENS, of Pennsylvania. I yield to the gentleman from Massachusetts fifteen minutes.

Mr. PRUYN. I would like to be allowed a few minutes also.

Mr. BUTLER. I would not ask the House

to pause in what we all understand to be our primary duty if the message which we have just heard did not seem to me to require an observation, first, upon its tone, and secondly, as to some of its assertions of fact.

I do not propose dealing with the general argument, but I do protest in the name of this House and the people against the executive calumny of the Congress of the United States in the declaration in an official paper, which by the Constitution we must enter upon our Journal, that Congress has fastened by its action a despotism upon twelve million people of this country more intolerable than was ever conceived of to be borne by any other people. I give the exact words of the message:

"It is impossible to conceive any state of society more intolerable than this, and yet it is to this condition that twelve million American citizens are reduced by the Congress of the United States."

Either that is true or it is false. If true, we are unworthy of our places here; if false, the man who makes the charge ought not to hold his place a single hour longer than the necessary steps can be taken to remove him from it.

I agree that the gentleman from Pennsylvania [Mr. RANDALL] has just uttered a truth in his remark that we dare not impeach the President; we dare not do our duty in this respect. With shame and confusion of face I for one confess the truth and justice of that accusation to the country. The question is, How soon shall we be ready to do our duty? How soon shall we meet this disturber of the peace of the country in the manner pointed out by the Constitution? When shall we say to him, as did the orator of Rome to a like conspirator against the Government, *Quousque tandem abutere nostra patientia, Catalina?* How long shall we remain here idle and patient to be charged with enacting laws that work despotism in this country?

But, sir, passing from this, in the little time given me I desire to call attention to one or two assertions of fact in this message; and I do it not because they are now made for the first time by the President, but because never in this place, so far as I know, have they been met and the proof demanded.

The charge of the message is that this Congress has declared these rebel State governments illegal with one breath while we have sustained them as valid with another; and the President instances several occasions where we have spoken of these former States in our legislation as States and then proceeds to argue that therefore we have affirmed their legal existence as States in the Union. The answer is that this has been done only as a matter of convenience in reorganizing these forfeited governments and in restoring their rights lost in war. The President claims further that Congress has recognized these States as existing by sending propositions of constitutional amendment to be ratified by them. I pray the judgment of this House. Show me any law, any phrase of a law, wherein Congress has directed any one of the propositions of constitutional amendment to be ratified by one of these States. We sent out amendments to be ratified by the States of the United States, and his Secretary of State, to support the executive policy and to strengthen his construction that these rebel unconstructed States are loyal States in the Union, sent the constitutional amendment in regard to the abolition of slavery for ratification to those so-called States, erected by executive order and by no other power whatever, and then argues that Congress is concluded by this expedient from denying their legal existence.

Again, the President says that we have provided for and the Senate has confirmed the appointment of judges for these States, and therefore Congress has recognized them as States in the Union. I once more take issue on the fact. We have provided for judges and district attorneys of the United States in certain districts theretofore declared and defined by law, and not for any State judges whatever.

Our legislation has been for United States officers and not for State officers.

Again, we are told that the Supreme Court has recognized these States in assigning their circuits by choosing the boundaries of these States as designations of their limits. But this was done for convenience of designation only.

Again, it is said that the Supreme Court of the United States has recognized these States by holding a court by its Chief Justice in the State of North Carolina. He held a court in the territorial district assigned to him without any reference to the question whether the State of North Carolina was in existence or not, and it would have been equally his duty to have held that court whether the State of North Carolina as a State had legal existence or not.

And among the first opinions that the Chief Justice delivered in that circuit show conclusively that he by no means recognized the State of North Carolina except as a State which had been in rebellion, and had not yet been brought back into the Union; whose laws enacted by the State were void, and whose people had forfeited all their rights to act as a State organization. Nor has there been any such recognition by the Supreme Court, because they have allowed cases to be placed or remained on their dockets from the various district and circuit courts held either before or since the war within the limits of those States. Those courts made judgments which were to be revived on appeal in the Supreme Court of the United States, and in none of those questions of appeal had the question arisen as to the existence of those States. The State of Mississippi, indeed, undertook to bring a bill in equity against the officers of the United States, and thereupon the Supreme Court of the United States made a formal adjudication, so far as anything was decided, that the State of Mississippi, as a State of this Union, had no standing in the Supreme Court of the United States, and so far from sustaining the assertions of this message that decision was entirely opposed to them.

One further observation and I shall have met all I now desire to answer in this message. The President declares that no part of these southern States ever became the property of the United States by conquest. I cannot for one allow that statement to go unchallenged. Every foot of land, whether it originally belonged to the United States or others, and which by the power of its arms was repossessed by the United States from the armed control of its public enemies, belongs to the United States as a conquest; and to say that title by conquest only pertains to personal property is to ignore the entire law of nations. While it has not been usual in conquering nations, to assume a proprietary right in the property of the conquered either real or personal, I think I may challenge the President to point out in the entire body of writers on public law or the rights of war of a single line in which there is any denial that the right of property may be thus acquired. I ask the consideration of the House whether or not this right of conquest is not a perfect one, to be exercised, in the judgment of the conqueror, in mercy or clemency or in justice or a full assumption of right? We have chosen in our conquered territory not yet to take into our possession the property or lands, with certain exceptions, which the valor of our soldiers has won; but the right to so do still remains to us; and justice may yet compel us to exercise that right for the safety and well-being of the country.

Having brought to the attention of the House these misstatements of facts and wrong conclusions of law, I am ready for one to vote this bill shall become a law, notwithstanding the objections of the President, and leave the President to determine whether he will execute it or refuse to do so, as he threatens; and then see whether the House of Representatives will bring him, for this and his former violations of the Constitution and usurpation of

power, before the Senate for trial, according to the mode, and the only mode, pointed out by the Constitution to relieve the country of a bad and unscrupulous ruler.

Mr. BOYER. Will my colleague yield to me for five minutes?

Mr. STEVENS, of Pennsylvania. Yes, sir; I will give the gentleman that time.

Mr. BOYER. Mr. Speaker, it is a most extraordinary exhibition that we have witnessed this day in the House of Representatives of the United States. Because the President has returned in the ordinary manner a bill with his objections to this House, gentlemen on the other side think themselves justified in denouncing him as a fit subject for impeachment and removal from office. Yet it is in the exercise of his clear constitutional power and duty that the President has returned this bill with his reasons for not affixing to it his signature.

The construction put upon the veto message by the gentleman from Massachusetts, [Mr. BOUTWELL,] who first addressed the House, must surely strike every member here as one in nowise justified by anything in the language of the document itself. The President has not in his message said or intimated that he will forcibly resist this or any other act of Congress after it has become a law under the forms prescribed by the Constitution; nor has he said by implication even that he would be unwilling to execute it. He has declared, however, that he will not willingly surrender the constitutional powers which are vested in him as President of these United States. Is he for that to be denounced? Has he not taken an oath to obey the Constitution of the United States, and so far as he is able to "preserve, protect, and defend" it? Yet for no other reason than because he assigns constitutional objections to a bill which has been passed by this House he is made a subject of fierce denunciation, as if he had thereby been guilty of a crime. Under these circumstances perhaps silence best becomes those opposed to the impeachment of the President. Let the speeches of the two gentlemen from Massachusetts [Mr. BOUTWELL and Mr. BUTLER] go before the country as additional evidences of the malice and intolerance of those who are clamoring for impeachment. I am sure that those speeches, when read by the people of the country, must be a convincing proof, if indeed further proof is needed, of the desperate attempt to grasp at any excuse for the purpose of removing the last obstacle to the progress of the Radical majority toward the complete subversion of the Constitution of the country and the perfection and intrenchment of despotism, not only in ten States of this Union, but throughout them all.

Mr. PRUYN. Will the gentleman from Pennsylvania [Mr. STEVENS] yield me five minutes? [Cries of "Question! Question!"]

Mr. STEVENS, of Pennsylvania. I yield ten minutes to my colleague, [Mr. WILLIAMS.]

Mr. PRUYN. Does the gentleman from Pennsylvania decline to yield to me?

The SPEAKER. The Chair did not understand the gentleman from Pennsylvania as indicating whether he would or would not yield to the gentleman from New York, [Mr. PRUYN.]

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, I sympathize most deeply with the eloquent utterances of my friend from Massachusetts [Mr. BOUTWELL] on this question. There is a time, it seems to me, when forbearance ceases to be a virtue. There is a time when timid counsels, which betray like treason, must cease to govern the Legislative Assembly of this nation. I think that this time has now arrived. For the first time in our history the Chief Executive Magistrate of this nation strides into its great council chamber and flings his mace, in the way of defiance, at our very feet.

When is this controversy to end? What is now the issue? We stand wide as the poles asunder upon a question of vital magnitude, on which the people have again and again passed

directly and indirectly at the ballot-box; and we are now referred again by the defiant language of the President to the very tribunal whose verdict has been so often rejected. Are we prepared to adjourn now, with an utterance of this sort placed upon our records; with the declaration publicly and solemnly made that the President of the United States, the minister of our will, will not execute that which he has declared in constitutional form? Will he execute it in any event? From the experience of the past—and if we are ever to be wise we must derive instruction from that school—what have we to expect? What is the remedy? The President of the United States, charging us again with a violation of the fundamental law of the state, proposes a renewed appeal to the same tribunal that has already again and again pronounced its verdict, which he has again and again disregarded.

Mr. ROSS. I would like to ask the gentleman a question.

Mr. WILLIAMS, of Pennsylvania. I do not wish to be interrupted now.

Mr. ROSS. I only wanted to ask whether the people have ever passed upon this military despotism which we are getting up now.

Mr. WILLIAMS, of Pennsylvania. But, sir, there is another remedy. It has been industriously disseminated throughout the length and breadth of the land that the charges depending here against the Executive Magistrate are merely frivolous. This opinion has found utterance here, and I am sorry to say on both sides of the House, while the men who hold the opposite view, and who might, I suppose, be entitled to claim a more charitable construction, at least on the part of their friends, are denied the privilege of declaring the reasons which have led them to the conclusion at which they have arrived. I desire to say now, in their behalf, that they will be fully prepared, whenever they are allowed the opportunity, to show to this House and to the nation that there is a case and a very grave one to demand their attention. It is not for me to say now what that case is; I cannot do so without a violation of confidence as a member of the committee charged with this question; but I must be allowed to declare by way of protest against the suggestions and insinuations that have been so freely indulged in, that there is a state of facts developed before them on which they will be able to go confidently before this House and before the American people; that there is a case in which it will be found that the highest acts of tyranny that distinguished the reigns of the Tudors and Stuarts have been rehearsed and reiterated by the present Chief Magistrate of a republican nation.

I do not speak for others, but I desire to say now for myself, Mr. Speaker, as a professional man, educated to some extent in the great principles of free government, and to some extent, I think, familiar with the progress of constitutional liberty in England from its early and rude beginnings in the great Charta which was wrested by the barons of England from King John at Runnymede, down to its glorious consummation in the revolution of 1688, and the Bill of Rights which followed and confirmed it, that there is no case, in my judgment, and I say it with all proper deference to the opinions of others, in the parliamentary history of England which will be found to comprehend as many enormities, as many high political misdemeanors, as many invasions of the great maxims of liberty, as will be found in the present one; and I desire to say further, knowing what I say, and in full consciousness of the force of what I utter, but not speaking for my colleagues who agree with me in opinion, that I stand ready to make good all I have here said, whenever this House will afford me the opportunity, against all comers.

It is proper, however, that I should add there are great public interests, aside from the mere question of impeachment, dependent on facts evolved in the course of this examination, of which I do not feel myself at liberty to speak. It may be that they would show that these great

interests require that Congress should not separate until they are provided for. I cannot say, of course, precisely why it is without revealing more than it belongs to me to speak of; but it seems to me that the time is near, with an issue on your hands which you are required to meet between yourselves and the Executive who sets your laws at defiance, when you will see the necessity of looking to these interests and be compelled to have recourse to the last and the only true and effective remedy, by deposing the minister who defies your will and setting up another in his place who will respect your authority.

Mr. STEVENS, of Pennsylvania. I have about twenty minutes left, which I desire to occupy myself.

Mr. NIBLACK. If the gentleman yields to gentlemen on this side, there will be no objection to extending his time.

Mr. BROOMALL. I object.

Mr. STEVENS, of Pennsylvania. I will yield for three minutes to the gentleman from Ohio.

Mr. SCHENCK. Mr. Speaker, I am willing to accept three minutes if I cannot get any more.

Mr. PRUYN. I do not think there will be any objection to extending the time of the gentleman from Pennsylvania.

The SPEAKER. The gentleman from Pennsylvania objects.

Mr. STEVENS, of Pennsylvania. I yield to the gentleman from Ohio three minutes.

Mr. SCHENCK. I have said, sir, that I was willing to accept three minutes of time, which is not enough to make any argument in the case, and the most I expect is to be able to record my declaration.

The Secretary of the Treasury some time ago in his speech delivered to a mob of this city, said—I leave it to him after reflection to say with how much propriety—that he regarded Congress, the law-makers of the country, as a "set of tinkers." Sir, I have been sometimes almost inclined to think we have wasted our time in tinkering. We have passed one law after another in our effort to carry out a system of restoration of the rebel States, which we all so much desire, and those laws have been rendered nugatory, have been in effect stricken down and made inoperative by hostility both to us and to the policy we pursue upon the part of the Executive of the nation. He stands as an obstruction in the pathway which the law-making power of this country seeks to pursue, in order to restore peace to an entire and unbroken Union.

I have said before what I now repeat, that all your attempts by acts of legislation are as nothing almost while that obstruction remains; that though you may think to dig little canals around it or to burrow under it or to climb over it, your expedients are all unavailing. The only true remedy is to remove the obstruction; to put out of the way and degrade from his office the Executive of the United States, who stands before the country and the world defying your attempts to bring about that peace and restoration which by your legislation you are endeavoring to obtain.

Sir, I do not know what proofs may have been produced before the Committee on the Judiciary, but I do know this: that without looking into the record which has been made by their investigation, there is spread upon the public journals of this country in the shape of documents to which the name of the President is attached, enough of history to satisfy me that he has assumed a position of hostility to a coördinate branch of the Government and to the proper rule in this country, which amounts to a great political crime, for which he might be, and if we are true to our duty ought to be, degraded from the office he holds.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I will say a few words and then call the previous question. Let me say at the outset that I agree precisely with the eloquent speech of my amiable colleague across the way, [Mr.

RANDALL,] that you cannot impeach the President of the United States; and I say to our friends on this side who are urging that measure that they are urging it in vain. The vote the other day upon my motion clearly shows that. Without attempting to go into disclosures, I undertake to say that there are unseen agencies at work, invisible powers operating everywhere in this country which when called upon can and will protect a man of that kind from all danger. I have taken some pains to look into the position of this House and of the Senate and am quite sure that there is power enough, first to prevent the voting of impeachment here, and secondly, if impeachment were voted, to prevent conviction elsewhere.

I have said this much, hoping we shall hear no more of any attempt to urge impeachment, a vain and futile thing, on the panoply of soldiers dressed in armor which surround the White House.

Now, sir, a single word with regard to the condition of the country. The President starts by asserting what, if true, makes out all the rest of his argument legitimately. He says that the Constitution of the United States is theoretically operative in the conquered southern States. If that were true, then all we have been doing is rank usurpation, and all he has been doing is legitimate action. I deny that the Constitution is theoretically or actually in operation in any one of those States any more than it is in a Territory.

Let me say here—and I am sorry to say it—that not all of our statesmen, profound as they are, not all our judges, even the most learned of them, seem to have looked sufficiently deep into the law of nations to understand the true condition of a conquered people. And yet how long would it take to refute all that has been said and all that can be urged against our absolute power over these provinces as conquered belligerents, whose whole property we own and may dispose of as we please? A slight examination, if his Excellency will begin and patch up his knowledge upon this subject, will be sufficient. One page of Grotius, one half chapter or lecture of Rutherford, one page of Vattel, and even less from that last, best, and tersest of publicists, Sargent Wildman, must convince every man who will give up his prejudice in regard to the States being of a mongrel character, part in and part out of the Union, that they are conquered territory of the United States. That being the case, all the rest of reconstruction is as easy as any problem in Euclid.

Now, sir, while I could hope that all our people would examine this matter thoroughly before they pass upon it, yet I cannot deny that we are in some measure responsible both through our statesmen, publicists, and judiciary, for the errors under which the White House is laboring, and that we are without the same excuse that he has. Many of our people have relied upon Blackstone and upon Wheaton. They have made it their business to study ancient and modern publicists while the occupant of the White House was engaged in a very laudable business not much calculated to instruct that end of the human frame. [Laughter.] Therefore I make allowance and indulgence for the error of that amiable gentleman, and I trust that my friends will not consider me arrogant in suggesting as I have done the study of the authorities on this subject, with the view of ascertaining the true position of our country and the building up of our nation so that it may last through all time. I now call the previous question.

Mr. WILSON, of Iowa. I ask the gentleman to yield to me for about five minutes. I do not think that I shall occupy even that time.

Mr. PRUYN. I have already made a like request.

Mr. WILSON, of Iowa. I suggest to the gentleman from Pennsylvania that two members of the Judiciary have already been heard.

Mr. STEVENS, of Pennsylvania. If the House will not object, I will yield five minutes to the gentleman from New York, [Mr. PRUYN,]

and then five minutes to the gentleman from Iowa, [Mr. WILSON.] It is only fair that I should do so, if I yield to the gentleman from Iowa.

The SPEAKER. That will require an extension of five minutes to the time of the gentleman from Pennsylvania. Is there objection?

Mr. LOAN. I object.

Mr. WILSON, of Iowa. If the previous question be not sustained, will not further debate be in order?

The SPEAKER. Two thirds can suspend the rules, to enable the debate to continue.

Mr. WILSON, of Iowa. If the gentleman from Pennsylvania [Mr. STEVENS] will yield me the floor now, I will renew his demand for the previous question.

Mr. STEVENS, of Pennsylvania. No, sir; I will move to suspend the rules to enable me to yield first, five minutes to the gentleman from New York, [Mr. PRUYN,] and then five minutes to the gentleman from Iowa, [Mr. WILSON.]

The question was taken, and (two thirds voting in favor thereof) the rules were suspended.

Mr. STEVENS, of Pennsylvania. I yield now to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. Mr. Speaker, as I was not in attendance on this House at the time the discussion took place in regard to this bill, I do not know what arguments were urged in its favor, or what reasons were given why it should not pass. I propose, therefore, to say nothing about the merits of the bill in general, but to notice some of the very extraordinary things which have developed themselves in the very unexpected debate which has just taken place. And let me begin first with the gentleman from Pennsylvania, [Mr. STEVENS.] I agree with him entirely as to those first principles which lie at the foundation of international law to which he has referred, and I agree with him that the authors that he has named are authorities not to be disregarded, but whose opinions are conclusive on the question before the House. But the difficulty in regard to the question before us is this: in the Thirty-Eighth Congress the gentleman announced what I believed and the country believed to be a startling position, that by reason of the proclamation of the President the war had become a war between nationalities, that henceforth it was a struggle between two great nations, and that the conquering party had a right to do with the conquered what it pleased. That was in the face of the solemn declaration of Congress, almost unanimously passed after the first battle of Bull Run, that it was not a war between nationalities, that it was a war to enforce the provisions of the Constitution, acknowledging all the rights of the States, and declaring that as soon as the struggle should be terminated, these States should be restored to their relations to the Union.

In regard to the gentleman from Massachusetts, [Mr. BOWWELL,] we know that this subject of impeachment has been so thoroughly embodied in his mind that upon no occasion does he fail to present it to the House.

We are here called upon to discharge a solemn duty under the Constitution—to declare whether, notwithstanding the reasons which the President of the United States has assigned against the passage of this bill, it shall become a law. Instead of considering this question the gentleman from Massachusetts has favored us with the reasons why, in his opinion, the President should be impeached. Some of those reasons, I believe, he has attempted to draw from the language of the message which has been read to-day. But, sir, how does that message close? After the President has said to this House and to the world that this act is an outrage upon the Constitution and a violation of the great principles of liberty, what does he tell you? To what does he appeal? He appeals to the ballot-box. Is the gentleman from Massachusetts afraid of that? He

may well be; for it will tell a story utterly at variance with the views which the gentleman entertains.

Now, sir, a part of that speech would have been very proper in a political electioneering contest; a part of it would have suited very well the era of the French Revolution. But it does not befit the temper of our times, if there be left any respect for the principles of constitutional liberty, that a gentleman occupying the position of the gentleman from Massachusetts should come in here and under such circumstances promulgate and urge the views which he has presented to the House to-day.

Now, sir, who is to judge of the constitutionality of an enactment? The executive is one of those branches of Government that are to pass upon the acts of this Congress. Where does the gentleman get his idea that the action of Congress in passing an act makes it the supreme law of the land? There is no such declaration to be found in the Constitution. There is no authority for such a position. The Constitution simply declares that if a law be passed "in pursuance" of the Constitution, then it shall be the supreme law of the land. Who is to judge of that?

The SPEAKER. The five minutes of the gentleman from New York [Mr. PRUYN] have expired. The gentleman from Iowa [Mr. WILSON] is entitled to the floor for five minutes.

Mr. PRUYN. I am very sorry that I am not permitted to finish the presentation of the thought I was endeavoring to express.

Mr. WILSON, of Iowa. Mr. Speaker, I did not intend to occupy one moment of the time of the House on this question until it seemed to be rendered necessary by the singular course which has been pursued by two of my colleagues on the Judiciary Committee, and by some of the remarks which have fallen from the gentleman from Pennsylvania, [Mr. STEVENS.]

I will not pretend to be conversant with all the law and all the history of England and of this country relative to impeachment, though I have studied both with some care. It may be, sir, that I do not understand the subject as perfectly as my learned colleague on the committee, the gentleman from Pennsylvania, [Mr. WILLIAMS.] I do not pretend to be infallible. He has asserted that he knows all of law and history concerning this subject; and when a man thinks he knows all concerning any subject he will never learn anything more. He has given us his conclusion upon this case in a style excited and positive. I do not intend, sir, to enter upon the discussion of the merits of this case at all. This is not the right time, nor can the subject be properly entered upon until the evidence shall have been presented to the House for its consideration. When the House of Representatives charged the Committee on the Judiciary with the investigation of this case, I did not understand that it was for the purpose of having it disposed of as a partisan on question.

I understood that so far as the reference of the subject imposed an obligation upon me as a member of the committee, it was to investigate fearlessly and faithfully the subject, not merely as a member of the Republican party, but as a member of the Law Committee of the House of Representatives. I have pursued the investigation with that view and in that spirit, and I affirm here to-day that no amount of political pressure shall turn me aside from a conscientious discharge of the duty thus imposed. I will be controlled by the law and the facts, and by nothing else. [Applause.] I have no sympathy with the course of political conduct which has been pursued by the President of the United States. He is not entitled to my sympathy or respect in this regard; but, sir, he is entitled to have the charges made against him determined according to law, and to have the case decided as the facts and the law warrant and demand. The lowest criminal may demand this, and the President is entitled to the benefit of this rule.



The gentleman from Pennsylvania [Mr. STEVENS] has said that there are secret influences at work in this matter. Sir, it is very easy for any man to cast suspicion upon others when it becomes necessary to do so in order to carry by force of party organization anything which he may desire to invest with success. I do not know to what influences the gentleman referred. The gentleman says that secret influences will not only control the action of members of this House, but will control the judgment of members of the Senate sitting as a high court of impeachment under the solemnity of their oaths as judges. Sir, is every man to be denounced because he cannot look upon questions just as some other men view them? Is every man to be hounded down because he will not surrender the right of private judgment and follow men regardless of law and the directions of conscience? Have we come to that, sir? [Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I now demand the previous question, and ask for the vote.

The previous question was seconded, and the main question ordered.

The SPEAKER. The question is, Will the House on reconsideration agree to the passage of House bill No. 123, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, notwithstanding the objections of the President to the contrary? By the Constitution the vote must be taken by yeas and nays.

The question was then taken; and it was decided in the affirmative—yeas 108, nays 25, not voting 33; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Halsey, Hamilton, Hayes, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Myers, O'Neill, Orth, Paine, Perham, Pike, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Eldridge, Getz, Glossbrenner, Haight, Holman, Hotchkiss, Kerr, Marshall, Mungen, Niblack, Nicholson, Noel, Phelps, Pruyn, Randall, Robinson, Ross, Stone, Van Auker, and Van Trump—25.

NOT VOTING—Messrs. Delos R. Ashley, Barnum, Blaine, Burr, Cake, Chanler, Dodge, Eckley, Eggleston, Ela, Eliot, Fox, Garfield, Griswold, Harding, Richard D. Hubbard, Hulburd, Humphrey, Laffin, Lynch, Mallory, Marvin, McCarthy, McCullough, Morgan, Morrissey, Newcomb, Peters, Plants, Pomeroy, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, and Wood—33.

During the call the following statements were made:

Mr. PERHAM announced that his colleagues Mr. LYNCH and Mr. PETERS were paired with Mr. FOX, of New York, and that if present they would vote in the affirmative.

Mr. MARSHALL stated that his colleague, Mr. BURR, was detained at his room by severe indisposition, and that if present he would vote in the negative.

Mr. CHURCHILL stated that his colleague, Mr. HULBURD, was paired with Mr. TABER, and that if present he would vote in the affirmative.

Mr. ROBINSON announced that the request of his colleague, Mr. CHANLER, that if present he would vote no.

Mr. PLANTS said: Mr. Speaker, my colleague, Mr. SHELLABARGER, made an arrangement to pair with my other colleague, General MORGAN; and as it requires two votes for one on this question, I agreed to be the other. I would have voted in the affirmative, and so would Mr. SHELLABARGER.

Mr. MORGAN. And I would have voted in the negative.

The SPEAKER then announced that two thirds having voted in the affirmative the bill had, notwithstanding the objections of the President, again passed and would, with the President's objections, be transmitted to the Senate for like consideration.

#### COMMITTEE ON PAY DEPARTMENT.

The SPEAKER announced that he had appointed the following as the Committee on the Pay Department: Mr. LINCOLN, Mr. SCOFIELD, Mr. COBB, Mr. BUCKLAND, and Mr. HOLMAN.

#### EQUAL RIGHTS.

The SPEAKER then laid before the House the amendment of the Senate to the amendment of the House to Senate bill No. 37, for the further security of equal rights in the District of Columbia.

The Clerk read as follows:

Add at the end of said amendment as follows: SEC. 2. And be it further enacted, That the supreme court of the District of Columbia, sitting for the trial of crimes and misdemeanors, be, and is hereby, authorized to order, drawn from the jury-box provided for that purpose and in the manner provided by law, the necessary grand and petit juries for the general term of the criminal court for the year of our Lord 1867.

Mr. WILSON, of Iowa. Unless that is concurred in there will be no way by which the criminal court of this District can until the coming year have grand and petit juries. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was concurred in.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SYMPATHY WITH CRETE.

The SPEAKER laid before the House joint resolution of the Senate No. 63, declaring sympathy with the suffering people of Crete; which was read a first and second time.

Mr. BANKS. I desire action on that resolution now.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the people of the United States feel a strong sympathy with the people of Crete, constituting a part of the Greek family to which civilization owes so much; that they are pained by the report of the present sufferings of those interesting people, and they unite in the hope that this declaration, which they feel it their duty to make, will be favorably considered by the Government of Turkey in determining its policy toward Crete.

SEC. 2. And be it further Resolved, That it shall be the duty of the President of the United States to communicate this resolution to the Government of Turkey.

Mr. BANKS. I presume there will be no objection to this.

The joint resolution was read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 28) authorizing extensions of the mail steamship service between the United States and China and Japan; when the Speaker signed the same.

#### GOVERNMENT OF THE ARMY.

Mr. BOUTWELL. I ask unanimous consent to introduce for present consideration a joint resolution concerning the government of the Army of the United States.

The resolution was read, as follows:

Be it resolved by the Senate and House of Representatives, &c., That no district or department commander shall be relieved from the command heretofore assigned to and now exercised by him without the

advice and consent of the Senate, unless the change of command be recommended by the General commanding the Army.

Mr. ROSS and Mr. RANDALL objected. Mr. BOUTWELL. I move to suspend the rules.

Mr. NIBLACK. On that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 24, not voting 50; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Hamilton, Hayes, Hooper, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Polsley, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—96.

NAYS—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Eldridge, Getz, Glossbrenner, Haight, Holman, Kerr, Marshall, Mungen, Niblack, Nicholson, Noel, Phelps, Pruyn, Randall, Robinson, Ross, Stone, Van Auker, and Van Trump—24.

NOT VOTING—Messrs. Delos R. Ashley, Baldwin, Barnum, Bingham, Blaine, Bromwell, Burr, Cake, Chanler, Cornell, Dodge, Eckley, Eggleston, Ela, Eliot, Finney, Fox, Garfield, Griswold, Harding, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Laffin, Lynch, Mallory, Marvin, McCarthy, McCullough, Morgan, Morrissey, Newcomb, Peters, Pile, Pomeroy, Price, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Stephen F. Wilson, and Wood—50.

So the rules were suspended.

During the roll-call,

Mr. HAYES stated that his colleague, Mr. BINGHAM, had just left on account of sickness.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by W. G. MOORE, his Private Secretary, returning to the House of Representatives with his objections thereto the joint resolution of the House to carry into effect the several acts providing for the more efficient government of the rebel States.

#### RECONSTRUCTION APPROPRIATION.

The SPEAKER laid before the House the message of the President, just received, which was read, as follows:

To the House of Representatives:

For reasons heretofore stated in my several veto messages to Congress upon the subject of reconstruction, I return without my approval the joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States, and appropriating for that purpose the sum of \$1,000,000.

ANDREW JOHNSON.

WASHINGTON, D. C., July 19, 1867.

The SPEAKER. The question is, Will the House on reconsideration agree to the passage of this bill, the objections of the President to the contrary notwithstanding?

Mr. STEVENS, of Pennsylvania. I demand the previous question.

The previous question was seconded, and the main question ordered.

The SPEAKER. The question must be taken by yeas and nays.

The question was taken; and there were—yeas 100, nays 22, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Banks, Beaman, Benjamin, Benton, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Ferry, Fields, Finney, Gravely, Halsey, Hamilton, Hayes, Hill, Hooper, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Myers, O'Neill, Orth, Paine, Perham, Pike, Pile, Poland, Polsley, Raum, Robertson, Sawyer, Schenck, Scofield,

Selye, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—100.

**YAYS**—Messrs. Adams, Archer, Barnes, Boyer, Brooks, Eldridge, Getz, Glossbrenner, Haight, Holman, Kerr, Marshall, Mungen, Niblack, Nicholson, Noell, Pruyn, Robinson, Ross, Stone, Van Auker, and Van Trump—22.

**NOT VOTING**—Messrs. Delos R. Ashley, Baldwin, Barnum, Bingham, Blaine, Bromwell, Burr, Calk, Chanler, Dodge, Eckley, Eggleston, Ella, Eliot, Fox, Garfield, Griswold, Harding, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Laffin, Lynch, Mallory, Marvin, McCarthy, McCullough, Morgan, Morrissey, Newcomb, Peters, Phelps, Plants, Pomeroy, Price, Randall, Shellabarger, Sitgreaves, Smith, Spaulding, Starkweather, Stewart, Taber, Cadwalader C. Washburn, Stephen F. Wilson, and Wood—48.

So (two-thirds having voted in the affirmative) the resolution was passed, the objections of the President to the contrary notwithstanding.

During the roll-call, Mr. PLANTS said: Upon the question of reconstruction my colleague, Mr. SHELLABARGER, agreed with myself to pair with our colleague, Mr. MORGAN. That was the only vote on which we anticipated the necessity of a pair of two to one. But I wish to extend the pair to this vote.

#### GOVERNMENT OF THE ARMY—AGAIN.

The House then resumed the consideration of the joint resolution concerning the government of the Army of the United States; which was read a first and second time.

Mr. BOUTWELL. I move to amend the joint resolution by inserting after the word "relieved" the words "by the President," and I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was agreed to.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BOUTWELL. I demand the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. ROSS. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. BOUTWELL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADJOURNMENT OF CONGRESS.

Mr. FARNSWORTH. I offer the following resolution:

*Resolved*, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses on Saturday, the 20th day of July, 1867, at 12 o'clock, meridian.

The SPEAKER. The Chair will state that this is a privileged question. The House has already adopted a concurrent resolution providing for an adjournment until the 13th of November, leaving a blank for the day on which the adjournment shall take place. The Chair states this fact that it may be within the knowledge of the House. The resolution now offered proposes an adjournment without day.

Mr. FARNSWORTH. That is what I desire. I am opposed to a meeting in November.

Mr. STEVENS, of Pennsylvania. I think we had better not dispose of this question until to-morrow. There are some important matters yet to be acted upon.

Mr. PRUYN. I desire to ask the Chair whether this resolution is not inconsistent with that already passed by the House providing for a reassembling of Congress in November.

The SPEAKER. That is the fact; but there is nothing in the rules preventing the House from sending to the Senate several resolutions on this subject. It has sometimes happened that three or four resolutions of this kind have

been passed by the House, until finally the Senate has taken up one and acted upon it.

Mr. SCOFIELD. I wish to inquire whether the Chair wishes to be understood as saying that in case we adopt the resolution offered by the gentleman from Illinois, [Mr. FARNSWORTH,] and the Senate should concur in both our resolutions, there would then be an adjournment until December.

The SPEAKER. The Chair cannot suppose it possible that the Senate will adopt both resolutions. It would not be respectful to the Senate to entertain such a supposition.

Mr. WINDOM. I move that the House adjourn.

Mr. FARNSWORTH. The gentleman has not the floor to make that motion; I have not yielded the floor.

Mr. DRIGGS. I desire to suggest to the gentleman from Illinois to amend his resolution so as to fix three o'clock to-morrow afternoon as the time for adjournment. It seems to me this is preferable, in case any legislation should require to be perfected to-morrow.

Mr. FARNSWORTH. I was about to say that if there is any legislation necessary to be done, we can hold a session this evening, or can meet earlier than usual to-morrow morning. An adjournment to-morrow at noon will be very convenient to members who desire to get away. I think that we ought to adopt this resolution this afternoon, and send it to the Senate.

Mr. ASHLEY, of Ohio. I desire to ask the gentleman from Minnesota [Mr. WINDOM] a question.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] is still entitled to the floor, if he claims it.

Mr. FARNSWORTH. I yield the floor. I am willing to leave this matter to the decision of the House.

Mr. WINDOM. I now renew the motion to adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. DAWES: The petition of Horatio Ames for compensation for eleven wrought iron guns manufactured for the Navy Department, and asking that his system of fabrication be inquired into.

By Mr. JULLIAN: The petition of the Indiana Yearly Meeting of the Society of Friends, praying the location of the Indian tribes of the United States on a tract of land of sufficient size, under the superintendence of a competent and humane person, with a view to their education and their protection in all their rights.

By Mr. LOAN: The petition of C. M. Commer-ser, asking for a pension.

#### IN SENATE.

SATURDAY, July 20, 1867.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HARLAN, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### SELECTION OF OFFICERS IN WASHINGTON.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 143.

Mr. JOHNSON. What bill is that?

The CHIEF CLERK. "An act to regulate the selection of officers in the city of Washington, District of Columbia, and for other purposes."

Mr. JOHNSON. Is that read for information?

The PRESIDENT *pro tempore*. That is read for information.

Mr. JOHNSON. I ask for the reading of the bill at length. I cannot understand it from its title.

The Chief Clerk proceeded to read the bill. It provides that it shall be the duty of the mayor of the city of Washington, District of Columbia, the Board of Aldermen, and the Board of Common Council thereof, to assemble in joint convention, at the City Hall, on the first Monday

in August in each year, and select by ballot all officers whose appointments are now authorized by the charter or by any law of the United States or act or ordinance of the city, or which may hereafter be authorized thereby; and that when so assembled they may abolish any of the offices now established, or change the duties connected therewith, or the compensation thereof, as they may deem proper or necessary for the interests of the city; but no person is to be regarded as incompetent to hold any office or be disqualified therefor on account of his race or color.

Mr. JOHNSON. That is enough for my purpose. That changes the charter of the city very materially, and I am not prepared to say whether the change is or is not a wise one. I object to the consideration of the bill now.

Mr. SUMNER. I move that the bill be proceeded with. It is within the control of the Senate.

Mr. JOHNSON. How?

Mr. SUMNER. Because it is on the table, and it is called up.

Mr. JOHNSON. I do not understand it so.

The PRESIDENT *pro tempore*. The Senator from Maryland raises a question of order under the resolution adopted by the Senate.

Mr. JOHNSON. I do.

The PRESIDENT *pro tempore*. That will be referred to the Senate for decision. The question is, Is it in order to proceed with the consideration of this bill?

Mr. POMEROY. I am anxious to proceed with this bill; but I cannot say that it is in order under the rule. I thought a motion would be made to suspend so much of the rule as interferes with proceeding with this bill. I am anxious to proceed with it; but I cannot vote that it is in order under the resolution of the Senate.

Mr. CAMERON. I move to suspend the rule so far as this bill is concerned. I believe that motion is in order.

Mr. POMEROY. Yes, sir.

Mr. CAMERON. I make that motion, to suspend the rule for the purpose of taking up this bill from the House.

Mr. BUCKALEW. I raise the question of order, whether that motion is in order?

The PRESIDENT *pro tempore*. That cannot be done except on one day's notice, I suppose, to suspend the rule.

Mr. GRIMES. I call for the reading of the rule.

The Chief Clerk read the following resolution, adopted by the Senate on the 5th instant:

*Resolved*, That the legislative business of this session be confined to removing the obstructions which have been, or are likely to be, placed in the way of the fair execution of the acts of reconstruction heretofore adopted by Congress, and to giving to said acts the scope intended by Congress when the same were passed; and that further legislation at this session on the subject of reconstruction, or any other subject, is not expedient.

Mr. SUMNER. Allow me to make a remark on that rule.

The PRESIDENT *pro tempore*. The question is debatable.

Mr. SUMNER. I submit the question whether that rule is applicable to bills that come from the House of Representatives? Is it not to be confined to measures originated in the Senate? Where a bill has been matured in the House and has passed that body and has found its way to this Chamber, I submit that that rule is not applicable. It is not applicable surely in express terms. You make it applicable only by interpretation. I submit that a rule like that should not be extended by interpretation and made applicable to cases not expressly embraced by its language.

Mr. JOHNSON. The very purpose of the rule would be defeated if it bears the interpretation contended for by the honorable member from Massachusetts. It would place it in the power of the House to force upon us to do what we say ought not to be done, looking to the interests of the public. Our resolution is that we ought to perform no business except such as is connected with the question of reconstruction. It will not be pretended

that this has anything to do with the question of the reconstruction of the States.

Mr. GRIMES. It is the reconstruction of the city.

Mr. JOHNSON. It is the reconstruction of the city, and the city was not within the original reconstruction acts of last March. We might as well pass a law to reconstruct the city of Baltimore, and insist that that does not fall within the limitation in the rule. So far from the business that comes from the House being included by interpretation within the meaning of the rule, it seems to me that no interpretation of that rule can exclude that or any other business from the operation of the rule.

The PRESIDENT *pro tempore*. The question is, whether it is still in order, applicable to this subject. I will state here that when the rule first came up the Chair supposed the resolution of the Senate would not embrace bills sent here from the House, and so ruled, but he was overruled in that.

Mr. HARLAN. I will only say that thus far the Senate has not applied that rule to business that has been sent to the Senate from the House.

Mr. JOHNSON. Oh, yes, it has.

Mr. GRIMES. The resolutions of thanks went over in that way, three of them at one time.

Mr. HARLAN. I am informed by my colleague that I am in error in the statement I have made.

Mr. GRIMES. The votes of thanks to the three generals went over on that ground; and if that were not the rule we should either be subject to the control of the House of Representatives or be compelled to come to the conclusion that the business sent to us from the House of Representatives was not legislative business and included in that general term embraced in the resolution. I think we decided correctly that the business of passing bills is legislative business.

The PRESIDENT *pro tempore*. The question is, whether the motion to take up this bill is in order under the rule.

The question being put, it was decided in the negative.

#### ADJOURNMENT RESOLUTION.

Mr. CHANDLER. I move that the Secretary be directed to request the House to return the resolution of adjournment passed last evening.

Mr. CONKLING. Why?

Mr. CHANDLER. I will give my reason in a moment.

The PRESIDENT *pro tempore*. I am told that it has not yet gone to the House; it is still before us.

Mr. CHANDLER. It was ordered to go to the House, I believe; it was passed.

The PRESIDENT *pro tempore*. It has not yet been sent.

Mr. CHANDLER. Then all the better. I move a reconsideration of the vote by which that resolution was passed.

Mr. FESSENDEN. Did the Senator vote with the majority?

Mr. CONKLING. I should like to know on which side the Senator from Michigan voted?

Mr. CHANDLER. I voted against it.

Mr. CONKLING. Then I do not suppose it is competent for the Senator to move a reconsideration.

Mr. CHANDLER. Then I move that the Secretary be directed not to communicate the resolution to the House of Representatives.

Mr. CONKLING. That is not in order, I suppose.

The PRESIDENT *pro tempore*. I do not know but it is. The resolution is before us. It is under the control of the Senate. In the opinion of the Chair the motion is in order.

Mr. TRUMBULL. Is there not a rule making it the duty of the Secretary to communicate the action of the Senate to the House, and can you set that aside by a motion?

The PRESIDENT *pro tempore*. I do not think there is any written rule on the subject.

Mr. GRIMES. There is a standing order of the Senate, which is a rule.

The PRESIDENT *pro tempore*. I am informed by the Clerk that there is a standing order that all that is done here shall be communicated to the House. It is not written down among the rules, but that is the order of proceeding of course. I am not ready to say that it is not in order to move to suspend sending a thing there. I do not know of any rule that it would violate, though it would violate the practice and order of proceeding.

Mr. FESSENDEN. I should like to have the Clerk read the rule.

The Chief Clerk read the 12th Joint Rule, as follows:

"12. When a bill or resolution which shall have passed in one House is rejected in the other, notice thereof shall be given to the House in which the same shall have passed."

Mr. CHANDLER. I believe my motion is in order, and I wish to say a few words upon it, and I will say them now before the vote is taken. I notice that the self-same parties who are now in favor of adjourning until December are the same parties who were in favor of adjourning in the month of April last until December. It is, I believe, identically the same vote. I do not know that there is any change. In the month of April there was a contest for more than two weeks over the question of a final adjournment, or an extra session. There seemed to be a determination on the part of some gentlemen on this side of the Chamber in connection with the whole of the other side, to prevent an extra session of Congress in any event; and the Conservative Senator from Maine informed us that if there was any necessity for another session of Congress the President would call us together. I then informed the Conservative Senator from Maine that the only conceivable occasion for an extra session that I could see would be the refusal of the President to execute a law which he himself declared unconstitutional, and that I did not believe the President would call an extra session of Congress to enforce a law which he himself refused to enforce. After a contest of more than two weeks we finally passed a sort of a resolution for another session of Congress; but it was so fixed by the Conservative Senator from Maine and his friends as to appear to be utterly impossible that we could get a meeting of Congress, to wit, that if on the first roll-call there was not a majority of both Houses of Congress present this session of Congress should fail.

I really hoped, then, that the Conservative Senator from Maine was right, and that there would be no necessity for another session of Congress. I hoped that I was mistaken, and that the President would in good faith execute this law, and that no session of Congress would be called for. But, sir, unfortunately I was not mistaken, but the Conservative Senator from Maine was. He had then full confidence in the President that he would call an extra session of Congress if it was needed, and I suppose he has full confidence now that if an extra session of Congress is needed the President will call it. I have seen nothing since then that has diminished my confidence in the President. I have just as much confidence in him to-day as I had in April or as I had in December last. He has done no act which has diminished my confidence in him in the slightest degree; and I presume he has done no act which has diminished the confidence of the Conservative Senator from Maine. I presume he has the same confidence in him now that he had then, as I have. Then, sir, I merely dreaded the contingency, I feared that it would be necessary to call an extra session, and when asked by one of the friends of the Senator from Maine—I forget whether it was in caucus or in the Senate—what my evidence was, I had none. I had an internal conviction that an extra session would be necessary; but still I had no evidence. But now, sir, there is no doubt. The President, in his defiant and rebellious mes-

sage, has declared to us that he will not execute our law, substantially, in terms. We know that he will not do it.

Sir, when we first captured the monster there was one thing for us to do, and only one; but instead of doing that we undertook to surround him with nets, to hem him in, to bind him with nets of zephyr. The very moment we left he thrust his paw through. The net was a mere web of zephyr. Now we have met here, and what have we done? We have patched up the net. It is the same net; but we have patched up the hole. It is not a bit stronger now than it was in April; but we have mended up the hole. That is all that we have done. And now this Congress seem to hope that the same animal that thrust his paw through the net when it was new will not thrust it through again when it is merely a patched net. He leaves us in no doubt whatever about that. He is more bold than he was then; he is more defiant; he is more specific. He says:

"Within a period of less than a year the legislation of Congress has attempted to strip the executive department of the Government of some of its essential powers. The Constitution and the oath provided in it devolve upon the President the power and the duty to see that the laws are faithfully executed. The Constitution, in order to carry out this power, gives him the choice of the agents, and makes them subject to his control and supervision. But in the execution of these laws the constitutional obligation upon the President remains, but the power to exercise that constitutional duty is effectually taken away."

"The military commander is, as to the power of appointment, made to take the place of the President, and the General of the Army the place of the Senate; and any attempt on the part of the President to assert his own constitutional power may, under pretense of law, be met by official insubordination. It is not to be feared that these military officers, looking to the authority given by these laws rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the Army."

That is exactly what we meant. There is no doubt about it at all. We meant just that and nothing else.

"If there was no other objection than this to this proposed legislation it would be sufficient. While I hold the chief executive authority of the United States, while the obligation rests upon me to see that all the laws are faithfully executed, I can never willingly surrender that trust or the powers given for its execution."

And he never will willingly surrender that power. He tells us so. He does not intend to execute your law; and yet you propose, after having mended your net, to go away and leave him with the absolute power for four months and a half to remove your commanders and to nullify your laws.

Mr. President, I hope that this resolution will not be carried to the House, and I hope that no such resolution will pass this body. I hope this Congress will not adjourn until it has resolved, in some contingency and at an early day, to meet again. I hope that that will be the resolution of this body.

The House yesterday by an almost unanimous vote passed a vote which would render this reconstruction act effective. It lies upon our tables. If we could pass that bill I should feel more satisfied to leave the matter in the hands of the President; but, sir, a single objection carried it over yesterday, and it could only be read once; and I fear it will not be passed before we adjourn.

Mr. ANTHONY. I rise to a question of order. I do not wish to interrupt the Senator, but I wish to dispatch business. I submit that yesterday a resolution was passed amending a resolution from the House on the subject of adjournment; and an order was passed, as will appear by the Journal, instructing the Secretary to communicate that amendment to the House of Representatives. I understand that it has not been done. I desire to have the order of the Senate executed, and then it will be perfectly in order for the Senator from Michigan to move that it be returned from the House; but I submit that it is not in order to refrain from executing an order of the Senate under an apprehension that it may be rescinded. It will be time enough when it is rescinded to act according to the vote rescind-

ing it; but until it is rescinded I submit that it is the duty of the Secretary to carry out the order of the Senate, as it appears on the Journal. I ask that the order with regard to it from the Journal may be read.

Mr. CHANDLER. Then I will move to rescind that order so far as this resolution is concerned. I believe that motion will be in order.

Mr. ANTHONY. Certainly the Senator can move to rescind it; but in the mean time, until the vote is taken, the order must be executed. That is the point I submit; that the order of the Senate must be executed. It will then be competent for the Senator from Michigan to move to rescind the order or to have the resolution brought back from the House; but it is not competent for one Senator to get up and stop the execution of an order of the Senate by a motion. That is my point of order.

The PRESIDENT *pro tempore*. The Clerk will read the standing order.

The CHIEF CLERK. The order which follows immediately the action of the Senate on the resolution of the House is as follows:

*Ordered*, That the Secretary request the concurrence of the House of Representatives in the amendment to said resolution.

Mr. ANTHONY. Now, I submit that it is the duty of the Secretary to carry out that order, and then the Senator from Michigan can make any motion he chooses on the subject.

The PRESIDENT *pro tempore*. There is no question that it is the duty of the Secretary to communicate to the House what we have done under that order. The question is whether we can suspend it while the resolution is before us; and if there is no standing rule on the subject I can hardly say that it is not in order to make such a motion.

Mr. ANTHONY. With great respect to the Chair, I do not dispute the right of the Senator from Michigan to make the motion which he does. I think his motion is perfectly in order; but I do insist that the Secretary shall execute the order of the Senate. The Senate have ordered the Secretary to do a specific act. Now I insist that the Secretary shall execute that order, and in the mean time the Senator from Michigan can make any motion in order that he sees fit.

The PRESIDENT *pro tempore*. The duty of the Clerk is not suspended that I know of by this proceeding. It is a standing order to carry the action of the Senate to the House; but still there is a motion pending which is equivalent to rescinding that order.

Mr. GRIMES. I object to the President presuming to direct what is the duty of the Secretary in this behalf. The rule of the Senate prescribes the duties of the Secretary as much as they prescribe the duties of the Presiding Officer or of any other officer of the body; and it is just as much his duty to execute that order, without anticipating what may be the possible action of the Senate, as it is the duty of the Presiding Officer to decide according to the rules prescribed for the performance of his duties.

Mr. CHANDLER. That is just what I am trying to do, to prevent him from executing that order.

Mr. ANTHONY. When a motion is made to suspend a rule, I submit the rule is not suspended while the debate is going on. The Senator from Michigan can move to suspend that order; but in the mean time the duty of the Secretary is to execute the order of the Senate.

The PRESIDENT *pro tempore*. The Chair wishes to make a reply to the Senator from Iowa, who seems to assume that the Chair interferes with what he considers the duty of the Clerk. I made no order about it. The question is, whether the motion of the Senator from Michigan is in order; and what the effect of making such a motion may be I have not undertaken to decide. I do not know that it suspends the execution of the order of the Senate for a moment. I have not undertaken to decide that it does or does not. It leaves the Clerk full

power to execute his duty until it shall be interrupted by the decision of the Senate on this motion; but I make no order about it one way or the other. The Clerk will choose his own course about it. I do not suppose the Chair has anything to do with that until the Senate determines the question.

Mr. POMEROY. I think it is sufficient notice to him not to execute that order while we are discussing the question.

Mr. GRIMES. I desire simply to say that I understood the Chair to decide with me, that it was the duty of the Secretary to execute the behests of this body as prescribed to him by its rules, but to go on and intimate to him that inasmuch as the debate was pending upon the question of the rescission of this resolution, it would be proper for him to withhold that message.

The PRESIDENT *pro tempore*. The Chair did not say that, and said nothing about it at all. The Chair leaves the Clerk to perform his duty according to his own idea of it, unless the Senate countermands him; but I cannot say that the motion to suspend this rule is not in order, inasmuch as I find no rule against it.

Mr. ANTHONY. The decision of the Chair accords precisely with the question I raised. I did not mean to raise the question that the Senator from Michigan was out of order in making the motion; I think the motion is perfectly in order; but I did mean to say it was the duty of the Secretary to obey the orders of the Senate without presuming that they may be countermanded. In that I understand the Chair perfectly agrees with me.

Mr. POMEROY. If the Secretary had not obeyed the order up to the time we assembled this morning, and we then commenced a discussion on the question of that very action of the Senate, I think it is sufficient notice to the Secretary not to execute the order until the action of the Senate is determined.

Mr. ANTHONY. Then if there should be a motion made to repeal any other rule of the Senate requiring the performance of any duty by the Secretary, it would be proper for the Secretary to suspend the execution of that rule, to suspend the duties that he was performing under it, until he saw whether the Senate would change its mind or not.

Mr. POMEROY. While the action of the Senate is pending on a motion of that character it is sufficient notice to the Clerk not to execute the rule.

Mr. ANTHONY. Then, in order to suspend the rule for any time it is only necessary for a Senator to make a motion that it be suspended, and it must be suspended until the Senate shall act upon it, and in that way you may suspend all our rules.

Mr. CONKLING. May I ask a question of the Senator from Kansas?

Mr. POMEROY. Certainly.

Mr. CONKLING. I understand the point to be whether the fact that a motion is made to rescind a resolution—

Mr. POMEROY. That is not the motion.

Mr. CONKLING. Yes, it is; I beg your pardon—whether the fact that such a motion is made arrests and holds just where it is whatever the motion covers. I wish to inquire of the Senator from Kansas if a Senator should move to rescind the order applicable to a whole day's proceedings, (because of course it could cover various bills as well as one,) and the Senate should proceed to debate that motion for weeks, whether it be true that by that operation the whole business of legislation passing between the two Houses could be arrested by a single member?

Mr. POMEROY. I could answer the Senator by saying that it would not, and yet that does not touch this case at all.

Mr. CONKLING. I understand the proposition of the Senator from Michigan to be that by moving to rescind the order he holds this resolution here pending the consideration of it in the Senate.

Mr. POMEROY. The Senator from Michigan rose to make a motion for the return of a

resolution to the Senate which had gone, as he thought, to the House of Representatives. Then the Senator from Michigan undertook to discuss that motion; and that was sufficient notice to the Clerk not to execute the order. That is my point.

Mr. CONKLING. I deny that for one, because if that be so any Senator can rise and enter such a motion, and it might be discussed for three weeks and no business would be done.

The PRESIDENT *pro tempore*. I do not think there is any question of that sort before the Senate. It is not the duty of the Chair to decide what the effect of a motion is upon the standing orders of the body. The Clerk is to perform his duty until he is arrested by the decision of the Senate in a contrary direction. Perhaps that is the true rule.

Mr. POMEROY. There is no point of order raised on this question.

The PRESIDENT *pro tempore*. There is no point of order raised that I know of. The Chair decided that the Senator from Michigan was in order in making his motion; and if he was he has a right to argue it.

Mr. CHANDLER. I am now informed that the Clerk has obeyed the order of the Senate and reported the resolution to the House, and I now desire to enter the motion which I first proposed, that the Clerk be directed to request the House to return the resolution to the Senate.

The PRESIDENT *pro tempore*. That motion is in order.

Mr. CHANDLER. While I am up I have a few remarks more to make, and I may as well make them here. There is a difference between the views of the people, in my judgment, with regard to the present President and the views of some members of this body. The people, so far as I know them, certainly the people of the State which I have the honor in part to represent, have no confidence whatever in Andrew Johnson. They believe, as the Senator from Massachusetts [Mr. SUMNER] said yesterday, that he occupies the position to-day with regard to the rebellion which Jefferson Davis did three years ago. They have no faith whatever in Andrew Johnson. But, sir, there is a sort of semi-conservative influence springing up that seems to have faith in Andrew Johnson. This republican conservatism is a sort of hybrid, and, like all hybrids, it has no power of reproduction; the race dies out with the first generation.

It started in 1862. It was started by William H. Seward, the Blair family, and Thurlow Weed; and the intention was to bury all Radicals; and, sir, your and my headstones were prepared. It was attempted then to form a Union party, to take in all the Copperheads and the Conservatives and carry the nation. We had in Michigan one man who turned Conservative at that time, a man who represented my district, by the name of Granger. All the rest of the delegation were to be buried and have headstones erected over them, except this man, who represented the Conservatives. Well, sir, the people of Michigan had a funeral, and erected a headstone; but it was over this Conservative; and that monument of conservatism is the only one that it has been necessary to erect in the State of Michigan from that day to this. She has never had but one pervert, and over his political remains was raised a tombstone, and that tombstone, having to this day marked the place where he was buried, it has not been necessary to raise any others. Michigan from that day to this has had a united delegation, sound upon radical republicanism.

It was so all over the United States. These tombstones were raised everywhere in every State, not over those who were then called Radicals, for they were the men who were in favor of a vigorous prosecution of the war and who were in favor of the measures which finally put down the war, but conservatism at that time was buried, and nothing more was heard of it for some time. We had three or four gentlemen here who used to lecture us upon our constitutional obligations, and who were still



members in good standing with the Radical Republicans of this body. The Senate know to whom I refer. But conservatism made no progress until after the close of the war. In 1865 it again raised its head in an attempt to unite the rebels North and South with the Conservative Republicans in the North. They erected their platform and appealed to the people, and the people again went to raising tombstones. Sir, the path of conservative republicanism is as clearly marked by tombstones as is the great highway to California by the carcasses and bones of dead mules. No man can mistake its path, because the tombstones are scattered thick all along the route.

In 1866 conservatism again united with rebels and Copperheads, and appealed to the people to sustain it; and, as I said before, the people immediately commenced raising tombstones; and in every loyal State every single man who deviated one iota from the Radical platform had erected over his political grave, "Here lies the body of a recusant: a man who could not be trusted by the people." They went further than that; they took these suspected men. In my own State I told you where they commenced raising tombstones; but, sir, they commenced it even in this body. There were men here who were generally sound upon all great questions; but occasionally they switched off and took the Conservative side. Every such man, without one single exception, the day his time was out had erected over his political grave a tombstone, simply because he had not been true to the wishes of the people. There are several members of this body now having their seats upon this floor because their predecessors were not true to the principles that the people believed in and advocated. Sir, the people have not yet got done erecting tombstones. The people are in earnest. Conservatism takes root in great cities. The city of New York is a Conservative city by, I believe, sixty or seventy thousand majority; some other cities are Conservative; but, sir, nine tenths of the voters of the United States believe as you and I do, in thorough, sound Radicals.

Mr. President, I had a conversation a few years ago with Mr. Lincoln on this subject of Conservatives. When Thurlow Weed marched out of our party and shut the door and bade us good-bye, I went to Mr. Lincoln and urged that he should bolt the door and leave Thurlow Weed and his coadjutors out; and I urged it upon this ground: that outside of our political organization Thurlow Weed was harmless; inside of our political organization he could do harm. He pretended to have a large Conservative vote in the State of New York. In the course of that conversation Mr. Lincoln alluded to the large numbers of the Conservatives. Said I, "Mr. Lincoln, I know something about the strength of the Republican Conservative party in Michigan. I can put the entire party in Michigan into a street railroad car and haul them up hill with two horses." The party has diminished since that, and I can now put them in a one-horse chaise and draw them with a mule. At that time I told him that I could haul the whole Republican Conservative party of the State of New York, outside the city of New York, in one railroad train with one locomotive. Well, sir, to-day, outside of two or three of the cities in the great State of New York, I can haul them in an omnibus. This conservatism has been growing small by degrees and beautifully less. The people understand precisely what they mean, and the people are with this Congress. They are with the majority in the House of Representatives who passed that bill yesterday that we ought to pass to-day. They are in favor of this Congress either sitting here or passing such laws as will make it safe for us to leave here; and I hope that this Congress will not adjourn until after they have passed the bill that came from the House yesterday, or agree to meet at an early day.

Mr. FESSENDEN. I have been somewhat puzzled, as I sat here listening to this prepared attack upon several gentlemen, and particu-

larly upon myself, by the Senator from Michigan, as to what to say in reply, or whether to say anything. In the case of any other Senator in this body I should not have had any doubt at all; but with regard to the Senator from Michigan I am somewhat at a loss what to say. It is quite evident that this prepared, this thoroughly digested speech of the honorable Senator—I beg his pardon and the pardon of the Senate; I will say of the Senator—was meant particularly as an attack upon myself. He has alluded to me over and over again as "the Conservative Senator from Maine;" and he has gone on to describe two several occasions on which Conservatives, as he calls them, have endeavored to unite with the Democrats in order to overthrow the Republican party, applying the same term to them that he does to me.

It is impossible for me to mistake the aim and object of the Senator. There can be no mistake about it, I think, in the mind of any one who has heard him. I have been aware for some time that that Senator and some other Senators on the floor designed deliberately, if they could, to injure my standing and position, such as it may be, in the party to which I have the honor to belong. This is not the first open attack which has been made upon me by that Senator; and he stands not alone. I am aware, also, that that Senator—and he is not the only one—has taken pains privately to represent me as unfaithful because I do not agree with him in his notions with reference to the conduct of some public affairs. This has not been confined to this body or to the other House, to running about this Chamber and into the other Chamber; it has even gone into the reporters' offices, where I have been denounced in the same way; and divers and sundry claquers have followed up the same system. I have taken no notice of it, because I did not think it worth noticing. My notion is that the reputation of a public man must take care of itself; that the people will judge him from what he does and from what he says.

Sir, I have been aware that this was the particular object of the Senator from Michigan, because I received the other day from the city where he resides a slip, cut out of a newspaper of that city I suppose, in which a similar attack was made upon me, and in which I was denounced as opposing impeachment because I had friends and relatives in office. The accusation has gone the rounds of the papers that I had friends and relatives in office, and that I was ready to sacrifice my public duty for the protection of those friends and relatives. I have taken no notice of it up to this time. It may be well to do so, if the Senate will excuse me while I say a word or two upon that subject. I believe the Detroit newspaper said I had forty relatives in office. It so happens that I have three brothers who hold office under the President of the United States, and it so happens that neither of them was appointed at my request or by my suggestion. One of them is a superintendent of a marine hospital. He was appointed by Secretary Chase as a particular mark of regard to my honored father, who wrote to him requesting it, and not on my suggestion in any way, and it is certainly not a very great office.

I have another who is a postmaster. Not only did I not recommend him, but I positively refused to recommend him; and I occasioned some hard feelings in my family by refusing to recommend him, simply because it was out of the district where I resided, and I considered it the proper province of the Representative from that district to act in that matter; but he was appointed.

I have another who is an examiner in the Patent Office. Not only did I not recommend him, but I never knew he wanted the office. The Senator from Iowa [Mr. HARLAN] will bear me witness that I did not ask for it, and the first intelligence I received of his appointment was from the newspapers.

That is my offense so far as my brothers are

concerned; and I say now, before God, that with regard to each of them I believe they would despise me in their hearts if they thought that I could sacrifice one iota of my belief or hold my tongue for a moment on their account. They are made of different stuff.

I have been twitted in the newspapers with the fact that my sons were generals in the Army. God gave me four sons. [The Senator paused, evidently suppressing deep emotion.] Three of them volunteered, and the other volunteered also, but his health broke down, and he was obliged to stay at home, much to his regret and sorrow. My youngest son fell upon his first field. Another had his arm shattered and his leg shot off. The third was not wounded, but served and fought in twenty battles. I never asked for the appointment of one of them to any office. They got their recommendations from their superior officers, and were appointed generals not on my recommendation. I did not ask for it. I told them they must fight their own way. Perhaps my standing in the Senate might have been a benefit to them in that particular, and my kindly relations with the Secretary of War; but what they got was not from the President. The two that live are now out of the service entirely.

Sir, I have thought it rather hard that newspapers of my own party should abuse me for having sons who distinguished themselves in the war, one of whom was killed and another shattered. They served their country well and rose to high rank, which I believe they deserved. I never heard it said that they did not, and it appears strange that I should be abused in the newspapers of my own party for that which in others would have been considered a meritorious distinction—having sons and giving them to the service of their country.

There is one matter that I had forgotten. While I was Secretary of the Treasury I appointed a young man, a cousin of mine, to a twelve-hundred-dollar clerkship. That is the only relative I appointed. That is the length and breadth of my offending, unless I am held accountable for the appointment of the judge of the district court in my State, whose daughter my son married, who was recommended by Judge Clifford, by the chief justice of our State, and by an ex-chief justice and the leading members of the bar, and was unquestionably a fit man to be appointed.

I have said thus much in order that it may be understood exactly what is the length and breadth of my offending in relation to office. I may add that when the administration of Mr. Lincoln commenced I was offered—I did not ask for it; my friend here [Mr. GRIMES] knows the fact—an appointment abroad for one of my sons; and I declined it, because, I said, there were too many in my State who wanted those offices and they must have them; and that if my son wanted to go abroad I would send him at my own expense. That son volunteered. After he had volunteered—a young man of education; I had educated him with the greatest care, and he was then ready to enter upon the practice of law in New York, where he had gone—I did ask my friend, the then Secretary of War, [Mr. CAMERON,] if he thought him worthy, to give him a commission; I did not specify what. I told him his age and his qualifications. I did not believe he had the strength to carry a musket; but he would go as a private soldier if he could not go otherwise; and I wrote to my friend asking him if he could give him a commission; and he did. That young man was the one who had his arm shattered in his first battle and a leg shot off in another, and who was nominated—not at my request, not on my suggestion—being then a colonel, for brigadier-general, and was confirmed by this body, without being referred, for the gallantry of the action in which he had been.

Mr. CAMERON. If the Senator from Maine will permit me to interrupt him for a moment, I think he does injustice to himself. He did not ask me for a commission. I remember the circumstance very well. He came there

to ask me to appoint some other young man from the ranks in his State, and I asked him if he had not a son of his own carrying a musket. He said he had. He did not ask for a commission; I gave the commission without his asking for it. I do not think he knew it would be done until he saw the appointment. I was glad to do it, and I have been proud that I did, since I have been aware of the conduct of that young gentleman. I believe his gallant conduct reflected some credit on myself for making the appointment, and I have been very much gratified at it.

Mr. FESSENDEN. This is what I have been twitted with in newspapers of my own party, one in the city from which the Senator comes. I can guess under whose suggestion the attack was made.

I am called a "Conservative" by the honorable Senator, and he has shown what he means by Conservatives—men who act with the Democracy against his party. Let Senators turn to the record of my votes in this body and find where I have fallen short. Confidence in Andrew Johnson is it? No, sir; it is a want of confidence that actuates me and some others in those who would assume to direct what they have not the capacity to direct.

Sir, if I am a Conservative by my vote on this question and others I am a Conservative in company with the honorable Senator from Illinois [Mr. TRUMBULL;] I am a Conservative in company with the honorable Senators from New York, with the honorable Senators from New Jersey, with the honorable Senators from Rhode Island, with the honorable Senators from New Hampshire; and on this question, as taken at the last session, with one of the Senators from Massachusetts, [Mr. WILSON.] Is he a Conservative too? And there are other honorable gentlemen that I can name. Why then is this attack made upon me, because I happen to act with the decided majority in this body on this question? Sir, we must be at liberty upon great questions of this kind to exercise our own judgments. I have no fear whatever of the most critical examination of my course in this Senate and out of it upon this question and all other questions. I shall leave my public record to take care of itself. If I had the slightest idea that anything the Senator from Michigan can say would affect it before the people of this country I should look upon myself with a contempt which I do not feel at present.

Mr. President, the time has come undoubtedly when there is a very serious difference of opinion in Congress upon a very important question. With regard to the Senate, I have considered that upon that question it was not proper for a Senator to express an opinion, or even, if he could avoid it, to form an opinion. My idea has been that a man who is to be a judge and try another in any given event under the sanction and solemnity of an oath was bound, as an honest and conscientious man, not only not to form an opinion, but if possible to keep his mind as free as he could from prejudice and passion, so that he might come to the examination of it calmly and quietly, resolved to try honestly and decide fairly, without feeling, without anger, without malice, and without having committed himself by denunciations of the individual. That is my idea. It is not the idea of other members of this body. They think that it is proper for them to come to such an examination, if it is had, with temper, with malignity, with denunciation, and with every effort to excite the public mind as well as their own. That is their idea. It does not agree with mine.

Mr. POMEROY. I hope the Senator will not reflect upon all the members of the Senate in that direction.

Mr. FESSENDEN. No, sir; I said of "other members;" not all, judging merely from the demonstrations that have been made here. Gentlemen must judge for themselves. I complain of nobody. It is for every man to make his own mark, and move in his own line. I shall act upon mine.

With regard to this great question, as a matter of policy, as a matter of good sense, I have not withheld my opinion upon it from my friends or from anybody who wanted to know it; and perhaps that opinion is well known and understood. But, sir, I await events. When they come I trust I shall be prepared to meet them in my place, and I hope, with an honest and pure mind. I shall try so to meet them, at any rate. Whether I am in the majority or minority will make no difference to me personally.

But, sir, it does make some difference to me how I am judged by the country; and, as I said before, I shall leave that country to decide upon so insignificant a matter as what my public course has been; and I trust it will try me by my record, what I have voted here, upon which I desire, in any particular, the Senator or anybody else to lay his finger and call me to an account for what I have said here or elsewhere. So long as I can keep in company with the honorable Senator from Illinois, the Senators from New York, one of the Senators at least from Massachusetts, and all the Senators from New England perhaps, except one, and be sustained by them in the course that I take, I shall endeavor to rest as quiet as possible under the denunciation of even so potent a man as the Senator from Michigan.

Mr. CHANDLER. Mr. President, the Senator has brought up his family record and exhibited it to this body in answer to the remarks that I made. I never alluded to his family record at all. He says that a newspaper in Detroit printed an article on the subject. I have nothing to do with the Detroit newspapers. I never wrote a line for a newspaper nor saw an article before it was published; nor did I ever see the article to which he alludes in my life. Will the Senator hold me responsible for all that the newspapers in Michigan may say? Sir, I took the Senator from Maine on his public record and on his public declarations on this floor; and I made no allusion to his family record, or any other record, except that made in this body.

He says he cooperates with the Senators from New York and the Senator from Illinois. Did any one of those men say he believed the President would call an extra session of Congress if it was necessary? Not that I heard of; not that I am aware of. Not one of them ever made that declaration. Sir, it is known, not only to this body but to the country, that the Senator has stood here for month after month, the defender of Andrew Johnson and his Cabinet; and I take him on his record, on that defense and not on his family affairs.

Mr. FESSENDEN. I have only to say a single word. In saying that, the Senator states what is not true, and he cannot prove any portion of it.

Mr. CHANDLER. Was it not a defense of the President to say that he would call a session of Congress?

Mr. FESSENDEN. No, sir; by no manner of means.

Mr. CHANDLER. Then I do not understand the use of the English language.

Mr. FESSENDEN. "For six months" I think you said.

Mr. CHANDLER. Yes, sir; and I will not take off a day; I will add to it, rather than diminish it. He stood up here as the defender of the Secretary of the Treasury persistently day after day, week after week, and month after month. I take his public record. I care nothing about him nor his family. I care not how many men he has in office, or how many out of office; it is none of my concern. It is a matter too infinitesimally small to allude to in this body. But his public record, his utterances, and his votes on this floor I have a right to comment upon. When he talks about contempt, I hurl back with scorn the contempt he expresses.

Sir, I have a record upon which I stand, as well as the Senator himself, and I believe I am as proud of it. I have nothing in that record to apologize for, take back, or explain.

My votes are there, and my utterances there. After a review of ten years, so help me God, I have never been able to discover a word I have uttered, or a vote that I have cast, that I would change, upon the review.

Mr. President, this is a matter of public concern. It is a matter in which the interests and the perpetuity of this nation are deeply concerned. I called up the Senator's record because it was necessary to illustrate the point I made, and for no other reason. He last spring came near defeating an extra call of the Senate, and I did not expect to see him here at that extra call; but, sir, the people demanded in their strength that we should come here, and no man dared stay away. Those monuments along the road stood up in bold relief, and they had a warning effect. Some men who were the most bitterly hostile to that extra call, who declared that they would not come here even if the Senate and House met, are here; and why? Because the people demanded that they should come, and they dared not stay away. And now, sir, the people demand of us that we shall either fasten this man Andrew Johnson so that he can do no more harm to this nation, or that we shall stay here and tie his hands by our presence.

#### PRIVILEGES OF DEBATE.

Mr. BUCKALEW. I move that the Senate resolve itself into executive session.

Mr. SUMNER. Before that is done I wish to introduce a proposition to the Senate, and at least to have it printed.

The PRESIDENT *pro tempore*. It will be received by common consent, leaving the motion of the Senator from Pennsylvania suspended, if there be no objection.

Mr. SUMNER. I offer resolutions which I will ask to have printed, and as they are in my own handwriting I will read them:

Resolutions declaring the privileges of debate in the Senate with regard to civil officers liable to impeachment.

Whereas it has been asserted that the conduct of a civil officer, liable to impeachment, cannot be freely considered and condemned by Senators in the course of legislative proceedings; and whereas such an opinion is calculated to impair the just privileges of debate: Therefore,

Resolved, That the Constitution, in providing for the impeachment of "all civil officers" of the national Government, embracing the President, members of the Cabinet, diplomatic representatives, and other civil functionaries, did not intend to limit debate in the Senate on the conduct of any civil officer, so far as the same may arise in legislative proceedings; that any other interpretation is inconsistent with the privileges of the Senate, and tends directly to shield misconduct in civil offices.

Resolved, That the Constitution expressly declares that "when sitting to try an impeachment the Senate shall be on oath or affirmation," thus superadding a judicial oath to that already taken as Senator; that from the taking of this oath the judicial character of the Senate begins, and until then each Senator is free to express himself openly on the conduct of any civil officer, and thereupon to invite the judgment of the Senate and the country; that at times this may be a duty, and it is always a sacred right, which cannot be renounced or abridged.

I send these resolutions to the Chair and ask to have them printed.

The PRESIDENT *pro tempore*. The resolutions will be received and ordered to be printed, no objection being made.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the bill (S. No. 138) to carry into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic.

#### INDIAN HOSTILITIES.

Mr. WILSON. I ask leave to report a bill with the assent of the Committee on Military Affairs in regard to raising volunteers for the suppression of the Indian war. It will be remembered that we passed a bill the other day on Indian affairs, in which provision was made for raising troops in a certain contingency. That bill, we understand, will not become a law, and therefore, with the consent of the Military Committee, I report this bill and ask that it be put on its passage.

The *PRESIDENT pro tempore*. It can be done by common consent.

Mr. CHANDLER. I will ask what action was taken on my motion?

The *PRESIDENT pro tempore*. No action. The Senator from Pennsylvania moved to go into executive session, which superseded it.

Mr. WILSON. I am now informed that the bill which we passed in regard to Indian affairs has been passed by the House this morning. I will therefore simply introduce this bill and ask that it lie on the table.

Mr. HENDERSON. The House have passed our bill.

The bill (S. No. 140) to provide for the calling out of volunteers to suppress Indian hostilities was read a first time by its title.

Mr. WILSON. I ask that the bill lie on the table. I am told that the House has passed the other bill.

Mr. HENDERSON. Yes, sir; it has. The motion was agreed to.

#### EXECUTIVE SESSION.

The *PRESIDENT pro tempore*. The question now is on the motion of the Senator from Pennsylvania, to proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 136) to establish peace with certain hostile Indian tribes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House disagreed to the amendment of the Senate to the resolution providing for an adjournment of Congress until the 13th of November, and adhered to its original resolution.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 137) amendatory of an act making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes;

A bill (S. No. 137) for the further security of equal rights in the District of Columbia; and

A joint resolution (S. R. No. 63) declaring sympathy with the suffering people of Crete.

#### PEACE WITH INDIAN TRIBES.

Mr. HENDERSON. I move that the Senate proceed to the consideration of the amendments of the House of Representatives to the Indian bill.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House to the bill (S. No. 136) to establish peace with certain hostile Indian tribes. The amendments of the House were in section one, lines seven and eight, to strike out the name "William Windom;" in line nine to strike out the words "and House of Representatives;" in line ten, before the word "and," where it first occurs, to insert the name "S. S. Tappan;" and also to strike out the second and third sections of the bill and to insert the following in lieu thereof:

SEC. 2. And be it further enacted, That said commissioners are required to examine and select a district or districts of country having sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains not now peacefully residing on permanent reservations under treaty stipulations, to which the Government has the right of occupation or to which said commissioners can obtain the right of occupation, and in which district or districts there shall be sufficient tillable or grazing land to enable the said tribes respectively to support themselves by agricultural and pastoral pursuits. Said district or districts when so selected, and the selection approved by Congress, shall be and remain permanent homes for said Indians to be located thereon; and no person not a member of said tribes shall ever be permitted to enter thereon without the permission of the tribes

interested, except officers and employes of the United States: *Provided*, That the district or districts shall be so located as not to interfere with travel on highways located by authority of the United States or with the route of the Northern Pacific railroad, the Union Pacific railroad, the Union Pacific railroad, eastern division, or the proposed route of the Atlantic and Pacific railway by the way of Albuquerque.

Mr. HENDERSON. The Senate will observe that there are only two amendments made. The first is striking out the name of Mr. WINDOM, who says he cannot possibly go, and inserting the name of Mr. Tappan. Mr. Tappan, I understand, is a very good man, and one perfectly familiar with Indian affairs. My acquaintance with Mr. Tappan is not of very long duration. The Senator from Kansas [Mr. POMEROY] knows him better than any other Senator here, and can speak in reference to him. I understand he is a very worthy and fit man. I know he is a man of very great intelligence, and writes well on the subject of Indian affairs. He has furnished me with several of his articles on this subject.

The other amendment is the amendment offered by the Senator from Wisconsin, [Mr. HOWE,] with a slight amendment to that, so as to have these reservations located in such places as shall not interfere with other railroads besides the Northern Pacific. With that exception it is the same amendment as offered by the Senator from Wisconsin. It leaves to the commissioners to select one, two, three, or four locations as they may see fit, but in other respects it is the same as the bill that went from the Senate. I move that the Senate concur in the amendments of the House.

Mr. POMEROY. As to the name that has been inserted, Colonel Tappan, I can only say I regard it as one of the best appointments that could be made. I have known him intimately for twelve years. He is a good man. He was colonel of one of the Colorado regiments at one time, and served faithfully. He understands the Indians, and understands this whole question. No better man could be selected.

The amendments were concurred in.

#### ADJOURNMENT RESOLUTION.

Mr. CONKLING. The House of Representatives have disagreed to our amendment to the resolution providing for an adjournment, and adhere to their original proposition; but there are blanks in that resolution which require to be filled up. I therefore submit a motion that the Senate insist on its amendment, and ask for a committee of conference.

The motion was agreed to.

The *PRESIDENT pro tempore*. How shall the committee be appointed?

Mr. CONKLING. By the Chair, of course. The *PRESIDENT pro tempore* appointed Mr. CONKLING, Mr. ANTHONY, and Mr. HOWE.

#### EXECUTIVE SESSION.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and, after some time spent in executive session, the doors were reopened at half past three o'clock.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (S. No. 136) to establish peace with certain hostile Indian tribes; and it was signed by the President *pro tempore*.

#### MESSENGERS AND PAGES.

On motion of Mr. NYE, the Senate proceeded to consider the following resolution submitted by him yesterday:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, authorized to retain during the coming recess the special messengers and pages now in his employ.

Mr. ANTHONY. What does that mean? Does it mean that during the recess these officers are to be paid the same as though Congress was in session? What is the effect of the resolution?

Mr. NYE. I introduced this resolution be-

cause I thought in some aspects it was entirely just and because the other House had adopted a similar resolution in regard to its officers. Many of the employes covered by the resolution are from distant States; and the boys who are our pages are mostly the sons of widows in poor circumstances. In the short interval that intervenes before we meet again they will be unable to do anything else. Those of them who are from distant States will hardly have time to go home and get back, and certainly will not have time to attend to any other business. For these reasons I introduced the resolution; and I hope it will be adopted.

Mr. FOWLER. I hope this resolution will pass. These persons are employed but a short time at any rate. It is only a question of a few dollars. The other House has passed a similar resolution, and I think we ought to extend the same liberality to our employes.

The resolution was agreed to.

#### MILEAGE TO MEMBERS.

Mr. RAMSEY. I send to the desk, and ask leave to introduce, a bill authorizing the payment of mileage to members of the Fortieth Congress.

Mr. CONKLING. I ask that the bill be read for information.

The Chief Clerk read the bill, which proposes to provide that Senators, Representatives, and Delegates of the Fortieth Congress who were in attendance prior to the recess taken on the 30th of March, 1867, and who after that date and before the reassembling of Congress on the 3d of July went to their respective homes and returned to take their seats in Congress after the recess, shall be paid the usual mileage for going to and returning from their respective residences.

Mr. CONKLING. I object to that bill.

The *PRESIDENT pro tempore*. Objection being made, the bill cannot be received.

#### ADJOURNMENT RESOLUTION.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference upon the disagreeing votes of the two Houses on the resolution in relation to adjournment.

Mr. CONKLING. I send to the desk the report of the committee of conference, and ask that it may be read and considered.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the resolution of adjournment, report that having met and had full and free conference, they have agreed to recommend to their respective Houses the following resolution:

*Resolved by the Senate*, (the House of Representatives concurring,) That at four o'clock and thirty minutes p. m. on Saturday, the 20th day of July instant, the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses, to meet on Thursday, the 21st day of November next, at twelve o'clock m.

ROSCOE CONKLING,

H. B. ANTHONY,

TIMOTHY O. HOWE,

Managers on the part of the Senate.

F. A. PIKE,

F. C. BEAMAN,

BENJAMIN M. BOYER,

Managers on the part of the House.

The *PRESIDENT pro tempore*. The question is on the adoption of the report of the committee of conference.

Mr. HOWARD. This, Mr. President, is practically an adjournment *sine die*, for the 21st of November is only ten days before the commencement of the regular annual session of Congress under existing statutes. It cannot have been in contemplation of the committee of conference at all that the two Houses would assemble together on the 21st of November. Such a supposition cannot for a moment be entertained; and it appears to be their opinion, therefore, that there will be no necessity for any further meeting of this Congress before the commencement of the regular session in December. I do not concur with the committee on this subject. I dissent from it entirely. I believe that the necessity of another session of Congress between this time and that will be greater than that which has heretofore existed,

and which has called us together now; and I derive this conviction from the very strong and emphatic and menacing language contained in the veto message upon which we acted yesterday.

The President tells us in that message, speaking of his power over the military commanders, that "it is to be feared that these military officers," that is, the officers who are to be appointed in the rebel States, "looking to the authority given by these laws, rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the Army." In a preceding passage he takes still higher ground, and says: "The Constitution, in order to carry out this power," that is, the power to see that the laws are faithfully executed, "gives him (the President) the choice of the agents, and makes them subject to his control and supervision." Here is a claim of executive power that transcends anything that I have ever seen, even in an executive message from the present incumbent.

Mr. CONKLING. Will the Senator allow me to make a remark to him?

Mr. HOWARD. I shall occupy the time of the Senate but for a moment, and the Senator will pardon me if I decline to be interrupted. Here, sir, is very plainly an announcement of the purpose of the President to interfere with the appointments that may be made by the military commanders in the five military districts; and in case of disobedience on their part to his will to interfere by what he calls his constitutional power, and either to remove the commanders themselves from their places or to do something worse.

Sir, I have seen nothing in any of the executive messages which is so menacing, so revolutionary, and in my solemn judgment so unconstitutional and so treasonable as is contained in this passage which I have read. If there ever was a time when it was the duty of Congress to be in an attitude to check the progress of usurpation, this is the occasion. I very much regret that the committee of conference have come to the conclusion to which they have arrived, for I foresee in it difficulties such as we have not thus far encountered; and let me say, with all respect to the honorable Senator from New York, I think he is mistaken in his prophetic view of the next four and a half months. Sir, I ask for the yeas and nays when the vote shall be taken upon concurring in this report.

Mr. SUMNER. Yes; let us have the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I will not say anything if we can have a vote now, and we must have it now if at all.

Mr. SUMNER. Mr. President—

Mr. CONKLING. Before the Senator begins will he allow me to make a remark?

Mr. SUMNER. Certainly.

Mr. CONKLING. I refrained from saying a word, for the reason that I desired to obtain a vote. It now wants ten minutes of four o'clock. Before we can adjourn properly, word should be sent to the President, and a message received from him with regard to some bills.

Mr. SUMNER. I was going to begin by suggesting that the resolution should be amended so as to insert five o'clock instead of half past four.

Mr. CONKLING. That, I will say to the Senator, we cannot do, because this is a report of a conference committee which has been adopted by the House of Representatives, and we cannot amend it.

Mr. SUMNER. Thus the Senator puts that aside; but there is one remark of mine that he cannot put aside and cannot answer. The resolution of the Senator proposes to leave the President, a bad man, from this time forward to the end of November, from the heats of summer to the cold of winter, to bestride this country like a Colossus. I am against it; I am against any such surrender; and on that

account I insisted upon the yeas and nays that I may record myself in the negative.

The Chief Clerk proceed to call the roll, and at the conclusion of the roll-call the vote stood—yeas 15 and nays 15.

Mr. CONKLING. I change my vote from the affirmative to the negative.

The PRESIDENT *pro tempore*. Upon this vote—

Mr. BUCKALEW. I desire to have my name called. I vote in the affirmative.

Mr. CONKLING. I changed my vote before, so that I might be in a position to make a motion to reconsider. As I understand the vote of the Senator from Pennsylvania, who now appears, carries the proposition, I change my vote again to the affirmative.

Mr. NYE. Then I will change my vote with a view to move a reconsideration. I before voted in the negative; I now vote in the affirmative.

The result was announced—yeas 17, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Conklings, Davis, Frelinghuysen, Henderson, Howe, Morgan, Morrill of Maine, Nye, Patterson of Tennessee, Ramsey, Sprague, Trumbull, Van Winkle, and Wiley—17.

NAYS—Messrs. Cameron, Chandler, Cragin, Fowler, Harlan, Howard, Pomeroy, Ross, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—14.

ABSENT—Messrs. Bayard, Cole, Conness, Corbett, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Grimes, Guthrie, Hendricks, Johnson, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Saulsbury, Sherman, Stewart, and Williams—22.

So the report was concurred in.

Mr. NYE. I move now to reconsider the vote just taken; and on that motion I desire to say a few words; and I hope I can do so without provoking any feeling. I have listened attentively to the argument on both sides of this question. I listened attentively to the President's veto message yesterday, and to a like document in March last. My judgment then was that it was wise for Congress to keep itself in such a position that it could come together if the exigencies of the times demanded it. The present session of Congress indorses the wisdom, or at least the action, if not the wisdom of those who at that time were in favor of such a session. I have seen nothing in the *interim* that should weaken the judgment of the majority of this body as then expressed; but I have seen much to strengthen my conviction, and I think that even now it is wise for Congress to be in a position to come together should the exigencies of the times demand our reassembling.

I was admonished yesterday by those in favor of an adjournment to this late day that it was unbecoming Senators to express even a reason why they opposed this adjournment. Notwithstanding that admonition, I propose to say, in a spirit of kindness and truthfulness, that the conduct of the Executive of this nation is not of such a character as to warrant the great strength of Congress being placed in his hands. The history of the past few weeks should admonish this country that the hopes of the nation are anchored in Congress; that they have no other place to look for safety. That is manifest by the prompt attention and attendance of members from distant States at this session of Congress. They came here in obedience to that mighty power of public sentiment which is behind them at whatever personal inconvenience. The great loadstone of duty and the great pressure of a public will behind them brought them almost all here in their seats. Why? Because there was danger in the hour. I suggested at that time—the Senate will bear me witness—that we had two sources of danger—

Mr. HENDERSON. I beg to interrupt the Senator to submit a proposition to expedite business. It will be recollected by Senators that the resolution of adjournment has been passed by both Houses, and accordingly the two Houses will stand adjourned at half past four o'clock. The President has some important bills in his hands. He ought to be at once notified of our action. I will therefore move,

with the consent of the Senator from Nevada, that a committee of two be appointed to notify the President of the action of the two Houses, and to see whether he has any further communication to make.

Mr. RAMSEY. I suggest that the committee ought to be a joint one. I think that has been the practice heretofore.

The PRESIDENT *pro tempore*. I believe it has been.

Mr. RAMSEY. I propose, then, to offer as a substitute for the motion of the Senator from Missouri this resolution:

*Resolved*, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that unless he may have some further communication to make the two Houses of Congress are ready to adjourn.

The resolution was agreed to; and the President *pro tempore* being authorized to appoint the committee, Messrs. RAMSEY and HOWARD were appointed.

Mr. HOWARD. I beg the Chair to accept my most respectful acknowledgments for this appointment; but at the same time I most respectfully and earnestly desire the Senate to excuse me from serving on that committee.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that he be excused from service upon the committee just appointed.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. FOWLER to supply the vacancy.

Mr. NYE. I was saying that last spring when the question of adjournment at that time was before us I suggested that we had two sources of danger, one of which was from the Supreme Court. I was then gravely told by men much more learned in the law than myself that it was not possible to get the question there; and yet it has been twice there. The question has been there whether the State of Mississippi and the State of Georgia could enjoin the General Government; and while the motions and questions raised in those cases were pending, an anxious people were watching with solicitude. That danger was scarcely over when an opinion from the Attorney General of the United States was invoked by the President. Of that opinion I have very little to say; but I will say this, that I think it was trifling with an anxious people. The work of reconstruction was going bravely on, and the party that the President represents becoming alarmed at its progress felt it to be their duty to throw obstacles in the pathway of reconstruction. The court had failed to do it; the President had not the courage to do it of himself; but he invoked the wisdom of the law-officer of this nation, and he wrote an opinion for the President, which I assert here, with some little experience of a quarter of a century as a lawyer, has neither law nor logic in it. It was an opinion given as Taney's opinion was given, a sort of breastwork thrown up around the Executive of this nation, punctured for heavy artillery and musketry to strike down and stop the progress of the work of reconstruction.

The PRESIDENT *pro tempore*. The Senator will allow me to interrupt him for a moment, to announce that Mr. FOWLER, who was appointed on the committee to wait upon the President, feels too unwell to serve, and the Chair appoints Mr. BUCKALEW in his place.

Mr. NYE. I hope that committee is fixed now. I should have been through a long while ago but for it. Sir, I say that the opinion of the Attorney General, if it is entitled to the dignity of that name, brought Congress here. We have attempted by legislation to cure the defects which this man with optics so keen had discovered. Our remedy or panacea has been sent to the President of the United States, and he has vetoed it in a message savoring more of prejudice and passion than of due consideration of the proposition submitted. In that veto message there is one remarkable sentence. I listened to its reading twice, and I have carefully read it since myself. I refer to the start-



ling declaration—I do not give the exact words, but the idea—that he will not willingly consent to have his authority overridden and the powers that are his own conferred on others, with a most unjust sneer and taunt at the military power of this nation, which has been its savior. Now, I submit to honorable Senators here, I submit to the country at large what reason they have for new confidence in this individual who attempted by collusion to procure an opinion which nullifies the laws under which the rebel States are to be reconstructed. When a man says he will not willingly do a thing, you have got to draw him up *nolens volens* to make him do it; and where is the power to accomplish that when Congress is not here? But we are told that elections are to take place in the mean time.

The *PRESIDENT pro tempore*. The Senator will yield the floor to allow the Chair to receive a message from the President of the United States.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had approved and signed the following bills and joint resolution:

A bill (S. No. 136) to establish peace with certain hostile Indian tribes;

A bill (S. No. 138) to carry into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic; and

A joint resolution (S. R. No. 63) declaring sympathy with the suffering people of Crete.

#### ADJOURNMENT RESOLUTION.

Mr. NYE. Now I shall ask in vain for any one to show me what additional evidence has been given why this confidence should be placed in the Executive of the nation. But, sir, we are told that elections are to take place. So they are, and let me tell gentlemen that the best way to win the support of the people in the elections is to be faithful to your principles and your policy. If they see that you in an hour of danger desert your post they will reject you as unfaithful.

I think events have proved that I was right in my predictions when the question for adjournment was pending last spring. I think I am right now. Those gentlemen who were for adjourning then were just as confident that there would be no occasion for reassembling as they are now. Let me predict that if you adjourn now, next week there will be another opinion of the Attorney General, for I take it for granted he is cognizant of what this message is as he was of the other. When he then portrayed the effects of our bill, showed that it had all manner of horns and unsightly and unseemly things attached to it, and made these commanders military tyrants, he foreshadowed what was coming.

Mr. President, there is so much confusion here, and I am so whispered at on all sides by gentlemen, that it is impossible for me to proceed.

The *PRESIDENT pro tempore*. Senators will take their seats and preserve order.

Mr. NYE. Under these circumstances I shall not consume any more of the time of the Senate, but satisfy myself by simply protesting against this report. I conceive that there is great danger in it and I hope a majority of the Senate will be of the same opinion. I think the earliest day which has been mentioned is at least as far off as our meeting ought to be put.

Mr. CONKLING. I hope we shall vote at once. This resolution has passed both Houses, and what effect the motion to reconsider, as such, if not disposed of by the time the hour fixed arrives, will be a question upon which men will differ and we may be in a very awkward situation. I understand unofficially that the President has nothing more to send, and I suggest that we ought to vote now on this question. If we do not, we shall reach half past four, when it will be contended by some that

we are adjourned and by others that we are not, which will put us in a position of awkwardness that we ought to avoid.

Mr. SUMNER. The Senator from New York tells us that the President has nothing more to send. There is a bill that has passed both Houses of Congress to secure equal rights in the District of Columbia, which is now in the hands of the President. I should like to know of the Senator from New York, who speaks for the President, what the President proposes to do with the bill.

Mr. CONKLING. The Senator from Massachusetts is so facetious that I do not believe I can answer him in the spirit in which he would like to have me answer. I have learned, as I say, unofficially, from the messenger and Private Secretary of the President, that there was nothing, to his knowledge, which he was withholding, and intended to transmit. I give it to the Senator just as I received it, and it is as good as it was when it came to me.

Mr. SUMNER. "And intended to transmit." Then the President is not going to return to us that bill. In other words, in familiar phrase, he will "pocket" it—a bill to secure equal rights in the District of Columbia.

Mr. CONKLING. We are not responsible for that.

Mr. SUMNER. Yes, the Senator is responsible, because he proposes to go home and leave equal rights in the District of Columbia without the protection which we owe them.

Mr. CONKLING. I know too well that as long as the Senator from Massachusetts lives equal rights, and all other rights in this District will be protected. I do not feel, therefore, the slightest uneasiness on that subject.

The *PRESIDENT pro tempore*. The question is on reconsidering the vote by which the report of the committee of conference was concurred in.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. CAMERON. I rise to make a personal explanation before giving my vote. I voted against the adjournment resolution and after having done it I remembered that I had paired with the Senator from Iowa, [Mr. GRIMES,] and therefore I should not have voted. Now, to make the matter even, I suppose I must vote against the reconsideration.

The question being taken by yeas and nays, resulted—yeas 13, nays 19; as follows:

YEAS—Messrs. Chandler, Cragin, Fowler, Harlan, Howard, Nye, Pomeroy, Ross, Sumner, Thayer, Wade, Wilson, and Yates—13.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Conkling, Davis, Frelinghuysen, Henderson, Howe, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sprague, Tipton, Trumbull, Van Winkle, and Wiley—19.

ABSENT—Messrs. Bayard, Cole, Conness, Corbett, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Grimes, Guthrie, Hendricks, Johnson, Morrill of Vermont, Morton, Norton, Saulsbury, Sherman, Stewart, and Williams—21.

So the motion to reconsider was not agreed to.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had appointed Messrs. N. P. BANKS of Massachusetts, and S. S. MARSHALL of Illinois, a committee to join the committee appointed by the Senate to wait upon the President and inform him that Congress is ready to adjourn.

#### EXECUTIVE SESSION.

On motion of Mr. POMEROY, the Senate proceeded to the consideration of executive business; and after a few minutes spent therein the doors were reopened at twenty-six minutes past four o'clock.

#### THANKS TO GENERAL SHERIDAN.

Mr. CHANDLER. I move to take up the House joint resolution tendering the thanks of Congress to Major General Philip H. Sheridan.

The question was put, and the motion declared to be agreed to.

Mr. TRUMBULL. I do not think it is proper, when the Senate is as it is now, to call up

these resolutions that have been voted by the Senate to be not in order heretofore. The Senate when it was full decided that it was not in order to take up these resolutions under the rule, and I do not see how you can call them up now under a vote of the Senate after that decision. I submit to the Chair that it is not in order to proceed with these resolutions after the vote of the Senate.

The *PRESIDENT pro tempore*. It is not in order, except by unanimous consent.

Mr. TRUMBULL. There has been no unanimous consent.

Mr. CHANDLER. The resolution was taken up by a vote of the Senate.

Mr. TRUMBULL. It cannot be taken up by a vote of the Senate. After the Senate has decided that it is not in order to consider that matter, it is not competent then by a majority vote to take it up.

Mr. CHANDLER. I think it is.

Mr. TRUMBULL. I think not; I submit to the Chair that it cannot be taken up after the Senate has decided it not in order, unless it is done by a change of the rule.

The *PRESIDENT pro tempore*. I suppose not. The Chair submitted this question to the vote of the Senate.

Mr. TRUMBULL. Can it be done by a vote?

The *PRESIDENT pro tempore*. The Senate decided by a vote that it was not in order under the resolution adopted at the beginning of this session, to take up this measure, and I do not suppose it can be done now without unanimous consent.

Mr. TRUMBULL. So I suppose.

Mr. CHANDLER. Does the Chair decide that it can only be taken up by unanimous consent? This resolution was taken up and considered, and I submit that it is too late now to raise objection. It was taken up by a vote of the Senate and was on its passage, and I submit, therefore, that it is now too late to raise the objection. I ask for the vote on the passage of the resolution.

Mr. TRUMBULL. It seems to me no question of order can be clearer than that when the Chair has submitted to the Senate whether a subject matter is in order under its rules, and the Senate, by a large majority vote, has decided that it is not in order, you cannot afterward by another vote take it up.

The *PRESIDENT pro tempore*. The time having arrived at which the two Houses of Congress have resolved to adjourn, it becomes the duty of the Chair to declare that the Senate stands adjourned until Thursday, the 21st day of November next, at twelve o'clock. The Chair so declares, and the Senate stands adjourned until that time.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 20, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was partially read, when

Mr. CULLOM moved that the further reading of the Journal be dispensed with.

The motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The first business in order is a resolution in regard to the adjournment of Congress, offered last evening by the gentleman from Illinois, [Mr. FARNSWORTH.] As that gentleman is not now in his seat, the resolution, if there be no objection, will be temporarily passed over.

There was no objection.

#### MISSISSIPPI RIVER.

Mr. CLARKE, of Ohio. The Committee on Printing, as temporarily appointed, have directed me to report the following resolution:

*Resolved*, That there be printed for the use of the House three thousand five hundred copies of the introductory letter, chapters Nos. 2, 6, and 7, and plate No. 2 of the report on the physics and hydraulics of the Mississippi river and the protection of the alluvial regions against overflow, made under acts

of Congress by Captain, now Major General, A. A. Humphreys, of the Engineer department of the United States Army.

I desire to state that the cost of the printing of the copies ordered will be \$8,100, making about ninety cents apiece.

The resolution was adopted.

Mr. CLARKE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADMIRAL GOLDSBOROUGH.

Mr. CLARKE, of Ohio, from the Committee on Printing, submitted the following resolution:

*Resolved*, That two thousand copies of two executive documents relating to the retention of Rear Admiral Goldsborough on the active list of the Navy be printed, fifteen hundred for the use of the House and five hundred for the Secretary of the Navy.

A MEMBER. What will the printing cost?

Mr. CLARKE, of Ohio. Seven and a half cents apiece.

The resolution was adopted.

Mr. CLARKE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONVENTION WITH VENEZUELA.

Mr. BANKS. I ask by unanimous consent to report back from the Committee on Foreign Affairs Senate bill No. 133, to carry into effect the convention with Venezuela for the adjustment of the claims of citizens of the United States on the Government of that republic. There can be no objection to the bill.

There was no objection, and the bill was received, read a first and second time, ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRITISH ARREST OF AMERICAN CITIZENS.

Mr. BANKS, by unanimous consent, also presented a communication sent to the Committee of Foreign Affairs from the Secretary of State, transmitting, in response to a resolution of the House, a report from the Examiner of Claims as to whether any American citizens have been arrested or sentenced in Great Britain or Ireland for words or acts spoken or done in the United States; which was ordered to be printed, and recommitted.

Mr. CULLOM, from the Committee on Foreign Affairs, submitted the following resolution:

*Resolved*, That the President of the United States be requested to inform this House if any information has been received by the executive department of the Government relating to the arrest or conviction of any American citizens within the kingdom of Great Britain and Ireland on account of words or acts spoken or committed within the jurisdiction of the United States; and if any such case has occurred, or shall occur, that the President be requested to take proper measures to secure relief, and maintain the rights of American citizens.

Mr. ROBINSON. I ask the gentleman to yield to me for a few minutes.

Mr. CULLOM. I yield to the gentleman from New York.

Mr. WINDOM. I shall object to any lengthy debate until the Indian bill has passed.

Mr. ROBINSON. I am a member of the Committee on Foreign Affairs, and it was thought desirable that a word should be said in favor of this report.

The report which has been read from the Examiner of the State Department says they have no information of any case but one, and that is the case of Captain McCafferty. Now, while I do not mean to cast any censure upon any Department of the Government, it is strange, while it has been notorious throughout the world, published in the papers of Great Britain and our own country, that many cases, to three of which I shall refer, have occurred

which are not mentioned in the report. Stephen J. Meany was convicted as early as February last, and sentenced to fifteen years imprisonment. His case has been carried up on appeal and decided by a divided court, six to four, and yet our consuls there have transmitted no information to the proper Department. Colonel William J. Nagle also was arrested at Dungarvin, no charge having been made against him, and we have no information from the State Department of his case. He is a native of this country and an American citizen and soldier. He is now in jail and no relief is to be had. The third case is that of General Halpine, an American citizen, who has lived twenty years in Cincinnati, who won laurels in the war. He also is now in jail. All these cases are notorious, and yet we have no information from the State Department. I repeat I do not mean to cast any reflection upon that Department, but I do think our consuls abroad are very censurable for neglect of duty in such cases. The resolution asks the attention and interference of the President. I trust it will pass, and that the President of the United States will see that these men and others similarly situated are protected in their rights and privileges as American citizens.

Mr. CULLOM. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. CULLOM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN WAR.

The House proceeded to the consideration of Senate bill No. 136, to establish peace with certain hostile Indian tribes.

Mr. WINDOM. I move to amend the first section of the bill by striking out the words "WILLIAM WINDOM, chairman," and inserting in lieu thereof the word "chairman;" also in the next line by striking out the words "and House of Representatives." The Senate, it appears, has done me the honor to elect me chairman of the Committee on Indian Affairs in this House, and has instructed me to perform certain duties which it would be almost impossible for me to attend to. Therefore I ask that my name be stricken out of the commission and that some better man be put in.

The SPEAKER. The Chair will state that the Senate only anticipated the action of the Speaker in designating the gentleman as chairman of the Committee on Indian Affairs when that committee shall be appointed.

Mr. ROSS. I suggest that the section be so amended as to leave the name of the gentleman from Minnesota [Mr. WINDOM] in.

Mr. WINDOM. I would be very glad to serve on the commission, but I think it would be impossible for me to attend to the duties. I prefer to name some one more likely to attend to the duties in an acceptable manner.

Mr. ASHLEY, of Ohio. Who is he?

Mr. WINDOM. I would name Colonel S. S. Tappan, who has spent some years in the Indian Territory, and I am sure understands their character better than any man we can appoint. He is in all respects a proper gentleman for the position.

Mr. ROSS. I concur in that suggestion.

The amendment of Mr. WINDOM was agreed to.

Mr. WINDOM. The other amendment is one which I proposed yesterday, and is appended to the printed bill. It is an amendment of importance, and I ask the attention of the House to it for a single moment. The second and third sections of the bill as it came from the Senate require a commission to select two certain locations, one of them north of the State of Nebraska and west of the Missouri river. The discretion of the committee is limited to certain localities. Now, it will be found, on examination of the bill, that the territory

pointed out is not fit for an Indian reservation; Indians cannot be induced to go upon it.

The amendment I propose is to strike out those two sections limiting the commission to those particular localities, and give a more general discretion to make treaties with reference to other locations, the selection to be confirmed by the action of Congress. The whole thing is to be finally submitted to Congress for confirmation.

So far as the reservation proposed by the Senate bill is concerned I believe it is wholly impracticable. It is a portion of the territory known in the West as the bad land, where Indians, I believe, cannot live. And, sir, we propose to send a commission to treat with the Indians now in arms against us before we have whipped them, and to induce them by treaty to go on a barren desert where they will be starved to death. A gentleman told me the other day that we ought either to shoot or starve them, and he thought the latter the best way. The first thing to be done is to get them there. It is something like the old plan of schoolboys catching birds by salt on their tails. The Indians are not there and cannot be induced to go there. I propose to strike out the two sections and give them a wider section of country in which to make their investigation. I ask that the vote be taken on the amendment, but I will yield for a moment to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. I offer the following amendment to the amendment:

Add at the end of the section these words: The Union Pacific railroad and the Union Pacific railroad, eastern division, on the proposed route of the Atlantic and Pacific railroad, by the way of Albuquerque.

Mr. WINDOM. I accept that amendment.

Mr. PILE. I move the amendment which I have offered.

#### COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair ascertains that no member of the Committee on Enrolled Bills is present, and if there be no objection the Chair will appoint two members of that committee temporarily.

No objection was made; and the Chair appointed Messrs. WELKER and NIBLACK temporarily members of the Committee on Enrolled Bills.

#### INDIAN WAR—AGAIN.

Mr. JULIAN. I have received a very important memorial on this subject in behalf of the Society of Friends in Indiana, embodying some of the provisions of this bill, and I would ask the honorable gentleman from Minnesota if there is any necessity for our action now? By the next session we shall be able to digest and perfect a better measure and avoid this hasty legislation.

Mr. WINDOM. The gentleman asks me if it is important that this bill shall be passed now, or whether we cannot wait and perfect the measure at the next session. I regard it as most important that we should pass this bill before we adjourn. We are now paying at the rate of \$1,000,000 a week, and if we can save a single day of the war it will be worth more than the entire bill will cost.

There is another reason which makes it necessary that this bill should be passed at once. There are a great many peaceable bands of Indians who, though they belong to tribes that are disposed to go to war, some now being actually at war, desire to leave those tribes and remain at peace with us. In order that they may do so there must be some provision for their support. One section of this bill proposes to make a provision of that kind. If such provision be not made before the commencement of the next session nearly all those Indians will be compelled to take up arms against us, and our expenses in carrying on the war will, as I believe, be more than trebled before we meet again. I think it, therefore, of the utmost importance that we should now make some provision of this kind. The action now proposed is not final. The bill proposes that a commission shall be sent out

for the purpose of investigating and making treaties. We may confirm or reverse the action of these commissioners at the next session of Congress. I ask immediate action upon the amendment.

Mr. KELLEY. Will the gentleman yield to me for a question or two?

Mr. WINDOM. Yes, sir; I yield for a question.

Mr. KELLEY. I would like to ask the gentleman whether the measure which he pressed upon the attention of the House a few days since, and which has been concurred in by the Senate, will not meet the necessities of the case for the present?

Mr. WINDOM. I think, Mr. Speaker, that it will not fully meet the necessities of the case. It certainly will not unless there be an appropriation for the purpose I have just named; and if such an appropriation be made I think it far preferable that we should make our own selection of commissioners rather than have the President select them. Some gentlemen the other day appeared to be opposed to the President making these treaties. If we select the commissioners ourselves that objection is obviated.

Mr. KELLEY. Mr. Speaker, I am as anxious as the gentleman from Minnesota, [Mr. WINDOM,] or any other gentleman, can be to arrest this Indian war; but I am unwilling that we should attempt to organize hurriedly a new system of dealing with the Indians. I believe that our present system is founded upon a vicious idea, and if persisted in will lead to destruction of the Indian race on this continent and to the great disgrace of our country. It offers an inducement to every Indian to adhere to his tribe; it encourages the continuance of tribal relations. By this system we are maintaining, as it were, foreign nations in our midst. I believe that we might, with no increase of expense, adopt a more judicious system which would offer inducements to the Indians to abandon their tribal relations, accept the habits of civilization, and become useful members of society. But I am opposed to organizing hurriedly a new system. The resolution which we have already passed will accomplish, I think, all that is demanded at the present time; and I prefer that further legislation on this question should be postponed until we can have full time to examine the subject and elaborate a judicious system.

Mr. WINDOM. I now call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment of Mr. WINDOM was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. WELKER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles, when the Speaker signed the same:

An act (S. No. 137) for the further security of equal rights in the District of Columbia; and Joint resolution (S. R. No. 63) declaring sympathy with the suffering people of Crete.

#### KENTUCKY AND DELAWARE.

Mr. WILSON, of Iowa. I ask unanimous consent to submit the following resolution, which I am directed by the Committee on the Judiciary to present:

*Resolved*, That the Committee on the Judiciary, charged by the House to inquire whether Kentucky and Delaware have governments republican in form, be, and is, authorized to send for persons and papers, so far as they may be necessary in conducting that inquiry; and be, and is, further authorized to appoint sub-committees in conducting all their investigations, with power in such sub-committees to administer the necessary oath.

There being no objection, the resolution was received and adopted.

#### RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania, submitted the following resolution:

*Resolved*, That the Clerk of the House be directed to present to the Secretary of State the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto passed on the 23d day of March, 1867," and the joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States, together with the certificates of the Clerk of the House of Representatives and the Secretary of the Senate showing that said act and joint resolution were passed by votes of two thirds of both Houses of Congress, after the same had been returned to the House of Representatives by the President with his objections, and after reconsideration of said act and joint resolution by both Houses of Congress, in accordance with the Constitution.

The resolution was adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE TO PRINT SPEECHES.

Mr. ASHLEY, of Ohio. Mr. Speaker, there are a number of gentlemen who did not get an opportunity to be heard on the President's recent veto message, and who have prepared speeches on the subject, which I now ask, by unanimous consent, they shall have leave to print as part of the debates of the House.

Mr. ROSS. I should like to know how many speeches are to come in under that very broad order. Let us know who they are that have speeches prepared to be printed.

Mr. ASHLEY, of Ohio. I have none myself. I understand the gentleman's colleague has a speech to be printed.

Mr. ROSS. I will not object to the printing of any speeches that may now be presented, but I do object to members having the privilege of going home and writing speeches and sending them here to be printed after the adjournment.

The SPEAKER. Let the understanding be that the privilege shall extend only to those who may give their names to the reporters to-day.

Mr. ROSS. I do not object to that.

There was no objection, and it was ordered accordingly.

#### ADJOURNMENT.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed the concurrent resolution of the House of Representatives in reference to the adjournment, with an amendment, in which he was directed to ask the concurrence of the House.

The Clerk read the following resolution, adopted by the House on the 11th instant:

*Resolved*, (the Senate concurring.) That when the two Houses of Congress shall adjourn on the day of July instant, the adjournment shall be to Wednesday, the 13th day of November next, at noon, and the two Houses shall then reassemble without further order.

The SPEAKER. To which the Senate have made the following amendment, in the nature of a substitute:

*Resolved*, &c., That the President of the Senate and the Speaker of the House of Representatives shall, at three o'clock p. m. on the 20th day of July instant, adjourn their respective Houses, to meet on the first Monday of December next.

Mr. PIKE. I move to adhere.

The SPEAKER. That would leave no time fixed for the adjournment of the two Houses.

Mr. TROWBRIDGE. I move that the House concur.

Mr. PIKE. I demand the previous question.

Mr. ROSS. I should like to move to make it the 15th of October.

The House divided; and there were—ayes 46, noes 40.

Mr. ROSS demanded tellers.

Tellers were ordered; and Mr. Ross and Mr. PIKE were appointed.

The House again divided, and the tellers reported—ayes 52, noes 37.

So the previous question was seconded.

The main question was then ordered.

Mr. BENTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken on the motion to concur; and it was decided in the negative—yeas 32, nays 72, not voting 66; as follows:

\* YEAS—Messrs. Archer, Beaman, Blair, Cobb, Dixon, Driggs, Eldridge, Fields, Getz, Hill, Hunter, Jencks, Koontz, George V. Lawrence, Marshall, Moore, Mungen, Niblack, Noell, Phelps, Poland, Pruyn, Robinson, Stone, Trowbridge, Twichell, Upson, Van Auken, Van Trump, William Williams, James F. Wilson, and Windom—32.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Benton, Boutwell, Brownell, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Farnsworth, Ferriss, Gravelly, Halsey, Hamilton, Hayes, Hooper, Hopkins, Asahel W. Hubbard, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, William Lawrence, Lincoln, Loan, Logan, Loughridge, McClurg, Mercer, Miller, Morrill, Myers, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Polstey, Raum, Ross, Sawyer, Schenck, Scofield, Selcye, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Henry D. Washburn, Welker, Thomas Williams, John T. Wilson, and Stephen F. Wilson—72.

NOT VOTING—Messrs. Adams, Ames, Delos R. Ashley, Barnes, Barnum, Benjamin, Bingham, Blaine, Boyer, Brooks, Broomall, Burr, Cake, Chandler, Cornell, Dawes, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Ferry, Finney, Fox, Garfield, Glossbrenner, Griswold, Haight, Harding, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kerr, Ketcham, Laffin, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Newcomb, Nicholson, Peters, Pomeroy, Price, Randall, Robertson, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Cadwalader C. Washburn, William B. Washburn, Wood, and Woodbridge—66.

So the House refused to concur in the amendment of the Senate.

The question recurred on the motion that the House adhere, and it was agreed to.

#### RECUSANT WITNESSES.

Mr. WILSON, of Iowa. By direction of the Judiciary Committee I offer the following preamble and resolution:

Whereas Lafayette C. Baker was on the 2d day of July, 1867, duly summoned to appear and testify before a standing committee of this House on the Judiciary, charged with the investigation of certain allegations against the President of the United States, and has neglected to appear before said committee pursuant to said summons: Therefore,

*Resolved*, That the Speaker issue his warrant directed to the Sergeant-at-Arms, commanding him to take into custody the body of said Lafayette C. Baker, wherever to be found, and to have the same forthwith brought before the bar of the House to answer for contempt of the authority of the House in thus failing and neglecting to appear before said committee.

I desire to say that I have in my hands a subpoena regularly served upon Lafayette C. Baker, commanding his appearance before the Committee on the Judiciary. He has failed to obey the process of the House, not only in this instance, but in, I believe, two other instances. Therefore the committee asks that he be brought to the bar of the House to answer for contempt of its process.

The preamble and resolution were agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEASE OF BUILDINGS BY THE GOVERNMENT.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the House of the 10th instant, reports relative to buildings leased by the Department in New York and Brooklyn, rented by it, &c.; which was laid on the table, and ordered to be printed.

#### LEAVE TO PRINT SPEECHES.

Mr. LOGAN. I wish to inquire of the Speaker what was the proposition voted upon a few minutes ago in regard to printing speeches.

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] asked consent to introduce a resolution authorizing gentlemen having speeches prepared on the bills recently vetoed by the President to hand them to the reporters of the Globe. That was agreed to by unanimous

consent. Afterward the gentleman from Illinois [Mr. Ross] rose and remarked that it was a broad proposition, and he thought there should be some limit to it. The Chair also thought it was a broad proposition. The question was reconsidered, and the House then concurred in the suggestion of the Chair that gentlemen hand in their names to the reporter to-day.

Mr. LOGAN. I move to reconsider that vote. If gentlemen desire to have some proposition of the kind adopted, I suggest that all speeches which are handed in prior to the adjournment might be printed. But the proposition to give gentlemen an opportunity of going home and writing out answers to speeches made in the House and publishing them in the Congressional Globe is certainly, in my estimation, very objectionable.

Mr. BAKER. I concur entirely in the view of my colleague. This printing of speeches ought to be restricted to those prepared before the adjournment.

Mr. LOGAN. There will be no safety in debate here at all if the resolution shall stand as adopted. If gentlemen will give me an opportunity to go home and write a speech in reply to some already published I may align and libel a member as much as I have a mind to and there is no reply to it. Sir, it is a monstrous proposition, and I ask the House to reconsider it. If the House desires to let members present their speeches before the adjournment of Congress, I have no objection.

Mr. STEVENS, of Pennsylvania. If we allow gentlemen to prepare and print speeches after they have gone home, how are we to reply to them?

Mr. ASHLEY, of Ohio. I stated when I made the motion that I had no speech of my own to print, but made it for the benefit of others whose speeches were not quite ready. It is not an unfrequent occurrence on the passage of bills that gentlemen have risen and asked the privilege of printing some remarks. I never knew the request to be refused or even objected to. But such speeches are frequently not furnished until after the House adjourns.

Mr. LOGAN. I do not know what the rule may have been, nor do I care. A rule like that should not exist in a deliberative body. If speeches are to be printed they should at least be presented and printed in the Globe while Congress is in session, so that if there is any attack or misstatement it might be replied to before the adjournment of Congress.

Mr. ASHLEY, of Ohio. I am entirely indifferent as to what disposition the House may make of the subject. I have no speech of my own prepared upon the subject.

Mr. MILLER. I would ask the gentleman a question as to how he is going to reply to a speech delivered on the last day of the session before the House adjourns?

Mr. LOGAN. All I wish to say is that if any member has a speech to make in which he wants to characterize anything I have done or said, I want it done in my presence.

Mr. BALDWIN. I want to say a word upon this subject. It seems to me that the practice of printing speeches that has never been delivered here is a bad one and ought to be discontinued. The rule ought to be rigidly enforced prohibiting the printing of speeches never delivered in the House. The rule of the House limits speeches to one hour. I have seen speeches which were never delivered but were printed by permission that made twenty-eight columns of the Globe. Now, sir, considering the expense of printing the Globe, I think we ought in some measure to prevent this constant increase of expense; and therefore I hope that we shall reconsider this vote and rigidly exclude all speeches not delivered upon this floor.

Mr. SCOFIELD. I would suggest to the gentleman from Illinois [Mr. LOGAN] that he move an amendment to enable these gentlemen to publish these speeches in a volume by themselves at the public expense, to be bound in Morocco covers.

Mr. SCHENCK. I hope that no such permission as is now asked will be given, and that no such order will be made. I trust that we shall not take another step forward in the direction in which we have been so long traveling until it has come to be notorious that there is no debate here in the House of Representatives. I understand debate to be the collision of mind with mind and thought with thought in advocacy and in reply until they reach some common conclusion. But we have nothing of that sort here, except now and then under the five minutes rules; but otherwise no one can have an opportunity to be heard here excepting those gentlemen who are enabled to get their names down upon the Speaker's list. Mr. Jones writes out his views on a particular subject, which will make a pamphlet of sixteen pages; and while he is engaged in that Mr. Smith is writing an hour's essay on some subject. Jones does not know what Smith is saying, and Smith does not know what Jones is saying, but both speeches are published in the Congressional Globe as a part of the debates of the House. I am unwilling myself to do anything which may help to give further countenance to the practice which has grown up in reference to this matter.

Mr. PIKE. I desire to ask how the rule would operate in cases where two gentlemen deliver the same speech. [Laughter.]

Mr. SCHENCK. I am afraid that that remark is a hint at my State; for I believe that during the Thirty-Seventh Congress there appeared in the Congressional Globe two speeches, one in March, and the other in April, purporting to have been made by a couple of—shall I say Democrats? I am glad that both of them were of that party; and each one of those speeches was word for word the same as the other, with this difference: one purports to have been made in the House and the other in Committee of the Whole; so that where the paragraphs of one begin with "Mr. Speaker," the paragraphs of the other commence with "Mr. Chairman." Now, in that case there happened to be this little trouble about the matter: Mr. Allen—pardon me, I did not mean to name anybody—published his speech first, and in the course of it alluded to "my resolutions," he having introduced a series of resolutions upon the subject of confiscation, that question being the topic of the speech. The other gentleman, who had introduced no resolutions, appeared as making just one month afterward the same speech, word for word; and unfortunately he did not alter the part of the speech to which I have just referred, so that he also alluded to "my resolutions." [Laughter.]

If gentlemen are curious in regard to this matter—and it is a perfect illustration of this whole system—they may look at the Congressional Globe of the Thirty-Seventh Congress, and they will find that two members from the State of Ohio appear there, as I have stated, as delivering the same speech. It may have happened unfortunately that they employed the same man to write out their speeches, and that he cheated one or the other or both; or perhaps not having been paid by the first sold the same thing to the other, in order to reimburse himself. And I may add that it was a very tolerable speech. Those two speeches go to make up a part of what are called the "debates," published in the Congressional Globe.

I wish, sir, that we could get back to something like the old condition of things when—it might be with a little sharpness, it might be with a little roughness, it might be with a little less of the pure style of the essay which gentlemen can succeed in reaching in their chambers, yet with much more pertinency generally to the subject immediately in hand—we actually did discuss questions here in this body, and discuss them at length. I am opposed to any innovation in the direction in which we have already gone too far.

Mr. MARSHALL. Mr. Speaker, I concur entirely in what has been said by several gentlemen here, that this system which has grown up of publishing speeches never delivered upon

the floor of the House is a great abuse, and ought if possible to be corrected. But it seems to me, Mr. Speaker, that it is an abuse which has almost necessarily grown up under the rules and practice of the House. It is well known that upon many of the gravest and most important questions that come up for the consideration of the House and of the country very few members can succeed in getting the floor at all for the purpose of saying a single word upon those questions; and unless, under such circumstances, some permission is given to gentlemen to present in print the thoughts they entertain in regard to those questions, it may appear to their constituents, and will so appear, that when the gravest questions ever submitted for deliberation in a public body have arisen they have remained in their seats and failed to open their mouths in regard to questions in which their constituents are so deeply interested.

Now, it is well known that upon these great reconstruction questions which have been disposed of at this session and at previous sessions not one tenth of the members that have desired to express themselves thereon have had any opportunity of doing so upon the floor of the House. Here only the other day, when this question which is agitating the whole country was brought forward, no man could get the floor except by special favor, and this, not as the result of any fault or partiality of the Speaker—for I have no intention of intimating anything of that kind—but because under a custom or rule which has grown up here in the House, a gentleman having charge of a bill has the power to control entirely the course of the debate, and most of the members of the House are entirely cut off from expressing themselves in regard to these questions.

Now, sir, I shall be very much in favor of so modifying the rules of the House that gentlemen, representing constituents who have the right to be heard on any subject, should have an opportunity to be heard before the debate was closed. If such a modification of the rules can be adopted I will go as far as the farthest against any gentleman being permitted to publish remarks as part of our debates which in fact were never delivered upon the floor of the House. It is a great abuse undoubtedly to publish as a part of the debates speeches or essays that were never made upon the floor. As the gentleman from Ohio [Mr. SCHENCK] has well suggested, our debates ought to be the expression of such thoughts as are struck out by the collision of mind with mind; but when questions are brought forward for consideration unfortunately no such opportunity as that is afforded to nine tenths of the members of the House. When the question of reconstruction was up the other day I know that many friends of mine here as well as gentlemen on the other side desired to be heard, but as soon as my colleague [Mr. LOGAN] closed his speech of one hour the debate was immediately closed. Then no gentleman, however much he may have desired to do so, had any opportunity to make any reply to that speech or any other that preceded it. I only refer to that by way of illustration. There were some things in the speech of my colleague that I desired very much to reply to at the time, but no such opportunity was presented.

Mr. LOGAN. I did not object to debate.

Mr. MARSHALL. I am not bringing this forward as a special complaint against my colleague, but as an illustration of a hardship, and, indeed, great wrong that is occurring here every day; and it is notorious that if many members are not permitted to print their speeches as a part of the debates as if delivered upon the floor, they will have no opportunity of being heard by the country or their constituents.

It has been suggested by gentlemen around me that the proper course to pursue in such cases would be for members who are unable to get the floor at the time to ask permission to print their thoughts as a part of the debates, and then, perhaps, permission would always be accorded. Probably that is the better way.



But this does not touch the evil complained of. To do justice the rules and practice of the House must be radically changed. And now as to the question immediately before the House. Many gentlemen have been busily engaged, and as this will be a very short session if closed to-day, and as some members may not have their remarks prepared to present now on questions that have been before the House, it seems to me it would be a hardship to them now to depart from the rule adopted, as I understand, in regard to speeches of this character. Let these gentlemen print their speeches now as heretofore, and I will hereafter go as far as the farthest in establishing some rule that will correct the abuses complained of.

Mr. Speaker, it strikes me that a body of this kind ought to be a deliberative body. It is not so important to the country that many bills should be passed as that all questions before us should be considered with due deliberation on the part of the men whose solemn duty it is to record their views thereon. There is always too much legislation; there is never too much discussion on these important subjects. That is one of the means of educating the country. It is one of the means of correcting crude measures, and of eliciting the diverse knowledge and opinions of those whose duty it is to mature great public questions which interest the people. We want more legitimate debate, the interchange of thoughts, the collision of minds; and those who wish to express their views should always have the opportunity to do so; and we would be better off with much less legislation. The practice suggested would be better for the country. How many bills do we see passed here that are crude and undigested, forced through without debate under the operation of the previous question, without permitting members to have an opportunity either to discuss or to deliberate them. This, in my judgment, is a very grave evil which has grown up here, and which ought to be speedily corrected.

I admit, sir, that nothing ought to appear in the Globe except such things as have actually occurred in the House; but we cannot properly adopt this rule until we have provided that all members shall have an opportunity to express themselves upon any subject when the question is before the House for consideration. If gentlemen having an influence with the majority will attempt a reform in this direction, I will gladly coöperate with them.

On this question of reconstruction I have myself had permission to print some remarks that I had no opportunity of delivering in the House; but I hope it is scarcely necessary for me to add that any gentleman who knows me will know that I would be very far from abusing such permission by making a personal attack upon any one. I hope there is no member in this House that would do so. And now, as the matter has gone so far, I hope there will be no attempt at this time to interfere with a practice that has grown necessarily out of a much graver abuse, and that gentlemen who have their speeches prepared may have an opportunity to present them upon this very important question as a part of the debates of the House. But I hope very speedily when we get together again some rule will be adopted which will correct this grave abuse, and which, while it confines the published reports to what actually occurs in the House, will give every member a fair opportunity of being heard upon every question that comes up for consideration. This all members, and especially their constituents, have a right to demand, and its denial should no longer be tolerated.

Mr. PRUYN. I desire, with the consent of the gentleman from Illinois, [Mr. LOGAN,] to say a few words. I have listened with great interest to this discussion, because I felt yesterday that I had no opportunity to say things to this House which I believed would be of interest and importance, and which would not have occupied much time. The gentleman from Illinois is entirely correct in the views he expresses, and I think a large portion of

the members of the House desire with him that some change should be made in our rules in regard to the manner of conducting our debates.

But the point I was coming to particularly is this: that in my judgment we can never make a rule which will be effectual as long as the present system continues of furnishing members with desks, so that they can come here and write letters, read newspapers, and transact their private business instead of listening, as they should, to the discussions of the House. Our business would be more rapidly and thoroughly done if we return to the system that prevailed some years ago, when the desks were dispensed with and tables were furnished in different parts of the Chamber for the use of those who had occasion to write letters. If the Committee on the Rules will take this subject into consideration, I think they could devise some plan which would give a fairer opportunity for debate, and which I think would be agreeable to all the members of the House.

I think the gentleman from Ohio [Mr. ASHLEY] is right in stating that the custom has been heretofore to give leave to print very generally, and I supposed that that was the intention on this occasion. I certainly never knew the privilege to be abused in the way suggested by the gentleman from Illinois, [Mr. LOGAN;] that is, by any personal attacks. But it is better we should get rid of the whole thing in the way the gentleman from Ohio [Mr. SCHENCK] suggests and come to some system, some rule, by which every member can on every subject have an opportunity to express his views.

Mr. LOGAN. Before moving the previous question, I will only say that so far as personal attacks are concerned I am as little interested in them, I presume, as any member of the House. My only object was to establish a precedent here so that hereafter we might by some means or other arrive at legitimate debates. The resolution that was passed this morning is certainly unprecedented in parliamentary usage. I do object to the publication after the adjournment of Congress of remarks that never were delivered in this House by any gentleman. I now move the previous question.

The SPEAKER. If the gentleman from Illinois will yield to the Chair he would like to make a suggestion before taking the vote.

Mr. LOGAN. I will yield.

The SPEAKER. Allusion has been made by several gentlemen to the practice of the House. The Chair concurs with the remark of the gentleman from Illinois, that the proposition adopted this morning was very broad, broader than usual, and he suggested the same to the gentleman from Ohio, [Mr. ASHLEY.] Although it was adopted by unanimous consent, it was afterward modified upon motion of the gentleman from Illinois, [Mr. ROSS,] as the Chair has already stated.

The practice of the House has been in regard to all bills emanating from committees to allow the chairman or some member of the committee reporting it the right to speak. That is very proper, because the committees are the fathers of the propositions. But in the great pressure of business upon the House a large number of members desire to debate the measures, and hence the more frequent use of the previous question of late years than formerly. The consequence is many members have not an opportunity to debate the question before the House. It is easy for gentlemen on important committees, either at the head or as members of it, who are gifted in extempore oratory, to obtain the floor and speak on important questions. It is difficult, however, for the majority of the members to obtain the floor for speaking. Their only opportunity, therefore, to discuss public questions and get their views before the country is on Saturdays, or in evening sessions when the House sits as in Committee of the Whole.

It is for this reason that the Chair has endeavored as far as possible to ascertain those who are not on important committees who desire an opportunity, without prejudice to the business of the House, to express their views,

and the Chair will continue in the future as in the past to do so, knowing well that prominent and leading gentlemen have greater advantages and more frequent opportunities under the usage of the House to state their views to the country.

The previous question was seconded, and the main question ordered.

The question was taken on the motion to reconsider the vote by which the House allowed gentlemen who handed their remarks on the veto of the President to the reporters of the Congressional Globe to-day to have their speeches recorded; and the motion was agreed to.

Mr. LOGAN. I move now to lay the motion on the table.

The motion was agreed to.

Mr. LOGAN moved to reconsider the vote by which the proposition was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION—IMPEACHMENT.

Mr. WOODBRIDGE. I ask consent to make a brief personal explanation.

No objection was made.

Mr. WOODBRIDGE. Mr. Speaker, I have never risen to vindicate myself, and would not do so now had not the public journals placed me in a false position before the country, and involving, as I think, my personal reputation.

The Committee on the Judiciary, charged with the impeachment of the President of the United States, deemed it their duty at the close of the last session of Congress, on account of the magnitude of the subject, to hold an adjourned meeting, and did adjourn until about the 1st of May. At that time they met and devoted themselves most laboriously to the examination of the question before them. About the time they supposed they had completed their labors a motion was submitted to the committee that under the evidence before them they would not be justified in recommending articles of impeachment against the President of the United States. I voted for that proposition, and for the purpose of giving the public rest, so far as the committee could do so, it was voted to give to the country the result of their deliberations.

Subsequent to this vote, and doubtless with a desire to elicit truth, members of the minority desired additional testimony. Subpoenas were issued for witnesses, who, in their opinion, would testify to material facts relevant to the investigation.

Unlike my friend from Pennsylvania, [Mr. WILLIAMS,] I had not determined at that time what my vote would finally be. He, by his own statement before the House, had determined the question prior to the adjournment in June, and required no further testimony. The expression, sir, is more worthy of a Nero or a Jeffreys than a learned member of the Law Committee of this House.

The SPEAKER. The Chair will state to the gentleman from Vermont that his language is not parliamentary.

Mr. WOODBRIDGE. I withdraw anything I may have said unparliamentary or discourteous toward the gentleman, for whom I entertain personally a high respect. Sir, when this duty was imposed upon me as a member of the Law Committee of this House, I supposed I was to discharge it as a man and a lawyer, and not as a partisan. I considered myself responsible to the Constitution, the laws, my oath, and my God. Beyond that I had no responsibility. I did not deem it proper to ask myself what my party demanded or what public opinion would justify. I entertained the question in a judicial capacity, and in no other. Sir, it is known that I am opposed to the President in his general policy and in many of his public acts; but in the grave matter of impeachment I shall be governed by the law and the evidence, and by nothing else.

Sir, since the assembling of Congress at this session the public journals of the country have

stated that I have changed my opinion, or at least that I was vacillating and doubting as to the course which I should ultimately pursue. No one was authorized to say that from any intimation or expression of mine. When the vote was taken by the committee upon the testimony then before them I was against impeachment, and I stand in that position now. With my view of the evidence and the law I should sacrifice my idea of both law and evidence in order to change my opinion.

I know, sir, that this country can endure even the impeachment of the President. I know, sir, that a people who carried the flag of our country in triumph through the bloodiest and most expensive war that the world has ever seen—a people who, when informed by the lightning-flash that the late President of the United States had been murdered in a public theater, conducted themselves so quietly that the wheels of the Government rolled on without any creaking, and the public securities were kept up as they were before—could endure the impeachment of the President of the United States. And, sir, when the time comes, if it shall come, in this investigation, that in my judgment under the law and the testimony, Andrew Johnson should be impeached, I shall be as ready as any other to impeach him, regardless of consequences. But, sir, if the day should ever come when impeachments for political purposes is regarded with favor by this or any other Congress, then, permit me to say, I shall despair, despair forever, for the safety and stability of our institutions.

The papers have said that in my course on this question I cannot sustain myself at home politically. Coming from the little State of Vermont—as noble a State as any in the galaxy, whose political record has been as bright as the sunlight and as pure as the light of the stars—I may not, sir, sustain myself. But how poor, how infinitely poor, will be the sacrifice when compared with an approving conscience, which, at least in the hour of death, will be of far more value than all the political wreaths which may crown one's brow in his pathway from the cradle to the grave.

I express no opinion now in regard to impeachment, for it may be that the investigations of the committee are not completed. My decision as a judge I hold in abeyance until the evidence is closed. When that shall be done I shall act up to my convictions of duty, whether I live or die, whether I stand or fall before the country or before my immediate constituents who have honored me heretofore, and who will honor me hereafter, if I am worthy of their confidence.

Mr. BENTON. I would like to ask the gentleman a question before he sits down?

Mr. WOODBRIDGE. I have risen simply to a personal explanation, and I do not deem it proper to yield to any one. I surrender the floor.

Mr. WILLIAMS, of Pennsylvania. I ask consent to make a personal explanation.

The SPEAKER. If there be no objection the gentleman will proceed.

There was no objection.

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, it seems to me that the very unusual language of my friend from Vermont [Mr. WOODBRIDGE]—I suppose I may call him my friend, [Mr. WOODBRIDGE. Always.]—calls for something at my hands in the way of reply.

I have been struck with the exhibition upon this question of a degree of sensibility upon the part of gentlemen connected with the majority of the Committee on the Judiciary which seems to me to be a little morbid, if I may be allowed to use such an expression. Why do they flee when no man pursues? Is it so that I or anybody else has at any time undertaken to impeach the motives or the conduct of any of them? Not at all. I cheerfully accord to them the same latitude of thought and freedom of opinion that I always claim for myself. I am entirely willing to credit them with the same disposition to promote the interests of the country in this investigation that I have.

But, sir, there have been remarks, falling originally from the mouth of the chairman of the committee, [Mr. WILSON, of Iowa,] and now reiterated by the gentleman from Vermont, [Mr. WOODBRIDGE,] which I think I am required in justice to myself to answer.

And now, sir, let me ask, how does this question stand before the House and the country? You have upon your records a report—verbal, it is true—but still a report of the results which have been reached by the committee. There is nothing in our rules, I suppose, which requires that it should be in writing. When this question was first opened the honorable chairman of the committee, by the authority of that body, as he stated—and undoubtedly he had received such authority, two members of the committee only dissenting, and that not on the point now in question—announced to this House (as he had previously announced, with the consent of the committee, to the country) that this great question, involving, as I think, the very life of the nation, had been passed upon by the committee, and that five of its members had arrived at the conclusion that no act furnishing sufficient ground for impeachment had been shown by the testimony to have been committed by the President of the United States, while four of them, constituting a minority were of the opinion that he had done acts which made it the duty of this House to arraign him to answer for high crimes and misdemeanors before the bar of the Senate.

Here, then, is a report of an authentic character. It went to the country immediately after its announcement. I incline to think that one of its objects was to prevent an extra session of the Congress of the United States. I do not impute any fault to those who may have thought that such a session under the circumstances of the country was anything but desirable either for the country's sake or for the sake of the party; but if I am not mistaken, the opinion did prevail inside of the committee that the effect of that announcement would be that no session of this body would take place under the joint resolution of the 3d of April last. Whatever may have been its purpose, this undoubtedly was its operation. The report went out over the telegraphic wires and through the pens of the newspaper correspondents to every nook and corner of the land that the Judiciary Committee, composed of nine members, seven of whom belonged to the great Republican party of this nation, had not been able to find matter in all the records and evidence before them on which to base a single charge against the President of the United States. Well, sir, under these circumstances I felt it to be my duty when this question came up, and the same statement was reiterated here, to interpose my answer and my protest, and to say in vindication of myself and of those with whom I had the honor to act and think, and who were denied the privilege of assigning in the hearing of the country the reasons of their opinions, that I was possessed, as I thought they were also, with the deepest and strongest convictions on this subject, that those convictions rested upon facts sufficient to sink a whole Administration beyond recovery, involving as they did the permanent welfare and the very life of this Republic. I felt, too, that in order to avoid any default on my part, or any responsibility that might otherwise attach to me, it was my duty to give warning to the House and country, and my right to say to both that if this testimony was not to be produced or published—if a question of such magnitude was to be indefinitely postponed—if the country was to suffer from the indifference of those who were charged with its great interests, I washed my hands of the consequences.

I stated yesterday that I was prepared to meet the issue upon the criminality of the President then; and since my honorable friend from Vermont [Mr. WOODBRIDGE] has been pleased to indicate his willingness to meet it also at the proper time, I may be excused for

repeating that I am equally ready for that controversy now. All has been heard that is material to the case, and we cannot, as I think we do not, differ materially as to any of the great facts involved. There is nothing to divide us but the law, and in regard to that I will now only say that I bate no jot or tittle of the confidence I expressed on yesterday.

I take it, Mr. Speaker, that the case is now before the country upon the decision which has been already announced. But that is not enough. There are, I think, outside of the mere question of impeachment, reasons which will appear when this testimony is disclosed, which are sufficient in themselves for us to remain here now for the protection of the public interests; and I submit to gentlemen who now stop their ears against the information they might have if they would demand it, whether they may not possibly find it difficult to answer when the question is put to them by their constituents hereafter why it was they refused an audience when they might have been informed if they had but chosen to hear.

Mr. Speaker, I have no desire to indulge in any course of remarks that might be considered personal. That sort of controversy is always unpleasant to me; but the honorable gentleman from Vermont has been pleased that in the declaration made by myself at this stage of the inquiry in regard to the guilt of the President I have judged in such a way as would have been only worthy of the justice of a Nero or Caligula.

Mr. WOODBRIDGE. I have withdrawn that.

Mr. WILLIAMS, of Pennsylvania. The gentleman says he did not mean it in the way of personal offense, and has withdrawn it. I do not feel, sir, as if he had intended anything of the sort; but in answer to the argument I must be allowed to say that I have disclosed no more than I was authorized to do under the circumstances of the case, holding as I did on that question, as I have already stated on this floor and now reiterate, the understanding that the case was then settled by the solemn judgment of the committee, with this proviso only: that if any testimony should be offered at any time before the period assigned, for the purpose of making up their report, it should be received. Of course, in all fairness we could adopt no other rule. And I now put it to the gentleman from Vermont himself, or to any gentleman of the majority, to say whether there is at this time any testimony behind which they regard as material or important for the purposes of this investigation?

Mr. WOODBRIDGE. The gentleman puts the question to me, and I desire to answer. I can only answer that I do not know. I am prepared to weigh and consider whatever testimony may come before the committee. At the time of the adjournment of the committee in June, the testimony, as the gentleman well knows, was not closed. I am perfectly willing to say that I do not preclude myself from altering my opinions or convictions on whatever testimony may be subsequently adduced.

I will answer the gentleman further by saying I understand that the testimony is incomplete, and that only to-day a gentleman next in point of honor and trust to the President was before the committee.

Mr. WILLIAMS, of Pennsylvania. I understand, as I have already said, that it was of course expected that any testimony should be taken that might be offered, but that is not an answer to the question.

It was remarked, however, in the previous debate, by way of answer to the allegation that the inquiry was substantially at an end, that there was process out at that time for two witnesses, and the chairman of the committee [Mr. WILSON] was pleased to say that no member of the committee had requested the attendance of more witnesses than myself.

Mr. WILSON, of Iowa. No, sir.

Mr. WILLIAMS, of Pennsylvania. Then the gentleman may take that back.

Mr. WILSON, of Iowa. I do not take it back; I did not say it.

Mr. BUTLER. I would like to ask the gentleman from Pennsylvania whether or not the minority of the present Judiciary Committee of the Fortieth Congress who are in favor of impeachment are not a majority of all the members of the committee of the Thirty-Ninth Congress who are serving on the present committee. Because, I desire to know whether we were really taken in in any way when it was agreed to put this question to the Judiciary Committee in the Thirty-Ninth Congress, and when a special committee was voted down.

Mr. WILLIAMS, of Pennsylvania. At the time of its discharge a majority of its members were, I thought, ready to report in favor of impeachment. Desiring, however—and in this I express my own opinions only—to make the case as full and complete as possible, it was considered not advisable to make a report at that time in the imperfect condition of the testimony.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had agreed to the amendments of the House to the bill of the Senate No. 136 to establish peace with certain hostile Indian tribes.

The message further announced that the Senate insisted upon its amendment to the resolution of the House of Representatives in relation to the adjournment of Congress and disagreed to by the House, asked for a committee of conference on the disagreeing votes of the two Houses on the resolution, and had appointed Messrs. CONKLING, ANTHONY, and HOWE managers on the part of the Senate.

#### ADJOURNMENT OF CONGRESS.

The SPEAKER laid before the House the foregoing message of the Senate in regard to the adjournment of Congress.

Mr. PIKE. I move that the House recede from its adherence.

Mr. STEVENS, of Pennsylvania. It seems to me adherence is the last step; that if we adhere it is equivalent to saying we do not intend to have a committee of conference.

The SPEAKER. The Clerk will read the rule on page 21 of the Digest.

The Clerk read as follows:

"A conference sometimes takes place after one House has adhered."

Mr. PIKE. Then it will not be necessary to recede.

The SPEAKER. The House may recede from its adherence and agree to a committee of conference.

Mr. PIKE. From the tone of the debate yesterday in the Senate I supposed that if the House adhered the Senate would recede and concur in the resolution of the House. Now, however, it seems the Senate desires a committee of conference.

Mr. ROSS. Can we not adhere and have a committee of conference?

The SPEAKER. That is impossible.

Mr. PIKE. I call the previous question.

The previous question was seconded, and the main question ordered.

Mr. BUTLER. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 45, not voting 65; as follows:

YEAS—Messrs. Adams, Archer, Baldwin, Banks, Beaman, Benjamin, Blair, Boutwell, Buckland, Churchill, Reader W. Clarke, Cobb, Cornell, Dixon, Driggs, Eldridge, Ferriss, Fields, Getz, Gravelly, Halsey, Hamilton, Hill, Hopkins, Chester D. Hubbard, Hunter, Jencks, Kitchen, Koonz, George V. Lawrence, Marshall, Mercer, Miller, Moore, Morrell, Mungen, Niblack, Noell, Orth, Perham, Phelps, Pike, Pile, Plants, Poland, Pruyn, Raum, Robinson, Sawyer, Stone, Townbridge, Twichell, Upson, Van Aerssen, Van Auken, Van Trump, William Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—60.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Benton, Brownell, Butler, Sidney Clarke, Coburn, Cook, Covode, Cullom, Ferry, Hayes, Hooper, Ingersoll, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughbridge, McClurg, Myers,

O'Neill, Paine, Polsley, Ross, Schenck, Scofield, Selye, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taft, Thomas, Robert T. Van Horn, Van Wyck, Ward, Henry D. Washburn, Thomas Williams, John T. Wilson, and Windom—45.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barnes, Barnum, Bingham, Blaine, Boyer, Brooks, Broomall, Burr, Cake, Chanler, Dawes, Dodge, Donnelly, Eckley, Eggleston, Ella, Eliot, Farnsworth, Finney, Fox, Garfield, Glassbrenner, Griswold, Halght, Harding, Holman, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Kerr, Ketcham, Ladin, Lincoln, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Newcomb, Nicholson, Peters, Pomeroy, Price, Randall, Robertson, Shellabarger, Sigheaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Burr Van Horn, Cadwalader C. Washburn, William B. Washburn, Welker, and Wood—65.

So the House receded and agreed to the committee of conference.

The SPEAKER appointed as conferees on the part of the House Messrs. PIKE, BEAMAN, and BUTLER.

#### PERSONAL EXPLANATION—IMPEACHMENT.

Mr. WILLIAMS, of Pennsylvania. I do not desire to prolong this discussion in such a way as to exhaust the patience of the House.

Mr. MILLER. I would ask the gentleman if the committee are ready to lay their report upon this question before the House when opportunity is offered?

Mr. WILLIAMS, of Pennsylvania. So far as I am individually concerned I am ready to submit my own views in writing and to enforce them by argument at any time that the House may be ready to hear me. I may say the same in regard to the gentleman from Ohio, [Mr. LAWRENCE,] who says to me that he is fully prepared now to submit a full written report on the whole case.

Mr. MILLER. I would ask the gentleman if the minority of the committee are not ready to report their views?

Mr. WILLIAMS, of Pennsylvania. I cannot say as to the other members of the minority; I can speak only for myself and the gentleman from Ohio, [Mr. LAWRENCE,] although I have no doubt that the other members of the minority are equally ready to sustain their views. Here is a minority of the committee entertaining strong and decided opinions upon this question, and yet unable to give the reasons for the faith that is in them in consequence of the failure or refusal of the majority to make their report in the regular way. The position is an awkward and by no means an agreeable one, but it has imposed on me the duty which I have just now been endeavoring to perform.

I will only say in conclusion that the place which has been assigned to me in this investigation was not one of my seeking. The duty which it involved has been to me a very painful one, it has been a very laborious one. I have endeavored to perform it however to the extent of my ability. I have had no end in view but to serve my country, in a case where I thought its highest and dearest interests, its safety, and its life were involved. The gentleman from Maine [Mr. PIKE] was pleased to say in the course of some remarks made by him a few days ago on this subject that it was a mere question of President-making, and nothing more. Allow me to say in reply that my humble ambition has never tended in the direction either of making presidents or making kings. I have no particular respect either for the makers or the manufacture, and judging from what I have seen of the results of that kind of business generally, I should not suppose that any credit which has ever been earned in that way was worthy of the aspirations of any man of even less pretension than myself. But this much I will say to the gentleman from Maine, that when I find a President of these United States asserting kingly powers, claiming the force of statutes for his proclamations, living in habitual contempt and violation of your laws, suspending their powers or trampling them under foot, bartering away untold millions of your property for rebel use, claiming to rule without a Congress, insulting the legislative power and defying its authority, and ruling this nation as if he were its master, so help me God I will uncrown him if I can. And more than

this, when I witness all these things, as I have done in the career of Andrew Johnson, when I see the great council of the nation bearded and insulted in its own Halls, I will not consent to abdicate my high trust as one of the nation's Representatives by abandoning my seat and turning over to him the entire and unchecked direction of its affairs. I will rather stay to curb this arrogance, and instead of resorting to expedients of doubtful propriety to abridge the power that the Constitution has given him, exert the power that the Constitution has given me, by striking at once and boldly, bravely, manfully, and directly at the one great obstacle that stands in the way of the nation's peace, by pulling him down from his giddy elevation, and making of him a great example for future times.

Mr. WILSON, of Iowa. I ask the unanimous consent of the House to occupy their attention for a few moments.

No objection was made.

Mr. WILSON, of Iowa. Mr. Speaker, I regret the discussion of this question, as I have often expressed myself before in advance of a presentation of the case to the House. Of course I have nothing to say of personal explanations which gentlemen may have been called upon to make because of charges contained in the press; but, sir, I do not feel willing, in regard to so important a question as this, to be placed in any false position before the House and the country; and when the gentleman from Pennsylvania says that I am under any party spur here, as though I had intended such a thing on yesterday, I certainly never intended to convey such an idea to the House or the country.

What I said in that regard was this:

"I understood that so far as the reference of the subject imposed an obligation upon me as a member of the committee, it was to investigate fearlessly and faithfully the subject, not merely as a member of the Republican party, but as a member of the law committee of the House of Representatives. I have pursued the investigation with that view and in that spirit, and I affirm here to-day that no amount of political pressure shall turn me aside from a conscientious discharge of the duty thus imposed."

That is what I said yesterday; it is what I affirm here to-day. I believe, as I think every member of the committee believes, that this investigation should be conducted with a due regard to the rules of law; and no belief that anybody may have that this case should be forced upon the country regardless of its incomplete condition can turn me aside from the course which I have indicated, and which, in my judgment, the law requires I should pursue. It is farthest from my intention to say that the Republican party as a party is pressing this case for political or any other improper ends. The votes of the Republican members of this House during the present session negative everything of the kind. They have acted prudently, and whatever disposition they may finally make of this subject will, I doubt not, be wise and secure the approbation of the country.

Now, the gentleman from Pennsylvania [Mr. WILLIAMS] says that a majority of the committee of the Thirty-Ninth Congress were in favor of reporting articles of impeachment against the President of the United States. I do not know whether that is true or not. There was no expression in the committee to that effect. What may have been the private opinions of members of the committee I do not pretend to know.

I am not prepared to say that any member of the committee has been trifling with the committee, with the House, or with the country in this matter. I am not prepared to say that any member of the committee who has asked for the attendance of witnesses or called for the production of documents did it merely for the purpose of delaying the formation of final opinions by a majority of the committee, and to postpone the preparation of their report, not expecting that the evidence called for would have any weight or bearing upon the case, but in order to gain time for the preparation of their own views, that they might come in and

ask the House, in advance of the closing of the testimony, to accept a report from a minority of the committee. I will not charge that, because it would be unkind, it would be ungenerous, it would be opposed to every obligation imposed upon members of the committee. When gentlemen desire additional testimony taken I am bound to believe that they regard it important, and that they would not ask for or expect the preparation of a report until the testimony is all in and the case closed. Now, sir, the members of the committee all know that the case is in an incomplete state at this time; that testimony has been taken—I do not say at whose suggestion—

Mr. BUTLER. Will the gentleman permit me to ask him a single question?

Mr. WILSON, of Iowa. Yes, sir.

Mr. BUTLER. If the case is incomplete now, is it any more incomplete than it was in June, when the committee took a deliberate vote on the question and published it to the country? If a deliberate vote could be taken then for the purpose of affecting the country on this question, why cannot such a vote be taken now?

Mr. WILSON, of Iowa. I will answer the gentleman. The case is nearly as incomplete now as it was then, for many documents called for have not yet been received, and considerable testimony is not yet printed, and some is not written out by the reporter. But I have no doubt that the gentleman from Massachusetts [Mr. BUTLER] had his mind made up on this subject longer ago than the 3d day of June. I think that he—although elected a member of this House, which is to pass upon this question upon the evidence—had given his opinion to the country in advance of all investigations, and he cannot be consistent with the record he has made before the country except by voting to sustain the position he assumed before the country prior to taking his seat here.

Now, sir, the publication of the action of the committee in June amounted to nothing more than this: that upon the facts disclosed by testimony, up to that time such high crimes and misdemeanors upon the part of the President had not been developed as would justify an exercise of the impeaching power of this House, and in connection with that I may say—

Mr. BUTLER. One word further. Was not that summing up before the testimony was all in?

Mr. WILSON, of Iowa. I am not intending to disclose all that occurred in committee at that time. I have not done it, nor will I do it except at the proper time; but, sir, when the time for the discussion of this case does come, notwithstanding the recognized ability of the gentleman from Massachusetts, and the power as a lawyer conceded to him by the country, if my frail judgment of the case shall conflict with his I will meet him in fair and legitimate discussion of all the issues involved in it. I do not intend to develop anything in advance beyond that.

Mr. BUTLER. I hope that time will come before I die, and I do not expect to die before seventy.

Mr. WILSON, of Iowa. The gentleman from Massachusetts is a restless gentleman. I understand that well enough. He wants every one to act in his way, and he will not be satisfied with anything else. He must remember there are other men in the world besides himself, and that they cannot all look at every question just as he does.

And it so happens a vote of this House has fixed the time when this case shall come before it for consideration. During the first week of the next session, whether it be an adjourned or a regular session, is the time fixed for the report to be presented. That is the judgment of the House on this point.

Let me say, Mr. Speaker, to the gentleman from Massachusetts and all others who are disposed to complain of the action of the committee, that I am willing to-day, if the House desire it and think it prudent and proper, to

let this whole testimony go to the country in advance of the next session. I have no objection to that if that be the desire of the House; but, as I have suggested to the members of the minority of the committee, it would hardly be a proper proceeding to throw the case upon the country for consideration before the House is ready to take it up. The impropriety of such a course of proceeding must be evident to all.

In regard to what that testimony may disclose I am perfectly free to say this—because I may lay it upon the public record and in view of the public acts of the President of the United States—that I find enough to justify my determined hostility to the policy he adopted and to his whole course of conduct concerning the questions at issue between him and Congress. His conduct is and has been most reprehensible. There is to my mind nothing clearer than that politically there is no justification of his actions and the headstrong obstinacy with which he has persisted in his evil ways. But it is a different thing when you impose upon me the duty of determining as a member of the Judiciary Committee whether this conduct and these acts, bad as they are, will, under the law and the testimony in this case, warrant an impeachment of the President of the United States. But I do not intend to go into a discussion of any questions of law or fact involved in this case until the proper time. I have my view of it, but further development of the facts may change my view. There may be such a state of facts, in addition to those already developed, as to authorize a report by the whole committee in favor of the impeachment of the President. If that should happen I will support it with what power I can command. And now, sir, I hope this case will rest where the House has placed it. Let it come on in the time and manner already ordered by the House; we then can discuss it in the light of its own developments, and I feel sure it will be wisely disposed of.

Mr. COOK. Reference having been made to the opinions of the Judiciary Committee of the Thirty-Ninth Congress, and the question having been raised why a change was made in that committee, I wish to say a single word or two in explanation of my position as a member of that committee in the Thirty-Ninth Congress, and also of the reasons why I left that committee.

While I was a member of the committee, during the time the investigation was pending before it, I do not think I made any expression of my opinion on the subject of the impeachment of the President. During that time I was very reticent in the expression of any opinion as to what was or was not proven before the committee, and I do not think I ever did announce publicly what I thought on that subject while a member of the committee or that my views were known to any one. But since I ceased to be a member of it, not feeling any responsibility on the subject of the committee's report, and having a decided opinion upon the question, I have on various occasions stated what that opinion was, namely, that I thought there was evidence before the committee which ought to be presented to the Senate of the United States. But that expression of opinion has been wholly since my connection with the Judiciary Committee has ceased.

The suggestion that I should be changed from that committee came from myself. The reasons that influenced me in making it were wholly independent of any question pending before the committee, having no reference to any such question whatever. I made the suggestion, and I suppose I originated the idea that I should be changed from that committee; and the reason that operated on my mind was this: I knew there was a claim, and it seemed to me to be a just one, that the Democratic party should be represented by a larger number than one on a committee of nine. There was but one member from that party on the committee in the Thirty-Ninth Con-

gress, and the new questions before that committee were of such grave importance that it seemed to me to be just that another member from the other side of the House should be appointed. I understood that the demand was made. I understood that a gentleman from that party prominent in my own State was urged by the members of his party for the position, and it seemed to me to be reasonable that the change should be made. Therefore, to relieve the matter from all embarrassment, I myself made the suggestion that the wishes of the gentlemen on the other side should be met in that regard. That was the reason that influenced me to suggest that I should not be reappointed on that committee. I know of no other reason; and knowing all the circumstances under which the change was made, I think I may say that I know that no other reason influenced any one who had anything to do in connection with the change on that committee.

The SPEAKER. The Chair is obliged to the gentleman from Illinois [Mr. Cook] for the statement he has just made.

Mr. LOGAN. I ask consent, in connection with this subject, to offer the following resolution:

*Resolved*, That in the matter of the impeachment of the President, the Committee on the Judiciary be further instructed when they present the testimony in the first week of the next session of Congress to cause to be printed and presented therewith also the report of the committee and the views of the minority, if any members of the committee should dissent from the general conclusion of said committee.

Mr. WILSON, of Iowa. Mr. Speaker, I wish to say to the gentleman from Illinois that there is no doubt at all about that being the course of action the committee will pursue. We have already asked for authority to present in print the usual number of copies of the testimony, and we intend to have ready the whole case at that time. Therefore I suggest that it is unnecessary to pass a resolution of this kind.

Mr. LOGAN. Mr. Speaker, I will only say to the chairman of the committee that this resolution will surely do no harm. As I understand it, there is no order for the printing of the report of the chairman of the committee; and certainly the resolution which we passed was not designed to imply an order to print the report of a minority of the committee. If I am properly posted in reference to what committees are required to do or may do in a deliberative body, there is no such thing as a minority of the committee known except by order of the House. Hence, although it may be intended on the part of the chairman that the voice of the minority should go to the country as well as that of the majority, yet it can do no harm for us to express the view of the House on that subject.

Mr. WOODBRIDGE. Of course I have no objection; but I understand the object of the resolution to be to have the minority reports printed. Well, now, that is very unusual. If any gentleman of the minority desires to express his views, he can have them printed in the Congressional Globe. The idea of having nine different opinions printed by order of the House in relation to this question seems a very novel one and establishing a very bad precedent. I know that the opinions of these gentlemen will be very interesting and very useful to the country; but at the same time I do not see any reason why we should depart from the usual rule, and allow every gentleman to spread before the country as many hundred pages as his facility in writing will enable him to produce.

Mr. LOGAN. The gentleman has certainly understood my views as to the liberty and right of each man to express his opinion of this House, so that the House may examine and understand it. I will say to the gentleman from Vermont, when he says that this is not an ordinary motion for publishing to the country the reports of the minority, that this is not an ordinary proceeding, an impeachment or investigation into the conduct of the President.

Mr. WOODBRIDGE. One moment. I



beg the gentleman not to impute to me a desire to withhold the reports of the minority. An opportunity of laying their views before the country is always allowed to minorities, if not as a matter of right, certainly as a matter of courtesy.

Mr. LOGAN. I did not impugn the motives of the gentleman from Vermont, but inasmuch as he says that he has no desire to prevent the opinions of any of the members of the committee from going to the country I infer that he agrees with me, and is for this resolution; at least that is the tendency of his remarks.

Mr. SCHENCK. Is the resolution before the House?

The SPEAKER. It is.

Mr. SCHENCK. I ask the gentleman to yield to me.

Mr. LOGAN. I will do so.

Mr. SCHENCK. I move to strike out all after the word "instructed" and to insert the words "to report forthwith to this House all the testimony that has been taken in the case."

Mr. LOGAN. I consent to that amendment, and hope that it will be adopted; and I now move the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered.

Mr. GETZ. Would not that resolution directly conflict with the resolution already adopted by the House, instructing the Committee on the Judiciary to report on this subject at the next session of Congress?

The SPEAKER. It is for the House to determine how both resolutions can be carried into effect.

Mr. LOGAN. I will accept the amendment of the gentleman from Ohio.

The SPEAKER. The previous question has been seconded on the original resolution, and the gentleman cannot accept the amendment except by unanimous consent. Is there objection?

No objection was made.

Mr. SCHENCK. I demand the yeas and nays on the resolution as modified.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 58, nays 43, not voting 69; as follows:

YEAS—Messrs. Anderson, James M. Ashley, Benjamin Benton, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Driggs, Furnsworth, Ferriss, Fields, Finney, Gravely, Hopkins, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, McClurg, Mercur, Miller, Moore, Myers, O'Neill, Orth, Paine, Perham, Pile, Polsley, Raum, Ross, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Henry D. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—58.

NAYS—Messrs. Adams, Allison, Archer, Baker, Baldwin, Banks, Blair, Boutwell, Buckland, Churchill, Cornell, Dixon, Eldridge, Ferry, Getz, Halsey, Hamilton, Hill, Hooper, Chester D. Hubbard, Jencks, Koontz, George V. Lawrence, Marshall, Morrill, Mungen, Niblack, Noel, Phelps, Plants, Pruyn, Robinson, Selye, Stone, Trowbridge, Twichell, Upson, Van Auken, Burt Van Horn, Van Trump, James F. Wilson, Windom, and Woodbridge—43.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barnes, Barnum, Beaman, Bingham, Blaine, Boyer, Brooks, Broomall, Burr, Butler, Calk, Chanler, Dawes, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Fox, Garfield, Glossbrenner, Griswold, Haight, Harding, Hayes, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kerr, Ketcham, Kitchen, Lafin, Lincoln, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Newcomb, Nicholson, Peters, Pike, Poland, Pomeroy, Price, Randall, Robertson, Sawyer, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Cadwalader C. Washburn, William B. Washburn, Stephen F. Wilson, and Wood—69.

So the resolution of Mr. LOGAN, as modified, was adopted.

Mr. BOUTWELL, when his name was called, said: Understanding that it is not the intention of the House to continue in session to act on this testimony when submitted, I vote "No."

The result of the vote was announced as above stated.

Mr. LOGAN moved to reconsider the vote

just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was received by Mr. W. G. MOORE, his Private Secretary, who also announced that the President had approved and signed a joint resolution (H. R. No. 78) authorizing extensions of the mail steamship service between the United States and China and Japan.

#### IMPEACHMENT OF THE PRESIDENT—AGAIN.

Mr. WILSON, of Iowa. I ask that the resolution just adopted on the motion of the gentleman from Illinois [Mr. LOGAN] may be read. I desire to understand the action of the House on this subject.

The Clerk read as follows:

*Resolved*, That in the matter of the impeachment of the President the Committee on the Judiciary be further instructed to report forthwith to this House all the testimony that has been taken in the case.

Mr. WILSON, of Iowa. I wish to make one single inquiry: whether the House will regard this resolution as a discharge of the committee from the further investigation of this subject, so as to cut them off from submitting any report?

Several MEMBERS. Oh, no.

Mr. STEVENS, of Pennsylvania. I move that the testimony, when reported by the committee in accordance with the order of the House, be printed.

The motion was agreed to.

Mr. WILSON, of Iowa. I think that the action which has been taken by the House ought to be carried out to its legitimate conclusions and the committee discharged from the further consideration of this subject.

The SPEAKER. That motion is privileged if the gentleman makes it.

Mr. WILSON of Iowa. If the testimony already taken is to be spread before the country while the investigation is still proceeding, and before the committee has passed upon the question and given its conclusions to the House, it seems to me hardly worth while that the committee should continue its investigation further.

The SPEAKER. As there is no motion pending, the Chair will lay before the House message from the President of the United States.

#### PUBLICATION OF CABINET PROCEEDINGS.

The SPEAKER laid before the House the message from the President of the United States; which was read, as follows:

#### To the House of Representatives:

I have received a resolution adopted by the House of Representatives on the 8th instant, inquiring "whether the publication which appeared in the National Intelligencer and other public prints on the 21st of June last, and which contained a statement of the proceedings of the President and the Cabinet in respect to an interpretation of the acts of Congress commonly known as the reconstruction acts, was made by the authority of the President or with his knowledge and consent," and "whether the full and complete record or minute of all the proceedings, conclusions, and determinations of the President and Cabinet relating to said acts of Congress and their interpretation is embraced or given in said publication," and also requesting that "a true copy of the full and complete record or minute of such proceedings, conclusions, and determinations in regard to the interpretation of said reconstruction acts" be furnished to the House.

In compliance with the request of the House of Representatives I have to state that the publication to which the resolution refers was made by proper authority, and that it comprises the proceedings in Cabinet relating to the acts of Congress mentioned in the inquiry, upon which, after taking the opinions of the heads of the

several Executive Departments of the Government, I had announced my own conclusions. Other questions arising from these acts have been under consideration, upon which, however, no final conclusion has been reached. No publication in reference to them has, therefore, been authorized by me; but should it at any time be deemed proper and advantageous to the interests of the country to make public those or any other proceedings of the Cabinet, authority for their promulgation will be given by the President.

A correct copy of the record of the proceedings published in the National Intelligencer and other newspapers on the 21st ultimo is herewith transmitted, together with a copy of the instructions based upon the conclusions of the President and Cabinet and sent to the commanders of the several military districts created by act of Congress of March 2, 1867.

ANDREW JOHNSON.

WASHINGTON, July 20, 1867.

Mr. SCHENCK. I move that the message and accompanying documents be referred to the Committee on the Judiciary. I do not move that they shall have power to send for persons and papers, for they have that power already. If they choose to exercise it in that direction, I say, sir, that they may find some facts very different from those contained in that message.

Mr. MÜNGEN. I demand the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COMMITTEE STENOGRAPHERS.

Mr. WOODBRIDGE. I ask unanimous consent to submit the following resolution, and to make a brief statement to the House in explanation of it.

The Clerk read as follows:

*Resolved*, That when more than three committees of the House or sub-committees shall be in session, and engaged in taking testimony at any one time, the accounts of the stenographers of the House for reporting such additional testimony (when done by them or persons employed by them) shall be allowed at the rates now received by the reporters for the Congressional Globe, and paid upon the certificates of the chairmen of said committees respectively.

Mr. WOODBRIDGE. I ask unanimous consent to say a few words on the subject before objection to the resolution is asked for.

There was no objection; and it was ordered accordingly.

Mr. WOODBRIDGE. Mr. Speaker, I merely desire to say that these gentlemen, the stenographers of the House, called upon me and requested that I should bring this matter before the House. They have a contract with the Government by which for their salaries alone they report all the testimony taken before the committees of the House, paying the assistants which they may employ out of their own pockets. Their salary, I believe, is about four thousand dollars each, and up to the present time they have furnished reporters for all the various committees and sub-committees without expense to the Government. Now, it appears that the number of committees and sub-committees which will hold sessions during the recess to take testimony will be thirteen, and for all these they will be obliged to furnish reporters. The investigations of these committees will extend from New England at least to Kentucky, and it will be great injustice not to make some provision for the payment of some of these reporters, and to leave the burden to fall entirely upon these gentlemen who have made a hard bargain. The resolution proposes that they shall not only report themselves but furnish a reporter for a third committee, and that when more than three committees are sitting at the same time the additional labor shall be paid for at the rates allowed the reporters for the Congressional Globe.

Mr. SCOTFIELD. I will say to the gentleman from Vermont, if these stenographers only received the same pay as the reporters of the Congressional Globe I would not object to it at all; but as it now stands these gentlemen employed by the House receive many times more than the Globe reporters. They receive large salaries for doing nothing much of the time; and now because they are to be asked to do something the gentleman proposes that the work shall be done by others and paid for by the Government. If the gentleman will provide that these stenographers shall be paid as the Globe reporters are paid I will not object.

Mr. WOODBRIDGE. I know nothing about this myself, but these gentlemen have explained the matter to me, and I have no doubt truthfully. I understand that they do not get what the Globe reporters get. They get four thousand dollars, and the pay of the Globe reporters I understand is more. Besides, they have furnished reporters for all the committees. Now, the number of committees is so great, all requiring reporters, and the outlay on their part is so great that their salaries will not pay the reporters they will have to employ, and I think it is only just this relief should be afforded.

Should we ask them to pay out of their salaries several thousand dollars for extra reporting? If they undertake to furnish stenographers for those various committees it will take half a fortune to do it. It seems to me to be just and right that the extra reporters should get the same rate of compensation that the Globe reporters do. The two men who took this contract get their salaries, which amount, as I stated, to about four thousand dollars each. Out of those salaries they have to pay for one extra reporter, which will reduce their salaries to about three thousand dollars. If it is wrong that they should have this relief I would like the gentleman to show it.

Mr. SCOTFIELD. I think I can show it. These gentlemen are getting very large pay for doing very little work. It has been so all the last year. They have had very little to do. But now it is probable they will have considerable to do, in which case I am aware that they may not get enough pay. But let them and their employes have the same pay that the Globe reporters get, and no more. The Globe reporters would be willing to do the work at the same rate they now get, and would consider themselves making money by it. Stenographers in abundance can be obtained to do it at that rate. When these gentlemen come back next session and show us that they had to employ a good many sub-stenographers and are out of pocket, or have not made as much money as they ought, I have no doubt the House will do them justice. But there is no need of bringing the question up now.

Mr. WOODBRIDGE. The gentleman from Pennsylvania, like myself, always feels very much hurt when he sees money taken out of the Treasury. We both are ready to raise objection to anything that takes away the public money. But, sir, my sense of justice induces me to go out of my usual rule and vote away a little money in this instance.

The gentleman says during the last year these stenographers have had nothing to do. Let us see. There were two investigating committees in session in New York and a committee in Washington. Then there was the Judiciary Committee in session with extra reporters from the time of the last adjournment till the 3d of June. I venture to say that with all the work they have to do they make a very meager salary—not enough to support them if they have families. Now, by order of the House they will be absolutely ruined next year if they fulfill their contract. It is not the design of the Government to do that which will oppress people who have taken contracts to do public work. I do not ask that they shall have a cent more than their services are worth. We do not get rich out of our sala-

ries, and I am sure they cannot do it. I really think they ought to be relieved.

Mr. SCOTFIELD. One word in reply to the gentleman's economy. I suppose of course he is not in earnest when he says that he and I feel very much hurt when we see money taken out of the Treasury. I do not understand that he claims to be so very economical. I am not aware that his votes would sustain his eulogy upon himself even if he is in earnest. Now, I do not care about the small amount this bill takes out of the Treasury, but it is advertising to the country that we will pay extra prices to every man who will come here, hang around, and get some clever member of Congress to make a motion for his benefit. It is debauching everybody about the Capitol. Some member gets up and makes a motion that the employes of the House be continued during the recess. Nobody wants to be considered small, and—

The SPEAKER. The gentleman will address the Chair.

Mr. SCOTFIELD. I thought the Chair understood this question perfectly, and I saw that the gentleman from Vermont did not know much about it, so I was endeavoring to enlighten him. [Laughter.]

Mr. WOODBRIDGE. The gentleman accuses me of being a very clever man. I think a great many would not agree with him in that view. I hope, however, I am a just man. Now, sir, one of these gentlemen has just told me that if they had been paid for the last year at the rate the Globe reporters are paid they would have received more than \$10,000 instead of \$3,000. That is an entire answer to the gentleman's argument, that during the last year they received large sums of money for doing a very little work. I suppose the statement of the stenographers is true; and if it is, there certainly is great reason and propriety, it seems to me, in providing some relief for them in view of the future duties that are imposed upon them. I now demand the previous question.

Mr. MILLER. I hope the gentleman will not insist on that.

The question was put, and the previous question was not seconded.

Mr. MILLER. I now move that the resolution be referred to the Committee of Accounts when appointed.

Mr. FARNSWORTH. I rise to a question of order. It certainly was not understood that that resolution was before the House. The debate on it was pending the question whether there was any objection to it. The gentleman from Pennsylvania [Mr. SCOTFIELD] reserved the right to object.

The SPEAKER. The gentleman states the fact correctly, that the gentleman from Pennsylvania [Mr. SCOTFIELD] reserved the right to object, but he resumed his seat without objection; but there is a pending motion to refer to the Committee of Accounts when appointed.

The motion to refer to the Committee of Accounts was agreed to.

Mr. WARD moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports.

Mr. BAKER. I have no resolution to present, but will state that on yesterday I desired to submit some remarks on the recent veto messages of the President. Under the rules of the House I had no opportunity of doing so, and I now ask that I may hand what I desired to say to the reporters.

No objection was made, and the leave was granted. [See Appendix.]

Mr. LAWRENCE, of Ohio. I desire, also, to submit some remarks, and I ask that they be printed.

No objection was made, and the leave to print was granted. [His remarks will be published in the Appendix.]

#### LOCATION OF INDIANS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Indian Affairs when appointed be instructed to inquire into the expediency of reporting a bill providing for the location of all the Indian tribes of the United States on a tract of land sufficient for their necessities, under the superintendency of some humane person, with a view to the education of said tribes and the protection of their rights.

#### ADJOURNMENT OF CONGRESS.

Mr. PIKE, from the committee of conference, on the disagreeing votes of the two Houses in regard to an adjournment, reported the following concurrent resolution:

*Resolved by the Senate*, (the House of Representatives concurring,) That at four o'clock and thirty minutes, p. m. on Saturday, the 20th of July instant, the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses, to meet on Thursday, the 21st day of November next, at twelve o'clock m.

Mr. PIKE. As this is very nearly the House resolution it is hardly worth while to discuss it, and I call the previous question on agreeing to the report of the committee of conference.

The previous question was seconded, and the main question ordered.

Mr. LOAN. I move that the report of the committee of conference be laid on the table.

The motion was not agreed to.

The question recurred, under the operation of the previous question, upon agreeing to the report of the committee of conference.

Mr. INGERSOLL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 47, not voting 62; as follows:

YEAS—Messrs. Adams, Allison, Archer, Baldwin, Banks, Beaman, Blair, Bromwell, Buckland, Butler, Churchill, Reader W. Clarke, Cornell, Dixon, Driggs, Ferry, Fields, Getz, Halsey, Hamilton, Hayes, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jencks, Kelley, Kitchen, Koontz, George V. Lawrence, Lincoln, Marshall, Miller, Moore, Morrill, Myers, O'Neill, Paine, Phelps, Pike, Polsley, Pruyn, Robinson, Sawyer, Selye, Aaron F. Stevens, Stone, Taft, Townbridge, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, James F. Wilson, and Woodbridge—61.

NAYS—Messrs. Anderson, James M. Ashley, Baker, Benjamin, Benton, Boutwell, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Eldridge, Farnsworth, Ferriss, Finney, Gravely, Ingersoll, Judd, Julian, Kelsey, William Lawrence, Loan, Logan, Loughridge, McClurg, Mercur, Niblack, Noell, Orth, Perham, Pile, Plants, Raum, Ross, Schenck, Scofield, Shanks, Thaddeus Stevens, Thomas, Robert T. Van Horn, Van Wyck, Ward, Thomas Williams, John T. Wilson, and Windom—47.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Barnes, Barnum, Bingham, Blaine, Boyer, Brooks, Broomall, Burr, Cake, Chandler, Daves, Dodge, Eckley, Eggleston, Elia, Eliot, Fox, Garfield, Glossbrenner, Griswold, Haight, Harding, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Kerr, Ketcham, Ladin, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Mungen, Newcomb, Nicholson, Peters, Poland, Pomeroy, Price, Randall, Robertson, Schlabarger, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Cadwalader C. Washburn, William B. Washburn, Stephen F. Wilson, and Wood—62.

So the report of the committee of conference was adopted.

Mr. PIKE moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### APPOINTMENTS IN THE DEPARTMENTS.

Mr. NOELL. I move to suspend the rules for the purpose of considering at the present time the following resolution:

*Resolved*, That the heads of the Departments of War, Navy, State, Interior, Treasury, and Post Office are requested to inform the House of the names of clerks, appointees, and employes in their respective Departments; also the salary and term of service of each; also the district and State or Territory from which appointed.

The motion was agreed to.

Mr. NOELL obtained the floor.

Mr. ROSS. I desire, with the consent of the gentleman from Missouri, [Mr. NOELL,]

to move to amend his resolution by adding "and on whose recommendation."

Mr. NOELL. I have no objection to that amendment.

Mr. SCOFIELD. I would suggest that if we require the names of all those who have recommended all these clerks, the communication will be so voluminous that we cannot receive it for a long time. In some cases persons applying for clerkships obtain the recommendations of various persons at home, and send them to their member of Congress.

Mr. ROSS. The information which I desire to get is, what member of Congress made the recommendation in each case. This information would show what many gentlemen here know to be a fact, that some members can get half a dozen clerks appointed in the Departments where others cannot get one. I think there should be something like a fair distribution in this respect. I want to know who are the favorites at the Departments in getting clerks appointed.

Mr. SCOFIELD. If the gentleman will modify his amendment so as to add to the resolution the words "and by what member of Congress recommended," I shall have no objection.

Mr. ROSS. I modify my amendment in that way.

Mr. NOELL. Mr. Speaker, in explanation of this resolution, I will say that the number of clerks appointed during the war from the eastern States preponderated so largely over the number appointed from the western States that I believe some measure of this kind is necessary in order to show that preponderance and bring about the relief that we need.

During the war we have suffered in the West a great deal from the ravages of the armies on both sides. Our people have been impoverished and plundered; they have been stripped of their property, so that persons formerly wealthy are now reduced to abject poverty. On the other hand, in favored eastern and northern States from which most of the appointments in the Departments have been made, the people, instead of being impoverished by the war have had their wealth increased by it. The immense patronage of the Government has been scattered in profusion over a comparatively few States. The majority of the appointments in the Departments have been made from the States of Pennsylvania, New York, Massachusetts, and Maine. I desire by means of the response to this resolution to show this fact—to show that the people of the western States are deprived of the benefits of Government patronage, are wholly ignored by the Departments. The exhibition of this fact may give force to the demand for some relief against such a state of affairs.

When the distinguished Senator from Ohio, [Mr. WADE,] acting Vice President, was in the West he called attention to the unequal distribution of the benefits of the Government, to the disadvantage of the West. He knew the deep feeling which exists among the people there; that the burdens of the Government are laid heavily upon them. They are, sir, most severely taxed, and they have not arrived at that shrewdness of making up their returns, as they do elsewhere, if report be true, so as to evade the payment of internal revenue. They are taxed heavily, and they pay their taxes honestly. They bear the burdens of the Government. They are used as machines to grind out so much money for this Government, which is to be paid into the hands of a certain dominant party, and after being used as machines and their services secured, then they are given the go-by. When patronage is to be distributed, or any financial benefits accorded, they are left out in the cold. [Laughter.]

Why, sir, we in the West are not only taxed heavily for the support of the Government by supplying internal revenue, but in the tariff acts a discrimination is made against us and in favor of the eastern manufacturers. Our taxes are increased to the extent to which foreign importations are prohibited, so as to en-

rich the manufacturing interests of New England. What the custom duties have in the way of deficiency we must supply. Now, when we consider these taxes are drawn from the West and put into the pockets of the rich manufacturers, I conceive it must be admitted that great injustice is done to us.

And, sir, there should be some remedy for this great evil. Senator WADE obscurely hinted what he deemed some sort of relief. He had his mind upon the women of the West. [Laughter.]

Mr. ASHLEY, of Ohio. For how long has the gentleman on the floor?

The SPEAKER. An hour.

Mr. NOELL. Senator WADE knew what he was about. He knew that the women of the country were used to governing their families, and that they knew by instinct what was proper to be done. He was for giving them a voice in the Government, knowing as soon as that was done their management would get rid of the burdens which the West carries for the manufacturers of the East.

Mr. BENTON. Is there any reason why the people of the West should not have a manufacturing interest as well as the East?

Mr. NOELL. That is too large a subject to discuss now. The East has the superior advantage of shrewdness in "gouging." [Laughter.] It has secured the most of the benefits of the Government. It has the most of the patronage. We have the strange spectacle of a great party—I do not know it is great except in persistence of purpose—a party having great weight and influence in the affairs of the country, that has built itself up on the patronage of the Government.

Mr. BENTON. What party do you refer to?

Mr. NOELL. The Radical party.

Mr. BENTON. Is not the gentleman aware that the officers who have the patronage are the supporters of "my policy?" Do not the "bread-and-butter" politicians oppose the Republican party?

Mr. NOELL. It has been the misfortune of the President that the patronage conferred upon him by the Constitution has been taken away from him. Why, sir, if he were to send in the names of the twelve apostles to the Senate that body would reject one after another till they came to Judas Iscariot, and him they would confirm. [Laughter.]

It is almost impossible from the character of the officers that are appointed to get a good man confirmed. It is patronage that has built the party up; on that its whole strength is founded so that it is able to control the destinies of the country.

Mr. STEVENS, of New Hampshire. I would ask the gentleman if he is in favor of the policy of the President?

Mr. NOELL. Well, I am in favor of my own policy. [Laughter.] I think every man should have his own policy and follow it; and mine at this time is to give the West an equal chance with the eastern States in the distribution of these offices.

Mr. STEVENS, of New Hampshire. I ask the gentleman how the clerks in the various Departments are appointed; whether the Radical party has anything to do with their appointment?

Mr. NOELL. The appointees in the Departments are nearly all Radicals. If the poorest and meanest clerk in any Department is turned out it raises a howl, and resolutions are offered and speeches made which are calculated to strike terror into the soul of every head of a Department. [Laughter.] And yet we see many of these appointees connected with this party working by every means in their power to build up their own party and break down the Administration under which they are holding office.

We have had some violent speeches during this session on impeachment. It is well that the weather was good. Had it been the usual temperature at this season of the year gentlemen would have brought themselves into a condition which would have induced disease,

and not all the ice that could be put in the aqueduct would have kept the temperature of this Hall so low as to prevent evil consequences from such rash exertions on their part. It has been with the Radical party a question of bread and butter. Because they could not have full possession of the patronage they have worked themselves up into a perfect rage. From this very question of patronage the question of impeachment derives all its strength.

It was the misfortune of the Administration to have the patronage, for in these weak piping times of peace a little bread and butter is a dangerous thing. [Laughter.] They have cut us off from the exercise of patronage in the manner in which every Executive has heretofore exercised it, and they have compelled the Administration to appoint men that would be acceptable to themselves; and the character of such a man as would be acceptable to the Radical party could hardly be estimated. [Laughter.] We have seen distinguished gentlemen on this floor making speeches on impeachment. Why, sir, they even wanted to hang the President. They have worked day and night; they have tried to connect him with the assassination because they thought if he was dangling betwixt heaven and earth what a glorious lot of bread and butter would fall into their mouths. [Laughter.]

We have seen the distinguished gentleman from Massachusetts get up on this floor and shake his head most seriously when the question of assassination was before the Judiciary Committee, and saying he hoped things might not be as they might be, but if they were as they might be he did not know what the consequence would be. [Laughter.] Why, sir, some of these gentlemen who were developing the great conspiracy made themselves lions, and as they walked along the street people would say, "There goes Mr. So-and-So; he knows who killed Lincoln; he can see as far into a millstone as any other man." [Laughter.]

#### IMPEACHMENT OF THE PRESIDENT.

Mr. COVODE. Will the gentleman yield a moment to allow me to offer a resolution? I find there is no authority given to the Judiciary Committee to make a report and have it printed.

Mr. NOELL. I will yield to allow it to be read.

The Clerk read the resolution, as follows:

*Resolved*, That the Committee on the Judiciary be permitted, with their testimony in the matter of impeachment of the President, to present and have printed their report thereon; and also the views of the minority of the committee, or of any member or members thereof.

Mr. NOELL. I object. We have had too many of these Radical electioneering documents circulating over the country, leading to all kinds of investigations.

#### APPOINTMENTS IN THE DEPARTMENTS—AGAIN.

Mr. NOELL. How much time have I?

The SPEAKER. About ten minutes.

Mr. NOELL. I have said that this question of patronage exercises a great deal of influence. It is one that appeals to the affections of the Radical party. When we touch upon that we touch upon a thing that they love. An office in their minds is scarcely excelled in attractions by an individual of the great colored species. Next to their devotion to the irrepressible or everlasting African they are devoted to offices. I believe that if the subject were fully investigated it would be found that their devotion to the African is increased and intensified by its connection with their devotion to official patronage. I know that they have a natural attachment to the African. They believe that—

"A thing of beauty is a joy forever,"

and they keep this thing continually before the country. They commenced by emancipating the African; raising a howl over the country for emancipation. That was the first stage. They did not want to exhaust the subject; they wanted to keep a part in reserve for future elections. Two years after that it was proposed that the

African should be recognized as a citizen, and we had a taste of the doctrine of the "American citizen of African descent." The Radical party were not satisfied with this; the object was merely to draw the people on. After that we had another act giving to the African the full privileges of a citizen; giving him the elective franchise. That, I think, was a glorious spectacle of Africanism. But still that was not satisfactory. It was found that that policy would not do. A distinguished gentleman from Massachusetts said that universal franchise was simply transferring the South to the hands of the rebels. He knew full well the power of an aristocratic element. He knew the power of money over the poorer class. He knew the influence which wealth can exercise in political affairs. He had seen in the North that the national banks and other financial schemes had placed the country in the hands of a powerful faction of wealthy men, and that the opinions of the people everywhere were molded by the influence of money. He declared that universal suffrage would throw the control of the South into the hands of the rebels. So the next thing in the programme was to take away the right of voting from the whites, and then to build up an immense military machinery by which the right of voting was taken away from all, by which the ordinary apparatus of government was abolished, and all controlling power put into the hands of a few military leaders.

Mr. BENTON. I desire to ask the gentleman how the Democratic party came to lose their ascendancy in Missouri?

Mr. NOELL. Well, sir, the Democratic party lost their ascendancy in Missouri as they have lost it in other places: just by getting beaten. [Laughter.]

Mr. BENTON. The gentleman does not answer my question. I will ask him whether the displacing of that party from power was not because there were so many rebels and traitors in the party?

Mr. NOELL. Well, sir, I do not know anything about that. I know that in Missouri, under the registration law—which is the example that has been followed in reconstruction—a man was not asked whether he was a rebel or was loyal. He was asked any question that the register chose to ask him, and no matter what his answer was, if it was suspected he would not vote for the Radical party, his name was stricken from the list. In some places the fact that a man belonged to a Johnson club was a sufficient reason for striking his name from the list. In other places a man was asked whether he was a Catholic; and his being such was considered as good ground for striking off his name. Thus the thing was carried on. The proceedings were governed by no fair or uniform principle. The question was not that of loyalty; the question was whether this minority faction could get into its hands the whole patronage of the Government; whether the wealth of the State could be placed under their control, to be exacted in the shape of exorbitant taxation. And, Mr. Speaker, it almost sufficed to disfranchise a man if he had a farm large enough to make him sensitive upon the question of tax-paying.

I do not propose to prolong this discussion unnecessarily; but it is very rarely that we on this side get an opportunity to occupy any time. Now, I hope that all gentlemen who are fair-minded, and every member ought to be fair-minded—

Mr. LOGAN. Will the gentleman give way a moment to allow me to introduce a resolution of some importance?

Mr. NOELL. If there is any "bread and butter" in it let us have it.

#### MILEAGE.

Mr. LOGAN. I desire to offer the following resolution:

*Resolved by the House of Representatives, (the Senate concurring,) That the members of the House and Senators shall be allowed the same mileage for their attendance at this as at former sessions of Congress.*

Mr. BAKER. I object.

Mr. LOGAN. What is the matter? [Laughter.]

Mr. BAKER. I will tell the gentleman what is the matter. I think it an eminently unfit and improper resolution.

Mr. LOGAN. I ask the gentleman from Missouri to yield to me.

Mr. NOELL. Certainly.

Mr. GETZ. The gentleman allows this to be taken out of his time to put money into his pocket. [Laughter.]

Mr. NOELL. Why, sir, time is money. [Laughter.]

Mr. LOGAN. I move to suspend the rules to introduce my resolution.

The motion was disagreed to.

Mr. NOELL. I will say a word on the resolution.

Mr. ELDRIDGE. The gentleman is putting the cart before the horse; he is proposing to argue what has just been decided.

#### ENROLLED BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 138) to carry into effect the convention with the republic of Venezuela for the adjustment of claims of citizens of the United States on the Government of that republic; and

An act (H. R. No. 137) amendatory of an act making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June 30, 1867, and for other purposes.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, notifying the House that that body had passed a resolution for the appointment of a committee on its part, to join such committee as may be appointed on the part of the House, to wait upon the President and inform him unless he has some further communication to make Congress is ready to adjourn; and that it had appointed as such committee on its part Mr. RAMSEY and Mr. FOWLER.

#### COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. BANKS. I move to concur in the resolution of the Senate to appoint a committee to wait upon the President.

The motion was agreed to; and the Speaker appointed as the committee on the part of the House Mr. BANKS and Mr. NOELL.

The SPEAKER. The Chair understands the Senate have concurred in the report of the committee of conference in reference to the adjournment, but that a motion to reconsider has been made, and is being discussed.

Mr. NOELL. I beg to be excused from serving on the committee to wait on the President. I have the floor and cannot leave it. [Laughter.]

The SPEAKER. The gentleman will be excused.

Mr. KELSEY. It is not in the power of the Chair to excuse him.

The SPEAKER. The Chair sustains the point of order.

Mr. ELDRIDGE. The gentleman from Missouri has the floor for an hour, and I make the point that a committee cannot be appointed in his time.

The SPEAKER. The Chair overrules the point of order. The gentleman from Missouri yielded to allow a message from the Senate to be reported.

Mr. NOELL. I had to yield. [Laughter.]

The SPEAKER. It is a privilege which is usually granted. The question is on excusing the gentleman from service.

Mr. NOELL. If the House will agree to give me my time when I get back I have no objection.

The SPEAKER. Is there objection? The Chair hears none.

Mr. ELDRIDGE. I object.

The SPEAKER. It is too late.

Mr. ELDRIDGE. I believe I made it in time.

The SPEAKER. The gentleman did not rise in his seat.

Mr. NOELL. I demand the previous question on my resolution and the pending amendment.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. MOORE, his Private Secretary, informed the House that he had this day approved and signed an act supplementary to an act to supply deficiencies in the appropriations for the contingent expenses of the Senate for the fiscal year ending June 30, 1867, and for other purposes.

#### APPOINTMENTS IN THE DEPARTMENTS—AGAIN.

The previous question was seconded, and the main question ordered on agreeing to the resolution offered by Mr. NOELL and the pending amendment.

Mr. WOODBRIDGE. I demand the yeas and nays on the amendment.

Mr. NOELL. I can accept the amendment.

The SPEAKER. It requires unanimous consent, the previous question having been seconded.

Mr. ELDRIDGE. I object.

Mr. SCOFIELD. I move to lay the resolution on the table.

The question being put, there were—ayes 50, noes 26; no quorum voting.

The SPEAKER. The Chair desires to know whether the gentleman from Missouri [Mr. NOELL] declines to serve on the committee to wait on the President; if so he will appoint another.

Mr. NOELL. I have no objection to serving, but I cannot leave at this time. [Laughter.]

The SPEAKER. The Chair then appoints the gentleman from Illinois [Mr. MARSHALL] in his place.

Tellers were ordered under the rule; and the Chair appointed Messrs. SCOFIELD and NOELL.

The House divided; and the tellers reported—ayes, 50, noes 39.

Mr. ASHLEY, of Ohio. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. ASHLEY, of Ohio. Tellers.

Tellers were refused.

So the resolution was laid on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the resolution for the adjournment of Congress.

#### IMPEACHMENT OF THE PRESIDENT—AGAIN.

Mr. WILSON, of Iowa, rose and was recognized by the Chair.

Mr. COVODE. Mr. Speaker, I rise simply to call the attention of the House to the fact that there is no provision, as the Journal will show, for the printing of the report of the Judiciary Committee. Therefore I desire to offer the following resolution:

*Resolved, That the Committee on the Judiciary be permitted with their testimony in the matter of impeachment of the President to present and have printed their report thereon, and also the views of the minority of the committee or of any member or members thereof.*

Mr. ELDRIDGE. I object.

Mr. COVODE. I move to suspend the rules.

Mr. NOELL. I rise to a privileged motion. I move that the committee appointed to wait upon the President be allowed to report in December.

The SPEAKER. That is not a privileged motion.

On the motion to suspend the rules there were—ayes thirty-five.

Mr. COVODE. I demand the yeas and nays.

The yeas and nays were ordered.



Mr. JUDD. I rise to a question of order. This House has directed the Judiciary Committee to report the testimony in the impeachment case. I see the testimony present here on the desk of the chairman of the committee, [Mr. WILSON, of Iowa,] and I desire to ask the Speaker if this vote by yeas and nays discloses the fact that there is no quorum present whether the committee can then report?

The SPEAKER. Before the yeas and nays are concluded the Speaker will declare the House adjourned.

Mr. SCHENCK. I move to reconsider the vote by which the yeas and nays were ordered. On the motion to reconsider, there were—ayes 48, noes 85; no quorum voting.

The SPEAKER. The Chair will order tellers.

Mr. WILSON, of Iowa, made an inquiry of the Chair which was not heard by the reporter.

The SPEAKER. The House has ordered the Committee on the Judiciary to report forthwith. The Chair supposed the gentleman was about to report a few moments ago when he recognized him and gave him the floor, but he did not proceed, and the gentleman from Pennsylvania [Mr. COVODE] claiming the floor at the same time to offer a resolution, the Chair gave it to him.

Mr. COVODE. I hope the gentleman will ask to print the report. That is all I ask.

Mr. ELDRIDGE. The chairman of the committee is ready to report.

The SPEAKER. The yeas and nays have been ordered on the proposition to suspend the rules. A motion has been made to reconsider the vote ordering the yeas and nays, on which question no quorum has voted. The hour of half-past four o'clock having arrived, the Chair, wishing every member a safe journey and a happy reunion with the loved ones at home, declares this House adjourned, in pursuance of the concurrent resolution on the subject, until Thursday, the 21st day of November next.

#### PETITIONS, ETC.

The following petition, &c., were presented under the rule, and referred to the appropriate committees: By Mr. DRIGGS: The petition of James Rock and 25 others, praying Congress to pay his transportation as a soldier in the first Michigan cavalry, from Salt Lake City to his home in Michigan.

By Mr. SCHENCK: The memorial of citizens of North Carolina, praying Congress to take such steps as they may deem best to secure the removal of the illegal Governor of that State and all his subordinates, "who, by their influence or example, are aiding and abetting him" in retarding restoration.

#### IN SENATE.

THURSDAY, November 21, 1867.

The Senate reassembled to-day at twelve o'clock m., (Hon. B. F. WADE, President *pro tempore*, in the chair,) pursuant to the following resolution, adopted by the two Houses of Congress on the 20th of July, 1867:

*Resolved by the Senate, (the House of Representatives concurring,) That at four o'clock and thirty minutes p. m., on Saturday, the 20th day of July, instant, the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses to meet on Thursday, the 21st day of November next, at twelve o'clock m.*

#### PRAYER.

Prayer by Rev. E. H. GRAY, D. D., as follows:

Glory be to Thee, Father, Son, and Holy Ghost, for the protecting wing of Thy providence extended over us. Thanks for seed-time and harvest and fruitful seasons, filling our hearts with joy and gladness. Thanks for the peace and safety and quiet which have prevailed throughout all of our borders. Thanks to Thee for the revelation Thou hast given us of Thy will, and the light of the glorious Gospel which shines upon our path, and the hope of a blessed immortality within our souls. And now, O Lord God of Hosts, we invoke Thy blessing to be upon this great nation, upon its rulers and statesmen, upon its legislators and governors, upon its brave defenders and judges, and upon all the interests and institutions of

thirty millions of people. Oh, grant to make us, as a nation, the great apostle of liberty, the grand exponent of Christianity, the asylum for the nations of the world, and a glory and the defense in the great brotherhood of nations.

And now especially do we ask Thy blessing upon the Senate of the United States and House of Representatives in Congress assembled. Give grace and health and strength to Thy servants who preside over these bodies; and the spirit of wisdom and justice and truth to those who shall legislate for the country. And grant, we pray Thee, that in all of their deliberations the spirit of truth and humanity and justice may prevail. And Thou, O God of the nation, preside over this august body, we pray Thee. We ask that Thy blessing especially may be upon all of our interests and institutions, individually and nationally, and that we may seek direction from on high, and that God will be with us in all our efforts and labors and deliberations and sacrifices, and crown us with His blessing. Come, O Thou King eternal, immortal, invisible, the only wise God, and forgive us our sins and accept our persons and our service and save us with everlasting salvation, through Jesus Christ our Lord. Amen.

The Journal of Saturday the 20th of July last was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The presentation of petitions and memorials is now in order.

Mr. SUMNER. Mr. President, I present a petition of citizens of Washington, in which they represent that immediately after the last municipal election in the city many employers discharged their colored employes to the number of about one hundred and fifty, for the alleged reason of exercising the right of the elective franchise conferred upon them by the late act of Congress, thereby causing much inconvenience and suffering to the families of such discharged electors, and they pray remedy from Congress. I move the reference of this petition to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SHERMAN presented a petition of William M. Rust, of Texas, praying to be relieved from all disabilities imposed upon him by the act known as the military reconstruction bill; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented a petition of Bridget W. McGrorty, widow of a lieutenant colonel of one of the Minnesota regiments of volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

#### HOOR OF MEETING.

On motion of Mr. MORGAN, it was

*Resolved*, That the hour of the daily meeting of the Senate be twelve o'clock meridian until otherwise ordered.

#### REPEAL OF COTTON TAX.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to communicate, for the information of the Senate, any facts or reports in possession of the Department relating to the repeal of the tax on cotton.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

*Ordered*, That when the Senate adjourns to-day it be to meet on Monday next.

#### BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 65) amendatory of a joint resolution approved July 25, 1866; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 142) for the relief of Mrs. Bridget W. Grorty; which was read twice by its title, and referred to the Committee on Pensions.

#### EQUAL RIGHTS.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 141) for the further security of equal rights in the District of Columbia; which was read twice by its title.

Mr. SUMNER. This is an exact copy of a bill which passed Congress immediately before its adjournment, and which was signed by the President of the Senate and the Speaker of the House of Representatives, and duly sent to the President, but which was never returned by him. I presume that the bill has fallen; that owing to the adjournment of Congress there were no eleven days of session within which the bill could be returned, and that the bill is now, therefore, in the hands of the President, and it is beyond our reach. Under these circumstances I introduce the bill again *verbatim* as it passed both Houses; and, if there be no objection, I would submit that the Senate proceed with it now. It has already had, I believe, nearly the unanimous vote of this body on a former occasion—certainly the vote of a very large majority, and it has been enrolled. I suggest, therefore, that the Senate proceed with it to-day, and send it to the other House, and make another endeavor to bring it to a close.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks that the Senate proceed at this time to the consideration of the bill which has just been introduced by him. It requires unanimous consent.

Mr. DAVIS. I object to the consideration of that bill.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over under the rule.

#### THE PUBLIC DEBT.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent; which was read the first time, and is as follows:

Whereas the public debt of the United States was (except when specially otherwise provided) contracted and incurred upon the faith and credit of the United States that the same would be paid or redeemed in coin or its equivalent; and whereas doubts have been raised as to the duty and propriety of discharging such debt in coin or its equivalent: Therefore,

*Resolved by the Senate and House of Representatives of the United States in Congress assembled*, That the public debt of the United States (except in the cases where in the law authorizing the same other provisions were expressly made) is owing in coin or its equivalent, and the faith of the United States is hereby solemnly pledged to its payment accordingly.

Mr. EDMUNDS. I move that the resolution be laid on the table and printed; and I give notice that I shall ask the Senate at some early day to proceed to its consideration, and I hope that it will pass this body with entire unanimity.

The motion was agreed to.

Mr. SUMNER. Do I understand that this is a joint resolution or a concurrent resolution?

Mr. EDMUNDS. A joint resolution.

#### BILLS INDEFINITELY POSTPONED.

Mr. WILSON. There are on the general orders two or three bills reported by my committee which I do not think ought to encumber the Calendar. I desire to take them up with a view to have them indefinitely postponed. The measures to which I refer are Senate joint resolution No. 5, Senate bill No. 132, and Senate bill No. 140.

The motion was agreed to; and the consideration of the following bills and joint resolution was postponed indefinitely:

A joint resolution (S. R. No. 5) declaring the municipal offices of Alexandria, Virginia, to be vacated;

A bill (S. No. 132) to provide for the calling out of volunteers to suppress Indian hostilities, and for other purposes; and

A bill (S. No. 140) to provide for the calling out of volunteers to suppress Indian hostilities.

On motion of Mr. TRUMBULL, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, November 21, 1867.

The House of Representatives reassembled pursuant to adjournment, and at twelve o'clock m. was called to order by the Speaker.

Prayer was offered by Rev. C. B. BOYNTON, Chaplain of the House.

The SPEAKER. The recess having expired, the House resumes its session. Unless the reading of the Journal be dispensed with, the first business in order is the reading of the Journal of the 20th of July last. If there be no objection the reading will be dispensed with.

No objection was made.

## MEMBERS SWORN IN.

The SPEAKER. The next business in order, as a question of privilege, is the swearing in of members who have been elected during the recess.

Mr. GLOSSBRENNER. I hold in my hand the credentials of Hon. GEORGE W. WOODWARD, member-elect from the twelfth congressional district of Pennsylvania.

The SPEAKER. Hon. SAMUEL F. CARY, member-elect from the second congressional district of Ohio, is also present.

Mr. WOODWARD and Mr. CARY appeared and qualified by taking the oath prescribed by law.

## THE TENNESSEE DELEGATION.

The SPEAKER. The members-elect from the State of Tennessee will now be called.

The members-elect from Tennessee were called, as follows: R. R. BUTLER, HORACE MAYNARD, WILLIAM B. STOKES, JAMES MULHANS, JOHN TRIMBLE, SAMUEL M. ARNELL, I. R. HAWKINS, and DAVID A. NUNN.

Mr. ELDRIDGE. I object to Mr. Stokes, of Tennessee, being sworn in.

The SPEAKER. The gentleman must make some motion in regard to the case.

Mr. ELDRIDGE. I move that his credentials be referred to the Committee of Elections, and that he be not sworn in until the case has been investigated.

Mr. BROOKS. I rise to a question of privilege.

The SPEAKER. If no objection be made, the members-elect from Tennessee to whom no objection is made will now be sworn in.

Mr. BROOKS. One of my questions of privilege is an objection to them all. I object to the swearing in of the delegation from the State of Tennessee for two reasons: and first, upon the ground that three of them, if not more, whom I shall specify by name, have been guilty of treason to this Government; have violated its laws and its Constitution; that one of them has served in the secesh legislature of the State of Tennessee, and has taken an oath of allegiance to the confederate government and to Jeff. Davis as the head of that government. I object also to others, whom I shall name. This is my first point.

My second point is, that I object to the swearing in of the whole delegation, upon the ground that there does not exist, and did not exist at the time of this election in the State of Tennessee, a republican form of government such as is required by the Constitution of the United States to entitle a State to a representation upon the floor of this House. Without entering at any great length into this point at the present time, the substance of my argument is grounded upon the elective franchise law of the State of Tennessee, passed in 1865.

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. BROOKS. I beg that the gentleman will not interrupt me until I state my proposition.

Mr. DAWES. If there is to be a lengthy discussion upon this matter, I suggest to the gentleman that he give way for a moment and let one or two gentlemen, to whom there is no objection, be sworn in.

Mr. BROOKS. I may as well pursue my statement of my point to the end. I object upon the ground that the elective franchise law of Tennessee, under which these gentlemen

are said to have been elected, disfranchises a large portion of the white population—a majority of the white population of the State of Tennessee; that these members thus elected under that State franchise law of the State of Tennessee were elected by 55,000 negro votes, 45,000 white voters only voting, and that there were disfranchised in the State of Tennessee in that election from forty to forty-five thousand white voters; 100,000 voters controlled that election, 55,000 of whom were negroes; 45,000 whites being voted down, and 40,000 white voters disfranchised, who could not vote at all under the law of the State. I object to them upon the ground that an oligarchy exists and reigns in the State of Tennessee; and that it is not such a republican form of government as the Constitution prescribes and ordains; and, therefore, I object to the swearing in of the whole delegation upon the principles which I have here alleged.

I will not at this time consume the attention of the House by reading the lengthened law of franchise of the State of Tennessee. But what I have to say upon that subject is, that a more oligarchical, monarchical, exclusive, tyrannical law hardly ever existed under any form of government, and does not now exist in Great Britain or in France. That law, in my judgment, with all due respect to the Representatives from the State of Tennessee, or to the State of Tennessee—for she has no Representatives on this floor—that law is a disgrace to a free form of government, a dishonor to civilization, and a reprobation of all forms of republican self-government.

Without proceeding further upon this point, I shall first object to the swearing in of Mr. Butler, from the first district of Tennessee; from East Tennessee, I think, he comes—from the region where Governor Brownlow lives; and I object to him upon many and various points, which I shall proceed to show as good grounds for objection, and which I have but very little doubt will meet with the attention and consideration of both sides of this House when the facts are brought home fully to the consideration of Republican members, because almost all of them are on a record in the vote which they gave last July for the exclusion of the Kentucky members; almost all of them are upon a record which excludes Mr. Butler irrevocably from being sworn in, upon the facts which I shall present to the consideration of this House.

I hold in my hand the Journal of the extra session of the thirty-third General Assembly of the State of Tennessee, which convened at Nashville on the first Monday of January, 1861, upon the special convocation or order of the then Governor of the State, Isham G. Harris, the declared and avowed object of which, in the message, was to separate or segregate the State of Tennessee from the States of this Union; and of that Legislature Mr. Butler, who is now claiming a right to be sworn in here, was a member.

And before I go further, I shall proceed to read a portion of his record in that Legislature, which I shall show to be the record of one among the most extreme and violent men among the seceding members in this State; not outdone by Isham G. Harris himself, and going as far and as fully as any man did in the Legislature to separate the State of Tennessee from the Union. And I shall proceed to show the active part which he took in that Legislature before I proceed to another and more active part taken by him in the perambulatory legislature, first convened in Nashville by Governor Harris, and subsequently portable and transferable, after the affair of Fort Donelson, to the city of Memphis, on the Mississippi river. On page 57 of the House Journal of 1861 of the extra session of the General Assembly of Tennessee, Mr. Butler offered a "House resolution, No. 34," as follows:

"Be it resolved by the General Assembly of the State of Tennessee, That our Senators in Congress be, and they are hereby, instructed to vote against the con-

firmation of any man to office who indorsed an infamous libel upon the South, known as the Helper book; and that the Governor is hereby requested to forward a copy of this resolution to each of our Senators in Congress."

I do not blame Mr. Butler so much for that. I read it, not so much for the consideration of this side of the House as for the other side of the House more particularly.

The second resolution was that—

"The people of Tennessee receive the report of the appointment of William H. Seward to a position in the Cabinet of the incoming Administration as further evidence of hostility to the institutions of the South; and if the policy he has advocated in all his speeches upon the subject of domestic slavery shall be inaugurated with said Administration, the South has but little hope of a settlement of existing difficulties between her and the North."

The objection here is to Mr. Seward as a member of the incoming Lincoln administration, upon the ground of his hostility to the South. I do not blame Mr. Butler very much for that. This is not the point of my accusation. At that time I was equally opposed to the incoming of Mr. Seward into the Administration. In the matter of the Helper book, and as to the question of the fitness of Mr. Seward as a member of the then incoming Administration, we agreed in sentiment. I do not, therefore, mention those as points against the admission of Mr. Butler as a member of this House.

The great object of that Legislature was, as I have said, to ordain or order a convention in the State of Tennessee, which convention should, under the doctrine of secession, take the State of Tennessee, as was contended, constitutionally out of the Union. A resolution was offered by Mr. Jones that "the action of the convention shall be submitted to the people, upon reasonable notice, for ratification or rejection, and shall be of no binding force unless it is adopted and ratified by a majority of the qualified voters of the people of Tennessee;" and upon the final vote on that subject Mr. Butler voted with the seceders to create a convention, to ordain it by law, to make it, as was then contended, a legitimate and constitutional convention. Upon the final vote taken on that subject, the strongest sort of a resolution for the creation of a convention, whose action was to be submitted to the people, was adopted by a vote of sixty-eight ayes and no noes; and the bill for the holding of a convention was then ordered to be transferred to the Senate, Mr. Butler voting in the affirmative.

Another resolution, No. 44, introduced in that Legislature by Mr. Farrelly, provided that "His Excellency the Governor be, and he is hereby, authorized and requested to make inquiry of the different banks of the State whether or not they are willing to loan the State money in the present crisis of affairs," and if so, how much and upon what terms." On that resolution the vote was 47 yeas to 19 nays, Mr. Butler voting in the affirmative.

Mr. Pickett submitted resolution No. 51, on the subject of Federal relations—a long series of resolutions, too long to read, but the purport of which can easily be imagined when I describe them as of the worst kind of the resolutions which were at that time introduced into the "secesh" legislatures of the southern States. The resolution to which I particularly call the attention of the House is that which was offered by Mr. Jones as an amendment, and which was carried, that—

"Should a plan of adjustment satisfactory to the South not be acceded to by the requisite number of States, to perfect amendments to the constitution, it is the opinion of the General Assembly that the slaveholding States should adopt for themselves the Constitution of the United States, with such amendments as may be satisfactory to the slaveholding States; and that they should invite into a union with them all States of the North which are willing to abide such amended constitution and frame of government; severing at once and forever all connections with States refusing such reasonable guarantees for our future safety."

The vote on the adoption of that resolution was—yeas 42, nays 23; Mr. Butler being recorded in the affirmative.

In the same volume I find another long series

of resolutions of the same sort, introduced by Mr. Grant, from the joint committee on Federal relations. The concluding resolution of the series I will read:

*"Resolved, That should a plan of adjustment satisfactory to the South not be acceded to by the requisite number of States to perfect amendments to the Constitution of the United States, it is the opinion of this General Assembly that the slaveholding States should adopt for themselves the Constitution of the United States, with such amendments as may be satisfactory to the slaveholding States; and that they should invite into a union with them all States of the North which are willing to abide such amended constitution and frame of government, severing at once all connection with States refusing such reasonable guarantees to our future safety; such renewed conditions of federal union being first submitted for ratification to conventions of all the States respectively."*

This resolution received the vote of Mr. Butler. There are other points in this book, all going to demonstrate as forcibly, or more forcibly than what I have read, that at all times and on all occasions, without any exception whatsoever, Mr. Butler voted against the Union members of the Legislature of Tennessee, and with the leading "secesh" members of that body.

Secession was ordained, and that ordinance of secession I have before me, but I will not consume the time of the House by having it read. It was adopted May 7, 1861, and ratified June 8, 1861. It was an ordinance of secession professing to take the State of Tennessee out of the Union, and declaring that it thereafter formed an independent State—one of the confederate States of America.

The record of Mr. Butler up to this moment may be defensible by those who sustain him here, if any are so disposed, on the ground that prior to the ordinance of secession he had the right to his own opinions; the right to declare them and to vote accordingly. But, sir, if I should stop here I should fail to present his complete record, and I now proceed to go further to other documents which I have here before me, but not in printed and authentic form, such as those obtained from legitimate authorities; the records of that State after the ordinance of secession not being in the possession of any government or authority of which I am aware, if they have not already been destroyed. Of the "secesh" legislature held in Tennessee after this ordinance took that State out of this Union, Mr. Butler, of East Tennessee, became a prominent and active member; and I have in my hands a variety of motions in which he took an active part, and when they are fully presented to the consideration of the other side of the House they will bind gentlemen to their mischievous precedent established in this House in the case of the member-elect from the State of Kentucky in July last, and compel them to refuse to Mr. Butler the right to take the oath and become a member of this body.

I have before me, Mr. Speaker, the record of Mr. Butler's votes in the "secesh" legislature of the confederate State of Tennessee. I have here where he moved an amendment and voted to amend a bill authorizing the authorities of the confederate State of Tennessee to confiscate and sequester all northern debts due from people in Tennessee to people in the North, and to sequester all northern property held in Tennessee belonging to any citizen of the North. That bill of confiscation and sequestration not only proceeds to confiscate and sequester northern property, but also declares citizens of the North to be aliens, and entitled to no more rights than aliens from Great Britain, aliens from France, or aliens from Austria or Turkey. And when the ambulatory or ambulant "secesh" legislature of the confederate State of Tennessee was threatened by the irruption of our army after the success at Fort Donelson—when it was threatened at Nashville, Mr. Butler, among others of that ambulatory legislature, decamped from that city and established the headquarters of that legislature in the city of Memphis. Among other measures adopted in the city of Memphis for which Mr. Butler voted was one for taking care of the invalid soldiers of the South; pro-

viding the ways and means for supporting also the families which were left behind. This may have been charity, but it was a charity showing his heart as well as his votes at that time to be with the southern confederacy.

But, sir, the point to which I wish now particularly to call attention was a motion for removing the incorporated banks of the State of Tennessee from within the Union dominion, from those portions of the State which had been taken possession of after the victory of Fort Donelson, to those portions not in the occupation of our army. And a vote of his is on record in the "secesh" legislature indorsing that motion, and threatening those banks with a deprivation of their corporate rights if they did not change their places of business to within the confederate or "secesh" dominion in the State of Tennessee. No more important vote than that could be given; for next to the sword of the South was the purse of the South, if indeed the purse was not the most important. By that act of Mr. Butler he voted to take ten million dollars from the then conquered portion of Tennessee and to transfer that capital to the confederate government of Tennessee. His vote is on the record. And if this were not enough, he is on the record to give the use of the Tennessee hall of the House of Representatives to the electors for president and vice president who elected Jeff. Davis to be president of the confederate States.

He is also on record as voting to pay for the cavalry horses of the confederate government. He is also on record, in the eighty-ninth resolution of the "secesh" convention, as declaring that no compromise whatsoever should be made with the northern United States of America, except with the express condition that the confederate States should be recognized as sovereign, independent States of this Union. The eighty-sixth resolution of this convention, then assembled at Memphis, was to seize all United States property to pay for rebel services during the war, and Mr. Butler is on record as voting for that. He is also on record to build a railroad from Cleveland, Tennessee, under the authority of the confederate government, as a great military necessity of the confederate States of the South.

I might, I presume, stop here, but I hold in my hand some resolutions upon which Mr. Butler voted in the "secesh" legislature, which I will proceed to read, and to which I ask the particular attention of all sides of the House. Mr. Jones offered the following resolutions in the "secesh" house of assembly:

*"Resolved, That it is the sense of this general assembly that the separation of those States now forming the confederate States of America from the United States is, and ought to be final, perpetual, and irrevocable; and that Tennessee will, under no circumstances, entertain any proposition from any quarter which may have for its object a restoration or reconstruction of the late Union on any terms or conditions whatever."*

*"Resolved, That the war which the United States are waging upon the confederate States should be prosecuted on our part with the utmost vigor and energy, until our independence and nationality are unconditionally acknowledged by the United States."*

*"Resolved, That Tennessee pledges herself to her sister States of the confederacy that she will stand by them throughout the struggle; that she will contribute all the means which her resources will supply, so far as the same may be necessary, to the support of the common cause, and will not consent to lay down arms until peace is established on the basis of the foregoing resolutions."*

These resolutions were carried—ayes 41, noes 19; and among the 41 ayes is the name of Mr. Butler, now claiming to be a Representative on the floor of this House from the State of Tennessee.

I take it for granted that after I have presented these and some other facts I shall have the support of the whole Republican side of the House; for I hold in my hand the report of the debate which took place in this body in July last upon the question of the admission of Kentucky members on the floor, against one or two of whom charges were brought not half so grave as against this claimant Butler; and yet every member, except one, I believe on that side of the House refused the swearing in of the members from Kentucky. As this is a

forgetful age—all of us are liable to forget—I ask the attention of some members on the other side of the House to some remarks which they made on the subject of the admission of the Kentucky members.

After the Speaker had decided upon a motion of order, made by the gentleman from Wisconsin, [Mr. ELDRIDGE,] that it was right to arrest the swearing in of those members before they were permitted to take their seats, in order to refer their case to the Committee of Elections, the honorable gentleman from Illinois, [Mr. LOGAN,] whose vote I am sure of having, presented a resolution which finally passed the House, and on that occasion he spoke as follows:

*"Mr. Speaker, in presenting this resolution to the House I do not do so with a view of striking at any particular member of Congress claiming to be elected from the State of Kentucky; but I do it for the purpose of establishing a precedent in this House, which shall be placed upon higher motives than that of excluding any individual from a seat here. I ask that all the members-elect from the State of Kentucky shall be excluded from the privilege of taking the oath until an examination shall be had before the Committee of Elections. Why do I do so? Sir, it is upon the ground that this House should not be contaminated, or allow itself at any time to be so, by the introduction of any man into its Halls as a Representative of the people of any district in the United States who has, during the rebellion, participated in any way whatever in it."*

*"If Kentucky can send members to this House under these circumstances, and in spite of objection or protest, they may be sworn in as members under the rules and authority of this House. I ask any man to tell me why South Carolina may not do the same thing under the advice of the head of this Government? If the State of Kentucky, or Maryland, or Illinois, which I have the honor in part to represent, were to hold an election of members of Congress, and were to send members here who were known to the country as rebels, it would be our duty to inquire into their status."*

*"Now, sir, there is no use in our being so thinskin about these questions. Some gentlemen say: 'Oh, it would not be right to keep these men out; we have had some of them in before.' We should not be afraid to look the question in the face. The question is, What are you going to do hereafter? What are you going to do when some other State sends you up a whole delegation of such men? Are you going to swear each one in when there is no protest against his election? If you do, tell me whether or not Alex. Stephens, or any of those men, might not enter these Halls and take the oath? They can do so, and the only true course, in my judgment, is when a delegation comes from a State whose loyalty is questionable, whether it has been in the rebellion or not, to examine the whole delegation, and admit such men as are loyal, and send such as are disloyal back to their constituents, and tell their constituents to send you a different class of men."*

Mr. LOGAN. As the gentleman is reading my remarks, I ask if he will allow me to make a suggestion to him?

Mr. BROOKS. I must decline if it would come out of my time.

The SPEAKER. That would require unanimous consent.

Mr. BROOKS. The gentleman can obtain the floor at any time.

Mr. LOGAN. I do not wish to discuss the question. I only desire to call the gentleman's attention to the resolution which the House passed.

Mr. BROOKS. I must decline to yield, and I do it upon the ground that the gentleman will certainly be able to obtain the floor after I have closed what I have to say; he has the right to it; and now I call attention to the remarks of another honorable gentleman from Illinois, [Mr. INGERSOLL.] He said:

*"You have heard read the charges and specifications and the affidavits in support of them. A prima facie case has at least been made out against them. I trust this is not assuming too much, for I would not knowingly do an act of injustice to them."*

He continued:

*"I am insisting that Congress has the right to exclude disloyal men; men who engaged in the rebellion; men who committed treason against this Government. I care not whether the man comes from Kentucky or from any other State; the principle is the same."*

*"Now, sir," continues Mr. INGERSOLL, "I say for one, and I do not profess to speak for any one but myself, that if Samuel McKee, a loyal man, had received but one loyal vote, and assuming, which I do not say is the fact, that Mr. Young received 15,000 disloyal votes, he himself having been guilty of giving aid and encouragement to the rebellion, I for one should vote against the admission of Mr. Young, and for the admission of Mr. McKee with but one loyal vote behind him."*

The gentleman from Ohio [Mr. SCHENCK]

indulged in the same tone of remark. He said:

"Sir, I present the practical question to this House, that here is a *prima facie* case made out. The House is not asked to declare that John D. Young is not entitled to a seat here, but it is asked to declare upon this showing that he shall not be permitted now to take the oath, but shall stand back until some inquiry shall be made into the truthfulness of these allegations, and a report made to the House upon which it can understandingly determine the question ultimately and finally."

He further continues:

"If there be within the general knowledge of the House, to its satisfaction, proof that the election in any particular district of country or in any particular State has been so conducted that the voice of the people has in all probability not been heard there, or their will perverted, or their choice been made distinctly, it is in the power of this House to pause at the very threshold and direct that an investigation be made, in order to satisfy the House with regard to any Representative claiming to come from such locality, district, or State."

Mr. LOGAN subsequently reiterated like remarks at very considerable length, and in as strong a manner as those I have read.

A gentleman from Massachusetts, whom I was surprised to see take that position upon that occasion, [Mr. BOUTWELL,] said:

"I think we are justified in taking this position: that when a member rises in his place and states as of his own knowledge, or upon information worthy of belief, that a person presenting himself here for a seat in this House is or has been substantially a traitor to this Government, we have a right to decline to allow that person to take the oath until that matter has been investigated and he has been relieved from the charge." \* \* \* "But when it is alleged upon the authority of a member of this House, or upon an affidavit presented and read by a member of the House, or by its Clerk, that a person presenting himself here for a seat is a traitor, of course we must refuse to allow him to take the oath until he is purged from that charge. It is upon that rule that I must vote upon the questions as they are presented."

Now, Mr. Speaker, I think I have made out that the State of Tennessee has not a republican form of government, that is, that no system of self-government such as we recognize exists in the State of Tennessee; and I am sure that I have made out against Mr. Butler not only a *prima facie* case, but a case, *quod erat demonstrandum*. This record is impossible to be got over by any discussion in this House. And I am further sure that upon the precedent established in the July session of this House, I have every Republican member of the House, by the record, by the debate, by solemn declarations and arguments, every one of them, committed not only to the ejection hereafter of this Mr. Butler from the floor of this House, but to a refusal to allow him to be sworn in here by the Speaker of the House if he dares to appear in that area and take the solemn oath which the law of this country prescribes—if he dares to take it after the exposition I have made, and subject himself to the penalties of the crime of perjury to which the taking of that oath would doom him.

I will now refer to the member-elect from the fourth district of the State of Tennessee, Mr. Mullins, who I believe comes from the central part of the State. I object to him, not upon grounds so strong as I have objected to the admission of Mr. Butler; but I object to him upon the ground that he gave aid and comfort to the rebellion; made speeches in behalf of the rebellion, lent it aid and support, and assisted to raise troops for that rebellion. In the year 1861 he made a speech in Bedford county, Tennessee, at a place known as Moore's Springs, near Shelbyville, for the purpose of urging the young men there to join a rebel company to be raised there. In the speech referred to, Colonel Mullins said that he wanted to see all the young men go out and fight for their homes and firesides; that he was old and not able to do much fighting; that he would remain at home and make meat and bread for those to live on who did fight; and whenever it became essential he would himself go into the rebel army. The speech was entirely a rebel speech.

I hold in my hand authority for these declarations, and if this authority is denied hereafter, I shall proceed to submit it in a more

substantive and official form than I have named here.

In the fourth district of Tennessee, where lived some eight thousand of the twenty-two thousand white voters who organized the State of Tennessee after the rebellion, Governor Brownlow, under this wicked registry act, in order to elect a man of his own school, and to prevent the election by the conservative voters of that district, threw out four counties, containing five thousand registered voters, the counties of Coffin, Franklin, Lincoln, and Giles. In those counties, where, I say, lived eight thousand of the twenty-two thousand voters who organized the State of Tennessee, five thousand of those white voters were thrown out by the proclamation of the Governor of Tennessee; doing away with the whole registry of these counties. He disfranchised them all by an arbitrary edict of power; and if Mr. Mullins could be maintained in his seat otherwise, this declaration is sufficient here to show that republican self-government does not now and did not exist, in at least the fourth district of Tennessee.

I have also objections to urge to the admission of Mr. Arnell, of the sixth district of Tennessee. During the war he was established in the county of Lawrence, Tennessee, where he lives, and had a tannery which, during no inconsiderable portion of the war, was devoted to the manufacture of shoes. He declared he was unable to supply his neighbors with shoes, because, such were the requisitions of the rebel authorities upon him, that before he could supply the women and children of his neighborhood with shoes he must supply this foundation and understanding of the rebel army.

I also object to the admission of Mr. Trimble, from the fifth district of Tennessee, who, I am informed—I have not the authentic information in his case that I have in the others—because when the ordinance of secession was submitted to the people of Tennessee, in 1861, if he voted at all, as many believe he did vote, he voted to take Tennessee out of the Union.

Mr. Trimble says that is not true; I was about to state, when he said so, that if he would rise upon this floor and say that it was not so, I would say no more—but as he has no right to say it to the House he whispers it to me, and I say to the House for him, that he did not vote at that time. I withdraw my objection, then, to Mr. Trimble, because I have no authentic testimony; none except a mere verbal report, which is not enough for me to make charges respecting him upon the floor of this House.

I now yield the rest of my time to the honorable gentleman from Wisconsin, [Mr. ELDRIDGE.] But before I yield I wish to introduce some resolutions, which I will put in form.

The SPEAKER. The Chair would state that a mere objection to the swearing in of a gentleman will not arrest the administration of the oath; but it will require some action of the House.

Mr. BROOKS. I will propose two resolutions, one against the admission of all the members; the other, that the certificates of Messrs. Butler, Stokes, and Arnell, previous to their being sworn in, be referred to the Committee of Elections.

Mr. DAWES. I shall call for a division of the question upon the resolutions of which notice has been given by the gentleman from New York, [Mr. Brooks.]

Mr. ELDRIDGE. Mr. Speaker, I do not intend to make but a single remark. I was apprehensive at the last session that the precedent which gentlemen were establishing in the case of Kentucky would come back at some not distant day to torment its inventors; and as I have objected to Mr. Stokes being sworn in as a member of this House, and have moved that his credentials be referred to the Committee of Elections, I now ask to place before the House the ground of my objection.

On the 27th of July, 1866, Mr. Stokes was

making a speech in this House, when I asked of him the privilege of introducing and having read at the Clerk's desk a letter purporting to have been written by him. That letter was read, as follows:

LIBERTY, May 10, 1861.

DEAR SIR: I have just learned from a friend that there is some gross misrepresentation going the rounds in your section in regard to my position in this trying crisis, and for the benefit of yourself and others I write this.

I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law, and for the subjugation of the South. I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion and all forced measures, believing that it was better to recognize the independence of the "southern confederacy" than to attempt to coerce them back.

I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come. I have been, and am now, for standing by the border slave States, for they are to be the great sufferers during the conflict. I am opposed to being tacked on to the southern confederacy at present, (except as a military league.) But when peace is restored, if the two nations cannot live in peace, let all the fifteen slave States elect delegates, meet in convention, frame their constitution, and submit it to the people for their ratification.

The South ought to be a unit during the war, by all means. I had announced myself as a candidate for reelection, but on seeing Lincoln's proclamation for troops abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed, I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful.

Hoping to hear from you soon, I remain yours truly,

WILLIAM B. STOKES.

Mr. JOHN DUNCAN, McMinnville, Tennessee.

When this letter was read, I inquired of Mr. Stokes, who was then addressing the House, whether it was a genuine letter written by him. His answer was "Yes, sir, it is." Upon this letter, therefore, I have made the objection to the swearing in of Mr. Stokes, and have moved that his credentials, with this letter, be referred to the Committee of Elections, and the gentleman on the other side will now have the opportunity of following the precedent of the Kentucky case.

Mr. LOGAN. Mr. Speaker, I do not rise for the purpose of discussing this question at length, but merely to call the attention of the House to the precedent referred to by the gentleman from New York, [Mr. Brooks.] It is not the fact, as stated by the gentleman, that this House decided that on a charge made by a member against a whole delegation the credentials of that delegation should be referred to the Committee of Elections. I introduced a resolution embracing such a proposition, and in support of it made the remarks which have been read by the gentleman from New York. But the House decided against that resolution, and I was obliged to amend it so that the charges should be made against the individual members implicated, and not against the delegation. In that way the credentials of the individuals against whom charges were made were referred to the committee, not the credentials of the whole delegation. That was the precedent established by the House. The present resolution is directed against the admission of a whole delegation. So far as regards many of the members-elect from the State of Tennessee, no charges have been made by any gentleman upon his own responsibility—no charges the truth of which he asseverates—no charges sustained by the evidence of any man whose name has been given to this House. So far as regards the charges against Mr. Butler, and perhaps one other member-elect, if those charges be true, I have only to say that I am glad to see that side of the House coming up to the mark, because in future there may be some use for their help here when other parties come here applying for admission as members. I myself would not vote to permit Mr. Butler to be sworn in and to take a seat as a member of this House,



if the journals of the Legislature of Tennessee prove what has been stated, until an investigation has been had before the appropriate committee. But as to the other members-elect, with one exception, there are no charges against them. As to the charge against the gentleman from, I believe, the third district, Mr. Stokes, that has been before this House heretofore. There is no charge against him except that made by the gentleman from the State of Wisconsin, [Mr. ELDRIDGE,] supported by a letter which has been read in this House time and time again. That being the only evidence against the gentleman from Tennessee, the House is as well prepared to vote on that question now as they would be if it was referred to a committee.

Mr. Speaker, I will say this in support of Mr. Stokes, of Tennessee, that if any man can ever wipe out a wrong such as that of penning a letter of this kind, this noble man has done it, and done it well. For two long years he traveled by my side, through the smoke of many a battle, on the side of the Union army, and if that wipes out an error of this kind it applies with the greatest force to the case of Mr. Stokes. But the gentlemen who are so charitable to the men who have fought so many years against the Government, who would give them power and allow them to control this vast country, have no charity for the men who fought side by side with the Union soldiers in the recent conflict for the preservation of this country, when some of you gentlemen were publishing articles in papers that were treasonable in themselves, to a loyal country. I do not wonder, therefore, that gentlemen should be so desirous of having this man, who fought so faithfully for the Union, kept out of this House.

Now, when the evidence is before the House, I ask the House to decide the question without reference to a committee, because we have investigated and passed upon this Duncan letter before. I do not mean investigated in reference to his right to take his seat, but that it has been discussed before in this House. The House understands the matter.

Mr. ELDRIDGE. The gentleman is mistaken about the House having ever investigated this letter. Another subject was before the House when it was read before. It was read but once. It was read before on the question of the admission of the Senator from that State, modifying the test oath so that he might take his seat in the Senate. It was after Mr. Stokes had taken his seat. I should not have introduced it now were it not that Judge Trimble, having sat in the Thirty-Ninth Congress, was on a similar allegation prevented from taking his seat.

Mr. LOGAN. I said that it had not been referred to a committee, but that members of the House understood it. I heard of it before I became a member of this House I do not know how many times—I think two or three times. We all know what it is, what is the charge and what the evidence, and if a committee were to investigate the charge from now to December a year their only report would be that he wrote this letter—he does not deny it—but that he showed himself true to the country in the conflict with the rebels. That would be the report. The House is as able now to pass upon his right to a seat as at any time. There is no charge except the one we have now before us.

As to another member from Tennessee, the charge is based upon the journals of the confederate State legislature. That is as I understand it, but the gentleman may be mistaken. But on this charge of the gentleman from New York I am willing to refer the credentials to the Committee of Elections to be investigated, as in the case of the Kentucky members. This is all I desire to say.

Mr. DAWES. If I call for a division what will be the first question?

The SPEAKER. First on that part which excludes the whole delegation.

Mr. BROOKS. No, sir.

The SPEAKER. The gentleman from New York informs the Chair that he does not move to exclude all of the members, but to refer the certificates.

Mr. ELDRIDGE. I move to refer the credentials of Mr. Stokes to the Committee, with the paper I have read, and that he be not sworn in pending the investigation.

Mr. BROOKS. I move as an amendment that the certificates of the gentlemen from Tennessee be referred to the Committee of Elections; and that the certificates of Messrs. Butler, Mullins, and Arnell, previous to being sworn in, be referred to the Committee of Elections.

Mr. DAWES. I move as a substitute that the credentials of Mr. Butler be referred to the Committee of Elections, and that he be not sworn in pending the investigation. In support of that motion I understand that the gentleman from New York makes a charge in good faith against the loyalty of this gentleman who presents his credentials and asks to be sworn in. If the gentleman does not make the charge in good faith, that is for him to settle with his own self-respect, and what is due from him to the House. It is enough for me to assume that the gentleman from New York has made such wonderful progress at the present session that in good faith he charges upon a member-elect disloyalty, and on that ground proposes to exclude him until the question can be investigated by a committee.

At the last session the gentleman from New York [Mr. Brooks] took the position that no charge of disloyalty, however flagrant and however palpable, was sufficient ground for the exclusion of any person coming here bearing the certificate of the governor of his State as a member-elect of this House, but claimed that, however black in treason he might be, it was the duty of the House first to qualify him as a member, and then, if it were able, to expel him by a two-third vote. Sir, I congratulate the country and the gentleman from New York upon this wonderful conversion. There is no parallel to it since the celebrated journey to Damascus, [laughter,] and I trust with this encouragement before him he will continue journeying on till even he shall see more clearly than we do now what constitutes loyalty and what disloyalty.

The gentleman also takes the position in his remarks, and in the amendment which he originally proposed, that it is proper for this House upon a case made out to look into the status of a State of this Union and to decide for itself whether that State government be republican in form or not. In that matter I also congratulate him upon the wonderful advance he has made, and I am happy, for one, to be able to stand with him and vote with him, as I shall, on the original motion he has made in reference to Mr. Butler, of Tennessee. At the last session, in reply to the gentleman, when I propounded to him in vain the question whether he could conceive of disloyalty so flagrant and so palpable as to justify him in voting to exclude a member until his case could be investigated by a committee, I stated to him that whenever any member stood up in this House and upon his responsibility as a member of the House made a charge directly against any one presenting credentials here that he had been untrue to his country, or a traitor, I would vote first to investigate his case, and then I would pass upon the question as the evidence itself should be presented. The gentleman from New York resisted that proposition. And now, taking him to be sincere in his present motion, I welcome him as a new convert, and like a new convert I expect him to take the lead in the good work and to do works meet for repentance. I trust that he may now take hold of this work and be no longer found fighting, as he was at the last session, for the admission of men to seats in this House, however serious might be the charge of treason against them. I now call the previous question.

Mr. KELLEY. Will the gentleman yield the floor to me a moment?

Mr. DAWES. I withdraw the call and yield to the gentleman from Pennsylvania.

Mr. KELLEY. I thank the gentleman for yielding to me a moment to point out a distinction which I think gentlemen have failed to observe between the Kentucky case and this case of Mr. Butler, or any other that has ever been before Congress. The objection made to admitting the Kentucky delegation rested upon present disloyalty—upon their words and actions in the last campaign—upon their present condition of mind. The allegations made against Mr. Butler and Mr. Stokes and the other members of the Tennessee delegation go back to a period of time when there was a wide diversity of opinion among all the people of the country. Is the gentleman from New York ready to take the position that there shall be no change of opinion which shall merit forgiveness? Is he willing to say that every man who participated in the old pro-slavery or State rights sentiment shall be forever debarred from this House, or from office, honor, or emolument? That is the logic of his argument.

The gentleman to whom the amendment proposed by the chairman of the Committee of Elections relates never held an office which required an oath that would disfranchise him. The case is not analogous to that of Senator PATTERSON. It has been held that the Legislature is not such an office as that. This gentleman was elected in 1859 to the Legislature of Tennessee, and the journal quoted is a journal of legislative proceedings under that election. There was no confederate legislature to be elected at that time, and, when a special session was held, Colonel Butler and the other loyal members of the Legislature proposed to meet at Kingston, and they were carried bodily to the place of meeting. He is a man who served through the whole war. His son served in the ranks of our Army; his home was desolated and burned; his body three times imprisoned. Under power granted by General Burnside, he raised a regiment of gallant East Tennesseans and led them through the war. I hold in my hand a letter, among others, from Senator PATTERSON, of Tennessee, indorsing him then as a fit man for that service. I hold also the order of General Burnside empowering him to raise the regiment. I hold his commission, signed by Andrew Johnson, empowering him to lead and command that regiment. It is rather a late day to except him from the loyal delegation from Tennessee, and put a blot upon his name. I have here his own letter of that day, published through the eastern part of the State, in which he urged the starving Union men who had been discharged from the prisons of the State and set at liberty to enroll themselves in the ranks of the regiment that he was to lead in behalf of the flag of his country. In the time yielded to me by the gentleman from Massachusetts I cannot read the various letters and papers that are before me. Here is his commission as judge since the war closed and the State of Tennessee had been reorganized. Here, as I said, is the order from General Burnside to him to raise the regiment. Here is a commission from Andrew Johnson to him as colonel of the regiment. Were his colleagues on this floor able to speak they would tell you with more minuteness and knowledge and more eloquence than I could hope to do, how valiantly he led the men of Tennessee for the overthrow of the rebellion and the maintenance of the flag and the Constitution of his country.

I hope the case will be made no exception of, but that he and the other members from Tennessee will at once be admitted to their seats; and let the men of the South know that upon this floor it is the Democratic party that admits no place and no time for penitence that can remove disfranchisement, not for rebellion, but for holding opinions in 1861 which they hold to-day on the subject of State rights and the degradation of the colored people of America.

Mr. DAWES. I do not make this motion,

Mr. Speaker, upon the merits of the case. I never heard of this case before. I only hear of it in the House at this time, and it may be as my friend from Pennsylvania [Mr. KELLEY] says, that this man is as truly loyal as I am, or as the gentleman from New York [Mr. BROOKS] is. But I am not going to put myself with the gentleman from New York, with one set of opinions and votes for one side of the House and another set of opinions and votes for the other side of the House. With the same charge presented against a gentleman who claims to be on one side of the House as is presented against a man who comes here belonging to the other side of the House, I leave it to the gentleman from New York to divide his vote and his duty and his conscience; I treat them both in the same way. When a charge is made here in this House by a regular member of the House, upon his responsibility, that he has reason to believe, and he produces the evidence upon which that belief is founded, which upon its face appears to be good and valid, that a gentleman who presents his credentials here is disloyal, I think it is due to him, due to the House, and due to the country, that his case be investigated by a committee.

If it shall turn out that political antagonism or malignity or inconsistency has prompted such a charge as this, it is in the care and in the power of this House to deal with any such charge and the author of it as they think is due to the character of the gentleman maligned, upon the investigation of a committee or otherwise, as they see fit. If any member of this House, without ground, should make such a charge against a member-elect and cause his credentials to be referred to a committee without any reasonable foundation for excluding him until that investigation, it would, in my mind, be sufficient ground for a vote of censure, if not expulsion from the House.

I trust, therefore, that we shall take the gentleman from New York at his word, assume that he is consistent in making this charge, and that he will vote for his resolution himself; but whether he votes for it himself or not, let us, upon the strength of the charge, refer this case and have it investigated. I yield now to the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER took the floor.

Mr. BROOKS. Will my colleague yield to me for a moment?

Mr. CHANLER. Yes, sir.

Mr. DAWES. I yield to the gentleman on my left, [Mr. CHANLER.]

Mr. BROOKS. And my colleague yields to me a moment. Does the gentleman from Massachusetts object? Does he fire a charge at me and then receive none back?

Mr. DAWES. No, sir.

Mr. BROOKS. I only want to say that you expelled me once, and if you try it again I will come back by ten thousand majority.

Mr. CHANLER. My object in rising is not to take part in the exceedingly personal discussion to which this debate is tending. Either this is a question of privilege worthy the consideration of the House at this time, or it is not worthy a moment's waste of the time of the House.

The chairman of the Committee of Elections, in order to save Mr. Stokes from the same fate to which he would consign Mr. Butler, throws Mr. Butler into the arena for the wild beasts to tear him to pieces. He reminds us of that apostle who had to fight the beasts at Ephesus; and with regard to his allusion to light, a great light has fallen across the paths of a great many of the erring saints in that church, and that light has been exactly from the region from which my colleague from New York brings this effort to force you, by committing you to the inconsistency of your previous course, to show your repentance, and in sack-cloth and ashes to recognize the great democratic principle, that when the people of Tennessee or Kentucky or Connecticut or any other State send you, in their sovereign capacity, a man duly elected under the laws of the

States, you dare not refuse him his position among you.

It is because for partisan purposes, in the last session, you defeated this great democratic principle that my colleague [Mr. BROOKS] and my friend from Wisconsin [Mr. ELDRIDGE] have brought you to the stand as witnesses against yourselves. And the subtle, special manoeuvre of the chairman of the committee, [Mr. DAWES,] by which the resolution of my friend from Wisconsin [Mr. ELDRIDGE] is ignored, is adroit, but certainly it does not show that his repentance is worth much. He will improve. I think that he has had an opportunity of studying the divine light, that principle of *vox populi vox Dei* (which has been so consistently ignored on that side of the House) in the recent elections in his own State, and it is to be hoped he will accept the truth; it is to be hoped that that whole side of the House, which will decide upon this case, will recognize the great uprising of the people, irrespective of party, throughout this country. The democratic party does not claim this as their victory, but as your defeat.

Accept the shining light, O Saul, or die in the darkness of the politically damned. Your time has come; and not being fallen angels, although you have followed your arch-fiend through many a dreary toil of battle and disgrace, remember that you are men, and that you have a hope of salvation, and not utter damnation. Take the light when you can get it; but do not attempt, when stupefied by your past action before the country, when rebuked by the voice of the people throughout the land—do not attempt to throw upon my colleagues on this side of the House the weight and responsibility which rest upon you and you alone, for you and your votes will decide who shall be admitted on this floor and who shall be rejected. I hope that not only the Saul of Tarsus, but the Saul of Massachusetts will accept the benign influence of the popular will, and read the Constitution by this holy light, which is spreading itself from California to Maine. I hope that you all may see wherein your rights consist, and wherein you have transgressed before.

Read us no lessons from Scripture, in God's name. You have denied the principles of truth in the Constitution; you have ministered the Gospel so as to carry out your fanatical political schemes; you have trodden upon every right human and divine, that you might elect here men who at the opening of the rebellion were against you; who are covered with all the sins of the rebellion; who practiced all the infamy which you charge daily upon those who will not vote with you. And yet if they will come in and accept your conditions and sustain your partisan organization, though they may be steeped in the deepest dye of rebellion and political apostasy, they are marked white by the simple process of an oath taken here that they have not done that which their lives and history prove they have done. But if it comes from this side, the speck may be so slight that even the microscopic power of the chairman of the Committee of Elections [Mr. DAWES] cannot see it; yet they are ruled out by the decision of the majority.

I oppose these exceptional cases. The people should be permitted to understand that when they vote they elect their representatives here, and not be given to understand that from this day forth this House of Representatives shall be limited in number, except the men sent here shall vote with you, and belong to your political clique. Make that declaration like men; take the position boldly, and go to the people upon it, and see how many of you will return and rejoice in your system. But try this clandestine stab at the system of representation, allowing the people to vote, allowing their representative to come here, and offering him the test of a solemn oath, and when he is obliged to take it upon his conscience, you then vote him out as a traitor if he goes against you, or vote him in, though he be a traitor, if he go with you. Let that

course continue. Let the people understand that that is the principle of that form of "republican government" which is to be given to Maryland under the demand of one of the members of the Judiciary Committee. Let it be understood that such is what you claim to be the "republican" principle of government, and that light which the Saul on the other side has not yet seen, but which it is asserted the Saul on this side has seen, will shine to your utter blindness; and the letting down of a sheet, with all sorts of things to feed you in your blindness and misery, will be the benign result of your own course.

Mr. DAWES. The gentleman from New York [Mr. CHANLER] need not take any alarm. I do not propose to waste any lessons of Scripture upon him, for I do not desire to hurt his feelings at all. [Laughter.]

Mr. Speaker, I now yield to the gentleman from Illinois [Mr. MARSHALL.]

Mr. MARSHALL. Mr. Speaker, I propose to occupy but a minute or two upon this question. I have ever felt, sir, that in acting upon questions of this character, touching the right of any gentleman to a seat upon this floor, every member ought to consider himself in the character of a judge, not of a partisan; and it is for the purpose of explaining very briefly the grounds on which I shall base my action upon the questions now presented that I have sought the floor.

What is the law of this House upon questions of this character, as established at a former day upon the application of certain gentlemen from the State of Kentucky to be sworn in as members of this House? We have a law requiring absolutely that every member before taking his seat shall swear, among other things, that he has at no time given countenance, aid, or encouragement to those who have been engaged in armed hostility to the Government of the United States.

The action of this House in the case of the Kentucky members established, if it established anything, that the oath prescribed by that law is not a mere appeal to the conscience of the person applying for a seat, but that it superadds a new and additional qualification; and that while the provisions of that test-oath continue in force, any person who has at any time given countenance, aid, or encouragement in any way to those engaged in armed hostility against the Government of the United States is absolutely disqualified from holding a seat upon this floor. It means that, or it means nothing but mere blind partisanship; and I will not do the majority upon the other side of the House the injustice of taking it for granted that, upon a high and solemn question touching the right of an entire delegation to admission upon this floor, they cast their votes under the influence of mere blind partisan feeling. It is to be presumed that they intended to establish some rule as the law of the House in regard to the right of persons applying for seats here who have, at any time and under any circumstances, given aid, countenance, or encouragement to those engaged in a war against the Government.

The precedent established is misstated by the gentleman from Pennsylvania, [Mr. KELLEY,] doubtless through misapprehension. There was nothing in any of the charges against the delegation from Kentucky tending to show that they were at that time, or had been recently, guilty of any act showing hostility to the Government of the United States. In the case of one of the members who was excluded upon the report of the chairman of the Committee of Elections the only evidence was an unsworn statement from some obscure individual—a statement contained in a letter to Mr. McKee, that the writer thought certain facts tending to show hostility to the Government at the commencement of the war could be proved against said member. Yet upon that statement, and that alone, my colleague [Mr. LOGAN] introduced a resolution proposing that this member-elect and all the others from the State, with one exception, should be excluded from their seats

and not permitted to take the oath of office until the case had been investigated by the Committee of Elections; and these gentlemen remain out of their seats up to this time; not, I repeat, upon any charge that any of that delegation were at that time engaged in any act of hostility to the Government, for there was no organized opposition to the Government of the United States at that time anywhere within the broad area of our country. It was simply upon the ground that this test-oath superadds a new and additional qualification, and that the House has the right to inquire whether the applicant in any particular case can conscientiously take the oath; and if in the judgment of the House he cannot, the House decided that, although he is willing to take it, he is absolutely disqualified for membership so long as that test-oath stands upon the statute-book. If this is not the rule established in the Kentucky cases, I wish to be informed what is and was the purpose of the majority on that occasion. I insist that no other rule can possibly be eliminated from that precedent.

I need not say that I disapproved of the action of the House at that time; but that precedent having been established, it is the law of this House, until this body takes the back track and establishes some new and different law; and it is not within the province of gentlemen on that side to decide otherwise at this time without frankly and honestly admitting that they have established a law by which they cannot stand, and that they ought to recede from it. When the majority of this House shall place their action upon that ground, I will, for that purpose, gladly vote and cooperate with them; for I do not believe that the precedent which has been established is a correct one, or that it can be maintained by an appeal to the Constitution, or any sound principle of policy. It has been well established by the authority of Story and Kent, and other commentators on the Constitution, and also by the action of both the Senate and the House of Representatives in numerous adjudicated cases, coming down to the accession of the present dominant party to power, that the qualifications prescribed in the Constitution are the only ones that can rightfully be required or imposed; that they are complete in themselves, and that no others can be superseded without an infringement or an amendment of the existing Constitution. No question of constitutional law is better settled than this, or on more irrefragable reasoning and authority. Such being my convictions, it is of course impossible for me to sanction or approve of the precedent established by this House in July last.

This qualification, prescribed by the Federal Constitution, and which of itself excludes all others, is the one to which this House ought most unquestionably to conform. But as the majority here have established a law for their own action, to be applied to political opponents, they owe it to themselves and to common decency to apply the same rule to their political adherents. That rule is, in the language of the gentleman from Massachusetts [Mr. BOUTWELL] in the discussion of the case of the Kentucky members, when any member upon his own authority, or upon information he believes to be correct, charges that any gentleman applying for admission to a seat upon this floor had at any time been guilty of giving aid or encouragement to those engaged in the war against the Government of the United States, the case should be referred (without permitting the applicant to be sworn in) to the Committee of Elections to inquire into the fact, and if such charge be found to be sustained, he shall be absolutely disqualified from taking his seat as a member of the House. Now, applying that test to the honorable gentleman from Tennessee, Mr. Stokes, who held a seat in the last Congress—

Mr. DAWES. Take them one at a time.

Mr. MARSHALL. I do not deny that during the rebellion, and subsequent to the writing of that Duncan letter, he did enter the

Federal service and perform his duty well in the Federal Army. But that does not affect the question here presented. Can he conscientiously take the oath? Can he swear that he never, at any time, gave aid, countenance, or support to the armed rebels of the United States? He cannot so swear, for that letter would give the lie itself to any such oath. It is utterly impossible for him to do so, and it is clearly the duty of the House to step in as they did in the case of the Kentucky members, if the majority do not intend to abandon the precedent made in that case, and inquire into the fact whether this letter, admitted to be genuine, is not utterly inconsistent with the oath to be taken by every member.

So, sir, in the case of Mr. Butler. If the facts read from the Journal of the House of which he was a member are true, it is utterly impossible for him to take that oath without violating one of its most important clauses. If the House thinks it proper to step in to protect the consciences of the members from Kentucky, (rebel members, as they were called by honorable gentlemen here,) I ask whether it is not equally right to step in to protect the consciences of these good, super-loyal brethren from Tennessee.

Another observation and I have done. The whole State government of Tennessee as at present organized and administered is a disgrace to the American nation and to the civilization of the age. What ought to be the action of the House in regard to the entire delegation claiming to represent that State here I will not undertake to argue; but, sir, it is a notorious fact, and can be proved, if necessary, that Union soldiers, men who fought in the Union Army in Tennessee during the entire war, have been excluded and driven from the polls and not permitted to vote under the Brownlow usurpation because they would not put their hands upon their mouths and their mouths in the dust, and bow their knees suppliantly to the negro government established there and which lords it over the white freemen of that once noble and illustrious State. For that, and that alone, Union soldiers all over the State, I charge it here, and it can be proved if the House will order an investigation, have been driven or excluded from the polls simply and solely because they would not crook the pregnant hinges of the knee to the negro and the negro-worshipping oligarchy in that most outrageously misgoverned of all States in the civilized world.

I repeat, Mr. Speaker, that as a certain rule has been applied in the case of your political opponents, this House owes it to its own character, to its standing in the eyes of the civilized world, to common justice, and even common decency, to apply the same rule in all cases and especially to your political friends, until the rule is abrogated or abandoned.

Mr. Speaker, I shall only add to the remarks already made that as the Kentucky delegation are most wrongfully kept out of their seats, upon evidence nothing like as strong as this now presented against members from Tennessee, I shall vote to send the latter also to the Committee of Elections, and shall insist that the same rule be applied equally and alike to friend and foe. Fair play is a jewel, and ought to be practiced, sometimes, at least, even by this most illustrious and immaculate body.

Mr. DAWES. I propose to take each one of these cases by itself. I now call the previous question on the resolution, amendment, and substitute.

The previous question was seconded, and the main question ordered.

The SPEAKER. The question will first be taken on the first branch of the amendment, offered by the gentleman from New York [Mr. BROOKS] to the resolution offered by the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. PRUYN. Do I understand the substitute of the gentleman from Massachusetts [Mr. DAWES] to cover the whole ground? It proposes, I understand, to admit all the members except one.

The SPEAKER. That is the amendment. Mr. DAWES. If my substitute is adopted, then when any other member presents his credentials the same objection can be made, and the question can be voted upon by the House.

Mr. PRUYN. Then it is not a substitute for the whole.

The SPEAKER. It is a substitute for the whole?

Mr. ELDRIDGE. In case the amendment offered by the gentleman from Massachusetts shall be adopted, will it not then be in order to introduce a resolution like the one I have already offered when Mr. Stokes presents himself to the bar of the House?

The SPEAKER. With regard to any of the remaining gentlemen any member may make the point and it will be decided by the House.

Mr. DAWES. I so understand it: it is only proposing to meet one case at a time.

The SPEAKER. The substitute relates only to one gentleman, Mr. Butler; if that should be agreed to, the Chair would then call on the remaining gentlemen to be sworn in, when of course the motion could be made to postpone or refer.

The first branch of Mr. Brooks's amendment was read by the Clerk, to add to the original resolution as follows:

*Resolved*, That all the certificates of the gentlemen from Tennessee be referred to the Committee of Elections.

Mr. DAWES. Is it within my power to withdraw the call for a division and let it all be disposed of at once?

The SPEAKER. It is.

Mr. DAWES. Then I do so.

Mr. RANDALL. I renew it.

The question being taken on the amendment, it was disagreed to.

The question recurred on the second branch of Mr. Brooks's amendment, to add to the original resolution the following:

*Resolved*, That the certificates of Messrs. Butler, Mullin, and Arnell, previous to their being sworn in, be referred to the Committee of Elections.

Mr. SCHENCK. I ask whether that is divisible?

The SPEAKER. It is not. The rule is, that each branch of the proposition can stand by itself if the remainder is rejected.

Mr. SCHENCK. Then I ask to have read the affidavits or the statements upon which that motion is made.

The SPEAKER. That can only be done by unanimous consent, as the House is acting under the operation of the previous question.

Mr. BROOKS. I do not object to it.

Several MEMBERS. I object.

The question being taken on the second branch of the amendment, it was disagreed to.

The question recurred on the amendment offered by Mr. DAWES, to strike out all after "Resolved" in the original resolution, and substitute therefor the following:

That the credentials of R. R. Butler for the first district of Tennessee be referred to the Committee of Elections, and that he be not sworn in pending the investigation.

The substitute was agreed to.

The question recurred on agreeing to the original amendment as amended by the adoption of the substitute.

Mr. PILE. I call the yeas and nays on that question.

The yeas and nays were ordered.

MEMBERS SWORN IN.

The SPEAKER. The Chair will state that the delegation from California, to whom he understands there is no objection, are ready to be sworn in, and also the gentleman from Illinois, [Mr. WASHBURN.] Two of these gentlemen belong to the majority and two to the minority, and if there is no objection the Chair will swear them in. Is there objection? The Chair hears none.

The members-elect from California, Mr. SAMUEL B. AXTELL, Mr. WILLIAM HIGBY, and Mr. JAMES A. JOHNSON, and the member-elect from the third congressional district of Illinois, Mr. E. B. WASHBURN, severally appeared, and qualified by taking the oath prescribed by law.

## REPRESENTATIVES FROM TENNESSEE.

The question was then taken on agreeing to the resolution as amended, and it was decided in the affirmative—yeas 117, nays 28, not voting 29; as follows:

**YEAS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dodge, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hamilton, Hill, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kolley, Kelsey, Ketcham, Laflin, George V. Lawrence, William Lawrence, Logan, Loughbridge, Lynch, Mallory, Marshall, Marvin, McCarthy, McClurg, Moreau, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Polesley, Pomeroy, Price, Robertson, Sawyer, Schenck, Seaford, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taylor, Thomas, Trowbridge, Twichell, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—117.

**NAYS**—Messrs. Adams, Archer, Barnes, Blair, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Haight, Hotchkiss, Johnson, Kerr, Morgan, Morriss, Mungen, Nicholson, Phelps, Pruyn, Randall, Robinson, Sitgreaves, Taber, Van Trump, and Woodward—28.

**NOT VOTING**—Messrs. Ames, Barnum, Cornell, Dixon, Donnelly, Finney, Griswold, Harding, Holman, Richard D. Hubbard, Humphrey, Kitchen, Kootz, Lincoln, Loan, McCullough, Niblack, Peters, Raum, Ross, Selge, Stone, Taffa, Upson, Van Auken, Burt Van Horn, Van Wyck, Ward, and Wood—29.

So the resolution as amended was agreed to.

During the roll-call,

Mr. BEAMAN stated that Mr. Urson was detained from the House by sickness.

Mr. LAFLIN stated that Mr. VAN HORN, of New York, was detained at home by sickness in his family.

Mr. LOGAN said: I rise to a question of order. I ask that the name of Mr. Brooks be called under the rule in relation to members who are present voting. [Laughter.]

The SPEAKER. The Chair will state that the ruling on the point made by the gentleman from Illinois by previous occupants of the chair has been that it cannot be made as a point of order until after the roll-call has been finished and the result announced. Attention can then be called to the fact that a gentleman has sat in his seat and declined to vote, and the question raised whether he has disobeyed the rules and is in contempt of the House.

Mr. LOGAN. Well, I call his attention to it now.

Mr. BROOKS. It was a matter of inattention altogether; I was engaged in conversation; I vote "no." [Laughter.]

The result of the vote having been announced as above recorded,

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. If there be no objection, the remaining members from Tennessee will now be sworn in.

Mr. ELDRIDGE. I rise to a question of privilege. I offer the following resolution:

*Resolved*, That the credentials of Hon. William B. Stokes be referred to the Committee of Elections, together with the letter written by him known as the Duncan letter, published in the Globe of July 27, 1866, in support of a charge of disloyalty against him, and that pending the investigation of the committee he be not sworn in as a member of this House.

Mr. DAWES. I demand the previous question.

Mr. SCHENCK. I hope the gentleman will withdraw that?

Mr. DAWES. I will do so.

Mr. SCHENCK. Mr. Speaker, the House in July last, in the Kentucky case, settled a practice in regard to these matters, as has been said by the gentleman from Illinois, [Mr. LOGAN.] That practice I understood to be this, and I thought it in conformity with parliamentary law and entirely within the scope of our constitutional power properly exercised; it

was then decided that if any member in his place would rise and make a statement of facts impugning the loyalty of a member-elect, showing probable cause why, on account of his disloyalty, he ought not to be permitted to participate in our deliberations here, nor even be allowed to take the oath, it should be considered, not as conclusive in his case, but as raising a *prima facie* case and ground upon which his credentials might properly be referred to be reported upon. It was also held that if affidavits, although they might be *ex parte*, were produced showing facts of this or of kindred character, that should be held sufficient to require the member-elect to stand back and wait until his case could be inquired into and reported upon by the proper committee.

Well, sir, affecting to follow that rule, gentlemen upon the other side of the House to-day rise in the case of the Tennessee members who are called to the Clerk's desk to be sworn in and to take part in this House as members; and the gentleman from New York [Mr. Brooks] makes an averment and supports it by some statements affirming that one of these members is in such probability disloyal that the matter ought to be referred to the committee and reported upon, and that his oath should not be accepted until such report comes in.

What then occurs? A vote is taken, and that member shows that he was trifling with the House by at first inadvertently not voting, and afterward by voting against his own resolution—a resolution based upon his own showing; that member proves to this House that his object was rather to set some mean little party trap, (which, however, has sprung and caught himself,) and not for the purpose of a grave inquiry into the right of a member to take his seat here according to the election returns and credentials which he presents.

Now, I want no more of this. If members will come here and present a showing by affidavits, as was done in the case of John D. Young, at the July sitting; if they will rise in their places and make a statement, based in like manner upon that credibility which ought to attach to a statement officially made by a member upon this floor, I am ready upon such statement to give proper reference to the case about which the statement is made. But if members come here and make such statements, they themselves believing that their resolutions ought not to pass, they themselves having no faith in the statements which they make, it is to my mind only proof that, instead of dealing with the grave question, one of the very gravest, whether a representative of the people is entitled to a place upon this floor, the whole intention, the whole object is to trifle with the House, and obtain, if they can, by some apparent inconsistency upon the part of some person in voting, some pitiful little party advantage.

Now, sir, no such advantage has been obtained here. I am glad to say that the gentlemen with whom I act, consistent with themselves, have adhered to the rule which they established in July last. I am glad to say that the Republican members of this House, giving a credit to the statement of a member upon this floor, which his own conduct proved it was not entitled to, have passed his resolution upon that statement and that showing of his, and in spite of his own opposition to it.

Now, sir, the gentleman from Wisconsin [Mr. ELDRIDGE] offers a similar resolution now in the case of Colonel Stokes. He has voted against the other resolution, although it appeared to have his support. He will probably reserve to himself the privilege of voting against his own resolution if it is submitted to a vote of the House. And if that be the object—I am not entitled as yet to say it is—it will only be another exemplification of the kind of treatment which this House is to receive from gentlemen who come here, affecting, with crocodile tears, to apprehend that the people of this country are not going to be truly represented by loyal men in any of the States.

I shall not vote for the resolution in the case

of Colonel Stokes, simply for the reason that it is based upon a letter written by him at the beginning of the rebellion containing avowals of opinion which I by no means approve, and which I think savor very strongly of disloyalty. I cannot vote for a resolution based upon a letter of that kind without also having in mind the fact that since that time there has been disclosed here to the House of Representatives, and there is a part of the public history of the country to be found, showing that this objection to Colonel Stokes cannot by inference be fairly presumed to apply to his present status, to his present condition of mind, to his present determination and object and act toward the Government of this country. There is proof in the history of the country, which has been made known here to this House, that since that time Colonel Stokes has fought loyally upon the side of the Union, and proved his loyalty where many other gentlemen have not so distinctly entitled themselves to have it recognized—upon the battle-field.

Knowing this, I do not ask to have any inquiry in the case of Colonel Stokes, and therefore I shall not vote in favor of the resolution. Not knowing anything of this kind so clearly in the case of Mr. Butler, I was willing that in his case there should be a reference, an examination, and a report, which will enable him, as I believe from what I hear outside, to come out triumphantly vindicated from the charge that has been made against him.

Mr. MORGAN. Will my colleague yield to me for a moment?

Mr. SCHENCK. Certainly.

Mr. MORGAN. I desire to ask my colleague whether the fact that Colonel Stokes has fought gallantly under the Union flag will enable him to take the test-oath?

Mr. SCHENCK. I am not the conscience-keeper of Colonel Stokes. That is a matter for him to settle. I do not know that the letter written by him, so far as I remember its contents, is in any way inconsistent with that oath. I have not the letter before me now. I believe, however, it is a declaration of certain sentiments which I myself, according to my standard, regarded at the time and regard now as inimical to the Government of the United States; but it did not constitute any act of aid or comfort actually given to the enemy.

Mr. ELDRIDGE. Will the gentleman allow one portion of the oath to be read?

Mr. SCHENCK. No, sir; we are all familiar with it. I understand what constitutes the sin of Colonel Stokes in the view of gentlemen on the other side. It is not that he was disloyal at the beginning of the rebellion, but that he fought for the Union afterward. It is for this reason that he is not agreeable to some gentlemen who are opposing his admission to a seat upon this floor.

Mr. MORGAN. Will my colleague yield to me a moment further?

Mr. SCHENCK. Yes, sir.

Mr. MORGAN. I merely wish to remark, further, in order that my own position may not be misunderstood, that I am opposed to the resolution to refer the case of Colonel Stokes to the Committee of Elections. I addressed the inquiry a moment ago to my colleague, in order to bring to his attention and that of the House the analogy between the position now occupied by Colonel Stokes and the position of thousands of our fellow-citizens in the southern States whose misfortune and whose fault it was to go into the rebellion, but who have since given every evidence of repentance for having done so.

Mr. SCHENCK. I understand that perfectly well; and in those wise acts of reconstruction which we have passed and mean to carry out, it will be found that we have provided for just such cases, and that where there is penitence, where there is proof of subsequent good conduct, any one who, by reason of past disloyalty, is disabled or disqualified from participating in the Government may, upon appeal to Congress, be relieved from that



disability; and without such a provision, the reconstruction acts would, I think, have been very defective indeed. Such a provision was also embraced in the constitutional amendment which was submitted to the people of the southern States.

But all this is aside from the present question. I am not in any way criticising the position of my colleague, [Mr. MORGAN.] I believe he has made none of these motions and none of these statements. He probably voted in July as he will vote or has voted to-day. But my allusion is, first, to the fact that we have been called upon to act on a statement deemed to be a sufficient foundation for a resolution by a gentleman who has afterward disavowed, as it were, his own statement by voting against his own resolution, thus showing that he was not quite so zealous in defending the Constitution and the rightful representation of the people as he would have appeared to be if we had not followed him through the whole course of his record upon this matter. And I refer next to the particular resolution now before us, first, to say that I hope it is not a case of the same kind, and in the next place, to say that, so far as the facts have been disclosed to this House and to the country, there is reason enough, in my judgment, for not referring the case of Colonel Stokes to the Committee of Elections; and, therefore, though I voted for the former resolution, I hold that I shall be entirely consistent in voting against this.

Mr. DAWES. I now yield for five minutes to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL. Mr. Speaker, I desire to say only one word. I shall vote against this resolution for the same reasons which induced me to vote in that direction when the members from Kentucky presented themselves and asked to be sworn in, and I desire to call the attention of the House and the country to the position that the majority on that side of the House occupy in reference to the delegations of the two States of Kentucky and Tennessee. At the last session of Congress the members from Kentucky presented themselves here. They were publicly known as being adherents of this side of the House, and on clap-traps made up from statements since proved to be false, they were sent to the Committee of Elections, seven of them, and to this hour they have not the right which their people delegated to them, of representing their State upon this floor. This, too, of a State which in no manner voted itself out of the Union, and which stood from the beginning to the end as a loyal State. Let me call the attention of the House and the country to the manner in which they treat the representatives to-day from Tennessee who hold their own sentiments. One of them who now presents himself aided the State of Tennessee in going out of the Union. If there be any demagogism, as charged by gentlemen upon the other side, it rests alone with them. Why is the State of Tennessee to have its delegation admitted here now when charges are made against the members from that State similar to those made against the members from Kentucky and which have kept them out? Why send the credentials of one to the Committee of Elections and not the others? Let gentlemen on the other side reconcile the inconsistency of their action. If there be demagogism, then it is with them and not with us.

Mr. PRUYN. I ask the gentleman to yield to me.

Mr. DAWES. This has taken up time enough, I think, with entire respect to the gentleman from New York.

Mr. PRUYN. It is only to ask a question.

Mr. DAWES. I yield for that purpose.

Mr. PRUYN. I wish to inquire of the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, in view of the statement he made when upon the floor of this House a few moments ago, whether, in view of the events occurring at the South during a few months past, and the events which have occurred at the North

more recently, the military committee have arrived at the conclusion that it is necessary at this session to make any amendments to the reconstruction act? I ask this because of the statement he made when upon the floor.

Mr. DAWES. I now resume the floor.

Mr. SCHENCK. The gentleman will, I hope, allow me to reply to the question put to me so courteously.

Mr. DAWES. Certainly.

Mr. SCHENCK. The question is put so gravely and so courteously, as is always the habit of the gentleman from New York, I must in the same temper reply to him. We have a Committee on Reconstruction, ordinarily known as the committee of fifteen, to whom this subject has been referred.

A MEMBER. It is now the Committee on the Judiciary.

Mr. SCHENCK. We have now referred these subjects to the Committee on the Judiciary. We had a committee of fifteen before, but under no circumstances has this class of cases ever been referred by this House to the Committee on Military Affairs. The gentleman is not aware, perhaps, that the business of the military committee is necessarily confined to those things which relate to the Army and its government, and whatever affects its interest in any way.

Mr. PRUYN. I am quite aware of that; but the gentleman when up made a remark which justified me in asking whether the committee with which he is connected had not come to that conclusion.

Mr. SCHENCK. I do not think I said anything of the kind.

Mr. DAWES. The case of the gentlemen from Tennessee is before the House. The letter referred to has already been before us. We all know about the facts, and I do not see the necessity of referring it to the committee. We have heard all the testimony there is to substantiate the charge, and there is no need for any further investigation. The House can pass upon it as well to-day as at any other time, and I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof Mr. ELDRIDGE's resolution was disagreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was disagreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BROOKS. I rise to a question of privilege in the case of Colonel Mullins. As it seems to be required on the other side that in order to make a charge some affidavit or some specific statement, signed by somebody, should be presented, I ask the Clerk to read the paper which I send to the desk.

The SPEAKER. A resolution must first be offered before any papers can be read.

Mr. BROOKS. I then offer the following resolution, understanding it to be necessary:

*Resolved*, That the certificate of Mr. Mullins be referred to the Committee of Elections, and that he be not sworn in pending the investigation.

The Clerk read, as follows:

I am well acquainted with Colonel James Mullins, of Bedford county, Tennessee. I have known him from my boyhood, and I now make this statement:

In the year 1861—I forget the day and month—I heard Colonel Mullins make a speech in Bedford county, Tennessee. The speech was made at a spring known as "Moore's" Spring, some three or four miles from Shelbyville, Tennessee. The speech was made for the purpose of urging the young men of that locality to join a rebel company then being made up by one James A. Moore of said State and county. In the speech Colonel Mullins said that he wanted to see all the young men go out and fight for their homes and firesides; that he was an old man and not able to do much fighting, but that he would make meat and bread for others to live on while they fought, and that whenever it became essential he too would go into the rebel army. In fact, the entire speech was an "out and out" rebel speech, and in entire accord with the speeches being then made throughout Tennessee by such men as Governor Harris and other rebel leaders.

In one or two days after hearing this speech, I met Colonel Mullins in Shelbyville, Tennessee, and rebuked him for the speech referred to. He replied that half of the North and all of the South had gone

with the rebellion, and that he thought it the duty of every southern man to take side with the South in the struggle. I told him if he thought so he could go that way, but as for myself I should "paddle my own canoe."

At the conclusion of the speech referred to, I urged the young men to pay no attention to what Mullins had said, and not to go into the rebel army. A great many took my advice, and remained firm Union men, many of them subsequently becoming Union soldiers.

At the time Colonel Mullins made this speech I regarded him as a "rebel," and I am sure his language would have sustained such a belief.

I have been a loyal man from the beginning. On the 17th day of April, 1862, I enlisted as a Union soldier. I was subsequently elected a lieutenant in the first Tennessee United States troops, known as the guard of Governor Andrew Johnson, then military Governor of Tennessee.

I am now a first lieutenant in the twelfth United States infantry, regular Army.

The Colonel Mullins referred to is now the Congressman-elect from the fourth congressional district of Tennessee.

A. M. TROUGER.

First Lieutenant Twelfth United States Infantry.

WASHINGTON, D. C., November 12, 1867.

Mr. BROOKS. Mr. Speaker, some members on the other side of the House seem to be in a very ill humor. They are very much offended with me for presenting certificates, affidavits, and documents such as I have submitted to the House this day. They are in ill humor and I am in good humor. Now both of us have reasons for our respective humors. The country has exhibited the very best of reasons for our being pleased on this side of the House, and the best reasons for their being displeased on the other side; and if I have given them their own medicine under the bad Kentucky precedent which they have established, and am not disposed to take their medicine, they should not be angry and should not rail at me. It is not a patent of my own manufacture; I am not the Brandereth that invented it. They are the doctors in the Kentucky case; they have manufactured their own pills, and if I make them take them they should make the best of it, and not rail and howl at me as certain gentlemen on the other side have done.

The honorable gentleman from Illinois [Mr. LOGAN] though not in a very bad humor, attacks the newspapers. The only difference between that gentleman and myself is, at the opening of the war he was a terrible copperhead, while I was a terrible Union man, and now I am a terrible copperhead while he is a terrible disunion man—a terrible Jacobin. That is the only difference. If I were to read his speeches they would be found quite as bad as anything that ever appeared in any newspaper with which I had any connection. While most of his are on the wrong side, mine are on the right side.

Now, there should be no ill humor upon this subject. The honorable gentleman from Massachusetts, [Mr. DAWES,] in the course of the debate, threatened me with the censure of the House if I failed to maintain my charges against Mr. Butler, and in the course of the discussion he talked of my expulsion. That is the last thing I expected to hear from the chairman of the Committee on Contested Elections, who maneuvered to turn me out of this House upon testimony which, if he knew anything, he knew to be infamous, and which my constituents rebuked by sending me back here by over six thousand majority. I said a little while ago that if he had any disposition to try that experiment of expulsion again I would come back here with ten thousand majority; but I reckon I could come back then with nearer fifteen or twenty thousand. I have a constituency in the rear, a joyful, gleeful constituency, who will maintain me in my rights on the floor of this House, in decorum and order, to examine into the case of others that present themselves here for admission.

The honorable gentleman from Ohio [Mr. SCHENCK] also paid me his respects. He is never a very amiable man, permit me to say; he has not that suavity which as a student of Chesterfield he might do well to cultivate. And he reminds me more of a character in one of the novels of the day, Snarleyow I think it is, than of any other man I ever met with. The character in the novel is descriptive of that which he so

often exhibits on the floor of the House. He indulges in fierce censures and comments which may be parliamentary and which may not be; he indulges in such phrases as "crocodile tears," "little and mean," &c. All this is in character with the honorable gentleman from Ohio. He is the regular scold of this House, and he scolds the other side of the House a great deal oftener than he scolds this side, and if they are able to endure his scolding I am quite sure that I can.

But he says that I have voted against the resolution excluding Mr. Butler after I have exhibited rebel records which ought to exclude him, and I am censured for inconsistency. First let us look at the resolution as it prevailed. There is no more reason why Mr. Butler should be excluded from the floor of the House than that two more of the same delegation should be excluded whose cases I have stated. Why pass that partial resolution? I was not the father of that substitute. I was not obliged to adopt the child of the honorable gentleman from Massachusetts, [Mr. DAWES.] It was no creation of mine, but a substitute adopted by the other side of the House.

But I tell honorable gentlemen, all of them upon the other side of the House, I do not believe in the precedent in the Kentucky case. I do not believe it will hold water or stand examination. I consider it the most dangerous precedent ever established in this House, that a majority here, on the presentation of credentials, upon mere outside *ex parte* affidavits, upon mere declarations from any quarter, without examination by a committee, should do as this House has done, from July to the last of November, exclude the Kentucky members. But that was the precedent established by the authority of the House; that is the common law of the House, and how a lawyer can rise on the other side and not expect to be bound by the common law of the House, though he may not now approve that common law, is more than I can comprehend. It is a precedent binding upon the other side of the House, but not upon this, because we all voted against it, and my only object was to bring to them their own precedent, their own medicine, and to make them take it. But instead of their being in good humor, I am railed at by three gentlemen on the other side for pursuing a course which is proper and parliamentary.

Now, sir, I regret this kind of debate, and it is seldom I am called on to indulge in it, but on principle I defend myself for the course I have taken. Whenever we on this side have the power, as we soon shall have—the dawn breaketh not only in the East, but everywhere, and the next House will be ours—when that day comes, we will reverse this precedent and overthrow it. It is your medicine, and not binding on us in any sense whatever; and when I present it to you, I resort to a parliamentary course which is justified by innumerable precedents. So much for that.

Now, perhaps, I owe an apology before I sit down to the honorable gentleman from the Nashville district of Tennessee, Mr. Trimble. I was informed by a letter from Memphis that he voted for the ordinance of secession of Tennessee. The letter was from a gentleman there whom I did not know personally. I have written back to know what is his character, but I have received no answer. I carefully stated in the remarks which I made before that it was sufficient for me that the honorable gentleman from the Nashville district should disclaim such a vote and I would not involve him in my resolution. It is sufficient to me to have the word of a Union man or a rebel; whatever he may have been, it is enough for him to have said he did not vote for secession for me to accept his word in good faith. If I have put him wrong before the country I owe him an apology, and I cheerfully take back any remarks I may have made. That is all I have to say upon that point.

Mr. MULLINS. Will the gentleman now state what I asked him to state?

The SPEAKER. The Chair will inform the

gentleman last up that he is not yet a member of the House.

Mr. BROOKS. I presume that, under the substitute adopted by the other side of the House, the gentleman will, in a very few minutes, have an opportunity to state what he desires in order.

Mr. DAWES. Mr. Speaker, a few words only.

Mr. BROOKS. I have not yielded the floor.

Mr. DAWES. I thought the gentleman said, "That is all I have to say."

Mr. BROOKS. On that point.

Mr. DAWES. I was surprised at that remark.

Mr. BROOKS. The gentleman is surprised at a great many remarks, and few members have more occasion to surprise the House than he has. I do not know why he indulges in this personal course of remarks toward me all the while, except that once he did a mean thing toward me, and feels ashamed of it all the time, and wishes to justify it in some way.

The SPEAKER. The Chair feels under the necessity of calling the gentleman to order. His remarks certainly are not parliamentary.

Mr. BROOKS. I beg pardon of the Chair; they are not parliamentary. I hope the Chair will keep us all in order, for we need it very often.

The SPEAKER. The Chair does not wish to interrupt gentlemen speaking by calling them to order, except when he deems it his imperative duty to do so.

Mr. CHANLER. I would inquire to what language of my colleague [Mr. BROOKS] the Chair referred when he called him to order.

The SPEAKER. The gentleman from New York [Mr. BROOKS] is entitled to the floor, and will proceed in order.

Mr. CHANLER. I desire to ask the Chair what language he referred to—

The SPEAKER. The gentleman from New York [Mr. CHANLER] made no point at the time.

Mr. CHANLER. I desire to ask—

The SPEAKER. The Chair will inform the gentleman. The language to which the Chair excepted was this: that the gentleman from Massachusetts [Mr. DAWES] "had done a mean thing" toward the gentleman from New York, [Mr. BROOKS.] That language was not parliamentary. The gentleman from New York [Mr. BROOKS] will now proceed in order.

Mr. BROOKS. I am aware that the introduction of the word "mean" was not parliamentary. But I should not have used it if the gentleman from Ohio [Mr. SCHENCK] had not used it in reference to me. "Mean" and "little" were the adjectives he applied to me. I do not suppose the Speaker heard him, in the confusion here.

The SPEAKER. The Chair did not hear those words used in reference to the gentleman, or he would have checked the gentleman using them. The Chair thinks the remark of the gentleman from Ohio [Mr. SCHENCK] was general, and not with reference to any particular gentleman.

Mr. BROOKS. If I recollect aright, I think the gentleman from Ohio [Mr. SCHENCK] applied the remark particularly to me.

The SPEAKER. If so, it was not in order.

Mr. BROOKS. Very well; I will not make any further remarks at present.

Mr. DAWES. The gentleman from New York [Mr. BROOKS] has taken a great deal of the time of the House in attempting to explain his position—to explain why he made a charge upon the floor of this House against a member-elect which he had no faith in himself. The gentleman knows better than anybody else when his position needs explanation, and for that reason he takes more time than anybody else in explaining his position. The gentleman has never done "harping upon his daughter." He will never forgive this House for once thwarting him in attempting to hold a seat here on this floor upon dead men's votes.

That I suppose is the reason why, when the gentleman from Ohio [Mr. SCHENCK] said some hard things toward him, he got up and called me "mean." [Laughter.]

But he says that when I said to the House if any gentleman, acting upon his responsibility here as a member of this House, should so far forget his position as to be actuated by political malignity and make a false charge of disloyalty against any member elected here, and thereby exclude him from his seat, such member ought to be censured or expelled from this House; he thereupon gets up and says I say he himself should be expelled from this House. Very well; the gentleman makes his own comment upon that remark. He takes the coat home to himself, without any application from me. And he rounds off this application to himself by announcing to the House that if he should be expelled he would be sent back he thinks by ten thousand majority. He knows better than I do how much time they have in New York to count votes. I have no doubt, if they have time enough to count the votes in New York, the majority would be ten or fifteen thousand, just according to the facility and skill in counting.

I admit the gentleman's proposition. I know very well that if there is time there will be majority enough counted up for him if he should be expelled. I am glad to know that the gentleman himself feels that if, actuated by political malignity, he should make in this House a charge which he did not himself believe to be true, he would be a proper subject for such a vote of the House as I have indicated. I now yield to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, I desire, before this debate closes, to make a suggestion or two upon what is certainly a very important question, in regard to the organization of this House. The question that we are really dealing with now is the question whether the House can rightly disregard the requirement of the law prescribing the test oath; disregard it, I mean, to the extent of omitting a careful and thorough investigation, after a suggestion in good faith that any particular individual presenting himself as a member ought not to be allowed to take the oath; or whether, on the other hand, the House may do that to which my colleague [Mr. SCHENCK] alluded—leave it to every member-elect to decide according to his own conscience whether he can take the oath or not.

Now, upon this question there are just two remarks which I wish to make. In the first place I shall neither dispute nor assent to the proposition that the House may rightly disregard the requirement of the act prescribing the test oath—may let down its standard and fix a lower one. Yet, while I do not discuss that question as a legal one under the constitutional provision that "each House shall be the judge of the elections, returns, and qualifications of its own members," I do say, and to this proposition I ask the attention of my fellow-members, that we shall be doing a most dangerous thing if for any party or any side of this House we let down the high and important requirements of the law prescribing that test-oath. I assent to what was said by some of our friends on the other side, that there is danger that, in our admiration of such gentlemen as some of those who are now offering to be sworn in, on account of their "works meet for repentance," we may fall into the error of going back upon one of the best and wholesomest records that has been made since this terrible rebellion cursed our land. Let us not do it, my fellow-members. Let us, in the utmost good faith, hold up the standard where the law has fixed it, and require that vigilance shall be brought to bear to see that none shall be sworn in as members who cannot take that test-oath truthfully.

I do not assent to the proposition of my colleague from the Dayton district, [Mr. SCHENCK.] If I understood him aright, he said, in answer to a question of my other colleague, [Mr. MORGAN,] that it is left to the member's own con-

science, to determine whether he can take the test-oath.

Mr. SCHENCK. Will my colleague yield to me for a moment?

Mr. SHELLABARGER. Certainly.

Mr. SCHENCK. I did not suppose it possible for any one to misunderstand my proposition, stated in reply to the question of my colleague, [Mr. MORGAN.]

Mr. SHELLABARGER. I am very glad if I have misunderstood my colleague.

Mr. SCHENCK. The first question before the House I had spoken upon. That was as to the present status, as made apparent by any showing to the House, of the member-elect asking to be sworn in, the object being to determine the question whether he should be permitted to come forward and take the oath. In reference to this question I said that when there is some showing of apparent disloyalty, while on the other hand there is in the possession of the House knowledge which explains all that away, it is no reason for not permitting the member-elect to present himself to take the oath. Then my colleague [Mr. MORGAN] inquired of me whether I thought Colonel Stokes could take the oath consistently with that letter previously written by him. My reply was, that I was not the conscience-keeper of Colonel Stokes; that it would depend upon his own judgment whether he could take the oath or not.

There I stopped. I went no further; and now my colleague compels me, in order that I may not be misunderstood, to go a little further on this point. I think we may make a preliminary examination on a proper showing as to whether a member is willing to come forward and take the oath. After he has come forward and is taking the oath, then it is for him upon his conscience whether what he swears to is true or not. If he swears to that which is subsequently shown to be manifestly untrue, then he is to be dealt with for what he has done.

Now, in reference to the case of Judge PATERSON, I do not hesitate to say what my opinions would have been. He was anxious to take the oath, and did take it, that he had never held office in any way under the authority of the confederate government. I would have permitted him to take that oath, and if I had been a Senator I would the next moment have moved to expel him for manifest perjury committed in the presence of the Senate.

Mr. SHELLABARGER. I am glad that my colleague is not where I supposed he was, for he is a clear-headed lawyer as well as a sound statesman.

I wish to add only a suggestion or two to what I have already said. Let me say that I know nothing which could be more pernicious to the matter now under consideration than to adopt the suggestion of my colleague to permit the member claiming to be elected to take the oath, though that oath might be known to the House not to be taken in good faith, and to rely upon the power of expulsion as a punishment. It would defeat the important operation of the test-law so far as regards the organization of the two Houses of Congress. The position this House has already taken, and the position we are urged upon the other side to adhere to, is the true and only position we can take, to wit: we must exercise vigilance on the part of the House; and, as my friend sitting beside me says, the conscience of the House must be brought to bear on the question whether the oath shall be administered or not. When that is done, we secure ourselves against the very mischief the test-oath was designed to prevent. After a man has taken the oath, and is in, under the ruling, he may vote in his own case, and it will take a two-third vote to expel him.

No, sir; let us to-day do what we have done hitherto and remain firm and steadfast at the standard fixed by law. Let us not let it be departed from. If the gentleman whose case is now under consideration is objected to upon

evidence that excites fair and reasonable suspicion of the House that inquiry is proper, in the name of the country let us have inquiry. If I understood the paper read by the gentleman from New York, he charges, and doubtless in good faith, disloyalty against this man. Let us have an investigation, for I tell you this preliminary investigation is to be of incalculable value, perhaps of vital value in future organizations of the several branches of Congress. I regret most heartily, as I expressed it at the time, the bad precedent set up by the Senate in the case alluded to, and I trust it will never be again repeated.

Mr. DAWES. I yield now for a few moments to my colleague, [Mr. BUTLER,] and will then call for the previous question.

Mr. BUTLER. Having voted for the reference in the case in the last resolution, although if left untrammelled by a former precedent I should have voted against it, I desire to call the attention of the House to what seems to me a vital distinction between the Kentucky case as presented at the last session and the case as now presented by the member from New York. In the Kentucky case the House settled the principle that if a member upon his responsibility or upon sworn testimony—necessarily *ex parte*, because no hearing had then been had—would charge a member-elect about to be sworn in with present disloyalty—mark, sir, present disloyalty—the House upon that showing would refer the case to the Committee of Elections. The case at bar, however, is a very different one. The gentleman from New York, admitting that he will not make any objection upon his own responsibility, asks the House to refer the question—upon what? Upon any sworn testimony? Oh, no; but he sends to your table to be read a letter from some person, whom we know not, not verified by oath; simply an apparent exhibition of spleen and political dislike. The gentleman from New York fails to say to the House that he will vote for this reference, or that he believes in the present disloyalty of the gentleman at the bar. He gives us nothing upon his responsibility; he produces no evidence; therefore the case is presented in a very different light.

But suppose that letter were sworn to. It by no means meets the precedent, because in the Kentucky case there was testimony of present disloyalty. All this paper goes to show is that a questionable speech was made in 1861, leaving six years, during which the gentleman may have entirely repented of any disloyal sentiment he may have entertained.

In the way the gentleman from New York presents his question, one would suppose he did not believe it possible for a member of this House or anybody else to change his political views. It would hardly seem possible that a man who for years was a leader of the Know-Nothing party, persecuting Irishmen, and holding that every Irish vote was improper and anti-American, would, after a few years, be found boasting in the House of Representatives by what a majority of Irish votes he could be returned in case he should be expelled for misconduct. Now, I believe in repentance, and I am very glad that gentlemen who have heretofore been identified with the dark-lantern anti-Catholic church-burning orphan-asylum-burning party shall change round and be the leaders of the cohorts of Irishmen, if they can find any Irishmen so deluded as to follow their leadership. That is one of those things which should not disqualify them from a seat on this floor, provided their repentance is genuine.

Now, I trust the House will call upon the gentleman in all fairness to say, can you vouch for the correctness of that letter? A portion of it I see has been erased. Is there any evidence in his possession upon which he can ask us to deprive a gentleman of his position as a representative of the people, except this semi-anonymous, unvouched-for letter? No man knows from whence it comes. We find it dated in Washington, on the 12th of November, 1867, apparently got up for this purpose. By whom?

when? where? how? Who vouches for it? We are asked to have this case investigated simply upon an apparently anonymous charge as to what a man said in a speech six years and more ago. Therefore it is not within the precedent of the Kentucky case.

I agree to every word that has been said by my friend from Ohio [Mr. SHELLABARGER] as to the necessity of holding up this test-oath as the shield of the liberty of the people, and the very bulwark by which the purity of the House as to loyalty is to be protected. But there is nothing in that letter which interferes with the test-oath. The man who made that speech may well swear that he never voted to give aid or comfort to the enemies of the United States, for the speech as there reported, if true, was not of a character to afford aid or comfort to anybody. That kind of talk never did any harm except to the person using it. It harmed no loyal man, much less the country. Therefore I think a man could easily make such a speech and afterward say he gave no aid to the enemies of the country.

But the proposition to which I wished to call attention is this: we are not to be accused of inconsistency in voting in any of these members when the gentlemen who oppose their admission know no reason why they should be excluded, but propose to make some political legerdemain out of it. They want to administer a pill, as they say. Now, sir, we are not here to administer medicine to one side or the other. We are here to deal with grave matters of legislation, and the standard of the House is entirely lowered when gentlemen rise in their places and apparently standing on the dignity of their situation make assertions and asseverations against honorable men elected to this House, and then when they get through say, "Oh, I did not do that at all from any consideration of right or with the design of instructing the House, but simply for the purpose of seeing if I could catch somebody in inconsistency." We are not here for traps and catches. We are here for grave matters of legislation.

Let me say, further, that I speak in the utmost good humor. Do not let anybody accuse me of feeling otherwise than well. I am very glad some members are encouraged; they needed it. I hope they will have courage enough to meet their opponents fairly and above board. I am willing that the people shall judge of the declaration of the honorable member from New York, [Mr. Brooks,] who has declared in effect here that he does not think disloyalty, if proved, is a disqualification for this House. That is his declaration in substance and effect. I take issue with him. I think disloyalty proved, present disloyalty, and, under the test-oath, past disloyal acts tending to aid the enemies of the country, a reason for exclusion. I trust it ever will be; and I shall never lose my good temper until it is decided by the House that it is not a good reason for excluding any member now or hereafter.

Mr. DAWES. It is due to the member from Tennessee whose credentials are now before the House, Mr. Mullins, and who has no opportunity to speak for himself, that I should speak for him and at his request to this extent, to enter his complete and full personal denial of all the matters alleged in the letter which has been submitted to the House. The letter is utterly unvouched for by anybody. The gentleman is a stranger to me; but I make this statement for him because he is unable to speak in his own defense, and it is proper that he should have it submitted to the House before the vote is taken. I now call the previous question.

The previous question was seconded and the main question ordered.

Mr. WASHBURN, of Illinois. I wish to ask if that letter may be considered—

The SPEAKER. The House is acting under the operation of the previous question, and no debate is in order.

Mr. WASHBURN, of Illinois. I merely wish to ask the question of the Chair, if the letter which was read—the original letter—is not in the possession of the House?

The SPEAKER. It is in the possession of the House.

Mr. WASHBURN, of Illinois. I trust the Clerk will retain it; we may want it.

The question was then taken; and the resolution was disagreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The members-elect from Tennessee, with the exception of Mr. Butler, namely, Messrs. MAYNARD, STOKES, MULLINS, TRIMBLE, ARNELL, HAWKINS, and NUNN, then appeared and qualified by taking the oath prescribed by law.

Mr. DAWES. I move that the House do now adjourn.

The SPEAKER. The Chair will state that there are three Delegates from Territories present.

Mr. DAWES. I withdraw the motion.

#### DELEGATE FROM NEW MEXICO.

The SPEAKER. The Chair will state that he has had two papers sent to him in relation to the representation of the Territory of New Mexico, one from the Governor and one from the Secretary of the Territory. The Clerk will first read the paper sent by the Governor.

The Clerk read, as follows:

EXECUTIVE OFFICE, TERRITORY OF NEW MEXICO,  
SANTA FE, September 20, 1867.

Sir: This certifies that under the organic act and laws of the Territory of New Mexico there was held a general election on the second day of September, A. D. 1867, the same being the first Monday of said month, within the Territory of New Mexico, for Delegate to the Fortieth Congress of the United States, and that at said election Charles P. Clever received a majority of the votes cast for said office.

Now, therefore, I, Robert B. Mitchell, Governor of said Territory, do hereby declare Charles P. Clever to have been elected at said election to said office of Delegate to the Congress of the United States.

In witness whereof I have hereunto set my hand and affixed the great seal of the Territory of New Mexico, the day and year aforesaid.

ROBERT B. MITCHELL,  
Governor Territory of New Mexico.

By the Governor:

H. H. HEATH, Secretary New Mexico.

To the SPEAKER of the House of Representatives,  
Washington, D. C.

The SPEAKER. The Secretary of the Territory has furnished to the Speaker of the House of Representatives a statement that he was forced by the Governor to attest this certificate. The Clerk will read his communication.

The Clerk read, as follows:

OFFICE SECRETARY OF THE TERRITORY,  
SANTA FE, NEW MEXICO, October 1, 1867.

Sir: At an election held in this Territory on the 23d day of September, A. D. 1867, for a Delegate to the Fortieth Congress, there were cast, as returned, 17,685 votes, as follows:

For J. Francisco Chaves, 8,794; for Charles P. Clever, 8,891, such returns consequently showing said Clever to have 97 majority.

But it is believed that J. Francisco Chaves was legally elected, and for the following reasons:

Fraud in the precinct of Santa Clara, in the county of Mora, of 209 votes—the same precinct at its first election last spring casting but about 40 votes.

Fraud in the La Junta or Fort Union precinct, where the polls were carried too near the Government military reservation of Fort Union, and where the men in the quartermaster's department and teamsters voted, irrespective of citizenship or conformity to the laws of this Territory. This precinct polled, as returned, 643 votes—of which 638 were for C. P. Clever, and 5 for J. Francisco Chaves. In the first precinct named the return shows 180 for C. P. Clever, and 19 for J. Francisco Chaves.

For fraud in the sixteenth precinct of the county of Rio Arriba, where, as the evidence shows, that but 85 votes were polled in all, 464 votes are returned as having been cast; 452 of which are returned as for C. P. Clever, and 12 for J. Francisco Chaves.

These frauds, it is confidently believed, are substantiated by proof, which will be furnished herewith.

By section thirty-three of the election laws of this Territory it is made the duty of the Secretary of the Territory to give the certificate of election to the Delegate-elect. The Governor has assumed that duty, and it is held that the certificate given by that functionary to C. P. Clever has no validity in law, and is consequently invalid. The seal and signature of the under-

signed, as affixed to said certificate, were so affixed under written protest, hereto attached.

The conclusion, therefore, at which the undersigned has arrived is, that the votes of the three precincts above named, as returned, are false and fraudulent, and should be discarded; and that beings so discarded, Colonel J. Francisco Chaves is legally elected Delegate to the Fortieth Congress by a majority of not less than one thousand one hundred and three votes.

With great respect your obedient servant,

H. H. HEATH,

Secretary Territory New Mexico.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, Washington, D. C.

And to the above I have hereto affixed my hand, and set the seal of the Territory, this 1st day of October, A. D. 1867.

H. H. HEATH,

Secretary New Mexico.

The SPEAKER. The House understands the purport of the documents. The additional papers are to substantiate the statement made.

Mr. DAWES. I will make a motion, in accordance with the precedent adopted in the Colorado case last spring, in which I have no doubt both of these gentlemen will acquiesce. But whether they do or not, I believe it to be right. I move that both of these papers in reference to the seats of Delegates from New Mexico be referred to the Committee of Elections, and that neither claimant be sworn in until the committee have reported.

The motion of Mr. DAWES was agreed to, and the papers referred accordingly.

Mr. DAWES moved to reconsider the vote by which the papers were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ALVAN FLANDERS, Delegate-elect from the Territory of Washington, and JAMES M. CAVANAUGH, Delegate-elect from the Territory of Montana, then came forward and took the required oath of office.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The next business in order is resuming the consideration of the business pending at the time of the adjournment on the 20th of July last, being in relation to the report of the Committee on the Judiciary upon the subject of the impeachment of the President.

Mr. WILSON, of Iowa. I am directed by the Committee on the Judiciary to state to the House, in regard to that matter, that the report of the committee is not yet completed, but will be completed by Monday night, at which time the committee design to submit to the House the report of the committee, with the evidence and views of the minority. In making this statement I desire to say to the House that I am representing every member of the committee. It is the unanimous request of the committee that they be allowed until Monday next to make their report.

The SPEAKER. The gentleman from Iowa states that the Committee on the Judiciary will not be able to present their report before next Monday. The order of the House, made on the 20th of July last, was that the committee should report forthwith, and that order would operate now, this being the next legislative day. If there is no objection the execution of the order will be postponed till next Monday, after the morning hour.

There was no objection.

#### IMPEACHMENT OF MINISTER ADAMS.

Mr. ROBINSON. Mr. Speaker, I send to the Clerk's desk a resolution which I believe involves a question of privilege, and if so I desire to make some remarks upon the subject, either this afternoon or at some other proper time.

The Clerk read, as follows:

Whereas Charles Francis Adams, United States Minister to Great Britain, has been charged with neglect of duty toward American citizens in England and Ireland by failing to secure their rights as such citizens; Therefore,

Be it resolved, That the Committee on Foreign Affairs be instructed to inquire into the foregoing charge and to report thereon forthwith, to the end that, if the charge be true, articles of impeachment against said Charles Francis Adams may be presented by this House to the Senate of the United States; that the President of the United States be requested

to telegraph to the said Charles Francis Adams immediately, to demand his passports and to return home; that the Secretary of State be instructed to communicate to this House all correspondence to and from the Department for the two years last past on the arrest, imprisonment, trial, or conviction of any American citizen, or any person claiming to be such, in Great Britain and Ireland, without reference to its public effect, to be considered, if need be, in secret session of this House.

The SPEAKER. The Chair rules that this resolution is a question of privilege, as it proposes the impeachment of an officer of the Government.

Mr. ROBINSON. I am ready to make some remarks upon this question; but if, at this hour, the House desires to adjourn, I shall not insist upon going on at the present time.

The SPEAKER. The Chair will state that there was a question of privilege pending when the House took its recess on the 20th of July, and probably that had better be disposed of before the House enters on the consideration of another question of privilege.

Mr. ROBINSON. Allow me to say, in regard to this question of privilege, that two men, who, as I understand, would never have been sentenced if Minister Adams had done his duty, are to be hanged to-morrow or next day. By moving in this matter now we might arrest that proceeding. I simply ask that I may be heard upon the general subject at the earliest time the rules will allow.

The SPEAKER. The gentleman from New York [Mr. ROBINSON] is now entitled to the floor.

Mr. WASHBURN, of Illinois. I rise to a question of order—that one question of privilege is already before the House, and until that is disposed of another cannot be entertained.

The SPEAKER. The question of privilege pending when the House took its recess must, if it be insisted upon, be decided before this.

Mr. WASHBURN, of Illinois. I insist on it.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The question of privilege pending at the taking of the recess on the last legislative day was upon the following resolution, which was offered by the gentleman from Pennsylvania, [Mr. COVODE], and on which he moved to suspend the rules:

Resolved, That the Committee on the Judiciary be permitted, with their testimony in the matter of impeachment of the President, to present and have printed their report thereon, and also the views of the minority of the committee or of any member or members thereof.

Upon the motion to suspend the rules the yeas and nays were ordered. No quorum having voted, the gentleman from Ohio [Mr. SCHENCK] moved to reconsider the vote by which the yeas and nays were ordered. That was the pending question when the House took a recess. The gentleman from Pennsylvania [Mr. COVODE] is entitled to the floor.

Mr. ASHLEY, of Ohio. I rise to a question of order. Did not the House a moment ago, at the request of the chairman of the Judiciary Committee, [Mr. WILSON, of Iowa,] postpone this whole matter until next Monday?

The SPEAKER. It postponed the execution of the imperative order that the committee should report forthwith, which would mean to-day, this being the next legislative day after the making of the order. But the resolution is still pending. Some action must be taken in regard to it as it is the unfinished business.

Mr. INGERSOLL. Would it not be in order to move the postponement of this subject until next Monday?

The SPEAKER. The gentleman from Pennsylvania [Mr. COVODE] is entitled to the floor.

#### LEAVE OF ABSENCE.

Mr. WILLIAMS, of Pennsylvania. My colleague [Mr. COVODE] yields to me, that I may ask leave of absence for my colleague [Mr. SCOTFIELD] for a few days, he being called away by sickness in his family.

The SPEAKER. If there be no objection, indefinite leave of absence will be granted.

There was no objection.



## ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. Will the gentleman from Pennsylvania [Mr. COVODE] yield to me that I may make a motion for an adjournment till Monday next?

Mr. COVODE. I yield for that motion.

Mr. WASHBURN, of Illinois. I move, then, that when the House adjourns to-day it be to meet on Monday next.

Mr. ROBINSON. I hope not. I trust to be granted a hearing to-morrow.

The House divided; and there were—ayes 78, nays 45.

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were not ordered.

So the House agreed that when it adjourns to-day it shall adjourn to meet on Monday next.

## COMMITTEES OF THE HOUSE.

The SPEAKER stated that on Monday morning, after the morning hour, he would announce the standing committees unless the House should decide to postpone it until the meeting of the regular session in December next.

## KENTUCKY CONTESTED-ELECTION CASES.

Mr. PAINE presented papers in the contested-election case of the second congressional district of Kentucky; which were referred to the Committee of Elections.

Mr. KELLEY presented documentary testimony in the contested-election case of the fourth congressional district of Kentucky; which was referred to the Committee of Elections.

## TENNESSEE CONTESTED-ELECTION CASE, ETC.

The SPEAKER presented papers in the contested-election case of the first congressional district of Tennessee; also in the Colorado case of Hunt vs. Chilcott; and also in the Kentucky case of Samuel McKee vs. John D. Young; which were referred to the Committee of Elections.

## MISSOURI CONTESTED-ELECTION CASE.

Mr. KERR presented papers in the Missouri contested-election case of Switzler vs. George W. Anderson; which were referred to the Committee of Elections.

## REDUCTION OF THE CURRENCY.

Mr. INGERSOLL, by unanimous consent, introduced a bill to prohibit the further reduction of the currency; which was read a first and second time, ordered to be printed, and to be referred to the Committee of Ways and Means when appointed.

## EFFECT OF IMPEACHMENT.

Mr. KELSEY. I ask unanimous consent to introduce a bill declaring the effect of an impeachment by the House of Representatives of the President, Vice President, or any civil officer of the United States.

Mr. ELDRIDGE. I object.

Mr. KELSEY. I move to suspend the rules.

The SPEAKER. That motion cannot be made pending the consideration of another question.

## SPECIAL AGENTS OF THE TREASURY.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be instructed to report to this House the number of persons employed in his Department during the present fiscal year as special agents and detectives, their names, the compensation paid to each, and the locality in which they have been employed, and what amounts they have charged for their expenses.

## REPEAL OF THE TAX ON COTTON.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means, when appointed, be directed to inquire into the expediency of repealing the tax on cotton.

## WHISKY FRAUDS IN NEW YORK.

Mr. COBB. I ask unanimous consent to submit the following resolution:

*Resolved by the House of Representatives*, (the Senate concurring,) That the joint select Committee on Retrenchment be, and they are hereby, instructed to inquire into and investigate the alleged whisky frauds in the city of New York; the causes which led to the detailing of a deputy commissioner of internal revenue for duty in New York city and to the organization of the so-called Metropolitan Board of Internal Revenue; the efficiency or non-efficiency of said board and the causes thereof; the manner in which the several officers constituting said board discharged their duties respectively in the collection of the internal revenue tax, and whether any of such officers or agents have been guilty of fraud, corruption, or neglect of duty in office; that said committee report the result of such investigation, together with the testimony by them taken, to Congress; and that for such purpose the said committee shall have and possess all powers heretofore granted them for other purposes.

Mr. SPALDING. I object; it is too long.

## CENSUS OF THE REBEL STATES.

Mr. FARNSWORTH. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Reconstruction be directed to inquire into the propriety and necessity of providing for taking a census of the inhabitants of the late rebellious States which are likely soon to apply for admission into the Union, and that they report by bill or otherwise.

Mr. CHANLER. I object.

## IMPEACHMENT.

Mr. COVODE. The object I had in view in holding the floor previous to the recess was to get in the report of the minority of the Committee on the Judiciary in reference to the impeachment of the President. As the chairman has stated that both reports are to be presented I have nothing further to say, and therefore withdraw my motion.

## EXCUSED FROM COMMITTEE SERVICE.

Mr. LOGAN. I desire to be excused from further service on the joint select Committee on Retrenchment, for the reason that the duties of the Ordnance Committee are such that I have never been able to meet with the former committee but once.

No objection being made, the gentleman was accordingly excused.

## JUDGMENTS IN COURT OF CLAIMS.

The Speaker laid before the House a communication from the clerk of the Court of Claims, transmitting, in compliance with a resolution of the House of July 17, 1867, a list of the judgments that have been rendered in the Court of Claims since March 31, 1863, with the amounts, &c.; which was referred to the Committee of Claims when appointed, and ordered to be printed.

## IMPEACHMENT OF MINISTER ADAMS.

The SPEAKER. The next business in order is the consideration of the resolutions offered by the gentleman from New York [Mr. ROBINSON] in reference to the impeachment of Hon. Charles F. Adams, upon which that gentleman has the floor.

Mr. ROBINSON then proceeded to address the House. When he had spoken about ten minutes,

Mr. BOUTWELL said: If the gentleman from New York will yield, I will move that the House do now adjourn. I presume the gentleman would prefer to finish his remarks at some future day.

Mr. ROBINSON. I think it would be impossible to get a vote or a proper consideration of this subject this evening, and I therefore yield the floor to the gentleman from Massachusetts.

Mr. BOUTWELL. I move that the House do now adjourn.

Mr. MULLINS. I will ask the gentleman to withdraw that motion for a moment, and then I will ask the Chair to recognize me on a question of privilege. I will not detain the House five minutes.

Mr. BOUTWELL. I yield for that purpose.

The SPEAKER. If there be no objection, the gentleman from Tennessee will proceed.

No objection was made.

## PERSONAL EXPLANATION.

Mr. MULLINS. Mr. Speaker, my political status has been brought in issue here by a gentleman who claims to belong to the Federal Army, and it was done, first in order, by the charge made by the gentleman from New York, [Mr. Brooks.] I went to him after he had got through his remarks, making a personal charge and then generalizing it, and told him that I would like him, as my mouthpiece, to state that I denied the charge coming from that quarter charging me with disloyalty, either by act, word, or dream—that I totally denied it. The gentleman forgot, in his last remarks, to make the statement which I asked him to make as my mouthpiece; doubtless he forgot it, for he is too honorable a man not to have done it otherwise.

Now, that letter comes from a gentleman by the name of Troluger, who is a citizen of my county and whom I know. I have a letter from him written to me some time back and marked "confidential." I could not, if I had the letter here, publish it without his permission; but it fires a volley into the ranks on the other side, and shows that he looked upon me as an angel of purity, so far as loyalty is concerned, and that to me he could trust his heart. He knows that every word charged in that letter is false, and comes from the fountain that begat rebellion in that bright world above. I say, now, that never by word or deed have I put myself in harmony with that party that stood out against the Government of Washington, a Government for which my fathers fought and which they bequeathed to me, and I intend to keep it pure until we go down amid the wreck of rebellion, and then I will stand as a monument declaring that the best human government is that in which the will of the people is reflected. I want to maintain that Government and stand side by side with those who are fighting for it. That is my motto, and I never had any other on God's green earth.

It is said that I made a speech to the rebel company of one Captain James A. Moore. I made just such a speech to them as I would have made when I was a volunteer on General Rosecrans' staff at Stone river, and it dispersed their ranks and broke up the company. That is the speech I made; and this is the first mortal man in the whole record of our rebellious career in Tennessee who ever put his name to a document saying that I was a rebel by sympathy or by act. Where it comes from I leave to God, who reveals the future in the destiny of time. I know not how it was concocted and gotten up. It is astonishing to me, while this man's private letter to me throws bomb-shells on the other side and calls on me to fetch his little daughter from Tennessee under my care to him here; but I could not do it. I denounce every word of that letter as wholly untrue in any shape, sense, or form.

Mr. Speaker, I owe an apology to the House, and I ask its forgiveness for getting up before I was sworn in and asking the gentleman from New York to state to the House what I have now stated. I ask pardon for thus infringing the rules of the House.

I wish to state further that when Governor Brownlow was brought from East Tennessee through Bedford county, when the retreating confederates were there in untold thousands, when I saw him in a carriage under guard and in the midst of the rebels, I stood in the street and waved my hat and hurraed for Brownlow, and was threatened with death for it.

I will say, gentlemen, that I was the last man in Tennessee that ceased talking for the Government; that I stood before the people with fire-arms on the stand and made speeches to them, and that I was the first man to hail the flag with cheers when on the 27th of March it floated once more in triumph in my county. Then it was that the Federal cavalry came in under the lead of Buell. Captain King, of an Ohio regiment—Ohio, the grand Buckeye State—was there. He knows well that I mounted the rostrum when the stars and stripes were

first given to the breezes of Heaven and gave vent to the rejoicing impulses of my nature, and as its folds floated forth in the sunlight the tears dropped like showers of rain from my eyes. This is the real feeling of Tennessee. This is what will carry the ship of state booming along amid the clouds and storms of rebellion, under whatever guise they may come.

I ask pardon of the House for thus taking up their time, and will say no more.

Mr. BOUTWELL. I now renew the motion to adjourn.

The motion was agreed to; and accordingly (at four o'clock p. m.) the House adjourned till Monday next.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. KELLEY: Evidence on behalf of George D. Blakey, contestant of the election returns of the third district of Kentucky.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rule:

By Mr. ELIOT: A bill pledging the faith of the United States to the payment in coin of certain public securities known as five-twenty bonds.

By Mr. FERRY: A bill to rearrange the boundaries of the customs district of Michigan.

By Mr. JULIAN: A bill amendatory of the pre-emption laws of the United States, and for other purposes.

By Mr. SPALDING: A bill entitled "A bill granting registers to the bark Thermis and the schooners Wirilita and Etowah, of Cleveland, Ohio."

Also, a bill to establish a navy-yard at Cleveland, Ohio.

#### IN SENATE.

MONDAY, November 25, 1867.

The Journal of Thursday last was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of William B. Whiting, captain United States Navy, praying Congress to confer upon Rear Admiral Charles Stewart the title of admiral upon the retired list; which was referred to the Committee on Naval Affairs.

Mr. POMEROY presented a petition of citizens of the United States residing in the State of Massachusetts, praying for such legislation as will secure to woman equal suffrage with man in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. DAVIS presented a petition of Elizabeth Carson, praying compensation for food furnished to prisoners confined in the Bourbon county jail, in Kentucky, by order of the military authorities, from August, 1862, to the latter part of 1865; which was referred to the Committee on Claims.

Mr. WILSON presented a petition of citizens of Mississippi, praying that W. G. Vaughan, a delegate-elect to the constitutional convention in that State, may be relieved of his disability, in order to take his seat; which was referred to the Committee on the Judiciary.

He also presented a petition of Eugene McCaa, of Alabama, praying for the passage of an act relieving him from taking the oath prescribed by the act of Congress approved July 2, 1862, and that he may be allowed to hold any office to which he may be elected or appointed; which was referred to the Committee on the Judiciary.

He also presented a petition of Mary C. Ringgold, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented a memorial of W. G. Dix, protesting against the recognition of the Ottoman Empire as a right and lawful Government; which was referred to the Committee on Foreign Relations.

#### CONTUMACIOUS WITNESS.

Mr. EDMUNDS, from the joint select Committee on Retrenchment, reported the follow-

ing resolution; which was considered by unanimous consent, and agreed to:

Whereas Edward E. Dunbar, of the city of New York, having appeared before the joint select Committee on Retrenchment, raised by concurrent resolution of the two Houses on the 11th day of October, 1867, and having been sworn, and having given certain testimony touching the matters of inquiry referred to said committee, and in the course of such testimony having stated that certain material facts stated by him upon information were communicated to him by various persons, and he having thereupon been asked and required to communicate to said committee the names of such persons, and he having thereupon, in contempt of the authority of said committee and of the two Houses of Congress respectively, wholly refused so to do; Therefore,

Resolved, That the President *pro tempore* be, and he is hereby, authorized and required to issue his warrant to the Sergeant-at-Arms of the Senate, commanding him to arrest the said Edward E. Dunbar wheresoever he may be found, and have his body at the bar of the Senate, to answer for said contempt.

#### CAPTURED AND ABANDONED PROPERTY.

Mr. EDMUNDS. I am instructed by the joint select Committee on Retrenchment to report a joint resolution to require the payment of certain moneys into the Treasury of the United States, and to ask for its present consideration.

The joint resolution (S. R. No. 67) was read twice by its title.

Mr. SHERMAN. Let the resolution be read at length.

The Secretary read the joint resolution, which provides that all moneys which have been received by any officer or employé of the Government, or any Department thereof, from sales of captured or abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not been already actually covered into the Treasury, shall be immediately paid into the Treasury, together with any interest which has been received or accrued thereon.

Mr. SHERMAN. I do not know that I have any objection to the resolution; but at the same time I think it had better lie over until to-morrow, so that we may have time to examine it.

Mr. EDMUNDS. There is no objection to its going over if any Senator wishes that course to be taken; but I hope the resolution will be printed in the mean time.

The PRESIDENT *pro tempore*. It will be printed, as a matter of course, under the rules.

#### BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 68) exempting goods imported on the second, third, and fourth days of March, 1867, from the operation of the act entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March 2, 1867; which was read twice by its title, and referred to the Committee on Finance.

#### MESSENGERS AND PAGES.

Mr. NYE. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary be, and he is hereby, authorized to pay the salaries now due the special messengers and pages retained during the recess by special resolution out of the contingent fund of the Senate, or any fund not otherwise appropriated.

The Senate will recollect that a resolution was passed on the last day of the session in July—

Mr. CAMERON. I think this resolution had better lie over until to-morrow.

Mr. NYE. I understand that the Senator from Pennsylvania desires to include the clerks of committees. I shall have no objection to that amendment if he moves it.

Mr. EDMUNDS. The resolution had better lie over. I ask that it lie over.

The PRESIDENT *pro tempore*. The resolution will lie over, under the rules.

#### PAPERS WITHDRAWN.

On motion of Mr. HARLAN, it was

Ordered, That Alexander J. Atocha have leave to withdraw his petition and papers.

On motion of Mr. EDMUNDS, it was

Ordered, That Henry E. Morse have leave to withdraw his petition and papers.

On motion of Mr. MORGAN, it was

Ordered, That the petitions and documents of Charles J. Jack, praying compensation for services rendered as counsel in defending certain officers, sailors, and marines before the naval general court-martial at the navy-yard in Brooklyn, New York, in 1864 and 1865, be taken from the files and referred to the Committee on Claims.

#### UNITED STATES OF NORTH GERMANY.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if this can be done compatibly with the public interest, any official information which may have been received in regard to the formation and the functions of the Government of the United States of North Germany.

#### REDUCTION OF MILITARY FORCE.

Mr. MORELL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of an immediate reduction of the standing military force of the United States.

#### VOLUNTEERS FOR THE PLAINS.

Mr. ROSS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the necessity of providing for the enlistment of volunteers for a limited period for the preservation of the peace on the plains, and to report by bill or otherwise.

#### USE OF HALL FOR A LECTURE.

Mr. SUMNER. I offer the following resolution, on which I ask the action of the Senate now:

Resolved, That the Senate Chamber be set apart for a lecture from Rev. Newman Hall on the evening of Tuesday, the 26th of November.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution? The Chair hears none. The question is on agreeing to the resolution.

Mr. TRUMBULL. Before that resolution passes, I ask that the rule of the Senate on the subject be read. I think there is a rule in reference to it.

The PRESIDENT *pro tempore*. There is no rule on the subject, but there is a resolution of the body.

Mr. TRUMBULL. I thought there had been some action.

Mr. SUMNER. I will read to the Senate what there is. There is no rule, but there is a resolution. The Senate will remember that there was an effort to secure the Chamber for the use of Mrs. M. C. Walling, and after some discussion it was granted in the following resolution:

"Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address, on Thursday evening, the 10th instant, the floor of the Chamber to be for the exclusive accommodation of members of the Senate and House of Representatives, and their families; and that hereafter the Senate Chamber shall not be granted for any other purpose than for the use of the Senate."—*Senate Journal*, May 8, 1866.

You will observe that this provision relating to the "hereafter" was put on as a sort of rider to the concession of the Chamber for that evening. It is in the nature of a vote by the Senate, and, of course, may be rescinded or modified at any time. I think there can be no objection now.

Mr. TRUMBULL. Mr. President, I confess that it is approaching me in rather a tender point when the Senator from Massachusetts proposes to give the use of the Hall to the distinguished gentleman named; but that Senator is quite as well aware as I am that when we commence opening the doors of the Chamber for lectures we cannot stop it. The Senate, very solemnly as I understood, decided some time ago that the Chamber should not be used except for the business of the Senate. If there could be any occasion on which I would be willing to open the doors for any other pur-

pose, it would certainly be to receive and listen to a distinguished gentleman from a foreign country who has borne so conspicuous a part in his native land in standing up for the rights of America and for the cause of humanity; and I am rather sorry than otherwise that the Senator from Massachusetts should have presented the resolution. This Chamber is not a very large one. It will not accommodate the throng that would like to listen to that gentleman. Some larger room would accommodate the public much better. I shall not interpose a single objection to the consideration of the resolution, but I wish to say to my fellow-Senators if you commence opening the doors in this way you will find it very difficult to close them. I should much prefer that the Senator from Massachusetts had not presented this resolution. If the Senate think proper to pass it, of course the doors will be opened, and we shall have these applications constantly.

Mr. FRELINGHUYSEN. Mr. President, I think, since this resolution has been offered, it would be very unfortunate for us to refuse to grant the use of the Senate Chamber to Mr. Hall, and in fact I was in favor of the presentation of the resolution. He has borne, as we all know, a very distinguished part as our friend in England; and whatever may be our view with reference to the conduct of the English Government, it is desirable to hear from him the sentiments of the plain people of England, as Mr. Lincoln called them. And as to the precedent, it seems to me that that whole matter will be relieved by adopting a rule, if it is desirable, after this, such a rule as they have in the House of Representatives preventing any application of this kind. There is no such rule existing now, and therefore this need not be a precedent to violate a rule. I hope that this application will be granted, and then such a rule be adopted as there is in the House of Representatives, which precludes them from suffering that room to be used on such occasions.

Mr. CAMERON. I have the very highest respect for the character of the gentleman who proposes to lecture here, but I cannot consent by my vote to invite him to come and occupy the Senate Chamber for an address. If we once establish a precedent of that kind we shall never get clear of it. We cannot admit into this Chamber, when the Senate is in session, the most respectable citizen of any one of our States. If we allow this gentleman to lecture in this Chamber, after a while somebody else quite as respectable in our own country will ask the same privilege, and if objection be made to it we shall give offense.

There is no necessity for this gentleman's coming to this Chamber to lecture. If it is intended to compliment him, I for one will very willingly contribute my share toward renting a hall, the best in the town; nay, I will pay one half the cost, if necessary. Let us go to hear him in one of the churches or one of the public halls; but let us keep this Senate Chamber for what it was intended—for the deliberations of Senators, the representatives of the States of the Union. Why, sir, imagine what would be said to any gentleman, no matter how distinguished in this body, who should go to London and ask to deliver a lecture in the House of Lords! He would be hooted at. We do not detract anything from our respect for this gentleman by refusing him this Chamber for the purpose of speaking to us; and I hope we shall not pass this resolution. I think the rider attached to the last resolution of this sort was a wise one, because it gave notice that from that time forth no more such applications should be granted.

Mr. POMEROY. I suppose I voted for the resolution which has been read, though I do not remember whether I did or not. I certainly shall vote for this resolution even if it is in conflict with that. The Senate cannot bind itself not to reconsider or repeal any action it may have taken in the past. I can always trust myself, and I believe every member

of the Senate feels as I do about it, to vote for or against any question that comes up; and if this is a precedent for improper applications in the future all we shall have to do will be to vote against them. For one, I could not feel justified in voting against a proposition to hear Rev. Dr. Hall. Even if such a thing could not be allowed to an American citizen in England we are rather more democratic than they are, and there is no peculiar sanctity or sacredness about this room that would be injured by an address from Dr. Hall.

I am glad that the Senator from Massachusetts has introduced this resolution, and I shall vote for it. That will not commit me to vote for another one to-morrow. If I choose, I shall vote against the use of the Chamber to-morrow for some other purpose. Each case should stand on its own merits, and no Senator should feel embarrassed or tied up by any former precedent or vote he may have given. We can always trust ourselves to vote for or against any measure that comes up when it comes. "Sufficient unto the day is the evil thereof."

Mr. SUMNER. The Senator from Pennsylvania reminded us that a similar application for an American to speak in the Chamber of the House of Lords would be rejected; and I believe he used even stronger language. I have no doubt it would be; but that is no reason why we should reject such an application here. I believe that the Senator in this remark has touched to the very quick an essential difference between the two countries. In England a chamber like this is not open in any way to the public. I rejoice to believe that here, in our country, a chamber like this may be open to the public. Clearly, there is no rule against it. This is the admission of all Senators. If there were a rule, I should not seek to encounter it. The use of the Hall may be given by a simple vote of this body. There is no rule in the way.

Is there any reason, then, why it should not be given? We are reminded by the Senator from Illinois that it will be a precedent which will open these doors wide to a long line of speakers. I do not see it so. We always have the command of the doors. The doorkeepers are ours. The doors can never be opened except by our will. It seems to me, therefore, that the suggestion of my friend from Illinois should not prevail; it is not well founded. There is no danger in this precedent. There is no reason to fear that it will be made the occasion of repeated applications hereafter. Let each case be judged on its own merits. If, hereafter, another person of equal merits shall appear here, or a request shall be made in his behalf, then it will be for the Senate to consider it.

I need say nothing here of the beautiful and persuasive eloquence of this distinguished gentleman, or of his constancy in the support of our cause during its most perilous days in England. These are well known to all the Senate. It is, however, these circumstances which make this case exceptional. Do not be anxious about the precedent. You can always control it hereafter; and even if it be recognized as a precedent it will only be where you have opportunity to welcome a gentleman of such commanding character and influence, to whom we are all under such just obligations as we are to this stranger from another land, who comes with a message of peace.

Mr. TIPTON. I desire simply to say that, whatever may be our wishes in this behalf, it must be known to all Senators that this Hall will not accommodate the members of the Senate and the members of the House of Representatives, with other privileged persons in the city. It is utterly impossible to accommodate them in the Senate Chamber. Senators then will have to vacate their own seats, and leave their own families; for it is understood that every Senator has a wife or two female friends, and as a matter of course we expect to come here with our wives or our female friends. I am not willing to be separated from my wife any more than other Senators are

willing to be separated from their female friends on such an occasion. Thus we with our families would occupy the body of the Chamber, and be compelled to exclude the members of the House of Representatives. It ought to be a sufficient objection to opening the Hall, as I apprehend, that its capacity is not sufficient to accommodate those who are primarily entitled to come here.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. SUMNER. Let us have the yeas and nays upon it.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. SHERMAN. I am requested by the Senator from Missouri [Mr. HENDERSON] to state that in consequence of his official connection with the Indian commission he will not be able to be here until the latter part of this week. As he is engaged in official business I presume it is unnecessary to ask leave of absence for him.

The result was announced—yeas 10, nays 27; as follows:

YEAS—Messrs. Anthony, Chandler, Frelinghuysen, Morrill of Maine, Morton, Nye, Pomeroy, Sumner, Wade, and Wilson—10.

NAYS—Messrs. Bayard, Buckalew, Cameron, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Grimes, Harlan, Johnson, Morgan, Morrill of Vermont, Norton, Patterson of Tennessee, Ramsey, Ross, Sherman, Tipton, Trumbull, Van Winkle, Willey, and Williams—27.

ABSENT—Messrs. Cattell, Conkling, Cragin, Drake, Ferry, Guthrie, Henderson, Hendricks, Howard, Howe, Patterson of New Hampshire, Saulsbury, Sprague, Stewart, Thayer, and Yates—16.

So the motion was rejected.

#### BILLS REFERRED.

On motion of Mr. WILSON, the bill (H. R. No. 127) in relation to additional bounty, and the joint resolution (H. R. No. 80) concerning the government of the Army of the United States, were taken from the table, read a second time, and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. WILSON, the following joint resolutions were taken from the table, read twice, and referred to the Committee on Military Affairs and the Militia:

A joint resolution (H. R. No. 53) tendering the thanks of Congress to Major General Philip H. Sheridan;

A joint resolution (H. R. No. 54) tendering the thanks of Congress to Major General Daniel E. Sickles;

A joint resolution (H. R. No. 55) tendering the thanks of Congress to Major General John Pope;

A joint resolution (H. R. No. 56) tendering the thanks of Congress to Major General John M. Schofield; and

A joint resolution (H. R. No. 79) relative to the purchase of Hall's carbines.

On motion of Mr. SHERMAN, the bill (H. R. No. 145) in relation to the district court of the United States for the northern district of Ohio was taken from the table, read twice, and referred to the Committee on the Judiciary.

#### ADJOURNMENT.

Mr. TRUMBULL. I move that when the Senate adjourn to-day it be to meet on Thursday next. ["Thanksgiving!"] It has occurred to me that that is the day set apart for national thanksgiving. I withdraw the motion.

Mr. FESSENDEN. I wish to suggest that sometime during this month it would be well to take some action as to the day of final adjournment of the present session, and I think that ought to be done pretty early. We had better settle when we shall finally close this session, and that must be done by joint action of the two Houses.

Mr. TRUMBULL. I think we had better meet to-morrow, and perhaps we can then settle that question. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, November 25, 1867.

The House met at twelve o'clock m. Prayer by Rev. Newman Hall, of Surrey Chapel, London, England.

The Journal of Thursday last was read and approved.

## REPRESENTATIVE FROM KENTUCKY.

The SPEAKER. The first business in order is the calling of the States and Territories for bills and joint resolutions for reference. The Chair will, however, lay before the House the certificate of an election in the State of Kentucky since the action of the House last July in regard to the Kentucky delegation.

The Clerk read as follows:

STATE OF KENTUCKY,  
OFFICE OF THE SECRETARY OF STATE,  
FRANKFORT, August 26, 1867.

The undersigned, a board for examining the returns of the election held the 5th day of August, 1867, hereby certify that J. S. Golladay received a majority of the votes given in the third congressional district of the State of Kentucky for the office of Representative in the Fortieth Congress of the United States, and is therefore duly elected to that office for the term prescribed by the Constitution; which election was held in accordance with the Constitution and laws of the United States and of the State of Kentucky.

THOMAS E. BRAMLETTE,  
Governor.

JOHN M. HARLAN,  
Attorney General.

W. T. SAMUELS,  
Auditor Public Accounts.

Mr. DAWES. I would inquire if that is the district to represent which the late Mr. Hise was originally elected, or claimed to be elected?

The SPEAKER. That is the district.

Mr. DAWES. I will state to the House that there is pending now before the Committee of Elections the application of a gentleman who claims to have been elected at the time the certificate was given to the late Mr. Hise. I do not know the merits of the claim. If it be a valid one, then of course this election of Mr. Golladay could not have been a valid election. That case is pending; it is the subject of inquiry and the taking of testimony. I suppose this gentleman would be also interested in the hearing of that case, because if it be decided one way it would put an end to his claim.

It seems to me it would be the proper way to have these credentials referred, in the first instance, to the Committee of Elections, in order that the whole matter may be examined and reported upon at one hearing. I therefore move that, before this man be sworn in, these credentials be referred to the Committee of Elections, and that he be not sworn in until report upon the case be made.

Mr. ADAMS. I desire in this case to call the attention of the House to the fact that Mr. George B. Blakey claims to have been elected a member of the Fortieth Congress at the May election in Kentucky. He, however, has not the certificate of election. Mr. Golladay, who comes here claiming the seat, has the certificate of election.

In order that the House may know how to act upon this matter I wish to make a brief statement, which I think will set forth the facts so plainly that the House will understand them. They are few and simple:

In May last, at the regular election in Kentucky for Congressmen, Mr. George B. Blakey was a candidate against Judge Hise, who was a former member of Congress. At that election, as the returns show, Mr. Blakey received about 1,200 votes, and Judge Hise received 7,700 votes, showing a majority in favor of Judge Hise of over 6,000. Shortly after the election, however, and before the certificate was awarded to Judge Hise, or to any one else, Judge Hise died. Dr. Blakey then made the point before the board at Frankfort whether or not he was entitled to the certificate of election, on the ground that Judge Hise had died before the certificate had been issued to him; not setting up the ground that he would have been entitled to it had Judge Hise lived, but

admitting that Judge Hise had been legally elected, that had he lived he would have been entitled to the certificate, and basing his claim upon the contingency of Judge Hise's death, and that he had obtained the next largest number of votes.

Now, sir, Mr. Blakey was not the choice of the district. Whether Judge Hise would have been prevented from taking his seat had he lived, it matters not; in any event, Mr. Blakey would not have been entitled to the seat. I know not upon what ground Dr. Blakey now bases his claim. I know that at one time he based it upon the ground that Judge Hise had died without receiving the certificate. But whatever may be the ground of his claim at present, I know the Constitution of the United States says in emphatic terms that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States;"

and I know Dr. Blakey was not so chosen. On the contrary, the district has given emphatic expression of opinion to show, not only that it did not choose Mr. Blakey then, but that the probability is that it would never choose him. Out of about nine thousand votes he received only about twelve hundred votes.

But, sir, while I think the House might, upon this statement of facts, decide now who is entitled to the seat, I ask the admission of Mr. Golladay upon a different ground. I do not ask that the House shall this morning, unless it feels so disposed, settle the final issue; I simply claim that Mr. Golladay is the accredited, authorized member, and is therefore entitled to be admitted to a seat. Whether he shall ultimately be declared entitled to the seat is another question. Mr. Golladay, however, comes here as the member-elect, bearing the certificate of election, and as such he is, in my view, entitled to be sworn in pending the contest, if there is to be a contest. The ground I take in the matter is that the man coming here accredited with the certificate of election is entitled to the seat pending the contest, unless there be objection in regard to his personal qualifications; and I presume there is no such objection in this case.

In support of this opinion I read from a report made last July by the Committee of Elections, of which the gentleman who has made this motion to refer is chairman:

"But all charges touching the disloyalty of a constituency in a State in which loyal civil government was not overthrown during the late rebellion, or the illegality of an election, are matters which pertain to a contest in the ordinary way, and should not prevent a person holding a regular certificate from taking his seat."

This was a report made by the gentleman who was last up, [Mr. DAWES;] this is the opinion which he then expressed in this body. The case which I present to-day is one exactly similar to that. Mr. Golladay holds the certificate of election. The opinion of the gentleman from Massachusetts [Mr. DAWES] in the report from which I have just read was that any person holding a certificate should be allowed to take his seat, and that any question as to the irregularity or informality of the election, or the disloyalty of the constituency, or any other matter of that kind, is to be decided in a contest. I hope that the House will adhere to the opinion expressed at that time by the Committee of Elections, and that the gentleman from Massachusetts, in view of the opinion which he then expressed, will withdraw the motion which he has made. I hope that Mr. Golladay, who comes here duly accredited as a member, bearing the certificate of election, will be permitted, in accordance with the usages of the House, to take his seat, however the House may ultimately decide any questions raised in the form of a contest.

Mr. PAINE. Mr. Speaker, this is a case to which I had occasion to call the attention of the House at a former session of this Congress. It has this peculiarity: Mr. Hise, formerly a member of this House, to whom the Governor of Kentucky issued a certificate as

having been elected to represent his district in this Congress, died without taking his seat, and, as I am informed, without receiving the certificate. Dr. Blakey came before this House, not for the purpose of contesting Mr. Hise's seat—as he would have done if Mr. Hise had lived, but to claim that he was duly elected by the people of that district. Now, we had provided by law rules for a contest where the member claiming the seat under the certificate had been admitted to it; but we had no rules for a case of this kind, where the claimant under the certificate was dead, where no person presented himself as entitled to the seat under the certificate. Accordingly, at a former session of this Congress, we made rules—as we had a right to do—for the trial of this particular case; and we submitted this case to the Committee of Elections, to be examined by them.

That committee has been taking testimony in this case in the State of Kentucky. I do not know what that testimony is; I have not yet had an opportunity to examine it. But I know, as I presume all the members of this House will readily see, that this is not the occasion to investigate the merits of that case as between Dr. Blakey and the gentleman to whom the certificate was first given by the Governor of Kentucky. But it is very plain that until that case shall have been decided we do not know whether there has been any vacancy or whether there will be any vacancy in the representation of that district. It is true that the Governor of Kentucky has assumed that there was a vacancy; that there was no one entitled under the former election to a place on this floor as a Representative of that district; he has ordered a new election and has given a new certificate. But it seems to me that it would be exceedingly improper to withdraw the case from the hands of the Committee of Elections, to whom it has been already intrusted, because of the Governor of the State, assuming that there was a vacancy, has ordered a new election and has issued another certificate.

Now, it is not true that in this House Dr. Blakey claims his seat because Mr. Hise is dead. On the contrary, as I had opportunity to know, having given attention to it at a former session of Congress, he claims his seat upon the ground of having received a majority of the legal votes cast at that election. He does not claim to have received a majority of the votes actually cast, but he does claim, whatever may have been said in Kentucky—he does claim here, sir, as I know, having read the document he has presented here, to have received a majority of the votes legally cast in that district at a former election; and he has undertaken to prove that before the subcommittee sent to Kentucky to investigate his case, among others. I think until that testimony is heard, until the report of the committee is received, until the case then made is known and submitted to the committee, we ought not to admit a new Representative from this district on this floor.

Mr. DAWES. I demand the previous question.

Mr. ADAMS. Let me make one more remark before you call for the previous question.

Mr. DAWES. Certainly.

Mr. ADAMS. The gentleman from Wisconsin seems to have misunderstood the point I intended to make in the matter. There are here two persons claiming a seat from that district in Kentucky, one having a certificate from the proper authority in the State of Kentucky, and the other having no such certificate. I do not propose, as the gentleman from Wisconsin seems to imagine, to withdraw this case from the Committee of Elections. Let it go to the committee. Let the committee go on and consider the matter, but pending the consideration of the matter, until it shall be decided who is entitled to the seat, I ask that the member who comes here as the authorized member, having the certificate, shall be admitted, and



that the rule which has always been observed, a rule which the chairman of the committee, among others, committed himself to last summer, shall in this case be observed, as in all other cases.

Now, the proposition, so the gentleman may not be again mistaken, and so the House may understand it, is this, not that this matter may be finally decided this morning, not that the House shall take it from the consideration of the Committee of Elections, but that the member who appears here holding the certificate shall be sworn in and admitted to this House as all others are unless on the ground of personal disqualification, and I hear of no such ground as that. The question is shall he be admitted as a member bearing the certificate, and shall his certificate be referred and let the committee and the House determine as other like cases have before been determined?

Mr. Speaker, it does seem to me, and I ask this House whether, if Dr. Blakey came here claiming a seat and bearing the certificate, he would not be admitted. If so, ought not Mr. Golladay to be admitted? The question in this is simply as in all others where there is a contest and two men are claiming a seat, one having the certificate and the other not having it; and let this case go as all other contested cases have gone, and in the way in which the committee reported last year they thought they ought to go. And to refresh the recollection of some gentlemen, and particularly of the chairman of the committee who does not seem to have read it recently, I will again give the opinion entertained by the committee in July last:

"All charges touching the disloyalty of a constituency in a State, or the legality of an election, are matters which pertain to a contest in the ordinary way, and should not prevent the person holding the regular certificate from taking a seat."

The point made by the member from Wisconsin was this: that Dr. Blakey did not receive a majority of the votes cast, but that he did receive a majority of the legal votes. The opinion of the committee as then expressed was that the question of the legality of votes cast or of the loyalty of constituents was one that should be referred to the committee to be determined in the regular way, and should not prevent the member holding the certificate from taking his seat.

Mr. Golladay presents himself here to-day as a member-elect holding that certificate. I ask that he may be permitted to take his seat, and that the matter be then referred, with his credentials, if necessary, to the Committee of Elections. Pending the examination let him be allowed to be sworn in and take his seat, and then let the question be decided by the committee. There is no proposition to disturb the matter. Let Mr. Golladay hold his seat until the question is finally determined whether he is entitled to it or not.

Mr. DAWES. Mr. Speaker, I have no occasion to qualify anything set forth in the report made at the last session, which has been read by the gentleman from Kentucky. I think that report covers the present case, and what embarrasses the gentleman from Kentucky this morning, in my opinion, is his failure to make the application of it to this case. The question whether Mr. Blakey was entitled to be sworn in was one that was before the House at the last session. He claimed to be the regularly chosen member from the third district in Kentucky. The House referred the question to the Committee of Elections and instructed the committee, according to a rule it then laid down, to investigate the question whether Mr. Blakey was then, at that time, a duly elected member from the third district of Kentucky. Since that decision of the House the Governor of Kentucky has assumed to say that Mr. Blakey was not elected, and that this proceeding of the House of Representatives was without foundation and must stop, because he ordered an election to fill a vacancy, the question whether a vacancy existed or not being now investigated before the House of Representatives. And he, by a subsequent proceeding, furnishes another

man with a certificate of election grounded upon an election, I suppose, according to the forms of law in Kentucky.

Now, Mr. Speaker, this is a case that has no precedent in any of the cases that have occurred heretofore. Pending a man's claim to a seat, pending an investigation of the legality of his election, there comes in a matter of fact which has occurred since that election has taken place. It is true that it is covered by the form of a certificate from the Governor of Kentucky, but it is not a certificate in the ordinary form, in this, that it certifies that a man has been elected at a special election, to fill a vacancy that has occurred since the regular election, and while there is pending before the House of Representatives the question whether there did occur any such vacancy since the regular election.

Now, sir, while anything which I had the honor to say in that report is entirely sound, I do not see how it is possible to apply the rules laid down there to this case without foreclosing Dr. Blakey from any further investigation of the question of a vacancy existing at that time. I express no opinion at this time upon the merits of Dr. Blakey's claim, nor upon the merits of the claim of the other gentleman.

Mr. BINGHAM. Will the gentleman allow me to inquire of him whether, if this party now holding the certificate be sworn in, with an order that his credentials be referred to the Committee of Elections, and with his right to a seat dependent upon its final decision upon the question of a vacancy, the question is foreclosed at all?

Mr. DAWES. My answer to the gentleman is this: that if you swear this man in and refer his credentials to the Committee of Elections, and there stop, what has the committee to do with the matter? There is where the gentleman from Ohio stops. The committee is now going on with the investigation of the previous case, according to a rule which the House itself, not the committee, prescribed. We go on with that investigation, these credentials lying on our table, with no instruction on the part of the House to touch these credentials, if we stop where the gentleman from Ohio stops. But we decide, for instance—I do not say there is the slightest reason to suppose we shall so decide, but the fact that it is referred to us to examine and report gives the occasion and the opportunity to so decide—we come in and decide, upon the investigation now pending and the testimony now taken, that Mr. Blakey is entitled to the seat, thereby putting two men into the same seat, which, according to the laws of natural philosophy, is an impossibility, because no two such bodies can occupy the same seat at the same time.

I have no care about this matter at all; but I see what an awkward predicament the House would be placed in if perchance the committee should report that Mr. Blakey is entitled to the seat by virtue of the investigation in which this man has had no hand, no opportunity for a hearing, while he has been at the same time occupying a seat. Therefore, I think the safest way is to refer this gentleman's credentials to the committee and let them consider it along with the other cases, and make but one report. It will decide either that Dr. Blakey or this gentleman, Mr. Golladay, is entitled to the seat, and that ends the matter. I will now yield to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I desire simply to ask the gentleman from Massachusetts a question, and it is this: if the validity of the applicant's credentials must not depend upon the fact whether a vacancy exists, and if no vacancy is found to have existed at the time when he was elected, if that does not decide precisely the question which the gentleman says would involve us in the difficulty of having two men in the same seat at the same time?

Mr. DAWES. I thought I answered that question. We have pending before us a case. It is the case of Dr. Blakey, claiming to have been elected from Kentucky at a certain time

to a certain seat in this House. We are hearing him. The House has prescribed how he shall take his testimony. He has taken it. It is before the committee. Suppose the committee come in here, for instance, and report that Dr. Blakey was at such a time elected to this seat and the House should see fit to adopt that report, the report itself and the adoption of the report would not exclude either man; or if it would exclude Mr. Golladay, it would work manifest injustice to him, because his case would have been decided without an opportunity for a hearing on his part; and therefore justice to him requires that he should be made a party, an interlocutory party, so to speak, a party having his right in consequence of something which has happened since the last continuance of the case.

Mr. ELDRIDGE. Cannot that as well be done while he is occupying his seat under the credentials with which the sovereign State of Kentucky has sent him here?

Mr. DAWES. I do not know but it may; I do not mean to say that it may not. I now yield to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. Mr. Speaker, I desire, in the first place, to correct what seems to be a misapprehension on the part of the gentleman from Wisconsin [Mr. PAINE] on the subject of the duties of the sub-committee of the Committee of Elections which went to Kentucky to investigate certain cases. He seems to suppose that it was part of the duty of that sub-committee to investigate the claim of Dr. Blakey to the seat now in controversy. That is a mistake. It was no part of the business of that sub-committee to investigate this case, and they did not in any degree whatever investigate the case or give any attention to it at all. They did not take one word of evidence on this subject; they did not consider it at all; indeed, it was not before them.

Now, Mr. Speaker, it seems to me that the difficulty suggested by the honorable member from Massachusetts [Mr. DAWES] in no way involves a necessity on the part of this House of establishing a new or different rule from that which ordinarily governs and regulates cases of this kind, to wit: that the member having a *prima facie* title to the seat shall be permitted, pending the contest, to be sworn in, and to occupy the seat. Now, applying that rule to this case, it becomes apparent to every gentleman that Mr. Golladay is the person occupying that relation before the House now. He comes here in possession of a *prima facie* title to this seat. He comes here with credentials upon their face regular, in due form, and attesting a regular and legal election.

Now, it is suggested that if this gentleman is allowed to be sworn in and to keep the seat pending further controversy about it the House may be involved in the singular anomaly of having at the same instant of time two men entitled to the same seat. But that cannot result at all, sir, for the very obvious reason that if Mr. Golladay is permitted to occupy this seat pending the contest the moment that contest is determined by the action of the appropriate committee of the House, and their action is approved by the House, if it be against Mr. Golladay, he must retire from the seat and Dr. Blakey must take it. But is it not as necessary in this case as in any other case that there should be a contestee as well as a contestant? Who is the contestee here? Judge Hise is dead; he is not here to contest the right to the seat with Dr. Blakey. Who then is now interested as contestee or in any other capacity? Certainly, Mr. Golladay. Nobody else has any interest now in this seat except the people of Kentucky. Mr. Golladay is the only gentleman besides Dr. Blakey who is entitled to come here and claim this seat. He comes here in the possession of a *prima facie* title, while Dr. Blakey comes here in possession of no shadow or color of title. It seems to me, therefore, that the rule and precedents require the House to suffer this gentleman to be sworn in and occupy the seat, and that Dr. Blakey shall be allowed to contest with him the right to the seat. The fact that Mr. Golla-

day's claim has intervened since the origin of the case of Dr. Blakey cannot change the legal relations of the parties to the House. Suppose that Dr. Blakey should be allowed to go on and make his case as well as he can, would that be doing justice to Mr. Golladay, who has a *prima facie* right to occupy the seat here, or to the State of Kentucky, to refuse him the right to be heard in connection with the case of Dr. Blakey? It appears to me that upon every principle of justice, and every precedent established by the House during the last fifty years, the regular course would be to allow Mr. Golladay to occupy the seat pending the contest; he then becomes the contestee, and let Dr. Blakey go on as the contestant and make out his case. And then, when the committee decide the one case they will also decide the other, and the controversy will be ended, and no injustice to either party can be done pending the contest.

It is clear that Mr. Blakey is not now entitled to be sworn in. It is clear, as a *prima facie* case, that Mr. Golladay is entitled to be sworn in. I submit, therefore, that the positions taken by the gentleman from Kentucky [Mr. ADAMS] are fair and just. In my judgment, without expressing any opinion whatever upon the merits of the case in relation to either of these gentlemen, it is the duty of the House to allow Mr. Golladay to be sworn in, and then to suffer the contest to go on in the regular course. In this way, and in this way alone, the House can vindicate its own law and maintain its own consistency in reference to cases of this kind.

Mr. DAWES. I now call the previous question.

The previous question was seconded, and the main question ordered; which was upon referring the certificate to the Committee of Elections.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 38, not voting 38; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Benton, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullum, Dawes, Dodge, Donnelly, Briggs, Eggleston, Bla, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hamilton, Harding, Hawkins, Higby, Hopkins, Chester D. Hubbard, Hulbard, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kelsey, Ketcham, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Meaur, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Nunn, O'Neill, Paine, Perham, Pike, Pile, Plants, Polsley, Pomeroy, Sawyer, Schenck, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—105.

NAYS—Messrs. Adams, Ames, Axtell, Baker, Barnes, Bingham, Blair, Boyer, Brooks, Burr, Cury, Chanler, Eldridge, Farnsworth, Getz, Glossbrenner, Haig, Hotchkiss, Richard D. Hubbard, Johnson, Kerr, Morgan, Mungen, Niblack, Nicholson, Peters, Phelps, Poland, Pruyn, Randall, Robinson, Ross, Sitgreaves, Starkweather, Taber, Van Aukeu, Van Trump, and Woodward—38.

NOT VOTING—Messrs. Archer, Arnell, Barnum, Benjamin, Blaine, Burr, Cake, Cornell, Dixon, Eckley, Finney, Fox, Griswold, Hill, Holman, Hooper, Asahel W. Hubbard, Humphrey, Kitchen, Koontz, Lynch, Marshall, McCullough, Morrissey, Orth, Price, Raum, Robertson, Scofield, Selye, Shellabarger, Stewart, Stone, Taffe, Thomas, Van Aernam, Burt Van Horn, Van Wyck, and Wood—38.

So the motion to refer was agreed to.

Mr. DAWES moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced. The first business during the morning hour is the calling of States and Territories for bills and joint resolutions for reference to appropriate committees, not to be brought back to the House by motions to reconsider; under which call joint resolutions

and memorials of State and territorial Legislatures may be presented and referred.

#### MILITARY PEACE ESTABLISHMENT.

Mr. BLAINE introduced a joint resolution to reduce and reorganize the military peace establishment of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### NATIONAL CURRENCY.

Mr. PERHAM introduced a bill to amend an act entitled "An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; which was read a first and second time, and referred to the Committee on Banking and Currency.

#### DRAWBACK UPON CERTAIN IMPORTS.

Mr. LYNCH introduced a bill to allow a drawback upon articles used in the construction of vessels, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### NATIONAL CURRENCY.

Mr. POLAND introduced a bill to amend section forty-one of an act to provide a national currency, passed June 3, 1864; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

#### RICHARD WILLARD.

Mr. POLAND also introduced a bill for the relief of Richard Willard; which was read a first and second time, and referred to the Committee of Claims.

#### HENRY E. MORSE.

Mr. POLAND also introduced a bill for the relief of the widow and children of Henry E. Morse; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### REDEMPTION OF FIVE-TWENTY BONDS.

Mr. ELIOT introduced a bill pledging the faith of the United States to the payment in coin of certain public securities known as five-twenty bonds; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### PUBLIC DEBT.

Mr. BUTLER introduced a joint resolution relative to the public debt; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### DEFINITION OF IMPEACHABLE OFFENSES.

Mr. KELSEY introduced a bill to define the meaning of the words "high crimes and misdemeanors," as used in section four of article two of the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### HUDSON RIVER WEST SHORE RAILROAD.

Mr. ROBINSON introduced a bill granting a certain right of way to the Hudson River West Shore Railroad Company; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### REPEAL OF TAX ON COTTON, ETC.

Mr. BARNES introduced a joint resolution to repeal the tax on cotton; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. KELLEY introduced a bill for the repeal of the internal taxes imposed by existing laws on cotton and the productions of mechanical and manufacturing industry; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### CLAIM OF R. W. MEADE.

Mr. WILLIAMS, of Pennsylvania, introduced a joint resolution amendatory of a joint

resolution relating to the claim of R. W. Meade, approved July 25, 1866; which was read a first and second time, and referred to the Committee on the Judiciary.

#### LEGAL-TENDER NOTES.

Mr. BROOMALL introduced a bill to fix the value of legal-tender notes, and to provide for their redemption; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

#### BOUNTIES FOR DRAFTED MEN.

Mr. MORRELL introduced a bill authorizing the payment of bounties to persons who were rejected as volunteers and were immediately afterward drafted and held to service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### INTERNAL REVENUE.

Mr. MILLER introduced a bill supplementary to an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### BANKRUPT LAW.

Mr. MILLER also introduced a bill supplementary to the bankrupt law of March 2, 1867; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ANNEXATION OF MEXICO.

Mr. MILLER also introduced a joint resolution in regard to the annexation of the republic of Mexico to the United States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### FIRST PRESBYTERIAN CHURCH.

Mr. MOORHEAD introduced a bill to incorporate the congregation of the First Presbyterian church of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### CONTRACTION OF THE CURRENCY, ETC.

Mr. EGGLESTON introduced a joint resolution to prevent the further contraction of the currency and the further conversion of the currency of the United States into bonds, the interest or principal of which is payable in gold; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### COURTS IN FLORIDA.

Mr. PLANTS introduced a bill to change the time of holding the courts in the northern district of Florida, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

#### NAVY-YARD AT CLEVELAND.

Mr. SPALDING introduced a bill to establish a navy-yard at Cleveland, in the State of Ohio; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### CANCELLATION OF UNITED STATES NOTES.

Mr. BINGHAM introduced a joint resolution to repeal all acts which authorize the Secretary of the Treasury to retire and cancel United States notes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### PREEMPTION LAWS.

Mr. JULIAN introduced a bill amendatory of the preemption laws of the United States, and for other purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### ADDITIONAL BOUNTY.

Mr. JULIAN also introduced a bill in relation to additional bounty; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

## CONDITION OF SEVERAL STATES.

Mr. BURE introduced a joint resolution directing inquiry into the condition of several States therein named; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## PROMOTION OF COMMERCE.

Mr. PIKE introduced a bill to provide for the better security of life and property and promoting commerce on the navigable waters flowing into the Gulf of Mexico; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

## RIGHT OF WAY.

Mr. NEWCOMB introduced a bill granting the right of way between the St. Louis arsenal and the Mississippi river; which was read a first and second time, and referred to the Committee on Military Affairs.

## MRS. MARY BROWN.

Mr. LOUGHRIDGE introduced a bill for the relief of Mrs. Mary Brown; which was read a first and second time, and referred to the Committee on Invalid Pensions.

## POST ROADS.

Mr. LOUGHRIDGE also introduced a bill to establish certain post roads; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## LUCAS COUNTY, OHIO.

Mr. DODGE introduced a bill for the relief of Lucas county, in the State of Ohio; which was read a first and second time, and referred to the Committee on Public Lands.

## ARMY REGULATIONS.

Mr. DODGE also introduced a bill to amend an act passed April 10, 1866, for establishing rules and articles for the government of the armies of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

## ROCK ISLAND ARMORY.

Mr. PRICE introduced a joint resolution explanatory of certain acts in relation to the armory and arsenal at Rock Island, in the State of Iowa; which was read a first and second time, and referred to the Committee on Commerce.

## TAX ON COTTON.

Mr. NIBLACK introduced a bill to repeal so much of the act to provide internal revenue for the support of the Government, to pay the interest on the public debt, and for other purposes, approved June 30, 1864, and all the acts amendatory thereof as imposes a tax on cotton; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

## EIGHT HOURS' LAW.

Mr. NIBLACK also introduced a joint resolution declaring eight hours' labor a day's work in all cases where laborers, mechanics, or artisans may be employed by or on behalf of the Government of the United States; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

## SEA ISLAND LOTS.

Mr. PAINE introduced a bill to provide for the sale of certain lands and lots on Sea Islands of Beaufort district, South Carolina, and for other purposes; which was read a first and second time, referred to the Committee on Freedmen's Affairs, and ordered to be printed.

## RAILROAD GRANTS.

Mr. SAWYER introduced a joint resolution concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

## CENTRAL PACIFIC RAILROAD.

Mr. HIGBY introduced a bill for the relief of the terminal Central Pacific railroad; which was read a first and second time, referred to the Committee on Public Lands when appointed, and ordered to be printed.

## FORT LEAVENWORTH MILITARY RESERVE.

Mr. CLARKE, of Kansas, introduced a bill granting a lease of a portion of the Fort Leavenworth military reserve; which was read a first and second time, and referred to the Committee on Military Affairs.

## FOREIGN MAILS.

Mr. CHILCOTT introduced a bill to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads when appointed.

## REDUCTION OF TAXATION.

Mr. MYERS introduced a joint resolution expressing the sense of Congress in favor of a reduction of taxation; which was read a first and second time, and referred to the Committee of Ways and Means when appointed.

## TARIFF ACT.

Mr. HOOPER, of Massachusetts, introduced a joint resolution to fix the time when the act of Congress to increase the revenue, approved March 2, 1867, shall take effect; which was read a first and second time, and referred to the Committee of Ways and Means when appointed.

The SPEAKER. The morning hour has now expired.

## LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. RAUM, on account of the dangerous illness of his wife.

He also asked and obtained indefinite leave of absence for Mr. KITCHEN, on account of his own serious illness.

## ELECTION CONTEST—M'KEE VS. YOUNG.

The SPEAKER laid before the House certain papers in the contested-election case of McKee vs. Young, from the State of Kentucky; which were referred to the Committee of Elections.

## ELECTION CONTEST—CHAVES VS. CLEAVER.

The SPEAKER also laid before the House papers in the contested-election case of Chaves vs. Cleaver, from the Territory of New Mexico; which were referred to the Committee of Elections.

## APPOINTMENT OF COMMITTEES.

The SPEAKER. The Chair announces the following committees for the present Congress:

*Committee of Elections*—Henry L. Dawes, of Massachusetts; Glenni W. Scofield, of Pennsylvania; Charles Upson, of Michigan; Samuel Shellabarger, of Ohio; Joseph W. McClurg, of Missouri; Burton C. Cook, of Illinois; Luke P. Poland, of Vermont; John W. Chanler, of New York; and Michael C. Kerr, of Indiana.

*Committee of Ways and Means*—Robert C. Schenck, of Ohio; Samuel Hooper, of Massachusetts; James K. Moorhead, of Pennsylvania; William B. Allison, of Iowa; John A. Griswold, of New York; John A. Logan, of Illinois; Horace Maynard, of Tennessee; James Brooks, of New York; and William E. Niblack, of Indiana.

*Committee on Appropriations*—Thaddeus Stevens, of Pennsylvania; Elihu B. Washburne, of Illinois; Rufus P. Spalding, of Ohio; James G. Blaine, of Maine; Fernando C. Beaman, of Michigan; Benjamin F. Butler, of Massachusetts; William H. Kelsey, of New York; Charles E. Phelps, of Maryland; and John A. Nicholson, of Delaware.

*Committee on Banking and Currency*—Theodore M. Pomeroy, of New York; Samuel Hooper, of Massachusetts; Ralph P. Buckland, of Ohio; John Lynch, of Maine; Ches-

ter D. Hubbard, of West Virginia; Norman B. Judd, of Illinois; John Coburn, of Indiana; Samuel J. Randall, of Pennsylvania; and Demas Barnes, of New York.

*Committee on the Pacific Railroad*—Hiram Price, of Iowa; William Higby, of California; Ignatius Donnelly, of Minnesota; Sidney Clarke, of Kansas; Rufus Mallory, of Oregon; Oakes Ames, of Massachusetts; John Covode, of Pennsylvania; John V. L. Pruyn, of New York; and Philadelph Van Trump, of Ohio.

*Committee of Claims*—John A. Bingham, of Ohio; William B. Washburn, of Massachusetts; Hamilton Ward, of New York; William S. Holman, of Indiana; Abner C. Harding, of Illinois; Amasa Cobb, of Wisconsin; Ulysses Mercur, of Pennsylvania; William B. Stokes, of Tennessee; and Richard D. Hubbard, of Connecticut.

*Committee on Commerce*—Elihu B. Washburn, of Illinois; Thomas D. Eliot, of Massachusetts; Nathan F. Dixon, of Rhode Island; Charles O'Neill, of Pennsylvania; Benjamin Eggleston, of Ohio; James M. Humphrey, of New York; Philetus Sawyer, of Wisconsin; William H. Robertson, of New York; and Samuel B. Axtell, of California.

*Committee on the Public Lands*—George W. Julian, of Indiana; John F. Driggs, of Michigan; Adam J. Glossbrenner, of Pennsylvania; Ignatius Donnelly, of Minnesota; Ephraim R. Eckley, of Ohio; George W. Anderson, of Missouri; Delos R. Ashley, of Nevada; Benjamin F. Hopkins, of Wisconsin; and Stephen Taber, of New York.

*Committee on the Post Office and Post Roads*—John F. Farnsworth, of Illinois; Thomas W. Ferry, of Michigan; George V. Lawrence, of Pennsylvania; Reader W. Clarke, of Ohio; William S. Lincoln, of New York; John Lynch, of Maine; John Hill, of New Jersey; John Fox, of New York; and James A. Johnson, of California.

*Committee for the District of Columbia*—Ebon C. Ingersoll, of Illinois; Martin Welker, of Ohio; John D. Baldwin, of Massachusetts; Hiram McCullough, of Maryland; William H. Koontz, of Pennsylvania; Fernando Wood, of New York; William Williams, of Indiana; George A. Halsey, of New Jersey; and Burt Van Horn, of New York.

*Committee on the Judiciary*—James F. Wilson, of Iowa; George S. Boutwell, of Massachusetts; Francis Thomas, of Maryland; Thomas Williams, of Pennsylvania; Frederick E. Woodbridge, of Vermont; William Lawrence, of Ohio; John C. Churchill, of New York; Samuel S. Marshall, of Illinois; and Charles A. Eldridge, of Wisconsin.

*Committee on Revolutionary Claims*—Hamilton Ward, of New York; Aaron F. Stevens, of New Hampshire; David A. Nunn, of Tennessee; Rowland E. Trowbridge, of Michigan; William Lawrence, of Ohio; Daniel Polsley, of West Virginia; William H. Robertson, of New York; Charles A. Eldridge, of Wisconsin; and Daniel M. Van Auker, of Pennsylvania.

*Committee on Public Expenditures*—Calvin T. Hulburd, of New York; John M. Broomall, of Pennsylvania; Asahel W. Hubbard, of Iowa; Tobias A. Plants, of Ohio; Henry P. H. Bromwell, of Illinois; John Coburn, of Indiana; John A. Peters, of Maine; Stephen Taber, of New York; and J. Lawrence Getz, of Pennsylvania.

*Committee on Private Land Claims*—Godlove S. Orth, of Indiana; William Loughridge, of Iowa; Frederick E. Woodbridge, of Vermont; George W. Woodward, of Pennsylvania; John Trimble, of Tennessee; Alexander H. Bailey, of New York; Jacob Benton, of New Hampshire; Cornelius S. Hamilton, of Ohio; and Frederick Stone, of Maryland.

*Committee on Manufactures*—Daniel J. Morrill, of Pennsylvania; Oakes Ames, of Massachusetts; Philetus Sawyer, of Wisconsin; Worthington C. Smith, of Vermont; Lewis Selye, of New York; William Moore, of New Jersey; Addison H. Laffin, of New York; William H. Barnum, of Connecticut; and Philadelph Van Trump, of Ohio.

*Committee on Agriculture*—Rowland E. Trowbridge, of Michigan; George V. Lawrence, of Pennsylvania; Lewis W. Ross, of Illinois; Carman A. Newcomb, of Missouri; William C. Fields, of New York; John T. Wilson, of Ohio; William Loughridge, of Iowa; Bethuel M. Kitchen, of West Virginia; and James A. Johnson, of California.

*Committee on Indian Affairs*—William Windom, of Minnesota; Asahel W. Hubbard, of Iowa; Sidney Clarke, of Kansas; Lewis W. Ross, of Illinois; Robert T. Van Horn, of Missouri; Glenni W. Scofield, of Pennsylvania; John P. C. Shanks, of Indiana; John Taffe, of Nebraska; and William Mungen, of Ohio.

*Committee on Military Affairs*—James A. Garfield, of Ohio; Frederick A. Pike, of Maine; John H. Ketcham, of New York; Henry D. Washburn, of Indiana; Greuville M. Dodge, of Iowa; Green B. Raum, of Illinois; Isaac R. Hawkins, of Tennessee; Charles Sitgreaves, of New Jersey; and Benjamin M. Boyer, of Pennsylvania.

*Committee on the Militia*—Halbert E. Paine, of Wisconsin; Abner C. Harding, of Illinois; Ralph P. Buckland, of Ohio; Nathaniel P. Banks, of Massachusetts; Joseph J. Gravely, of Missouri; Austin Blair, of Michigan; John P. C. Shanks, of Indiana; George M. Adams, of Kentucky; and Daniel M. Van Auken, of Pennsylvania.

*Committee on Naval Affairs*—Frederick A. Pike, of Maine; William D. Kelley, of Pennsylvania; Ginery Twichell, of Massachusetts; Thomas E. Stewart, of New York; Henry H. Starkweather, of Connecticut; Thomas W. Ferry, of Michigan; Aaron F. Stevens, of New Hampshire; Stevenson Archer, of Maryland; and Charles Haight, of New Jersey.

*Committee on Foreign Affairs*—Nathaniel P. Banks, of Massachusetts; Godlove S. Orth, of Indiana; Shelby M. Cullom, of Illinois; Cadwalader C. Washburn, of Wisconsin; Dennis McCarthy, of New York; Austin Blair, of Michigan; Leonard Myers, of Pennsylvania; William E. Robinson, of New York; and George W. Morgan, of Ohio.

*Committee on the Territories*—James M. Ashley, of Ohio; Shelby M. Cullom, of Illinois; James M. Marvin, of New York; Morton C. Hunter, of Indiana; Caleb N. Taylor, of Pennsylvania; James Mullins, of Tennessee; John Taffe, of Nebraska; Fernando Wood, of New York; and Julius Hotchkiss, of Connecticut.

*Committee on Revolutionary and War of 1812 Pensions*—Benjamin F. Loan, of Missouri; James Mullins, of Tennessee; Hiram Price, of Iowa; William B. Washburn, of Massachusetts; George F. Miller, of Pennsylvania; Lewis Selye, of New York; Henry D. Washburn, of Indiana; Albert G. Burr, of Illinois; and John Morrissey, of New York.

*Committee on Invalid Pensions*—Sidney Perham, of Maine; Henry Van Aernam, of New York; John F. Benjamin, of Missouri; Cornelius S. Hamilton, of Ohio; David A. Nunn, of Tennessee; George F. Miller, of Pennsylvania; Daniel Polsley, of West Virginia; Albert G. Burr, of Illinois; and John Fox, of New York.

*Committee on Roads and Canals*—Barton C. Cook, of Illinois; Thomas Cornell, of New York; John T. Wilson, of Ohio; Henry L. Cake, of Pennsylvania; Carman A. Newcomb, of Missouri; Grenville M. Dodge, of Iowa; Dennis McCarthy, of New York; Michael C. Kerr, of Indiana; and William H. Barnum, of Connecticut.

*Committee on Mines and Mining*—William Higby, of California; Delos R. Ashley, of Nevada; John F. Driggs, of Michigan; James M. Ashley, of Ohio; Orange Ferriss, of New York; Morton C. Hunter, of Indiana; Rufus Mallory, of Oregon; George W. Woodward, of Pennsylvania; and Charles Sitgreaves, of New Jersey.

*Committee on Freedmen's Affairs*—Thomas D. Eliot, of Massachusetts; John Trimble, of Tennessee; Benjamin F. Loan, of Missouri;

Halbert E. Paine, of Wisconsin; Jacob H. Ela, of New Hampshire; Daniel J. Morrell, of Pennsylvania; Jehu Baker, of Illinois; George M. Adams, of Kentucky; and Julius Hotchkiss, of Connecticut.

*Committee on Education and Labor*—Jehu Baker, of Illinois; Samuel F. Cary, of Ohio; George W. Julian, of Indiana; George S. Boutwell, of Massachusetts; Stephen F. Wilson, of Pennsylvania; Thomas Cornell, of New York; Joseph J. Gravely, of Missouri; Demas Barnes, of New York; and Frederick Stone, of Maryland.

*Committee on Coinage, Weights, and Measures*—William D. Kelley, of Pennsylvania; Norman B. Judd, of Illinois; Worthington C. Smith, of Vermont; Orange Ferriss, of New York; John Hill, of New Jersey; Samuel F. Cary, of Ohio; and Samuel B. Axtell, of California.

*Committee on Patents*—Thomas A. Jenckes, of Rhode Island; Leonard Myers, of Pennsylvania; John W. Chanler, of New York; Henry P. H. Broomwell, of Illinois; and John A. Peters, of Maine.

*Committee on Public Buildings and Grounds*—John Covode, of Pennsylvania; Burt Van Horn, of New York; Amasa Cobb, of Wisconsin; William Moore, of New Jersey; and John A. Nicholson, of Delaware.

*Committee on Revisal and Unfinished Business*—Luke P. Poland, of Vermont; James F. Wilson, of Iowa; Theodore M. Pomeroy, of New York; William Windom, of Minnesota; and Samuel S. Marshall, of Illinois.

*Committee on Mileage*—George W. Anderson, of Missouri; Tobias A. Plants, of Ohio; Henry Van Aernam, of New York; Green B. Raum, of Illinois; and J. Lawrence Getz, of Pennsylvania.

*Committee on Accounts*—John M. Broomall, of Pennsylvania; Ephraim R. Eckley, of Ohio; Samuel M. Arnell, of Tennessee; William C. Fields, of New York; and Hiram McCullough, of Maryland.

*Committee on Expenditures of State Department*—Samuel M. Arnell, of Tennessee; Frederick A. Pike, of Maine; Darwin A. Finney, of Pennsylvania; Reader W. Clarke, of Ohio; and James M. Humphrey, of New York.

*Committee on Expenditures of Treasury Department*—James M. Marvin, of New York; Henry H. Starkweather, of Connecticut; Caleb N. Taylor, of Pennsylvania; Bethuel M. Kitchen, of West Virginia; and William E. Robinson, of New York.

*Committee on Expenditures of War Department*—William Williams, of Indiana; Thomas Williams, of Pennsylvania; James A. Garfield, of Ohio; Thomas E. Stewart, of New York; and Charles E. Phelps, of Maryland.

*Committee on Expenditures of Navy Department*—Charles Upson, of Michigan; Henry L. Dawes, of Massachusetts; Charles H. Van Wyck, of New York; Francis Thomas, of Maryland; and Adam J. Glossbrenner, of Pennsylvania.

*Committee on Expenditures of Interior Department*—Chester D. Hubbard, of West Virginia; William H. Koontz, of Pennsylvania; Alexander H. Bailey, of New York; Ginery Twichell, of Massachusetts; and George W. Morgan, of Ohio.

*Committee on Expenditures of Post Office Department*—William A. Pile, of Missouri; Benjamin Eggleston, of Ohio; Charles O'Neill, of Pennsylvania; John H. Ketcham, of New York; and Richard D. Hubbard, of Connecticut.

*Committee on Expenditures on Public Buildings*—Cadwalader C. Washburn, of Wisconsin; Nathan F. Dixon, of Rhode Island; Calvin T. Hulburt, of New York; Robert T. Van Horn, of Missouri; and Stevenson Archer, of Maryland.

*Joint Committee on Library*—John D. Baldwin, of Massachusetts; John V. L. Pruyn, of New York; and Rufus P. Spalding, of Ohio.

*Joint Committee on Printing*—Addison H. Laffin, of New York; Jacob H. Ela, of New Hampshire; and Henry L. Cake, of Pennsylvania.

*Joint Committee on Enrolled Bills*—Stephen F. Wilson, of Pennsylvania; Benjamin F. Hopkins, of Wisconsin; and William S. Holman, of Indiana.

*Joint Committee on Retrenchment*—Charles H. Van Wyck, of New York; Samuel J. Randall, of Pennsylvania; Martin Welker, of Ohio; George A. Halsey, of New Jersey; Thomas A. Jenckes, of Rhode Island; John F. Benjamin, of Missouri; and Jacob Benton, of New Hampshire.

The following investigating committees were also appointed earlier in this first session of the Fortieth Congress:

*Committee on Southern Railroads*—Joseph W. McClurg, of Missouri; Ulysses Mercur, of Pennsylvania; Henry D. Washburn, of Indiana; John W. Chanler, of New York; and Philetus Sawyer, of Wisconsin.

*Committee on Assassination of President Lincoln*—Benjamin F. Butler, of Massachusetts; Samuel Shellabarger, of Ohio; George W. Julian, of Indiana; Hamilton Ward, of New York; and Samuel J. Randall, of Pennsylvania.

*Committee on Treatment of Union Prisoners*—John P. C. Shanks, of Indiana; William A. Pile, of Missouri; Abner C. Harding, of Illinois; Aaron F. Stevens, of New Hampshire; and William Mungen, of Ohio.

*Committee on the Pay Department*—William S. Lincoln, of New York; Glenni W. Scofield, of Pennsylvania; Amasa Cobb, of Wisconsin; Ralph P. Buckland, of Ohio; and William S. Holman, of Indiana.

*Committee on Soldiers' and Sailors' Bounties*—Henry D. Washburn, of Indiana; Halbert E. Paine, of Wisconsin; and J. Lawrence Getz, of Pennsylvania.

#### IMPEACHMENT OF MINISTER ADAMS.

The SPEAKER. The next business in order is the consideration of the question of privilege pending on Thursday last, when the House adjourned, in relation to impeachment of Minister Adams, and upon which the gentleman from New York [Mr. ROBINSON] is entitled to the floor for fifty minutes.

The resolution offered by Mr. ROBINSON on Thursday last is as follows:

Whereas Charles Francis Adams, United States minister to Great Britain, has been charged with neglect of duty toward American citizens in England and Ireland by failing to secure their rights as such citizens: Therefore,

*Be it resolved*, That the Committee on Foreign Affairs be instructed to inquire into the foregoing charge and to report thereon forthwith, to the end that, if the charge be true, articles of impeachment against said Charles Francis Adams may be presented by this House to the Senate of the United States; that the President of the United States be requested to telegraph to the said Charles Francis Adams immediately to demand his passports and to return home; that the Secretary of State be instructed to communicate to this House all correspondence to and from the Department for the two years last past on the arrest, imprisonment, trial, or conviction of any American citizen, or any person claiming to be such, in Great Britain and Ireland, without reference to its public effect, to be considered, if need be, in secret session of this House.

Mr. ROBINSON. Mr. Speaker, when I yielded the floor, on Thursday last, for a motion to adjourn, I had stated that, for years past, efforts had been made in Congress, and to our ministers at the English Court, to secure or vindicate the rights of American citizens visiting Great Britain. Hitherto these efforts have proved fruitless. During the March and July sittings of this session of Congress, by resolutions which I had the honor to introduce, this House called upon the President for such correspondence as had taken place between this Government and that of Great Britain relative to the arrest, imprisonment, trial, conviction, or punishment of American citizens in that country. The Secretary of State, through the President, if I remember correctly, refused to transmit that correspondence, on the ground of some dreaded detriment to the public good.

While we have failed to obtain either information or satisfaction, outrages have continued and are now being perpetrated upon our citizens in Great Britain. I have resolved, there-



fore, to make one more effort to call the attention of Congress, and intend to keep calling attention to it until Congress shall declare, and our ministers abroad shall vindicate, the will of the American people on this subject.

And now, sir, what are the facts upon which I have grounded these resolutions? For many years, and more particularly within the two years last past, no American citizen has been permitted to visit Great Britain or Ireland without an extraordinary and insulting examination of his person and effects. His footsteps have been dogged, and spies and informers have hung around him like his shadow. Numerous arrests have been made, not only without any sworn information being lodged against them, but even without any decent grounds for suspicion. They have been cast into loathsome prisons; marched through the streets, heavily manacled, the groans of the mob making deep bass to the treble of their clanking chains, which were peeling the flesh from the bones of American citizens, both native and adopted; clothed in felon uniforms itching on the backs of unconvicted and unaccused American citizens, whose blood had deepened the crimson on the stripes and whose valor had brightened the radiance in the stars of that flag which failed in this hour of their shame and degradation to protect them. The American who sees or hears or reads these details of insult and degradation and does not feel like avenging them, or turns a deaf ear from his fellow American citizens, with the plea that the victims are Irishmen or Fenians, is unworthy of a flag for his country, or a grave beneath its soil.

Now, sir, let me call the attention of this House to some recent occurrences which I believe justify the moving and adoption of the resolutions which I have offered.

In February last Stephen J. Meany, claiming to be an American citizen, having been kidnapped in London, was tried in Dublin and convicted of treason felony. The attorney general in his opening speech, as I find it reported in the Dublin Irishman of February 23, 1867, to the jury—such a jury only as is produced in England on State trials—detailed the actions of Mr. Meany in New York; stated what he had done at Clinton hall in that city January 3 and 11, 1866; showed what he had done at the Apollo rooms in that city in March of that year; what he had done and said in Sixth avenue April 4 of that year; and through the whole opening speech of the attorney general not one single reference to or insinuation of anything ever done on British soil by Mr. Meany was made; but on the recital of words spoken and acts done in the city of New York he closed his address in the following words:

"Now, if you believe the evidence that will be given, there is an end of this case. Every natural born subject of her majesty who goes to another country cannot, with impunity, hatch treason against his own country. At all events, if he does he had better stay there. The Crown thinks it right that the public should know this, and, if the facts I have stated are proved, Stephen J. Meany will become an example to the parties who do so."

Witnesses such only as are produced in England on State trials were called. Not a single act or word done or spoken in her majesty's dominions was proved against him. The evidence being all in, Baron Fitzgerald, one of the judges presiding, inquired of the attorney general what offense had been proved? After a long discussion Baron Fitzgerald made the following note of the point reserved, and refused to sentence till the appeal was heard:

"The Crown gave evidence that the prisoner was a member of a society in America called the Fenian brotherhood, having for its object the several objects set out in the several counts in the indictment; gave evidence of the existence of an association in Ireland of similar denomination, and evidence of its connection with that in America. Then proved a number of acts in the county of the city of Dublin in promotion of its objects by members of the association in Ireland, but proved no, otherwise, acts of the prisoner himself done in Ireland, or even that he was in Ireland during any part of the period that the associations were shown to exist either in America or Ireland."

This point, so reserved, was argued in the courts above and was decided against Meany

by six to four of the ten judges, and on the 21st day of June last he was brought up for sentence. In reply to the usual question why sentence should not be pronounced against him, he said:

"I protest against the right to pass any sentence in any British court for acts done, or words spoken, or alleged to be done or spoken, on American soil, within the shadow of the American flag, and under the sanction of American institutions. I protest against the assumption that would in this country bind the right of thought or control the liberty of speech in an assemblage of American citizens in an American city. The United States will doubtless respect and protect her neutrality laws and observe 'the comity of nations,' whatever that may mean, in practice; but I repeat, I protest against the monstrous fiction, the transparent fraud that would seek in ninety years after the evacuation of New York by the British to bring the people of New York within the vision and venue of a British jury in a British law court. I protest against the 'supposition' that, in ninety years after the last British bayonet had glistened in an American sunlight; after the last keel of the last of the English fleet plowed its last furrows in the waters of the Hudson or the Delaware, would restore that city of New York, its people and institutions, to the dominions of the Crown and Government of Great Britain. That is the meaning of this case. And so, disguise it as the Crown may, will it be interpreted in America. Not that the people of America would care one jot that Stephen Joseph Meany were hanged, drawn, and quartered to-morrow; but there is a great principle involved. Personally, I am of no consequence in the affair; politically, I represent in this court the Irish-adopted citizens of America; for if, as the New York Herald, writing on the case, has observed, the acts done in my regard are held to be justifiable, there is nothing to prevent the extension of the same justice to any other adopted citizen visiting Great Britain. It is, therefore, in the injustice of the case the influence lies, and not in the importance of the individual."

Meany, at the close of his address, was sentenced to fifteen years' imprisonment. An attempt has been made to get away from the real question at issue here by insinuations that Meany was only an inchoate, and not a respectable citizen. The attorney general did not think worth while to make any distinction between degrees or kinds of citizenship, but boldly declared that every natural-born subject of her majesty returning to his native country would be held for words spoken in his adopted country. What did our minister do? If an appeal was made in behalf of Meany, as I have no doubt there was, and he did not demand his instant release or his own passports home, he deserves the severest punishment which the citizens of this country, whose rights were thus trampled on, can inflict upon their servants.

Take another case. Henry Quinn, an American citizen, was arrested and thrown into prison, in Dublin, in August last. He was charged with no crime; he had violated no law, and he could not see why he should be imprisoned. He wrote to Minister Adams, and here is Minister Adams's reply:

LEGATION OF THE UNITED STATES,  
LONDON, August 22, 1867.

SIR: I am desired by Mr. Adams to acknowledge the reception of your letter of the 16th instant, and to express to you his regret at your painful situation. He is in hopes that the reestablishment of quiet in Ireland, and the subsidence of agitation in America, will soon open the way for the renewal of an application for a trial in your case, if not for your liberation. He will seize the earliest opportunity that may appear to him to promise a favorable result.

I have the honor to be, sir, your obedient servant,  
BENJ. MORAN,  
Secretary of Legation.

MR. HENRY QUINN, Mountjoy Prison, Dublin.

Now, citizen Quinn had not asked Minister Adams for his regret at painful situations. Nor did he ask him to wait for any subsidence of agitation in America or reestablishment of anything in Ireland. He demanded that his minister, his servant for that purpose, should demand that if charges of any crime committed by him on British soil existed he should be speedily tried or his prison doors opened. I ask, sir, was it not the duty of our minister to inform the foreign secretary of Great Britain that if there existed no charges against him, or if they did exist and were not speedily tried, he should be set at liberty, and should no longer be kept imprisoned except on fair trial and due conviction, or he would send Farragut and Grant with their Yankee key to open the doors of their jails that the imprisoned American might go free?

Another case is that of Colonel Warren. In a letter which I received from him, dated Kilmainham prison, August 2, 1867, duly viséed and corrected by some prison official, he says:

"I have violated no English law; my ambition is the obeying and protecting the laws of my adopted country. I have been in America since my boyhood, and was arrested a few days after my landing here. It is plain, then, that they hold me for opinions expressed in America, and ignore the United States right to confer citizenship."

After long delay, he was, on October 30 and 31, and on the 1st day of the present month, tried, and in his case the grossest insult has been offered to the United States, without rebuke or remonstrance from our minister. By section forty-seven of 6 George IV, chapter fifty, the jury array may be challenged if the prisoner be an alien, and an order made on his application for a jury *de medietate lingue*. Blackstone says this is a privilege as ancient as the time of King Ethelred. Deacon on Criminal Law, published in London in 1836, page 704, says:

"By section forty-seven nothing contained in the act shall deprive any alien indicted of any felony or misdemeanor of the right of being tried by a jury *de medietate lingue*. But on the prayer of every alien so indicted the sheriff shall return for one half of the jury a competent number of aliens, if there are so many in the town or place where the trial is had; and if not, then so many as shall be found there. And no such alien juror can be challenged for want of any of the qualifications required by the act; for this would indeed totally defeat the privilege, as an alien is incapable of holding lands. But any alien juror may be challenged for any other cause, such as partiality or the like."

This provision, which is worthy of all the praise Sir William Blackstone bestows upon it, is necessary in securing justice to Americans above all other people in the world; for, disguise it as you may, there is no people in the world against whom England manifests such antipathies. Her conduct in our recent struggle proves this too plainly. Warren challenged the array of his jury on the ground that they were all British subjects. Had the challenge been made by a Spaniard, a Turk, a Frenchman, a Brazilian, a Sandwich Islander, a Japanese or a Hottentot, it would have been granted. It was refused to the American. The report of the trial, in the Cork Examiner, states that the prisoner suggested that he was born in Cork of American parents. But at all events it was admitted that he was an American citizen, and Chief Baron Pigot met the question as follows:

"The chief baron said the bench had no doubt as to the course they should adopt. According to the law of England, he who was once under the allegiance of the Crown remained so forever. His lordship read a passage from Blackstone, which laid down that a natural born subject of the British Crown could never shake off that allegiance, no matter where he might take up his residence. The learned judge also quoted from Judge Story's 'Conflict of Law,' (page 23,) an eminent American authority, which stated that 'every nation had a right to bind its own subjects at all times and in all places.' Kent's Commentaries also affirmed that it was not in the power of any subject to shake off his allegiance. The same work, referring to America, laid down a similar doctrine, and concluded by saying: 'On this historical review of the discussion on American jurisprudence, the better opinion would seem to be that a citizen cannot renounce his allegiance to the United States Government without the permission of the Government be declared by law, and that, as there is no existing regulation in the case, the rule of the existing English law remains unaltered.' The application made for the prisoner was certainly a proper one, if he were entitled to it; but it was perfectly plain that a person who claimed such a jury should be an alien. He (the learned judge) could not, however, allow that proposition to be put forward on the present occasion without meeting it by a prompt and immediate denial. According to the law of England, a person born in the United Kingdom owes his allegiance to England forever, and no matter where he might be."

Warren then protested against being tried, proclaimed his American citizenship, and withdrew his counsel. A lawyer named Adair appeared to watch the case for the American Government, but was insulted by Chief Baron Pigot and Judge Keogh. The farce of trial went on; the prisoner in court, in reply to some observation, denounced the attorney general. He said such an act toward a man in his position was cruelly and cowardice; and he denounced it as the act of a liar and a coward. The report proceeds as follows:

"As the judges were rising on the bench, the chief baron—whose natural dignity, mildness, and con-

scientiousness were never more manifest, as they were never more valuable, than on this occasion—addressing the prisoner, said: "Prisoner, if, notwithstanding what has occurred, you, on reflection this evening, should decide, as I do indeed hope you may, to recall your resolution of not making defense or being defended, the court will freely permit you to do so, and, entirely and solely for your sake, I hope that you may reconsider that resolve—"

"Prisoner, (bowing profoundly.) My lord, with the deepest and most sincere respect for your lordship, I thank you; but I cannot alter that resolution."

"Chief Baron. Whether you do or not will not alter the procedure of the trial."

"Prisoner. Oh, I know that; but the real question at stake affects millions of my countrymen. I have acted on principle. I cannot be inconsistent with myself—"

"Chief Baron. Well, I am sorry; solely on your account."

"Prisoner. My lord, I am prepared for the consequences. I may be convicted here after any fashion the Government pleases; but (raising his voice) the case will be settled by a higher court—the American nation!"

Of course the prisoner was convicted. A correspondent, describing the closing scene, says:

"The scene in the Dublin court when Colonel Warren, finding that his status as an American citizen was deliberately ignored, and that the old and, as many supposed, exploded British doctrine of 'Once a subject always a subject' was audaciously enunciated by the court as the rule that was to govern his case, instructed his counsel to withdraw, is described as one of thrilling interest. No wonder; for, as was well remarked by a bystander, 'it was the first motion in a great writ of error to be tried by international law.'"

On the 7th of November, in the trial of Augustine Costello, who had landed with Colonel Nagle, Colonel Warren, and others, at Dungarvan, Judge Keogh, in his charge to the jury, said:

"The prisoner, through his counsel, had put on record an objection to the composition of the jury, not as objecting to any one individually, but claiming the right on behalf of the prisoner that he should have been tried by a jury half English or Irish and half foreign or American. If it be true that the prisoner at the bar, admitting himself to be a natural born subject of this realm, although since he had obtained letters of citizenship in America, ought to have had the jury he demanded, then he would have the full benefit of the entry on the record. It was their duty to say that there was no ground whatever for giving any such jury to the prisoner, or any person so circumstanced as he was; it was their duty, as administering the law here. He stated that it was not in the power of any jury subject of this realm to throw off his allegiance to the Crown. That was a subject which had been discussed, he might say, from the days of Cicero down to the present moment. It was a fact which should be borne in remembrance by all persons situated as the prisoner was."

"The trial of General Halpin commenced on the 8th of November. Halpin asked that his plea should be placed on the record: 'It was that he refused to plead.' The plea of not guilty was entered, and paper, pens, and ink supplied to the prisoner at his own request. Halpin then said, 'I am an American, and demand a jury of American citizens.'"

"Chief Baron. Do you allege that you were born in America?"

"Prisoner. I leave that to the Crown lawyers to discover."

"Chief Baron. Unless you state that you were or were not born in the country we must refuse your application."

"Then (said Halpin) I will permit the attorney general to pack a jury as he likes."

I beg leave to read the following extract from a letter of the Dublin correspondent of the New York Tribune, dated October 26, 1867, and published in the daily Tribune of November 8, 1867. It gives some idea of the public interest taken in the trial of these American citizens:

"Of these men General William Nagle and Colonel John Warren are regarded by the Crown as the most important, and their trials, it is expected, will follow immediately after those of Halpin and Fariola. I have reason to think that the question of the value to be attached to their American citizenship is one which will occupy a large space in those proceedings. General Nagle is a native-born American, and can claim that half his jury be composed of foreigners; Colonel Warren is a naturalized citizen of America, but of that fact the British Government will take no account whatever. They care not a pin for the naturalization papers which the prisoner can produce; he might just as well hand them in on old ballad, or a pavenbroker's ticket, or the programme of a performance by the Christy's Minstrels. They repudiate and scoff at those naturalization papers, and hold boldly to the doctrine that every born subject of the British sovereign is her or his subject all the days of his life. But is not this pretension inconsistent and absolutely irreconcilable with the declaration and the compact to which the American Government and those naturalized citizens are parties? Do not those men, when being accorded the status of American citizens, solemnly swear that they renounce all allegiance to all other Governments, and to that of Queen Victoria in particular? And does

not the American Government, which has drawn up that form of pledge, and which accepts it, and exacts it as the condition and the very basis of naturalization, thereby undertake a certain responsibility which it is bound to make good against all the world? Does it not manifestly undertake to become in all respects the Government of these citizens for the future, and to ignore utterly the claims of any other Government on their allegiance? Just observe what is the position of the Irish race in America if those pretensions of England in their regard are to be allowed. Should a war break out at any time between America and England the latter Power could hang as traitors any Irishmen whom she might be able to capture from the American Army or Navy. At the same time the Americans could shoot any Irishman in their service who would refuse to fight against the British! Surely there is in this condition of things something for Mr. Seward to look to."

"This whole subject is keenly and eagerly discussed among Irishmen at this side of the water, and it ought to have a still more profound interest for the millions of the Irish race who have chosen their homes under what they supposed to be the protecting folds of the stars and stripes. It will be raised, as I have already intimated, during the approaching trials, and in a manner that will bring it prominently under the notice of both Governments."

"I had nearly forgotten to mention the curious circumstance that, while Colonel Warren and General Nagle are to be defended at the expense of the American Government, no such provision is being made for the defense of other men who stand in precisely the same position. They are American citizens; they have their papers to prove that fact; the charge against them is just the same; they were literally in the same boat."

"Why are two men only to have the aid of the Government, and several others, who are equally incapable of facing counsel for themselves, and who, just as much as their more fortunate companions, were American citizens and American soldiers, to be left to the tender mercies of British Crown prosecutors?"

I now come to the cases of the prisoners recently tried and convicted, and three of them, since this House last adjourned, hanged at Manchester for the release of Kelly and Deasy from a prison-van in the city of Manchester. In the rescue an officer named Brett was shot, and Justice Blackburn laid down the law that though one shot killed Brett, yet all who were present, aiding or abetting, though they had no ill-will against Brett, or even did not know of his existence, were equally guilty of constructive murder."

Application was made to the American minister by some of the prisoners claiming to be American citizens, but it does not appear that he took any trouble to aid them. On the contrary, he wrote to one of them the following letter. He had been indicted under the name of Gould, but his real name was O'Brien:

LEGATION OF THE UNITED STATES,  
LONDON, October 23, 1867.

SIR: By the direction of Mr. Adams I have the honor to acknowledge the reception of your letter to him of the 14th instant. From information received from a trustworthy source he finds that you are the same Michael O'Brien who was tried and claimed American protection at Liverpool in 1866. You then received sufficient warning from the United States consul at that place not to put yourself again in any danger, and Mr. Adams regrets to learn that you have failed to follow that prudent advice."

I have the honor to be, sir, your obedient servant,  
BENJAMIN MORAN,  
Secretary of Legation.

I dare not trust myself with language to comment on that letter. I leave it to the American people, who require from him that his patience should not be exhausted in defending an American citizen only once. If an American citizen's rights are invaded seventy times seven it is the duty of the American minister to come to his aid seventy times seven; and neither the American consul nor the American minister has any right to tell an American citizen where he shall go or how often he shall come into danger. Wherever he goes, and how often soever he may be in danger, his flag owes him protection if he violates no law."

The man to whom that letter was written was on trial for his life. He was tried by jurors taken from an excited and ignorant crowd of stupid Anglo-Saxons. No decent time was given to prepare for trial, and by a packed jury on the testimony of the most degraded witnesses, testifying falsely for the shining reward offered for conviction, that American citizen, with that letter from the American minister, the last message from a country bound to protect him in his rights, was hung at Manchester day before yesterday."

Just before being sentenced, to the usual

question why sentence of death should not be pronounced, he said:

"I shall commence by saying that every witness who has sworn anything against me has sworn to what is false. I have not thrown a stone to my recollection since I was a boy. I had no pistol in my possession on the day when this outrage was committed. You call it an outrage—I do not. I am a citizen of the United States of America, and if Charles Francis Adams had done his duty toward me, as he ought to do in this country, I would not be in this dock answering your questions now. Mr. Adams did not come, though I wrote to him. He did not come to see if I could not find evidence to disprove the charge, which I positively could if he had taken the trouble of sending or coming to see what I could do. I hope the American people will notice that part of the business."

"There is nothing in the close of my political career which I regret. I do not know of one act which could bring the blush of shame to my face, or make me afraid to meet my God or fellow-man. I would be most happy, and nothing would give me greater pleasure, than to die on the field for my country in defense of her liberties. As it is, I cannot die on the field, but I can die on the scaffold, I hope, as a soldier, a man, and a Christian."

Another prisoner named Shore, but whose real name was Condon, followed, and in the course of his remarks said:

"Now, sir, with regard to the opinions I hold on national matters—with regard to those men who have been released from that van, in which unfortunately life was lost—I am of opinion that certainly, to some extent, there was an excess. If those men had been in other countries, occupying other positions—if Jefferson Davis had been released in a northern city, there would have been a cry of applause throughout all England. If Garibaldi, whom I saw before I was shut out from the world, had been arrested, was released, or something of that kind had taken place, they would have applauded the bravery of the act. If the captives of King Theodore had been released, that, too, would have been applauded. But as it happened to be in England, of course it is an awful thing. We have been found guilty, and as a matter of course we accept our death as gracefully as possible. We are not afraid to die; at least, I am not."

"Nor I! 'Nor I!' 'Nor I!' said the other prisoners, with an electric enthusiasm."

"He continued: 'I have no sin or stain upon me, and I leave this world at peace with all. With regard to the other prisoners who are to be tried afterward, I hope our blood, at least, will satisfy the craving for it.'"

"I, too, am an American citizen, and, on English territory, I have committed no crime which makes me amenable to the Crown of England. I have done nothing, and, as a matter of course, I did expect protection, as this gentleman [pointing to Allen] has said, the protection of the ambassador of my Government. I am a citizen of the State of Ohio; but my name is not Shore. My name is Edward O'Meargher Condon. I belong to Ohio, and there are loving hearts there that will be sorry for this. I have nothing but my best wishes to send them, and my best feelings, and assure them that I can die as a Christian and an Irishman, and that I am not ashamed or afraid of anything I have done, or the consequences, either before God or man. They would be ashamed of me if I was, in the slightest degree, a coward or concealed my opinions. I only trust again that those who are to be tried after us will have a fair trial, and that our blood will satisfy the craving which I understand exists. You will soon send us before our God, and I am perfectly prepared to go. I have nothing to regret, nothing to retract or take back. I can only say, 'God save Ireland.'"

"God save Ireland!" shouted the others by a common impulse; "God save Ireland!"

"The two judges put on their black caps, and in the hushed silence Mr. Justice Meller read the sentence of death against the five prisoners. They rose not only calm and defiant, but triumphant, and passed quickly from our sight, with one more cry, as they faced the crowd, before descending the staircase, of 'God save Ireland!'"

God save Ireland, shouted these brave American citizens from beneath the gallows, surrounded by a scowling mob of anti-Irish and anti-American Englishmen, and here from beneath this dome in these Halls of legislation, whose decrees shall yet govern the world, we reecho that cry, whether it leaps from our lips or heaves in our hearts, "God save Ireland!"

Mr. Speaker, I shall not go at length into the history of other cases, but I think I can safely say that hundreds of American citizens have been within the last two years arrested and imprisoned in Ireland. Among those American citizens now immured in British prisons, besides General William J. Nagle, a gallant officer of the Army of the Potomac, a native of the State of New York, and a resident of Brooklyn, I may mention Captain Joseph O'Carroll, Captain Michael Doherty, Lieutenant Joseph Lawlor, Lieutenant Morgan Burke, and Lieutenant Michael O'Brien. Of these five, all American citizens, and of the bravest of our Army, some have been in prison

over twenty months and no charges made against them, nor any effort made, as far as we know, to have them tried or set at liberty. A large number of our arrested citizens have been released, there being no facts found against them, on condition of quitting the country; and when agreeing to quit the country were escorted to the ships by police, which is quite as great an outrage as their continued incarceration.

Since I offered these resolutions I have received a letter from Captain Michael Boyle, a resident of my district, stating that he had been imprisoned for eleven months with all the indignities which the minions of tyranny could heap upon him, and that in the place of receiving assistance from Minister Adams and Consul West of Dublin, he was treated with indifference or opposition in all his appeals to them. There is hardly a district represented in our Congress in which victims of this insult to America may not be found.

Now, sir, what would be the conduct of England toward her citizens if treated as ours has been? We have the answer in her preparation of the magnificent expedition she is fitting out to rescue her prisoners from the King of Abyssinia. It seems there are some Fenian Englishmen who were caught encouraging the enemies of King Theodorus to revolt against him. Even the English consul took sides against Theodorus, calling him a murderer, and communicating with his Turkish enemies. In fact he interfered in dangerous broils, and provoked the alarm and enmity of the Emperor, and so, having more cause than England ever had against any emissaries from this country, Theodorus of Ethiopia imprisoned several British subjects. And now all England is arming for the rescue. An army of thirty thousand of Punjab infantry and cavalry, with battalions of Europeans and batteries of royal artillery, with five thousand camels, or twice that number, to be furnished by the Viceroy of Egypt, to the saddles of which parks of artillery are to be fastened, longitudinally on pivots, and the camels taught to kneel while the gunners take aim and fire.

A light railway is, according to late English newspaper reports, to be included in the equipments. Rockets and hand-grenades are to be used. A great many other contrivances, adapted to the circumstances in which the army may find itself and the nature of the country through which it must pass, will doubtless be heard of. Lieutenant General Sir Robert Napier, Commander-in-Chief of the Bombay Army, has been nominated to the command of the expedition.

Sixteen large steamers are already under survey for the carriage of the expedition. These are scarcely a fraction of what will be required. Animals will have to be transported in numbers almost equal to those of soldiers and attendants, and vast quantities of coal will be needed. It is intended to put the entire army, with all its stores and munitions, in Abyssinia sometime in November instant. Then will begin the tug of war.

What sort of a tug it is likely to be we can partially learn from the contradictory information communicated by travelers in Abyssinia to the English journals and periodicals. The sea-coast of Abyssinia, like the Nubian coast above, is intensely hot, and the country, from fifty to two or three hundred miles inland, a hideous jungle. The tsetse-fly, fatal to every brute save the ox, is supposed to abound in some localities. The existence of the guinea-worm, which burrows in the tender parts of the human body, and usually makes some joint its crypt, causing terrible pain and permanent lameness, is both asserted and denied. The tape-worm is known to afflict the natives, but as it is presumed to result from eating raw or underdone meat, Europeans will not be so likely to suffer from it. Malaria, fevers, lack of water, horrors of all sorts have been enumerated as among the obstacles to the march of an army to the highlands.

The routes from Amphila Bay, on the Red sea, and from Edd, each run through a wide

distance of hot low country to Aspa and Veju. The route from Massowah to Debra Tabor—where Theodorus most abides, and where, or at Magdala, the prisoners are supposed to be confined—is the one most popularly spoken of for the expedition. It is certainly the most direct of all, and a description of it is rather interesting.

Massowah, on the Red sea, is understood to be one of the most unhealthy spots on the globe's surface. But the water there is deep and suitable for landing; transports could ride in security, and the strip of intervening space between the sea and the highlands is here at its minimum—twenty-five miles. A plain, ten miles long, extends to Taranta mountain. The sands of this plain dry up most of the year a torrent called the Hadas. Water can be obtained anywhere along it by digging a few feet. At the foot of Taranta mountain a defile begins, closely hemmed in by cliffs. Its average breadth is only twenty or thirty yards. Troops would have to march in single file fifteen hours to the summit. Five hundred brave and well-armed natives could hold the pass against an army. The rocks and foliage on either side form an excellent ambush, and the former could be hurled directly down upon the heads of an enemy in many places.

The Abyssinians are heroes, intrepid, indefatigable, and almost invulnerable. They can march twenty leagues in ten hours, fight for a whole day without food or drink, sleep in the water and in the mud, and inspired with a fanaticism equaled only by their hatred of the foreigner. The women are the modern Spartans. In battle they form a sort of rear rank, taking care of the wounded and bringing up ammunition under the hottest fire. "The coward who retreats is no longer a man; his wife divorces him, his betrothed rejects him, his priest curses him. Paradise is the lot of the fallen hero: the coward goes to the other place."

The Queen's message to Parliament, just received by telegraph, while she is hanging our citizens for crimes less flagrant than her subjects are perpetrating against her brother monarch, thus alludes to the expedition:

"King Theodorus having rejected all the demands of Great Britain for the release of her subjects, cruelly and without just cause imprisoned by him, her majesty had no alternative but to send a military expedition to Abyssinia, and reference is made to the supply bills needful to defray the expenses of the war."

And while all this pomp and circumstance are exhibited by England to rescue her subjects, our armies and Navy are not moving; our minister is playing reticent; Napier is moving on the enemy, while Grant's sword is rusting in its scabbard, and Farragut's fleet fires salutes to the very forts which he should be bombarding.

England is consoling herself that in this expedition she will have to contend only with the Christian population of Abyssinia proper; that is to say, with the people of the high table lands. As auxiliaries they may reckon on the Beni-Amr, all the Bichari tribes, the Baggara Hamran, all the Arabs of the province of Gedaref, the Chaghie around Mechref, the Galla Abyssinians, all old enemies of the Amharas or Abyssinians of the high plateaux.

It is thus that England gives protection to her citizens and inspires respect in foreign nations; it is thus she calculates the aid she will receive in the country she is invading; while we, crazy in our insane quarrels at home, are permitting our flag to be used for wiping the boot of Europe. Our ministers stand by in silence, and the eagle's beak is full and her wings are wet with the filth of the gutter in which her representatives kneel to beg for mercy when they should be up and striking for right.

The fact that Baron Pigot, Judge Keogh, and others refer to American laws to sanction their assertion of the doctrine of perpetual allegiance, and which may be relied upon in some measure to justify the conduct of our minister, deserves notice. My attention had long since been

attracted to it, and when in college at New Haven I corresponded with one of the most distinguished of our New England judges, Roger Minot Sherman, of Connecticut. I have before me a letter which I received from him, dated Fairfield, December 28, 1842. After some introductory personal remarks, he says:

FAIRFIELD, December 28, 1842.

DEAR SIR: \* \* \* \* \* Allegiance, in the general and unqualified form in which it now exists by the laws of England, had its origin when government was considered as intended for the benefit of those in authority only, and the good of the great mass of population was little, if at all, regarded. From that selfishness which is so extensively influential, not only in Governments, but in all human actions, both social and personal, we might readily infer that while legislative power was withheld from subjects their interests would be no further regarded than they involved the welfare of their rulers. This was the character and spirit of the feudal system in its earlier stages, and in that the doctrine of allegiance, as it now exists in England, had its origin. The allegiance due to the Government is absolute and unchangeable by the act of the subject.

Whether the law is the same in the United States is hardly an open question. In the cases in which it has been the subject of judicial consideration the opinions of judges, so far as they have been expressed, are that the English law of allegiance is our own. The disinclination to give an opinion on this point manifested by some of the judges of the Supreme Court would seem to indicate a doubt in their minds whether this could be recognized as American law. But I presume their hesitation generally resulted from the belief that the case did not require a settlement of that important question. This delicacy is generally felt and shown when there is no doubt in the mind of the judge, if the subject is discussed as if unsettled, and there is no previous decision of binding authority.

But in the case of *Shanks vs. Dupont*, in 3 Wheaton, Mr. Justice Story, in giving the opinion of the Supreme Court of the United States, says, on page 246, that "the general doctrine is that no persons can, by any act of their own, without the consent of the Government, put off their allegiance and become aliens." I consider this as the law of the United States; and whether it be considered as grounded on national right or as a rule of policy it is a just and necessary rule of law. The fault lies not in the general law, but in the want of such a legislative rule of consent on the part of the Government as is necessary to mitigate its severity, by allowing expatriation to the citizens, with such forms and solemnities as may be prescribed, in all cases where such allowance is consistent with the interest and safety of the country. It is essential to national organization that every one's country should be known. Individual rights and liabilities, and the rights and obligations of the Government, require this. With such limitations as sound political wisdom might devise the present unreasonable and unjust restraints upon one of the sacred rights conferred by the law of nations—the right of choosing our own country—would be removed, as far as would be consistent with the just claims of the Government to which its allegiance is due. Some of the States have attempted this; but they cannot affect the allegiance due to the United States. Such was the law of Virginia, passed in 1792. (3 Dallas, 136, note.) A proper regulation is more imperiously demanded in many other countries than in this, because the great tide of emigration is setting toward this country, not from it. It is very unjust that those who select this country as a home, often with the virtual acquiescence and even with the connivance of their Governments, should, in the event of war between us and the nation which they leave, be subjected to the severities which are in such cases visited upon those who honestly become the residents and citizens of another country while in friendship with their own. We have provided for their reception, and prescribed the terms of their new relation. We require a renunciation of their allegiance to their former Government, and an oath of fidelity to this. This is all we do, and is no more than we ought to do. The laws of a foreign State we cannot alter, nor can the emigrant complain that we leave it to him to become embarrassed with a double allegiance or not, as he pleases. So far as he is affected the grievance results from the laws of his own country, not ours. But in justice to the few citizens of the United States who may wish to change their country, and as an example to other nations, Congress ought, without delay, to enact laws prescribing the forms of renunciation and the terms on which the consent of this Government should be given to the transfer of allegiance to a foreign sovereignty. The law that expatriation shall never be effected without the consent of the Government is just. To withhold that consent in cases where the change of allegiance is a rightful exercise of personal liberty is unjust and oppressive. This is the point where legislation is necessary, and its early provisions are loudly invoked in behalf of the rights of man in all the nations of the earth.

I am, sir, very respectfully, your obedient servant,  
ROGER M. SHERMAN.

Mr. W. E. ROBINSON, *New Haven, Connecticut.*  
Accompanying this letter was a memorandum of a case pertinent to the subject and familiar to lawyers, as follows:

1 Dodson Reports, 221, case of the *Ann*.  
This ship, under American colors, was seized in the river Thames on August 1, 1812, as an American ship. By an order in council issued on the 28th of No-



ember, 1812, "all vessels under the flag of the United States of America which are *bona fide* and wholly the property of his majesty's subjects, and not purchased by them subsequent to the date of hostilities on the part of the United States of America," &c., were, if captured, to be restored to the British Crown.

A claim had been given for this ship by Mr. Smith, describing himself to be a British subject. It appears he was a native of Scotland, but that he had been admitted a citizen of the United States about sixteen years before; that he sailed in this vessel as master from Charleston, in the United States, to the river Thames.

Sr. W. Scott: "The question, therefore, comes to this—Whether the claimant is, *quoad* this property, to be considered a British subject.

For some purposes he is undoubtedly so to be considered. He is born in this country, and is subject to all the obligations imposed upon him by his nativity. He cannot shake off his allegiance to his native country, or divest himself altogether of his British character by a voluntary transfer of himself to another country. For the mere purposes of trade he may, indeed, transfer himself to another State, and may acquire a new national character.

It never could be the intention of his majesty's Government that the benefit of this order should be extended to a person who has thrown off his allegiance and estranged himself from his British character as far as his own volition and act could do.

"Ship condemned."

Prior to this I had called the attention of Congress to the subject. I hold in my hand the original draft of a petition which I presented through Senator Clay, of Kentucky. It goes over the question now involved, and is dated New Haven, January 15, 1842. Though written over a quarter of a century ago, when I was at college in that city, it may not be out of place to print it now as it was written then.

I have before me the Senate Journal of the second session of the Twenty-Seventh Congress, February 18, 1842, and on page 176 appears the following:

"Mr. CLAY presented the memorial of W. E. Robinson, praying that the rights secured to native citizens may be extended to naturalized immigrants from foreign countries; which was referred to the Committee on Foreign Relations."

The memorial was as follows:

To the honorable, the Senate and House of Representatives of the United States of America in Congress assembled on the first Monday of December, 1841.

The undersigned, a native of Ireland and a naturalized citizen of the United States, now resident in New Haven, Connecticut, would respectfully ask the attention of Congress to the situation in which the naturalized citizens of this Republic would be placed by the occurrence of a war between this country and England. Chancellor Kent in his Commentaries on American law, referring to the naturalized citizen, says:

"If there should be war between his parent state and the one to which he has attached himself, he must not arm himself against the parent state; and if he be recalled by his native Government he must return, or incur the pain and penalties of a contempt."

Sergeant in his "Constitutional Law," says:

"Congress has never passed any act regulating the manner and terms according to which the right of expatriation shall be exercised, although several judges of the Supreme Court of the United States have expressed their opinions that such a law is much wanted. In the few cases that have occurred in the courts of the United States in which this important point has been agitated it seems admitted that Congress has power to determine the mode in which expatriation may be exercised, but with regard to the law at present it is not easy to deduce a general rule from the opinions expressed." The law as here stated by such eminent jurists places a large portion of our citizens in great danger and difficulty between this and other countries. Irishmen, particularly, have given their allegiance with their hearts to this country; they beg that the law which would divide this homage of their hearts may be rendered null and void by an act of Congress. They would not serve two masters. They are *bona fide* citizens of this country; citizens, too, by acts of the supreme power of the State; and yet our courts have never decided that the acts of Congress which tender to them the right to be naturalized would secure the blessing of permanent citizenship in this free Republic. No act of Congress, no decision of our courts, has shaken the power of the feudal principle of perpetual allegiance—a principle at war with the spirit of our Revolution, which makes man the vassal of the lord, and chains him to the soil on which he was born as the property of his superior. Such is the still living principle of English common law, which our courts have strengthened rather than weakened. In 1795 the judges of the Supreme Court of the United States, in the case of *Talbot vs. Janson*, appear to have been of the opinion that, without a special law of Congress, the doctrine of perpetual allegiance must still prevail. In 1797 Chief Justice Ellsworth of this State, in the case of *Isaac Williams*, gave his opinion that if the immigrant by complying with our naturalization laws became embarrassed by contracting contradictory obligations it was his own folly or his fault. Several decisions and opinions, from that of Chief Justice Ellsworth in 1797 to that of Mr. Justice Story in 1822, have either avoided the question or have confirmed the common law doctrine.

That England would still assert her power over our

naturalized citizens in case of a war may be seen from the proclamation issued by George III. in 1807, by which he recalled from foreign service all seamen and sea-faring men who were natural-born subjects of Great Britain, and ordered them to withdraw themselves from such service and return home, on pain of being proceeded against for a contempt, and that no naturalization papers would be respected. If we still owe allegiance to the parent country, why do our naturalization laws compel us under oath to renounce it? Why make laws by an American Congress which an English monarch may and would trample on? Surely it should not be the opinion of our courts that it is folly or a fault to do what American law has made right to be done. Surely it is right to render sure the boon so liberally granted. England asserts the omnipotence of her own Parliament, and she must admit that the American Congress can alter or define the course of the common law with regard to American citizens, whether native or adopted. A war may arise between England and this country at no distant day. If such should be the case Irishmen would arm against England, and would not return home, even if called under fear of pain and penalties for a contempt. The contempt would certainly exist. The memory of oppression (which is all that Ireland owes to England) and the love for American freedom would nerve every Irish arm to strike for "liberty at every blow." Montgomery and others of Ireland fought for this country of old, and their fellow-countrymen would do so now, in defiance of threats from a Power which would grind them in the dust at home, nor suffer them to enjoy liberty abroad.

Irishmen know of no such thing as divided allegiance to this country; they should not be liable to its consequences. They owe, they acknowledge none to England. It is bad enough to be born under misgovernment, misery, and rags without owing to them perpetual allegiance. Convictions under this law are usually followed, both in this country and England, by pardons. If it dare not exact its penalties it is not too good to be abrogated. Nor should native citizens of this country, if any should wish to sell their birthright, be held to perpetual allegiance. If no stronger principle than this binds them to her, she is better without them. Your petitioner knows that you cannot alter the laws of England, but you can set the example in repudiating this anti-republican doctrine. You can set your own countrymen free from its shackles, and thereby show to England and to all other nations, that you recognize the principle that man is his own master and no man's vassal. If you cannot change the law of England you can deny its power at least over the naturalized citizens of this Republic. It would be hard indeed to see Irishmen and other naturalized citizens hazarding their lives in the Navy and Army of this country, as their inclination and your laws would urge them to do, and then to see them taken prisoners while defending our stars and stripes, to meet the fate of traitors under the sanction of American law. Your petitioner knows that Irishmen will be grateful to you for passing such a law as shall secure to them perpetually what they hold dearer than life, the blessings and rights of American citizenship. He would, therefore, respectfully ask your honorable body to frame such a law as in your collective wisdom you may think best calculated to secure the blessings of American liberty, without reversion, to those who are willing to live or, if need be, to die for their adopted country; and your petitioner, as in duty and by inclination bound, will ever pray for glory and prosperity to our common country and wisdom to her statesmen.

W. E. ROBINSON.

NEW HAVEN, January 15, 1842.

This petition I had followed up by similar petitions from other parties. I beg leave to refer to the remarks of Mr. Clay, on presenting one of these from the Hibernian Providence Association, of which I was a member, to the Senate, on the 29th of March, 1842. They will be found in the Congressional Globe, second session Twenty-Seventh Congress, (1841-42,) page 365, and are as follows:

"Mr. CLAY presented a memorial from the New Haven Hibernian Providence Society. Mr. C. said the memorial was similar in character to that presented by him a few weeks ago. The memorialists represent that by the common law England claims perpetual allegiance from all those born on her soil, and the same law obtains here, as may be seen from Kent, Story, Sergeant, and other writers on common law, as well as from various decisions in the courts of the United States. The petitioners ask the passage of a law repudiating this odious doctrine. The petitioners feel that it is wrong to make them, by their naturalization, renounce their allegiance, when the jurists and the courts of the country say they cannot shake it off. They hope that Congress will pass a law declaring that Congress do not recognize the doctrine of perpetual allegiance. Mr. C. remarked that the petitioners are fearful, in the event of a war with England, and in the contingency of any of them falling into the hands of the enemy, if the doctrine of perpetual allegiance hold, it might subject them to be arraigned and punished for treason, if found in arms against England. They ask protection against such an emergency. Mr. C. did not know that any amendment could be made to existing law to give more protection to them. The only protection that we could give them against such doctrines would be such as would be given with the cannon of the country. He asked that the reading of the petition be dispensed with, and that it be referred to the Judiciary Committee.

"Mr. LINN desired to call the attention of the hon-

orable Senator from Kentucky to a circumstance which occurred during the last war, when thirty-three soldiers of the American Army were made prisoners by the British troops, and sentenced to be executed, because they were of British origin. A number of officers of the British army having been made prisoners by the American Army would undoubtedly have been executed in retaliation, and very properly, had the execution of the soldiers taken place. Peace, however, very fortunately intervened, and the matter was allowed to pass off without further notice. It served, however, as a practical illustration of what that Government was disposed to do upon the occurrence of similar circumstances.

Mr. CLAY said he recollected the incident, and it suggested certainly one of the modes which might be employed to vindicate the rights of the adopted citizens of the United States. But he (Mr. CLAY) did not believe that, in the event of a war, which he hoped might belong averted, the British Government would venture to act upon the doctrine of perpetual allegiance—a doctrine belonging to an age gone by, an exploded doctrine, a doctrine which could not be maintained in practice. It would be a detestable course on the part of Great Britain if she should attempt to enforce it. What had been her policy in years past? What was her policy now? It was to afford every encouragement to emigration, principally to her own colonies, it was true; but to encourage emigration everywhere, she induced her subjects to leave the British empire and incorporate themselves as members of foreign communities; and if afterward she was to get hold of them and punish them as traitors, it would be an act of treachery on her part most execrable. He did not apprehend that there would be any particular difficulty in the event of a war, still the solicitude which the petitioners severally feel we must all sympathize with, and if it be practicable to add to their security by any legislation, he was sure there would be a disposition on all sides of the Senate to afford further protection. The petition was then referred to the Committee on the Judiciary."

Now, you will see that Mr. Clay's remedy for the difficulty a quarter of a century ago was American cannon, and as I was then a Clay Whig, in that doctrine at least, as in most other respects, I am a Clay Whig still.

I regret, Mr. Speaker, that time will not allow me to review the services these brave men, now suffering under British oppression, have rendered our country in sustaining our flag against our enemies; how, through the smoke of battle and the carnival of death, they rushed into the very jaws of destruction to preserve untarnished that flag which they hoped would protect them throughout the world. Colonel Nagle, one of these brave fellows, fought in the army of the Potomac throughout the war, and in some of the bloodiest battles in which that army fought he went in with a full complement of men under his command and came out almost alone. Four brothers entered the service of the Union; two of them died in the service of the country upon which he now calls for the vindication of his rights almost in vain.

Two or three more topics I must briefly touch upon. You will observe that I have not referred to the case of Koszta, whom Captain Ingraham rescued from claims of perpetual allegiance at the mouth of our cannon in the bay of Smyrna. Our cases are too strong to be compared with his. He was not a full citizen, having only declared his intentions, and had committed some political crimes before coming to this country against the country to which he returned. Our cases are all American citizens and most of them American soldiers, fully, some of them doubly, naturalized by the law and by the service of their swords, who have committed no crime on British soil before or since their emigration; and yet while Koszta was rescued and ably vindicated, these men fail in obtaining protection or rescue.

In the remarks of one of the prisoners executed at Manchester day before yesterday Garibaldi was referred to. The conduct of the American minister toward that Italian outlaw, who though claiming American citizenship never drew his sword in defense of this country, was in marked contrast with that of our minister to England toward these naturalized American citizen soldiers.

And now, sir, what do we demand from our Government or from England? Nothing that is unreasonable. I do not claim that naturalized American citizens may invade England and there commit crimes with impunity. What we do demand may be summed up in three sentences:

1. No American citizen traveling in Great



Britain, or elsewhere, on business or pleasure, shall be imprisoned without proper charges or sworn information being made against him, and upon these charges or information, even under their suspensions of *habeas corpus*, a fair and speedy trial shall be secured to him.

2. That no American citizen, thus traveling, shall be ordered to quit the country where he may be, or be escorted to ships going thence, or be placed in any position compelling or inducing him to accept that degrading alternative.

3. That the benefit of English law shall be fully accorded to all American citizens, whether native or adopted, the same as to aliens or strangers from other countries.

And if any of these three rights are invaded, evaded, or denied, let our minister be recalled, and apply Henry Clay's specific, American canon, or shut them out from our country, and let them perish, as they speedily would only for their intercourse with us, for England could not live without us. I have no wish to injure England; I have never advocated any invasion of her soil or any violation of her laws. I have no hatred against her people; but if she does not behave herself we must compel her. She must respect our citizens, and learn that we have a flag. She must learn, also, that we sympathize with Ireland, and that we have a right to do so. We have just as much right to Ireland as she has. Any claim she has to Ireland is founded in fraud; and no matter how long she has possession, being founded in fraud, it is void *ab initio*. The statute of limitations never runs in favor of fraud. We have really more right in Ireland than she has. We have Ireland's heart, which she never had. We have more of her people. Besides, England has been trying for seven centuries to conquer and govern Ireland. In this she has never succeeded, and never can. An inferior race, as the English certainly is, never did, and never can, conquer a superior race like the Irish—superior to the English in all the arts of war and peace, as soldiers, statesmen, orators, poets, painters, and sculptors.

And this country, too, is Irish. I venture to say one half of the members of this House and of this Congress are Irish, either wholly or partially so. One half of the people of this country are such. There are from fifteen to twenty million people either wholly or in part of Irish blood, and looking forward we can easily guess what it will be. Why, you talk of the colonies of Plymouth Rock and Jamestown! The whole colonies of Plymouth and Jamestown, with all their descendants, for one hundred years, all counted, living and dead, did not equal the number of Irish emigrants frequently landing at Castle Garden in New York in five minutes! Now, then, what will this country do with Ireland when her children number here one hundred million, as they very soon will? They will not stand quietly by and see an alien enemy whose claims, founded in fraud, oppress or injure her.

I have introduced these resolutions with no feeling against any one. If I have spoken in condemnation of any one it is to vindicate a great principle. Our ministers abroad—many of them—seem to have forgotten the stubborn love which Americans at home have for right and justice, and the absolute unconcern with which they treat all the tinsel of royalty and the pretensions of rank. We want men for foreign ministers of more backbone and stiffer knees than some we have had. We want such men of backbone for Congressmen and committees. "Are we a nation?" If so, let us show it, not by broils at home, but with backbone abroad; and let the world know that our honor is wounded in the slightest insult to any of our citizens, and that all such insults shall speedily be avenged.

Sir, I have performed my duty in this respect. This whole matter will now go to the Committee on Foreign Affairs, and from that committee, from this House, and from Congress I implore prompt attention and such action as their wisdom may suggest.

The country is aroused on this subject. A meeting of thousands of naturalized American soldiers was held on Saturday evening at Cooper Institute, in New York city. The resolutions, including one approving of our action in this House, were adopted with great enthusiasm. Another meeting will be held at the same place to-morrow evening. Others still will follow throughout the entire country.

My time has now expired and I must close, though I have not had time to do justice to the subject under discussion; but give me one minute to conclude with a verse from a poem recited at the New York meeting, and published in yesterday morning's New York Herald. It is from the brilliant pen of that gallant soldier, genuine Irishman, and true American, "Miles O'Reilly:"

"Oh, as citizens—Americans—  
We gloried in the name,  
And on many a field our blood we shed  
To guard your flag of fame;  
But to-day we lie in bonds, as if  
Mere felons we had been—  
The only charge that England brings,  
'Those boys were for the Green!'"

"We are citizens twice over,  
By the law and by the sword,  
By adoption and by service,  
But our claims are now ignored;  
Say, Uncle Sam, is this your wish,  
And do you really mean  
That you've outlawed all your faithful sons  
Whose birth was of the Green?"

I now move that the pending resolutions be referred to the Committee on Foreign Affairs, together with the following, for their immediate action:

*Resolved*, That the committee be requested, at their earliest convenience, to report a bill or declaration to this House providing for the expatriation of such of our citizens as may wish to be naturalized in other countries, and how far we shall protect the rights of natives of other countries naturalized in the United States.

Mr. BANKS. I move the previous question on referring the resolutions of the gentleman from New York, [Mr. ROBINSON.]

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is the execution of the order directed to the Committee on the Judiciary in relation to the impeachment of the President.

Mr. BOUTWELL obtained the floor.

Mr. SPALDING. Will the gentleman yield to me for a moment, to introduce a resolution?

Mr. BOUTWELL. If it will consume no time.

Mr. SPALDING. It will meet with no objection.

Mr. BOUTWELL. I will yield to hear the resolution read.

#### INVESTIGATING COMMITTEES.

Mr. SPALDING. I ask leave to submit the following preamble and resolution:

Whereas there are an unusually large number of special committees of this House, which, with some standing committees, are authorized to send for persons and papers, and to examine witnesses under oath; and whereas many of said committees have pursued their investigations in places remote from the Capitol, and at great expense to the people; and whereas the pressure of taxation renders retrenchment in public expenditures not only a virtue but a necessity on the part of Congress:

*Be it therefore resolved*, That no committee of the House shall be authorized hereafter to send for persons and papers, to examine witnesses, or to travel at the public expense, without the further order of the House be first had and obtained.

No objection was made, and the resolution was received.

Mr. SPALDING. I call for the previous question on the adoption of the preamble and resolution.

Mr. WASHBURNE, of Illinois. I ask to offer an amendment, to which I think there will be no objection.

Mr. BOUTWELL. I object to the amendment. I yielded simply for the offering of a resolution.

The previous question was seconded.

Mr. PRUYN. I wish to ask the gentleman

from Ohio [Mr. SPALDING] whether this resolution is intended to prevent committees sitting in this city from taking testimony in the regular course of their duties? It seems to me it will have that effect. It is so sweeping in its terms as to cover all committees, whether sitting here or elsewhere.

Mr. SPALDING. The resolution means what it expresses—that, without the order of the House, committees shall not have the power to subject the people to such expenses as the resolution indicates.

Mr. PRUYN. It seems to me that the resolution proposes to limit the powers of the committees to an unprecedented extent.

Mr. MARSHALL. I would like to say a word.

Mr. SPALDING. I object to any discussion.

The SPEAKER. No debate can be allowed except by unanimous consent, the previous question having been seconded. The question now is, Shall the main question be now put?

Mr. RANDALL. I desire to ask whether this resolution will repeal the authority heretofore given to committees in regard to this matter?

The SPEAKER. The House must construe the resolution for itself.

The main question was ordered; and under the operation thereof the resolution was adopted.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I rise to a question of privilege. I have been instructed by the Committee on the Judiciary to report the testimony taken by that committee in the matter of charges made against the President of the United States relative to impeachment. That testimony I present, together with a report and a resolution adopted by the majority of the committee. In presenting the report I desire to say to the House that all that part of the report which relates to the testimony taken, and to the consideration of the law involved in the case, was prepared by the gentleman from Pennsylvania, [Mr. WILLIAMS,] a member of the committee. It has fallen to my lot to present the report to the House, for the reason that it was the pleasure of the Speaker to place me second upon the Committee on the Judiciary; and the chairman of the committee, [Mr. WILSON, of Iowa,] dissenting from the report of the majority, it was, by general consent of the members forming the majority, agreed that I should present the report to the House.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Massachusetts [Mr. BOUTWELL] that this report should take the ordinary course—that it be laid on the table and printed. I have never known a report of this kind to be read *in extenso* when presented.

Mr. BOUTWELL. I will yield to the gentleman to make the motion he indicates. I have no choice myself in regard to the matter.

Mr. ELIOT. I hope the report will be read. I doubt whether we can appropriate the time more judiciously than by hearing this report. I call for the reading of the report.

The SPEAKER. The Chair will state that, under the ruling of many occupants of the chair, on a motion that a report or other document be laid on the table and printed, any member may demand the reading of the document. The gentleman from Massachusetts [Mr. ELIOT] demands the reading of this report, and the Clerk will read it.

Mr. WASHBURNE, of Illinois. If the gentleman from Massachusetts will agree to sit here and hear the report read through I will not object to the reading.

Mr. BROOKS. It is perfectly evident from past experience that the House will get tired of having this report read in fifteen or twenty minutes. Let me suggest, then, that the several branches of the committee state in substance

what it is they report, so that the curiosity of the House and the country may be gratified. If this be done it will answer all purposes and be a saving of time. I am told that this report alone will occupy five hours to read it. I think the public curiosity and the curiosity of the House will be satisfied by a substantial statement of what are the various recommendations of the committee.

Mr. WASHBURN, of Illinois. Read.

Mr. ELIOT. I think myself we ought to have it read, but gentlemen around me here say that it will occupy too much time. If there is any public business that ought to be transacted to-day I will withdraw the call; if not, I persist in it.

Mr. MILLER. I insist on the report being read.

The Clerk proceeded with the reading of the report for some time.

Mr. BINGHAM. I move to suspend the further reading of these reports, and that they be ordered to be printed. I understand it will take ten hours to read them, and the reading will be of no good to any one if they take that long. If any one makes objection, I move to suspend the rules.

The SPEAKER. The Chair understands from the author of this report that it will take five hours to read it.

Mr. BINGHAM. There is another report to be read. I appeal to the gentleman from Pennsylvania [Mr. MILLER] to withdraw his demand for the reading, so that these reports may be ordered to be printed, and not delay the public business with this useless reading.

Mr. MILLER. I withdraw the demand.

Mr. FARNSWORTH. I suggest that the summary and resolutions of the several reports be read.

Mr. BINGHAM. There is no objection to that.

The Clerk read accordingly, concluding with the following resolution:

*Resolved*, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

[Applause and hisses in the galleries and upon the floor.]

The SPEAKER. Any person in the galleries manifesting applause or hissing will be removed from the gallery by order of the Speaker, who is determined to maintain the order and decorum of this Hall, if possible; and the Doorkeeper will direct his deputies to remove any person manifesting applause or dissent in regard to the proceedings of this House. As both sides were guilty, the Chair thinks it a proper time to state that fact.

Mr. BOUTWELL. I ask that the consideration of this resolution shall be postponed until Wednesday of next week after the morning hour, and from day to day till disposed of. I move also that the report be printed.

Mr. WILSON, of Iowa. Mr. Speaker, I desire to present in behalf of myself and my colleague on the committee, the honorable member from Vermont, [Mr. WOODBRIDGE], a minority report. I will not consume any time, sir, in making a statement with reference to it. I will barely state the conclusions at which we have arrived; which are that we declare that the case before us presented by the testimony and measured by the law does not disclose such high crimes and misdemeanors within the meaning of the Constitution as requires the interposition of the constitutional power of this House, and recommend the adoption of the following resolution:

*Resolved*, That the Committee on the Judiciary be discharged from the further consideration of the proposed impeachment of the President of the United States, and that the subject be laid upon the table.

This is signed by the name of the gentleman from Vermont and my own. I ask that it be laid upon the table and ordered to be printed.

Mr. MARSHALL. Mr. Speaker, on behalf of myself and the honorable member from Wisconsin [Mr. ELDRIDGE] of the Judiciary Committee, I am authorized to say that we fully concur in the resolution just offered by the chairman of the committee, and that in the

main we entirely concur in the argument presented by the chairman in regard to the law governing the case and the application of the evidence thereto. But on some points there are matters of difference between ourselves and associates of the minority of the committee, and on part of myself and the gentleman from Wisconsin of the Judiciary Committee, I ask to introduce and have printed separate views. As I have said, we concur in the resolution offered by the chairman.

The SPEAKER. The motion to lay upon the table will be reserved; as otherwise it must be at once acted on.

Mr. WILSON, of Iowa. My purpose is to offer it before the final vote.

Mr. BOUTWELL. If it be proper to do it, I will modify my motion so as to embrace all the reports—the majority and the two minority reports. I move that they be printed together, and that the whole subject be postponed until next Wednesday week, after the morning hour, and made the special order from day to day till disposed of.

The motion, as modified, was agreed to.

#### INVESTIGATING COMMITTEES.

Mr. WASHBURN, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk and the Sergeant-at-Arms of the House be directed to furnish to the House a list of the several investigating committees now acting under the authority of the House; and also a list of the regular committees of the House authorized to summon witnesses and take testimony, together with a statement of the number of clerks, agents, and employees of each committee, the authority under which they are employed and paid, and at what rate of compensation; and further, to furnish a full statement of all the expenses of all the investigations of the said committees, and all the items thereof, and out of what fund said expenses have been paid.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EFFECT OF IMPEACHMENT.

Mr. KELSEY, by unanimous consent, introduced a bill declaring the effect of an impeachment by the House of Representatives of the President or Vice President or any of the civil officers of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BROOKS. What position does that put it on the Calendar?

The SPEAKER. It is not on the Calendar; it is only referred to the committee.

Mr. BLAINE. I move to reconsider the vote by which the bill was referred; and also move to lay the motion to reconsider on the table.

Mr. KELSEY. I hope the motion to lay on the table will not pass.

Mr. BLAINE. My object is to keep the bill from being brought back into the House by a motion to reconsider.

The motion to lay on the table the motion to reconsider was agreed to.

#### BUILDING SHIPS OF WAR.

Mr. PIKE, by unanimous consent, offered the following resolution:

*Resolved*, That in the judgment of this House it is unnecessary to proceed further at present in building or equipping ships of war.

Mr. PIKE. I ask to have it referred to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. I hope that resolution will be put on its passage.

Mr. ELIOT. I object to its passage, but not to its reference.

Mr. PIKE. I move to suspend the rules for the purpose of considering the resolution now.

The motion to suspend the rules was agreed to—ayes 81, noes 40.

Mr. PIKE. I demand the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered.

Mr. ELIOT and Mr. SPALDING demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. SPALDING asked for tellers on ordering the yeas and nays.

Tellers were refused.

The resolution was then referred to the Committee on Naval Affairs.

#### PURCHASE OF TERRITORY.

Mr. WASHBURN, of Wisconsin, by unanimous consent, offered the following resolution:

*Resolved*, That in the present financial condition of the country any further purchases of territory are inexpedient, and this House will hold itself under no obligation to vote money to pay for any such purchase unless there is greater present necessity for the same than now exists.

Mr. BANKS. I object.

Mr. WASHBURN, of Wisconsin. I move to suspend the rules, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BANKS. For the information of the House, I would like the gentleman from Wisconsin to state what he understands by the word "further." I do not think it implies what he has stated to me as his intention.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I do not intend that resolution to apply to the purchase of Walrusia. That is something that has already transpired, and it may be that this House will feel itself under obligation to sanction what has been done there. I certainly shall never feel under such obligation. But it is rumored in the papers—whether it is true or not I cannot say—that the Secretary of State has been making another purchase without consulting with any one, in the absence of any public sentiment requiring it, or of any demand from any quarter. I intend that that action shall be covered by the resolution. I intend to serve notice upon the kingdom of Denmark that this House will not pay for that purchase; and I mean to serve notice upon the world that we will pay for no purchase that the Secretary of State, on his own motion, may see proper to make—that no purchase will be sanctioned that is not demanded by the public sentiment and the best interest of the country. That is what I mean by the resolution. It does not, as I understand, commit any one concerning Walrusia. Upon that subject I will have something to say at some future time.

Mr. BANKS. If the gentleman from Wisconsin will allow me one word, I will say that the resolution does not accomplish the purpose he intends. It does not and cannot prevent the House voting any appropriation of this kind that it may choose hereafter, and it implies what it ought not to imply—that if territory should be purchased by the executive department, and the purchase be confirmed by treaty and approved by the Senate, this House would be obliged to make the appropriation, which I do not admit; certainly if this resolution fails to pass it will at least imply that, and if it pass it will not bind the House in any way whatever. I trust that the rules will not be suspended.

Mr. WASHBURN, of Wisconsin. This is a declaration of the opinion of this House; it is serving notice upon the world. I offer it in that view, and I want to see who is willing to vote against it.

The question was taken on the motion to suspend the rules; and there were—yeas 93, nays 43, not voting 45; as follows:

YEAS—Messrs. Allison, Anderson, Arnel, Delos R. Ashley, James M. Ashley, Baker, Beaman, Benton, Blaine, Boutwell, Bromwell, Brooks, Broomall, Buckland, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Culjom, Dodge, Donnelly, Driggs, Eekley, Ela, Farnsworth, Ferriss, Ferry, Fields, Gravely, Haight, Halscy, Hamilton, Harding, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Malory, McCarthy, McClurg, Mercu, Moore, Morgan, Morrell, Myers, Newcomb, Nunn, O'Neill, Paine, Perham, Peters, Pike, Pile, Polsley, Price, Sawyer, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—93.

NAYS—Messrs. Axtell, Banks, Barnes, Birchard,

Blair, Boyer, Burr, Cary, Eldridge, Garfield, Getz, Glossbrenner, Hawkins, Higby, Hooper, Richard D. Hubbard, Jencks, Johnson, Kerr, Keicham, Maynard, Miller, Mullins, Niblack, Nicholson, Phelps, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Stegrevs, Spalding, Stewart, Taber, Thomas, Upton, Van Aukon, Robert T. Van Horn, Woodbridge, and Woodward—43.

**NOT VOTING.** Messrs. Adams, Ames, Archer, Baldwin, Barnum, Benjamin, Cobb, Cornell, Dawes, Dixon, Eggleton, Eliot, Finney, Fox, Griswold, Asahel W. Hubbard, Hoffman, Humphrey, Kitchen, Koehntz, Laffin, Lincoln, Marshall, Marvin, McCullough, Moorhead, Morrissey, Mungen, Orth, Raum, Robertson, Schenck, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Stone, Taffe, Burt Van Horn, Van Wyck, William B. Washburn, Stephen F. Wilson, Windom, and Wood—45.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was before the House.

Mr. WASHBURN, of Wisconsin. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MAILS TO FOREIGN PORTS.

Mr. HOOPER, of Utah, by unanimous consent, introduced a bill amendatory of certain acts for carrying the mails to foreign ports; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### THE SINKING FUND.

Mr. BUTLER. I ask unanimous consent to offer the following resolution:

Whereas by the act of February 25, 1862, providing for the issue of legal-tender notes, one per cent. of the coin revenues of the United States are set apart as a special fund to be applied to the purchase or payment of the public debt: Therefore,

*Resolved*, That the Secretary of the Treasury be directed to inform this House the amount of such sinking fund, when, where, and how the same has been invested according to the terms of said act.

The SPEAKER. Is there objection to the reception of the resolution?

Mr. BROOKS. I do not object, but I wish to remark, for the information of the gentleman from Massachusetts, that an effort was made to have this sinking fund or reserved fund established under that law when one or two finance bills were pending, but it was opposed by a large majority of the House, and the Secretary, no doubt acting upon the vote of the House, has not made any such reservation. I think the information is patent to everybody without official inquiry, but if the gentleman desires it I have no objection.

Mr. PRUYN. I wish also to say, for the information of the gentleman from Massachusetts, that when the gold bill was under discussion in the Thirty-Eighth Congress, I called the particular attention of the House to the clause in the act of 1862 with a view to inquire what was the condition of the sinking fund to which his resolution refers. It was then said, I think by the chairman of the Committee on Ways and Means, at any rate by somebody who claimed to understand the matter, that the fund had not been raised, and no attempt had been made to raise it, for the reason that the Government was still issuing its evidences of indebtedness and selling them; and therefore it amounted simply to reducing the Government indebtedness so much if they failed to raise the sinking fund. I confess the answer was not at all satisfactory to me.

Mr. BUTLER. I want to get an authoritative answer why a law of Congress is not obeyed, if, as it is said, it is not obeyed, and to have before this House and before the country exactly the condition in which the public debt stands. The law of Congress requires that one per cent. of the entire coin revenue of the United States shall be set apart as a sinking fund. Some gentlemen say that has not been done. If not, then I want to know why not. I trust there will be no objection to obtaining this information in an authoritative form.

Mr. PRUYN. Certainly not. I entirely agree with the gentleman from Massachusetts, [Mr. BUTLER.]

The resolution was then adopted.

ST. LOUIS, MISSOURI.

Mr. PILE, by unanimous consent, introduced a bill declaring the city of St. Louis, in the State of Missouri, a port of entry; which was read a first and second time, and referred to the Committee on Commerce.

Mr. HIGBY. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BURR: The petition of Solomon M. Murphy, late sergeant company D, third Illinois cavalry volunteers, for compensation for property lost during the war to suppress the rebellion.

Also, affidavits of David R. Sparks and George M. Sanders supporting the same.

By Mr. FERRY: The petition of William H. Conover, of the fourth Michigan cavalry, praying for the payment of the reward to the captors of Jefferson Davis, the so-called president of the late Confederate States.

By Mr. HIGBY: The petition of the Terminal Central Pacific Railway Company.

By Mr. KELLEY: The petition of 100 citizens of Delaware county, Pennsylvania, for the impeachment and deposition of Andrew Johnson from the office of President of the United States.

Also, a petition upon the same subject from 40 citizens of Pennsylvania.

By Mr. PIKE: The petition of Eliza Hudson and others relative to pensions of naval officers.

By Mr. PLANTS: The petition of the members of the court and bar for the district and circuit courts of the United States for the northern district of Florida, and a number of citizens of said State, praying for a change in the times and places of holding the courts in said district, and for other purposes.

By Mr. SCHENCK: A memorial of Captain R. W. Riell, United States Navy, asking to be placed on active service.

Also, the petition of colored citizens of Paducah, Kentucky, for the impeachment of the President of the United States.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. WINDOM: A bill to amend the fifth section of an act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate reconstruction," passed March 23, 1867, by striking out of said section the words "at least one half of all the registered voters voting upon the question of such ratification."

#### IN SENATE.

TUESDAY, November 26, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, in answer to a resolution of the 21st instant, calling upon the Secretary of the Treasury to communicate any facts or reports in possession of the Department relative to the tax on cotton, transmitting a report from David A. Wells, special commissioner of the revenue; which was referred to the Committee on Finance.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the constitutional convention of the State of Alabama, now in session, in favor of a repeal of the tax on cotton, and that the taxes collected since the 1st day of September, 1867, may be refunded to the producers; which was referred to the Committee on Finance.

He also presented a petition of citizens of Georgia for a repeal of the tax on cotton; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of women of Indiana for such legislation as will secure to woman equal suffrage with man in the District of Columbia; which was referred to the Committee on the District of Columbia.

#### CHANGE OF A NAME.

Mr. HARLAN. I present the petition of Samuel Chase Barney, jr., praying that his name may be changed from Barney to De Kraft. It is accompanied by a short bill to effect that object. I suppose that there will be no objection to it, and I therefore ask that the bill may be read a first and second time and put on its passage.

By unanimous consent leave was granted to introduce a bill (S. No. 143) to authorize the change of a name, and it was read twice. It proposes to authorize Samuel Chase Barney, jr., to change his name to Samuel Chase De Kraft, and provides that the act shall take effect from December 1, 1867.

Mr. SUMNER. Where is the person's domicile?

Mr. HARLAN. He lives in this District; and I hold in my hand a letter from his guardian which explains the matter.

Mr. SUMNER. Should not the domicile be mentioned in the bill, so as to read "Samuel Chase Barney, jr., of the District of Columbia?"

Mr. HARLAN. Perhaps that would be better.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. HARLAN. I ask that the letter of Dr. Lindsly, his guardian, be read. That will explain the whole subject.

The Secretary read as follows:

WASHINGTON, November 25, 1867.

DEAR SIR: The petitioner in this case is my ward, and is anxious to have his name changed on account of the bad character of his father and an uncle, who have brought disgrace, as he thinks, on the name. His paternal grandfather was Commodore Barney, a distinguished officer in the Navy. His maternal grandfather was Edward De Kraft, formerly printer to Congress, who left quite a large property, which is inherited by my ward (the petitioner) and a brother and two sisters. His mother was divorced from his father and assumed her maiden name, De Kraft. As stated in the petition, the circumstances are all well known to Judge Purcell, of the orphan's court, and Chief Justice Carter, of the Supreme Court, as many points in relation to the divorce, guardianship of the children, &c., were contested in long trials in their respective courts.

A precedent as to change of name by Congress was set in the case of a grandson of Mr. Nathan Sargent, Commissioner of Customs, which was changed by the last Congress from Nathan Sargent Dustin to Nathan Sargent, a student in the Naval Academy at Annapolis.

Asking your attention to the petition as early as convenient, I am, very truly, yours,

H. LINDSLY.

Hon. JAMES HARLAN,  
Chairman Committee on the District of Columbia.

Mr. FESSENDEN. I think the bill had better be referred to the Committee on the District of Columbia.

Mr. HARLAN. I have no objection.

The PRESIDENT *pro tempore*. It is moved to refer the bill to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HARLAN subsequently reported the bill from the Committee on the District of Columbia, with an amendment, and by unanimous consent the bill was considered as in Committee of the Whole.

The amendment was in the fourth line of the bill, after the statement of the name to be changed to insert the words "of the District of Columbia."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

Mr. JOHNSON. I suggest that the name which is to be changed ought to be stated in the title of the bill.

Mr. HARLAN. I have no objection to amending the title as the Senator from Maryland suggests.

The title of the bill was amended to read: "A bill to change the name of Samuel Chase Barney, jr., to that of Samuel Chase De Kraft."

## BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 144) granting the right of way through the lands of the United States at West Point to the Hudson River West Shore Railroad Company; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. CONKLING. I present a memorial of citizens of the city of New York, members of the Union League Club, asking the action of Congress to prevent the muster out of the volunteer service of the United States of Major General Daniel E. Sickles. Accompanying the memorial is a bill, which I ask leave to introduce and have referred, with the memorial, to the Committee on Military Affairs and the Militia.

There being no objection, leave was granted to introduce a bill (S. No. 145) to continue Major Generals Howard and Sickles in the military service of the United States; which was read twice by its title, and, with the memorial, referred to the Committee on Military Affairs and the Militia.

## ASSISTANT ATTORNEY GENERAL.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 146) to provide for the appointment of the Assistant Attorney General; which was read twice by its title.

Mr. WILSON. I am not clear that there ought to be an Assistant Attorney General, and I am very much of the opinion that assistants in several other Departments are unnecessary. I can hardly see why one should be needed in the Navy Department, one in the Interior Department, and two in the Treasury Department. There is none in the War Department. I would very willingly vote to dispense with them all. But if we are to have an Assistant Attorney General I wish to have him confirmed by the Senate of the United States. I do not think there should be an Assistant Attorney General unless he passes before this body. The country has been disgraced by a person filling that office during the past few months, by opinions that have been slanderous and libelous upon the men of the country. I think, if we are to have an Assistant Attorney General, that he should at least be a person sent to the Senate of the United States for confirmation. This bill proposes that the Assistant Attorney General shall be appointed by and with the advice and consent of the Senate. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

## REMOVAL OF MR. MOTLEY.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interests, any correspondence with Mr. Motley, late minister of the United States at Vienna, or with the Austrian Government, not heretofore communicated, especially so far as the same relates to the removal of Mr. Motley from his post.

## MESSENGERS AND PAGES.

Mr. NYE. I should like to call up for consideration the resolution that I had the honor to introduce yesterday, with a view of amending it and passing it now.

The motion was agreed to; and the Senate resumed the consideration of the resolution for the payment of the salaries now due the special messengers and pages retained during the recess of the Senate.

Mr. NYE. At the request of the Senator from Pennsylvania [Mr. CAMERON] I move to insert "clerks of committees."

The PRESIDENT *pro tempore*. The resolution will be so modified at the request of the mover. It will be read as amended.

The Secretary read as follows:

*Resolved*, That the Secretary of the Senate be, and he is hereby, authorized to pay the salaries now due to the clerks of committees and special messengers and pages retained during the recess by special resolution out of the contingent fund of the Senate or any fund not otherwise appropriated.

Mr. DIXON. I call the attention of the Chair to the thirty-fourth rule, which requires that resolutions of that character shall be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. I think the rule is positive with regard to it. The PRESIDENT *pro tempore*. That is very true; but the Senate can by unanimous consent dispense with that, I suppose, and that was done.

Mr. FESSENDEN. No, sir; there has been no rule dispensed with. The resolution was merely called up for action.

Mr. NYE. So far as a portion of that resolution is concerned, I will state that a resolution was passed on the last day of the session in July authorizing the Sergeant-at-Arms to retain the pages and special messengers during the recess of the Senate. I suppose that by the passage of the resolution the Senate intended they should be paid, and be paid the same as during the existence of the session.

Mr. GRIMES. Have you got that resolution of the last session?

Mr. NYE. No, sir.

Mr. FESSENDEN. I should like to have the Clerk read that resolution.

Mr. NYE. It seems that the Secretary of the Senate did not feel authorized to pay them from any fund, as the fund for that purpose was exhausted, and this resolution is to authorize him to pay from another fund what these pages and messengers have earned. So far as the clerks of committees are concerned, I introduced that amendment at the request of the Senator from Pennsylvania, [Mr. CAMERON,] who is absent necessarily to-day, and who asked me to offer that as an amendment, which I promised to do. There has been no objection, I think, to the payment of these pages and messengers. The per diem or rate of payment, I suppose, is fixed by a rule of the Senate. If it is thought necessary to have the resolution referred I have no objection.

Mr. FESSENDEN. I think that would be better.

Mr. NYE. The standard of payment is well established for these poor boys, and they have not got their pay, and are suffering for the want of it.

Mr. FESSENDEN. If we passed a resolution of the kind stated by the Senator from Nevada I have no sort of objection to passing any resolution that may be necessary to pay those employed under it, but I am certainly opposed to going further and letting in others whose employment was not authorized; and as there is no immediate hurry about the matter, I think it had better be referred to the Committee on Contingent Expenses. I am a little doubtful about our authority to designate payment out of the particular fund indicated. That ought to be looked into. Can it be done by order of the Senate, so as to enable the Secretary to pass his accounts? That question had better be settled.

Mr. NYE. I have no objection to the reference, but I hope action will not be delayed long, because these boys need the money very much.

Mr. FESSENDEN. A few days will not make much difference; we shall continue in session.

The PRESIDENT *pro tempore*. Is there a motion to refer the resolution?

Mr. FESSENDEN. I move that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The motion was agreed to.

## CLOSE OF THE SESSION.

Mr. GRIMES. I offer the following resolution for adoption:

*Resolved by the Senate*, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House do adjourn their respective Houses without day on Monday, the 2d of December next, at half past eleven o'clock a. m.

Mr. SUMNER. I would suggest "at twelve o'clock."

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution? The Chair hears no objection.

Mr. SUMNER. I do not wish to object to its consideration, but I have a serious question whether we should leave even the break of half an hour between the two sessions. The point in my mind is just this: will you leave to the President of the United States one half hour within which he may take advantage of the absence of Congress, and issue commissions which would then run perhaps—I do not undertake to decide the point now, but which I say might run then to the last day of the next session of the Senate. That may be mid-summer or autumn; we may not leave here before autumn. I take it that an appointment made during that *interim* of half an hour might possibly be valid to the last day of the next session of Congress.

Mr. EDMUNDS. But the law takes no notice of parts of a day.

Mr. SUMNER. Why open the question? That is a technicality.

Mr. GRIMES. I do not think the question is worth having a debate about, and I am content that any amendment should be made to the resolution which the Senator from Massachusetts chooses to suggest.

Mr. SUMNER. Why not say "twelve o'clock?"

Mr. GRIMES. Very well.

The PRESIDENT *pro tempore*. Does the Senator from Iowa so modify the resolution?

Mr. GRIMES. Yes, sir.

Mr. SHERMAN. I cannot see any object in passing this concurrent resolution. The Constitution provides that the regular session of Congress shall be on the first Monday of December, and according to law, I believe—or at any rate such is the usage—the hour for meeting on that day is twelve o'clock. We shall meet at that time in a new session. The recent law has not changed that regular time of meeting, and the result is that the next session of Congress will commence necessarily at noon on Monday. Why not allow the two sessions to merge? Why not have this session go on and expire by the necessary limitation fixed by law and the Constitution? I think that would be better. I do not see any object to be gained by passing a resolution for adjournment *sine die*. I would vote with pleasure for a recess until Monday at half past eleven o'clock, and let one session blend with the other. I see no objection to that course, while the passage of a resolution for an adjournment *sine die* may raise questions which we shall have to meet hereafter. I have not examined the question, nor thought about it, but I have supposed that by a recess or some process of that kind, this session would be continued till Monday and terminate at the beginning of the other without a formal vote.

Mr. FESSENDEN. It strikes me that there should be, in accordance with universal usage, (though to be sure this is rather an exceptional case,) a joint resolution fixing the time when this session shall terminate. I am perfectly agreed that it is not advisable perhaps to have any very appreciable interval of time, or any very considerable time, at any rate, between the termination of this session and the commencement of the next regular session. Still I think that there should be an appreciable distinction, and that we should fix the time of adjournment and adjourn accordingly. I have no very fixed opinion in relation to the matter that I am not willing to give up to the opinion of others if they choose to take the responsibility. I see no objection to fixing the time at five minutes before twelve o'clock, if you please, so as to have some little interregnum or interval between the expiration of one session of Congress and the commencement of another. This is the idea I have entertained and expressed to several gentlemen in conversation on the subject, and my own opinion is that it would be better, because in accordance with usage. I do not think that five minutes would be a time within which any very great harm could be done. It is with reference rather to the record and to keeping things in order on the record that I suggest that it would be well



to have the usual joint resolution of adjournment.

Mr. TRUMBULL. I merely desire to say that I am indifferent as to what particular time we adjourn *sine die*. This session, I suppose, will close at some time, and individually it is immaterial to me whether it is to-day or next Monday, but I wish to put in my protest against any such reason as is advanced here in the Senate. I think the Congress of the United States should pursue the even tenor of its way, and while we have a President I am for treating him as President; and I will not anticipate that he is going to do some terrible thing during five minutes, between eleven o'clock and fifty-five minutes next Monday and twelve o'clock. Let him take the consequences of his acts. Let us legislate, do our business, and adjourn without any reference to any rumors about the town that a certain thing is to be done or not to be done. I care nothing about it. I do not believe this country is to be ruined or destroyed in any five minutes; and therefore I hope that whatever time we fix, and I am indifferent about it, will be fixed in reference to our own convenience and the business of Congress, and not in reference to what somebody may suppose that some other department of the Government is going to do.

Mr. SUMNER. I hope that what we may do may be done with reference to the welfare of the country, and with no particular reference to any rumors or reports. There I agree with my friend; but then I do not agree with him when he says, give the President another chance. We have already been giving him chances, and we cannot act now in any way without taking into consideration his character and position. Those are now matters of history. I wish to speak with proper delicacy, with proper reserve, when I allude to him, but I must speak under the responsibility of a Senator. A large portion of our country believe the President to be a wicked man, of evil thoughts and unpatriotic purposes, and in spirit and conduct the successor of Jefferson Davis, through whom, at this moment, the rebellion is revived. Those are the sentiments of a large portion of our people.

Mr. DIXON. I desire to ask the Senator if that is the opinion of a majority of the American people, in his judgment?

Mr. SUMNER. Well, that does not belong to the question. I say it is unquestionably the opinion of a large portion of the people of the United States, whether a majority or not the future may disclose. I do not wish to go in advance or anticipate any such judgment. I speak now simply with reference to what is before us. The question is, whether we shall give him another opportunity. I say no. In arriving at that conclusion I do not act on any rumor that is afloat, to which the Senator from Illinois refers; I act with reference to the character of the Chief Magistrate as displayed in his public acts; and it seems to me that it will be something like rashness in the Senate if they concede to him another occasion to practice on the country in the carrying out of his policy, as we know that he has practiced in times past. I feel that we ought to stop the way; we should not give him a day; we should not give him five minutes—I am ready to say that—not five minutes for the chance of an exercise of illegitimate power. I will not allow him to exercise it and then take my chance hereafter of applying the corrective. "An ounce of prevention is better than a pound of cure." Such is an old saying, and now is an occasion for its application.

And that brings me to the exact point as to whether the present session should expire precisely at the time when the coming session begins. I see no reason why it should not. I see no reason why we should interpose the buffer even of five minutes. Let one session come right up close upon the other, and then we shall exclude every possibility of evil consequences from the character of the Chief Magistrate. It is well known that in other

Governments, when, for instance, the king dies, the moment the breath is out of his body power is in his successor, so that there is a common saying, "The king is dead; long live the king." Now I know not why, when this session expires, we may not at the same time announce its expiration and announce the beginning of the new session.

Mr. TRUMBULL. I do not know that there is any practical importance whatever in this discussion. The Senator from Massachusetts chooses to govern his action in his legislative capacity as a Senator here by some supposed action of another department of the Government. That may be the consideration which governs him. I merely desired to say that I should give my vote upon this question having reference to the discharge of my public duties here as a member of this body, and that I would not undertake to anticipate the doing of illegitimate acts by another department of the Government. "Sufficient unto the day is the evil thereof." I am not here—it is not my purpose nor my province, nor consistent with my sense of public duty—to make any assault upon the President of the United States, or to defend the President of the United States. I am not to be put in the position of doing either on the present occasion. So far as I am concerned, I shall vote upon this resolution without reference to the President of the United States; but I shall be governed in my action by what seems to me to be proper, convenient for Congress, and best for the interests of the country.

Mr. SUMNER. Let the resolution be read now.

The Secretary read as follows:

*Resolved by the Senate, (the House of Representatives concurring.) That the President of the Senate and the Speaker of the House do adjourn their respective Houses without day on Monday, the 2d of December next, at twelve o'clock meridian.*

The resolution was agreed to.

JOHN H. OSLER.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 147) for the relief of John H. Osler, of Guernsey county, Ohio; which was read twice by its title.

Mr. SHERMAN. The bill is very short. It is for the relief of a wounded soldier, giving him three months' pay. The facts are substantially stated on the face of the bill, and perhaps if it is read the Senate will consent to pass it; but if any one objects to that I will move its reference to a committee.

Mr. JOHNSON. Let it be referred.

Mr. SHERMAN. Very well. I move its reference to the Committee on Military Affairs and the Militia.

Mr. GRIMES. I move to amend that motion by referring it to the Committee on Claims.

Mr. SHERMAN. I have no objection to that.

Mr. GRIMES. I trust the Senate, at the commencement of the session, will go back to the rule we used to have a few years ago, and make a proper reference of all bills introduced. The Committee on Naval Affairs and the Committee on Military Affairs, and divers and sundry other committees, are constantly having petitions, memorials, and bills sent to them that do not pertain to their business at all, but do pertain to the Committee on Claims. That committee is so constituted as to be capable of comprehending all these questions more thoroughly than a committee who represents some particular working branch of the Government; and it is for that reason that I make this motion.

The PRESIDENT *pro tempore*. Does the Senator from Ohio consent to that disposition of the bill?

Mr. SHERMAN. Certainly.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Claims.

EXECUTIVE SESSION.

Mr. CHANDLER. I move that the Senate

proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, November 26, 1867.

The House met at twelve o'clock m. Prayer by Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### CONVENTION OF FEDERAL OFFICERS, ETC.

Mr. MAYNARD, by unanimous consent, presented a communication, transmitting proceedings of a convention of the Federal officers and soldiers of the State of Kentucky, held at Louisville, Kentucky, on the 26th of August last; which was referred to the Committee on Military Affairs, and ordered to be printed.

### REMOVAL OF SECRETARY STANTON, ETC.

Mr. BLAINE, by unanimous consent, submitted the following resolution:

*Resolved*, That the General commanding the armies of the United States be directed to communicate to this House any and all correspondence addressed by him to the President of the United States upon the subject of the removal of Hon. E. M. Stanton, Secretary of War, and of General P. H. Sheridan, commander of the fifth military district; and also any correspondence or orders in his office showing the condition of the fifth military district prior to the passage of the military reconstruction bill, and any recommendation that he may have made thereon; and what steps, if any, were taken by civil authority in regard to such recommendations; and also all correspondence in regard to the difficulties in Baltimore touching the police commissioners and other matters prior to the election in 1866; and further, all correspondence in regard to a proposed mission of the General of the Army to Mexico in the year 1866.

Mr. FARNSWORTH. I suggest that this resolution should include a call for the correspondence in reference to the removal of General Sickles.

Mr. BLAINE. I will modify my resolution by including the inquiry suggested by the gentleman from Illinois, [Mr. FARNSWORTH.] I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was adopted.

Mr. BLAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### WEEKLY PAYMENTS OF THE ARMY.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the practicability of paying the Army once a week, instead of every two months, as now provided by law, with leave to report by bill or otherwise.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### FREEDMEN'S BUREAU.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Freedmen's Affairs be directed to ascertain whether any, and if any, what, reasons exist why the Freedmen's Bureau should be continued beyond the time now limited by law, and report by bill or otherwise.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### VENTILATION OF THE HALL.

Mr. BROMWELL, by unanimous consent, submitted the following resolution:

Whereas the confined and poisonous air of the Hall and corridors of the Representative wing of the Capitol has caused much sickness and even several deaths among the members of this House, and under

present arrangements must continue in a poisonous condition:

*Resolved*, That a committee of three be appointed to examine at once and report to this House by what means a sufficient supply of pure air may be obtained for said Hall; and that said committee be empowered to use the present modes of ventilation to the best advantage for the present, and that they report by bill or otherwise.

Mr. PRUYN. I hope that this resolution will be adopted. We ought, if possible, to take some action on this subject.

Mr. BANKS. I wish the gentleman who proposes this resolution would include in it an inquiry what changes are necessary in the Hall to adapt it to the purposes of legislation, making a general inquiry, instead of a particular inquiry, in regard to the atmosphere.

Mr. SPALDING. I move to amend the resolution by striking out "a committee of three," and inserting "the Committee on Public Buildings and Grounds."

The SPEAKER. Does the gentleman from Illinois [Mr. BROMWELL] accept that amendment?

Mr. BROMWELL. No, sir.

The amendment was adopted; there being, on a division—ayes 54, noes 38.

The resolution, as amended, was adopted.

#### LA FAYETTE C. BAKER.

Mr. WILSON, of Iowa. Mr. Speaker, I rise to a question of privilege. It will be remembered that on the last day of the July session a resolution was passed directing the Sergeant-at-Arms to take into custody La Fayette C. Baker, who was subpoenaed as a witness before the Judiciary Committee and failed to appear. I am directed by the committee to state that since that time he has appeared and testified, and they do not consider the case of sufficient importance to ask further action on the part of the House. I move, therefore, that he be discharged from the custody of the Sergeant-at-Arms on payment of costs.

The motion was agreed to.

#### KENTUCKY CONTESTED-ELECTION CASE.

The SPEAKER laid before the House papers in the Kentucky contested-election case of McKee vs. Young; which were referred to the Committee of Elections.

#### DELEGATE FROM NEW MEXICO.

The SPEAKER also laid before the House papers pertaining to the seat of Delegate to the Fortieth Congress; which were referred to the Committee of Elections.

#### TAX ON COTTON.

The SPEAKER also laid before the House a memorial from the constitutional convention of Alabama, asking that the tax on cotton be repealed to operate back to the 1st of September; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### CALL OF COMMITTEES.

The SPEAKER stated that the regular order of business was the call of committees for reports.

#### STEPHEN F. CAMERON.

Mr. BOUTWELL, from the Committee on the Judiciary, made an adverse report on the case of Stephen F. Cameron; and the same was laid on the table.

The call of the committees being concluded, the Speaker then proceeded, as the next business in order, to call the States for resolutions, beginning with the State of Maine.

#### CUSTOMS, FINES, AND FORFEITURES.

Mr. ELIOT offered the following resolution:

*Resolved*, That the Committee on Commerce be instructed to inquire what legislation, if any, is necessary concerning the act of March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures incurred under the laws relating to customs, and for other purposes," and report by bill or otherwise.

Mr. CHANLER. I hope the gentleman from Massachusetts will explain that resolution. I did not hear it very well.

The SPEAKER. If the resolution gives rise to debate, it must lie over one day under the rule.

Mr. ELIOT. It is only a resolution instructing the committee to make an inquiry.

The SPEAKER. If the resolution gives rise to debate it must lie over one day under the rule, unless, by unanimous consent, the rule is waived. If there be no objection, the gentleman from Massachusetts will explain the resolution.

No objection was made.

Mr. ELIOT. I understand that the objection to the resolution is not insisted on.

Mr. ROSS. I hope it will be read again.

The resolution was again read.

Mr. ELIOT. I move the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

#### DISTILLERY METERS.

Mr. MUGEN. I offer the following resolution:

*Be it resolved by the House of Representatives of the United States*, That the Secretary of the Treasury be, and he is hereby, requested to inform this House whether under the provisions of section fifteen of the act of March 2, 1867, entitled "An act to amend the existing laws relating to internal revenue, and for other purposes," he has adopted or prescribed any meter or meters to be attached to stills used for distilling spirits; if so, to communicate such information as may be in possession of his Department relative to the practical working of such meter or meters, and the effect thereof upon distillers and distilling and the collection of the tax on distilled spirits.

The SPEAKER. This being a call for executive information it requires unanimous consent for its consideration to-day.

No objection being made, the resolution was considered and agreed to.

#### TAXES ON COTTON, ETC.

Mr. KELLEY. I offer the following resolution:

*Resolved*, That the welfare of the people and the maintenance of the faith and credit of the Government require the repeal of the taxes imposed by existing laws on cotton and the productions of manufacturing and mechanical industry except distilled spirits, malt liquors, and the productions of tobacco.

Mr. WASHBURNE of Illinois. I move that that resolution be referred to the Committee of Ways and Means.

The motion was agreed to.

#### ADMIRAL GOLDSBOROUGH.

Mr. SCHENCK. I offer the following resolution:

*Resolved*, That the Secretary of the Navy be directed to inform this House whether Louis M. Goldsborough was, while a midshipman in the Navy, appointed to an acting lieutenant therein; and if so, when, where, and by whom he was so appointed, and how long he served in that capacity; and whether he received a lieutenant's pay during the period of his acting lieutenantcy; and whether, when he was so appointed, there was on board the same vessel with him any midshipman the date of whose appointment or warrant as such was junior to his, but whose period of actual service was longer than said Goldsborough's had then been; and whether, when the question of said Goldsborough's right to be retained on the active list of the Navy as rear admiral was submitted to the President and Cabinet as stated in the letter of said Secretary to said Goldsborough, dated June 18, 1867, and heretofore communicated to this House, the fact was known and communicated to the President and Cabinet that said Goldsborough had while a midshipman been appointed to an acting lieutenantcy; and that the said Secretary be further directed to transmit to this House copies of all official entries, documents, or letters in his Department having reference to said Goldsborough's appointment as an acting lieutenant.

The SPEAKER. This being a call for executive information, it requires unanimous consent for its consideration to-day.

Mr. CHANLER. I do not object; but this seems to be a personal matter. Will the chairman of the Committee of Ways and Means give some reason for making this call?

Mr. SCHENCK. The Secretary of the Navy has been overruled by a decision of the Cabinet in respect to the right of Admiral Goldsborough to remain upon the active list, and a good deal of information came to the House upon that subject, presenting the views upon the one side and upon the other of the question, upon a call made at the last session, but some other correspondence and facts are supposed to exist in the Navy Department throwing light upon the

question, and I propose to call for further information that the whole may go together to the Committee on Naval Affairs.

No objection being made, the resolution was considered and agreed to.

#### PARDON OF COUNTERFEITERS, ETC.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution, calling for executive information:

*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to communicate to this House a full and exact list of all pardons that have been by him granted since the 14th day of April, 1865, to any person or persons charged with, or convicted of, making or passing counterfeit money, or having counterfeit money, or tools or instruments for making the same in his or their possession, or charged with or convicted of the crime of forging or criminally altering papers, accounts, or other documents, or of the crime of perjury; and that such list be accompanied by a particular statement in each case of the reasons or grounds of the pardon, with a disclosure of the names of the persons, if any, who recommended or advised the same.

No objection was made to the reception of the resolution; and it was adopted.

#### EQUALIZATION OF TAXATION.

Mr. PIKE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be directed to inquire into the expediency of equalizing taxation, in part as follows: first, taxing the bonds of the United States one per cent. per annum, the tax to be assessed and collected by the officers of the internal revenue department; second, by authorizing the Secretary of the Treasury to issue bonds subject to State and municipal taxation and not subject to congressional taxation, and exchangeable for any bonds now outstanding, at the pleasure of the holders; third, by providing that the tax paid by the national banks, except so much as is necessary to pay the outlay on their account by the Government, shall be paid to the treasurers of the States in which the banks are located, and applied by them to the debts of those States.

#### REGISTRY OF VESSELS.

Mr. SPALDING introduced a bill granting registers to the bark Thermutis and schooners Etowah and Wirrillite, of Cleveland, Ohio; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### JURISDICTION OF COURT OF CLAIMS, ETC.

Mr. WILLIAMS, of Pennsylvania, introduced a bill supplementary to an act entitled "An act to declare the sense of an act entitled 'An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the armies of the United States;'" which was read a first and second time, and referred to the Committee on the Judiciary.

#### AMENDMENT OF HOMESTEAD LAW.

Mr. JULIAN submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the homestead law of 1862 as to prohibit the further sale of the public lands of the United States except upon conditions requiring their settlement and improvement.

#### WITHDRAWAL OF NATIONAL CURRENCY.

Mr. ROSS. I offer the following resolution, on which I demand the previous question:

*Resolved*, That the Committee on Banking and Currency be, and they are hereby, instructed to report at an early day a bill providing for withdrawing from circulation the national currency, and to supply the place with Treasury notes, usually known as "greenbacks."

Mr. FARNSWORTH. I move that this resolution be referred to the Committee on Banking and Currency.

The SPEAKER. The first question is upon seconding the demand for the previous question. If the previous question should not be seconded the motion to refer will be in order.

Mr. SPALDING. I move that the resolution be laid on the table, unless the gentleman from Illinois [Mr. Ross] will consent to modify it so as to make it simply a resolution of inquiry.

Mr. FARNSWORTH. I suggest that we

had better refuse to second the previous question, and then refer the resolution.

Mr. ROSS. I think we had better adopt the resolution at once.

Mr. SPALDING. In view of the suggestion of the gentleman from Illinois [Mr. FARNSWORTH] I withdraw my motion to lay on the table.

On the question of seconding the demand for the previous question there were—ayes 19, noes 82.

Mr. ROSS. I call for tellers.

Tellers were not ordered.

So the previous question was not seconded.

Mr. FARNSWORTH. I move to refer the resolution to the Committee on Banking and Currency.

Mr. ROSS. I move that the resolution be laid on the table, and on that motion I call for the yeas and nays.

On ordering the yeas and nays, there were—ayes 16, noes 95.

Mr. RANDALL. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. Ross and FARNSWORTH were appointed.

The House divided; and the tellers reported—ayes twenty-six, noes not counted.

So the yeas and nays were ordered.

Mr. FARNSWORTH. I believe the resolution refers to "national currency," not bank currency.

Mr. ROSS. If there is no objection, I will modify my resolution so as to read "national bank currency," instead of "national currency." The meaning, as I understand, is the same.

The SPEAKER. As the previous question is not operating, the gentleman has the right to modify his resolution; and it will be modified accordingly.

The question was taken on the motion of Mr. Ross that the resolution be laid on the table; and it was decided in the negative—yeas 52, nays 101, not voting 28; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Churchill, Covode, Dawes, Briggs, Eckley, Elliot, Garfield, Halsey, Hooper, Hotchkiss, Hubbard, Ketcham, Laffin, George V. Lawrence, Lincoln, Lynch, Marvin, Miller, Morrill, O'Neill, Perham, Plants, Poland, Pomeroy, Price, Sawyer, Sitgreaves, Smith, Spaulding, Starkweather, Trowbridge, Twichell, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, James F. Wilson, John T. Wilson, and Woodbridge—32.

NAYS—Messrs. Adams, Allison, Anderson, Archer, Axtell, Baker, Barnes, Benton, Boyer, Brooks, Buckland, Burr, Butler, Cary, Chandler, Reader W. Clarke, Cobb, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Donnelly, Eggleston, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Getz, Glossbrenner, Haight, Hamilton, Harding, Hawkins, Hill, Higby, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Johnson, Judd, Julian, Kelley, Kelsey, Kerr, William Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, Maynard, McCarthy, McClurg, McCullough, Mercer, Moore, Morgan, Mullins, Munger, Myers, Newcomb, Niblack, Nicholson, Nunn, Orth, Paine, Peters, Pike, Pile, Polsley, Pruyn, Randall, Robinson, Ross, Schenck, Shanks, Shellabarger, Aaron F. Stevens, Stewart, Stokes, Taber, Taylor, Thomas, Trimble, Upson, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Windom, and Woodward—101.

NOT VOTING—Messrs. Barnum, Benjamin, Cake, Cornell, Dixon, Ela, Finney, Fox, Gravely, Griswold, Holman, Humphrey, Jencks, Kitchen, Koontz, Moorhead, Morrissey, Phelps, Raum, Robertson, Scofield, Selye, Thaddeus Stevens, Stone, Taffe, Burt Van Horn, Van Wyck, and Wood—28.

So the House refused to lay the resolution on the table.

During the vote,

Mr. WASHBURNE, of Illinois, stated that, as he understood the resolution was mandatory, he would vote in the affirmative to lay it on the table.

The vote was announced as above recorded.

Mr. ROSS. I demand the previous question on the passage of the resolution.

Mr. RANDALL. I desire to ask the gentleman from Illinois to strike out "instructed" and insert "requested."

Mr. ROSS. I do not think it amounts to anything in that way. I want the committee instructed.

Mr. RANDALL. After the decided vote to-day, I think the committee would consider that they must act promptly.

Mr. PIKE. I rise to a question of order. If the call for the previous question be not seconded, will it not then be in order to refer the resolution to the committee?

The SPEAKER. That will be the first question, the motion to refer being now pending.

Mr. ROSS. If I have the authority, at the request of several members, I strike out the word "instructed," and in lieu thereof insert "requested." I renew the demand for the previous question.

Mr. ALLISON. I desire to make a further modification. I do not see that there is any difference between "requested" and "instructed." I ask him to modify it so that the committee will be instructed to inquire into the expediency of substituting, &c.

Mr. ROSS. I do not accede to that.

Mr. MAYNARD. I hope no change will be made in the resolution. I hope the committee will not be requested, but instructed. It is the duty of the committee to act under the instruction of the House when the House deems it necessary to instruct.

Mr. ROSS. That is my idea.

The SPEAKER. It is for the House to request or instruct.

Mr. LYNCH. If we refer the resolution, that does not commit the House for or against it?

The SPEAKER. It does not.

Mr. ROSS. If we refer the resolution, then, it will really be a vote against the resolution.

The SPEAKER. It leaves the whole matter to the committee for its investigation and report.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was referred to the Committee on Banking and Currency.

#### PRINTING OF TESTIMONY.

Mr. WASHBURNE, of Illinois. I submit the following resolution, and demand the previous question:

*Resolved*, That the Committee on the Rules be directed to inquire into the expediency of providing by a rule of the House that no testimony taken by any committees of this House shall be printed until the same shall be referred to the Committee on Printing, and they shall report thereon whether the printing of such testimony is called for by any public necessity.

Mr. ROSS. I ask my colleague to consent to the addition to his resolution that all the select committees which have been appointed shall be discharged. I refer to the roving committees that we have had.

The SPEAKER. The Chair would not rule that to be germane to the resolution.

Mr. ROSS. I know my colleague is in favor of the principle of discharging these roving committees.

Mr. WASHBURNE, of Illinois. I am. I have been on one of them myself, and so has my colleague.

Mr. DAWES. Allow me to make a suggestion. I am in favor of the principle of the rule, but its broad application, I think, will embarrass some of the committees. For instance, the committee of which I am a member—

Mr. WASHBURNE, of Illinois. I demand the previous question. I have no objection to hear my friend from Massachusetts, but it is only a resolution of inquiry, and goes to the Committee on the Rules. If the gentleman will permit me, I will say that it is only in the interest of endeavoring to save something in this printing. We have been printing the greatest amount of trash which no one looks into, and it costs a vast amount of money. I do not think it ought to be printed, as a general principle, until some committee has passed on it.

Mr. LOGAN. I ask whether the committee that investigates and takes evidence is not as well qualified to judge as to its printing as the Committee on Printing?

Mr. WASHBURNE, of Illinois. I object to debate.

Mr. DAWES. So do I.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

#### RAILROAD LAND GRANTS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to offer another resolution, to which I think there will be no objection:

*Resolved*, That in the present financial condition of the country it is the judgment of this House that there should be no further appropriation of public lands to States or corporations for the purpose of building railroads; and that all such lands should be held for private sale, and actual settlers, or for homesteads.

Mr. MAYNARD. I object.

Mr. WASHBURNE, of Illinois. I move to suspend the rules.

Mr. MAYNARD. Would it be in order to ask the gentleman from Illinois to state how many millions of acres have been appropriated for building railroads in his State? [Laughter.]

The SPEAKER. Only by unanimous consent. The motion to suspend the rules is not debatable.

The question was put, and the Speaker announced that two thirds had not voted in the affirmative.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and (two thirds not voting in favor thereof) it was decided in the negative—yeas 70, nays 66, not voting 45; as follows:

YEAS—Messrs. Ames, Archer, Axtell, Baker, Baldwin, Benton, Bingham, Blair, Broomall, Buckland, Cary, Chandler, Churchill, Reader W. Clarke, Coburn, Cook, Cullom, Dawes, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Getz, Glossbrenner, Hamilton, Harding, Hill, Hubbard, Hunter, Judd, Julian, Ketcham, Laffin, George V. Lawrence, William Lawrence, Logan, Loughridge, Marshall, Marvin, McCarthy, McCullough, Mercer, Miller, Moore, Orth, Paine, Pike, Pomeroy, Price, Randall, Ross, Shanks, Shellabarger, Spaulding, Starkweather, Stewart, Taber, Taylor, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, William Williams, John T. Wilson, and Stephen F. Wilson—70.

NAYS—Messrs. Adams, Arnell, James M. Ashley, Banks, Barnes, Beaman, Blaine, Boutwell, Boyer, Bromwell, Brooks, Burr, Butler, Sidney Clarke, Cobb, Covode, Dodge, Donnelly, Briggs, Eldridge, Haight, Halsey, Higby, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Johnson, Loan, Lynch, Mallory, Maynard, McClurg, Morrill, Mullins, Munger, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Perham, Peters, Pile, Plants, Polsley, Pruyn, Robinson, Sawyer, Schenck, Smith, Stokes, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Henry D. Washburn, Welker, Windom, Woodbridge, and Woodward—66.

NOT VOTING—Messrs. Allison, Anderson, Delos R. Ashley, Barnum, Benjamin, Cake, Cornell, Dixon, Elliot, Finney, Fox, Garfield, Gravely, Griswold, Hawkins, Holman, Hooper, Asahel W. Hubbard, Humphrey, Jencks, Kelley, Kelsey, Kerr, Kitchen, Koontz, Lincoln, Moorhead, Morgan, Morrissey, Phelps, Poland, Raum, Robertson, Scofield, Selye, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Burt Van Horn, Robert T. Van Horn, Van Wyck, James F. Wilson, and Wood—45.

So (two thirds not having voted in the affirmative) the rules were not suspended.

#### CURRENCY, TAXATION, AND REVENUE.

Mr. BAKER offered the following resolution, and demanded the previous question thereon:

*Resolved*, 1. That the Committee of Ways and Means be instructed to inquire into the expediency of so changing the law as to arrest contraction of the currency.

2. That said committee be instructed to inquire into the expediency of reducing the tax on distilled spirits, and to inquire whether a more efficient and economical means may not be devised for the collection of said tax.

3. That said committee be instructed to inquire into the expediency of repealing the tax on cotton.

4. That said committee be instructed to inquire into the expediency of adopting as a criterion of the measure of taxation a scale of revenue which will yield a sum, taken in connection with the sum now in the Treasury, sufficient, and only sufficient, to pay the expenses of the Government and the interest on the public debt during the current and next succeeding fiscal year.

5. That said committee be instructed to inquire into the expediency of adopting as principles of taxation, first, the levying of taxes on the smallest practicable number of articles or sources of revenue; second, the imposition of the lightest practicable burden of taxation on primary, productive labor, whether agricultural, mechanical, or manufacturing; and, third, the adoption of the least complex or simplest practicable means for the collection of taxes.

The previous question was seconded and the

main question ordered; and under the operation thereof the resolution was agreed to.

#### CENSUS OF THE REVOLTED STATES.

Mr. FARNSWORTH offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Reconstruction be directed to inquire into the expediency and necessity of providing for taking the census of the inhabitants of the recently rebellious and revolted States, and that they report by bill or otherwise.

JOHN SEWARD.

Mr. HARDING submitted the following resolution; which was referred to the Committee on Revolutionary Pensions and of the War of 1812:

*Resolved*, That the Committee on Revolutionary Pensions and of the War of 1812 are instructed to report a bill, if they deem it expedient, to relieve John Seward, a soldier of the war of 1812, who is wholly disabled by wounds received in battle in said war.

#### PAPER CURRENCY.

Mr. BROMWELL. I offer the following resolution, upon which I demand the previous question:

*Resolved*, That gold and silver not being in sufficient quantity in this country to furnish a circulating medium adequate in amount to the wants of the people, the deficiency shall be at all times supplied by Treasury notes of the United States called "greenbacks," to the exclusion of all other paper currency, and in sufficient amount to promote the energies and enterprise of all classes of the community.

The previous question was not seconded.

Mr. FARNSWORTH. I rise to debate the resolution.

The SPEAKER. Then the resolution lies over under the rule.

#### TAX ON DISTILLERIES.

Mr. BURR submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Ways and Means be instructed to inquire into the expediency of so modifying existing laws as to impose a tax on distilleries according to their several manufacturing capacities, in lieu of the present taxation per gallon on distilled liquors, and that they have leave to report at any time by bill or otherwise.

Mr. MYERS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, In view of the extensive frauds in whisky returns, and in order to obtain a surer and greater revenue from that source, that the Committee of Ways and Means be requested to inquire into the expediency of taxing distilled spirits upon the capacity of the distillery, and of reducing the present rate of tax, and to report by bill or otherwise.

#### REDUCTION OF MILITARY ESTABLISHMENT.

Mr. INGERSOLL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and it is hereby, instructed to inquire into the expediency of reducing the military establishment of the United States to the lowest possible number consistent with the present demands of the public service.

#### IMPEACHMENT REPORT.

Mr. ASHLEY, of Ohio, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That ten thousand copies of the majority and minority reports of the Committee on the Judiciary on the subject of impeachment be printed for the use of the House.

Mr. WASHBURN, of Illinois. There are several gentlemen anxious to make speeches, and as we are pretty much through with all business, I shall move in a few moments that the House resolve itself into Committee of the Whole on the state of the Union.

#### EMPLOYÉS IN DEPARTMENTS.

Mr. NEWCOMB. I offer the following resolution:

*Resolved*, That the Secretaries of the Departments of State, Treasury, War, Navy, and Interior, be, and are hereby, directed to report to this House, at their earliest convenience, the names and number of employés in their respective Departments, with the amount of salary and date of appointment in each case, and the State and congressional district in which they were appointed.

Mr. WASHBURN, of Illinois. I would ask if that information is not already before the House in the Blue Book?

The SPEAKER. Is there objection to the consideration of the resolution on this day?

Mr. WASHBURN, of Illinois. Yes, sir. I think the matter had better be inquired into a little.

The SPEAKER. The resolution goes over under the rule.

#### PAY OF BAILIFFS AND CRIERS.

Mr. RANDALL introduced a bill extending the provisions of the act entitled "An act fixing the compensation for bailiffs and criers of the courts of the District of Columbia," which was read a first and second time, and referred to the Committee on the Judiciary.

#### RAILROAD POSTAL MATTER.

Mr. NIBLACK. I ask leave to submit the following resolution:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of allowing railroad companies to carry their own letters, relating to the business of their roads, outside of the mail, free of postage, and to report by bill or otherwise.

Mr. WASHBURN, of Illinois. I object.

#### GOVERNMENT BUILDINGS IN ST. LOUIS.

Mr. PILE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to report to this House the number of buildings rented or leased in the city of St. Louis, in the State of Missouri, for military purposes, the annual rent paid for each building so rented or leased, and the names of the parties from whom rented.

#### PUBLIC LANDS FOR STATES.

Mr. DRIGGS. I submit the following resolution, and call the previous question upon its adoption:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of reporting a bill to this House setting over all unsold and unappropriated lands belonging to the United States to the States respectively in which the lands are situated.

The previous question was seconded and the main question ordered; and in pursuance thereof the resolution was adopted.

Mr. DRIGGS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONFEDERATE PROPERTY ABROAD.

Mr. WASHBURN, of Wisconsin, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to furnish this House with the following information: first, what efforts, if any, have been made for the recovery of confederate property in Europe, and if any contracts have been made with any party or parties by which said parties are to receive a share of the property recovered, and if so, to transmit copies of such contracts and all correspondence relating thereto; and to state the names of all such parties, and all agents or attorneys that have been, or are now, employed in prosecuting the claims of the Government for such property, and on whose recommendation said agents or attorneys were appointed, and where said agents resided previous to their appointment, and the amount of money paid to such agents or attorneys, or agreed to be paid, and out of what fund paid, and by authority of what law; and if any of such agents have been before employed as cotton-agents in the South, and if so, the names of such agents; second, if a settlement has been made with the firm of Frazer, Trenholm & Co., and if so, on what terms, and to furnish copies of all correspondence and agreements in regard to such settlements.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL REVENUE.

Mr. PAINE introduced a bill to amend an act entitled "An act to provide internal revenue to support the Government, pay interest on the public debt, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee of Ways and Means.

#### WHISKY FRAUDS IN NEW YORK.

Mr. COBB. I submit the following resolution, and call the previous question upon its adoption:

*Resolved by the House of Representatives*, (the Senate concurring.) That the joint select Committee on Re-

trenchment be, and they are hereby, instructed to inquire into and investigate the alleged whisky frauds in the city of New York; the causes which led to the detailing of a deputy commissioner of internal revenue or duty in New York city, and to the organization of the so-called "metropolitan board of internal revenue," the efficiency or non-efficiency of said board, and the causes thereof; the manner in which the several officers constituting said board discharged their duties respectively in the collection of the internal revenue tax; and whether any of such officers or agents have been guilty of fraud, corruption, or neglect of duty in office; that said committee report the result of such investigation, together with the testimony by them taken, to Congress; and that for such purpose the said committee shall have and possess all powers heretofore granted them for other purposes.

The SPEAKER. This resolution is a concurrent resolution. The Chair will suggest to the mover that the usage has always been to instruct joint select committees by a simple resolution of either House.

Mr. COBB. I will modify my resolution so as to make it a simple House resolution. And now I demand the previous question.

Mr. SPALDING. I hope the gentleman will not press the demand for the previous question.

Mr. COBB. I insist on the demand.

Mr. SPALDING. Then I hope the House will not second it.

On seconding the demand for the previous question there were—ayes 23; nays 27; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Messrs. COBB and SPALDING.

Mr. ROSS. Would it be in order, before the vote is taken, to inquire what authority has heretofore been granted to this committee?

The SPEAKER. If the resolution gives rise to debate it must go over under the rule.

Mr. ROSS. I understand that the authority heretofore given to this committee has been to travel over the country, hear testimony, and draw upon the Treasury for the expenses; a pretty extensive authority.

The SPEAKER. Debate is not in order pending the demand for the previous question.

The House divided; and the tellers reported—ayes 37, noes 65.

So the previous question was not seconded.

Mr. SPALDING. I rise to debate the resolution.

The SPEAKER. Debate arising, the resolution goes over under the rule.

#### PAY OF CALIFORNIA VOLUNTEERS, ETC.

Mr. HIGBY, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of War be requested to inform the House what proceedings have been had by his Department under the seventh section of an act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, and whether additional payment has been refused to any California or Nevada volunteers discharged in New Mexico, Arizona, or Utah, and if so, the reason for such refusal.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

#### PUGET SOUND, ETC., RAILROAD COMPANY.

Mr. FLANDERS, by unanimous consent, introduced a bill to incorporate the Puget Sound and Columbia River Railroad Company; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### ADJOURNMENT SINE DIE.

A message from the Senate, by Mr. FORNEY, its Secretary, communicated an extract from its Journal, which was read, as follows:

IN SENATE OF THE UNITED STATES,  
November 26, 1867.

*Resolved by the Senate*, (the House of Representatives concurring.) That the President of the Senate and the Speaker of the House do adjourn their respective Houses without day, on Monday, the 2d of December next, at twelve o'clock m.

Mr. SCHENCK. I move that the House concur in this resolution; and on the motion I call for the previous question.



The previous question was seconded and the main question ordered; and under the operation thereof the resolution was concurred in.

Mr. SCHENCK moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENSIONS FOR SOLDIERS OF 1812.

Mr. MILLER, by unanimous consent, introduced a bill granting pensions to soldiers of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions and of the War of 1812, and ordered to be printed.

#### COMMANDER AARON R. HUGHES.

Mr. WARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of restoring Commander Aaron R. Hughes to the active list in the Navy, and to report by bill or otherwise.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC BUILDINGS IN NEW YORK, ETC.

Mr. BARNES, by unanimous consent, submitted the following resolution:

Whereas a resolution of this House, passed July 10, 1867, calling upon the Secretary of the Treasury and the Secretary of War for information respecting buildings leased by their respective Departments in the cities of New York and Brooklyn remains unanswered by the Secretary of War; Therefore,

*Resolved*, That the Secretary of War is hereby directed to furnish said information without further delay.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

#### NON-CONTRACTION OF CURRENCY.

Mr. BINGHAM submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to consider and report upon the expediency of providing by law against any further contraction at present of the non-interest bearing legal-tender notes of the United States; and also to provide for an increase thereof equal in amount to the outstanding compound-interest bearing notes, and to provide more effectually for the speedy redemption and payment thereof.

#### TREASURY SPECIAL AGENTS.

Mr. JUDD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

*Resolved*, That the Secretary of the Treasury be directed to report to this House the names of all secret special Treasury agents appointed since the 1st of June, 1866, their places of residence at the time of their appointment, and to what districts they were assigned, the compensation both for services and expenses allowed each person, and the instructions given to each such agent.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 143) to change the name of Samuel Chase Barney to Samuel Chase De Kraft, in which he was directed to ask the concurrence of the House.

#### REDUCTION OF THE CURRENCY.

Mr. WASHBURNE, of Illinois, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of House bill No. 89, relating to the reduction of the currency.

Mr. BLAINE. Within the past few months, Mr. Chairman, some erroneous and mischievous views have been put forward in regard to the nature of the public obligation imposed by the

debt of the United States. Without stopping to notice the lesser lights of the new doctrine, and not caring to analyze the various forms of repudiation suggested from irresponsible sources throughout the country, I propose to review, as briefly as may be, the position contemporaneously assumed by two able and distinguished gentlemen—the one from the West, the other from the East—the one the late candidate of the Democratic party for the Vice Presidency—(Mr. Pendleton, of Ohio)—the other a prominent member of this House from one of the strongest Republican districts of the State of Massachusetts, [Mr. BUTLER.]

The position of these gentlemen I understand to be simply this: *that the principal of the United States bonds, known as the five-twenties, may be fairly and legally paid in paper currency by the Government after the expiration of five years from the date of issue.*

A brief review of the origin of the five-twenty bonds will demonstrate, I think, that this position is in contravention of the honor and good faith of the national Government; that it is hostile to the spirit and the letter of the law; that it contemptuously ignores the common understanding between borrower and lender at the time the loan was negotiated; and that finally, even if such mode of payment were honorable and practicable, it would prove disastrous to the financial interests of the Government and the general prosperity of the country. I crave the attention and the indulgence of the House while I recapitulate the essential facts in support of my assertion.

The issue of the five-twenty bonds was originally authorized by the act of February 25, 1862, which provided for the large amount of \$500,000,000. It was this series which was sold so successfully by Jay Cooke & Co. in 1863, and of which so great a proportion was subsequently purchased by foreign capitalists. It will be borne in mind that up to that time in all the loan bills passed by Congress not one word had ever been said in regard to gold payment either of bond or coupon; and yet it will be equally borne in mind that gold payment, both of the principal and interest of the public debt, had been the invariable rule from the foundation of the Government. No instance to the contrary can be found in our history. In the pithy language of Nathaniel Macon, "our Government was a hard-money Government, founded by hard-money men, and its debts were hard-money debts."

And it will be still further borne in mind that when the bill authorizing the original issue of five-twenties was under discussion in Congress no man of any party, either in the Senate or the House, ever intimated that those bonds were to be paid in anything else than gold or silver. The issue of legal-tender notes of contemporaneous origin was regarded as a temporary expedient, forced upon us by the cruel necessities and demands of war, and it was universally conceded that the specie basis was to be resumed long before the bonds should mature for payment. And in order that the public creditor might have the amplest assurance of the payment of both principal and interest in coin it was specially enacted that all duties on imports should be paid in coin, and the amount thus raised was distinctly pledged, not only to the payment of the interest in coin, but to the formation of a sinking fund for the ultimate redemption of the principal in coin. This provision is so important that I quote it entire. After providing that the duties shall be paid in coin, the act devotes that coin to the following purposes:

"First. To the payment in coin of the interest on the bonds of the United States.

"Second. To the purchase or payment of one per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall be in like manner applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.

"Third. The residue thereof shall be paid into the Treasury of the United States."

Considerable carping and criticism have been

expended on the second clause of this provision, mainly by those who seem desirous of wresting and distorting its plain and obvious meaning. Brushing aside all fine-spun construction and cunning fallacy, it is quite manifest that the sinking fund herein authorized was primarily to be formed from gold, and that it was only to be invested and reinvested in securities whose interest was equally pledged and guaranteed in gold; that this process was not to be confined to any specific number of years, but was limited only by the amount and the duration of the debt which was ultimately to be redeemed by the sinking fund thus constituted. The sinking fund was thus to receive an annual increment in gold amounting to the one hundredth part of the entire debt of the Government; and this increment was to be invested only in securities which would yield gold interest for the further increment of the fund. It would be difficult to conceive how the language of an enactment could more distinctly recognize and provide for the ultimate coin payment of the entire bonded debt of the nation. And instead of the Government having the right at this late day to change its gold obligation into one of paper, it seems to me that the public creditors could with far more consistency allege that the Government had not fully kept its faith with them in failing, as it has, to provide the sinking fund which was thus guaranteed at the outset as one of the special securities of the loan.

But we do not rest merely on the after construction of a statute to prove that the principal of the five-twenties is payable in coin. The declarations in Congress at the time the measure was under consideration were numerous, direct, and specific. Indeed, no other possible mode of payment was even hinted at, and Mr. STEVENS, as chairman of the Ways and Means, was emphatic and repeated in his assertions to the effect that the bonds were *redeemable in gold*. He stated this fact no less than three times in his speech of February 6, 1862, giving it all the prominence and emphasis that iteration and reiteration could impart. He spoke of the "redemption in gold in twenty years" as one of the special inducements for capitalists to take the loan, and he gave, in every form that language could assume, the sanction of his influential position, and still more influential name, to the maintenance of the gold standard in the payment of the bonds.

It may astonish even the gentleman from Pennsylvania himself to be reminded that within less than three years from the date of these declarations he asserted on this floor—referring to the five-twenty bonds—that "*it is just as clear as anything is clear that the interest is payable in gold, but the principal in lawful money.*" He made this startling statement in answer to a question addressed to him by my honorable friend from Ohio, [Mr. SPALDING,] and the gentleman from Massachusetts has quoted it in his argument on this question as though it had been made when the five-twenty bill was originally introduced, and was to be taken as the authorized opinion of the Ways and Means Committee at that time. I have shown that at the outset the gentleman from Pennsylvania was a firm advocate of gold payment, and a considerable period had elapsed before he experienced his marvelous change of opinion on this question. But it is due to the gentleman from Pennsylvania to say that, late as he was in this declaration, he was in advance of other gentlemen who have since figured so prominently as advocates of the doctrine. And should this scheme of repudiation ever succeed, it is but just to give the gentleman from Pennsylvania the honor of first proposing it. He announced it on this floor while yet the gentleman from Massachusetts was doing honorable service on the tented field, and while Mr. Pendleton was still adhering to those hard-money theories of which he was a conspicuous and eloquent defender during his service in this House.

But I digress. I was stating that while the original five-twenty bill was pending the decla-

ration that the bonds were redeemable in gold was constantly repeated. It was the ground assumed by every member of the Committee of Ways and Means, so far as the record shows, and it was likewise the ground taken by the Finance Committee of the Senate, Mr. Fessenden and other members being on record in many ways to that effect. And while so many gentlemen in both branches of Congress were repeating that these bonds were redeemable in gold, it is a very significant circumstance, as already intimated, that no one ventured the opposite opinion. The universality of the understanding at that time is that which renders a different construction now so reprehensible. Mr. Pendleton was present in his seat during the whole discussion of the measure, and he was an active and frequent participant therein. Then was his time to have enunciated his scheme of greenback payment if he ever intended it in good faith. As a gentleman of candor, however, I am sure he will confess that he never dreamed of such an idea till long after the bonds were purchased by the people, and possibly not until some prospect of party advantage lured him to the adoption of a theory which is equally at war with the letter of the law and with sound principles of finance.

After the bill became a law Mr. Chase, the Secretary of the Treasury, proceeded to place the loan formally on the market, and following the uniform previous practice of the Government, and especially adopting the language used by Mr. Stevens, and other gentlemen in both branches of Congress, he officially proclaimed through the loan agents of the Government that the five-twenty bonds were "*a six per cent. loan, the interest and principal payable in coin.*" And it was on this basis, with this understanding, with this public proclamation, that the people were asked to subscribe to the loan. They had the assurance of an unbroken practice on the part of the Government, rendered still more significant by the provision for a sinking fund in coin; they had the general assurance of both branches of Congress, especially expressed through the appropriate channels of the chairman of Finance in the Senate and the chairman of Ways and Means in the House, and further and finally enforced by a distinct declaration to that effect by the public advertisement proposing the loan to the people, issued by the authority and under the direction of the Secretary of the Treasury. If anything could constitute an honorable contract between borrower and lender—between Government and people—then was it a contract that the five-twenty bonds should be redeemed in coin.

I have been thus minute, and possibly tedious, in regard to the facts attending the issue of the first series of five-twenties because in effect that established the rule for all subsequent issues. *Ex uno disce omnes.* The principle laid down so clearly in the proposal for the first loan was not departed from afterward. It is quite true that the chairman of Ways and Means, [Mr. Stevens,] as I have already said, changed his ground on the question, but he failed to influence Congress, notwithstanding his parade of terrible figures showing the utter impossibility of ever paying gold interest, to say nothing of gold principal. The gentleman can recall his statistics with amusement, if not with advantage, from that grave of unfulfilled prophecies to which he, in common with the rest of us, have sent so many baseless predictions.

The next loan bill passed by Congress was that of March 3, 1863, authorizing the borrowing of \$900,000,000. This is commonly known as the ten-forty act, and it contains the special provision that both principal and interest shall be payable in coin. But this provision was never inserted by way of discrimination against the five-twenties, implying that they were to be paid in paper currency. The origin of the provision palpably discredits any such inference. It was moved as an amendment by Mr. Thomas, of Massachusetts, and it was moved

to meet and repel the first covert insinuation that any bond of the United States was redeemable in anything else than coin. The chairman of Ways and Means, in apparent forgetfulness of his declaration the preceding year, had for the first time intimated that the principal of United States bonds was payable in paper money, and the amendment of Mr. Thomas, as the discussion reported in the Globe clearly discloses, was intended as a sharp protest against this heresy of the gentleman from Pennsylvania, and as such it was adopted by the House by a majority so overwhelming that its opponents did not call for a division. During the discussion, Mr. Horton, of Ohio, a distinguished member of the Ways and Means, and a gentleman of very high character in every respect, said:

"I wish to state here that the Committee of Ways and Means, in framing this bill, never dreamed that these twenty-year bonds were to be payable in anything other than gold until the gentleman from Pennsylvania [Mr. Stevens] told it yesterday upon the floor of the House." \* "I say to the gentleman, and to this House, that I never heard an expression by any member of the Committee of Ways and Means of the possibility that these bonds were to be payable in anything other than coin." \* "The form here proposed is the form always used by Government in the issue of these bonds, and they have always been paid in coin up to this day."

In this connection I desire the special attention of the House to one fact of conclusive import, and it is this: at the time this ten-forty loan bill was passed, March 3, 1863, only \$25,000,000 of the five-twenty loan, authorized the year before, had been disposed of. It was in the succeeding summer and autumn of 1863, especially after the triumph of the Union arms at Vicksburg and Gettysburg, that those marvelous sales of \$500,000,000 were effected through the Government agency of Jay Cooke & Co. And yet the gentleman from Massachusetts would have us believe that the people subscribed for a loan of \$500,000,000 that was payable in five years in paper currency, when another loan, for a larger amount, to run forty years, absolutely payable in gold, was already authorized and about to be put on the market. Such a conclusion cannot be reconciled even with the common sanity, to say nothing of the proverbial shrewdness, of those who invested their money in the five-twenty loan. Why, sir, every one sees, every one knows, that not one dollar of the five-twenty loan could have been disposed of on the understanding that the bonds were redeemable in currency, when another loan for a longer and more favorable period, possibly at the same rate of interest, for the bill so allowed, and absolutely redeemable in gold, was already authorized by Congress, and immediately to be offered to the public.

The next loan bill in the order of time was the act of March 3, 1864, which was merely supplementary to the ten-forty bill, whose history I have just reviewed. It covered the amount of \$200,000,000, and, like the bill to which it formed a supplement, it provided for both interest and principal to be paid in coin. Under this bill more than one hundred and seventy-five million dollars were negotiated, partly in ten-forties, and partly in five-twenties; by far the greater part in the former. But as some five-twenties were negotiated under it, the gentleman from Massachusetts, even on the line of logic which he has sought to travel, will be compelled to acknowledge that they were payable in coin, and hence, according to his theory, some of the five-twenties are redeemable in coin and some in paper—a distinction which has never yet been proclaimed, and the equity of which would hardly be apparent to the holders of the same description of bonds—precisely identical in phrase, and differing only in the subordinate and immaterial circumstance of date.

The last loan bill to which I need specially refer is that of June 30, 1864, under the provisions of which the five-twenties bearing that date were issued. The seven-thirties, authorized by the same act, as well as by the subsequent acts of January 28 and March 3, 1865, were convertible into five-twenties of the same tenor and description with those whose issue

was directly authorized; so that in reviewing the history of the loan bill of June 30, 1864, I shall in effect close the narrative of congressional proceedings in regard to five-twenty bonds. And the history of that bill shall be brief. It was discussed in its various provisions very elaborately in both branches of Congress. As reported from the Ways and Means Committee it was worded like all previous bonds, promising to pay so many dollars to the holder, without specifying that they were to be anything else than gold dollars, in which United States bonds had always been paid. Toward the close of the discussion Mr. Brooks, of New York, then, as now, a member of this House, moved to insert an amendment providing especially that the bonds should be "*payable in coin.*" Mr. Brooks was answered by Mr. Hooper, of Massachusetts, on behalf of the Ways and Means Committee, as follows:

"The bill of last year, the \$900,000,000 bill, contained these words, but it was not deemed necessary or considered expedient to insert them in this bill. I will send to the desk and ask to have read, as a part of my reply to the gentleman from New York, a letter from the Secretary of the Treasury giving his views upon this point."

The Clerk read as follows:

TREASURY DEPARTMENT, May 18, 1864.

SIR: Your letter of the 13th instant, making inquiries in regard to the kind of currency with which the five-twenty years six per cent. bonds, and the three years seven-thirty per cent. notes are to be redeemed, has been received.

It has been the constant usage of the Department to redeem all coupon and registered bonds, forming part of the funded or permanent debt of the United States, in coin, and this usage has not been deviated from during my administration of its affairs.

All the Treasury notes and other obligations forming part of the temporary loan are payable, and will be redeemed, in lawful money; that is, in United States notes, until after the resumption of specie payment, when they also will doubtless be redeemed in coin or equivalent notes.

The five-twenty sixes, payable twenty years from date, though redeemable after five years, are considered as belonging to the funded or permanent debt, and so also are the twenty years sixes, into which the three years seven-thirty notes are convertible. These bonds, therefore, according to the usage of the Government, are payable in coin.

The three years seven-thirty Treasury notes are part of the temporary loan, and will be paid in United States notes, unless holders prefer conversion to payment.

Very respectfully,

S. P. CHASE, Secretary.

Mr. Brooks, apparently satisfied with this statement, withdrew his amendment, regarding the point as conclusively settled, I suppose, not only by the uniform practice of the Government, but by the special declaration of the Secretary of the Treasury, who immediately afterward proceeded on the basis of that letter to put the bonds on the market. Mr. Hooper stated the case well when he said it was "not deemed necessary or considered expedient" to insert coin payment in this bill; "not necessary," for the practice of the Government, and the assurances of the Treasury Department in its advertisements in proposing for loans, conclusively settled the point; and not "considered expedient," for to specially insert gold payment in all the loan bills except that of February 25, 1862, under which \$500,000,000 of five-twenties had been sold, might, in the end, by the *exclusio unius*, give some shadow of ground for the mischievous inference which is now sought to be drawn without any ground whatever.

We thus find that the voice of Congress has been uniform and consistent in support of the principle of paying the bonded debt in gold. No vote in Congress, even implying the opposite theory, has ever been given; even the weighty influence and conceded ability of the distinguished gentleman from Pennsylvania failing to carry with him any support whatever when he made his surprising and unprecedented change on this question. But the public creditors did not rely solely on the declarations of leading men in Congress in regard to gold payment, nor did they rest wholly on the past practice and the good faith of the Government. They had, in addition to both these strong grounds of confidence and assurance, the more direct and explicit guarantee of the

Treasury Department, the authorized agent of the Government, speaking *ex cathedra*, with the knowledge and assent of Congress.

I have already quoted Secretary Chase's significant declarations in his letters and his public proposals for loans, and I have now to quote one of his equally significant acts. At the close of 1862 the twenty year loan of 1842, amounting to nearly three million dollars, fell due. Nothing was said in that loan about coin payment, and thus a grand opportunity was afforded to test the theory of paper payment. Circumstances all conspired to favor such a policy if it could be honorably adopted. Gold was at a high premium, and the Government was passing through the darkest and most doubtful hours of the whole struggle. Could there have been even a decent pretext to pay the debt in paper currency the temptation was surely great enough to resort to it, if not fully to justify it. But in the face of all the adverse circumstances; with gold very high and daily rising; with expenses enormous and daily increasing; with resources already embarrassed and daily growing more so, and with a military situation rendered well nigh desperate by months of almost unbroken disaster, Secretary Chase decided that the faith of the Government demanded that its funded debt, falling due no matter when and owned by no matter whom, must be paid in coin. *And it was paid in coin*; and no voice but the voice of approval was raised in either branch of Congress. The course of Secretary Chase was not only honorable to himself and the country, but it was in the highest degree wise merely from the stand-point of worldly wisdom; for it created such a profound confidence in the good faith of our Government that it aided us incalculably in the negotiation of all our great loans for the war. When the Government paid its debt to the uttermost farthing at such a time capitalists at once argued that there never could come a crisis when any evasion or denial of public obligation would be resorted to. It has been reserved for the gentleman from Massachusetts, and the gentleman from Ohio, and the gentleman from Pennsylvania, jointly and severally, to propose that our Government should adopt a policy in the calm sunshine and prosperity of peace which it scorned to resort to in the terrible storms and dark adversities of war.

The course of Secretary Chase in guaranteeing gold payment on all bonds of the United States was followed, indorsed, and repeated by his successors, Secretary Fessenden and Secretary McCulloch. The words of Mr. FESSENDEN are entitled to great weight in the premises, for he had been chairman of Finance during the passage of all the loan bills, had elaborately discussed them in turn, and had as largely as any single member in either branch of Congress shaped their provisions. His views on the question at issue may be briefly and conclusively presented by the following extract from his report as Secretary of the Treasury, made to Congress in December, 1864:

"Though forced to resort to the issue of paper for the time, the idea of a specie basis was not lost sight of, as the payment of interest on long loans in coin was amply secured. And though in several of the acts authorizing the issue of bonds at long periods payment of the principal at maturity in coin is not specifically provided, the omission, it is believed, was accidental, as there could have been no intention to make a distinction between the different classes of securities in this regard."

It will be noted that this declaration of Mr. FESSENDEN, made in his formal official report, was at the very time that the five-twenties of 1864 were being negotiated, and preceded the large sale of seven-thirties which were convertible into five-twenties. So that in effect it was an additional guarantee of gold payment on the part of the Government, operating at once as the condition and the inducement of the loan.

It is well known that Secretary McCulloch entertains precisely the same opinions that were so freely expressed by Messrs. Chase and FESSENDEN, and he placed himself on record very pointedly on the question by his letter to

L. P. Morton & Co., of New York, wherein he says:

TREASURY DEPARTMENT, November 15, 1866.

GENTLEMEN: Your favor of the 13th instant is received.

I regard, as did also my predecessors, all bonds of the United States as payable in coin. The bonds which have matured since the suspension of specie payments have been so paid, and I have no doubt that the same will be true with all others. This being, as I understand it to be, the established policy of the Government, the five-twenties bonds of 1862 will either be called in at the expiration of five years from their date and paid in coin, or be permitted to run until the Government is prepared to pay them in coin.

I am, very truly, yours,

H. McCULLOCH, Secretary.

In view of the uniform declarations of the Treasury Department, made through official reports, through public proposals for loans, and through personal letters of assurance, all guaranteeing coin payment of the five-twenties bonds, I submit that the Government is bound thereto even if there were no other obligation expressed or implied. These official and unofficial promulgations from the Treasury Department were made with the full knowledge of Congress, and without the slightest expression of dissent on the part of Congress. It is too late for Congress to declare now that the Government is not bound by the stipulations which the Treasury Department proclaimed to all lenders of money—proclaimed with the full knowledge and the full assent of Congress. Had Congress not believed or intended that the five-twenties bonds were to be paid in coin the Secretary should not have been allowed with its evident assent to so advertise; and for Congress, after this permission and warrant so significantly given, to step forward at this late day and declare itself not bound by the conditions published by the Secretary is simply to place the United States Government in the position of a man playing a "confidence game" of the meanest description, in which the Treasury Department and Congress are the confederate knaves, and the whole mass of bondholders the unfortunate victims.

With these statements I conclude what I have to present to the House in regard to the public obligation to pay the principal of the five-twenties bonds in coin. That obligation is established, I may repeat, in very brief summary, by the uniform and unbroken practice of the Government of the United States to redeem all its funded debt in coin: it is established by the fact that in the first of the five-twenties loan bills Congress directed the formation of a sinking fund in coin for the purchase and payment of the bonded debt of the United States; it is established by the general understanding in Congress and in the country when the five-twenties loan bills were passed; and it is conclusively and irreversibly established by the pledge of the Secretary of the Treasury when the loan was negotiated—a pledge made with the knowledge, and rendered binding by the assent, of Congress.

But now, Mr. Speaker, suppose, for the sake of argument, we admit that the Government may fairly and legally pay the five-twenties bonds in paper currency, what then? I ask the gentleman from Massachusetts to tell us, what then? It is easy, I know, to issue just as many greenbacks as will pay the maturing bonds, regardless of the effect upon the inflation of prices and the general derangement of business. Five hundred millions of the five-twenties are now payable, and according to the easy mode suggested all we have to do is to set the printing presses in motion, and "so long as rags and lampblack hold out" we need have no embarrassment about paying our national debt. But the ugly question recurs, what are you going to do with the greenbacks thus put afloat? Five hundred millions this year, and eleven hundred millions more on this theory of payment by the year 1872, so that within the period of four or five years we would only have added to our paper money the trifling inflation of \$1,600,000,000. We should all have splendid times doubtless! Wheat under the new dispensation ought to bring twenty dollars a bushel, and boots

would not be worth more than \$200 a pair, and the farmers of our country would be as well off as Santa Anna's rabble of Mexican soldiers, who were allowed ten dollars a day for their services and charged eleven for their rations and clothing. This \$1,600,000,000 of greenbacks, added to the amount already issued, would give us some \$2,300,000,000 paper money, and I suppose the theory of the new doctrine would leave this vast mass permanently in circulation, for it would hardly be consistent to advocate the redemption of the greenbacks in gold after having repudiated and forsworn our obligation on the bonds.

But if it be intended to redeem the legal tenders in gold, what will have been the net gain to the Government in the whole transaction? If any gentleman will tell me, I shall be glad to learn how it will be easier to pay \$1,600,000,000 in gold in the redemption of greenbacks than to pay the same amount in the redemption of five-twenties bonds? The policy advocated, it seems to me, has only two alternatives: the one to ruinously inflate the currency and leave it so reckless of results; the other to ruinously inflate the currency at the outset, only to render redemption in gold far more burdensome in the end.

I know it may be claimed that the means necessary to redeem the five-twenties in greenbacks may be realized by a new issue of currency bonds to be placed on the market. Of results in the future every gentleman has the right to his own opinion, and all may alike indulge in speculation. But it does seem to me that the Government would be placed in an awkward attitude when it should enter the money market to negotiate a loan the avails of which were to be devoted to breaking faith with those who already held its most sacred obligations! What possible security would the new class of creditors have that, when their debts matured, some new form of evasion would not be resorted to by which they in turn would be deprived of their just and honest dues? *Falsus in uno, falsus in omnibus* would supply the ready form of protest against trusting a Government with a new loan when it had just ignored its plain obligation on an old one.

Payment of the five-twenties in paper currency involves, therefore, a limitless issue of greenbacks, with attendant evils of gigantic magnitude and far-reaching consequence. And the worst evil of the whole is the delusion which calls this a payment at all. It is no payment in any proper sense, for it neither gives the creditor what he is entitled to, nor does it release the debtor from subsequent responsibility. You may get rid of the five-twenties by issuing the greenback, but how will you get rid of the greenback except by paying gold? The only escape from ultimate payment of gold is to declare that as a nation we permanently and finally renounce all idea of ever attaining a specie standard; that we launch ourselves upon an ocean of paper money, without shore or sounding, with no rudder to guide us and no compass to steer by. And this is precisely what is involved if we adopt this mischievous suggestion of "a new way to pay old debts." Our fate in attempting such a course may be easily read in the history of similar follies both in Europe and in our own country. Prostration of credit, financial disaster, wide-spread distress among all classes of the community, would form the closing scenes in our career of gratuitous folly and national dishonor. And from such an abyss of sorrow and humiliation it would be a painful and toilsome effort to regain as sound a position in our finances as we are asked voluntarily to abandon to-day.

The remedy for our financial troubles, Mr. Speaker, will not be found in a superabundance of depreciated paper currency. It lies in the opposite direction; and the sooner the nation finds itself on a specie basis the sooner will the public Treasury be freed from embarrassment and private business relieved from discouragement. Instead, therefore, of entering upon a reckless and boundless issue of legal

tenders, with their consequent depression, if not destruction of value, let us set resolutely to work and make those already in circulation equal to so many gold dollars. When that result shall be accomplished we can proceed to pay our five-twenties either in coin or paper, for the one would be the equivalent of the other. But to proceed deliberately on a scheme of depreciating our legal tenders, and then forcing the holders of Government bonds to accept them in payment, would resemble in point of honor the policy of a merchant who, with abundant resources and prosperous business, should devise a plan for throwing discredit on his own notes with the view of having them bought up at a discount ruinous to the holders and immensely profitable to his own knavish pocket. This comparison may faintly illustrate the wrongfulness of the policy, but not its consummate folly; for in the case of the Government, unlike the merchant, the stern necessity would recur of making good in the end, by the payment of hard coin, all the discount that might be gained by the temporary substitution of paper.

Discarding all such schemes as at once unworthy and unprofitable, let us direct our policy steadily, but not rashly, toward the resumption of specie payment. And when we have attained that end—easily attainable at no distant day if the proper policy be pursued—we can all unite on some honorable plan for the redemption of the five-twenty bonds, and the issuing instead thereof of a new series of bonds which can be more favorably placed at a lower rate of interest. When we shall have reached the specie basis, the value of United States securities will be so high in the money markets of the world that we can command our own terms. We can then call in our five-twenties according to the very letter and spirit of the bond, and adjust a new loan that will be eagerly sought for by capitalists, and will be free from those elements of discontent that in some measure surround the existing funded debt of the country.

As to the particular measures of legislation requisite to hasten the resumption of specie payment, gentlemen equally entitled to respect may widely differ; but there is one line of policy conducive thereto on which we all ought to agree, and that is on a serious reduction of the Government expenses and a consequent lightening of the burdens of taxation. The interest-bearing debt of the United States, when permanently funded, will not exceed \$2,100,000,000, imposing an annual interest of about \$125,000,000. Our other expenses, including War, Navy, the pension list, and the civil list, ought not to exceed \$100,000,000; so that if we raise \$250,000,000 from customs and internal revenue combined we should have \$25,000,000 annual surplus to apply to the reduction of the public debt. But to attain this end we must mend our ways and practice an economy far more consistent and severe than any we have attempted in the past. Our military peace establishment must be reduced one half at least, and our naval appropriations correspondingly curtailed; and innumerable leaks and gaps and loose ends that have so long attended our Government expenditure must be taken up and stopped. If such a policy be pursued by Congress, neither the principal of the debt, nor the interest of the debt, nor the annual expenses of Government will be burdensome to the people. We can raise \$250,000,000 of revenue on the gold basis, and at the same time have a vast reduction in our taxes. And we can do this without repudiation in any form, either open or covert, avowed or indirect, but with every obligation of the Government fulfilled and discharged in its exact letter and in its generous spirit.

And this, Mr. Speaker, we shall do. Our national honor demands it; our national interest equally demands it. We have vindicated our claim to the highest heroism on a hundred bloody battle-fields, and have stopped at no sacrifice of life needful to the maintenance of our national integrity. I am sure that in the

peace which our arms have conquered we shall not dishonor ourselves by withholding from any public creditor a dollar that we promised to pay him, nor seek by cunning construction and clever afterthought to evade or escape the full responsibility of our national indebtedness. It will doubtless cost us a vast sum to pay that indebtedness, but it would cost us incalculably more not to pay it!

Mr. KELLEY. I would like to state to the gentleman from Maine (and my recollection is very distinct of the debate and the conversation that ensued upon it) that my distinguished colleague, [Mr. STEVENS, of Pennsylvania,] now absent, when we were discussing the five-twenty bill, maintained the position that the true interest of the Government required the interest should be paid in currency and provision made for the ultimate payment of the bonds in gold; and he regretted the policy of the Government was the reverse of that, to-wit: the interest being paid in gold, and no definite provision made for the character of the currency in which the bonds were to be redeemed.

Mr. BLAINE. That was in 1864. I referred to what Mr. STEVENS said in 1862, when the original five-twenty bill was under discussion.

Mr. BROOKS. I did not wish to interrupt the gentleman in the course of his remarks, but I want an opportunity to say that I was very much dissatisfied with the course of things with which he says I was "apparently satisfied."

Mr. BUTLER addressed the House, [see Appendix,] but without concluding gave way to Mr. ASHLEY, of Ohio. If the gentleman desires it I will move that the committee rise.

Mr. BUTLER. I should be very glad if the committee would rise, for I am getting weary. The CHAIRMAN. The gentleman has five minutes of his time remaining.

Mr. BUTLER. Before the motion to rise is put, will the committee have the kindness to allow me an extension of time? [Cries of "Oh, yes," and "we will give you all the time you want."]

The CHAIRMAN. How much time does the gentleman ask for?

Mr. ASHLEY, of Ohio. I move that the gentleman have another hour.

Mr. BUTLER. I should like another hour, if you please. [Cries of "Agreed."]

The CHAIRMAN. If there be no objection, the time of the gentleman from Massachusetts will be extended one hour.

No objection was made.

Mr. ASHLEY, of Ohio. I now move that the committee rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly bill of the House No. 89, relating to the reduction of the currency, and had come to no conclusion thereon.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted for an indefinite time to Mr. TWICHELL.

And then, on motion of Mr. SCHENCK, (at three o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOYER: The petition of citizens of Lehigh county, Pennsylvania, for a general pension law for the benefit of surviving soldiers and widows of the soldiers of the war of 1812.

By Mr. EGGLESTON: The memorial of Hugo A. Rempel, asking for redress and damages sustained by him in consequence of his expulsion from Prussia.

Also, the petition of Phillip W. Stanhope, captain of twelfth infantry United States Army, and brevet lieutenant colonel United States Army, asking compensation for service as colonel of the fifty-fifth Kentucky volunteers.

By Mr. ELIOT: The petition of Lewis McLauchlin and others, of Pembroke, Massachusetts, praying that articles of impeachment be preferred against Andrew Johnson, President of the United States.

By Mr. HARDING: The petition of 400 people of

Hancock county, Illinois, for relief to John Seward, a soldier of the war of 1812, who is totally disabled by wounds.

Also, the petition for relief of John Seward, a soldier of the war of 1812, with other papers.

By Mr. MCCARTHY: The petition of 25 citizens of Onondaga and Cortland counties, New York, praying for the establishment of a post route from Fabius to Pitcher, New York.

By Mr. PERHAM: The petition of Howard Nason, for bounty.

By Mr. VAN AERNAM: The petition of Harman E. Wentworth, late second lieutenant fourteenth New York volunteers heavy artillery, for relief.

Also, the petition of Jefferson W. Davis, late lieutenant sixty-fourth New York volunteers, for relief.

Also, the petition of 41 citizens of Chautauqua county, New York, praying for the establishment of a post route from Mina, New York, to Wattsburg, Pennsylvania.

By Mr. WARD: The memorial of Aaron R. Hughes and others, asking a restoration of said Hughes to the active list in the Navy.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rule:

By Mr. ASHLEY, of Ohio: A bill to organize the Territory of Alaska, recently purchased from Russia.

By Mr. CARY: A bill to call in and cancel the national bank circulation, and pay off in legal-tender notes the five-twenty bonds redeemable in 1867.

By Mr. HUNTER: A bill to provide for the taxing of all that species of currency known as greenbacks, compound-interest notes, and national currency, by the various States and Territories of the United States, as other personal property therein is taxed, and for other purposes.

Also, a bill to provide pensions for certain officers and soldiers of the United States who served in the war of 1812, Mexican war, and the various Indian wars up to and including the Black Hawk war, and for other purposes.

#### IN SENATE.

WEDNESDAY, November 27, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

FITZ JOHN PORTER.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the acting Secretary of War be requested to communicate to the Senate copies of any papers on file at the Department relating to the application of Fitz John Porter, an officer in the Army of the United States, dismissed for misconduct on the sentence of a court-martial, approved by the late President Lincoln, and now seeking a revision of his case.

#### ADJOURNMENT TO FRIDAY.

On motion of Mr. CONNESS, it was

*Ordered*, That when the Senate adjourn to-day it be to meet on Friday next.

Mr. SHERMAN, (after a pause.) As there appears to be nothing to do, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 27, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### ADJOURNMENT TILL SATURDAY.

Mr. WASHBURN, of Illinois. I desire to move that when the House adjourns to-day it be to meet on Saturday next; and I wish to make a further proposition, which I trust will meet with the unanimous consent of the House, that there be no business done on Saturday, and that the session of that day run through until Monday. We cannot, under the Constitution, adjourn from to-day until Monday. I am quite certain that gentlemen do not want to meet here on Saturday for business. Of course we want to adjourn over to-morrow, which will be Thanksgiving day.

Mr. NIBLACK. I would suggest that we meet on Friday, and adjourn from that day till Monday.

The SPEAKER. The Chair would remind members that there cannot be a formal session on Monday. The proceedings of this session which may take place on Monday must be journalized as of Saturday.



Mr. HARDING. I object to the motion made by my colleague, [Mr. WASHBURNE.] I object to any understanding that on Saturday we shall not proceed with the public business. For one, I am anxious to perform the duties which devolve upon me as a member of this House, so as to be able to go home early next summer.

Mr. WASHBURNE, of Illinois. As objection is made to the full effect of the motion I desire to make, I will first move that when this House adjourn to-day it be to meet on Saturday next.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I now move that the rules be suspended, and that the order be made that no business shall be transacted on Saturday next except to take a recess until Monday morning.

The rules were suspended, (two thirds voting in the affirmative,) and it was ordered accordingly.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. HILL and Mr. HALSEY, of New Jersey.

#### RECONSTRUCTION.

The SPEAKER laid before the House the following communication from the Clerk of the House, which, with the accompanying documents, were laid on the table, and ordered to be printed:

##### CLERK'S OFFICE.

HOUSE OF REPRESENTATIVES UNITED STATES,  
WASHINGTON, D. C., November 27, 1867.

SIR: I have the honor to state that, in accordance with the instructions of the House of the 20th of July last, I on that day presented to the Secretary of State, for promulgation, the act supplementary to the reconstruction bill, and the joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States, passed by votes of two thirds of both Houses of Congress, after the same had been returned to the House of Representatives by the President with his objections; and that I have received from the Secretary of State the inclosed communications in reply.

Very respectfully, your obedient servant,

EDWARD MCPHERSON,  
Clerk House of Representatives.

Hon. SCHUYLER COLFAX,  
Speaker of House of Representatives.

DEPARTMENT OF STATE,  
WASHINGTON, July 20, 1867.

SIR: I have to acknowledge the receipt of your letter of this date, together with the act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867," which act, having been returned by the President, with his objections, to the House of Congress in which it originated, is certified to have been reconsidered and passed by two thirds of each of the two Houses of Congress, in pursuance of the Constitution. The act is filed, and will immediately be promulgated as one of the laws of the United States.

I am, your obedient servant,

WILLIAM H. SEWARD.

EDWARD MCPHERSON, Esq.,  
Clerk of the House of Representatives.

DEPARTMENT OF STATE,  
WASHINGTON, July 20, 1867.

SIR: I have to acknowledge the receipt of your letter of this date, together with the resolution of Congress entitled "Joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States;" which resolution, having been returned by the President, with his objections, to the House of Congress in which it originated, is certified to have been reconsidered and passed by two thirds of each of the two Houses of Congress, in pursuance of the Constitution. The resolution is filed, and will immediately be promulgated as one of the laws of the United States.

I am, your obedient servant,

WILLIAM H. SEWARD.

EDWARD MCPHERSON, Esq.,  
Clerk of the House of Representatives.

#### REVENUE-CUTTER SERVICE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of March 11, 1867, a statement of expenses incurred for the revenue-cutter service for the fiscal year ending June 30, 1866, value of seizures made, &c.

The SPEAKER. If no objection be made, this communication will be printed, and referred to the Committee on Appropriations.

Mr. RANDALL. I think it had better be referred to the Committee on Retrenchment. I think \$1,000,000 can be saved in the revenue service.

The SPEAKER. As the communication bears upon appropriations for future revenue service, the Chair supposed it would be proper to refer it to the Committee on Appropriations. But the Committee on Retrenchment has charge of that subject.

Mr. WASHBURNE, of Illinois. I would like to have it referred to the Committee on Commerce. I think it properly belongs to that committee.

Mr. RANDALL. I have entire confidence in the Committee on Commerce; but I think it is important the subject should be brought before the House at as early a day as possible. I think \$1,000,000 can be saved to the Government in this service. That is my reason for moving the reference to the Committee on Retrenchment. I am not tenacious about it. If the chairman of the Committee on Commerce [Mr. WASHBURNE, of Illinois] desires to have it go to his committee, I have no objection. I hope he will take the hint I have thrown out, and try to save something to the Government in this service.

Mr. WASHBURNE, of Illinois. I will merely say, in reply to the gentleman from Pennsylvania, [Mr. RANDALL,] that the Committee on Commerce has jurisdiction of all subjects connected with the revenue. It has already passed upon many of those questions; and I regard this subject as properly belonging to that committee. I think the gentleman had better consent that the subject should go to that committee. I agree with him that there may be a great saving in the expenses in this respect, and that this matter ought to be thoroughly overhauled.

Mr. RANDALL. I have no objection to the reference to the Committee on Commerce.

The motion of Mr. WASHBURNE, of Illinois, was agreed to; and the communication was referred to the Committee on Commerce.

#### PERSONAL EXPLANATION.

Mr. STOKES. I rise for the purpose of asking unanimous consent to make a personal explanation.

Several MEMBERS. How long?

Mr. STOKES. I cannot tell exactly. I promise the House that I will make my remarks as brief as possible.

The SPEAKER. If the gentleman will state how much time he desires the Chair will propound to the House the question whether it will grant consent.

Mr. STOKES. I ask one half hour.

The SPEAKER. Is there objection to granting the gentleman from Tennessee [Mr. STOKES] one half hour for a personal explanation?

There was no objection.

Mr. STOKES. I rise for the purpose of discharging a duty which I feel that I owe to myself, to my constituents, to my State, and to this House.

On last Thursday, Mr. Speaker, when you called the members from Tennessee to present themselves to take the oath prescribed by law, we were met by gentlemen on the other side of the House entering their protests against the admission of a portion of the delegation; and in fact one of the gentlemen entered his protest against the whole delegation. Consequently we were forced to retire to our seats and await the action of this House.

It is well known that the Thirty-Ninth Congress passed a law convening the Fortieth Congress on the 4th of March, the day on which the Thirty-Ninth Congress expired; and it is well known that the present Congress had a short session in March and July. But the election in Tennessee did not take place until August. Consequently the members-elect could not apply for admission until the beginning of the present session—last Thursday. At that time the eight members-elect from Tennessee appeared here with the certificates of

the Governor, having received the largest majority ever received by any members from that State. Their election was duly certified according to the laws of the State of Tennessee and the laws of the United States. Yet they were met here by gentlemen who refused to permit them to take their seats. In addition to that, grave charges were preferred against some of the members, and in fact all the members; and the State government of Tennessee was denounced upon this floor as a disgrace to civilization and a disgrace to the United States. For this reason I have availed myself of the opportunity to make some remarks to meet the charges that have been preferred. The three gentlemen to whom I wish particularly to allude in my remarks are the gentleman from Wisconsin, [Mr. ELDRIDGE,] the gentleman from Illinois, [Mr. MARSHALL,] and the gentleman from New York, [Mr. BROOKS.]

I might say here that I should perhaps be contented with the vindication of the members from Tennessee that was made by the gentleman from Illinois, [Mr. LOGAN,] the gentleman from Ohio, [Mr. SCHENCK,] the gentleman from Pennsylvania, [Mr. KELLEY,] and the chairman of the Committee of Elections, [Mr. DAWES;] but I feel it due to the people of my State and the delegation from that State that I should submit some remarks upon this question.

I have no complaints to utter in regard to the gentleman from Wisconsin, [Mr. ELDRIDGE.] He did nothing more than what he had the right to do. I will read a part of the remarks of that gentleman as published in the Globe of last Friday:

"The gentleman is mistaken about the House having ever investigated this letter. Another subject was before the House when it was read before. It was read but once. It was read before on the question of the admission of the Senator from that State, modifying the test-oath so that he might take his seat in the Senate. It was after Mr. STOKES had taken his seat."

Now, mark the language, Mr. Speaker:

"I should not have introduced it now were it not that Judge Trimble, having sat in the Thirty-Ninth Congress, was on a similar allegation prevented from taking his seat."

The only point that I wish to make upon the gentleman from Wisconsin is this: he has condemned the members of the Republican party in this House for the course they pursued toward Kentucky; yet he comes forward and proposes to do the very same thing which he condemns the Republican party for having done. He makes an attack upon a member from Tennessee, and enters his protest against his admission. With this remark I leave the gentleman from Wisconsin.

I next come to the gentleman from Illinois, [Mr. MARSHALL.] He used the following language during the discussion to which I have referred:

"I do not deny that during the rebellion, and subsequent to the writing of that Duncan letter, he did enter the Federal service and perform his duty well in the Federal Army. But that does not affect the question here presented. Can he conscientiously take the oath? Can he swear that he never, at any time, gave aid, countenance, or support to the armed rebels of the United States?"

I say to the gentleman from Illinois and to this House that I can stand here and swear I can take the oath prescribed with a clear conscience that I have never given any aid, countenance, or support in any shape or form to the rebels against the Government of the United States.

They have alluded to the Duncan letter. The honorable gentlemen do not choose to point out in the Duncan letter what portion of it they construe to be disloyal. They make the clear, broad, sweeping charge without pretending to argue the question to this House or attempting to show what I wrote in that Duncan letter which would forbid my taking the oath and my seat in this House.

The gentleman from Illinois goes on to say:

"He cannot so swear, for that letter would give the lie itself to any such oath. It is utterly impossible for him to do so, and it is clearly the duty of the House to step in, as they did in the case of the Kentucky members, if the majority do not intend to

abandon the precedent made in that case, and inquire into the fact whether this letter, admitted to be genuine, is not utterly inconsistent with the oath to be taken by every member."

I was sorry, sir, to hear my distinguished friend from Illinois use that language. When I took that oath, sir, as a Federal soldier and officer, there was no objection made. I took it twice when mustered in as an officer of the United States. I took it twice when a candidate for Congress, once in 1865 and again in 1867. I took that oath in this House as a member of Congress from Tennessee, and at this late day I say I was sorry to hear the gentleman from Illinois use such language in this House without showing in that letter wherein I was guilty of swearing to a falsehood or in what manner I was guilty of perjury.

Now, Mr. Speaker, a great deal has been said in regard to the Duncan letter, and I propose to take it up and read it paragraph by paragraph to the House, and if this House will decide that there is anything in that letter reasonable I bind myself to prove that the Democratic party was guilty of treason when they assembled in convention at Chicago. This letter was written on the 10th of May.

Mr. ROSS. Will the gentleman permit me—

Mr. STOKES. Not now, as my time is limited. I will state nothing but the facts from the records here. That letter was written on the 10th of May, and on the next day the ordinance of secession reached me. Then, sir, before Duncan had received the letter, long before it was published, I said to my people that they had but one alternative—that they were now compelled to choose between Jeff. Davis and Lincoln.

The ordinance of secession was submitted to us, and I told the people that they could take their own course; but that for myself I would stand by the old flag of my country, come weal or come woe. I made a vigorous canvass up to the 8th of June, and then voted against separation. In November the two others—we being the only three in the county—voted against the ratification of the confederate constitution; so that I could not have given much aid and comfort to the rebels in the short time from the 10th of May to the 11th, the next day.

I propose briefly to run over this letter to see where the disloyalty and treason may be:

"LIBERTY, May 10, 1861.

"Mr. JOHN DUNCAN, McMinnville, Tennessee:

"DEAR SIR: I have just learned from a friend that there is some gross misrepresentation going the rounds of your section in regard to my position in this trying crisis; and for the benefit of yourself and others I write this."

There is no treason in that.

"I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of the law and for the subjugation of the South, I commend Governor Harris for his course, and for arming the State and for resisting Lincoln to the point of the bayonet."

In this opinion I may have erred, as who has not, but was that treason? Our judges of the inferior courts deliver erroneous charges to the jury on the law, and when the case is decided it goes to the Supreme Court for review. If the court reverse the decision does that render the judge who delivered the charge either a criminal or unworthy judge?

"And have enrolled myself as a volunteer to resist his usurpation. I have in Congress and out opposed coercion and all forced measures, believing it was better to recognize the independence of the 'southern confederacy' than to attempt to coerce them back."

Why, sir, you remember that Mr. Buchanan and almost the whole Democratic party was opposed to coercion, and said, Leave the States to themselves. It was an opinion, and an opinion maintained by the Democratic party generally.

"I have always opposed secession. I claim the right of revolution and the right to resist the oppression of the Federal Government, and to throw off allegiance to the same when that oppression becomes intolerable."

That, sir, is a doctrine common to all parties in this country, and it is a doctrine held to-day by perhaps nine tenths of the American peo-

ple, that they have the right when oppression becomes intolerable to throw it off. The only question is, was it intolerable? I said it was. I said:

"The time has now come."

In that I erred.

"I have been and am now for standing by the border States. I believed they were to be the great sufferers during the conflict."

Sir, time has proved that that was true.

"I am opposed to being tacked on the southern confederacy at present, except as a military league. But when peace is restored, if the two nations cannot live in peace let all the fifteen States elect delegates, meet in convention, form their constitution, and submit it to the people for ratification."

That was my opinion then. The border States were on the eve of calling a convention. They were to stand as the breakwater between the North and the South.

"The South ought to be a unit during the war by all means. I had announced myself as a candidate for reelection, but on receiving Lincoln's proclamation for troops I abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed, I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges or what not by them who are trying to put me down. Time will tell where we all stand."

Time has told where I stood. Time has told, as was said by the gentleman from Illinois [Mr. LOGAN] on Thursday last, where he and I stood, and time has told where other gentlemen sat.

Now, sir, there is the whole of the letter. It was written in a moment of surprise, when the waves of passion overwhelmed my State. The next day brought me to see our condition in the light of truth, and I made haste to undo all that my letter might by any possibility do. Now, what did the Democratic party say when it met in Chicago? I read from the platform these words: "The Constitution itself is disregarded in every part." Here, an organized body in convention assembled; they declare that the Constitution has been disregarded in every respect. And this was said in 1864, when the nation was struggling for its life, by a political party which professed to submit and adhere to the Government. What further did they declare?

"Resolved, That the direct interference of the military authorities of the United States in the recent elections held in Kentucky, Maryland, Missouri, and Delaware was a shameful violation of the Constitution; and a repetition of such acts in the approaching election will be held as revolutionary and resisted with all the means and power under our control."

They were going to war on President Lincoln in 1864. If I, sir, was guilty of treason or disloyalty, pray, where does the Democratic party stand? Guilty, far more guilty! If a letter written in a moment of surprise, amid a whirlwind of wrath, renounced the next day by a bold opposition to rebellion, on the stump, and on many a bloody field, is treason, what is the solemn declarations of a convention, made in tranquillity, and adhered to till this good hour, as were the reasonable resolves of the Chicago convention?

Again, in their call for a Union national convention at Philadelphia, in August, 1866, they use the following language:

"Each State has the undoubted right to prescribe the qualifications of its own electors, and no external power rightfully can or ought to dictate, control, or influence the free and voluntary action of the States in the exercise of that right."

And yet, in the face of that resolution, these gentlemen came forward here last Thursday and protested against the delegation from Tennessee being allowed to take their seats. Thus have they shown themselves triflers with what they profess to be solemn rights of States. Such conduct is as destitute of sincerity as it is of consistency.

I could read further from this platform, but enough has been quoted to show what that party said at Chicago, and that if I have been guilty of treason or disloyalty the whole Democratic party is much more guilty. I cannot understand where any aid or comfort has been given by me to the rebellion, when whatever contribution the rebel government got from me

was forcibly taken by their own bushwhackers and guerrillas. In order to show the House the way I did it, I will ask the Clerk to read the following letter; it will give some idea of the aid I gave:

The Clerk read as follows:

HEADQUARTERS COMMISSARY OFFICE,  
MORGAN'S BRIGADE, NEAR MURFREESBORO',  
December 10, 1862.

By order of General Morgan, commanding, I have this day seized as the property of Colonel W. B. STOKES, of first Tennessee cavalry of the United States, two hundred and fifty-four bushels of wheat, valued at \$1.40 per bushel, and will account for the same on my returns for the current month to the commissary general of the confederate States. Said STOKES being an alien citizen, it is the opinion of the undersigned that his property escheats to the Government.

W. P. ELLIOTT,  
Major and A. C. S., Morgan's Cavalry.

Mr. STOKES. Now, I will say, for the information of the House, that it was not only wheat that they took, but corn, cattle and horses. And, sir, they went so far as to march their forces into my dwelling and to raise the carpets off the floors; they took the dresses of my wife and daughters to make themselves shirts; they even went so far as to strip two little boys of every rag they had but their shirts and pants. When I returned about one o'clock at night and drove them from my domicile I found the little boys covered up in bed. I asked them why they did not get up and see me, and they burst into tears. I turned and asked their mother what was the matter, and she told me: "These men have taken away every rag of their clothes, and I put them to bed and covered them up till their clothes can be washed and ironed." And yet we are told here in this House that the government of Tennessee is a disgrace because it does not allow such men to vote.

Now, sir, in order to get rid of this Duncan letter once for all, I will send to the Clerk's desk and have read a letter that I addressed on the 27th of September last to the Nashville Union and Dispatch, which covers the whole ground and covers it for all time to come.

The Clerk read the letter, as follows:

LIBERTY, TENNESSEE, September 27, 1861.

Editors Union and Dispatch:

SIRS: I see in your issue of the 26th instant the following allusion to myself, which does me great injustice:

WILLIAM B. STOKES AMNESTIED.

The Washington correspondent of the New York World says:

"Among those embraced by the recent proclamation of amnesty is Hon. WILLIAM B. STOKES, of Tennessee, a member of the Thirty-Sixth Congress, who went into the rebellion and proposed to raise troops—now a Radical member of the last and I believe also a member-elect of the present House of Representatives."

"And yet this man with the governmental halter around his neck, has passed himself off for a 'fired-tired loyalist.'"

It is not true that I ever was connected in any way with the rebellion, or the attempt to separate or break up the Federal Government.

I never made a speech or uttered a word in favor of secession; I never raised any troops for the rebel army; I never joined a rebel company; I never sought or held an office in the so-called confederate government; I never took an oath to support the so-called confederate government; I never contributed one cent to aid the rebellion, unless it was forced from me, either by the confederate authorities or stolen from me by their roving bands of thieves and bushwhackers. If this is considered as giving aid, then I aided extensively. I never drew one breath in favor of secession or disunion, and not one word or act of mine can be so construed if truth and justice is done. It is well known that I stood up and opposed every move toward secession in the Thirty-Sixth Congress. It is well known that I opposed separation in 1861, and made a vigorous canvass against it during the months of May and June, 1861, voting no separation and representation on the 8th of June, 1861. It is well known that I entered the Federal lines as soon as General Buell reached Nashville.

It is well known that I raised a regiment of good and true men for the Federal Army in 1862, and served as an officer and soldier in the same until the spring of 1865, when I was honorably discharged. It is well known that while in the Army I never disobeyed an order from a superior officer.

I dislike to trouble you with this, but justice demands a flat denial of such gross misrepresentations. No Government halter was ever around my neck, for the good reason of never having committed an offense against my Government, either by word or deed. You, no doubt, have had the halter about your neck for treason, and if justice had been done, the props would have been knocked from under you, and clear daylight would have been seen between you and earth.

and there kept suspended until you ceased to kick or give signs of treason.

But a magnanimous Government forgave you, and permitted you to live and to follow some honest avocation for a living. Now, in order to reap revenge and put forth your hatred for the Federal Government, you are vilifying and publishing base falsehoods against the men who stood true to the Union and Federal Government during our unhappy struggle.

Now, sirs, in conclusion, let me ask you to publish this letter in your paper, and hereafter confine yourselves to facts. I do not charge you with intending to injure me individually, but the hatred you have toward the Union party causes you to thus act. I am in hopes a few lines of correction will put the matter right between us, and we will be good friends for all time to come.

Respectfully, your obedient servant,

W. B. STOKES.

Mr. STOKES. Now, Mr. Speaker, I have nothing to add in regard to that letter. It is very painful to me to have to speak upon this subject, and I regret it exceedingly; but I deemed it my duty to reply to the charge which was made against me here, and that, too, at a time when the delegation had no opportunity of reply, not even the privilege of asking one question or making an explanation.

As to the other members of the delegation, I shall say very little. The case of my distinguished colleague, Mr. Butler, has gone to the Committee of Elections, who will do him justice. But let me say that there is a difference between his case and the case of the Senator from Tennessee who was alluded to the other day, and who was sworn in in the Thirty-Ninth Congress. If Mr. Butler was in the Legislature and voted as is alleged he came forward afterward and served as a Federal soldier and as circuit judge under the reorganization of the State Government, and to-day is chairman of the central radical Union committee of the State; but as for Judge PATTERSON, he ran for the office of judge and was elected by the people, and he was sworn in, and took the oath of allegiance to the confederacy; he presided as a confederate judge, administered confederate laws, charged a confederate grand jury, and was to all intents as much an officer of the confederate government as was Benjamin or Jeff. Davis himself. It was for him on his conscience, before his God, to say whether he could take the oath or not. I held no office and sought none; I was tendered one, but refused it.

I come now to the other branch of the subject. The gentleman from Illinois [Mr. MARSHALL] said, and is so reported in the Globe:

"Another observation and I have done. The whole State government of Tennessee as at present organized and administered is a disgrace to the American nation and to the civilization of the age."

Here is a grave charge made in loud terms, that the government of Tennessee is a disgrace to the nation and to the civilization of the age. I expected to hear the gentleman specify in what particular it is a disgrace. Wherein is the government of Tennessee a disgrace to the nation or to civilization? It is well known that in 1865 the loyal people of the State met in convention and organized a government; they amended the constitution, and submitted it to the loyal people of the State on the 22d day of February for ratification or rejection. The loyal people of Tennessee went to the polls and voted ratification.

[Here the hammer fell.]

Mr. ELDRIDGE obtained the floor.

Mr. STOKES. I ask the indulgence of the House for a few moments longer.

Mr. ROSS. I want to ask the gentleman a question. He spoke so low we could not hear him.

The SPEAKER. No debate is in order unless the time of the gentleman from Tennessee is extended.

Mr. ROSS. I merely want to ask him if he wrote that letter. We could not hear him over here.

The SPEAKER. What time does the gentleman from Tennessee desire the Chair to ask for him?

Mr. STOKES. Twenty minutes.

Mr. ROSS. I think we have had enough of this.

Mr. WASHBURN, of Illinois. I think it but just that the gentleman from Tennessee should be heard on this personal matter, and I will move to suspend the rules so that he may be heard.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] is now entitled to the floor.

Mr. ELDRIDGE. I hope if the gentleman from Tennessee [Mr. STOKES] is allowed to proceed that I may be allowed a few minutes to reply to him.

The SPEAKER. What length of time does the gentleman desire?

Mr. ELDRIDGE. Fifteen or twenty minutes.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, so as to allow twenty minutes to the gentleman from Tennessee [Mr. STOKES] and twenty minutes to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

The motion was agreed to, (forty-three voting in the affirmative.)

Mr. STOKES. I was going on to say that the government of the State of Tennessee was organized by the loyal people, who ratified the amended constitution of that State which provided that a Legislature should be elected by general ticket, and that the Legislature which first met should have the right to declare and regulate the question of suffrage. The ninth section of the schedule gave the Legislature this right to regulate the elective franchise. The Legislature met and did regulate the franchise and limit it.

It has been said by gentlemen upon this floor that the Legislature of Tennessee disfranchised from eighty to one hundred thousand of her citizens. I deny that the Legislature disfranchised a man. There can be found nothing in the franchise act to justify such a statement. According to the head of the Democratic party to-day, Andrew Johnson, these eleven States were without any State governments. Therefore all were disfranchised. The Legislature then came forward to regulate and limit the question of suffrage, and stated who should vote, but failed to extend the elective franchise to all persons.

The gentleman from Illinois [Mr. MARSHALL] said that Union soldiers in Tennessee were debarred from voting there, and that if his statement was denied it could be proved. Now, all that I have to say to that is that I have never before heard of that charge. I have asked my colleagues about it, not one of whom ever heard it before. If there ever was a Federal soldier debarred from voting there I want the gentleman from Illinois to state to this House his name, so that we may know who he is.

Sir, the contrary is true; the franchise law provides that when a soldier of the United States has been honorably discharged his certificate of honorable discharge shall be of itself sufficient to entitle him to all the rights of a citizen. The soldiers voted everywhere over the State, the Conservative or Democratic ticket receiving some twenty thousand votes, of which some were soldiers'. There was no disturbance at the polls; every man was allowed to go to the polls and vote as he chose. The gentleman from New York [Mr. Brooks] alluded to the colored vote of Tennessee.

Mr. MARSHALL. Will the gentleman yield to me for a moment right here?

Mr. STOKES. Not at present. The gentleman from New York [Mr. Brooks] alluded to the colored vote of Tennessee. Is that what makes the government of Tennessee a disgrace to the civilized world? If so, then I desire to say that I understand that some colored men vote now in New York; some in Massachusetts, and in other States. And I hope and trust in God that the loyal colored men all over the nation will be entitled to vote before long. What disgrace is there in that? They voted in Tennessee in the time of Jackson; free colored men voted then.

Now, I stand here and proclaim from my seat that I know the colored race. Truer men and nobler men God does not let live on the face of the earth than they are as a race. They

have proved themselves on the battle-field. And more than that, they have at the ballot-box proved themselves to be worthy, for they have voted against the Conservative Democratic ticket and for the Radical ticket. That fact proves their capacity to exercise the elective right and their superiority over their less favored fellow-citizens of the Democratic faith.

The gentleman from New York was mistaken. He should have reversed his statement. There were forty-five thousand colored men voting and fifty-five thousand white men. Is it cause for disgrace that the loyal colored soldier is allowed to vote? Is he not entitled to do so? He defended your country; he saved your flag. The Legislature of Tennessee, that patriotic, loyal body of men, with the Governor of the State, guarded and protected the interests of the loyal people of the State, recognized the rights of the colored man to the suffrage, and God will bless them and the country will honor them for what they have done. Instead of the government of Tennessee not being republican I am inclined to think that it is almost the only republican government that we have within the United States.

Tennessee comes nearer the standard of true republican government than any other State within my knowledge. There the only test made is loyalty. The question is asked, "Is the man loyal to the flag, true to the Government?" If he is, we give him the right to vote. But if he is disloyal, we say to him, "No, you cannot vote, you cannot hold office in this State, for you are disloyal." Upon this ground, and this alone, are men kept from the polls in Tennessee. Such men the Legislature has refused to enfranchise; but I hope and trust that the day is not far distant when all restrictions may be taken off, and those now excluded by reason of their own transgressions may be permitted to vote; but they will have to bring forth "fruits meet for repentance" before the loyal men can allow them to vote.

The gentleman from New York opposed the admission of the whole delegation from Tennessee, and charged a number of the members of that delegation with treason. Why, Mr. Speaker, treason is a very grave charge. I was sorry to find the gentleman from New York opposing the admission of the delegation from Tennessee; for I remember that on the first day of the Thirty-Ninth Congress that distinguished gentleman was, I believe, the first to rise in his place and advocate the admission of the delegation from Tennessee. Then the government of that State was in his view all right.

The gentleman says that he now places his objection upon the ground (I will not take up time in reading his remarks) that the members now presenting themselves were elected under the franchise law of 1865. Yet, sir, the members who presented themselves from Tennessee at the beginning of the Thirty-Ninth Congress were elected under the franchise law of 1865; and the gentleman from New York advocated the admission of that delegation, and also the recognition of the State government. Why the difference between his position then and his position now? What has caused this great change to come over the gentleman? The Legislature of Tennessee has not since that time struck down voters; it has enlarged the elective franchise by admitting forty thousand more men. The franchise has simply been enlarged. All the restrictions that now exist existed at the time the gentleman from New York desired the admission of the delegation from Tennessee. But the delegation stood a little different then from what it does now. Then the delegation was politically divided, four to four; and when they first came here it was uncertain how they stood. But now, when we present ourselves, the loyal people of Tennessee have sent eight members, who have received majorities of from three thousand to eleven thousand; and the gentleman from New York rises and objects to the admission of the delegation. In fact, I was glad to see manifested on the

other side a disposition to scrutinize the loyalty of persons applying for admission as members of this House. I agree that every person who presents himself at that stand ought to be scrutinized. The question of his loyalty ought to be examined to ascertain whether he has been and is now all right. I do not complain of such scrutiny. What I complain of is the unjust attack upon the government of my State and the members from that State.

We claimed the right in Tennessee to regulate and control the question of suffrage—a right which was fully recognized by the Democratic party in its platform adopted by the Chicago convention. We simply exercised the right that that convention asserted as belonging to the States. The Democratic party, wherever it has the power, has enfranchised whom it chose. It has refused to enfranchise the colored men, as was its privilege and right. It is our privilege and right to enfranchise the colored man if we choose; and it is our right to declare that men who have been guilty, who have proved themselves traitors, shall not come to the polls and vote.

Now, as to the Brownlow government. Governor Brownlow is not the government of Tennessee. He does not control the government of that State. His duty has been to execute the laws passed by the Legislature. He can do nothing more and nothing less. Governor Brownlow has not gone beyond the constitution and laws of the State. I challenge any man to show where Governor Brownlow has exercised power not delegated to him by law. He has made us a faithful Governor. He has stood true to his post. He has discharged his duty faithfully, and I trust in God that he will live long enough to come here and take his seat as a Senator of the United States. He deserves it. He is entitled to it. The Legislature gave it to him as a true loyal man, devoted to his country and to the loyal people of his State.

I dislike, sir, to hear these sweeping charges made against the State of Tennessee. A disgrace! I ask gentlemen to show where the government of Tennessee is a disgrace. The colored men voted right, they fought right, they behave well, and yet we are asked to exclude them. Sir, we have nothing to do with the color of the skin. God has fixed that. When Christ was upon the earth He said: "Suffer little children to come unto me, and forbid them not; for of such is the kingdom of Heaven." He made no distinction as to color. And when He sent out His disciples He said: "Go ye and preach the Gospel to all nations and all people." He made no distinction on account of color. And when we make no distinction of color why should gentlemen denounce us upon this floor and say that our State government is a disgrace to the civilization of the age? Why should it be denounced as a disgrace because we enfranchise the colored soldier and refused to enfranchise the men who were rebels and traitors to their country?

I trust, sir, that the other ten States which are to come in will come in just as the State of Tennessee has come in. I shall, for one, recognize those ten States if they are such as Tennessee is; but if a constitution is presented here which refuses to the colored man a vote and enfranchises the white rebel I will vote against it. I will never vote to recognize a constitution unless it conforms in substance to the constitution of Tennessee, that this House has recognized as republican in form.

Mr. Speaker, I know my time is nearly expired, and I shall not have the opportunity to refer to some other points which I intended to notice. I thank the House for the time allowed to me and for the further extension of time. I thought it due to myself and to the people to make this explanation. I now leave it to the country. I left my friend from New York [Mr. Brooks] upon the floor on the 4th of March protesting against this Congress, alleging that it was an unconstitutional, an illegal organization. When I returned on last Thurs-

day the first gentleman I saw rising in his place was the gentleman from New York. I take it that the gentleman is employed to do the protesting for his party in this House.

I regret that the expiration of my time compels me to close thus abruptly. Other subjects of interest I had hoped to discuss. In the course of the session a more extended opportunity will present itself, when I may perhaps vindicate more fully the faithful, loyal, and warm supporters of the State government of Tennessee.

The SPEAKER. The gentleman's time has now expired, and the gentleman from Wisconsin [Mr. ELDRIDGE] is entitled to the floor for twenty minutes.

Mr. ELDRIDGE. Mr. Speaker, I do not intend to make more than a remark or two on the question which is before the House at this time. It is a remarkable fact, which must have struck every member of this House, that when a gentleman parts company with his friends in error or in the wrong he finds it necessary, as a general thing, to become more censorious and denunciatory of them than if he had never been astray with them. This may account for the bitterness to-day of the gentleman from Tennessee, who denounces not only all who went with him and beyond him, but even those suspected of anything like sympathy with those who went to the same extent he did.

I know it is charged that I was somewhat inconsistent in the position I took here in objecting to the gentleman from Tennessee being sworn in as a member of this House. I thought when the delegation from Kentucky were applying for admission that the precedent which gentlemen on the other side were establishing was an ugly one, which would come back at some not very distant day to plague and trouble them.

The reason why I raised that objection to the gentlemen from Tennessee was that they might see the absurdity and inconsistency of the course they pursued. Judge Trimble, of Kentucky, had sat with us in this House during the entire Thirty-Ninth Congress, able, accomplished, respected for every quality of mind and heart by every member of this House; and yet, upon a bare charge or suspicion of having sympathized at some day or other with the rebellion, he is prohibited by the majority of this House from taking his seat. I thought it was wrong then; I think so still. The gentleman from Tennessee [Mr. STOKES] stood in a much more equivocal and doubtful position as regarded his loyalty at the time he was admitted to a seat on this floor than the gentleman from Kentucky [Mr. Trimble] did when he sought admission.

The gentleman from Tennessee proceeds to defend, if I understand him correctly, the letter known as the Duncan letter. I understood him to admit his guilt at the time when that letter was first read to this House. I understood him then to claim that he had condoned the guilt with which that letter seemed to charge him. I understood him then to repudiate the position which he took in the letter in 1861. I understand him now to go through that letter, sentence by sentence, and to adopt and affirm its truth and claim that it was right.

Mr. STOKES. Will the gentleman yield?

Mr. ELDRIDGE. I cannot yield now.

Mr. STOKES. I do not wish the gentleman to misrepresent me.

Mr. ELDRIDGE. If the gentleman claims that that letter was right, his speech taken in connection with it shows in my judgment that he was not only disloyal then but that he is disloyal now. I leave him in the hands of his "loyal" friends to justify him with the letter which he now asserts contains the truth.

Mr. STOKES. Mr. Speaker—

The SPEAKER. The gentleman from Tennessee is not in order. The gentleman from Wisconsin declines to yield. He cannot be interrupted except by his own consent. The Chair defended the gentleman from Tennessee against interruption.

Mr. ELDRIDGE. The gentleman says that

he defended rebellion in the first place, and he quotes this sentence in that letter:

"I have always opposed secession. I claim the right of revolution and the right to resist the oppression of the Federal Government, and to throw off allegiance to the same when that oppression becomes intolerable. That time has now come."

The gentleman says that is true—it was true in 1861. The gentleman shakes his head. I was near him at the time he spoke, and came back and made a memorandum of what I understood he said. I do not know whether he intended to affirm the whole of that sentence; but if he affirmed that the time for resisting the oppression of the Federal Government was at the date of his writing the letter I ask our Republican friends if the letter itself is not evidence of disloyalty then. And if he now affirms the truth of it is it not evidence of disloyalty to-day or at the time he took the oath?

I will say to the gentleman that I have no personal ill will or unkind feeling toward him. When the question of modifying the test-oath was before this House he uttered—if my memory serves me right—this strong expression: that he would freeze to his seat in this House before he would consent to the modification or change of that oath; that it was the only protection of the loyal people of the South. I thought that oath ought to be modified on account of the gentleman himself, and so remarked at the time the letter was introduced. I believe that Judge PATTERSON has never been proved before this House or the Senate to have uttered language more disloyal or hostile to this Government than the language contained in that Duncan letter.

I think I ought to have the Clerk read what one of the gentleman's then colleagues (Mr. Nathaniel G. Taylor) said of Judge PATTERSON. It is perhaps due to him, as he has not the opportunity to vindicate himself. I will ask the Clerk to read it, although it may prevent me from saying all I intended for want of time. I suppose Judge PATTERSON needs no vindication from me, but there were very harsh things said of him here the other day, and the gentleman from Tennessee [Mr. STOKES] I understood to say some severe things of him. I think it was no more inconsistent for Mr. PATTERSON to take the oath, as far as I understood his case, than for the gentleman from Tennessee, [Mr. STOKES.]

The Clerk read as follows:

"Mr. TAYLOR, of Tennessee. Mr. Speaker, it is fit and proper, I think, that I should make a statement in reference to the distinguished gentleman upon whose case this body is now sitting, because he is my constituent; he lives in my district, the district which I have the honor to represent upon this floor. It is my happiness to have known him, not only through the bloody scenes which have occurred during the last five years, but for long years before. And I take pleasure in saying here to-night in all sincerity to my fellow-members in this House, that so far as my personal knowledge extends there is not in this House, there is not within the limits of these United States to-night a man who can present a clearer record of devotion to the country we all love, of pure, unwavering, unmitigated loyalty to the Government than DAVID T. PATTERSON. Ay, sir, such was his devotion to the cause, such was his loyalty to the Government, such was his fellow-feeling with those who loved their Government, that he was willing for their sake—not for the sake of the bloody-handed rebels, of whom my friend from Ohio [Mr. SHELLEBARGER] speaks; not for the sake of advancing the interests of the cause that was opposed to his country and your country; but for the cause of his compatriots in Tennessee he was willing to be a judge, to occupy an office of responsibility and trust, and to have the lives and reputation and property of the people in his keeping. I am not speaking at random; I know whereof I am speaking.

In 1854 Mr. PATTERSON was elected judge of the circuit for the term of eight years. In 1860, when the coming war began to loom up in the political horizon, when it became evident that we were to be plunged into a civil war, Judge PATTERSON, to my personal knowledge, had a strong inclination to resign his position as judge of the circuit court; but the Union people of his circuit, of whom I was one, besought him, for their sake and for the country's sake, to continue to hold his position as judge. He consented to their entreaty, and held the position of judge until the expiration of his term in 1862. He then disclosed to me the fact that he desired to retire to private life; that he did not intend to be a candidate for reelection, for he did not desire to continue to hold that position under such embarrassing circumstances as then surrounded us. The country was then full of rebel soldiers, and they were in the full tide of successful rebellion in Tennessee. Be it remembered, sir, that East Tennessee at that



time, and all the time from the beginning of the war, through all its changing and horrid scenes, was true to the country—true in prosperity and true in adversity."

Mr. ELDRIDGE. It was in reply to that speech of the gentleman's colleague that he made the remark that he would freeze to his chair before he would consent to a modification of what is known as the test-oath. Now, let us see how he can be reconciled and squared with the test-oath. That oath provides, as the House well knows, that the applicant for admission shall solemnly swear, or affirm, as follows:

"I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto."

That is the part of the oath that applies to past conduct. That is the part of the oath that it was supposed stood in the way of Judge PATTERSON taking it upon his application for admission to the Senate of the United States.

Now, let us see what the gentleman from Tennessee has done, for he is remembered that this letter is admitted to be a genuine letter, and to-day the gentleman justifies either the whole or the most part of it. Has he not resisted or given aid and comfort to those who were resisting the Federal Government? Does he not tell them in this letter that the time for resistance is now come; that the time has come when "we should resist the oppressions of the Federal Government?" The gentleman says now that was true. Again he says:

"That having failed, I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful."

Has the gentleman been shown by time to have been "faithful?" He was faithful then to the rebellion. He was always a believer in the right of rebellion, and I suppose he is now, or at any time when oppression is intolerable. It was in 1861, and then was the time to resist the Federal authority. It is said that he has made a brilliant record. It is said by the gentleman from Illinois [Mr. LOGAN] that he has condoned his sin, that he has wiped out the wrong which he did by subsequent good behavior. He admits the wrong, and so did the gentleman himself when the letter was first read in the House. If that be so, and the gentleman from Illinois is right and the disloyalty has been condoned, (it existed before that and now,) I ask again how he could swear he was never disloyal or never gave aid or encouragement to the rebellion? If he had done the wrong, and that wrong was within the meaning of the oath, how it is that the gentleman from Tennessee can walk up here before this House and lift his hand on high and swear before God and man that he has done nothing to aid or give comfort or encouragement to those who were resisting the Federal authority?

I thought at that time the oath ought to be modified, and I still think so. I do not think that it is necessary to require a man to swear in regard to his past conduct. I am willing, if a man is with us to-day, if he has surrendered his hostility to the Government, as I have no doubt the gentleman from Tennessee [Mr. STOKES] has—if he is now a loyal man and will swear to be loyal—I am willing to allow him to sit here as a member of Congress. I doubt not he may have repented of writing that letter and encouraging his then rebel friends. But he has given us another very good reason why he should feel hostile toward his former friends; he has been badly treated by them. He has given better evidence of hostility than of loyalty. He tells us that he lost his horses, his cows, his sheep through them.

Mr. ROSS. And his shirt.

Mr. ELDRIDGE. My friend says, "and his shirt;" I do not know that he said that. But he lost almost all he had by these men, whom

he was encouraging and acting with in 1861. It is not remarkable, therefore, that you should find him to-day in open hostility to and using the denunciatory language he is using against the rebellion, and against all those who he says at some time or other have sympathized with the rebellion. He has a pretty good excuse for it. I do not blame him for hating those men; I do not blame him for his present loyalty, but the oath has reference to the past. Those were dark days in 1861 for the Republic. They were days that tried men—tried their loyalty. It is not as trying and difficult now. I was going to say the days were brighter now; though I have sometimes thought they are not. But, from the gentleman's standpoint, I have no doubt he thinks the days now are better, and that loyalty bears a better price and is more popular in his estimation; especially is his position stronger. Having deserted his friends, of 1861 and gone in with his black companions he has them all to support him and send him to Congress.

The gentleman undertakes to justify his State and defend its government. He says his State has been attacked here. What! the old sovereign State of Tennessee attacked here in this House? By no means. It is only that infamous State government that the gentleman and his friends have set up on the foundation of the old and once glorious State of Tennessee that has been attacked—that government which no honest, no upright, or just man can justify or defend that has been attacked. Why, sir, who has attacked the State of Tennessee? My friend from Illinois [Mr. MARSHALL] did not. He did attack the present government—the Brownlow government—there, and told this House and the country that it was a despotism and a disgrace to the civilization of the age. And I concur in that sentiment. The oppression there would shame a despotism anywhere on the face of God's earth, and the gentleman cannot deny it. The gentleman says they enfranchised the negroes and disfranchised white rebels only. How did you do it? I would ask him. Did you disfranchise them according to your constitution and laws? Or did you enfranchise and disfranchise by the despotic hand of power—by your Brownlow bayonets? The government now enforced was never established by the voluntary will or choice of the people. I wonder not that the gentleman from Tennessee [Mr. STOKES] feels called upon to vindicate his position here. I should suppose that when he comes forward here to represent a portion of the State of Tennessee, where a majority of the white men have been disfranchised, when he is able to come here only by the negro votes—I should suppose he would feel called upon to defend his position, and to make just such attacks as he has made upon the platform of the Democratic party in days gone by. He cannot, however, cover his own disloyalty by throwing dust of that sort.

There are some gentlemen on the other side of the House, if I am not mistaken, and some on this, who agreed to the platform of the Democratic party of 1864. It is not necessary that I should defend that platform or the position of the Democratic party at that time. The Republican party is making their then prediction more than true. But the Democratic party will never cease its hostility and abhorrence of the state of things in Tennessee to which I have alluded. It will not soon be reconciled to such governments as the present one in Tennessee; to the treading under foot the Constitution of the United States, the constitutions of the States themselves, and building up rotten boroughs to send to Congress such men as the gentleman from Tennessee, or better or worse ones. And this I suppose is the reason why the gentleman in vindicating his loyalty to the Government finds it necessary to assail and denounce that party.

I will now yield the remainder of my time to the gentleman from Illinois, [Mr. MARSHALL.]

The SPEAKER. There is one minute remaining of the time of the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I supposed I had more time left.

Mr. MARSHALL. I believe, Mr. Speaker, if this discussion is to stop here, I shall say nothing on the subject. Most of the remarks of the gentleman from Tennessee [Mr. STOKES] were directed to myself, and I did desire to make a remark or two, which would probably explain to him satisfactorily the reasons for the grounds which I took. But those grounds have been pretty fully stated by my friend from Wisconsin, [Mr. ELDRIDGE,] and if this matter is to go no further I will not ask the House to grant me time to reply to the gentleman from Tennessee.

The SPEAKER. The time of the gentleman from Wisconsin [Mr. ELDRIDGE] has now expired.

#### TAXATION OF GOVERNMENT BONDS.

Mr. WASHBURN, of Indiana. I rise to a privileged question, and call up the motion made by me on the 11th of July last, to reconsider the vote by which the resolution offered by me July 10 was referred to the Committee of Ways and Means.

The resolution was read, as follows:

*Resolved*, That the burdens of the Government should be borne equally; that taxation should be in proportion to property held; that exemption of any material portion of the wealth of this country from its due proportion of taxes is wrongful, unjust, and should be avoided; and to carry out these views the right to tax the bonds of the Government should be given in any future system funding said bonds.

The SPEAKER. The question is, Will the House reconsider the vote by which the resolution was referred to the Committee of Ways and Means.

Mr. WASHBURN, of Indiana. On that I demand the previous question.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me one moment for an inquiry?

Mr. WASHBURN, of Indiana. Certainly.

Mr. WASHBURN, of Illinois. What action does the gentleman propose to have taken in this matter?

Mr. WASHBURN, of Indiana. I propose that we shall reconsider the reference, and then pass the resolution.

Mr. WASHBURN, of Illinois. I believe the Committee of Ways and Means has never acted on the resolution. I think the gentleman had better let the committee act upon it. I move that the motion to reconsider be laid on the table.

Mr. WASHBURN, of Indiana. On that motion I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. WASHBURN, of Indiana. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

Mr. WASHBURN, of Indiana. I call for tellers upon the motion to lay on the table.

Tellers were ordered; and Mr. WASHBURN, of Indiana, and Mr. WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes seventy-two, noes not counted.

So the motion to reconsider was laid on the table.

#### LIGHTING STREETS OF WASHINGTON.

Joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia, was taken from the Speaker's table, and read a first and second time.

The SPEAKER. This resolution has been on the table since the 30th of March last, in consequence of the fact that business at the July session was limited to legislation relative to reconstruction. The Chair understands that it is the desire that this bill shall be referred to the Committee for the District of Columbia.

Mr. WELKER. I move that it be referred to that committee.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the bill was referred; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CHANGE OF A NAME.

The bill (S. No. 143) entitled "An act to change the name of Samuel Chase Barney, jr., to Samuel Chase De Kraft," was taken from the Speaker's table, and read a first and second time.

Mr. INGERSOLL. If there is no objection, I would like to have this bill put upon its passage now.

Mr. WELKER. I prefer that it should be referred to the Committee for the District of Columbia. I move that reference.

The motion was agreed to; and the bill was referred to the Committee for the District of Columbia.

Mr. MAYNARD. Mr. Speaker, some observations have been made upon this floor in regard to the State of Tennessee, to which I shall make reply when opportunity is afforded me to do so. If the House is willing to have the morning hour occupied with this discussion I will proceed at this time. It is a matter which, from a proper regard to the government I represent, should receive some notice at my hands, some examination, perhaps some explanation.

The SPEAKER. The Chair does not know whether the gentleman from Massachusetts [Mr. BUTLER] desires to proceed with his remarks in the Committee of the Whole on the state of the Union on the finances, but he will ask the House whether there is any objection to the gentleman from Tennessee proceeding at this time.

Mr. ROSS. I think it had better be postponed till Saturday, and that we take up the finances. We all know the government in Tennessee was established by the bayonets there.

Mr. MAYNARD. The observations of the gentleman and the insinuation that the elections were carried by the bayonet and other things to the same effect require that we should be heard upon the facts. If the House does not desire to hear me at this time I will yield.

Mr. WARD. I move that the rules be suspended in order that the gentleman may be heard at this time.

The SPEAKER. For how long?

Mr. MAYNARD. Half an hour.

Mr. ASHLEY, of Ohio. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union, so that the gentleman from Massachusetts [Mr. BUTLER] may conclude his remarks.

Mr. WASHBURN, of Illinois. I suggest the motion be modified so that after the gentleman from Massachusetts has concluded his remarks the gentleman from Tennessee shall be heard.

Mr. WARD. I agree to that.

## ABSENCE OF A MEMBER.

Mr. LOGAN stated that Mr. TAFTE was detained at home by severe illness.

## THOMAS FOSTER.

Mr. WASHBURN, of Illinois, by unanimous consent, moved that certified copies of the papers in the case of Thomas Foster be given to the petitioner; which motion was agreed to.

## JOHN WILSON.

Mr. INGERSOLL, by unanimous consent, moved that leave be granted for the withdrawal from the files of the House of the papers in the case of John Wilson and the same be referred to the Committee of Claims; which motion was agreed to.

## RELIEF OF DRAFTED MEN.

Mr. COVODE, by unanimous consent, introduced a bill to extend an act entitled "An act for the relief of certain drafted men," approved February 23, 1867; which was read a first and second time, and referred to the Committee on Military Affairs.

## REDUCTION OF THE CURRENCY.

Mr. ASHLEY, of Ohio, moved that the rules be suspended and the House resolve itself into

the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of House bill No. 89, relating to the reduction of the currency.

The CHAIRMAN stated that the gentleman from Massachusetts [Mr. BUTLER] was entitled to the floor for an hour and five minutes.

Mr. BUTLER concluded the speech commenced yesterday. [It will be found in the Appendix.]

Mr. BLAINE. Mr. Chairman, I should ill repay the very patient hearing with which I was honored yesterday if I should trespass at any great length upon the attention of the committee to-day; but I desire to make one or two remarks in answer to what fell from the gentleman from Massachusetts [Mr. BUTLER] yesterday, rather than to reply to anything he has said to-day. Indeed, his speech to-day had nothing whatever to do with the subject upon which I had the honor to address the House yesterday. I argued a single question, namely: the obligation of the United States to ultimately redeem its five-twenty bonds in coin. I do not propose to reargue it, but I wish to make one or two corrections in regard to points which the gentleman yesterday misstated—I presume not intentionally.

The gentleman held that Secretary FESSENDEN had set the example of repudiation by refusing to redeem the original seven-thirty loan of 1861 in gold, because, having been negotiated when gold was our only currency, he maintains that they should have been paid in gold at maturity. I would like to ask the gentleman at this point if he knows of a single holder of those seven-thirty notes who demanded gold at the Treasury Department and was refused?

Mr. BUTLER. To that I answer, of my personal knowledge I do not. But I have seen a letter of refusal, which I will endeavor to get and bring before the House, from Secretary FESSENDEN.

Mr. BLAINE. I have to repeat what I said yesterday, that when Mr. FESSENDEN entered the Treasury Department the mode of liquidating these seven-thirties had been finally adjudicated by Secretary Chase, that the adjudication had been communicated to Congress, and that Congress coincided with it; and I now say that for Secretary FESSENDEN to have attempted to reverse Secretary Chase's decision, which he had communicated to Congress, would have been to fly in the face of the decision of Congress itself. As a simple matter of fact the gentleman from Massachusetts misstates the whole transaction. He put it to the House as though there had been some poor people holding this short loan, and that the Government did not hesitate to cheat them, but that the princely holders of the long loan must not be likewise cheated. Why, sir, almost the entire seven-thirty loan of 1861 was taken by the banks of the large eastern cities. It was taken by those banks and paid for in their own bills, and the sub-Treasury act was modified for their benefit in order that the money thus loaned might lie on deposit in the banks and be drawn out from time to time as the Government needed it. That is the history of the origin of the loan; and when the three years for which it was negotiated had expired the holders of these seven-thirty notes were allowed to exchange them for the most favorable bonded security which our Government has ever issued—the sixes of 1881. Instead of discontent with this arrangement, there was the most entire satisfaction on the part of the holders of the seven-thirties.

But if for argument's sake I should admit that there was a partial failure on the part of the Government to maintain the very letter of the contract with the holders of these notes the gentleman would gain nothing thereby in support of his own scheme. The case is by

no means analogous with the course he wishes to pursue in regard to the whole bonded debt of the United States. He proposes to pay it off with paper destined to depreciation and worthlessness; whereas the seven-thirties of 1861 were paid off by giving a far better bond in their stead—a bond that yields semi-annual interest to the holder and assures him of ultimate coin payment of the principal. This course was fair and honorable on the part of the Government, and was eminently advantageous to the holders of the seven-thirties, and of course highly satisfactory to them. And yet for pursuing this course Secretary FESSENDEN is denounced by the gentleman from Massachusetts as a dishonorable repudiator. The gentleman would have had the Secretary force the gold on the holders of these Treasury notes even when they were perfectly willing to take the 1881 bonds instead. The policy which he denounces Secretary FESSENDEN for pursuing saved the Government more than two hundred million dollars, and that without a protest or murmur from any of the parties holding the seven-thirties. I wish it distinctly understood that it is for that act of Secretary FESSENDEN that he is now denounced as a repudiator by the gentleman from Massachusetts.

But I wish the gentleman now to be consistent in his position and faithful to his own logic. These seven-thirty notes he says should have been paid in gold because gold was the currency on which they were negotiated, and that as a general and indisputable proposition the Government is fairly held to pay its loans in the kind of money in which those loans were negotiated. Do I state the gentleman correctly?

Mr. BUTLER. I said that where the contract was made when there was but one kind of currency it is a fair and equitable view to take that it is payable in that kind of currency.

Mr. BLAINE. In that kind?

Mr. BUTLER. And, therefore, that if we were held to be repudiators, knaves, and scoundrels, as we were so glibly called—

Mr. BLAINE. I beg your pardon; I never called you so.

Mr. BUTLER. No, I know that, but as we were glibly called for saying that where there were two kinds of currency it might be paid in either, then Secretary FESSENDEN was as deep in the mud as we were, because he had paid in both kinds of currency, or claimed the right to pay in both kinds.

Mr. BLAINE. Then I understood the gentleman correctly as saying that the bonds being negotiated in a certain kind of currency were payable in that kind of currency. I want the gentleman to hold to his logic and not jump back or slide off from the position which he has thus taken and repeated. Now, the five-twenties of 1862—and these are the bonds to which this discussion has referred—were negotiated with a certain kind of currency. There were only two kinds of currency known to the Government of the United States when they were negotiated; one was gold, held at a premium, and the other was a legal-tender note authorized by the same act that placed the five-twenties before the world. That act, besides giving to these Treasury notes the quality of being legal tenders, went on to say:

"And any holder of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of the bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per cent. per annum, payable semi-annually, and redeemable at the pleasure of the United States in five years, and payable in twenty years from the date thereof."

One hundred and fifty million of these notes were first issued in February, and in July of the same year, six months later, another one hundred and fifty millions were issued with exactly the same conditions; and that was the only description of legal tenders known

to this Government when the five-twenty loan of 1862 was put upon the market. They were not simply legal tenders such as we still have in circulation, but they had the special and additional quality of being convertible into five-twenty bonds at par, according to the law which I have just read.

Now, if the gentleman will only hold to his own logic the five-twenties, if payable in paper at all, can only be paid in the paper which was declared to be legal tender when they were negotiated, and therefore the gentleman's argument amounts just to this, namely, that you may be called up to the Treasury, under the law which you have passed, and be forced to take for your five-twenty bonds legal tenders of this kind, and then you may go into the Treasury through another door and demand that the five-twenty bonds shall be reissued for you. The gentleman travels in a circle, and has reached the most complete specimen of a *reductio ad absurdum* that I ever knew an able and shrewd lawyer to suffer himself to be entrapped in.

Mr. BUTLER. Was not that law altered?

Mr. BLAINE. It was altered in March, 1863, more than a year after its passage; but could that alteration break the contract according to the gentleman's own construction of it? It was altered by a notice fairly and fully given to all holders. The act approved March 3, 1863, which I hold in my hand, provided as follows:

"And the holders of United States notes issued under and by virtue of said act shall present the same for the purpose of exchanging the same for bonds as therein provided on or before the 1st day of July, 1863; and thereafter the right so to exchange shall cease and determine."

It was found that it was working adversely to the interests of the Treasury, and fair notice was given that any man who held the notes must come in and have them exchanged. Four months' time was given, and no fault was found with the action of the Government, for every person who desired to exchange had full opportunity to do so. Now, sir, I am by no means arguing that the legal tenders of 1862 may be forced on the holders of five-twenties; but I think I have conclusively demonstrated that according to the logic of the gentleman from Massachusetts they are the only legal tenders that can be used for such purpose of redemption; and that, having forced him to that position, I need delay no longer on this branch of the subject to expose its weakness and its folly.

Another point in the gentleman's scheme is noteworthy. He reverses the old and established ideas of finance, and advances some new suggestions, which were quite unknown to the gentlemen who legislated in this Hall even so lately as 1862. And I here desire to say that during the past few weeks I have gone over several thousand pages in the Congressional Globe of 1862, embracing the whole discussion of the financial measures of that year in both Senate and House, and in my judgment it is the ablest, most thorough, and exhaustive discussion on finance that ever took place in the American Congress. Throughout the whole of that discussion an old-fashioned idea prevailed that Government bonds should be issued for the purpose of absorbing legal-tender notes and funding them. The act of February 25 specially recites that as one of its objects, and provides the means and the machinery for accomplishing it. But the gentleman from Massachusetts reverses the process, and instead of having bonds to absorb the greenbacks he would have us issue an ocean of greenbacks to absorb the bonds! He completely reverses all ideas of finance that have heretofore prevailed in this Government. At present we have a loan that is distinctly defined; that is well known to the people; that has a specific rate of interest; has a certain time to run, with expressed conditions on which it may be paid, and the time within which the Government is allowed or forbidden to pay.

The gentleman from Massachusetts is for brushing all this aside and placing before the country a species of legal-tender notes which

have no fixed time to run; which bear no interest; which have no standard of value; which the Government is under no obligation to pay at any particular time, and which may indeed never be called in for redemption at all. In the gentleman's speech yesterday he aimed to be facetious, and in his allusions to Secretary FESSENDEN he spoke sneeringly of "Maine finance." I think the gentleman must have borrowed his notions of finance from a man who failed a few years since in one of the eastern cities of Maine, and who wrote over his store door, "Payment suspended for thirty days!" A neighbor passing by, said to him: "You have neglected to date your notice." "Lord, no!" said he, "I did not intend to date it; it would run out if I did." [Laughter.] The gentleman from Massachusetts, following this Maine prototype, wants to issue a Government legal tender that never runs out; that imposes no obligation to pay any specific sum at any certain time; that never brings the holder where he can go to the Treasury and demand his money; that, in short, never reaches a definite result, and leaves us in the end further from the liquidation of our national debt than we were at the beginning.

The gentleman has spoken with great delight in regard to the high price of ten-forty bonds as compared with five-twenties. I would like him to tell the House at what particular time the approximation between the prices of the two descriptions of bonds began to occur? He says they are within one or two per cent. of each other. How did they become so? How long have they been so? Never until this mischievous agitation began—never until the money markets of the country were alarmed at what they regarded as a threatened bad faith on the part of Congress. If the gentleman finds that the agitation—in which he has been so conspicuous—has disturbed the price of five-twenties and relatively diminished it while it has elevated the price of ten-forties, he is welcome to all the honor attending it, even to the place of chief of the modern school of repudiation. Before the agitation began the five-twenties and ten-forties differed in price exactly as two kinds of bonds at different rates of interest with different periods to run would naturally and properly differ. If the gentleman plumes himself on having disturbed this harmony he will find few who will be disposed to deprive him of the full credit of it.

We have heard a good deal, I believe, from the gentleman, not so much in the House, but out of the House, about what the great West would and would not stand in connection with the Government debt. I think the gentleman referred to this point in that remarkable "conversation" for which he and other magnates of Massachusetts lately sat to the distinguished artist Redpath. For myself, sir, representing an eastern district, I claim no right to speak for the West; but my judgment is that in all that concerns the national honor and the national credit the West can be trusted as far and as long as any other section of the country. Sir, I repudiate the insinuation on behalf of the West.

What is that insinuation, sir? It is that the West will not pay its share of the interest and principal of the national debt. How, and for what use was that debt contracted? In support of the war, in which the West and the East were equally united and zealous. Has it ever been claimed by the West that the East did not furnish its full quota of troops? And if in addition to furnishing its full quota from each State and each district it was the good fortune of the East to have the ability to supply the Government in larger measure with the money, without which troops from both sections would have been valueless, is the West to make war on the East for that? Sir, I protest against such a monstrous statement. I protest against it in the name of the West. I protest against it in the name of common justice.

Mr. BROOKS. I do not rise to enter at all into this debate, or to express any opinion, one way or the other, upon the subject which

the gentleman from Maine [Mr. BLAINE] and the gentleman from Massachusetts [Mr. BUTLER] have been discussing.

I rise to set the gentleman from Maine right—I will not say upon the written history of this legislation, but upon the unwritten history of the act of June, 1864, creating the securities known as "five-twenties." The unwritten history of a country, particularly in connection with finance, is often quite as important as its written history, especially when there is any doubt as to the true meaning of the act.

During the session of 1864 there were two propositions emanating from the Committee of Ways and Means: one from the honorable gentleman from Pennsylvania, [Mr. STEVENS;] the other from the honorable gentleman from Massachusetts, [Mr. HOOPER.] The gentleman from Pennsylvania, being in the minority of that committee, and the gentleman from Massachusetts being in the majority, the gentleman from Massachusetts was called upon to report the bill from the Committee of Ways and Means for the consideration and action of the House. The bill which the gentleman from Pennsylvania introduced before the House was a bill making the principal of this debt payable in coin, the debt having a long time to run. He argued that it was wise for the Government to pay a large interest in paper—eight per cent. he named—while it agreed to pay the principal of the debt in coin. That was his bill.

The bill which the Committee of Ways and Means reported through the gentleman from Massachusetts [Mr. HOOPER] was a bill which, notwithstanding the warning which the gentleman from Pennsylvania [Mr. STEVENS] gave in his bill, omitted, apparently purposely, the provision that the principal should be payable in coin. I called the attention of the committee to this and many other defects in that bill, as they appeared to me at that time. If gentlemen will take the trouble to examine the report of the discussions which took place upon that subject, they will find that I, among others, forewarned the House of the perilous course it was pursuing in reference to the national finances and of the difficulties which would ensue. Unfortunately, I was at that time, as I am now, in the minority in this House, and on account of the political passion and excitement then prevailing I was less heeded at that time than I and others of the minority are likely to be hereafter. I called the attention of the House to the silence of that bill as to the payability of those bonds, whether in paper or in specie. Let me read from the report in the Globe:

"Mr. BROOKS. I withdraw my amendment."

That was the previous amendment, a matter of some importance; but I did not divide the House upon it, because I did not wish to put myself in a false position. I was not responsible for the bill. All I could do was to call the attention of the majority to the point. I withdrew my amendment without a division—

"Mr. BROOKS. I withdraw my amendment and move to insert in the ninth line the words 'payable in coin.' Those words are not in this bill, although they are in the bill of the gentleman from Pennsylvania, [Mr. STEVENS]."

Mr. HOOPER. The bill of last year—the \$900,000,000 bill—contained these words, but it was not deemed necessary or considered expedient to insert them in this bill. I will send up to the desk and ask to have read, as a part of my reply to the gentleman, a letter from the Secretary of the Treasury which was published some time ago, giving his views upon that point.

The gentleman from Maine [Mr. BLAINE] read that letter yesterday; and I will read only the sentence which relates particularly to this subject. It will be found to exhibit the same evasion of the point—I mean nothing offensive by this language—as was found in the remarks of the gentleman from Massachusetts. Mr. Chase says:

"It has been the constant usage of the Department to redeem all coupon and registered bonds forming part of the funded or permanent debt of the United States in coin, and this usage has not been deviated from during my administration of its affairs."

This letter was dated May 18, and this discussion was on the 22d of June, more than a month afterward. It will be observed that in this letter there is no pledge of the Secretary of the Treasury directly applicable to this act under consideration. His language is carefully guarded. He says: "It has been the constant usage of the Department to redeem all coupon and registered bonds forming part of the funded or permanent debt of the United States in coin," of which usage there was no manner of dispute, because it had always been the usage. But at that time we were enacting a new law, and the use of the words "payable in coin" was, as I show, purposely avoided, the attention of the House being called to the matter by the gentleman from Pennsylvania, [Mr. STEVENS,] and also by myself in the amendment which I proposed.

The House at that time acted considerably upon the subject, and refused to make a direct pledge for the payment of these bonds in coin. I deeply regretted it at the time. But I should not have made these remarks now if the gentleman from Maine [Mr. BLAINE] had not said that I was "apparently satisfied" with the explanation which was then given. I was very much dissatisfied; for I foresaw all this difficulty, all this misunderstanding upon the part of the public, and the doubt which might be thrown upon the honor and character of the Government. What is our duty now, in view of the subsequent letters of the Secretaries of the Treasury, the advertisements which have been put forth upon the part of the Government, the declarations which have been made semi-officially and officially, it is not for me to say. All that I have to say upon the subject is that, as appears by the record here before me, the House did not act inconsiderately or with its eyes shut; that its attention was directed to the subject when this act was before the House for consideration and discussion.

Mr. MAYNARD obtained the floor, but yielded to

Mr. STOKES, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union, according to order, had had under consideration the state of the Union generally, and particularly bill of the House No. 89, relating to the reduction of the currency, and had come to no conclusion thereon.

#### IMPEACHMENT REPORTS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, on which he demanded the previous question:

*Resolved*, That eight thousand extra copies of the majority and minority reports of the Committee on the Judiciary on the subject of impeachment be printed for the use of the House.

Mr. GARFIELD. Does that include the testimony?

Mr. LAFLIN. It does not.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVAL LIFE INSURANCE.

Mr. SCHENCK, by unanimous consent, introduced a bill making provisions for widows and heirs of officers of the Navy, and establishing naval life insurance; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### ARTIFICIAL LIMBS.

Mr. SHANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and is hereby, instructed to examine into the expediency of providing by law for furnishing through

the Pension Bureau all necessary artificial limbs and other supports at the expense of the Government to the soldiers and seamen from time to time when needed during their natural lives who are now or may be disabled from the effects of wounds received or diseases incurred in the service of the United States.

#### ELECTIONS TO CONGRESS.

Mr. MALLORY, by unanimous consent, introduced a bill to establish a uniform time for holding elections for Representatives and Delegates to the Congress of the United States; which was read a first and second time, and referred to the Committee of Elections.

#### EMPLOYÉS AT WASHINGTON NAVY-YARD.

Mr. JULIAN, by unanimous consent, moved that the Committee on Expenditures in the Navy Department be discharged from the further consideration of the petition of the mechanics and employés in the Washington navy-yard praying an increase of compensation and an amendment of the laws regulating the same, and that the same be referred to the Committee on Education and Labor.

The motion was agreed to.

#### REDEMPTION OF BANK CIRCULATION.

Mr. MAYNARD. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Committee on Banking and Currency should consider the propriety and expediency of requiring the national banking associations on and after the 1st day of May, 1868, to redeem their circulation in coin.

Objection was made.

And then, on motion of Mr. INGERSOLL, (at three o'clock and fifty-five minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Richard W. Davis, of Goliad, Texas, asking to be reinstated to all rights and privileges lost by participation in the rebellion.

By Mr. COBB: The claim of Little B. Mading. By Mr. EGGLESTON: The memorial of Eliza More, of Cincinnati, asking for an additional pension. By Mr. PERHAM: The petition of Mrs. Annie Bagley, for pension.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rules:

By Mr. CAVANAUGH: A bill to aid in the construction of a railroad and telegraph line from the Mississippi river through the State of Minnesota and the Territories of Dakota and Montana and the State of Oregon to the Pacific ocean.

Also, a bill making an appropriation for the erection of public buildings in the Territory of Montana. Also, a bill to establish a branch mint in the Territory of Montana.

Also, a bill granting to Delegates in the House of Representatives from the several Territories of the United States the same rights and privileges now enjoyed and exercised by members of Congress from the several States—including the right to vote on all questions and appointments on committees.

By Mr. KERR: A bill directing a district court to be held at the city of New Albany, in the State of Indiana.

#### IN SENATE.

FRIDAY, November 29, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Wednesday was read and approved.

#### CLOSE OF THE SESSION.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the resolution of the Senate providing for an adjournment of the two Houses without day on Monday, the 2d of December.

#### PETITIONS AND MEMORIALS.

Mr. POMEROY. I have the honor to present a petition from Thomas Garrett and others, citizens of the United States, living in Wilmington, Delaware, asking for immediate legislation to secure equal and impartial suffrage wherever the jurisdiction of the United States extends. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SHERMAN presented resolutions of the

city council of Cincinnati, Ohio, against any further contraction of the currency, and in favor of paying United States bonds in legal-tender notes; which were referred to the Committee on Finance.

Mr. FESSENDEN presented additional papers in the case of P. V. Poland, who prays to be compensated for houses destroyed by United States forces at Scottsville, Albemarle county, Virginia; which were referred to the Committee on Claims.

#### CONTUMACIOUS WITNESS.

Mr. EDMUNDS. I am directed by the joint select Committee on Retrenchment to report that Mr. Dunbar, who was ordered to be arrested for a contempt of the Senate in not answering certain questions propounded to him by the committee, has been arrested and brought here, and has voluntarily appeared before the committee, and has answered all the questions that we thought it necessary to propose to him, and has satisfied us that he intended no disrespect to the committee or to the Senate in his previous refusal to answer, it having been based upon what he considered a point of honor. I beg leave, therefore, from that committee to report the following resolution:

Whereas Edward E. Dunbar, now in the custody of the Sergeant-at-Arms under an arrest upon a warrant of the President of the Senate, to answer for a contempt in refusing to answer certain interrogatories propounded to him by the joint Committee on Retrenchment, before which he had been duly sworn as a witness, has appeared before the said joint committee and made answer to such interrogatories as have been put to him by its order: Therefore,

*Resolved*, That the Sergeant-at-Arms be directed to discharge the said Edward E. Dunbar from custody upon payment of the legal fees chargeable upon the warrant upon which he has been arrested; and that further proceedings in the matter be thereupon dispensed with.

The resolution was considered by unanimous consent, and agreed to.

#### ENGLAND AND ABYSSINIA.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 69) to preserve the neutrality between the Government of Great Britain and the King of Abyssinia, which was read the first time by its title.

The joint resolution was read, as follows:

Whereas we are at peace with all sovereign Powers and States; and whereas hostilities have unhappily commenced between the Government of Great Britain and the King of Abyssinia; and whereas we are at peace with the Government and with the King of Abyssinia: Therefore,

*Resolved, &c.*, That we now declare our determination to maintain a strict and impartial neutrality in the contest between the said contending parties, granting to the flag of each belligerent the same rights, privileges, and immunities, both upon land and water.

Mr. CHANDLER. Mr. President, this is a copy *verbatim* of the proclamation issued by the British Government on the 14th day of May, 1861, simply changing the name of the United States to that of Great Britain, and of the confederate States to that of Abyssinia. If there is no objection, and I presume there will be none, as it is simply returning her own compliment to us under similar circumstances, I should like to have the resolution put upon its passage at once. I hold in my hand the English proclamation of which this is a copy.

The PRESIDENT *pro tempore*. Is there any objection to the consideration of the resolution at this time?

Mr. SUMNER. I think it had better lie on the table.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rule.

#### CONTINUANCE OF BUSINESS TO NEXT SESSION.

Mr. FESSENDEN. I desire to offer a resolution relating to the business of the body, and I ask for its present consideration:

*Resolved*, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the



close of the session, shall be informally returned to the Secretary, and by him restored to the committees when appointed at the next session.

The resolution was considered by unanimous consent, and agreed to.

#### ADJOURNMENT TO MONDAY.

Mr. FESSENDEN. I move that when the Senate adjourn to-day it adjourn to meet on Monday next at half past eleven o'clock.

The motion was agreed to.

#### FINANCE AND CURRENCY.

Mr. MORRILL, of Vermont, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 148) to raise the value of legal-tender notes to par; which was read twice by its title.

Mr. SUMNER. Is that a long bill?

Mr. MORRILL, of Vermont. It is not.

Mr. SUMNER. I should like to have it read.

The Secretary read the bill. It proposes to direct the Secretary of the Treasury, on and after July 4, 1869, to pay in coin all United States notes not bearing interest, commonly called legal-tender notes, which may be presented for such payment at the Treasurer's office in Washington or such other places as may be designated by him, of which public notice shall be given. It further provides that, until January 1, 1869, whenever there shall be in the Treasury (after paying the interest and coupons falling due on the 1st of January and July of each year, and deducting gold certificates of deposit) any excess of coin above \$75,000,000, the Secretary of the Treasury shall, within thirty days after January 1 and July 1, respectively, sell the same in such manner as in his judgment will best promote the public interest, and may receive in payment United States notes, national bank notes, compound-interest notes, and three per cent. certificates.

The bill also provides that all national banks having on hand less than twenty per cent. in specie of their respective capitals shall hereafter, and until July 1, 1869, keep and hold, in coin, all interest received on United States bonds deposited by them with the Treasurer of the United States; but this is not to be construed as adding anything to the amount of the reserve now required to be held by these banks; and that on and after July 4, 1869, all national banks shall be required to redeem and pay, in coin, on demand, all their bills issued as currency of the denomination of five dollars and under, when presented at their counters, and all bills of a higher denomination either in coin or in legal-tender notes; and any bank failing to comply with these provisions is to be deemed to have forfeited its charter, and the Comptroller of the Currency is to take proper proceedings against it, and, in lieu of it, to authorize new national banks with an equal amount of capital, to be located in such States as may have less than their due proportion of the whole amount now authorized by law.

Mr. MORRILL, of Vermont. I do not desire to discuss this matter this morning, but I intend to do so at an early day. I merely ask at the present time that the bill may be printed and lie on the table. Mr. President, while I cordially agree in the sentiment and purpose of the resolution of my colleague, I am yet in favor of Congress grappling with all these difficult questions in relation to finance, with the subject of our legal tenders, and with the subject of bonds; and I have no doubt of the purpose or of the ability of this Congress to so adjust our system of taxation and to pass such measures as will, in the end, prove altogether more satisfactory than the present state of affairs in the country would seem to warrant. I trust that in the end all these measures which have been submitted, and which shall be submitted, will be referred to the Committee on Finance. I make no such motion now, however. I simply move for the

present that this bill lie on the table and be printed.

The motion was agreed to.

#### BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 149) to regulate the selection of officers in the city of Washington, District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 150) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 151) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 152) to amend an act entitled "An act making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes," approved March 2, 1867; which was read twice by its title, and referred to the Committee on Appropriations.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 153) to establish a collection district in the State of Oregon; which was read twice by its title, and referred to the Committee on Commerce.

#### CAPTURED AND ABANDONED PROPERTY.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas it appears from House of Representative Executive Document No. 97, second session Thirty-Ninth Congress, page 38, that Colonel S. B. Holabird, assistant quartermaster, late chief quartermaster of the department of the Gulf, up to February, 1865, had received of the net proceeds of captured and abandoned property the sum of \$843,529 31; and whereas it further appears from page 40 of said document that said sum of money "was used in the quartermaster's department as if belonging to the regular funds" of that department, by direction of "the major general then commanding the department of the Gulf;" and whereas the second section of the act of March 12, 1863, entitled "An act to provide for the collection of abandoned property," &c., requires that the proceeds of such property shall be paid into the Treasury of the United States: Therefore,

Resolved, That the Secretary of the Treasury be requested to inform the Senate at his earliest convenience whether the said sum of \$843,529 34 has been credited to the account of captured and abandoned property in the Treasury of the United States, and is included in the total net sum realized from such property as seen in said report, and whether the said sum of money has been charged to the account of the quartermaster's department, and if not so charged to the quartermaster's department what legislation is necessary to effect that object.

#### EXECUTIVE SESSION.

On motion of Mr. YATES, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, November 30, 1867.

The House met at twelve o'clock m. Prayer by Rev. A. D. GILLETTE, D. D.

The Journal of Wednesday last was read and approved.

#### MEMBER SWORN IN.

Mr. LAFLIN. I rise to a question of privilege. I present the credentials of ALEXANDER H. BAILEY, member-elect to this Congress from the twenty-first congressional district of New York.

Mr. BAILEY appeared, and qualified by taking the oath required by law.

#### RECESS TILL MONDAY.

Mr. MAYNARD. Mr. Speaker, this is the last day of the present session. It is manifest there is no quorum present, and it is morally certain there will not be. It was understood when we adjourned on Wednesday that no business should be done to-day, except to take a recess. I move, therefore, that the House take a recess till ten o'clock on Monday morning.

Mr. BANKS. Say eleven.

Mr. MAYNARD. I will say half past ten.

The resolution as modified was agreed to; and thereupon (at twelve o'clock and fifteen minutes) the House took a recess till Monday next at half past ten o'clock a. m.

The SPEAKER (at half past ten o'clock a. m., Monday, December 2) called the House to order, and stated that the recess taken on Saturday last having expired, the House would resume its session.

#### LAWS OF NEW MEXICO.

The SPEAKER laid before the House the laws of the Territory of New Mexico; which were referred to the Committee on the Territories.

#### NATIONAL BANK STOCK.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of so changing the law in respect to the taxation of national bank stock as to permit the stock owned in the State where the bank is located to be assessed and paid in the city or town where the stockholder resides.

#### PERSONAL EXPLANATION.

Mr. WILSON, of Iowa. Mr. Speaker, I ask unanimous consent to make a statement in regard to the gentleman from New York, my colleague on the Committee on the Judiciary. There was no objection.

Mr. WILSON, of Iowa. Mr. Speaker, in the Daily National Intelligencer of November 27, 1867, appeared an editorial article, the first paragraph of which reads as follows:

"As the Intelligencer has over and over again tabooed the idea of impeachment, either as to just causes or to the supposition that it could obtain among partisans having common sense, we have now to recede from that position in so far as a majority of the House Committee on the Judiciary are concerned. The nice moral and mental processes leading to the defection of CHURCHILL, of New York, an unfortunate beggar for place and patronage at the footstool of executive power, were not foreseen, though a Judas might be expected from so mercenary a quarter; nor was it at all out of character that he should cleave to his associates until the last moment, with a view to make treachery the more valuable by inflicting a most fatal stab. To him particularly refer the scorching words of Messrs. WILSON and WOODBRIDGE, who have eminently illustrated the exalted qualities of honor, conscientiousness, and integrity, which are gems in character of inconceivable brilliancy and value, and which we hope may long exist in legislative halls, to save an imperiled country when beset by fierce and angry tempests of human passion."

I have never defended myself in this House against the attacks of newspapers, nor do I expect ever to do. I call the attention of the House to this article for a different purpose. The article attacks, unjustly I think, one of my colleagues on the Committee on the Judiciary, and gives itself point by stating a misapprehension of the report of the minority of the committee on the proposed impeachment of the President of the United States. That report contained in its introductory paragraph the following statement:

"On the 3d day of June, 1867, it was declared by a solemn vote in the committee that from the testimony then before them it did not appear that the President of the United States was guilty of such high crimes and misdemeanors as called for an exercise of the impeaching power of this House. The vote stood yeas five, nays four. On the 20th instant this action of the committee was reversed, and a vote of five to four declared in favor of recommending to the House an impeachment of the President. Forty-eight hours have not yet elapsed since we were informed of the character of the report which represents this changed attitude of the committee. The

recency of this event compels a general treatment of some features of the case as it is presented by the majority, which otherwise would have been treated of more in detail."

The action of the committee on the 3d day of June last had been published to the country by the authority of the committee, and it was deemed proper by my colleague on the committee from Vermont [Mr. WOODBRIDGE] and myself that the date of the official reversal of that action should appear in our report. This was our first purpose. We were transferred from a majority to a minority, and were compelled to redraft our report to some extent; but we were not prepared to do this until after the reading of the majority report to the committee; hence we said that "forty-eight hours have not yet elapsed since we were informed of the character of the report which represents this changed attitude of the committee," and thereby simply stated the truth. We had not time to adjust our report to all of the positions assumed by the majority of the committee; and our statement in this regard was intended for our own defense, and not as an attack on our colleague from New York. The statement was read to the committee and was passed without challenge by every member thereof. It certainly was not my intention to cast any reflection on the gentleman from New York, [Mr. CHURCHILL.] I knew of no reason which would justify me in questioning his motives, or in suspecting his personal or official integrity. I regretted the change which his final vote evidenced; but it never entered my mind to suspect him of other than conscientious action; and I now believe that what he has done is the result of his sense of public duty. I feel confident that he did not act from a mercenary motive, and that he was not a "Judas" in the body of the committee. Nor can I believe that he was "an unfortunate beggar for place and patronage at the footstool of executive power." His conduct, so far as my knowledge extends, has presented quite the reverse side of this picture. He has abstained from asking executive favor, and has, as I believe, been scrupulously correct in this regard. However much he may have erred in judgment, let it not be charged to improper motives or to mercenary considerations; for I cannot believe that either of these elements have entered into his action as a member of the Committee on the Judiciary.

#### PURCHASE OF RUSSIAN POSSESSIONS.

Mr. PAINE, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is provided in the first article of the Constitution of the United States that "no money shall be drawn from the Treasury except in consequence of appropriations made by law," and in the second section thereof that the President "shall have power, by and with the advice and consent of the Senate, to make treaties;" and whereas the President has, by and with the advice and consent of the Senate, made a treaty with the Emperor of Russia, by the terms of which the Russian Government undertakes to cede certain territory to the United States, and the Government of the United States undertakes to pay therefor from the Treasury the sum of \$7,200,000 in gold: Therefore,

*Resolved*, That the Committee on the Judiciary be instructed to consider and report whether, under the Constitution of the United States and the law of nations, Congress has the right to grant or refuse, at its discretion, an appropriation for the payment stipulated in said treaty.

#### RESOLUTIONS ON FINANCE.

Mr. EGGLESTON, by unanimous consent, presented resolutions passed by the city council of the city of Cincinnati with reference to finance; which were referred to the Committee of Ways and Means, and ordered to be printed.

#### DISTILLERY METERS.

Mr. MUNGEN. I ask unanimous consent to offer a resolution. I wish to make a statement in regard to it, and then to have it referred to the Committee of Ways and Means.

The SPEAKER. Does the gentleman desire

to have his resolution read before he makes his statement or afterward?

Mr. MUNGEN. Before.

The Clerk read the resolution, as follows:

Whereas there is at present a very heavy contract, involving an outlay on the part of the Government of hundreds of thousands and perhaps millions of dollars, for the manufacture of meters to be attached to stills for the avowed purpose of measuring the quantity of spirits distilled, so as to get the correct basis for taxation; and whereas this House has no definite knowledge of the practical working and utility of such meters, nor whether they are so constructed that frauds on the revenue can be perpetrated through their instrumentality; nor does this House know whether meters that cost \$1,500 might not be furnished at \$100, if they are found to be of any value at all; Therefore,

*Be it resolved by the House of Representatives of the United States*, That the Secretary of the Treasury be required to suspend at once all further action under and execution of the aforesaid contract, until such time as this House can inquire into the facts connected with this subject.

Mr. MAYNARD. I would ask whether the gentleman contemplates the passage of the resolution at this time.

Mr. MUNGEN. I do not. I wish to make a statement, and then to have the matter referred to the Committee of Ways and Means.

Mr. MAYNARD. I have no objection to that.

The SPEAKER. Is there objection to the gentleman from Ohio making a statement now? No objection was made.

Mr. MUNGEN. It will be remembered by the House that I offered a resolution one day last week bearing upon this question, and asking for information; but thus far there has been no answer to that resolution of inquiry touching this matter.

I am told by practical mechanics that these meters are not such as were contemplated at all; that they are capable of being tampered with; that you can insert a fine wire by raising the top, or otherwise, that will stop the registering of the liquors and permit the spirits to pass through unregistered. It is well known that these bonded warehouses are kept locked up; a person so disposed can raise the lid of one of these meters, by a "jimmy" or some such instrument, and by running in a fine wire stop the registering, and when he hears anybody coming he can draw out the wire and the registering goes on; that they can be stopped or disarranged in other ways. My object in offering the resolution is to have the matter referred to the Committee of Ways and Means and let them get the opinion of practical men, mechanics as well as scientific men.

Let me say another thing. While we might get a meter of this kind which if properly managed and honestly conducted would register the number of liquid or wine gallons, I fail to see how we can get a meter that will register the wine gallons and proof gallons, the latter being those on which the taxation is based.

I would like very much to have this matter fairly tested. If I am not mistaken, it costs nearly as much now to collect the revenue on distilled spirits as the revenue amounts to. I fear there is "something rotten in the state of Denmark" and I want to see where it is.

The resolution was referred to the Committee of Ways and Means.

#### THE TAX ON COTTON.

Mr. MAYNARD, by unanimous consent, presented the following resolution of the General Assembly of the State of Tennessee; which was referred to the Committee of Ways and Means, and ordered to be printed:

Whereas the tax imposed by the Government of the United States upon cotton grown therein rests as a burden upon the country, and especially upon employes and small producers, which, in the present depressed value of that staple is oppressive and ruinous: Therefore,

*Be it resolved by the General Assembly of the State of Tennessee*, That our Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to use their influence to procure the repeal or modification of the tax on cotton and tobacco.

*Resolved further*, That the Secretary of State of the State of Tennessee make a fair copy of this resolution and transmit the same to the Senators and Repre-

sentatives of this State in the Congress of the United States.

Adopted November 12, 1887.

F. S. RICHARDS,  
Speaker of the House of Representatives.  
D. W. C. SENTER,  
Speaker of the Senate.

I, Andrew J. Fletcher, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a joint resolution of the General Assembly of the State of Tennessee, the original of which is now on file in my office.

In testimony whereof I have hereunto subscribed my official signature, and by order of the Governor affixed the great seal of the State of Tennessee, at the department in the city of Nashville, this 27th day of November, A. D. 1887.

A. J. FLETCHER,  
Secretary of State.

#### CLERKS FOR COMMITTEES.

Mr. WASHBURN, of Illinois. I am requested to offer the following resolution in relation to the employment of clerks for some of the committees of the House which have usually had clerks:

*Resolved*, That the following standing committees of the House be authorized to employ clerks during the sessions of the Fortieth Congress at the rate of four dollars per day while actually employed: Accounts, Naval Affairs, Military Affairs, Public Lands, Foreign Affairs, Post Office and Post Roads, District of Columbia, Territories, Commerce, and Indian Affairs.

The resolution was considered by unanimous consent, and agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REVENUE SERVICE.

Mr. WASHBURN, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to communicate to this House the whole number of vessels of all descriptions, their names, tonnage, &c., in the revenue service of the United States, where employed, the entire cost of maintaining such vessels for the year ending September 30, 1887, the number and names of the revenue-cutters sold within the last two years, and for what amount; the number and names of all the officers employed in the said revenue-cutters, and whether any vessels in the said revenue service can be dispensed with without prejudice to the public interest.

#### COTTON TAX.

Mr. EGGLESTON presented resolutions of the Chamber of Commerce of Cincinnati, recommending the repeal of the cotton tax; which were referred to the Committee of Ways and Means.

#### PERSONAL EXPLANATION.

Mr. ARNELL. I ask unanimous consent to make a personal explanation.

The SPEAKER. How much time does the gentleman desire?

Mr. ARNELL. Not exceeding five minutes.

The SPEAKER. Is there objection? The Chair hears none.

Mr. ARNELL. I hold in my hand a copy of the Daily Globe of November 22, 1867, in which the following paragraph occurs in the remarks of the gentleman from New York, [Mr. Brooks:]

"I have also objections to urge to the admission of Mr. ARNELL, of the sixth district of Tennessee. During the war he was established in the county of Lawrence, Tennessee, where he lives, and had a tannery which, during no inconsiderable portion of the war, was devoted to the manufacture of shoes. He declared he was unable to supply his neighbors with shoes because such were the requisitions of the rebel authorities upon him that before he could supply the women and children of his neighborhood with shoes he must supply this foundation and understanding of the rebel army."

I was absent from the city, Mr. Speaker—not having arrived from Tennessee—when these remarks were made. I now desire simply to say that the charges contained in this paragraph are, in every respect, false and garbled—untrue both in letter and spirit. It was never my fortune to have lived in Lawrence—a noble and loyal county of middle Tennessee

--and the information is entirely new to me that I owned a tannery in that county; nor did I ever, at any time or in any place, manufacture or cause to be manufactured shoes for rebel purposes. And neither publicly nor privately, during the rebellion, did I express any sympathy for it, or desire to aid "its foundation or understanding," as the gentleman has it. The entire statement is false and garbled. It is true that I owned a leather establishment in Lewis county, Tennessee, and that the rebels got leather therefrom; but the statement as made by the gentleman from New York is not true. Prior to the war, in connection with other parties, I was engaged in the manufacture of leather, and the breaking out of the war found me so occupied.

After the fall of Fort Donelson General Buell occupied my section of the country; but upon his retreat from Corinth, Mississippi, middle Tennessee was left entirely exposed to the rebels. Before, however, the withdrawal of the Federal forces from my vicinity I promptly informed the officer in command, General James S. Negley, that there was a considerable amount of leather in this establishment, and requested him to seize or destroy it. He replied that the abandonment of middle Tennessee would be very brief. He could not transport it, and did not consider the necessity sufficiently great to destroy it. For six dreary months thereafter Van Dorn and Forrest occupied that section of country, conscripting men for the rebel service, seizing and impressing every article of food, clothing, and transportation. A guard of rebel soldiers came to my premises, took possession of this leather in the name of the confederacy, did what force and bayonets are always able to do, carried it off in their own wagons, and doubtless used it for rebel purposes. This is the head and front of my offending--material out of which the rebel press in my own State and elsewhere have manufactured every variety of charge. They are welcome to all that they can make out of it. Let any man, here or elsewhere, produce one written or published line of mine savoring of disloyalty.

It is a singular fact, that I leave the gentleman from New York to explain, that during the years 1861, 1862, 1863, and 1864 the rebels, with halts and shot-guns, were hunting Union men by the thousand, yet since that time the rebels of the South and their Democratic friends North have not been able to discover a single southern man that they are willing to acknowledge loyal! In the mad hour of the rebellion I gave to my country's cause no doubtful or lukewarm support. In 1861 I took the stump publicly against secession. In 1862, when the Federal Army entered Tennessee, I rallied the scattered Unionists, and we held meetings expressive of our unalterable devotion to the Union. In 1864, at the suggestion of the then military governor of Tennessee, Andrew Johnson, I reorganized my own county of Maury, with the aid of other Unionists, upon a loyal basis. In the Tennessee Legislature of 1865 and 1866 I did my humble share toward building--not a despotism, as the gentleman from New York says, but a free, loyal, republican State government. That Legislature disfranchised nobody, but simply enfranchised her loyal citizens. In tearing down the flag of the Union the rebels of Tennessee disfranchised themselves. The Legislature in its wisdom left them exactly where they found them; and it is very natural that their friends on the other side of this House should object. False, traitor-hearted Democracy is responsible both for rebellion and disfranchisement.

"Let the galled jade wince."

Mr. Speaker, the blood of the Revolution travels along my veins. My ancestors fought and brought back wounds from King's mountain and Yorktown; therefore I was unwilling to allow such charges as those set out by the gentleman from New York [Mr. Brooks] to be made upon this floor and go uncontra-

dicted to the country. Nothing is easier than to make reckless charges to blacken other men's character, but I do not envy either the head or the heart of the man so engaged.

#### INCREASE OF PENSIONS.

Mr. CHURCHILL introduced a bill to amend an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July 25, 1866; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### CONTRACTION OF THE CURRENCY.

Mr. MILLER introduced a joint resolution to prevent any further contraction of the currency; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ANNEXATION OF BRITISH COLUMBIA.

Mr. MILLER also introduced a joint resolution for the purchase and annexation to the United States of America of British Columbia, including Vancouver's island, provided the same can be accomplished upon such fair and honorable terms as may be satisfactory to both nations; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### JURIES IN DISTRICT OF COLUMBIA.

Mr. WELKER introduced a bill to provide for juries in certain cases in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### POST ROUTES IN OHIO.

Mr. WILSON, of Ohio, introduced a bill to establish certain post routes in the State of Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### CINCINNATI, OHIO.

Mr. EGGLESTON introduced a bill declaring the city of Cincinnati, State of Ohio, a port of entry; which was read a first and second time, and referred to the Committee on Commerce.

#### REPEAL OF TAX ON COTTON.

Mr. NUNN introduced a bill for the repeal of the tax on cotton; which was read a first and second time, and referred to the Committee of Ways and Means.

#### TAXATION OF GREENBACKS, ETC.

Mr. HUNTER introduced a bill to provide for the taxation of all that species of currency known as greenbacks, compound-interest notes, and national currency by the various States and Territories of the United States, as other personal property therein is taxed, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

#### PENSIONS FOR WAR OF 1812, ETC.

Mr. HUNTER also introduced a bill to provide pensions for certain officers and soldiers of the United States who served in the war of 1812, in the Mexican war, and in the Indian wars up to and including the Black Hawk war, and for other purposes; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

#### NAVAL OFFICERS RESTORED TO ACTIVE LIST.

Mr. NIBLACK introduced a bill concerning the promotion of officers who have been restored to the active list in the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

#### EDWARD KINDRED.

Mr. INGERSOLL introduced a bill to

authorize the Secretary of the Interior to place the name of Edward Kindred, of Peoria, Illinois, on the pension-rolls; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### COLLECTION DISTRICTS IN MICHIGAN.

Mr. FERRY introduced a bill to reestablish the boundaries and to change the names of certain collection districts in the State of Michigan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### JOHN SEDGWICK.

Mr. HIGBY introduced a joint resolution for the relief of John Sedgwick, collector of internal revenue for the third district of California; which was read a first and second time, and referred to the Committee of Ways and Means.

#### GEORGE W. HARRIS AND DAVIS EVANS.

Mr. MALLORY introduced a joint resolution for the relief of the estate of George W. Harris and Davis Evans; which was read a first and second time, and referred to the Committee of Claims.

#### CALIFORNIA AND OREGON RAILROAD.

Mr. MALLORY also introduced a bill to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," approved July 25, 1866; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

#### NEW ALBANY, INDIANA.

Mr. KERR introduced a bill directing a district court to be held at the city of New Albany, in the State of Indiana; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois. I move to reconsider the votes by which all those several bills were referred to committees; and also move to lay that motion on the table.

The SPEAKER. These bills cannot, under the rule, be brought back by motions to reconsider.

Mr. WASHBURNE, of Illinois. I was not aware that this call was made under that rule.

The SPEAKER. The Chair has made the call under that rule, because the call cannot be made on the first day of the next session, which will commence at twelve o'clock m. to-day, there being no Journal to be read on that day.

#### CALL OF STATES FOR RESOLUTIONS.

The SPEAKER. The next business in order is the call of States and Territories in inverted order for the introduction of resolutions.

#### OCCUPANCY OF SAN JUAN ISLAND.

Mr. FLANDERS. I offer the following resolution, on which I demand the previous question:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of terminating the joint occupancy of San Juan Island; also, the number of troops we now have stationed there, and the cost to this Government of supporting the same; and that the said committee be requested to report the facts to this House at an early day.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

#### CHARLES P. JOHNSON.

Mr. BAKER submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on Military Affairs be instructed to inquire what measure of relief, if any, is necessary and proper in the case of Charles P. Johnson, of Upper Alton, Illinois, late a captain in the seventeenth regiment of Iowa volunteers, and to report by bill or otherwise.

## TAXES PAID BY NATIONAL BANKS.

Mr. INGERSOLL submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he hereby is, directed to send to this House a statement in detail which shall show the amount of taxes of all kinds which were received into the Treasury of the United States during the last fiscal year from the national banks, and the amount of interest drawn from the Treasury by said banks in the same year.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and adopted.

## RAILROAD POSTAL MATTER.

Mr. NIBLACK submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of allowing railroad companies to carry their own letters relating to the business of their roads outside of the mail free of postage; and to report by bill or otherwise.

## FEDERAL COURTS IN INDIANA.

Mr. KERR submitted the following resolution; which was read, considered, and adopted:

Whereas by reason of late decisions of the Supreme Court of the United States the jurisdiction of the district and circuit court of the United States in cases of admiralty, which are constantly arising out of the very extensive commerce which is carried on upon our western rivers, and especially on the Ohio river at and below the falls in that river, has been practically increased to a great extent, and the jurisdiction of the local State courts has been in like manner denied and destroyed to an equivalent extent, so that, by lack of convenient and accessible Federal courts, justice is many times practically denied: Therefore,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the holding of two terms annually of the district court of the United States for the State of Indiana at the city of New Albany, in said State, and to report by bill or otherwise.

## LAND BOUNTIES FOR SOLDIERS.

Mr. COBURN submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the expediency of providing by law for bounties in land to be given to the soldiers of the Union in the late war of the rebellion, and report by bill or otherwise.

## REDEMPTION OF BANK CURRENCY.

Mr. MAYNARD submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on Banking and Currency consider the propriety and expediency of requiring the national banking associations on and after the 1st day of May, 1863, to redeem their circulation in coin.

## TAX ON TOBACCO.

Mr. GRAVELY submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the internal revenue tax on manufactured tobacco, and provide by law for the collection of such reduced tax by requiring the manufacturer to place revenue stamps properly canceled on the boxes or packages containing the same, and report by bill or otherwise.

## CASHERED OFFICERS.

Mr. GARFIELD introduced a bill relating to officers of the Army dismissed or cashiered by sentence of a general court-martial; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

## SAMUEL H. MOORE.

Mr. MUGEN submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into what relief, if any, is necessary for Samuel H. Moore, late a private of company H, fifty-seventh Ohio veteran volunteer infantry, and that they report by bill or otherwise.

## AMENDMENT TO THE CONSTITUTION.

Mr. ASHLEY, of Ohio. I propose an

amendment to the Constitution of the United States, which I ask may be referred to the Committee on the Judiciary and ordered to be printed.

Mr. WASHBURN, of Illinois. I must interpose objection, Mr. Speaker, to the printing of all these matters on their introduction. It is an entirely new practice.

Mr. ASHLEY, of Ohio. I think it has been customary to order the printing of these proposed amendments to the Constitution of the United States, and I hope the gentleman will withdraw his objection.

Mr. WASHBURN, of Illinois. It is hard to resist the gentleman's request, but I do not think he ought to insist on the printing of these papers before the Committee on Printing have had them under consideration. This printing largely increases our expenses.

I withdraw my objection at this time.

The joint resolution was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## ABOLITION OF SPECIAL LICENSES.

Mr. WELKER submitted the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the revenue law as to abolish the special licenses now required to be paid, and report by bill or otherwise.

Mr. SPALDING. I object to the committee being instructed.

Mr. WELKER. I will modify it, and substitute "directed" for "instructed."

The resolution, as modified, was adopted.

## NON-CONTRACTION OF CURRENCY.

Mr. BROOKS submitted the following resolution, on which he demanded the previous question:

*Resolved*, That in the opinion of this House the contraction of the currency \$4,000,000 per month, authorized by law, but subject to the discretion of the Secretary of the Treasury, ought, during the present depressed condition of the commerce, manufactures, and trade of the country, to cease.

Mr. PRUYN. I ask my colleague to modify his resolution by adding the words "or be essentially modified."

The SPEAKER. It is not debatable, the previous question having been called.

Mr. ALLISON. I object to debate.

Mr. PRUYN. I do not propose to debate the resolution, but merely to suggest a modification.

The SPEAKER. That is in the nature of debate.

The House divided on seconding the call for the previous question; and there were—ayes 35, noes 28; no quorum voting.

The SPEAKER appointed Mr. Brooks and Mr. Hooper of Massachusetts as tellers.

Mr. WASHBURN, of Illinois. I ask the chairman of the Committee of Ways and Means whether they do not have this subject now before them, and whether they will not soon report to this House?

The SPEAKER. The gentleman from Iowa objects to debate.

The House again divided; and the tellers reported—ayes 45, noes 54.

So the previous question was not seconded.

Mr. INGERSOLL. I rise for the purpose of asking the consent of the House to address a question to the chairman of the Committee of Ways and Means.

The SPEAKER. If the gentleman rises to debate the resolution it goes over under the rules.

Mr. BROOKS. I do not understand the gentleman to rise to debate the resolution, but merely to ask a question.

The SPEAKER. That is debate.

Mr. BROOKS. Will the gentleman state his proposition?

Mr. INGERSOLL. If it is any accommodation to the gentleman I will rise for that purpose.

Mr. BROOKS. It does not accommodate me at all.

The SPEAKER. The resolution, debate arising, goes over under the rules.

## FINANCE.

Mr. INGERSOLL. I desire to ask the chairman of the Committee of Ways and Means a question on another subject.

The SPEAKER. Is there objection? The Chair hears none.

Mr. INGERSOLL. On the first day of the present session, appreciating, perhaps, as fully as any gentleman here the importance of taking action in regard to the contraction of the currency, I introduced a bill to repeal that section of the law which authorized the Secretary of the Treasury to retire the currency \$4,000,000 per month, and also to prohibit any further contraction. That bill I had referred to the Committee of Ways and Means, in order that it might be there considered, and in the hope that it might receive an early consideration and be reported for action to the House; for, perhaps, there is no question now before the House of so much importance. I desire the chairman of the committee to state for the information of the House when we shall have a report on that subject.

Mr. SCHENCK. Mr. Speaker, this is hurrying us up very early. I will answer my friend by simply saying that the committee has been unable to have consideration, as yet, of more than one important subject connected with the finance of the country, and upon that we are prepared to report. We propose to meet from day to day, and grapple as best we can with each one of these subjects, including that to which the gentleman now refers, and I apprehend a report will be made upon them, as well as some other matters, at a very early day.

Mr. INGERSOLL. The answer is perfectly satisfactory. I now wish to call the attention of the chairman of the committee and of the House to the fact that the Secretary of the Treasury is depleting the country of currency at the rate of \$125,000 per day. Sangrado-like he is taking the very blood out of the nation, and he must be stopped, and that quickly.

Mr. SCHENCK. In answer to the suggestion of the gentleman I will simply say that although the committee is very young in its life it is not at all asleep, and if it will satisfy my friend I will say not only the Secretary of the Treasury, but from the communications we receive I am inclined to believe that everybody in the country is thinking upon these subjects, and we propose to act as soon as we possibly can, but not without some little deliberation upon the many questions before us; because there are very grave matters with which we have to employ ourselves. I will also remind the gentleman as one reason why the committee has not hurried to report upon any of these subjects, that we have not yet received the report of the head of the financial Department of the Government and of his various subordinates; and although we have anticipated him, and anticipated the whole question in relation to one subject already, we have not thought it expedient to hurry any report upon many of these important subjects, this included, until we have before us at least the report of the Secretary of the Treasury, accompanied by all the information that can be given by that officer and by the different bureaus of his Department.

## NEW LOAN.

Mr. ELA offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of a new loan, payable after ten years, and redeemable after thirty years in coin, by the issue of bonds bearing five per cent. interest, in coin, payable semi-annually, and taxable at the rate of one per cent., to be deducted from the interest when paid, the tax to be distributed to the several States in proportion to their Representatives in Congress, in lieu of local taxation; and also, of providing for a notice to holders of Government obligations now or hereafter to become due, that they may receive said bonds in exchange or payment, according to the tenor of their obligations, without interest after notice; said notice to be given from time to time whenever the condition of the Treasury will allow the redemption without



increasing the floating obligations of the Government beyond the amount now in circulation, and report by bill or otherwise.

#### REDEMPTION OF THE FUNDED DEBT.

Mr. BANKS. I offer the following resolution, and demand the previous question thereon:

*Resolved*, That public policy and national honor alike forbid the redemption of the funded debt of the United States in depreciated paper currency.

On seconding the previous question there were—ayes 32, noes 60.

Mr. WASHBURN, of Indiana. I ask unanimous consent to propound a question.

Mr. ALLISON. I object.

Mr. BANKS. I demand tellers on seconding the previous question.

Tellers were ordered; and Messrs. BANKS and BOYER were appointed.

Mr. ASHLEY, of Ohio. I desire to ask the Chair whether if the previous question be not sustained it will be in order to send the resolution to the Committee of Ways and Means?

The SPEAKER. It certainly would be; or to rise to debate the resolution, which would carry it over under the rules.

The House divided; and the tellers reported—ayes twenty-nine, noes not counted.

So the House refused to second the demand for the previous question.

Mr. BANKS. I move that the resolution be referred to the Committee of Ways and Means. The motion was agreed to.

#### ELECTION IN CONNECTICUT.

Mr. DAWES. I offer the following resolution, upon which I demand the previous question:

*Resolved*, That the Committee of Elections be authorized to continue the investigation heretofore authorized by the House into the truth of certain charges against Hon. WILLIAM H. BARNUM, anything in the resolution of the 25th ultimo to the contrary notwithstanding.

Mr. SPALDING. I wish the gentleman would show the importance of suspending the order made the other day and allowing another committee to travel to Connecticut.

Mr. DAWES. If there be no objection I will state to the House the reason for offering the resolution.

Mr. ELDRIDGE. I object, unless the previous question is withdrawn.

Mr. DAWES. Of course I must withdraw the previous question in order to make the explanation.

Mr. WASHBURN, of Illinois. I presume there will be no objection if the gentleman can be replied to by any member who desires it.

The SPEAKER. Is there objection to allowing an explanation and a reply?

No objection was made.

Mr. DAWES. I do not suppose that any one is of the idea that the Committee of Elections are anxious to pursue this investigation any further, or to travel about the country, as is suggested by my friend from Ohio, [Mr. SPALDING.]

The Committee of Elections were charged with this unpleasant duty at the last session, and they held two sessions in Connecticut. They heard the case in part. They heard but one side of the case, and did not conclude the hearing of that side. The other side has not been heard at all. It seemed to the committee but just and fair that both sides of the case should be heard; and it was understood by the committee that both parties were desirous of presenting the case still further here at the capital.

It is a grave charge made against a gentleman holding a seat in this House. What the grounds are for the charge of course it is not proper for me to state, or what the indications are from the testimony so far as the investigation has been pursued by the committee. It is simply enough for me to state that the committee sent a sub-committee to Connecticut and pursued the investigation in part during the recess. It is their intention, if it be the will of the House, to complete it in as short a time as possible here at the capital. That is

all I desire to say about it. The whole House knows the nature of the charge, and the propriety of a fair and proper investigation. I now yield to my colleague on the committee from New York, [Mr. CHANLER.]

Mr. CHANLER. Of course it is not my object to defeat the original object of the Committee of Elections, which was to inquire into the charge made against the Representative from the fourth district of Connecticut, but I feel it my duty to state to the House for its better decision upon this request for authority to take further testimony at this time, that so far as the inquiry has gone the present occupant of the seat [Mr. BARNUM] has offered every opportunity to the committee, and no drawback or hindrance has come from that side for a thorough investigation as to the truth of these heinous charges against him; and as a matter of opinion as to the propriety of holding members of this House up to the country for invidious criticism I feel that it is not encroaching on my duty as a member of the Committee of Elections to say that this gentleman should be entitled to his seat here without this cloud hanging over his reputation, and I believe nothing has been found, and nothing can be found, to warrant so extraordinary a proceeding as the one which has taken place. But I will not now do, nor has Mr. BARNUM or any of those who protect his interests in this case at any time done, ought to hinder a full and thorough investigation as to his character in connection with this matter. If the chairman of the Committee of Elections, therefore, deems that this is necessary, and if he assumes the responsibility of a further investigation, that seems to me to warrant the House in carrying out whatever plans he may have.

I make these remarks more to show that the spirit with which the minority, to which Mr. BARNUM belongs, will carry out this investigation, is one which seeks the light. I hope, however, no construction will be put upon what I say here which will in any way prejudice the case of Mr. BARNUM, or give it a partisan character in any respect.

Mr. SPALDING. I have no feeling in this matter. As respects the two candidates for the vacant seat from Connecticut—or the one which was vacant—I do not think it makes much difference to the interest of the country which gentleman takes the seat.

Mr. UPSON. There is no contest in regard to it.

Mr. SPALDING. There is no contest at all in regard to the seat. I learn from the public papers that a portion of our committee on privileges and elections—for whom I have the most unbounded respect, especially for the chairman of that committee, [Mr. DAWES]—have been engaged for weeks in the State of Connecticut in investigating which of these gentlemen paid the most money for votes. They have ascertained that one of these gentlemen paid for a multitude of votes; and we are told that the other bought up still more. I understand that they want to send a committee there to find out if there was not a majority bought on the other side.

I say it is derogatory to the dignity of this Congress to send out committees for any such purpose. I take it the State of Connecticut will take care of its own citizens. If any of them indulge in bribery within the limits of that State they will be punished under the laws against bribery.

I do not know how we can come to any conclusion on this matter, even if the committee spend three months more in trying to ascertain whether the sitting member expended more money than he who lost the place in obtaining votes for member of Congress. I object to this investigation from principle. I do not like to spend the time of this committee which is so valuable to this House, neither do I like to spend the money of the nation for any such purpose.

Mr. DAWES. Whatever may be the prin-

ciple of the gentleman from Ohio [Mr. SPALDING] which leads him to object to investigating the question whether a man has obtained his seat in this House by bribery or not, it is not worth while for me to discuss. If he has a principle against investigating such a charge as that that is sufficient for him.

I will simply state that the Committee on Elections do not propose to go to Connecticut. I will state further that we have not spent weeks in Connecticut on any such mission as he suggests. There is no such duty devolving upon the Committee of Elections by the resolution of this House which requires them to ascertain which candidate did bribe the most, but they are required by a vote of this House to investigate and report to this House whether the gentleman who holds his seat here has been guilty of bribery in that election. I do not propose to comment upon the weight of the testimony already taken, or upon the ability of the gentleman holding this seat to entirely acquit himself before this House of the truth of the charge. It is due to him, however, that I should state, in conjunction with my colleague, [Mr. CHANLER,] that he has not personally interposed any obstacle in the way of the investigation.

It is, however, true, as the gentleman from New York, [Mr. CHANLER,] my colleague upon the committee, will admit, that the committee encountered great difficulty in the obtaining of testimony which seemed to them to be important, in obtaining the attendance of certain persons as witnesses. I do not mean by that remark to intimate that the sitting member is at all responsible for the absence of witnesses; but it did so happen that whenever the committee attempted to obtain the evidence of certain witnesses those witnesses were always out of the State.

Now, I do not personally care about this matter. I should feel greatly relieved if the House should direct this committee to abandon the investigation of the charge against one of its members, that he has obtained his seat here by bribery. I do not mean to say that there is a particle of evidence that he has done so; but here is a charge to that effect made by citizens of the State of Connecticut, and upon the committee has been devolved the duty of investigating it. Without waiting for the committee to complete the investigation or to make any report upon the testimony, it is suggested by my friend from Ohio, [Mr. SPALDING,] who cannot have half as much respect for me as I have for him, that that is a trifling matter, and that it is beneath the dignity of the House to inquire into the question whether any man upon this floor holds his seat by virtue of bribery.

Now, I have submitted all that I care to submit upon this question. I shall regard the vote of the House, if this resolution should be rejected, as an indication that the House agrees with my distinguished friend from Ohio in the opinion that it is beneath the dignity of this body to inquire into the question whether a man holds his seat on this floor by bribery.

Mr. WASHBURN, of Illinois. Will the gentleman permit me to ask him a question before he takes his seat?

Mr. DAWES. Certainly.

Mr. WASHBURN, of Illinois. How many witnesses is it proposed to examine, and upon what branch of the subject?

Mr. DAWES. I can only state this: there were two or three witnesses whose attendance we made diligent efforts to obtain when we were in Connecticut. On both occasions when we were in that State—not two or three weeks, but the great space of four days on two different occasions—those gentlemen were absent from the State, and they reappeared there on each occasion the next day after we left. It has seemed to the committee desirable that these gentlemen should be invited here to the capital to give their testimony. I now yield to my colleague, the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER. From the tenor of the remarks which have fallen from the chairman of the committee, [Mr. DAWES,] irrespective of any previous conversation on the subject with him or with the sitting member, I judge that he would accept as an amendment or a substitute a motion that the Committee of Elections be discharged from the further consideration of this subject. I do not wish to assume the responsibility of acting in this matter without the concurrence of the committee; but if the chairman is willing to submit that question to the House at this time, the adoption of such a proposition would certainly carry with it all the advantages of economy, while it would not commit us, as members of the committee conducting the investigation, to any of the charges made against the character of the sitting member. The sitting member is, under the present circumstances, resting under a serious charge; and by the action which I suggest the House would simply declare that, in view of the peculiar character of the charge, and in view of the state of the testimony, which the chairman and the members of the committee are at liberty to state at this time does not convict the sitting member of the charge made, the House would dismiss this matter entirely, and relieve the committee, which has numerous other cases of great importance upon its hands, from any further consideration of the case of the sitting member from the fourth district of Connecticut. With the permission of the chairman, and in view of the suggestion which he has thrown out, I will make the motion that the committee be discharged from the further consideration of the subject.

Mr. DAWES. In reply to the suggestion of my colleague on the committee, [Mr. CHANLER,] I will say that I for one am not prepared to say to the country that a charge made against a member of this House in a serious and proper manner that he holds his seat by bribery is not a charge that demands of this House the fullest and fairest investigation, a report upon it by a committee, and the action of the House upon it. Such a charge has been made here against the member from the fourth district of Connecticut. The Committee of Elections have pursued the investigation for a time. I have felt it my duty to refrain from expressing an opinion upon the character of the evidence; for it appeared to me that it did not become me as a member of the committee to do so before the committee has made a report. I think, for one, that it becomes the House to investigate such a charge with some seriousness. I should think it would be a matter of some importance to the sitting member himself to have a report from this committee upon those charges, and not have them stifled without investigation.

I do not think, therefore, I can, as one member of this House, yield to the suggestion of my colleague. I propose, if the House sustains me, to pursue that investigation with fairness and candor, and if it appears by the testimony that these charges are groundless against this man he shall have the benefit of my testimony in that respect. If it shall appear they are well grounded in the evidence, and are true, I shall feel called upon as one member to bear my evidence before the House on that fact. I do not wish to shrink from the unpleasant duty devolved on myself as well as upon the gentleman from New York, whatever may be the result, and I have not anticipated the result in any word or motion I have made in the House. I demand the previous question.

Mr. CHANLER. I wish to say that it was on the gentleman's suggestion the motion was made by me.

Mr. SPALDING. I barely wish to say that I am no friend of bribery here or in any place.

Mr. DAWES. I am sure of that.

Mr. SPALDING. And if the gentleman says this is a serious matter I will withdraw

any opposition on my part and vote for this resolution.

Mr. DAWES. I now insist on the demand for the previous question.

The House divided; and there were—ayes eighty-one, noes not counted.

So the previous question was seconded, and the main question was then ordered; and under the operation thereof the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REPEAL OF TONNAGE DUTY.

Mr. PERHAM submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be directed to inquire into the expediency of repealing so much of existing laws as imposes and fixes a tonnage duty on American vessels, and report by bill or otherwise.

#### CLERKS OF COMMITTEES.

Mr. PERHAM. The Committee on Invalid Pensions, which has hitherto had a clerk, is not provided for in the resolution of the gentleman from Illinois, [Mr. WASHBURN,] adopted this morning.

Mr. WASHBURN, of Illinois. It was intended to be provided for, as that is one of the committees which must have a clerk. I move, by unanimous consent, that it may be inserted in the resolution.

There was no objection; and it was ordered accordingly.

Mr. POMEROY. Has the Committee on Banking and Currency been included in the resolution for employing clerks?

Mr. WASHBURN, of Illinois. I ask that the list be read.

The SPEAKER. Clerks have been authorized by the resolution for the following committees: On Accounts, Naval Affairs, Military Affairs, Public Lands, Foreign Affairs, Post Office and Post Roads, District of Columbia, Territories, Commerce, and Indian Affairs.

Mr. POMEROY. The Committee on Banking and Currency is not included, then?

Mr. WASHBURN, of Illinois. Had that committee a clerk at the last session?

Mr. POMEROY. We had one employed for months steadily.

Mr. BAKER. I will not vote for a clerk for a committee until it is made to appear that a clerk is needed.

Mr. HIGBY. I ask that the Committee on Mines and Mining be also included.

Mr. BAKER. I object to that also, for the same reason.

Mr. ORTH. I move that the Committee on Private Land Claims be included.

Mr. BAKER. I object.

Mr. LAFLIN. I ask that a clerk be allowed to the Committee on Printing.

Mr. WASHBURN, of Illinois. I do not feel disposed to object; but I understand that committee had no clerk until at the last session.

Mr. BAKER. I object.

Mr. CHANLER. I move that the minorities of the several committees be also authorized to employ assistant clerks. [Laughter.]

Mr. BROOMALL. I object.

Mr. JULIAN. I desire to make a statement in regard to the Committee on Public Lands. The clerk of that committee is employed by the year at a fixed salary, and the resolution authorizing his employment makes it his duty to remain here during the year and keep up the maps of the public surveys in a room specially set apart for that purpose, and take charge of and preserve the land maps ordered by this House. He also performs the duty of a draftsman, and thus saves the Government the expense formerly allowed to such officer, whose appointment has been discontinued. I hope

that the House will not interfere with the arrangement already made by law respecting this matter. The duties of this clerk are peculiar, and additional to the duties of other clerks of this House.

The SPEAKER. The hour fixed by the concurrent resolution of both Houses of Congress for the final adjournment of this session having arrived, I declare the first session of the Fortieth Congress adjourned without day.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee: By Mr. EGGLESTON: The memorial of E. V. Brookfield, of Ohio, praying payment for articles lost or taken from him while he was a prisoner of war.

#### IN SENATE.

MONDAY, December 2, 1867.

The Senate met at half past eleven o'clock a. m., pursuant to adjournment.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

#### CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Treasury:

TREASURY DEPARTMENT, November 30, 1867.

SIR: In reply to a resolution offered in the Senate of the United States yesterday by Hon. J. CONNESS, and adopted on the same day, calling on me to inform the Senate at my earliest convenience whether a sum of \$834,529 31, which appears from House of Representatives Executive Document No. 97, second session Thirty-Ninth Congress, page 38, to have been received by Colonel S. B. Holabird, assistant quartermaster, chief quartermaster of the department of the Gulf up to February, 1865, as the net proceeds of captured and abandoned property, and to have been used in the quartermaster's department as if belonging to the regular funds of that department by direction of the major general then commanding the department of the Gulf, has been credited to the account of captured and abandoned property in the Treasury of the United States, and is included in the total net sum realized from such property, as seen in said report, and whether the said sum of money has been charged to the account of the quartermaster's department, and if not so charged to the quartermaster's department, what legislation is necessary to effect that object, I have the honor to state:

That the exhibit referred to by the honorable Senator as appearing in the Executive Document No. 97, second session Thirty-Ninth Congress, shows the result of a preliminary examination of Colonel Holabird's accounts by the quartermaster's department; that in the regular routine of official business they have been under examination for about a year last past in the office of the Third Auditor, which examination will probably be completed during the next two months; that whatever amount shall thereupon be ascertained to have accrued from the sale of captured and abandoned property and to have been used for expenses of the quartermaster's department will then be transferred by executive action, already authorized by law upon the statement of the Third Auditor, to the fund to which it belongs, and be charged against the quartermaster's department, and that no legislation is necessary to effect this object; also that such amount is not included in the total net sum shown by the report referred to to have been thus far realized from captured and abandoned property.

I have the honor to be, your obedient servant,

H. McCULLOCH,

Secretary of the Treasury.

To the PRESIDENT of the Senate of the United States.

On motion of Mr. HARLAN, the communication was ordered to lie on the table and be printed.

Subsequently, on the motion of Mr. CONNESS, the order to print the communication was rescinded.

#### PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of the constitutional convention of the State of Alabama, in favor of the repeal of tax on cotton; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Atchison, Kansas, praying for immediate legislation to secure to women equal suffrage with men in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. PATTERSON, of Tennessee, presented resolutions of the Legislature of Tennessee,

instructing the Senators and requesting the Representatives from that State to use their influence to secure a repeal or modification of the tax on cotton and tobacco; which were referred to the Committee on Finance.

#### BILLS INTRODUCED.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 154) to provide for the issue of gold notes in place of legal-tender notes, and to facilitate resumption of specie payments; which was read twice by its title, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 155) for the relief of O. D. Barrett; which was read twice by its title, and referred to the Committee on Indian Affairs.

#### PARDON OF COUNTERFEITERS.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate of the United States, That the Attorney General be instructed to furnish to the Senate as early as practicable a full list of the names of all persons pardoned by the President since May 1, 1865, who have been convicted of counterfeiting United States bonds, greenbacks, national bank currency, fractional currency, or the coin of the United States, with the date of issuing each pardon, reason for issuing it, and by whom recommended.*

#### BILL REFERRED.

Mr. NYE. If it is in order I move to take up House bill No. 143, for the purpose of reference.

The motion was agreed to; and the bill (H.

R. No. 143) to regulate the selection of officers in the city of Washington, and for other purposes, was read twice by its title.

Mr. NYE. I move its reference to the Committee on the District of Columbia.

Mr. SUMNER. I will inquire if that bill was not referred at the latter part of the last session. The Journal would show. I have the impression that it was referred to the committee and reported back to the Senate.

The PRESIDENT *pro tempore*. The Clerk informs me that it was not.

The motion of Mr. NYE was agreed to.

The PRESIDENT *pro tempore*, (at twelve o'clock m.) The time has arrived when it is made the duty of the Chair to declare that the first session of the Fortieth Congress stands adjourned without day.





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SPECIAL SESSION OF THE SENATE;  
FORTIETH CONGRESS.

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*By the President of the United States of America:*

**A PROCLAMATION.**

WHEREAS objects of interest to the United States require that the Senate should be convened at twelve o'clock on Monday, the 1st day of April next, to receive and act upon such communications as may be made to it on the part of the Executive:

Now, therefore, I, Andrew Johnson, President of the United States, have considered it to be my duty to issue this my proclamation, declaring that an extraordinary occasion requires the Senate of the United States to convene for the transaction of business at the Capitol, in the city of Washington, on Monday, the 1st day of April next, at twelve o'clock on that day, of which all who shall at that time be entitled to act as members of that body are hereby required to take notice.

Given under my hand and the seal of the United States, at Washington, the thirtieth day of March, in the year of our Lord  
[SEAL.] one thousand eight hundred and sixty-seven, and of the independence of the United States of America the ninety-first.

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*

# SENATE—SPECIAL SESSION.

## FORTIETH CONGRESS. SPECIAL SESSION.

### IN SENATE.

MONDAY, April 1, 1867.

In pursuance of the President's proclamation of March 30, the Senate assembled at twelve o'clock noon to-day, in the Senate Chamber, in the Capitol, at the city of Washington.

The PRESIDENT *pro tempore* (Hon. BENJAMIN F. WADE) called the Senate to order.

Prayer by Rev. E. H. GRAY, D. D.

The PRESIDENT *pro tempore*. The proclamation of the President of the United States will be read.

The Secretary read the proclamation, as follows:

*By the President of the United States of America:*  
**A Proclamation.**

Whereas objects of interest to the United States require that the Senate should be convened at twelve o'clock on Monday, the 1st day of April next, to receive and act upon such communications as may be made to it on the part of the Executive:

Now, therefore, I, Andrew Johnson, President of the United States, have considered it to be my duty to issue this my proclamation, declaring that an extraordinary occasion requires the Senate of the United States to convene for the transaction of business at the Capitol, in the city of Washington, on Monday, the 1st day of April next, at twelve o'clock on that day, of which all who shall at that time be entitled to act as members of that body are hereby required to take notice.

Given under my hand and the seal of the United States, at Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States of America the ninety-first.

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD, *Secretary of State*.

### NOTIFICATION TO THE PRESIDENT.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. Before that motion is put, I wish to offer some necessary preliminary resolutions.

The PRESIDENT *pro tempore*. The Chair understands it to be the invariable practice to organize the Senate, as it may be called; that is, to inform the President that a quorum is present, and to take action in regard to committees before any other business is proceeded with.

Mr. SHERMAN. I withdraw the motion.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a committee consisting of two members be appointed to wait on the President of the United States and inform him that a quorum of the Senate has assembled, and that the Senate is ready to receive any communication he may be pleased to make.

The PRESIDENT *pro tempore* being au-

thorized to appoint the committee, Messrs. ANTHONY and HENDRICKS were appointed.

### HOUR OF MEETING.

On motion of Mr. ANTHONY, it was

*Ordered*, That the hour of the daily meeting of the Senate be twelve o'clock meridian, until otherwise ordered.

### STANDING COMMITTEES.

Mr. ANTHONY. I offer another resolution; I do it without consultation, but I presume it will meet with general assent:

*Resolved*, That the standing committees of the Senate of the last session be continued during the present special session.

The resolution was considered by unanimous consent, and agreed to.

### EXECUTIVE SESSION.

Mr. SHERMAN. I believe all the preliminary resolutions have now been passed. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

Mr. ANTHONY, from the committee appointed to wait on the President of the United States and inform him that a quorum of the Senate has assembled, and that the Senate is ready to receive any communication he may be pleased to make, reported that the committee had performed the duty assigned them, and that the President replied that he would make a communication to the Senate in writing to-morrow.

### PAPERS WITHDRAWN.

On motion of Mr. WILSON, it was

*Ordered*, That Delphine P. Baker have leave to withdraw from the files of the Senate her petition praying that the Government buildings at Point Lookout, formerly occupied as a prison for rebel soldiers, may be appropriated for the National Military and Naval Asylum.

On motion, the Senate adjourned.

TUESDAY, April 2, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

### REVISION OF DISTRICT LAWS.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the District of Columbia be instructed to prosecute the revision of the laws of the District of Columbia authorized by a joint resolution entitled "A resolution to provide for the revision of the laws of the District of Columbia," approved June 18, 1864, and that they have authority to sit during the recess of the Senate and to employ the necessary clerical assistance for that purpose, not exceeding ten dollars per day.

### SENATOR FROM MARYLAND.

Mr. JOHNSON. I rise to what I suppose is a privileged question, and if it is not a privi-

leged one, I ask the indulgence of the Senate to permit me to do what I desire to do.

On the 27th of March the honorable member from Michigan [Mr. HOWARD] stated that he was then in a condition to make specific charges against my elected colleague, Hon. Mr. Thomas, and in support of that statement he referred to a report made to the stock-holders of the Bank of Commerce of New York by the board of directors sometime in the year 1862.

Mr. Thomas came to this city under the Administration of Mr. Buchanan to accept the office of Commissioner of Patents. He held that for more than a year, and, as I believe, to the satisfaction of all who had business with that department.

Mr. CHANDLER. I suppose the Senator from Maryland alludes to my colleague?

Mr. JOHNSON. Yes, sir.

Mr. CHANDLER. I merely wish to remind the Senator that he is not present.

Mr. JOHNSON. It is not necessary for my purpose that he should be, though I would prefer to have him here. Upon the resignation of Howell Cobb, which took place I think some time about the 11th of December, 1860, Mr. Thomas was requested by the President to accept the office of Secretary of the Treasury, and he was appointed on the 12th of December. He remained in office until about the 12th or 13th of January succeeding, when he resigned. His letter of resignation has already been presented to the Senate by my friend from Ohio, [Mr. SHERMAN.]

When he came into the Department he found the Treasury almost entirely depleted. His predecessor—I have no reason to believe that it was not done with proper motives—in 1857, when there threatened to be a financial crisis in the country, and especially in New York, having in his possession some nineteen or twenty million dollars not called for as he supposed by the necessities of the Government, bought up the stocks of the United States at, I believe, a premium of some twelve to nineteen dollars on the hundred. For doing so, as it operated very beneficially to the banking and commercial interests of New York, he was applauded; but the result was that when Mr. Thomas, his successor, took possession of the Department he found, as I have stated, that there was hardly money enough in the Treasury to meet the daily wants of the Government.

Congress in December, 1860, passed an act authorizing a loan of \$10,000,000 on the issue of Treasury notes. Under the authority of that act, the day after it was passed Mr. Thomas issued proposals for a part of the loan, \$5,000,000. The advertisement was published just as soon as it was possible to do it after the act was passed. By the law, if I recollect aright, ten days' notice was to be given to receive bids. Those ten days expired about the 27th or 28th

of December. The interest to accrue upon the then public debt was to fall due on the 1st of January. When the Secretary opened the bids upon the 27th or 28th of December he found that the Bank of Commerce had subscribed or was willing to take \$1,500,000 at a discount of twelve per cent. At that time the public debt of the United States did not exceed some seventy million dollars; and he directs me to say that the moment he saw the very extravagant, and, as he believed, the exorbitant terms upon which alone that bank was willing to take even that part of the loan he hesitated; but knowing that the interest upon the debt would fall due in a few days, that is to say on the 1st of January, he determined to accept their bid for that amount, as that would put him in a condition to meet the interest. While he was deliberating, and perhaps before he had actually decided, the late cashier of the Bank of the Metropolis of this city, Mr. Richard Smith, known to all the Senators I presume, the correspondent of the Bank of Commerce, came over to the Department bringing with him a telegraphic dispatch from the Bank of Commerce saying that they would take the whole loan at the same rate, twelve per cent. That made him hesitate more. He thought it was a very unjustifiable speculation upon the United States, but rather than run the hazard of having the credit of the United States to suffer from a failure to meet its obligations on the 1st of January he agreed to accept the bid, and the bank was so advised.

According to the terms of the bid and the law, the amount to be paid was upon subscribing one dollar in a hundred, and the balance in five days after the subscription. Five days would carry it to the 2d or 3d of January. The interest, as I said, was to fall due upon the 1st. He had in the sub-Treasury at New York some \$800,000 in coin, and he had transmitted, as he was authorized to do, to that office more than one million dollars in Treasury notes; and he addressed a letter to Mr. Cisco, the then sub-Treasurer, telling him that if there was the slightest doubt that the interest would be met at maturity, he wished him to apply the money then in his hands, which was more than sufficient to meet the interest, to that object. Mr. Cisco replied at once, and as I think properly, and the Secretary acquiesced in the propriety of the suggestion, that there were outstanding drafts in the hands of disbursing officers which could not be met without his retaining the funds then in his hands; and that, although he was not certain that they would be presented, yet looking to the contingency of such a presentation, he advised that no such use should be made of the funds, and telegraphed him that he could make another arrangement. The Secretary at once saw that the suggestion of Mr. Cisco should be regarded. At that time the Bank of Commerce, whether it had taken the whole loan or not, as between itself and others, was indebted to the Government in \$5,000,000, to be paid on the 2d of January, one day only after the interest was to fall due, and Mr. Cisco made an arrangement with the bank by which they agreed to advance, in anticipation of what they would be compelled to pay on the 2d of January, an amount sufficient to meet the interest that was to fall due on the prior day, and the cashier of the bank, after having advised the Secretary in a letter, a copy of which I have in my hand, that they had taken the loan, wrote under date of the 31st of December, only one day before the interest was to accrue, as follows:

BANK OF COMMERCE IN NEW YORK,  
December 31, 1860.

SIR: You will learn from the Assistant Treasurer here, Mr. Cisco, that the parties who made up the bid for \$1,500,000 of Treasury notes have to-day completed the preliminary arrangements with him for the balance of the \$5,000,000 under your award to them at twelve per cent. interest—the amount being \$3,169,000—by the deposit of the required one per cent., the certificate of which I inclose herewith.

Mr. Cisco will no doubt inform you that many of the parties who have now bid for this increased amount are considerable holders of Treasury notes

maturing about this time and in the early days of January, for whose convenience I have to request that every reasonable facility and dispatch may be granted in the redemption of the one to furnish the needful means for the prompt payment of their subscription to the other. Could you authorize Mr. Cisco to receive the old notes in exchange for the new? If only to a limited extent, there would be a convenience. If he were authorized to receive them as cash to be transmitted by him to Washington, and the new notes then returned, the transfer would be rendered very easy.

I shall feel obliged if it is in your power to safely and legally consult the convenience of the takers of the new notes as suggested.

I remain yours, very respectfully,

H. F. VAIL, Cashier.

Hon. PHILIP F. THOMAS, Secretary of the Treasury,  
Washington, D. C.

On the same day Mr. Cisco sent to the Secretary of the Treasury a telegraphic dispatch, which I will also read:

NEW YORK, December 31, 1860.

Hon. PHILIP F. THOMAS, Secretary of the Treasury:

The balance of the \$5,000,000 in Treasury notes, \$3,169,000 is taken by the parties referred to at twelve per cent. interest, and a preliminary deposit of one per cent. on this amount has just been made at this office. The further payments to be made within the week, and all I require.

JOHN J. CISCO,

Assistant Treasurer United States.

Thus the Senate will see that on the 31st of December the bank was a debtor to the United States in \$5,000,000, its first bid having been accepted of \$1,500,000, and the balance being accepted, as is stated in this letter, payable on the 2d of January; and they and others with whom they were associated held Treasury notes formerly issued, and asked the Secretary as a favor that he would permit the sub-Treasurer to take in payment of the loan, which they had agreed to take, and for which they were then responsible, those outstanding Treasury notes as cash. The Senate will also see that neither in the letter of Mr. Cisco nor in the letter of the bank is there the slightest intimation that there existed any difficulty about the payment of the interest, and the Secretary, as will be evident to any Senator who will consult the documents to which I am about to refer, rested confident that the interest would be paid, and as an evidence of his desire to pay it had gone to the extent of advising that moneys in the hands of the sub-Treasurer applicable to other purposes should, in order to save the credit of the Government, be applied to the payment of the interest to fall due on the 1st of January. The interest was payable in Boston, New York, Philadelphia, Baltimore, Charleston, New Orleans, and Washington, and it was paid punctually; and he advises me, and requests me to state, that from that moment until he saw in the papers of the morning of the 28th of March the statement made by my friend from Michigan, he had never heard that the Bank of Commerce or anybody else anticipated a failure in meeting the interest and preserving the credit of the Government. He saw that statement and saw that report for the first time on the day after it was brought before this body by my friend from Michigan. He was then in Annapolis, returned to the city as speedily as he could, and wrote a letter to the Secretary of the Treasury asking for such information as he supposed would enable him to defend himself against what he considered, and as I think properly considered, a baseless slander; and the Secretary, acting in that respect justly, directed the information that he asked for to be furnished, and in answer to the last question in his letter addressed to the Secretary, whether there was anything upon the files of the Department to call in question his integrity as a public officer, the Secretary assures him that there is no evidence at all, but that his duties were fully and fairly performed.

Naturally he felt what the Bank of Commerce had stated as an assault upon his personal honor. He felt aggrieved. He knew—and the documents to which he will refer us are conclusive upon the subject—that there was not the slightest pretense for making that assault upon him; and above all was he surprised that it should have come from the Bank of Commerce, who were speculating upon the necessities of the Government in demanding

the extravagant rate of discount of twelve per cent., when the debt which the Government owed at that time did not exceed \$70,000,000. He therefore, as soon as he could get the vouchers which he desired in order to defend himself upon this wanton and groundless assault, addressed me a letter upon the subject, accompanied by the vouchers upon which he relied, and he desires, as I desire, the letter not being long, that it shall be read to the Senate, and I propose to read it as a part of my remarks. I have placed it in the hands of the Secretary, with the request, with the permission of the Senate, that he read it.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read as follows:

WASHINGTON, March 30, 1867.

SIR: On Wednesday, March 27, 1867, Senator HOWARD, of Michigan, called the attention of your honorable body to an annual report of the Bank of Commerce, in New York, addressed to their shareholders, and dated March 12, 1862.

From that document the following passages were read to the Senate:

"Up to the close of December of the eventful year 1860 the interest on the stocks of the United States falling due on the 1st of January succeeding had been, for the first time, left unprovided for by both Howell Cobb, Secretary of the Treasury, and Philip F. Thomas, his temporary successor in that office. No efficient measures to make seasonable provision therefor had been taken by either, and the funds in the Treasury here, which might and should have been reserved to be applied to the payment of this interest, were drawn and appropriated for other purposes at the last hour.

"This was evidently a wicked and treasonable plot to dishonor the credit of the United States by default in the payment of interest on its stocks by neglecting to provide for the arrears due to the Army and Navy and the civil and diplomatic list, including those due to members of Congress then in session.

"The success of this would have caused great confusion in public affairs and disastrous embarrassment to the Government, and it became manifest that instant, united efforts were required to defeat it.

"This institution for itself, and several of its directors, for their own account, promptly assumed a large share of an immediate advance, by such banks and capitalists as had united in the emergency, to the United States Treasury of \$5,000,000, upon an absolute condition of the payment of the interest, due the next day, upon the United States stocks. Others doubtless would have participated in this loan could they have been consulted; but so carefully had this treacherous scheme been kept from public sight, and so late was it discovered, that it was only by the use of the telegraph that a timely provision could be made at last."

I beg leave to observe that I never saw or heard of the document referred to by the Senator from Michigan until my attention was called to the debate in which he produced it. If I had been aware that such a report had ever been made, the Senate may be assured that I should have taken at once the measures which were necessary to vindicate my name from an attack which the authors must have known was wholly false. It is a satisfaction, however, to every man who has been connected with the administration of an Executive Department of the Government, to know that the records of that Department will always supply the fullest means for his vindication when he has pursued steadily the dictates both of law and of honor in the regulation of his public conduct. And although I have had a brief opportunity of examining the books of the Treasury Department, I am satisfied that the papers which I now present to your consideration will suffice to show the utter untruthfulness of the report to which the attention of the Senate has been called.

I was Secretary of the Treasury from the 12th day of December, 1860, to the 11th day of January, 1861, both days included.

You are perfectly aware that when I entered upon the duties of that office the monetary affairs of the Treasury were in an exceedingly embarrassed condition. The wants of the Government were provided for by temporary expedients; and as no provision had been made for the payment of the interest due in New York on the debt of the United States, payable January 1, 1861, which interest amounted to about one million one hundred thousand dollars, I immediately took measures to remedy this evil as far as it was in my power, having in view, of course, always the general and pressing necessities of the Government at this and other places. On the 12th day of December, 1860, which was the very first day of my connection with the Treasury Department, I ordered, as will appear by document No. 8, filed herewith, \$300,000 from St. Louis to New York. On the 24th day of December, 1860, I was obliged by the exigencies of public affairs to order \$100,000 from New York to Washington; and on the 29th of the same month, for the same reason, I caused to be transferred \$15,000 from New York to Pittsburgh. The same statement (No. 8) shows conclusively that I transferred no other funds from New York to any point whatever until the interest on the public debt due January 1, 1861, had been fully provided for. What, therefore, can be thought of the statement made by the Bank of Commerce in New York, that I drew and appropriated to other purposes, at the last hour, funds which might and should have been reserved for the payment of this interest? And what language can properly be ap-



plied to a statement that my conduct in this particular was part of a wicked and treasonable plot to dishonor the credit of the United States?

Affairs being in this condition, the Congress of the United States took measures to provide funds for the wants of the Government; and on the 17th day of December, 1860, a law was approved authorizing the negotiation of a loan of \$10,000,000, or the issue of Treasury notes, payable in twelve months, bearing six per cent. interest, to an equal amount.

On the same day, as will be seen by reference to paper No. 9, herewith filed, I telegraphed Mr. Cisco, Assistant Treasurer at New York, advising him of the passage of the act, and asking for a reply by telegram as to the amount which would probably be taken, and at what rate; and desiring him to give me his judgment whether the whole loan should be offered or a part of it.

In his reply of the same date, marked letter A, herewith filed, he stated that it would be unwise to offer more than \$5,000,000 at that time, and that I could put \$3,000,000 more in the market after January 1, 1861.

In my reply, marked letter B, filed herewith, I stated to him that \$5,000,000 were required by the public service, and that I was obliged, therefore, to offer that sum.

On the 18th day of December, 1860, the day next succeeding the passage of the law, I advertised, in accordance with its terms, that sealed proposals would be received at the Treasury Department until the 28th day of December, 1860, for the issue of any portion or the whole of \$5,000,000 in Treasury notes, in exchange for gold coin of the United States, to be deposited with the several officers named in the advertisement, among whom, of course, was Mr. Cisco, the Assistant Treasurer at New York. This advertisement is filed herewith, and marked No. 2.

It will be seen that bids could not be opened under the provisions of the law requiring ten days' notice until December 28, 1860, and that the gold coin was to be deposited with the Assistant Treasurers and depositaries where the offers were accepted within five days from the acceptance of such proposals.

On December 24, 1860, the Register of the Treasury, according to the routine of the office, addressed the letter marked No. 24, informing me that it was impossible to tell the correct amount required for the payment of interest in New York on the 1st of January, 1861, and suggested that \$1,100,000 be provided and sent to Mr. Cisco, the Assistant Treasurer.

Warrant No. 4215 for \$1,100,000 was issued for this purpose December 24, 1860, and draft No. 4112 on that warrant was sent to Mr. Cisco by the Treasurer of the United States December 29, 1860, which was paid and charged in account December 31, 1860, as will be seen by paper No. 7, herewith filed.

On the 27th December, 1860, I advised Mr. Cisco of the issue of the warrant in question as an advance to pay the interest on the public debt, payable on and after 1st day of January, 1861.

I informed him that the Treasurer would pay that warrant in six per cent. Treasury notes under the recent act, and that those Treasury notes would represent a corresponding amount of the coin held by him to the credit of disbursing officers; and would enable him to employ that amount of coin in the payment of interest when the parties entitled did not choose to receive Treasury notes. The small premium payable for gold at that time gave me an opportunity of suggesting the arrangement which is fully stated in the letter last referred to, marked No. 9, (Y.)

On the 27th December, 1860, Mr. Cisco advised me by letter, filed herewith, marked C, that the preliminary deposits on account of bids for Treasury notes amounted to \$4,500, indicating bids "from New York for only \$430,000." He further advised me in the same letter, of his efforts on that day to have a sufficient amount bid for to cover the interest on the public debt due on the 1st of January, 1861, and that he had so far failed, but entertained a strong hope of being able to accomplish it in the morning; and if so, some house in Washington would be telegraphed to make the preliminary deposit with the Treasurer and present the bid at the Department before twelve o'clock m.

On the 28th of December, 1860, Mr. Cisco acknowledged the receipt of my letter of the 27th, informing him that a warrant had been issued in his power for \$1,100,000 as an advance to pay the interest on the public debt on and after the 1st proximo, and that the warrant would be paid in six per cent. Treasury notes under the late law. In his reply he informed me that the balance held by him to the credit of disbursing officers was \$1,100,000, and that it would be hazardous to the public credit to use that money in the manner proposed by me, for the reasons set forth in the letter herewith filed, marked B (X.)

On the 28th of December, 1860, according to the terms of advertisement of the loan, the bids were opened; and among them was found an offer by the Bank of Commerce in New York, for \$1,500,000 at twelve per cent.; and on the day next succeeding I forwarded to Mr. Cisco a complete list of the accepted bids, among which was that of the Bank of Commerce, amounting in the aggregate to \$1,831,000, as will be seen by letter filed herewith, marked No. 9, (X.)

Upon such opening of the bids on the 28th of December, 1860, and before an account thereof was deposited and stated, Mr. Richard Smith, now deceased, then cashier of the Bank of the Metropolis of this city, came to the Department and informed me that the Bank of Commerce in New York was ready to take the balance of the loan on the terms of its bid for the \$1,500,000, that is to say, at twelve per cent. interest. No immediate answer was given to Mr. Smith; but after consultation with the President I called on the evening of the same day at the residence of Mr. Smith and informed him that his offer for the balance of the

loan on account of the Bank of Commerce in New York, would be accepted.

On the 29th of December, 1860, the day next succeeding the opening of the bids, I addressed a letter to Mr. Cisco apprising him that the accepted offers amounted to \$1,831,000, and that there remained \$3,169,000 of the proposed \$5,000,000 loan undisposed of and subject to the proposal made by the Bank of Commerce in New York, to take the whole balance for Treasury notes bearing twelve per cent. interest. This will appear by letter marked E, filed herewith.

It will be seen from the Treasury statement herewith filed, marked No. 10, that Treasury notes were issued in exchange for coin on the 29th of December, 1860, for \$116,000, and on the 31st of December, 1860, for \$1,580,000; the proceeds arising from which were available for the payment of interest on the public debt due January 1, 1861. That interest was duly paid from the funds thus provided; and I have no knowledge that the Bank of Commerce did anything further in the premises than make the payment of the money which it had engaged to loan to the Government at the rate of twelve per cent. per annum.

In conclusion, I beg leave to observe that it will appear from what has been shown already, that when I entered upon the duties of Secretary of the Treasury no provision had been made by law for raising the money necessary to meet the interest on the public debt, and there were no funds applicable to that purpose.

It will further appear that from the moment of my accession to office all my energies were devoted to remedy this mischief, and that I strove to apply every available dollar to the payment of the interest accruing on the obligations of the Government and to the discharge of its debts as they matured.

I venture to say that no executive officer could have done more than I did to uphold the credit of the United States; and it gives me pleasure to know that the records of the Treasury Department are my sufficient vindication.

It will be seen that I did take efficient measures to make seasonable provision for the interest due on January 1, 1861, wherever it was payable; that is, in New York, New Orleans, Washington, Baltimore, Philadelphia, Boston, and Charleston; and the interest was punctually paid.

It will appear that the statement that I drew, at the last hour from the Treasury in New York or elsewhere, money, which ought to have been applied to the payment of the interest due on the public debt, is a wicked falsehood.

It will be seen that there was not only no plot to dishonor the credit of the United States by permitting any default to take place in the payment of its obligations, but that there was, on the contrary, an honest, energetic, and successful effort to provide the means for that purpose.

It will be seen that the Bank of Commerce in New York, which claims the credit of supplying my deficiencies, did nothing except comply with the terms of an oppressive contract, which the necessities of the Government had forced it to enter into.

And I will only, in conclusion, observe that nothing could be more absurd than the statement of the Bank of Commerce that it agreed to make its payments upon the condition that the interest due on the stocks of the United States on January 1, 1861, should be paid; because, having subscribed for the loan, it was bound to pay its subscription by the terms of the contract, which contained no condition whatever; nor did I ever hear of such a condition. It is not, and it has never been, the habit of the Government of the United States to permit the banks in the city of New York or elsewhere to dictate the manner in which loans shall be used. Such loans are made by the banks for their profit and advantage, and it is for Congress to regulate by law the application of the public money.

The Senate will observe that the statement made in reference to myself is contained in a paper which is not supported by a particle of evidence. I choose to reply fully, however, to the charges, and to rest my vindication upon the public records of the Government. I trust it may be permitted to ask a full and speedy vindication from the Senate of the United States. I make this claim as a Senator, duly elected from the State of Maryland. I cannot believe that the statement of a board of bank directors of the city of New York, unsupported by any evidence, and made perhaps for the purpose of excusing the exorbitant rates charged to the Government, will be accounted any reason for assailing the reputation of a Senator elected to a seat in your honorable body.

I am, very respectfully, your obedient servant,  
PHILIP F. THOMAS.

Hon. REVERDY JOHNSON, *Senator from Maryland.*

Mr. HOWARD. If the Senator from Maryland has closed his remarks on this subject, I beg to be indulged in making a single observation.

Mr. JOHNSON. I have said all I propose to say now.

Mr. HOWARD. I do not wish to interrupt the remarks of the honorable Senator if he has anything further to say on this question.

Mr. JOHNSON. I have closed.

Mr. HOWARD. My object in presenting the statement made by the Bank of Commerce in relation to Cobb and Thomas was to elicit, so far as practicable, the truth of the case in regard to Mr. Thomas, and to lay before the Committee on the Judiciary of this body such facts as that paper contained in order that they

might pursue the inquiry as far as they should think desirable and just. I do not even now entertain a willingness to do or say anything in regard to Mr. Thomas that shall prejudice his just claims and his fair standing before the country. In short, sir, I decline to occupy the position of a prosecutor or accuser, and aim that my efforts shall only be directed to enable the Committee on the Judiciary to ascertain the truth of the case.

But, sir, while I say this, I must be allowed to say further that there is one statement contained in the paper which has just been read at the desk which strikes me with a little surprise, and to that fact I desire to call the attention of the Senator from Maryland. The statement of which Mr. Thomas now complains in his communication is a printed document issued by the president and cashier of the Bank of Commerce of New York, under date of March 12, 1862. The presumption is that this printed statement must have had considerable circulation; for I take it for granted that the stockholders in that institution are somewhat numerous; at all events, that the persons interested in that bank are numerous and influential.

But in addition to this fact of the statement being printed and circulated, there is another to which I wish to call the attention of the Senate. Mr. Thomas professes to be very much taken by surprise by the fact that this printed statement should be thus laid before the Senate, and that he never before should have had any knowledge of it. Indeed, he states emphatically and clearly that until my remarks on this subject, made on the 27th of March last, he was in total ignorance of the existence of such a statement. That statement was in its tone and style accusatory against that gentleman in the highest degree. It in fact charges him with treasonable complicity, or rather treasonable conduct in omitting to make proper provisions for the payment of the interest falling due upon the public stocks of the United States in the city of New York on the 1st of January, 1861.

Now, sir, it is a little surprising to me that Mr. Thomas should not have been aware of the fact that the whole of this printed statement relating to himself and Mr. Cobb was published in the National Intelligencer of the 28th of May, 1862, nearly five years ago. I hold in my hand a slip from that paper, in which are the same extracts that I read here on the 27th of March in relation to Mr. Thomas. It is not improbable that this statement relating to that gentleman received a still broader circulation in the country in the ordinary newspapers of the day; for one of so much importance and gravity, implicating the honor and the loyalty of Mr. Thomas, would naturally, to say the least, have received a very broad and thorough circulation throughout the land.

If he is now so deeply aggrieved by these statements, how has it happened that he has slept upon this public information for nearly five years, and has never opened his mouth or used his pen, so far as I know or have heard, by way of rebuke to the officers of the Bank of Commerce of the city of New York? I call the attention of the Committee on the Judiciary to the fact that this charge has been in circulation against Mr. Thomas for that period of time, and that he has remained silent upon it.

It is very possible that he may be able to make a perfect reply to the charges. I do not go into the issue between himself and the Bank of Commerce. That is a matter in its nature private; and I do not wish to prejudice the case of Mr. Thomas in respect to the Bank of Commerce. But what has struck me with no little surprise is the fact that he should now state five years after this important publication, which he charges to be in a high degree slanderous, and which is here pronounced to be a baseless slander by the Senator from Maryland, that this statement has totally escaped his notice until this time.

Mr. JOHNSON. The honorable member from Michigan, if he is under that apprehen-

sion, is mistaken in supposing that my colleague or myself (if my own opinion on the subject is worth stating) find any fault with the course which the honorable member has thought proper to adopt. He stated originally some charges against my colleague; but he stated them, as he said, upon rumor; and when, as he now tells us, he was called upon by the committee to place before them whatever assertions he might make calculated to show that my colleague was not entitled or was not worthy to have a seat in this body, he said, and as I think very properly, that he did not wish to be considered as an accuser. But when he produced the paper in question, he did it by stating that although his former speech dealt in rumor and generalities he was then able to present to the Senate against my colleague a specific charge; and he founded his right, and what I have no doubt he considered his duty, to make that charge upon the report of the Bank of Commerce.

Now, the honorable member tells us that although my colleague, whose honor has never been questioned before, whose veracity would not be doubted by any man who knows him, tells the Senate that for the first time he became aware of the existence of that report, it strikes him with surprise, and he expresses his surprise in such terms as are calculated to make the Senate believe that he does not credit the denial of my colleague. I had supposed that in the absence of any evidence proving that a Senator upon this floor, or one who claimed to be a Senator on this floor, was not entitled to have his word taken for truth, no Senator would have attempted to impugn that truth unless he had in his possession evidence to warrant him in coming to that conclusion.

The honorable member tells us that the only reason which he has for doubting—for it is evident that he does doubt—the assertion of my colleague that he heard of this report for the first time when it was produced upon this floor by the honorable member from Michigan, is, that it was published, as he supposes, to the numerous stockholders of the Bank of Commerce and distributed throughout the country; and secondly, that it appeared, either in whole or in part, in the *Intelligencer* of this city some time in May, 1862.

If the honorable member had known what the facts are in relation to my colleague, I am sure he would not for a moment have suffered himself to suspect his veracity upon any such grounds. My colleague left the city of Washington in April, 1861. He retired to his farm on the eastern shore of Maryland, and there he remained, subscribing to no paper, as he assures me, except the *Baltimore Sun*, never having seen the *Intelligencer* from that time during the existence of the war; and he therefore had no ground to suspect that anybody, bank director or bank president, or anybody else, supposed for a moment that while he was the incumbent of the Treasury for one month only he had conspired with the former incumbent to destroy the credit of the Government. That incumbent, whatever he may have done, left here before my colleague took possession of the Treasury.

But I wonder also that it had not occurred to the honorable member from Michigan, if he accords to my colleague ordinary intelligence, that he would not have made that denial if there was to be found upon the records of the Treasury Department any evidence to justify the charge. He has laid before us everything to be found in the Treasury Department touching his administration of its duties during the entire period that he was the Secretary of the Treasury. If these copies are true—and nobody can doubt that; they have been furnished by the present Secretary of the Treasury—if these documents are true, then they demonstrate that the charge against him was not only untrue in point of fact, but that there is every reason to believe that those by whom it was uttered knew it to be false.

I move that the statement of my colleague

and the vouchers accompanying it be referred to the Committee on the Judiciary.

The motion was agreed to.

#### EXECUTIVE MESSAGES.

Several executive messages were received from the President of the United States, by Mr. MOORE, his Secretary.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, transmitting, in answer to a resolution of March 20, correspondence relating to the *exequatur* of the consul of the Grand Duchy of Oldenburg, residing at New York; which was ordered to lie on the table and be printed.

#### EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

WEDNESDAY, April 3, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE SESSION.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

THURSDAY, April 4, 1867.

Prayer by Rev. E. H. GRAY D. D.

The PRESIDENT *pro tempore*. There is no legislative Journal this morning.

Mr. SUMNER. Surely the Senate met yesterday.

The PRESIDENT *pro tempore*. There was no legislative business yesterday to be recorded.

Mr. SUMNER. There was a meeting yesterday and there was a motion.

The PRESIDENT *pro tempore*. The record of yesterday's proceedings, what there is of it, will be read.

The Secretary read the Journal of yesterday's proceedings, containing the recital of the fact that on motion of Mr. RAMSEY the Senate proceeded to the consideration of executive business, and after its consideration adjourned.

#### PETITIONS AND MEMORIALS.

Mr. CHANDLER presented resolutions of the Legislature of Michigan, praying for a grant of land in aid of the construction of a railroad to connect the mining region of the upper peninsula of that State with the Straits of Mackinaw; which were ordered to be printed, and lie on the table.

#### ARMY REGISTER.

Mr. MORTON. I offer the following resolution:

*Resolved*, That ten thousand copies of the Army Register of 1866 be printed for the use of the Senate.

A certain number of copies of the Army Register, I do not know how many, are printed for the use of officers of the regular Army by the Adjutant General. We have thousands of officers who have been in the volunteer service who have a very deep interest in the Register, but who are unable to get it. I think it but just that the Senate should print at least ten thousand copies, to enable them to be furnished to volunteer officers who are not now in the service.

Mr. EDMUNDS. The rules require that this resolution shall go to the Committee on Printing.

Mr. MORTON. If there is objection.

Mr. EDMUNDS. It must go there by the rules, and had better be referred at once.

Mr. ANTHONY. I will make one remark in regard to resolutions that by the rule are

required to go to the Committee on Printing. There have been several cases in which by unanimous consent the rule has been dispensed with. I have once or twice stated the fact that this reference to that committee is required, not merely by a rule of the Senate, but by a law of Congress, which of course it is not in the power of the Senate to dispense with. The Committee on Printing would certainly be glad to be relieved from the duty of considering all these matters; but I think it my duty to make the suggestion.

Mr. MORTON. I am willing to let the resolution go to the Committee on Printing.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing under the rules.

#### CHAPLAIN.

Mr. SAULSBURY submitted the following resolution:

*Resolved*, That there shall not be elected or selected a Chaplain of the Senate hereafter.

Mr. SUMNER. Let that lie over.

The PRESIDENT *pro tempore*. The resolution will lie over under the rules.

#### EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

FRIDAY, April 5, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITION.

Mr. COLE. I present the petition of the Veteran corps of California, praying to be allowed transportation from the place of their discharge in New Mexico and Texas back to their homes in California. These soldiers served for two or three years under General Carleton, doing the most arduous service possible during this time. They were successful in their contests with the various tribes of Indians; in fact, subdued the Navajoes, and fought successfully the Apaches and Comanches, and when they were discharged, two thousand miles away from home, they were allowed a mere pittance, a sum altogether inadequate to carry them back by the usual conveyances to their homes. They ask to be allowed, as other soldiers have been who have been discharged away from home, some compensation to meet the expense which they had to incur. I move the reference of this petition to the Committee on Military Affairs.

The motion was agreed to.

#### TRANSPORTATION OF ARMY STORES.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to transmit to the Senate the bids and papers upon which the acting Quartermaster General made the award for the transportation of Army stores on route No. 1, on the 30th of March last, for the year ending March 31, 1868.

#### MESSENGERS, PAGES, AND LABORERS.

Mr. FOWLER. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Sergeant-at-Arms be authorized and directed to retain the number of messengers, pages, and laborers now employed during the recess of Congress.

Mr. SHERMAN. I move that that resolution be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDENT *pro tempore*. It will be so referred, no objection being made.

#### LOUIS V. BOGY.

Mr. ROSS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to inform the Senate whether Louis V.

Bogy, late Commissioner of Indian Affairs, is now in the employ of the Department of the Interior; if so, in what capacity, what are his duties, and what is his compensation, and when was he appointed, and by whom, and what instructions, if any, have been issued to him, and by whom, and when?

#### PROPOSED EXPULSION OF MR. SAULSBURY.

Mr. SUMNER. I send a resolution to the Chair, and shall ask action upon it to-morrow. The Secretary read the resolution, as follows:

*Resolved*, That Mr. SAULSBURY, a Senator of Delaware, having appeared repeatedly on the floor of the Senate while in a condition of intoxication, is hereby expelled from the Senate.

#### EXECUTIVE SESSION.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

SATURDAY, April 6, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### AGRICULTURAL REPORT.

Mr. ANTHONY. I offer the following resolution, which comes from the Committee on Printing and meets their approbation:

*Resolved*, That of the additional copies of the last report of the Commissioner of Agriculture heretofore ordered to be printed for the use of the Senate, one thousand be assigned to the Commissioner.

I ask for the present consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. The Commissioner of Agriculture has been very desirous to have a larger number of his report, but the Committee on Printing have not felt disposed to recommend the printing of any additional number, and this resolution takes from the Senators one thousand copies and assigns them to the Commissioner. It does not increase the number printed, but diminishes the number distributed to Senators.

Mr. WILLIAMS. They have been divided, and some of them sent off.

Mr. ANTHONY. No; this is the last report, not yet printed.

The resolution was adopted.

#### PAPERS WITHDRAWN.

On motion by Mr. WILLEY, it was

*Ordered*, That James H. Merrill, late a captain in the so-called naval brigade, have leave to withdraw his petition praying for compensation for his services and accompanying papers.

#### ASSESSOR FRAZIER, OF PHILADELPHIA.

Mr. CHANDLER. The Senate has been very liberal recently in confirming nominees, and some of them are expressing their gratitude. I will ask that the following communication, which is very complimentary to the Senate, be read.

The PRESIDENT *pro tempore*. It will be read if there is no objection.

Mr. WILLIAMS. Who writes it?

Mr. CHANDLER. It is a speech by a gentleman who has been highly honored by the Senate.

The Secretary read as follows:

"COMPLIMENTARY SERENADE TO ASSESSOR FRAZIER. —Last evening Assessor Frazier, of the first district, was tendered a grand complimentary serenade, gotten up by the assistant assessors, clerks, and others attached to his office. The affair came off at Mr. Frazier's residence, No. 929 South Fourth street. The services of the Jefferson Cornet Band were secured, and after the performance of a number of popular airs Mr. Frazier, in response to the cries of the gathered assemblage, made his appearance in front, and addressed his friends as follows:—"

"And now, gentlemen, a word as to the political course I intend to pursue. A number of my Radical friends have kindly invited me back to the fold from which, eighteen months ago, they so summarily expelled me. They argue, 'You are beyond the power of removal by the President; a radical Senate having placed you in that position, your appointments should be Radical.' It is because the last Congress screwed the brakes so tightly upon the Executive that I am

more than ever determined to stand true to Andrew Johnson. I do not consider myself under any very great obligations to the Senate of the United States further than to do my duty as an officer. No man was removed by the President to give place to me. A vacancy existed, caused by the death of my lamented predecessor, Mr. Webb. I was selected to fill this vacancy; and it was because Senators FESSENDEN, SPRAGUE, and SHERMAN determined to maintain the dignity of the Senate that these gentlemen insisted upon and secured my confirmation. Politically I am still a conservative. I believe in Johnson, Grant, Farragut, Sherman, and the Supreme Court, and the conservative and humane principles they maintain, in contradistinction to the fearful principles of SUMNER, STEVENS, BUTLER, and company. I believe in civil law and liberty rather than in military despotism. I am opposed to the centralization of power as advocated by STEVENS and company, and am for the maintenance of the rights of all the people in all the States under this Government; therefore, gentlemen, I am against the Radical element that is trampling the Constitution of the United States under foot, obliterating State after State, demoralizing trade and finance, and am for constitutional law and civil liberty, with all their benign influences and substantial blessings."

#### EXECUTIVE SESSION.

Mr. SHERMAN. If there is no further legislative business, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

MONDAY, April 8, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 5th instant, information in relation to the employment of Louis V. Bogy in the Department of the Interior; which was ordered to lie on the table, and be printed.

#### PROPOSED ADJOURNMENT.

Mr. WILLIAMS. I offer the following resolution:

*Resolved*, That the President of the Senate at five o'clock p. m. on Wednesday, the 10th instant, adjourn the present session *sine die*.

Mr. SUMNER. I object to the consideration of that now.

The PRESIDENT *pro tempore*. It lies over under the rule.

#### COMMITTEE ON PRINTING.

Mr. ANTHONY. There is a vacancy on the Committee on Printing caused by the death of Mr. RIDDLE. I move that the vacancy be filled by the Chair.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. JOHNSON to fill the vacancy.

#### HOUR OF MEETING.

On motion of Mr. CONNESS, it was

*Ordered*, That when the Senate adjourn to-day it be to meet to-morrow at eleven o'clock a. m.

#### PROPERTY AT HARPER'S FERRY.

Mr. WILLEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the Senate copies of all deeds, conveyances, and other evidences of title by which the United States have claim to any lands, tenements, water privileges, or other property at or near Harper's Ferry, in the State of West Virginia; what parts thereof, if any, have been sold or transferred, and the purposes of such sale or transfer; and whether there be any reason why the part or parts of said lands, tenements, water privileges, or other property remaining unsold and undisposed of shall not now be sold.

#### EXECUTIVE SESSION.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

TUESDAY, April 9, 1867.

The Senate met at eleven o'clock a. m.

The Journal of yesterday was read and approved.

#### VOLUNTEER OFFICERS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish the Senate a list of the names of volunteer officers now in the service of the Government, their rank and the particular duties to which they are assigned; also that he inform the Senate under what law such volunteer officers are retained in the service, and whether their services, or that of some of them, may not be dispensed with without detriment to the public interests.

#### CALLS FOR INFORMATION.

Mr. ANTHONY. I offer the following resolution:

*Resolved*, That the following be added to the standing rules of the Senate:

All resolutions calling upon the President or upon any of the Executive Departments for information shall be referred to one of the standing committees of the Senate, which shall report to the Senate an estimate of the probable expense of furnishing the information called for; and this report shall be made without delay.

I should like to have the resolution referred to the Committee on the Judiciary, and hope the committee will have time to attend to it. We are constantly calling upon the Executive Departments for information, and frequently without a very accurate knowledge of the value of the information, and with none at all of the great cost of furnishing it. Frequently the Executive Departments are obliged to employ a number of clerks for weeks to answer calls for information, which would not have been made if the Senate or the person offering the resolution had known the cost. I prefer that the resolution, should be referred to a committee, as it proposes to alter the rules of the Senate.

Mr. TRUMBULL. I have no objection to the resolution, but I think it had better go to the Committee on Printing, who are more familiar with these matters of information. All the communications which come from the Departments, or nearly all of them, are published under the jurisdiction of the Committee on Printing, and it seems to me they would have a better knowledge of the character of these resolutions than the Judiciary Committee would. We never have before us any of the replies to these resolutions or any information on the subject, except as to those that particularly relate to business before that committee, while the Committee on Printing usually has referred to it all those communications, and understands the subjects much better. I think it had better go to that committee.

Mr. ANTHONY. I have no objection to that reference; but this is the rule itself which I propose to have referred to the Judiciary Committee.

Mr. TRUMBULL. The propriety of changing the rule will depend on facts much better known to the Committee on Printing than to us.

Mr. ANTHONY. I have no objection to that reference, only I thought the Committee on the Judiciary the proper place for business of this sort—

Mr. TRUMBULL. That no other committee would have. [Laughter.]

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing, if there be no objection.

#### GOVERNOR OF COLORADO.

Mr. THAYER. It will be recollected that at the last session of the Thirty-Ninth Congress, the Senator from Ohio, now in the Chair, offered a resolution making inquiry of the President in regard to the absence of Alexander Cummings, Governor of the Territory of Colorado; as to how long he had been absent since his appointment, &c. The resolution was modified so as to embrace territorial officers generally. I desire now to make the inquiry: has any response to that resolution ever been received from the President?

The PRESIDENT *pro tempore*. No response has ever been received.

Mr. THAYER. Then, sir, I desire to offer the following resolution:

*Resolved*, That the President be requested to inform the Senate when Alexander Cummings was appointed Governor of Colorado Territory; how much of the time the said Cummings has been absent from the Territory since his appointment, and whether by permission or not, and how much of said time absent with permission, and how much without permission, and whether on public duties or not, and whether his salary has been paid to him during his absence or not, and how much has been paid to him as salary for the time he has been absent from the Territory.

My reason for offering the resolution is that I have been informed by those who have the means of knowing, for I have no personal knowledge, that Mr. Cummings was appointed Governor of Colorado Territory a year ago last September, that he has been absent from the Territory about eight months of that time and is still absent. He has been here in the city of Washington some four months, I understand. Knowing the extent to which this evil of the absence of territorial officers from their posts has been carried, I regard it as my duty to bring this case to the notice of the Senate. I have known judges of Territories to live in the States year after year, going out now and then on a pleasure trip to the Territories, holding court there, and then returning to their residence in the States again. Here we have a territorial Governor absent nearly half the time he has held the office. I repeat this evil has been carried to such an extent that the interposition of Congress is required to stop it.

Mr. BUCKALEW. I should like this resolution to go over until the morning in order that I may accompany its passage with some explanations. I have no objection to the passage of the resolution; but I should be sorry to have it passed, and the Senate adjourn on the *ex parte* statement made by the Senator introducing it. There are explanations to be given for the absence of this officer, at least so far as the late session of Congress is concerned, connected with public duties at the city of Washington, and as a witness before a committee of Congress. I ask that the resolution go over until to-morrow, and then I shall offer no objection to it further than to make an explanation.

The PRESIDENT *pro tempore*. Objection being made to the present consideration of the resolution it will go over until to-morrow.

#### ARMY REGISTER.

Mr. ANTHONY. I offer the following resolution, and ask its reference to the Committee on Printing:

*Resolved*, That two thousand copies of the next Army Register be printed for the use of the Senate.

Mr. MORTON. I move to amend that by striking out "two" and inserting "ten."

Mr. ANTHONY. The resolution will go to the Committee on Printing first and be reported doubtless to-morrow, and then the Senator's amendment will be in order.

Mr. MORTON. Very well.

The resolution was referred to the Committee on Printing.

#### EXECUTIVE SESSION.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

WEDNESDAY, April 10, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### WASHINGTON SAVINGS BANK.

The PRESIDENT *pro tempore* laid before the Senate a letter of the president of the Washington City Savings Bank, communicating the annual statement of that bank for the

year ending April 1, 1867, in conformity to law; which was ordered to lie on the table, and be printed.

#### PRISONERS OF WAR IN MEXICO.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, a copy of any recent correspondence which may have taken place upon the subject of prisoners of war taken by belligerents in the Mexican republic.

#### FINAL ADJOURNMENT.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of the resolution I offered the other day in reference to the adjournment.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. WILLIAMS on the 8th instant:

*Resolved*, That the President of the Senate, at five o'clock p. m. on Wednesday, the 10th instant, adjourn the present session *sine die*.

Mr. SUMNER. That is to-day. I think we are not prepared to adopt that. Anxious as Senators may be to go home, I should think that they all must see that there is unfinished business which I can only allude to now, and cannot describe the character of.

Mr. WILLIAMS. I am not very particular as to the time, but I think we ought to designate some time when we propose to adjourn. Senators are dropping off one by one, and in a day or two there will not be a quorum present; but if we fix upon some time for an adjournment, and it is understood that we will adjourn at that time, the probabilities are that Senators generally will remain until that time arrives. If, however, we propose to wait here until all business that may be introduced to the Senate shall be transacted we may be here all summer. I desire if this resolution in its present form is not acceptable to the Senate to have it amended and some time designated when this session is to close. I think that is desirable for all concerned, both for the President and for the Senate.

Mr. FRELINGHUYSEN. It seems to me that the time for an adjournment can probably be fixed much safer and better at a later period of the day. We can probably determine to-day whether it will be in our power to adjourn to-morrow or not; but we cannot at this early period of the day. I would, therefore, suggest to the Senator from Oregon that we postpone the resolution for the present, and that we take it up at a later period of the day.

Mr. WILLIAMS. I am not very particular about it. Let the resolution lie over until a later part of the day if that is the desire of the Senate.

The PRESIDENT *pro tempore*. The resolution will lie over informally, if no objection be made.

#### ARMY REGISTER.

Mr. ANTHONY, from the Committee on Printing, reported back the following resolution:

*Resolved*, That two thousand copies of the next Army Register be printed for the use of the Senate.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. MORTON. I move to amend the resolution by striking out "two" and inserting "ten." I will state as a reason for this amendment that the volunteer officers who were in the Army during the rebellion have a great interest in the Register. A large number of their associate officers have gone into the regular Army, and for reasons which are readily understood by the Senate they feel a deep interest in it. The War Department prints just enough for the use of the officers of the regular Army to furnish a copy to each officer of the regular Army in the service, but does not print enough to supply officers who served during the war and are now civilians. I think ten thousand for the use of the Senate a very

proper number; it will enable us to furnish information that will be gladly received by the people.

Mr. COLE. I move to amend the amendment by making the number five thousand.

The PRESIDENT *pro tempore*. The first question will be on the greatest number.

Mr. ANTHONY. The Senator from Indiana introduced a resolution a few days ago to print some additional copies of the Register of 1866, which is just out. That Register having been delayed and the Department being about to prepare a new Register which will probably be ready in a month or two, I thought upon consultation with the Senator, that if any extra copies were to be printed, they had better be printed of the new Register rather than of the old one. They follow close upon each other. The committee have not been in the habit of reporting so large a number, being very anxious to keep the cost of that branch of the service as low as possible. We have sometimes printed three thousand, but we thought as the war was over two thousand was as many as we could recommend. Unless there be some special reason to the contrary, I hope the Senate will sustain the action of the committee.

Mr. CONKLING. How much do they cost?

Mr. ANTHONY. Two thousand copies will cost about five hundred and fifty dollars; about twenty-five cents apiece.

Mr. COLE. I will ask the Senator if this is for the printing of a new Register to be issued hereafter?

Mr. ANTHONY. Yes, sir; this is a new one. The old one has been delayed.

Mr. COLE. One has just been published, but I understand this is to be an amended one.

Mr. ANTHONY. Yes; an amended one, to contain all the changes and appointments made this session. The one just published was for 1866; this is for 1867. During the war the Army Register was not published because the Department was unwilling that the enemy should gain any information with regard to the character of the commanders opposed to them. The West Point officers were so well acquainted with each other that a rebel officer, by knowing the man who was opposed to him, would probably gain some advantage from his knowledge of the character of his mind and the tactics he would be likely to pursue. In consequence of that delay there has been great irregularity in the publication of the Register up to this time. The one for 1866, which ought to have been printed on the 1st of January, has just appeared. This resolution is to print additional numbers of the Register for 1867, which will of course be much more perfect than the one of 1866.

Mr. MORTON. It is well known that there are a large number of documents published that are of very little value, that are almost so much waste paper; but this document will be anxiously sought for by those who have been in the Army, and the information it contains is of a character that can scarcely be obtained from any other source. I think the amount of money to be expended in printing ten thousand copies would be a mere trifle compared with the importance of the document and the interest the people generally have in it.

The PRESIDENT *pro tempore*. The question is first on the largest number proposed, namely, the amendment of the Senator from Indiana, to strike out two thousand and insert ten thousand.

The amendment was rejected.

The PRESIDENT *pro tempore*. The next question is on the amendment of the Senator from California, to strike out two thousand and insert five thousand.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now recurs on the resolution as reported by the Committee on Printing.

Mr. MORRILL, of Vermont. I move to amend the resolution by striking out "two"



and inserting "three," so as to make the number three thousand.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### REPAIR OF MISSISSIPPI LEVEES.

Mr. THAYER submitted the following resolution, which was referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the Senate five thousand additional copies of the report of the Committee on Finance on the repair of the levees of the Mississippi river, in the State of Louisiana.

#### CREDENTIALS.

Mr. JOHNSON. I am requested to present the credentials of Matthias E. Manly, elected by the Legislature of North Carolina a Senator from that State for the term of six years, commencing March 4, 1867. I move that they lie on the table.

The motion was agreed to.

#### PAPERS WITHDRAWN.

On motion of Mr. HENDERSON, it was

*Ordered*, That George and William H. Wood have leave to withdraw their papers from the files of the Senate.

#### EXECUTIVE SESSION.

On motion of Mr. HOWE, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

THURSDAY, April 11, 1867.

Prayer by Rev. J. W. M. WILLIAMS, D. D., of Baltimore.

The Journal of yesterday was read and approved.

#### CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. JAMES A. BAYARD, appointed a Senator by the Governor of the State of Delaware to fill, until the next meeting of the Legislature, the vacancy occasioned by the death of Hon. George Read Riddle.

The credentials were read, and the oaths prescribed by law were administered to Mr. BAYARD, and he took his seat in the Senate.

#### INTERPRETATION OF TENURE-OF-OFFICE BILL.

Mr. SUMNER. I send to the Chair a resolution, and ask the action of the Senate upon it now:

*Resolved*, That the President of the United States be requested to furnish to the Senate, if in his opinion not incompatible with the public interests, copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the Government on the interpretation of the act of Congress regulating the tenure of offices, and especially with regard to appointments by the President during the recess of Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. Before the vote is taken, allow me to make a statement. I understand that opinions have been given by one or more officers of the Government which go far to nullify a recent act of Congress. In short, it would seem as if we were to have nullification here in Washington in the executive branch of the Government. I understand that according to these opinions the President is to exercise a power of appointment during the recess of Congress, notwithstanding the recent act of Congress which undertakes to regulate the tenure of office. We all know the astuteness of lawyers. It is a proverb; and it is sometimes said that a lawyer may drive a coach and six through an act of Parliament, or even an act of Congress. Perhaps the Administration is now about to drive its coach and six through a recent act of Congress. In other words, it is about to force upon the country officers who cannot be officers according to the existing law of the land. It seems to me that before we adjourn we should know the precise state of this question. We should understand if any such opinion has been given, and the reasons for it. It is on this account that I have introduced the resolution now before the Senate. The resolution was adopted.

#### ARMY REGISTER.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand copies of the Army Register of 1866, have instructed me to report it back with an amendment reducing the number to two thousand, the same number that was reported of the Register of 1867. We have reported in favor of printing the usual number; but if the Senator from Indiana [Mr. MORTON] desires to move to raise it to three thousand, the committee will make no objection. I ask for the present consideration of the resolution.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That ten thousand copies of the Army Register for 1866 be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee to strike out "ten thousand" and insert "two thousand."

Mr. MORTON. I am in favor of the original number contained in the resolution. If we want to send a document to our military friends at home that will be acceptable and valuable to them, instead of the wagon loads of trash that go out from here, we cannot do better than send them this Army Register. It is a valuable and interesting publication to all military men.

Mr. ANTHONY. Three thousand is the number that the Senate voted of the Register of 1867, and I suppose it should be the same of the Register of 1866. I have no objection to making it three thousand.

Mr. MORTON. I move that amendment to the amendment, so as to make it three thousand.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The resolution, as amended, was adopted.

#### REPAIRS OF MISSISSIPPI LEVEES.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print five thousand copies of the report of the Committee on Finance on the repairs of the levees of the Mississippi river, have instructed me to report it back without amendment, and recommend its passage. The publication will cost \$200. I ask for the present consideration of the resolution.

There being no objection, the Senate proceeded to consider the following resolution, submitted yesterday by Mr. THAYER:

*Resolved*, That there be printed for the use of the Senate five thousand additional copies of the report of the Committee on Finance on the repairs of the levees of the Mississippi river, in the State of Louisiana.

The resolution was adopted.

#### CALLS FOR INFORMATION.

Mr. ANTHONY. The same committee, to whom was referred a resolution to add another rule to the standing rules of the Senate, have instructed me to report it back without amendment, and recommend its passage; and if there be no objection, I will ask for its present consideration. It is a rule of some importance, and I believe it will meet with the approbation of every Senator.

The resolution was read for information, as follows:

*Resolved*, That the following be added to the standing rules of the Senate:

All resolutions calling upon the President, or upon any of the Executive Departments for information, shall be referred to one of the standing committees of the Senate, which shall report to the Senate an estimate of the probable expense of furnishing the information called for; and this report shall be made without delay.

Mr. CAMERON. I object to taking up that resolution to-day. There are many reasons in my mind against its adoption. I think we have trouble enough now in getting information from the Departments without being embarrassed by rules which may prevent our getting it at all. I object to the present consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

#### GOVERNOR OF COLORADO TERRITORY.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of executive business.

Mr. THAYER. I ask the Senator from Oregon to waive that motion for a moment to allow me to call up and pass a resolution which I offered the day before yesterday, and intended to call up yesterday, but did not get an opportunity to do so.

Mr. WILLIAMS. As there seemed to be no business pending, I thought we might as well be doing something.

Mr. THAYER. I hope the Senator will allow this resolution to pass.

Mr. WILLIAMS. Very well.

The PRESIDENT *pro tempore*. The motion of the Senator from Oregon is withdrawn. The Senator from Nebraska moves to take up the resolution referred to by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the President be requested to inform the Senate when Alexander Cummings was appointed Governor of Colorado Territory; how much of the time the said Cummings has been absent from the Territory since his appointment, and whether by permission or not, and how much of said time absent with permission and how much without permission, and whether on public duties or not, and whether his salary has been paid to him during his absence or not, and how much has been paid to him as salary for the time he has been absent from the Territory.

Mr. SUMNER. I suggest the insertion in that resolution of the words that are usually employed when we address the President; they are words of form—"if, in his opinion, not incompatible with the public interests." Otherwise, it is a direct call upon him, apparently leaving him no volition.

Mr. THAYER. I have no objection to that, but yet I cannot see the relevancy of that form.

Mr. SUMNER. The relevancy is simply that that is the language addressed to the President in every case. It is a rule of the Senate for sixty years.

Mr. THAYER. I think in this case it is a rule that we might depart from; but I have no objection to it at all.

The PRESIDENT *pro tempore*. The Senator from Nebraska so modifies his resolution.

Mr. CAMERON. I should be very glad if the Senator from Nebraska would suffer the resolution to lie over until my colleague is present.

Mr. THAYER. I let it go over yesterday on his account. He asked me to delay it for an hour or so yesterday when we met, and I let it go over the whole day. I have waited this morning until the Senate were about to go into executive session, and I find him not here, and therefore I submit its passage ought not to be longer delayed.

Mr. CAMERON. Yesterday the Senator had no other course but to allow it go over by the rules of the Senate.

Mr. THAYER. No; I offered it the day before yesterday, and it went over until yesterday at the suggestion of the gentleman's colleague.

Mr. CAMERON. No harm can result from its lying over another day.

Mr. THAYER. If we adjourn within a day or two there will be no opportunity for an answer.

Mr. CAMERON. We will try. My colleague is not present, and he has the matter in charge. I shall be very much obliged to the Senator if he will allow it to pass over.

Mr. THAYER. How long?

Mr. CAMERON. Until my colleague is here.

Mr. THAYER. We shall then be in executive session.

Mr. CAMERON. We can take it up then.

Mr. THAYER. Very well; I will waive it to accommodate the gentleman from Pennsylvania.

The PRESIDENT *pro tempore*. The resolution will be passed over if there is no objection.

## EXECUTIVE SESSION.

Mr. WILLIAMS. I now renew my motion for an executive session.

The motion was agreed to; and after some time spent in the consideration of executive business the doors were reopened.

## FINAL ADJOURNMENT.

Mr. WILLIAMS. I move to take up the resolution providing for an adjournment that I offered on Monday last.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the President of the Senate at five o'clock p.m. on Wednesday, the 10th instant, adjourn the present session *sine die*.

Mr. WILLIAMS. I will modify the resolution by striking out "Wednesday, the 10th instant," and inserting "Saturday, the 13th instant."

Mr. HOWE. Let me suggest Monday instead of Saturday.

Mr. WILLIAMS. I think it is advisable for the Senate to convey some intimation to the President that we do not intend to remain here all summer. He sends in little dribblets of nominations here, half a dozen a day, and we are all the time told that there are a great number of offices in the country vacant, and that the interests of the country are greatly in danger if we do not remain in session. If the President understands that we propose to adjourn at any given time, it seems to me that he will expedite the transaction of this business. I do not see any reason why we may not adjourn Saturday or Monday, and be as ready to adjourn then as we shall be at any future time. I do not suppose we can stay here until we are perfectly agreed with the President about every nomination, unless we agree to confirm such nominations as he may send without question.

Mr. CONKLING. If the Senator will allow me, I will suggest to him that the passage of this resolution now will not determine the time when we go from here or facilitate our going. Suppose we pass a resolution now, this being the only House in session, that we shall adjourn on Monday. If, on Monday, it is not found convenient or advisable to adjourn, the resolution will be rescinded, if it is too late to reconsider it. Therefore, I submit to the Senator that there is nothing to be gained at all if we express our opinion now. If a resolution were moved instructing the Secretary (if that is the proper mode) to make some communication to the President which would be likely to hasten forward the nominations, the reason for holding back which I do not at all understand, that might be of some service; but to say that our present feeling now is to adjourn on Monday is to pass a resolution certain to be rescinded, unless it turns out at that time to be so that we can then adjourn. In that event it does no good.

Mr. ANTHONY. The passage of the resolution is notice to the President.

Mr. CONKLING. I do not think so.

Mr. WILLIAMS. I do not entirely agree with the honorable Senator from New York, that the passage of the resolution will have no effect. If the Senate agree now to adjourn at a given time, the probabilities are that they will adhere to that decision; and moreover, Senators will be inclined to stay. If the prospect is that an adjournment will be had at no very remote time, Senators will be very likely to remain; but now there is but little more than a quorum here, and others, as I understand, are intending to go in the course of this week; they have made their arrangements to go; and I presume that next week there will hardly be a quorum present for the transaction of business. The argument that the Senator uses against the adoption of this resolution is an argument against any resolution, and so we would remain in continuous session.

Mr. CONKLING. If the Senator will allow me, my proposition would be, whenever the time comes that we can adjourn, that we then pass a resolution and adjourn. The time that

we spend beforehand in prophesying when we can adjourn is very likely to be lost.

Mr. WILLIAMS. I think we can say now when we ought to adjourn without much difficulty.

Mr. HOWE. It seems to me that now, while we have a quorum of the Senate present, we should authorize the President of the Senate to adjourn the body without day at some time. I understand that when we have less than a quorum we can adjourn only from day to day. To agree upon an adjournment, then, without day we want a quorum. I think we are not going to have a quorum here many days more, and unless we agree now to authorize the President of the Senate to adjourn the Senate, we may find ourselves without the ability to adjourn without day; and if we now agree upon a day of adjournment the President of the United States will understand it and will act in reference to it. If there is any business which he desires the Senate to transact he will send it to us. If there is none, of course there is no occasion for us to stay longer. But it does not follow that we shall be able to rescind this agreement to adjourn on Saturday or on Monday, or on any subsequent day, because it does not follow that we shall have a quorum here to do it, and I have no sort of belief we shall have; and I want to agree upon this adjournment while we are able to agree; that is, while we have a body here which can agree. I should prefer to see Monday fixed.

Mr. WILLIAMS. I am indifferent about that.

Mr. FESSENDEN. Less than a quorum may adjourn.

Mr. HOWE. Only from day to day.

Mr. STEWART. I suggest Monday at four o'clock, and then let us stand by it. The President, the papers say, is not well now. To adjourn on Saturday, the day after to-morrow, would be giving very short notice; but by giving us a working day on Monday until four o'clock I believe we shall be certain to adjourn at that time.

Mr. HOWE. Senators would not want to leave on Saturday evening any way.

Mr. STEWART. I move to amend the resolution by inserting "Monday, the 15th instant, at four o'clock."

Mr. RAMSEY. For the information of the Senate I will state that I was informed this morning at the General Post Office there were about fifty or sixty post office nominations yet to be acted upon by the Senate. All of these, they said, were before the President, upon his table, but not sent in. Twenty-eight or thirty came down this morning. We reject about thirty per cent. of all that come in, and the Senate can tell how long it will take to dispose of all of them. There must be about thirty of those nominations on the President's table. They have all gone up from the Post Office Department to the President.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Nevada.

Mr. FESSENDEN. I desire to make one suggestion to the Senate about that. What predicament shall we be in if we vote to adjourn on Monday at four o'clock and we come here and have forty or fifty or a less number of nominations sent for post offices, custom-house officers, &c., and we then reject them and go off without leaving the President time to fill those vacancies? We shall have put ourselves—

Mr. FERRY. Will they not be cases of removals?

Mr. FESSENDEN. No, sir. There are some forty or fifty post offices not filled. So the chairman of the Committee on Post Offices and Post Roads tells us. We know there is a considerable number of collectors and assessors offices not filled, and there are some very important custom-house offices that are not filled, to say nothing of others of which I know nothing. Now, then, if they come in here on Monday and we choose to reject them and ad-

journal, we leave the business of the country not done. Now, who knows—we cannot tell, with the idea that Senators have with regard to the Post Office Department, the Treasury Department, &c.—what kind of nominations may be sent in here? They may be just such probably as we may feel compelled to reject. I do not see how we can fix a day until the business is so closed up that it cannot be said that we have left the business of the country unfinished.

Mr. JOHNSON. Suppose there is no quorum.

Mr. FESSENDEN. Well, sir, if there is no quorum, the responsibility will be on the individuals who go and leave us without a quorum, and not on the vote of the Senate or those who are here. My opinion is that you cannot fix a day to adjourn until you have so far disposed of the executive business of the Senate that the country can be left in that condition. If we do, the responsibility is on us, and on us on this side of the Chamber. By "this side of the Chamber" I mean those who are in the majority, not the minority. We have the power to stay here and do the business.

Mr. COLE. I will suggest to the Senator that the President has the power to call us together again should he deem it necessary.

Mr. FESSENDEN. He can do that if he pleases, undoubtedly.

Mr. JOHNSON. We can have the nominations in by Saturday.

Mr. FESSENDEN. But suppose we reject them? Suppose they come in and are not of a kind to suit us? Who knows what may be sent in? If the day of adjournment is fixed, we may be placed in that very predicament precisely, with the opinion which some gentlemen here seem to entertain of the officers of the Government. They might send in here purposely such names that we might either be compelled to reject them or to take those that were very unsatisfactory to us, or else take that responsibility upon ourselves. I do not think it would be so, I confess; but still, on the principle on which gentlemen go, that predicament might be the one in which we might be placed. I cannot consent to go off and leave the business of the country in such a state as it will be by not having this large number of offices filled before we go. Therefore I am opposed to fixing the day of adjournment until we have got in such a condition that we can go safely to ourselves.

Mr. CHANDLER. I am perfectly ready to take any responsibility that properly belongs to us. These offices were all filled, and all filled acceptably to the people of the nation, and I do not believe myself that Andrew Johnson could unfill them without the consent of the Senate before we passed that law; but by usage he did it.

Mr. HOWE. Some of them he could by express enactment.

Mr. CHANDLER. But the majority of them were removals. He knows precisely how to have those offices all filled, and filled to-morrow—by sending in men who elected him.

Now, sir, I am neither disposed to remain here an unlimited time nor am I disposed to be driven into a corner and confirm men who are objectionable to us. If he sees fit to send in the right kind of men, he knows we will confirm them, and if he sends in the wrong men he knows we will not confirm them. Sir, if we cannot run this Government with Andrew Johnson in the way, we know how to run it. If he is the obstacle that stands directly in our road so that we cannot run the Government, we shall find out between now and July how to run it. I am not to be driven into a corner and compelled to confirm men who are utterly objectionable to me and to every member of this body, because, forsooth, the responsibility is to rest upon me of leaving offices unfilled. I am disposed to go home, and I will vote for the earliest day that is named for an adjournment. If he sees fit to send in men whom we will not confirm let him send them in; and if

we cannot run the Government, and offices are to remain unfilled, and we cannot collect the revenue, we will find a way to run the Government between now and July, and he will find a way, too, to get out of the way by that time. I hope, sir, we shall fix the time of adjournment, and fix the earliest time. I am not disposed to be driven into confirming copperheads and rebels because, forsooth, offices are to remain unfilled. I would vote to adjourn on Saturday; I would rather vote to adjourn to-day than any other day; but I will vote for the very earliest day named.

Mr. FESSENDEN. The President of the United States is a part of the Government just as much as the Senate of the United States or the House of Representatives, and he may just as well say, if the Senate and House of Representatives stand in his way, he will find a way to run the Government without them as we can say with any propriety that we will find a way to run the Government without him. It is as just to be said on the one side as it is on the other.

Now, sir, the President will not commit any impeachable offense by nominating officers. If he omits to nominate any at all that would be an offense, because to nominate is his duty; but so long as he continues to nominate, and we are here, he has not committed any offense against the Constitution nor against the law; and I hold that so long as he is President of the United States, whether satisfactorily or not to us, he has a perfect right legally and constitutionally to designate to the Senate those whom he prefers for office. We have a right to reject them, to be sure; there is no doubt about that; but we do not arrive at a conclusion. He has just as good a right to turn around and say to us, "The Senate knows how to have these offices filled, because all they have got to do is to confirm my nominations," as we have a right to say to him, "The President knows how to have these offices filled, for all he has to do is to send in such men as we like." That is not on either side a mode of talking that will bring us to any satisfactory conclusion. We cannot wink out of sight that the President, as President of the United States, has his rights, and one of them is to nominate officers, and so long as he keeps nominating them to us he has performed nothing but what he has a constitutional right to perform. It is not for us say "All he has to do is to suit us." He has a right to suit himself about it; and this kind of argument amounts to just nothing at all.

The question is, what our duty is; not what his duty is, but what our duty is; and it is no part of our right to dictate to the President of the United States whom he shall send here as officers. It is our right to say whether we like them or not, and to reject them after he does send them; and there is the end of it, in my judgment. Therefore, sir, however we may feel, whether satisfactory or unsatisfactory to us, we cannot wink those facts out of sight, and the question then comes, what is our duty? I hold that we cannot discharge it without staying here until these offices are filled in some way or other; or until it becomes so perfectly manifest that it cannot be done that we may take the responsibility of going home. I do not believe that the Republican party can answer to their constituency by saying that they were so anxious to get home that they would not stay to see the offices filled because men were not sent in that suited them. The answer will be, "Why did you not stay until you found somebody that did suit you?" The President keeps trying ostensibly, because he keeps sending in names; as fast as we reject one he sends in somebody else. It is not enough for us, in my judgment, to say we do not like the men he sends except so far as acting on those individual men are concerned. I do not feel that I am discharging my duty (and I am as anxious to get home as anybody) in going off and leaving so large a number of offices, whose duty it is to collect the revenue, unfilled; and I cannot answer my people at home by saying

the President did not send such men as suited me, when they will turn around and say to me, "Why did you not stay until he did?"

Mr. CONKLING. The Senator from Wisconsin suggested a moment ago that it was important to pass a resolution to adjourn without day while there was yet a quorum here, which at a future day there might not be, and he suggested that less than a quorum would not have the power to pass the resolution. That struck me with great force at the moment because I thought his recollection must be right of the provision of the Constitution. I have been looking at it since, and do not see how that follows at all. In the absence of a prohibition, beyond all question less than a quorum has a right to adjourn, because, speaking in a legislative or parliamentary or organic sense, it is the meanest and basest of all the rights of an organized body. There must therefore be a prohibition, or else less than a quorum would have that right. The provision of the Constitution referred to, which is sections four and five of article one, relates entirely, as I understand it, to sessions of Congress, to joint meetings of the two Houses:

"The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they by law appoint a different day."

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."

Now, I submit that that is an inhibition relating, in the first place, to the sessions of Congress contemplated by the Constitution, and, in the second place, restricted to joint sessions of the two Houses composing the Congress of the United States. This is an extra session of a single House, a legislative council convened for the purpose of advising upon nominations and the confirmation of treaties. I see no reason at all, as I read the Constitution, why less than a quorum cannot adjourn without day; nor do I see, as I said before, anything that we are likely to gain by attempting now to fix a time when we will adjourn. I think it would be better if some Senator would move a resolution that the Secretary be instructed to acquaint the President with what he may not know, and that is that we are very much in advance of him in business here, that we wait and lag from day to day for the lack of nominations to places, some of which, I understand, have been vacant for months. I can name some myself which have been vacant nearly a year, and there they stand; no nominations come here. Certainly it is not the fault of the Senate.

Now, I beg to say for one that I am ready to stay here (in spite of my own convenience to the contrary) as long as may be necessary to induce the President, or to compel the President, if that is a truer word, to have some regard to the public interest and the public sentiment in the nominations which he sends here. I would be glad that he would send in men whom we could confirm to begin with; but if he will not, for one I shall feel cheerful in staying as long as may be necessary to reject and reject again men personally or politically improper until we can have some deference paid to the sentiment of that party which elected this Administration, and which ought to have something to do with the regulation of public affairs and the administration of the public service.

Mr. HOWE. I am not sure that I was entirely right in my understanding of the Constitution, and yet I am not satisfied with the criticism made by the Senator from New York. The power to adjourn from day to day may be, as the Senator has characterized it, one of the lowest powers to be exercised by a legislative body; but the power to put an end to the session of the body seems to me, instead of being one of the lowest, to be one of the highest powers to be exercised by the body. That is the power that we are considering now, whether

that can be exercised by less than a quorum. If it can be, then whenever you are left here accidentally without a quorum in this executive session of the Senate, that minority of the Senate can put an end to the session, can adjourn it finally. I do not think the framers of the Constitution intended that. I think it would be a dangerous interpretation to put upon the Constitution; and I do not think it is warranted by the language of the article itself:

"Each House"—

not when Congress is here. This is not prescribing the powers of Congress: this is prescribing the powers that each House may exercise—

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

But a smaller number than a majority may do two things: one is to adjourn from one day to another; the other is to send for absent members.

Mr. CONKLING. The Senator seems to suppose that the expression "each House" refers not only to each House in severalty, but to each House without reference to the fact of the existence of the other House. I beg to ask him whether there is any contingency known in our system in which the House of Representatives alone can be in session, the House of Representatives without the Senate? If there is none, then I ask him whether that does not show that the object and meaning of the language cannot be what he now suggests?

Mr. HOWE. I think there are a great variety of contingencies in which the House of Representatives can be in session without the Senate, and I think the House of Representatives frequently is in session without the Senate.

Mr. CONKLING. For a session?

Mr. HOWE. Not for a session.

Mr. CONKLING. I do not mean a single day, but I mean a separate session, a session by itself, like this.

Mr. HOWE. I know of no contingency in which a session of the House can be called without a session of the Senate; but I do not think that controls this language of the Constitution.

Mr. CONKLING. It tests it, however.

Mr. HOWE. I am not able to see how it tests it.

Mr. TRUMBULL. If the Senator from Wisconsin will allow me, I think it would be perfectly competent for the House, with the consent of the Senate, to remain in session all summer for the purpose of impeaching or anything else.

Mr. CONKLING. Nobody doubts that; but I am talking about a new and separate session of the House without one of the Senate. If there be no such thing, then I submit it shows that this language was not used with a view to a session of one House without a session of the other House at all during the same session.

Mr. HOWE. It is not a very remarkable thing for gentlemen to differ about the construction of the Constitution or a statute, and I do not care to spend any more time upon the discussion of this point. My own views remain as they were at first.

I wish to make one or two remarks upon the question whether we may agree upon a time to adjourn now safely or not. I agree with the Senator from Maine that the President is a part of the Government of the United States. I have not any doubt about that; and I do not believe that we are any more than a part of the Government of the United States. I do not believe that summarily we can dismiss the President as we are now circumstanced, or that he can summarily dismiss us. I agree with the Senator from Maine that we have no constitutional power to nominate a candidate for one of these offices. I agree that the Constitution reposes that trust in the President; but the Constitution does require the assent of the Senate to the appointment of every one of

these officers; and I suppose the makers of the Constitution intended that the President should really consult the wishes of the Senate. I suppose when they put that clause in they intended to make it the duty of the President to nominate persons that the Senate could, according to their convictions of duty, assent to the appointment of.

But now I will agree that the Senate may make demands of the President, may occupy a position, may take exceptions which they are not warranted in taking to his nominees; and if we do so I agree that the responsibility rests upon us for these offices remaining unfilled. On the other hand, is it not just as manifest that the President may insist upon sending a kind of nominees here that we cannot, in accordance with our convictions of duty, agree to the nomination of? Suppose the Senate should say in substance, "We will not agree to the nomination of a man for one of these offices unless he has been an officer in the rebel service." I think the President would be perfectly justified in saying to the Senate, "I will not send such men to the Senate; I will send other men; if you will not accept these other men, let the offices be unfilled; I will not accede to your terms." Suppose, on the other hand, the President should say, "I will send nobody to the Senate but those who have been in the service of the rebellion," would or would not the Senate be perfectly justified in saying to the President, "We will not assent to the nomination of any such men; and rather than do it the offices shall go unfilled?" If that were the attitude actually of the President and of Congress, what is the use of our remaining here to unlock such a difficulty as that? If the position of the President were known, if he had publicly declared or given us fully to understand that he would send nobody here but men who had been rebels, why cannot we just as well come to a conclusion at once either to accept those men and fill the offices or to reject them and adjourn and go home and leave the offices unfilled?

The President, I admit, has not published any such purpose; but, after all, I do think he has done a great deal to publish another purpose in regard to a great many sections of the country, that he will send men here only of a particular political stripe. I alluded to this question yesterday in executive session, and I allude to it now. I do not feel authorized to say that the President is any worse morally for liking a man who agrees with his political opinions than I am for liking a man best who agrees with my political opinions. Of course I like my political opinions better than I do his, as he likes his better than he does mine. A year ago now the President had authority to make any vacancies. The Senate will bear me witness that I struggled with all my might to deprive the President then of the power to create these vacancies, to take from him the authority of law to remove the incumbents and to create the vacancies. I failed in that endeavor. The Senate did not agree with me. I believe the House did not agree with me. We adjourned and went home and left upon your statute-books authority for the President to remove these officers and create vacancies.

I regretted that step. I regretted that we left that power in his hands. I regretted to see him exercise it; but I knew he would, and I should have done it if I had been in his place; I would have put them out if you had left me the power to do it, and I would have had the public service carried on by men who agreed with me. There is nothing surer than that. The President did no more than what I would have done if I had been in his place and had the same power.

Now, we come back here and find these vacancies. I have not felt authorized in saying to the President, "You shall send men here of my political faith." I have felt authorized in saying no more to him than in substance to say, "You must not insist upon excluding every man of my political faith." I am only speaking now about the State that I represent; I cannot

speak for Massachusetts; I cannot speak for Maine; I cannot speak for Connecticut. I am speaking of Wisconsin. I do not say it is the case throughout Wisconsin. I am speaking of the difficulties that we encounter now in the State of Wisconsin. I spoke yesterday of one district; I repeat it to-day. There are just two offices unfilled. I am perfectly willing that one of those offices shall be filled by a political friend of the President if he will consent that the other shall be filled by a political friend of the Senate, as I understand the Senate to be; but I do not understand that the President is willing that that shall be done. If he is, that difficulty can be solved at once.

How it is in other States I do not know; but I said yesterday, and I repeat to-day, that I have not voted to reject a single nomination since I have been here that I would not rather reject than confirm if I knew the office was to be closed. I have voted in reference to that responsibility, and I am willing to take that responsibility so far as I can. What little political reputation I have is not much to stake upon a vote; but when it is all I have, it is just as much for me to stake as if I had the reputation of my friend from Connecticut, [Mr. DIXON,] or of my friend from Maine, [Mr. FESSENDEN.] When a man stakes his all, he shows his pluck if he does not his discretion. [Laughter.] Now, I do not see that we tend to fill these offices by just staying here and rejecting his nominees. The Senator from Maine says that while the President is sending men to us he is doing all the Constitution charges him with. I think the Senator is mistaken. I think the Constitution requires him to send men to the Senate that the Senate can agree to confirm, unless the Senate has made known to him that they take exceptions which they are not warranted—not by the Constitution, not by the law, but they are not warranted by a due regard for the public service in taking.

Mr. FESSENDEN. How does he know the Senate will not confirm them until they are sent in and the question has been tried?

Mr. HOWE. We have not served any official notice upon him, but I do think the Senator from Maine is not mistaken, and I think the President of the United States is not mistaken and the Senate is not mistaken as to what has been the difficulty in filling these offices. He wants men of one political character and we want men of another. I do not think there is any chance of a dispute about that. I only wanted to let the Senate understand the attitude which I have occupied in order that they may understand how perfectly ready I am to go home, and how completely I consider my work done or will be done when we adjourn.

Mr. JOHNSON. I move that this subject be postponed until to-morrow, and that we proceed to the consideration of executive business.

Mr. TRUMBULL. I hope we shall dispose of this adjournment resolution. I call for a division on the motion.

The question being put; there were on a division—ayes 14, noes 10; no quorum voting.

Mr. HOWE. Let us have the yeas and nays, and find out whether there is a quorum here.

The yeas and nays were ordered.

Mr. TRUMBULL. I hope we shall not go into executive session until we dispose of this question of adjournment. I do not agree at all with the Senator from Maine that we shall gain nothing by fixing a day. I will not assume that the President will not do his duty. I regard him as much a part of the Government as the Senate. When he knows that the Senate has fixed a day for adjournment he will send in the names of persons for these offices, send the whole of them, I should hope, to-morrow for every vacant office there is, and then we will act upon them. There are three or four days between this and Monday, and if the names sent in the first time are not acceptable, we can act upon them promptly and have them returned and get others. If we go on in the

way we have been, receiving a dozen nominations one day and acting upon those, and then waiting a day or two and receiving a dozen more, we may stay here all summer. My experience in Congress has always been that we have to fix a day for adjournment some short period in advance and work up to it. If we wait until the business is entirely done to adjourn, we never would adjourn a session of Congress. Fixing a day is the only way by which we can come to a decision, and if it is necessary we can hold an evening session.

Mr. JOHNSON. I have no objection to fixing a day for adjournment; but we have lost about an hour and a half already on this question.

Mr. TRUMBULL. Let us have a vote on it.

Mr. JOHNSON. A vote cannot be taken. There are other speeches to be made. There are some forty or fifty nominations on the table now, some of which, I suppose, will not be acceptable to the Senate, and will have to go back to the President. We can fix the adjournment to-morrow or next day.

Mr. TRUMBULL. Let us fix it to-day.

Mr. SUMNER. I do not think we can fix it to-day, and farther, I do not think we ought to fix it to-day. It seems to me we ought to clear the Calendar before we undertake to determine to go home. A Senator exclaims, "Wait until we get through." I say yes, wait until we get through. Senators are perfectly aware that owing to an interpretation that has been recently put, or it is understood has been put, by the Executive upon the tenure-of-office bill, there is an increased necessity for our staying. We have passed a law. We ought to see that it is enforced. At any rate, we ought to offer our cooperation with the Executive, so that he shall have no excuse for setting it aside. Of course I do not admit that he can in any way set it aside; but I wish to do everything that can be done on our side to prevent him from having any apology for seeming to set it aside or undertaking to set it aside. I think that we ought to stay until our work is fully done. It seems to me there can be no excuse for our going home while any part of the executive business remains unfinished. Other Congresses have stayed here till midsummer, and even into the month of September. If the necessities of the country require it, I see no reason why we should not stay till then.

Mr. MORTON. My opinion on this question is, that we ought to fix a day to adjourn, some reasonable time in the future, and notify the President of that fact. Now, sir, we will not sit here all summer. Let this business of nomination and rejection go on in the way it is going on now, and this Senate will drop out one by one until there will be no quorum here, and that will be at the end of three or four days unless we fix a time for adjournment. Let us fix a reasonable time, say on Monday next, for adjournment. If the President and the Senate can come together at all, they can come together by next Monday at four o'clock. If they cannot come together at all then there is no reason for staying here, and the country will say so. If the President shall continue to send one class of nominations, and we shall continue to reject them, there is no end to that business. One party or the other must yield. Are we disposed to yield? Are the Republican Senators on this floor disposed to yield and say that they will confirm Democratic nominations? I imagine you will say no. Do you then expect that the President will yield? I have no right to speak for him because I am not in his confidence. But let us fix a reasonable period in the future, give time for us to come together, and if he persists up to that hour, and if we persist up to that hour, the whole country will say there is no use in our staying here an hour longer, and we can go home then reasonably and properly to the people; but let us not have the session expire merely by this Senator and that Senator dropping out and going home. I know there are several here to-day who will not perhaps be here next Monday unless there is some time



fixed for an adjournment. Let us act reasonably ourselves, and go upon the presumption that the President will act reasonably. Let us fix, say next Monday at four o'clock, or next Tuesday at four o'clock, as the time of adjournment, notify the President that we have fixed that time, and if we can come together we can do it by that time. If at that time we are as wide apart as we are to-day, the country will say there is no use in our staying here, and will justify us in going home.

Mr. CAMERON. I am in favor of fixing some time for the adjournment for the reasons given by several Senators. Unless we fix some time we shall never get through with our business. My experience has always been that until we fix a day we always loiter. When the day is fixed we take care somehow or other to get our business through. I would prefer, therefore, to name next Wednesday in the place of next Monday, at four o'clock. That will give ample time to get through with all the business, give sufficient notice to the President of what we intend to do, and if he fails then to meet us in the spirit in which he ought to meet us we can adjourn and go home and leave the responsibility with him. I should be unwilling to go away on Monday, giving only two or three days' notice. I have no doubt that by Wednesday he will have full time to fill all the offices, and therefore I move to amend the resolution by inserting Wednesday of next week.

The PRESIDENT *pro tempore*. That question is not up now. The question now is on going into executive session.

Mr. CAMERON. I am in favor of that, certainly.

Mr. RAMSEY. I hope we shall go into executive session and settle the matter of adjournment to-morrow.

Mr. TRUMBULL. We have got the discussion pretty nearly through now.

The question being taken by yeas and nays, resulted—yeas 29, nays 11; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Conkling, Cragin, Dixon, Doolittle, Drake, Fessenden, Fowler, Frothinghuysen, Harlan, Henderson, Johnson, Morgan, Morrill of Maine, Morton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Stewart, Sumner, Thayer, Van Winkle, Wade, Willey, and Yates—29.

NAYS—Messrs. Anthony, Chandler, Corbett, Davis, Ferry, Howe, Morrill of Vermont, Norton, Tip-ton, Trumbull, and Williams—11.

ABSENT—Messrs. Bayard, Conness, Edmunds, Grimes, Guthrie, Hendricks, Howard, Nye, Pomeroy, Saulsbury, Sherman, Sprague, and Wilson—13.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

FRIDAY, April 12, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the Legislature of the State of Massachusetts, ratifying the amendment proposed by Congress as a fourteenth article of the Constitution of the United States; which, on motion of Mr. SUMNER, were ordered to lie on the table, and be printed.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 5th instant, a report of the Quartermaster General relative to the award for the transportation of Army stores on route No. 1; which was referred to the Committee on Military Affairs and the Militia.

#### EMPLOYMENT OF ATTORNEY BY THE TREASURY.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to inform the Senate whether he, or any one

by him authorized, has employed an attorney or solicitor to represent that Department before the Court of Claims in certain causes pending in said court; if yes, what counsel or solicitor has been thus employed, and in what cases, what fee or fees has been or will be paid him for said services, and out of what fund, and under what law or authority he has been thus employed.

#### MESSENGERS, PAGES, AND LABORERS.

Mr. CRAGIN. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution authorizing the Sergeant-at-Arms to retain the messengers, pages, and laborers now employed during the recess of Congress, have had it under consideration, and directed me to report it adversely.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the resolution?

Mr. CRAGIN. Yes, sir.

There being no objection, the Senate proceeded to consider the following resolution, submitted by Mr. FOWLER:

*Resolved*, That the Sergeant-at-Arms of the Senate be authorized and directed to retain the number of messengers, pages, and laborers now employed during the recess of Congress.

The resolution was rejected.

#### FINAL ADJOURNMENT.

Mr. ANTHONY. What is the unfinished business?

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the resolution on the subject of adjournment, which will be read:

The Secretary read it, as follows:

*Resolved*, That the President of the Senate, at five o'clock p. m. on Saturday, the 13th instant, adjourn the present session *sine die*.

Mr. SUMNER. I move that that resolution be postponed until to-morrow. I think we are not in a condition to proceed with it to-day.

Mr. HOWE. I wish the Senator from Massachusetts would do me the favor to state how the Senate will be better prepared to vote on this subject to-morrow than they are to-day.

Mr. SUMNER. I will say that just in proportion as we draw to the close of our business we shall be better prepared to determine when we can adjourn finally. As we have not drawn to the close of our business, I submit we are not in a condition to fix the day. That time may come; but I may remind the Senate that there is in executive session still a good deal of unfinished business, and there is much more business that we have reason to expect. I say "we have reason to expect," because it is well known that there are a great many offices that are still unfilled, and it is our duty before we leave, so far as we can, and just so far as it depends upon us, to see that they are filled.

Mr. HOWE. Will the Senator explain, if he can, how we are to accomplish this business of filling these offices by staying here? It was said yesterday that there were some fifty or sixty offices vacant. It is no worse for them to be vacant next month than it has been this month.

Mr. ANTHONY. Some have been vacant for nine months.

Mr. HOWE. It is said that some have been vacant for nine months. If they can be vacant for one day they can be for a year. If they can be vacant for nine months they can for nine years. But there are only forty or fifty of them. We cannot fill them. It is impossible for us to fill them if we stay here forever alone. The Senator comprehends the difficulty in the way just as well as I do; and I wish him to inform me how we can fill them by staying here.

Mr. SUMNER. We can fill them by acting on nominations that are sent in, rejecting those that are bad and confirming those that are good. I am afraid that comparatively few good ones are sent in. That would require us to reject more; but still that would compel us also to stay longer. We should stay, it seems to me, until the offices are filled, rejecting those nominations that are bad and confirming those that

are good; doing, in short, all we can as a Senate to secure good officers, and I insist also officers on the right side, who agree with Congress and will sustain that policy which Congress has declared. I hope the resolution will be postponed until to-morrow. We shall be in a better condition then to act upon it.

Mr. MORRILL, of Maine. I do not see how we can intelligently or with any degree of safety fix upon a day of adjournment at the present moment. I propose to offer a resolution, which I send to the Chair and ask to have read, as explanatory of what I am about to say.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read as follows:

*Resolved*, That the President of the United States be requested to inform the Senate whether he has any further communication to make requiring its advice and consent, and if so what, and at what time it will suit his convenience to make such communication, to the end that the Senate may fix the day for its final adjournment.

The PRESIDENT *pro tempore*. That is not in order now.

Mr. MORRILL, of Maine. I do not offer it now. I simply asked to have it read as the basis of a single suggestion that I propose to make. It seems to me we are not in a condition to-day to agree upon a time for adjourning, for the reasons that were fully stated yesterday. And it seems to me that we labor under another difficulty: that it is impossible for us to tell, or even guess, with the information we have, when we can be in a condition to adjourn. Whether there are any more communications of the kind upon which we have been acting, we have no right to know that I am aware of. I suppose, from the ordinary course of affairs, we have a right to presume there are a great many.

Mr. FESSENDEN. In cases where we have rejected nominations recently, we know those offices are not filled.

Mr. MORRILL, of Maine. Undoubtedly. Then we have it within our own knowledge that there are certain communications to be received, and the probability is that there are communications of a similar character outside of those which have been sent to us. Now, it seems to me that after the Senate has been here in the fifth month of its session, we have a right to know what communications, if any, the President of the United States has to make to us upon this subject. We are convened in extraordinary session at an extraordinary period. What was the occasion for this session at all? At the commencement of an Administration I know it is usual—though extraordinary in one sense, it is ordinary in another—for the President to call the Executive Council into executive session to aid him in inaugurating his Administration; but that is not the case here. This Administration was organized. When the new President came into his office, under the circumstances which it is not necessary for me to refer to now, he found this Administration organized. When we left here on the adjournment of the first session of the Thirty-Ninth Congress the Government was organized; the offices were filled. We came back at the last session to find many of the old officers to whose appointment we had given our consent, and many of the officers whose names had been sent to us and our advice and consent asked to the appointment of, out of place. Now, sir, we are here in the fifth month of this session, every day of which the President has had an opportunity to communicate to the Senate the appointments he had made in the vacation. It is not my purpose to stop here to comment upon how soon it was his duty to have presented these officers; but the fact undoubtedly is to-day that there are many offices absolutely vacant in the country that are kept open in violation of law, and that because the President of the United States has not even sent new appointments to the Senate, even at this length of time, some four or five months having elapsed.

Now, all I have risen to say is that under

these circumstances I think the Senate of the United States, before it can be expected to linger here without knowing how long we may be kept, ought to inquire respectfully of the President what the state of the public business is; whether he has further communications to make, and to what extent; what is the character of the communications, and how long they will require that we shall be kept here in extraordinary session. Of course I do not offer the resolution now; but I rose at this particular moment to say that I concur in the views expressed by my colleague yesterday, that we are not in a condition to fix upon a day of adjournment, and in the remarks made by the Senator from Massachusetts this morning.

Mr. ANTHONY. The Senate never was and never will be ready to adjourn. The Senate never did adjourn without leaving important business unacted upon, and never will be ready to adjourn until we fix the day. If by fixing a day it was rendered imperative that we should adjourn on that day, if we had not the power to extend the time, there would be force in the arguments adduced against this resolution; but if we find when Monday approaches, or whatever day is fixed, that we are not ready to adjourn, we have only to extend the time. The President, when he finds that we have fixed a day of adjournment, receives notice that we desire to have from him all the communications that he thinks proper to make to us, and he will have ample time to do it. One day will suffice to transact all the business that is before the Senate and all that is to come in; that is to say, if it can be done at all. If the President will not send us nominations that we will confirm, and we will not confirm those that are sent to us, we may stay here forever without finishing the business; but if any accommodation can be arrived at between the two departments it can be done in one day just as well as it can be done in a month. I hope we shall fix a day of adjournment. If we find that it is necessary to remain longer every Senator will be ready to postpone the day; I certainly shall be.

Mr. WILLIAMS. I concur in the view expressed by the Senator from Rhode Island that the proper mode to expedite business is to fix a time for an adjournment. I do not undertake to say what the fact is; but it is possible that nominations may be withheld by the President until it is ascertained that the Senate is about to adjourn, when those nominations will be sent into the Senate, and the Senate will be put to the necessity of rejecting those nominations, leaving the offices vacant, or confirming such as the President may send to us. Now, sir, it is manifest that nominations are sent here every day that might have been sent in weeks and months ago, and there may be nominations that will be sent in on the day we fix for an adjournment. If that is the policy—I do not undertake to say whether it is or not—but if it should be the policy on the part of the President, then I think we had better fix a time when we will adjourn, and that will bring those nominations to the Senate, and then, if in the judgment of the Senate it be necessary to continue the session for the purpose of considering those nominations, or of securing others in place of those we may reject, the Senate can protract the session. But, as has been suggested, unless we do come to some agreement about the time of adjournment, Senators will drop off one by one; there will be no quorum here in a very few days; and much of the business will be left in an unfinished condition that might possibly be finished if the Senate should conclude to adjourn at some given time. If we fix a day, and on that day the President should send nominations to fill all the vacant offices, it may then be the judgment of the Senate that the interests of the country require us to advise and consent to all of those nominations, irrespective of their political complexion and character, and so fill all the offices in the country, and give to the President that power which he

seems endeavoring to exercise, and that is to fill those places with men of his own political party.

I think that our true policy is to agree upon some day for an adjournment. That certainly does not put it beyond the power of the Senate to extend the time if necessary. My impression is that Senators will be induced to remain if there is a prospect that the session will terminate within two or three days. Senators who now propose to leave may remain until the expiration of that time; but if there is no knowing how long this session is to continue, if it is to drag its slow length along here from week to week, and we receive half a dozen nominations a day, there are Senators who do not conceive it to be their duty to remain here under such circumstances, and who believe that the responsibility, if these offices are not filled, will rest upon the power whose duty it has been to make the nominations in due time, and not wait until the last day in the afternoon for the purpose of compelling the Senate to sanction such nominations as may suit the feelings of the Executive. I hope that we shall agree upon some time of adjournment.

Mr. FRELINGHUYSEN. It seems to me that there would be a serious difficulty if we should fix say Monday for adjournment and a large number of nominations should be sent in on Monday which we did not approve of. We might not have the ability to extend the time. There might be no quorum here.

Mr. ANTHONY. Then we could not act on nominations.

Mr. FRELINGHUYSEN. Oh, yes.

Mr. ANTHONY. Without a quorum?

Mr. FRELINGHUYSEN. We might if there was no question raised.

Mr. ANTHONY. There would be as likely to be a question on the nominations as on the extension of the time. Undoubtedly there would be a question on the nominations.

Mr. FRELINGHUYSEN. I think then it is very clear that our true plan is to fix no time, but to stay here until we discharge our duties, until the offices are filled with good men, if it is a month or three months, and we can adjourn when our business is done on five minutes notice. I do not like, for one, to put myself in the position that we are to leave the offices on a given hour and a given day either vacant or fill them with just such nominees as are sent to us by the President. I think the resolution offered by the Senator from Maine is very judicious.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, [Mr. SUMNER,] to postpone the further consideration of the resolution until to-morrow.

The motion was not agreed to; there being on a division—ayes 14, noes 17.

Mr. FESSENDEN. I move to amend the resolution by striking out Saturday and inserting Tuesday.

The PRESIDENT *pro tempore*. There is an amendment pending.

Mr. FESSENDEN. What is the amendment?

The PRESIDENT *pro tempore*. To strike out "Saturday, the 15th instant," and insert "Monday, the 15th instant."

Mr. FESSENDEN. Who made that motion?

Mr. STEWART. I made that motion.

Mr. FESSENDEN. Will you not say Tuesday?

Mr. STEWART. I am willing to make it Wednesday.

Mr. FESSENDEN. We can continue it to Wednesday, if necessary.

Mr. STEWART. Very well; I will say Tuesday, the 16th instant, at four o'clock.

Mr. FESSENDEN. I do not think we can safely fix on Monday.

The PRESIDENT *pro tempore*. The Senator from Nevada modifies his amendment by proposing Tuesday next at four o'clock.

Mr. ANTHONY. Whatever day we fix, we shall probably have to extend the time a

day or two. I think we had better fix Monday. We can extend the time if necessary. Nobody will be opposed to extending it if it is necessary to do so. If we have not a quorum to extend the day, we certainly shall not have a quorum to transact business on controverted questions. I do not suppose the nominations to come in will be confirmed unanimously.

Mr. FESSENDEN. My reason for suggesting Tuesday is this: we cannot very well tell to-morrow, Saturday, what the state of the business will be; we can tell a great deal better on Monday; and it will be necessary to give notice or offer the resolution for an extension of the session a day beforehand. Otherwise, it would be in the power of any one Senator to prevent an extension of the time. We shall be in a better condition to know whether it is advisable to extend it on Monday than Saturday. I am myself satisfied, having taken some pains to inquire, that we cannot probably finish the business earlier than Monday, and it may go over till Tuesday. In reference to that fact of being obliged to make the motion a day beforehand in order to secure an extension of the time so that it may be within the control of the Senate, I think we had better fix it on Tuesday. If we get through with the business on Monday we can adjourn, as has been remarked, in five minutes. There will be no trouble in changing it in that way. I think Tuesday would be a better day, and especially when we consider the fact, which we ought to take into consideration, that it is very well known that the President has been very unwell for several days, and we ought not to manifest a disposition to push him unreasonably with reference to this matter.

Mr. ANTHONY. Make it Tuesday, then.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Nevada, to make the time of adjournment Tuesday next at four o'clock.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the resolution as amended.

Mr. SUMNER. Now, I think this resolution had better be passed over for the present, and that the Senate should take up and adopt the resolution of which the Senator from Maine [Mr. MORRILL] has given notice, and which is not now strictly before the Senate. Let us adopt that as a preliminary proceeding; send the message directly by that resolution to the President, and give him an opportunity to communicate to the Senate his desires. It seems to me that that will be courteous, and it will be doing on our part all that we can in order to complete our work. I do fear that if we adopt a resolution which positively fixes a time of adjournment we shall be in the condition which the Senator from Oregon has described, and which he did not seem very much, I confess, to deprecate, of being obliged at the last moment to accept nominations of the President, which otherwise we would reject. Now, I am disposed to stay here just as long as may be needed in order to reject every improper nomination, if it be all summer; and I think that is our duty. We all know that the President began a policy which he announced in his own expressive terms as one of "kicking out of office." We have endeavored to arrest that so far as we could, not always successfully, but to a certain degree we have succeeded. I am not disposed at the last moment to surrender the power that we have under the Constitution and allow him to "kick out of office" if I can help it. I will prevent any such proceeding on his part down to the last moment; and I will stay here just as long as is needed for that purpose. I hope, therefore, that the Senate will not yet adopt the resolution, even in its amended form, but that it will take up rather the proposition of the Senator from Maine.

Mr. ANTHONY. If by staying here any length of time we should have any power to compel the President to send in nominations to suit us I would stay; but when we have rejected from one to ten successive nomina-

tions for the same office, and the tenth man is just as exceptionable as the first, it seems to me we may remain here until the next regular session and be just where we are now. We do not make any progress by remaining here.

Mr. SUMNER. We have made great progress every day.

Mr. ANTHONY. I have not been able to see it.

Mr. FESSENDEN. Oh, yes, we confirm the largest portion of those sent in.

Mr. ANTHONY. We have always confirmed the largest portion of those sent in.

Mr. FESSENDEN. Then the number is lessening from day to day.

Mr. HENDERSON. The Senator from Massachusetts thinks we ought to pass over the resolution proposing an adjournment to take up the resolution suggested by the Senator from Maine, [Mr. MORRILL.] I really see no objection to acting first upon the resolution of adjournment and then acting upon the resolution offered by the Senator from Maine. There is nothing inconsistent between them, the one with the other. I think it would be altogether proper, after we have fixed a day for adjourning, to notify the President that we have fixed that day and ask of him to make such communications to us as he desires to make in the mean time.

Now, sir, I feel that there are a great many offices yet to be filled, and that it is absolutely essential for us to take the responsibility of filling them; and so far as I am concerned I have consistently voted, and intend to do so, for men disagreeing with me in politics, provided I think they are honest, capable, and faithful. I shall not put any obstacle myself in the way of filling these offices. There are some names in my State for which I cannot and will not vote.

It behooves us to say that we wish to adjourn. It will be utterly impossible, as has been remarked by Senators before me, to keep a quorum here much longer, and we ought to fix a day in order that the heads of Departments may know that we intend to adjourn. There is as much responsibility upon those Departments as there is upon the Senate. We must operate together, we must cooperate in order to fill these offices. The Senate has no power to fill them without the nomination of the President; and the President must send names to us, if he desires the offices to be filled at all, for which we can vote. I presume that no very great objection will be made to men on account simply of their politics. There are some very obnoxious men who cannot be voted for by the Senate; and so far as I am concerned I am willing, and will take the responsibility of saying, that the offices may remain vacant rather than vote for them. But there are but very few cases of that sort that I know of. Instead of returning to us names three or four times and asking us to reject them as many times, if the Departments would go to work and hunt up different names and send them to the Senate I think that in the course of a very short time the offices could be filled. I do not know how it is in other States, but in my own State the same name has been sent some two, three, or four times to the Senate, and we have been compelled as often to reject it. Now, there must be an end of this thing. It is unnecessary for the Senate to remain here for the purpose simply of repeating that operation from day to day. Let other names be sent, and speedily sent; as I understand it, when a rejection is made the President is informed of the matter immediately upon the same day, under a change of the rule; and in the course of a very short time the offices can be filled, if there is a desire on the part of the executive department to cooperate with the Senate in filling them.

Between now and Tuesday next it seems to me almost all the offices can be filled. We learn that there are not a great many of them. After we shall have fixed Tuesday for an adjournment, then let us pass the resolution of the

Senator from Maine and notify the President that we have fixed that time, by a little alteration, and desire that any communications he may have with the Senate shall be made previous to the time indicated by us. Let him send in the communications in time for us to act upon them before the day we may fix. If we remain here from day to day I suppose the President will come to the conclusion that we are just as willing to remain as he is to spend time in sending in perhaps the same names from day to day. I think we should come to some conclusion. We cannot keep a quorum here much longer, as I have said before. We shall dwindle down until the Senate will be compelled to disperse. The President ought to be notified of that fact; and Tuesday it seems to me is the very latest day that we shall be able to keep a quorum here. It is unnecessary for Senators to say that it is our duty to remain. Sir, this is the second or third week of this session, and it is high time that these offices were filled; and between now and Tuesday it strikes me all of them can be filled, where there is any likelihood of cooperation between the President and Senate; and if there is to be a dead-lock between us in regard to certain offices, let that dead-lock take place between now and next Tuesday. Let it be distinctly understood.

Mr. ANTHONY. They never will be filled as long as we remain here.

Mr. HENDERSON. I think not.

Mr. ANTHONY. The Senate and the President will never agree.

Mr. HENDERSON. I do not see that we are coming nearer to a conclusion at all, except that we are confirming certain nominations that perhaps we could have confirmed long ago. We are confirming certain nominations in districts where there is no especial controversy.

Mr. CONKLING. I do not quite agree with the Senator from Missouri that there is nothing inconsistent in passing a resolution fixing a period to this session, and then calling upon the President after that for information which would be likely to show us at what time we might properly adjourn. It seems to me that such a resolution, after fixing a period at which we would adjourn, would be substantially calling for the evidence after deciding the cause.

I should be glad, for one, to see such a communication as the Senator from Maine proposes sent to the President, with an addition which I hope he will make, to the end that we may know, as far as he is willing to inform us, what occasion there is for prolonging the session. It will be a question of some interest to the country when the session is over, if vacancies remain, upon whom the responsibility of such a condition properly rests. I have no doubt myself where it belongs; and I have no idea that it belongs to this body. For months the Senate has been here with every opportunity to the President to make nominations. For months offices have stood vacant. Commissions were issued in the former vacation, which expired on the 4th of March last, and in some instances, one in particular that I remember, never until yesterday was a nomination made. Nobody is responsible for that but the President of the United States, and nobody but he is responsible for the fact that now, day by day, in driplets, six or eight or ten names come in here, rumor informing us all the time that hundreds of offices perhaps are vacant. I believe there is no reason why by Monday every nomination may not be before us. I know of instances where agreements have been made, as far as such a thing is the subject of agreement between all parties, recognized and unrecognized by the Administration, made days ago, and names presented to which nobody objected; still they do not come here at all; but the Senate sits like the man who waited for the river to roll by that he might go on dry foot.

Now, sir, I should be glad, in place of a resolution of adjournment, that we might pass such a resolution as the Senator from Maine pro-

poses, with a modification to the end that the country may know that having waited here, in substance, four or five months, the President, for some reason, would not in many cases send any name at all, proper or improper; that in other cases a name having been rejected it was returned again; rejected a second time it came back, and finally when that was dropped other names of an exceptionable character were sent here. I think it is important that the country should know precisely where the responsibility is as well as I think I know where it is.

One other word. Like the Senator from Massachusetts, I shall be very glad, despite convenience and despite personal necessity of any kind, to sit here, no matter how long so that in truth it is proved to be necessary to stay so long in order to thwart the organized attempt which has been made to put up what is called the public patronage to be raffled for and won by those men who are ready to desert their principles and trample their convictions under foot, to the end, as it was elegantly expressed, that they might eat the President's bread and butter. That is an issue which I, too, am ready to stay and try out.

Now, I hope that we shall fix no time at this moment to adjourn; but, omitting to do that, that we shall acquaint the President with the fact that we sit here, with little or nothing to do, waiting for him, while rumor informs us that many vacancies exist, and no pains is taken to see that they are filled.

Mr. YATES. An appointment cannot be complete without the concurrence of the Executive and the Senate. It is the duty of the Executive to nominate, but that nomination is not complete until the Senate has exercised a duty equally independent, and that is the duty of consenting to that nomination. In this regard the Senate occupies a position quite as independent as the President of the United States. Now, sir, if the President of the United States would consult and advise with the Senators from the particular States there would be no difficulty whatever with regard to nominations; but he persistently, and for party purposes, appoints men of his own political faith, and without regard to the nominations of the Senators. In the district in which I reside he has sent here name after name of men who are objectionable, who are obnoxious on account of the position they occupy before the country and the position they have occupied in regard to the prosecution of the war. He has all the time persistently refused to adopt the nominations of the Senators. Now, sir, with whom is the responsibility? If he would exercise his duty and consult with the Senators, if he would have their advice and consent, he could send in nominations which we might confirm and sanction at once. Are we to sit here all summer, and have names sent in here, as in the district in which I reside, name after name, until the number may be one hundred, as it is some fifteen or twenty, I believe, in that district, and wait until the President shall see fit to consult with and advise with the Senate upon these nominations?

Gentlemen talk about responsibility. The responsibility is plain; it is marked. The President does not consult with the Senators from the different States, nor does he consult the wishes of the Senate here assembled, but persists in sending in men who are known for their advocacy of the Johnson policy and not of the policy of the Senate. I say that we have the same right to reject that he has to appoint. If he refuses to send in names which are acceptable to the Senate, and I might say acceptable to the majority of the Senate, is it our duty, at the public expense, to sit here in our places and wait for those nominations, objectionable as they are, from day to day and from week to week? Sir, the responsibility is with the President. The Senate should wait a reasonable time, as it has already waited, and then let the responsibility attach to where it properly belongs.

I am, therefore, in favor of fixing a day for

an adjournment. That of itself will be sufficient notice to the President that we do not intend here to abide his executive pleasure alone, but that we have proposed to have some part as the advisory body in saying who shall be the officers who are to fill the offices in the country. I have no doubt about the course that we ought to pursue. It should be not only our pleasure, but it is our duty, to fix a period when this session shall terminate, when the people shall know that Congress has finally adjourned, and that the President himself shall be advised that we cannot await his pleasure all the time, receiving a few nominations a day, five or six, when there are hundreds to be nominated. Are we to await his pleasure? I should be willing to wait if I thought he was sick, and honestly sick, all the time; but that is not the plea which is urged. Because we will not abide his dictation, because we will not indorse his nominations made from day to day, therefore the responsibility is to attach to the Senate! I repudiate the doctrine. We ought to fix upon a time for adjournment, notify the President, and stand before the country on the issue.

Mr. HOWE. I thought yesterday that the Senate ought to fix upon a time for adjourning; I thought so the day before; and I said so on both days. I am not so sure that I was right. I learn there is a preliminary question to be settled, and that is, whether the Senate has the power of adjourning. I understand that we are here waiting upon the President; we are here because he told us to come here; and we are to stay here until he tells us we may leave. I do not know that this is not the fact, and that my friend from Maine is not right in proposing to ask the President whether there is really any necessity for our staying here any longer or not. I do not learn that this is the view of the President himself. I have no authority for saying that. But my attention has been called this morning to an article in the National Intelligencer. It is a newspaper which I believe supports the President's views. Whether the President supports its views or not I am not informed; but the article is entitled "The President and the Senate," and it reads:

"The President may, on extraordinary occasions, convene both Houses, or either of them. The Senate, as a branch of the executive power, has been often convened in special session for the purpose of acting upon nominations or treaties to be communicated to them. The President may, at his pleasure, call the Senate at any time, and to meet him at any place. President Jackson, for instance, could have summoned the Senate to meet at the 'Hermitage'."

"The Senate, when called by proclamation, is called 'for grave and weighty reasons.' When the business of the Senate is disposed of, it is usual for the body to adopt a resolution appointing a committee to wait on the President and inform him that they are ready to adjourn, unless he has some further communication to make."

"The Senate, in its present session, was specially called, and for special purposes. Those purposes have not been accomplished. The President has sent in nominations to fill the vacancies in numerous important offices, and the Senate has, in most instances, rejected them on mere party grounds. The President cannot well permit?"

I wish the Senate would listen. I do not believe they understand this—

"The President cannot well permit the Senate to leave such 'grave and weighty' matters unfinished. He cannot cease to discharge his own duties because they refuse to perform theirs."

Now, how far this is to be regarded as an official communication, I am sure it is not for me to say. Perhaps my friend from Connecticut could inform us on that point.

Mr. DIXON. As the Senator has referred to me, I will inquire whether any name is attached to that article?

Mr. HOWE. No, sir; there is none. There are quite a number of articles here to which no name is attached.

Mr. DIXON. Then, I take it, it is not official.

Mr. HOWE. Here we are informed that the President will not permit us to leave at present; that we have not done our business; that he has further occasion for our services here, and we cannot go home because he will not let us. Now, I think if this is so the Senator from Massachusetts must be right, and we

ought to lay aside this motion to adjourn and this talk about adjourning, and take up the resolution of the Senator from Maine and alter it a little. I think it is rather rough, rather harsh, as now expressed. Let us reform it into a simple and respectful inquiry whether the President has any serious objections to our going home at present; or if so, when he will be graciously pleased to let us go home.

[Laughter.] We should get then precisely the information that I want myself, because that is what I am anxious for, to know when I may go home; and that will get us the information which this newspaper thinks we must have before we can get away without a revolutionary proceeding on our part. I am opposed to revolutions here or elsewhere. I am a law-and-order man myself. If the law requires me to stay here as long as it suits the pleasure of the President of the United States you will see me staying, a happy, if not a contented man. But it is the point of law that I wish settled. I will give way to my friend from Connecticut to settle it.

Mr. DIXON. The Senator from Wisconsin [Mr. Howe] yesterday, with that candor which always adorns everything he says, said that if he were President of the United States he would have done precisely what the President has done with regard to removals from office. He said that the President had a perfect right to do it; and that he should have done it if he had been in his place. I was particularly struck by it at the time, and I proposed to reply to it then. He said the President had done what he would do under the same circumstances, and in fact it was justifiable. There was a little inconsistency between that and what the Senator said nearly a year ago, when he invented, I might almost say, a phrase when he spoke of the "bread-and-butter brigade," and denounced the idea that anybody should be appointed to office merely with reference to his political views.

Now, sir, there was a great deal of truth in what the Senator said yesterday. The Senator was in many respects right. No doubt he would have done precisely the same thing; and I have no doubt almost every Senator would have done the same thing—appointed officers who agreed with him in sentiment. At any rate, this Senate has followed that rule pretty thoroughly in all its proceedings, in its committees, in its appointments of executive officers connected with the Senate, and in all respects, and in confirmations. One Senator has avowed here the determination—the Senator from Massachusetts, now absent, [Mr. WILSON,] and his colleague has also justified and approved it—that he would consent to the appointment of no man in his own State who did not agree with him in political sentiment; and he has said somewhat boastfully that by insisting upon that rule he had procured the appointment in the State of Massachusetts in every single instance of radical Republicans.

After the Senator from Wisconsin had declared that the President had only done what was right, and what he would have done under the same circumstances, the Senator from Maine, [Mr. FESSENDEN,] with the candor which also illustrates everything that he says, announced to the Senate that the President had some rights as well as the Senate. It seemed to surprise the Senate to a certain extent to hear from that distinguished Senator such an enunciation. He stated that the President had a right to nominate whom he pleased; I believe, without any qualification whatever, or possibly with a qualification, that he nominated men who were not obviously and palpably unfit—

Mr. FESSENDEN. A constitutional right.

Mr. DIXON. He had a constitutional right to act according to his own discretion; in short, precisely the same right that the Senate has with regard to confirmations. Whatever right the Senate has with regard to a discretion upon a confirmation the President has as to a discretion on a nomination. I believe the language of the Constitution is that the President of the United States may nominate and, with

the advice and consent of the Senate, appoint certain officers. Must he consult the Senate on the nomination? Not at all. He may nominate whom he pleases, but until the advice and consent of the Senate is given he cannot appoint. The appointment is incomplete; the nomination falls to the ground unless the Senate consent to it.

Now, sir, there is a great deal said about the Senate going away and leaving their duties here unfinished because they cannot agree in the President's nominations. The President might just as well say that he would leave. He would have just as good a right to say that he would leave the White House and go off on some journey. What do the people care about our convenience? Our business is to stay here. This is our place. Here is our duty. Suppose the President of the United States should say to us that now being somewhat out of health, he desired to take a pleasure trip, he wished to take a voyage to recruit his health, and therefore complained of us because we kept him here. He would have as good a right to do it as we have to complain of him. I doubt very much whether very great sympathy will be excited in the minds of the people for this suffering Senate. We have voted ourselves a permanent salary of \$5,000 a year. Let us stay here and earn it if we possibly can. I agree that while both Houses of Congress were in session there was some anxiety expressed on the part of some lest we should do some harm; but since we are powerless as to legislation I have seen nothing of that kind. My friend from Nevada [Mr. NYE] expressed a fear that we should do harm if we stayed twenty-four hours longer. He intimated, with an irony which distinguishes him as much as candor does my friend from Wisconsin, that he thought we had better adjourn lest in twenty-four hours we might ruin the country.

Now, sir, let us stay here. Let us perform our duty. The President is performing his. He is sending in nominations every day. One Senator has stated that he has sent them in in dribbles. He is obliged to do so. He cannot nominate them all at once, especially when he finds this body so fastidious and so particular as to the character of the men. He has sent in hundreds who have been rejected. He has sent here the names of distinguished officers, men who have fought and bled for the country, while we have been reclining at ease here in our seats, and we have rejected them merely for political reasons. Under those circumstances I think the President is justified in being somewhat slow and somewhat cautious in sending in names to us.

The Senator from Wisconsin has read from the Intelligencer an article which says that the President cannot permit us to leave. There is no doubt that the President has power with regard to that. The Constitution gives him the right to call us together; and I am inclined to think that if we fix a day to adjourn next week, and do adjourn, he will then have a right to call us together, if he should find a hundred or a thousand vacancies in offices, especially since we have passed a law that there can be no active employment of a man after his rejection without a penalty. I am not certain that he would not have the right, and that it would not be his duty to recall us. Suppose he should do it; I do not know that he thinks of such a thing—

Mr. HOWE. But is the Senator advised as to what he will do in case he calls and we do not come?

Mr. DIXON. He may "call spirits from the vasty deep," "but will they come?" Suppose we had not come when he called us last week. Suppose we had gone away. He told us that there was important business, that there were weighty matters requiring our attention. We have decided by a vote, according to the papers—I do not know whether it is so or not—of 37 to 2 upon a certain question that he submitted to us, a weighty question; a question involving the acquisition of sixty such States as Massachusetts in size



in point of territory, nearly four hundred thousand square miles of territory. That was one of the subjects.

Mr. HOWE. There is no difference of opinion between my friend and myself that there has been important business for us to attend to. The Senate agreed to that. The Senate answered the President's proclamation convening us. But suppose the Senate should come to the conclusion next week or month that there was no longer any important business requiring their staying here, and the President should still think we had not done our business, and would order us, as this paper suggests, still to stay, and we should choose to leave, what would the President do? The Senator thinks he has power to do it.

Mr. DIXON. That order will be precisely like the order for the other session in its legal character and effect. We could treat it just as we did that, or in any other way. He has just as good a right to issue such a proclamation now as then. It is for his discretion to say whether weighty matters do require our attention. If he thinks so, I suppose he has a right to issue a proclamation to that effect. At any rate, other Presidents have done so, and I do not believe the Senator will suggest an impeachment on that ground.

Mr. HOWE. Not at all, on his issuing a proclamation; but it is the effect of the proclamation. The Senator will comprehend my difficulty. The question is whether I may go home if the Senate vote that I may. That is the point.

Mr. DIXON. If the President sees fit to issue a proclamation inviting our attendance, and the Senator goes home, he will go on his own responsibility, and not ask me whether he has a right to do so. He must judge for himself in regard to that. I know what I should do. If I were, as at present, in a good state of health, I should come here. If I did not come here, I should ask the Senate to excuse me. I should not go to the President for an excuse, but to the Senate. If the Senator wishes to go home and practice law in Wisconsin—I have no doubt there are many clients waiting his attention—or to attend to important business, or if he wishes to go on an excursion to the West, I should respectfully recommend him to ask the consent of the Senate in such an event.

But, sir, we refuse to confirm nominations, and then we complain of the President, and say we must go home by a certain day. The truth of it is just here in a nutshell: the President has a right to nominate whom he pleases; he is not bound to render any reason for his nominations. We have a right to reject whom we please; and as long as we take it upon ourselves to reject nominations which are sent here by the President of the United States, our bounden duty is to stay and receive other nominations. We know when we reject a nomination that the President is bound to send in another name for that office. We are bound to stay and act upon it. In my judgment, if we keep on refusing to confirm nominations, as we have done, we ought to stay here all summer to receive others, and not complain of the President.

Mr. ANTHONY. I suppose I am responsible for bringing on this debate, as I called up this resolution. I have no doubt if we remain here longer than the time indicated for the adjournment in this resolution, as amended, we shall break up for want of a quorum, and then it will be impossible for us to transact the business which we can transact if we fix a day and notify the President, so that he may send in nominations. But so many Senators prefer the former course that I move that the Senate proceed to the consideration of executive business. ["Oh, no."]

The PRESIDENT *pro tempore*. The first question will be upon that motion.

Mr. SUMNER and Mr. MORTON called for the yeas and nays; and they were ordered.

Mr. FERRY. It does seem to me that the decision of this question, after all, is but a mat-

ter of plain practical common sense. We know substantially what we are here for, what we are to wait here for; that is to ratify certain nominations which the President is expected to make. We know, too, that if those nominations are made they can be made in a very brief space of time, and that our action upon them will take but a very brief space of time. It seems to be agreed that there is time enough between to-day and next Tuesday both to make the nominations and to act upon them; and therefore it has seemed to me from the beginning better that we should fix a period by which time the work before us can be done, to operate as a notification to the Executive that we are prepared to do that work; and then if he fails of his duty let us adjourn and go home, and the country will find out where the responsibility lies, where it properly belongs. To hold that we are bound to stay here all summer, when the real practical work to be done both by the Executive and Senate is that which we all know can be accomplished in this short space of time, is to talk absurdly.

I hope that the Senate will not go into executive session at present, but that we shall dispose of this matter, and pass this resolution to adjourn next Tuesday. Then if the nominations come in, I should not be prepared to say that I would vote to reject nominations of capable men simply upon the ground of political differences, in the present condition of the country. Let us do that which is necessary for carrying on the business of the country; confirm suitable and capable men for such offices as must be filled for the purpose of the collection of the revenues and other great purposes which must be accomplished during the recess. I hope the Senate will not go into executive session.

Mr. MORRILL, of Vermont. Mr. President, the fact that the Senate can consume, on successive days, hours in the discussion of a question of adjournment shows conclusively that we have reached the dregs of the session, and proves to my mind, at all events, that we may adjourn very speedily without any great detriment to the public interests. We came here, and it was not anticipated I presume by any Senator that we should be detained more than ten or twelve days, and yet we have been here for a much longer period. I am anxious, for one, to put a spur in the Executive and a spur in the Senate, for I believe there is no Senator who remains here with greater personal inconvenience than I do, and yet it has not been my purpose to desert my place here as long as I could be useful, or as long as I thought any Senator could be useful. Now, it strikes me that if we pass a resolution fixing the time of adjournment it is a notice to the President and also a notice to ourselves that we will perform our duties in the most expeditious manner possible.

I am not in favor of the resolution of the Senator from Maine. I do not propose, for one, to ask the President whether it is consistent with the public interests for us to adjourn or not. I should be quite willing to inform the President that we had fixed a day upon which we proposed to adjourn, and ask if he had any further communications to make, or something of that character. I trust, therefore, that we shall agree to adjourn certainly as early as Tuesday, and I would prefer Monday. I think that we can perform all of our legitimate duties by that time. If there is any responsibility about any vacancies, we know, and the country well knows, where the responsibility lies.

Mr. CHANDLER. When the proposition was before Congress to adjourn I opposed it both by my votes and my advocacy. I was opposed to the adjournment of Congress. While Congress was in session we had a remedy for any ill that might befall us; but the Senate is powerless. I notice that the men who were the most anxious to adjourn Congress are the men most opposed now to adjourning the Senate. I believe that is so without a single exception; the men who voted

every time to adjourn Congress now vote every time to keep the Senate in session.

Mr. ANTHONY. You must make an exception of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. CHANDLER. That Senator is a little erratic in this instance, and I will make an exception in his case. [Laughter.]

Now, sir, the Senator from Connecticut [Mr. Dixon] says that any and every Senator would do precisely as the President is doing in regard to appointments and removals from office. Let the Senator decide for himself. I do not think that every Senator if elected by a political party would turn traitor to that party and nominate its enemies to office. The Senator might, but not every Senator on this floor. He speaks for himself, and I have no doubt he speaks truly for himself; but I wish to take myself out from that catalogue, and I would fain believe a large majority of the members of this body. Sir, there are very few men here who would turn traitors to a party that elected them, not to say at the same time traitors to their country.

Mr. President, every hour that we defer the adoption of this resolution extends this session by that identical hour. Yesterday we could have passed a resolution, and it would have been just as efficient, to adjourn on Monday, as will be the resolution of to-day to adjourn on Tuesday. Let us postpone it until to-morrow, and it will be delayed to Wednesday. Let us postpone it until next Monday, and it will still be another day behind. All we have to do is to notify the President that we mean to leave on such a day, and that he may send in such nominations as he deems fit before that day arrives; and if they are proper and suitable men we will confirm them, and if they are not we will not. I have no idea of staying here all summer to reject Copperheads and traitors, as he may see fit to send them in, or bread-and-butter men. We have rejected in some instances as many as five or six or seven or eight sets, and I am willing to reject fifteen or twenty if he will send them in fast enough; but I will not stay here all summer waiting his pleasure to send them in. As I said yesterday, he knows just exactly how to have every one of these offices filled. They were filled by Mr. Lincoln with good, responsible, reliable Union Republicans. Those responsible, reliable Union Republicans were removed by Andrew Johnson to make place for unreliable, irresponsible Copperheads in most cases, or bread-and-butter men, who are worse, in all the rest of the cases.

Now, sir, I am willing to give him until next Tuesday. It is a day too long. I should prefer to have passed the original resolution to adjourn last Wednesday, and I would rather pass it now without any amendment. I hope that we shall not go into executive session or do any other given thing until we settle this question of adjournment. I hope we shall remain in open session until the day is fixed, and I shall vote for the earliest day proposed, if it be to-morrow at twelve o'clock.

Mr. CRAGIN. Mr. President, I am quite as anxious to adjourn as any other Senator present, I believe; but it strikes me that before we can fix a time of adjournment, or before we should fix a time or say anything about it, we should clear the Calendar; we should do the business that the President has already sent us to do. The President called us together on the 1st of April. He said there was occasion for an extraordinary session of the Senate. This he had a right to do by the Constitution. This is the eleventh day that we have been in session here. So far as my knowledge goes at an extraordinary session of the Senate there has never been a day fixed for adjournment by the Senate until a committee has been appointed to wait upon the President to know if he has any further communication to make to the Senate. It is not like a session of Congress, when we can adjourn at any time. Suppose that we should agree to adjourn next Tuesday or Wednesday and the business was

not finished; the President could, by proclamation, call us together the very next day. I have before me the resolution that was passed two years ago upon this subject, and wish simply to read it. It is a resolution introduced by Mr. Lane, of Kansas, at the called session of the Senate in March, 1865:

*"Resolved, That a committee consisting of two members be appointed to wait upon the President of the United States, and inform him that unless he have some further communication to make the Senate is ready to close its present session by an adjournment sine die."*

If we are ready to adopt such a resolution as that to-day, I am willing to vote for it; but unless we are I am opposed to fixing any time for adjournment. I am in favor of going on with our business until we have closed it, and then we can adopt such a resolution as this. I am in favor of going into executive session now.

Mr. DOOLITTLE. I think my honorable friend from New Hampshire will find that that is the resolution that is always passed previous to an adjournment, although the day has been previously fixed by a resolution of the body or a resolution of Congress. A day is fixed, and as we approach the hour we then formally send a committee to the President informing him that unless there be other business to detain us we are about to adjourn, and communicate by this committee with the President upon that subject, and they return and inform the body that the President has no further communications to make, and then the adjournment occurs. I do not think that that resolution is a precedent to control us in this matter at all. I agree entirely with those gentlemen who say it is advisable for us to fix some day of adjournment; fix it sufficiently far in advance, if you please; but let the day when we desire to bring the session to a termination be named. Then, as a matter of course, if the President, just before the session came to a termination, should have any important business to communicate, by informing the Senate of that fact we could repeal or extend the time of adjournment. But we should fix some day by way of notice to the President that we desire to come to a termination on a certain day, and it will aid us in approaching the termination and settlement of all this business.

While I am up, I desire to say, once for all, a single word in relation to the policy pursued on the subject of appointments to office. It is only in very extreme cases, I believe, that the Senate of the United States in its whole history has ever rejected men who have been nominated for appointments to office by the President upon political ground. When a man is nominated the simple question to be considered by the Senate has almost always been whether he is fit for the office, whether he has capacity for the office and can discharge the duties of the office, and subserve the public interests.

But it is said that we are now in an extraordinary position of affairs. Sir, I admit that the case now existing is somewhat extraordinary; but I do not think that there is anything in this case, extraordinary as it is, which justifies the Senate in the course which has been urged by some, I do not say by all, that they should reject men for their political opinions. It is well known that there has arisen a difference of opinion among those persons who elected Lincoln and Johnson to the Presidency and Vice Presidency in 1864. In that difference of opinion these gentlemen are just as sincere upon the one side as the other. I do not charge upon men who differ with me that they are traitors. I do not charge that they are dishonest or dishonorable, that their motives are not patriotic, that they are not sincere, that they are not earnest. What I accede and accord to them I simply claim for myself; and I believe to-day that although a difference of opinion has arisen between Mr. Johnson and a majority of the members of this body on the great question of reconstruction, Mr. Johnson is just as honest, just as sincere, just as patriotic, and would make just

as much personal sacrifice, even to the sacrifice of his life, if it were necessary, as any Senator on this floor. I believe that he is just as earnest and as honest. You may say he is mistaken, if you please; you may say that he has erred in not traveling with you in this new progress, in the direction of a new policy.

Sir, it is but a very short time ago that the Senator from Massachusetts, [Mr. SUMNER,] the present occupant of the chair, and three or four other gentlemen now acting with the majority, stood alone in favor of this new policy; the majority stood where I now stand. But, sir, I do not complain of other men, because they are now satisfied that their former position was wrong. They may believe that I am wrong, that the President is wrong in standing where we have stood in our views of the true policy of reconstruction. They have a right to their opinion as well as I have to mine. They are perfectly sincere and honest, I have no doubt; and I claim the same for myself and for the President of the United States. I have never seen anything to shake my confidence in his entire sincerity, that he is perfectly patriotic and sincere in the purposes and the principles which he has avowed.

Sir, I stand not here to bandy epithets with any Senator, although the Senator from Michigan very often talks about men being traitors to their party, traitors to their principles, when they are just as sincere as he, and when in their convictions and in the course they pursue they are ready to defend them, here or elsewhere, on this occasion and on every other. While I question not his sincerity, while I do not charge him with being a traitor to his party or a traitor to his principles, I shall be prepared to maintain and to show as I think that the Senator from Michigan and those who act with him have changed their position. I do not now say they have taken a wrong position. I am not arguing that, but they have changed their position. They have taken what they call perhaps an advanced position. They have made progress perhaps when I have not made it. But, sir, because I have not made progress, that I have betrayed the ground on which I stood does not follow at all. You may say that I have not kept pace with others who stood with me then; but because I stand upon the principles upon which I fought the great battle to put down this rebellion, as I understand them, because I stand fighting for the Constitution and its supremacy, because I believe that reconstruction could be made under the Constitution which our fathers gave us, I am not to be denounced, nor are those who act with me to be denounced, as being traitors to our cause or traitors to our principles.

Without arguing this question, in a single word I can state the precise difference between the policy of the Administration and the policy of the majority here. The policy of the Administration has been reconstruction under the Constitution. You, the majority, say, "Reconstruction cannot be made under the Constitution at all; we must have a new constitution to have any reconstruction." That is precisely what you say. You say nothing less than that. You say that under the Constitution as our fathers made it there shall never be any representation from the States of the South; there shall be a new Constitution; it shall be made over again; it shall be amended. I do not propose to go into the argument of that question. Perhaps you are right; perhaps I am wrong in all this; but I have been sincere in my convictions. Those who have acted with me have been as sincere in their convictions as those who have acted against me. I simply say this, and I go into the argument no further than to say that there is a difference of opinion, and that difference of opinion is honest and sincere.

Therefore, Mr. President, there being that difference of opinion which has arisen since the election of Mr. Johnson, it being conceded, as it must be, that he is just as sincere in his opinions as we are in ours, he is entitled to respect as President of the United States,

although he differs with us in opinion; and therefore, from the whole history of the Government, I say that the Senate has always paid that respect to the President in office that when he nominates men for positions which the Senate are called upon to confirm the Senate has always consulted the simple question whether they were men fit to fill the offices. I agree if a man is nominated who has changed his principles for the sake of getting an office he is not fit for any office; I do not care what pretense he may hold out. If he pretends that he is in favor of the policy of the President to get a nomination, or pretends to be in favor of the policy of Congress to get a confirmation, and that pretense is false, he is unfit for the position. I dislike a man who holds a double face. I want him to be frank and honest and have an opinion, and not profess one thing to-day and another thing to-morrow. I simply say this: that the Senate, in my judgment, is called upon in passing upon nominations to pass upon the question of fitness, integrity, capacity.

Mr. FESSENDEN. I should like to ask my friend a question if he has no objection.

Mr. DOOLITTLE. Certainly.

Mr. FESSENDEN. The Senator says he admits that a man who changes his position for the sake of office ought not to be confirmed.

Mr. DOOLITTLE. That is a question, in my mind, which goes to his integrity.

Mr. FESSENDEN. I will ask him what was the specific object of the celebrated letter, to which I think his name was attached, or if not it was franked by him very largely over the United States in all quarters, to office-holders, asking them to communicate the fact whether they agreed to the holding of the Philadelphia convention. What was the object which prompted that letter?

Mr. DOOLITTLE. That was a letter written to men known—

Mr. FESSENDEN. Office-holders.

Mr. DOOLITTLE. Not merely to office-holders. The letter was addressed to a great many persons to know what their views were in relation to the Philadelphia convention.

Mr. FESSENDEN. I was not aware, and I never heard of its being addressed to anybody who had been a member of the Republican party, excepting those holding office at the time. Certainly it was not sent to any others in our section of the country.

Mr. DOOLITTLE. I certainly do not know to what gentlemen the letter may have been sent after; it was published in circular form; but I knew the letter was addressed, so far as I was concerned, to men of distinction, men in office and men out of office; and the most important answer, or one of the most important I remember to have received, was a letter which I received from General Dix. Another that I received was from Mr. Alexander Mitchell, of Milwaukee, a distinguished citizen of our State, who never held an office or desired to hold an office.

I have answered the question of the honorable Senator frankly. Of course it is a question that I had no objection to his putting. If there is any implication in the question that I ever wrote a letter to an individual for the purpose of asking him to change his opinion for an office I simply say it is without any foundation whatever. I despise a man who will change his opinion for the sake of an office, or who in the Senate will make a speech one way and vote another. I want to see men true to their convictions and stand fast by them in good and in evil report, in sunshine and in storm. Those are the men that command my respect.

Having answered all that is necessary, I think, to the inquiry of the Senator, I will proceed with the few remarks I intended to submit to the Senate.

Mr. FESSENDEN. I should like to have the Senator state whether his remark, that he despised men who made speeches one way and voted the other, referred to me?

Mr. DOOLITTLE. Never.

Mr. FESSENDEN. I thought not. I did not think I belonged to that category.

Mr. DOOLITTLE. I have always respected the honorable Senator for being true to his convictions.

Mr. NYE. Will the Senator allow me to ask him a question?

Mr. DOOLITTLE. I think not. I did not rise for the purpose of being catechized. I see that my honorable friend is in an ironical vein, and therefore I decline.

Mr. NYE. I was only anxious that the honorable Senator should retain his own respect, by calling his attention to a certain fact.

Mr. DOOLITTLE. I see the irony upon my friend's face and I must decline.

I wish to say a single word so far as Wisconsin is concerned. I should not have said that had not my colleague made some allusion to it. I think my colleague has no right to complain of the appointments in Wisconsin, for I presume more than nine tenths of all nominated to office in Wisconsin have been Republicans who are supporting the policy of Congress, and did so last fall. There has been on the part of the appointing power in endeavoring to arrive at results in Wisconsin nothing of which my colleague or his friends have any right to complain. The complaint has been made altogether on the other side, because if you go into the particulars you will find that while there was an effort, it is true, to fill the offices in the various districts, and two or three individuals had been nominated from time to time, they having been rejected by the Senate, and the Senate having shown, I suppose following the advice of my colleague, a determination not to confirm those gentlemen, other names were sent in. Among those who have been rejected, my colleague will remember, have been some of the most distinguished officers we sent from Wisconsin to the field. General Bragg, General Bertram, General Montgomery, Colonel Colkins, Colonel Ruger, Colonel Sterling, Colonel Ginty, and many others of the best soldiers of Wisconsin have been nominated and rejected. My colleague knows, too, that the presidents of both the last Union conventions of Wisconsin, the one that presided over the convention when Governor Fairchild was nominated the first and second time, have been nominated, and both have been rejected. If you go into the various districts, beginning with the first district, both the collector and assessor are Republicans. In the third district it is the same. In the second district it is the same. In the fourth district, the one to which he referred, there has not been an agreement arrived at, that being represented by Mr. ELDRIDGE, in the other House. Perhaps nominations will be sent in that will be satisfactory. I of course cannot know the future. In relation to the fifth district, the collector in that district is a Republican. So far as the post offices are concerned, I think my colleague has no reason to complain, nor have any of his colleagues of the House any reason to complain. The large mass of the appointments in Wisconsin have been of Republicans.

Now, Mr. President, so far as I am concerned personally I agree that the offices should be filled, and in order to carry on the Government it is a necessity, and that necessity is with me stronger than any mere party consideration, overrules any party consideration. I prefer that the offices should be filled with men who do not agree with me politically rather than that they should not be filled at all. I have no disposition, so far as I am concerned, to stop the wheels of the Government, and have never manifested it in relation to any of these appointments. If the whole matter had been left to me perhaps I could have arranged the appointments of Wisconsin without any difficulty with my colleague; but there are other persons from Wisconsin to be consulted besides my colleague and myself, and perhaps some difficulties may have arisen in relation to some of the appointments, but nothing very serious. I presume in those

very offices that remain vacant, unless it may be a post office or two, the deputy assessors or deputy collectors could go on and do the business, and the Government could not very materially be damaged thereby.

As to the effect of the policy pursued by the Senate in making rejections, that is a question on which I do not care to say much. It is a question certainly upon which I have no right to advise the majority in this body. But from the information which I receive I am led to the opinion that the policy which has been pursued here, of rejecting such men as have been sent in from time to time, and rejecting them for political considerations only, when they are perfectly able to discharge the duties of the office, when they have been in many instances good and faithful soldiers during the whole war, certainly has not added at all to the success of the party in power in this Senate, and does not tend in that direction; but I have no advice to offer on that subject, for it might be deemed improper for me to assume to give any. I do not stand in that relation to the action of the majority that I have any right to advise them. Indeed, if I were to look at it in a mere party sense, I should say, "Go right on; keep decapitating; add to this noble army of martyrs; and let us call a convention in the various States of the martyred soldiers whose heads have been taken off by the political guillotine." I presume they would form a very important convention in the political affairs of the United States if they should once happen to come together. But, sir, as I have said, I have no disposition to advise, and have no right to advise, and therefore will not advise on that subject. If we now fix a time in advance, say Monday, Tuesday, or Wednesday, as the day when the Senate will terminate its labors, I believe it will aid us in bringing the session to a termination.

Mr. NYE. I believe the question is on fixing a day to adjourn.

The PRESIDENT *pro tempore*. No; the question is on going into executive session. [Laughter.]

Mr. NYE. I beg the President's pardon. My friend from Wisconsin, who is always right, has been speaking on the question of fixing the day of adjournment. At any rate, whatever the question is, I propose to put to him now the inquiry which I proposed to put to him when he was on his feet. He has a high respect for men who differ from him, but has no respect for those who make speeches one way and vote another, or who entertain one opinion to-day and another to-morrow.

Mr. DOOLITTLE. The honorable Senator will allow me to correct him there. I have no objection to a man changing his opinion if he is convinced that his opinion was wrong; but I do not like to see a man voting one way and speaking another at the same time.

Mr. NYE. I wished to call the Senator's attention when he was up to a single fact that occurred here on this floor in relation to the Freedmen's Bureau bill. If my recollection is correct, the Senator took occasion, being absent at the time the vote was taken, to say that had he been present he should have voted for the bill; and within a few days the bill came back vetoed, and he then voted against it. I leave it for my friend to reconcile his self-respect on that subject.

If the Senator had stopped when he had declared his views in regard to the propriety of fixing a day for adjournment I should have been most happy for once since I have been here to agree with him on that question. But, sir, he was not content with that. He never loses an opportunity to attempt to show the consistency of his leader and his party. Long speeches of columns has he made to prove that the policy of the present President was the policy of the lamented Lincoln, and it seemed to me that he had so exhausted himself on that question heretofore that he would have hardly gathered strength by this time to make a new attack. Why, sir, the difficulty between the President and the Senate is stated in a single

sentence: the President by his nominations in most cases nominates those at war with the expressed sentiment of this great people; for I need not tell the Senator from Wisconsin, nor this Senate, that the expressed sentiment of this people, expressed in so many ways that it cannot be mistaken, is in direct opposition to the policy pursued by the President and the Senator from Wisconsin.

The Senator from Wisconsin has a holy love for the soldiers. So have I; I honor them. But, sir, the Senator will not forget that more than a year ago he took me to task here for not discriminating between times of war and peace; and the President has read us many homilies upon the fact that the radical Republicans could not distinguish between times of war and of peace. The sword is laid aside. The soldier is a soldier no more. He has returned to the ranks of the citizens, there I hope to perform the same duty in as acceptable a manner as he performed it on the field. But, sir, it will not be expected that the soldier should fail in that criticism that all others have to pass in regard to his civil conduct and his political action. I honor the scars of the soldier. I pay as high a tribute to his deeds of daring as any man. It is a question now with me whether the soldiers will perform their duty in as brave and valiant a manner in the civil strife as they did upon the field of blood. When they do, they are my choice, for they have two great guarantees upon the affections of the American people. When they fail to perform well the duty of the civilian, the honorable soldier will not expect to be shielded by his deeds of daring upon the field.

Mr. President, the trouble lies here, and the Senator from Wisconsin will pardon me if I call his attention to a few facts. He claims that it is a matter of respect to the President that this Senate should confirm his nominations. Sir, are there not mutual respects in this matter? Is not the President of the United States bound to respect the great mass of this Senate, those in favor of him hardly numbering enough to count as "scattering"? Is the President of the United States at liberty to disregard the recorded judgment of this nation in condemnation of his policy? And yet, for the purpose of furthering that policy, upon the very brow of which the people have written their condemnation, we are told that out of respect to him he must be allowed to appoint such as agree with him. The Senator from Wisconsin, in order to give it double effect, talks of another soldiers' convention, and says that they will have a large convention. I hope it will be at Philadelphia; and if so, I hope that the padlock will not be put upon the lips of the soldiers and representatives that go there. My friend from Wisconsin has tasted of one convention at Philadelphia. It was not palatable to him, although I believe he was the only man that was allowed to speak. The fear of another convention has no horrors for me. They are familiar things. I want all soldiers and all civilians who disagree with the recorded judgment of this people to hold their conventions and to give their reasons why they hold them, and not, for fear of flying into fragments, put a seal not to be broken upon the lips of the delegates to their conventions. That I suppose was done out of respect to the distinguished gentleman who holds the office of President, by accident, of the United States. Why did they not speak? Because they dared not. The moment they spoke, the *animus* would be known. The whole thing, therefore, was played in pantomime, and the distinguished Senator from Wisconsin played well his part better in silence than I ever knew him to before. [Laughter.]

Now, sir, while I am perfectly willing to respect the President and his appointments, I am anxious to advertise him and this country that so long as he sends men in here who opposed his election, who opposed the reelection of Mr. Lincoln, who opposed the measures of the war, who opposed the settled judg-

ment of this country for six years, they will not have the breath of life breathed into their official nostrils by this body. If it is the intention, as I gather from the remarks that have been made, to play shuttle-cock between the White House and this body during the balance of the summer, if I last I will stay here. But, sir, I claim that no person in this Government is so high that he is not bound to respect the judgment of the people, and the President knows as well as the Senator from Wisconsin that he outrages the judgment of this people when he sends men here who fought us to the bitter end in the election that gave him his place.

Why, sir, there has never been but one President before that has attempted to play this role, and that was John Tyler; and he played himself so dead that the bubbles have never risen over the place where he sank. [Laughter.] He undertook to Tylerize the nation, and here sat a Whig Senate. A Whig Senate rejected Tyler's nominations, and the Whig party, from one end of the country to the other, cried "glory" to the Whig Senate for rejecting his nominations. "Look to the Senate," was the by-word. Sir, if the President of the United States read the visible, tangible, striking letters along the pathway he is going, he would read the doom of every one that attempted to follow in the wake of Tyler. So much did the people abhor the course pursued by him that when his final hour came it received the passing notice of the newspapers as though he never held the high position that he did.

Now, sir, the remedy for this is right here: if I stood in the relation to the President that the honorable Senator from Wisconsin does and that my honorable friend from Connecticut does, I should go to him and say, "Mr. President, the voice of the people everywhere except in Connecticut"—I would mention that—"everywhere except in Connecticut!"

Mr. DIXON. The rest are coming.

Mr. NYE. Yes; so is doomsday—"is against your policy. You had better, therefore, fall into this column that is marching on so resistlessly, and make your appointments in accordance with the wishes and will of this mighty people." It will be far better for him and his history, and for them and their history, that they should do that than to hold up Connecticut as an example that the world is changing. Eight little counties out of this mighty Government have spoken. About half their number have been against the President, and about half in his favor—done by this paltry course—done by this nefarious example of rewarding traitors to their party and making traitors of those who hold their offices; and the Senator from Connecticut knows it. All the glory that you can gather from that victory I hope you will treasure up; but if I had a word of advice to give you I would say rejoice in the day of your youth, for the day is not far distant when a mightier than Connecticut will call you to judgment.

Sir, I am sick of this paltering between the President and us. This body owes something to itself. Fix the day of adjournment, and perhaps at last he will condescend from his high position to inform the Senate that it will be impossible to get through by that day. If he does that, it will be so much of a recognition of them. Fix the day of adjournment, and then the Senate will do what is becoming to itself and becoming to an intelligent constituency. Fix the day of adjournment, and let the President send in his appointments; if they are good, if the majority of this Senate seem to think them worthy, they will be confirmed; if not, they will be rejected.

And here let me say that I think the complaints of the Senator from Wisconsin do not come with a good grace from him. We have confirmed man after man from high to low, from civilian to the military chieftain who attended conventions in which my friend seems so much to revel. If he lives anywhere it is in a convention. I am glad to say that if he gets a large one he will have to go out of Wis-

consin. [Laughter.] But we have confirmed General Dix, General Steedman, and generals without number when they stood in open array against the policy of the majority of this Government and of its representatives.

Mr. DOOLITTLE. If my honorable friend will allow me right there, I will ask him to give the reason why they have been confirmed and others rejected.

Mr. NYE. Yes, I will be cleverer than you were. [Laughter.]

Mr. DOOLITTLE. I have no irony. I wish to hear the reason why they were confirmed and others rejected, if the Senator will give the reason.

Mr. NYE. Why, sir, that question which was asked centuries ago, why this one was taken and another left, has never been answered. [Laughter.] I answer no such question as that. The only answer is that those who were confirmed were in luck, and the many who have not been confirmed were not in luck.

Mr. DOOLITTLE. That is a very good answer if we can assume to ourselves to occupy that high position; but I supposed that we were a human tribunal, and I asked for human reason. I do not seek to pry into the mystery of Heaven.

Mr. NYE. It is no mystery; it was proclaimed.

Mr. DOOLITTLE. I asked for human reason.

Mr. NYE. I propose to give a right reason, and that has been declared to be revelation. I can tell the Senator why it was, viewed with human eyes. Some of our good-natured friends here have a great desire to see personal friends promoted, and the Senate, exhibiting far more magnanimity than is exhibited toward them, have yielded to personal requests of distinguished members on this floor.

Mr. DOOLITTLE. I understand my honorable friend, then, to say that it is the weakness of the Senate, and not the reason of the Senate, which has confirmed those men.

Mr. NYE. The Senate has great weaknesses as well as striking strength. [Laughter.]

Mr. DOOLITTLE. The simple question I wish to get at is the reason, if possible, why the majority confirmed these great men, these great generals, and still take off so remorselessly the heads of the little ones?

Mr. NYE. Well, Mr. President, it is the soldiers mostly that get killed in battle; not the officers. [Laughter.] Officers are not always where they are in the most danger and are not as numerous as the soldiers, and soldiers are cut down and rest where their friends know not, while officers have stones reared at their heads to mark their resting place. I agree with the Senator that the policy of this Senate has been wrong. We ought to have killed the leaders instead of the soldiers. Instead of hanging Wirz we ought to have hung Jeff. Davis with his cohorts around him. If I could have had my way not a man who put his head in the Philadelphia convention should have received an indorsement of the Senate of the United States; and my friend from Wisconsin has seen his friends, for that reason, fall around him—

"Like leaves in wintry weather."

Mr. DOOLITTLE. Some fall, and others are confirmed.

Mr. NYE. All ought to have fallen. Some survive, and their fall is in the future to come; and I conjure my friend not to boast before he casteth off his armor, because the day may come when he himself will stand in judgment for that offense; and much as I love him and honor and respect him, I never could vote to confirm him to a foreign appointment until the change in him was as marked and as visible as that change has been which he has recently undergone.

Mr. President, I desired simply to say this because my friend from Wisconsin seized upon this opportunity, with reporters here, to put himself on record once more in defense of the Johnson policy. If it was proper for me, I

should like to relate a little incident I saw once in court, illustrative of his position exactly. The lamented Alvin Stewart, who had no superior at the bar of New York, was once trying an important case. When he had got nearly through his argument a gentleman opposed to him interrupted him in a low tone. He stopped and looked at him. Said he, "Pip, pip, pip, yet;" and he added, "I supposed if you had either sense or sensibility that you were dead an hour ago." [Laughter.] So my friend "pips" upon this Johnson policy and Lincoln policy, and I suppose he will continue to "pip" upon that as long as he can get it printed in the Globe, to go out to the world.

Now, sir, I desire for one, and for all time to say, that if it is the policy of the President to keep us here all summer to reject men who are offensive in the nostrils of the Union-loving men of this nation we are ready, if it is a question of endurance. They say his health is not good. [Laughter.] If it is a question of bold defiance I would meet it in the same spirit in which it is given. But, sir, if it is a question of "right, I know that the people of this country will call this Senate blessed for not putting in the hands of their enemies the power to overthrow them.

My friend from Maine asked the honorable Senator from Wisconsin about a letter he wrote. I never saw it; but knowing that my friend from Wisconsin was in the inner circle of this Johnsonian policy I should like to ask him one more question. Why was it that every postmaster in the nation and every man holding a place was asked to contribute to the support of the Johnson policy, and the inquiry made, and to be answered, whether he would support it himself? That was the magnanimity that they exhibited, "That measure that you mete unto others shall be meted unto you."

Mr. DOOLITTLE. The Senator asks a question as to myself. The inquiry which he now puts is a matter of which I never had any knowledge, and have no knowledge now.

Mr. NYE. The reason is this: my friend did not hold a petty office in the Government. If he had he would have had knowledge of it by a circular under a frank.

Mr. FERRY. His own frank.

Mr. NYE. I do not know how that was. I say nothing but what I know. I know in my distant State there was not a mountain gorge in which there was a post office but what this ticket came signed by the cashier of the Johnson committee here, Mr. Knap. "Come down so much;" and "will you support the policy of Johnson?" were the interrogatories. The first, the "come down" part, was more emphatic than the last. [Laughter.] That, sir, was the magnanimity displayed by the officers and by the President of this Government when he was turning men out. I had but one friend personal to myself in office in the State of Nevada, and his head fell so quick that you could hardly mark the place where it fell. A man was put in who was not friendly to me nor friendly to the majority of the people of this nation. He holds it now. The result of it was that two or three heads fell, and the rest joined the Johnson Club as an ark of safety, and crept in out of the shower. I hope they will never show their heads again.

Now, sir, when the Senator from Wisconsin assumes that we are bound to show respect to the President's appointments, I ask him if the President was not bound to respect the appointees who were in and discharging faithfully the duties of their offices? Respect is not all due from one side. I submit that the President of the United States has treated with disdain the expressed judgment of this people recorded in a thousand ways. He has treated with contempt the voice of the national council of Congress. He has hurled back defiantly into our teeth measures well considered by gentlemen who would not suffer in comparison with his own intellectual or legal acquirements. And to-day, if it is proper to speak from the newspapers, the question is being agitated



whether the Government is to be enjoined. Let me suggest to my friend from Wisconsin that he had better be looking out for a receiver for the Government. There will have to be one appointed, and he should see to it and get a Johnson man, and one who has been true. Why, sir, there is no respect paid to the laws of this country. There is no heed paid to the admonitions of the council of this nation. The President has a policy of his own, as indefensible as it is remarkable.

My friend from Wisconsin says he likes a bold man. So do I. I never had much of that attribute in me. I am rather conservative in that respect. But, sir, it is a bold man and an honest man that knoweth the will of his master and doeth it. The master of the President, the master of the Senate, and of Congress, is the mighty aggregated judgment of a republican people. It is the bold man that listens to that voice. It is the reckless man that does not heed it. In conclusion, I advise my friend from Wisconsin to swing into his old circle where he rose so happily, and get off from the rugged road he has had swinging around this Johnson circle.

Mr. DOOLITTLE. I never undertake to speak of the future, for I am not gifted with foresight. I seldom boast of the strength of the position which my friends may occupy. I can only speak for the past. Two or three times in my life it has occurred that I have been compelled, through my convictions, to leave a dominant majority to go into a minority, to fight the battle of what I regarded as truth, justice, law, and the Constitution. It is true that I left the Democratic party in its palmy days and when it was in an ascendancy here and in my own State, to join a minority to overthrow it when it was wrong. I had aided in fighting the battle of the Republican party until it came into power. I aided in fighting the battle of the Republican party until this rebellion was crushed. And now that this party, in the pride of its power, and because it is counting its majorities or has counted them, has entered upon a policy which in my judgment is destructive of the Constitution, and if persisted in and not recovered from, and that very soon, will destroy the Constitution of the United States and involve with it constitutional liberty, I have differed with that majority.

They may be right; I may be wrong in my convictions; but it is because I have those convictions that I have differed from them. I do differ from the majority. I do go again into a minority. I expect to fight the battle in reference to those principles which I believe to be the true principles of the Constitution, and whether I shall remain in the minority, or whether a majority of the great mass of the American people shall come to the position which I occupy, is a thing of the future altogether. I boast not myself of to-day nor of to-morrow. But, sir, from what has occurred, not merely in the State of Connecticut, to which my honorable friend alludes, but in Illinois, Iowa, Michigan, Wisconsin, Minnesota, New York, everywhere where the popular elections have been held and are taking place, we see, in my judgment, that which goes to show most conclusively that the mass of the people of this country are dissatisfied with what I regard as the unconstitutional policy which has been urged and pushed and crowded upon Congress and the country by the party in power.

But, sir, I shall not go into that question. I do not desire to get up a discussion here about what the future is to be, how strong the majority is to be, in the future, or the minority. I do not profess to be a prophet, and therefore I never speak of the future. I only say these are my convictions. I may be wrong; or my honorable friend may be wrong and I may be right. I shall not continue the discussion, for I desire, if there are no others to speak, to have a vote of the Senate on the resolution before us.

Mr. DIXON. Mr. President, the Senator

from Nevada in his remarks, which have been heard with so much interest by the Senate, took occasion to allude to the Connecticut election, and to speak of Connecticut in language not quite so respectful as that which he addressed to the people of that State not long since in person. I have never alluded, nor do I know that I should have alluded, to the recent election in Connecticut. I confess I felt what might, perhaps, even amount to exultation with regard to that election; but I did not like to exult over my friend from Nevada, nor do I like to express or manifest a spirit of exultation anywhere. I should not therefore have alluded to it now if that Senator had not done so in language which I think calls for some notice from me.

Now, sir, it is true that during the last winter it became manifest to all observers who were at all skilled and experienced in the signs of the political times that there was a change of opinion going on in the State of Connecticut. The Radical leaders there were alarmed. They felt themselves to be in a demoralized condition, and they looked about for a remedy. The disease was somewhat desperate, and desperate diseases demand desperate remedies. They inquired what they should do; and the first step was—and it was a wise step, I admit, and a step that might well have caused some trembling anxiety in the minds of the conservative men of Connecticut—to send for the Senator from Nevada. They felt that they were well nigh ruined, and they sent for that Senator with the hope that he might save them from destruction. He accordingly went to Connecticut and addressed the people. He made a speech which produced a powerful effect, as I need not assure the Senate. It would be very disrespectful for me to say that the Senator ever made a stump speech in the Senate; but it is no disrespect to any gentleman in this body, no disparagement to any one, to say that on the stump or in a popular assemblage there is no man who can move the masses like the honorable Senator from Nevada. That his speech in Connecticut produced an effect I will not deny. That it excited the hopes of the Radical party I will not deny, although when the Senator returned here he said the State had gone somewhere in his apprehension, and I believe he proved a prophet with regard to the result of that election.

Mr. HOWE. I should like to know the place that the State went to. [Laughter.]

Mr. DIXON. The Senator from Nevada never uses improper language, and of course it was no place which such language would describe. [Laughter.]

Mr. HOWE. I understood the Senator to say that the Senator from Nevada had proved a prophet in saying the State had gone somewhere, and I wanted to know where.

Mr. NYE. If the Senator will allow me, I should like to answer that prophecy myself. Connecticut went as I thought it would go. I found that the real trouble was that my friend had proved to Connecticut what the heaven did to the meal. He had leavened the whole heap of office-holders, and they went conservative; and that is the place I meant to say the people of Connecticut had gone, into that fire of conservatism where they do not rake it up nice.

Mr. DIXON. Very well; the Senator predicted the result in his own expressive manner. I saw it stated in the papers that when the Senator returned he despaired of carrying the State of Connecticut. Now, he says, it is an unimportant State, with only eight little counties, and has no influence in the affairs of this Government. I have in my possession a report of that Senator's speech in which he told the people of Connecticut that they had an immense influence. I do not know that he said, as went Connecticut so went the Union; but he spoke in most flattering language of the influence which Connecticut always had had throughout the Union; and he told them it was vastly important that they should exercise that influence in the proper direction, for it would be powerful; that what-

ever verdict they should render would produce a powerful effect on the people of this country. Now, he says it is a small State, with "only eight little counties," and it is of no consequence. He rivals Toots in his utter contempt for the result; it is of "no consequence" at all. [Laughter.]

Mr. President, I agree that Connecticut is a small State. It has, as the Senator says, but eight counties. It has a comparatively small, but a very intelligent, population; I might say perhaps equal in that respect to any State in the Union; and they had an opportunity to consider this question in an intelligent manner. The whole question of the politics of this country was presented to the people of Connecticut in the last election, beginning with the Senator from Nevada and followed by my honorable colleague. There never has been a time when the people of Connecticut holding opinions with the Senator from Nevada and my honorable colleague have been so thoroughly canvassed and so ably addressed as during the recent election. If there ever was a time when the questions were fairly presented to them it was then. My friend from Wisconsin [Mr. DOOLITTLE] also did us the honor and the very great advantage of visiting that State. He replied with convincing effect to the able arguments of my friend from Nevada.

Now, sir, a change has taken place in Connecticut. That cannot be denied. What was the cause of this change? Various causes have been assigned. The Senator from Nevada says it was this practice of proscription, the use of Federal patronage. The Senator is mistaken with regard to the State of Connecticut. Every man who knows anything about that State knows that the greatest degree of tolerance has been there exhibited on that subject. We have not very much Federal patronage; it is not very extensive or important. There are only a few valuable offices, and I do not recollect that more than one of those was changed. But, sir, we have a great number of post offices, with comparatively small emoluments, which may possibly produce some effect on the minds of those who hold them. Whether they do or not I cannot say; but I will say that the office-holders of that character are nearly all Radical men, who vote for the party to which the Senator belongs, and as a general thing they have remained undisturbed. I do not think that in the list of three or four or possibly five hundred postmasters in the State of Connecticut twenty-five have as yet been removed, including the whole time from the Philadelphia convention to the present moment. The Senator therefore is mistaken in supposing that any effect on the public mind has been produced in that way in the State of Connecticut.

Sir, it was another cause. The people became alarmed at the extreme radicalism of my friend from Nevada, of Congress, of the Senate. They thought that this extreme radicalism had gone quite far enough. They thought it was time to pause. There is in the State of Connecticut a large number of men heretofore, and I do not know but now, Republicans, conservative in their character and feelings, who looked upon the proceedings of those with whom the Senator from Nevada acts as alarming. They thought it was time that those measures and those principles should receive a rebuke, and for that reason they changed their votes. What the future will be I cannot say. I believe the Senator intimated that this change would not be permanent. I think it depends very much upon the course of the Senator himself and the party he represents. If they take this check as a warning; if they pause in their destructive measures; if they change their course, possibly this change which is setting against them may be arrested; but I say to them now, if they go on in what they propose—if, for example, they go on with the scheme which has been offered here by the Senator from Massachusetts [Mr. SUMNER] and by his colleague, who unites with him in proposing by act of Congress to regulate the suffrage in the State of Connecticut—it will not

be arrested, but will become still more emphatic and decided.

I do not know whether my friend from Nevada is in favor of that measure. Perhaps he is opposed to it. If he is, he will say so; if he is not, he will say so; for he never conceals his opinions. What his views on that subject are I do not know, and I regret that he does not inform us. But if these Senators go on with this proposition, not confining it to the State, of my honorable friend from Maryland, [Mr. JOHNSON,] which they call a *quasi* rebel State, and therefore exclude a portion of their representation at this time, not confining it to the southern States, but enacting by law of Congress that universal suffrage shall prevail in the State of Connecticut, then I say to them this change of opinion will go on increasing, and the Senator from Nevada will see such a majority against the radical measures which he now advocates at the next election as will surprise him far more than anything which he has seen at the recent election.

Mr. NYE. Allow me to ask the Senator a question about those who agree with him in conservative feeling. The Senator was not elected by the Democratic party here?

Mr. DIXON. No; but I was elected as a conservative.

Mr. NYE. Was it the conservative or the Democratic party that succeeded in the recent election in Connecticut?

Mr. DIXON. I will say to the Senator that the Democratic party and the conservatives of Connecticut have united upon a platform of men and a platform of principles. I will say furthermore to the Senator that one of the officers elected at this election is the present secretary of state who was last year elected upon the Radical ticket, and that another officer elected, the State treasurer, has always been a conservative Republican.

Now, sir, such is the condition of things in Connecticut. I will not attempt to predict what future results may be, but this I know: that the people of Connecticut are patriotic, that they are intelligent, that they are a wise people; that they are not to be led on by any *ignis fatuus* of radicalism into a region which they do not know and understand. They wish to know where they go. They wish to know to-day whether that Senator and his colleagues on this floor are in favor of the measure to which I have alluded.

Mr. NYE. One question more. I understood the Senator to say he was elected as a conservative. Now, I want to ask him the question direct, whether he did not claim to be a Radical, and had not the certificate of my friend from Massachusetts [Mr. SUMNER] showing that he was a Radical?

Mr. DIXON. I am glad the Senator has alluded to that. I do not know what the Senator from Massachusetts ever certified for me. He may have uttered what he considered kind expressions with regard to me; and if he did on that occasion I trust he acted in accordance with his own views of propriety. He certainly did not act by my request or with my knowledge.

Now, Mr. President, since allusion has been made to my position, if the Senator means to intimate that since I have been a member of this body I have changed my views, he is mistaken. The opinions which I hold to-day I have always held. I held them when I was elected; I held them before I was elected. I shall not now detain the Senate by going into them at length. I once had the honor of presenting a resolution on this floor many years ago, which was, if my recollection does not fail me, indorsed by the Legislature of Connecticut during the same session at which I offered it, in which I laid down what I thought to be correct constitutional views with regard to this whole question. I discussed the subject before the Senate. I alluded to it again a year ago; and I think it was admitted by all that I was consistent, and that I had always held those views. I think, therefore, the Senator makes nothing by the intimation that I was elected

upon a different platform from that which I now occupy.

But suppose it were so; suppose I had changed; does the Senator mean to say that I do not represent my constituents? Sir, if I have changed, I am indorsed by the people of Connecticut. I may properly and rightfully and without exultation make the claim that I now stand here indorsed by a majority of the intelligent electors of the State of Connecticut. Out of over ninety thousand voters, forty-seven thousand have voted for the principles which I now advocate. I do not speak of that in a spirit of exultation. I speak of it in a spirit of rejoicing. I speak of it as a support to me in the position which I hold, as a result which is certainly to me in the highest degree gratifying, and which I think would justify me in saying that even if I had changed my position I am sustained by the popular voice of my State. Encouraged and supported by their approbation, I intend to persist in the course which I adopted when it seemed unpopular, and shall continue to contend for the true principles of the Union and the Constitution.

One word further, sir, with regard to proscription. The Senator has stated that this election was carried in the State of Connecticut by compelling office-holders to vote in conflict with their own views lest they should be removed from office. Nothing of that kind has taken place; but I regret to say that I have seen in the papers recently what I am not prepared to deny, but what I hope is not true, that some of the employers in the State of Connecticut who think with the honorable Senator have, since the election, expelled free men from their employment because they differed with them and voted in accordance with their own views at the recent election. I trust that this will not be found true. I trust it will be explained. I am unwilling to believe that there is in the State of Connecticut any large number of men who would resort to conduct so atrocious. Possibly there may be some; but, sir, I trust the people of Connecticut cannot be characterized as a people who would be guilty of such a wrong. If it should prove to be true, then I think that even the Senator himself will unite with me in denouncing it. If the time ever comes when it shall be agreed and conceded that the central power can legislate for the States, can legislate to regulate the suffrage of the States, and if it turns out, contrary to my hope, that there is any portion of the people of Connecticut or any other State who are willing to coerce the labor which they employ in voting contrary to solemn convictions and conscientious views, then, sir, I hope that the suffrage law will not stop with giving suffrage to all men, but that it will also provide severe penalties against those who shall attempt to influence and control the opinion of their laborers by such wicked and outrageous oppression.

Mr. HOWE. A poet has said that—

"Man never is, but always to be blest."

The reverse of that seems to be, according to the estimate of my friend from Connecticut, about the condition of the Republican party. It never is, but is always just going to be damned. It never is in any danger for anything it has done, but seems to be continually in danger of doing something that is going to bring judgment and perdition upon its head.

I remember during the early years of the war, when we were most strenuously admonished that if we dared to lay our finger upon the institution of slavery the Republican party would be dissolved, the Republican party would be divided, the Opposition would be united, the Government would fail in the prosecution of the war, the rebellion would triumph, and the Union would go to pieces!

I remember after we had done that, and after the Republican party did not divide, and after the election of 1864, and after the rebellion was crushed out, we were just as urgently admonished that if we did not recognize at once the institutions of governments which we found in those rebellious districts the Repub-

lican party would be divided, the Opposition would be united, the same consequences would ensue, and ruin would overtake and overwhelm the party which had so far controlled the country. Well, sir, we did not accept the admonition. We did not recognize those governments. We refused to do so.

Subsequently there was a shout set up that the Senators from Massachusetts and two or three reckless agitators like those had lurking somewhere about them an idea that those States down there had committed suicide, had destroyed their political organizations, and had forfeited their right to have the government of States; and they told us if we did not abandon that doctrine of State suicide the Republican party would commit suicide. And so they went to the country during the late campaign, not particularly finding fault with anything we had done, but insisting upon it that we were going to do something else. There was nothing particularly objectionable in the constitutional amendment which we had submitted to the people of all the States; the country could probably stand that; if they could not stand that, they would probably forgive that; but behind that lay the idea of ignoring the right of those communities to maintain State governments.

In spite of that warning the country did not withdraw its confidence from the Republican party. Since that time that threat seems to have been executed; that prediction has been verified; that doctrine of State suicide has passed into a legal enactment. I do not understand that the Senator from Connecticut is finding any fault with that; but he now insists that we are going to take to pieces the government of Connecticut and of some other States which never did destroy their own governments; and he tells us, in the old tones and with the old solemnity exactly, that if we do that thing surely destruction will fall upon our heads. Well, I will wait to see first whether we shall do it; and secondly, whether this prediction will prove any truer than those that have preceded it.

Mr. President, I shall occupy no considerable time in commenting upon the Connecticut election.

Mr. DIXON. The Senator was opposed to the doctrine of State suicide at one time.

Mr. HOWE. No, sir; the Senator does not remember the time when I was opposed to the doctrine of State suicide, as he calls it.

Mr. DIXON. The Senator talked in such a way in the Senate that I supposed so.

Mr. HOWE. When I talked upon or toward that question I always urged it very strenuously. The Senator is entirely mistaken as to my views on that question.

Mr. DIXON. How about the other?

Mr. HOWE. What other?

Mr. DIXON. The question of forcing equal suffrage on the States.

Mr. HOWE. I will answer that question whenever that subject comes up before the Senate if the Senator will wait until that time. I was about to speak upon another topic. The Senator endeavors to alarm us with the idea that the late election in the State of Connecticut is the commencement of a popular reaction, which is to be followed by the recantation of each of the Republican States of the Union in its turn. That may prove to be so; but I have not thought myself that we were in any great danger of it. What is that popular reaction which we have witnessed in the State of Connecticut? A year ago, preceding the election, I had the pleasure of spending a few days in Connecticut myself. I witnessed the fact that there was a very active and sprightly contest going on there; that the people were very much in earnest, and opinions were very much divided as to what would be the result of that election. I met then several gentlemen, the political and personal friends of my friend from Connecticut, holding responsible, high, and important offices in that State. I believe the Senator from Connecticut was then with the Republican party in that contest. I found

all these gentlemen, with whom I conversed and who held these offices, to be with the Republican party, fighting for the Republican cause, upholding the Republican candidates. By and by the election came off, and there was a majority for the Republican ticket of about five hundred in the State of Connecticut.

Hearing that the result in Connecticut was somewhat doubtful the other day, some time before the election came off, I had occasion to ask some of my friends familiar with that State where these gentlemen were whom I met a year ago, and who then seemed to be very nervous for fear there would be a division between the President and Congress. I asked how they were now since there had come to be a division between the President and Congress. I asked how such a man was. I will not call names. He was with the Opposition. "And such a one?" "With the Opposition;" and so on through the whole catalogue of those whom I remembered to have met there. They were all with the Opposition. I did not ask where my friend [Mr. DIXON] was. I was in no doubt on that point. I had been informed by himself repeatedly. So that I saw our political friends in the State of Connecticut were going into the contest this year with the whole body of office-holders in that State against them, and whom they had with them a year ago; and I waited for the result with a good deal of anxiety and trepidation. I had not much confidence. Knowing that we had but a margin of five hundred to sink in that vote a year ago, I did not think it a very extraordinary thing that a Senator of the United States, that the postmasters of all the principal towns of that State, that the collectors of customs, and with all the patronage in the possession of all of them, should be able to sink that majority of five hundred.

Mr. DIXON. Allow me to set the Senator right, as this is a matter of fact and not of opinion. In my belief, as a question of fact, four fifths of those holding the important offices in the State of Connecticut which require the confirmation of the Senate voted for the Radical ticket throughout; perhaps not the whole ticket. They have never been threatened; they have never been told that if they so voted they would lose their offices. Nobody ever proposed to intimidate such a thing.

Mr. HOWE. I shall not go to trial upon this issue of fact, nor ask for a feigned issue and send it down to the country to be tried. The Senator from Connecticut ought to know better than myself as to the truth of that matter. I only state what I was informed, and I was informed by more than one.

Mr. DIXON. In my own county in that district every one, with the exception of the postmaster of Hartford, voted the Radical ticket; and I think it was so in my colleague's district.

Mr. HOWE. Certainly, the information that came to me was very different from that. Every one of the individuals with whom I conversed a year ago, when I came to talk about their position now, I was told had changed. I may have been misinformed.

Mr. DIXON. You were certainly. A few important officers went with the Administration. That gave rise to the idea that all did. They are but a few of the most important, three or four.

Mr. HOWE. I do not mean to call any names, and I will not; but I met a gentleman, and a very intelligent man there, who I believe was collector of New Haven.

Mr. DIXON. He is one who went with the President. I included him in the three or four. He is a very prominent and able man.

Mr. HOWE. I met another who was postmaster at New Haven.

Mr. DIXON. My colleague can state with regard to him.

Mr. HOWE. I had occasion to inquire about him. I met another gentleman who was a candidate, if I remember aright, for Lieu-

tenant Governor upon the Republican ticket last year.

Mr. DIXON. Oh, yes; there was a rush, I agree, of the people. I agree with the Senator in that; but when you come to the national office-holders they generally went the other way.

Mr. FERRY. I should like to have an opportunity to explain the Connecticut election as it really was.

Mr. HOWE. I shall be very happy to hear the Senator on that point. He can elucidate it much better than I can. I rose only to say, and this is all I wanted to say, that the fact that a Senator of the United States and all these office-holders combined, with the prospective patronage of the President thrown in, should be able to carry the State under a bare majority of five hundred in a vote of ninety thousand, I did not think gave very extraordinary indications of a popular reaction, and so far I let that pass. The Senator from Connecticut [Mr. FERRY] will speak upon that point much better than I can myself.

The main purpose for which I rose was to reply to a remark or two made by my colleague in reference to the appointments which have been made and the nominations which have been rejected in the State of Wisconsin. My colleague says, and I think he says rightly, that the Republican party has no occasion to complain in the State of Wisconsin of the way in which those appointments have been made; I do not know that the Republican party does complain. I have heard of no complaint. I certainly do not complain myself on behalf of the Republican party. My colleague says that he believes the large majority of those appointments which have been made are Republicans. I believe he is entirely right. So far as I know they are all Republicans.

The simple fact about this matter is: I have never made any complaint about what has been done in Wisconsin. Yesterday, in explaining to the Senate why I felt as if my work here was ended, or was nearly ended, I did not find occasion to make any allusion to what had been done, what had been accomplished toward filling the offices, but I did go on to explain the difficulties in the way of filling those yet remaining to be filled, speaking especially in reference to a single district, the fourth district represented by a Democrat in the other House, and in which there are now two offices to be filled. I felt bound to explain that, so that both the Senate might know and my friends at home might know precisely the difficulties in my path. I felt that I had got to do one of two things, or at least one of three. I had either got to say that I would not consent to the appointment of any man unless he thought as I did, or I had got to say that I would consent to a division of those offices, or I had got to say that I would surrender all pretext of standing by and of upholding the political opinions of my friends. I could not consent to do the last. I offered to do the second. I did not think myself, under the circumstances, quite justified in standing for the first. So much as to that district.

As to what has been done in other districts I think the statement made by my colleague is essentially correct. I think the offices have been filled in almost every, and I do not know but in every, instance by Republicans; but my colleague knows very well that I did not insist upon that; that I was not consulted about that. He knows very well that to him I said what I have said here in reference to the fourth district; that I was perfectly willing to make a division of these matters. But he seems to have preferred selecting the men himself and men of my own political persuasion. For this I am very glad, and I think it certainly a more satisfactory disposition of those offices than if he had accepted my own suggestion. If he has heard of any complaint of my political friends out there as to what has been done, I can only say that I have not heard of any, and as for myself I certainly have not made any, and I did not intend to be understood as making any

yesterday or on any former occasion. The difficulties I wish to explain were not those I had encountered, but those which lay before me just now.

Mr. FERRY. Mr. President, I do not like to detain the Senate; I know it is impatient to get at the active business of the day; but I think it is right, under the course which this debate has taken, that I should spend a little time in giving the real philosophy of the recent election in Connecticut, for there is a philosophy underlying that election; and it is twofold. It arises first from the nature of the population of my State. Close to the great commercial metropolis where the vast bulk of the European immigration lands, that immigration overflows into Connecticut, and fills up our villages scattered along our lines of railroad all over the State. Our young men of American birth, as they grow up and attain their majority, leave their homes, go to the cities or to the West, and their places are filled by the peasantry of the Old World just poured into this country. We have about ninety thousand votes in Connecticut. Of these more than one fourth to-day are cast by naturalized citizens. Of those votes at the recent election nearly forty-five thousand were cast for the Republican candidate and about forty-six thousand for the Democratic candidate for Governor. Of the votes cast for the Democratic candidate more than one half were cast by citizens of foreign birth, and of those citizens more than the majority which the Democratic candidate obtained were citizens who were naturalized within three weeks prior to the election. And when my colleague talks of the intelligence of Connecticut as reversing the verdict of the State last year, or as arrayed in opposition to the great Republican party of the United States, it seems to me that he must know that he is talking wide of the record. The vote given for the Republican candidate this year is larger in numbers than that given last year. The increased vote given for the Democratic candidate over last year is less than the naturalized votes of this year.

Owing to this nature of our population and the mode in which it increases we Republicans in Connecticut have always a hard battle to fight. We must win the accessions to our side from the young men of American birth, educated in our schools, reared in our churches, attached to the principles upon which this Government was founded. It is from them that we have got to get our accretions, while the ignorance and the superstition of the Old World year by year is poured into the Democratic ranks, with which my colleague is now happy to affiliate.

Again, sir, I said there was a twofold philosophy in this matter. As we have to win to our side from the young men as educated in our schools and of American birth it has been our true policy, and would have been our true policy for the last twelve years, constantly, persistently to have maintained a bold, manly front to the common enemy. Pluck, courage wins young men; they come where they see it. But, sir, the other branch of the philosophy underlying the result this spring has been this: while the great mass of the Republican party of Connecticut has ever since its origin been manly and faithful to the principles of the party, we have had among us a few hundred men, no more, holding the balance of power between the parties of our State; and of those few hundred my colleague has been the commander-in-chief; and we have in our annual conventions, I admit, in our intense desire to secure the vote of Connecticut for that party whose principles we believe to be essential to the permanence and the goodness of our institutions, yielded too much to this little pretorian corps. At their solicitations, upon their pressure from year to year, we have failed to place ourselves fairly and squarely upon the record which the Republican party was making for itself in the other States of the Republic.

During the war, in our anxiety to secure the

influence of Connecticut, such as it was, for the maintenance of the great conflict, we have yielded to these men, we have given them the leading offices; we did not care anything about the offices; we wanted the Republic saved, and if these men could be got by an office to give us their votes and their influence let them take the offices so that we saved the nation. And when the war was over the patronage of Connecticut, having been for years in the hands of my colleague, (and no man in America knows better how to use patronage either for personal or political ends,) the offices in Connecticut were filled largely by men that did not need to be turned out; and consequently when my colleague, the commander-in-chief of this floating mass, large enough by its votes to swamp either party, made up his mind to leave the good old Republican ship and go over to the common enemy, they all followed him. You did not need to change the postmaster at New Haven; you did not need to change the collector in the eastern district; you did not need to change the collector in the western district; most certainly you did not need to change the collector of the port of New Haven or the postmaster at Hartford, because most of those officers could more effectively serve the purposes of my colleague by professing to remain in the Republican ranks, going to our conventions, apparently working with us, and then when election day came stabbing us in the back.

Sir, I had almost said that I am glad that the election in Connecticut has resulted as it has: the atmosphere will be clearer; the party will be purer. We stood this spring, for the first time, right square upon the platform of principle; we met the enemy on that platform; and if we suffered a defeat, the two causes which I have mentioned show that that defeat was not as my colleague thinks by a change of opinion on the part of the intelligent voters of Connecticut. I do not know where my colleague is to find those who were so alarmed at the radicalism of the Republican party as to have altered their votes from the votes they gave last spring when the record stares me in the face that our candidate for Governor got more votes this spring than he got last. And, sir, because now our party is liberated from the crew which has been clinging to it for the sake of spoils for the last twelve years, because now we go forth to the contest hereafter planted firm on principle, I am convinced that from this day forth in Connecticut we are and shall be stronger than we ever have been before. I am convinced that when the young men of Connecticut, born there and educated in our schools, see the Republican party of the State founding itself upon the principles of the Declaration, never afraid to meet the common enemy squarely in the face, never for the sake of getting the votes of a few selfish individuals of the party shrinking from the declaration of its real intentions, when the young men of Connecticut see this they will come to our party in such numbers as they have never come before. And when an election has taken place in a Commonwealth like Connecticut, where upon the record of that election itself it is evident that more than two thirds of our own citizens, born among us, familiar with our institutions, grounded in the principles of American liberty, have voted for the unsuccessful candidate, I say defeat with such followers as those is more honorable than success in the association in which my colleague finds himself.

Mr. DIXON. Mr. President, as my colleague has made pretty direct allusion to me in the course of his remarks, I shall be excused perhaps for taking up the time of the Senate for a few minutes in reply.

The Senator has attempted to give the philosophy of the recent election in Connecticut, and he has given two reasons which I propose to consider.

In the first place, he states to the Senate what is true, that we have in the State of Connecticut a large foreign vote so-called: a large

portion of our citizens are of foreign birth; and he goes on to remark that they are ignorant and superstitious—

Mr. FERRY. Nothing of the kind did I say.

Mr. DIXON. The "ignorance and superstition" of Europe—I took it down from his own mouth—comes in from the great marts of commerce and thus overwhelms the true intelligence of Connecticut; and therefore he says that when I speak of the intelligence of the people of Connecticut I speak of that which does not exist as relating to this recent change at our election.

In the first place, with regard to the "foreign vote," I have this to say: I make no distinction between foreigners and natives; I know nothing of foreigners; I know nothing of natives; I only know American citizens. They are all American citizens, and until they are such they cannot vote in the State of Connecticut. I am a little surprised that the honorable Senator should speak of this class of our population in the manner in which he has seen fit to do this morning. I have heard it charged heretofore, and it has been sometimes true, that the honorable Senator himself and other gentlemen who address the people of Connecticut are in the habit of speaking very differently of this class of our voters before and after election. I do not think the honorable Senator would have gone to Connecticut and made the speech which he has just made before the election. He made several speeches there; he addressed the people of Connecticut; and while I will not say that he made abject appeals to this foreign vote, for I do not think he would do it, still I do not believe that he told them they were overflowing with the ignorance and superstition of Europe; that their vote would not be any proof of the intelligent verdict of the State of Connecticut.

On the contrary, I think he addressed them as adopted citizens, as men who ought to look above all such considerations, forget that they were of foreign birth, and vote as men should who have cast in their lot with us. I have no doubt he appealed to them in that way; and while I have said that I do not believe he made abject appeals to them, this I do say, that some of the radical speakers in the State did actually disgrace and degrade human nature by the abjectness of the appeals which they made to this very vote of which the Senator now speaks so contemptuously. Take the leading paper in the State, take the paper conducted by the Governor; I may speak of it because he is the Governor of the State of Connecticut. For six weeks before the election the honeyed words which he poured through those mellifluous columns upon the Irish and the foreign vote would have charmed my friend from Connecticut if he could have read them. Nothing was too good to say of these highly intelligent people; then the Irish were going to vote with the Radicals; their eyes were opened; they had become intelligent, and Radicals would receive their votes, especially since Andrew Johnson had been so base as to obey the laws with regard to the Fenian insurrection! No sooner was the election over, and the editor of the paper found that he and his friends were not elected to office, than their whole course changed with regard to this vote, and the language which my colleague now uses is contemptuously applied to our foreign-born population.

Now, it does seem to me there ought to be some little consistency on the subject. If this vote is of the character stated; if this people are of that character; if it is proper to denounce them as ignorant and superstitious and not intelligent after the election, why not say so before? Why not meet it? The Senator claims to be actuated by high principles, and he has intimated pretty strongly that those who are opposed to him are not. Now, the truth of it is that if there has been any means which has not been resorted to by that Senator's friends, if not by himself, to obtain the foreign vote, I am ignorant of it. So much for that.

Now, sir, one word with regard to the character of those people. It is true that they have not had all the advantages of education which some of our people have had. They have not all had the advantage of common schools. I do not think, therefore, that they should be denounced, as they have to-day been denounced by my colleague, as "the peasantry of Europe." If they were "peasants" at home, here they are freemen, and here we make no distinction. Is the Senator a Republican? Is he in favor of allowing the untaught, uneducated negroes of the South to vote; and does he wish to refuse the vote to those citizens of European birth who were invited by our laws to settle here? Is that his position? I understand him to be in favor of inviting a universal suffrage throughout the whole country.

Mr. FERRY. That is my position.

Mr. DIXON. And still he says to us that when the verdict of the State of Connecticut is influenced by the foreign vote it cannot be called the result of the intelligence of Connecticut.

Now, sir, I will close what I have to say upon that point by saying that I do not believe the honorable Senator will make the same speech which he has made here to-day at the polls or on the hustings at the next election. As the period approaches for holding the next election he and his friends will begin to think more favorably of the intelligence of our citizens of foreign birth, and not until after they have voted will they become "ignorant and superstitious."

The Senator has gone into matters of somewhat a personal character, and if I allude to the Senator personally he will excuse me for so doing, inasmuch as he has, very properly perhaps, alluded to me. I make no objection to that. The Senator has said that for the last twelve years the standard of Republicanism has been so low in Connecticut, inasmuch as it has been controlled and led by myself and a small pratorian band controlled by me, that it has resulted in their final defeat. The Senator forgets that during that time we gave one majority at one of our State elections of nearly twelve thousand; he forgets that at another election, and that, I may be permitted to say, was the year when I was reelected, the majority was six thousand, with these same leaders.

But, not to dwell upon that, the Senator says that men have been appointed to office who did not need to be influenced by an official bribe, that they were ready to go over with their leader whoever he might be—I do not claim to be that person—men to whom had been given offices for the sake of obtaining and controlling their votes; men who had not been influenced by high considerations as he had and those with whom he acted. Will the Senator allow me to remind him of the manner in which he emerged from the perhaps more honorable pursuits of private life into public position. When he left the honorable pursuits of the bar, how was it? As a Know-Nothing. When I first had the pleasure of hearing that honorable Senator's voice in the Legislature of Connecticut he was a leader; this pure Republican, who never followed any popular issue for the sake of office, was a leader of the Know-Nothing party!

Mr. FERRY. I believe you and I were together that session.

Mr. DIXON. And he remained true to that party, for he of course never changed. I beg the honorable Senator's pardon. I had the honor of being elected to the Senate by an American Legislature; but I never claimed to be a leader in the party, and in point of fact I never belonged to the party proper. The Senator never saw me in any of his secret lodges.

Mr. FERRY. Does the Senator mean to say that he never belonged to a Know-Nothing council?

Mr. DIXON. Never. I never was inside of them.

Mr. FERRY. Never was initiated?

Mr. DIXON. I was never initiated.



Mr. FERRY. You were terribly misrepresented then in the Legislature of 1856, for you were elected by that Legislature on the express ground that you had been initiated in a Know-Nothing lodge. I am glad to be corrected if it is not so.

Mr. DIXON. On the contrary, in 1856, when I was first elected to the Senate, a speech was published which I delivered, the first speech which I ever had the honor to deliver in the House of Representatives, in 1846, (I have been here a long time in one House or the other,) against the native American party; and that speech was published and circulated with the view of preventing my election. If it was said at the time that I belonged to the Know-Nothing party proper, or had ever joined their lodges, or had ever entered into any initiation, a mistake was made. I never heard that such a claim was made. I should have probably met the Senator if I had been in their lodges. I should have met him in one of their secret meetings. The Senator knows perfectly well that I was an outsider. There were some of their principles that were proper and right, and when they discarded their proscription and became an open party, I was willing to support those principles. I am not now denouncing them. I am only saying that the Senator who claims that he has been throughout a consistent Republican, and that he has been one of that pure angelic class who despise all office and would resort to no means to obtain office, leaving that to more unworthy spirits, has, I think, mistaken or forgotten a portion of his history. I do not deny that the Senator had good reasons and good motives for entering into the Know-Nothing party. I do not dispute his right to do it: honorable men went with him; but if he was in at the birth of the Republican party he was very much belied in the State of Connecticut. It was supposed that the Republican party was formed without his aid and against him; that he acted with the Know-Nothing party long after the Republican party existed. That is the belief, and I think the Senator will not deny it. But, sir, I do not propose—

Mr. HENDERSON. Mr. President, I rise to a question of order. I believe that the motion pending is to go into executive session.

The PRESIDENT *pro tempore*. That is so.

Mr. DIXON. Well, Mr. President—

The PRESIDENT *pro tempore*. I believe it has never been the practice of the Senate to restrict Senators in the course of debate in which they see fit to indulge in arguing these questions. We cannot enforce that kind of order. Each Senator must judge by his own sense of propriety of the way in which he will handle his argument. This argument is supposed to relate to the subject of going in executive session. It is true I do not see any connection with it, but Senators do, and they are the judges.

Mr. HENDERSON. I will beg of the honorable Senator from Connecticut, then, that he will give way for an adjournment this evening, and close his speech to-morrow.

Mr. DIXON. I will obviate any necessity for the Senator's motion by closing in one moment. I have only a few more words to say. In this allusion to the Senator [Mr. FERRY] of course I mean no personal offense; but he has assailed the motives of my friends; he has declared that they have been governed by impure, improper, and corrupt motives for the last twelve years; and he has claimed that he and his friends have acted from none but the purest motives, have merely desired to advance the interests of the country. I have shown how that Senator himself has acted. If there is anything which authorizes him to assume that superiority in regard to party excellence of conduct, then I am very glad to find it possible for him to enjoy that consolation, although the record disproves his claim.

Now, perhaps, I ought to say a word in regard to the office-holders in Connecticut. He has alluded to some of them. I do not know that they need any defense from me.

It would perhaps be a work of supererogation. They are a portion of our citizens. The Senator seems to be dissatisfied with the people of Connecticut, his own constituency. Sir, I did not expect to be called on to defend my own constituents against the attacks of my own colleague, and I could wish the blow had been struck by some other hand.

One portion of them he says are of foreign birth, ignorant, unintelligent, superstitious; and another portion of native birth are corrupt office-seekers, not needing bribe, ready to follow anywhere for the sake of office. Is that so? Is my colleague just toward those people of our noble Commonwealth? Is that true of the people of Connecticut? If so, the honor of representing that State is not so great as he and myself had fondly believed. No, sir, the Senator is mistaken in regard to their character; they are honest, intelligent freemen; they have had no threat held over them. A large number of the office-holders, a majority of them, have voted for his candidates, perhaps favored his election; a portion of them have voted as I think right; but not a man of them has ever had it intimated to him or ever suspected that he would be removed from office if he did not do so.

Now, sir, a word as to the platform of principle which these gentlemen have followed. The Senator says that last year his friends succeeded by five hundred majority, and this year they are defeated by twelve hundred, and yet there has been no change of sentiment. Has the Senator forgotten the position which they took last year? Does not the Senator know perfectly well that the paper conducted by the Governor of the State then declared that there was no virtual difference between the President and himself and his party? Has the Senator forgotten that record? Does he not remember that they claimed then to run as Johnson men? Does the Senator remember the interview which that gentleman had with the President of the United States, as it was reported in the Connecticut papers a few days before the election, in which in the form of a dialogue the interview was related to the people of Connecticut, and it was declared that there was no virtual difference; that Governor Hawley and President Johnson thought alike; and that, too, after the veto of the Freedmen's Bureau bill, and after the speech of the 22d February, 1866? And now the Senator says these same men have always acted on high principle, and last year, avowing their principle, they elected their ticket by five hundred majority. The Senator remembers all these things; the Senator very well knows the position they then took, claiming to be *par excellence* the Johnson party of the State of Connecticut. Yet when the election was secured by the means which I have described, the result was announced in the Radical press as a verdict against the President and his policy! Such are the lofty and honorable means by which unselfish patriots who now boast of their spotless purity have been accustomed to win their triumphs.

Sir, I regret very much that the question of the Connecticut election should be brought into discussion here. I have not introduced it. The Senator from Nevada saw fit to introduce it. I attempted to reply to some portion of his remarks; I made no allusion to my colleague except in the most indirect way; I do not complain of his reference to me; but I barely beg leave to say that if I have referred at all to his course it has been in reply to his own direct reference to myself and my friends. I am willing to concede to that Senator honesty of purpose; I suppose him to be honest. Probably he was honest when he was in the dark-lantern society. I will not deny that when he led that patriotic band of office-seekers and office-holders he was governed by patriotic motives, and when he emerged from that into the Republican party, the Know-Nothing party having collapsed, I concede to him, if he claims the concession, that even then he was not governed by any selfish mo-

tives. I am willing to concede everything to him upon that subject, and even to his friends in the State which they so loudly claim. They are rabid, and rather uncomfortable; they are somewhat difficult men to deal with, hard to satisfy, always complaining; but still let us say, since they will have it so, that they excel all men in honesty of purpose and purity of motive. Honesty is rugged in its character. They certainly never could be called men of a flattering aspect, and they have always possessed a wonderful capacity of winning dislike. They say all the severe things they think and sometimes a little more than they think, as I trust is the case with my friend to-day. But while I am willing to submit to this for myself, I cannot silently listen to assaults from any quarter upon my constituents, whether of native or foreign birth.

Mr. BUCKALEW. Mr. President, I have come to the conclusion this morning that the Senate is not very anxious to adjourn, and we seem to have departed from the pending business to discuss other subjects. Now, sir, I wish to make one point while this question of the continuance of our session is under consideration. The Senate, by passing the tenure-of-office bill, by agreeing to the enactment of that measure, assumed a peculiar and novel obligation, one that has never before rested upon it at any former session, whether a regular one or a special one, under a call of the President. By that tenure-of-office bill we have deprived the President of the United States of the power of filling offices which may be vacant at the time of our adjournment. Not only have we imposed a prohibition upon him in this particular, and thus changed the practice of the Government as it has obtained from the earliest periods, but upon the appointing power, and upon persons appointed or selected to office in violation of that prohibition, we have imposed severe penal enactments. The Senate, therefore, by agreeing to that bill, by passing that bill, have assumed the obligation and duty of filling these offices before adjournment. I think that that duty ought not to be shirked; it is one that cannot be honestly and fairly evaded.

Senators are to remember also in this connection that within the last year we have increased our compensation; we have largely increased the pay allowed us by law. Having done so, and having prohibited the President from filling the public offices of the country, it is our clear and plain duty to remain here until all those offices are filled, at least those that are important, all those that there is not any existing provision of law for their management and control in the absence of a regular appointment.

The PRESIDENT *pro tempore*. The question is on proceeding to the consideration of executive business; and on that question the yeas and nays have been demanded.

Mr. TRUMBULL. I do hope since we have now disposed of Connecticut, and Wisconsin, too, I believe, [Mr. SUMNER. Have we?] for to-day I trust, that we may be permitted to come to the question of adjournment, if that is the question before the Senate.

The PRESIDENT *pro tempore*. It is not the question before the Senate; the question is on going into executive session.

Mr. TRUMBULL. I hope that whoever made that motion will withdraw it and let us have the question on the adjournment. If we had settled it yesterday we should have saved this debate to-day.

Mr. ANTHONY. I will withdraw the motion if I can be permitted to do so.

Mr. TRUMBULL. Now, then, let us have a vote on the question of adjournment.

Mr. SUMNER. I renew the motion to go into executive session.

The PRESIDING OFFICER. The yeas and nays having been ordered, the motion of the Senator from Rhode Island cannot be withdrawn but by leave of the Senate.

Mr. SUMNER. I object.

The PRESIDENT *pro tempore*. The Chair

will put the question on granting leave to withdraw the call for the yeas and nays.

Leave was granted.

Mr. SUMNER. Looking at the clock I beg to remind the Senate that it now wants twenty minutes of four. I think at that hour we had better adjourn and go home if we are not disposed to go into executive session and attend to the business on our table. If Senators are disposed to adjourn and go home for the day I have no objection to that; but I do not think it advisable for us to open again to-day the debate on the question of a final adjournment. It is evident from the very discursive and multifarious speeches to which we have listened with so much interest on this subject of an adjournment that there is much more to be said. The subject has not been exhausted. Connecticut is not exhausted; nor is Wisconsin; in short, I believe that is a perennial fountain which must always flow as long as my excellent friend [Mr. DOOLITTLE] is in this Chamber. It is evident there is much more to be said on the subject; it had better, therefore, go over until to-morrow. If the Senate is not disposed to adjourn and go home let us at least go into executive session. To that end, therefore—I supposed that motion was pending; if it is not I make the motion that the Senate proceed to the consideration of executive business, and on that I ask for the yeas and nays.

The PRESIDENT *pro tempore*. That motion has been pending for three hours.

Mr. SUMNER. I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Buckalew, Cattell, Cole, Conkling, Cragin, Drake, Fessenden, Harlan, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Sumner, and Van Winkle—13.

NAYS—Messrs. Anthony, Chandler, Dixon, Doolittle, Ferry, Fowler, Frelinghuysen, Henderson, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Ramsey, Ross, Stewart, Thayer, Tipton, Trumbull, Wade, Williams, and Yates—24.

ABSENT—Messrs. Bayard, Cameron, Conness, Corbett, Davis, Edmunds, Grimes, Guthrie, Hendricks, Howard, Pomeroy, Saulsbury, Sherman, Sprague, Willey, and Wilson—16.

So the Senate refused to go into executive session.

The PRESIDENT *pro tempore*. The question is on the resolution fixing the day of adjournment, as amended.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. That is Tuesday at four o'clock, I believe.

The PRESIDENT *pro tempore*. That is the resolution as amended.

The question being taken by yeas and nays, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Cole, Conkling, Doolittle, Drake, Ferry, Fowler, Harlan, Henderson, Howe, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of New Hampshire, Ramsey, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Williams, and Yates—26.

NAYS—Messrs. Buckalew, Cattell, Cragin, Dixon, Fessenden, Frelinghuysen, Morgan, Morrill of Maine, Patterson of Tennessee, Ross, and Sumner—11.

ABSENT—Messrs. Bayard, Cameron, Conness, Corbett, Davis, Edmunds, Grimes, Guthrie, Hendricks, Howard, Pomeroy, Saulsbury, Sherman, Sprague, Willey, and Wilson—16.

So the resolution was adopted.

#### EXECUTIVE SESSION.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

SATURDAY, April 13, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs, in response

to a resolution of the Senate of March 29, calling for various items of information as to Indian affairs, which was ordered to be printed, and lie on the table.

#### TENURE-OF-OFFICE BILL.

Mr. RAMSEY. I move that there be printed for the use of the Senate five hundred copies of the tenure-of-office bill. There is occasion for reference to it all the time, and there is no way of putting our hands upon it. It may be printed in the newspapers, but such copies are not at reach always. I make the motion; the expense will not be much.

The motion was agreed to.

#### GOVERNOR OF COLORADO TERRITORY.

After a pause—

Mr. FRELINGHUYSEN. I move that the Senate now proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Chair will suggest that there are several resolutions on the table that may be acted on if Senators see fit to call them up.

Mr. FRELINGHUYSEN. I withdraw the motion if there is any other business to be done.

Mr. THAYER. I move to take up the resolution I submitted on Tuesday last, relative to the Governor of Colorado.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the President be requested to inform the Senate, if in his opinion not incompatible with the public interest, when Alexander Cummings was appointed Governor of Colorado Territory; how much of the time said Cummings has been absent from the Territory since his appointment, and whether by permission or not; and how much of said time with permission and how much without permission, and whether on public duties or not; and whether his salary has been paid to him during his absence or not, and how much has been paid to him as salary for the time he has been absent from the Territory.

The resolution was agreed to.

#### SENATE EMPLOYEES.

Mr. CRAGIN submitted the following resolution: which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Senate be directed to pay out of the contingent fund of the Senate to the clerks of committees and pages employed during the present special session of the Senate, and such other employes as are paid by the day, the usual per diem compensation.

#### REVISION OF THE RULES.

Mr. FESSENDEN submitted the following resolution:

*Resolved*, That a committee of three Senators be appointed to revise the rules of the Senate, and to report thereon early in the next session.

#### EXECUTIVE SESSION.

On motion of Mr. FRELINGHUYSEN, the Senate proceeded to the consideration of executive business; and after five hours spent in executive session, the doors were reopened, and the Senate adjourned.

MONDAY, April 15, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 10th instant, information relative to prisoners of war taken by belligerents in the Mexican republic.

Mr. SUMNER. I move that those papers lie upon the table, and be printed for the use of the Senate.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, communicating, in compliance with a resolution of the Senate of January 28, 1867, information in relation to the absence of territorial officers from their post

of duty; which was ordered to lie on the table, and be printed.

#### REVISION OF THE RULES.

The PRESIDENT *pro tempore*. The Senator from Maine [Mr. FESSENDEN] offered a resolution on Saturday, which was laid over, which ought to be considered in open session.

Mr. FESSENDEN. I would rather wait until more Senators get in this morning before taking it up.

#### EXECUTIVE SESSION.

Mr. RAMSEY. If there is no business in open session, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### EXTENSION OF THE SESSION.

Mr. JOHNSON. I desire to enter a motion to reconsider the vote on the passage of the resolution fixing the time for the adjournment of the present session of the Senate *sine die*.

The PRESIDENT *pro tempore*. The motion will be entered.

Mr. ANTHONY submitted the following resolution for consideration:

*Resolved*, That the time fixed by the resolution of the 12th instant for closing the present session of the Senate by an adjournment *sine die* be extended to the hour of four o'clock p.m. on Wednesday, the 17th of April.

LOUIS V. BOGY.

On motion of Mr. ROSS, the letter of the Secretary of the Interior, dated April 8, 1867, communicating, in compliance with a resolution of the Senate of the 5th instant, information in relation to the employment of Louis V. Bogy in the Department of the Interior, was taken from the table and referred to the Committee on the Judiciary.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 12th instant, information in relation to the employment of an attorney to represent that Department in the Court of Claims in certain cases pending in said court; which, on motion of Mr. CHANDLER, was referred to the Committee on the Judiciary, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. DRAKE. I wish to ask leave of absence for the remainder of this session of the Senate.

Mr. FESSENDEN. I am averse to the Senate beginning this practice of giving leave to Senators to absent themselves. It has never been done in the Senate since I have been here to my knowledge. A request was made the other day which was not acted upon. Every Senator has a right to go away when he chooses, and we cannot compel him to remain. He can justify himself to his own mind and to his constituents if he needs any justification. By undertaking to give leaves of absence we introduce a practice here which has never prevailed to my knowledge. Every gentleman acts upon his own responsibility. I have no doubt, as the Senator says, that there is very good reason for him to go; but there is no reason why we should pass upon it in any way. He does not need any leave from us. He can go and return at his pleasure. That has been the practice of the Senate hitherto, and I hope that it will not be broken over.

Mr. DRAKE. I will state that I made the application under a misapprehension. I thought that it was a customary thing.

Mr. FESSENDEN. No, sir.

Mr. DRAKE. Now, being informed by the honorable Senator from Maine that it is not, of course I do not wish to continue the application.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. DRAKE. Yes, sir.

## CONDENSED REPORTS.

Mr. BUCKALEW. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Printing be authorized to enter into a contract in the name of the Senate with some proper person to furnish condensed or synoptical reports of the proceedings and debates of the Senate, the same to be free to the press of the country or to any authorized agency thereof, such contract not to continue for a period exceeding one year, and to be submitted to the Senate for approval.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. FESSENDEN. Is it a resolution of inquiry simply?

Mr. SUMNER. Let it be read again.

The Secretary again read the resolution.

Mr. SUMNER. That is a very important proposition, indeed. I should like to have it considered at least by our Committee on Printing.

Mr. BUCKALEW. I will state that my motive in taking up the resolution is to permit the chairman of the Committee on Printing to make a motion with regard to it. I do not see him here at the present moment, however. I will make the motion in his absence. I ask the Senate to take up the resolution in order to submit a motion in regard to the subject. I do not want it adopted now.

The PRESIDENT *pro tempore*. What motion does the Senator make in regard to it?

Mr. BUCKALEW. To proceed to its consideration.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. MORRILL, of Vermont, and Mr. FRELINGHUYSEN. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

Mr. SUMNER. I do not know why we should object if it is merely to go to a committee.

Mr. FESSENDEN. It authorizes the committee to contract.

Mr. SUMNER. But I would send it to the committee for inquiry.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rule.

Mr. TRUMBULL. The objection, I apprehend, will be withdrawn. The Senator from Pennsylvania stated that he did not wish action upon the resolution, but desired to have it taken up for the purpose of making a motion in regard to it. I apprehend there can be no objection to that.

Mr. MORRILL, of Vermont. I understand that the Senator's object is to offer a substitute.

Mr. BUCKALEW. No, sir. The chairman of the Committee on Printing desires, when this subject is up, to move to refer it to a select committee. He is not present, but I will submit that motion in his absence as if he were here. I want it acted on to-day.

Mr. FESSENDEN. There is no objection to that.

The PRESIDENT *pro tempore*. Objection has been made, and if it is persisted in the resolution goes over.

Mr. MORRILL, of Vermont. I withdraw the objection.

The PRESIDENT *pro tempore*. If no other objection be interposed the resolution will be considered as before the Senate.

Mr. BUCKALEW. At the instance of the chairman of the Committee on Printing, I move to refer this subject to a select committee of three.

Mr. TRUMBULL. I should like to inquire if this resolution goes to a committee of three whether it goes to that committee with authority to enter into this arrangement?

Several SENATORS. Oh, no; to report upon it.

Mr. TRUMBULL. To report it back to the Senate?

Mr. BUCKALEW. Certainly.

Mr. SUMNER. Then should not the resolution be altered to the common form, that the committee be directed to consider the expediency of entering into such an arrangement?

Mr. FESSENDEN. The Senator does not understand it. The resolution authorizes the Committee on Printing to contract. Now, the motion of the Senator from Pennsylvania is to refer the resolution to a select committee, and they must report whether it is advisable to direct the Committee on Printing to make such a contract. There is no objection to that.

Mr. TRUMBULL. I am in favor of the proposition in that view, and I hope it will be adopted, and that the committee will report; and I am prepared to say that I hope they will authorize the Committee on Printing to make such a contract, to have some way by which the reports of this body can go out in other than the garbled form in which they have gone out heretofore, misrepresenting the positions of Senators almost daily. I have never made a complaint in my life; I have never risen, I believe, to a personal explanation since I have been a member of the body; but I have seen the abuse of this thing, and I shall be very glad indeed if we can get a reform in some way.

Mr. BUCKALEW. I understand the objection heretofore made to any action of this kind is that the Senate is in the power of the Associated Press, and that if we have authentic and accurate reports prepared that association will not receive them; they will by their extensive power, by their control over the press of the country, use their own reports in the future, and our attempt to extricate ourselves from the existing situation will be fruitless. That is the objection which has been stated, and I believe the only one which has induced delay with reference to this question of reform. Now, sir, I want to know whether the Senate of the United States is at the mercy of anybody who may be placed in our gallery under our rule; whether the reports of our proceedings shall be given to the country in precisely such form as an unauthorized and irresponsible individual may choose; whether his partialities shall be exercised in representing members to the public; whether his incapacity shall brood over the information which is given to the country of what we do.

I have been in the habit occasionally during the recent sessions of Congress of looking at the daily reports, and I must say that they are essentially unjust; they are essentially unfair as to individual members; and that they convey an improper view to the community of what we do. I think upon due inquiry it will be found that we may exercise some control over this subject; that if we attain accurate, intelligent, authentic reports the Associated Press, and all the press not connected with that association, will eventually take them. By producing a better article we will command the market. If the Associated Press, when that provision is made, will not take these reports when they are furnished to them free of charge, we have the power to defend ourselves certainly.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, to refer this subject to a select committee of three.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. BUCKALEW. By the Chair.

The motion was agreed to.

## EXECUTIVE SESSION.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

TUESDAY, April 16, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## EXTENSION OF THE SESSION.

Mr. SUMNER. There was a motion made,

I think, yesterday to reconsider the resolution of adjournment. I do not see the Senator in his place who made it, but under the circumstances I think the motion to reconsider perhaps had better be acted upon and the resolution be reconsidered, and then it can lie on the table.

Mr. ANTHONY. There was another motion made to postpone the time of the adjournment. I think that had better be acted upon rather than the motion to reconsider. The Senator who made the motion to reconsider will be in presently, and perhaps we had better defer action on the subject until then.

Mr. SUMNER. Very well.

## CONDENSED REPORTS.

The PRESIDENT *pro tempore*. The Chair will take this occasion to announce the special committee appointed to consider the resolution offered by Mr. BUCKALEW, directing the Committee on Printing to make a contract with regard to condensed reports of the proceedings of the Senate. The Chair will appoint Mr. BUCKALEW, Mr. ANTHONY, and Mr. TRUMBULL to be that committee.

## EXTENSION OF THE SESSION.

Mr. FESSENDEN. I desire to call up the resolution that was laid on the table yesterday by the Senator from Rhode Island [Mr. ANTHONY] with reference to extending the time of adjournment.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That the time fixed by the resolution of the 12th instant for closing the present session of the Senate by an adjournment *sine die* be extended to the hour of four o'clock p. m. on Wednesday, the 17th of April.

Mr. HOWE. What assurance is there that we shall be any better prepared to adjourn to-morrow than we are to-day?

Mr. FESSENDEN. If we are not, we can postpone it another day. I think there is some chance of our getting through to-morrow. If not, we can postpone the adjournment a day further.

Mr. HOWE. What assurance is there that we shall have a quorum to-morrow to postpone the adjournment?

Mr. FESSENDEN. Then we cannot do any business. My own impression is that probably we cannot get through at best until Thursday.

Mr. SUMNER. Allow me to ask, would it not be better, then, simply to reconsider the resolution of adjournment, and let it lie on the table, to be called up when we can see the time to fix it?

Mr. FESSENDEN. If we reconsider the resolution, and are left without a quorum, with no time fixed, we cannot adjourn at all. I think this is the better way. I think there will be a quorum.

Mr. SUMNER. I should like to have the resolution read.

The Secretary read it.

Mr. SUMNER. I move to amend the resolution by inserting "Thursday, the 18th of April."

Mr. FESSENDEN. I have no objection to that. I do not think we can get through before Thursday. If we should get through to-morrow we can adjourn then if we have a mind to.

Mr. SUMNER. Of course we can.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) It is moved to amend the resolution by striking out "Wednesday, the 17th of April," and inserting "Thursday, the 18th of April."

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the resolution as amended.

Mr. HOWE. I cannot vote for the resolution. I have no sort of assurance that we shall be any better prepared to adjourn to-morrow, or Thursday, or next week, or next month than we are to-day. There is nothing in the world that I know of to prevent our adjourning to-day except the simple fact that there are cer-

tain offices in the United States which have not been filled yet; and those offices have not been filled simply because the President has not found time since the 1st of December last to send men to the Senate that the Senate could or would confirm. Not having been able to accomplish this in that time affords to my mind a very clear indication that he will not find time to do it before the middle of next week, and strong reasons for suspecting that he will not do it before the middle of next fall, and I think a very satisfactory ground of belief that he will not do it at all if the Senate once advise him that they are prepared to stay here until he does do it.

These offices have been vacant, if they can be vacant, since the 4th of March last. Somebody is to blame for that. If the President has sent us men whom we ought to have confirmed, we are to blame, because we have not confirmed them. If he has not sent us men whom we ought to confirm, he is to blame, because he ought to have sent us such men. Every time we have voted to reject a man whose nomination was necessary to filling an office we have voted to leave that office vacant, and every time he has sent us a man whom he had satisfactory reasons for believing we would not confirm he has concluded to let that office be vacant rather than send us another man.

Now, I do not think the Senate ought to be required to stay here forever to try this question. I have once said to the Senate that whenever I had voted to reject a man I had voted that I would rather that man should be rejected than confirmed, though the consequence was that the office should be closed. I have rejected all that I have any appetite for rejecting. I would like to close out the entertainment; and I would like, if the Senate felt satisfied with the way it has discharged its duty heretofore, that it should come to the conclusion that it had done enough in that direction, and should go home and take the responsibility of these offices being closed, if the fault is ours, and if it is not ours let it rest on the only other quarter where it can fall. Therefore I voted deliberately last week to fix four o'clock this afternoon as the hour for adjournment. I do not want to extend it one minute. When four o'clock comes I want this Senate to dissolve, not exactly into thin air, but into individuals, and I want permission to retire from this Capitol.

Mr. CAMERON. I hope we shall not extend the time of adjournment beyond to-morrow at furthest. I did believe when I came here that some kindly treatment toward the President might induce him to act wisely in his appointments; but so far as Pennsylvania is concerned every appointment that he sends in is worse than the preceding one. I do not believe if we were to remain here until next December, as far as my State is concerned, the appointments would be satisfactory to the Republican party, that party which elected him. I think his intention is, if possible, to throw the responsibility upon us of leaving these offices vacant. I for one am willing to take the responsibility which justly belongs to the action of the Senate. The vacancies which now exist in Pennsylvania were created last summer, when he believed, through bad advice, that he could control Pennsylvania and with Pennsylvania carry the Union for his policy. He failed to do so, notwithstanding he removed almost every office-holder in Pennsylvania. Almost every man in office there who had voted for him was compelled to give place to somebody who had opposed his election. It had no effect upon our election then, and I am willing to try it again. I do not believe that he has any intention of appointing anybody but the worst men he can appoint—the worst men he can select who are willing to take his places.

For myself I would much rather adjourn to-day than to-morrow, but I am willing to wait until to-morrow and give him notice that that is the end of the time. If he thinks proper to send in proper persons here we will confirm them; if he does not, let the responsibility be

with him, where it will rest. I shall vote for no more of these compromises.

Mr. CHANDLER. I think we are a little at fault in this matter, Mr. President. Certain Senators on this side of the House proclaimed a few days ago that they were determined that these offices should be filled. Of course that was giving Mr. Johnson notice that he might continue to send in Copperheads and traitors, and that they would vote to confirm them. To correct that misapprehension on his part I am willing to give him one day's notice that Copperheads and traitors will not be confirmed, and that if he sends in loyal men they will be. I wish simply to correct the misapprehension that has arisen in his mind from the action of not more than two or three members on this side of the Senate, in proclaiming that they would vote to fill the offices no matter who the nominees were. I shall, therefore, vote for the postponement one day. I am willing to give him one day's notice, and then I would adjourn *sine die* whether the offices were filled or not. I said the other day that I would not be coerced into voting for improper men, and I will not; and I am willing to serve on him to-day notice that we give him one day more to fill these offices with proper men and no more time. I hope that the motion to extend the time for twenty-four hours will prevail, and that there will be no further extension.

Mr. FESSENDEN. I was not aware, until I heard the Senator from Michigan, that any Senators on this side of the Chamber, or on either side of the Chamber, had given notice that they would vote for Copperheads or anybody else that the President might send here. I suppose if there are any such Senators the Senator from Michigan can name them. I was not aware of the fact before. Is the Senator disposed to say who they are?

Mr. CHANDLER. The Senator from Maine said he would vote to fill these offices, and it is the Senator from Maine I mean. He is the chief, certainly. I mean the Senator from Maine.

Mr. FESSENDEN. I thought so. The Senator is always trying to hit at me in some way. I know his blows are not very severe. They strike wide, but they do not, many of them, produce much effect. I said no such thing, intimated no such thing as that I should vote for improper men, for Copperheads or traitors; and if the Senator means to say that I did he states what is not true in any sense.

Mr. CHANDLER. I stated just what the Senator did say: that he meant that these offices should be filled, and that he would vote to fill them; and he saw the class of men whose names were coming in, and notice was given to the President, as I have been informed, that if he persisted in sending in these names the Senate would surrender.

Mr. FESSENDEN. No such inference can be drawn from anything I said except by a man who is determined to draw wrong inferences. Take the record, look at it, and see if any such inference can be drawn from what I said. The Senator cannot find it. It was not said or intimated in any shape. I said, sir, what I say now, that in my judgment it is the duty of the Senate to stay here until these offices are filled; and I said, moreover, that if the President sent in proper men, men that we ought to vote for, I should vote for them. I said nothing and intimated nothing about others, and when the Senator puts that out to the country I repel it with the scorn and contempt I feel.

Now, sir, the Senator must not be too hard upon us in his late position of leader on this side of the Chamber. When he assumes it he at least must be reasonably generous, and at any rate confine himself to facts and to proper inferences drawn from what is said by other Senators. Let him turn to the record and see if I said anything that would bear any such inference as he has drawn.

Sir, I think the Senate has got to stay here properly until all hope of agreeing with the President on these appointments is lost. I

think the country will hold us responsible if we desert our posts. I am as anxious to retire as anybody. But, what have we done? We have passed a tenure-of-office bill which prevents, what has hitherto been done, the President from filling the offices in the recess, so that in some cases the duties of the office cannot be performed by any one. We have passed that bill over his veto. Now, having done it, if we undertake to go away as long as he is making an effort, by sending in names here, to fill these offices, without doing it, I say the responsibility is upon us and we cannot avoid it. The advice that is given upon that subject in my judgment is bad and dangerous advice; and if my friend, the Senator from Pennsylvania, is willing to take the responsibility for Pennsylvania, let me say to him that I think he will find the responsibility a weighty one. I know he is ready to take it when he says he is; but I think he will find that he is not so able to carry it as he supposes.

There are other parties concerned in this question besides the President and the Senate, and those parties are the people of the country who want these offices filled. You may talk about shutting up a post office in an important town because we cannot agree with the President as to who shall be postmaster; but what will the people of that town say when they cannot get their letters and their newspapers? These little matters have a very important effect upon the public mind, let me say to Senators; and however they may talk about political effect in throwing the responsibility upon the President and off our shoulders, let me say to Senators that when it comes to a matter of personal inconvenience to every man, woman, and child in an important town or city in this Union, its people will hold everybody responsible who had any part in the matter, and say that it is more important to the country that the office should be administered than that the President should blame the Senate or the Senate blame the President. We cannot escape our share of that responsibility, in my judgment; and more especially can we not escape it if we do not fill the custom-house offices, where the revenue is collected, and leave the question of who shall collect it a moot question and a difficult question to be met.

The opinion I expressed before I express now in its full length and breadth; I say it is the duty of the Senate to stay here until we come to an agreement with the President on these matters, or until it is manifest that there is no possibility of our agreeing. Let us look at the facts and see how they will stare us in the face. The President removed between four and five hundred officers, as was stated here in debate; and at this day there are some fifty or sixty offices that are not filled—perhaps not so many; certainly not more. The rest have been filled, and filled with men who have been confirmed by this Senate. What is the inference? That the President has nominated nearly four hundred men who were acceptable to the Senate.

I do not mean to defend the President for his action in turning out those men. I find as much fault with it as anybody. I am ready to stay here as long as anybody to keep out improper persons; but I am unwilling that the argument should be turned against us and against me. I am unwilling that the friends of the President should have it in their power to say, "Look; out of nearly five hundred men the President has nominated four hundred were acceptable to you." Every day that he sends in names we confirm a dozen or more of his nominations. When that is going on can we say that the President is not making an effort to agree with the Senate? Do we take the position that he has no right to an opinion on the subject when he is the person appointed by the Constitution to make nominations to office?

As long as he continues to send men that we do not approve we have a right to reject them. I do not quarrel with the Senate for that; but what I advise is that we should try in



good faith to secure the filling of the vacant offices and wait with a proper degree of patience until that object is accomplished, or at least until it is obvious to the whole country that we cannot agree and that the fault is not upon us. In my judgment that time has not yet arrived. From the very nature of things, from the very nature of the case, it is obvious that there must be a difference. The President is no longer our friend; he is no longer acting with us. We must accept the situation—we cannot help it—and do our duty in the best way we can, make the most and the best that we can out of it.

Sir, I think the advice that gentlemen give, to adjourn to-day at four o'clock, three hours and a half from now, with some forty or fifty offices of importance unfilled, is bad and dangerous advice. It is but a short time since we raised our yearly salary to \$5,000. We have taken care to pay ourselves well. I am not responsible for that, but with others I accepted that situation, and having done it my time is and ought to be at the service of the community that pays me, and neither my own personal convenience nor any whim of mine should lead me to desert my post until I can do it safely to the best interests of the country.

Sir, this is a matter of indifference to me, as much so as to any other Senator. I have not more interest in it than any other individual, but I shall oppose these motions as long as I can, and if the Senate vote me down I shall go home, and gladly go home with the rest of them, and be willing to take the consequences.

Mr. CHANDLER. The Senator desires me to be modest in my leadership. I will inform that Senator that I never aspired to leadership. I have been, perhaps, one of the humblest followers of the Senator from Maine in his leadership for years. I followed him as long as I could, and I believe I followed him very closely up to the time when he desired to adjourn Congress and I did not. I then used the argument that we were paid by the year, and I desired to hold Congress here that we might have the remedy for any ill or any mistake or any crime that might be committed. But, sir, the Senator from Maine was all-powerful, and through his influence in this and the other House an adjournment of Congress was carried; and I give him the credit for it. I did not follow him in his leadership on that occasion. I have no recollection of ever having bolted my leader until that time, but then I did. But, sir, now the Senator says "Look to the record." There is no record. What has transpired has been in secret session. As a matter of course no record has been made of the doings in secret session.

Mr. FESSENDEN. The record of what I said I alluded to. The language to which the Senator referred was in open session.

Mr. CHANDLER. What I alluded to was in secret session. I do not remember what the Senator said in open session.

Mr. FESSENDEN. The Senator had no right to allude to anything I said except in open session.

Mr. CHANDLER. I did not name you or any other man; but you asked who I meant, and I told you frankly I meant you. You would not have been named if you had not insisted on it. I am generally ready to give a reason for the faith that is in me.

Now, the Senator from Maine says he is not in favor of confirming improper men. I am glad to hear it. He says also, however, that he is in favor of keeping the Senate here until these offices are all filled. The President knows very well that if he can hold us here day after day and week after week he can finally worry us out. He understands that perfectly well, and so does the Senator from Maine understand it perfectly well. He knows that we cannot hold a quorum here ten days longer; and he knows that if the Senate takes that position it will not be one week before every single nominee of the President, right or wrong, will be either confirmed, or the Senate left with-

out a quorum and be powerless even to adjourn.

Mr. President, I repeat what I said before, that I am in favor of an adjournment of the Senate. While I opposed the adjournment of Congress I am opposed to the Senate's remaining here with its hands tied. While Congress was here it had its remedy at hand; but the Senate has no remedy. It can sit here from day to day and reject improper nominations as they come in, while at the same time it notifies the President that he may continue to send them in, and finally worry the Senate out. I believe that but for the intimation thrown out here, that the Senate could be worried out and that improper nominations would be confirmed, proper men would have been sent in before this. I believe that if we serve notice to-day upon the President that we will not and cannot be kept here to confirm improper men, that we have no fear of the responsibility which he has taken—the responsibility is his—the result will be beneficial. He removed good, reliable Union Republicans appointed by Mr. Lincoln and confirmed by the Senate, men of experience and character. Having removed those men, he now attempts to put in improper men. If he can stand that responsibility I can. I desire to serve this notice upon him: "You return those men, or men equally good, and we will confirm them; if you do not we will leave."

Mr. DRAKE. Mr. President, I consider it my duty, as a member of this body, to remain here as long as the public interests call for it; but there is one thing that I do not consider it my duty to do, and that is to remain here to reject, time after time, nominations by the President of the same individual to the same office. There are two cases of officers in the State from which I come, in one of which the President has nominated one individual twice for that office after he had been previously rejected for another office; and in the other case he nominated the same individual three times for the same office, and every time he was rejected by this body. Now, sir, I do not concede that it is the duty of the Senate to remain here in session for an indefinite length of time to enable the President to try that same game with regard to offices all over the country, and in that way finally worry the Senate into confirming men that it does not think ought to be confirmed. And, sir, I think that the time has come, referred to by the honorable Senator from Maine, that we discover it to be an impracticable thing to agree with the President when he thus, instead of sending in new men for offices, undertakes to nominate the same men over and over again for a position for which the Senate has rejected him. I think when the President's game has come to that point it is time the Senate had adjourned and gone home.

Mr. ANTHONY. There seems to be a difference of opinion whether we should extend the time until Thursday or not pass the resolution at all. I think we had better go back to the original resolution. The original resolution fixed the adjournment for Wednesday. It has been amended by extending it to Thursday. Now, I move to reconsider the vote adopting the amendment so that we can go back to Wednesday, and then if we find it necessary we can extend the time another day. I move to reconsider the vote by which the amendment was adopted.

Mr. SUMNER. I hope not.

The PRESIDENT *pro tempore*. Did the Senator from Rhode Island vote with the majority?

Mr. ANTHONY. There was no division.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to reconsider the vote by which the amendment was adopted. The question is on that motion.

Mr. DAVIS. I will say a word on this subject. The offices that are unfilled do not belong to the President of the United States; nor do they belong to the Senate. They belong to the country. It is the interest of the country that

they should be filled, and that they should be properly filled and filled before the Senate adjourns. There are two coördinate branches of the appointing power; the one is the President and the other the Senate. We have had parties in our Government ever since its origin, and parties of great acrimony and of fierce competition; but when was the principle or the purpose ever laid down before that the Senate would compel the President to nominate for office particular persons whom the Senate desired? From the time of the election of John Adams up to the present Administration every President has exercised the discretion of nominating to the Senate his own friends for office. I do not know that the present Executive of the United States has any particular friends; but if he had, and that was the principle upon which he was acting, he would be acting in conformity to the practice of the Government from its origin up to the present time. I concede fully that it is his duty to send a competent and an honest man to the Senate for every office. When he has presented such a man as that to the Senate he has performed his duty, and his whole duty, within the spirit of the Constitution and in accordance with the uniform usage of the Government. I concede that the Senate has the power, and further, that it is the duty of the Senate, if the President sends an unfit person here for office, to reject him; but what is this matter of fitness for office?

There used to be an old-fashioned idea in relation to fitness for office. If a man had sufficient intelligence and converseance with its particular duties, and he was an honest and faithful and capable man, such a man in times past, and up to the present time, was always deemed fit and eminently fit for office. Is that the test and the measure of fitness now? No, Mr. President; there is a new and a *summum bonum* qualification that has been interposed in this day as the *sine qua non* for office, and that is that the nominee must be a Radical. I do not assent to any such principle as that.

Senators have spoken of nominations for their respective States. My State has but little patronage and few nominations, and the most of them are filled, and a good many of them are filled with Radicals, too. But there is one office there that is not filled. How did it become vacant? It is the office of collector of internal revenue in the ninth district. A Radical was in the office with the consent and ratification of the Senate. He resigned his position in the summer or fall of last year and made it vacant. It is a fact of public notoriety, of public knowledge, that a most competent man was appointed *pro tempore* during the recess of the Senate to fill that office. He entered upon the discharge of its duties, and when the Senate convened the President nominated him, as it was his duty to do under the Constitution. There was not a voice or objection against him for unfitness for that office in any respect save and except that he was not an extreme Radical. His intelligence, his integrity, his perfect comprehension of the duties of the office, his disposition and ability to perform them faithfully to the country, everything connected with the proper filling of an office he was conceded to have possessed, and yet he did not fill that office. It is a matter of public history that he was rejected. On whom, then, does the responsibility devolve that that office was not filled? Certainly not upon the President.

It is known as a public fact in the country that this nominee of the President was rejected, and then he nominated another man for the office who had been a soldier in the Mexican war, a gallant colonel in the late war, who had led his regiment into bloody fields with the most distinguished bravery, gallantry, and good conduct, both in East Tennessee and southern Tennessee and northern Alabama; and at Resaca de la Palma he led his regiment with as much gallantry and rendered as much effective service on that hard-fought field as any colonel in it—a modest soldier, an intelligent lawyer,

a business man, not a party hack; as true a friend of the country and of the cause of the country in this late war as any man that is within its broad limits; true to the Union, true to the stars and stripes, true as any man for putting down the rebellion; and yet such a man as this was presented to the Senate, and it is a matter of public history that he was rejected. Now, sir, here is the second effort of the President of the United States to fill that office, and to have it filled by such a man, and the Senate will not receive him. He is rejected, and the office is still permitted to remain vacant and its duties unperformed and unattended to. Who is responsible for that, the President of the United States or the Senate?

Well, sir, the President, true to his constitutional duty to nominate for office, sends still another man to fill this office that had originally become vacant, not by his ejecting any man from office because he differed from him in his politics, but because of the voluntary resignation of the incumbent. He sends in another nominee. That nominee has been presented to the Senate, Judge Apperson. A man more fit for the office to which he had been nominated could not be designated in the civil history of our country. No man less a party hack than he, intelligent, a learned judge and lawyer, honest, of the highest character for integrity and truth, a business man, diligent, capable, acceptable to his people, elected a judge by the popular vote since the commencement of the war, as spotless and as unobjectionable a man as lives; and yet the fastidious Senate will not accept such a man as him from the President as the third effort to fill the office; and why? This man was no party hack. Neither of the gentlemen who had been nominated for the office previous to him was a party hack. But the Senate reject him as inexorably as the two former ones. Why? Simply because he is not an adherent, a supporter, a partisan of Congress against the President. Sir, he is no partisan of the President. He is no partisan of Congress. He is a partisan of the Constitution and the Union of his country. That is the only partisanship that he has ever known or recognized or acted upon; but that partisanship does not suit the Senate. They are not willing to take a man who has every quality of intellect, of business, of character, of integrity, and of morals of three different men for this office that was vacant by resignation, and they reject the whole of them *seriatim*; and all upon the simple ground that the men nominated were not Radicals, were not supporters of Congress, when they were not the partisans of the President. These men would scorn to be the blind partisans and tools of any President or of any Congress. They are men of character and of principle, attached to their Government, desirous of its proper and enlightened and virtuous administration. They are men eminently competent to take part in such an administration of the Government, and they would scorn to act any other part in it. And yet this third nominee for the office was rejected.

The President has sent in another. I suppose that the same fate awaits him, because although he comes up to all the requisites of a true officer, to every requisite that the appointing power, whether it be the nominating or the confirming power, ought to require, although he comes up fully to every requisite that any enlightened and virtuous appointing power ought to require, still he is deficient in this indispensable requisite: he is not an extreme partisan of the Senate against the President; he enters into no partisanship; he is for the Senate and for Congress when they are right; he is for the President when he is right. He supports the Constitution and the Union, was himself a soldier in the war, and also led his regiment into the field and into battle, and is ready to do so again, and has every requisite and qualification for the office but this indispensable one: he is not a partisan of Congress.

Now, Mr. President, I have spoken of my own

State, and of this particular office, simply because I had knowledge in relation to my State and this office. I have not in relation to other States of course, and could not have; but this I have to say: that if the President is acting in as noble performance of his duty in other States as in the State of Kentucky in his various nominations to fill this office he has done his duty most preeminently, and is subject to no censure whatever, and if there be any default whatever it is the default of the Senate and not of the President, and it will so be regarded by the portion of the people of Kentucky among whom the duties of this office are to be performed.

Mr. YATES. I always listen with a great deal of pleasure to the able Senator from Kentucky, because he always presents his side of the question in the ablest manner; but, sir, I am unwilling that the rule which he lays down to the Senate shall go out to the country as the rule, or as what has been considered the rule, governing the Senate heretofore.

I am willing to admit that where a President has been elected by the popular vote, and he appoints partisans, the men of his own party to office, if they are respectable, if they are worthy, if they are competent, it is the duty of the Senate, or has been considered their duty, to confirm the nominations of the President. Why? Because that is the popular verdict; the people have so decided; it is the voice of the majority. They have decided that he is the President of the United States, and that he has the right to nominate his partisan friends to office, and the minority very properly submit to this expression of the popular verdict.

But, sir, the present case is anomalous. I find my friend, the honorable Senator from Kentucky, claiming that the men who have been elected in particular districts by Radical votes shall not name the men who are to hold the offices, but a renegade from his party, the President of the United States, who has abandoned his party, who has turned his face upon his party, who ignores the popular verdict, who repudiates the will of the people, who represents a miserable minority of the people of the United States, that he, forsooth, shall send in his nominations for a radical Republican Senate to confirm! Sir, this Radical party of which the Senator from Kentucky speaks has swept the country by majorities which have not been known in the history of this Government. Our victory was not only not doubtful, but it was complete. Our banner waved everywhere in the ascendant. And now the Senate, which represents this popular voice, the verdict of the people, are to sit here and confirm the nominations of Democrats, of men from the minority, or of mere *quasi* Republicans! Will the honorable Senator from Maine ask me to stay here and see my nomination for the man in my district treated with contempt, and name after name sent in until they number dozens? Am I to sit here and finally indorse the nomination of some *quasi* Republican it may be, taking not whom I want, not whom the people of the district or the people of the State want, but whom I can only get? Sir, the rule was that "the spoils belong to the victors," that the party which triumphed should have men in office to carry out the principles of that party.

I am not in favor of any speedy or sudden adjournment; but do we not know that if we sit here we are not to get our choice; that although we are in the majority, although we have carried the majority in the country, and are entitled to the offices according to the rule, we are to sit here from day to day and make rejection after rejection, and finally take somebody who is not the choice of the Senate, but a sort of compromise man, who is neither Democrat nor Radical, somebody that we will take because we cannot get whom we want?

Now, sir, I can see the effects of this delay of the Senate staying here upon Republican Senators. What is the fact? Name after name is sent in; we must confirm or reject; and

if we cannot get the man we want, if we finally take some man who is not acceptable to the Republican party, we are responsible when we go home. We are responsible also for every objection which has been made. Who does not know now that it is a part of the policy of the Administration to look up lame and disabled soldiers who have turned traitors to the principles of the party which has triumphed in this country and flood the Senate with these nominations, so that the hue and cry may be raised that we are voting against soldiers, men who have fought and bled in the service of their country. The longer we stay here the more are we to be subjected to the charge that we are repudiating soldiers. I am opposed to any such course. I do not recognize the principle which the Senator from Kentucky lays down. The offices of this country belong to the men who have carried the elections at the polls. He says that we reject men because they are not Radicals. Sir, we have a right to reject them because they are not Radicals, because the sentiment of this country is Radical; the Radical sentiment has triumphed and gloriously triumphed; and the Senate of the United States will not come up to the high-water mark of its duties unless it sees that Radicals control this country.

Mr. ANTHONY. It looks as if this debate would last all day. I move that the Senate proceed to the consideration of executive business.

Mr. FESSENDEN. I think we can have a vote now.

Mr. MORRILL, of Vermont. Let us have a vote.

Mr. ANTHONY. I will give way if a vote can be taken; but I will not give way to any more talking.

Mr. FESSENDEN. I think we can have a vote.

Mr. ANTHONY. I will give way for a vote.

Mr. HOWE. I am not sure that we can have a vote.

Mr. ANTHONY. Then I would rather go into executive session.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island withdraw his motion?

Mr. ANTHONY. I understand that the Senator from Wisconsin proposes to debate this subject.

Mr. FESSENDEN. Unless we act upon the resolution we shall have to adjourn at four o'clock.

Mr. SUMNER. I beg the Senator's pardon; I understand it is reconsidered.

Mr. ANTHONY. No; it is not reconsidered. The motion to reconsider has not been taken up. This is a separate resolution.

Mr. FESSENDEN. My motion is to postpone the time, and unless we do so we must adjourn at four o'clock.

Mr. SUMNER. With that understanding, I shall oppose the motion to go into executive session.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island withdraw his motion?

Mr. ANTHONY. No, sir.

Mr. FESSENDEN. We must act upon this subject and settle it now, and I hope my friend will withdraw his motion.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

Mr. HENDERSON. I rise not to discuss this question at all, but simply to state to the Senator from Rhode Island that the Committee on Finance have in their hands now a large number of nominations, and it will be utterly impossible for us to do justice to ourselves and adjourn this evening at four o'clock, and some action ought to be had on this resolution. We must postpone the time. I am anxious for the adjournment; I have voted with the Senator from Rhode Island at all times for an early adjournment, and I am now in favor of fixing the earliest practicable moment; but as a

friend of an early adjournment I cannot consent that the Senate should adjourn this evening. We shall do injustice to ourselves, and much responsibility will attach to us, if we adjourn this evening. The most important offices are yet unfilled—all the offices of Philadelphia. The collection of the customs cannot now be had in the interim if we adjourn at four o'clock, and it is an utter impossibility to have them filled before that time. I beg the Senator from Rhode Island to take this matter into consideration. If Senators persist in discussing this subject let them do so until four o'clock, and let the responsibility rest upon them.

Mr. ANTHONY. Well, let us have a vote, then.

Mr. HENDERSON. I rose for the purpose of insisting that we shall not go into executive session.

Mr. ANTHONY. Well, sir, I withdraw the motion if Senators desire it. I hope we shall have a vote.

The PRESIDENT *pro tempore*. The motion for an executive session is withdrawn. The question is on reconsidering the vote on the amendment by which Thursday was fixed for the day of adjournment.

Mr. HENDERSON. Now, I hope the Senator from Rhode Island will withdraw that motion, for I state to him also that it is impossible for us to get through before Thursday.

Mr. ANTHONY. Then we can postpone the adjournment again to-morrow.

Mr. HENDERSON. We shall have to postpone it again, and have this same discussion over again.

Mr. ANTHONY. We shall have this same discussion upon something else. We cannot move to have an executive session, but a talk about every State in the Union is paraded out before us.

Mr. HENDERSON. I hope the Senator will withdraw his motion to reconsider, and I state the fact, that it is utterly impossible—I know it as a member of the Committee on Finance—for us to adjourn to-morrow.

Mr. ANTHONY. I will do anything in the world if Senators will only stop talking; but if this debate is to go on I would rather it should go on upon my motion to reconsider, which I desire to prevail.

Several SENATORS. Withdraw it.

Mr. ANTHONY. I will withdraw it, but if there is any debate I will renew it.

Mr. HENDERSON. If the Senator insists on my stopping this discussion I will simply state to him that I have not debated this subject of adjournment at all, though it has been frequently up here. I have kept my tongue on the subject. But the Senator from Rhode Island, with whom I have voted at all times, takes occasion every morning to bring up this discussion, makes some sort of a motion that keeps the Senate in a ferment for three or four hours—

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. HENDERSON. That is right; the Senator from Rhode Island has done one good thing. [Laughter.]

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as amended.

Mr. HOWE. How is it amended?

The PRESIDENT *pro tempore*. It will be read as it stands.

The Secretary read as follows:

*Resolved*, That the time fixed by the resolution of the 12th instant for closing the present session of the Senate, by an adjournment *une die*, be extended to the hour of four o'clock p. m. on Thursday, the 18th of April.

The resolution, as amended, was adopted.

#### EXECUTIVE SESSION.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after four hours spent in executive session, the doors were reopened, and the Senate adjourned.

40TH CONG. 1ST SESS.—No. 54.

WEDNESDAY, April 17, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in answer to the resolution of the Senate of the 13th instant, a report from the Secretary of State as to when Alexander Cummings was appointed Governor of Colorado Territory, and how much of the time he had been absent from the Territory; which, on motion of Mr. THAYER, was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in answer to the resolution of the Senate of the 11th instant, reports from the heads of the several Executive Departments in regard to any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or any other officer of the Government, on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of Congress; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

#### EXTENSION OF THE SESSION.

Mr. ANTHONY. I offer the following resolution, and ask that it lie on the table:

*Resolved*, That the time fixed for closing the present session of the Senate be further extended to four o'clock on Friday, the 19th instant, and that the President *pro tempore* do at that hour adjourn the Senate without day.

Mr. SUMNER. I would move that that be amended to Saturday.

Mr. ANTHONY. It is not proposed to act on the resolution now. We can take it up to-morrow.

Mr. SUMNER. Very well; but I think we had better make it Saturday.

The PRESIDENT *pro tempore*. The resolution will lie upon the table.

#### RULES AND ORDERS IN BANKRUPTCY.

Mr. ANTHONY. I offer the following resolution:

*Resolved*, That there be printed for the use of the Senate two thousand copies of the rules and general orders in bankruptcy, together with the forms of proceeding therein prescribed by the justices of the Supreme Court, under the tenth section of the act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, and one thousand copies for the use of the Supreme Court.

This resolution comes from the Committee on Printing, and I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to.

#### REVISION OF THE RULES.

Mr. FESSENDEN. I laid on the table the other day a resolution providing for a committee to revise the rules of the Senate. It may be as well perhaps to have that taken up and acted on now.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That a committee of three Senators be appointed to revise the rules of the Senate, and to report thereon early in the next session.

Mr. SUMNER. I am very glad that such a resolution is about to be adopted by the Senate, for I presume it will be adopted; but I wish to make a suggestion of one amendment which I hope will be made in the rules, and that is, the ancient, time-honored habit, which is still kept up here, and also in my own State, but I believe in no other legislative body on this continent, of enrolling our bills at the last stage on parchment. This habit causes unnecessary delay and considerable additional expense. Now, that we have an official printed copy of the statutes immediately after every session, I think that is entirely unnecessary.

Mr. FESSENDEN. That should be a joint rule. It would require joint action.

Mr. SUMNER. I think the Senator is right; it would require joint action I admit, but I think this committee possibly might initiate some proceeding to that end. However, I content myself now with throwing out the idea, and if this committee should not undertake it, I give notice that at the next session I shall take such steps as I can to bring about that change. I think that we have suffered under the burden of that habit long enough. It exists in Massachusetts, and on inquiry I find that it does not exist in any other State of the Union. Proceedings in all the other States, as they are in the Legislative Chambers of France and of all the continent of Europe, are on paper. In Massachusetts and in Congress they are on parchment at the last stage.

Mr. ANTHONY. I quite agree with the Senator from Massachusetts. I think I obtained the information from a very instructive speech that the Senator himself made on this subject, that in Great Britain it is customary to have the official rolls printed, which is certainly much better than to have them written; they are much less liable to mistake; and that a certain number of copies, about twelve I believe, are signed and are put upon parchment; and I think those are distributed in different places and filed. Each one is an official copy.

The resolution was adopted.

The PRESIDENT *pro tempore*. How shall this committee be appointed?

Mr. FESSENDEN. By the Chair; and I hope the Chair will not appoint me upon the committee.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. ANTHONY, Mr. POMEROY, and Mr. EDMUNDS the committee.

#### PERSONAL EXPLANATION.

Mr. CHANDLER. I notice in the report of the Associated Press of the proceedings of yesterday that I am made to say precisely what I did not say, and that the Senator from Maine [Mr. FESSENDEN] is made to answer what I did not say. The Associated Press report reads in this way:

"Mr. CHANDLER remarked that certain Senators said, a few days ago, they were willing to give notice to the President that if he sent in Copperheads and traitors they would vote to confirm them."

Now, in order that there may be no misapprehension about this, I will ask Mr. Murphy to read from the original notes precisely what I did say to the Senate.

Mr. J. J. Murphy read from the original notes of Mr. D. F. Murphy, as follows:

"Mr. CHANDLER. I think we are a little at fault in this matter, Mr. President. Certain Senators on this side of the House proclaimed a few days ago that they were determined that these offices should be filled. Of course that was giving Mr. Johnson notice that he might continue to send in Copperheads and traitors, and that they would vote for them. To correct that misapprehension on his part, I am willing to give him one day's notice that Copperheads and traitors will not be confirmed, and that if he sends in loyal men they will be."

Mr. CHANDLER. That is all. It will be seen that that is entirely different from what appears in the Associated Press report. I simply wish to have it corrected.

#### AGRICULTURAL BUREAU.

Mr. FRELINGHUYSEN. I offer the following resolution, and ask for its present consideration:

Whereas the agricultural interests of the country are of paramount importance, and the bureau for the promotion of that interest is much less efficient than is required: Therefore

*Resolved*, That the Committee on Agriculture be requested to report to the Senate, in December next, what means should be adopted to render the said bureau more efficient and useful, and whether the salary affixed to the office of Commissioner of Agriculture should not be increased so as to secure for that position the services of one thoroughly learned and accomplished in all that relates to that Department; and whether there should not be created the office of assistant commissioner of agriculture, to be filled by one distinguished for his ability as a practical agriculturist, and to whom might be committed the superintendence of experimental grounds at Washington.

There being no objection, the Senate proceeded to consider the resolution.

Mr. TIPTON. I am not certain what our province is with regard to any question of legislation that may come before this executive session. I take it for granted that whatever we might do independent of the House, if the House were here in session, we may do in this executive session; but I am not quite clear that we have any power, or ought to take any cognizance of any question which has necessarily to be thrown forward and acted upon, if ever acted upon efficiently, in conjunction with the House of Representatives when in session; and having a doubt as to the legitimacy of this matter to be acted upon at present, I simply raise that question.

Mr. FRELINGHUYSEN. This is a mere resolution referring to the Committee on Agriculture the consideration of this subject, to report at the next session.

Mr. TRUMBULL. I should like to hear the resolution read. It assumes a state of things that may not be exactly correct.

The Secretary read the resolution.

Mr. TRUMBULL. The resolution seems to be based upon the idea that without an increase of salary it is impossible to get any one to hold the office of Commissioner of Agriculture. I know of no such difficulty in the country. I have never known of the office being tendered to any one who would not accept it on account of the salary. So far as I know, there has been no difficulty or complaint in that respect. I was not aware that there was any difficulty in that respect. The difficulty seems to be in another direction, that when men are selected for the office the Senate is not disposed to confirm them. I agree to the importance of the Agricultural Department of the Government, and that it ought to be in good hands; but I see no necessity for increasing the salary, and particularly when I have not understood that there was any difficulty in procuring persons to fill the office on account of the salary. I have no objection to the resolution, only I did not wish that impression to go out, that there was any trouble in finding persons to take the office in consequence of the salary.

Mr. CAMERON. I hope the latter part of the resolution will not be adopted. I am perfectly willing that the Committee on Agriculture shall be charged with the duty of collecting information on the subject; but I think this is no time to talk about increase of salary. My own judgment is, and I think that is the opinion of the whole committee, that when we find a man equal to a high salary we will pay it to him. We want to get a good man first before we increase the pay. For such men as we have had, and who have been offering, the salary is abundant, in my judgment. I want to collect all the information I can as chairman of that committee, and I think the whole committee feel with me on that subject. Therefore I move that all except the first paragraph of the resolution be stricken out.

Mr. FRELINGHUYSEN. The resolution does not assume that a higher salary is necessary. It refers the subject to the Committee on Agriculture to say whether it is not necessary. My own opinion is that the present salary is altogether inadequate to enable us to procure such a Commissioner as this country ought to have, a man learned in that Department, one qualified to have correspondence with the various countries of the world, and to bring to this country the learning of those countries. I do not think that for \$3,000 any such person can be procured. But the resolution merely refers the subject to the committee.

Mr. TRUMBULL. What is the present salary?

Mr. FRELINGHUYSEN. Three thousand dollars.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Pennsylvania. The resolution will be read as proposed to be amended by him.

The Secretary read as follows:

Whereas the agricultural interests of the country are of paramount importance, and the bureau for the promotion of that interest is much less efficient than is required: Therefore,

*Resolved*, That the Committee on Agriculture be requested to report to the Senate, in December next, what means should be adopted to render the said bureau more efficient and useful, and whether there should not be created the office of assistant commissioner of agriculture, to be filled by one distinguished for his ability as a practical agriculturist, and to whom might be committed the superintendence of experimental grounds at Washington.

The amendment was agreed to.

Mr. ANTHONY. I suggest to my friend from New Jersey that a clause in that resolution seems, what I know he did not intend to be, a slur upon the present incumbent of the office, and I would suggest that that be left out. The words are: "and the bureau for the promotion of that interest is much less efficient than is required." It is not necessary to put those words in.

Mr. FRELINGHUYSEN. I accept that amendment.

The PRESIDENT *pro tempore*. The resolution will be so modified.

Mr. YATES. This resolution comes from that side of the Senate, I believe, who advocated or voted for retaining the present incumbent in office. These gentlemen, if I understand them, want an educated man; they want a man who is qualified to discharge the duties of this office; and they are like my friend, the Senator from Pennsylvania, [Mr. CAMERON,] who voted persistently yesterday for a man who does not understand orthography, syntax, or prosody.

Mr. HARLAN. I call the Senator to order. I do not think the Senator has a right to disclose in open session what takes place in executive session.

Mr. YATES. I ask the Senator's pardon; but these debates, I believe, have been in open session.

Several SENATORS. Oh, no.

Mr. YATES. Then I ask the pardon of the Senate.

The PRESIDENT *pro tempore*. I suppose it would not be proper to discuss the qualifications of the incumbent in open Senate.

Mr. POMEROY. I suppose there is not very much importance attached to this resolution. I suppose it does not mean anything; but if there is any importance attached to it, and if it is to be referred to a committee, it would be well enough to consider whether it is a fact that this interest is of paramount importance to every other interest. There are those engaged in manufactures, those engaged in commerce, and the other interests of the country. Agriculture is one of the great interests of the country. Whether it overtops and overleaps every other is rather doubtful.

But the Senator from Illinois refers often, and again this morning, to this side of the Chamber, as if there was something on this side of the Chamber that was not right. I never understand these allusions. They are often made by gentlemen who occupy the other side of the Chamber, as if this side of the Chamber was not voting right. I think this side of the Chamber votes quite frequently with the other side. This drawing a distinction between one side of the Chamber and the other I never could understand. We usually vote together on questions affecting the interests of the country.

Mr. DAVIS. If my friend will permit me, I think it is the general understanding that he is constructively on the other side of the Chamber. [Laughter.]

Mr. POMEROY. It is only by construction I can stand it; but I judged that I was actually on this side of the Chamber, because I have always had a seat here. But we are constantly hearing about this side of the Chamber, and I really hope that we shall not hear much more of it, for I think this side of the Chamber votes with the other side very frequently. I believe this resolution is of no importance. It ought to lie upon the table or be indefinitely postponed. I do not think there is anything in it.

The resolution, as amended, was adopted.

#### EXECUTIVE SESSION.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

THURSDAY, April 18, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE SESSION.

Mr. ANTHONY, (after a pause.) As there seems to be no legislative business, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### EXTENSION OF THE SESSION.

Mr. ANTHONY. I now move to take up the resolution that I offered yesterday, providing for an extension of the session.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the time fixed for closing the present session of the Senate be further extended to four o'clock on Friday, the 19th instant, and that the President *pro tempore* do at that hour adjourn the Senate without day.

Mr. SUMNER. I move to amend the resolution by inserting Saturday.

Mr. CHANDLER and others. Oh, no.

Mr. SUMNER. Senators say, "Oh, no;" I say, Oh, yes.

Mr. FESSENDEN. I have the impression that the adjournment might as well be put off to Saturday, because if we get through with the business to-morrow, as we ought or may, we can adjourn then without any difficulty, and it will save the necessity of putting a new motion on the table to-day, which must be done one day beforehand in order to extend the time to Saturday. Therefore, I think it may just as well be done at once to save trouble. It will not lead to any further extension of the session, unless it becomes necessary.

Mr. TRUMBULL. I desire to say but one word, and that is, to express the hope that the Senate will not extend the time at all. I think we have played this thing long enough, extending the session from one day to another and two days at a time. For one I shall vote against any extension of the time, either until to-morrow or the next day. We may just as well close this session at four o'clock to-day as close it a week hence, in my judgment.

Mr. FESSENDEN. There are several very important nominations on the table now that have not been disposed of, and which will probably lead to debate, besides other questions, and it must be seen that we cannot get through by four o'clock to-day. We cannot even dispose of the business on the table by four o'clock.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Massachusetts, to strike out "Friday, the 19th instant," and insert "Saturday, the 20th instant."

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 15; as follows:

YEAS—Messrs. Anthony, Cattell, Cragin, Davis, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Harlan, Henderson, Howe, Johnson, Morgan, Morrill of Maine, Morton, Nye, Patterson of Tennessee, Pomeroy, and Sumner—20.

NAYS—Messrs. Chandler, Cole, Conkling, Drake, Ferry, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, and Yates—15.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Conness, Corbett, Edmunds, Grimes, Guthrie, Hendricks, Howard, Norton, Ross, Salisbury, Sherman, Sprague, Willey, Williams, and Wilson—18.

So the amendment was agreed to.

The resolution, as amended, was adopted—ayes nineteen, noes not counted.



## EXECUTIVE SESSION.

The Senate resumed the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

FRIDAY, April 19, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## PRINTING OF THE RULES.

Mr. ANTHONY. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the resolution of the 6th instant, directing the printing of five hundred copies of the rules of the Senate with the Constitution and Manual, be, and the same is hereby, rescinded, and that there be printed two hundred and fifty copies of the rules for the use of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. POMEROY. I suggest, if the rules are to be in any way amended or changed, whether that ought not to be done before we make an order to print them.

Mr. ANTHONY. That is the object of the resolution. There was a resolution passed on the 6th instant ordering the printing of an edition of the Rules and Manual. This resolution rescinds that, strikes out the Manual altogether, and reduces the number of copies of the rules to be printed to two hundred and fifty. There are none now extant. It is thought so important a matter as revising the rules of the Senate would hardly be concluded and agreed upon by the Senate until some time in the course of the next session, and it would be very desirable to have some copies of the rules, especially when considering the report that may be brought in as to the old rules. This reduces the number and strikes out the Manual.

Mr. POMEROY. I supposed every Senator had one copy of the rules at least.

Mr. ANTHONY. I think not. There are no copies of the rules as they are now, because they have been amended in very important respects since the last edition was printed.

Mr. POMEROY. I have no objection to printing two hundred and fifty of them.

The resolution was adopted.

## REPORT ON INDIAN TRIBES.

Mr. HENDERSON. I offer the following resolution:

*Resolved*, That there be printed for the use of the Senate two thousand additional copies of the report of the Secretary of the Interior in response to the resolution of the Senate asking information in reference to the several Indian tribes of the United States, and that there be printed for the use of the said Department five hundred extra copies thereof.

The PRESIDENT *pro tempore*. This resolution, under the rule, goes to the Committee on Printing.

## EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

## NOTIFICATION TO THE PRESIDENT.

On motion of Mr. ANTHONY, it was

*Resolved*, That a committee, consisting of two members, be appointed to wait upon the President of the United States and inform him that the Senate has passed a resolution to close the present session by an adjournment on Saturday at four o'clock p. m.; and that unless he may have some further communication to make the Senate will, at the time named, adjourn without day.

*Ordered*, That the committee be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. ANTHONY and Mr. JOHNSON.

Subsequently Mr. ANTHONY, from the committee appointed to wait upon the President and inform him that the Senate will, in pursuance of its resolution of the 18th instant, on to-morrow at four o'clock adjourn

without day unless he may at that time have some further communication to make, reported that the committee had performed the duty assigned them; that the President had requested them to inform the Senate that he would to-day make some further executive communications, but that at present he knew no reason why the Senate should not adjourn at the time fixed by its resolution of the 18th instant.

## RECESS.

On motion of Mr. FESSENDEN, it was *Ordered*, That the Senate take a recess to-day from five o'clock until seven and a half o'clock p. m.

## EXECUTIVE SESSION.

The Senate resumed the consideration of executive business. At five o'clock the doors were reopened, and the Senate took a recess until seven and a half o'clock p. m.

## EVENING SESSION.

The Senate reassembled at seven and a half o'clock p. m.

## HOUR OF MEETING.

On motion of Mr. POMEROY, it was *Ordered*, That when the Senate adjourn to-day it be to meet to-morrow at eleven o'clock a. m.

## EXECUTIVE SESSION.

The Senate resumed the consideration of executive business. At ten o'clock and thirty-five minutes p. m. the doors were reopened, and the Senate adjourned.

SATURDAY, April 20, 1867.

The Senate met at eleven o'clock a. m. The Journal of yesterday was read and approved.

## REPORT ON INDIAN TRIBES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print additional copies of the report of the Secretary of the Interior in reference to the several Indian tribes of the United States, have instructed me to report it back without amendment and recommend its passage. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That there be printed for the use of the Senate two thousand additional copies of the report of the Secretary of the Interior in response to the resolution of the Senate asking information in reference to the several Indian tribes, and that there be printed for the use of the said Department five hundred extra copies thereof.

The resolution was adopted.

## EXTENSION OF THE SESSION.

On motion of Mr. POMEROY, it was *Resolved*, That the time fixed for the adjournment of the present session of the Senate *sine die* be extended until five o'clock p. m.

## EXECUTIVE SESSION.

Mr. STEWART. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

## MEDIATION IN MEXICO.

Mr. SUMNER submitted the following resolution; which was ordered to lie on the table, and be printed:

Resolution proposing the good offices of the United States between the contending parties of Mexico.

Whereas the republic of Mexico, though relieved from the presence of a foreign enemy by the final withdrawal of the French troops, continues to be convulsed by a bloody civil war, in which Mexicans are ranged on opposite sides; and whereas the United States are bound by neighborhood and republican sympathies to do all in their power for the welfare of the Mexican people, and this obligation becomes more urgent from the present condition of affairs,

where each party is embittered by protracted conflict: Therefore,

*Be it resolved*, That it is proper for the Government of the United States, acting in the interest of humanity and civilization, to tender its good offices by way of mediation between the contending parties of the republic of Mexico, in order to avert a deplorable civil war, and to obtain the establishment of republican government on a foundation of peace and security.

Mr. HENDERSON submitted the following resolution, intended to be proposed by him as a substitute for the resolution offered by Mr. SUMNER; which was ordered to lie on the table, and be printed:

*Resolved by the Senate of the United States*, That in case Maximilian shall at an early day see fit to abdicate his authority in Mexico, and shall signify a desire to withdraw himself and his foreign troops from the country, to the end that civil war may be at once terminated, the Senate would be gratified that the President would tender the good offices of our Government to secure at the hands of the republican government of Mexico for the native followers of Maximilian such kind and humane treatment as characterizes the conduct of civilized warfare.

## MEDIATION BETWEEN FRANCE AND PRUSSIA.

Mr. COLE submitted the following resolution:

Whereas a misunderstanding exists between Prussia and France, springing out of the ownership of the Grand Duchy of Luxemburg, and war between those Powers is imminent: Therefore,

*Resolved*, That the Government of the United States be requested to offer its friendly mediation to the end that the effusion of blood may be avoided.

## EXTENSION OF THE SESSION.

On motion of Mr. MORGAN, it was

*Resolved*, That the time fixed for the adjournment of the present session of the Senate *sine die* be further extended until nine o'clock p. m.

## EXECUTIVE SESSION.

The Senate resumed the consideration of executive business. At five o'clock the doors were reopened, and, on motion of Mr. FESSENDEN, the Senate took a recess until eight o'clock p. m.

## EVENING SESSION.

The Senate reassembled at eight o'clock p. m., and resumed the consideration of executive business; and after some time spent therein, the doors were reopened.

## MEDIATION IN MEXICO.

Mr. JOHNSON submitted the following resolutions; which were ordered to lie on the table, and be printed:

Whereas during the civil war in Mexico the Government of the United States, acting in pursuance of its long and firmly established policy, has refused in any way to acknowledge the imperial government, of which the Archduke Maximilian was the head, but, on the contrary, continued to recognize the republican government of that country as the only legitimate government, and by this conduct has done much to frustrate the attempt of Maximilian and his supporters to overthrow such government, it is the opinion of the Senate that the Government of the United States should adopt every proper measure to avert the unnecessary further effusion of blood, and to restore at the earliest moment peace to that now distracted land; Therefore,

*Resolved by the Senate of the United States*, That the President be, and he is hereby, requested to offer to the contending parties the friendly mediation of the United States, so as to bring the civil war to a termination on terms honorable to both, and to secure to the native followers of Maximilian, and all foreign citizens and subjects residing in that country, the benefit of the laws of civilized warfare; it being understood, however, that such mediation is tendered with the understanding that Maximilian shall abdicate his assumed authority, and that he and his foreign troops shall leave the country at the earliest practicable day.

*Resolved*, That the Secretary communicate a copy of these resolutions to the President of the United States.

## EXECUTIVE SESSION.

The Senate resumed the consideration of executive business. The hour of nine o'clock having arrived,

The PRESIDENT *pro tempore*, in pursuance of the resolution of the 18th instant, declared the Senate adjourned *sine die*.



# APPENDIX

TO

## THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

FIRST SESSION FORTIETH CONGRESS.

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BY F. & J. RIVES & GEORGE A. BAILEY.

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CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1867.

FIGURE

1. The first part of the figure shows the results of the first experiment.

2. The second part of the figure shows the results of the second experiment.

3. The third part of the figure shows the results of the third experiment.

4. The fourth part of the figure shows the results of the fourth experiment.

5. The fifth part of the figure shows the results of the fifth experiment.



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# APPENDIX

TO

# THE CONGRESSIONAL GLOBE,

FIRST SESSION FORTIETH CONGRESS.

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# APPENDIX

## TO THE CONGRESSIONAL GLOBE.

40TH CONG....1ST SESS.

Reconstruction—Mr. Burr.

HO. OF REPS.

### Reconstruction.

REMARKS OF HON. ALBERT G. BURR,  
OF ILLINOIS,  
IN THE HOUSE OF REPRESENTATIVES,  
July 9, 1867,

On the bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Mr. BURR. Mr. Speaker, when the bill to which the one now pending is a supplemental amendment was before the House debate was prevented by the previous question, and now all amendments are cut off by the same rule, though as a matter of gracious permission we have brief opportunity to give our views on the amendatory act pending and assign reasons controlling our votes on its passage. I am, sir, opposed to the bill now before us, as I was to the two bills preceding it on the same subject. Sir, the country was justly alarmed when by solemn vote the Congress declared ten States out of the Union, their municipal organizations subverted, and their inhabitants denied representation in this body. And when by further vote the Congress declared that the people of those ten former States should be denied self-government and held subject to the military law as expounded and enforced by district commanders, without limitation on the one hand or the right of appeal on the other, the alarm of the people was largely mingled with indignation at the legislative usurpation that dared strike at American freedom in the person of even the humblest American citizen. These acts were passed before the recess, in March, and as an illustration of what I meant by public alarm and indignation being aroused by it, let me ask your attention to the elections immediately succeeding. In the State of Connecticut a defection from the dominant party occurred sufficient to change it from the control of Radicals and place its State interests in the hands of Democrats, as also to displace three Republican members of the Thirty-Ninth Congress and fill their places with Democratic Representatives in this Fortieth Congress. In further answer to your radical legislation Kentucky, by her recent election of members to this Congress, condemns in every district the mad fanaticism controlling the party in power. In my own proud Illinois, at an election held in June in one of the three grand divisions of the State for member of our supreme court, in a district giving my colleague [Mr. LOGAN] last fall several thousand majority, the Radicals seeming to rely on that majority for party success, made party nominations for judge and clerk, and the people ignored both by a majority of about five thousand. Why these reverses? It is, sir, because you are presuming, in a part of our jurisdiction, to subvert

civil government and substitute in its stead an unlimited military despotism; and the people read danger in the record you are making, and will, I trust, in time avoid the danger by suppressing its authors. Monstrous as was the legislation to which I have referred, violating not only the spirit but the very letter of the Constitution, you are not content, but now propose still more obnoxious provisions in the same direction, under pretense of defining or explaining the latent or concealed meaning of the original measure. And according to the terms of the bill now pending what was the meaning or intent of the bill to which this is an amendment? The very first clause in this bill declares it "to have been the true intent and meaning" of the two bills of March 2 and 23, "that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were "illegal and void."

Now, sir, so far from its being true that those two acts, respectively, of March 2 and 23 considered those governments as "illegal and void," they directly and in terms recognized and sanctioned their existence. You, sir, of the majority were not then ready to do even from policy what you now dare to do from a pressing political necessity. You were not ready to declare in direct terms that no government should exist south of a given point except that of a dictator, nor dared you then proclaim that all law in that region should emanate from the unbridled will of one man, and that man a stranger to the people whom he is sent to govern. But as it seems you are now ready to take the full measure of responsibility, let us fully understand what is now embraced in the act before us, in order that its "true intent and meaning" may not remain concealed until still later legislation shall bring its beauty to the light.

It overthrows all the State governments in ten States, and declares illegal all the municipal organizations within those States, and places the people of that portion of the Union embraced in those ten States completely under the control, or in the language of the bill itself, "subject in all respects to the military commanders of the respective districts."

It authorizes these "military commanders" to fill, by appointment, absolute and without responsibility to others, all the positions of honor, trust, or profit necessary to the enactment, interpretation, and enforcement of law. It enables them to create new offices at will, filling them with chosen favorites, and authorizes them to exact from the defenseless inhabitants the same slavish obedience to such irresponsible deputies as to themselves.

It authorizes these same "military commanders" to "prohibit, suspend, or set aside" any act or proceeding, whether of a legislative or judicial character, which may be to them-

selves distasteful, whether the public welfare be involved in such proceeding or not, thereby enabling them to review and reverse all laws, whether statutory or otherwise, regulating personal liberty, inheritances, marriage, and rights of every conceivable nature.

It makes the "boards of registration" acting under their direction sole and exclusive judges of the qualifications of voters; and provides that "said boards of registration shall not be bound or governed in their action by any opinion of any officer of the United States Government."

It deprives even the United States courts of the right to inquire by legal proceeding into the regularity of official action of any commander or any officer or person acting by his authority.

It makes the position of such commander a life office, by providing that, except with the prior advice and consent of the Senate, no commander shall be removed "unless by sentence of court-martial he shall be cashiered or dismissed from the Army, or unless he shall consent to be so relieved."

All these privileges and this vast and alarming amount of absolute and irresponsible power is vested in the military commanders during a time of profound peace, when our flag floats without obstruction over every foot of our public domain, and when writs of courts can be served and will be obeyed with equal promptness in Florida as in Ohio, and in Texas with much more alacrity than formerly they were obeyed in the Commonwealth of Massachusetts.

Why, then, this usurpation of power and this vast military establishment at a cost of millions of money, wrung from the hard earnings of the people? Is it the exercise of a "just power," "derived from the consent of the governed?" No; for they protest against its exercise and adjure you by the ties of a common humanity to forbear in your tyrannical conduct. Is it to preserve peace? No; for the peace is not threatened by them; and we have high radical authority for saying that they are not only a thoroughly conquered, but abjectly and slavishly helpless people. What, then, is the purpose of this legislation creating standing armies and making the military superior to the civil power—or rather making the military the only power—in one third of the Union? Is it because rebellion once existed there? Have you not laws already in force to punish crimes against the Government? If these laws be enforced and these burdens be placed on the people because of their treason and as a punishment for their rebellion, then they are *ex post facto*, and therefore unconstitutional.

Not, therefore, as a safeguard to peace nor as a punishment for crime are these laws passed and the grievous burden of taxation imposed on the people, but for a purpose very different from either. Your real design is to make these laws supplemental and auxiliary to the Freed-

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Reconstruction—Mr. Getz.

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men's Bureau, and, as a system, sufficiently powerful to control southern political action; and all this at public expense, for the mere advantage of the party in power. It must be true that some political wiseacre, holding fellowship in the dominant party and influential in its councils, has discerned the handwriting on the wall giving notice that the people of the States not heretofore engaged in the rebellion have weighed the party in the scales of justice and found it wanting. It must be that the hope of electing a Radical President next year by northern votes is becoming "small by degrees and beautifully less" to certain ambitious spirits in the party, and hence the effort to radicalize the South by governmental machinery, moved by Government bayonets and directed by uncontrolled dictators. It is an attempt to force the negroes of South Carolina to supply, in the next Electoral College, the lack existing by reason of the defection of Connecticut, and to prepare the reconstructed rebels who adopt the tenets of radicalism in Virginia, North Carolina, and other southern States to make up the deficiency caused by the anticipated political revolution now pending in New York, Pennsylvania, Indiana, and other northern States. This is, I imagine, the true answer to the question, and to sustain my theory I refer to a fact known to all. When any southern, formerly a rebel, yields to the "powers that be" and advises the people South to be obedient to law, and to struggle with the same devotion to upbuild the Union as they once did to destroy it, such southron is simply a rebel still, and has no rights which a loyalist is bound to respect; but when some other former rebel advises his friends, in chosen language, to "accept the situation" and coöperate with congressional missionaries in establishing Radical political organizations in the South, *presto change!* how great the difference! his "red hand" is cleansed and his "black heart" purified by the faith that is in—Wendell Phillips and the irrepressible negro. The one surrenders his flag and lays his sword down and is kicked for his surrender; the other surrenders his self-respect and lays down his manhood and becomes the pet of the Radical party. Now, while I have no objection to any zealous electioneering or earnest proselyting on the part of any organization, I protest against this stupendous system of tyranny, usurpation, and fraud at the expense of labor and industry, for the mere sake of building up a political organization for the benefit of the few.

And by the way, Mr. Speaker, if you will on this bill enforce the rule which prohibits gentlemen from voting on any subject in which they have a personal interest we few Democrats can defeat this measure; for when we omit the votes of all the presidential aspirants on the other side of the Hall it will leave us with a majority of votes in the body.

I need not assume the easy task of showing that this bill is in violation of the Constitution, for no gentleman on this floor presumes to support it on the ground of its constitutionality. Indeed, I believe the theory underlying all this sectional legislation is that those people by rebellion suspended the Constitution, and that as to them it has ever since remained in abeyance; in other words, that they are not entitled in any respect to the guarantees of the Constitution. Why, sir, we on this side of the House are charged with opposing this bill and all kindred measures from the prompting alone of sympathy with treason. But, Mr. Speaker, gentlemen will ascertain to their cost and confusion that such legislation as this affects others than quondam rebels and loyal blacks. Gentlemen will be forced to acknowledge in time that disregard of the Constitution will be remembered and punished by the mass of American citizens as an innovation upon the rights of each citizen in the Republic.

"In nature's chain, whatever link you strike—  
Tenth or ten thousandth—breaks the chain alike."

And in our grand but simple system of government, whoever aims a blow at the Constitution in any of its provisions is leveling the same blow at the liberty of every citizen whose shield and protection that Constitution is.

Your proposed action, coupled with what you have already accomplished, is a deliberate and fearful blow at the laboring classes of the country. You have already, by shameless class-legislation, exempted the wealth of the country from taxation for its support, and devolved increased and continually increasing burdens of taxation on the laborer and producer, who has no hoarded bonds free from taxes as have his wealthy neighbors. This grievous burden will rest mainly on the citizens of the northern States; and their enterprise, industry, and skill will pay tribute to your party through the operation of your partial and unequal laws. And, as if to make the burden still greater, you now aim in the very wantonness of unchecked power to crush out all industry in the South and thus leave, not part, but all the burden to be borne by the labor of the North; and, sir, let me say that however willingly and uncomplainingly our people might consent to unusual taxation to support the Government in time of war, they will not as a mass submit to pay compulsory tribute to a political party in time of peace, especially, sir, when from the very nature of your measures there is no prospect of relief at your hands or of remedy by your consent. True, the act creating the Freedmen's Bureau will expire by limitation; not so, however, the provisions of the "civil rights bill;" not so the provisions of the series of military bills, in which series we have reached the third in a period of four short months. These several acts provide for the perpetuation of the machinery created by them without limitation of time.

Nor do you give assurance of any definite relief to an overtaxed people when you say these laws will cease to burden the people North whenever the people South shall have been fully reconstructed. When, sir, will that be? Not when they cease fighting; for the war ceased more than two years ago, yet your military bills are of recent date. Not when they surrender the dogma of secession; for they have long since denounced it as a heresy, and even the boldest and most spirited among them speak of it as a "lost cause." Not when they shall send Representatives to your Congress as invited by Mr. Lincoln and required by General Grant, for such Representatives have for two years been knocking in vain for admission to this Hall. When, then, will you cease this taxation of our people under plea of reconstructing the South? Not, sir, until, as the result of party legislation, you shall have disfranchised a sufficient number of whites and placed the ballot in a sufficient number of black hands South to insure there a political indorsement of the very radicalism which is now overriding the Constitution and setting all law at defiance.

Persuaded that this is the programme, and that you of the dominant party have predetermined to carry it out in strict severity, I say to you, go on in your wild fanaticism; proselyte with the bayonet; persuade through the potent voice of "commanders;" give efficiency to party decrees in general orders; tear down with impious hands the fabric of your fathers, and rear in its stead the dwarfed and ungainly structure which will result from your labors of reconstruction; and when you imagine your labor completed and your edifice finished, you will find it is but a modern "Tower of Babel," which will cause your discomfiture, overthrow, and dispersion as a party. Ultimately your bayonets will be without power, your persuasions without efficiency, your decrees without potency, your labors without successful result. "Peace hath her victories no less renowned than war," and while you are proselyting in the South through a compulsory political mission-

ary system, the people of the North, remembering the lessons of the past, will rally in their might and sweep you from place and power. In contemplating your burdensome and tyrannical conduct and seeking a remedy for the wrongs by which they are oppressed they will in deep earnestness, and that right speedily, adopt the sentiment as against your bayonet taxation:

"There is a weapon surer yet,  
And firmer than the bayonet—  
A weapon that comes down as still  
As snow-flake does upon the sod,  
And executes the freeman's will,  
As lightning does the will of God."

That weapon, Mr. Speaker, is the ballot, and by its silent yet peaceful operation the people of the North will disenthral and redeem the country, while you with the bayonet are laboring to enslave and impoverish the country. In the plenitude of your present power you are exhibiting all the indications of political madness, and there is consolation in the assurance that "whom the gods intend to destroy they first make mad."

### Reconstruction.

### REMARKS OF HON. J. L. GETZ,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 9, 1867,

On the bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Mr. GETZ. Mr. Speaker, the "true intent and meaning" of this act and the acts to which it is a supplement are, if I understand them aright, to abolish every vestige of civil government at the South; to sweep away even their fundamental laws or constitutions, without which no State claiming to be republican can exist. Their "true intent and meaning" are to place a people, who, whatever may have been their past offenses, are at this hour as obedient to law as the people of any portion of this land, under an absolute military dominion. Their "true intent and meaning" are to deprive the President of his constitutional authority over ten States which, whether in or out of the Union, are at least territorially within its bounds, and therefore equally entitled to the protection and subject to the rule of the executive head of the Federal Government. Their "true intent and meaning" is to rob the President of his constitutional power as the Commander-in-Chief of the Army and Navy, and make his subordinate officers, creatures who hold their appointments under him, his superiors in all things pertaining to their present positions, with the arbitrary right to defy his authority and disobey his orders at their own irresponsible will and pleasure. If, sir, these be the objects of the acts to which I refer, then indeed is Congress establishing a dangerous precedent, which, sooner or later, may return to plague the inventors. If these be their objects, then was the unanimous declaration of Congress at the memorable session of July, 1861, that—

"This war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired."

Then, sir, I say this solemn declaration has become a monstrous lie; then, sir, are the repeated proclamations of the then President and the numerous pledges given to the country by the Republican press and Republican leaders during the war, speaking here and elsewhere, utterly falsified.

History gives us numerous examples of the



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unerring truth of Holy Writ, when it prophetically pronounces that "They who sow the wind shall reap the whirlwind." I would that any feeble words of mine could induce the majority upon this floor to pause and consider the portent of these inspired words before they heedlessly, and may I not say sacrilegiously, rush into their violation. I know full well that this and similar acts of legislation, to strip the President of the high prerogatives of his office are intended to be but temporary in their operation; that they are directed rather against Andrew Johnson the man than against Andrew Johnson the President of the United States. I know well enough that as soon as you shall have elected, as you hope to do, a President after your own choice, you will hasten to repeal these acts of usurpation even more speedily than you have enacted them. But is it not possible, nay, probable, that when that time shall have come you may not possess the power to undo your present work? You cannot always expect to retain your absolute control of both branches of Congress. Even now it is beginning to give way, and the time may come much sooner than you are prepared for it, when the people in their sovereign power will drive many of you from the seats you now hold, and fill your places with men of different political views, clothed with the authority which an outraged constituency has a right to give them, to commend the poisoned chalice to your own lips, and compel you to drink the draught. God forbid, sir, that any party that may hereafter gain the ascendancy in the Congress of the United States should follow the revolutionary example which is now being set. But should that ever be, gentlemen upon the other side may have to remember, in sorrow and in anguish, that the immutable laws of nature and of nature's God have decreed—"As ye sow, so shall ye reap."

I am aware, sir, that the fiat has gone forth. This iniquitous bill is to pass—it is to become a law, so far as the action of Congress can give it validity. To say more would be but to beat the empty air. Thankful, therefore, for the privilege that has been granted me of uttering these few words of protest, and for the right which the Constitution has guaranteed to me of recording my vote against the bill now pending, I resume my seat.

### Reconstruction.

SPEECH OF HON. J. W. CHANLER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

July 8, 1867,

On the bill supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867.

Mr. CHANLER. Mr. Speaker, I think every member of this House must at once admit the manifest propriety of a recommitment of this bill at this time. Ample opportunity should be afforded for its full and careful consideration. The history of the preceding measures of a like character, measures hurried through under the most stringent party pressure, and the consequences that flowed from our hasty legislation, ought to suffice for this body and the country that this bill ought to be recommitted, and, in my humble judgment, not only recommitted and postponed till to-morrow, but postponed indefinitely. A measure of such vital importance ought to have the fullest consideration and deliberation at our hands; nor should it even be allowed, in my judgment, to pass this House except under pressure of the weightiest demands for the public safety, in view of an array of facts

as strong as Holy Writ; but debate and deliberation, and a calm, reliable statement of facts upon such an important measure as this seems to be the last of all considerations that occur to committees reporting such bills to the House. Nor has any authorized report or proper demand for this supplementary bill been filed upon the Journal, laid before the House, or submitted to our consideration at this time by the committee reporting this supplementary bill. Sir, the whole country is now reaping the bitter fruit of your haste heretofore. Nor is this the only harvest which the aged chairman of the committee has sown for posterity to reap. He is passing away, having accomplished, it may be, an act of vengeance; it may be, the gratification of personal hatred; it may be, a great philanthropic measure. Time alone will prove it, and in the future will his name stand recorded with these measures and their results. I know he courts the condemnation and reprobation of those who differ from him, and he professes to look to the future for his reward. There let him seek it.

But, sir, there are others interested in this measure who are not here to speak, and whose future is locked up in the results of the present action of Congress. I refer to the youth of the South. I do not allude to those who have passed through the rebellion, taking an active part against this Government, and stand to-day as criminals before the law as participators in the rebellion, but of the youth who took no voluntary part against the Union. Such a measure as this materially affects every young man who may present himself at the ballot-box. It renders him liable, without any contamination resting upon him, to pass through the ordeal which this bill creates, without trial, on mere parol evidence, before no jury, but at the will of a military subordinate, hired to act as an inquisitor, and upon mere suspicion he can be disfranchised, and there is no appeal. That, sir, is the refinement of legislative cruelty. There is no argument upon which this measure can be based which will extenuate the results which will be inflicted upon that portion of the southern community. If the right to vote be an inalienable right, as claimed by the majority of Congress, this depriving a citizen of that right and branding him as a criminal without any wrong fully proved is treason against our laws and against the rights of man. It will not affect alone those born on southern soil, but those who may migrate to the South. It affects alike the black, whom the majority here pretend to seek to protect, and the white, both native and naturalized. In that point of view I declare this measure hasty and unwise, unnecessary and unjust.

But, sir, the object of this bill is professedly for reconstruction, for the reorganization of southern society and the reestablishment of the Union. Sir, I believe that when this Government has to seek for its safety in the passage of such measures as this its liberty is dead and its existence in jeopardy. For a military commander, created under a past special necessity, to be allowed by a measure such as this to hold within his grasp the rights and destinies of the people whom he may be sent to rule over is inconsistent with the principles of the Declaration of Independence.

I repeat, sir, the policy and laws passed by the majority of Congress are in spirit and effect tyrannical. They carry the brand of tyranny upon their front, and we recognize that brand, by the eye of experience, as the same which marked the laws of the Parliament of Great Britain, which drove these Colonies to the Declaration of Independence. Read that glorious document and sacred testament of the fathers of the Republic to all posterity. The record of the oppressive acts of Great Britain have a most startling and offensive likeness to the acts, general orders, and supplementary acts with which the people of the

southern States are made to yield submission and obedience to our Government. We "have affected to render the military independent of, and superior to, the civil power." We "have dissolved representative houses repeatedly for opposing, with manly firmness, the invasions on the rights of the people." We "have erected a multitude of new offices, and sent 'thither' swarms of officers to harass our people and eat out their substance." We "have quartered large bodies of armed troops among" them. We "have deprived them, in many cases, of the benefits of trial by jury." We have taken away their charters, abolishing their most valuable laws, and altering, fundamentally, the powers of their governments. We have suspended their own Legislatures, declaring ourselves invested with power to legislate for them in all cases whatsoever. We have excited domestic insurrection among them by inaugurating a war of races. Sir, we have done all these things against a portion of the American people, not in time of war, not when they were in rebellion against the United States, but in time of profound peace, after a series of glorious victories, when that people had laid down their arms and were literally prostrate at our feet, begging for bread and the right to live among us. We have not only enjoyed the glory of a complete triumph, but we have gloated on our victory with the cruelty of a tyrant. Such is useless tyranny; we have nothing to fear.

In a word, your policy, Mr. Speaker, as I understand it and read it in your acts and laws, is in direct hostility to the Bill of Rights; overrides the Constitution and makes void the whole scheme of representative government. Sir, you are seeking, not the restoration of this Union, not the reorganization of society, the revival of commerce, and reestablishment of law in the southern States, but you are seeking to secure a new constituency for the Republican party, to give a new life to your party organization, and to increase the power which you now hold over the conquered people of the South and over the whole Union; imitating the tyrant who sent his armed legions to oppress the Colonies in 1776. Sir, you are demonstrating your reckless disregard for the liberties of the people, whom you pretend to protect, by trampling on the fundamental principles of justice upon which those liberties were founded, and without which all claim to free government is a mockery and a snare. You are seeking to restore society; to restore society through men who are sent by political organizations for the purpose of preserving their party power here in Congress by crushing out free opinion and the right to vote among the people. Is this Congress the pivot of American society? Has it come to this, that the American Government issuing from this Capitol essays with armed hand to strike down those who dare to differ with the party in power here as to the proper person to represent a constituency in the American Congress?—ay! or in the humblest capacity in the State governments through a large portion of this Union? Will the society which you thus reconstruct be worthy of this labor of the American Congress, and will the States you thus restore be a fit home for the children of the freemen of the North, to say nothing of those whom you have disfranchised at the South?

Sir, it is the painful duty of the minority on this floor to raise the voice of perpetual complaint against this cold-hearted and reckless party legislation. It is painful, for it comes from those who, elected to meet you here in debate, are allowed no other right to protest except the right to resent your assaults and insinuations that we are arguing in defense of criminals and not for the protection of citizens. Sir, so long as an opportunity is given to the minority to maintain and defend the Constitution from misinterpretation by this

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majority, so long I, for one, deem it an honor to be classed in any category rather than that of those who pass such measures as this. I am proud of your denunciation, but still more proud of the privilege of opposing your usurpations of power and encroachment upon the rights of a free and brave people, irrespective of the section where they live or the errors they may have committed.

But you profess by this act to protect the sacred right of the ballot. You propose to give to the soldier the power to protect the citizen in carrying about him the armor of his franchise and the sacred weapon of the ballot, which the law gives him to protect himself with against tyrants of every grade, and above all against the military tyrant. How absurd! How inconsistent with personal independence is a law which in time of peace gives to the soldier the right to say to the citizen, "You shall or you shall not do so and so; you shall or shall not vote!" Examine the provisions of this supplementary bill; mark well the sweeping and limitless power of the military commander. Section by section it strikes at the most valued and sacred rights of a free man by robbing him of the only security the wisdom and cunning of statesmen and patriots have devised to protect the citizen from the proud oppressor and brutal soldier. Here all the inventions of tyranny are condensed in a scheme of treachery. The power of the people is betrayed into the hands of military despotism under the false plea of public safety, law, and peace. That, sir, seems to me to be the spirit of this bill. No plea of necessity has been or can be advanced. The only argument advanced by the majority, so far as I have been able to understand it, is that the lawful executive authority of the country differs with the Legislature in regard to the carrying out of a certain law; and in carrying out that law the Executive has exercised the powers vested in him by the Constitution, having during a recess of Congress consulted the proper legal authority allowed him by special act of Congress for this and similar purposes. And because of this difference between two branches of the Government the whole machinery of the military organization is brought to bear upon the citizens of this section of the country, and it is urged that it is for the protection of the ballot, that it is to protect the organization of society, that it is for the preservation of the Union. Sir, because two branches of the Government differ; because two branches of the dominant political party differ; because the Vice President, elected by your own votes, placed in the position he now holds by your suffrages, in carrying out the policy of your own party differs with you, instead of striking at him you strike a blow for political and partisan purposes at the votes of a whole section of this Union; you strike a cruel and tyrannical blow at the people.

When may we hope that this reconstruction will begin? Your action has been, step by step, by crooked and indirect paths, to crawl, crab-like, half backward, half sideways, over this whole subject, without advancing at all in the direction of reconstruction, but in fact steadily advancing to the grand central point of a centralized military despotism, the subordination of civil authority to military authority, the humiliation of the citizen, and the undue elevation of the military commander. That has been the practical working of all that you have presented on the subject of reconstruction. At first it was placed upon the ground of philanthropy toward the negro; but of late that distinguished citizen of your model Republic has rather given you the slip, and, according to the latest accounts, is setting up a kingdom for himself. If the reports we hear are true, and the press is reliable, along the coasts of Georgia and Florida a black King John has been reared as a magnificent tribute

to the gentleman from Pennsylvania, [Mr. KELLEY,] and these negro citizens, endowed with the suffrage by his magnanimity, his genius, and his eloquence, turning away from republicanism, are rallying around a dusky chieftain from Africa, a descendant of the royal blood of Ashantee. They want none of your legislation. They repudiate the dominion of the chairman of the House Committee on Reconstruction. All they want is liberty in idleness, and the privilege of governing themselves in their own way and after the customs of their African ancestors. And you propose to reconstruct the continent of North America upon the suffrage of the African race! Yes, you do; there is the gist of the whole matter. That is the secret of your military laws. You propose, through your central political organization here, by all the political and personal influence you can bring to bear, to rule the South through the African vote. In the name of conscience, when will the people of this Union, who are panting for peace, and praying to God to send them peace, have peace under your operations? Why did not the eloquent gentleman from Pennsylvania, and the other eloquent gentleman from the other end of the Capitol, who was in such hot haste to instruct the negro in his rights—why did they not leave this issue to the development of time? Why, soon after the recess of this Fortieth Congress, did those missionaries to their fellow-citizens of African descent rush to the southern States and commence to stupefy and confuse the negro mind with their speeches? The whole question had been set at rest as to negro suffrage. The white men at the South only wanted bread and rest from civil war. What organization is there, save their own and the divisions in it, powerful enough to disturb the country, or interfere with the reorganization of the southern States? There are not here to-day, in either House of Congress, representatives of the minority enough to agitate any political question which need give these worthy gentlemen one moment's apprehension. Your military commanders hold full and undisputed sway over every department south of the Potomac; all civil government is dead so far as a Republican decree in caucus can make it. Why, then, did these Congressmen become the unwelcome disturbers of the public peace when all were weary of the protracted strife of civil war?

Their only object seems to have been political agitation, agitation which shall last from this day forth until that meeting of the Electoral College which shall nominate a successor to the present President, and dispose of the power, patronage, and control of this Government for four years more. That is the truth as I firmly believe. It required no invasion of the South at this time by those worthy Congressmen to save the Union. The whole land was at peace; we were even adding new territory to our northwest boundary, through the skillful diplomacy of their own Secretary of State, one of the pioneers in their organization, without drawing the sword, and even using fewer flourishes of his brilliant and busy pen than at any previous period of this Administration. The Indian tribes and the contractors for whisky and fire-arms have raised some slight disturbance, it is true. But with this exception, the whole Union is at peace within itself; strong at home, respected abroad, with no enemy worthy of the name to threaten our people, except, perhaps, the restless demagogues who are continually rousing the bad passions of two hostile races by laws and speeches fatal to our domestic peace and public safety.

There is not a shadow of a reason for disturbing the South by such measures as this, unless to gratify the bitter rancor of past political associations or to satisfy the longings of a present wicked ambition. The new constitu-

ency thus created are ignorant enough, stupid enough, and may be made bloody-minded enough to follow the cry of anarchy where ever it is raised. Brought into being by you, they stand ready to do your bidding. Why, sir, when the illustrious statesmen of Massachusetts leave their acropolis to collect votes among the late slaves of the South, do they forget the standard of intelligence fixed there by law entitles a freeman to vote among their home constituencies? There the spelling-book and the Boston primer are the two books of modern salvation from all political sins. They cleanse the leper of his spots. To be ignorant of how to spell is to be unfit to associate with a Senator of Massachusetts in his own State; but in any southern State to be ignorant is virtue, and a claim to his respect, esteem, and eloquence. To be a citizen at the North, where white men claim the majority, accurate knowledge of grammar, reading, writing, and arithmetic are needed; but at the South, where the negro is to be master, one may talk mumbo jumbo and be accepted within the pale of your civilization as an equal and a voter, and he is better than a white man, according to the logic (provided always the negro vote your ticket at your dictation) of some gentlemen on this floor on the Administration side. If you can elect the coadjutor of the Massachusetts statesman and of the Pennsylvania statesman into the Halls of Congress through the ignorant constituency of freedmen, then it is all right; but when you come to measure the capacities of an intellectual constituency a man must read, write, and cipher, or he is damned forever politically.

Mr. KELLEY. Will the gentleman yield to me for one moment?

Mr. CHANLER. With great pleasure.

Mr. KELLEY. I would like to inquire of the gentleman whether a majority of the white people of the South are familiar with the primer and spelling-book; and whether the census of 1860 does not show that in Alabama there are more than thirty thousand, in North Carolina forty-seven thousand, and in Virginia seventy-four thousand free white adults who can neither read nor write; and whether those three States do not fairly represent the condition of the whole southern people?

Mr. CHANLER. They may; yet all those men vote. Therefore, that does not touch the issue. The gentleman undoubtedly knows as much as they, and they know as much as he. He is welcome to the constituency of northern Alabama, and he is welcome to the other constituencies that he mentions.

Mr. KELLEY. Will the gentleman allow me one further question?

Mr. CHANLER. Certainly.

Mr. KELLEY. I desire to inquire whether a colored man who was loyal to the flag, and who cannot read, is not likely to vote as judiciously as a white rebel unable to read, who fought against his country and its flag?

Mr. CHANLER. Yes, sir; when he votes for the gentleman from Pennsylvania. We all know that that is exactly the point. The gentleman intends that they shall vote "judiciously."

Mr. KELLEY. Still a third question, if the gentleman will permit me. I wish to ask the gentleman whether it is not within his knowledge, from universal report, that the colored people, children and adults, are crowding the schools in the South in order that they may learn to read the Constitution and the laws, while the mass of the white people of the South cannot be induced to enter those schools or others?

Mr. CHANLER. No, sir; I do not know it, nor does the gentleman know any such thing.

Mr. KELLEY. It is within my observation, and I have it by general report from the South.

Mr. CHANLER. Public rumor often lies,

and may be right or may be wrong. The gentleman knows that perfectly well. I am speaking of the facts, and not what people may say.

Mr. KELLEY. The gentleman, I trust, will allow me a single instant further; for I do not desire to interrupt him without his consent. I do not appeal to public rumor. I appeal to the reports of all the organizations, benevolent, religious, or political, that have attempted to disseminate instruction in the South, to testify whether the colored people do not crowd the schools, while the whites, under the lead of demagogues, refuse to avail themselves of the facilities for education.

Mr. CHANLER. It may be or it may not be. Whether the gentleman has satisfied himself or not I do not know; that is with himself. What it has to do with the present question I cannot see. What I say is, that the South has the right to vote, and I want the gentleman from Pennsylvania to accord that right to it as freely as he accords it to Pennsylvania. It is not my purpose, nor is it pertinent, to enter into any statistical comparison as to the intellectual capacity of the people in one section with the people in another section. It has, sir, nothing to do with the question before the House. I was pointing out the inconsistency of the Republican party in making mental capacity a test against the northern voters, when white men have the majority, ignoring that test when negroes are in a majority at the South. In legislating here we should make laws for the country that have equal force and extend equal justice to all its parts; and we have no more right to force the constituency of the South than we have to force the constituency of Massachusetts or New York. When Congress adopts a like standard for Massachusetts that is adopted for the South it will be time enough to enter into comparative statistics as to the intelligence of the northern and southern people.

Mr. KELLEY. I responded to the gentleman, and only interrupted him because he alluded to me. There is nothing in this bill, I believe, which provides for an educational standard. When he charged that a distinguished Senator and a member of this House had hastened to appeal to ignorant voters, I wanted to show him that if their appeals had been, as they were not, to the colored people alone, they had addressed that portion of the population which is striving to acquire intelligence, and not to those who are wholly indifferent to the value of education.

Mr. CHANLER. Very well, then; the gentleman from Pennsylvania has assumed the responsibility of settling that question, and I welcome him to all he has made by it.

Mr. Speaker, I say that by this bill the South is forced to act and vote according to a standard that is not forced upon any of the other States of the Union. You are seeking by military despotism, under the false pretext of protecting the ballot, to take the ballot away from the white race and to give it to the black race. You are giving it to a race that you have to admit with all of your arguments is at least as ignorant as the "poor whites," and then you declare that the "poor whites" are rebels and leave them out. The whole ballot is thus left with the black race whom you expect to carry your candidates. That is it. It is a question of political power. It is a tyrannical assumption not warranted by the Constitution, the disastrous consequences of which time will prove. It is a tyrannical political machine; a hydra-headed tyrant, whose soul is black with the bitter hatred of the South because of political defeats in the past. You who have stood the brunt of past party strife as the minority in the Halls of Congress, who had been stung, it may be, with insult and outrage from Representatives from the South, may still entertain revengeful feelings. I admit that a Senator

from Massachusetts had a load of outrage cast upon him to carry into the South and put it down there. I admit that he has borne a load of outrage put upon him by an insolent aristocracy. But ought not your hatred to stop now? Is not your foot upon the neck of the poor and defenseless people of the South? Did not you at the first portion of this session feel called upon by a sense of humanity to send bread to the starving South, which, after the terrible ravages it had suffered by the war, was about being depopulated by famine? I again appeal to the nobler attributes of our common nature. I ask that the policy of hatred and revenge shall now end.

Why, sir, the late slaves of the southern people now go through their streets as their masters. The people of the South have called upon you to send them a police to protect them from the outrages of these very negroes whose passions you have aroused against them. Are you not content with having conquered them? Must you disfranchise all who will not vote as you wish? Must you carry out your system of policy and deprive every man of the right to vote merely because he does not come up to the standard of patriotism which you prescribe? By putting obstacles in the way of the white people who have been accustomed to the use of the ballot, and thus gradually absorbing all the rights in the hands of the black race, you expect to entirely destroy all political opposition. You know, then, that you may elect any candidate and control any district. These Halls will be filled with your tools. Do you suppose, with such men in these Halls, that our laws will be respected? Will such a body stand before the world as an American Congress representing the honest, free opinion of the people of this Union? I do not believe it.

I do not believe in the expediency of any such high-handed measures for the purpose of any party retaining political power, or for the purpose of satisfying political vengeance. And these bills are brought in for no other purpose. This is but one of a series. We have had abundance of such stuff before. We had it in reference to the Army during the war. We had a provost marshal's department of the Government. Men had then to carry the bayonet; now you command the people to surrender the ballot. You controlled them when they were in the Army, and you would not let them vote if they opposed your party then. You refuse to let the people vote now unless they accept your political organization as the source of all power. By your law regulating the enrollment of our armies you secured easy majorities to fill the Halls of Congress with your partisans, but you completely failed through that law to increase the national forces to maintain our armies in the field, or in fact, to do any of the things the title of your bill pretended to do. True, you filled your provost marshal's Bureau with valuable political tools, and filled the coffers of those bureaus with commutation money wrung from the people under the pretense of increasing the Army and putting down the rebellion. By furnishing a substitute the citizen could satisfy your demands then. Three hundred dollars was the price of your consideration. Now there is no escape from the insolence and inquisition of the military commanders in the departments of the South except by voting as your political leaders may dictate.

Mr. Speaker, there is one view of that case which I took at the opening of my remarks, which I think of very vital importance and worthy of review. I mean the element of foreign immigration. From the condition of Europe, the disturbance of the various nations of that continent, a very great increase, according to the statistics, of foreign immigration is flocking to our shores. These immigrants have their choice to seek a home in the West, following the old beaten track, or to spread along the range of the Alleghanies or spurs of these

mountains that trend toward the Gulf of Mexico, and so develop a new element in the southern States and add new power and glory to this Union. It is not necessary in the presence of the Representatives of the great West to allude to the greatness and advantage of that immigration, the absolute necessity of encouraging it by making the immigrant satisfied with his new condition, and ready to develop the resources of the country where he may locate.

Now, the effect of such a measure as this cannot fail to throw a blight upon any section of country where any body of people in pursuit of personal liberty are called to settle. Military despotism is the chief terror of the European immigrant. His home is made desolate by conscription, and when he exercises any right of citizenship he is subordinated in every respect to military power. Now, you propose to recreate upon this continent a military system in the face of the influx of foreign immigration under the plea of security to the country, which practically will prevent the development of the resources of a very large portion of this Union. There is no means of overcoming that innate prejudice against the very system which this bill inaugurates except by its abolition. No argument can induce the farmer, the miner, or mechanic from Europe to put himself in the category of suspected persons, liable to be marched off at the option of a captain or major in the Army to take his position back or front as the military officer may choose; for by this system, by this supplementary act, you force him to take that position which the military commander chooses to give him among the people where he is to dwell. The limitations upon the power and caprice of the officers having charge of the registration of voters and fixing the qualifications of voters under this bill are too vague to protect a stranger coming for the first time into a disturbed district to vote. The truth or falsehood of charges which may be made against a person claiming to vote cannot be fairly and fully decided on under this bill. It is impossible for any honorable man to jeopardize his character as to loyalty by coming in contact with a set of low informers and petty bullies such as this bill must bring to life and clothe with power.

A large portion of the soldiers of whom you speak so much have won the right to the ballot, have won the right to partake of all the privileges of citizenship by having fought in the Army; and now when these men under your invitation, endowed with the franchise which your law has given them, go to that section, their loyalty will not perhaps be questioned. But they take the position of citizens not as by right nor as having won it by service in the field, but at the will and caprice of a military commander. They are no longer citizens by inalienable right, but the subjects of a political organization. It is announced that this meeting of Congress is for the purpose of interpreting the laws. Sir, the laws have been interpreted as you made them. They may be right or they may be wrong. I do not enter into a discussion as between your own officers and yourselves. But, sir, as long as you seek to interpret the law, it is but just that you should first respect the power which creates the law; and as all power under which we live is based upon the individual independence of the citizen a Congress which violates the Bill of Rights in the framing of a law to restrain the right to the ballot commits a crime against liberty.

With these remarks, sir, uttered under the influence of a stern necessity to meet the issue now presented on a question which strikes at the vital liberties of my country, having thus feebly endeavored to awaken in the minds of the majority of this House a sense of the great wrong they are about to perpetrate, as I hon-

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estly apprehend, and of the great danger that will ensue to the Union, I yield the floor to the gentleman from Ohio.

## Reconstruction.

SPEECH OF HON. C. R. BUCKALEW,  
OF PENNSYLVANIA,

IN THE SENATE OF THE UNITED STATES,

July 11, 1867.

On the passage of House bill No. 123, supplementary to the acts of 2d and 23d of March, 1867, for the more efficient government and reconstruction of the rebel States, the same having been amended by substituting therefor Senate bill No. 131 upon the same subject.

Mr. BUCKALEW said:

Mr. PRESIDENT: I had prepared some memoranda at my desk for a speech upon this measure, comprising the different material points involved in its discussion; but as we are driven into our final action upon the bill without an adjournment, I forego my intention of going over the whole argument. I must, however, before this subject passes from us, express my opinion upon a few points which have not been touched in the debate, and without some mention of which I think our published debates will be imperfect, will not convey a fair report of the views of all those who have been connected by position with this legislation.

I have now, and have always had since they were passed, a very clear opinion concerning the general character of our former laws on reconstruction. I assisted in their discussion when they were passed, and have bestowed a reasonable amount of attention to the observations which have been made upon them by the press of the country and by speakers in the country. I think that the differences alleged to exist between the Attorney General and the President of the United States upon the one hand and leading prominent men in Congress upon the other, have been greatly exaggerated, and that a very false view concerning both the magnitude and the nature of those differences exists abroad among the people. Upon carefully examining the points which have been brought into debate in this Chamber as well as outside of the Chamber, they will, in my opinion, be found to be either unimportant, insincere, or misconceived; and that in truth, upon the main point which is raised by the bill before us we have, as is very often the case, a dispute about words rather than about substance.

This bill proceeds formally and gravely in its first section to declare that the military power in the southern section is superior to the civil power set up there by the inhabitants. That is announced as a great and important fact. A declaration of that kind is a very singular thing in an act of Congress. Ordinarily, a law, after it has been enacted, is left to stand and to speak for itself, or, if it receive exposition, receives it from the courts who are appointed for the purpose of making obscurity plain in public enactments; and the legislative power to enact supplementary measures ordinarily confines itself to adding something to the former legislation or to taking something from it. It is very unusual indeed for us to take upon ourselves the duty of exposition and of explanation to the people of the country concerning laws which we have passed.

I will now state briefly the general character of the reconstruction laws, as I understand them. By the act of 2d of March, found at page 60 of the pamphlet edition of our laws for the last session, certain powers were conferred upon five military commanders in the South, and what those powers were was defined; they were set forth, they were enumerated. Now, complaint is made against the Attorney General that he speaks of the author-

ity conferred upon those military commanders as a police power, in general terms a power of preserving peace, and of preserving order, and of protecting the inhabitants in their rights of person and property. It after all, perhaps, turns out to be a question whether the expression used by the Attorney General is accurate or not; whether the term "police powers" accurately describes those powers which were conferred upon these military commanders by the act of the 2d of March. If the Senator from Illinois, who introduces and champions this bill, thinks the Attorney General at fault upon this question of definition, and if by good and sound logic—which he has at least attempted to present—he can make good his accusation against the Attorney General, he convicts him of an inaccuracy which is nothing to the purpose. It is nothing, sir, to us or to the people of the country. The question recurs back behind this question of definition as to what were the particular powers conferred. No matter how you name them, the inquiry is, what were they really? They are set forth on the face of that statute in language perfectly plain and clear. They are, to protect the rights of person and property of the inhabitants within their respective jurisdictions, and to punish crimes, and they may execute this jurisdiction through the civil courts, if they think proper, or they may organize courts-martial and military commissions for the purpose. That is what the law says. Before that, it proclaims that the southern country shall be divided into five military districts, and a commander placed over each. The Senator from Michigan argues that because the South is divided into military districts, therefore this military power is supreme and complete, and it absorbs all power in that region. Why, sir, the northern States were divided into military districts also. Commanders were placed over districts in the northern and central States.

Mr. HOWARD. One word, with the Senator's permission. The honorable Senator from Pennsylvania misunderstood me. It was not because of the division of which he speaks that I held that the military authority was supreme; but I alleged as one reason for that supremacy the very language of the bill which gives to the military officer the command of the district, a military term which certainly implies everything that is in the nature of military authority.

Mr. BUCKALEW. And just so General Meade and each of the other generals assigned to a district in the North was assigned to the command of the district; but his duties were very restricted and limited indeed; so that no conclusion arises from the use of that term, "command." But to return. Districts were established and commanders assigned to them, and then in the subsequent part of the section the powers of those commanders were enumerated; and it is with that donation of power that we are alone concerned. I have stated what it was. In addition to what I have stated, there was authority conferred upon those commanders to declare martial law. They were to preserve the peace, to suppress insurrection and disorder, and if an emergency arose they were authorized by the act to declare martial law. As a matter of course, if they did so the operation of the ordinary civil laws there would be interrupted and suspended; all the jurisdiction of the civil authorities, to the necessary extent, would be suspended or in abeyance while martial law continued to exist; but no longer.

One clause in the section authorized them to permit criminals to be tried in the civil tribunals. Of course those civil tribunals were the State courts established or existing under the provisional governments which had been set up.

Now, what is the conclusion of the whole matter upon that material and vital section of

the act of the 2d of March? That these commanders had certain powers conferred upon them and certain duties enjoined, which they were sent there to use, execute, and perform, and that no power was conferred on them over the civil governments there unless those civil governments undertook to interfere with their jurisdiction—that interference was forbidden—or unless the necessities of the service required the declaration of martial law, when the action of those civil jurisdictions would be interrupted. So long as those civil governments did not interfere with this military jurisdiction which we conferred; and so long as martial law was not proclaimed, those civil governments stood firm and effectual to all the intents and purposes contemplated by the act of Congress in declaring in its concluding section that they were provisional governments, and to continue so long as the proceeding of reconstruction was going on.

What was another feature of that law? It provided for the reorganization of effectual constitutional governments, to be represented in the Congress of the United States. How? Either by the initiation of these provisional governments in the ordinary way, by their calling upon the people to elect delegates and form constitutions, or by the voluntary action of the people themselves, one or the other. That was the provision of that law. It was left to the people themselves. In other words, the whole proceeding of reorganization, the enumeration of voters, the fixing of the time for voting, the holding of a convention, the submission of the constitution to a vote of the people, &c., in short, the whole proceeding from beginning to end, was left to the people of those States themselves, free from any interference or control of the military commanders.

What else did that act of the 2d of March do? In its concluding section, as I have already said, it declared the existence and validity for certain purposes of those local governments. It declared and pronounced them to be provisional governments, and limited their duration and jurisdiction to the time when new constitutions should be formed and the States admitted into the Union. Thus Congress left this subject at the time of adjournment upon the 4th of March.

On the 23d of March, however, three weeks afterward—at the special session—further reflection having been bestowed upon this subject, and partisan necessities appealing to gentlemen in both Houses of Congress, another act was passed supplementary to the former; and what did that act do? I can describe it in few words. It transferred the control and direction of the reorganization of those States from the provisional governments which existed in them to the military commanders who had been placed over the districts. It was a law to transfer the control of reconstruction from the people of those States and from the civil authorities of those States to the military commanders; they were armed with power over this great subject, and for the first time. It was apprehended that reorganization under their management could be made much more effectual for the purposes of those who then had power to control the legislation of the United States than it would be under State management.

But the power conferred upon the commanders by the act of March 23 was a power over reorganization only. They were authorized to select the persons to make registries of voters; they were authorized to call the conventions, and were to transmit the new constitutions after they were formed to the Congress of the United States for its consideration. But in other respects their powers remained as before. Described in general terms, the supplementary act was to turn over the management of reconstruction from those State governments and the people to the military commanders.



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Then, sir, in addition to what I have stated, both the laws of the 2d and 23d of March contained provisions regarding suffrage and other matters with which my present argument is not concerned.

Mr. President, the great material point determined by the Attorney General, with the concurrence of all the members of the Cabinet (except one) and of the President of the United States, and announced in a circular, was that the military commanders had no power to remove civil officers in those provisional governments pending the proceeding of reorganization. Where was the power ever conferred upon them? Point me to any provision in your legislation which looks to it. They did not determine that if the military commander proclaimed martial law the operation of those provisional governments would not be suspended. On the contrary, I think the Attorney General affirmed that doctrine. Of course that would be a reasonable construction of the law, as I have already stated. But they ruled and determined the point that so long as martial law was not proclaimed, so long as those civil authorities did not interfere with the military, they were independent of them; they were for the time being provisionally there, legally there, there under an act of Congress, with powers restricted only so far as control or power had been granted to the military commanders in the acts of the 2d and 23d of March. Can any man, much more a lawyer, doubt that this was a just and proper construction of your laws? Now, consider the point. The other questions determined in the opinion of the Attorney General were either not vital or are acquiesced in, and the decisions upon them are comparatively unimportant. This is the thing upon which the country was to be aroused. This was the question upon which we were brought here, the one used to provoke this session of Congress, and it is the business of one who disagrees in opinion and sentiment with the majority to proclaim his opinion upon it and the grounds upon which that opinion has been formed.

In the first place, as stated before, there was no power in express terms conferred upon the military commanders to remove any of those officers. In the second place, the clause which authorized them to cause criminals to be tried in the civil courts there recognized those courts as valid, at least for certain purposes. In the third place, as stated before, the concluding section of the act of 2d of March expressly declared them provisional during the proceeding of reorganization, and reserved to the United States power to mold and to change and to control them in future. This section, taken alone, is conclusive against this power of removal. If there be any force, any meaning in your own laws, can you say that this power of control and of modification as to those governments was reserved to the military commanders by that section? Have we come to that stage of degeneracy that a brigadier general in command of a district can quote Louis XIV and declare: "I am the State?" The power is reserved to the United States, and to the United States only, over those provisional governments to control and modify them. Is that to be imputed to your brigadier or major general in any one of these districts? Is he supreme and not you? Will you abdicate your own manhood, your own functions, your supremacy, your original authority, your power of which you are proud, and bow meekly before the authority of your own creature, who went there by your command, and over whom one would think your jurisdiction was complete?

The supplementary act, also, which conferred upon these military commanders new powers is against the argument that they possessed general and unlimited ones before. It proves by every line and section in it relating to them that before its passage they had no control and

no power whatever over the subject of reconstruction. They could not appoint a register. They could not issue an order for enumerating voters. They could not issue an order or speak a word officially concerning the holding of an election, nor regulate a return. They could not interfere with the making of a new constitution, nor with its transmission to Congress. The very fact that the supplementary act of 23d March conferred powers upon them for regulating reconstruction proves that they did not possess such powers before.

Then again, I took occasion the other day to recall attention to the amendment offered by the Senator from Massachusetts, the chairman of the Committee on Military Affairs and the Militia at the last session of Congress, when the reconstruction act was pending before this body. He was dissatisfied with the volition and freedom left to the inhabitants of the southern country. He desired to bring them more perfectly under our control and under the military jurisdiction which we were then about to set up. Consequently he proposed that the tenure of office of all persons in authority in the southern governments should terminate at the expiration of ninety days from the passage of the law, and he proceeded to confer power upon the military commanders to remove them, to enforce your law and give it operation. What did you do? Did you adopt his amendment? Did you sanction his view? Did you participate in his feelings or in his wishes upon that subject. No, sir. By an almost unanimous vote you refused to terminate those governments; you refused to turn out those officers; you refused to arm your military commanders with jurisdiction and power over them. And yet, after this deliberate and open rejection of the Senator's amendment, we are to be told that any one of our commanders can remove civil officers at pleasure, and can do it under the reconstruction laws! And you are about to pass a bill declaring this to be a legal construction of those laws. Sir, your declaration is against the fact, against your own record, and against what ought to be, if our proceedings are read, the common knowledge of the American people.

The Senator from Illinois criticised the Attorney General. I hold that the Attorney General was right in his opinion upon this question of power, unquestionably right. If law be capable of construction, if the human mind be capable of grasping the meaning of your enactments, he was right, and it was his duty to pronounce that opinion as an honest man and as a professional man standing as the principal law-officer of this Government, before the American people.

The Senator from Illinois criticised the Attorney General on another point. He said that while the Attorney General held that all the qualifications necessary for registration were those enumerated in the oath contained in the act of 23d of March, in reciting those qualifications he left out a clause of the oath, that clause which says if a person has held an office as a member of a State Legislature, or as an executive or judicial officer of a State, and afterward engaged in the rebellion, he shall be disqualified. Well, sir, that clause was an amendment which was put upon a Senate amendment by the House of Representatives. It never proceeded, thank fortune, from any member of this body. We are guiltless of originating at least that one absurdity in our past legislation. Why, sir, does not every school-boy in the country who reads the Constitution in the course of his studies know that every member of a State Legislature and every executive and judicial officer in a State is sworn to support the Constitution of the United States; and that it always has been so since the Constitution was adopted and became our fundamental law? Consequently, that clause is an absurdity. It was followed by another clause, which was in the oath as

originally drawn by the Senator from Michigan, [Mr. HOWARD,] that whenever a person had been sworn as such an officer—enumerating those I have mentioned—and afterwards engaged in rebellion, he shall be disqualified. That covered the whole case. The omission by the Attorney General of noticing the prior clause, the duplicate clause, the unnecessary clause, the absurd provision, is brought up gravely in criticism against him, and he is to be arraigned as knowing nothing of fundamental principle or of the laws of his country. Sir, his opinion was exactly accurate; and it was all the more accurate and admirable for ignoring that unmeaning and absurd provision which was inserted by the House of Representatives. It meant nothing, it could convey no additional meaning or force to the section in which it was placed.

Now, Mr. President, under what circumstances did the Attorney General, and others associated with him in the Administration act? Let us inquire that, in fairness, when you are sending this bill forth to the public, to brand them with usurpation, with misconstruction of your laws, with obstructing the course of reconstruction. Let us see under what circumstances they acted, and see whether they are justified in the forum of honest debate, whether their course can be vindicated, or whether it shall stand condemned upon the high and imperial mandate of some sensation newspaper, which assumes to itself to construe the laws and to ignore the learned lights of the legal profession. We are very much at present under the influence of sensation newspapers; but their authority upon questions of law or of constitutional duty is not conclusive.

In the first place it is well known that instructions were asked of the War Department and of the President by several of the military commanders, perhaps all of them. The fact is stated by the Attorney General in his opinion. Therefore, the action of the Administration, the executive department of your Government, one of its principal branches, and solemnly charged with the duty of seeing that the laws be executed, was not volunteered; it was invited; it was asked for. And is it not plain that there would have been a dereliction, a failure of duty if there had been no instruction issued, no advice given, no rule prescribed?

In the next place, the executive department of the Government was appealed to by those officers who were displaced, by Governor Wells, and by Judge Abell, and by others, who complained that their legal rights had been violated and the laws of the country disregarded by officers of the United States who had been appointed by the President and were subject to his orders.

Again, let us consider how necessary and indispensable it is that there should be uniformity of administration throughout the South; that one set of rules should not prevail in South Carolina, and another in Alabama, and still another in Texas; that conflicting decisions should not be made by the military commanders and confusion thereby introduced. What a disgrace, what a scandal to our Government this would be. It was necessary that there should be uniformity of system; and that uniformity of system could be obtained in no other manner than by consultations of all these commanders meeting together as a deliberative body to pass upon doubtful points, or in the regular way by instructions to them from the President through the War Department. The latter was the constitutional and proper mode of proceeding to secure correct, consistent, and uniform administration of the laws, and it was resorted to.

Again, sir, recollect that this administration of the laws of the United States in those States was executive business. It was to be performed by appointees of the President of the United States, and he was responsible to Con-

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gress and to the American people for what was done by them. It was his proper business to see that they performed faithfully and fairly all the duties which we imposed upon them by our laws. He is Commander-in-Chief, and as such charged with the duty of the superintendence of the execution of the laws; and particularly is he charged with the execution of the laws pertaining to our military service. It is in his military capacity still more than in his civil capacity that the duty of superintendence, of control, of command, and of regulation is charged upon him. Although he is the civil head of the Government a large mass of the public business in civil affairs is performed by independent courts. But in the military branch of the Government business his eye must reach to the recesses of administration, to the extremities of the country, to the proceedings of lieutenant as well as of general; he must overlook your whole system and see to it that the laws are executed, that subordination is preserved, that justice (so far as the military are concerned) is enforced, and that the rights of the citizen are not trampled upon, while the just demands of the Government to his obedience are maintained with unflinching firmness and rigor.

It is to be remembered also that the Supreme Court of the United States, in a grave and formal opinion delivered in the Mississippi case, announced this very duty as binding upon the President. He was instructed by the Supreme Court, whose construction of your laws, if not always conclusive upon other departments of the Government, is always entitled to their profound respect. He was instructed by your Chief Justice, as the organ of the court, that it was his duty to see that his subordinate commanders executed the law in a faithful manner, and to exercise over them the control necessary to secure such execution. That declaration of the court is very properly referred to by the Attorney General in his opinion.

Now, sir, these considerations constitute, in my judgment, a triumphant vindication of what was done upon the ground of power, upon the ground of right, upon the ground of public policy, upon every ground possible, except perhaps party expediency. I have heard some gentlemen complain that this opinion was given because it afforded unjust and artful men in the country an opportunity for mischief; that such men were enabled to misrepresent the views, objects, and action of the executive department and to arouse against all concerned in the performance of a public duty in that department the hot and heady passions of men who do not reason, but who feel. But whether this complaint be just or not we need not now inquire, because it does not touch my argument upon its merits. It is sufficient for my present purpose that the action of the Executive was in good faith and upon sound convictions of public duty.

In fact, sir, has not the President acted throughout with fidelity, if not in a spirit of concession, to your views? What did he do, sir, after your law was passed? Who did he put in command in the southern country? General Schofield, General Sickles, General John Pope, General Sheridan, and, I believe, General Ord. Those were the commanders he appointed to execute the powers created by the act of 2d of March. Were they hostile to you? Were they men of doubtful antecedents? Were they disposed to deal unjustly with your political interests in that section? Did they not go there with the intention of favoring the designs of Congress? Have they not participated in your feelings with reference to the future? And had they not under your former laws substantial control over the whole question of reconstruction, which is so dear to your hearts because it connects itself with future power?

Has the Administration put a finger upon any one of those commanders to curb him in any

legitimate act connected with reorganization? Has the proceeding of registration been meddled with? Why look at the reports from Mobile and from Savannah and from Richmond and from Louisiana, and from districts in which white populations largely preponderate, if your census is to be trusted. Consider the reports which come up to us of the preponderance of colored votes upon the registrations. Has not your system been administered by the strong hand of military and friendly power from the beginning, backed by your Freedmen's Bureau and by contributions of millions from your Treasury? Not yet satisfied with these political advantages, (in addition to the public considerations involved,) you are here to overrule the Attorney General upon questions of law, and such questions as I have discussed, upon which the reason of the case and the letter of the law confront you and proclaim unmistakably that your session was ordered, and is now held, not to vindicate your own laws, not to rescue those laws from perversion and reconstruction from obstruction, but that you might mold reconstruction more completely to a purpose of party, and secure your future control in the Government of the United States.

The Senator from Massachusetts [Mr. Wilson] informs us with a glow of genial feeling that three fourths of all these reconstructed States are in the accurate line of loyalty and of political action; that at least that proportion of them will come up here with constitutions uncontaminated with any blot or stain whatever, with the most salutary provisions, and above all and beyond all with the right men to represent them—"the friends of the country." He wants to wipe out these provisional governments, and renews his amendment for that purpose. He desires "to use the patronage of those governments to strengthen our friends." Well, sir, that is a benevolent object! We ought to do everything possible to strengthen our friends! The military machinery, five brigadier or major generals down South, with an infinite number of registrars appointed, and with election officers appointed, and with Freedmen's Bureau outlays and Freedmen's Bureau agents scattered all over that country, are not sufficient for our friends; we must do a little more; we must seize upon these poor, petty, provisional governments whose existence is already limited by law, and whose jurisdiction is exceedingly curtailed by our former enactments, in order to get a little patronage for "our friends;" in order, I suppose, that the whole proceeding of reconstruction shall be made perfect, that there shall be general satisfaction in the country upon the completion of the work!

Well, sir, I do not know that I care to interrupt the good feeling which prevails, or seems to prevail, by making impertinent or untimely observations and by protracting arguments which are useless and distasteful. What I rose for mainly was to express my opinion upon a few of the material points which have been made the pretext for assembling the two Houses of Congress at this unpropitious season of the year. My idea was to point out the insufficiency of the reasons, the hollowness, the unsubstantial character of the pretenses upon which we are assembled together. I suppose members of both Houses felt themselves called upon by a stimulated public or party opinion to meet here. They thought the people or a part of the people had got the impression in some way or other that the President and his Cabinet, and particularly the Attorney General, (who is an admirable man in the department of the law, but perhaps not admirable as a politician,) that all these high officials had combined together to obstruct the laws of Congress. Well, sir, I will say in conclusion that I think the only obstruction that will be interposed in the way of the execution of the acts of the 2d and the 23d of March will be interposed by over-zealous

commanders who are to execute them, and by Congress itself, which meets to undo its own work under pretense of explaining it.

## Reconstruction.

## SPEECH OF HON. W. E. ROBINSON,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

July 12, 1867.

The House having under consideration the bill supplementary to an act to provide for the more efficient government of the rebel States—

Mr. ROBINSON said:

Mr. SPEAKER: I have desired to say a word or two during these debates on the subject of reconstruction, and now rise, not to make any set speech, but merely to submit a few observations which I deem pertinent to the occasion.

What, sir, has brought us together at this time in extraordinary session of Congress? Has anything been done by the South to provoke it? Has any southern man or southern woman or southern child done or said anything calling for harsher laws than those we have already imposed upon them? No; it is merely because the proper officer of our Government has given a proper opinion on what some call a very improper act of Congress, that the representatives of the people and the representatives of the States have been called away from their pleasant homes to this hot and dusty city in this heated term. You have not even the poor pretext of anything done by our southern brethren for this additional legislation, for they have submitted with unprecedented willingness to every enormity of legislation put upon them.

Sir, a short time ago, during the present Congress, the gentleman from Pennsylvania, [Mr. STEVENS,] the gentleman from Ohio, [Mr. BINGHAM,] the gentleman from Massachusetts, [Mr. BUTLER,] and gentlemen from every State in the Union then represented here voted the sympathy of the American people with the people of Ireland, suffering under the cruel wrongs and oppressive laws which England had inflicted upon her. That island is not much larger than the first three districts of New York, and has a population not exceeding five or six millions. Every Representative on this floor voted his sympathy with Ireland in her sufferings from British oppression. But here are ten States, with a population more than twice the number of that of Ireland, and ten or twenty times its extent; our own territory, our own people, under our own flag, enduring oppression such as no British Government ever attempted to force upon Ireland. Why, sir, have we not heard that a military governor, under a law which we have now met professedly to make more stringent and more despotic, has removed municipal and State officers without trial and without any given reason? Have we not heard of a military governor, under a law now to be made more severe, who stopped a civic procession till they procured and consented to carry a certain flag, to salute that flag, uncovering three paces before reaching it, bowing their necks as they passed it, and remaining uncovered three paces beyond it? What would have been the consequences if some poor fellow, blinded with dust and bedazzled with its splendor, had made a misstep or a miscalculation of steps, and uncovered only two and a half paces before approaching, and bowed when half a pace beyond, I cannot tell. But this I do know: that during the seven centuries of British misrule in Ireland no military commander ever dared to remove from office without accusation and trial even an alderman of Cork or Dublin, or any other Irish city; and though the Irish people had cursed the British flag in oratory and song, no military governor or tyrant ever dared to ask

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them to carry that flag in any of their processions or to uncover or bow their heads while passing it. Oh, sir, it is a sorry spectacle to see the Representatives of a Republican people voting sympathy with the sufferers under the misgovernment and oppression of our neighbors while planning and perpetrating for our own fellow-citizens acts of tyranny and misgovernment such as no monarch, emperor, or tyrant ever yet inflicted upon a subjected people, however rebellious they may have been. If British rule in Ireland were as tyrannical as ours is in these ten suffering States every man, woman, and child in Ireland would be a Fenian. It is with the deepest sorrow I make this assertion. I do it to avert, if possible, the spirit of oppressive legislation, which if practiced in any other country would call forth our sympathy for the sufferers and our condemnation of the oppressor.

Mr. KELLEY. Will the gentleman yield for a moment?

Mr. ROBINSON. I will yield with pleasure.

Mr. KELLEY. I beg leave to say to the gentleman from Ireland [laughter] that no longer ago than yesterday I introduced on this floor a very devoted son of the Emerald Isle, who has been for some years a naturalized citizen of the United States and a resident of the State of North Carolina, who appealed to the various members to whom I introduced him to overthrow by express letter everything in the form of government in the South, save the laws of Congress as administered by the military commanders, and he presented to these gentlemen, as well as to me, the argument that the very life was being crushed out of every loyal man, not by the United States Government, but by the pretended State and local governments of the South. And the gentleman will not, if he travels through the South, find one out of every ten of the Irish American citizens there who does not look to Congress to protect them from oppression greater than they endured in Ireland.

Mr. ROBINSON. In reply to what the eloquent gentleman from Pennsylvania has said, I need only say that I doubt not there are a thousand Irishmen to-day living under British rule, for whose victims we so recently unanimously voted the sympathy of the American people, who would appeal to the British Parliament if introduced upon its floor to overthrow by express letter everything but British rule in Ireland as administered by her Castle-reaghs and Derbys, and would present that the very life would be crushed out of every loyal man if the Fitzgeralds and Emmets and O'Briens had succeeded in overthrowing that British rule in Ireland, against which we so recently and unanimously protested in this House; and the gentleman from Pennsylvania will not, if he travels through Ireland, find one out of every ten of the loyal men in Ireland who feed and fatten on the patronage of British rule in their starving country who does not look to the British Parliament to protect them and preserve them from the calamity of granting to Ireland her rights and liberties. And it is no argument to me that because some Irishman, who has foresworn allegiance to British power and British law and fled from their oppressions, has here become the apologist of laws more galling and oppressive than those whose authors he foreswore, that I should see others faults and not my own; that I should join in voting condemnation on our neighbors and cover up our own faults, equal, if not far transcending theirs. I care not who such a man is, he is not a true Irishman; but a British—you may fill up the blank as you please.

Mr. KELLEY. I did not say that that gentleman said he had fled from the oppression he speaks of. I apprehend that like the gentleman he came here because America was a freer country than Ireland.

Mr. ROBINSON. I thank the gentleman

for that word "was." It was a freer country. I was here an old Clay Whig when the Democrats were in power, daily protesting against their attempts to infringe the rights of minorities and trample down the safeguards of our Constitution, but they never dared to trample on the rights of their political opponents; they never dared to override all constitutional provisions to perpetuate their power, as the party in a majority here are now doing. I was an old-line Whig then, and I would be a recreant and a coward if I failed to denounce now enormities greater than those I then denounced.

Sir, I have some idea what these loyal southern men are who come here to invoke oppression on their people. I know the power of misrepresentation. I know the efforts made to excite and keep alive a spirit of revenge against the people of the South by persons calling themselves southern loyalists. I know the indignities heaped upon the southern people and the threats made against them if they dared to complain. I know that when the gentleman from Pennsylvania made his speech to the people of Mobile he said they must be quiet for he had the military at his back. This must have been very soothing and calculated to hasten reconstruction when he informed them that it might be necessary to urge home his arguments with the bayonet.

Mr. KELLEY. I thank the gentleman for raising that point, and beg him to yield for a moment just here.

Mr. ROBINSON. Does the gentleman say that he did not say so?

Mr. KELLEY. When the cry "Put him down!" "Pull him down!" was raised, I answered, "Gentlemen, you cannot put down free speech by pulling me down. That is one of the rights the exercise of which the American people established by the late war. You will do nothing toward suppressing it by pulling me down. You should bear in mind that the fifteenth infantry are at my back as a representative of that great principle, and if they cannot maintain it in Mobile the United States Army will." But that did not cause the riot. I proceeded, and the riot did not commence until a prearranged signal of two taps upon a bell, a pause and then one tap was given; then the gentleman's friends commenced shooting at me.

Mr. ROBINSON. I throw back the imputation with scorn upon the gentleman from Pennsylvania that those who commenced the riot were my friends. They were his friends who commenced it, and I presume it could be so proved if a proper committee were appointed to investigate it. I had no friends there, and the gentleman knows it.

[Mr. STEVENS, of Pennsylvania, who had taken a seat immediately in front of Mr. ROBINSON, said something not heard by the reporter.]

Mr. ROBINSON. I have not time to answer every question put to me, but if the venerable and distinguished gentleman from Pennsylvania has any question to ask me and will state it so that I can hear it, I shall take pleasure in trying to answer him.

Mr. STEVENS, of Pennsylvania. I only said if the balls were going to fly I would rather be out of the way. [Laughter.]

Mr. ROBINSON. I hope he will not move away; I am glad to have the honorable gentleman near me; I rejoice to see him over on the right side. [Laughter.] The gentleman from Pennsylvania [Mr. KELLEY] calls me the gentleman from Ireland. Sir, I do not claim to represent Ireland, but I am proud to claim, here as in all other places, the honor of being one of her sons; but is he not more an Irishman than I am, unless he has degenerated like his North Carolina Irishman? A great many Irishmen get degenerated, and sometimes they change their names. I rather suspect that if a committee to investigate the matter were appointed, with the gentleman

from the Worcester district, Massachusetts, [Mr. BALDWIN,] one of the best ethnologists and antiquarians in the country, and my anatomical friend from Ohio, [Mr. MUNGEN,] and my friend from Pennsylvania, [Mr. SCOTFIELD,] who introduced the other day the belligerent letter of Professor Agassiz on the origin of the human races, it would be found that the gentleman from Pennsylvania was called O'Kelley at home. He may say that he has only mended his name by dropping the significant O. When he was mending his name he might have mended his manners without detriment to either. [Laughter.]

Mr. KELLEY. I simply assumed that the gentleman represented Ireland, and therein differed from me in the fact that I sometimes consider and speak upon American topics, while he never alludes to any other than Irish. [Laughter.]

Mr. ROBINSON. The gentleman was the first to introduce the Irish topic.

Mr. KELLEY. On the contrary, I did but respond to the gentleman's suggestion, that we have inflicted upon the southern people greater wrongs than England has inflicted on the Irish.

Mr. ROBINSON. My reference was to American matters compared with those of other countries.

Now, when interrupted by the gentleman from Pennsylvania [Mr. KELLEY] I was about to say something as to the parties guilty of commencing these mobs and riots—for they have been made the cause of all this swarm of reconstruction bills enacted to subject the South to military despotism on the ground that life and property were not secure in those States. The New York Tribune a few days since had an editorial article on the recent Birmingham anti-Popery riots. It appears that a man had been sent down from London to Birmingham to speak against Popery and Ritualism. I have no doubt that he thought, if he did not say, that he had the British army at his back. His speeches probably were not more bitter than those of the gentleman from Pennsylvania were, and shrieked into ears as unwilling as those of the people of Mobile. No doubt the anti-Ritualist speaker said his audiences, whom he was abusing, commenced the row. The editor of the Tribune, however, takes this sensible view of the matter. He says:

"Vituperation, however, is not controversy. Religious enlightenment does not come of hard names and yelling defiance to a crowd of ignorant and excitable laborers. If a preacher will throw mud at his Christian brethren he must expect to get splattered in return. If he darts into a crowd of Irishmen and doubles his fists and dares them to come on, it is the most natural thing in the world that he should come out of the crowd with a black eye and a torn coat."

Now, is it not easy to see that vituperation or throwing mud or yelling defiance to a crowd or threatening to shut their mouths with the fifteenth United States infantry might lead to a riot in Mobile as well as in Birmingham? And is it not quite natural to suppose that the riots in Mobile, New Orleans, and elsewhere were just as chargeable to the speakers themselves as to the crowd who, even at the points of the fifteenth United States infantry bayonets, were compelled to listen? The fable of the poor lamb which was killed by the wolf for riling the water which he was drinking up stream might serve to illustrate many transactions between human lambs and human wolves, who must make some pretense to throw the blame of the quarrel upon those whom they had determined to worry into it anyhow.

But, sir, New Orleans, Mobile, and Memphis have not been the only places where mobs and riots have occurred, and where human life and property have been in danger. If I rightly remember, the city from which the gentleman from Pennsylvania hails had mobs and riots in which churches were sacked and burned and lives lost.

Mr. FARNSWORTH. I rise to a question

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of order. I submit that this discussion is altogether wide of the question before the House; and I make the further point of order that gentlemen must take their seats.

Mr. ROBINSON. What is the gentleman's point of order?

Mr. FARNSWORTH. It is that the remarks of the gentleman are very wide of the subject before the House.

The SPEAKER *pro tempore*. (Mr. Cook in the chair.) The Chair overrules the first point of order raised by the gentleman, but sustains the second; gentlemen must take their seats.

Mr. ROBINSON. If I remember correctly there were men in that city of Philadelphia, dressed in the apparel of men, who had the courage to spit in the faces and otherwise insult women; and those women sisters of charity. I know excuses were then made, as they are now made, that the insulted and maltreated were the guilty parties. The weak and insulted parties were belied and vilified. The spirit of revenge was evoked and scenes of carnage and outrage followed, such as have never disgraced any city of the South. But blood once shed, the demon spirit of revenge, born of hell and accursed of God, which has no eyes nor ears nor senses to discriminate between right and wrong, was evoked then, as it is now evoked, and let loose to shriek for more blood and clamor for more vengeance.

Mr. KELLEY. Will the gentleman allow me a moment?

Mr. ROBINSON. I will yield as much of my time as I can afford.

Mr. KELLEY. I will endeavor to procure you compensation for any time I may consume. As the gentleman has made these remarks in connection with a somewhat personal colloquy, I desire to say that it was my privilege at the time to which he has referred, with a policeman's staff, to meet armed rioters, and to be bespattered with the blood of policemen shot at my side while performing the same humble duty that I did in defense of those churches. I beg leave to say further that the aspersion cast upon me in the Mobile Times as a means of fomenting a scene of murder was utterly false. The lie designed to excite the Irish citizens of Mobile against me, that I had abandoned the church of my fathers and burned the temples in which they had worshipped in Philadelphia, was as false as the heart that coined it—that of William D. Mann, late of Michigan, but now assessor of internal revenue at Mobile and owner of the Times. I was born into the Presbyterian church, but forgetting all save the rights of man, as the people of Philadelphia, both Catholic and Protestant, will bear witness, I periled my life to defend the churches to which the gentleman alludes, and, as prosecuting attorney, prosecuted those who could be arrested and brought to trial for the crime. I was then what the gentleman was not—a member of the Democratic party.

Mr. ROBINSON. I was going to ask the gentleman as to that. It seems that he has been getting wrong while I have been getting right. He was a Democrat then, and that with some may account for the correct manner in which he acted on that occasion; but I have made no allusion to him as having had anything to do with instigating that riot.

Mr. KELLEY. I then believed as I do now in the rights of humanity for all men, whether Irish or American, whether white or black.

Mr. ROBINSON. I have referred to that simply to show that life and property have been unsafe in northern cities as well as in southern cities, and that it is as unfair to inflict these oppressive laws upon the whole South for the Mobile or New Orleans riots, as it would have been to have appointed a military governor to play the tyrant over the entire people of Pennsylvania because a few people in Philadelphia had engaged in a riot, however fearful.

Take, again, the State of Massachusetts. A seminary of learning under the charge of inno-

cent and defenseless nuns was burned down by a Boston mob. On the lofty walls of that blackened monument of Massachusetts' bigotry stood the significant inscription, "The Lord Seeth." Year by year these holy, defenseless, innocent women have appealed and appealed in vain to the State of Massachusetts to pay for their losses. Still "The Lord Seeth," that Massachusetts permitted the outrage, and refused all just compensation.

Mr. WILSON, of Iowa. I rise to a point of order: that the remarks of the gentleman are not relevant to the subject pending.

The SPEAKER. The Chair cannot see the relevancy of the argument to this bill, which is for the reconstruction of various States of the Union known as those lately in rebellion. The gentleman must be aware that his remarks are irrelevant.

Mr. BUTLER. Will the gentleman yield to me a moment?

Mr. ROBINSON. For a question only. I cannot yield for any remarks, as my time is nearly up.

Mr. BUTLER. I do not desire to ask any question.

Mr. ROBINSON. I am sorry the gentleman has run short in his catechism. [Laughter.] I was going to refer to another State, if I am not out of order. I presume I shall be in order if I can move an amendment. Is the bill open to amendment?

The SPEAKER. It is not. The motion to recommit is pending.

Mr. ROBINSON. I want to say, and think I can say it in order, that if every State that has permitted a mob or a riot to take place, or in which life and property are not safe, or in which republican forms of government are wanting, is to be put under military dictatorship, (and these are the reasons given why the southern States are so put under,) then this bill should be so amended as to include Pennsylvania, Massachusetts, and New Hampshire, and these States should also be deprived of their representatives in both Houses of Congress, and more particularly New Hampshire, the constitution of which to-day precludes Catholics and other denominations from holding office. If any State of the Union needs reconstruction it is not Maryland, the mother of Liberty in this country, but New Hampshire, the only country in this world—as there is but one in the next—from which men are excluded on account of religion.

The SPEAKER. When the bill shall be open to amendment, if the gentleman then offers his amendment his remarks would be germane.

Mr. ROBINSON. I submit to the rulings of the Speaker, which are almost always correct.

Mr. O'NEILL. I wish to raise a point of order. The gentleman from New York having traveled through Pennsylvania, Massachusetts, and New Hampshire, ought to be permitted to come back to his own State of New York to explain to this House the draft riots in which innocent men were killed—

The SPEAKER. That is not a point of order.

Mr. O'NEILL. In which the colored orphan asylum was burned to the ground by his own Democratic constituents.

The SPEAKER. The gentleman is out of order.

Mr. O'NEILL. Would it not be in order for the gentleman to explain all that?

The SPEAKER. It would not.

Mr. ROBINSON. The gentleman from Pennsylvania [Mr. O'NEILL] has taken one of my favorite topics which are ruled out of order. I was coming to that riot, in which a brave Irishman and worthy Democrat died in defense of our glorious flag in putting down that mob. I was going to say something about its origin, but we have had no congressional committee as yet appointed to inform us whether New

York also wants reconstruction and a military dictator. If Mr. Hoffman had been elected Governor it undoubtedly would. I should like to say more on this point if it is in order.

The SPEAKER. It is not.

Mr. O'NEILL. The gentleman took good care, in his long, rambling speech, not to come down to his own city.

Mr. ROBINSON. I should like, by speaking on that subject, to oblige the gentleman; but the Speaker's decision prevents both of us from further indulgence, and I must decline to yield any further. I must say, however, that while I shall always obey with pleasure the rulings of the Speaker, I cannot see how my remarks are out of order. All these reconstruction bills have been based upon the New Orleans, Memphis, and other mobs and riots. I cannot see why it is not entirely germane to the subject under discussion to show, as New York, Philadelphia, and Boston have had more serious riots than Mobile, Memphis, or New Orleans, and did not need reconstruction or military governors, that the southern States, where life is quite as safe, and religious liberty much better secured, should not have imposed upon them a despotism so cruel and antagonistic to the spirit of our institutions.

Sir, as to the New Orleans riot, it looked very like a preconcerted scheme to influence the fall elections against the Democrats of the North. There is no doubt that the meeting of the defunct convention was an illegal assemblage. Parties had come from Louisiana to this city to see if they could obtain congressional support in their rebellion against the government which they themselves under a Republican member of this House and under President Lincoln had established. It was urged in secret caucus of the Republican members of Congress that they had better not adjourn the Thirty-Ninth Congress then in summer session, for some important matters might come to them from New Orleans. General Sheridan had been applied to by the president of that convention to see whether, if it assembled, he would grant military protection. He replied that he would disperse the mob and the convention together. The president then abandoned all idea of calling the convention and came North. In his absence and the absence of General Sheridan a minority of that convention got together, having somehow made a president *pro tempore* without any authority, in the person of a man whom the convention had formerly refused to elect as its president, and having held public meetings to fire the hearts of the most ignorant classes of society, declaring that every man, woman and child in the interest of the Lincoln-Banks government should be killed, and urging that these ignorant classes thus stimulated to the killing point should come armed in procession to the convention. That convention, thus heralded, thus planned in Washington and New Orleans or in both, with assurances of support from Congress, came together with processions of these inflamed and ignorant classes, with music, banners, and arms, and all "the pomp and circumstance of war." The first shot fired was by a negro at a municipal officer.

Sir, this was the beginning of the riot. Had the police of New York been so assailed and their arrests so rescued, the streets would have run with blood or the guilty parties in the procession would have been secured. Unfortunately Sheridan, who had declared that he would disperse the convention, was away. The military allowed the illegal mobs in the streets and in convention to prevail over the municipal authorities, and the howl for vengeance and blood swept down truth and reason before it.

Mr. KELLEY. I am sorry to interrupt the gentleman again, but he is wrong in saying that the gentleman to whom he refers testified that he could get support from Congress. The gentleman from New York will find if he examines the record that the gentleman referred to



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stated that he did not find here the support he had expected.

Mr. ROBINSON. Well, the gentleman did come here. He got encouragement enough to proceed to call that illegal and revolutionary body together. The proceedings of the Republican caucus here showed that parties here were cognizant of the movement. The gettters-up of that convention had been the most bitter secessionists, voting to take Louisiana out of the Union, making speeches against our flag and our Union, one of them since removed by General Sheridan. The gentleman who stated that a letter signed by three members of Congress was in existence, was not called by the committee, though his attendance was requested by the minority of the committee. The gentleman to whom I refer is, I believe, the so-called Governor of Louisiana, now in this city, Mr. Flanders.

Mr. KELLY. No sir; it was Judge Howell who swore that he did not get the moral support of Congress.

Mr. ROBINSON. At all events the man who said he had seen the letter was not called by the committee, because, I presume, they did not want too much information. That the riot was planned to influence the fall elections of 1865, I have no doubt, and such will be found the fact if ever a full and impartial investigation can be had.

Sir, the South is not represented here to-day. Loyal and disloyal are both excluded, though it is admitted there are people now waiting for admission numerous enough, after stooping their necks to the military yoke, to comprise ten States in our Union. The chain is eating into their flesh, the blood is oozing from their pores, while we apparently infuriated into madness by the spirit of revenge, are dancing on their prostrate bodies to the music of reconstruction.

Mr. STEVENS, of Pennsylvania. I suppose the gentleman is referring to Andersonville?

Mr. ROBINSON. No, sir, I am not. Those who shriek for more blood and suffering may unfold the gory record of Andersonville. That record is terrific enough and ever to be condemned. But there may be exhibited a worse spirit than was manifested at Andersonville. That has been claimed by the rebels as a military necessity. But there is a spirit of wrong, a spirit of Satan, a spirit entirely inconsistent with the spirit of the age and of all religion, which without the poor excuse of military or other necessity shouts for vengeance and yells for blood. The present fall elections are approaching: again must the horrors of Andersonville be revamped, revarnished, and rehearsed: committees at enormous expenses wrung from a suffering people be published in huge volumes and scattered broadcast over the land to renew the wearied spirit of carnage and revenge. The poet Moore represents Erin sitting on the banks of the Boyne, her Andersonville, the very mention of whose name always renewed the spirit of hell, which the spirit of Christ had almost conquered:

"When will this end, ye powers of good?"

She weeping asks forever.

But only hears from out that flood

The demon answer, "Never!"

And never shall we have reconstruction till reconciliation fans its holy spark into a vivifying flame. Never, while men who should be pleading for forgiveness as they hope to be forgiven crawl around the tombstones of the bloody past like another "Old Mortality," with incessant mallet and steeled chisel deepening the records of human frailty which the winds and ruins of Heaven were mercifully providing to obliterate.

"A canting crew,  
So smooth, so godly, yet so devilish, too,  
Who, armed at once with Bibles and with whips,  
Blood on their hands and Scripture on their lips,  
Tyants by creed and torturers by text,  
Make this life hell in honor of the next."

Let "bygones be bygones" if you ever mean to let us become one people again. If you

mean to keep us forever apart, say so and be honest. We have fought the South with their Johnstons and their Stonewall Jacksons, and they, by our superior numbers and resources, are at our feet. The prodigal son, at whom the gentleman from Pennsylvania [Mr. STEVENS] recently sneered, has returned from scenes of dissipation and riotous living. If you mean to take him back, do so, and kill the fatted calf. If you mean to slay the prodigal son and keep the fatted calf kicking up its heels around the barn-yard, say so. Do something; but do not talk reconstruction while you are plotting disunion. If the erring wife has returned, take her to your bosom, or if you cannot do this, cast her from you forever. Do not be reconstructing her into another and different person, for that would not be reconciliation, but bigamy. [Laughter.] If you mean to live with her, banish from beneath your roof, as you would a spirit from hell, every croaking miscreant who would shriek into both your ears the follies and the crimes which you both committed and which led to your separation. If you mean to restore to the weeping Union its former children, oh give her back her darling boy, and not the sickly, fairy child with which you would mock a mother's prayer.

Sir, these are words of truth and soberness. I believe the speediest way to reconstruction is honest reconciliation and mutual forgiveness. I stand not here to justify the South. While she was in rebellion she was my enemy; in submission she becomes again my friend. I would not inflict upon her one single unnecessary humiliation. Of crimes against us she has been guilty, but who can cast the first stone of innocence? I tell you that there were more crimes against life, person, and property perpetrated in Massachusetts since the rebellion was put down than in South Carolina; crimes deeper and more damnable, some even nameless, for which no punishment was inflicted, not even expulsion from the legislative body of which their perpetrators were members. I tell you that life and person and property have been more unsafe, that crimes against them have been more numerous in one single northern district than in the entire State of North Carolina. Life, liberty, and property to-day are in more jeopardy in Tennessee, which you do not propose to reconstruct or control, than in any other portion of the world.

Let me go back and say to the gentleman from Pennsylvania [Mr. KELLEY] that I never read the article from the Mobile Times to which he referred. I do not know, nor is it my business to inquire, whether he is a Catholic or a Presbyterian. I do not profess to be the champion of any religious denomination. I was simply showing that people who burned churches dedicated to the service of the living God, and spat in the faces of defenseless women, should be slow to charge upon other localities a want of safety to person and property.

Mr. KELLEY. I prosecuted the cases and I never heard of such an allegation before. If it were so I think I was in a position to have heard it.

Mr. ROBINSON. If they were not guilty of spitting in women's faces they have enough to account for instead of hunting up others' crimes.

Mr. FARNSWORTH. I rise to a point of order. This bill has nothing to do with the burning of churches or spitting in women's faces.

The SPEAKER. The Chair sustains the point of order. This is a bill supplementary to the reconstruction act, and the burning of churches or spitting into women's faces, as the gentleman from Illinois states, has nothing to do with the subject.

Mr. STEVENS, of Pennsylvania. That being the case I rise to move that the speeches hereafter be confined to five minutes, and shall be confined to the pending subject.

The SPEAKER. The gentleman from New York has the floor and cannot be taken off it for that purpose.

Mr. ELDRIDGE. I object to any further interruptions of the gentleman from New York.

The SPEAKER. He has the floor and has uttered no disorderly words that would take him off it.

Mr. ROBINSON. Mr. Speaker how many minutes have I left?

The SPEAKER. Twenty minutes.

Mr. ROBINSON. Sir, we have not got at the entire secret of this legislation. Its authors strike at the distinguished Attorney General of the United States through the prostrate South, on which they can further trample, rather than answer his arguments. They want also to show their teeth at the President of the United States. Sir, I have been pained, sitting here from day to day, listening to remarks in reference to the President, which, if it were parliamentary, I would denounce as ribaldry. I have been pained to witness the degeneracy in the debates of Congress since I was here twenty-five years ago in the capacity of a correspondent. As a Clay Whig then I used to denounce the Democratic party daily for lack of dignity and for assumption of power; but, oh, how changed since then? Is it not degeneracy when members on the floor will rise from day to day and in a spirit utterly disgraceful to American citizens—

Mr. PILE. I rise to a question of order. I ask if this course of remark is in order?

The SPEAKER. The Chair must decide that it is not in order for the gentleman to speak of the conduct of his fellow-members as disgraceful. He may say that it is unjust, but to say that it is disgraceful is a personal reflection, which is not considered parliamentary.

Mr. ROBINSON. Of course I yield to the decision of the Speaker. It seems perhaps a little Pickwickian to say that a man's actions are unjust and yet not disgraceful. But, sir, I will say, I trust in order, that I have been pained to hear abuse of the President of the United States. I believe that any one who would try to degrade the President of this great Republic in the eyes of the world is a greater traitor to our institutions than those who starved our prisoners at Andersonville or plotted treason under Jefferson Davis. It would be a greater calamity to have the President, the head of our country, made a hissing and a scorn to the rest of the world than the continuance of all Jefferson Davis's forces in the field for forty years. I have been particularly pained by the conduct of a committee of this House, which seems to act upon the principle, which was formerly followed in Ireland, of hanging men for being suspected of being suspicious!

Sir, there is one in our list of Presidents who is, and I trust ever will be, supreme in the affections of the American people. Upon his pinnacle of glory he now stands, and there let him stand forever. I say that, with that one exception, and perhaps without exception at all, no one of our Presidents could have stood the searching investigation which Andrew Johnson has successfully endured at the hands of this energetic committee. That investigation has proved that he is the purest man, with perhaps this one exception, who ever occupied the presidential chair. I doubt whether the household of George Washington or of Thomas Jefferson, or of any other save that of his own, could have stood the ordeal. The committee, not seeming contented with examining into everything themselves, have an attendant, for whom we have no name, and for whose services I hope there will be no pay, who hunts up information for them, descending to visit haunts of perjury and crime and the convicts' cells, raking the bottoms of these dens of iniquity to see if anything can be found to be bribed or suborned to testify against the executive head of this nation, that he and the people at whose head he stands may be degraded in the eyes of

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the world; eavesdropping and keyholing around the back and under entrances of the White House, and kneeling to its scullions to see whether they can find out what the President eats or drinks, or what he does before he goes to bed.

Mr. BROOMALL. I must raise the question of order that the gentleman's remarks are not relevant to the question under discussion.

The SPEAKER. The Chair did not like to check the gentleman from New York, who appears disposed to take a wide range, but he does not see what relevancy the examination of the scullions of the White House has to the military reconstruction bill. Perhaps the gentleman may be able to explain its relevancy.

Mr. ROBINSON. Well, sir, I had understood that the President and the Attorney General were the sole cause of this session. I cannot understand why all this interruption and these calls to order are now made by a party who in almost every speech delivered, either in the last or the present Congress, made executive action the pretext for these unconstitutional reconstruction bills. If the President's failings are urged as an argument for the severity of these measures, may not his virtues be pleaded against them?

But I shall try to continue my remarks in order. I thought of moving to lay this whole matter on the table. I believe that would be in order, notwithstanding the pendency of the motion to recommit.

The SPEAKER. That motion would be in order.

Mr. ROBINSON. My opinion is, as I said on opening, that this measure is brought in, not because the South has done anything to call for this new legislation, but to oppose the action of the President and his distinguished legal adviser; and I am trying to show that there is nothing in the executive action to justify it. After descending to the most unjustifiable means in search of scandal, to be printed at vast expense and to the disgrace of the nation, after two years of searching and swearing, no man here can stand up and make one single charge against Andrew Johnson, either as citizen or President; and his persecutors, after all their searches, reputable or otherwise, stand mute when challenged, as we now challenge them, to report a single charge against him.

Nor has his patriotic family escaped, for even on this floor we have heard their names dragged in to serve base party purposes. Sir, the charming hospitality of that Mansion, the spotless purity of the character of its inmates, the weeds of woe scarcely removed which told of a gallant son dying in the military service of his country, and a lovely daughter widowed by the same holy service, might have protected that household from the prying propensity of committees and the things that pander to their purposes. Well might I say, sir, that even the household of Washington or Madison or Jackson could not have stood the ordeal through which our present Chief Magistrate has passed.

Sir, the character of Andrew Johnson defies the viper that bites the file. There is, perhaps, no better example of American character than his. Born in the humble walks of life; reared in lessons of industry, virtue, and religion; self-educated, self-supported, and self-reliant; rising by that American rule of gradation from a town commissioner and mayor of Greenville and trustee of its academy to be member successively of both Houses of the Tennessee Legislature; a member of this House, in which he proved himself during his repeated terms of reelection an able, upright, and eloquent statesman; urging high considerations of national policy, inculcating love and harmony between the North and South; denouncing then as now all usurpations of power by the General Government; defending that sacred doctrine of our

Constitution, State rights, which now, through the folly of its violent friends, has been crushed to earth, but will rise again; jealously guarding the Treasury from plunderers; defending the rights of naturalized citizens; introducing in 1845 and, by determination and indomitable tenacity of purpose, carrying and marching with it through both Houses of Congress and over executive vetoes, the homestead law; then Governor of the State of Tennessee; then Senator of the United States, where he stood true when almost every southern Senator faltered and fell. Then appointed by President Lincoln military Governor of Tennessee, saving, by his firmness and bravery, the capital of that State by opposing its evacuation. Then nominated by the Republican party on a platform on which he still stands and which they have deserted, hurling curses like all deserters at those who remain true; himself and that platform, since abandoned by its framers, contributing largely to the success of the ticket which without them would not have been successful. Then President of the United States; a southern man true to the North; presiding over a northern Congress unforgiving to the South; himself the providential link around which the returning emotions of union and harmony will yet crystallize and cluster when the enmities of the present hour will be forgotten or remembered only to be deplored. Wise in forethought, brave in danger, forgiving in victory, posterity will award to him a high position among American Presidents, equal to any, if not superior to all save one.

The historian Rollin, in sketching the character of Cyrus, thus describes his beau ideal of a statesman and patriot:

"But an inward stock of goodness, compassion, and gentleness toward the unhappy; an air of moderation and reserve, even in prosperity and victory; an insinuating and persuasive behavior; the art of gaining people's hearts and attaching them to him more by affection than interest; a constant, unalterable care always to have right upon his side, and to imprint such a character of justice and equity upon all his conduct as his very enemies are forced to revere; and lastly, such a clemency as to distinguish those that offend through imprudence rather than malice, and to leave room for their repentance by giving them opportunity to return to their duty. These are qualities rarely found in the most celebrated conquerors of antiquity, but which shone forth most conspicuously in Cyrus."

Sir, I tell you and this House that Andrew Johnson does not deserve and can despise all these persecutions heaped upon him. The people of these United States, forgetting all his trivial faults and remembering his great virtues; the independent tiller of his own soil, secured to him as a homestead through the foresight of Andrew Johnson; the naturalized citizen, enjoying his rights largely through the opposition of Andrew Johnson to Nativism and Know-Nothingism; the northern people, remembering how he stood as a tower of strength against the inroads of secession and disunion, and the South remembering that he received the most violent abuse which any man ever received because he contended that there were rights and should be clemency for the fallen: these will win for him the gratitude of all true citizens of a restored and united country; while those who are persecuting him and seeking to secure and perpetuate disunion and strife through these measures falsely called reconstruction bills will be execrated by their posterity, who will efface their forefathers' names from the tombstones of their burial places, or apply to the Legislatures of their several States to change their names that they may get rid of the disgrace of being the descendants of their ancestors! I feel no hesitation in believing that Jefferson Davis will, with all his faults and crimes and follies, stand better with posterity than will any one who by vote or voice or deed, after the military necessity had passed, struck or attempted to strike one star from our glorious constellation of equal and sovereign States, or dimmed its luster within the Federal Union. The genius of American liberty around each State beneath

her banner draws the magic circle of the republican church, and on the head of him who dares to invade with hostile foot the sanctity of that circle she will launch the awful curse of her eternal hatred; and in the fire of that hatred and the withering power of that curse his memory will shrivel into nothingness or live only in the stench of its quenching.

But, sir, there is another suggestion I wish to make, inasmuch as I believe that all this legislation is instigated simply through a desire to influence the next presidential election. This truth is so patent that it is difficult to look serious when denying it. I urge, then, against further legislation of this kind that the next President is already chosen, and the gentlemen on the other side cannot help it. The people have already anticipated and rendered useless all caucuses and conventions and their concomitant corruption and log-rolling. The other side, though they are afraid to trust him, and are plotting to weaken him, cannot prevent his election. They dare not put up any of the recognized advocates of their principles. [Laughter.] They will be compelled to vote for him, and when elected they will try to use him for their own purposes. Need I say that in that they will fail, and failing in it, they will denounce him as they denounce Andrew Johnson, and as they had already begun to denounce President Lincoln. Had President Lincoln lived, the more conservative, the better half of the Republican party, who now seem afraid to break away from their bell-wethers, would have been with us in sustaining his policy of restoration, and the more radical portion of the party would have been howling to-day for his impeachment, as I venture to predict, and am willing to risk all the character of prescience in politics I might wish to get credit for that before our next President gets through with them—the first session of next Congress—they will be clamoring for his impeachment. I need not say that our next President, if he lives, will be Ulysses S. Grant.

"There's a divinity that shapes our ends," and that divinity has shown His Almighty hand throughout our history. Whether it was Washington or Lincoln or Johnson, just as we wanted him, the man fitted for the times appeared. And now, after having led our armies with a power and energy never witnessed in any war before, and when there is danger of any mere politician playing the demagogue and pandering to the excited passions of the multitude, the man for the crisis, in whom all classes have confidence, who is above the arts of the demagogue, and has power with the people to dispense with the wire-pullers and act for the public good, steps into the place which needs him.

And now, sir, for the few minutes which remain to me let me say that the policy which I would adopt has been well and wisely stated by my illustrious constituent, Henry Ward Beecher. Mr. Beecher was at Peekskill, on his Mount Sinai, and there the Almighty revealed from Heaven to him the true doctrine of reconstruction, which he wrote in his Cleveland letter, and which should be engraved on tablets of stone.

Mr. WILSON, of Iowa. I rise to a point of order. Insist that the rule should be enforced, and that the gentleman should keep to the question. His remarks are certainly not relevant to the subject before the House.

Mr. ROBINSON. Does the gentleman from Iowa say that a message from Heaven is not in order in this House? [Laughter.]

The SPEAKER. The gentleman raises the question of order that the inscription of Mr. Beecher's letter upon tablets of stone is not in order.

Mr. ROBINSON. I shall then adopt his sentiments as my own, and hope they may then be in order. [Laughter.] Here are his words:

"Our theory of government has no place for a State except in the Union." \* \* \* \* \* "The Army

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becomes indispensable to local government and supersedes it. The Government at Washington is called to interfere in one and another difficulty. \* \* \* "Our Government, wisely adapted to its own proper functions, is utterly devoid of those habits and unequipped with the instruments which fit a centralized government to exercise authority in remote States over local affairs." \* \* \*

"The Federal Government is unfit to exercise minor police and local government, and will inevitably blunder when it attempts it. To keep a half score of States under Federal authority but without national ties and responsibilities; to oblige the central authority to govern half the territory of the Union by Federal civil offices and by the Army is a policy not only ungenial to our ideas and principles, but preeminently dangerous to the spirit of our Government." \* \* \*

"It is, in fact, a course of instruction preparing our Government to be despotic and familiarizing the people to a stretch of authority which can never be other than dangerous to liberty." \* \*

"I hear with wonder and shame and scorn the fear of a few that the South once more in adjustment with the Federal Government will rule this nation." \* \* \* "Unless we turn the Government into a vast military machine there cannot be armies enough to protect the freedmen while southern society remains insurrectionary. If southern society is calmed, settled, and occupied and soothed with new hopes and prosperous industries, no armies will be needed; riots will subside." \* \* \*

"Whether we regard the whole nation or any section of it or class in it the first demand of our times is entire reunion." \* \*

"For the sake of the freedmen, for the sake of the South and its millions of our fellow-countrymen, for our own sake, and for the great cause of freedom and civilization, I urge the immediate reunion of all the parts which rebellion and war have shattered."

With this message Mr. Beecher came down to his people, as Moses descended, with words of wisdom from Heaven. But in his absence the Aarons of his congregation had set up a new god, a blatant calf. He found his pulpit in possession of Governor Brownlow and a godless crew, who were "swinging round the circle" after the President. Amid the cheers of his people he heard Brownlow, with the spirit of hell condensed into one sentence, and embracing the extreme radical creed of reconstruction, shouting: "First kill, then burn, then survey;" shoot and otherwise kill the men, cut the throats of the women, and dash out the brains of the infants sleeping in their cradles; and then, for fear men, women, or children might linger through the massacre or recover from the carnage, burn the houses over their heads that their gore and gashes might be licked with the tongue of flame or consumed with its breath; and then confiscate. Such were the terrible blasphemies which greeted his message from Heaven. I forgive him for dashing the tablets of stone to pieces. God never condescended to give him another copy!

Sir, did time permit, I should ask attention to words of wisdom from others who in the past and present have pleaded for mutual good will, forgiveness, and reconciliation: from George Washington, from Abraham Lincoln, Andrew Johnson, Horace Greeley, and others, who, "with malice towards none, with charity for all," would bind up the nation's wounds; and contrast them with those who in the Radical column, with Brownlow at their head, and "all hell following in the rear," are shouting "kill, burn, and survey, impeach, and confiscate, and when the South asks for restoration give them the penitentiary of hell."

Sir, we have been playing political thimble-ry with the South, and who can tell under which thimble the little joker which will secure restoration is to be found. The lower the South has bent the knee the more intolerable have become the terms of pardon; even kindly words from any friend of the South were answered with greater indignity, till finally conditions are exacted which none but bullies would demand or cravens yield, for "the knee that is forced had been better unbent." But there is hope ahead. In after years, from a common bond of love, beneath a common flag, from a common brotherhood born of our northern children, mingling in holy family ties with the children of the South, men will look back and wonder that there was wickedness enough in the world to inflict such injuries upon one another; but will bless the peacemakers among their ancestors

and curse the miscreants who fanned so long the flame of contention. Nay, I shall live to see that day; and shall not be ashamed to look my children in the face and to say that there was one who fought the rebels throughout the rebellion, but when the war was over pleaded for forgiveness, believed in southern honor, and voted as he believed; who never attempted "the future's portal with the past's blood-rusted key;" who would rather grasp the bloody hand of an open foe than touch the slimy finger of the coward that skulked from danger; who never kicked the undermost dog nor struck a fallen foe.

"When the foe has knocked under, to tread on him then—

By the fist of my father, I blush for thee, Ben!"

Let me say a closing word for my fellow-citizens of the South. I cannot forget that they, too, have sorrows that might well arouse revenge. There are vacant chairs around many a lonely southern hearth. There are maddening memories which matched against our own and shrieked into each others ears would keep us for ever apart. They have hearts to feel and eyes to weep for loved ones lost, for husbands buried on distant battle-fields, fathers slaughtered in the mountain passes, and sons taken away by early death, all buried in nameless and unknown graves. They fought gallantly, but they are down, and cursed be the hand that smites the fallen. I long to see them back in the Union, that they and we, forgiving and forgetting the past, and girding up our loins for the magnificent future, may enter upon the career of greatness and glory which stretches away before us.

I have sought to elevate my own mind above the vengeance of a divided present, and have looked to the brightening flag of a united future as the inheritance of glory for a common posterity. In days gone by I learned my creed from Henry Clay and Daniel Webster, John M. Clayton and John J. Crittenden. I stand by the record and refuse the teaching of Brownlow and Phillips.

I see in the future an ocean-bound Republic; in the immediate future a hundred millions of her united people. Where but a few stars flickered in her sky I see constellations blazing; the flutter of her flag is reflected on every sea, the plash of her propeller vexes every ocean; and to that future I summon back our brethren of the South, for without them success would be a failure, and our glory would be but shame.

"Oh would thou wert near me, my southern brother, I love thee as dear as the son of my mother; I am lonely and sad since the day that we parted, My lips have the tone of a maid broken-hearted; But come, from the future fresh flowers we'll gather, And sing the sweet songs of our Union forever."

### Reconstruction.

### SPEECH OF HON. JOHN A. LOGAN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 12, 1867,

On the supplementary reconstruction bill, and in reply to Mr. ROBINSON, of New York.

Mr. LOGAN said:

Mr. SPEAKER: It was not my intention to have taken any part in this debate, but I cannot get my own consent to sit and listen quietly any longer to such extraordinary speeches as have again and again been pronounced on this floor within the last few days. If the wisdom of the policy of excluding from a representation in this Hall the South had ever cost me a doubt it could never again cost me another. More earnest advocates of their political theories and more eloquent apologists for their darkest crimes traitors have not in the South or elsewhere than they have here. A resolution blotting out the Constitutions of the United States and the respective States is recommended by one gentleman, who evidently means thereby to intimate that in his opinion

at least this House had already destroyed everything like fundamental law in the land, and trampled ruthlessly in the dust the liberties of the people.

Mr. ELDRIDGE. That is what I thought and what I meant.

Mr. LOGAN. I so understood the gentleman, and the thought occurred to me at the time, sir, that it was strange indeed, passing strange, that the gentleman did not discover during those four fearful years of blood and carnage through which the true friends of humanity, liberty, the Constitution and the Union had to pass to deliver them from impending destruction who it was assailing them then.

Mr. ELDRIDGE. Will the gentleman yield?

Mr. LOGAN. I decline. Why did it not occur to the gentleman, when mighty armies of brave men, commanded by skillful generals, were hovering in a menacing attitude around this devoted city, spurning our country's flag, mocking our patriotic professions, insulting loyal citizens, ignoring private rights, and perpetrating public outrages, that the Constitution, the Union, and liberty were in danger then? Why does the gentleman wait until the war is over, the Constitution is no longer in peril, and those who stood fast and firm near it and by it, when its banner was streaming on the breeze of battle, are attempting to devise the most practicable and politic means to restore at the earliest moment to this whole land permanent and healthful tranquility and prosperity? Why does he wait for such a moment to announce the startling discovery that our Constitution is threatened and liberty is in peril?

Mr. ELDRIDGE. Does the gentleman desire me to answer his question?

Mr. LOGAN. No, sir; one interruption encouraged invites another. Is it not strange, I repeat, that the same gentlemen who are so easily alarmed now about the perils that compass about the Constitution of the country and the liberties of the people while peace is benignly smiling upon us, saw no terror or threat in the glitter of bayonets or the frown of batteries when our beloved land was swarming with millions of open enemies and the earth was trembling under the martial tread of serried hosts and the loud roar of angry artillery? Then when there was war, was no peace, they could raise the cry of "peace, peace;" and when peace at last has come they aver it has not come, but that we are still in the midst of a bloody war, a war upon the Constitution we fought to save, a war upon the liberties we bled to preserve. "Treat your southern brethren kindly, win them by affection," is the cry of the Democracy. "Rather," said one of them, "that Jeff. Davis and his coadjutors had succeeded than that the President of the United States should be impeached." Such language is worthy only of a representative of South Carolina or some other rebel whose hands are red with loyal blood. No wonder that in a party boasting of such types of patriotism there should be many, very many, enthusiastic followers, who saw nothing reprehensible in the conduct of the open, avowed, defiant, and beligerent enemies of the Republic, but who do find much to deplore and denounce in the adherence now to principle of those who stood like a wall of adamant around our flag when the mad waves of secession threatened to deluge with blood the eternal rock upon which our fathers and their fathers had planted it. Our dead I suppose are to sleep in forgotten graves, while the rebel slain must be apotheosized, and we who fought with and survive the brave boys in blue—

"Who fighting fell, and falling fought,"

are to be stigmatized with opprobrious epithets, while the traitors who thirsted for our blood are to be meekly and sweetly called "our brethren."

Mr. MUNGEN. I rise to a question of order. My point of order is, that the gentle-

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man is not discussing the bill before the House, as the rules require him to do.

The SPEAKER. The Chair has not seen that the gentleman from Illinois has wandered at all from the legitimate limits of debate. He is debating the question of reconstruction. If, however, the gentleman can point to any specific remarks which have been in violation of the rule the Chair will pass upon them.

Mr. MUNGEN. The gentleman has not alluded at all to the question of reconstruction.

The SPEAKER. The Chair will state to the gentleman from Ohio that this question of reconstruction grows out of the war in which the country has recently been engaged, and the gentleman from Illinois, in the commencement of his speech, is laying a foundation for the discussion of the question by a reference to the commencement of the war and the circumstances surrounding it.

Mr. LOGAN. What I am anxious to learn, Mr. Speaker, is, upon what foundation rests this flippant and gratuitous charge repeatedly made against the Republican party on this floor to the effect that we are trampling liberty under foot and destroying the rights and privileges of a portion of the American people? Wherein have we violated the Constitution? Was it in crushing the rebellion? I have no doubt every copperhead in the North would say yes. We did carry the emblem of our national glory and greatness from the rivers and the lakes of the West to the bays and the gulfs of the South, where it waves to-day, and will wave forever; but in doing so we innocently thought, hoped, and believed then, and still honestly think, hope, and believe that we were erecting around the Constitution impregnable bulwarks, and laying for liberty a deeper and a broader foundation in the gratitude, confidence, and affections of our people. We never dreamt that for every rebel we killed in the South we were to make an eternal enemy in the North; and we do think it amounts to a riddle beyond the comprehension of mortal wits how it is that very many of the brave men who fought us, and whom we had to literally overwhelm before we could conquer, yet now that they are conquered are much more ready to ask forgiveness and forget the past and be friends, as we all ought to be again, than are their allies, who, however deep their sympathies with them may have been while the war was raging, took special pains to let the danger pass before they gave it an airing. God forbid that the day shall ever dawn upon this Republic when the patriots whose patriotism won them crutches and wooden limbs shall have apologies and explanations to make for their public conduct, to patriots who boast of and abuse the privilege of eulogizing as their brethren the men whose sabers drank loyal blood and whose bullets shot away loyal limbs. The truth is, the great wrong that discomfited Democracy feels deepest is that the people at home neither feel nor think that there ought to be northern rebels enough in this House to let the southern rebels in.

The next greatest wrong that they have to complain of is, that the men who had the pluck to stand by those who in the field had to fight our country's battles presumptuously aspire to make our laws. I think thus far they have vindicated their claims to the world's respect alike in the field and in the Halls of legislation. What is the basis upon which they fought? Simply that rebellion was a crime. They triumphed. Now upon what basis have they legislated? Simply that rebellion was a crime, and they will triumph again. The people will never require us to fight on one principle and legislate on another; to shed our blood on the field and then come here to make apologies for it to men who wanted us whipped. I hold now, and always expect to hold, that no man has a right to cross the threshold of this House and claim a seat on this floor who did not dare during the war to openly stand by and

claim the protection of the flag that floats over this Capitol. The Government that is organized so loosely and administered so feebly that traitors of yesterday can be among the rulers of to-morrow can neither long survive nor long deserve to survive. And this Government can have no enemies in the South half as much to be dreaded as that whining northern friend who would clothe with power in this Government to-morrow the man whose blade was drawn to stab the Constitution and the Union but yesterday. When the South can be loyally represented on this floor upon the basis proposed by Congress the problem of reconstruction will cease to vex the discussions of this Hall.

The prime, sole, and supreme object of the Republican party is to reestablish this Government upon a sure foundation of loyalty, against which the frothy waves of treason may fret forever in vain. We have survived one rebellion, and the sage suggestions of past experience warns us that it will be wiser to prevent another rebellion than to too confidently expect to survive it. Rebellion, secession, and treason are like all other crimes and iniquities, and will crop out in every direction upon the smallest perceivable pretext. Put forward, then, the loyal and true, and hold at a respectful and indifferent distance the disloyal and untrue until we can see some voluntary evidence that they have finally awoke to the consciousness that they are criminals and ought to be grateful that they have not been ignominiously branded by the judgment of a competent tribunal as such. The whole secret, however, of the wailing and gnashing of teeth that we hear among the Democracy is not because we have insisted that rebels shall be held under restraint and loyal men promoted, that our flag shall be respected at home as well as abroad, but it is simply the reason a rebel Irishman gave to a loyal Irishman who captured him on the field. Said the Hibernian in blue to his rebel countryman, "Why, Jimmy, my boy, what are you doing on that side?" "That side, indade," answered Jimmy, "and is this not the Dimmercratic side?" [Laughter.] The Irishman thought that the rebel side must necessarily be the Democratic side, and I guess that my friend, the gentleman from Brooklyn, has a similar idea in his head yet. [Laughter.]

Mr. ROBINSON. Mr. Speaker, I do not attempt to answer the question which the gentleman has addressed to me, because I believe he does not wish an answer. If he does I should be glad to give it.

The SPEAKER. Does the gentleman from Illinois [Mr. LOGAN] yield to the gentleman from New York [Mr. ROBINSON] for a reply?

Mr. LOGAN. I do not think that I have said anything that he can answer. [Laughter.]

Mr. ROBINSON. If the gentleman wishes me to answer I am ready to do so.

The SPEAKER. The gentleman declines, as the Chair understands, to be interrupted.

Mr. LOGAN. Now, Mr. Speaker, let us examine a little further into this question. I perhaps may not have stated all the reasons that actuated these gentlemen in denouncing this side of the House, and thereby denouncing every loyal man in the country, every man who has shown his loyalty by his efforts to restore this Government on a proper basis. The recent rebellion while it was in progress was led by men who belonged to the same party to which the gentleman from Brooklyn now belongs, and the same party to which I belonged until I became so thoroughly ashamed of it that I left it, and is it not a little remarkable that the same disloyal stench which drove me out seems to have attracted my friend from Brooklyn into it? [Laughter.]

The reason why these gentlemen desire today to bring into disrepute the action of members of this House is because their action is calculated to prevent a portion of the people

of the southern country, who are in full sympathy with them, from voting and holding office. Who are they? Outspoken rebels, who rose in arms against the Government; the men who conspired to destroy this glorious Republic. Because these men are disfranchised and prevented from exercising the rights of American citizens gentlemen on the other side object to our proposed plan of reconstruction. Sir, they would have the southern States reconstructed according to the plan of Andrew Johnson, the gentleman who is so immaculate that if we should attempt to impeach him it will, according to the gentleman from Brooklyn, amount to a national calamity. What was the plan of Andrew Johnson? Why, sir, that plan proposed to declare that those States that had engaged in rebellion had never lost any of their rights in the Government; that neither they nor their citizens had forfeited any of their privileges under the Constitution of the United States. In other words, that treason was not a crime; that rebels were patriots. It proposed to invite the rebels to hold elections and send to this Hall *per se* secessionists and traitors. In short, to construct a new party in reconstructing the Government in which the secession rebels of the South might unite with the copperhead rebels of the North, capture the citadel of power here, make treason honorable and loyalty odious. There is nothing that to regain its lost power the Democratic party would not willingly do. If it could acquire to-morrow more power by crushing under its iron heel the South than it could by succoring it it would hurl at its southern brethren thick and fast—

"Curses of hate and hisses of scorn."

Their history well establishes the fact that—

"Their friendship is a lurking snare,  
Their honor but an idle breath,  
Their smile the smile that traitors wear,  
Their love is hate, their life is death."

Their sympathy with Andrew Johnson's plan of reconstruction and their hostility to the Republican plan of reconstruction is not attributable to the merits or demerits of either plan as a policy for the country, but solely as a party policy.

Now, sir, I maintain that the only true plan upon which these southern States ought to have been reconstructed is by virtue of an organization of military governments, and the principle objection to which I find the bill now pending before this House obnoxious, albeit I shall vote for it, is, that it fails to state sufficiently explicit that the governments of these States were entirely overthrown and destroyed by the treason and rebellion of the people, and that no legal civil governments have existed there since. I would recognize no Governors or other officers pretending to act there now in an official capacity, but would remove them instantaneously. I would insist that when the fiery billows of war rolled over the South that they bore away into the broad ocean of chaos their laws and constitutions as the floods of their own mighty father of waters sweep the drift-wood they gather into the Mexican Gulf, and that according to the laws of war they were subject only to military rule at the hands of their conquerors, and so ought to remain until traitors shall learn how to blush for their crimes, and modestly decline office instead of attempting, as they now do daily, to thrust themselves forward to grasp the reins of a Government that they hate in their hearts. I would put the rebels on probation, and make their return to power depend upon the merits of their penitence.

But let us return to the gentleman's grave charges of outrage and wrong supposed to have been committed by this Congress. To be charitable, we will have to give the gentleman and his party credit for a memory as full of treachery as their southern brethren were of treason. They seem to have forgotten everything they ought to remember, and remember some things



they certainly ought not only to forget themselves, but want everybody else to forget. They seem to have forgotten the scenes and events that mark the historical epoch through which we have so recently passed, and they seem to have totally forgotten that these pet southern brethren of theirs, when they did occupy seats on this floor gave us practical illustrations of dignity in debate that made of this Hall a "bear garden," and much more attractive to lovers of gladiatorial sports and patrons of the "fancy" than they could have been to the wise, prudent, sedate, and good citizen. When bowie-knives bristled from their breasts, revolvers filled all their pockets, and clubs were substituted among them for canes; when they spoke to a northern legislator in these Halls with a scowl on their brows, threats on their lips, and fingers on triggers. It is true, we have blotted out for them eternally and forever the charming institution under the peculiar influences of which they imbibed these dogmatical and insolent airs; but if, when it was in full blast, they could not remember that the style of manners that might do to drive a gang of slaves would not answer to persuade a congressional peer, it is not at all probable that time enough has yet elapsed for the fact to appear in their manners that they fully and properly realize the fact in all of its moral and political sublimity, that they are not somebody's master yet, and may again subject us to their old style of argument, so peculiarly southern. They seem to have forgotten the price the peace we enjoy to-day has cost this nation, and the crimson currency in which it was paid; the broken hearts with which it filled bruised and troubled bosoms at home; the mangled bodies with which it filled hospitals everywhere, and the lifeless forms of manly beauty with which it filled hundreds of thousands of nameless graves on the far-off battle-planes of the South. They seem to have forgotten the bitter scalding tears that rolled like floods of lava down the fair faces of the loyal mothers, wives, and sisters of this land when the names ineffably dear to them were found announced in the long lists of the killed that were published as a sequel to the first flash of the lightning that reported a battle had been fought; and I dare say they have forgotten that there ever was such a prison as Andersonville, and the long, long catalogue of horrors that brave men had to suffer there for being true to themselves, their Constitution, their flag, their homes, families, and country. Well for such gentlemen would it be if they could occasionally meet, as they wander daily over this broad country, a few of the many wan specters of suffering and woe who were captured by the saintly southern brethren of northern Democrats on fields of strife, thrust into prisons unfit for dogs, and starved till a hale constitution was a wreck, and then left to suffer the worst penalties of privation incident to weather and climate. I could give my friend from Brooklyn illustrations of individual suffering at Andersonville that would make the hair stand on his head, the blood freeze in his veins, and curses spring involuntarily to his lips. I remember one poor boy from my immediate vicinity especially. His name is Dougherty. He went into Andersonville prison without a scar on his young body or a cloud on his fair brow, but under the humanitarianism of southern chivalry he came out without a foot to walk on. They were literally frozen off in prison.

There are thousands of such instances that might be paraded if I had the time or inclination to do it to justify the stern, uncompromising disinclination I feel to call by the gentle term of brother these rebels of the South. When I find in their conduct conclusive proof of contrition, and find them openly opposed to becoming the instruments and tools of northern Democrats, who, while the war was raging, accepted the protection of the stars and stripes, and now have the graceless effrontery to brag

that they were false to it, I may, and probably will, then be glad to welcome them back into the Union. But when I do that I wish to be able to go home and face the widows and orphans that swarm the broad prairies of the West, whose weeds of mourning meet us there on the highways and the by-ways, and answer any reasonable question they may have to ask. I recognize the responsibility of a Representative here to his constituency, and I feel that a woman or a child that cannot vote may have as sacred a right to ask me a question as a man that can, and I am simply anxious to prepare myself to meet all such comers. In the silent vigils of the noiseless night many a time and oft have I fancied I could hear, coming on the soft-whispering breezes of the South, from the lowly pillows of loyal soldiers sleeping sweetly where they fell gallantly, the affectionate message: "Be of good cheer: stand fast and firm at duty's sacred post. It was standing there we lost the crown of life to win a crown of glory, and we appeal to you now, from our bright home here in Heaven, to save our offspring from the dire necessity of having to perish as we perished to save from destruction the altars and temples of liberty." And how are we to do this—flattering rebels, tolerating treason, and petting political profligates? I do not recognize the right of the rebel States to insist that no issue not made with them during the war can be legitimately considered now. If they had established a nationality and had been recognized and treated with by the nations of the earth, then such a proposition might per possibility have had some claims to consideration, but otherwise certainly none.

The position I wish to assume so distinctly that it will and cannot be misunderstood is simply this: that treason is a crime, that traitors are criminals, that the law is supreme, that when it is violated expiation must follow; and I hold that mercy to the wicked is cruelty to the just. Here is presented an issue, I admit, with the President. He does not proceed upon the proposition that treason is a crime, that rebels are criminals, and that legal penalties are enforceable. He is so eagerly anxious to forgive that he seems to forget that no forgiveness has ever been proposed yet save as a sequel to penitence. Having failed utterly to establish anything resembling a nationality, the southern States can properly claim the protection of no laws international upon that subject. My consent can never be commanded to ignore the claims that I feel the gallant dead who fell fighting under our flag have upon my devotion to their fame while I live. Let the poet's tribute to the soldier's memory be eternally illustrated in the practical gratitude of the American people when he said:

"On fame's eternal camping ground  
Their silent tents are spread,  
While glory guards with solemn round  
The bivouac of the dead."

And how others feel I cannot tell; but I am free to confess that I feel that it is the memory of those who fought and fell under our flag, who charged rebel batteries, carried rebel heights, vanquished rebel legions, and finally crushed the rebellion, that has a claim upon our respect, care, and veneration far above office-seekers and political partisans.

The gentleman from New York says that he and his friends are bound to have the next President, and that we are bound to impeach him. We have not yet impeached any President, and if in the past we would not it is hardly presumable that in the future we will.

A MEMBER. You would if you could.

Mr. LOGAN. I shall not say what I would do, but until the wishes of the people command here a proper respect I do not think the gentleman need to feel a very serious alarm about what we will do.

The gentleman has nominated General Grant for the presidency, and if General Grant has any enemies I dare say the gentleman's nomin-

ation must have made them profoundly happy. General Grant rarely has anything to say, and when he does speak it is generally directly to the point, and from that fact the inference is fair that he will be found more than equal to any occasion that may call on him to take care of the true interests of his fame and fortunes whenever and wherever they may be directly or indirectly threatened. But were I General Grant and really aspiring to the presidency I would give the gentleman notice that if he wanted an office from me his claims to consideration would not depend upon how much, but how little, he had to say in my behalf. [Laughter.] Presidents rarely owe their success to their enemies. General Grant may learn a wholesome lesson from the South about the consequences of falling into bad company hunting for friends.

General Grant is certainly a great and good man. He deserves and enjoys the affection and confidence of this nation. His personal popularity is universal. His military fame has spread—

"From earth's remotest bound to ocean's loneliest shore."

It rests upon the adamant pedestal of success and rises above mortal criticism, and if it can survive the admiration and friendship of home-bound sympathizers with the precious southern brethren, at whose ignominious expense he won his laurels, then, indeed, may his true and real friends rejoice in the conclusion that it is beyond a lingering shadow of doubt more than indestructible. Paradoxes do not amount to phenomena, but nevertheless they rarely pass away unnoticed, and the paradoxical proposition of finding in the self-same member of this House the friend alike of General Grant and Jeff. Davis cannot do so. It is at least worth a passing comment. There is not one single passing shadow of resemblance between the histories, achievements, principles, sentiments, or purposes of the arch-traitor and the loyal general. The one is small, in all things small; the other is great in virtues and talents that rank greatest. The name of the one will go down to posterity a byword of scorn and reproach, while the name of the other will live to be given at the baptismal font to thousands of infant patriots yet to be born; and to me it is a riddle utterly incomprehensible that one and the same man can be at one and the same time alike the friend of Jeff. the traitor and Grant the patriot.

Mr. ELDRIDGE. How about Horace Greeley?

Mr. LOGAN. Greeley, indeed! That he is Jeff.'s friend you may prove, but where is the evidence he is Grant's?

I trust that the apparent egotism of an allusion now that is somewhat necessary to myself will be pardoned. I am branded by political and sectional partisans with such epithets as "bloodthirsty," "unforgiving," "unrelenting," &c., &c. How this has been ascertained is inexplicable to me. Who has sought my forgiveness that I have refused to forgive? Forgiveness is taught in the Lord's prayer, but we are not therein instructed to thrust forgiveness upon the unrepentant and the defiant. Forgiveness is not so cheap a virtue that it may be prodigally wasted unasked upon the idle and indifferent. The forgiveness that anticipates repentance will multiply crimes faster than it will reform criminals. When the rebels of the South begin properly to repent and find moral courage enough to make before the world a manly acknowledgment of it, then and not until then will I take into consideration the question of their forgiveness at all. I have no premium to offer in the shape of forgiveness to the insolence of an obstinacy that deigns not to ask for that forgiveness. I would open a gulf between treason and loyalty wide enough to make the dwellers on its opposite shores strangers, and deep enough to swallow legions in arms. I would fill it with waves of fire through which

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no unrepentant living thing could swim, and over which no soaring philanthropy could fly and survive. Sickly sentimentalism is a great crime-breeder. Impunity for one crime provokes the perpetration of many. Men are but grown-up children, and when you spare the rod you will spoil the child, whether the child be a young child or an old child. I am not one of those who would hesitate to try, convict, condemn, and execute a traitor for treason.

Mr. NIBLACK. Will the gentleman allow me to ask him a question?

Mr. LOGAN. Yes, if it is not a very long one.

Mr. NIBLACK. I would ask the gentleman whether in the summer of 1861, after the war broke out, he did not vote as a member of this House against the expulsion of General John B. Clarke, of Missouri, who had joined the rebellion?

Mr. LOGAN. The Journals of this House show all my votes, and the gentleman might have found all the information I can give him there. I am not in the habit of voting in this House to make unsupported rumors history. A charge may have been filed here against General Clarke, and when the testimony to sustain it was adduced it may have utterly failed, as in his case, according to my recollection, it did. The disposition, however, to make a verdict thus conscientiously rendered by me in defense of an absent and unconvicted member of their own party redound now to my prejudice furnishes another beautiful illustration of Democratic magnanimity and justice. When I cast that vote I voted with the Democratic party; now it is thrown into my teeth by a member of that party as a reproach. It may have been a reckless thing in me then to doubt the natural strong probability that a Democrat was a rebel, and for it perhaps I deserve to be publicly twitted and sharply rebuked; but I will endeavor to see to it for the future that I shall merit never another such a just reprimand for such a graceless reason from such an ungrateful source. [Laughter.]

The unrelenting war waged against me by the Democracy is liable to be misunderstood if looked at superficially. It is not because, as has been suspected by some, I was a Democrat and am one no longer. Dying out as it has been, slowly but painfully, for the last eight years with the dry rot, that party have become too much accustomed to see men of sense withdraw their allegiance from it to make my instance a source of serious irritation. The true reason which explains the malevolence with which they pursue me will be found in the fact that while the recent war was raging the honorable distinction was awarded to me of having put to the sword my full share of their party who fell fighting in front of my command under the spotted flag of treason to support their sentiments and principles. [Loud applause from the floor of the House.]

My attention having been specially called to Horace Greeley, I am free to say I totally disapprove of his sympathy for Jeff. and his peculiar manner of manifesting that sympathy. Had I captured Jefferson Davis and his disposal have been committed to my hands, I would have organized an able court-martial and have given him a fair trial, just sentence, and prompt execution.

Some people are morbidly sensitive about Jeff. Davis. They seem to think that when the name of Cassius honors corruption, chastisement ought therefore to hide its head. They belong to that sickly class of temporizers who would make the enormity of a crime and the rank of the criminal good pleas in bar against their conviction. If Jefferson Davis and his cabinet are criminals, as they are, they ought to be tried; if tried, convicted; if convicted, executed; like all other felons convicted of capital crimes. If they were tried and convicted, as they ought to be, and were I the Chief Magistrate of this Republic no appeal for clemency

in their cases could ever reach me; I would let him and them swing till they would pass the point of plotting treason, and smaller traitors might profit by the example of their ignominious fate. Until a traitor or two is tried, convicted, and executed the people of the United States may confidently expect an annual crop of armed traitors to spring from the tenderness with which traitors are treated in this land. So mild has been our mercy that Toombs, the fugitive of yesterday, is back again the swaggerer of to-day. Emboldened by impunity he grows defiant, and seems determined to test the measure of his importance in a last desperate effort to draw toward him the attention of the Government and down upon his crimes the vengeance of the law.

But what has he to fear in a Government where rebels are pardoned before they are tried and where no traitor has ever graced the gallows? John Brown was tried, convicted, and executed; but that was for treason, not against our national Government, but the State of Virginia. When a northern man trespasses upon southern soil and commits treason he has the crime to expiate on the scaffold, but when thousands of southern men attempt to destroy our national Government, notwithstanding the diabolical attempt drenches our whole land with blood and fills it with the piercing wail of widows and orphans and costs thousands of millions of treasure, nevertheless nobody can be tried for it. John Brown did not dip deep enough into treason to make it respectable. Had he managed to kill fifty thousand men before they captured him, according to the new theory, he would have stood on too lofty a pedestal to have been taken down a criminal. But for the life of me I cannot see how the same Government that assisted Virginia to convict John Brown can refuse to try Jeff. Davis. If John Brown was held responsible to the outraged law, why is not likewise Jefferson Davis?

John Brown's surviving kindred can take to their souls one flattering unction at least, to wit, that he did not die in vain. I have again and again seen thousands of Union soldiers marching into battle singing—

"John Brown's body lies moldering in the grave,  
While his soul goes marching on."

And they never failed to win the fight. There is one man on this continent at the head of a Government that has exhibited nerve enough to rule. When usurpers and traitors are captured and convicted in Mexico we hear at one and the same time of their stern sentence and prompt execution. President Juarez, however, is saluted for his signal exhibition of decision and firmness with howls of horror from the same mercy-begging lips that are eternally whining about the mercy due to Jeff. Why do men professing to love liberty manifest an interest so deep and strange in the fate of the vaulting ambition of royalty when it presumes to invade this republican continent and overleap itself. Has monarchical Governments friends here whose sympathies are too keen to be restrained when tribulation overtakes a toppling throne, and do they presumptuously propose to educate the popular mind of men born free on American soil to catch readily at excuses to denounce republicanism and condole with mourning nobility over executed emperors? I deplore, Mr. Speaker, such exhibitions of party violence as have been again and again recently exhibited on this floor. It serves to remind me mournfully of the debates we had on this floor just before the war. Rebels then used very much such language as their friends employ here now; but it is to be deprecated for better and higher reasons still, and one of them is the consequences which legitimately flow from it to the South. If the Democracy of the North had not taken the South under its wing, those States might and probably would have been in the Union to-day. Well may the South exclaim "save us from our friends."

I trust, Mr. Speaker, that we will pass such a bill as may be understood, properly construed, and energetically executed, and that when it is that it will leave the southern State governments in the hands of men loyal and true and forever prevent disloyal men from employing power and place to foment treason. It is not when they come, but how they come, that is the all-important query with me. I would be glad to welcome them back to-morrow if I were satisfied they were reorganized right, but it is my intention to vote as long as I have a vote here to keep them out until they can come in on the broad basis of loyalty to the Government. And when they can do that I am willing to receive their representatives to the Halls of our national Legislature, and will assist to protect them against anything anywhere prejudicial to any of their legal rights or interests as States. I have seen quite enough of carnage and private and national distress, and long to see the day come again when we shall be as peaceful, prosperous, and happy as we were before that crawling serpent secession sought to strangle us in our national cradle. That day may soon come again if the South will rise up sternly resolved that they will follow Naaman through the Jordan of repentance until the leprosy of treason and Democracy shall be washed out of their political systems. How much they have been benefited by the sympathies of the Democracy they ought by this time to be able to estimate and appreciate. The hour they discover they possess the good sense and courage to repudiate openly and emphatically treason and embrace warmly and sincerely loyalty, they will see dawn upon them the bright morning of their regeneration and deliverance.

## The Right of Petition.

## REMARKS OF HON. P. VAN TRUMP,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

July 13, 1867.

Mr. MORGAN presented a petition from the Legislature of the State of Arkansas, praying Congress to appropriate the sum of \$2,500,000 for the reconstruction of the levees on the Mississippi river, in the State of Arkansas, which had been swept away by the floods. Mr. INGERSOLL objected to its reception upon the ground that there was no such State as Arkansas, since its government was overthrown by the violence of revolution, and that consequently there could be no such body as the Legislature of Arkansas.

Mr. VAN TRUMP. Mr. Speaker, if one could be at all astonished in this day of political wonders, nothing could startle the mind more than the fact that objection should be made to the reception of a petition upon a legitimate subject of legislation, and couched in respectful terms, in a Congress of the Representatives of the American people. But *nil admirari* is a peculiar and appropriate maxim in times of revolution. Such extraordinary principles have been avowed, such unheard-of measures have been adopted by the dominant, I might well say, rampant political party which holds uncontrolled dominion in the Congress of the United States, thus far sanctioned and upheld by the people through the ballot-box, that the mind has become paralyzed, all sensitiveness has become dulled and stunned by the very excess of usurpation and outrage. There seems to be no end to wrong and oppression. The Republican party seems to have become absolutely intoxicated with political power. A spirit of hatred, of revenge, of blind and maddened rage has usurped the province of calm reason, of wise statesmanship, and of Christian charity. The Republican mind is running in a groove upon an inclined plane, and seems to be utterly powerless either to extricate itself from the groove or check its downward career to disso-

lution and destruction. If no other interests were involved than that of its own existence, if the great principles of the Constitution, the public prosperity, and the peace of the country were not involved and dragged along with it, and threatened to be mingled in one common and inevitable ruin, the calamity might be supported with some degree of equanimity, and no overpowering regrets might be felt at the results of such a headlong career. Whatever is to be the result of this whirlwind of passion and party rage, in whatever way it is to influence the future destiny of Government and people, I hope that result will come quickly, and that the intolerable suspense which now broods over the country may at last be terminated. Better, sir, far better will it be to know our destiny at once; infinitely preferable will it be to have even a fixed and regulated despotism than this vibration between hope and fear, this doubtful struggle between liberty regulated by law and the spasmodic exercise of lawless power through the revengeful action of an intolerant and merciless party spirit.

Mr. Speaker, the question now before the House upon the motion of the honorable gentleman from Illinois [Mr. INGERSOLL] is one of the most extraordinary character which could be presented to the consideration of the Representatives of the American people; though I might well hesitate to pronounce anything extraordinary by way of distinctive pre-eminence among the many startling subjects of legislation which have engaged the attention of Congress for the past few years. What is the proposition? It is nothing less, sir, than a motion to deny to free-born American citizens the sacred right of petition secured to them, if anything yet remains secure, by the express provisions of the Constitution of their country. I know, sir, that in these modern days of advancement it is considered quite unfashionable, if not vulgar and low-bred, to speak of the Constitution in these Halls; I know that the member upon this floor who shall have the extremely bad taste to "offend ears polite" with any ill-timed allusion to the guarantees of that instrument, bought by the best blood of the Revolution and breathed into being by the spirit of compromise and concession, will be met with the supercilious sneers of some, or the less sarcastic smiles of others of our Republican friends on the other side of the House; but, sir, this little band of men who sit around me, and who are sent here by as proud constituencies of freemen as were ever represented in the halls of legislation, are alike indifferent to your derision or reproach. We had a most signal example of the veneration in which the Constitution is held by gentlemen in this House, exhibited on this floor here to-day, amid the merriment and plaudits of delighted members. When the honorable gentleman from Pennsylvania [Mr. STEVENS] reported to the House the proceedings of the conference committee on the military reconstruction bill, in remarking upon the want of pluck of Senators he observed "that some fragments of the old, shattered Constitution had stuck in their kidneys and troubled them at night." I admire the candor, if I cannot commend the principles, of the distinguished gentleman from Pennsylvania. He makes no concealment of his views of the situation. He makes no false pretenses of reverence for a Constitution he does not recognize, and which he says no longer exists. We see rise from his seat none of those magnificent balloons of constitutional eloquence which distinguish some of our Republican friends when the divine inspiration is upon them. He speaks of the Constitution as a thing in the past; and all that remains of it, as old, shattered fragments of no other effect or influence except to trouble weak-kneed Senators with the nightmare.

Sir, in my humble opinion, their troubles have only began; in after years, when the voice of the people shall have condemned them, the ghost

of a violated Constitution, of duty contemned and disregarded, of trusts sacrificed and trampled under foot, will rise up before them, and, like the ghost of Banquo, will not "down" at their bidding, but will hiss into their ears the "deep damnation of their taking off." No, Mr. Speaker, we care not for fibes and jeers. The Republican party is not our audience; we speak to the country, and not to our sneering opponents. We appeal to the people, and not to those who are stricken with judicial blindness, and who are determined neither to listen to admonition nor reflect upon the consequences of their career. Sir, you propose by this motion to strike down the right of petition. Will honorable gentlemen consider what they are about to do? Have they forgotten the history of this question from the time of the English revolution, in 1688, when it was irrevocably established as a right in behalf of the people of England against both Crown and Parliament, down to the present time, in the midst of a revolution of quite another character? Have they forgotten its history in this House? Sir, so careful were the people of this, among their other omitted rights, that we find they were not satisfied with the Constitution as originally framed by the Convention, and adopted by the several States until they had this great right of petition ingrafted upon it by amendment. The Constitution, thus amended, declares that Congress shall pass no law abridging the right of the people "to petition the Government for a redress of grievances." This very question, too, was one of the leading causes enumerated in the Declaration of Independence for colonial resistance to the British Crown. And yet now, upon this very floor, in a Congress which exists alone under and by virtue of that Constitution, the proposition is gravely made to reject a petition sent up by American citizens, couched in proper and respectful language, and upon a subject not in the least objectionable either in spirit or principle! Verily, verily, Mr. Speaker, we have fallen upon remarkable times.

I have said, Mr. Speaker, that this is a constitutional right. Now, how have our constitutional writers and statesmen looked upon this question? Thomas Erskine May, in his able treatise on the Privileges and Usages of Parliament, speaking of the right of petition, says:

"The various communications between the several branches of the Legislature, which have been described in the last three chapters, lead to the consideration of petitions, by which the people are brought into communication with the Parliament. The right of petitioning the Crown and Parliament for redress of grievances is acknowledged as a fundamental principle of the constitution, and has been uninterruptedly exercised from very early times. Before the constitution of Parliament had assumed its present form, and while its judicial and legislative functions were ill-defined, petitions were presented to the Crown and to the great councils of the realm for the redress of those grievances which were beyond the jurisdiction of the common law. There are petitions in the Tower of the date of Edward I. before which time it is conjectured that the parties aggrieved came personally before the council or preferred their complaints in the country before inquests composed of officers of the Crown."

It is quite a significant fact, Mr. Speaker, that in the debates of the First Congress, in 1789, upon the proposed amendments to the Constitution, and in relation to this very subject of the right of petition, some of the leading members questioned its incorporation into the organic law of the land as wholly unnecessary and as an act of supererogation, for the reason, as they claimed, that it existed in all free Governments inherently as of common right and as freely to be enjoyed by everybody as the atmosphere they breathed. Mr. Sedgwick, in reply to a remark that it should be incorporated upon the principle that it was a right which belonged to the people, said that—

"If the committee were governed by that general principle, they might have gone into a very lengthy enumeration of rights; they might have declared that a man should have a right to wear his hat if he pleased, that he might get up when he pleased, and go to bed when he thought proper; but he would ask the gentleman whether he thought it necessary to

enter into these trifles in a declaration of rights under a Government where none of them were intended to be infringed."—2 *Lloyd's Debates*, 197.

I suppose our friends on the other side of the House, and especially those coming from New England districts, will hardly sneer at Mr. Justice Story as an authority upon constitutional law. In the second volume of his *Commentaries on the Constitution*, pages 676, 677, in speaking of the clause securing to the people the right of petition, he says:

"This would seem unnecessary to be expressly provided for in a republican government, since it results from the very nature of its structure and institutions. It is impossible that it could be practically denied, until the spirit of liberty wholly disappeared, and the people had become so servile and debased as to be unfit to exercise any of the privileges of freemen."

Sir, this is certainly not a very flattering picture of a people who would tamely submit to the deprivation of this right. How long the American people, to whatever political party they may at present belong, are going quietly to submit to these accumulating wrongs, and to these persistent and continued infractions of the Constitution, time and circumstances can only determine.

Mr. Speaker, I repeat the question: do gentlemen who now propose to deny to white American citizens the right of petition by sustaining the motion to reject this memorial forget the history of this question in this House, at least so far as the northern States are concerned? Have they forgotten the remarkable controversy in this Hall growing out of the position of John Quincy Adams, who was the great progenitor of their party in relation, at least, to some of its earlier and less objectionable principles, upon the right of even negro slaves to petition the Congress of the United States? And that, too, at a time when there was no general or wide-spread fanaticism either upon the subject of the negro generally or of negro slavery in particular; at a time, sir, long anterior to the apotheosis of the negro as the great idol for white men to prostrate themselves before in worshipful adoration as the highest of political divinities? Has all this been forgotten, sir, or is it only disregarded?

Mr. Speaker, upon how flimsy and untenable a ground is put the objection to the reception of this petition! It is said by honorable gentlemen that this petition ought not to be received, because, as they assert, there is no such *body* as the Legislature of the State of Arkansas. What cogent reasoning, what logical and irresistible argument! Do learned and honorable gentlemen suppose this question is to be argued and disposed of here like a question of title before one of the judicial tribunals of the country? It is wholly indifferent by what name these memorialists call themselves, or what character they assume, official or private, so long as neither name nor character imply an indignity or disrespect to this House. It is wholly indifferent whether they are negroes and call themselves white men, or are white men and call themselves negroes; whether they are Christians and call themselves heathen, or are heathen and call themselves Christian; whether, as a fact, they are civilized or savage, bond or free, so long as they are amenable to the laws of the country in which they are domiciled they are entitled to the great right of petition before the law-making power which governs and controls them. Such has been this right, as recognized in England for nearly two centuries. Sir, I consider it as one of the most remarkable characteristics of the remarkable times in which we live that the denial of this right of petition, of prayer, of supplication, acknowledged everywhere in every constitutional Government upon the face of the globe, has been reserved to be exhibited in the great parliamentary body of a nation claiming to be the freest on earth, sitting under a written Constitution which expressly guaranties it to every human being over which it claims authority.

## HO. OF REPS.

## The Right of Petition—Mr. Van Trump.

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But it is claimed that Arkansas is not a State within the Union, and therefore this petition ought to be rejected. Sir, I have had neither time nor opportunity to prepare my views upon this great and now all-absorbing question. I shall, however, on some other occasion claim to submit them, and I have no doubt such occasion will occur hereafter, for no man who understands or appreciates the temper of the political majority of this Congress can for a single moment believe that the military bill now pending upon your table is intended to be a finality of the wrongs and oppressions against the people of the South. Sir, I charge the facts to be that, in relation to this idea of the extinction of States by secession, the whole monstrous theory is an after-thought of Radical republicanism since the death of President Lincoln, a lopted for the purposes of revenge upon his successor and the southern people, and seized upon for party aggrandizement. We heard of no such suicidal theory during the war. On the contrary, sir, who does not know that from President Lincoln down to the most insignificant exponent of the principles of the party the clear and distinct position was assumed that all the States which had passed ordinances of secession were still in the Union, and would remain so unless they should be able, by the final arbitrament of the sword, to forcibly separate themselves, for the reason that they had no constitutional right to secede? They put it upon the true ground, a question of *force* and not of *right*. This position was constantly asserted by every department of the Government, and by every convention and every member of the party during the whole progress of the war. It is too late now, sir, for any gentleman of this House to rise in his seat and say the southern States are not in the Union. The party stands too boldly committed against any such ground as that to be able now, with any show of decency, to shift their position to the opposite extreme. So far as the State of Arkansas is concerned the action of President Lincoln was too distinct and unequivocal to remain in doubt, or to be now questioned by any member of the party who sustained him in the administration of the Government during the war. No gentleman on this floor will have, or ought to have, any doubt as to the effect of the following letter from the President of the United States upon this subject:

EXECUTIVE MANSION,  
WASHINGTON, January 20, 1864.

MAJOR GENERAL STEELE: Sundry citizens of the State of Arkansas petition me that an election may be held in that State, at which to elect a Governor; that it be assumed at that election, and thenceforward, that the constitution and laws of the State, as before the rebellion, are in full force, except that the constitution is so modified as to declare that there shall be neither slavery nor involuntary servitude, except in the punishment of crimes whereof the party shall have been duly convicted; that the General Assembly may make such provisions for the freed people as shall recognize and declare their permanent freedom, and provide for their education, and which may yet be construed as a temporary arrangement, suitable to their present condition as a laboring, landless, and homeless class; that said election shall be held on the 28th March, 1864, at all the usual places of the State, for all such voters as may attend for that purpose; that the voters attending at each place at eight o'clock in the morning of said day may choose judges and clerks of election for that purpose; that all persons qualified by said constitution and laws, and taking the oath presented in the President's proclamation of December 8, 1863, either before or at the election, and none others, may be voters; that each set of judges and clerks may make returns directly to you on or before the — day of — next; that in all other respects said election may be conducted according to said modified constitution and laws; that on receipt of said returns, when five thousand four hundred and six votes shall have been cast, you can receive said votes, and ascertain who shall thereby appear to have been elected; that on the — day of — next, all persons so appearing to have been elected, who shall appear before you at Little Rock and take the oath, to be by you severally administered, to support the Constitution of the United States and the modified constitution of the State of Arkansas, shall be declared by you qualified and empowered to immediately enter upon the duties of the offices to which they shall have been respectively elected.

You will please order an election to take place

on the 28th of March, 1864, and return to be made in fifteen days thereafter.

A. LINCOLN.

Such, Mr. Speaker, were the views of Abraham Lincoln, as President of the United States, acquiesced in by his entire party, in relation to the status of the rebel States during the war, even at a time when the continent resounded with the roar of hostile cannon and the tramp of mighty armies. I will not enter into an argument now to show that these views were correct. I simply present them to the consideration of honorable gentlemen on the opposite side of the House, to remind them that their present position, at a time when there is not a rebel's musket gleaming in the sun from South Carolina to Texas, and when a conquered peace reigns throughout the land from Maine to Georgia, cannot be reconciled with their position in 1864. Sir, I need not reproduce here other clear official recognitions of the fact that the southern States were never potentially out of the Union, and which have already been cited by my honorable colleague, [Mr. MORGAN.] Enough to say that it is quite too late now for the so-called Republican party to assume that they are out of the Union as States. Mr. Lincoln always persistently claimed that unless they had the constitutional right to secede they never could withdraw except by the successful force and power of arms, in the common process of revolution; and as to that position the Democratic party held no dissimilar opinion.

Sir, I will notice one other significant but false recognition by the Republican party of the fact that the southern States are still legitimate sovereignties within the Union. In looking over the certificate of States ratifying the late amendments to the Constitution of the United States, by the Secretary of State, with the broad seal of the Union attached, and to which the honorable gentleman from Pennsylvania [Mr. KELLEY] so much objects, I find the name of a so-called State of the Union voting upon said amendment, to which, I suppose, the honorable gentleman will not object. I mean, sir, the so-called State of West Virginia. West Virginia, by act of Congress, was attempted to be erected into a State in July, 1862, one of the most doubtful and desponding periods of the war. In order to impart to it the semblance of constitutional existence the huge legislative mendacity was resorted to of reciting that it was done with the consent of the sovereign legislative authority of the State of Virginia. West Virginia, indeed! What withering, irrepressible scorn must any honest mind feel for the miserable, inconsistent, and ridiculous assumption which claims West Virginia to be a State constitutionally within the Union, and that Arkansas is a mere waif upon the sea of national life, an unorganized colonial dependency outside of the Union. West Virginia, sir! she has no constitutional home, no rightful, legal abiding place in the great family of States; she is a bastard Commonwealth, a mere political foundling, without a drop of constitutional blood in her veins; she is an illegitimate star in our political constellation; she was conceived in the sin and born in the iniquity of modern radical republicanism; and the whole rightful constitutional theory of our confederate system, the whole original framework of our Government as designed by our fathers is disturbed and dislocated by this horrid burlesque of a State. And yet, sir, its erection, however revolutionary and unconstitutional, when you look to the *animus* and mode of its accomplishment, as against those who perpetrated the outrage, is a clear and unequivocal recognition of the fact that Old Virginia was and is a State within the Union, unshorn of any of its original sovereignty.

Mr. Speaker, these memorialists, as citizens of the United States and of the State of Arkansas, not only have the clear and unequivocal constitutional *right* to petition the Congress

of the United States; but there are other reasons, outside of the naked question of right, why their claim to be heard before the Representatives of the people in this mode should be favorably and equitably considered. And I limit my proposition to the claim of being heard only, because I do not intend now to commit myself upon the merits of their case as being entitled to the relief they seek at our hands. I ask gentlemen on the other side of the House not to forget that they always claimed, during the war, Arkansas to be one of the seceded States holding a large Union sentiment within her borders. The history of her secession will not controvert this proposition. On the 16th day of January, 1861, the Legislature of Arkansas passed an act calling a convention. That law was submitted to the people for ratification or rejection, and 27,412 votes were cast for it and 15,826 against it. That convention met on the 4th day of March, 1861, the day of the inauguration of Abraham Lincoln as President of the United States. An ordinance of secession was put to vote in convention on the 18th day of March, 1861, at a time when Mr. Lincoln, from the spirit of his inaugural address and other manifestations, was considered to be quite conservative in his views in relation to the very critical condition of the country, and the ordinance was defeated by a vote of 39 to 35. The fatal meeting of the northern Governors took place immediately thereafter, and a new policy was inaugurated in the North. It was not, however, until hostilities had commenced between the two sections, and the stern realities of war actually existed between them, that the Arkansas convention, on the 6th day of May following, passed the ordinance of secession.

Mr. Speaker, when I propounded the question on last evening to the honorable gentleman from Pennsylvania [Mr. KELLEY] as to whether the presentation to the Legislature of Arkansas of the law of Congress to amend the Constitution of the United States was not a most solemn recognition that Arkansas was a State in the Union his reply was ingenious, but not satisfactory. He claimed that that act of Congress was never rightfully or constitutionally presented to the Legislature of Arkansas, because the Secretary of State of the United States had no authority from Congress to so prevent it. Will the gentleman say that Mr. Seward was directed by Congress *not* to so present it? I think he will hazard no such assertion. I have not had the time, Mr. Speaker, to look into the debates upon the passage of this law to amend the Federal Constitution; but I here venture the remark, that in all those debates, fully participated in by the gentleman himself, there cannot be found a single word or the slightest intimation that it was to be presented to only a certain number of prescribed States for ratification or rejection. If that was the State of facts as to the passage of this law, I know the gentleman is too good a lawyer to controvert the proposition that the judicial construction to be put upon such state of case would be that it was to apply to all the States, and not be restricted to a portion only, not named in the act itself.

The honorable gentleman seemed to be inspired with the spirit of prophecy as to what will be the decision of the supreme judicial tribunal of the land upon the question whether that law was rightfully and constitutionally presented to the States then lately in rebellion by the Secretary of State for their ratification or rejection. Sir, I am neither a prophet nor the son of a prophet, nor am I at all of kin to any of the astrological race; but I have no fears as to what that decision will be, after the late determination of the Georgia and Mississippi cases in the Supreme Court of the United States, if I rightfully apprehend the true ground of those decisions. The point of those decisions, as I understand it, is that a State has no legal capacity to sue the United States; or perhaps it may be more correctly stated that the Supreme



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Reconstruction—Mr. Davis.

SENATE.

Court has no original jurisdiction when a *State* undertakes to sue the United States. Now, sir, if this is the true statement of the question involved in those cases, it follows that the most essential principle first to be disposed of by the court was to determine whether Georgia and Mississippi were *States* or not. The court, therefore, must have assumed that they were States in the Union, or the question of jurisdiction would not have been raised or passed upon. It is also not unworthy of remark that the Attorney General of the United States, who argued those cases, and who is known to be one of the most able and distinguished lawyers in the country, made no question as to the constitutional status of Georgia or Mississippi. I am, therefore, satisfied with the indications of the great judicial tribunal of the nation if the gentleman from Pennsylvania is. But the honorable gentleman has, in my humble opinion, put himself in a dilemma he did not at all anticipate. Suppose it to be true that the Secretary of State had no authority to present this law of Congress to the southern States for ratification or rejection; and suppose, if you please, that it was clearly the original purpose of Congress that the southern States should have, under the law, no power or right of ratification or rejection, and that this legislative purpose was clearly expressed in the law itself; what then? Is the honorable gentleman from Pennsylvania or is Congress going to pass a law and impose a constitution upon a whole people in no wise entitled to suffrage either as to its enactment or amendment? In other words, can a constitution or any amendment thereto be made to exist and exert itself over an entire people who have been denied any participation either in its original enactment or its subsequent amendment?

Sir, such a state of case is a new problem in the theory of constitutional government. I think it would be extremely difficult for my honorable friend to find, in the whole range of the history of free Government, any precedent for so grotesque and anomalous a proceeding. The truth is, Mr. Speaker, Congress *did* intend that this law should be passed upon by the legislative authorities of the southern States. We all know with what intense anxiety the whole northern mind, Republican and Democratic, looked to the action of the southern States upon this question. If this is true, sir, and it cannot be successfully controverted, then we have this most unprecedented political or legislative spectacle presented to our observation: the Congress of the United States most solemnly declaring that the conquered southern people, subdivided, as it is claimed, into nothing more than some sort of municipal or *quasi* political communities, are good and valid enough as *States*, invested with the sovereign power of legislation, to ratify a Constitution which was proposed to be amended under the provisions of a law passed by a federative Congress in which they were denied representation, and dictated to them by their conquerors; and that same federative Congress now propose to hold and declare that they are *no States at all*, when the great right of petition is interposed in their behalf, if the precedent established last year in the case of the petition of the Governor of North Carolina shall be followed.

Sir, if this great wrong shall be perpetrated, if the blindness of party zeal shall prevail, and all law and justice shall be disregarded, the only consolation which we in the minority shall feel or realize will be the fact that your action will go to the country for its affirmance or condemnation along with the many other violations of the laws and Constitution, to be passed upon by the final arbitrament of public opinion. We are not unaware of the fact that you still feel secure in your strength, and are still confident in the powers of party organization; but we shall bide our time; we shall patiently wait until reason shall resume her empire over the

popular mind; and when that time comes, as come it must, we know that the fate of the Republican party will be a crushing public odium, and a loss of power never to be regained so long as its long catalogue of wrongs and outrages shall exist in the remembrance of the American people.

Mr. Speaker, I feel no other interest in the question now before the House than what is naturally felt by every lover of liberty and law. I feel such interest, not as a partisan, but as an American citizen; and I have raised my voice in behalf of the constitutional privilege which it involves, not with the vain hope of possessing the slightest influence in its determination, but in the simple discharge of a duty which I owe to my constituents and to the country. I know very well, sir, how futile it is to oppose the power of a dominant party which deems nothing unlawful which it is able to accomplish, and esteems nothing sacred or inviolable which it wishes to destroy.

### Reconstruction.

#### REMARKS OF HON. G. DAVIS,

OF KENTUCKY,

IN THE UNITED STATES SENATE,

July 11, 1867.

On the bill (S. No. 131) to give effect to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

Mr. DAVIS said:

Mr. PRESIDENT: The honorable Senator from Illinois, [Mr. TRUMBULL,] in opening the debate on this bill, admitted distinctly that unless the United States had the powers of a conqueror over the southern States Congress had no authority to pass the present bill or the former military bills to which this is amendatory. Whether the subjugation of the rebellion in the southern States was a conquest and gave the United States Government the powers of a conqueror was a question which I examined on the passage of the original bill now proposed to be amended. I shall therefore not now enter lengthily upon the discussion of that question; but I mean to take the honorable Senator's position, and upon the concession that the United States had conquered the southern States which were in rebellion, and in consequence of this conquest were entitled to all the rights which the victor by that code is entitled to, I yet contend that the Congress of the United States have no power to pass this bill; and I propose to occupy a short time in support of that position, and then to read some authority in maintenance of it.

I will not attempt to show that the President has not obstructed, or attempted to interpose any obstruction to the due execution of the reconstruction acts. It devolves upon those who make that charge to establish it, but they have shrunk from even making the attempt. Nor will I enter upon a vindication of the Attorney General's construction of those acts: it has been assailed but on one point, and that doubtfully, the effect of the oath which is required to be taken. Both opinions of the Attorney General are elaborate, well considered, and able, and I believe, according to all the rules for construing laws, are strictly correct, including the point upon which he is so timidly attacked. His immunity from all other objection is its general triumphant vindication. Radical leaders and oracles looked at those acts through the medium of minds wholly perverted by extreme party objects and policy, and had jumped to the conclusion that they were sufficient to enable those who would be charged with their immediate execution to give the fullest effect to all the purposes of the Radical leaders in connection with the people of the southern States; and until the Attorney General held up those acts to the mirror of true legal construction according to their lan-

guage, the Radical party nor leaders had no comprehension how far they would fall short of what they were intended to effect. The great object had been that the reconstruction laws should give to the instruments of the Radical party the absolute and uncontrollable power to determine who of all the southern people should be registered and who should vote and who should be excluded both from the registry and the poll-book. The opinions of the Attorney General revealed, to the amazement and consternation of the Radical party, that this was far from having been done as had been intended. They were satisfied with the manifestations of the satraps, and particularly with Sheridan and Sickles, and with their insubordinate spirit toward the Commander-in-Chief, the President. It was obvious that neither their absolute official subordination to him in their offices and in the execution of these and all other laws, nor their sworn fidelity to the Constitution, nor their devotion to their country, nor their character and honor as soldiers, would restrain these military neophytes from acting in the delicate and important commands of which they were so unworthy the parts of the most unscrupulous political partisans. They were fit tools to stock, to drop out, to cut, shuffle, and deal, by their own selected tools, the registers, the ballots of the southern people, so as to count all their elections in favor of the Radical cause. It was not to remove obstructions to the due execution of the reconstruction acts, but to supply their defects, to subserve the purposes of the Radical cause, by giving to the faithful military commanders of the five districts additional powers that would enable them to control the elections as absolutely as though they cast all the votes, that Congress convened in this session; and this measure comes fully up to all the needs of the party in this business.

Mr. President, our Government is divided into three apartments, the legislative, executive, and judicial. The powers vested by the Constitution in these departments are separate, distinct, and independent. One department of the Government cannot properly exercise any power which by the Constitution is vested in another department. No power is vested in Congress but the legislative power created by the Constitution; but in the President the executive power of the Government is vested, with the addition of making him, by express words, Commander-in-Chief of the Army and Navy of the United States, and of the militia of the States when called into the actual service of the United States. Now, sir, I assume the position, which, indeed, I have never heard controverted heretofore, that the entire military power of our Government is vested in the President—not the power to make war, nor to raise armies, nor to provide fleets, nor to make rules and regulations for the government of the Army and Navy: they, by the Constitution, are expressly made legislative powers. But the government and control of our armies and fleets, the direction of all their operations, the entire administration of all our military affairs, is given by the Constitution solely and exclusively to the President in the language constituting him Commander-in-Chief; and he has every power and function imparted by that language within the limitations and restrictions of the Constitution. It has no other words which purport to vest any power to administer military affairs, and Congress has neither part nor lot in their administration. The President may in person lead our armies, and when they are led by others those leaders are subject to his single and absolute orders. When those armies conquer and occupy the territory of a foreign Power, not Congress, but the President, can officially know and act upon that fact. The organization of a military government in the conquered country may be necessary and proper, but the President, and not Congress, both decides that question and proceeds by

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## Reconstruction—Mr. Davis.

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himself, or his subordinate military officers, to establish, organize, and administer the military government. When the conquered country is ceded by treaty to the United States, as in case of California and New Mexico, and becomes sufficiently tranquil to admit civil government, then Congress may interpose and organize a civil government, which will supersede and displace the military government erected by the President. These are the principles of the Constitution, and they are recognized by the highest authority, the Federalist, Story's Commentaries on the Constitution, and decisions of the Supreme Court of the United States.

I will read from the 74th number of the Federalist, written by Hamilton:

"The President of the United States is to be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States." The propriety of this provision is so evident, and it is at the same time so consonant to the precedents of the State constitutions in general, that little need be said to explain or enforce it. Even those of them which have in other respects coupled the Chief Magistrate with a council have for the most part concentrated the military authority in him alone. Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms an usual and essential part in the definition of the executive authority."

Story, in his Commentaries on the Constitution, section 1484, quotes the provision of the Constitution in these words:

"The first clause of the second section is: 'The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into actual service of the United States.'"

The commentator then proceeds:

"The command and application of the public force to execute the laws, to maintain peace, and to resist foreign invasion are powers so obviously of an executive nature, and require the exercise of qualities so peculiarly adapted to this department, that a well-organized Government can scarcely exist when they are taken away from it. Of all the cares and concerns of government the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. Unity of plan, promptitude, activity, and decision are indispensable to success; and these can scarcely exist, except when a single magistrate is intrusted exclusively with the power. Even the coupling of the authority of an executive council with him in the exercise of such powers enfeebles the system, divides the responsibility, and not unfrequently defeats every energetic measure. Timidity, indecision, obstinacy, and pride of opinion must mingle in all such councils, and infuse a torpor and sluggishness, destructive of all military operations. Indeed, there would seem to be little reason to enforce the propriety of giving this power to the executive department, (whatever may be its actual organization,) since it is in exact coincidence with the provisions of our State constitutions, and therefore seems to be universally deemed safe, if not vital, to the system."

I will next read from the case relied upon by the honorable chairman of the Judiciary Committee, *Cross vs. Harrison*, reported in 16 Howard, 164. What I read will sufficiently explain the questions that arose in that case, and were decided by the court, and which decision I now rely upon. I read from page 190:

"California, or the port of San Francisco, had been conquered by the arms of the United States as early as 1846. Shortly afterward the United States had military possession of all of Upper California. Early in 1847 the President, as constitutional Commander-in-Chief of the Army and Navy, authorized the military and naval commander of our forces in California to exercise the belligerent rights of a conqueror, and to form a civil government for the conquered country, and to impose duties on imports and tonnage as military contributions for the support of the Government and of the Army which had the conquest in possession. We will add, by way of note to this opinion, references to all of the correspondence of the Government upon this subject; now only referring to the letter of the Secretary of War to General Kearney, of the 10th of May, 1847, which was accompanied with a tariff of duties on imports and tonnage, which had been prepared by the Secretary of the Treasury with forms of entry and permits for landing goods; all of which was reported by the Secretary to the President on the 30th of March, 1847. (Senate Document No. 1, first session Thirtieth Congress, 1847, pages 587, 588.) No one can doubt that these orders of the President, and the action of our Army and Navy commander in California in conformity with them, were according to the law of arms and the right of conquest, or that they were operative until the ratification and exchange of a treaty of peace. Such

would be the case upon general principles in respect to war and peace between nations. In this instance it is recognized by the treaty itself. Nothing is stipulated in that treaty to be binding upon the parties to it, or from the date of the signature of the treaty, but that commissioners should be appointed by the General-in-Chief of the forces of the United States, with such as might be appointed by the Mexican Government, to make a provisional suspension of hostilities, that in the places occupied by our arms, constitutional order might be reestablished as regards the political, administrative, and judicial branches in those places, so far as that might be permitted by the circumstances of military occupation."

Now, sir, what did the orders of the President referred to in this opinion do? What was the character and nature of those orders? California had been conquered by the arms of the United States. In perfect conformity to the rights of the conqueror, this decision recites that the President of the United States ordered the highest commanders of the Army and Navy of the United States operating in that country to form a military government with civil powers, and among those civil powers was the establishment of a system of impost duties and their collection. This decision says that these orders of the President, and the action of those officers under the orders, were in strict conformity to national law, and that this military government, with the adjunct of civil powers in that foreign conquered country, thus created by the direction and orders of the President of the United States to his subordinates, was in strict conformity to the laws of conquest and of nations. That is true. In another portion of this opinion, speaking of the conduct of Colonel Mason, who was the highest military commander there, and who acted under these orders of the President, the court say:

"His position was unlike anything that had preceded it in the history of our country. The view taken of it by himself has been given in the statement in the beginning of this opinion. It was not without its difficulties, both as regards the principle upon which he should act and the actual state of affairs in California. He knew that the Mexican inhabitants of it had been remitted by the treaty of peace to those municipal laws and usages which prevailed among them before the territory had been ceded to the United States; but that a state of things and population had grown up during the war, and after the treaty of peace, which made some other authority necessary to maintain the rights of the ceded inhabitants and of immigrants from misrule and violation. He may not have comprehended fully the principle applicable to what he might rightly do in such a case, but he felt rightly and acted accordingly. He determined, in the absence of all instruction, to maintain the existing government."

"The territory had been ceded as a conquest and was to be preserved and governed as such until the sovereignty to which it had passed had legislated for it. The sovereignty was the United States, under the Constitution, by which power had been given to Congress to dispose and make all needful rules and regulations respecting the territory or other property belonging to the United States, with the power also to admit new States into this Union, with only such limitations as are expressed in the section in which this power is given. The government of which Colonel Mason was the executive had its origin in the lawful exercise of a belligerent right over a conquered territory. It had been instituted during the war by the command of the President of the United States. It was the government when the Territory was ceded as a conquest, and it did not cease as a matter of course, or as a necessary consequence of a restoration of peace. The President might have dissolved it by withdrawing the Army and Navy officers who administered it, but he did not do so. Congress could have put an end to it, but that was not done. The right inference from the inaction of both is that it was meant to be continued until it had been legislatively changed."

I read from this decision for the purpose of establishing two positions:

1. When a foreign country is conquered by the arms of the United States, immediately upon the conquest and the acquisition of the possession by our Army the President, as Commander-in-Chief, may order, under the rights of conquest, the organization of such a military government, with civil powers, as may be necessary for the country and its inhabitants.

2. That this military government continues until the President ends it by withdrawing the military commanders who are charged with its administration; or until Congress, after the title to the country is acquired, has taken up the subject and has provided a civil government to supersede the military government. In support

of these positions, see also American Insurance Company against Carter, 1 Peters, 542; United States vs. Gratiot, 14 Peters, 526.

And, sir, the President of the United States is Commander-in-Chief of the Army and Navy in our country in time of peace in the execution of the laws of the Union, suppressing insurrections, repelling invasions, and protecting the States against domestic violence. Wherever the military forces of the country may be, or whatever kind of service engaged in, the President has its exclusive and absolute control and direction in all its operations.

In the suppression of insurrection and rebellion the President moves and directs the armies and navies according to his own judgment and will, and may head them in person, or command them by his subordinate military and naval officers. If the insurgents, by force of arms, expel the laws and authorities of the United States from a State, or several States, or a smaller district of country, and the President orders the United States military forces to move upon and suppress those insurgents, and their captivity or expulsion ensue, and the work is complete and perfect, and the violent and disorganized condition of things is put down and rectified, and no obstacles to the resumption of the former and normal state of things remain, the deposed government authorities and relations spring up spontaneously in the State or States, as do the government and authorities of a city in which they have been overthrown and held in a state of suspension for days by a dominating mob. But things may not be in a condition for a prompt restoration of the loyal government after the suppression of the usurped one; and order, tranquillity, and the protection of the inhabitants may require the longer occupation of the country by the military forces, and something beside, and what? A temporary government. But the condition of things is too troublous for the existence and administration of a civil government, and a military government supported and enforced by the power of the Army alone is possible. What authority is to decide when and where such a military government is necessary? What but the Commander-in-Chief of the military power? What authority is to organize this military government? The same Commander-in-Chief, part of whose command is to constitute and uphold that government. The idea of Congress organizing a military government for the Army in a country that can be held by it alone, and on the theater of its operations, is not only inappropriate but preposterous, and is against all principle and all practice. Men of the Army would constitute the *personnel* of this government, and what power has Congress to order the military commander to make such detail; and suppose he was to refuse to make it, what then?

But when made, and the military government is organized, who is to control and administer it? Who is to supervise its operations and correct them when wrong, Congress or the President? Whence does Congress derive such a power? There are provisions in the bills on this subject pending in both Houses, the obvious purposes of which are to divest the President of a portion of this power and vest it in the General of the Army and the five military satraps commanding in the southern States, some of whom show a very willing disposition to throw off their subordination to the President, their Commander-in-Chief, and to become the supple tools of Congress. No fitter subjects for a court-martial and to be cashiered than they. Does not the Constitution read: "The executive power shall be vested in a President of the United States of America;" and "he shall take care that the laws be faithfully executed?" Does not the Constitution also declare: "The President shall be Commander-in-Chief of the Army and Navy of the United States?" He is the constitutional superior, head, and director of both the civil

and military administration of the Government, and all persons employed in those services are bound to submit implicitly to his orders. Within those pales Congress cannot impinge upon him without infraction of the Constitution and ardent usurpations of authority. But Congress has been so successful in its bold aggressions in that direction, and the people so approving or so apathetic, that it feels encouraged to continue its reckless career. It now knows no check or responsibility and no limits to its action within its own audacious will.

Before the adoption of the Constitution each State was a distinct and independent political sovereignty. They had leagued together and fought for and won liberty, independence, and popular government, but were likely to lose all from the inefficiency of their Articles of Confederation; and therefore the people of the several States sent their delegates to a Convention to frame a government strong enough to preserve those great ends, but no stronger.

The wise and virtuous men who held this momentous conference had before them the numerous examples, running through all history, of many peoples achieving liberty and self-government, striving to secure them by imperfectly-organized institutions, maintaining them for a brief period in a troubled existence with unsatisfactory results, and eventually losing them from innate defects of their forms of government, the treachery of those who administered them, and the degeneracy and corruption of the people. The great task was to form a government that would for indefinite ages save our country, its independence and liberties, from the sad fate of all others. The Convention adopted and acted upon a series of fundamental ideas. It decided upon a system of government neither wholly national nor State, but partly both, and made a division of political sovereignty and powers, the States to delegate a portion of that whole which each one then possessed, to be organized into a general government for the United States; and all sovereignty and powers not thus delegated to the common government to be reserved to the States respectively, or the people.

2. The common government to be created by a written constitution, in which should be enumerated all the powers vested in it.

3. The division of those powers among three coördinate departments, each to have a different character of power and to execute it independently of the others, and thus form mutual checks to each other to prevent any aggregation of power not conferred upon them by the Constitution.

4. The supremacy of the Constitution, and laws of the United States in pursuance of it, over the constitution and laws of the States, and the creation of the Supreme Court to decide all questions of conflict between them whenever they might arise, directly or indirectly, in cases before that court.

5. The powers to make war and peace, to raise and support armies, to enforce the execution of the laws, to suppress insurrections, to repel invasions, to protect each State against domestic violence, &c.

The General Government is built in part upon the States, and the Constitution makes them a necessary part of the machinery which it creates. It provides that the Legislatures of the States shall choose the Senators in Congress; that each State shall appoint, in such manner as its Legislature may direct, the number of presidential electors to which it may be entitled; and the States only can amend the Constitution of the United States. Here are functions to be performed by the States without which the General Government could not have been organized, and without their continued performance by the States that Government would come to an end. There is no other or substitute authority to perform those functions, nor can the General Government, or any, or all its departments or officers

compel the States to perform them. Nor can Congress compel the President, nor the President the courts, nor the courts Congress, respectively, to perform their duties; but Congress may impeach the President or the courts; but it has no jurisdiction whatever over the States or their Legislatures, nor is there any provision of the Constitution from which it can be even conjectured to arise. The Government of the United States can constitutionally act upon a State only in three conditions and ways:

1. It can admit new States into the Union, but it can admit a State into the Union only once, because being once in she is there until the Union and our Government are subverted by revolution. The government of a State and the laws and authority of the United States in it may be overthrown by insurrection and rebellion, or by the invasion and conquest of a foreign army; but when the rebellion is put down, or the invaders are expelled, by the operation of the principle of *post limine*, as recognized by the law of nations, the State is restored to her former condition.

2. The United States shall guaranty to every State a republican form of government.

3. And on the application of the Legislature (or of the Executive when the Legislature cannot be convened) against domestic violence.

Under no other circumstances, in no other mode, and for no other purpose can the Government of the United States act upon a State; though in many forms it may act upon every individual in any or all the States. Every person resisting the execution of the laws, or engaged in insurrection against the United States, whether with or without the pretended authority of a State, may be resisted, put down, tried, and punished for his crime. The Constitution and laws authorize all that; but a State by no principle of Constitution or law can commit a crime or offense, or is subject to any forfeiture, penalty, or punishment; and there are no forms or modes of proceeding or law by which a State can be punished or tried or indicted or charged. Like the Presidency or the Supreme Court or the two Houses of Congress, the States, as part of the constitutional machinery of our complex and blended system of Government, have a legal existence in perpetuity; and it would be as philosophical, true, and constitutional to declare and attempt to make practical the forfeiture and abolition of the Presidency, of the Supreme Court, or of the two Houses of Congress because of the treason of the men who happened to fill them, as of the States and their governments. The incumbents of those offices who commit crimes, whether against the United States or a State, are subject to be tried, ejected from their places, and punished; but the offices are guiltless, and as part of the structure of the Government remain intact and ready to receive other incumbents when they are properly presented. This is necessity, common sense, and constitutional and universal law to avoid confusion and anarchy.

So when the insurgents in the southern States expelled or overthrew the laws and authorities of the United States, and passed their ordinances of secession, and practically severed their connection with the United States as parts of them, their acts were all void and without any legal effect. They remained *de jure* States of and in the Union, in abeyance, all in complete organization, their offices ready to be filled and their governments to be administered as before the revolt; the States, their governments, and people being, by the suppression of the insurrection, restored to their former condition. But if the States, or any of them, were not immediately ready for rehabilitation in their State governments, and order and the protection of persons and property required it, the President, while holding military possession of the country as Commander-in-Chief, had the power, and it was his duty, to organize *ad interim* a military govern-

ment for those ends. That is the only government which, in any state of case, could properly prelude the government of the States formed by its own people, and the President of the United States, as military Commander-in-Chief, only could organize that military government. Such an act would be wholly without the pale of congressional power, that body not having a vestige of military administration. But if the theory of the conquest of the States in which the rebellion occurred, so vehemently asserted, were true, the only government which Congress could organize for those States would be a civil territorial government; and if, from the condition of the country, it would be impracticable to establish and administer that kind of a government in it, the only and necessary resort would be for the President, the Commander-in-Chief of the Army, to set up and administer a military government; and when the country was so tranquilized as to allow civil government, Congress would then organize for the country territorial governments, as it did for New Mexico after its conquest. These positions result from the Constitution, and are fully sustained by the Supreme Court in the opinion from which I have so lengthily read—Cross vs. Harrison.

And when Congress should come to establish for the southern States territorial governments, they would be very different systems of polity to the horrible, deformed military despotism which it has set up in them. There would not be an overthrow of the Constitution and all civil law and civil courts and a substitution of martial law, the arbitrary will of corrupt and partisan petty military commanders and military commissions for the trial of citizens. There would be no suspension of the writ of *habeas corpus*, no military arrests, imprisonments, or trials. In their leading features these territorial governments would be upon the model of the Constitution of the United States, a division of their powers into legislative, executive, and judicial, and their investment in different bodies of magistracy taken from their own people. The rights of person and property, of trial by jury in civil courts, according to the laws of the land, and all the other great rights and liberties guaranteed by the Constitution to the American people, the inhabitants of the southern States would have secured to them under territorial governments. But it was the scheme of the Radicals of Congress to strip those people of all their constitutional rights and liberties, and crush them under the weight of a military despotism created by themselves without any authority, and to continue upon them its galling oppression, not only for their enslavement, but to coerce them to assist in forging their own chains. Mr. President, the creation of this military government in the ten southern States is a stupendous and most fearful usurpation of power, and its revolting, despotic machinery and instruments have dragged down their people to a more complete and degrading slavery than exists anywhere beside in Christendom; that slavery impends over all the people of the United States, and will certainly engulf them unless they shake off their lethargy and strike while they can for the overthrow of both it and its authors.

#### The President's Messages.

#### REMARKS OF HON. JEHU BAKER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 20, 1867.

Mr. BAKER. Mr. Speaker, I wish to submit a few remarks upon the recent messages of the President. The one he sent to the Senate on the 15th instant is an extraordinary document; scarcely less so than the veto message with which we were favored yesterday.

HO. OF REPS.

Veto Message—Mr. Lawrence.

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In the former message he raises the question "whether the refusal of Congress to guaranty the payment of the debts of these [the rebel] States, after having displaced or abolished their State governments, would not be viewed as a violation of good faith and a repudiation by the national Legislature of liabilities which these States had justly and legally incurred." And he tells us this question "is worthy the consideration of Congress and the country."

This, sir, is truly extraordinary language to come from the Executive of the nation; and if it carried with it any measure of that intellectual weight which would be appropriate to the high official from which it proceeds it might well startle the nation. He is of opinion that such a question of liability exists, that it is "worthy the consideration of Congress and the country;" and his language implies—if it has any consistent meaning whatever—that his own mind is under the influence of the notion that the legal logic of the existing situation is, that the United States has become liable for the preëxisting debts of the rebel States to which he alludes, amounting, as he supposes, to about one hundred million dollars.

Sir, Mr. Johnson has but to follow up the logical sequence of his ideas here expressed or implied and to take one more step in the same direction in order to bring him to an open and explicit recommendation that these debts of the rebel States be assumed and paid by the General Government. He thinks the question of liability is an open and not a foreclosed one, and that it is "worthy the consideration of Congress and the country" whether the refusal of Congress to guaranty the payment of these debts would not be a "violation of good faith" on the part of the nation; and the ground of his opinion is, that Congress has "displaced or abolished" what he terms the "State governments" of the rebel States—meaning the wretched, disloyal, unauthorized governments which he, without any warrant from the Constitution and in the exercise of usurped powers, hastened to establish over these States in the absence of Congress.

Not in the political history of the world is there to be found a position more utterly untenable and absurd, or more pernicious to the liberties of the people had it been allowed to prevail, than that assumed by Mr. Johnson after the surrender of the rebels, and obstinately adhered to by him to this very hour.

In his proclamations for the reëstablishment of State governments in the rebel States he correctly declared that the rebellion in its revolutionary progress had deprived the people of those States of "all civil government;" he correctly declared it was the duty of the President "to take care that the laws be faithfully executed;" and he referred to the right source of power when he cited the fourth section of the fourth article of the Constitution, providing that "the United States shall guaranty to every State in the Union a republican form of government."

His first amazing and unaccountable blunder was that he mistook himself for the United States, and read the guarantying clause of the Constitution as if it literally said "the President [not the United States] shall guaranty," &c. His next and kindred capital blunder was his assumption that it was not only his duty "to take care that the laws be faithfully executed," but that he had power to prescribe or set up fundamental institutions or laws for the disorganized States of the Union.

Arrogating to himself these gigantic law-making powers, which by their very nature in no wise pertain to the Executive as such, which the Constitution nowhere confers upon him, but carefully withholds from him by reserving them to the legislative disposing power of the "United States," he presumed to take into his own hands and to subject to the poor, fallible judgment of a single individual the immense work of restoring civil order and guarantying republican governments in the disorganized States of the Union.

What though the question arose as to what is a republican government? He alone would determine it! What though the question arose as to whether the loyal people of the South should enjoy the blessings of liberty and equal laws or be crushed down beneath the iron heel of the defeated rebels? He alone would determine it! What though the question arose as to whether these States should be organized upon loyal principles and a loyal basis or revamped out of the hostile debris of the defeated rebel class? He alone would determine it! After the rebellion had stricken down more than a half million of loyal citizens and imposed a debt of \$3,000,000,000 upon the labor of the country, what though the question arose as to what great guarantees were needed by the nation in order to guard the interests and the blood of its people and to make its own life secure in the future? He alone would determine what they should be! Mean time, according to the presidential idea, the representative bodies of the nation—the honorable Senate of the United States and this honorable House—should have sat supinely by, abdicating their powers, abandoning their sacred duties, and tamely registering his imperious decrees! Had Congress submitted to this it would have been guilty of a betrayal of the people unequaled in a free country, and covered itself with an infamy which history would have blushed to record.

Setting at naught these monstrous assumptions on the part of the Executive, Congress has proceeded in the discharge of its duty to the nation and to posterity. In the face and teeth of the President it has provided the great and vitally-needed guarantees of liberty, of material interest, and future national safety, which are embodied in the constitutional amendment pending before the country. It has enacted statutes of reconstruction, which have restored order and given protection to the friends as well as the enemies of the Union in the South—statutes which will lead to the creation of governments in those States based upon broad principles of liberty, friendly to the Government of the United States, and fitted safely to resume the cast-off relation of representation and political power in the Union. And, as a matter of course, it has provided for the complete subordination and "displacement" of those little arrangements of the President which he, without any more authority than he has over the moon, had built up out of the defeated rebel element. Infatuated with the one fixed idea that for all purposes of reconstruction the representatives of the people should stand aside; that for all these great purposes the text of the Constitution should be read "Andrew Johnson" in place of the "United States," he obstinately sticks to the assertion that those little, unwarranted, disloyal affairs of his, are sound, proper, constitutional State governments. Vitiated by this absurd assumption, from which his reasonings proceed and on which his conclusions are based, the entire superstructure he builds is a huge sophism and folly.

#### Veto Message.

#### SPEECH OF HON. W. LAWRENCE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

July 20, 1867,

On the President's veto message.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I propose as briefly as I can to consider some features of the veto message, to show that its positions are not well taken, and that the only remedy for the evils that afflict the country is the impeachment and removal of the President, for which there is abundant cause. I will not discuss all the causes already known to the public, much less those locked up in the evidence

taken before the Judiciary Committee, which, when revealed, will speak for itself in a manner not to be mistaken.

And first, as to the veto message.

By the two acts of Congress of the 2d and 23d March last provision is made for the reorganization of civil State governments in ten of the rebel States. The bill now vetoed is supplementary to those acts, and is designed to carry out their purposes.

The President states two features of this bill to which he objects. He says:

"It is declared that the intent of these acts was: First, that the existing governments in the ten 'rebel States' were not legal State governments; and second, 'that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress.'"

Now, sir, I affirm "that the existing governments in the ten rebel States are not legal State governments," and that Congress in continuing them temporarily as provisional governments "has the right, and it is their duty, to make them by law 'subject in all respects to the military commanders and to the paramount authority of Congress.'"

In seven of the ten rebel States the existing State governments are illegal, because they are creations resulting from executive usurpation in flagrant violation of the Constitution, and the crime of the President is all the more glaring and palpable because of his persistent recognition of those illegal creations and the denial of the rightful power of Congress to control the work of reorganization, and still more by the corrupt exercise of power and omission of duties by the President in support of this usurpation and denial. The remaining three of the ten State governments are illegal because not authorized or ratified by Congress.

In proof of all this I appeal to historical facts and to the Constitution. During the years 1860 and 1861 eleven of the States adopted ordinances or acts of secession purporting to withdraw them from the Union. The seceding States were organized into a confederacy called the confederate States of America, with Jefferson Davis as president, with a Congress, and all the forms of government, in many respects similar to that of the United States. The preëxisting loyal State governments were superseded by State organization acknowledging allegiance to the confederacy and requiring of all State officers an oath to support the constitution of the rebel State and the confederate States. Thus a rebellion against the Government of the Union was organized, which, after more than four years of war, was suppressed by the capture of Jefferson Davis May 10 and the surrender of the last rebel army, May 26, 1865, when flagrant war ceased.

Prior to this the rebel State organizations having been practically overthrown in all or large portions of Tennessee and Arkansas, the loyal people in each by voluntary conventions, held in pursuance of no law, organized loyal State governments in the mere exercise of the right of petition to Congress for recognition as lawful State governments. (House Mis. Doc. 55, first session Thirty-Ninth Congress.) But the power of reorganization did not revert to the people, because it was "delegated to the United States." (Art. 10 Amendments to Const.; 1 Blackstone Com., 162; Coke Litt., 13; Angel on Corp., sec. 766; Glover on Municipal Corp., 408.) When the State governments were destroyed their powers ceased and the right of reorganization vested in Congress. (Const., art. 4, sec. 4.)

A joint resolution of Congress restoring Tennessee to her relations in the Union was passed and approved July 24, 1866. This is the only one of the rebel States restored.

In the western counties of the original State of Virginia a voluntary convention, held at Wheeling in 1861, in pursuance of no statute, organized a new State government, purporting to be for the whole of the State, but which was put in operation over only a portion of it.



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This government subsequently consented to the erection of the new State of West Virginia, which has been and is recognized by and represented in Congress, and thus made valid. The original Wheeling government, after the erection of West Virginia, was transferred to Alexandria, where its jurisdiction was limited and nominal until after the surrender of Lee, in April, 1865, when it was transferred to Richmond, and has ever since exercised jurisdiction over all of Virginia, not including West Virginia; but Congress has steadily refused to recognize it as a valid State government, and it remains without any Senator or Representative in Congress.

On the 11th of March, 1864, General Banks, in command of the Union forces at New Orleans, issued his military order No. 35, (House Report 16, second session Thirty-Ninth Congress,) under which a convention was called representing only a small part of Louisiana. A constitution was adopted, submitted to and approved by a majority of the people in the parishes represented in convention, and a State government put in operation which has continued its functions, but being a mere military creation for war purposes it has never been recognized as a State government, and so has remained without any Senator or Representative in Congress.\*

Andrew Johnson became President in April, 1865.

In the remaining seven of the rebel States, to wit, North Carolina, Mississippi, Georgia, Texas, Alabama, South Carolina, and Florida, the military power which suppressed the rebellion broke up and destroyed the respective State governments therein and drove from power and place the officers who had administered them. Repeated military orders of the President completed this work.†

In this condition of affairs all men of all parties agreed that State governments should be reorganized, but it was soon found that there were wide differences of opinion as to the time when reorganization was practicable, the terms

\*The Judiciary Committee of the Senate at the second session of the Thirty-Eighth Congress made a unanimous report refusing to admit Senators, in which it is said:

"The persons in possession of the local authorities in Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana till by some joint action of both Houses there shall be some recognition of an existing State government acting in harmony with the Government of the United States and recognizing its authority."—Senate Report 127, second session Thirty-Eighth Congress.

This must be so, or in case of conflicting governments the Senate might recognize one government, the House another, and the President still another.

†On the 12th of April, 1865, President Lincoln directed Maj. Gen. Weitzel to withdraw any permission for the insurgent Legislature of Virginia to meet.

#### Mississippi.

1865, May 10.—Governor Clark called an extra session of the Legislature for the 15th to order a State convention.

May 21.—Major General Canby telegraphed as follows to Major General Warren, commanding the department: "By direction of the President, you will not recognize any officer of the confederate or State government within the limits of your command as authorized to exercise in any manner whatever the functions of their late offices. You will prevent, by force if necessary, any attempt of any of the Legislatures of the States in insurrection to assemble for legislative purposes, and will imprison any members or other persons who may attempt to exercise these functions in opposition to your orders."

#### Georgia.

1865, May 3.—Governor Joseph E. Brown issued a proclamation calling an extra meeting of the Legislature for the 22d.

May 14.—Major General Gillmore issued an order annulling this proclamation and directing the persons interested not to heed it.

#### South Carolina.

1865, May 2.—Governor Magrath issued a proclamation that the confederate stores within the State should be turned over to State officers, to be distributed among the people.

May 8.—Governor Magrath summoned the State officers to Columbia to resume their duties.

May 11.—Major General Gillmore issued an order

on which it should be done, and the authority rightfully entitled to control it.

The districts of country composing these geographical States were left with a population owing allegiance to the General Government, but without any civil State government.\* The President, in pursuance of the national laws, appointed assessors and collectors of internal revenue, collectors of customs, postmasters, and other national officers.†

Now, in this condition of affairs, if the President assumed and exercised great powers which could only be rightfully exercised by Congress; if he denied to Congress powers that belonged to them; or if he denied to the people of seven States sovereign powers inherent in them, and undertook to set up a policy for these States, disfranchising nearly half their population, all in gross violation of the Constitution and of his duties; and if he prostituted all his powers and others usurped by him to accomplish these purposes and to place the government of the country in the hands of rebels and traitors, then is he guilty of high crimes and misdemeanors deserving impeachment. The evidence already before the country abundantly proves him guilty of all this.

The subject has been too recently and fully discussed to admit of doubt that Congress, by the joint action‡ of the two Houses, in the exercise of its legislative power, or by a concurrent admission of Senators and Representatives, has the exclusive power to provide for the reorganization of civil government in these States, and to determine the time and terms upon which restoration shall be made and what governments are republican in form. If the people by voluntary conventions organize governments they may be ratified by Congress and thus made valid.

All this is asserted in the Constitution,|| has been determined by the Supreme Court,§ has

annulling the Governor's acts, and notifying the persons interested not to heed his proclamations.

#### Florida.

1865, April 8.—Abraham K. Allison, president of the rebel Senate of Florida, announced the death of John Milton, rebel Governor, and appointed June 7 for election of a successor.

May 14.—Major General Gillmore issued an order annulling this proclamation, and commanding the people to give it no heed whatever. (McPherson's Manual for 1866-67, pp. 19, 20, 22, 24.)

\*In seven solemn proclamations the President seven times over declared that "the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of [these seven States] of all civil government."

†Proclamation of 29th of May, 1865.

‡Senate Report 127, second session Thirty-Eighth Congress; Luther vs. Borden, 7 Howard Report, 1; Sherman's speech in Senate, Feb. 23, 1866; 2 Bishop Criminal Law, sec. 1224, note; Federalist No. 21, 43.

||Article four, section four, declares:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence."

This is found in connection with clauses relating to the admission of new States, the creation of new State governments, and in relation to domestic violence, and, of the maxim *noscitur a sociis*, relates to the power of Congress to organize new State governments when old ones are destroyed by rebellion.

§In Luther vs. Borden (7 Howard Report, 1) Chief Justice Taney says:

"Under the Constitution it rests with Congress to decide what government is the established one in a State; for as the United States guaranties to each State a republican government CONGRESS must necessarily decide what government is established in a State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority; and its decision is binding on EVERY OTHER DEPARTMENT of the Government."

"Undoubtedly a military government established as the permanent government of a State would not be a republican government, and it would be the duty of Congress to overthrow it."—Fleming vs. Page, 9 Howard, 615; Cross vs. Harrison, 15 Howard, 194; Federalist, 69, 85; Halleck International Law, 785.

been settled by Congress,\* has been admitted again and again by the President,† and has never been denied until it became "his policy" to do so.‡ If it were conceded that the President during the war might in the absence of a restraining statute appoint military governors and establish military governments yet these could only exist as such and during a state of war, for Chief Justice Taney declared that "it would be the duty of Congress to overthrow" such government in exercising the power to establish civil government.

The military power cannot, without the sanction of Congress, establish permanent civil government for times of peace.||

When flagrant war ceased an "extraordinary occasion" had arisen which made it the duty of the President to "convene both Houses" of Congress. Refusing to perform this duty, which he knew to be necessary for this and other purposes,§ he issued seven solemn proclamations, assuming to appoint seven civilian provisional governors, holding no military commission and without "the advice and consent of the Senate," as follows:

On the 29th of May, 1865, one appointing

\*Concurrent resolution of March 2, 1866, (Globe, vol. 57, p. 1143,) as follows:

"That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such States entitled to such representation."

The exclusive power of Congress had been repeatedly asserted by the Senate (Sherman's speech in Senate, February 26, 1866) before Mr. Johnson became President, and by the bill passed by Congress and referred to in President Lincoln's proclamation of July 8, 1864, and since by the report of the joint Committee on Reconstruction, June 18, 1866, and February 13, 1866, (House Mis. Doc. 53, first session Thirty-Ninth Congress; House Report 39, first session Thirty-Ninth Congress,) the minority of the committee, consisting of the President's friends, practically conceding that his acts were unauthorized; and by the joint resolution of July 24, 1866, admitting Tennessee; and by the acts of Congress of March 2 and 23, 1867; and by the bill now vetoed.

†In Senate executive document 26 (first session Thirty-Ninth Congress, page 60) is the following, written by order of the President:

[Telegram.]

WASHINGTON, July 24, 1865.

W. L. SHARKEY.

Provisional Governor of Mississippi, Jackson:

Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

Same document, page 203, is the following:

DEPARTMENT OF STATE.

WASHINGTON, September 12, 1865.

SIR: Your excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers toward reorganizing the government of Florida seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for but not received their pardons, is not entirely approved. All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.

I have the honor to be your excellency's obedient servant,

WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN, Provisional Governor of the State of Florida, Tallahassee.

See Globe, vol. 69, p. 210; first session Thirty-Ninth Congress, vol. 1. If the "approval of Congress" was necessary to give validity to the President's acts, the prior authority of Congress in the form of law was necessary to authorize it.

†President's annual message December, 1865; message of June 22, 1866; message of July 24, 1866; proclamation of August 20, 1866; Senate Ex. Doc. 32, second session Thirty-Ninth Congress, p. 13.

§Cross vs. Harrison, 16 Howard, 194; Federalist, 69, 85; Fleming vs. Page, 9 Howard, 615; Halleck International Law, 785.

§Senate Ex. Doc. 3, first session Thirty-Ninth Congress, p. 2.

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William W. Holden provisional governor of the State of North Carolina.

On the 13th of June, 1865, one appointing William L. Sharkey provisional governor of the State of Mississippi.

On the 17th of June, 1865, one appointing James Johnson provisional governor of the State of Georgia.

On the 17th of June, 1865, one appointing Alexander J. Hamilton provisional governor of the State of Texas.

On the 21st of June, 1865, one appointing Lewis E. Parsons provisional governor of the State of Alabama.

On the 30th of June, 1865, one appointing Benjamin F. Perry provisional governor of the State of South Carolina.

On the 13th of July, 1865, one appointing William Marvin provisional governor of the State of Florida.

These proclamations respectively declared it to be the duty of each Governor in his State—

"At the earliest practicable period to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof; and with authority to exercise within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence: *Provided*, That in any election that may be hereafter held for choosing delegates to any State convention, as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State in force immediately before the 20th day of May, 1861, the date of the so-called ordinance of secession; and the said convention when convened, or the Legislature that may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the constitution and laws of the State, a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."

And the President did direct—

"That the military commander of the department, and all officers and persons in the military and naval service, aid and assist the said provisional governor in carrying into effect this proclamation, and they are enjoined to abstain from in any way hindering, impeding, or discouraging the loyal people from the organization of a State government, as herein authorized."

The oath of amnesty was as follows:

"I, ———, do solemnly swear, (or affirm,) in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves: So help me God."

By these proclamations the President usurped the power to create an office unknown to the Constitution or laws, to fill that office with incumbents holding by the tenure of his pleasure,\* without the "advice and consent of the Senate," with a salary fixed by no law but his will,† and to be paid out of the public Treasury in violation of law.‡ He assumed the power to clothe these officers with authority to cause elections to be held for members of conventions, to create State governments by amending State constitutions in a mode different from that prescribed therein|| and without the sanc-

tion of Congress; he prescribed the qualifications\* of electors and of members of the conventions, requiring of each an oath not required by the former constitutions or laws of the States; by his edicts enfranchising every rebel† in these States who would take the oath he prescribed, and excluding the loyal freedmen, constituting nearly half the population of these States,‡ from all right to participate in elec-

same shall have been read three times in each House of the General Assembly and agreed to by three fifths of the whole number of members of each House respectively; nor shall any alteration take place until the bill so agreed to shall have been published six months previous to a new election of members to the General Assembly."

\* This is practically a conceded usurpation by the President's annual message of December 4, 1865, when in discussing "the propriety of attempting to make" "electors by the proclamation of the Executive," he says "such an act would have been assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted."

† A large majority of the white voters either engaged in rebellion or gave aid and comfort thereto in these States.—*Senate Ex. Doc. 3*, first session Thirty-Ninth Congress, p. 2; *House Ex. Doc. 81*, first session Thirty-Ninth Congress.

‡ Statement showing (1) the number of males, white and colored, over twenty years of age in each State and Territory according to the United States census of 1860, and (2) the estimated number of the same in 1866.

	1860.	1866. Estimated.
Alabama.....	214,972	184,000
Arkansas.....	98,583	87,500
California.....	208,598	254,500
Connecticut.....	130,258	152,000
Delaware.....	27,108	31,000
Florida.....	52,736	33,000
Georgia.....	229,541	211,000
Illinois.....	441,256	558,000
Indiana.....	319,393	410,000
Iowa.....	164,886	206,000
Kansas.....	31,121	52,500
Kentucky.....	266,231	284,500
Louisiana.....	194,179	174,500
Maine.....	168,086	178,500
Maryland.....	166,400	186,000
Massachusetts.....	341,687	375,000
Michigan.....	202,317	252,500
Minnesota.....	48,247	80,000
Mississippi.....	177,114	159,000
Missouri.....	290,775	310,000
Nebraska.....	9,894	27,000
Nevada.....	5,698	22,000
New Hampshire.....	92,103	97,000
New Jersey.....	173,732	195,000
New York.....	1,040,380	1,080,000
North Carolina.....	217,455	191,000
Ohio.....	571,175	662,000
Oregon.....	17,788	33,000
Pennsylvania.....	715,929	872,000
Rhode Island.....	47,440	52,000
South Carolina.....	155,648	132,000
Tennessee.....	245,894	253,000
Texas.....	143,825	146,000
Vermont.....	87,656	95,000
Virginia.....	369,286	237,000
West Virginia.....		88,000
Wisconsin.....	199,145	245,000
Total.....	7,846,331	8,616,500
Arizona.....		3,500
Colorado.....	30,728	32,500
Dakota.....	970	900
Idaho.....		5,000
New Mexico.....	22,721	22,250
Utah.....	8,423	16,000
Washington.....	6,419	10,000
District of Columbia.....	18,474	28,000
Total.....	7,934,071	8,734,650

Statement showing the number of males, white and colored, over twenty years of age in each State and Territory according to the United States census of 1860.

	White.	Colored.
Alabama.....	118,516	96,458
Arkansas.....	73,741	24,842
California.....	206,254	2,339
Connecticut.....	127,978	4,679
Delaware.....	22,429	14,049
Florida.....	18,687	97,024
Georgia.....	132,317	1,951
Illinois.....	439,305	2,714
Indiana.....	316,679	280
Iowa.....	164,596	249
Kansas.....	30,972	43,462
Kentucky.....	217,769	96,036
Louisiana.....	98,143	362
Maine.....	167,724	38,090
Maryland.....	128,870	2,692
Massachusetts.....	339,085	1,858
Michigan.....	200,419	64
Minnesota.....	48,183	
Carried forward.....	2,851,167	434,227

tions or otherwise in political power. He put it in the power of the rebels, contrary to his former convictions of duty,\* to institute governments forever denying the freedmen the political and civil rights of citizenship, and this

	White.	Colored.
Brought forward.....	2,851,167	434,227
Mississippi.....	83,103	94,065
Missouri.....	267,889	22,886
New Hampshire.....	91,954	149
New Jersey.....	167,442	6,290
New York.....	1,027,305	13,075
North Carolina.....	143,149	74,306
Ohio.....	562,466	8,709
Oregon.....	17,755	53
Pennsylvania.....	702,299	13,630
Rhode Island.....	46,417	1,023
South Carolina.....	68,003	87,645
Tennessee.....	189,126	53,708
Texas.....	106,070	37,755
Vermont.....	87,462	194
Virginia (including West Virginia).....	245,683	123,603
Wisconsin.....	198,792	353
Nebraska.....	9,878	16
Nevada.....	5,666	32
Total.....	6,871,611	974,720
Colorado.....	30,695	33
Dakota.....	970	
New Mexico.....	22,699	22
Washington.....	6,394	25
Utah.....	8,412	16
District of Columbia.....	15,745	2,729
Total.....	6,956,526	977,545

"It was a maxim of ancient jurisprudence that a slave had not any country of his own; he acquired with his liberty an admission into the political society of which his patron was a member."—*Gibbons v. Rome*, ch. 2, p. 46.

\* Andrew Johnson, in his Nashville speech of June 9, 1864, is thus reported:

"But in calling a convention to restore the State who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled, all the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain."

"Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government. We say to the most honest and industrious foreigner who comes from England or Germany to dwell among us and to add to the wealth of the country, 'Before you can be a citizen you must stay here for five years.' If we are so cautious about foreigners, who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a pariahs hand against the Government which always protected him? My judgment is that he should be subjected to a severe ordeal before he is restored to citizenship. A fellow who takes the oath merely to save his property and denies the validity of the oath is a perjured man, and not to be trusted. Before these repenting rebels can be trusted let them bring forth the fruits of repentance. He who helped to make all these widows and orphans, who draped the streets of Nashville in mourning, should suffer for his great crime. The work is in our own hands. We can destroy this rebellion. With Grant thundering on the Potomac before Richmond, and Sherman and Thomas on their march toward Atlanta, the day will ere long be ours. Will any madly persist in rebellion? Suppose that an equal number be slain in every battle, it is plain that the result must be the utter extermination of the rebels. Ah! these rebel leaders have a strong personal reason for holding out to save their necks from the halter; and these leaders must feel the power of the Government. Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of the rebellion is past. It is high time it was. I have been most deeply pained at some things which have come under my observation. We get men in command, who, under the influence of flattery, fawning, and caressing, grant protection to the rich traitor, while the poor Union man stands out in the cold, often unable to get a receipt or a voucher for his losses. [Cries of 'That's so!' from all parts of the crowd.] In his remarks at an interview with citizens of Indiana, April 21, 1865, he said:

"I hold it as an solemn obligation in any one of these

\* The appointment says: "You will hold the office during the pleasure of the President."—*Senate Ex. Doc. 26*, first session Thirty-Ninth Congress.

† The appointment says: "Your compensation will be at the rate of \$3,000 a year from this date."—*Senate Ex. Doc. 26*, first session Thirty-Ninth Congress, p. 11.

‡ Act February 9, 1863, 12 U. S. Statutes-at-Large, 646, sec. 2.

|| As an example, article four, section two of the constitution of North Carolina, as amended in November, 1835, provides that "no part of the constitution of this State shall be altered unless a bill to alter the

deliberate disfranchisement was consummated by constitutions created by these conventions,\* as if the wrongs inflicted by centuries of slavery upon an unoffending race were not already enough without adding the domination of rebels. And these constitutions were forced upon the States without any vote of the people to ratify them.†

The President, conceding the justice of demanding terms of restoration,‡ prescribed such as he dictated,|| ignoring the rights of Congress, and in obedience to his will governments were organized, Governors, Legislatures, and all the officers of States chosen, and Senators and Representatives were elected to Congress not in conformity with law,§ generally rebels who could not take the test oath.||

States where the rebel armies have been beaten back or expelled—I care not how small the number of Union men, if enough to man the ship of State—I hold it, I say, a high duty to protect and secure to them a republican form of government. This is no new opinion. It is expressed in conformity with my understanding of the genius and theory of our Government. Then in adjusting and putting the Government upon its legs again I think the progress of this work must pass into the hands of its friends. If a State is to be nursed until it again gets strength it must be nursed by its friends, not smothered by its enemies."

\* Senate Ex. Doc. 26, first session Thirty-Ninth Congress.

† Report of joint Committee on Reconstruction No. 30, first session Thirty-Ninth Congress.

‡ The President, in his first message to Congress, a paper in which by the Constitution it was made his duty to give Congress information of the state of the Union, and recommend to their consideration such measures as he shall consider just and sufficient, declared that "it is not too much to ask in the name of the whole people that" "the evidence of the sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution." "Indeed, it is not too much to require of the States which are now resuming their places in the family of the Union that they give pledge of perpetual loyalty and peace." "The amendment to the Constitution being accepted, it would remain for the States whose powers have been so long suspended to resume their places in the two branches of the national legislature and thereby complete the work of restoration."

§ Senate Ex. Doc. 26, first session Thirty-Ninth Congress.

|| Report 30, first session Thirty-Ninth Congress; Report joint Committee on Reconstruction, p. 15; Cong. Globe 1865-66, vol. 57; first session Thirty-Ninth Congress, part 2, p. 1621.

¶ Senators chosen from the late insurrectionary States for the Thirty-Ninth Congress, first session.

Alabama—Lewis E. Parsons, George S. Houston. Arkansas—Elisha Baxter, William D. Snow. Florida—William Marvin, Wilkerson Call. Georgia—Alexander H. Stephens, Herschel V. Johnson.

Louisiana—Randall Hunt, Henry Boyce. (R. King Cutler and Michael Hahn also claim under a former election in October, 1864.)

Mississippi—William L. Sharkey, James L. Alcorn. North Carolina—William A. Graham, John Pool. South Carolina—Benjamin F. Perry, John L. Manning.

Tennessee—David T. Patterson, Joseph S. Fowler.

Texas—Virginia—John C. Underwood, Joseph Segar.

Memorandum.—Mr. A. H. Stephens was a delegate from Georgia to the convention which framed the "confederate" constitution, and was vice president of the "confederacy" until its downfall. Mr. H. V. Johnson was a senator in the rebel congress in the first and second congresses, as was Mr. Graham, from North Carolina. Mr. Pool was a senator in the Legislature of North Carolina. Mr. Perry was a "confederate States" judge. Mr. Manning was a volunteer aid to General Beauregard at Fort Sumter and Manassas. Mr. Alcorn was in the Mississippi militia.

Members of the House of Representatives chosen in the late insurrectionary States.

Alabama—C. C. Langdon, George C. Freeman, General Callen A. Battle, Joseph W. Taylor, B. T. Pope, Thomas J. Foster.

Arkansas—William Byers, George H. Kyle, James M. Johnson.

Florida—F. McLeod.

Georgia—Solomon Cohen, General Philip Cook, Hugh Buchanan, E. G. Cabaniss, J. D. Matthews, J. H. Christy, General W. T. Wofford.

Louisiana—Louis St. Martin, Jacob Barker, Robert C. Wickliffe, John E. King, John S. Ray. (Henry C. Warmoth claims seat as delegate under universal suffrage election.)

Mississippi—Colonel Arthur E. Reynolds, Colonel Richard A. Pinson, James T. Harrison, A. M. West, G. C. Peyton.

North Carolina—Jesse R. Stubbs, Charles C. Clark,

The President assumed the right to determine when the new State governments should go into operation, requiring provisional governors to "remain in the exercise of their functions," "until relieved by his express direction."\*

While these usurpations were going on the President quieted the fears of the people by assuring them his "policy" was only "an experiment,"† and that "the approval of Congress" was necessary "to restore the civil authorities."‡

Yet, even before this presidential usurpation was perfected, in a solemn official document—the message to Congress of June 22, 1866—he said:

"That of the thirty-six States which constitute the Union eleven are excluded from representation in either House of Congress, although, with the single exception of Texas, they have been entirely restored to all their functions as States in conformity with the organic law of the land, and have appeared at the national Capitol by Senators and Representatives, who have applied for and have been refused admission to the vacant seats."§

Thomas C. Fuller, Colonel Josiah Turner, jr., Lewis Haines, S. H. Walkup, Alexander H. Jones.

South Carolina—Colonel John D. Kennedy, William Aiken, General Samuel McGowan, James Farrow.

Tennessee—Nathaniel G. Taylor, Horace Maynard, William B. Stokes, Edmund Cooper, William B. Campbell, Samuel M. Arnell, Isaac R. Hawkins, John W. Leitch.

Texas—

Virginia—W. H. B. Custis, Lucius H. Chandler, B. Johnson Barbour, Robert Ridgway, Beverly A. Davis, Alexander H. H. Stuart, Robert Y. Conrad, Daniel H. Hoge.

Memorandum.—Of the Alabama delegation, Mr. Battle was a general in the rebel army, and Mr. Foster a representative in the first and second rebel congresses.

Of the Georgia delegation, Messrs. Cook and Wofford were generals in the rebel service.

Of the Mississippi delegation, Messrs. Reynolds and Pinson were colonels in the rebel service. Mr. Harrison was a member of the rebel provisional congress.

Of the North Carolina delegation, Mr. Fuller was a representative in the first rebel congress, and Mr. Turner was a colonel in the rebel army and a representative in the second rebel congress. Mr. Brown was a member of the State convention which passed the secession ordinance in 1861, and voted for it.

Of the South Carolina delegation, Mr. Kennedy was colonel and Mr. McGowan brigadier general in the rebel army. Mr. Farrow was a representative in the first and second rebel congresses.

Of the Virginia delegation, Messrs. Stuart and Conrad were members of the secession convention of Virginia in 1861, and continued to participate after the passage of the ordinance and the beginning of hostilities.

Claimants from the insurrectionary States, Thirty-Ninth Congress, second session.

In Senate, same as at first session, except James B. Campbell, of South Carolina, vice John L. Manning, resigned; and David G. Burnett and O. M. Roberts, of Texas, recently chosen.

In House, J. McCaleb Wiley, of Alabama, vice George C. Freeman, deceased; and James P. Hamblenton, of Georgia, vice W. T. Wofford; Texas, George W. Chilton, Benjamin H. Epperson, A. M. Branch, C. Herbert. (Mr. Branch and Mr. Herbert were representatives in the rebel congress.)

See Wilson's speech in Senate May 9, 1865. Hamblenton was a blockade-runner, and was imprisoned in Fort Warren.

Date of elections—see McPherson's Manual for 1866-67, pages 17, 23.

\* Senate Ex. Doc. 26, first session Thirty-Ninth Congress, p. 47.

† Senate Ex. Doc. 2, first session Thirty-Ninth Congress, p. 2. Carl Schurz, in his report to the President, transmitted by him to Congress December 19, 1865, says:

"You informed me that your 'policy of reconstruction' was merely experimental and that you would change it if the experiment did not lead to satisfactory results."

‡ Senate Ex. Doc. 26, first session Thirty-Ninth Congress, pp. 60, 205.

§ Message to Congress, June 22, 1866; Senate Ex. Doc. 32, second session Thirty-Ninth Congress, p. 15; message of July 24, 1866; proclamation of August 20, 1866.

On the 3d of April, 1866, the President recognized North Carolina as a State by issuing to that State agricultural college land scrip for nearly two hundred and seventy thousand acres of land under the act of July 2, 1862. See joint resolution of Congress of March 30, 1867; laws of 1867, p. 283, the preamble of which is as follows:

"Whereas on the 3d day of April, 1866, by the authority and direction of the President of the United States, agricultural college scrip, covering

And in the veto message now before us the President says of these illegal governments that "Executive recognition, as is well known, has been frequent and unwavering."

When Napoleon III transformed France into an empire he submitted the whole subject to a vote of the people; but Andrew Johnson in his work submitted to neither Constitution, laws, votes, nor popular will, but defied them all.

It was said in England at one time "the Privy Council came at last to make laws by proclamation, and the Star Chamber ruined those that would not obey. At last they fell together." (2 Lord Hardwick's State Papers, 473; 4 Hatsell's Prec., 65n; 2 Chase Trial, 460.) Andrew Johnson assumed more than the powers of the Privy Council and became his own Star Chamber.

A President whose conduct "is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people," and deserves impeachment.

In thus devising a scheme of disfranchisement the President seems to have been guided by a purpose to speedily secure power to the rebel States rather than a sense of duty,\* if he did not act contrary to his own convictions expressed at an earlier date,† and which he

nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina, under the act of Congress of July 5, 1862, providing for agricultural colleges; and whereas by the same authority the General Land Office is now preparing to issue scrip in like manner to the States of Virginia, Georgia, and Mississippi; and whereas said action of the President takes for granted that said States are restored to their proper constitutional relation to the Union, and are to be recognized in all respects as entitled to the rights of the other States of the Union, which question Congress alone can rightfully determine: therefore, be it resolved, &c."

\* August 15 President Johnson sent this telegram: EXECUTIVE OFFICE, WASHINGTON, D. C., August 15, 1865. Governor W. L. SHARKEY, Jackson, Mississippi:

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution, abolishing slavery and denying to all future Legislatures the power to legislate that there is property in man; also that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary and set an example the other States will follow. This you can do with perfect safety, and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the Radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON, President of the United States.

† Andrew Johnson is reported as saying in a speech at Nashville, October 24, 1864:

"I, Andrew Johnson, hereby proclaim liberty, full, broad, unconditional liberty, to every man in Tennessee. I will be your Moses and lead you through the Red sea of struggle and servitude to a future of liberty and peace. Rebellion and slavery shall no more pollute our State. Loyal men, whether white or black, shall govern the State."

In his speech at Admiral Lee's residence in Washington, after he became Vice President, Mr. Johnson is reported as saying that to save the Union he "was willing to cut Africa loose from Asia and sink the whole black race ten thousand fathoms deep." At this point an auditor said, "Let the negro stay where he is, Governor, and give him the ballot, and the Union will be safe forever." Mr. Johnson replied, "And I am ready for that, too."

In his interview with George L. Stearns, October 3, 1865, he said:

"Our Government is a grand and lofty structure. In searching for its foundation we find it rests on the broad basis of popular rights. The elective franchise is not a natural right, but a political right. I am opposed to giving the States too much power, and also to a great consolidation of power in the central Government."

"If I interfered with the vote in the rebel States, to dictate that no negro shall vote, I might do the same for my own purposes in Pennsylvania. Our only safety lies in allowing each State to control the right of voting by its own laws, and we have the power to control the rebel States if they go wrong."

abandoned\* when he conceived the design, as he did, of putting the Government in the hands of rebels and those who during the war had sympathized with them.

This scheme of reconstruction denying the power of Congress became and is known as "the President's policy," while that which asserts the power of the law-making department is known as the "policy of Congress." The President's policy is approved by every rebel because it has given them every office and entire political control in every one of the rebel States. No adequate protection is given by them to the life, liberty, or property of freedmen or loyal white men. By these rebel State organizations the freedmen are disfranchised, and though loyal white men are nominally permitted to vote their votes are unavailing to secure protection. And Congress having in the "reconstruction acts" declared these presidential State organizations "illegal," either the President is guilty of usurpation, or Congress has unjustly accused him; either the President deserves impeachment for his "illegal" conduct, or Congress has erred in declaring his work illegal.

This usurpation by the President is clearly impeachable, and the mode by which he sought to accomplish it and force it upon the country not only aggravates the crime, but in view of his motives constitutes additional grounds of impeachment.

To achieve his purposes he was guilty of many unnecessary and unauthorized usurpations and acts of oppression.

He held the liberty of the press subject to his sovereign will and control, suppressing the publication of such newspapers as he disapproved, and permitting them to resume publication, contrary to the advice of General Grant, by exacting a pledge to "support" "the policy of his administration,"† when he was advised his order "was improper and mischievous in tendency."

He held large portions of the rebel population in abject servility, not as a measure of

If they rebel we have the Army and can control them by it, and, if necessary, by legislation also. If the General Government controls the right to vote in the States it may establish such rules as will restrict the vote to a small number of persons, and thus create a central despotism.

"My position here is different from what it would be if I was in Tennessee. There I should try to introduce negro suffrage gradually. First, those who had served in the Army; those who could read and write; and perhaps a property qualification for others, say two hundred or two hundred and fifty dollars. It would not do to let the negro have universal suffrage now; it would breed a war of races.

There was a time in the southern States when the slaves of large owners looked down upon non-slave-owners because they did not own slaves. The larger the number of slaves the masters owned the prouder they were; and this has produced hostility between the mass of the whites and the negroes. The outrages are mostly from non-slaveholding whites against the negro, and from the negro upon the non-slaveholding whites.

"The negro will vote with the late master, whom he does not hate, rather than with the non-slaveholding white, whom he does hate. Universal suffrage would create another war, not against us, but a war of races.

"Another thing: this Government is the freest and best on earth, and I feel sure is destined to last; but to secure this we must elevate and purify the ballot."

[McPherson's Manual for 1866-67, p. 49.]

\* McPherson's Political Manual for 1866-67, pp. 19, 20, 24, 49, 52, 55, 154, 159; veto message, January 7, 1867; veto message, March 2, 1867.

† The Richmond Examiner published leading editorials January 25, February 5 and 6, 1866, as follows:

"It would be immeasurably the worst consequence of our defeat in the war that the South should lose its moral and intellectual distinctions as a people and cease to assert its well-known superiority in civilization, in political scholarship and in all the standards of individual character over the people of the North. That superiority has been recognized by every foreign observer and by the intelligent everywhere: it is the South that in the past penned four fifths of the political literature of America, and furnished the list of names best known in Europe either for commanding statesmanship or for personal virtue. That superiority the war has not conquered or lowered, and the South will do right to claim and cherish it."

In the same paper is printed an account of a ball at the Ballard House, given by officers of the Union Army. The writer ridicules and insults Federal sol-

safety to the Government, but that he might bribe them to the support of his policy by the exercise of the pardoning power.

He has restored to rebels property of the value of many millions of dollars, in violation of law and in disregard of the rights of loyal citizens.

He has without authority, without consideration, and in violation of law transferred to corporations controlled by rebels railroads constructed in part by the Government at a cost of many millions, as he has also other property used for insurrectionary purposes.

He has without authority and in violation of law sold railroad rolling stock and other property of the United States of the value of many millions of dollars on a long credit with insufficient security for less than its value to corporations controlled by rebels, and when payments fell due he has corruptly and without authority suspended indefinitely the performance of their obligations.

He has prostituted the power of appointment to and removals from office to the maintenance of his policy, regardless of and to the great prejudice of the public interests, corrupting by it as far as possible all who were base enough to abandon principles, and exerting it in a spirit of proscription and to an extent unknown in any former administration.

diers, and after giving an account of the preliminaries of the ball he proceeds:

"The evening arrives, the Ballard is resplendent; there are the haughty dancers, the massive, gorgeous epaulets, the polished boots, the shining lace, and the ubiquitous brass; there are women, too, and southern women, we blush to say it, leaning on the arms which guided the weapon or perhaps drew the saber in the deadly conflict. The dance goes on. Supper is announced. The band strikes up, and the gay throng passes into the supper-room; we count forty-five ladies in all; but, thank God! we see but few of the Richmond ladies. But stop! whence that joyous-looking, bright-eyed southern girl? Do our eyes deceive us? Can it be? We look again; we doubt; we look again, but it is so. We cast our eyes over the room, but in that crowd we can see only one other lady of Richmond. We know the supper is over; the sound of music breaks forth, and the forty-five ladies are soon again whirling in the dance. The music is delightful: the room glitters with brass buttons and epaulets; but where is the joy for the southern heart? Shall we fawn and truckle, play the hypocrite and smile when our hearts are full of woe? Where are the memories of the battle-field?"

Other articles were published, when General Grant issued the following:

#### HEADQUARTERS ARMIES OF THE UNITED STATES, WASHINGTON, February 17, 1866.

You will please send to these headquarters, as soon as practicable, and from time to time thereafter, such copies of newspapers published in your department as contain sentiments of disloyalty and hostility to the Government in any of its branches, and state whether such paper is habitual in its utterances of such sentiments. The persistent publication of articles calculated to keep up hostility of feeling between the people of different sections of the country cannot be tolerated. This information is called for with a view to their suppression, which will be done from these headquarters only.

By command of Lieutenant General Grant:

T. S. BOWERS,

Assistant Adjutant General.

The Richmond Examiner was suppressed. Mr. Pollard, the editor, came to Washington, sought the President, begged that the order be revoked, and was referred to General Grant. Upon calling to see the latter, Pollard was requested to put his application in writing. The following is a copy of General Grant's reply, indorsed on the back of the application:

Reply to Application of H. Rives Pollard, praying a revocation of the Order suppressing the Richmond Examiner.

The course of the Examiner, in every number which I have seen, has been such as to foster and increase the ill-feeling toward the Government of the United States by the discontented portion of the southern people. I believe it to be for the best interests of the whole people, North and South, to suppress such utterances wherever the power exists to do so. The power certainly does exist when martial law prevails, and will be exercised. Reluctant as I was to pursue this course I have felt it my duty to pursue it in this instance; and as much as I dislike to interfere with the interests of individuals, I would deem it improper and mischievous in tendency to revoke the order for the suppression of the Richmond Examiner at this time.

U. S. GRANT,

Lieutenant General.

In February, 1866, Pollard published a card, in which he says:

"As I am not unwilling that the public should know what pledges I have really given to the author-

He aimed a blow at the Constitution and the liberties of the country by refusing to submit appointments to office to the Senate for their advice and consent, and by retaining men in office regardless of that body.

He made an order removing all penalties from a large number of persons marked as deserters on the rolls of the War Department for the purpose of securing the election of a favorite candidate for Congress in West Virginia, regardless of duty and without evidence.

He assumed a power to dispense with the acts of Congress, and appointed rebels to office in violation of law.

He refused to execute the laws for the punishment of traitors or for the confiscation of their property or that used for insurrectionary purposes.

By his proclamation of April 2, 1866, and other acts, he assumed to himself the right to determine when war had ceased, without consulting the law-making power, by whose authority alone war can be made and peace declared in case of rebellion. The assumption of a power to declare peace, to say when or how long the laws of war shall continue, is simply a power to terminate war at the pleasure of the President, and might be made fatal to national existence.

While these usurpations were being practiced the President maintained the operation of martial law in the rebel States,\* suspending from the right to hold office under the so-called State authority whomsoever he chose,† while maintaining the right to try civil offenders by military commissions‡ and punish at his pleas-

ities at Washington, I append a copy of the letter which I addressed to President Johnson, and upon which his action was based:

WASHINGTON, February 17, 1866.

To the President:

If the publication of the Richmond Examiner is permitted to be resumed I promise that it shall support the Union, the Constitution, and the laws, and the policy of your administration.

I have the honor to be, your obedient servant,

H. RIVES POLLARD.

"This is the sum-total of the pledges given by me. I knew nothing of General Grant's order for the release of the office until I read it in the papers. I saw that officer but once, when he refused emphatically to revoke the order for the seizure of the office. It was evident that I had nothing to hope from him, for he said to me expressly that, if he had the authority, he would that day suppress the New York News, the Cincinnati Enquirer, and the Chicago Times, adding that the 'Copperhead papers of the North,' as he designated them, were doing quite as much harm as the papers in the South. Deriving no satisfaction from him I was forced to appeal to the President, giving him the pledge contained in the letter above. It was written during my last interview with the President and in his own office.

"To his kind and considerate hearing, and to his sense of justice, I feel that I owe the restoration of my paper. Without attempting to enter upon the details of my interview, I may say with propriety that enough transpired to convince me that the President is the true friend of the South, and that it is the duty of our people, as it shall be our pleasure in the future, to extend to him a cordial and generous support."

Upon this pledge to support "Johnson's policy" Pollard was permitted by the President to resume the publication of his paper.

\* House Ex. Doc. 68, second session Thirty-Ninth Congress, p. 8; House Report 16, second session Thirty-Ninth Congress, p. 16; McPherson's Political Manual, for 1866-67, pp. 16, 17.

† Case of Semmes.

HEADQUARTERS DEPARTMENT OF ALABAMA,  
May 17, 1866.

In compliance with instructions from the President of the United States, it is hereby directed that Raphael Semmes be not permitted to hold or exercise the function of judge of the probate court of Mobile county, or any other civil or political office of trust, while he remains unpardoned by the President.

By order of Brevet Major General Charles R. Woods:  
A. RAMSAY MININGEER,  
Assistant Adjutant General.

Judge Bond will perform the duties of the office in the mean time.

Case of Monroe, House Ex. Doc. 68, second session Thirty-Ninth Congress; House Report 16, second session Thirty-Ninth Congress.

‡ The Adjutant General's telegram of April 17, 1866, to General Tillson, and that of the President's Private Secretary to Governor Worth, April 27, 1866, and General Order No. 26, War Department, May 1, 1866; McPherson's Political Manual for 1866-67, p. 17.



ure, his conduct encouraged the rebels to murder in cold blood unoffending citizens in the exercise of their peaceful rights.\*

Professing to regard Louisiana as a regularly organized State, he in violation of the Constitution† authorized the attorney general of that State, a notorious rebel, to call on the national military authorities to aid in the work of suppressing a lawful and loyal assemblage of the people,‡ and though there was "an absolute massacre," "a murder without necessity,"|| by a rebel mob in New Orleans, no one of the guilty perpetrators has ever been brought to justice or punishment.

While thus giving encouragement to rebels to suppress a loyal and lawful assemblage he refused¶ military aid when demanded by the Governor of Tennessee‡ to preserve the peace and execute the laws. Assuming the right to require illegal conventions to be held in seven States at his pleasure, he denied the right of a legal convention to be held in Louisiana.

While many thousands of loyal citizens, including freedmen, were murdered without cause by rebels during his work of reorganization the President failed to cause the guilty perpetrators to be arrested, tried, or punished, and forcibly dissolved a military commission in Virginia sitting for the trial of an acknowledged murderer whom the civil authorities failed to punish, and he is to-day at large and unmolested.\*\*

He has brought reproach upon himself and degraded the dignity of his office by indecent harangues to the people and denounced Congress as "a body called or which assumes to be the Congress of the United States, while in fact it is a Congress of only a part of the States."††

And finally, under his administration, Jefferson Davis—the greatest criminal of the age except Andrew Johnson himself—is at large, never to receive the punishment due to his crimes.

\* House Report 30, first session Thirty-Ninth Congress, joint Committee on Reconstruction; House Report 101, first session Thirty-Ninth Congress, Memphis riots and massacres; House Report 16, second session Thirty-Ninth Congress, New Orleans riots; House Ex. Doc. 72, second session Thirty-Ninth Congress, riot at Norfolk; House Ex. Doc. 68, second session Thirty-Ninth Congress, message and documents on New Orleans riots; House Report 23, second session Thirty-Ninth Congress, murder of Union soldiers; Senate Ex. Doc. 2, first session Thirty-Ninth Congress.

† Constitution, art. 4, sec. 4.

‡ House Ex. Doc. 68, second session Thirty-Ninth Congress, p. 5; House Report 16, second session Thirty-Ninth Congress.

§ House Ex. Doc. 68, second session Thirty-Ninth Congress, p. 11.

¶ Telegram July 17, 1866.

‡ NASHVILLE, TENNESSEE, July 17, 1866.

Lieutenant General GRANT, Washington:

Some of the members of the House of Representatives of the Tennessee General Assembly conduct themselves in a very refractory manner, absenting themselves to prevent a quorum, thus obstructing business. The Governor cannot manage them with the means at his disposal, and has applied to me for military assistance. Shall I furnish it?

GEORGE H. THOMAS,  
Major General Commanding.

The following answer was immediately given:

WASHINGTON, July 17, 1866.

General Grant will instruct General Thomas that the facts stated in his telegram do not warrant interference of military authority. The administration of the peace in Nashville belongs properly to the State authorities, and the duty of the United States forces is not to interfere in any way in the controversy between the political authorities and the State, and General Thomas will strictly abstain from any interference between them.

E. M. STANTON,  
Secretary of War.

\*\* Military commission for trial of James L. Watson dissolved December 21, 1866.

†† Speech August 18, 1866, on receiving proceedings of the Philadelphia convention.—*McPherson's Manual for 1866-67*, p. 127.

I have said enough to prove that the existing State governments in ten of the rebel States were illegally created by executive usurpation and that the President is guilty of high crimes and misdemeanors deserving impeachment.

The "President's policy" finds no sanction in that of his predecessor. Mr. Lincoln never did "during his administration submit to his Cabinet any plan for the reorganization of the rebel States." Neither he nor his Cabinet ever had any plan matured. The time had not arrived when it was practicable. He did indeed appoint military governors who "ranked as brigadier generals in the United States service,"\* and were proper military officers† confirmed by the Senate as such. "There was a difference both of time and circumstance" between what was done by the two Presidents.

"Military governors were appointed during the war, and provisional governors after that." The former were clothed with military power and charged with military duties; the latter were civil officers not appointed "by and with the advice and consent of the Senate," and were charged with civil duties.

The "restored governments" of Virginia, of Tennessee, and of Arkansas was the volun-

\* Order of September 29, 1862.

† House Mis. Doc. 55, first session Thirty-Ninth Congress; House Report 16, second session Thirty-Ninth Congress, p. 37.

President Lincoln appointed the following military governors:

Andrew Johnson, Tennessee, March 3, 1862; nominated to the Senate March 4, 1862, and confirmed same day.

Edward Stanley, North Carolina, May 19, 1862; resigned January 15, 1863.

John S. Phelps, Arkansas, July 19, 1862; nominated to the Senate January 19, 1863; appointment revoked July 9, 1863.

George F. Shepley, Louisiana, June 3, 1862; nominated to the Senate January 9, 1863, and March 9, 1863; confirmed March 11, 1863; resignation accepted June 16, 1865.

A. J. Hamilton, Texas, November 14, 1862; nominated to the Senate January 7, 1864; confirmed April 1, 1864; resignation accepted June, 1865.

On the 6th of June, 1862, a resolution was introduced into the Senate having reference to the appointment more especially, it would seem, of Governor Stanley, whose duties were rather civil than military, in which is declared the office "a post unknown to the Constitution and laws of the Union." (*Globe*, vol. 59, pp. 2447, 2536.)

When the Army appropriation bill was under discussion in the Senate in January, 1863, Mr. TRUMBULL offered an amendment prohibiting the payment of money from the Treasury "as salary for or on account of services" to two classes of persons, when the "office or employment is not authorized by some existing law." To wit:

1. "Any person acting or assuming to act as an officer, civil, military, or naval."

2. "Or in any other capacity in the service of the Government."

Mr. FESSENDEN objected to this discussing both classes. As to persons other than officers he said:

"In time of war there may be many persons in the employ of Government whose employment is not recognized by any existing law, and in the nature of things cannot be." "It is for that purpose that we provide a contingent fund for the use of the Secretary of War."

He then discussed that part of the amendment relating to officers or persons assuming to act as such, and said:

"It applies to another class of men. For instance, there have been some civil appointments made in the nature of civil offices, and they have undoubtedly been paid out of the contingent fund." \*

\* "Take the case of Governor Stanley, of North Carolina. That is not a military appointment." \*

"I suppose it is not the intention of the Senator in offering the amendment to limit the Secretary of War with reference to the discretion he has over the contingent fund." \*

\* "and it would be proper" \*

\* "if the amendment should be adopted so to express it. If it applies to the contingent fund, I suggest to the Senator that he could not possibly give it that extent without creating very serious embarrassment." \*

"Mr. TRUMBULL. I will modify it in that respect so as not to apply to the employment of persons, but confine it to officers."

"Mr. WILSON. Then that objection is to be avoided."

And referring to the case of Mr. Stanley, he added:

"We have some other officers that have not been appointed according to law." \*

"I think we should arrest all these appointments. That is my judgment about it, and I am willing to

tary work of the people.\* The work of reorganization in Louisiana,† inaugurated by a major general of the Army, was a legitimate means of suppressing rebellion, but could not authorize permanent civil government unless ratified by Congress.

President Lincoln's proclamations of December 8, 1863, and July 8, 1864, were made during flagrant war as war measures to induce the people to return to loyalty and not assuming to create valid permanent civil governments. He never did, like President Johnson, declare any State "restored in conformity with the" Constitution. President Lincoln merely invited the voluntary action of the people; but he declared "that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses and not to any extent with the Executive." In the proclamation of July 8, 1864, he said he was "unprepared" "to be inflexibly committed to any single plan of restoration," and Congress has found it necessary to change the plan provided in the reconstruction laws as circumstances pointed out the necessity.

No precedent can sanctify the flagrant usurpations of Andrew Johnson.

If the House of Representatives has not the power or shrinks from the duty of preferring articles of impeachment for the repeated crimes and misdemeanors of which the President has been guilty, then is the Constitution a failure or the Representatives of the people will voluntarily imperil civil liberty forever by a precedent which may give immunity to unlimited executive usurpation hereafter.

A successful impeachment in a proper case for a justifiable cause would be the crowning triumph of republican government, demonstrating that revolution is not, as in monarchies, the remedy for usurpations, and teaching all future Presidents that they are amenable to the Senate and the nation for every attempt to violate the laws or subvert the Constitution.

I proceed to notice some of the fallacies of the veto message. The President argues that the existing State governments in the rebel States are legal, because—

"During that period, whilst these States were in actual rebellion, and after that rebellion was brought

vote for this amendment if it is so framed that it will only affect this class of cases."—*Globe* 1862-63, vol. 61, p. 565.

The amendment was so framed as to prohibit the appointment of provisional governors (charged with civil duties like those appointed by President Johnson) or the payment of their salaries out of the contingent fund or otherwise, and there it stands today a part of the act of February 9, 1863. (See *Globe* 1861-62, vol. 60, pp. 3691, 3138.)

On 29th September, 1862, it was "Ordered, That the military governors appointed by the War Department for States and Territories shall be uniformed and rank as brigadier generals in the United States service."

The appointment of brigadier generals requires the "advice and consent of the Senate."

The duties devolved on these officers (unless Stanley be an exception) were purely military, and unlike the provisional governors appointed by President Johnson.

\* The appointment of Andrew Johnson as military Governor of Tennessee, made after he was confirmed as a brigadier general, did not contemplate reorganization of State governments under the authority of the President, but only by the people, to be ratified by Congress. It was as follows:

WAR DEPARTMENT, March 3, 1862.

SIR: You are hereby appointed military Governor of the State of Tennessee, with authority to exercise and perform within the limits of that State all and singular the powers, duties, and functions pertaining to the office of military Governor, (including the power to establish all necessary offices and tribunals, and suspend the writ of *habeas corpus*.) during the pleasure of the President, or until the loyal inhabitants of that State shall organize a civil government in conformity with the Constitution of the United States.

EDWIN M. STANTON,  
Secretary of War.

Hon. ANDREW JOHNSON.

† House Report 16, second session Thirty-Ninth Congress, p. 37.

to a close, they have been again and again recognized as States of the Union. Representation has been apportioned to them as States. They have been divided into judicial districts for the holding of district and circuit courts of the United States as States of the Union only can be districted."

If this proves anything it proves too much: it proves that the rebel State governments during the rebellion were lawful as fully as it proves the existing creations of the President are lawful. It will give validity to organized rebellions as lawful States.

The war was waged on our part to suppress the rebellion and destroy the rebel State and confederate governments organized in aid of it.

If the rebel State governments were lawful, by what authority did the President at the close of hostilities drive their Governors and Legislatures from power and place and deny them the right to act as such?

The fact that representatives were apportioned to the States and that they were divided into judicial districts did not recognize the existence of any State government at all. The apportionment was to the geographical State, to take effect *in futuro*, when there might be lawful State governments; and judicial districts recognize only geographical boundaries—not the corporate State or State government. National courts may be held, revenue officers and postmasters perform their duties in any State, though its people would refuse to elect State officers or maintain a State government.

The Constitution provides that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

But this refers only to the geographical State.

Again, the President, referring to the rebel States, says:

"They have been called upon by Congress to act through their Legislatures upon at least two amendments to the Constitution of the United States. As States they have ratified one amendment, which required the vote of twenty-seven States of the thirty-six then composing the Union. When the requisite twenty-seven votes were given in favor of that amendment—seven of which votes were given by seven of these ten States—it was proclaimed to be a part of the Constitution of the United States, and slavery was declared no longer to exist in the United States or any place subject to their jurisdiction. If these seven States were not legal States of the Union it follows as the inevitable consequence that in some of the States slavery yet exists."

It is not true that Congress called on these States to ratify any constitutional amendment. The Secretary of State sent the amendment to those States, but their ratification was not necessary, since three fourths of the States having legal State governments can ratify an amendment. And if Congress had directly required the amendment to be submitted to those States their validity would not be thereby established, nor would the ratification by any such illegal State government have any force, unless Congress should thereafter recognize and give validity to the State government, and thus give effect to what had been previously done. By a well known rule of law, if Congress should ratify a State government the ratification would relate back and give validity to certain acts done by that State.

Nor is it true, as alleged, that the Supreme Court has recognized these States. On the contrary, on the 15th of April, 1867, the Supreme Court refused to entertain a bill filed by the so-called State of Mississippi, holding in effect that the *status* of the rebel States was a political question to be determined by Congress, so much so that the court refused permission to amend the bill so as to proceed against the military officers. No suit has been entertained where any one of these States has been a party.

But the President says that cases pending in the Supreme Court on appeal and error

"when the rebellion began have not been dismissed upon any idea of the cessation of jurisdiction."

Again he says, new cases since the rebellion have come to the Supreme Court from these States. And, says the President:

"Finally, in the allotment of their circuits, made by the judges at the December term, 1865, every one of these States is put on the same footing of equality with all the other States of the Union. Virginia and North Carolina, being a part of the fourth circuit, are allotted to the Chief Justice."

I answer that the existence of a lawful or of any State government is not necessary to enable the Supreme Court to exercise its jurisdiction in suits between individuals, and if so, no decision has yet been made on plea or motion on that question. The cases pending are from the national circuit courts—no decision has been made in any case removed from a State court. The judicial circuits exist, and judges are allotted to them, their functions not depending on the existence of a State government. If the Supreme Court had recognized these States as *de facto* political corporations their legal validity would not thereby have been affirmed.

But the Supreme Court in the Mississippi case referred to affirmed in substance that it "is the duty of the President" "to see that the laws are faithfully executed; and among those laws" "the acts of March 2 and March 23, 1867, commonly called the reconstruction acts," which declare these State governments "illegal." That was on an application for leave to file a bill in the name of the State of Mississippi, praying the Court to enjoin the President from executing those laws. Chief Justice Chase said:

"Suppose the bill filed and the injunction prayed for be allowed. If the President refuse obedience, it is needless to observe that the Court is without power to enforce its process. If, on the other hand, the President complies with the order of the Court, and refuses to execute the act of Congress, is it not clear that a collision may occur between the executive and legislative departments of the Government? May not the House of Representatives impeach the President for such refusal? And in that case could this Court interpose in behalf of the President, thus endangered by compliance with its mandate, and restrain by injunction the Senate of the United States from sitting as a court of impeachment? Would the strange spectacle be offered to the public wonder of an attempt by this Court to arrest proceedings in that court? These questions answer themselves."

And this decides a question on the law of impeachment of great practical moment at this time.

But I will not pursue these fallacies of the President further.

A few words as to the President's objection that these States are made "subject in all respects to the military commanders," and I will not trespass longer on the patience of the House. He says:

"The veto of the original of the 2d of March was based on two distinct grounds: the interference of Congress in matters strictly appertaining to the reserved powers of the States, and the establishment of military tribunals for the trial of citizens in time of peace."

I affirm that these military reconstruction acts are justified by the Constitution. It is a universal rule under the Constitution that where Congress is clothed with a power they may employ any and all reasonable means in their discretion to carry it into effect. (4 Wheaton, 316; 3 Howard, 609; 5 Elliott's Deb., 492; 1 Wheaton, 325.)

Congress is clothed with the power to guaranty republican governments to the rebel States. The military reconstruction acts point out the means deemed necessary to effect the object. Congress is the sole judge of their wisdom, expediency, and necessity. From their decision there is no appeal. The means employed are not those which might be adopted among a loyal people, but the remedy must be equal to the occasion which calls for its exercise. Experience has shown that nothing less

than these reconstruction acts will accomplish the purpose. They simply propose to accomplish in *pursuance of law* what the President attempted *without law*. These acts set aside illegal State governments: Andrew Johnson by military orders and by force set aside the illegal rebel State organizations.

They provide for conventions to form lawful State governments and prescribe the qualifications of voters: the President without law assumed to do this by his own proclamations. The military commanders are authorized to remove local civil officers, but Andrew Johnson did the same. He wiped out of existence by a few brief military orders all the officers of seven rebel State organizations and afterwards removed others at his pleasure. He governed by military power when the defeated rebels were humbled and ready to "accept the situation;" and now, when under his policy they are arrogant and give no protection to the life, liberty, or property of loyal citizens, Congress authorizes the exercise of military power in view of a greater necessity.

Though flagrant war has ceased that condition of society yet exists in ten of the rebel States recognized by writers on international law as a state of war—*non flagrante bello, sed nondum cessante bello*. This justifies the exercise of military power until peace *in fact* as well as in name has "returned to bless the land."\*

\*The President is therefore guilty of high crimes and misdemeanors in this—

I. That he did, in the year 1865, unconstitutionally and in violation of duty, corruptly neglect and refuse to convene the two Houses of Congress, with intent to prevent the Congress from enacting laws regulating the government of the States declared in rebellion and preparatory to or providing for the reorganization of civil State governments in said States, and with intent to assume and exercise the power to authorize, regulate, and control the work of such reorganization himself, and to deny the right of and exclude the exercise of such power by Congress.

II. That he did, in the year 1865 and 1866, by sundry proclamations, telegrams, letters, and orders, unconstitutionally, in violation of duty, and corruptly, assume, usurp and exercise the power to create the office of provisional governor, an office unknown to the Constitution or laws, and to appoint to said office provisional governors in seven of said insurrectionary States; to require them to cause elections to be held for members of conventions to make or amend constitutions of State governments and to organize civil governments in said States; and in like manner he did prescribe the qualifications of electors and members of said conventions by means whereof such members were elected and such conventions held and State governments organized in said States; and he did in like manner employ the military power of the Government to aid in executing his said purposes with intent to subvert the power of Congress to exercise its powers himself, to decide whether and when such governments so created were republican in form and to recognize them as such, to disfranchise the freedmen of said States, and cause to be organized and recognized civil State governments which should permanently disfranchise and deny civil and political rights to said freedmen, and with intent to secure to rebels and traitors the permanent ascendancy and control of said States and the power thereof in the Government of the United States.

III. He did, in like manner and with like intents, repeatedly, after such illegal State governments were organized, declare them and recognize them as "entirely restored to all their functions as States in conformity with the organic law of the land," and did refuse to submit the question of their validity and recognition to Congress, but denied their right and power over that subject, and did corruptly exercise the veto power to accomplish his said purposes.

IV. That, for the purpose of accomplishing his purposes aforesaid, he did, unconstitutionally and corruptly, exercise the powers in him vested as President and others not delegated to him as hereinbefore shown, and did deny that the Congress of the United States was such Congress, and otherwise sought to bring Congress and its members into odium and contempt with the people.

The President is also guilty of high crimes and misdemeanors in this, that—

I. He did, in April and May, 1866, unconstitutionally and without authority of law, usurp and assume to exercise the power of declaring the insurrection and rebellion existing in the rebel States at an end and that a state of war had ceased, with intent to subvert the Constitution and the authority of Congress, to withdraw from the loyal citizens of said States the protection of the United States, and to secure the permanent establishment of so-called State governments in said States set up in pursuance of authority previously usurped by the President in violation of the Constitution.

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## Reduction of the Currency.

## SPEECH OF HON. BENJ. F. BUTLER,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

November 26 and 27, 1867.

The House being in the Committee of the Whole on the state of the Union, and having under consideration House bill No. 39, relating to the reduction of the currency—

Mr. BUTLER said:

CHAIRMAN: Having been so pointedly and directly called upon by the gentleman from Maine [Mr. BLAINE] to reply in some small degree as I may to his criticisms upon what he has been pleased to term my financial scheme I may have to ask the House, as I have neither a speech written nor printed, and must speak, therefore, with great slowness, because one cannot speak glibly on the grave subjects of finance unless he speaks from a written or printed paper—I may therefore be obliged to ask the House, contrary to my wont, to give me a little more time to say as much in reply as the gentleman from Maine has upon his chosen ground of attack. I am sure the courtesy of my brother members, knowing I have never spoken long, will yield me that favor.

The gentleman from Maine seeks in the first place to meet this great question of the finances of the nation, more important than any question we have settled except the question of slavery, by an argument to the prejudice of the House, knowing full well that the gentleman from Ohio [Mr. Pendleton] may have some theories on this question and political opinions in general which are distasteful to this House. He has sought to prejudice the argument at this point by coupling the views expressed by me with those expressed by the gentleman from Ohio. Now, why should he do that if he has a good case? My argument, sir, will be neither better nor worse, my views are neither more nor less correct, because they are agreed to by a gentleman from the West with whom on other questions I disagree. It is because the gentleman from Maine attempts to meet this question, I respectfully submit to the House, not by argument, but by prejudice.

The views entertained by Mr. Pendleton and the views which I have put forth differ in this: so far as I understand him—and if I do him wrong it is because I have not seen any authoritative exposition of his position—he would issue legal-tender notes to an amount sufficient to take up all the national interest-bearing bonds that may become due; he would by the fiat of the Government issue promises to pay without interest, to be used as currency in excess, it may be, of the wants of the country, to cancel the interest-bearing debt. The only proposition which I hold in common with Mr. Pendleton is that by the law of the land and by the legal interpretation of the words of the contract five-twenty bonds are payable, not in coin, but in lawful money of the United States.

Mr. PRUYN here said: Mr. Chairman, with the permission of the gentleman from Massachusetts I beg leave to say that I do not understand the views of Mr. Pendleton to be as broad as has been stated by the gentleman from Massachusetts. I understand Mr. Pendleton to hold that by the terms of the law which authorized the issues of the five-twenty principal may be paid by the Government in paper, as they were paid for to the Government by the purchasers, but that if a sound system of finances be established, and the Government expenses be properly reduced in accordance with the views just urged by the gentleman from Maine, the whole of the Government debt will soon be placed upon a thoroughly sound footing, and the question now under discussion will be of comparatively little importance.

Mr. BUTLER. I have no authority to speak for Mr. Pendleton. I never exchanged a word

with him by letter or personally in my life. I know nothing of his views except what I see in the public papers, and I say the only thing in common between us is, that I hold, as I suppose he does, that, by the letter, by the spirit, and by the justice of the contract, the five-twenty bonds are payable in the lawful money of the United States.

Now, there are three grounds upon which the gentleman from Maine [Mr. BLAINE] insists that this is not so. He says first, by the letter of the law the five-twenty bonds are payable in coin. Let us carefully examine that proposition. And in order to understand precisely how the law applies, take it with you that up to the time of the issuing of the five-twenty no loan of the United States had ever been issued payable in anything else than coin. The gentleman says no loan had ever been issued in which anything was said as to what was the currency in which it was payable. Why? Because up to that time there was never any currency known to the Government of the United States other than coin. Therefore the seven-thirties of 1861 and the 1881 sixes of 1861, with all the debt prior to the war, were, in letter and in spirit, payable in coin. Because Congress in issuing them was dealing with a condition of things and a currency then existing, and therefore the 1881 sixes are payable, according to the fair spirit of the contract, in coin. Therefore I enunciate, as my first proposition, and one that I shall endeavor to enforce on the House and the country, that every dollar of indebtedness of the United States which is contracted by the acts of Congress making it payable in coin shall be paid in coin although it takes the last dollar to pay it; but every debt contracted not payable in coin shall be paid in the lawful money of the United States, such as you paid your soldiers with and such as you furnish to your citizens; such as alone is now used as money of the Government, and upon which alone you impress the image and superscription of the Government as a guarantee that it shall hereafter be made good.

Now, then, when the argument is pressed upon me that in the loan bills passed previously to the five-twenty loan nothing was said as to the currency in which the bonds should be paid, I reply that there was but one currency at the time they were passed in which they could be contracted or payable. But that state of things changed on the 25th of February, 1862. The Congress of the United States had to provide means for carrying on the war; accordingly it passed a law, the first section of which provided for \$150,000,000 of legal-tender notes, the language of which, as to their validity and effect, is in these words:

"And such notes, herein authorized, shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind, due to the United States, except duties on imports, and for all claims and demands against the United States of every kind whatsoever."

Except what?

"except for interest upon bonds and notes, which shall be paid in coin; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interests as aforesaid."

These are the provisions of the first section of the act thus creating "a lawful money," payable and receivable for every debt, public or private, known to the law or known in the United States, except what? Except interest on the bonds and notes of the United States.

Now, what does the second section provide? It authorized \$500,000,000 of bonds registered or coupon, payable at the option of the United States in five years, and in twenty years at all events. Payable how? Let me read again, so that I may not be mistaken:

"to an amount not exceeding \$500,000,000, payable in twenty years from date, and bearing a rate of six per cent., payable semi-annually."

Not a word is here said as to the money in which these bonds shall be paid, either as to principal or interest. And why? Because

the very section preceding had provided that the interest of all notes or bonds of the United States should be paid in coin, and had further enacted another lawful money which should be receivable in payment of all indebtedness of the United States whatsoever, except duties on imports, and interest on the public debt. Is not the principal of the debt, an indebtedness other than interest?

There is the plain letter of the law. I need not discuss this point further. If there is any lawyer who, reading this law without taking into consideration anything except what stands on the statute-book, will tell me that this law enacts that the principal of the five-twenty bonds is payable in coin, then "for him have I offended," and either he is or I am so stupid as not to be worthy of an argument.

But the gentleman does not leave his proposition upon this only. The next ground he puts it on is, what this or that Congressman said or omitted to say in his speech as to the currency in which this loan should be paid. And the first evidence of the contract he puts forward is that the honorable member from Pennsylvania, [Mr. STEVENS]—not now in his seat—did not say, at the time the act was passed, that the principal was payable in currency. Well, the gentleman from Pennsylvania sets forth in a letter recently written by him as a reason why he did not say it was payable in currency, that he did not think anybody but a fool would think it was not. That is not my language; it is his; that is the ground he puts it on; and when he comes in he and the gentleman from Maine can fight the battle out. I am quite certain that the old man sarcastic will take care of himself when he does get here without any aid from me; and therefore I pass from further consideration of this topic.

But it is said that various speeches were made on the one side and the other, which are cited to interpret this contract. I had supposed that there is no better settled rule of interpretation of either public or municipal law, or of the law of nations, than that nobody is bound by any portion of the negotiations or any portion of the declarations made either in regard to a treaty or a law prior to the enactment of the law or conclusion of the treaty, because the enactment settles the terms of the whole obligation, and you cannot go to the speech of this member or that member, in case of legislation, to find out what the legislation means, nor can you go to the protocols and negotiations prior to a treaty to find out what the treaty means. You must take it upon the letter, and I have never yet found any man bold enough—until my friend from Maine exhibited a degree of courage much superior to any bravery required to face Minie bullets in the field—bold enough to insist that the letter of the law did not authorize payment of the principal of the five-twenty bonds in lawful money of the United States.

The next class of arguments that the gentleman from Maine puts forward on this question is the proposals in the advertisements of those he terms the authorized agents of the United States who disposed of the loan. Allow me here to say that for contracting a national debt I know no other authorized agent of the nation but the Congress of the United States; I know no broker, whether he is in the Treasury office or out of it, that has a right to fix the terms of the national debt for the United States. No man is authorized to pay a dollar of money unless appropriated by the Congress of the United States, and therefore no man can contract a dollar's debt unless authorized directly and distinctly by an act of the Congress of the United States. I agree that Mr. Jay Cooke advertised, after some sort, when endeavoring to sell it, that the principal of this loan was payable in coin; but in the same newspaper you find another of his advertisements, intended also to sell the loan, that "a national debt is a national blessing." Are we bound by contract to that? If, as the gentleman claims, we are bound by advertisements in the one

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case, we are bound as well in the other; and does my friend insist that Mr. Jay Cooke has bound the country to the proposition that a national debt is a national blessing to anybody except bankers? With that amendment I might agree to the declaration. When I called the attention of the country to this some little time ago, Mr. Jay Cooke, for whom I have very high respect, wrote me that I was mistaken; that what he did advertise was that a national debt rightly managed was a national blessing. I am at issue with him upon that. I insist that a national debt managed any how, by anybody—the Angel Gabriel or Jay Cooke or any other body—is not a national blessing. [Laughter.] No management of a national debt can make it a national blessing. And yet, if we are bound by brokers' advertisements, we are bound to the doctrine that it is a national blessing which we must enjoy and bequeath to our posterity forever!

The next evidence which the gentleman from Maine presents in support of his contract to pay the five-twenties in gold is the declarations of Secretaries of the Treasury. Now, no Secretary of the Treasury had a right to make any declarations on this subject which can be binding on the country. The gentleman does not claim that he had; he only says that Congress stood by and saw the Secretary make declarations and did not interfere. Once for all, I protest against Congress being bound by what Secretaries do or do not do that Congress does not interfere with. If you once admit that doctrine you will involve Congress in difficulties which it will take a long time and great wisdom to unravel.

But no one of the Secretaries ever has said that the contract is that the principal of this loan is payable in coin; and if there has been disingenuousness on this subject it has not been on our part, but on the part of the Secretaries in their attempts to interpret this law so as to sell the loan. The first thing said about the probability that this debt would be paid in gold was in the answer of Secretary Chase to a letter sent him from abroad—Frankfort, I believe. It was said in that letter—I do not give the words, but the substance—"It is not understood here in Frankfort that these bonds are payable in gold. If it should be so understood they would bring a much higher price." Why was it not so understood? Because a foreign lawyer reading the act would never think of such a thing for a moment. The bonds were selling—for what? For forty cents on the dollar, and that at a time when the confederate loan was at a premium in Europe.

Now, I will not think so meanly of this country as to believe it could be supposed these bonds were payable in gold, and then were at this discount even in Europe, which was against us. And I will not think so meanly of this nation as to believe that there could have been any question in the minds of the people of Europe as to our being able to pay more than thirty per cent. of our debt in gold if such had been our plain contract and obligation. No, sir; the bankers in Europe of that day were simply betting as to whether we should pay our paper money in gold; they were betting on that proposition when they were buying our bonds at from sixty to seventy per cent. discount. They knew that every other Government that had issued paper money had depreciated it, and the question was whether we, who set out here so differently from other Governments, would in the end depreciate our paper money.

This letter was sent over here as a stock-jobbing proposition to Mr. Chase. How did he answer it? Through his Assistant Secretary. The answer all will remember. "The Government of the United States has always paid all its obligations in gold, and it is to be presumed that it always will." It was an evasive answer—an answer tending to mislead; whether intended so to do I do not know or say.

What was the next act and declaration of a Secretary of the Treasury? Mr. FESSENDEN is cited. I have a bone to pick with Mr. FESSENDEN upon this subject. I am very glad he has been brought in here, for I should have felt some delicacy in saying a word about him, as he is a member of the other House, had not his friend from Maine [Mr. BLAINE] brought him upon this floor in his capacity of Secretary of the Treasury. I can therefore deal with the Secretary of the Treasury as roughly as I please, without infringing upon the courtesy due to a Senator of the United States. Mr. FESSENDEN, as Secretary of the Treasury, was called upon to say whether the three-year loan Treasury notes, issued in 1861, when there was nothing but gold to pay with, and for which gold was paid by the people to the Government, was payable in coin or in currency. He decided that these gold-bought and gold-contracted notes were payable in currency; and the whole of that issue, put forth at a time when there was nothing but gold as currency, for which the faith of the country was pledged, under the decision of Mr. FESSENDEN, had to be received by the people (who paid for it in gold) in paper, or they were compelled to convert it into such bonds as the Government chose to give them.

Mr. BLAINE. Will the gentleman from Massachusetts [Mr. BUTLER] allow me to read one sentence?

Mr. BUTLER. Certainly.

Mr. BLAINE. The decision in regard to the payment of the first series of seven-thirty notes was made on the 18th of May, 1862, by Salmon P. Chase, Secretary of the Treasury, in these words:

"The three-year seven-thirty Treasury notes are part of the temporary loan, and will be paid in Treasury notes, unless the holders prefer to exchange them," &c.

That was three months before Mr. FESSENDEN went into the Treasury. He found the question *res adjudicata*. The gentleman is all wrong in charging this upon Mr. FESSENDEN. There is not the remotest foundation for his assertion.

Mr. BUTLER. The House will judge whether I was wrong, without the *dictum* of my friend from Maine, [Mr. BLAINE.] I did not say that Salmon P. Chase was not guilty of the same thing; I only said that WILLIAM P. FESSENDEN was guilty of it; that is the distinction. [Laughter.] If Salmon P. Chase had broken the faith of this Government—if he had said that, although the Government had received gold in the hour of its necessity, immediately after the first battle of Bull Run, the darkest day the Government ever saw, and had pledged gold in return—for then we paid gold to meet all our obligations—if Salmon P. Chase, on the 18th of May, 1864, when called upon to say whether we should pay gold for the gold we had received, broke the faith of the Government, if he was one of those repudiators and scoundrels and knaves we hear of so glibly when we attempt to discuss this question of finance, why did not and why should not Secretary FESSENDEN overrule him when he became Secretary of the Treasury? If so great a wrong was *res adjudicata*, it was *res* very badly *adjudicata*, and should have been forthwith set right.

My friend does not pretend that Mr. FESSENDEN altered this; and when we, who believe in maintaining the faith of the nation, but not in oppressing the people with taxation, are attacked on all hands by hard words and strong inferences, and when, to get us down, we are yoked up with everybody who happens to have had political sentiments, I would ask who was the first repudiator? The gentleman chooses to cite Mr. Chase as the promisor of this bad note. Be it so; I am dealing only with the indorser, WILLIAM PITT FESSENDEN. He indorsed it and acted upon it. By his decision the seven-thirty notes of 1861, issued when

there was no other currency, were caused to be paid in greenbacks, and the gold-paying public creditor was obliged, for his gold paid to the Government, either to take his pay in greenbacks or convert his Government notes into bonds; and that whole loan was thus redeemed. And on what ground was this so great a wrong on the public creditors perpetrated? It was said by the Secretary that this three-year seven-thirty gold loan was a temporary loan only. Oh, then, it is right to cheat the temporary creditors of the Government, the hand-to-mouth men, who loan their hard coin for a few days to save the Government; but the long-bond creditors of the Government you must not cheat; you must let them cheat you. Is not that the proposition? Is there any escape from it? Is not that the Maine doctrine of finance, if you please? [Laughter.] My friend here from Maine, [Mr. BLAINE,] following in the footsteps of the Secretary of the Treasury from Maine, holds it to be in the last degree wrong if we do not pay principal and interest of our debt in gold. He invokes us, in the name of national honor, national faith, and everything else that is sacred, to save the long-bond creditor, who bought our bonds for currency, while the short creditor, who paid for his notes in coin, has lost his gold by the action of the Secretary of the Treasury from Maine. We have had many things good from Maine—among others a "Maine law"—and now we have got Maine finance. I repudiate the last, and I am afraid my State has repudiated the other. [Laughter.]

The next authority adduced by the gentleman in support of his contract to pay gold for the five-twenties bonds is Secretary McCulloch. Well, if this House proposes to be bound by the financial theories of Secretary McCulloch I should hardly wish to argue this question further. But even Secretary McCulloch does not undertake to say that there is a contract to pay gold for these bonds. When asked by a foreign banker, "What is the contract as to the payment of the principal of the five-twenties?" what does the Secretary reply? Does he say that the contract is to pay in gold? Oh, no; he says that all the Government obligations that have fallen due have been paid in gold, (he forgot that temporary loan,) and that it is the policy of the Government to pay all its obligations in gold. I agree with him; such is the policy of the Government. But that is not the question. The question is, what has the Government contracted to do, and what is it able to do? I wish that we could pay this enormous debt in gold, or in anything else, so that we could relieve the people from taxation. You will find running all through this letter of Secretary McCulloch an evasion of this question. What is the contract by law?

When the \$900,000,000 loan, commonly known as the ten-forty loan, was issued, what did the Secretary of the Treasury do? Of the six per cent. five-twenty loan, (which the gentleman from Maine contends was payable in gold,) he says only some \$25,000,000 of the \$500,000,000 authorized had been issued; yet he makes the Secretary of the Treasury guilty of the absurdity of attempting to put on the market \$900,000,000 of the five per cent. ten-forty loan as a competing loan, expecting to get that taken up, when he could not get his five-twenty six per cent. gold-payable loan in principal and interest taken up. Why did he do this? If both loans were payable in gold, he must have been entirely demented. But no; the ten-forty five per cent. loan was payable, principal and interest, in gold by its terms; and this same Secretary of the Treasury, through his brokers, advertised this ten-forty loan as the only one the principal and interest of which were payable in gold. And nobody objected in this House. I was not here then; but where was the eloquent voice of my friend from Maine protesting against selling this five per cent. loan upon an adver-



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Reduction of the Currency.—Mr. Butler.

HO. OF REPS.

tisement that it was the only loan payable, principal and interest, in gold? Why did he allow the public creditors to think that the only loan payable in gold was the five per cent. loan; that the six per cent. loan was not payable in gold? This only illustrates the fact that, in interpreting public law, we must not deal with what members of Congress do individually, but we must be bound by the statute.

Mr. BLAINE. Does the gentleman mean to say that the Government agents advertised that the ten-forty loan was the only loan payable in gold?

Mr. BUTLER. Yes, sir; I do. Certain Government agents, called the New York Tribune, the New York Times, or the New York Evening Post, contained that advertisement, and if the gentleman will go there he will find it.

Mr. BLAINE. Authorized by whom?

Mr. BUTLER. Authorized by the Secretary of the Treasury, so headed. It was a little difficult at that time to find out who the negotiators were. That was the advertisement. You can find it. If I had known this question was to arise at this time I would have had the advertisement to present to the House.

Mr. BLAINE. I gave the gentleman notice some days ago that I should speak on this subject.

Mr. BUTLER. True. But while I presumed the gentleman would speak on this subject, it never entered my conception that he would make such a speech as he has. [Laughter.]

If the gentleman will tell me why it is that we are to construe this law differently from any other law I will be obliged to him. If he will inform this House why the people of this country should tax themselves to the amount of many millions, (\$400,000,000 is the difference this day and this hour,) whether these five-twenties are payable in gold, as gold stood yesterday, or in greenbacks.

The only answer suggested is, why agitate this now. These loans are not payable now, and therefore we may wait until the twenty years are out, when we all believe greenbacks and gold will be correlative terms. I believe so, too, in twenty years; but in the meantime the interest on these five-twenties is sinking this country, the labor, the manufacture, and the commerce of this country, to a degree that even its vitality and its strength will hardly be able to meet it.

What is the rate of interest on the five-twenties? Six per cent. in gold, payable semi-annually, gold being at 140 to 145, equal to 150 and upward. That makes nine per cent.; they are exempt from State and municipal taxation, which makes from two to three per cent. more. So on these almost two thousand million of interest bonds the people of this country are paying at this day and at this hour, either by remission of taxes or otherwise, in the currency of the country, from eleven to twelve per cent. What is the consequence? They could stagger under this burden of taxes if needed to pay the soldiers; they could deal with this burden of taxes if it even were to be thrown into the sea; but the difficulty is that paying this high rate of interest on these five-twenties of from eleven to twelve per cent. causes capitalists to withdraw from legitimate business and keep their money in these bonds. See how it operates. I have my money in five-twenty bonds at eleven per cent., and I am told that I am to have gold at the end of the twenty years for the principal besides. You cannot tempt me, then, to go into any enterprise which shall not promise me more than eleven to twelve per cent. I must have much more before I will take my money out of Government securities and put it at the risk of business. And it is this high rate of Government interest which is crushing the life out of the industrial pursuits of the people. There can be no mistake about this. Look at the market reports of Cincinnati, one of the great

marts of the West. No money can be got there for less than fifteen to eighteen per cent. Why? Because our capitalists get from eleven to twelve per cent. on five-twenties, and they are encouraged to hold on to their bonds and keep their money out of the business of the country; because the gentleman from Maine tells them that the Government will pay the principal in gold, although they paid but forty cents on the dollar for them when they bought them. This is the reason why this five-twenty loan is crushing our people, and why we must get rid of it at all hazards consistent with national honor and national faith, and no man asks that to be broken.

But I am told if we undertake to pay any portion of this debt in greenbacks we shall depreciate greenbacks so that they will be worthless; that there will be an inflation of prices. The gentleman from Maine riots in imagination over the picture of the payment of \$200 for a pair of boots if we issue any more legal-tender notes, that is to say, notes not bearing interest.

Speaking of greenbacks, I am reminded of one thing to which I meant to have adverted to on the question: of the nation's being bound by the advertisements by which its bonds were sold. My friend says we did not notify capitalists that we would claim the right to pay these five-twenty bonds in any other way than in coin. Why we put it upon \$150,000,000 of United States notes, and thus advertised everybody we did not mean to pay them in gold. This notice was put on the back of every greenback. Let me read from one:

"This note is a legal tender for all debts, public or private, except duties on imports and interest on the public debt."

There is "*inclusio unius exclusio alterius*" for the gentleman.

Mr. BLAINE. If the gentleman will allow me, I hold two notes in my hand, one of which contains precisely the words the gentleman has just read. But does the gentleman say that this is the lawful money authorized by the act of February 25, 1862?

Mr. BUTLER. Yes, sir.

Mr. BLAINE. I deny it.

Mr. BUTLER. Now, then, let us see. I will compare this indorsement on the note with the law which I have before me. The second section of the law reads thus:

"Shall be receivable in payment of all taxes, internal duties, excises, debts and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except interest on the public debt and customs."

Mr. BLAINE. Will the gentleman allow me to make a statement?

Mr. BUTLER. Yes, sir.

Mr. BLAINE. The act of February 25, 1862, was the first legal-tender act. It is true, the notes were made a legal tender for all debts public and private, but they were also convertible into five-twenty bonds. Now, the gentleman places himself on the ground that whatever was by contemporaneous construction lawful money the Government was bound to pay. I assert that the law for the issue of the five-twenties of 1862 was embraced in the same act which authorized the issue of \$150,000,000 of legal-tender notes which were themselves convertible into five-twenties. Now, if the gentleman will stick to his own words, then the Government can only pay off these five-twenties by issuing a like amount of these same legal-tender notes, on the back of which are printed these words:

"This is a legal tender for all debts, public and private, except duties on imports and interest on the public debt, and is exchangeable for United States six per cent. twenty-year bonds, redeemable at the pleasure of the Government after five years."

Therefore, if, as the gentleman contends, these bonds are redeemable at the Treasury in the kind of money which was declared a legal tender when they were issued, they must be paid in this kind of notes. In that case the

Treasury of the United States would be receiving the five-twenty bonds at one door and issuing the legal tenders at another, and then again issuing the bonds and taking back the legal tenders, and so they would go round and round the circle.

Mr. BUTLER. And you do not think that desirable. [Laughter.]

Mr. BLAINE. Does the gentleman think it desirable to have a revolving wheel at which one class of men shall stand in a row for the redemption of their bonds, and another for a reissue of the same? Is that the gentleman's idea of finance? The gentleman adheres to the exact letter of the law.

Mr. BUTLER. The difference between my friend and myself is this: I was putting advertisement against advertisement.

Mr. BLAINE. And I law against law.

Mr. BUTLER. There is no law of this exact form, and it is not the exact form of the law or of the advertisement. I was only putting advertisement against advertisement. I will answer the gentleman, if I have time, that I do think it is desirable to have a currency, and if Congress agrees with me we will have a currency before we get through exactly like what the gentleman describes, so that when a man wants money he can give the Treasury his Government bond and get it, and when he gets through using his money he can go back again and get his bond. That is exactly the thing I want, and I hope to get it if I live long enough.

Mr. BLAINE. And issue \$2,000,000,000 of legal tenders.

Mr. BUTLER. I have not said I wanted \$2,000,000,000 of greenbacks issued. I only want so much as will be absorbed in the needs of the business of the United States.

But this episode takes me a little way out of my course. I was upon the question whether there would be depreciation, whether there would be inflation if more legal tenders were issued to supply the wants of the country for currency, when I turned aside for a moment to speak to the question of advertisements on the back of the greenbacks.

The common idea is that there will be inflation when you issue paper money. It is drawn from the old idea of bank circulation. A bank issued its notes without any basis except the gold basis. That gold basis was sometimes one to four. Let me illustrate: suppose there were four hundred millions of bank paper in circulation on one hundred millions of gold as a basis, then I agree it would be an inflation to issue another one hundred millions, making the relation of the paper dollar to the gold dollar as one to five. But what is a greenback? Have gentlemen considered? A dollar greenback as it stands to-day is one twenty-five hundred millionth part of the debt of the United States, secured by a mortgage upon every dollar of public or private property in the United States. Is it not that, under my theory or anybody else's theory of finance? Now, suppose we issue five hundred millions of greenbacks, and pay up five hundred millions of the interest-bearing debt of the United States, what is a greenback then? Why, it is still one twenty-five hundred millionth part of the national debt of the United States, appreciated, and not depreciated, by the amount of interest which we have saved by buying up five hundred millions of the interest-bearing debt. The way to test it would be this: suppose we could issue the whole amount and pay all interest-bearing debt at once, then the one hundred and fifty millions of customs which we have to pay for interest without getting ahead in payment of our debt at all could be directed to redeeming the greenbacks. There is a limitation on this power of issuing greenbacks, and only one, and that limitation my friend does not seem to understand. It is this: these greenbacks are non-interest-bearing notes, and therefore they can only be issued in such quantities without depreciation in fact, as will be

absorbed by the community to the degree that they are required for business purposes. They may be issued to the degree they will be absorbed as currency. I think that the country can bear to-day some two hundred millions more of them, not issued primarily and arbitrarily for the purpose of paying off the interest-bearing debt, but issued for the purpose of providing a currency for the country which should not be so contracted as to bring ruin, as now, upon the business interests of the country. When you have issued two hundred millions more of these greenbacks and paid your interest-bearing debt with them, have you altered their relation to property, to each other, or to gold? Are they appreciated or depreciated? Appreciated, in fact, because you save the interest on the two hundred millions which you have paid off with them; depreciated if you issue more than will be absorbed as currency, because business men do not want non-interest-bearing notes on hand; and if they are not needed as currency they will sell them at a discount for some property that will pay interest.

Now, then, sir, let me state, for the benefit of my friend, my proposition of finance, and the House can contrast it with any other that may be better, and there will be found better I doubt not. There are now some two thousand five hundred millions of debt. Some two thousand millions of it stand in the shape of interest-bearing debt. There are nineteen different kinds of that description of debt bearing different rates of interest and times of payment. There are some five hundred millions, more or less, in various forms of non-interest-bearing debt, gold certificates, legal-tender notes, and others. Now, my proposition is that, in the first place, we should substitute greenbacks for the national bank currency, releasing to the banks the bonds which we hold as security for that national bank currency. It can be done without shock to the business of the country.

[At this point Mr. BUTLER gave way to a motion that the committee rise. The motion was agreed to, and the House adjourned.]

WEDNESDAY, November 27, 1867.

The House being again in Committee of the Whole on the state of the Union on the same subject—

Mr. BUTLER said:

Mr. CHAIRMAN: When the committee rose I was endeavoring to put before it the way in which the national bank circulation might be withdrawn from the banks and legal-tender notes substituted without shock to the business of the country. I agree, sir, that any proposition of legislation is vicious which tends in any considerable degree to interfere with the industrial pursuits of the people, but I propose we should enact in some proper form that the Secretary of the Treasury should each month retain in the Treasury all the national bank bills which have been collected by the collectors of the internal revenue, or which have come through other means into the Treasury of the United States, and at the same time should issue to the banks, if they desire to receive them, or to issue in payment of the interest-bearing notes which are payable in currency an equal amount of legal tenders. In a very few months, four or five, the national bank notes would be withdrawn from circulation and their place supplied with greenbacks without any shock to the business of the country; and, *pari passu*, the bonds of the banks held as security for these notes could be restored to them. This proposition, sir, if carried out would put into circulation some three hundred million dollars more of national legal-tender notes without increasing that circulation, and release the country from the payment of between twenty and thirty million dollars in currency which is now paid to the national banks on these bonds, and the place of their bills would be taken by the non-interest-bearing notes of the United

States without any shock to the business of the country.

What objections are urged to this proposition? The first is that it would be a breach of faith with the banks. I would like some gentleman to put his finger upon any act of Congress by which we pledged ourselves for a single day longer than good pleasure and discretion of the Congress of the United States thought best to allow this bank currency to exist. What effect would it have upon the banks? Those dependent wholly upon their circulation, which are not in fact banks of loans and deposits, would wind up, and their managers would seek some other and equally honest employment. Banks that are needed would still be banks of loan and discount, but not of circulation.

It is said that the banks furnish now the best currency this country ever saw, because it is the same in New Orleans, Boston, New York, and Chicago. But what is the currency? It is the notes of the bank. What makes them equal all over this country? It is the indorsement of the United States. So that we have come into this very remarkable position, that when a bank breaks its currency is better than when it was solvent, and sells at a slight premium. Therefore, as the United States is primarily responsible for all the circulation, we ought to supply the currency to the people and receive the profit of doing it.

But it is said that the banks really cost the United States nothing. One of the ablest bankers of them all, Mr. Jay Cooke, has undertaken to tell us that the banks pay in taxes a large amount, and therefore in equity we ought not to disturb them. Sir, if Mr. Jay Cooke or any one else will tell me of any business in this country that is not taxed and does not pay a large amount of taxes, then I will agree that the banks are not favored. Take for example a manufacturer. Take a single case, only two years ago, in the State of Massachusetts, of a manufacturing corporation of \$750,000 capital and of \$1,500,000 annual product of manufactured goods. It exactly divided profits with the United States. Its stockholders received two dividends of five per cent. each on \$750,000, and it paid five per cent. tax on the entire amount of production, \$1,500,000; so that they in fact took the United States into partnership, only the United States got all the profits, but the stockholders bore all the loss. Now, if there is any greater or more onerous burden of taxes on the banks than that, I have yet to learn where it is.

Again, it is said that this banking system is a better one than we ever had. For some purposes so it is. And it is said, further, that if we do not encourage it we shall go back to the old State bank system. No, Mr. Chairman, never, never! The day of State banks has gone by. They were always, in my poor judgment, unconstitutional; but they got themselves fastened on to the country, and there was never power enough, until the necessities of the country required a new system of finance, to break off their hold. We have rid the country of them, and the Congress of the United States, ay, and the good judgment of the people, will never permit that system again to be imposed upon the country.

What is the next proposition? Why, it is said we must not interfere with the national banks because they patriotically helped us during the war. Upon that I take issue with each and every advocate of the banks. On the contrary, they helped themselves, not us. It is said they loaned money to the Government. How did they do it? Let me state the way a national bank got itself into existence in New England during the war, when gold was 200, and fifties were at par, in currency, or nearly that. A company of men got together \$300,000 in national bank bills, and went to the Register of the Treasury with gold at 200 and bought United States five-twenty bonds at par. They

stepped into the office of the Comptroller of the Currency and asked to be established as a national bank, and received from him \$270,000 in currency, without interest, upon pledging these bonds of the United States they had just bought with their \$300,000 of the same kind of money. Now, let us balance the books, and how does the account stand? Why, the United States Government receives \$30,000 in national bank bills more from the banks than it gave them in bills; in other words, it borrowed of the bank \$30,000 in currency, for which, in fact, it paid \$18,000 a year in gold interest, equal to \$36,000 in currency, for the use of this \$30,000. Let me repeat. The difference between what the United States received and paid out was only \$30,000, and for the use of that the Government pay on the bonds deposited by the company, bought with the same kind of money, \$18,000 a year interest in gold, equal to \$36,000 in currency.

But the thing did not stop there. The gentlemen were shrewd financiers; their bank was a good one; they went to the Secretary of the Treasury and said, "Let our bank be made a public depository." Very well; it was a good bank; the managers were good men; there was no objection to the bank. It was made a public depository, and thereupon the commissaries, the quartermasters, the medical director and purveyor, and the paymasters were all directed to deposit their public funds in this bank. Very soon the bank found that they had a line of steady deposits belonging to the Government of about a million dollars, and that the \$270,000 they had received from the Comptroller of the Currency would substantially carry on their daily business, and as the Government gives three days on all its drafts if the bank was pressed it was easy enough to go on the street if they had good security. They took the million of Government money so deposited with them and loaned it to the Government for the Government's own bonds, and received therefor \$60,000 more interest in gold for the loan to the Government of its own money, which in currency was equal to \$120,000. So that when we come finally to balance the books the Government is paying \$156,000 a year for the loan of \$30,000. And this is the system which is to be fastened forever on the country as a means of furnishing a circulating medium!

This, only using round numbers for the purpose of illustration, is an actual and not a feigned occurrence. You will see it was a perfectly safe operation for the banks, though not a very profitable one for the Government, because they held ample security for the Government deposits in its own bonds. But the difficulty is the Government was paying interest all the while on its own deposits; and this state of facts is only rendered possible by this system of supplying the banks with circulation by the Government without interest.

The next reason advanced why we should not interfere with these banks, if I understand it, is that we are told by very high authority this system will become the banking system of the world; having inaugurated it, we are so much in love with it that all the nations will pattern after it. Let the rest of the world try it for a few years when we have done with it, and then, if the rest of the nations adopt it, we can return to it, but not till then.

Sir, am I slandering these institutions? Are they not making money at a rate which is beyond all precedent. Let me state another case, which might be an actual case, and perhaps I could call the name of the man. A very shrewd man takes his \$100,000 and goes to the Treasury and obtains bonds; he then gets a banking charter, and receives his bills amounting to \$90,000; then he buys with those same bills \$90,000 worth of bonds, and comes home and sits in his office, and that is his bank, and his money is all in circulation. Says he: Why should I trouble myself to lend

my money to the farmers around me on sixty-day notes when I can lend it at from ten to twelve per cent. on long twenty-year Government bonds, and Mr. BLAINE says I am to be paid in gold for them; that is as good banking as I want to do; the bills never come home; they are going all over the West and South, and I am getting \$22,800 interest on my original \$100,000; what do I want more; I am comfortable and happy; I think this "banking system is the wisest one the world ever saw, and that it ought to be adopted all the world over."

But let us take the banks' own exhibit of themselves. I hold in my hand the abstract of reports of national banking associations for the 1st of October last. Let us see their condition. They have \$419,000,000 of capital stock paid in; they have been in operation on an average of less than four years; they have divided from twelve to twenty per cent., about twelve in New England and from fifteen to twenty per cent. where money is scarcer and the rate of interest rules higher. In addition to these dividends, take their own statement: "surplus fund, \$66,000,000; undivided profits, \$33,000,000;" showing that they have got, after all these dividends, near twenty-five per cent. surplus of that capital stock laid away. What other business, taxed or untaxed, if any untaxed business can be found in this country, will allow a yearly dividend of from fifteen to twenty-five per cent. and a surplus accumulation in four years of twenty-five per cent. on the capital? And from whom and from where do these profits come? They come ultimately from where all taxation, all profits, all productions must come, the labor of the country and nowhere else; and we are asked here to perpetuate a system which takes these immense profits from the labor of the country and puts them into the hands of capitalists without a pretense of adequate benefit received by the people.

Why, sir, it is an axiom in finance, if there are any axioms in finance, that any business which is safe should have small profits, and business that is hazardous should have large profits; but here the state of things is reversed; the banking business, which, if well conducted, is the safest business on earth, and which heretofore has always been content with small profits, is now the most profitable of all businesses, and has the largest returns without any risks.

Every member of this House can argue these propositions for himself better than I can argue them for him. It is my part only to suggest the topics upon the question of currency. I insist, as my first proposition, that there should be this change in bank circulation, and by that means we would diminish our interest-bearing debt \$300,000,000 by redeeming it with the greenbacks we should thus issue.

We have to-day in circulation in various forms in round numbers \$759,000,000. A portion of it, I agree, is locked up in banks; fifteen per cent. in the country, and twenty-five per cent. in the city banks as their currency for the redemption of their bills; a procedure the wisdom of which I have yet to be taught, because the United States is the final indorser and payer of all their bills. I do not see how it makes it any safer to lock up fifteen to twenty-five per cent. of the indorser's notes for their redemption; and I desire some of the able bankers in this House to explain to me what good result is hoped for from this smothering of a portion of the national currency, which the banks take care, however, shall be interest-bearing to them.

I will suggest a reason why that requirement was placed in the statute-book. There was a lingering idea in law of the old specie basis, and of getting an equivalent in its place. Legislators seem to have forgotten that we had wandered away from the specie basis; that they were putting in its place but the notes of the United States to redeem notes of the United States. If we can release, therefore, the whole circulation of about seven hun-

dred million dollars, perhaps that will relieve the present contraction in the currency.

We are told that we must preserve the national banks, because if we do not there will be nobody to circulate our money. Let us examine that a moment. If money will not circulate it is because nobody wants money. My anxiety is to provide the people with money that they do want and will circulate, not with money they do not want. I have never yet seen any man who has refused the notes of the United States when the Government has paid them out. When I find such a man, I will agree to charter a bank for the purpose of forcing them upon him, and not until then.

The truth is, that at the present hour the country is suffering from the want of 'those very notes. We have nominally some seven hundred and fifty millions of currency, but actually only about five hundred and fifty millions in circulation. I wish I could stop to explain to the House how this can be, but it can easily be seen by examining the bank returns. We find the fact to be that we have not circulation enough. Compare it with what was the circulation before the war. Mr. Chase reported the circulation of this country before the war, including gold, to be about four hundred and seventy-seven million dollars, and upon examination I can see no reason to find fault with that estimate. Now we have only \$550,000,000 in actual circulation, though we are doing more than three times the business calling for the use of cash that we were doing before the war. During the ten years from 1847 to 1857 the deposits and circulation of the banks averaged about thirteen dollars per man. Now, on account of our doing so much more of our business for cash, the deposits and circulation of the banks are about twenty-four dollars per man. And if you take into consideration the currency furnished by the United States, the \$300,000,000 of greenbacks, or about that sum, you will find that it is about thirty-four dollars per man, reckoning thirty-six million people in the United States. This shows that we require in our business three times, or certainly two and a half times, as much cash as before the war. Everybody knows this to be fact.

How was it before the war with the eastern manufacturer? He sent to New Orleans and bought his cotton, giving drafts for six or eight months. The merchant in New Orleans came East and bought the manufactured goods, giving his notes for from six months to a year; and all the cash that was wanted was enough to settle up the balances.

And now, when we send out for cotton we must send out greenbacks, because of the change in the mode of doing business; and we have a currency that stands at par there, and for what they want from us they must send the greenbacks. Every one knows that the business of this country is done twice or thrice as much in cash as it was before the war; and therefore I think this country will bear from eight hundred to a thousand million dollars of circulation without redundancy as soon as business revives, and that will make it revive. But my friends say "that may be too much." Perhaps it may be; but it is very easy, it seems to me, for us to have that amount of circulation without redundancy; and as each legal-tender note is, as we have seen, a part of the debt secured by mortgage of the whole property of the United States, without depreciation.

Our debt now is \$2,500,000,000, about \$2,200,000,000 of it interest-bearing. Suppose we issue our legal-tender greenbacks, as I will call them for convenience, and buy up or redeem our interest-bearing debt that is due to the amount of \$1,000,000,000. Then our debt stands, \$1,000,000,000 of non-interest-bearing debt and \$1,500,000,000 of interest-bearing debt. Now, if that \$1,000,000,000 of circulation is too much, *i. e.*, more than is needed for currency, I agree with the gentleman from Maine that it will be depreciated. But what is too

much? Too much is more than will be absorbed as currency in the business of the country. That is to say, if because of an over-issue by the Government there is an accumulation of non-interest-bearing notes, greenbacks, in the hands of any man, they are not productive, and he will dispose of them at a discount, if he can do no better, for something that is productive. The only question as to redundancy, therefore, is whether the notes in his hands are worth more for use in his business as currency than they would be to him if invested in a loan to the Government. Now, then, I propose that for \$300,000,000 of this non-interest-bearing debt we shall issue an interest-bearing loan at once which shall be that exact loan which my friend from Maine yesterday thought would be so absurd—a loan bearing a low rate of interest and convertible and reconvertible into greenbacks at the pleasure of the holder at any day and any hour.

Let us see how such a loan would operate. A man has more money than he wants to use. He with such a loan can go to a public depository, leave his money and take his bond. Then when he wants his money again he goes to the depository, leaves his bond and takes his money for his bond, principal and interest; that is to say, when the non-interest-bearing notes of the United States are worth less to a business man than this bond he will exchange it for this bond; when the notes as currency are worth more to him to use in business or speculation than the investment he will return the bond and take the currency. Thus, without any banks to push out the circulation just when it is not wanted or draw it back just when it is wanted, as the practice now is, we shall have an automatic financial system, self-regulating, or rather regulated by the great law of supply and demand, the best of all regulators. When money is wanted by the business community up to the amount of notes issued by the United States, it will be at once got; when it is not wanted, it will be returned to the Government, which being a borrower for a long series of years to come will be glad to take it. There can be no redundancy, because every man will know exactly where to place these non-interest-bearing notes when he has got through with them as money. When money is wanted at the West to move your crops in the fall you take it from the Treasury and move the crops; when you get through with the money you take it back to the Treasury and get the bonds, in the same manner as when you have got through with your wagons you put them back in your barns for use next year. Thus the whole monetary system of the country will go on without redundancy and without shock and without inflation.

More than that, sir, as I believe I demonstrated yesterday, it will be impossible to have inflation, because this currency being convertible and reconvertible from time to time, and being always an integral part of the public debt, it will never change its relative value to the property of the people of the United States. Why, sir, what is the measure of the value of your house? If it is worth \$10,000 it is ten thousand twenty-five hundred millionth parts of the public debt; and it will remain so until a portion of that debt is paid, when it will be appreciated, or until the public debt is expanded when it will be depreciated. It will remain of exactly the same relative value however much the form of the public debt be changed, but will always be more valuable as the public debt grows more valuable, *i. e.*, as it diminishes.

My hour is nearly exhausted and I am warned that I must spend no more time in elaborating the details of this proposition; but I ask gentlemen to apply to this question their own acute judgments and tell me, if they can, where is the fault in the reasoning; because the only valuable purpose that can be served by this discussion is to elicit what we all desire to

arrive at—the best system of finance, to do what? To lessen the burden of taxation and to relieve the loyal, true-hearted, but overburdened people from this so great weight of taxation.

Now, sir, if I am right, and if the country will bear this thousand millions of non-interest-bearing notes as currency—and if it will not, the good judgment of the Ways and Means Committee, and the Committee on Banking and Currency will settle that for us on full examination, so that I certainly may use that sum for illustration in so far as it will bear it—so far will it diminish the interest-bearing debt. You will, therefore, bring the interest-bearing debt down to \$1,500,000,000, where it can easily be managed. It is said you must not pay these five-twenties in greenbacks? Why, sir, you will never need to pay them in greenbacks.

What shall you do, then? You should issue a loan on long time, at a low rate of interest, thirty or fifty years, with the proceeds of which to redeem them or to be exchanged for them. For, sir, I am not for this generation paying all this debt. I think we had done our share when we contracted it. [Laughter.] We ought to leave it to our children to do theirs by paying it. I see gentlemen smile. But, sir, in all solemnity, when we contracted this we contracted it with the loss of the best blood of the nation and the loss of the best lives we had; in suffering, in sorrow, in labor, in woe, amid horrors unnumbered, to save this great experiment of Government, republican in form and freedom for all, for them and for our posterity forever, and they owe us some debt of gratitude for that so great boon; and should we who bore all the suffering and agony bear also all the taxation consequent upon this great work?

I say, then, let us change these \$1,500,000,000 of interest-bearing debt into a long loan—a taxable loan, taxable by State and municipal authorities. But some friend of mine may say that if we make the loan taxable by States the States will tax the loan out of existence; that there may be some State hostile to the General Government which will tax the loan out of existence. I beg his pardon; such hostile taxation will only tax the loan out of that State, and deprive the citizens of that State of a profitable and desirable investment, which will be taken up by citizens of other States where it is not so taxed.

There are some disadvantages in a taxable loan worthy of examination. Let us consider them. It is said that no Government ever allowed another subordinate government to tax its loans. True, but there never was before any Government, like ours, having a complex government of States and a national Government over all and the people the same in both and each.

It is said that what States get by taxing the loan to carry on their municipal governments the general Government loses. But is this so? The people have to pay the taxes to sustain both State and national Governments. So what the people lose as citizens of the United States because of taxation of the loan they gain as citizens of the State by taxation; for the people at last pay all, lose all, and suffer all. If it be said that there will be inequality of taxation it is answered again that unjust taxation, too burdensome, will only drive the loan out of such State, so that in practice there can be no inequality.

Another objection is that you cannot sell a taxable loan at so high a price. Why not? Because it will depreciate because of taxation. It will depreciate, however, exactly according to the amount levied upon it by taxation. Be it so. Who gets the benefit of that taxation? Why, sir, the people. All that it depreciates because of taxation, being received back from the taxes, will relieve the people from so much taxation. If in some States the loan is taxed more than in others there will not be any inequality, because such excess of taxation

will only send that form of investment out of that municipality.

There is another objection to a taxable loan, namely: that it is a form of investment easily to be concealed from taxation. But it cannot any more easily be concealed as an investment than can notes, bonds, or money in all shapes. Let me ask you what is the operation to-day of your five-twenty non-taxable loan. A capitalist has money which he is using in his business, and he sees the assessor coming round. He goes into market and puts his money into Government bonds. The assessor calls, the man has no taxable property, the assessor passes by, and the next day the artful dodger sells his bonds for the money, and goes on speculating. He saves the taxation, and next year he repeats the operation.

These are, I understand, some of the objections to taxable loans. But it has also its advantages. In the first place it puts the wealth of the country, and the labor of the country upon an equal footing as to taxation. It compels the surplus wealth as well as the industry of the country to be taxed.

Another advantage of a taxable loan is that it relieves the public debt from an apparent injustice. And it is of no consequence how small the injustice is, for the people feel an unjust burden, however light, more than a just burden, however heavy.

Still another advantage is claimed for a taxable loan. It has been held by many financiers—I do not claim to be enough of a financier to give an opinion as to the merit of the claim, but each gentleman will settle the question for himself—that it is a great advantage to borrow money abroad, in the various markets of the world, at low rates of interest. Therefore we find our canal and railroad companies and all great enterprises attempting to place their bonds in Europe. If that is good financing, what is the objection to our national loans going abroad, provided we get back the money for them? The principal objection has been found to be that whenever there is war or rumor of war abroad, a financial panic is created there, our bonds come home for realization and interfere with our money relations and unsettle our business. But if our bonds are taxable for State or municipal purposes, they would not of course be taxable abroad, and would then stand from ten to fifteen per cent. higher there—perhaps twenty or twenty-five per cent. higher—no man can tell, until the theory is reduced to practice, how much higher than at home; and the holder abroad, having to consent to so great a sacrifice before he could realize on them, would not be very likely to send them home upon us, which is the greatest danger now to our finances whenever there is the slightest financial trouble in Europe.

Such a taxable loan held abroad would be kept there steadily. If, however, any great trouble should happen in Europe so that the bonds would be sent home at all hazards, they would come at such low rates as to be economically and readily bought up here, and our people could afford to take them even with the burden of tax upon them.

Therefore, I have no doubt that a loan of \$1,500,000,000 for thirty or fifty years could be placed to-morrow at five per cent. if taxable, with which to get the money to redeem the five-twenties or in which to exchange them, and thus save millions of taxation. I should prefer, so far as I am advised, until I hear further debate, that such bond should be a taxable one of five per cent., or three and sixty-five hundredths sterling, if untaxable. Either would sell, in my opinion, to-morrow at as high rates in the markets of Europe as does our five-twenty loan now, while they would not interfere with the ability of this country to pay its debts or keep our loan down both at home and abroad. Our loan does not now sell at a discount because anybody doubts the ability of this country to pay every dollar it has contracted.

A MEMBER. Nor its willingness?

Mr. BUTLER. Nor its willingness. Nobody doubts that. I am obliged to my friend for the suggestion. I think I can convince the House that nobody doubts its willingness. What are our gold certificates—\$14,000,000 of them—only promises of the United States to pay in gold on demand. And yet they are at a little premium over gold, both at home and abroad, because they are more convenient to handle. If anybody feared the willingness of the United States Government to pay according to its promise or doubted its ability, why should not these gold certificates go below par? It is because all people understand that when we promise to pay in gold by a contract upon which my friend from Maine [Mr. BLAINE] does not need to make an argument to show it is a gold contract, or my older friend from Pennsylvania [Mr. STEVENS] does not need to explain to us hereafter what is meant by the law—when it is on the face of the certificate, “payable in gold on demand,” then that promise is above par. This pledge of the Government causes that note to stand better than gold in the markets of the world to-day.

Nay, more, our ten-forty, five per cent. bonds, having six years only more to run before the Government has the option of paying them, and therefore hardly to be considered as a funded debt, are selling now within one or two per cent. of some of the five-twenty six per cent. loans, payable in gold according to the argument of my friend from Maine. What makes the difference? On five-twenties there is one per cent. interest due more than on the other. Why do they come so near to each other in price? It is because no man can read the statute-book and doubt that the one is payable in gold and the other in lawful money of the United States.

Therefore I repeat, that in the markets of the world there is no doubt, as there is none in any man's mind, of the willingness or the ability of the United States Government to perform its contract. But the doubt is as to what is the contract—whether it is a contract of Jews and sharpers or a contract of the Congress of the United States.

But I am met right here again with the proposition. Why stir this now? Since I began my speech half a dozen gentlemen, some friendly and some unfriendly, have tipped me on the shoulder and said, “Now, Mr. BUTLER, what is the use of making a fuss about this now? Why not let these bonds run twenty years and by that time gold and greenbacks will be the same? Why disturb the matter? What are you getting up this row for?” [Laughter.]

A MEMBER. A sensible question. [Laughter.]

Mr. BUTLER. Yes, very sensible, and I am going to answer it in a sensible manner; and the answer is this, that these five-twenty bonds are on eleven to twelve per cent. interest, and they will double oftener than once in eight years; and if we let them go on for twenty years the people will have to pay them twice over in interest, and then owe them still. That is the answer. Is there not good sense in that, now? [Laughter.] The reason why I am anxious about this now is that it is our urgent, pressing duty, not to be shunned or avoided, to relieve the people from the burden of this great weight of taxation.

Let me restate it so that nobody will forget it. At the rate of interest we are paying these bonds double once in six years; at six per cent. they double once in eleven years, and with the tax making eight per cent. they will double once in about eight years. Set down the figures and when you find out let me know how the figures read.

Mr. SPALDING. The gentleman is mistaken.

Mr. BUTLER. When do you say they will double at eight per cent.?



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Mr. SPALDING. Once in about twelve years.

Mr. BUTLER. Six per cent. in gold, with the tax off, equal to eight per cent semi-annually at compound interest, and it will not double under twelve years! I do not know anything about figures in Ohio, but figures in Massachusetts do not bring out that result. [Laughter.]

Mr. SPALDING. We have had enough of that sort of wit.

Mr. BUTLER. I presume you have had enough, sir.

Mr. PRICE. Will the gentleman yield to me just a moment?

Mr. BUTLER. Certainly.

Mr. PRICE. I presume the gentleman from Massachusetts means to be correct.

Mr. BUTLER. Yes, I try to be, exactly.

Mr. PRICE. And to place upon record facts in reference to those things about which he talks.

Mr. BUTLER. Yes, sir.

Mr. PRICE. He said a moment ago that the difference between ten-forties and five-twenties was one per cent. I was satisfied in my own mind that was a mistake and on referring to the document I find that on the 20th of November five-twenties were 108 and ten-forties 102½.

Mr. BUTLER. Has the gentleman read quotations of the lowest five-twenties and the highest ten-forties?

Mr. PRICE. I read those of 1862; I have not read the list.

Mr. BUTLER. Ah! that will not do, if you please, those of 1865 are lower. [Laughter.]

Mr. PRICE. Well, I will give them all if the gentleman wishes it.

The CHAIRMAN. Does the gentleman from Massachusetts yield further to the gentleman from Iowa?

Mr. BUTLER. Oh, certainly; I yield to everybody in this discussion.

Mr. PRICE. I do not wish to encroach on the gentleman's time.

Mr. BUTLER. It is no encroachment.

Mr. PRICE. The statement made was evidently incorrect, I presume unintentionally so, and I thought it best to put the gentleman right.

Mr. BUTLER. Now, will the gentleman take one or two things into this calculation and then I will stand corrected. He read from the quotation in the newspapers. Will he tell me how long before the coupons of the five-twenties are payable and how much interest is due, whether they are "flat," to use the language of the broker's board, and how long before the coupons of the ten-forties are payable? If he will make the calculation he will find this statement to be correct, and I am ready to meet him anywhere upon it; he will find that between the lowest class of five-twenties and the highest class of ten-forties there is less than two per cent. difference.

Mr. PRICE. Does the gentleman want an answer to that?

Mr. BUTLER. Certainly.

Mr. PRICE. I need not say to the gentleman, I presume, nor to any gentleman in this House, that the coupons of the bonds that I have quoted were paid the 1st day of this month, and consequently there is only the balance of this month's interest due on them, and therefore they are "flat." Everybody knows about the ten-forties. The interest was paid on the five-twenties that I have quoted on the 1st of November. Before that they were selling at 113 and a fraction, and as high as 114. With the coupons cut off the 1st day of the month they are selling at 108, according to the quotations of the board on the 26th instant, (yesterday,) and ten-forties from 102½ to 102¾. I give you the largest quotations for ten-forties, and the benefit of the doubt if there is any.

Mr. BUTLER. I am always glad to be corrected, but I must still maintain my position. I may be wrong, but I must insist on the

position until I am better advised than I have been yet. Is the discussion of this grave question to be decided by an accidental difference yesterday of one or two cents upon this class of securities?

Isaac Newton once said he occupied himself in his great studies by picking up pebbles on the shore of the great ocean of truth; but I have never heard that he selected the very smallest ones.

I was about saying, when I was interrupted, (if I can get back to the thread of my thought,) that the objection has been made that we shall never return to specie payments under this system. Let us be definite. What do gentlemen mean by "returning to specie payments?" Do they mean returning to the state of finances that existed before the war? That is, when this Government collected its dues in gold, and paid its debts in gold; and when people had a currency based on gold, but which never could be redeemed in gold. If they mean to return to that state of things I respectfully submit that for the present it is impossible.

It is impossible for this reason: we had a specie paying Government from the time the sub-Treasury law went into operation down to the war, that is, the Government collected all its dues in gold, and paid all its debts in gold; and all the money needed for governmental purposes collected and paid out was from about thirty to sixty million dollars from year to year, before 1860 running up at one time, I believe, to seventy-odd million. I am now using amounts bearing almost exactly correct relation to each other by way of illustration, and I hope no gentleman will hunt up an old newspaper to show that I am not right within two or three dollars. During the same period there was from about ninety to two hundred and ten million dollars, of specie in the country. In other words, it took for governmental purposes alone about one third of all the specie in the country. We all remember that whenever there was any hitch in governmental operations so that gold accumulated in the sub-Treasury it disordered all our monetary affairs and produced financial crises.

In 1857, when some ten million gold had thus accumulated, it was deemed so disturbing an element in the commerce of the country that Mr. Cobb, then Secretary of the Treasury, paid thirty per cent. advance for the bonds of the United States in order to relieve the money market by putting out the accumulated gold in the Treasury.

It took then one third of all the gold in the country to carry on the Government business, and we could hardly get around at that. We now have from two hundred to two hundred and twenty-five million dollars of gold only, so far as is known, in the country. The Government is using every year for its operations some three hundred and fifty million dollars. If the Government could not get around without disturbing the finances in collecting its dues and paying its debts in gold before the war, using only one third of all the gold in the country, how can it now get on with its operations, requiring \$350,000,000 to be taken out of \$225,000,000, which is all the gold now in the country, not allowing anybody else to use a dollar? It is therefore entirely impracticable for the Government to carry on its great operations of \$350,000,000 upon a gold basis, wholly irrespective of the question of the credit of the Government or its ability to command all the gold in the country. It might indeed carry on its operations partly in gold and partly in paper, but that is not a return to specie payments by the Government. But it is as utterly impossible at the present time for the Government to carry on its operations on a gold basis, in the manner in which it did before the war, as it is to make three hundred and fifty go into two hundred and twenty-five and have a remainder over, which I take it is impossible by any figures out of the State of Ohio. [Laughter.]

In my judgment, all talk about returning to specie payments in July, 1868, or any other period in the immediate future, is illusory and vain. How are we to get back to specie payments? In the first place, by reducing your taxation, stimulating your industry, raising your productiveness, bringing down the expenditure of the Government, specially the first and great expenditure and burden over all others—the taxation for the purpose of paying your doubly exorbitant interest on the public debt as now constituted.

Reduce your interest-paying debt as you may to some one billion five hundred million dollars, and then fund this at five per cent. at highest, even with taxation. This will call for \$75,000,000 as interest of the public debt annually; or fund it at three and sixty-five one hundredths per cent. sterling if untaxable, as you may, and that will make only some fifty-five millions as interest, and there will then be some \$60,000,000 to \$85,000,000 of gold coming in at your custom-houses to help pay the expenses of the Government, after paying up the interest on the debt.

Then enforce faithfully and justly the collection of a judicious taxation on but two articles of luxury, whisky and tobacco, and you may release every other interest from taxation, and the land shall blossom as the rose, and the hum of productive industry give sweet harmony to the delighted ear.

Leaving financial matters as they now stand, you never can go back to specie payments. Get back to specie payments! How is it proposed to be done by the Secretary of the Treasury? Why, in order to do that he asked Congress to aid him—to sell our bonds in Europe; and he came before Congress asking authority to deposit gold in Europe to pay the interest there, so that he might sell more bonds there. When he sells those bonds in Europe, what does he get for them? Seventy cents or thereabouts on the dollar. What is specie payment? Paying one hundred cents. How is he going to be able to pay one hundred cents on what we owe now? By making new debts at seventy cents? I would like somebody skilled in figures to cypher out that problem.

But the matter does not stop there. If the Secretary of the Treasury got even gold for his bonds he would have something to show. But what are those bonds sold for? They are sold abroad to meet the balance of trade. What does that mean? It means to pay the balances owing for broadcloth that we wear, for brandy that we drink, for cigars that we smoke. What would be thought of a financier who should insist he was getting solvent-selling his notes at seventy cents on the dollar in order to buy broadcloth, brandy, and cigars? Who would insist such an one was a good financier? Yet this is the exact system upon which the finances of this country are being carried on to-day.

You may consult upon your tariff bills till you are blind; your Committees of Ways and Means may fix up schemes of protection for home manufactures till they are weary, but they will afford no protection to American industry. Why? The bankers and merchants of Europe never expect Government loans there to be paid. Most of the Governments of Europe have irredeemable loans, the interest of which only is ever to be paid. Now, with the rate of interest two per cent. at Antwerp, two per cent. at London, one and three fourths per cent. at Frankfurt, two and one fourth per cent. at Paris, our bonds are eagerly snapped up; foreign agents come over here to get them. With the discount of thirty per cent. on our bonds bearing six per cent. gold interest, they can always undersell us, and vitiate any tariff that we choose to pass. We are thus dealing with them in manufacturing at home with thirty per cent. against us. Nay, more; suppose there are two manufacturing establishments, one in this country and one in England, the two establishments equally well managed, both

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manufacturing the same article and making exactly the same profit; the English manufacturer can make a ten per cent. dividend, while our manufacturer is losing money. Why? Because the capital of the English manufacturer costs him but two per cent., while with our high rate of interest, induced by our Government rate on the five-twenties, the American manufacturer's capital costs him twelve per cent.—a difference of ten per cent., which should be a sufficient dividend for any well-conducted business that was not a national bank.

Under such circumstances we cannot compete with the foreign manufacturer. It is useless for my friends from New England and my friends from Pennsylvania to ask for a tariff on their manufactures; it is useless for my friends from the West to ask for a tariff on their wool so long as this great difference in money is against us. Why, my friends from the West thought that if they could only get a tariff on wool, wool would go up, command a fair price, and the farmer should get pay for his labor. They got all the tariff they asked, and I am glad they did. But the more tariff they got, the more wool went down. Am I not right? Was wool ever so cheap as it has been this year, since we have put a duty on it? Why? Because of this difference between this country and abroad in the rate of money, our taxation and the discount on our bonds entirely neutralizing any tariff for the protection of the East or the protection of the West.

But, sir, I feel that I am trespassing far too long upon the patience of the committee. I have given a general and very imperfect and desultory sketch of my financial propositions. I have shown that I do not seek to repudiate a single contract of the United States; that I am only seeking to relieve the people from the immense burden of taxation; that I am seeking to get rid of a banking system more profitable to the capitalist than that which Webster so well described as a system devised to make the rich richer and the poor poorer; that I am only seeking to equalize taxation, so that we of the party of progress, of loyalty, and of the Union, who have conducted this Government through a great war, may not be thrown out of power because of the pressure of its burdens upon the people, which we can prevent.

[Here the hammer fell.]

Mr. BLAINE took the floor.

Mr. BUTLER. I should like to have a few minutes more.

Mr. BLAINE. I yield to the gentleman.

Mr. PRICE. I move that he have ten minutes.

Mr. BUTLER. Ten minutes will be enough.

Mr. MILLER. I would like to have the gentleman answer a question.

Mr. BUTLER. I will when I get through. Mr. Chairman, I was attempting to show how we might relieve the people from taxation, hoping thereby to elicit a discussion of this great subject. There are some things we must do. They are the pressing duties of the hour. First, we must stop this contraction of the currency now going on. It has been contracted at least \$100,000,000 in the last year. Some men say only \$48,000,000, or \$4,000,000 a month. But \$77,000,000 of compound-interest notes must be reckoned in, and the contraction of the currency will in fact be found to be more than \$100,000,000. Secondly, we must have the gold hoarded in the Treasury of the United States sold at public auction at stated periods of time, so all may know when, except of course enough, with the receipts from customs, to meet the interest on the gold-bearing debt. Thirdly, we must repeal the immense number of discretionary powers with which the exigencies of the war caused us to clothe the Secretary of the Treasury. The Treasury of the United States should not be left in the power of any one man. It is of no consequence who that man may be. Whenever the Secretary of the Treasury has discretionary powers he may exalt this man's property and decrease that of another; he may issue this loan and take in another. He holds the business of the country in the hollow of his hand. I by no means mean to make any charges of corruption or favoritism against anybody. Following his views of finance, the present Secretary of the Treasury has done his duty. But I say it is a dangerous power, one given in consideration of the exigencies of the war. The war now being over, the Congress of the United States, to whom the Constitution has wisely trusted the finances of the Government, should enact a positive law, not to be swerved from by the Secretary of the Treasury upon any pretense whatever, declaring exactly what shall and what shall not be done with the finances of the country. These three measures are of pressing necessity and imperative for prompt relief. When they are carried out, when the gold is sold and bonds paid with the proceeds so as to relieve greenbacks and send them back into circulation, when this discretionary power which may or may not be exercised improperly is taken away, and when the banks are brought back to their position of banks of loan and discount, then the country will be relieved. Then after full and fair discussion you will see exactly the amount which our country will absorb in non-interest-bearing notes of the United States, and fix that amount. Then consolidate the nineteen different kinds of loans and securities we have now into one long taxable loan of the United States that shall be a consolidated

funded security known by all the people, exact in its terms, plain in its contracts, and unoppressive in its rate of interest. Then shall the country resume its onward march of prosperity.

It remains for me, Mr. Chairman, to thank the committee for the great kindness and patience with which they have indulged me in this desultory expression of my views upon this gravest of all questions.

Mr. MILLER. I should like to put this question to the gentleman from Massachusetts: taking for granted that by a legal construction of the statutes allowing the issue of five-twenty bonds the principal was payable in lawful money, which, of course, would include greenbacks, yet if the Secretary of the Treasury, believing that the principal as well as the interest was payable in coin, and he and others who had charge of disposing of them represented to the public that such bonds (principal and interest) were payable in gold, and thus inducing capitalists and others to vest their money in such securities at a time the country was in peril and funds were needed to carry on the war to put down rebellion, would it not be bad faith in Congress now to refuse to sanction the payment in coin?

Mr. BUTLER. The question is fairly put, and deserves a fair and candid answer. The answer I make to it in the first place is this: that the Secretary of the Treasury did not believe these bonds were payable in gold, had no right to give any such assurance, and no man had the right to rely on such terms. Secondly, that we here, as the Government of the United States, are standing as trustees between the people of the United States the debtor, and the bond-holder the creditor, and we have no right to administer that trust upon any equitable considerations not clearly arising out of the terms of the contract, or upon any chivalric notions of honor, but exactly according to the words and spirit of the contract creating the obligation. We have no more right than a guardian would have to pay what he supposes might be an equitable debt of his ward, or an executor to exercise his notions of honor by paying out the funds of his trust against the protest of the creditors of the estate or the legatees.

Mr. MILLER. One question more. Is there any other obligation upon the United States but that of an equitable one? The United States being a sovereign cannot be sued.

Mr. BUTLER. The United States Government is bound by its laws to the same extent as the humblest individual; and it makes no difference as to its obligations that there is no court in which to enforce its contracts except this highest court, the Congress of the United States.

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# LAWS OF THE UNITED STATES

PASSED AT THE

FIRST SESSION FORTIETH CONGRESS.

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# PUBLIC ACTS OF THE FORTIETH CONGRESS

OF THE

## UNITED STATES,

*Passed at the First Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 4th day of March, A. D. 1867; was adjourned on Saturday, the 30th day of March, A. D. 1867, to meet on Wednesday, the 3d day of July, A. D. 1867; met on the said 3d day of July, and continued in session until Saturday, the 20th day of said July, on which day it adjourned to meet on Thursday, the 21st day of November, A. D. 1867; met on the said 21st day of November, and ended the 2d day of December, A. D. 1867.*

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives.

CHAP. I.—An Act to amend an Act entitled “An Act to amend an Act entitled ‘An Act to incorporate a National Military and Naval Asylum for the Relief of the totally disabled Officers and Men of the Volunteer Forces of the United States,’” approved March twenty-one, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section third of the act to incorporate a national asylum for disabled officers and men of the volunteer forces of the United States, approved March twenty-first, eighteen hundred and sixty-six, be amended by striking out the words “not members of Congress.”

APPROVED, March 12, 1867.

CHAP. II.—An Act making Appropriations for the Expenses of Commissioners sent by the President to the Indian country.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of twenty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of commissioners sent by the President to the Indian country.

APPROVED, March 14, 1867.

CHAP. III.—An Act to repeal a Joint Resolution entitled “A Resolution to provide for the removal of the Wreck of the Steamship Scotland,” approved January twenty-ninth, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the joint resolution entitled “A resolution to provide for the removal of the wreck of the steamship Scotland,” approved January twenty-ninth, eighteen hundred and sixty-seven, be, and the same is hereby, repealed.

APPROVED, March 16, 1867.

CHAP. IV.—An Act to clothe the maimed and destitute Soldiers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and is hereby, authorized and required to

furnish one complete suit of clothing to each invalid soldier who is an inmate of any regularly constituted “Soldiers’ Home” in the United States, out of the stock on hand in the quartermaster’s department.

SEC. 2. *And be it further enacted,* That such clothing shall be delivered to the managers of such institutions upon their requisition therefor, accompanied with such certificates as to numbers and condition as the Secretary of War may prescribe.

APPROVED, March 22, 1867.

CHAP. V.—An Act in relation to a certain Tract of Land in Burlington, Iowa.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a certain ordinance adopted by the city council of the city of Burlington, in the State of Iowa, of date of December tenth, anno Domini eighteen hundred and sixty-six, entitled “An ordinance devoting Market square to certain public purposes, and providing for the location of certain railroad tracks upon certain streets, and for other purposes,” is hereby ratified, approved, and made legal and valid, so far as relates to said public square; and that said ordinance shall operate to convey to the Burlington and Missouri River Railroad Company all right and interest of the United States in the premises known as Market square, in the said city of Burlington, upon the terms and conditions and for the purposes and uses therein designated, and shall have the same force, operation, and effect as if the fee-simple title to said Market square and streets were owned by said city at the date of said ordinance.

APPROVED, March 22, 1867.

CHAP. VI.—An Act supplementary to an Act entitled “An Act to provide for the more efficient government of the Rebel States,” passed March second, eighteen hundred and sixty-seven, and to facilitate restoration.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled “An act to provide for the more efficient government of the rebel States,” passed March second, eighteen hun-

dred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: “I, ———, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State Legislature, nor held any executive or judicial office in any State and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God;” which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted,* That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days’ public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such State in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such

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State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification; and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and

without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all the elections in the States mentioned in the said "Act to provide for the more efficient government of the rebel States," shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting the said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office:" *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending and being thereof duly convicted shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property of such State as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean, "section."

SCHUYLER COLFAX,

*Speaker of the House of Representatives.*

B. F. WADE,

*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U. S.,  
March 23, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," with the objections thereto, the House of Representatives proceeded, in pursuance to the Constitution, to reconsider the same; and

*Resolved*, That the said bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,  
*Clerk H. R., U. S.*

IN SENATE OF THE UNITED STATES,  
March 23, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," returned to the House

of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

*Resolved*, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,  
*Secretary.*

CHAP. VII.—An Act to provide for a District and a Circuit Court of the United States for the District of Nebraska, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Nebraska shall hereafter constitute one judicial district, and be called the district of Nebraska; and for said district a district judge, a marshal, and a district attorney of the United States, shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 2. *And be it further enacted*, That the said district of Nebraska shall be attached to and constitute a part of the eighth judicial circuit; and a term of the circuit court and district court of the United States for said district shall be held in the city of Omaha, in the State of Nebraska, on the first Monday of May, and on the first Monday of November, in each year.

SEC. 3. *And be it further enacted*, That the circuit and district courts of the United States for the district of Nebraska, and the judges thereof respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 4. *And be it further enacted*, That the district judge appointed for the district of Nebraska shall receive as his compensation the sum of thirty-five hundred dollars a year, payable in four equal installments, on the first days of January, April, July, and October of each year.

SEC. 5. *And be it further enacted*, That the marshal and district attorney of the United States, and clerk of the circuit and district courts, for the said district of Nebraska, shall severally possess the powers and perform the duties lawfully possessed and performed by similar officers in other districts of the United States, and shall for the services they may perform receive the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February twenty-sixth, eighteen hundred and fifty-three.

SEC. 6. *And be it further enacted*, That all cases of appeal or writ of error, heretofore prosecuted, and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nebraska, or which may hereafter be prosecuted from said court as herein allowed, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court of the United States for the district of Nebraska, or to the supreme court of the State of Nebraska, as the nature of said appeal or writ of error may require, and each of these courts shall be the successor of the supreme court of Nebraska Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nebraska, prior to its admission as a State, the parties to said judgments and decrees shall have the same right

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to prosecute appeals and writs of error to the Federal courts as they had under the laws of the United States prior to the admission of said State of Nebraska into the Union.

SEC. 7. *And be it further enacted*, That until a judge for said district of Nebraska shall be duly appointed the district judge of the United States for the district of Iowa shall act as the district judge of Nebraska, and shall have and exercise the same jurisdiction and power in the district hereby created as he has in the district of Iowa.

APPROVED, March 25, 1867.

CHAP. VIII.—An Act to exempt Wrapping-Paper, made from Wood or Cornstalks, from Internal Tax, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the passage of this act, wrapping-paper, made of wood or cornstalks, shall be exempt from internal tax.

SEC. 2. *And be it further enacted*, That every national banking association, State bank, or banker, or association, shall pay a tax of ten per centum on the amount of notes of any town, city, or municipal corporation paid out by them after the first day of May, anno Domini eighteen hundred and sixty-seven, to be collected in the mode and manner in which the tax on the notes of State banks is collected.

SEC. 3. *And be it further enacted*, That wrapping-paper made from any other material than that cited in the first section shall be also exempt from internal tax.

SEC. 4. *And be it further enacted*, That from and after the passage of this act, ladders made wholly of wood shall be exempt from internal tax.

APPROVED, March 26, 1867.

CHAP. IX.—An Act in relation to the Acknowledgment of Deeds in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter acknowledgments of deeds for the conveyance of real estate in the District of Columbia may be taken by the recorder of deeds for said district, or by a single justice of the peace; and any such acknowledgment heretofore taken by a single justice of the peace is hereby made and declared to be a valid acknowledgment: *Provided*, That nothing in this act shall be held to impair the title of bona fide purchasers who, by conveyances and formal acknowledgments, have, prior to the passage of this act, acquired paramount titles under existing laws.

APPROVED, March 26, 1867.

CHAP. X.—An Act supplementary to an Act entitled "An Act to reimburse the State of West Virginia for Moneys expended for the United States in Enrolling, Equipping, and Paying Military Forces to aid in suppressing the Rebellion," approved June twenty-one, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the money appropriated by the act to which this is a supplement shall be disbursed under the direction of the Secretary of War.

APPROVED, March 26, 1867.

CHAP. XI.—An Act to authorize the Entry and Occupation of a portion of Long Island, in Boston Harbor, for military purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized to take possession of that portion of Long Island, in Boston harbor, Massachusetts, belonging to James T. Austin, for the purpose of erecting thereon

a fort and such other structures as may be needed for military purposes, and there shall be paid for the same, out of any moneys in the Treasury not otherwise appropriated, the sum of five thousand dollars, as agreed upon between Ivers J. Austin, the agent and representative of the said James T. Austin, and the agent of the United States charged with the negotiation for the purchase of said property: *Provided*, That said amount shall not be paid until the Attorney General of the United States shall be satisfied that the title of said portion of said island has been fully transferred to the United States free from all encumbrance, and that the person receiving the money is competent to act in the premises.

APPROVED, March 28, 1867.

CHAP. XII.—An Act to authorize the Secretary of the Treasury to sell the Government Warehouses on Atlantic Dock, Brooklyn, New York.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby authorized, in his discretion, to sell the property on Atlantic Dock, Brooklyn, New York, being warehouses numbers fifty-four, fifty-six, and fifty-eight, now owned by the Government, the sale to be made at public auction to the highest and best bidder therefor, in ready money, after giving notice thereof six weeks in succession in two daily papers printed in the city of New York. And upon sale being made as aforesaid, the said Secretary of the Treasury is hereby authorized and empowered to make, execute, and deliver to the purchaser thereof a good and sufficient deed for the premises, conveying all the right, title, and interest of the United States.

APPROVED, March 28, 1867.

CHAP. XIII.—An Act making Appropriations to supply Deficiencies in the Appropriations for Contingent Expenses of the Senate of the United States for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, namely:

For clerks to committees, pages, horses, and carryalls, fifteen thousand dollars.

For miscellaneous items, thirty thousand dollars.

For salary of the clerk to the Committee on Appropriations, from the date of his appointment to the thirtieth of June, eighteen hundred and sixty-eight, twenty-eight hundred and ninety-eight dollars.

To pay the expenses incurred under the resolution of the Senate directing the hydration of the atmosphere of the Senate Chamber, the sum of seven thousand five hundred dollars is hereby appropriated and added to the contingent fund of the Senate.

SEC. 2. *And be it further enacted*, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," passed at the second session of the Thirty-Ninth Congress, shall not be construed to allow a greater compensation for the publication of the laws passed by Congress and executive proclamations and treaties in the papers of the District of Columbia than is provided by law for such publication in other papers. And the newspapers in the ten rebellious States named in section seven of "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-eight, and

for other purposes," which have been or may be designated in pursuance of the provisions of said section for the publication of the public laws and treaties of the United States, shall publish the public laws and treaties of the Thirty-Ninth Congress, authentic copies of which it shall be the duty of the Secretary of State to furnish as soon as practicable, after receiving notice of such designation; and there is hereby appropriated out of the Treasury, from any moneys not otherwise appropriated, a sum sufficient to pay for said service: *Provided*, That the accounts therefor shall be settled in the usual manner, and the compensation shall not exceed the rate fixed in section seven aforesaid.

SEC. 3. *And be it further enacted*, That so much of section seven of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes," approved March second, eighteen hundred and sixty-seven, as relates to the publication of the treaties and the laws of the United States, be, and the same is hereby, extended to the States not therein designated, and to the Territories; and that it shall be the duty of the Secretary of State, upon receiving notice of the designation of newspapers under the act aforesaid and this section, promptly to furnish to such newspapers authentic copies of the treaties and laws of the United States to be published as aforesaid: *Provided*, That it shall be lawful to print the laws and treaties of the United States, as aforesaid, in three newspapers in Louisiana: *And provided further*, That the rates fixed by previous laws shall not be hereby increased.

SEC. 4. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-seven, namely—

For stationery for the House of Representatives, nine thousand dollars.

For newspapers, ten thousand dollars.

For miscellaneous items, ten thousand dollars.

SEC. 5. *And be it further enacted*, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for salaries of the Commissioner of Education and his clerks, twelve thousand four hundred dollars, for the period of three months ending June thirty, eighteen hundred and sixty-seven, and for the year ending June thirty, eighteen hundred and sixty-eight.

For furnishing offices and for stationery, six thousand dollars.

For the repair of Long Bridge, District of Columbia, to be expended under the direction of the Secretary of War, fifteen thousand dollars.

SEC. 6. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to pay the expenses incurred by certain Indian delegations in visiting Washington city for the purpose of negotiating treaties and their return home, to wit:

For the Sioux of Lake Traverse, ten thousand dollars

For the Sioux of the Upper Missouri, fifteen thousand dollars.

For the tribes residing in the State of Kansas, fifteen thousand dollars.

For the Chippewas of the Mississippi, six thousand dollars.

And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs, to enter into treaties with any Indian tribes are hereby repealed, and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law.

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SEC. 7. *And be it further enacted*, That the several sums of money heretofore appropriated to be expended under the direction of the Commissioner of Public Buildings be transferred to and may be expended under the direction of the Chief Engineer of the Army, or such officer of the engineer corps as he may direct.

APPROVED, March 29, 1867.

CHAP. XIV.—An Act to Reimburse the States of Indiana and Ohio for Moneys expended for the United States in Enrolling, Equipping and Provisioning Militia Forces to aid in suppressing the Rebellion.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That immediately after the passage of this act the President shall appoint three commissioners, by and with the advice and consent of the Senate, who are not residents of the State of Indiana, whose duty it shall be to ascertain the amount of moneys expended by the State of Indiana in enrolling, equipping, subsisting, transporting, and paying such State forces as were called into service in said State since the first day of January, eighteen hundred and sixty-two, to act in concert with the United States forces in the suppression of rebellion against the United States.

SEC. 2. *And be it further enacted*, That the commissioners so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which Indiana may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed or used in suppressing rebellion in said State. And no allowance shall be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States and subject to their orders.

SEC. 3. *And be it further enacted*, That in making up said account, for the convenience of the accounting officers of the Government, the commissioners shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, transporting, and paying said troops.

SEC. 4. *And be it further enacted*, That, in the adjustment of accounts under this act, the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

SEC. 5. *And be it further enacted*, That as soon as said commissioners shall have made up said account and ascertained the balance, as herein directed, they shall make written report thereof, showing the different items of expenditure as hereinbefore stated to the Secretary of the Treasury, who shall cause the same to be examined by the proper accounting officers of the Treasury, and said officers shall audit the said accounts as in ordinary cases; and if from said report it shall appear that any sum remains due to the said State, he shall draw his warrant for the same, payable to the Governor of said State, and deliver it to him.

SEC. 6. *And be it further enacted*, That the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of Indiana, and that they will, to the best of their ability, make a just, true, and impartial statement thereof,

as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner.

SEC. 7. *And be it further enacted*, That the provisions of this act shall apply in every respect to the State of Ohio, and the same proceedings shall be had for ascertaining the amount due the said State of Ohio as are herein provided for ascertaining the amount due the State of Indiana, and for the payment of such amount, when ascertained under the limitations and restrictions of this act, a sufficient sum is hereby appropriated.

SEC. 8. *And be it further enacted*, That a sufficient sum is hereby appropriated to carry this act into effect.

APPROVED, March 29, 1867.

CHAP. XV.—An Act to grant to the American Atlantic Cable Telegraph Company, of New York, the Right of Way and Privilege to Lay, Land, and Operate a Submarine Telegraph Cable on the Atlantic Coast of the United States, and establish Telegraph Communication between the United States and Europe, via the Bermudas and Azores Islands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the American Atlantic Cable Telegraph Company, of New York, be, and are hereby, vested with the right, power, and privileges, having acquired the necessary land therefor, to lay, land, and operate their cable or cables on the Atlantic coast, except the coast of Florida, within the jurisdiction of the United States, and the right, power, and privilege so to lay, land, and operate their cable or cables shall be vested in the said American Atlantic Cable Telegraph Company for the period of twenty years from the approval of this act: *Provided*, That the said company shall commence active operations within the space of two years from the approval of this act.

SEC. 2. *And be it further enacted*, That the American Atlantic Cable Telegraph Company, having acquired the necessary land therefor, shall have the right, power, and privilege to lay, land, and operate their cable or cables within any of the harbors, waters, inlets, towns, and cities on the Atlantic coast, except the coast of Florida, offering the most practical and convenient landing, and to construct or erect all the necessary fixtures to accomplish the object of this act.

SEC. 3. *And be it further enacted*, That the Government of the United States shall at all times have the preference in its use, upon terms that may be agreed upon between the Postmaster General and the said company.

SEC. 4. *And be it further enacted*, That Congress shall have power to alter, amend, or repeal this act.

APPROVED, March 29, 1867.

CHAP. XVI.—An Act to establish a Port of Delivery at Chester, Pennsylvania.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Chester, in the district of Philadelphia, shall be a port of delivery, and a surveyor shall be appointed, who shall reside at said port of delivery and receive a salary of five hundred dollars per annum.

APPROVED, March 29, 1867.

CHAP. XVII.—An Act to Increase the Force in the Patent Office.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Patents is authorized from time to time to appoint, in the manner already provided for by law, such an additional number of principal

examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch: *Provided*, That the whole number of such additional examiners shall not exceed four of each class, and that the total annual expense of the Patent Office shall not exceed its annual receipts.

APPROVED, March 29, 1867.

CHAP. XVIII.—An Act to Incorporate the Lincoln Monument Association.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Alexander H. Randall, James Harlan, Alexander Ramsey, Nathaniel P. Banks, Sidney Perham, John Conness, John T. Wilson, Godlove S. Orth, Delos R. Ashley, Halbert E. Paine, Charles O'Neill, Burt Van Horn, John F. Driggs, Frederick E. Woodbridge, Jacob Benton, John Hill, Shelby M. Cullom, Thomas A. Jencks, Orin S. Ferry, N. B. Smithers, Francis Thomas, Samuel McKee, Horace Maynard, John F. Benjamin, Rufus Mallory, Sidney Clarke, Daniel Polsley, Walter A. Burleigh, John Taffe, and their successors, are constituted a body-corporate in the District of Columbia, by the name of the Lincoln Monument Association, for the purpose of erecting a monument in the city of Washington, commemorative of the great charter of emancipation and universal liberty in America.

SEC. 2. *And be it further enacted*, That the persons named in the first section of this act shall be the first trustees of the corporation, and shall have power to fill vacancies in their number, and to add to their number, not exceeding one from each State in the Union.

SEC. 3. *And be it further enacted*, That said corporation shall have power to own and control such property as may be necessary for the carrying out of the objects of the association.

SEC. 4. *And be it further enacted*, That said corporation shall have power to collect money, and to make such rules and regulations as they may deem necessary or expedient.

SEC. 5. *And be it further enacted*, That said corporation shall have power to appoint a president, a vice president, a secretary, a treasurer, and also a board of managers, consisting of not less than seven nor more than thirteen, who shall have a general control of the affairs of the association, and who may be selected from persons not included in the list of incorporators. The treasurer shall execute a bond in such penalty as may be required, conditioned for the safe-keeping of the funds of the corporation which may come into his hands, and for the faithful discharge of the duties required of him.

SEC. 6. *And be it further enacted*, That the property of the said corporation held or occupied by them for the uses and purposes of their incorporation shall be exempt from all taxes to be levied under the authority of the United States, or of any municipal corporation within the District of Columbia.

SEC. 7. *And be it further enacted*, That Congress may at any time hereafter repeal, alter, or amend this act.

APPROVED, March 29, 1867.

CHAP. XX.—An Act to authorize the Appointment of certain Watchmen, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the eight watchmen on the Dome of the Capitol, at the congressional stables, the gate-keeper, and watchmen of the grounds surrounding the Capitol be hereafter appointed by the Sergeant-at-Arms of the Senate, and the Sergeant-at-Arms of the House. That the officers aforesaid be also authorized to appoint three additional watchmen, one for each of the eastern portico[e]s and the carriage-



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ways under the same. Each watchman so appointed shall receive an annual compensation of one thousand dollars, payable on the order of the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House, or either of them, and the amount of money necessary to pay said watchmen from the date of their appointment until the end of the present fiscal year be, and the same is hereby, appropriated.

For the compensation of said watchmen for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, the sum of eleven thousand dollars is hereby appropriated.

For the compensation of an additional lieutenant and private of the Capitol police, authorized to be appointed by the Presiding Officers of the two Houses of Congress, from the date of their appointment until the close of the present fiscal year at the rate paid others of the same grade, so much money as may be necessary is hereby appropriated, and for the fiscal year ending the thirtieth June, eighteen hundred and sixty-eight, the sum of thirty-three hundred dollars is hereby appropriated.

The Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House are hereby authorized to select a pattern for a uniform for the Capitol police and watchmen, and furnish to each member of the force two suits per year, at a cost not to exceed fifty dollars per suit, and also to furnish said force with the necessary belts, arms, and so forth, at a cost not to exceed twenty dollars per man, and the amount of money necessary to carry this provision into effect is hereby appropriated out of any money in the Treasury not otherwise appropriated, payable upon the certificate of the officers above named. One half of the moneys hereinbefore appropriated shall be paid into the contingent fund of the Senate, and the other half into the contingent fund of the House of Representatives.

SEC. 2. *And be it further enacted*, That the Sergeant[s]-at-Arms of the Senate and of the House of Representatives are authorized to make such rules and regulations as they may deem necessary to preserve the peace and secure the Capitol from defacement and for the protection of the public property therein, and shall have power to arrest and detain any person violating said rules, until such person can be brought before the proper authorities for trial, without further order of Congress.

SEC. 3. *And be it further enacted*, That all moneys appropriated for the Washington aqueduct and for the other public works of the District of Columbia shall be expended under the direction of the Secretary of War.

SEC. 4. *And be it further enacted*, That all laws inconsistent with this act are hereby repealed.

APPROVED, March 30, 1867.

CHAP. XXI.—An Act amendatory of the Organic Act of Colorado Territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter the sessions of the Legislative Assembly of Colorado Territory shall be biennial. Members of the Council shall be elected for the term of four years, and members of the House for the term of two years, and shall receive the sum of six dollars per day instead of three dollars heretofore allowed, and shall also receive the same mileage now allowed by law.

SEC. 2. *And be it further enacted*, That each house shall have authority to elect, in addition to the officers now allowed by law, an enrolling clerk, who shall receive five dollars per day. The chief clerk shall receive six dollars per day, and the other officers elected by said Legislature shall receive five dollars per day each.

SEC. 3. *And be it further enacted*, That the members of the Legislative Assembly elected at the general election of said Territory in the year eighteen hundred and sixty-seven shall

compose the first Legislature under this act, and said Legislature shall meet at the time now fixed by law for the meeting of the Legislative Assembly of Colorado Territory.

APPROVED, March 30, 1867.

CHAP. XXII.—An Act for the Support in part of the National Soldiers' and Sailors' Orphan Home in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the support in part of the National Soldiers' and Sailors' Orphan Home, in the District of Columbia, organized under an act of the twenty-fifth of July, eighteen hundred and sixty-six, amended by the act of the twenty-second of February, eighteen hundred and sixty-seven, to be expended under the direction of the officers of said institution, five thousand dollars.

APPROVED, March 30, 1867.

CHAP. XXIII.—An Act extending to the State of Nebraska the Provisions of an Act relating to Agricultural Colleges.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the grant made by law of the second day of July, eighteen hundred and sixty-two, to each State, of land equal to thirty thousand acres for each of its Senators and Representatives in Congress, for the purpose of establishing agricultural colleges, is extended to the State of Nebraska in the same manner as if Nebraska had been a State of the Union at the date of the passage of said law.

APPROVED, March 30, 1867.

CHAP. XXIV.—An Act to provide in part for Grading the Public Grounds, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of twenty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of the Interior, under the supervision of the architect of the Capitol extension, in grading, filling up, removing buildings, and improving the public grounds and streets around the Capitol.

SEC. 2. *And be it further enacted*, That all repairs and alterations of the Capitol building shall be made under the direction and supervision of the architect of the Capitol extension.

APPROVED, March 30, 1867.

CHAP. XXVII.—An Act supplementary to an Act entitled "An Act making Appropriations for sundry Civil Expenses of the Government for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes," passed March second, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the concluding proviso of section ten of the act described in the title hereof shall not be held to prevent the necessary printing, as heretofore done, in the Treasury Department and the bureaus thereof, by their own employés; but the number of persons employed in this service shall not be increased.

APPROVED, July 19, 1867.

CHAP. XXVIII.—An Act for the Relief of certain Soldiers and Sailors therein designated.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no soldier or sailor

shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, did quit his command or refuse to serve after said date; but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pay, bounty, pension, or other allowances, but this act shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

APPROVED, July 19, 1867.

CHAP. XXIX.—An Act to establish certain Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following be established as post routes:

MAINE.

From Kennebunk, via Kennebunkport, to Cape Neddick.

From Biddeford to Saco Pool.

APPROVED, July 19, 1867.

CHAP. XXX.—An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed on the second day of March, eighteen hundred and sixty-seven, and the Act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is hereby declared to have been the true intent and meaning of the act of the second day of March, one thousand eight hundred and sixty-seven, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the twenty-third day of March, in the year one thousand eight hundred and sixty-seven, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were not legal State governments; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress.

SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the disapproval of the General of the Army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof, and upon such suspension or removal such commander, subject to the disapproval of the General aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

SEC. 3. *And be it further enacted*, That the General of the Army of the United States shall be invested with all the powers of suspension,

removal, appointment, and detail granted in the preceding section to district commanders.

SEC. 4. *And be it further enacted*, That the acts of the officers of the army already done in removing in said districts persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: *Provided*, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office, or by the General of the Army. And it shall be the duty of such commander to remove from office as aforesaid all persons who are disloyal to the Government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act and the acts to which it is supplementary.

SEC. 5. *And be it further enacted*, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March two, eighteen hundred and sixty-seven, and to facilitate restoration," passed March twenty-three, eighteen hundred and sixty-seven, shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine under oath, (to be administered by any member of such board,) any one touching the qualification of any person claiming registration; but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list: *Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color.

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act is, (among other things,) that no person who has been a member of the Legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who has afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial office in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice.

SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district be extended to the first day of October, eighteen hundred and sixty-seven; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no per-

son shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

SEC. 8. *And be it further enacted*, That section four of said last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

SEC. 9. *And be it further enacted*, That all members of said boards of registration and all persons hereafter elected or appointed to office in said military districts, under any so-called State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States.

SEC. 10. *And be it further enacted*, That no district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States.

SEC. 11. *And be it further enacted*, That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

SCHUYLER COLFAX,

*Speaker of the House of Representatives.*

B. F. WADE,

*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U. S.,  
July 19, 1867.

The President of the United States, having returned to the House of Representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

*Resolved*, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,  
*Clerk H. R. U. S.*

IN THE SENATE OF THE UNITED STATES,  
July 19, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

*Resolved*, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,

*Secretary.*

By W. J. McDONALD,  
*Chief Clerk.*

CHAP. XXXII.—An Act to establish Peace with certain Hostile Indian Tribes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the

United States be, and he is hereby, authorized to appoint a commission to consist of three officers of the Army not below the rank of brigadier general, who, together with N. G. Taylor, Commissioner of Indian Affairs, John B. Henderson, chairman of the Committee of Indian Affairs of the Senate, S. S. Tappan, and John B. Sanborn, shall have power and authority to call together the chiefs and headmen of such bands or tribes of Indians as are now waging war against the United States or committing depredations upon the people thereof, to ascertain the alleged reasons for their acts of hostility, and in their discretion, under the direction of the President, to make and conclude with said bands or tribes such treaty stipulations, subject to the action of the Senate, as may remove all just causes of complaint on their part, and at the same time establish security for person and property along the lines of railroad now being constructed to the Pacific and other thoroughfares of travel to the western Territories, and such as will most likely insure civilization for the Indians and peace and safety for the whites.

SEC. 2. *And be it further enacted*, That said commissioners are required to examine and select a district or districts of country having sufficient area to receive all the Indian tribes now occupying territory east of the Rocky mountains, not now peacefully residing on permanent reservations under treaty stipulations, to which the Government has the right of occupation or to which said commissioners can obtain the right of occupation, and in which district or districts there shall be sufficient tillable or grazing land to enable the said tribes, respectively, to support themselves by agricultural and pastoral pursuits. Said district or districts, when so selected, and the selection approved by Congress, shall be and remain permanent homes for said Indians to be located thereon, and no person[s] not members of said tribes shall ever be permitted to enter thereon without the permission of the tribes interested, except officers and employes of the United States: *Provided*, That the district or districts shall be so located as not to interfere with travel on highways located by authority of the United States, nor with the route of the Northern Pacific railroad, the Union Pacific railroad, the Union Pacific railroad eastern division, or the proposed route of the Atlantic and Pacific railroad by the way of Albuquerque.

SEC. 3. *And be it further enacted*, That the following sums of money are hereby appropriated out of any moneys in the Treasury, to wit: To carry out the provisions of the preceding sections of this act, one hundred and fifty thousand dollars; to enable the Secretary of the Interior to subsist such friendly Indians as may have separated or may hereafter separate themselves from the hostile bands or tribes and seek the protection of the United States, three hundred thousand dollars.

SEC. 4. *And be it further enacted*, That the Secretary of War be required to furnish transportation, subsistence, and protection to the commissioners herein named during the discharge of their duties.

SEC. 5. *And be it further enacted*, That if said commissioners fail to secure the consent of the Indians to remove to the reservations and fail to secure peace, then the Secretary of War, under the direction of the President, is hereby authorized to accept the services of mounted volunteers from the Governors of the several States and Territories, in organized companies and battalions, not exceeding four thousand men in number, and for such term of service as, in his judgment, may be necessary for the suppression of Indian hostilities.

SEC. 6. *And be it further enacted*, That all volunteers so accepted shall be placed upon the same footing, in respect to pay, clothing, subsistence, and equipment, as the troops of the regular Army.

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SEC. 7. *And be it further enacted*, That said commissioners report their doings under this act to the President of the United States, including any such treaties and all correspondence as well as evidence by them taken.

APPROVED, July 20, 1867.

CHAP. XXXIII.—An Act to carry into effect the Convention with the Republic of Venezuela for the Adjustment of Claims of Citizens of the United States on the Government of that Republic.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purpose of carrying into effect the convention with the Republic of Venezuela, for the adjustment of claims of citizens of the United States on the Government of that republic, signed at Caracas on the twenty-fifth day of April, eighteen hundred and sixty-six, the commissioner to be appointed by the President of the United States, by and with the advice and consent of the Senate, shall be allowed a compensation in full for his services three thousand dollars, and ten dollars a day in commutation of travelling expenses for the time actually and necessarily occupied in going from the place of his residence to Caracas, and returning to his home, after the termination of his duties.

SEC. 2. *And be it further enacted*, That if the President shall elect to appoint the Minister Resident of the United States in Venezuela to perform the duties of Commissioner under the convention aforesaid, such minister shall receive a compensation for his services of fifty per centum of the sum hereinbefore mentioned pursuant to the provisions of the ninth section of the act of August eighteenth, eighteen hundred and fifty-six, "To regulate the diplomatic and consular systems of the United States."

SEC. 3. *And be it further enacted*, That the President be, and hereby is, authorized to make such provision for the contingent expenses of the commission under the convention, including the moiety of the United States for the compensation of the umpire, and of the secretary who may be chosen by the commissioners, pursuant to the provisions of the convention, as he shall deem just and proper.

SEC. 4. *And be it further enacted*, That such sums of money as may be necessary to carry out the provisions of this act, be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, July 20, 1867.

CHAP. XXXIV.—An Act amendatory of "An Act making Appropriations to supply Deficiencies in the Appropriations for Contingent Expenses of the Senate of the United States for the fiscal year ending June thirty, eighteen hundred and sixty-seven, and for other purposes."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the concluding portion of section six of an act entitled "An act making appropriations to supply deficiencies in the appropriations for contingent expenses of the Senate of the United States for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven," approved March twenty-ninth, eighteen hundred and sixty-seven, in the words following, to wit: "And all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs to enter into treaties with any Indian tribes are hereby repealed, and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law," be, and the same is hereby, repealed.

APPROVED, July 20, 1867.

## RESOLUTIONS.

No. 1.—A Resolution supplementary to other Joint Resolutions to enable the People of the United States to participate in the advantages of the Universal Exhibition at Paris, in 1867.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, I. That the commission of the United States at the Universal Exhibition to be held at Paris in the year eighteen hundred and sixty-seven shall consist of the commissioner general and honorary commissioner, whose appointment was approved by the joint resolution of January twenty-two, [fifteen,] eighteen hundred and sixty-six; also of the thirty commissioners whose appointment was provided for by the joint resolution of July five, eighteen hundred and sixty-six, and of twenty commissioners, whose appointment is hereinafter provided for.

II. That the commissioner general shall be the president of the commission thus constituted, with a vote on all questions that may arise.

III. That the commission shall meet at Paris as early as possible before the opening of the Exhibition, upon the call of the commissioner general, and, when properly organized, shall make such rules and regulations as may be necessary for efficient action, with power to elect a vice president from their own number, who, in the absence of the commissioner general, shall preside at all meetings of the commission, and to appoint committees and chairmen of groups.

IV. That the commission may designate additional persons, not exceeding twenty in number, being citizens of the United States, known to be skilled in any branch of industry or art, who are hereby authorized to attend the Exhibition in behalf of the United States, as honorary commissioners without compensation.

V. That the commission may employ a secretary and clerks for the commission, the necessary scientific assistants and draughtsmen, and may engage suitable rooms for the commission.

VI. That no commissioner shall act as agent for the show or sale of any article at the Exhibition, or be interested, directly or indirectly, in any profits from any such article.

SEC. 2. *And be it further resolved*, That fifty thousand dollars, or so much thereof as may be necessary for the purposes severally specified, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated:

For additional freights from New York to Havre.

For transportation and freight from Havre to Paris.

For return freight of articles owned by the United States or lent to the Government by individuals.

For marine and fire insurance on the articles thus lent.

For additional steam power at Paris, in the "palace" and the "annex," or supplemental building, and in grounds adjacent.

For the exhibition of machines, agricultural and other, and for the erection of buildings to illustrate the education and agriculture of the United States, and for the collection of specimens of agricultural productions, under the joint resolution for that purpose.

For the necessary expense of collecting, classifying, labeling, and packing mineralogical specimens, to complete the exhibition of the mineral wealth of the United States.

For the necessary expense of laborers and extra service in the offices at Paris and New York, and for the expenses of a secretary, clerks, scientific assistants, and draughtsmen, rooms, and other incidental expenses of the commission.

SEC. 3. *And be it further resolved*, That it shall be the duty of the general agent at New

York, and of the commissioner general at Paris, to transmit to Congress, through the Department of State, a detailed statement of the manner in which the expenditures herein authorized are made by them respectively.

APPROVED, March 12, 1867.

No. 2.—A Resolution extending the Time for the Completion of the Improvement of the Fox and Wisconsin Rivers.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time provided for the completion of the improvement of the Fox and Wisconsin rivers, and a canal connecting the same, by section three of an act of Congress, approved August eighth, eighteen hundred and forty-six, entitled, "An act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the Territory of Wisconsin," be, and the same hereby is, extended for the term of five years from and after the approval of this resolution, with all the rights and privileges conferred by said act.

APPROVED, March 12, 1867.

No. 3.—A Resolution presenting the Thanks of Congress to George Peabody.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thanks of Congress be, and they hereby are, presented to George Peabody, of Massachusetts, for his great and peculiar beneficence in giving a large sum of money, amounting to two million dollars, for the promotion of education in the more destitute portions of the southern and southwestern States, the benefits of which, according to his direction, are to be distributed among the entire population without any distinction, except what may be found in needs or opportunities of usefulness.

SEC. 2. *And be it further resolved*, That it shall be the duty of the President to cause a gold medal to be struck, with suitable devices and inscriptions, which, together with a copy of this resolution, shall be presented to Mr. Peabody in the name of the people of the United States.

SEC. 3. *And be it further resolved*, That a sufficient sum of money to carry this resolution into effect is hereby appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, March 16, 1867.

No. 4.—A Resolution for the Relief of Freedmen or Destitute Colored People in the District of Columbia.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That fifteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the relief of freedmen or destitute colored people in the District of Columbia, the same to be expended under the direction of the Commissioner of the Bureau of Freedmen and Refugees.

APPROVED, March 16, 1867.

No. 5.—Joint Resolution to authorize the refunding of discriminating Duties exacted upon Merchandise imported in Hawaiian Vessels.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to remit or refund all duties which have been assessed since the first day of January, one thousand eight hundred and sixty-five, on Hawaiian vessels and their cargoes beyond the

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amount which would have been payable on vessels of the United States and their cargoes.  
APPROVED, March 22, 1867.

No. 6.—Joint Resolution in relation to certain Coin and Bullion on Special Deposit in the Treasury.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the one hundred thousand dollars, or thereabout, in coin and bullion, now on special deposit in the Treasury of the United States, after said bullion is converted by directions of the Treasurer into coin, be paid into the Treasury.

APPROVED, March 22, 1867.

No. 7.—Joint Resolution authorizing the Secretary of War to turn over certain Property of the United States at Camp Chase, Ohio, for the use of the National Asylum for Disabled Volunteer Soldiers, and for other purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and hereby is, authorized to turn over the barracks, buildings, and other property of the United States, now at Camp Chase, near Columbus, Ohio, to the board of managers of the National Asylum for Disabled Volunteer Soldiers, for the use and benefit of such soldiers.

SEC. 2. *And be it further resolved,* That the Secretary of War be, and hereby is, authorized to sell such surplus clothing, quartermaster's and medical stores, as he may deem expedient, at first prices, to the National Asylum for the use of disabled volunteer soldiers therein.

APPROVED, March 22, 1867.

No. 8.—Joint Resolution to supply an omission in the enrollment of the "Act to provide increased Revenue from imported Wool, and for other purposes."

Whereas in the enrollment of the bill entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March second, eighteen hundred and sixty-seven, the words "Canada long wools" were inadvertently omitted from the paragraph designated under the heading "Class 2. Combing Wools;" and whereas said words are in the engrossed bill, and were intended as part of the act aforesaid, as passed by the Thirty-Ninth Congress: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the "Act to provide increased revenue from imported wool, and for other purposes," aforesaid, be, and is hereby, amended by inserting after the words "Down combing wools," in the paragraph headed "Class 2. Combing Wools," the words "Canada long wools."

APPROVED, March 22, 1867.

No. 9.—A Resolution providing for the necessary Surveys for a Ship-Canal between Lake Erie and Lake Ontario for Military, Naval, and Commercial purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and directed to cause surveys, with plans and estimates of cost, to be made by an officer of engineers, for a ship-canal to connect Lakes Erie and Ontario, or the navigable waters thereof, of suitable location and dimensions for military, naval, and commercial purposes, and that the expenses of the same be defrayed from the sums appropriated in the acts of June twenty-three, eighteen hundred and sixty-six, and March two, eighteen hundred and sixty-seven, for examina-

tions and surveys relating to the improvement of harbors and rivers on the northwestern lakes.  
APPROVED, March 22, 1867.

No. 10.—A Resolution amending the ninth Section of "An Act to amend an Act entitled 'An Act to provide for the better security of the Lives of Passengers on board of Vessels propelled in whole or in part by Steam,' and for other purposes," approved August thirtieth, eighteen hundred and fifty-two.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the fifth division of the ninth section of an act entitled "An act to amend an act entitled an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or part by steam, and for other purposes," approved August thirtieth, in the year eighteen hundred and fifty-two, is so far amended that inspectors may, in the license therein provided for, exempt a steamer from the obligation to carry in a safe, chest, or apartment composed of or lined with metal, compact packages of friction-matches, securely packed in strong, tight wooden chests or boxes, the covers of which shall be firmly fastened on by locks, screws, or other fastenings, and which shall be stowed in a safe part of the steamer designated in their license by the inspectors, and at a safe distance from any fire.

APPROVED, March 22, 1867.

No. 11.—Joint Resolution fixing the rate of Duty on Umbrellas, and on Wire Spiral Furniture Springs.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this joint resolution there shall be levied, collected, and paid upon umbrellas, parasols, and sun-shades imported from foreign countries, when made of silk, no lower rate of duty than that now imposed upon piece and dress silks, namely, sixty per centum ad valorem; and when made of other materials than silk the duty shall be fifty per centum ad valorem; and that wire spiral furniture springs imported from foreign countries, manufactured of iron wire, shall be required to pay the same rate of duty as now imposed on iron wire, namely, two cents per pound and fifteen per centum ad valorem.

APPROVED, March 25, 1867.

No. 12.—A Resolution to terminate a Contract of a Member of Congress with the Post Office Department of the United States of America.

Whereas it is declared by an act of Congress approved April twenty-first, eighteen hundred and eight, that "No member of Congress shall directly or indirectly, himself or by any other person in trust for him, or for his use or benefit, or on his account, execute, hold, or enjoy, in whole or in part, any contract or agreement hereafter to be made or entered into with any officer of the United States" \* \* \* "or to any benefit to arise therefrom," and so forth; and whereas the present contractor for route No. 14782, from Lincoln, California, to Portland, Oregon, has recently been elected United States Senator: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster General be, and he is hereby, authorized to cancel the contract between the United States and the present contractor for the transportation of the mail on route No. 14782, between Lincoln, California, and Portland, Oregon, annulling the same in the usual way, to take effect on the thirtieth day of September, anno Domini eighteen hundred and sixty-seven. And it is hereby made the duty of the Post-

master General, after the passage of this resolution, to advertise for bids for the performance of the service for the residue of the contract term, for at least sixty days, in at least one newspaper published at the seat of government of the State of California, and one newspaper published in Portland, Oregon, and to contract with the lowest responsible bidder: *Provided,* That the Postmaster General, in accordance with the usage of the Department, shall have the power to reject any bid which he may deem exorbitant.

APPROVED, March 26, 1867.

No. 13.—Joint Resolution providing for the Importation into the United States of certain Works of Art duty free, and for other purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this joint resolution, any object of art imported by any individual or association of individuals for presentation, as a gift, to the United States Government, or to any State, county, or municipal government, shall be admitted free of duty, under such rules and regulations as the Secretary of the Treasury may prescribe.

SEC. 2. *And be it further resolved,* That the Secretary of the Treasury be, and he hereby is, authorized to refund the duties paid on any steam agricultural machinery imported into the United States during the current fiscal year as models or for experimental purposes, and to remit the duties on any steam machinery of like description which may be imported for such purpose prior to the thirtieth of June, eighteen hundred and sixty-eight: *Provided,* That this section shall apply only to steam-plows.

SEC. 3. *And be it further resolved,* That the Secretary of the Treasury is hereby authorized and required to discontinue the employment of any officer or person employed under the acts for the collection of direct taxes in insurrectionary districts within the United States, whenever in his judgment their service is no longer needed, and he is hereby authorized to devolve upon any officer or officers of internal revenue in said districts any portion of the duties imposed by said acts, who shall perform such duties without additional compensation.

APPROVED, March 26, 1867.

No. 14.—A Resolution to make valid the Laws of New Mexico passed at the Session of the Legislature held at Santa Fé, from the third day of December, eighteen hundred and sixty-six, to thirty-first day of January, eighteen hundred and sixty-seven.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the laws passed by the Legislative Assembly of the Territory of New Mexico, at its last session, which began on the third day of December, eighteen hundred and sixty-six, and ending on the thirty-first day of January, eighteen hundred and sixty-seven, and signed by W. F. M. Army, acting secretary and acting Governor of said Territory of New Mexico, shall have the same force and effect as though the same had been approved and signed by the Governor duly appointed, subject to the future revision and approval of Congress.

APPROVED, March 26, 1867.

No. 15.—A Resolution concerning the Uniform of Persons in the Diplomatic Service of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all persons in the diplomatic service of the United States are prohibited from wearing any uniform or official costume not previously authorized by Congress.

APPROVED, March 27, 1867.



## Laws of the United States.

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No. 16.—A Resolution declaring the Meaning of the second Section of the Act of the second of March, eighteen hundred and sixty-one, relative to Property lost in the Military Service.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section two of the act of Congress entitled "An act to provide for the payment of expenses incurred by the Territories of Washington and Oregon in the suppression of Indian hostilities therein in the years eighteen hundred and fifty-five and eighteen hundred and fifty-six," approved the second of March, eighteen hundred and sixty-one, shall be so construed that whenever any claimant for lost property shall comply with all the terms and conditions of the act of the third of March, eighteen hundred and forty-nine, on the subject of property lost in the military service, he, she, or they shall be paid the amount of the judgments in his, her, or their favor, entered by the Third Auditor and certified by him as required by the last-named act, out of any money in the Treasury not otherwise appropriated.

APPROVED, March 28, 1867.

No. 17.—Joint Resolution to furnish Transportation of Provisions to the Destitute in the South.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy, upon the application of the contributors or of any person on their behalf, be, and he is hereby, authorized and directed to charter a vessel to convey provisions contributed by the people from Baltimore, Maryland, to Wilmington, North Carolina, for gratuitous distribution among the destitute of the South, under the direction of the contributors and such regulations as may, by the Secretary of the Navy, be prescribed.

APPROVED, March 29, 1867.

No. 18.—Joint Resolution in reference to the Payment of the Salaries of Members of Congress.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That each Senator, Member of the House of Representatives, and Delegate in Congress, after having taken and subscribed the required oath, shall be entitled to receive his compensation at the end of each month, at the rate now established by law, and an amount sufficient to pay their compensation and mileage to the first day of July next is hereby appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, March 29, 1867.

No. 19.—Joint Resolution to amend an Act entitled "An Act to Provide Increased Revenue from Imported Wool, and for other purposes."

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to provide increased revenue from imported wool, and for other purposes," approved March second, eighteen hundred and sixty-seven, be amended by striking out in the paragraph commencing with the words "on webbings, beltings, bindings, braids," the following words, viz: "unmixed with silk."

SEC. 2. *And be it further resolved,* That the joint resolution of March second, eighteen hundred and sixty-seven, to amend section five of an act entitled "An act to increase the duties on imports, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, shall not be construed to apply to last- ing, mohair cloth, silk, twist, or other manufactures of cloth woven or made in patterns

of such size, shape, and form, or cut in such manner as to be fit for buttons exclusively.

APPROVED, March 29, 1867.

No. 20.—Joint Resolution providing for the necessary Surveys for a Ship-Canal around the Falls of the Ohio River, for Military, Naval, and Commercial purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and directed to cause surveys, with plans and estimates of cost, to be made by an officer of engineers, for a ship-canal around the falls of the Ohio river on the Indiana side thereof, of suitable location and dimensions for military, naval, and commercial purposes; and also to cause said officer to estimate the expense of completing the Louisville and Portland canal, on the Kentucky side of said falls, according to the plan on which the said canal company is now progressing with said work, and that the expenses of both be defrayed from the sums appropriated in the acts of June twenty-three, eighteen hundred and sixty-six, and March two, eighteen hundred and sixty-seven, for examination and surveys relating to the improvement of harbors and rivers on the north-western lakes.

APPROVED, March 29, 1867.

No. 21.—Joint Resolution to authorize the Secretary of War to build Dredge-Boats for use at the mouth of the Mississippi River.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and is hereby, authorized, on the recommendation of the engineer department, to build and operate two dredge-boats for the purpose of deepening and keeping open the channel of one or more of the passes at the mouth of the Mississippi, and to expend for that purpose so much as may be necessary of the appropriation for the improvement of the mouth of the Mississippi river, provided for in the "Act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes," approved March second, eighteen hundred and sixty-seven.

APPROVED, March 29, 1867.

No. 22.—Joint Resolution authorizing the Second Auditor to settle the Accounts of Officers of the Army in certain cases.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Second Auditor be, and is hereby, authorized and instructed to audit and settle the accounts of line officers of the Army to the extent of their pay for their services as such, due them from the United States, in all cases where such Auditor shall be satisfied by affidavit of such line officer or otherwise, of their inability to make their monthly report or returns by reason of their having been prisoners in the hands of the enemy, or any accident or casualty of war, they have been unable to account for property in their possession.

APPROVED, March 29, 1867.

No. 23.—Joint Resolution relative to the issue of Agricultural College Scrip to the States lately in Rebellion.

Whereas on the third day of April, eighteen hundred and sixty-six, by the authority and direction of the President of the United States, agricultural college scrip, covering nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina, under the act of Congress of July fifth [second], eighteen hundred and sixty-two, providing for agricultural colleges; and whereas, by the same authority, the General

Land Office is now preparing to issue scrip in like manner to the States of Virginia, Georgia, and Mississippi; and whereas said action of the President takes for granted that said States are restored to their proper constitutional relation to the Union, and are to be recognized in all respects as entitled to the rights of the other States of the Union, which questions Congress alone can rightfully determine: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the further issue or delivery of such scrip to any of the States lately in rebellion against the United States, except the State of Tennessee, or the acceptance of such scrip or of any heretofore issued by the registers or receivers of any of the land offices of said States be, and the same is hereby, prohibited until they shall be fully restored to their rights as States by Congress.

APPROVED, March 29, 1867.

No. 24.—A Resolution in relation to the Educational Interests of the District of Columbia.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioner of Education be directed to ascertain the number of children resident in the District of Columbia over the age of six years and under the age of eighteen years; the number of said children that are blind, and the number that are deaf and dumb; the number and character of public school-houses, number of teachers, and the number of pupils in attendance, number and character of school libraries, character of textbooks used, average period per annum each pupil is taught, and cost of tuition, with incidental expenses of said schools, and report the same to Congress at its next regular session, together with his opinion of the relative efficiency of the system now in force in said District, and whether any additional legislation is necessary in order to secure the advantages of said system to all of said children.

APPROVED, March 29, 1867.

No. 25.—A Resolution in reference to the Collection and Payment of Moneys due Colored Soldiers, Sailors, and Marines, or their Heirs.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all checks and Treasury certificates to be issued in the settlement of claims for pay, bounty, prize-money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives now residing, or who may have resided, in any State in which slavery existed in the year eighteen hundred and sixty, the claim for which has been or may be prosecuted by an agent or attorney, shall be made payable to the Commissioner of the Freedmen's Bureau, who shall pay the said agent or attorney his lawful fees and expenses, and shall hold the balance subject to the order of the claimants on satisfactory identification; but no money shall be paid to any person except the claimant or his or her legal representatives, if deceased; nor shall any power of attorney, transfer, or assignment of the amount of said claims, or any part thereof, be recognized or allowed by the Commissioner, or by any officer or agent acting under him; and it shall be the duty of the said Commissioner, the officers and agents of the Freedmen's Bureau, to facilitate as far as possible the discovery, identification, and payment of the claimants.

SEC. 2. *And be it further resolved,* That the Commissioner of the Freedmen's Bureau shall be held responsible for the safe custody and faithful disbursement of the funds hereby intrusted to him. In settling with the attorney or agent of the claimant strict compliance with the scale of fees prescribed by the second sec-

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tion of a joint resolution approved June twenty-six, eighteen hundred and sixty-six, entitled "Joint resolution amendatory of a joint resolution respecting bounties to colored soldiers and the pensions, bounties, and allowances to their heirs," approved June fifteen, eighteen hundred and sixty-six, will in every case be required and enforced; and if any attorney or agent shall, in addition to notarial fees and expenses of collecting such claim, demand repayment for money loaned or advanced to any claimant, he shall be required to make oath to the date and amount of such loan or advance, or payment of the fees and expenses shall be withheld; and when the claimant shall have been properly identified, and his account is ready for settlement, the balance due shall be paid in current funds, and not in checks or drafts.

SEC. 3. *And be it further resolved*, That all money held or disbursed under the provisions of this resolution shall be held and disbursed under the same rules and regulations governing other disbursing officers of the Army.

APPROVED, March 29, 1867.

No. 26.—A Resolution relative to the Payment of Expenses incurred by the Judges of Election for the Cities of Washington and Georgetown, District of Columbia.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the corporations of the cities of Washington and Georgetown, District of Columbia, be, and the same are hereby, required to pay, or cause to be paid, all necessary expenses, including printing, clerk hire, room rent, stationery, and a per diem compensation to each of the judges of election in the respective cities, appointed under the act of Congress entitled "An act to punish illegal voting in the District of Columbia, and for other purposes," approved February fifth, eighteen hundred and sixty-seven, of five dollars per day for every day they shall be actually employed in the discharge of their duties, and the certificate of the judges of election of either city, or a majority thereof, of the correctness of any account arising out of the action of said judges, shall be deemed sufficient to constitute the same a legal debt against the city to which the judges so certifying shall belong. And it shall be lawful for any of the said judges of election to administer oaths in all cases relating to the duties assigned them by law, and any person willfully making a false statement under oath, before any of said judges, shall be deemed guilty of perjury, and on conviction thereof shall be subject to imprisonment for the term of not less than one nor more than five years.

SEC. 2. *And be it further resolved*, That the judges of the supreme court of the District of Columbia shall appoint three commissioners of election in each voting precinct in said cities of Washington and Georgetown, who shall hold their offices for two years and until their successors are appointed and qualified, whose duty it shall be to take charge of the ballot-boxes at the polls at each election, to receive and deposit in said boxes the ballots of legalized voters in their respective precincts, to count the votes after the polls are closed, and declare the result, and make returns thereof as now provided by law. And the said commissioners of election shall receive the votes of all persons whose names are on the list of voters in said precinct, prepared by the judges of election aforesaid, and none others; they shall have power to administer oaths, and to examine persons offering to vote, and other witnesses as to the identity of voters, and shall receive from their respective cities the same compensation for their services as is now paid to the commissioners of election in said cities; and any person swearing falsely relative to the same shall be deemed guilty of perjury, and shall, on conviction thereof, be subject to imprisonment for

the term of not less than one nor more than five years. All acts and parts of acts inconsistent herewith are hereby repealed.

APPROVED, March 29, 1867.

No. 27.—A Resolution in relation to the Execution of Surveys of Rivers ordered by Congress.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Chief of Engineers may, with the approval of the Secretary of War, employ such civil engineers, not exceeding five in number, for the purpose of executing the surveys and improvements of western and northwestern rivers, ordered by Congress, as may be necessary to the proper and diligent prosecution of the same, and the persons so employed may be allowed a reasonable compensation for their services, not to exceed the sum of three thousand dollars per annum.

APPROVED, March 29, 1867.

No. 28.—A Resolution for the Relief of the Destitute in the Southern and Southwestern States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and hereby is, empowered and directed to issue supplies of food sufficient to prevent starvation and extreme want to any and all classes of destitute or helpless persons of the people in those southern and southwestern States where a failure of the crops and other causes have occasioned wide-spread destitution; that the issues be made through the Freedmen's Bureau, under such regulations as the Secretary of War shall prescribe. And to that end the Secretary of War is hereby authorized and directed, through the Commissioner of the Freedmen's Bureau, to apply so much as he may deem necessary for the purposes aforesaid of the unexpended moneys heretofore appropriated to supply freedmen and refugees with provisions or rations: *Provided*, That the expenditure shall not extend beyond the present appropriations already made for the Freedmen's Bureau.

APPROVED, March 30, 1867.

No. 29.—A Resolution authorizing the Transfer of certain Funds, and providing for the Purchase of Seeds and their Distribution in the Southern States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of fifty thousand dollars is hereby transferred from the funds in charge of the Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands, and placed to the credit of the Department of Agriculture; and that said sum shall be used, under the direction of the Commissioner of Agriculture, for the purchase of seeds of improved varieties of vegetables and cereals, and their distribution in the southern States.

APPROVED, March 30, 1867.

No. 30.—A Resolution directing the Secretary of War to furnish certain Arms and Equipments to the State of Tennessee.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to furnish arms and equipments to the State of Tennessee, sufficient for ten thousand militia, to be accounted for by the State of Tennessee to the Government of the United States.

APPROVED, March 30, 1867.

No. 31.—Joint Resolution suspending all Proceedings in relation to Payment for Slaves Drafted or received as Volunteers in the Military Service of the United States.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That all further proceedings under the twenty-fourth section of the act of Congress approved February twenty-fourth, eighteen hundred and sixty-four, "to award compensation to the masters of slaves drafted into the military service of the United States, and award compensation to persons to whom colored volunteers may owe service," and under the second section of the act approved July twenty-eighth, eighteen hundred and sixty-six, "making appropriation for payment to persons claiming service or labor from colored volunteers or drafted men," be, and the same are hereby, suspended. And the Secretary of War is directed to dissolve the commissions appointed under the said sections, and make payment to the commissioners and clerks for the services rendered, upon their making report of their proceedings to the War Department.

APPROVED, March 30, 1867.

No. 32.—Joint Resolution providing for the Expenses of carrying into full effect an Act entitled "An Act to provide for the more efficient Government of the Rebel States."

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That sufficient money is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of carrying into full effect in all its parts an act entitled "An act to provide for the more efficient government of the rebel States," passed March two, eighteen hundred and sixty-seven, with all its supplementary acts: *Provided*, That the amount shall not exceed five hundred thousand dollars.

APPROVED, March 30, 1867.

No. 33.—A Resolution to authorize the Commanding General of the Army to permit Traders to remain at certain Military Posts.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commanding General of the Army shall be authorized to permit a trading establishment to be maintained after the first day of July, eighteen hundred and sixty-seven, at any military post on the frontier, not in the vicinity of any city or town, and situated at any point between the one hundredth meridian of longitude, west from Greenwich, and the eastern boundary of the State of California, when, in his judgment, such establishment is needed for the accommodation of emigrants, freighters, and other citizens: *Provided*, That after the commissary department shall be prepared to supply stores to soldiers, as required by law, no trader, permitted to remain at such post, shall sell any goods kept by the commissary department to any enlisted men: *And provided further*, That such traders shall be under protection and military control as camp followers.

APPROVED, March 30, 1867.

No. 34.—A Resolution for the Purchase of Lands adjoining the Navy-Yard at Brooklyn.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy be authorized to complete the purchase of the property adjoining the New York navy-yard, known as the Ruggles property, without the previous assent of the State of New York: *Provided*, The title is otherwise approved by the Attorney General.

APPROVED, March 30, 1867.

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No. 38.—Joint Resolution authorizing the Secretary of the Navy to admit to examination Morris Rice Evans for admission to the Naval Academy in September next.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized to examine for admission to the Naval Academy, in September next, Morris Rice Evans, in the same manner as though he had presented himself in June, as provided by regulation.

APPROVED, July 19, 1867.

No. 39.—Joint Resolution to carry into effect the several Acts providing for the more efficient Government of the Rebel States.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purpose of carrying into effect the above-named acts, there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one million dollars.

SCHUYLER COLFAX,

*Speaker of the House of Representatives.*

B. F. WADE,

*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U. S.,  
July 19, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the resolution entitled "Joint resolution to carry into effect the sev-

eral acts providing for the more efficient government of the rebel States," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

*Resolved,* That the joint resolution do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. McPHERSON,  
*Clerk H. R. U. S.*

IN THE SENATE OF THE UNITED STATES,  
July 19, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the resolution entitled "Joint resolution to carry into effect the several acts providing for the more efficient government of the rebel States," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the resolution:

*Resolved,* That the resolution do pass, two thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,

*Secretary.*

By W. J. McDONALD,  
*Chief Clerk.*

No. 40.—Joint Resolution authorizing extensions of the Mail Steamship Service between the United States and China and Japan.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster Gen-

eral be, and he is hereby, authorized to extend and improve the mail steamship service to Japan and China, authorized by act of February seventeenth, eighteen hundred and sixty-five, by establishing regular mail connections with such other seaports in China and Japan as will, in his judgment, promote the usefulness and efficiency of the mail service established by said act: *Provided,* That such extensions and improvements of the service are made without additional expense to the Government.

APPROVED, July 20, 1867.

No. 41.—A Resolution declaring Sympathy with the Suffering People of Crete.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the people of the United States feel a strong sympathy with the people of Crete, constituting a part of the Greek family to which civilization owes so much; that they are pained by the report of the present sufferings of this interesting people; and they unite in the hope that this declaration, which they feel it their duty to make, will be favorably considered by the Government of Turkey in determining its policy toward Crete.

SEC. 2. *And be it further resolved,* That it shall be the duty of the President of the United States to communicate this resolution to the Government of Turkey.

APPROVED, July 20, 1867.





# PRIVATE ACTS OF THE FORTIETH CONGRESS

OF THE

## UNITED STATES,

*Passed at the First Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 4th day of March, A. D. 1867; was adjourned on Saturday, the 30th day of March, A. D. 1867, to meet on Wednesday, the 3d day of July, A. D. 1867; met on the said 3d day of July, and continued in session until Saturday, the 20th day of said July, on which day it adjourned to meet on Thursday, the 21st day of November, A. D. 1867; met on the said 21st day of November, and ended the 2d day of December, A. D. 1867.*

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives.

CHAP. XIX.—An Act for the Relief of John Perry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the act supplementary to the several acts relating to pensions, approved June six, eighteen hundred and sixty-six, shall apply to John Perry, of Illinois, a pensioner, by virtue of a special act approved March third, eighteen hundred and fifty-nine.

APPROVED, March 20, 1867.

CHAP. XXV.—An Act for the Relief of Richard Busteed, Jr.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to cause to be paid to Richard Busteed, jr., late captain of Battery C, Chicago Light Artillery, the sum of twelve hundred and forty-seven dollars and sixty-six cents, being the pension of a captain from the seventh day of November, eighteen hundred and sixty-one, the date of his honorable discharge from the service, until the thirtieth day of January, eighteen hundred and sixty-seven, the date from which a pension has been granted him.

APPROVED, March 30, 1867.

CHAP. XXVI.—An Act supplementary to an Act for the Relief of Hiram Paulding, Rear Admiral of the United States Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be appropriated out of any money in the Treasury not otherwise appropriated, a sufficient sum to pay the claim of Rear Admiral Hiram Paulding, as

provided for by an act of Congress at the last session, the said sum not to exceed three thousand six hundred and fifty-three dollars and ninety-two cents.

APPROVED, March 30, 1867.

CHAP. XXXI.—An Act for the Relief of Malinda Harmon, of the County of Greene, and State of Tennessee, widow of Jacob Harmon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon," approved January thirty-one, eighteen hundred and sixty-seven, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized to place the name of Malinda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon, on the pension-roll, at the rate of eight dollars per month, to commence on the seventeenth day of December, eighteen hundred and sixty-one, and to continue during her widowhood.

APPROVED, July 19, 1867.

Interior be directed to suspend the execution of the act entitled "An act for the relief of the heirs of John E. Bouligny," approved March second, eighteen hundred and sixty-seven, until the further order of Congress.

APPROVED, March 30, 1867.

No. 36.—Joint Resolution to authorize the payment of Rev. C. B. Boynton, as Chaplain of the House of Representatives of the Fortieth Congress.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Rev. Charles B. Boynton is authorized to draw the amount appropriated by an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty-eight," to the payment of the Chaplain of the House for the Fortieth Congress.

APPROVED, March 30, 1867.

No. 37.—Joint Resolution relative to the iron-clad Monitor "Camanche."

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be, and hereby is, appropriated for the purpose of paying Donahue, Ryan, and Secor, for losses sustained by them in the construction of the monitor "Camanche," the sum of one hundred and seventy-nine thousand dollars; and the Secretary of the Treasury is hereby directed to pay the same out of any moneys in the Treasury not otherwise appropriated.

APPROVED, March 30, 1867.

## RESOLUTIONS.

No. 35.—Joint Resolution directing the Secretary of the Interior to suspend the execution of a law passed by the Thirty-Ninth Congress for the Relief of the Heirs of John E. Bouligny.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the